

JRPP Number	Item 1 (2010SYW006)
Application Number	DA09/1323
Applicant	FDC Fitout and Construction Pty Ltd
Proposed Development	Proposed Data Centre (Fujitsu)
Property Address	Nos.1-23 Templar Road ERSKINE PARK
Property Description	Lot 2 DP 1094504
Date Received	23 December 2009
Assessing Officer	Steven Chong (Penrith City Council)
Category of Development	Local Development
Recommendation	Approval, subject to conditions

Assessment Report and Recommendation

Executive Summary

Council is in receipt of a Development Application which proposes the erection of an industrial building for the purposes of a data centre with associated office, car parking and landscaping. The proposed building has been designed to accommodate Fujitsu Australia Limited (Fujitsu) to operate a data centre at the site.

The subject development site is part zoned IN1 General Industry and E2 Environmental Conservation under the provisions of State Environmental Planning (Western Sydney Employment Area) 2009. The proposed development is to be located on the IN1 section of the site. The existing biodiversity corridor along the front property boundary of the site is zoned E2 Environmental Conservation. The proposed development involves the storage of data with the sale of this item to third parties. In this regard, the proposal is suitably defined as a 'warehouse or distribution centre' which is permitted with consent.

The proposed development has a 'capital investment value' (CIV) of \$35 million. Given that the CIV is in excess of \$10 million, the proposed development is to be determined by the Joint Regional Planning Panel – Sydney West pursuant to Part 3 - Regional Development of the State Environmental Planning Policy (Major Development) 2005.

Pursuant to Clause 29 of State Environmental Planning (Western Sydney Employment Area) 2009, the proposed development requires the Director-General's certification of the Department of Planning for the satisfactory arrangements for the

provision of regional transport infrastructure and services. The Director-General has provided their written certification that the proposed development is satisfactory.

An assessment under Section 23G and Section 79C of the Environmental Planning and Assessment Act 1979 (as amended) has been undertaken. Having regard to the matters discussed in this report, the application is recommended for approval, subject to the imposition of conditions.

Background

The subject site comprises of a number of approvals which are detailed as follows: -

- DA04/1599 for a three (3) lot torrens title subdivision of Lot 93, DP 838541 which had created the subject Lot 2.
- DA255_10_2004i for part of Lot 93 corresponding with the subject Lot 2) for the BlueScope Steel Limited approved by the Minister for Planning.
- DA07/0710.03 proposing a three (3) lot torrens title subdivision approved 24 July 2007. This consent is currently valid, however has not been activated.
- Proposed Industrial Warehouse with ancillary office, car parking, signage and use by McArthur Express DA07/0709.01 on approved 14 September 2007. This consent is currently valid, however has not been activated.

The proposed development would be located in the north-eastern section of the subject site. The applicant has advised that the three (3) lot subdivision by virtue of DA07/0710.03 would be activated in the near future so as to excise the subject development site for future development.

Site and Surrounds

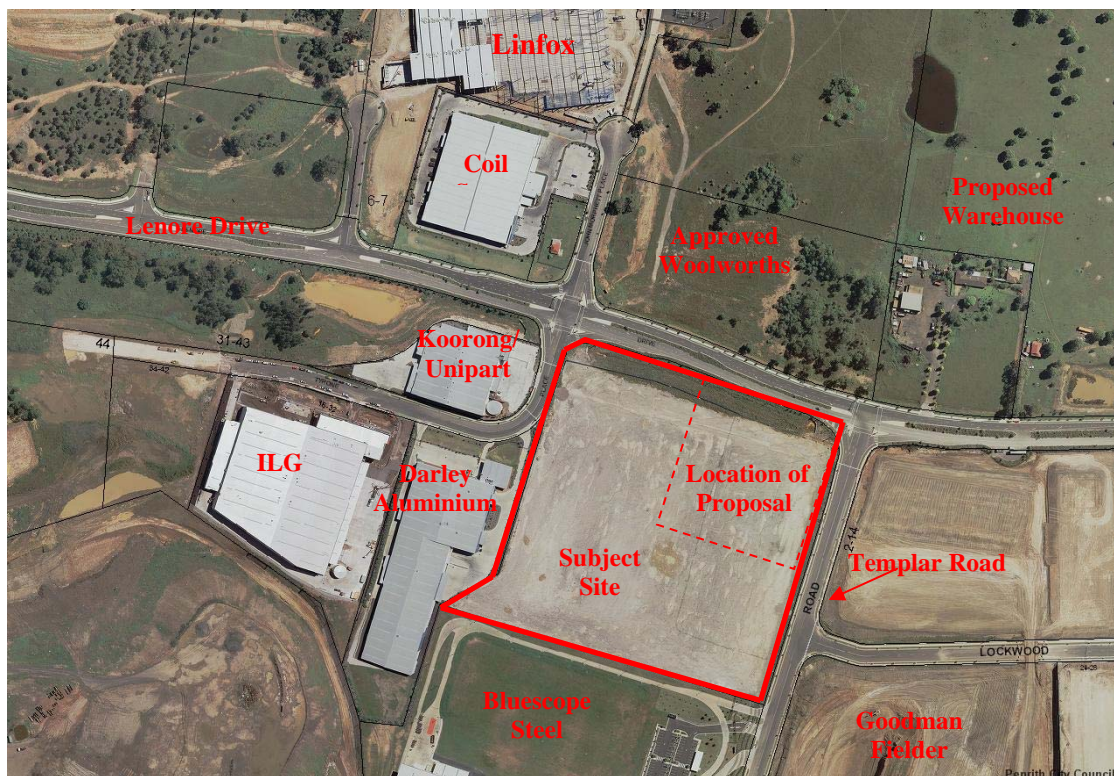
The subject development site is located at the south east corner of the signalised intersection of Lenore Drive and Templar Road within the Erskine Business Park. The land is bound by Lenore Drive to the north, Templar Road to the east, Bluescope Steel to the south and Darley Aluminium to the west.

The site is currently vacant with a total site area of 7.615 hectares. The immediate development site is informally proposed at 1.68 hectares.

A biodiversity corridor is located along the front boundary addressing Lenore Drive which contains a variety of mature trees and shrubs. The overall site has been cleared and has been subject to substantial earthworks and benching in preparation for industrial development.

On 15 December 2008, the Department of Planning approved a data centre on land immediately opposite which is north of Lenore Drive for Woolworths Limited (MP 08_0109). A Project Application is currently lodged with the Department of Planning for a proposed printing and warehouse distribution facility adjacent to the approved

Woolworths Data Centre to the north of Lenore Drive. The Part 3A Project Application is currently under assessment.



An aerial plan of the surrounding area.

Proposed Development

The key elements of the proposed development are detailed in the accompanying drawings and are summarised as follows: -

Component	Description
Proposed Development	Proposed Erection of an Industrial Building for the purposes of Data Centre with associated Office, car parking and landscaping (Fujitsu)
CIV	\$35 million
Consent Authority	Joint Regional Planning Panel – Sydney West
Building	Total floor area of 8,117m ² with a maximum height of 12.12 metres.
	Constructed of full height pre-cast concrete panels with a metal roof and supported with a steel structure.
	A maximum front setback of 37.5 metres to Lockwood Road of which contains the existing biodiversity corridor and hard stand for staff car parking. A side setback of 27 metres from Templar Road. A 2.1 metre high palisade fence would be provided behind landscaped areas addressing the street.

	<p>The proposed building would be divided in a series of three (3) data halls that would be constructed on a raised access floor. The northern portion of the facility would have a second storey within the proposed building which would provide a fourth data hall for Fujitsu to accommodate short term expansion in the future.</p> <p>Two external points of egress are provided for this second storey along the northern elevation with a metal screen to be incorporated on the face of each stair to act as an architectural feature.</p> <p>Store rooms on the western side of the facility to be used for storing maintenance equipment and staging equipment deliveries. A small waste storage area will also be provided for the building to accommodate all site waste prior to removal.</p> <p>External plant area to house four (4) generators and associated mechanical equipment required to maintain the building at the desired temperature.</p> <p>A green / living wall is proposed at the north-western corner of the building to enclose the two store rooms and waste storage area.</p> <p>External appearance of the proposed building to comprise of a mixture of earthy tones in an 'army' like fresco. Aluminium glazing and red surrounds with tones of grey provided to the office façade.</p>
Office	<p>The proposed office is 1,250m² in area and would be split across two levels providing administration for Fujitsu staff. The ground floor level provides accommodation for security staff as well as a boardroom and amenities. The first floor office contains the main office.</p>
Car Parking	<p>A total of 71 car spaces are proposed on-site.</p> <p>Two (2) access points are proposed with direct access to Templar Road. Each access point will serve motor vehicles and trucks in a separate manner.</p>
Landscaping	<p>Landscaping to be provided along the north and east setbacks ensuring the screening of all proposed car parking and a portion of the proposed building at ground level when viewed from Lenore Drive.</p> <p>Palisade fencing is proposed along the Lenore Drive and Templar Road frontage and is setback within the landscape area.</p>

***Construction
and Operation***

Construction will be undertaken over a 12 month period including both base building construction and fitout.

Staff within the warehouse would operate and maintain equipment on a 24 hour, 7 day/ week basis.

Fujitsu would employ a total of 60 people as part of the development. These staff will operate on a 24 hour basis in a 12 hour shift rotation. Approximately 10 to 12 staff would be on site for each shift with each shift starting at 7am and 7pm respectively

The following reports have accompanied the subject Development Application and used throughout the planning assessment: -

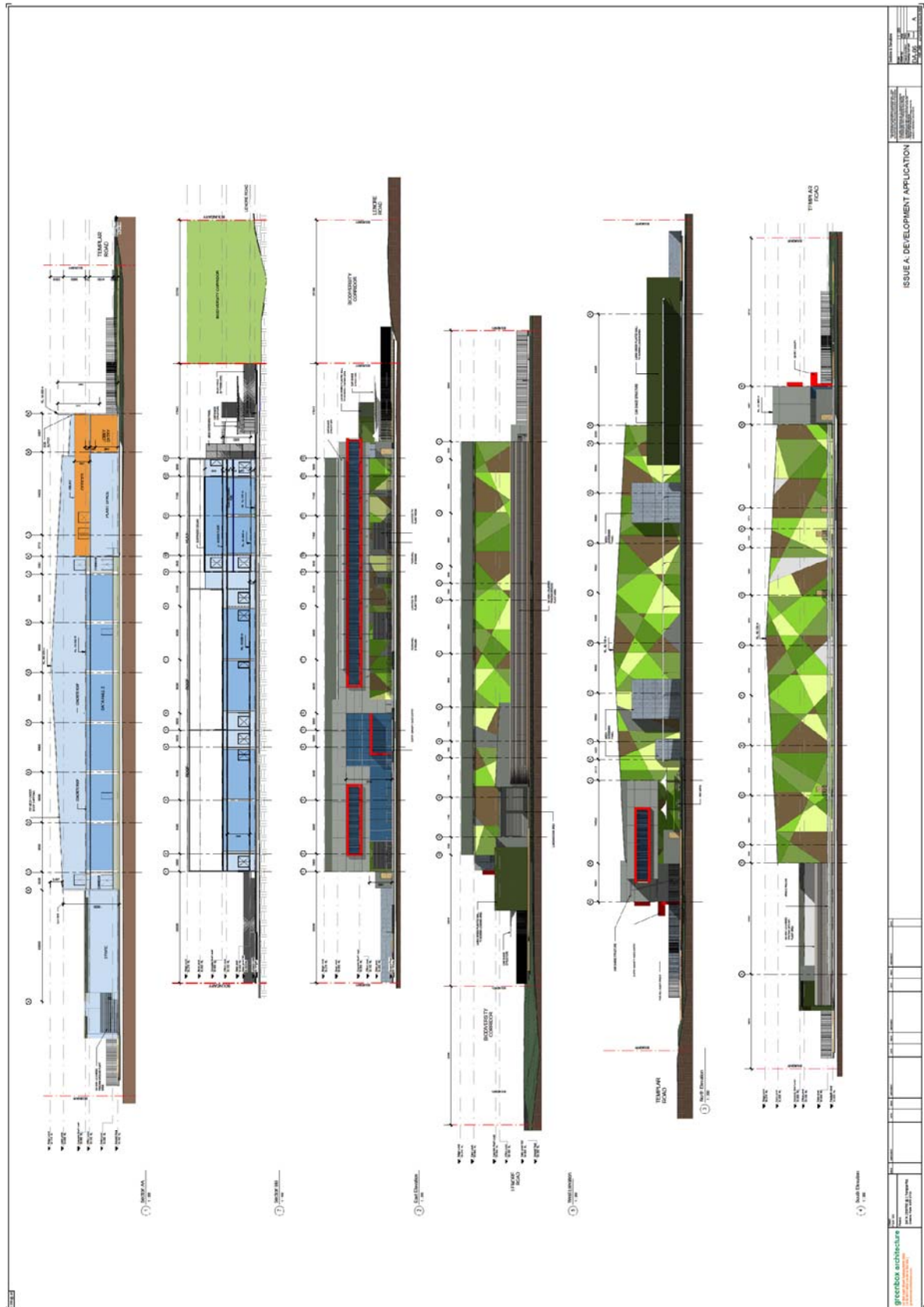
- Statement of Environmental Effects prepared by dated December 2009;
- Traffic Impact Assessment prepared by Transport and Traffic Planning Associates, Report No.09258 dated December 2009;
- Noise Impact Assessment prepared by Heggies, dated December 2009; and
- Waste Management Plan prepared by FDC Construction and Fitout, dated December 2009.

Site Plan



(Scaled Plans appended this report)

Elevations Plan



(Scaled Plans appended this report)

Statutory Assessment

The following planning instruments have been considered in the planning assessment of the subject Development Application: -

- State Environmental Planning Policy (Western Sydney Employment Area) 2009;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No.33 – Hazardous and Offensive Development;
- Sydney Regional Environmental Plan No.20 – Hawkesbury/Nepean River;
- Penrith Development Control Plan 2006; and
- Draft Penrith Development Control Plan 2008.

The development has been assessed in accordance with the matters for consideration under Section 23G and 79C of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000 as follows: -

1. Section 23G - Environmental Planning and Assessment Act 1979

A regional panel is taken to be the Council whose functions are conferred on a regional panel. In this case, the Sydney West Joint Regional Planning Panel is the consent authority as conferred on it under State Environmental Planning Policy (SEPP) (Major Development) 2005 as amended.

2. Section 79C(1)(a)(i) – Any Environmental Planning Instrument

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

The State Environmental Planning (Western Sydney Employment Area) 2009 (SEPP WSEA) aims to promote economic development and the creation of employment in the Western Sydney Employment Area. The plan provides for the co-ordinated planning and development of land to improve certainty and an efficiency regime for future development and infrastructure provision.

(i) Permissibility

The subject development site is part zoned IN1 General Industry and E2 Environmental Conservation under the provisions of SEPP WSEA. The proposed development is to be located on the IN1 section of the site. The existing biodiversity corridor along the front property boundary of the site is zoned E2 Environmental Conservation with no work proposed within this E2 portion.

The proposed development would be suitably defined as a ‘Warehouse or distribution centres’ which is outlined follows: -

“warehouse or distribution centre means 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.”

The proposed data centre is to be operated by Fujitsu who would store data at the subject site. The data stored would be sold to third parties. On this basis, the proposed development is consistent with the land use definition and is therefore permitted with consent.



Zoning Map

(ii) Objectives of the zones

The objectives of the IN1 zone are as follows: -

- *To facilitate development for a wide range of employment-generating industrial, manufacturing warehousing, storage or research purposes, including ancillary office space.*
- *To encourage employment opportunities along motorway corridors, including the M7 and M4.*
- *To minimise any adverse effect of industry on other land uses.*
- *To facilitate regional road network links to the M7 and M4 Motorways.*

The following points are offered in respect to the proposed development and the objectives of the IN1 zone: -

- Having regard to the nature of the proposed development, it is considered that there would be minimal impact to the surrounding area. It is noted that 24 hour operation is proposed, however considered of noise generation has been considered with adequate measures proposed to maintain a reasonable level of amenity for adjoining residential areas.

- The proposed Fujitsu development would generate up to 60 new employment opportunities for the Penrith Local Government Area which is in the spirit of the employment generating nature of Erskine Business Park.
- The proposal will have access to Erskine Park Road via Lenore Drive. Moreover, once Lenore Drive is extended to the M7, the proposed development will have ease of access to the M4/M7 Motorways.

The proposal is considered to meet the objectives of the IN1 zone.

The objectives of the E2 zone are as follows: -

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

The proposed development does not involve any works to the existing biodiversity area. Additional landscaping behind the existing biodiversity corridor is proposed to continue the aesthetic value of the area and therefore it is considered that this embellishment of the area is consistent with the objectives of the E2 zone.

(iii) Principal Development Standards

The SEPP WSEA contains a number of principal development standards which are discussed with respect to the proposal as follows: -

DEVELOPMENT STANDARD	REQUIREMENT	COMMENT
Clause 18 - Requirement for development control plans	The “Erskine Park Employment Area” section under the <i>Penrith Development Control Plan 2006</i> (approved 21 August 2006 and as in force on 15 December 2006) applies to the site.	Noted. Assessment against the DCP is made later in this report.
Clause 20 - Ecologically sustainable development	The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that the development contains measures designed to minimise: (a) the consumption of potable water, and (b) greenhouse gas emissions.	The proposed development would involve the installation of rainwater tanks to harvest rainwater for use in irrigation and toilet flushing. Based on the nature of the proposed use, there would be minimal vehicular movements from the site in comparison to other similar sized warehouse and manufacturing facilities.

Clause 21 – Height of buildings	<p>The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that:</p> <ul style="list-style-type: none"> (a) building heights will not adversely impact on the amenity of adjacent residential areas, and (b) site topography has been taken into consideration. 	<p>The proposed building would have a maximum height of 12.2 metres which is consistent with Council’s DCP and all other existing buildings within the local area. Based on the physical distance and the built environment of the surrounding area, it is considered that the proposed building would not adversely affect the amenity of adjacent residential areas.</p>
Clause 22 - Rainwater harvesting	<p>The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that adequate arrangements will be made to connect the roof areas of buildings to such rainwater harvesting scheme (if any) as may be approved by the Director-General.</p>	<p>The proposed development would incorporate rainwater harvesting facilities for the site.</p> <p>No local or regional rainwater harvesting scheme exists within Erskine Business Park and is therefore not applicable.</p>
Clause 23 - Development adjoining residential land	<p>Applies that is within 250 metres of land zoned primarily for residential purposes.</p> <p>Council satisfied that matters relating to visual amenity, noise generation, traffic, parking and landscaping are compatible with the surrounding residential area.</p>	<p>The site is located well in excess of 250 metres of the Erskine Park residential area to the north.</p>
Clause 25 – Public utility infrastructure	<p>The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.</p>	<p>The site is well serviced in regard to existing public utility infrastructure. All services are readily available.</p>

Clause 26 - Development on or in vicinity of proposed transport infrastructure routes	The consent authority must, before determining any such development application, consider any comments made by the Director-General as to the compatibility of the development to which the application relates with the proposed transport infrastructure route concerned.	The site is not located adjacent to a proposed transport infrastructure route. It is located adjacent to a constructed section of Lenore Drive
Clause 29 - Industrial Release Area—satisfactory arrangements for the provision of regional transport infrastructure and services	The consent authority must not consent to development on land to which this clause applies unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network)	Section 94 Contributions were paid to Council at the time of the initial subdivision and as such no further contributions are anticipated as a result of the proposed development. To be discussed later in this report.
Clause 31 – Design principles	In determining a development application that relates to land to which this Policy applies, the consent authority must take into consideration whether or not: (a) the development is of a high quality design, and (b) a variety of materials and external finishes for the external facades are incorporated, and (c) high quality landscaping is provided, and (d) the scale and character of the development is compatible with other employment-generating development in the precinct concerned.	The proposed building has been architecturally designed to a high standard to ensure that it presents to Lenore Drive and Templar Road. An appropriate level of colour and material variation has been incorporated into the design to articulate the facade. High quality landscaping incorporating native species as defined in Council's DCP is proposed. The scale of the proposed development is consistent with other development in the Erskine Business Park locality.
Clause 32 - Preservation of trees or vegetation	The objective of this clause is to preserve the amenity of the area through the preservation	The site was cleared as part of the initial bulk earthworks activities to

of trees and other vegetation.	bench the site. The site does not contain any natural vegetation. The biodiversity area would be retained as part of the proposed development.
--------------------------------	--

Having regard to the above, the proposal is permitted in the zone and is consistent with the objectives of the zones and relevant development standards in SEPP WSEA

(b) State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 provides direction for proposed development to be considered relevant public authorities with the opportunity to be made aware of proposed development listed in the schedules and any representation in respect to proposed development.

Clause 104 of the SEPP provides for traffic generating development and provides in part as: -

“104 - Traffic-generating development

(1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:

- (a) new premises of the relevant size or capacity, or*
- (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*

The subject application would be suitably defined as ‘Industry’ for the purposes of interpretation of Clause 104 of the SEPP. However, the proposed development does not activate the above requirements given that the site does not adjoin a classified road or is within 90 metres of connection.

Notwithstanding, Council’s Senior Traffic Officer has reviewed the proposal and raises no objection with respect to traffic and parking generation.

Accordingly, the proposal is consistent with the provisions of the SEPP.

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

State Environmental Planning Policy No.33 – Hazardous and Offensive Development (SEPP 33) aims to identify measures to be employed to reduce the impact of the development, to ensure sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact.

The document entitled ‘Applying SEPP 33 – Hazardous and Offensive Development’ published by the Department of Planning is used to determine whether SEPP 33

applies to a proposed development. For the purposes of the proposed development, diesel fuel is classed as a Class C1 dangerous good.

The proposal involves the installation of four (4) diesel generators that are required to provide back-up power to the proposed data centre in the event of power failure. Diesel would be stored in a proposed underground storage tank on site located at the south east section of the site. The proposed underground storage tank would be double walled and installed in accordance with the relevant Australian Standards: -

- AS1940 - Storage and Handling of Flammable and Combustible Liquids'; and
- AS4897 - The design, installation and operation of underground petroleum storage systems.

The installation of tanks would be required to meet the statutory requirements of the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 under the Protection of the Environment Operations Act 1997

“If Class C1 and/or Class C2 are present on site and are stored in a separate bund or within a storage area where they are the only flammable liquid present they are not considered to be potentially hazardous. If, however, they are stored with other flammable liquids, that is, class 3PGI, II or III, then they are to be treated as Class 3PGIII, because under these circumstances they may contribute fuel to a fire.”

The proposed development would store and handle only diesel which is identified as a C1 Combustible Liquid. The storage of diesel fuel itself is therefore not considered to be not 'potentially hazardous' and therefore a Preliminary Hazard Analysis (PHA) is not considered necessary as part of the assessment.

(d) Sydney Regional Environmental Plan No.20 – Hawkesbury/Nepean River

Sydney Regional Environmental Plan No.20 – Hawkesbury/Nepean River (SREP) applies to the subject land and stipulates that the consent authority shall not grant consent to an application unless it is of the opinion that the carrying out of the development is consistent with any relevant, general and specific aim of SREP

Consideration of the relevant planning strategies have been made and discussed in the following: -

Cultural Heritage

The subject site has not been identified to contain any items of heritage. A cottage identified in the Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation) is located on John Morphet Place which is sited substantially from the subject site. The proposal is unlikely to have an adverse visual impact to the nearby heritage item.

Urban Development

The subject site has connection to essential services including water, sewer, electricity etc. Appropriate conditions would be made for the applicant to make necessary connection to essential service subject to satisfaction of the relevant authorities.

3. Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instruments

No draft environmental planning instruments apply to the site.

4. Section 79C(1)(a)(iii) – Any Development Control Plan

Penrith Development Control Plan 2006

Section 6.14 – Erskine Park Employment Area

The proposed development is applicable to the Penrith Development Control Plan 2006. A table detailing compliance to the relevant controls applicable to the proposed development is appended this report (See Appendix No.1).

The proposed development is generally consistent with the Development Control Plan, however a variation is sought in respect to car parking.

A total of 71 parking spaces are proposed to service the proposed development. Having regard to Council's Development Control, a total of 112 parking spaces would be required.

The applicant has provided justification for the variation to the development control in part as follows: -

“The proposed development includes the provision of 71 car spaces on site. The car spaces provided as part of the proposal adequately cater for the requirements of Fujitsu. An analysis of Council's and the RTA's parking requirements is included in Table 4.1 below.

Parking Requirement Comparison

<i>Land Use</i>	<i>Floor Area (m²)</i>	<i>DCP Requirements</i>		<i>RTA Guidelines</i>	
		<i>Rate per m²</i>	<i>Spaces</i>	<i>Rate per m²</i>	<i>Spaces</i>
<i>Warehouse</i>	<i>8,117m²</i>	<i>1/100m²</i>	<i>81.17</i>	<i>1/300m²</i>	<i>27.06</i>
<i>Ancillary Office</i>	<i>1,250m²</i>	<i>1/40m²</i>	<i>31.25</i>	<i>1/300m²</i>	<i>4.17</i>
<i>TOTAL</i>	<i>20,700m²</i>	<i>-</i>	<i>112</i>	<i>-</i>	<i>31</i>

The above illustrates that there is a demand for between 31 and 112 parking spaces for the proposed development. The proposal accommodates 71 parking spaces which falls within the requirement bracket.

The applicant states the following: -

“The above table illustrates there is a demand for between 112 and 31 parking spaces for the proposed development. The proposal accommodates 71 parking spaces which is within the requirement bracket.

Council’s requirements indicate that 112 car spaces are required; however, a large portion of area within the proposed warehouse will be used for the purposes of housing internal plant equipment. These areas will not generate a demand for car parking but have been included in the total floor space when calculating the above car parking requirements. We therefore ask Council to make an assessment of car parking requirements with this and Fujitsu’s staff numbers in mind. Future car spaces could be provided along the southern building elevation in the event that Fujitsu vacate and are replaced by another tenant / land use.”

The relevant objectives of the development control are listed as follows: -

“(a) To ensure the provision of adequate on-site parking to satisfy the demands generated by developments within the area; and

(b) To eliminate the need for kerb side parking and congestion on the public road network.”

The following comments are made in respect to the variation to the development control: -

- The parking rate stipulated by the RTA is significantly less than that required by Council’s Development Control Plan. The proposed use is unlikely to generate an excessive amount of parking, comprising of staff and visitor parking only.
- The proposal would provide a total of 71 parking spaces, which is substantially more than the RTA requirements and marginally less than Council’s parking control. In this regard, the proposed number of parking spaces is consistent with the anticipated staff numbers expected at the site at any one time.
- The applicant had advised that additional parking maybe available along the south building elevation in the event that future tenants at the site would require additional car parking.

Council Senior Traffic Engineer has reviewed the proposal and notes the following: -

“The proposal provides 71 spaces and 7 bike parking spaces. The premises are proposed to be used as a data centre housing computer servers storing software and data files. Sixty staff will be employed at the site, however, on 10-12 employees will be present at each 12 hour shift.

Based on the proposed staff numbers and facility not generating demand for car parking, the proposal has justified its car parking requirements of 71 spaces.

If the premises were not to be occupied by Fujitsu, area is available along the southern elevation for additional car parking if required.”

On balance, the proposed variation to car parking is considered to be reasonable and is supported having regard to the above.

5. Section 79C(1)(a)(iv) – The Regulations

This section is not applicable for the subject application.

6. Section 79C(1)(b) – The Likely Impacts of the Development

Architectural Design

The proposed building provides building articulation along the front façades through the use of a combination of office and warehouse elements along the northern and eastern elevations addressing the proposed realigned Lenore Drive and Templar Road. A mixture of textures is incorporated into each of the façades through varied panel effects. A mix of precast, metal sheeting, together with a contemporary ‘army-like’ fresco provides visual interest for the proposed development and effective building articulation to all facades. The proposed office facade will be characterised by glazing and composite aluminium sheeting and would result in the creation of a contemporary finish which is consistent with the level of high quality industrial development throughout Erskine Business Park.

The applicant has stated that: -

“..considerable effort has also been made to enhance its appearance given its prominent position on Lenore Drive and Templar Road. Each elevation has been articulated through the use of colour and textures to help reduce the bulk of the building and provide interest to the public domain.”

The proposed office has been located at the eastern end of the building with address to the Templar Road and Lenore Drive intersection. The proposed office would present a contemporary appearance to Lenore Drive with the incorporation of high quality materials such as pre-finished metal cladding and glazing.”

The exposure of the prominent eastern elevation ensures a ‘humanising element’ that would link the site with the public domain and thus providing a sense of place for the locality.

The existing vegetation within the biodiversity corridor would significantly contribute in reducing visual impacts of the proposed development during both construction and operation given its advanced maturity. This existing vegetation would screen car parking and most site amenities (at the northern end of the site) from the public domain along Lenore Drive. Landscaping along the eastern property boundary to Templar Road would provide visual screening to the car parking areas in this area as well complementing and softening the development in respect to the surrounding streetscape.

Noise Generation

It is anticipated that the noise generated from the construction of the proposed development is likely. To ensure that these noise impacts are suitably managed, a condition would be imposed to ensure that no work shall occur outside the following hours: -

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

These construction hours are considered suitable in the context of the local area due to the distance between the site and the Erskine Park residential area. Moreover, these hours are consistent with the hours imposed on previously approved developments at Erskine Business Park.

The applicant has submitted a Noise Impact Report prepared by Heggies Acoustic Consultants dated 21 December 2009. The report has carried out a noise assessment of the proposed development. The report concludes that for continuous operation, compliance with the project specific Industrial Noise Policy (INP) goals can be achieved at the nearest potentially sensitive residential areas to the north of the site and at the nearest industrial boundary under typical operational scenario conditions.

In order to ensure compliance with these goals, recommendations have been made in the report which is detailed as follows: -

- Chillers shall be equipped with low noise sound packages, including 'ultra-quiet' fans; and
- A minimum 2.2 metre solid screen wall should be constructed around the plant area along the northern elevation with its overall height being finalised during detailed design phase of project.

Incorporated into the report are emergency operating situations, of which compliance with project specific INP noise goals can also be achieved at the nearest potentially sensitive residential areas to the north of the site and at the nearest industrial boundary. It has been recommended that diesel generators are be housed within acoustic enclosures and be fitted with residential- grade exhaust silencers.

Council's Senior Environment Officer has reviewed the Noise Impact Report and raises no objection to the conclusion and recommendations of the report. Conditions would be imposed to permit the incorporation of the above measures as recommended in the Noise Impact Report (See Special Condition No.2.30). Moreover, the applicant/owner would be required to prepare and submit a compliance report within twelve months from occupation which details the noise parameters identified in the Noise Impact Report and the performance of the acoustic measures (See Special Condition 2.31).

Traffic and Access

The subject application was accompanied with a Traffic and Parking Report prepared by Transport and Traffic Planning Associates, dated December 2009.

The Traffic and Parking Report concludes the following in respect to traffic generation:

- *The traffic generation of the proposed development will be consistent with the anticipated development for the area and lower than the allowances made during the planning and traffic modelling of the Erskine Park area*
- *The traffic generation of the proposed development will not present any adverse traffic implications*

Council's Senior Traffic Officer has reviewed the proposed development and concludes the following in respect to traffic generation: -

"In this instance, the traffic generation is based on the proposed staffing numbers which is appropriate. Sixty staff will employed at the site, however, only 10-12 employees will be present at each 12 hour shift over 24 hour operation. Therefore, the highest number of vehicle movements in one hour would be 24 during the shift changeover. This rate is lower than the applied rate for the road network of EPBA. The proposal will produce a minor increase in local traffic flow."

The proposed data centre is anticipated to have minimal traffic movements given the operations at the site. The proposal is anticipated to have a minimal increase in traffic generation to the surrounding street network, however it is considered that this would have an unlikely adverse impact to the area.

Having regard to the Traffic and Parking Report, it is considered that the proposed development is satisfactory in respect to traffic generation.

Direct vehicular access is proposed from Templar Road with separate car and truck (medium rigid) access points. All vehicles would be able to enter and exit the site in a forward direction with sight lines at the proposed driveway entrances unimpeded with landscaping, fencing or signage.

Conditions would be imposed for car parking, manoeuvrability and sight distances (See Special Condition Nos.2.32 to 2.34).

Economic Impact

The proposed development would provide a purpose built facility for Fujitsu to operate within the Erskine Business Park. The use of the site for Fujitsu would result in the creation of additional localised employment opportunities not only from a full time staff but also casual/seasonal positions.

Safety and Security

Appropriate measures would be installed on site to ensure that the proposed facility remains secure. A perimeter fence would be installed in accordance with Council's requirements including palisade fencing to street frontages. It is also likely that security cameras, appropriate lighting and regular security patrols would occur once the proposed facility is operational.

Appropriate lighting will be installed to staff car parking areas to ensure that the site remains safe for staff and visitors.

Waste Management

A Waste Management Plan has been prepared to address both construction and operational activities proposed at the site. Appropriate arrangements would be made for construction waste to be disposed of at authorised waste management facilities. Given the nature of the data centre, the proposed development would unlikely to generate excessive amount of waste. Waste would be serviced by general and recycled waste bins which are to be emptied on a weekly basis.

7. Section 79C(1)(c) – The Suitability of the Site for the Development

The site of the proposed development is considered suitable for a number of reasons including: -

- The site is well located with regard to its proximity to Erskine Park Road, Mamre Road and the M4 Motorway. The proposed future Lenore Drive link (through Eastern Creek) would also contribute to the site's connectivity to major transport infrastructure including the M7 Motorway;
- The site is well located in the context of the local and regional community with regard to providing employment opportunities;
- The site is substantially located from residential areas of Erskine Park and St Clair to the north of the site;
- The proposal is consistent with the provisions of the applicable planning instruments;
- The proposed development would contribute to the employment generation as provided by the Erskine Business Park.

It is for these reasons, that the proposed development is considered suitable for the subject site.

8. Section 79C(1)(d) – Any Submissions made in relation to the Development

(a) External Referrals

The proposed development is applicable to the provisions of Clause 29 of SEPP WSEA for the purposes of the provision of transport infrastructure and services.

Clause 29 of SEPP WSEA outlines the following: -

“29 Industrial Release Area—satisfactory arrangements for the provision of regional transport infrastructure and services

- (1) This clause applies to the land shown edged heavy black on the Industrial Release Area Map, but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).*
- (2) The object of this clause is to require assistance to authorities of the State towards the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) to satisfy needs that arise from development on land to which this clause applies.*
- (3) Despite any other provision of this Policy, the consent authority must not consent to development on land to which this clause applies unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) in relation to the land to which this Policy applies.*
- (4) Subclause (3) only applies if the land that is the subject of the application for development consent was not being used for industrial purposes immediately before the application was made.*
- (5) Subclause (3) does not apply in relation to:*
 - (a) any land that is reserved exclusively for a public purpose, or*
 - (b) any development that is, in the opinion of the consent authority, of a minor nature.”*

Pursuant to Clause 29, the Director-General of the Department of Planning is to certify that the proposed development is satisfactory to the contribution for satisfactory arrangements for regional transport infrastructure and services.

Council provided written correspondence to the Department of Planning which confirmed that Section 94 Contributions had been reconciled for the subject site in a previous subdivision relating to the site. On this basis, it was considered that the subject site had made satisfactory arrangements for the provision of regional transport infrastructure and services.

On 1 March 2010, Council received the Director General’s certification that the site has complied with Clause 29 of SEPP WSEA (See Appendix No.2).

(b) Internal Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment: -

Building Surveyor

No objection raised to the proposal, subject to conditions.

Development Engineer

No objection raised to the proposal, subject to conditions.

Traffic Engineer

No objection raised to the proposal, subject to conditions.

Environmental Health

No objection raised to the proposal, subject to conditions.

(c) Community Consultation

The subject application was not notified by virtue of Section 2.7 of the Penrith DCP 2006 - Notification and Advertising Policy.

9. Section 79C(1)(e) – The Public Interest

The proposed development would significantly contribute to the ongoing growth and development of the Erskine Business Park and the greater Western Sydney Employment Hub. The contribution to employment opportunities in the region is considered to be significant with respect to a large organisation setting its base in the Penrith Local Government Area.

The Draft Penrith Development Control Plan 2008 is applicable to the site, however it is not required to be considered in a statutory assessment. Notwithstanding, the proposed development has been assessed with regard to the proposed provisions outlined in the draft Penrith Development Control Plan 2008 for Erskine Business Park and is satisfactory. Matters relating to car parking, building design, height and setbacks as well as access have been considered against the draft Penrith Development Control Plan 2008 and are found to be satisfactory.

The proposed development is considered to provide a modern building with contemporary finishes that would enhance and embellish the surrounding built environment. The proposed development incorporates high quality architectural merit which is designed to ensure that the site exudes substantial visual interest within the employment generating context of Erskine Business Park. Combined with landscaping and building design, the proposed development continues the theme for the type of development is that is expected in Erskine Business Park.

Section 94 Contributions

In November 2004, Council granted consent for the three (3) lot Torrens Title subdivision and one (1) residue lot and bulk earthworks pursuant to DA04/1599. The subject site was one of the resulting lots produced from the subdivision by virtue of DA04/1599. It is confirmed that Section 94 contributions applicable to the site have been paid.

Conclusion

The application has been assessed against the relevant considerations within Section 79C of the Environmental Planning and Assessment Act and as outlined in the above report. The subject application is considered to have substantial merit and is unlikely to result in a significant adverse impact upon adjoining lands.

The variation of development controls of the proposed development with respect to car parking is considered to be reasonable, having regard to the proposal demonstrating an appropriate development that is site responsive and aims to enhance the high quality nature of the employment area.

The proposed development is considered to provide a modern building with contemporary finishes that would enhance and embellish the surrounding built environment. The proposed development incorporates high quality architectural merit which is designed to ensure that the site exudes substantial visual interest within the employment generating context of Erskine Business Park. Combined with landscaping and building design, the proposed development continues the theme for the type of development that is expected in Erskine Business Park.

The subject application was not notified by virtue of Section 2.7 of the Penrith DCP 2006 - Notification and Advertising Policy.

On balance, the application is considered satisfactory and having regard to the matters discussed in this report, the proposal is recommended for approval, subject to the imposition of conditions.

Recommendations

1. The information contained in the report on Development Application DA09/1323 which proposes the Erection of an Industrial Building for the purposes of a Data Centre with associated Office, car parking and landscaping (Fujitsu) at Lot 2 DP 1094504, Nos.1-23 Templar Road ERSKINE PARK be received;
2. The subject Development Application be approved, subject to the imposition of the following conditions

Standard Conditions

- 2.1 A001 - The development must be implemented substantially in accordance with the following plans: -

Drawing Title	Drawing No	Issue	Prepared by	Dated
Site Plan	A01	A	Greenbox Architecture	23/12/2009
Ground Floor Plan	A03	A	Greenbox Architecture	23/12/2009
Level 1 Plan	A04	A	Greenbox Architecture	23/12/2009
Roof Plan	A05	A	Greenbox Architecture	23/12/2009
Sections, Elevations	A06	A	Greenbox Architecture	23/12/2009
Perspectives	A07	A	Greenbox Architecture	23/12/2009

Cover Sheet	00511_C100	A	C&M Consulting Engineers	17/12/2009
General Arrangement Plan	00511_C201	A	C&M Consulting Engineers	17/12/2009
General Arrangement Plan	00511_C202	A	C&M Consulting Engineers	17/12/2009
Bulk Earthwork Plan	00511_C260	A	C&M Consulting Engineers	17/12/2009
Driveway Longitudinal Sections & Sections	00511_C300	A	C&M Consulting Engineers	17/12/2009
General Notes	00511_C500	A	C&M Consulting Engineers	17/12/2009
Erosion and Sediment Control Plan Details	00511_C801	A	C&M Consulting Engineers	17/12/2009
Landscape Plan	91015-01	A	Viridian Design	22/12/2009

That have been stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

2.2 **A019** – Occupation Certificate

The development shall not be used or occupied until an Occupation Certificate has been issued.

2.3 **A026** – Advertising Signs

A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan–Advertising Signs.

2.4 **A029** – 24 hour operation

The development is permitted to operate on a 24 hour basis, seven (7) days a week. Acoustic Impact shall be minimised to the surrounding area and consistent with the Acoustical Assessment Report and further conditions in this consent.

2.5 **A032** – Goods in Building

All materials and goods associated with the use shall be contained within the building at all times.

2.5 **A038** – Lighting Locations

Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 “Control of the obtrusive effects of outdoor lighting” (1997).

2.6 **A039** – Graffiti

The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

2.7 **A046** – Construction Certificate

A **Construction Certificate** shall be obtained prior to commencement of any building works.

2.8 **D001** – Erosion and Sediment Control

Erosion and sediment control measures shall be installed prior to the commencement of works on site including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

The erosion and sediment control measures shall be certified (by way of a Compliance Certificate) as having been installed in accordance with the approved erosion and sediment control plan(s) for the development and "Managing Urban Stormwater: Soils and Construction" 2004. The Compliance Certificate shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed prior to and maintained throughout the construction phase of the development until [the landscaping, driveway and on-site parking areas have been completed for the development. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

2.9 **DA06A** – Bulk Earthworks

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

2.10 D009 – Waste Storage Area

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

2.11 D010 – Waste Management Plan

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

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

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

2.12 **D018** – Underground Tanks

Inlets to underground storage tanks are to be located so as to ensure that vehicles discharging fuel are contained within the boundaries of the site.

2.13 **D023** - Bunding

All works and storage areas where spillages are likely to occur shall be bunded. The size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater. All bunded areas shall be graded to a blind sump so as to facilitate emptying and cleaning. Details are to accompany the application for a Construction Certificate.

2.14 **E01A** – BCA Compliance

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) complying with the deemed to satisfy provisions, or
- (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

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

2.15 **E006** – Disabled Access and Facilities

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

2.16 **E009** – Annual Fire Safety Statement

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

- (a) deal with each essential fire safety measure in the building premises, and
- (b) be given:
 - within 12 months after the last such statement was given, or
 - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

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

-
-
- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

2.17 **G002** – Section 73 Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate

2.18 **G004** – Integral Energy

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Integral Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a padmounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

2.19 **H001** – Stamped Plans and Erection of Site Notice

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

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

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

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

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

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

2.20 **H002** – All forms of Construction

Prior to the commencement of construction works:

- (a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
Each toilet provided must be:
 - a standard flushing toilet connected to a public sewer, or
 - if that is not practicable, an accredited sewage management facility approved by the council, or
 - alternatively, any other sewage management facility approved by council.
- (b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

2.21 **H041** – Hours of Work

“Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

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

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

2.22 **L001** – General Landscaping

All landscape works are to be constructed in accordance with the stamped-approved Landscape Plan numbered 91015-01-A, prepared by Viridian Design, dated 22/12/2009 and Sections F5 “Planting Techniques”, F8 “Quality Assurance Standards”, F9 “Site Management Plan” of Penrith Council’s Landscape Development Control Plan.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and
- in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation which died or was removed.

2.23 **L002** – Landscaping Construction

The approved landscaping for the site must be constructed by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to construct category 3 landscape works.

2.24 **L003** – Report Requirements

The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works.

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

This report is to be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works.

iii. Final Site Arborist's Report (significant tree protection)

This report is to be submitted to Penrith City Council 2 years after the Occupation Certificate was issued. This report is to be prepared by a consulting arborist listed in Council's Approved Landscape Consultants Register. At Council's discretion this period may be reduced under circumstances where the Site Arborist is able to guarantee the health and ongoing survival of the trees.

iv. 3 Year Landscaping Report (category 3 developments)

3 years after an Occupation Certificate was issued for the development, a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works shall prepare a

Landscaping Report for Council's consideration and approval, certifying to one of the following:

- (a) The landscaping on site has matured and is in accordance with the original landscape approval.
- (b) The landscaping on site has not matured in accordance with the original design philosophy and requires significant restoration.

In this case, restoration plans are to be submitted to Council for its consideration and approval. The approved plans shall be implemented at the expense of the property owners.

2.25 L005 – Planting of Plant Material

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Landscape Development Control Plan.

2.26 L006 – Aust Standard

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

2.27 L008 – Tree Preservation Order

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

2.28 Q01F – Notice of Commencement and Appointment of PCA

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

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

Information to accompany the Notice of Commencement

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

2.29 **Q006** – Occupation Certificate

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

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

Special Conditions

- 2.30 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Acoustical Assessment Report prepared by Heggies Pty Ltd, dated 21 December 2009. The recommendations provided in the abovementioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate**.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 2.31 Twelve (12) months after the issuing of the final Occupation Certificate, an acoustic compliance report is to be submitted to and approved by Penrith City Council. This report is to be prepared by a suitably qualified acoustic consultant and is to address, but is not limited to, all noise generating activities on the site and their level of compliance with the noise criteria set within the Acoustical Assessment 10-8556-R1 (Heggies Pty Ltd 21 December 2009) and the Department of Environment and Climate Change’s Industrial Noise Policy.

Should the compliance report identify any non compliance issues, the report is to provide suitable recommendations for mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Penrith City Council.

- 2.32 All car parking and manoeuvring must be in accordance with AS2890 and Council's requirements.

-
-
- 2.33 All vehicles are to enter/exit the site in a forward direction.
- 2.34 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
- 2.35 Chillers shall be equipped with low noise sound packages as recommended in the Acoustical Assessment Report prepared by Heggies Pty Ltd, dated 21 December 2009.
- 2.36 A minimum 2.2 metre solid screen wall should be constructed around the plant area however details to be finalised during detailed design phase of project.
- 2.37 Diesel generators are to be housed within acoustic enclosures and be fitted with residential- grade exhaust silencers.
- 2.38 All civil works shall be designed and constructed in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works and applicable Australian Standards.
- 2.39 All roadworks, drainage works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 2.40 Any Construction Certificate issued by the Principal Certifying Authority or Certifying Authority shall incorporate plans and details for erosion and sediment control in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.
- 2.41 Stormwater runoff from parking, uncovered paved areas shall be directed to a stormwater pre-treatment system. The treatment devices shall be designed to remove the following pollutant loadings:

- 90% Litter
- 85% Suspended Solids
- 45% Phosphorous
- 45% Nitrogen
- 90% Free Oil & grease

Any Construction Certificate issued by the Principal Certifying Authority or Certifying Authority shall incorporate:

- (a) Specification & installation details of the stormwater pre-treatment system
- (b) The approval of an operation and maintenance manual/ programme for the proposed device

A copy of the approved operation and maintenance manual/ programme shall be submitted to Penrith City Council with notification of the Construction Certificate issue.

- 2.42 Prior to the issue of a Construction Certificate a Roads Act application, including payment of appropriate application and inspection fees shall be

lodged with Penrith City Council, as the Roads Authority, for the following works:

- (a) Provision of a heavy industrial vehicular crossing and layback to Council specification at the southern vehicle entry and a heavy duty vehicle crossing and layback at the northern vehicle entrance.
- (b) Provision of private drainage connection to Council's road drainage system.
- (c) Removal of redundant vehicular crossings and reinstatement of kerb and gutter.
- (d) Opening the road reserve for the provision of services including stormwater.
- (e) Placing of hoardings, containers, waste skips, etc. in the road reserve.
- (f) Replacement of damaged kerb and gutter for the full property frontage.

All works within the road reserve shall be carried out in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

2.43 A Construction Certificate shall be issued by a Certifying Authority to include the following civil works.

- (a) Stormwater drainage
- (b) Stormwater pre-treatment system
- (c) Earthworks
- (d) Car park
- (e) Retaining walls
- (f) Paving works
- (g) Sealed pavement for all areas of vehicular access.

Civil design drawings shall be prepared strictly in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works and applicable Australian Standards.

2.44 Stormwater drainage from the site shall be discharged to the street drainage system or to the biodiversity corridor after passing through appropriate water treatment devices.

The proposed stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

-
-
- 2.45 Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that vehicular access, pedestrian access, carparking and manoeuvring areas associated with the subject development are in accordance with AS 2890.1, AS2890.2 and Penrith City Council's Development Control Plan.
- 2.46 Prior to the commencement of works on site, including approved clearing of site vegetation, erosion and sediment control measures shall be installed. The erosion and sediment control measures are to be installed in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.
- 2.47 Prior to commencement of works a Traffic Control Plan including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Traffic Authority Traffic Controller.
- 2.48 Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.
- Note:
 1. A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- 2.49 Prior to the Commencement of Works a dilapidation report of all Council owned infrastructure fronting the development in Templar Road is to be submitted to Penrith City Council. The report is to include, but not limited to, footpaths, kerb and gutter, pavement and street trees and is to extend 10m either side of the development.
- 2.50 Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
- 2.51 Prior to the connection of private drainage to Council's drainage system, an inspection is to be carried out by Penrith City Council's Development Engineering Unit. A fee will be charged in accordance with Council's adopted Fees and Charges, and is to be paid prior to the inspection.
- 2.52 All filling shall be undertaken in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works and AS 3798.
- 2.53 Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works within the road reserve have been inspected and approved by Penrith City Council.

-
-
- 2.54 After completion of all civil works, works-as-executed drawings and compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works.
- 2.55 An original set of works-as-executed drawings marked in red on a copy of the stamped Construction Certificate drawings, signed, certified and dated by a registered surveyor or the design engineer together with copies of compliance documentation shall be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.
- 2.56 Prior to the issue of the **Occupation Certificate**, the Principal Certifying Authority shall ensure that all civil works have been satisfactorily completed in accordance with the Construction Certificate, Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works, and relevant conditions of the development consent.
- 2.57 Prior to the issue of an Occupation Certificate the Certifying Authority shall ensure that the stormwater pre-treatment systems:
- Have been constructed in accordance with Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works and Construction Certificate conditions of development consent.
 - Will operate satisfactorily with regard to any variations or that suitable remedial works have been undertaken.
 - Will operate in accordance with the design intent and Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

- 2.58 Prior to the issue of the Final Occupation Certificate a restriction as to user and positive covenant relating to the stormwater pre-treatment systems shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works.
- 2.59 Prior to the issue of an **Occupation Certificate** any damage to Council infrastructure not identified in the dilapidation report, as a result of the development shall be restored under the supervision of Penrith City Council. Any rectification works within Templar Road will require a Roads Act application. The application is to be submitted and approved by Penrith City Council prior to such works commencing.
- 2.60 Prior to the issue of an Occupation Certificate signage which is clearly visible from the public road shall be placed within the development site.

The signage shall indicate that the northern vehicular access is to be used for cars only and appropriately signposted "Cars Only". The southern vehicular access is to be used for heavy vehicles only and shall be appropriately signposted.

2.61 Prior to the issue of the Final Occupation Certificate directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.

2.62 Prior to the issue of an Occupation Certificate a checklist and supporting documentation shall be submitted to the Principal Certifying Authority demonstrating that each condition of the development consent has been satisfactorily addressed.

The **Occupation Certificate** shall not be issued until all conditions of consent except those relating to ongoing operational matters, have been completed.

2.63 The proposed development shall ensure at all times that its operations are consistent with the provisions outlined in State Environmental Planning Policy No.33 – Hazardous and Offensive Development and any relevant standards or codes where applicable.

2.64 The applicant shall erect palisade fencing behind the landscape setback along the northern (Lenore Drive) and eastern (Templar Road) boundaries of site.

Appendix No.1

Penrith Development Control Plan 2006

The proposed development has been assessed in accordance with the requirements of the DCP and a summary is provided in the following table: -

REQUIREMENT	COMMENT	COMPLIES
<i>Section 2.2 Crime Prevention through Environmental Design</i>		
Lighting	Lighting is anticipated to be installed around the site including all loading docks and entries.	Yes
Entrapment spots and blind corners & Landscaping	Access to the site would be controlled with boom gates at all entry points, security patrols as well as closed circuit security cameras.	Yes
Communal/ Public Areas:	Design of built form and landscaping enables effective passive surveillance from Templar Road with security fencing and closed circuit cameras in operation.	Yes
Entrances:	Access points will be made directly to Templar Road as well as main entrances to the building and office.	Yes
Security:	Swipe card systems will be utilised for all entries.	Yes
<i>Section 2.9 Waste Planning</i>		
Waste Management Plan	A Waste Management Plan has been prepared and submitted with regard to the provisions of the DCP.	Yes
<i>Section 6.14 – Erskine Park Employment Area</i>		
Part 2 – Drainage	A Stormwater Management Plan has been prepared by C&M Consulting Engineers. It addresses all of the necessary stormwater requirements of Council contained within the Development Control Plan and relevant engineering standards.	Yes
4.2.4 Car Parking Requirements Warehouse 1 space/100m ² Office premises 1 space/40m ²	The proposed development includes the provision of 71 car spaces on site.	No, discussed in this report.
5.1.2 Height Requirements Maximum building heights to be determined on merits.	The proposed building will have a maximum height of 12.2 metre at the ridgeline. This is consistent with most other buildings in the Erskine Business Park and is consistent with the requirements of	Yes

	the DCP given the site's location away from the residential area (previously zoned 4(e)).	
5.2.2 Site Coverage Requirements Site coverage shall not exceed 50%.	The proposed development would have a site coverage of approximately 49 percent if you were to calculate the proposed building in the context of the development area (1.680 hectares). However, on the basis that no subdivision is proposed, the proposed building has a much smaller site coverage when assessed on the basis of the entire Cromwell site.	Yes
5.3.2 Setback Requirements Lenore Lane 20m Loop Road 15m Rear & side boundaries 5m The following development is permitted within the defined setback:- <ul style="list-style-type: none"> ▪ landscaping ▪ maintenance/rehabilitation of biodiversity corridors ▪ accessways and driveways ▪ drainage works. 	The existing biodiversity corridor will act as the landscape setback to Lenore Drive. This corridor is around 25 metres in width which exceeds Council's requirement for a 20 metre landscape setback along Lenore Drive. A 11.7 metre landscape setback is proposed to Templar Road. This landscape area would assist in visually screening the car parking area once established and soften the development with the streetscape of the area. Side setbacks will be landscaped to provide a screen to the eventual development on adjoining land. Future developments will also provide side landscape setbacks forming appropriate separation between various activities on the Cromwell land.	Yes
5.4.1 Urban Design Requirements a) In assessing development proposals, Council will have regard to the quality of building design and materials (type and colour).	The colours and shapes incorporated into the warehouse elevation help to reduce the bulk of the building and the different elements such as the proposed fire stairs, green wall and office further contribute to this outcome. The proposed office facade provides a contemporary face for Fujitsu's operation in Erskine Park. It has been designed to contrast with the main building whilst providing a contemporary but articulated front to Templar Road. The proposed building responds to the functionality requirements of Fujitsu's	Yes

	intended activity but presents an architecturally attractive building in the context of the Erskine Business Park.	
6.1 Noise	Heggies Acoustic Consultants were engaged to undertake a noise assessment of the proposed facility. The report concludes that for continuous operation, compliance with the project specific INP noise goals can be achieved at the nearest potentially sensitive residential receiver locations to the north of the site and at the nearest industrial boundary under typical operational scenario conditions residential grade exhaust silencers.	Yes
6.5 Soil erosion	Erosion and sediment control measures have been submitted.	Yes
6.6 Air Pollution	<p>The proposed development will not result in any significant air pollution emissions based on the nature of the proposed use.</p> <p>The facility will generate minimal heavy vehicle movements to and from the site when compared to other industrial activities.</p> <p>The proposed diesel generators will be operated on a monthly basis for maintenance purposes and in the event of a power outage. These generators will be fitted with the appropriate air quality measures to ensure that air quality impacts are minimised.</p>	Yes

The proposal has satisfied the provisions of the Penrith Development Control Plan 2006.

Appendix No.2



Planning

Office of the Director General

Mr Alan Stoneham
General Manager
Penrith City Council
PO Box 60
PENRITH NSW 2751

10/02772

ATTN: Mr Steven Chong

Dear Alan

Lot 2, DP1094504, 1-23 Templar Road, Erskine Park (DA09/1323) – Satisfactory Arrangements for the Provision of Regional Transport Infrastructure and Services

I am writing in relation to the above application and the requirement for satisfactory arrangements for the provision of regional transport infrastructure and services.

As you are aware, Clause 29 of the SEPP (Western Sydney Employment Area) requires satisfactory arrangements for the provision of regional transport infrastructure and services to be approved by the Director-General prior to the determination of development on the site.

Following discussions with the applicant, I can advise that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services for the Western Sydney Employment Area.

I trust that this information is of assistance to you. If you have any questions, Daniel Cavallo, Project Manager, Western Sydney Employment Area, is available to assist. Daniel may be contacted on 9228 6456.

Yours sincerely


Sam Haddad
Director-General

22/2/2010