

ASSESSMENT REPORT

Section 75W Modification Printing Warehouse and Distribution Facilities (MP 08_0016 MOD 1)

1. BACKGROUND

On 12 July 2010, the then Minister for Planning granted approval for the construction and operation of a printing, warehouse and distribution facility at 133-145 Lenora Lane, Erskine Park (the Site) in the Penrith local government area (see Figure 1).



Figure 1: Site Location Plan

The site is located in the Western Sydney Employment Area (WSEA). The WSEA is around 2,200 hectares in area and has been strategically identified and developed for the purposes of providing employment opportunities and economic development for Western Sydney. The WSEA includes a number of established and proposed industrial uses, including various warehousing, distribution, industrial and research facilities.

The proposed site has historically been vacant, however bulk earthworks have been undertaken on the site in accordance with a development consent issued by Penrith City Council on 25 March 2008 (DA 07/1527) (see Figure 2).



Figure 2: Subject site following completion of Bulk Earthworks

The key components of the approved project included:

- the construction of two separate buildings (3,655m² and 55,621m² in size) housing a total of three warehouses (see Figure 3);
- a printing facility in Warehouse 2;
- office space, loading bays, and associated warehouse storage in all three warehouses; and
- an additional vehicular driveway and 245 car spaces.

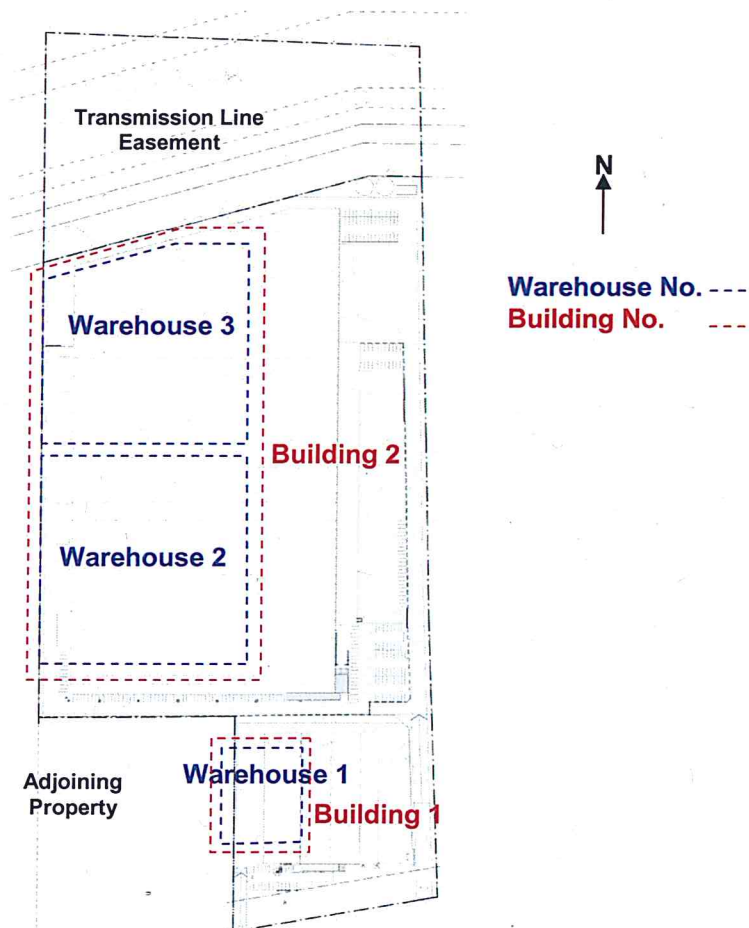


Figure 3: Site Plan

The primary function of the approved project was for the provision of warehousing and distribution. Prospective tenants at the time included Cameron's Logistics and PBL Media, a private company producing television and print media. However following the approval of the project, PBL Media did not establish its activities at the site and PacLib went into receivership.

2. PROPOSED MODIFICATION

In December 2012, the Proponent (Lot 62 Erskine Park Pty Ltd) lodged a modification application seeking to remove the printing use from the approval and vary the site layout. The modification would enable the new tenant (Super Retail Group) to undertake its warehouse and distribution operations at the subject site.

Key components of the proposed modification include:

- removal of the internal segregation between warehouse unit 2 and 3 (now to be referred to as Warehouse 2);
- the addition of a 1,920m² storage area at the north eastern corner of Warehouse 2 to house materials classified as dangerous goods. This would include retail automotive care products such as air fresheners, upholstery and tyre cleaners, wax, oils and coolants;
- additional truck loading facilities on the northern side of Warehouse 2;
- an increase in the overall building height of Warehouse 2 by 0.75m; and
- reduction in building footprint of Warehouse 2 from 55,621m² to 49,702m².

Warehouse 1, which fronts Lenore Lane would remain unchanged.

3. STATUTORY CONTEXT

Section 75W

In accordance with Clause 12 of Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Under Section 75W of the EP&A Act, the Minister is obliged to be satisfied that what is proposed is indeed a modification of the original proposal, rather than being a new project in its own right.

The Department notes that:

- the primary function and purpose of the approved project would not change as a result of the proposed modification; and
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of consent.

Therefore, it is considered that the proposed modification is within the scope of section 75W of the EP&A Act. Consequently, the Department considers that the application should be assessed and determined under Section 75W of the EP&A Act rather than requiring a new development or project application to be lodged.

Approval Authority

The Minister was the approval authority for the original project approval, and is consequently the approval authority for this application.

The Executive Director, Development Assessments, Systems and Approvals, may determine this application on behalf of the Minister in accordance with the Minister's delegation dated 27 February 2013, subject to the following:

- where the relevant local Council/s has not made an objection;
- where a political donations disclosure statement has not been made; and
- there are less than 25 public submissions in the nature of objections.

The Department is satisfied that the application meets the terms of the delegation and that the Executive Director may determine the application under delegated authority.

4. CONSULTATION

In accordance with 75W of the EP&A Act, the Department made the application publicly available on its website and consulted with Penrith City Council (Council), the Environment Protection Authority (EPA), the NSW Roads and Maritime Services (RMS), Transgrid, Endeavour Energy and Workcover Authority of NSW (Workcover). A summary of the issues raised in submissions is provided below.

Council did not object to the proposal but raised a number of concerns relating to acoustic impacts, visual amenity, lighting and the classification of the proposal as a modification.

Endeavour Energy originally specified that excavation works would be prohibited within their easement. However, upon further clarification by the Proponent and minor changes to the proposed layout, Endeavour Energy raised no objection to the proposal on the condition that access to their easement would be provided.

The **EPA** did not object to the proposed modification. Further, the EPA advised that the under Part 1 (Premises Based Activities) Section 9 (Chemical Storage) of Schedule 1 of the *Protection of the Environment Operations Act 1997* (POEO), the premises would not require an Environmental Protection Licence (EPL) because the proposed maximum chemical and dangerous goods storage capacity of the premises is below the threshold of 2,000 tonnes.

The **RMS** did not object to the proposed modification. However, it recommended a number of conditions should the proposal be approved. These conditions are consistent with existing conditions within the approval.

Transgrid originally objected to the proposal due to the encroachment of batter banks into their easement. The Proponent undertook further consultation with Transgrid and submitted revised plans which replaced the encroaching batter banks with a vertical retaining wall outside of Transgrid's easement. As a result, Transgrid raised no objection to the proposed modification.

Workcover raised no objection to the proposal. Further, it advised that there is a requirement to manage the risks associated with the proposed activities under Work Health and Safety legislation. Conditions relating to these issues are included within the existing approval.

All of the issues raised in submissions have been considered in the Department's assessment of the modification.

5. ASSESSMENT

The Department has assessed the merits of the proposed modification. During this assessment, the Department has considered:

- the environmental assessments, and Director-General's assessment reports for the approved project
- existing conditions of approval;
- documentation supporting the proposed modification application;
- agency submissions;
- relevant environmental planning instruments, policies and guidelines; and
- the requirements of the EP&A Act, including the objects of the Act.

In regard to the proposed modification, the Department considers the key environmental issues to be associated with noise, hazards, traffic and visual impacts. The assessment of the key environmental issues is outlined in Table 1.

5.1 Issues

Table 1: Key Environmental Issues

Issue	Assessment	Recommendation
Noise	<ul style="list-style-type: none"> ▪ The subject site is located within the WSEA and the nearest residential area located around 200m to the north in Erskine Park. ▪ As the original noise assessment found that noise would be below the relevant <i>Industrial Noise Policy</i> (INP) criteria, the noise limits were capped in the approval to those emissions that were predicted to be generated. ▪ In the current approval, noise limits of 38 dBA apply to the warehouse operations alone and 40 dBA should the project include a printing facility (which at the time of the proposal was not certain). ▪ The noise assessment for the modification has determined that there will be a slight increase in noise emissions of 1 dBA, primarily due to the increase in warehouse and distribution activities. ▪ The EPA raised no concerns in regards to noise, while Council were concerned that the northern loading docks may increase noise impacts on the residential area. 	<p>The Department recommends:</p> <ul style="list-style-type: none"> ▪ setting the day, evening and night noise levels consistent with the project specified noise levels established by the INP.

Issue	Assessment	Recommendation
	<ul style="list-style-type: none"> ▪ The Department is satisfied that the predicted noise increase of 1 dBA would be negligible. ▪ Whilst there would be an increase in noise, the predictions would still comply with intrusive noise criteria under the INP (ie background plus 5 dBA). ▪ As such, the Department considers that adopting the noise criteria established by the INP and increasing the noise limits associated with day and evening by 2 dB(A) is appropriate. ▪ The Department is also satisfied that existing conditions in the approval, which include requirements for a noise management plan and noise verification reports, would ensure noise is adequately managed. 	
Hazards and Risks	<ul style="list-style-type: none"> ▪ The proposed modification includes dangerous goods storage to house flammable liquids such as oils, coolants and cleaners. ▪ The EA included a preliminary hazards assessment which concluded that the storage of these goods was acceptable and not an offensive or hazardous development. ▪ Neither Workcover nor the EPA raised any concerns regarding hazards and risks. The proposal does not require an Environment Protection Licence. ▪ The Proponent has committed to updating their environmental safeguard procedures to account for the recommendations made in their consultant's preliminary hazards report. ▪ Overall, the Department is satisfied that the hazards and risks associated with the modified proposal can be appropriately managed subject to the recommended conditions. 	<p>The Department recommends the Proponent prepare and implement:</p> <ul style="list-style-type: none"> ▪ a Fire Safety Study; ▪ a Final Hazards Analysis; ▪ an Emergency Plan; and ▪ a Safety Management System.
Traffic & Parking	<ul style="list-style-type: none"> ▪ The subject site has direct access to Lenore Lane, a regional road in the WSEA. ▪ Operational traffic would increase from around 140 to 360 heavy vehicle movements per day as a result of the proposed modification. ▪ The Proponent's traffic assessment concluded that the traffic generation associated with construction and operation of the proposed modification would be consistent with the area and unlikely to present any adverse traffic impacts. ▪ The proposed modification provides for 227 car parking spaces, 18 less than originally approved, however the assessment concluded it would exceed the requirements of the RMS. ▪ Neither the RMS nor Council raised any concerns about traffic. ▪ The Department considers that the increase in vehicle movements associated with the operation of the facility to be manageable given the nature and location of the proposed development, particularly as the site has direct access to Lenore Lane, a regional road within the WSEA. ▪ The Department is also satisfied that any impacts from the proposed modification would be managed by the existing conditions of approval. 	No recommendations.
Visual/Landscaping	<ul style="list-style-type: none"> ▪ The proposed modification includes an increase in the building height of Warehouse 2 from 12.98m to 13.73m as well as a reduction in the building footprint of Warehouse 2 from 55,621m² to 49,702m². ▪ The proposed modification would not depart significantly from the landscape plan assessed in the original approval with the exception of the addition of car parking islands, native buffer tree plantings along the eastern boundary and the inclusion of a turfed embankment along the easement lines located on the northern side of the site. ▪ Council raised some concerns regarding visual amenity and lighting impacts associated with the northern truck loading docks. ▪ While the proposed addition of truck loading facilities along the northern boundary does present a different 	No recommendations.

Issue	Assessment	Recommendation
	<p>aspect, the Department considers that any visual impacts would be offset by the reduced building form of Warehouse 2 and the increased setback from the residential area to the north of the site.</p> <ul style="list-style-type: none"> ▪ The decrease in the building footprint of warehouse 2 would increase this setback by 53m, resulting in a total setback of around 253m. ▪ As such, the Department is satisfied that the visual impacts from the increased building height of Warehouse 2 and the northern loading docks would be acceptable. 	
Greenhouse Gas	<ul style="list-style-type: none"> ▪ A Greenhouse Gas Report was prepared to address energy production and consumption of the proposed modification. ▪ Based on greenhouse gas (GHG) calculations presented in the report, the facility would no longer exceed the threshold under the National Greenhouse and Energy Reporting Act (NGER Act) and would not require annual reporting. 	The Department recommends that conditions of approval associated with Greenhouse Gas be removed.

Other Issues

The Department also considered air quality, odour, soil and water and cumulative impacts associated with the proposed modification. The Department is satisfied that these impacts either would not be greater than what was originally assessed or could be managed by the existing conditions of approval.

Based on the above assessment, the Department is satisfied the proposed modification would not result in significant environmental impacts.

6. CONCLUSION

The Department has assessed the proposed modification in accordance with the requirements of clause 8B of the Regulations. This assessment has found that the proposed modification would:

- exclude the environmental impacts associated with the printing use;
- result in minimal environmental impacts beyond the approved facility;
- provide a facility that accommodates market demand for industrial developments;
- provide a range of economic, social and environmental benefits, including the creation of approximately 200 construction jobs and 169 operational jobs in the Western Sydney Region, injecting additional capital investment into Western Sydney; and
- be in line with the strategic objectives of the WSEA, a significant employment hub.

Consequently, the Department is satisfied that the modification should be approved.

7. RECOMMENDATION

It is **RECOMMENDED** that the Executive Director, Development Assessments, Systems and Approvals:

- **consider** the findings and recommendations of this report;
- **determine** that the proposed modification is within the scope of section 75W of the EP&A Act;
- **approve** the application subject to conditions; and
- **sign** the attached notice of modification (see Tag 'A').

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27.2.13

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