

SECTION 96 (2)
APPLICATION TO SSDA6799
PROPOSED COLD STORAGE
FACILITY
124 HOLLINSWORTH ROAD,
MARSDEN PARK

18 MAY 2017
SA6623
FINAL
PREPARED FOR NEWCOLD

URBIS

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EXECUTIVE SUMMARY

INTRODUCTION

This Environmental Impact Statement (EIS) has been prepared by Urbis on behalf of the applicant, EMKC, and is submitted to the New South Wales Department of Planning and Environment (DP&E) in support of a modification under S96(2) of the Environmental Planning & Assessment Act, 1979 (EP&A Act) to State Significant Development (SSD) approval SSD6799 issued on 22 July 2016 in respect land identified as Lot 124 in DP1194052.

SSD 6799 sought approval for the construction and operation of a cold storage warehouse and distribution facility with ancillary offices, comprising a 36287sqm warehouse, hardstand areas, 128 car parking space, 35 loading docks, infrastructure and services and landscaping.

KEY ELEMENTS OF THE PROPOSAL

This Section 96(2) modification application to SSDA 6917 seeks approval for revisions to the approved development scheme to allow for a more rational, sustainable and considered design. This report describes the site and proposed modifications, provides relevant background information, and assesses the development against relevant legislation, environmental planning instruments, and planning policies and the original SEARs issued for SSD 6799.

The specialist technical studies provided to support the existing approval for the site have been amended in light of the proposed modifications and have informed assessment of the potential environmental impacts.

Broadly, the proposed modification entails the following:

- Reorientation and expansion of the High Bay area component of the site;
- Increase in setback to Hollingsworth Road; and
- Secondary amendments to the site layout

PLANNING ASSESSMENT

The majority of environmental site constraints and impact management was addressed in the EIS submitted as part the original Development Application for the site. This report addresses the key modifications with respect to the relevant likely impacts. All other impacts have been reviewed and updated to conclude that there are no material changes in impact arising from the proposed modification that were considered as part of the original SSDA assessment. The relevant impacts include.

- Flora and Fauna/ Biodiversity impacts;
- Waterways and Riparian Land impacts;
- Transport, Traffic and Access impacts;
- Noise impacts; and
- Visual impacts.

The findings of this Section 96 (2) and the revised technical reports identify the modifications can be accommodated without generating impacts over and above that which was previously approved under SSD 6917 and is considered appropriate by relevant legislation.

Further, it is considered that a positive assessment and determination of the project should prevail given:

- The proposed development will result in a land use that is consistent with the zoning of the land and the existing approval on the site. The land use will make a strong contribution as an employment generating land use in line with strategic goals for the Marsden Park Industrial Area.
- The relationship between the site and surrounding sites will be improved as a result of the increased setback to Hollinsworth Road and key building bulk elements being located within the middle of the site.

- The proposal demonstrates consistency with the relevant environmental planning instruments including strategic planning policy, and State and local planning legislation, regulation and policies.
- The proposal will operate within the operational bounds assessed and considered to be satisfactory as determined in the approval of the Stage 1 SSDA 6917.
- It has been demonstrated that the proposed works will result in minimal environmental impacts, all of which can be managed or mitigated through the recommendations outlined in the sections of this report.

Given the merits of the proposal, it is requested that the Minister or their delegates approve the modifications subject to the mitigation measures outlined in this report.

1. INTRODUCTION

This Environmental Impact Statement (EIS) has been prepared by Urbis on behalf of Newcold (the proponent). It accompanies a Section 96 (2) Application made to the NSW Department of Planning and Environment seeking to modify SSDA6799 as it relates to the development of a new cold storage facility within the Sydney Corporate Park within the Marsden Park Industrial Precinct. The site is legally described as Lot 124 in DP 1194052.

1.1. STRUCTURE OF REPORT

This EIS is structured as follows:

- A description of the site context, including identification of the site, existing development on the site, and surrounding development (Section 2);
- Detailed description of the proposed modification (Section 3);
- Consideration of the proposal under Section 96 (2) of the Act (Section 4);
- Assessment of the application in accordance with Section 79 (c) of the Act 1979 (Section 4);
- Summary of Mitigation Methods (Section 5); and
- Summary and Conclusion (Section 6)

The SEE has been informed by the Architectural Drawings a prepared by the project architect EMKC and other supporting technical investigations that are appended to this report.

1.2. THE PROJECT TEAM

Table 1 below details the specialist consultant team and their contribution to the design of the proposed development:

Table 1 – Project Team

Consultant	Input
EMKC	Architect and Development Manager
Urbis	Urban Planning and Landscape Architecture
AT&L	Civil Engineering
Cundall	Sustainability Consultant
Renzo Tonin and Associates	Acoustic Engineer
Blackie Mendham	Hazard Consultant
The Transport Planning Partnership	Traffic Engineer
Modern Building Certifiers	Building Surveying Consultant

2. THE SITE

2.1. SITE DESCRIPTION

The subject site is known as Lot 124 Hollinsworth Drive and is part of the Sydney Business Park. Legally the site is known as Lot 1 in DP 1194052. The site has frontage to Darling Street to the North, Hollinsworth Drive to the South and Harris Avenue to the west.

The site is irregularly shaped configuration and with a total area of approximately 70,297sqm. The site forms part of the Sydney Business Park and is currently undeveloped.

Figure 1 – Site Aerial



2.2. LOCALITY AND SURROUNDING DEVELOPMENT

The site is located within the Sydney Business Park which is a privately-owned master planned employment precinct which when complete will provide for possibly 17,000 jobs. The Business Park provides for a range of uses including both warehousing and bulky goods facilities such as IKEA and Bunnings Warehouse.

The site's primary interfaces are described in Table 2 below.

Table 2 – Surrounding Land Uses

Aspect	Land Uses
North	The site's northern border is shared with Darling Street and a presently vacant industrial allotment.
East	The site's eastern boundary is shared with the recently completed Lindt warehousing and manufacturing facility. A small Aldi Supermarket is located adjacent to the Lindt warehouse.
South	The site's northern border is shared with Hollinsworth Road and a presently vacant industrial allotment.
West	The site's western boundary is shared with Harris Avenue and a Linfox Industrial Warehouse which was recently completed

2.3. SURROUNDING ROAD NETWORK

The subject site has a southern frontage to Hollinsworth Road and sits to the west of Richmond Road. A summary of these roads is provided below

- Richmond Road is a classified state road (MR537) aligned in a north-south direction. It is considered as a key link between the M7 and Richmond that travels through the Marsden Park Industrial Precinct. Richmond Road, which allows traffic flows in both directions, was upgraded and opened in November 2016, to provide a four-lane divide road with a landscaped central median, with the capacity for six lanes in the future, if needed. Richmond Road accommodates approximately 33,000 vehicles per day.
- Hollinsworth Road/Townson Road meets Richmond Road to the east via a signalised crossroad intersection. The road is aligned in an east-west direction and is two-way road configured, allowing traffic flows in both directions via a single lane. Townson Road provides approximately 20 metres of wide road reserve, which was implemented as part of the Richmond Road upgrade works.

3. DESCRIPTION OF THE PROPOSAL

This application seeks to modify SSD6799 to enable alterations to the approved built form and location aspects of the approved Cold Storage Facility.

The proposed development has many aspects that are covered in detail in the Architectural, Landscape and Civil Plans which are submitted under separate cover. This section should be read in conjunction with this information in order to gain a comprehensive understanding of all elements of the proposed design.

Key elements of the proposal are outlined in detail below.

3.1. LAND USE

The proposed modifications will not alter the approved land use of the site as a warehouse and distribution facility as previously approved under SSDA6799. The development will also continue to incorporate a significant level of automation

In accordance with the original Development Approval, no retailing is to occur on the site.

3.2. WAREHOUSE

In July 2016, a development approval was granted for a cold storage facility of approximately 36,287sqm GFA accompanied by 128 staff car parking spaces and 17 servicing truck spaces. This development proposal relates to a marginal change in floor area and a decrease in car parking spaces compared to the approved DA. The development will result in:

- An increase of 195sqm GFA from 36,287sqm to 36,482sqm
- A reduction in staff car parking by 24 spaces (104 total)

A breakdown of the GFA is as follows:

- High bay facility: 17,690sqm
- Chiller dispatch: 3,714sqm
- Freezer dispatch: 3,182sqm
- Chiller warehouse: 4,256sqm
- Freezer warehouse: 4,640sqm
- NewCold office (3 levels): 3,000sqm

The proposed NewCold cold storage facility will operate the same as the previously proposed facility proposed by Swire. The proposed development will operate as a warehouse and distribution centre for chilled and frozen products, managed by NewCold. The warehouse has been designed to be a highly-automated operation, with low employee density compared to a typical industrial use. The facility will be used for two main functions:

- Warehouse and transport- products are stored and dispatched
- Cross dock logistics- products are stored and then dispatched

The proposed site plan is shown below in **Figure 2**, as extracted from the Architectural Plans at **Appendix A**.

The site plan illustrates the proposed 100,000 sq ft distribution center and its associated infrastructure. The building is divided into several sections:

- TRUCKS/DRIVER WAREHOUSE:** 4,940 sq ft
- TRUCKS/DRIVER:** 9,162 sq ft
- CHILLER WAREHOUSE:** 4,360 sq ft
- CHILLER DISPATCH:** 5,714 sq ft

The plan also shows a large parking lot, a truck parking area, and a landscaped area with trees. The site is bounded by Harris Avenue to the south and Hollinsworth Road to the east. The plan includes dimensions for the building, parking, and surrounding streets.

In accordance with the existing approval landscaping is proposed to soften the built form from when viewed from Hollinsworth Road, Harris Avenue and Darling Street.

Landscaping has been concentrated along the Darling Street to reduce the overall bulk and scale of the high bay portion of the facility which is located along this frontage.

Vehicle Access

- Car park access/egress
- Truck access, accommodation for two service vehicles at a time
- Truck egress

Both the proposed staff and service vehicle access/egress points have been situated over an approximate distance of approximately 42 metres. This adheres to Clause 3.2 of the Australian Standards (AS2890.1:2004), which states that a vehicle access point should be located a minimum of 6 metres from the tangent point of an intersection and Blacktown City Council requirements of site access being situated a minimum of 35 metres from an intersection.

An enforced speed limit will be in place for service vehicles accessing the site. An imposed speed of 10km/h for forward travelling vehicles and 5km/h for reversing vehicles will be imposed. A full swept path investigation of all predicted vehicles has been carried out.

As a similar access arrangement is adopted from that consented at the planning stage for the previous DA, it is considered that retaining the stated access/egress arrangement are appropriate for the development proposal.

Parking

The proposed development is anticipating providing 104 car parking spaces located in the northern portion of the site. Access to the parking facilities will be through Darling Street.

3.5. SIGNAGE

The southern elevation of the high bay warehouse will incorporate signage for Newcold only. These signs are summarised in Table 3 below.

Table 3 – Proposed Signage

Sign Number	Location	Content	Width	Height
1	Northern Elevation	Newcold Corporate Logo	25m	5.9m
2	Eastern Elevation	Newcold Corporate Logo	25m	5.9m
3	Southern Elevation	Newcold Corporate Logo	25m	5.9m
4	Western Elevation	Newcold Corporate Logo	25m	5.9m

3.6. ENVIRONMENTALLY SUSTAINABLE DEVELOPMENT

The development has been designed to incorporate several environmentally sustainable measures as summarised below.

Energy Efficiency

The site features modern LED lighting throughout the development including all internal and external areas saving 90% on energy consumption compared to traditional warehouse lighting. The Refrigeration plant will use ammonia which is a natural refrigerant with zero GWP (global warming potential). The refrigeration controls will be state-of-the-art, with sophisticated EMS (energy management system), VSD's (variable speed drives) on all major Compressors, Condensers and Evaporator fans, to deliver a high-energy efficiency refrigeration operation. The high-bay component results in a more thermally efficient cold storage building, also reducing energy consumption. The building envelope (walls, floor, freezer, doors) will be designed in accordance with industry best practice power consumption. All the energy efficiency initiatives above will contribute to lower energy use, which in turn also reduces water consumed for cooling refrigerant.

Carbon Emissions

Subject to approvals from electricity utilities, the proposal will include installation of a 500 kW (minimum) Solar Photovoltaic roof top mounted array, to produce energy mainly for internal site usage, with some of the zero-carbon energy exported to the grid. Parked refrigerated semi-trailers will have access to electricity from the solar system in daytime hours.

The energy efficiency initiatives above, as well as the Solar PV system, will contribute to a reduced carbon footprint.

Water Conservation

Rainwater harvesting from the main roof area – 1,500 kL of storage will be provided, and has been calculated as being sufficient to meet Blacktown City Council's requirement for supplying 80% of non-potable water demand. This storage will be provided in three 500kL tanks located underneath the two Office/Amenities buildings and as part of the combined sprinkler/rain water tank.

Other proposed measures to minimise potable water use are energy efficient building and refrigeration system designed to minimise condenser water usage, and the use of water efficient plumbing fixtures.

A Sustainability Strategy has been prepared and is located at **Appendix H**.

3.7. HOURS OF OPERATION

The facility will continue to operate 24 hours a day, 7 days a week, 365 days a year as currently approved.

3.8. MODIFICATION TO CONDITIONS

The proposed amendments to SSD6799 approval necessitate certain changes to the conditions of the consent. These amendments are identified below. Works proposed to be deleted are shown **~~bold strikethrough~~**, and words to be inserted are shown **bold black**.

SCHEDULE B ADMINISTRATIVE CONDITIONS

B6. The Applicant shall ensure the total building area does not exceed:

- a) ~~34,135 m²~~ **33,482m²** of warehouse and distribution uses; and
- b) ~~2,152 m²~~ **3,000 m²** of ancillary office area.

SCHEDULE C ENVIRONMENTAL PERFORMANCE AND MANAGEMENT

C5. The Applicant shall provide:

- a) a minimum of ~~128~~**104** on-site car parking spaces (including 3 disabled spaces) for use during operation of the Development; and
- b) Class 3 bicycle rails, and amenity and change room facilities for cyclists in accordance with AS 2890.3:1993 - Bicycle Parking Facilities and RMS' NSW Bicycle Guidelines.

C14. Prior to commencement of construction works, the Applicant shall prepare and submit a Stormwater Management Plan (SMP) to the Secretary for approval. The Plan shall:

- a) be prepared by a suitably qualified engineer prior to the commencement of the relevant works in consultation with Council;
- b) be prepared generally in accordance with the:
 - i. the Basis of Concept Civil Design, prepared by ~~Beca Pty Ltd, dated May 2015;~~ **AT&L dated April 2017**
 - ii. Concept Civil Drawings, prepared by ~~Beca Pty Ltd, dated June 2015~~ **AT&L dated April 18 2017;**
 - iii. *Blacktown City Council's Development Control Plan Part R 2006 and Engineering Guide for Development 2005;* and
 - iv. *OEH's Managing Urban Stormwater: Soils and Construction Guideline;*

C19. The Applicant shall ensure the rainwater reuse/harvesting system is designed, constructed and operated in accordance with the Basis of Concept Civil Design Report, prepared by ~~Beca Pty Ltd, dated May 2015~~ **AT&L dated April 2017**. A rainwater re-use plan is to be prepared and certified by an experienced hydraulic engineer for non-potable water uses. A signed works-as-executed Rainwater Re-use Plan is to be provided to Council's WSUD Compliance Officer prior to the issue of any Occupation Certificate for the warehouse building.

C48. All signage shall be erected in accordance with specifications identified in the following drawings:

- a) ~~2520460-96-0-502 Elevations Overall Development (Revision B) prepared by Beca and dated 20 July 2015 (north elevation 12.5 m x 2 m, south elevation 12.5 m x 2 m and west elevation 16mx2.5m).~~

b) AU0012 MDP FS10 200 Proposed Elevations (Revision B) prepared by EMKC and dated 19 April 2017.

C51 Prior to the commencement of construction works, the Applicant shall prepare a Landscaping and Vegetation Management Plan (LVMP) for the Development to the satisfaction of the Secretary. The plan shall:

- a) be prepared in consultation with Council and submitted to the Secretary for approval;
- b) detail any landscaping treatments at the site, including fencing and retaining wall details, with particular attention to minimising the visibility of the site from residences and public vantage points and minimising bushfire risk;
- c) ensure turf is laid on the bank adjoining the road reserve and it is maintained until established. Temporary landscape treatments such as hydromulching shall not to be used. All turf laid on the bank adjoining the road reserve shall be and maintained until the commencement of construction works for Stage 2;
- d) retaining walls shall be of masonry construction and provide a high-quality finish;
- e) demonstrate suitable landscape screening is provided to screen fire tanks, rainwater tanks and pump rooms where visible from public vantage points;
- f) ensure all vegetation and landscaping proposed within TransGrid's easement will not exceed 3 m at a mature height;
- g) ensure the Development is undertaken generally in accordance with the Landscape Plans, prepared by **Habit8 Urbis**, contained in the EIS;

Drawing No.	Issue	Date	Title
Architectural Drawings Prepared by Beca Pty Ltd EMKC			
2520460-96-0-501 AU0012MDPFS10 000	B A	13 May 2015 13 April 2017	General Arrangement Plan Overall Development Proposed Estate Plan
2520460-96-0-502 AU0012MDPFS10 200	B B	20 July 2015 19 April 2017	Elevations Overall Development Proposed Elevations
2520460-96-0-502S	A	16 November 2015	Streetscape Elevations Overall Development
2520460-96-0-503 AU0012MDPFS10	B A	20 July 2015 13 April 2017	Sections Overall Development Proposed Sections
2520460-96-0-504 AU0012MDPFS10 100	A A	14 May 2015 13 April 2017	Administration Office Layouts Overall Development Proposed GF Office Layout
2520460-96-0-505 AU0012MDPFS10 110 AU0012MDPFS10 120	A A A	14 May 2015 13 April 2017 13 April 2017	Office/Amenities Layouts Overall Development Proposed L1 Office Layout Proposed L2 Office Layout
2520460-96-0-506 AU0012MDPFS10 500	B A	20 July 2015 13 April 2017	Perspective Northwest Corner of Site Proposed Perspective
2520460-96-0-507 AU0012MDPFS10 500	B A	20 July 2015 13 April 2017	Perspective South East Corner of Site Proposed Perspective
2520460-96-0-509	B	17 July 2015	Refrigeration Layout Overall Development
2520460-96-0-511 AU0012MDPFS10 002	B B	13 May 2015 13 April 2017	General Arrangement Plan Stage 1 Proposed Site Plan
2520460-96-0-512	B	20 July 2015	Elevations Stage 1
2520460-96-0-513	B	20 July 2015	Sections Stage 1
Landscape Drawings Prepared by habit8 Urbis			

Drawing No.	Issue	Date	Title
L01	B	19 May 2015	LANDSCAPE PLAN
L02	B	19 May 2015	Landscape Section 96 Application
			PROPOSED PLANT SCHEDULE
Civil Drawings Prepared by Beca Pty Ltd AT&L			
2520460-96-0-601 DAC001	A A	21 May 2015 18 April 2017	Existing Conditions Plan Coversheet, Locality Plan and Drawing List
2520460-96-0-602 DAC100	A A	21 May 2015 18 April 2017	Earthworks Plan Bulk Earthworks Layout Plan
2520460-96-0-603 DAC200 DAC201	A A A	21 May 2015 18 April 2017 18 April 2017	Stormwater Drainage Plan Siteworks and Drainage Plan Stormwater Catchment Plan
2520460-96-0-604 DAC202	B A	29 May 2015 18 April 2017	Pavement and Grading Plan Pavement Plan
2520460-96-0-605 DAC101	A A	21 May 2015 18 April 2017	Civil Cross Sections Bulk Earthworks Section
2520460-96-0-606 DAC400	A A	21 May 2015 18 April 2017	Typical Civil Details – Sheet 1 of 2 Civil Details Sheet 1
2520460-96-0-607 DAC401	B A	29 May 2015 18 April 2017	Typical Civil Details – Sheet 2 of 2 Civil Details Sheet 2
2520460-96-0-608 2520460-96-0-609 DAC300	B A A	27 May 2015 21 May 2015 18 April 2017	East Boundary Long Section Soil Erosion and Sediment Control Plan Erosion and Sediment Control Plan
2520460-96-0-610 DAC301	A A	21 May 2015 18 April 2017	Erosion Control Details Erosion and Sediment Details
TransGrid Easement Plans Prepared by Beca Pty Ltd			
2520460-96-0-650	A	21 May 2015	Site Plan Showing TransGrid Cables
2520460-96-0-651	A	21 May 2015	Elevations Showing TransGrid Cables
2520460-96-0-652	A	21 May 2015	Concept Design Levels Within TransGrid Easement

4. SUBSTANTIALLY THE SAME DEVELOPMENT

Section 96 of the EP&A Act provides a mechanism for the modification of development consents. This section of the Act sets out the statutory requirements and heads of consideration for the assessment of such a modification application, depending on whether the application is made under section 96(1A), 96(1) or 96(2). This application is made under Section 96(2) of the act.

4.1. SECTION 96(2) OF THE EP&A ACT

As is relevant to this application, pursuant to section 96(2), a consent authority may, subject to and in accordance with the Regulations, modify a development consent if

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with:*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

4.2. SUBSTANTIALLY THE SAME DEVELOPMENT

The NSW Land and Environment Court has established several precedents as to what may be considered as being “substantially the same development”, and what should be factored into the consideration of this threshold test.

Namely *Vacik Pty Ltd v Penrith City Council* [1992] NSWLEC 8 considers that the processes and outcomes of the existing development should be compared to the processes and outcomes of the proposed development to determine whether they both have essentially the same essence. Further *Moto Projects No. 2 v North Sydney Council* (1999) 106 LGERA 298 indicates that the qualitative and quantitative differences between the two developments should be considered in context. If the modification will involve the loss of something that was ‘a material and essential physical aspect of the approved development’ then the two developments will not be substantially the same.

The consideration of these tests should not only include the physical characteristics of the approved and modified schemes, but also the nature and magnitude of the impacts of the developments. In these respects, the modified scheme should be “essentially or materially” the same as that originally approved.

It is considered that the proposed modifications to the application will be substantially the same development as that originally approved by way of SSD 6799 and will result in a comparable and in some instances improved environmental impact. Whilst the subject proposal seeks to amend the approved building envelope and footprint consent is still sought for the use of the site as a Cold Storage Facility which will operate 24 hours a day. Vehicle movements proposed by the application both by employees and truck movements will also be largely consistent with the existing approval of the site. In this regard the fundamental aspects of the project itself will not be altered by the proposal and it remains which is consistent with *Vacik Pty Ltd v Penrith City Council* [1992] NSWLEC 8

The majority of modifications proposed are considered qualitative and in line with the originally approved SSDA. The proposed modifications will not substantially alter the approved development and will result in minimal/negligible environmental impacts. Whilst established case law indicates that a quantitative comparison When considering a numeric comparison of the site it is noted that at no time does any portion of the application amend the existing approval by greater than 33%. This is detailed in a summary table has been prepared and sets out the approved development and proposed modified. The table demonstrates that the development as proposed to be modified for this component of the project remains substantially the same as that originally approved.

Table 4 – Existing Approval and Proposed Modifications

	Existing Approval	Proposed Modifications	Consistent/ Substantially the same
• Land Use	• Cold Storage Facility.	• Cold Storage Facility	✓
• SSD	• State Significant Development pursuant to SRD SEPP.	• State Significant Development pursuant to SRD SEPP.	✓
• Jobs	• 120-140 jobs job	• 120-140 jobs	✓
• Gross Floor Area	• Total of 36,287sqm of warehousing/office GFA.	• Total of 36,482sqm of warehousing/office GFA	✓ Substantially the same.
• Building Height	• Maximum Building Height 34.8m	• Maximum Building Height 36m	✓ Substantially the same.
• Capacity	• Cubic Capacity 696,111 cubic meters	• Cubic Capacity 959,504 cubic meters	✓ Substantially the same
• Hollinsworth Road Setback	• 45m	• 68m (excluding office)	✓ Substantially the same
• Darling Street Setback	• 75m	• 66m	✓ Substantially the same
• Harris Avenue Setback	• 19m	• 14m	✓ Substantially the same
• Landscape Perimeter	• 7.5m (all frontages)	• 7.5m (all frontages)	✓ Substantially the same

• Hours of operation	• 24 hours per day, seven days per week operation	• 24 hours per day, seven days per week operation.	✓
• Vehicle Access	• Darling Street	• Darling Street.	✓
• Parking Location	• Adjacent to Darling Street	• adjacent to Darling Street	✓
• Internal road network	• Continuous clockwise movement.	• Continuous clockwise movement.	✓

We further note that the proponent has sought separate legal advice from McCullough Robertson Lawyers regarding the applicability of Section 96 (2) in the consideration of the subject application. The advice has concluded that the modifications proposed by this application that can be approved pursuant to the provisions of section 96(2) as the proposed modifications will not result in a radical transformation' of the existing development in a manner which is consistent with the case law established under *Transport Action Group Against Motorways Inc v Roads and Traffic Authority* (1999) 46 NSWLR 598. A copy of the legal advice is attached as Appendix E of this report.

5. PLANNING ASSESSMENT

5.1. REGIONAL PLANNING CONTEXT

5.1.1. A Plan for Growing Sydney and the Draft West Central District Plan

A Plan for Growing Sydney identifies Marsden Park as an area of strategic importance whereby a concentration of high value economic activity in Marsden Park in the area zoned for business and industrial activities can be focused. Newcold, the proposed tenant of the site represents a high value economic activity which will promote the development of a highly skilled workforce

It is therefore considered that the proposal is consistent with both A Plan for Growing Sydney and the Draft West Central District Plan.

5.1.2. NSW Long Term Transport Master Plan

The NSW Long Term Transport Master Plan' is the NSW State Government's policy document for delivery of transport services to a growing population across the Sydney Metropolitan area.

NSW Long Term Transport Master Plan aims to improve the commute to work, improve community access to transport and services, provide an efficient and integrated customer focused transport system and revitalise neighbourhoods with improved transport hubs.

The subject site has good access to the arterial road network making it easily accessible for the transportation of goods. Vehicle movements for the site have been previously approved and no significant disruption to existing level of service of the road network will result from the proposal.

5.2. STATE PLANNING CONTEXT

5.2.1. State Environmental Planning Policy (State and Regional Development) 2011

Clause 8(1) of SEPP SRD provides that the development specified in Schedule 1 of the SEPP SRD is SSD. Clause 12(2) of Schedule 1 provides for the following:

(1) Development that has a capital investment value of more than \$50 million for the purpose of warehouses or distribution centres (including container storage facilities) at one location and related to the same operation.

The proposed cost of works of the facility will continue to exceed \$50 million and as such under Section 89D of the EP&A Act, the Minister for Planning is the consent authority for the amended application.

5.2.2. State Environmental Planning Policy (Sydney Region Growth Centres) 2006;

5.2.2.1. Zoning and Permissibility

The site is zoned IN2 Light Industrial under the provisions of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (SEPP Growth Centre). This application seeks consent for the development of the site as a cold storage warehouse as previously approved. A cold storage facility is considered a warehouse and distribution centre for the purposes of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and is defined as:

a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

Development for the purpose of a warehouse and distribution centre is permissible with development consent within the IN2 Light Industrial zone.

5.2.2.2. Height of Building

The proposed modification seeks development consent for a maximum building height of 36m which maintains the projects noncompliance with the Growth Centre SEPP requirements. Whilst a formal Clause 4.6 variation is not required as the subject application is a modification application made under Section 96 of the Environmental Planning and Assessment Act 1979 the framework has been adopted and is considered below.

Compliance is unreasonable or unnecessary

In the Wehbe judgement Preston CJ set out five ways in which a variation to a development standard can be supported as follows:

1. ***The objectives of the standard are achieved notwithstanding non-compliance with the standard;***
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. ***The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;***
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Consideration (1) which requires a demonstration that the objectives of the Height of Building standard can be achieved notwithstanding noncompliance is relevant in this case. The compliance of the proposed development with the objectives of the Height of Building standard of the Growth Centres SEPP is demonstrated below.

The objectives of Clause 4.3 for development on land in Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B6 Enterprise Corridor are and the projects compliance with these objectives are summarised in Table 1 on the following page

Table 5 – Project Compliance with the Objectives of Clause 4.3

Height of Building Objectives	Design Response
to provide for a range of building heights in appropriate locations that provide a high quality urban form	A range of building heights has been established within the precinct and will be maintained regardless of the proposal.
to provide appropriate height controls for commercial, industrial and residential development	The proposed development is a purpose built cold storage warehouse. The height proposed is a requirement of the operational standards of the facility and as such is considered to be an appropriate height control for an industrial development.
to establish parameters for and promote a high quality built form	In accordance with a request received from the NSW Department of Planning and Environment multiple design options have been considered for the proposal. The scheme proposed is considered to make the strongest development scenario for all effected stakeholders and establishes a high quality built form consistent with the existing approval and adjacent built form.
to protect the amenity of adjoining development and land in terms of solar access to buildings and open space.	The development as amended will not impact solar access for adjacent buildings between 9am and 3pm during winter and is considered to satisfy this objective.

Overall it is considered that there will be no impact on the building's visual relationship with the streetscape as a result of the proposed amendment. The architectural form of the building will further ensure that the additional building height will largely be screened from the public domain ensuring that the desired future character of the area is maintained.

The development is compliant with Floor Space Ratio of the site detailed by the Growth Centres SEPP and exceeds the minimum setbacks detailed within the DCP. The development is therefore considered to be of a reasonable bulk and scale given the development controls which apply holistically to the site.

Despite the technical departure from the relevant height standard the proposed development remains consistent with the objectives of Clause 4.3 of the Growth Centres SEPP and therefore it is demonstrated that strict compliance with the height standard in this instance is unreasonable and unnecessary.

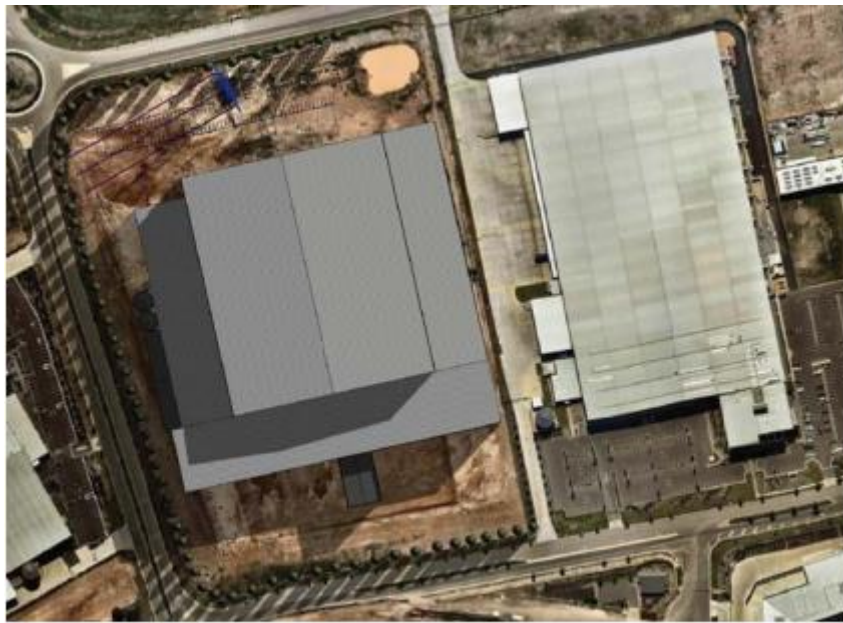
Adequate Grounds for Contravening the Development Standard

Clause 4.6 requires the applicant to demonstrate that there are sufficient environmental planning grounds to contravene the development standard. In this instance the following environmental planning grounds particular to the site support of the building height variation:

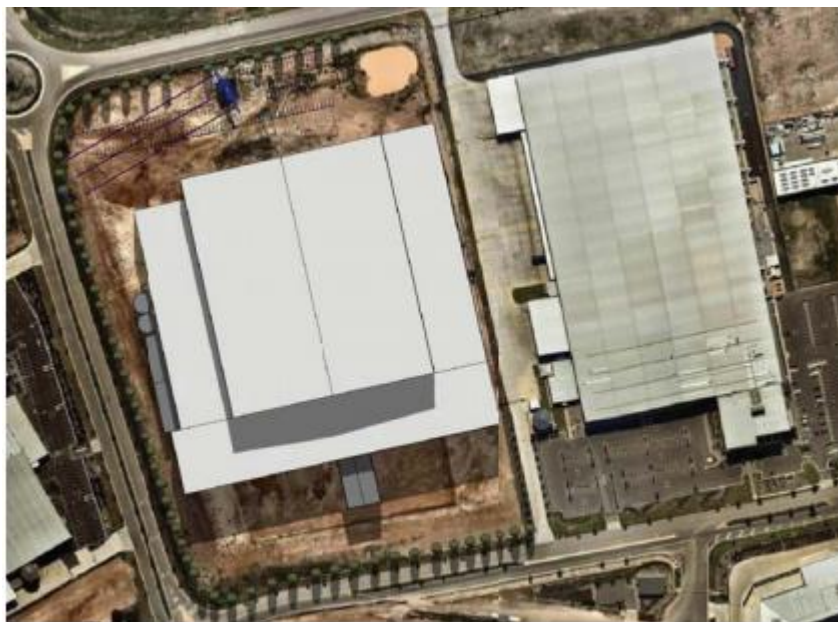
- The additional height proposed by the application will not be readily perceptible from public domain spaces in the immediate locale, thus providing an appropriate transition in built form and land use intensity. The rooftop elements will only be visible from the public domain at a significant distance such that the additional height would be imperceptible;
- Despite the additional height, the scale of development is comparable to existing approvals in the locality. The proposal is therefore not considered to be inconsistent with the envisaged future development for the Marsden Park Industrial Precinct;

- In this instance, it is considered that strict compliance with the existing approval will not result in an improved planning outcome – the uppermost portions of the building will not cause any material impact in terms of privacy or view loss to neighbouring residential areas, or adverse overshadowing to adjacent properties or the public domain.
- As requested by the NSW Department of Planning and Environment multiple design options have been considered for the proposal. Scheme proposed is considered to make the strongest development scenario for all effected stakeholders
- The architectural response to the building elements which exceed the height limit has been designed in such a way that no material impact will result to neighbouring properties over and above that which would result from that approved under the existing scheme;
- No reduction in solar access to the public domain will result from increased building height. All shadows cast by these elements will fall within the shadow lines cast by the proposed building. This has been established in the shadow assessment to not materially impact nearby open space areas. The overshadowing of the site is shown in Figure below.

Figure 3 – Shadow Diagrams (Source EMKC 2017)



WINTER 9AM
Scale 1:



WINTER 12NOON
Scale 1:



- The proposal development is compliant with the Floor Space Ratio requirements of the Growth Centres SEPP and does not propose a built form which consists of unnecessary building bulk or scale.

For these reasons it is considered that there are adequate grounds to support the proposed variation to the height standard.

Significance for State or Regional Planning

The non-compliance will not raise any matter of State or Regional Significance

The Public Interest

Clause 4.6 requires that the consent authority consider the public benefit in determining whether to support the variation.

Reducing the building height to enforce strict compliance with the standard will not result in an improved planning outcome. The height exceedance does not create any material shadow, privacy or existing view loss impact or impact on significant views. As such, there will be no discernible public benefit by maintaining the standard.

Summary

In view of the development context strict compliance with Clause 4.3 of the Growth Centre SEPP is considered to be unreasonable in this case and the proposed development is justified on the following environmental planning grounds as follows:

- The proposal is considered appropriate and consistent with the objectives and intent of Clause 4.3 which for development on land in Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B6 Enterprise Corridor are as follows:
- The proposed variation will not result in the loss of views, nor will it result in adverse amenity impacts in terms of overshadowing or the like that would be associated with the additional building height
- The proposal represents a considered design response to the identified constraints of the site.
- The proposed development, contributes to achieving the objects of the EP&A Act which includes the promotion and co-ordination of the orderly and economic use and development of land.
- The proposed non-compliance will not undermine the public benefit and legitimacy of the standard and no matters of State or regional planning would be affected by the proposed variation.

For these reasons, the proposed variation to the height standard should be supported as part of the assessment of this application.

5.2.2.3. Floor Space Ratio

The subject site is limited to Floor Space Ratio (FSR) of 0.7:1 under the provisions of the Growth Centre SEPP. Based on a site area of 70,297sqm the site is restricted to a total Gross Floor Area (GFA) of 49,207.90sqm.

The proposal seeks development consent for a GFA of 36,482sqm which comprises of 33,482sqm of warehouse space and 3,000sqm of ancillary office space. This equates to a FSR of 0.51:1. Based on this the proposal is considered to be compliant with the requirements of the SEPP Growth Centres

5.2.2.4. Public Utility Infrastructure

In accordance with the existing approval for the site all level if infrastructure will be available for the development.

5.2.3. State Environmental Planning Policy (Infrastructure) 2007

Transgrid

As noted on the submitted architectural plans a TransGrid easement transects the northern portion of the site. Clause 45 of State Environmental Planning Policy (Infrastructure) 2007 requires that all development in the vicinity of electricity easements be referred to the relevant agency to provide comment on the application before a consent authority makes a determination on the proposal.

In accordance with Clause 45 the application must therefore be forwarded to Transgrid as part of the assessment of the application. As per the existing approval no building works are proposed within the easement area and carparking alone is proposed in this area. The works are therefore considered unlikely to result in land conflict issues with the electricity easement.

Roads and Maritime Services

State Environmental Planning Policy (Infrastructure) 2007 aims to facilitate the effective delivery of infrastructure across the State. In this regard, development that is proposed to generate a threshold amount of traffic must be referred to the RMS. In accordance with Clause 104 of this policy applications proposing 20,000sqm of industrial development or more on a site with access to any road must be referred to the RMS. As the proposal originally sought consent for 36,287sqm of floor space the proposal must be referred to the RMS.

It is noted that the RMS had previously raised no objection to the proposal when 36,287sqm of floor space was proposed.

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

As per the existing Development Approval on the site the proposed development is not potentially offensive industry within the meanings of State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP33).

A Preliminary Hazard Analysis has been prepared for the proposal and is provided as Appendix I of this report. The PHA concludes that the risks at the site boundary are not considered to exceed the acceptable risk criteria; hence, the facility would only be classified as potentially hazardous for the purpose of SEPP33.

The mitigation methods outlined and endorsed by the NSW Department of Planning and Environment are considered appropriate to mitigate the risks of the facility.

5.2.5. State Environmental Planning Policy No. 55 – Remediation of Land;

SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Site investigations were undertaken as part of the subdivision of the site. These investigations confirmed that the land would be suitable for industrial purposes following the sites subdivision. In this regards the proposal is considered to

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

State Environmental Planning Policy No. 64 —Advertising and Signage (SEPP 64) aims to ensure that advertising and signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish. It does not regulate the content of signs and advertisements.

Clauses 8 and 13 of SEPP 64 require that consent cannot be granted to signage unless the consent authority is satisfied that it is consistent with the objectives of the SEPP and has satisfied the assessment criteria specified in Schedule 1. The objectives and assessment criteria are addressed in the Town Planning Compliance Tables attached as Appendix H of this report.

5.3. LOCAL PLANNING CONTROLS AND POLICY

5.3.1. Blacktown Local Environmental Plan 2015

The subject development site and the Marsden Park Industrial Precinct is not included within the Blacktown Local Environmental Plan 2015.

5.3.2. Blacktown City Council Growth Centre Precincts DCP 2010

The DCP contains a comprehensive set of controls for development within the Marsden Park Industrial Precinct. A complete assessment of the proposal against the relevant controls of the DCP is contained in under Appendix H.

Overall, the proposal achieves a high level of DCP compliance. Where the proposal departs from certain controls, it is demonstrated that the intent of the controls can still be achieved, and the proposed variations will not create any unacceptable environmental impacts.

5.4. LIKELY IMPACTS OF THE PROPOSAL

5.4.1. Strategic and Statutory Context

The strategic context is addressed in Section 5.1 and 5.2 of this report. It is considered that with the exception of building height the proposal is consistent with all relevant policy objectives. Appropriate justification has been provided throughout this report to justify the noncompliance.

5.4.2. Infrastructure

The site is provided with all essential infrastructure that has enabled construction and operation of the existing facility. A detailed Energy Requirements Report will be undertaken as part of the Construction Certificate process.

5.4.3. Traffic and Transport

A Traffic Impact Assessment has been prepared for the proposed works by The Transport Planning Partnership and is attached as Appendix I of this report. The assessment examines the existing transport conditions, the proposed vision for the public domain and its interface with traffic movements within and around the site, as well as how the proposed transport and access arrangements for the site.

Traffic Generation and Impact

As demonstrated as part of the previously DA consent for the Swire Cold Storage warehouse, the road network within the immediate vicinity of the Sydney Business Park has been designed to accommodate traffic generation from standard industrial park uses. As the proposed development is projected to be highly automated, the expected traffic generation from the site is less than a typical industrial use.

Given that the proposed development is for the same land use, it is considered that there would be no significant change in vehicle trip generation from the approved scheme. Nonetheless, the following assessment reiterates site specific traffic generation, provided by Swire and generic industrial park use traffic generation, demonstrated within the RMS Guide.

Vehicular Site Access

As per the existing approval for the site vehicular access to the site will continue to be maintained from Darling Street for both heavy rigid vehicles and cars.

Parking Provision

As per the existing approval for the site a first principles approach has been undertaken to determine the required parking facilities for the site. Staff forecasts for the facility are provided below.

Table 6 – Full Time Employees Forecast

Shift	Time	No. Full Time Employees
Morning	05:00 to 13:00	65
Afternoon	13:00 to 21:00	55
Night	21:00 to 05:00	20

Given the number of proposed full time employees, it is considered unnecessary to provide parking provision in a manner consistent with the requirements of the Blacktown City Council Growth Centre Precincts DCP 2010. A larger staff car park would impact the proposed internal layout of the development and cause unnecessary detriment to the operation of the site.

Staff parking has been designed to AS2890.1. As stated earlier, the entrance to the staff car park has been situated approximately 42 metres east of the Harris Avenue, Darling Street roundabout, to provide substantial visibility splays for vehicles accessing and egressing the staff car park.

Loading Areas and Site Servicing

There are 32 loading docks currently proposed to the rear of the site. All loading docks can accommodate:

- Semi-Trailer truck
- 16 metre B Double Truck
- PBS Quad Truck

Servicing of the site would operate as a one-way system, with vehicles entering the site & travelling in a north-south direction along the eastern boundary of the site. Service vehicles would then reverse into the loading docks with one movement before travelling along the western boundary to park in the designated truck bays or egress the site, to the rear in a manner consistent with what was previously approved.

Both servicing lanes on the east and west boundaries of the site have been designed to the requirements presented in table 31 of the Australian Standards document 2890.2 and provide 8 metres of servicing width. This would allow two service vehicles to pass simultaneously on approach.

5.4.4. Acoustic Impact

A detailed acoustic assessment of the proposal has been undertaken for the project by Renzo Tonin and Associates and is attached as Appendix I of this report. The investigation has considered the impacts of the proposal on a cumulative basis and has confirmed that Noise compliance is achieved at all receivers for all periods. A summary of the cumulative noise assessment is provided in Table 7 below.

Table 7 – Cumulative Noise Assessment

Assessment Location	Predicted Noise Level LAeq,15min			Project Specific Noise Goal LAeq,15min		
	Day	Evening	Night	Day	Evening	Night
A1 - 99 Hollinsworth Rd, Marsden Park	34	32	32	43	40	37
A2 - 105 Hollinsworth Rd, Marsden Park	32	29	29	43	40	37
A3 - Industrial premises	65			70		

Based on this the proposed development is considered to make a suitable acoustic impact consistent with what has previously been approved for the site subject to detailed investigations undertaken as part of detailed design development.

5.4.5. Environmental Risk Assessment

An Environmental Risk Assessment was undertaken as part of the original EIS prepared for the site. The modifications proposed by this application are not considered to have altered this risk assessment.

5.4.6. Urban Design and Visual Quality

The proposed design warehouse of the facility as amended has considered the site context its functional requirements, aesthetic value and orientation to create a visually interesting and functional facility consistent with that which was previously approved for the site.

The structure has been positioned to fully integrate into the existing and future visual and design requirements of the Marsden Park Industrial Precinct. A series of checkerboard elements are used throughout the façade to offset the vertical nature of the design which supplemented by a cascading warehouse design with lower level aspects located along the perimeter of the site and the high bay component itself located within the middle of the site.

The unique operational requirements of the warehouse automation and the need to provide internal temperatures commiserate to results in restrictions on providing high level openings such as louvers vents or blade walls.

The Landscape Plan prepared by Urbis and attached as Appendix B a comprises a mix of trees, shrubs and garden beds including ground covers to provide a variety in scale and visual interest. Heights will range from 0.2 metres to 25 metres upon mature age. Species selection will remain consistent with the existing planting palette for the estate and the proposed building design.

Specifically, new landscaping is concentrated along the northern frontage facing Darling Street to reduce the overall bulk and scale of the high bay facility when viewed from this road. This is considered appropriate and a considered design approach as the high bay portion of the site is directly adjacent to the northern boundary of the site which is not filtered out by the freezer warehouse and dispatch areas of the warehouse.

5.4.7. Visual Impact

As acknowledged within the Response to Submissions document submitted with the original approval of the application the overall form of the building is dictated by its function as a cold storage warehouse facility effectively requiring the warehouse itself to be a large box. Whilst this is acknowledged by both the proponent government agencies the visual impact of the facility has still been considered in the design of the amended scheme.

The areas with greatest potential for visual impacts as a result of the proposal are to the east of the site along Richmond Road and to the north of the site at the corner of Grange Avenue and Richmond Road which has long been identified as the Marsden Park Town Centre and is likely to be developed within the next 5 years. Photomontages have been prepared from these localities and form part of the Architectural Plans attached as Appendix A of this report.

Overall it is considered that the amended proposal will have minimal to no visual impact above and beyond what had previously been approved. The proposed facility itself will largely be obscured from view particularly from Richmond Road due to the site location within the middle of the Marsden Park Industrial Precinct. As a result the facility is largely screened by large previously approved and constructed warehouse and industrial buildings of a similar height and scale.

Further it is considered that given the extensive redevelopment which is envisaged for the Marsden park Town Centre and Marsden Park Industrial Precinct that the proposal would be further screened by new development. This is of particular relevance to the visual impact of the proposal when viewed from the future Marsden Park Town Centre

Overall it is considered that the proposal as amended is not incompatible with the height, scale, siting and character of Marsden Park as it is presently developed. It is further considered that the proposal would not detract from the character of the locality or unduly impact the quality of views from the existing private and public landholders within the locality.

5.4.8. Environmental Risk Assessment

An Environmental Risk Assessment was prepared and endorsed as part of the original application submitted with the proposal. The Environmental Risk Assessment is considered to be suitable for the proposed development without amendment.

5.4.9. Sustainability

Consistent with the existing approval for the site a revised Sustainability Report has been prepared for the application and is attached as Appendix J of this report. The proposed development will incorporate best practice ESD initiatives into its design, construction and ongoing operation. Through a combination of energy, water and other strategies, the project will exceed minimum requirements for sustainable development in Australia.

Strategies to be explored and investigated in later design stages include:

- Careful lighting design and selection of non-toxic finishes to improve Indoor Environmental Quality (IEQ).
- Efficient fittings, fixtures and appliances combined with rainwater capture and reuse.
- Efficient building fabric and services to deliver operational energy saving.
- Active transport facilities to encourage healthier living while reducing carbon emissions from transport.
- Selective procurement of materials used in construction in terms of environmental and social responsibility.
- Innovative marketing and education strategies to explain sustainability practices to the public.

Rigorous management and governance procedures will ensure that sustainability outcomes will be delivered in operation.

5.4.10. Hazards

As required by the SEAR's for the project a PHA has been prepared for the project as amended by Blackie Mendham and is attached as Appendix G of this report. The report has been prepared in accordance with the requirements of the guidelines published by the Department's Hazardous Industry Planning Advisory Paper No 6 – Guidelines for Hazard Analysis. The investigations has confirmed the hazard profile and risk mitigations of the proposal as amended remains consistent with the existing approval for the site. Specifically, the investigations have confirmed the following:

- Risks at the site boundary are not considered to exceed the acceptable risk criteria; hence, the facility would only be classified as potentially hazardous;
- The proposed facility does not increase the risk profile of the area to an unacceptable level;
- Suitable mitigation methods can be implemented to ensure the safety of the facility.

5.4.11. Building Code of Australia

A preliminary assessment of the proposal against the relevant provisions of the Building Code of Australia has been undertaken by Modern Building Certifiers and is attached as Appendix K of this report. The assessment concludes that the proposal has been completed to comply as necessary with the BCA. The non-compliances with the Deemed to Satisfy (DtS) provisions of the BCA will be addressed prior to the issuance of a Construction Certificate, through a performance based alternative.

5.5. VOLUNTARY PLANNING AGREEMENTS

Two separate Voluntary Planning Agreements apply to the Sydney Corporate Park which impact the site being Marsden Park Developments Pty Ltd and Ganian Pty Ltd dated 10 November 2010 and Blacktown Council and Marsden Park Developments Pty Ltd dated 6 October 2011. Both Voluntary Planning Agreements related to the upgrading of the stormwater and road networks of the Marsden Park Industrial Precinct and do not impact on the development controls or potential of the site.

5.6. CONTRIBUTIONS

5.6.1. State Infrastructure Contributions

Payment of State Infrastructure Contributions for the Sydney Business Park was applied to the site under the subdivision consent for the precinct (DA 11-2284 issued by Blacktown City Council). No further State Infrastructure Contributions are payable for the site.

5.6.2. Section 94 Contributions

As per the State Infrastructure Contributions all Section 94 Contributions for the site were levied under the subdivision application for the site. No further Section 94 Contributions are applicable for the site.

5.7. SITE SUITABILITY

As demonstrated within this report and the original EIS prepared by JBA in respect to the approved SSD 6799, the proposed development as modified is expected to provide positive employment impacts both locally and in the broader economy. It is envisaged that the proposal will provide between 100 and 120 jobs.

The site is located within the Sydney Corporate Park and aligns with the desired future land use outcomes for this area, particularly in promoting economic development for major warehousing and distribution uses in an industrial setting with access to the road network connecting to the broader metropolitan area.

The site is suitable for the proposed development as it provides the following:

- The site is located in a strategically identified employment area, suitable for warehouse and distribution centre uses;
- The site is located in close proximity to high quality infrastructure and transport links, which is key to the warehouse and distribution use;
- The site is located in an area of land uses that are compatible with those proposed; and
 - All necessary urban services are available and there are no site development hazards such as flooding, land-slip or soil contamination.

5.8. PUBLIC SUBMISSIONS

Submissions received are required to be considered under Section 79C of the *Environmental Planning and Assessment Act 1979*. Any submissions received will be responded to accordingly in a timely manner.

5.9. THE PUBLIC INTEREST

The proposal has been assessed against the current planning framework for the site and is consistent with the objectives of the Marsden Park Industrial Precinct. The assessment has demonstrated that no significant adverse impacts will result to the surrounding area. The proposal is considered to be in the public interest.

6. MITIGATION MEASURES

Mitigation methods were identified in the Environmental Impact Statement as part of SSD6177 and were ultimately approved. These mitigation methods are identified below.

Table 8 – Approved Mitigation Measures

Mitigation Measures	
Traffic	• A detailed construction management plan for the development will be prepared prior to the issue of a construction certificate.
Hazards and Risks	• Include in the preventative maintenance system the need for routine exercising of the actuated stormwater valves that prevent contaminated water from leaving site. • Include in the emergency response plan specific guidance on handling ammonia releases. • Due to high levels of radiant heat that may occur, ensure the firewater tank, firewater pumps, motor control centre, main switch board, and ammonia plant room, are constructed to account for potential warehouse wall collapse. • Control of ignition sources procedures. • Flameproof fork lift trucks. • Fixed fire protection sprinkler systems in pallet racking (designed to Australian Standards). Systems to be regularly tested. • Emergency plans. • Emergency warning system. • Spill kits. • Racks are to be equipped with impact barriers and are to be inspected regularly. • Fire resistant walls and doors. • Smoke detection. • Lights to be located over aisles and guards installed. • Security Risk Assessment and Security Plan in place. • 24 / 7 security presence at the site and routine security patrols. • Fully fenced Site. • CCTV cameras. • Fire protection includes hydrants, hand-held hoses and extinguishers. • Emergency response plans.

Mitigation Measures	
	• Battery inspections. • Electrical maintenance. • Transformer to be designed and maintained to Australian Standards. Transformer serviced by Endeavour Energy. • Only accredited personnel will be permitted to work on the transformer. • Containment around the transformer for oil leaks. • Racking designed to AS4084 steel storage racking. • In-rack fire protection facilities. • No ignition sources at the storage areas
Noise	• Noise from mechanical plant should be assessed at a later stage once mechanical selections are made available to ensure compliance with the noise emission objectives
Air Quality	• Control dust emissions, such as the use of water carts, sprinklers, sprays and dust screens. • Disturbed areas would be stabilised as soon as practicable to prevent or minimise windblown dust. • Loaded haulage trucks would be covered at all times on public roads and on-site where there is a risk of release of dust or other materials • Construction plant, vehicles and machinery would be maintained in good working order and in accordance with manufacturers' specifications.
Waste	• Construction and Operational Waste is to be managed as per the Waste Management Plan

The proposed Mitigation Methods are considered to remain suitable for the proposed development. The mitigation methods coupled with the existing conditions of consent which will not be altered by the proposal are considered appropriate for the development and does not warrant further amendment.

7. CONCLUSION

This Section 96 (2) application seeks to modify SSD6799 as it applies to the approved Cold Storage Warehouse and Distribution Facility. Our assessment of the proposal concludes that the proposal positively responds to the site's strategic location, relevant local planning controls, and its physical and built form context. It will result in positive economic, environmental and social benefits to the community. It is considered that a positive assessment and determination of the project should prevail given:

- The proposed development will result in a land use that is consistent with the zoning of the land and the existing approval on the site. The land use will make a strong contribution as an employment generating land use in line with strategic goals for the Marsden Park Industrial Area.
- The relationship between the site and surrounding sites will be improved as a result of the increased setback to Hollinsworth Road and key building bulk elements being located within the middle of the site.
- The proposal demonstrates consistency with the relevant environmental planning instruments including strategic planning policy, and State and local planning legislation, regulation and policies.
- The proposal will operate within the operational bounds assessed and considered to be satisfactory as determined in the approval of the SSD6799.
- It has been demonstrated that the proposed works will result in minimal environmental impacts, all of which can be managed or mitigated through the recommendations outlined in the sections of this report.

Given the high quality of design and the absence of any significant adverse environmental effects, the proposal is considered to have merit in context of the relevant strategic and statutory planning framework. It is therefore considered to be no material planning matter which would preclude the proposal from proceeding.

Based on the merits of the proposal, it is requested that the Minister or their delegates approve the modifications subject to the mitigation measures outlined in this report.

DISCLAIMER

This report is dated 10 April 2017 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd's (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Newcold (**Instructing Party**) for the purpose of Development Assessment (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

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This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

APPENDIX A PROPOSED ARCHITECTURAL PLANS

APPENDIX B DESIGN OPTIONS REPORT

APPENDIX C LANDSCAPE PLANS

APPENDIX D CIVIL ENGINEERING PLANS

APPENDIX E LEGAL ADVICE

APPENDIX F

TOWN PLANNING COMPLIANCE ASSESSMENT

APPENDIX G

PRELIMINARY HAZARD ANALYSIS

APPENDIX H TRAFFIC IMPACT ASSESSMENT

APPENDIX I NOISE ASSESSMENT

APPENDIX J SUSTAINABILITY STRATEGY

APPENDIX K

BUILDING CODE OF AUSTRALIA ASSESSMENT



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