

JRPP Ref. No.	2012SYW060
Application Number	DA12/0440
Applicant	Cityscape Planning and Projects
Proposed Development	Construction of a warehouse building for the storage and distribution of pharmaceutical products, car parking spaces and landscaping.
Property Address	27 – 65 Lenore Drive, Erskine Park
Property Description	Lot 1 DP 1097134 & Lot 100 DP 1160150
Property Owner	Lpg Erskine Park Pty Ltd

Assessment Report

Executive Summary

Council is in receipt of a Development Application from Cityscape Planning And Projects seeking approval for the construction of a warehouse building for the storage and distribution of pharmaceutical products, associated car parking and landscaping works at 27 – 65 Lenore Drive Erskine Park.

The subject development site is zoned IN1 General Industry under the provisions of State Environmental Planning (Western Sydney Employment Area) 2009. The proposed development is suitably defined as a 'warehouse and distribution centre' which is permitted with consent.

The proposed development has a Capital Investment Value (CIV) of \$31.157 million. As such, the Sydney West Region Joint Planning Panel has the function of determining the application in accordance with Section 23G of the EPAA (Saved Provisions).

Pursuant to Clause 29 of *State Environmental Planning (Western Sydney Employment Area) 2009*, the proposed development requires the Director-General's certification from the Department of Planning for the satisfactory arrangements for the provision of regional transport infrastructure and services. The Director-General has provided written certification that the proposed development is satisfactory in respect to Clause 29.

An assessment of the proposed development under Section 23G and Section 79C of the *Environmental Planning and Assessment Act 1979* has been undertaken and the proposal has been found to be satisfactory.

The proposed development was reviewed by Council's Urban Design and Review Panel (UDRP). The application has adequately responded to the matters raised in relation to building design with the latest submitted plan incorporated changes.

In accordance with Section 2.7 (Notification and Advertising) of Penrith Development Control Plan 2006, the proposed development was advertised in the local newspapers and notified to the owners and occupiers of adjoining and nearby properties. The public exhibition period for the proposal was from 18 June 2012 to 2 July 2012. There were no public submissions received in relation to the proposal.

An assessment of the proposed development under Section 23G and Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the proposal has been found to be satisfactory. The following key issues have emerged as a result of this assessment process:

- Building Design
- Height
- Setbacks
- Car parking

These matters are discussed in detail in this report.

The proposed development is in consideration of the relevant provisions of the environmental planning instruments and the relevant Development Control Plan pertaining to the land. Variations to the controls within the Development Control Plan, being building height, setback and car parking have been appropriately justified. The proposed development is unlikely to have a negative impact on the surrounding environment. The site is suitable for the proposed development and the proposal is in the public interest.

This report recommends that the application be approved subject to recommended conditions of consent.

There are five appendices to this report, as detailed below.

- Appendix No. 1 – SEPP WSEA Assessment
- Appendix No. 2 – DCP 2006 Assessment
- Appendix No. 3 – Site Plans and Elevations
- Appendix No. 4 – Letter from the Department of Planning

Background

Development Application 08/0612 was approved on 18 August 2008 for bulk earthworks. The proposed filling of the site to create the building platform has been undertaken and the proposed development is responsive to the building platform.

A prelodgement meeting was held with Council on the 27 March 2012 with the applicant and the proposed development was reviewed by Council's Urban Design and Review Panel (UDRP). The application has adequately responded to the matters of visual impact along Erskine Park Road.

Site and Surrounds

The site is an irregular shaped parcel of land consisting of two separate allotments with a combined land area of 76,563m².

The site is bounded by Lenore Drive to the south and Erskine Park Road to the west, existing residential development to the north and existing industrial development to the east. The site is also considered to be a gateway property to the Erskine Park Industrial Area.

The site is currently vacant and is largely clear of vegetation with the exception of scattered trees, primarily located north of the transmission easement which bisects the site.



Figure 2 Source: Penrith City Council

Proposed Development

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

Component	Description
<i>Proposed Development</i>	Construction of a warehouse building for the storage and distribution of pharmaceutical products, car parking spaces and landscaping.
<i>CIV</i>	\$31.157 million
<i>Consent Authority</i>	Joint Regional Planning Panel

Proposed Development

Building

- Site area = 76,563sqm -
- Total Warehouse Area = 27485 sqm
- Three office areas (1000m² + 440m² + 100m²) + 30m² gate house;
- Car parking = 130 spaces

- The use of the building will be for warehousing and distribution of pharmaceutical products.
- Minimum setbacks:

Front – 35m & 26 metres to Lockwood Road
Side – 12 metres to western boundary
Side – 55 metres to eastern boundary
Rear – 11.50 metres to the south/rear

- General waste bins to be placed within the site and collected by a commercial contractor.
- Provision of 2 x 25,000 litre aboveground rainwater tanks,
- Provision of 2 water tanks to support the fire sprinkler system associated with the building,
- Provision of landscaping and other embellishments such as paving and fencing,
- Lighting to be provided to all hard stand areas including truck and car parking areas and the refuelling area.
- Consolidation of the lots in to one lot.

The proposed land use activity will therefore involve warehouse and distributions activities associated with storing and distributing pharmaceutical throughout Australasia. The building materials will use various materials including pre-cast concrete, metal cladding, glazing and varying colours helps to create interest with all facades.

Office

- The proposed ancillary office would provide accommodation for administrative functions facing Erskine Park Road.
- The main office will be 1000m² over two levels and will include a general office fitout (meeting room, lunch room, workstations and amenities).
- The two level office block will be 440m² will be located near the loading docks facing Lenore Drive and will include general office fitout (meeting room, lunch room, workstations and amenities).
- A small dock office is also proposed within the warehouse and is 100m² in size. This provides accommodation for warehouse staff who undertake administrative functions.
- A 30m² gatehouse is provided at the truck entrance to the site to control the entry and exit of vehicles to the loading dock area. The external appearance of the office building would comprise of aluminium glazing and cladding.

Car Parking

- Public and staff access cars into the site via the access proposed from Lenore Drive.
- Separate heavy vehicle access to the site is proposed utilising the existing slip lane within Lenore Drive.
- A total of 130 car parking spaces provided on site.

Landscaping

- Frontages to Erskine Park Road & Lenore Drive are to be landscaped with large trees and shrubs along the front setback including variety of

eucalypts and Callistemon, Grevillea etc.

- Additional landscaping is to be provided along the northern façade of the building, being visible from Erskine Park Road.
- A 2 metre black palisade fence would be provided along the Erskine Park Road & Lenore Drive frontages, with Chain mesh provided on the side and rear boundaries.

Signage

- The architectural plans include the location of two (2) building identification signs, however these do not form part of the approval.
- A separate Development Application will be required for any signage on the site.

Construction and Operation

- The proposal seeks 24 hour usage of the site over 7 days a week. The site will operate across two shifts a day.
- 125 employees will be based at the facility during the day shift, with up to 100 of these being warehouse staff.
- Limited operations and vehicular movements will be undertaken during the night shift.

Planning Assessment

The proposed development has been assessed against the relevant heads of consideration contained in Section 23G and Section 79C of the *Environmental Planning and Assessment Act 1979*, and based on this assessment, the following issues have been identified for further consideration.

1. Section 23G – Joint Regional Planning Panels

Under Section 23G of the *Environmental Planning and Assessment Act 1979*, a regional panel is taken to be the Council whose functions are conferred on a regional panel.

The proposed development has a CIV of \$31.175 million. Under Clause 13B of State Environmental Planning Policy (Major Development) 2005, a regional panel has the function of determining applications for development which have a CIV in excess of \$10 million.

Penrith City Council officers met with the Sydney West Region Joint Planning Panel on 30 August 2012. The purpose of the meeting was to present and brief the panel members on the Development Application ahead of the panel's determination of the application at a future panel meeting.

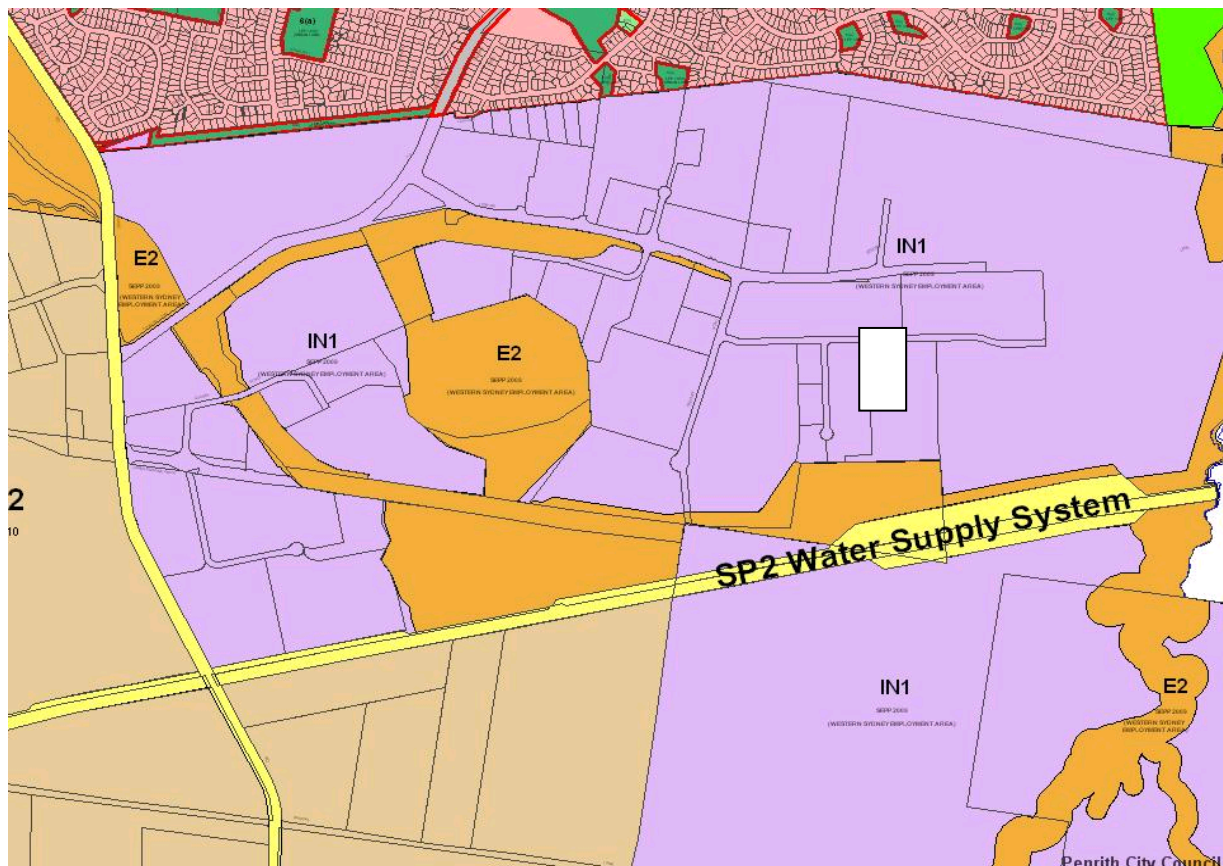
2. Section 79C(1)(a)(i) – Any Environmental Planning Instrument

State Environmental Planning Policy (Western Sydney Employment Area) 2009 (SEPP WSEA)

The subject development site is zoned IN1 General Industry under the provisions of SEPP WSEA.

The proposed development would be suitably defined as a 'warehouse, distribution centre' which is outlined as 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 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: -

- The proposed development is for the purpose of warehousing of pharmaceutical product within the building. Noise generation would be suitably mitigated with stringent measures proposed to maintain a reasonable level of amenity to adjoining and nearby properties.

- The proposed office components are ancillary to the principal warehousing use. The office would be used in conjunction with main warehousing of pharmaceutical for administration and staff amenities purposes.

There is no intention to lease or subdivide the space whilst unoccupied or operate independently.

- The proposed development would generate 125 new dayshift employment opportunities for the Penrith Local Government Area which is in the spirit of the employment generating nature of Erskine Business Park. Additional employment opportunities will also be provided for the night shift. The accommodation of the proposed facility provides an even greater service to surrounding companies who have established in the Erskine Business Park and other such industries in the local area.
- The subject site would have access to the proposed future Lenore Drive link (through Eastern Creek) and 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.

SEPP WSEA takes precedence over a DCP where there may be any inconsistencies between the environmental planning instruments. Council needs to be satisfied that the proposed development achieves a satisfactory outcome in respect of each of the development standards.

An assessment of the application against SEPP WSEA is outlined in Appendix No. 1. The Director General's Certification is sought under Clause 29. The assessment concludes satisfactory compliance with the SEPP.

State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)

Clause 45 of SEPP 2007 provides for referral requirements relating to development within a transmission easement. It states:

- (1) *This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following:*
 - (a) *the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
 - (b) *development carried out:*
 - (i) *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) *immediately adjacent to an electricity substation, or*
 - (iii) *within 5m of an exposed overhead electricity power line,*
 - (c) *installation of a swimming pool any part of which is:*
 - (i) *within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
 - (ii) *within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*

- (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.
- (2) Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:
 - (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

Prior to the lodgement of the Development Application to Council, the applicant had

The application was referred to Transgrid on 23 August 2012 and no response has been provided.

Clause 104 of SEPP 2007 provides for traffic generating development and provides in part: -

- (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 'Warehousing' for the purposes of Clause 104 of the SEPP. The proposed development is captured by Schedule 3 as it is over 20,000sqm in size.

In accordance with Clause 104 a formal referral was sent to the Roads and Traffic Authority (RTA). Subclause 104(3) requires consideration of accessibility and traffic safety should a response not be received from the RTA within 21 days after the notice was given.

A response from the RTA has been received and Council's Senior Traffic Engineer has noted the considerations under Clause 104(3) (b) and concluded that the development is satisfactory in regards to site accessibility and traffic safety. The RTA have recommended conditions to be imposed with respect ensuring safe and adequate areas being provided on site for movements of vehicles within the site. These have been recommended in conditions Nos.37, 39, 46, 47, 68, 69 & 70)

No major traffic generation impacts are expected from the development and it anticipated that the local road network and surrounding intersection treatments have adequate spare capacity to cater for this increase.

Based on the advice provided by the RTA and Council's Senior Traffic Engineer and the limited impact the development will have the surrounding road network, the development is satisfactory for the purposes of Clause 104 of SEPP 2007.

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)

Clause 7(1) of SEPP 55 states that a consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Clause 7(2) states that:

Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

As part of an original development application (DA08/0612) for the bulk earthworks, it was determined that the previous use of the site, being grazing land would not have resulted in the contamination of the site.

Validation certificates were provided for the fill imported to the site as a result of bulk earthworks undertaken on the site. Any further filling of the site would result in the need for the provision of additional validation certificates to support the health of the fill.

State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)

The proposed development details the location of future business identification signage on the site, however the applicant has advised that these signs do not form part of the application.

A separate Development Application will be required for the installation of all signage on the site, including business identification signs.

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

The proposed development includes the storage of pharmaceutical products, which includes the storage of aerosols and flammable product. As such, the development is defined as being a “potentially hazardous industry” and “potentially offensive industry”

Clause 12 of SEPP 33 states that a development application to carry out development for the purposes of a potentially hazardous industry must prepare (or cause to be prepared) a preliminary hazard analysis in accordance with the current circulars or guidelines published by the Department of Planning and submit the analysis with the development application.

A preliminary hazardous analysis has been prepared which identifies the hazardous material stored on the site is limited to aerosols and flammable liquids, which is limited to 3% of the total product stored within the building.

The report details all products to be stored within the building, the potential hazards associated with their storage and methods of storage required to ensure the safety of the employees within the building and the structure itself. The recommendations of the report are to be implemented within the construction of the building (Conditions 60 & 61).

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

The SREP 20 provides overall direction for planning to protect the environment of the Hawkesbury/Nepean River catchment within which the proposed development is located.

The proposed development is consistent with this objective, and any risks relating to the protection of the Hawkesbury-Nepean River system are considered and addressed through the implementation of recommended conditions of consent (Nos. 32 & 40) relating to erosion and sediment control, and stormwater runoff mitigation

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 above provisions of the DCP apply to the subject site. A table detailing compliance with the relevant controls applicable to the proposed development is attached to this report (See Appendix No.3).

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

Height

Clause 4.1 (Height) requires a maximum building height of 12m for development located within the Northern Area. The building height proposed is 13.85m and exceeds the permitted building height requirements.

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

“The development seeks to provide a maximum building height of 13.85m. This height is consistent with the building height of other similar type buildings in the local area.

The site is well removed from residential areas and therefore will cause no adverse impact to those residents, including overshadowing.

The development is located on an existing level platform which is set into the slope, particularly at its eastern extent. This serves to reduce the apparent height of the building form at this location”.

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

- (a) To encourage building forms that respond to the topography of the site and the relative position of the allotment to other allotments and the street;*
- (b) To ensure a scale of buildings which minimises the impact of development on adjoining residential areas; and*
- (c) To minimise the impact of development on views from adjoining residential areas.*

Development Application 08/0617 for bulk earthworks established a building platform that has shaped the topography of the development site, with the proposed building responding to the building platform located on the site.

Adverse impacts on the adjoining residential properties on the northern side of the property are not envisaged due to the limited area of the building exceeding the permitted building height and the buildings setback from the adjoining residential areas.

The proposed development is consistent with the objectives of the Penrith Development Control Plan 2006.

Setbacks

Clause 4.2 (Setbacks) requires setbacks as outlined in the following table:

Designated Roads (Mamre Road and Erskine Park Road)	20m
Northern Access Road (Lenore Drive and future Link Road to Westlink M7)	20m
Western Access Road (Trunk Collector)	20m
Other road frontages	15m
Rear and side boundaries	5m
Transmission line easement	8m
Water Supply Pipeline	5m
Boundaries adjacent to 1(f) zone	10m

Variations to this control as the proposed development provides a setback of 5.7m from Erskine Park Road, 2m from the transmission line easement and 0m setback from the eastern side boundary.

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

- (a) To provide an open streetscape with substantial areas for landscaping; and*

(b) *To enhance the visual quality of development and the urban landscape.*

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

- A small section of the car park extends into the setback area only where is to required to wrap around the Transgrid tower exclusion zone. The topography of the local area is such that is the identified section of the car parking area is actually provided below the level of Erskine Park Road and therefore views from this section will look out and over that parking rather than directly at it;
- The setback from the transmission easement enables to planting of significant planting to enhance the northern elevation of the building;
- The encroachment on the side boundary setback is limited to 47% of the length of the site, wit the remainder of the boundary free from any form of building.

The building platform of the development has been established by the existing bulk earthworks undertaken on the site. Existing constraints such as the location of the development within the local road network, the location of the adjoining residential areas, the location of the transmission easement and the development of adjoining properties have shaped the location and design of the development.

The proposed development is considered to be a responsive development given the site constraints and the variations to the setbacks are appropriate for the site.

Car Parking

Clause 7.2 (Car parking) of Section 6.10 – Erskine Park Employment Area states that car parking is to be provided in accordance with the following rates:

Warehousing – 1 space per 100m²

- $27,485\text{m}^2/100 = 275$ spaces to be provided

Office premises – 1 space per 40m²

- $1570\text{m}^2/40 = 39$ spaces to be provided

Based on floor areas (of warehousing and of office), 314 spaces are required to be provided.

The proposed development includes the provision of 130 car spaces on site, 3 being accessible.

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

“It is not desirable to constructed more “hard stand” area for parking than is necessary and it is quiet apparent that the proposed workforce will not require anything like the number of parking spaces indicated by the DCP. “

Parking Requirement Comparison

Land Use	Floor Area (m²)	DCP Requirements		RTA Guidelines	
		Rate per m²	Spaces	Rate per m²	Spaces
Warehouse	27485m ²	1/100m ²	275	1/300m ²	91.61= 92
Ancillary Office	1570m ²	1/40m ²	39	1/300m ²	5.2= 5
TOTAL	-	-	314	-	97

The above illustrates that there is a demand for between 88 and 265 parking spaces for the proposed development.

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 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 130 parking spaces provided on site are more than the RTA requirement. However the number of parking spaces is less than that required by Penrith DCP 2006.

The number of staff working will be in 2 shifts and is unlikely to occupy all 130 spaces at one time. The proposed parking spaces are consistent with the anticipated staff numbers expected at the site at any one time.

The original development proposal included the provision of 149 parking spaces. Council requested that the parking area be reduced due to the location of the parking and the likelihood that the areas would be utilised, given the intended employment generate from the development.

Council Senior Traffic Engineer has reviewed the proposal and notes that the parking provided is adequate for the proposed use.

The proposed development is consistent with the Penrith Development Control Plan 2006.

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

Noise Generation

Council's Environmental Health Officer has reviewed the Noise Report and provided comment regarding the noise criteria, external plant and has requested that prior to

the issuing of the occupation certificate an acoustic compliance report is to be obtained from a qualified acoustic consultant. This compliance report is to assess all noise generating activities on the site including (but not limited to) plant and equipment, fork lifts, truck and vehicles and vehicle reversing beepers. Conditions of consent are recommended (Nos.62, 63 & 64).

The acoustic report also included a recommendation that an acoustic wall be constructed along the northern perimeter of the car park adjacent to the residential areas to provide these properties from head light and noise nuisance. The development site has been identified as being a gateway property to the Erskine Business Park. The location of the acoustic wall will diminish the contribution the building will make to the character of the area. Limitations on the use of the car park and the provision of a boom gate would protect the amenity of the adjoining property (Condition 56 & 62).

Traffic and Access

The subject application was accompanied with a Traffic and Parking Report prepared by Transport and Traffic Planning Associates dated May 2012.

Council's Senior Traffic Officer and the RTA have reviewed the proposed development and concludes that no major traffic generation impacts are expected from the development as it is anticipated that the local road network and surrounding intersection treatments have adequate spare capacity to cater for this increase.

Direct heavy vehicular and car access point is proposed from Lenore Drive. All vehicles would be able to enter and exit the site in a forward direction with sight lines at the proposed driveway entrances unimpeded from landscaping, fencing or signage.

Conditions are recommended (Nos. 29 & 68) for car parking, manoeuvrability and sight distances.

Urban Design

Prior to the lodgement of the Development Application, consideration was given proposed development by the Urban Design Panel which highlighted the visibility of the site from Erskine Park Road and that the exposure is exacerbated by the transmission line easement to the north of the proposed building. The proposed building was required to "address the street with the office component allowing passive surveillance and connection visually with the roadway as well as provide high quality architecture to mark arrival at a 21st century industrial park".

An alternative design was submitted with the Development Application and further amendments were considered during the assessment of the proposal. The Urban Design Review Panel determined "the colour scheme emphasises the overall length of the proposal as a long grey box".

A subsequent meeting was held on 5 September 2012 with the applicant and the Urban Design Panel to further discuss design options and outline number of solutions breaking the northern façade of the building.

The following design solutions were recommended as an outcome to the meeting:

- A strong indent in the elevation below the roof to allow the roof to float more as well as greater articulation in the façade;
- This brings in the indent below the roof for the full length of the building punctuated by the projecting bays with the colour and the exaggerated rain heads;
- Every 4th panel is also recessed fully and dark coloured;
- The windows could sit in the recessed portion which makes sense structurally or could sit below in the projecting panels with the recessed area just a dark cladding too.

Alternative design solutions responded appropriately to the concerns of the Urban Design Review Panel and provide a building that has strong vertical elements and a colour scheme that appropriately breaks up the length of the building and presents an attractive façade to Erskine Park Road.

The proposed warehouse building and associated offices have been designed with a mixture of cement panels, glazed facades, alucobond façade panels and metal screens provide a modern building aimed at being the gateway structure for the Erskine Business Park locality.

The application has been accompanied by landscape plans which provide for related landscaping works on the site. Refer to Appendix No. 3 for a copy of the landscape plans prepared by Viridian Designs which includes details of the proposed works. The proposed landscape works will provide for the high-quality embellishment of the site with suitable ground covers, shrubs and trees which, at maturity, will complement the scale, design and function of the development.

Economic Impact

The site forms a considerable part of the overall Erskine Business Park with close and convenient access to Mamre Road and the M4 Motorway.

The outcomes of development such as road improvements, landscaping and other community infrastructure, coupled with growth in employment opportunities, will positively contribute the social environment of the local and regional community.

The accommodation of this type of development in the Penrith Local Government Area will result in the generation of employment opportunities (125 staff) and will further stimulate the local and regional economy.

Safety and Security

Appropriate measures will be installed on site to ensure that the proposed facility remains secure. A perimeter palisade fence and appropriate lighting to staff car and visitor parking areas will be installed once the facility is operational.

A boom gate is to be installed within the car park the use of areas adjacent to the residential zoned land to protect the safety and security of the users of the car park by ensuring areas close to the warehouse are utilised at night, whilst also protecting the amenity of the adjoining residential areas.

Waste Management

Appropriate arrangements would be made for construction waste to be disposed of at authorised waste management facilities. Condition number 17 has been recommended to ensure this.

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

The site of the proposed development is 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 away 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; and
- The proposed development would contribute to the employment generation as provided by the Erskine Business Park.

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

In accordance with Section 2.7 (Notification and Advertising) of Penrith Development Control Plan 2006, the proposed development was advertised in the local newspapers and notified to the owners and occupiers of adjoining and nearby properties. A total of 26 property owners and occupiers were notified in the surrounding area.

The public exhibition period for the proposal was from 18 June 2012 to 2 July 2012 and no submissions were received.

Internal Referral Comments

The table below summarises the results of internal Penrith City Council referrals in relation to the proposal.

Referrals	Comments
Building Surveyor	No objection, subject to conditions.
Development Engineer	No objection, subject to conditions.
Traffic Engineer	No objection, subject to conditions.
Environmental Management	No objection, subject to conditions.
Landscape Architect	No objection, subject to conditions.

External Referral Comments

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

On 5 September 2012, Council received the Director General's certification that the site had met the requirements Clause 29 of SEPP WSEA.

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 proposed development has been assessed with regard to the proposed provisions outlined in *State Environmental Planning Policy (Western Sydney Employment Area) 2009* and *Penrith Development Control Plan 2006* and is satisfactory. Matters relating to car parking, building design, height and setbacks as well as access have been considered against the relevant planning instruments and are found to be satisfactory.

The proposed development provides 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 standard of development that is expected in Erskine Business Park.

Section 94 Contributions

Erskine Business Park – Development Contributions Plan 2008 is applicable for this site. However, for this part of the land S94 is not applicable as there have been works in kind already carried out by CSR in the construction of road works along and traffic signals to maintain safety and efficiency. This has been confirmed by Council's S94 Officer.

Conclusion

The proposed development has been assessed against the relevant heads of consideration contained in Section 23G and Section 79C of the *Environmental Planning and Assessment Act 1979*. It 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 on height, setbacks and on site parking spaces are reasonable as the proposal demonstrates an appropriate development that is site responsive and aims to enhance the high quality nature of the employment area.

The application is therefore satisfactory and the proposal is recommended for approval, subject to the imposition of the recommended conditions.

Recommendation

That:

1. The information contained in the report on Development Application No. DA12/0440 for the construction of a warehouse building for the storage and distribution of pharmaceutical products, car parking spaces and landscaping at Lot 1 DP 1097134 & Lot 100 DP 1160150 (No. 27 – 65) Lenore Drive, ERSKINE PARK NSW 2759 be received.
2. Development Application No. DA12/0440 for the construction of a warehouse building for the storage and distribution of pharmaceutical products, car parking spaces and landscaping at Lot 1 DP 1097134 & Lot 100 DP 1160150 (No. 27 – 65) Lenore Drive, ERSKINE PARK NSW 2759 be approved subject to the following conditions:

Standard Conditions

1. **A001** – Approved Plans

The development must be implemented substantially in accordance with the following plans 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.

Architectural Plans

Drawing Title	Drawing No	Issue	Prepared by	Dated
Site & Floor Plan	SK-03C	-	Design Australia Phase	September 2012
External Elevation One	SK-04C	-	Design Australia Phase	May 2012
External Elevations Two	SK-05C	-	Design Australia Phase	May 2012
Landscaping Plan	111219-01	E	Viridian Designs	May 2012

Planting Plan	111219-02	E	Viridian Designs	May 2012
Drainage Plans	C00, C01, C02, C03, C04, C05, C06, C07, C08, C09, C10, C11	A	Davis, Naismith & McGovern	10 May 2012
Erosion and Sediment Control Plan	111219-03	E	Viridian Designs	May 2012

Davis, Naismith & McGovern, reference numbers C00, C01, C02, C03, C04, C05, C06, C07, C08, C09, C10, C11 Revision A dated 10 May 2012.

2. A014 – Lot Consolidation

Lot 1 DP 1097134 & Lot 100 DP 1160150 are to be consolidated as one lot. Written evidence that the request to consolidate the lots has been lodged with Land and Property Information division of the Department of Lands is to be submitted to the certifying authority before the Construction Certificate for the development can be issued by the certifier.

A copy of the registered plan of consolidation from Land and Property Information division of the Department of Lands is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of the Occupation Certificate for the development.

3. A019 – Occupation Certificate

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

4. 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.

5. 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 conditions in this consent.

6. A030 – No retail sales

No retail sale of goods shall be conducted from the subject premises.

7. A032 – Goods in Building

All materials and goods associated with the use shall be contained within the building at all times with the exception of the display area. Goods displayed in the designated area are to be in accordance with the stamped plans and maintained at all times.

8. **A038 – Lighting Locations**

Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. Appropriate lighting is to be installed to staff and visitor car parking areas. 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).

9. **A039 – Graffiti**

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

10. **A046 – Construction Certificate**

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

11. **B005 – Mud/Soil**

Mud and soil from vehicular movements to and from the site must not be deposited on the road.

12. **D001 - Implement approved sediment & erosion control measures**

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.

13. ***D002 – Spraygrass***

All land that has been disturbed by earthworks is to be spraygrassed or similarly treated to establish a grass cover.

14. ***D005 - No filling without prior approval***

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury-Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

15. ***D06A - Approval for bulk earthworks/major filling operations***

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.”}

16. 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.

17. 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.

18. D015 - Spill prevention & clean-up procedures

A plan detailing spill prevention, contingency and emergency clean-up procedures for the development shall be submitted for approval prior to construction works commencing. The approved procedures plan shall be implemented in the event of a spill or emergency.

19. D026 - Liquid wastes

Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer, then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

20. E01A - BCA compliance (Class 2-9)

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.

21. 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.

22. E009 - Annual fire safety statement-essential fire safety (Class 2-9)

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 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.

23. 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.

24. 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.
- (c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

- (d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:
- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
 - the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
 - any such hoarding, fence or awning is to be removed when the work has been completed.

25. H011 Engineering plans and specifications

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

26. H022 - Survey

The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed to ground floor slab level.

27. 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 that 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 construction works.

28. 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

29. 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.

30. K027 - Car parking

A total of 130 off-street parking spaces are to be provided, linemarked and maintained for the development, generally in accordance with the approved schedule of external finishes. The parking space dimensions and manoeuvring areas are to comply with AS2890.1 and AS2890.2 the Building Code of Australia and the Commonwealth Disability Discrimination Act.

Of the 130 spaces, 3 parking spaces for persons with disabilities are to be provided in accordance with AS1428.1 and are to be located close to all pedestrian entrances to the building.

31. K101 - Works at no cost to Council

All roadworks, drainage works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

32. K201 - Sediment & Erosion Control – CC approval

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.

33. K207 - Road Safety Audit

A Stage 3 (detailed design) Road Safety Audit (RSA) shall be undertaken on the proposed roadworks by an accredited auditor who is independent of the design consultant. A copy of the RSA shall accompany the design plans submitted with the Construction Certificate application.

Prior to the issue of the Construction Certificate, the Certifying Authority shall ensure that the recommendations of the RSA have been addressed in any plans approved with the Construction Certificate.

34. K210 - On-site detention

On-site detention shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Davis, Naismith & McGovern, reference numbers C00, C01, C02, C03, C04, C05, C06, C07, C08, C09, C10, C11 Revision A dated 10 May 2012.

The proposed development and stormwater drainage system shall be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties.

Engineering plans and supporting calculations for the on-site detention system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the on-site detention system has been designed in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

35. K212 – Loading Zone of Easement

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/or services easement have been designed clear of the zone of influence.

36. K213 – Water Quality

Stormwater runoff from parking, uncovered paved areas shall be directed to a stormwater pre-treatment system. The treatment devices shall be designed to remove expected pollutant loadings in accordance with the Department of Environment, Climate Change & Water's 'Managing Urban Stormwater – Environmental Targets/ Treatment Techniques– October 2007' publications.

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

- Specification & installation details of the stormwater pre-treatment system
- The approval of an operation and maintenance manual/ schedule for the proposed device

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

37. K221 – Car Parking

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

All vehicles should enter and exit in a forward direction and have appropriate access to loading docks. The driveway width shall accommodate swept movements of the largest vehicle servicing the site and be designed to AS 2890.2. "No Stopping" signage (if required) shall be installed at no cost to Council.

38. K301 - Sediment & Erosion Control - Installation

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.

39. K302 – Traffic Control Plan

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.

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.

40. K401 – Erosion and sediment control

Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

41. K406 – Drainage Connection

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.

42. K501 – Roads Authority Clearance

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.

43. K502 – Works as Executed

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 Guidelines and Construction Specification for Civil Works.

An original set of works-as-executed drawings and copies of compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

44. K503 - Stormwater Compliance

Prior to the issue of an Occupation Certificate the Principal Certifying Authority shall ensure that the:

- a) On-site detention system/s
 - b) Stormwater pre-treatment system/s
 - c) Overland flowpath works
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to been undertaken have been satisfactorily completed.

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

45. K504 - Restriction as to User

Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the:

- a) On-site detention system/s
- b) Stormwater pre-treatment system/s
- c) Overland flowpath works

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.

46. K507 – Linemarking & Signage

Prior to the issue of an Occupation Certificate, and installation of regulatory / advisory linemarking and signage, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee.

Notes:

1. Contact Penrith City Council's **Development Engineering Unit** on (02) 4732 7777 for further information on this process.

Allow eight (8) weeks for approval by the Local Traffic Committee.

47. K509 – Directional Signage

Prior to the issue of an 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.

Adequate signposting for both vehicles and pedestrians shall be provided onsite to ensure vehicle and pedestrian conflicts are mitigated. This is specifically required due to the long pedestrian crossing/pathway linking the carparking area and the office facilities.

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

48. L001 – General Landscaping

All landscape works are to be constructed in accordance with the stamped-approved Landscaping Plans, Drawing No.s 111219-01 and 11219-02 Revision E dated May 2012, drawn by Viridian Designs 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.

Prior to the issue of a Construction Certificate a landscaping plan is to be provided to Council's satisfaction showing screening vegetation with canopy trees endemic to the area capable of achieving a mature height of 8 metres within the landscaped verge along the northern boundary.

49. 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.

50. 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 3 Year Landscaping Report

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.

51. 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.

52. 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.

53. 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.

54. 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.

55. 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

56. Construction Noise

Construction works shall be carried out in accordance with the NSW Department of Environment and Climate Changes (2009)"Interim Construction Noise Guideline".

57. Car park operation hours and boom gate

The operation of the northwest car park (main car park) is restricted to between 6am and 6pm. The boom gate is to be utilised to limit vehicular access to this area outside of operation hours.

58. Dust Suppression

Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding properties.

59. 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.

60. Hazardous materials

No hazardous materials and dangerous goods other than the aerosols and flammables of the type and quantity as outlined in the "Preliminary Hazard Analysis for Warehouse and Distribution Facility for Retail Packaged Pharmaceutical and Related Goods at Erskine Park, NSW" prepared by Dryden Consulting dated June 2012 are to be stored on the site.

61. *Implementation of Preliminary Hazard Analysis Recommendation*

The recommendations detailed in 'Section 3.3 – Design and Operational Safeguards' and 'Section 6.2 – Recommendations' of the "Preliminary Hazard Analysis for Warehouse and Distribution Facility for Retail Packaged Pharmaceutical and Related Goods at Erskine Park, NSW" prepared by Dryden Consulting dated June 2012 shall be implemented and incorporated into the design, construction and operations of the development, and shall be **shown on plans accompanying the Construction Certificate application**.

62. *Chiller plant Noise Levels*

Noise levels from the rooftop mounted chiller plant shall not exceed the relevant noise criteria detailed in "Noise Impact Assessment" prepared by SLR Consulting Australia Pty Ltd dated 23 May 2012 (Report No. 610.07939.06030-R1). Details of the chiller plant selected and the noise mitigation measures to be implemented to reduce the impact of the noise generated by the chiller plant are to be submitted to Council **for approval prior to the issue of the Construction Certificate**. The approved measures are to be implemented and shall also be **shown on plans accompanying the Construction Certificate application**.

63. *Implementation of Acoustic Report Recommendation*

Noise levels from the premises shall not exceed the relevant noise criteria detailed in "Noise Impact Assessment" prepared by SLR Consulting Australia Pty Ltd dated 23 May 2012 (Report No. 610.07939.06030-R1). The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, with the exception of the acoustic wall adjacent to the north-western car park. Details shall be **shown on plans accompanying the Construction Certificate application**. A certificate is to be obtained from a qualified acoustic consultant certifying that the development has been constructed to meet the noise criteria in accordance with the approved acoustic report and the relevant Australian Standards. 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

64. *Acoustic Compliance Report*

Twelve (12) months after the issue of the Occupation Certificate, an Acoustic Compliance Report is to be submitted to and approved by Council. The 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 the level of compliance with the noise criteria set within the "Noise Impact Assessment" prepared by SLR Consulting Australia Pty Ltd dated 23 May 2012 (Report No. 610.07939.06030-R1) and the NSW 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 Council.

65. *Boundary Fencing*

Boundary fencing is to be constructed in accordance with Clause 4.7 (Fencing) of Part 6.10 Erskine Business Park Apartment Development under Penrith Development Control Plan. The following is to be shown on the plans submitted with the Construction Certificate:

- Fencing must be located either behind the landscape setback or alternatively within the landscaped area midway between the site front boundary and the building line.
- Security fencing shall generally be of an "open" nature and of a dark colour, such as green or black powder coated mesh/ palisade design.

66. *Seagull Road Works*

Prior to the issue of a Construction Certificate for building the Principal Certifying Authority and/ or Certifying Authority shall ensure that a Roads Act Approval has been granted by the Roads & maritime Services (RMS) for the construction of proposed "Seagull" treatment on Lenore Drive for vehicular access to the development site.

67. *Associated costs*

All works/ regulatory signposting associated with the development are to be at no cost to the Roads & Maritime Service or Council.

68. *No Stopping Zone*

If not already in place, full time 'No Stopping' restrictions are to be implemented along the full Erskine Park Road frontage of the development site. Prior to the installation of the parking restrictions the applicant is to contact RMS's Traffic and Engineering Services on phone: (02) 8849 2294 for a works instruction.

69. *Sight Lines*

The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.

70. *Directional Signage*

Appropriate signage is to be installed to delineate the separated staff/ visitor access from truck access.

71. *Additional Landscaping*

The approved landscape plan (Drawing No.s 111219-01 and 11219-02 Revision E dated May 2012, drawn by Viridian Designs) are to be amended as follows:

- Cluster planting between the two transmission lines/ towers is to increase to a minimum of seven (7) trees per cluster. All the tree clusters in the easement zone should be increased to a minimum of 7 trees per cluster.
- Any failed street trees Lenore Drive are to be replaced with the same species planting along Lenore Drive, with min. 75L pot size, according to the existing spacing's.
- Additional deciduous shade trees shall be planted to the north and west of the outdoor area to improve amenity and provide shade (minimum 4).

APPENDIX 1: SEPP WSEA ASSESSMENT

Clause 18 - Requirement for Development Control Plans

The “Erskine Park Employment Area” section under the Penrith Development Control Plan 2006 (approved 21 August 2006 and as in force on 15 December 2006) applies to the site.

An 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 will involve the installation of rainwater tanks to harvest rainwater for use in irrigation and toilet flushing.

Solar hotwater system is to be installed to be utilised in association with the office and amenities areas.

The design of the building incorporates features such as glazing and sunshades to improve energy efficiency and reduce green house gas emissions

Clause 21 – Height of Buildings

The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that:

- (a) building heights will not adversely impact on the amenity of adjacent residential areas, and*
- (b) site topography has been taken into consideration.*

The development provides a relatively small building footprint and a maximum building height of 13.85m. The height of the building has largely been defined by existing bulk earthworks that have been undertaken on the site that have defined the building platform for the proposed building.

A variation to the height control of 12m (as noted in DCP 2006) for the site is supported given to topography of the site and the location of the building within the site.

The presence of the building is enhanced by the high quality of architectural presentation and landscaping which has been improved in response the feedback from Council’s UDRP.

Clause 22 - Rainwater Harvesting

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.

The roof areas will be appropriately connected to the onsite detention system. A specific rainwater harvesting scheme was not required and/or approved by the Director-General. The method for rainwater harvesting on the site is satisfactory.

Clause 23 - Development Adjoining Residential Land

Applies that is within 250 metres of land zoned primarily for residential purposes. Council satisfied that matters relating to visual amenity, noise generation, traffic, parking and landscaping are compatible with the surrounding residential area.

The nearest dwelling is within 100m of the northern site boundary. A detailed acoustic report has been prepared detailing measures to be implemented in the construction of the building to protect the adjoining properties. The loading docks have been orientated to Lenore Drive to protect the residential properties from noise generated from the loading and unloading of vehicles.

A traffic report was also submitted with the application. Minor increases in traffic movements are expected from the development, however the road network of the business park is capable of catering for the additional vehicular movements.

Clause 25 – Public Utility Infrastructure

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.

The site is well serviced in regard to existing public utility infrastructure.

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 and the proposal was referred to the RTA for comment with no objection raised.

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)

Director General's Certification has been received which certifies that no further contributions are required.

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 well to road frontage through the use of a combination of office and warehouse elements along the western elevation addressing Erskine Park Road.

The site is considered to be a gateway property to the Erskine Park Business Park therefore particular attention has been given to the northern elevation of the building. The provision of articulation and design features provide vertical fenestration to break up the predominance of horizontal lines within this elevation.

High quality landscaping incorporating native species as defined in Council's DCP is proposed and is consistent with recently completed development nearby. The paved area immediately north of the office building has been configured to reduce hard stand areas and incorporate landscaping.

Clause 32 - Preservation of trees or vegetation

The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.

There are no major vegetated areas that will be removed as part of this development.

APPENDIX 2: DCP 2006 ASSESSMENT

Requirement	Comment	Complies
Section 2.2 Crime Prevention through Environmental Design		
Lighting	Lighting is anticipated to be installed around the site. Condition No.9 has been recommended to ensure minimal impact to adjoining properties.	Yes
Entrapment spots and blind corners & Landscaping	Access to the site would be controlled with 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 of the local road network and public areas.	Yes

Entrances	Main access to the warehouse area, office area and other heavy vehicles/ trucks entering from via Lenore Drive.	Yes
Section 2.7 Notification and Advertising		
B.1 Who will be notified	The application was advertised and notified to the adjoining and neighbouring properties for 14 days in accordance with the DCP.	Yes
B.9 Amended Plans	Amended plans were received were of minor nature to address those issues raised by UDRP.	Yes
Section 2.9 Waste Planning		
Waste Management Plan	Waste and recyclable materials will be stored in large lift bins and commercial arrangements will be made for their removal. Waste will be generated through the office, warehousing and landscape maintenance in addition to construction waste.	Yes
Section 6.10 – Erskine Park Employment Area		
Part 2 – Drainage	A Stormwater Management Plan has been prepared. 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	Based on floor areas (27485m ² of warehousing and 1570m ² of office), 314.1 spaces are required to be provided. The proposed development includes the provision of 130 car spaces on site, 3 being accessible.	No - See comment in report
4.7 Fencing Requirements Fencing to be located behind landscaping	Black palisade fencing at a height of 2m is proposed along Erskine Park Road & Lenore Drive and chain mesh fencing is proposed along all other boundaries.	Yes
5.1.2 Height Requirements Building height to be a maximum 12 metres	The proposed building will have a maximum height of 13.85 metres at the ridgeline.	No – See comment in report
5.2.2 Site Coverage Requirements Site coverage shall not exceed 50%.	The proposed development will have a total site coverage of approximately 38 percent of the site area.	Yes
5.3.2 Setback Requirements Erskine Park Road & Lenore Drive - 20m Rear & side boundaries - 5m	Front – 20 metres to Lenore Drive Side – 5.7 metres to Erskine Park Road Side – 0metres to eastern boundary Rear – <100metres to the northern boundary.	No – See comment in report
5.4.1 Urban Design Requirements	The colours and shapes incorporated into the warehouse elevation and the inclusion of office building at the western elevation help	Yes

	to reduce the bulk of the building. The proposed office facade provides a contemporary front in Erskine Park Road and has been designed to contrast with the main building. This is discussed in more detail in Clause 31 of SEPP 2009 above.	
5.9.1 Operating Hours	The proposed 24 hours a day, 7 days a week operating hours are do not affect the amenity of nearby residential land.	Yes
6.1 Noise	The noise assessment of the proposed facility. Demonstrates limited impact to the nearby residential land. Conditions of consent are recommended.	Yes
6.5 Soil erosion	Erosion and sediment control measures have been submitted and conditions of consent are recommended.	Yes
6.6 Air Pollution	The proposed development will not result in any significant air pollution emissions based on the nature of the proposed use.	Yes

APPENDIX 4 – Site Plans and Elevations

APPENDIX 5 - Letter From Department of Planning