

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1205
Responsible Officer:	Nick England
Land to be developed (Address):	Lot B DP 401454, 49 Chard Road BROOKVALE NSW 2100
Proposed Development:	Designated Development - chemical storage facility (installation of CO2 storage tank)
Zoning:	Warringah LEP2011 - Land zoned E4 General Industrial OLDWarringah LEP2011 - Land zoned IN1 General Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Timothy Spencer Brown Sandra Jepsen
Applicant:	Peter Patrick Princi
Application Lodged:	29/07/2022
Integrated Development:	No
Designated Development:	Yes
State Reporting Category:	Industrial
Notified:	22/05/2023 to 19/06/2023
Advertised:	22/05/2023
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 20,000.00

EXECUTIVE SUMMARY

This development application seeks consent for Designated Development - Chemical Storage Facility (installation of CO2 storage tank), for the use of the existing business, "Speed Gas". Specifically, it is proposed to install a cylindrical tank for the storage of carbon dioxide gas (CO2). The storage tank is 10.1 metres in height, with a maximum capacity of 13 tonnes of liquefied gas.

Another application (DA2023/0193) has been lodged on the adjoining site to the south of the subject site, at No.47 Sydenham Road, for "Use of premises as a depot and associated alterations and additions". This land is proposed under that application to be associated with the "Speed Gas". The application is currently under assessment and undetermined.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as it is classified as

'Designated development', prescribed by the Environmental Planning and Assessment Regulation, 2021. The development is classified as Designated development, as the proposal is chemical storage (irrespective of capacity) on the land located within a mapped Medium Risk flood precinct.

Relevant issues in the assessment of the proposal relate to: potentially hazardous development; flood prone land and traffic generation.

Two (2) submissions were received during the extensive consultation process regarding the application (where the community and relevant government agencies were consulted). None of the issues raised in the submissions (concerns in relation to hazardous activity and traffic management) are considered to warrant refusal of the application, with conditions recommended to mitigate impact with regard to traffic management.

This report concludes with a recommendation that the NBLPP grant approval to the development application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The application involves the construction of a chemical storage facility, specifically a cylindrical tank for the storage of liquified carbon dioxide gas (CO²).

The proposed tank will be in addition to two (2) existing tanks, already on the site.

The tank will have a height of 10.1 metres, diameter of 2.2 metres and overall storage capacity of 13 tonnes.

As the proposed chemical storage facility is located on flood prone land, the proposal constitutes Designated development consistent with the provisions of the Environmental Planning and Assessment Act 1979 and its associated Regulations.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone IN1 General Industrial

Warringah Local Environmental Plan 2011 - 5.21 Flood planning

Warringah Development Control Plan - B6 Merit Assessment of Side Boundary Setbacks

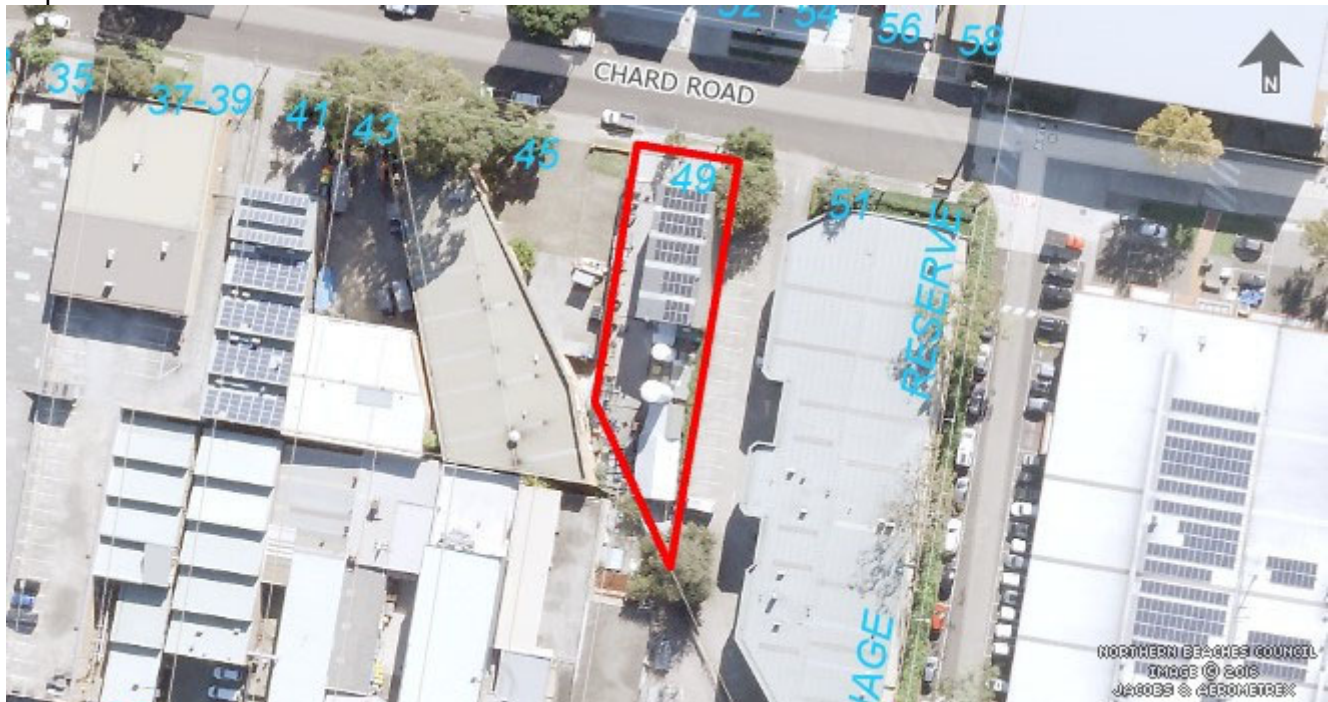
Warringah Development Control Plan - B10 Merit assessment of rear boundary setbacks

Warringah Development Control Plan - C3 Parking Facilities

SITE DESCRIPTION

Property Description:	Lot B DP 401454 , 49 Chard Road BROOKVALE NSW 2100
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Chard Road, Brookvale.</p> <p>The site is irregular in shape with a frontage of 15.24 metres along Chard Road and a depth varying between 38 metres and 61 metres. The site has a surveyed area of 761.3m².</p> <p>The site is located within the IN1 General Industrial zone and accommodates an existing warehouse / industrial facility, for the storage and processing of CO2 bottles.</p> <p>The site has generally a flat topography, with no significant vegetation. The site is situated within a Medium Risk Flood Planning Precinct, under Council's existing flood studies.</p> <p>Along the rear southern boundary of the site is a Council easement and pipeline for the stormwater.</p> <p>Adjoining and surrounding development is characterised by industrial / warehousing activities.</p>

Map:



SITE HISTORY

The land has been used for industrial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

DA2014/1027: Development consent granted for "Demolition works and the construction of a Warehouse and Distribution Centre" on 12 December 2014. This consent involved the construction of two (2) external gas storage cylinders, to the rear of the warehouse building, for the storage of carbon dioxide and argon. The application was assessed and determined as Local development, not Integrated development.

History relevant to the subject application is as follows:

14 September 2022: Correspondence sent to the applicant outlining that the application was not supported, based on the following reasons: insufficient details of the proposed storage tank; insufficient information on the architectural plans for building height; and insufficient information to determine if the proposal does not constitute either / or a potentially hazardous industry or Designated development. Information in response to this correspondence was provided on 28 September 2023.

24 October 2022: 2nd correspondence sent to the applicant advising that the amended / additional information was insufficient to address the concerns of Council. It was re-iterated that the proposed development was: likely to a "Potentially Hazardous Industry" as prescribed by chapter 3 of State Environmental Planning Policy (Resilience and Hazards) 2021; had not, in Council's opinion, demonstrated that the application was not 'Designated Development' as defined in Schedule 3 of the Environmental Planning and Assessment Act, 1979; and the architectural plans had still not addressed the legibility issue raised in the previous correspondence of 14 September 2022.

The applicant was subsequently advised that they could only seek consent for the works as Designated development, which necessitated: consultation / referral to relevant State authorities and procurement of Director Generals Requirements (DGR's) from the Department of Planning Infrastructure and Environment; the provision of documentation that accords with the DGR's which may necessitate the

preparation of an Environmental Impact Statement (EIS) to support the application for a prescribed activity; and the payment of the necessary fees.

5 December 2022: The NSW Department of Planning and Environment issues Planning Secretary's Environmental Assessment Requirements (SEAR) 1742, for the preparation of a Environmental Impact Statement (EIS) for a Chemical storage facility located on a floodplain at 49 Chard Road, Brookvale (Lot B DP 401454).

23 December 2022: The applicant's representatives request additional time to provide the required information, until 23 January 2023.

6 January 2023: 3rd correspondence to the applicant, outlining Council's expectations for the documentation and the statutory fees necessary to assess the application, as Designated development under provisions of the Environmental Planning and Assessment Act 1979 (the Act) and its associated Regulations. This information was received within the requested time (23 January 2023) and the application was formally notified for a second time, between the period of 27 January and 4 March 2023, to satisfy the 28 day period for Designated development under the Northern Beaches Community Consultation Plan.

18 April 2023: 4th correspondence to the applicant, advising that the information provided was insufficient to satisfy the necessary requirements of the Act and associated Regulations for Designated development, specifically:

- Sections 190(1)(a) and (b);
- Sections 192(1)(a), (b), (c), (d)(iv), (d)(v), (e), and (f); and
- Section 193 (as required by Section 192(1)(f) of the Regulations.

The information was also insufficient to meet the (SEAR) 1742 issued by the Planning Secretary on 5 December 2023.

Further, the Risk / Preliminary Hazard Analysis report prepared to address any relevant requirements of State Environmental Planning Policy (Resilience and Hazards) 2021, contained misleading information that potentially alludes to unauthorised uses occurring on the subject land. The document makes multiple references to an existing aboveground tank (capacity 15,000 litres) that is currently being used for the storage of oxygen, the matter of which has been referred to Council's Environmental Investigations team for further investigation.

12 May 2023: Revised EIS and Risk / Preliminary Hazard Analysis report is provided. The application is re-notified for a 3rd time, between the periods of 22 May and 19 June 2023. No additional submissions were received.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 (WDCP 2011) applies to this proposal. The relevant provisions of WDCP 2011 are discussed elsewhere in this report.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a recommended condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested of the applicant, in correspondence dated: 14 September 2022; 24 October 2022; and 6 January 2023.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a recommended condition of consent.</p> <p>Other provisions of the Regulations are relevant to the proposed Designated development. Refer to the table below for a more detailed discussion on these matters.</p>

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> <p>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

Designated Development - Environmental Planning and Assessment Act 1979 and Associated Regulations

The following tables discusses those matters that are relevant to the proposed development under the Designated development provisions of both the Act and its associated Regulations.

Environmental Planning & Assessment Act 1979 (Part 4, Division 4.3)	Comments
Section 4.10 (1) Designated development - Designated development is development that is declared to be designated development by an environmental planning instrument or	The proposed development has been identified as being Designated development under Schedule 3 of the Regulations, specifically Part 2, (13)(2) "Chemical storage facilities". This identifies that any chemical storage facilities on land that is identified as being on a floodplain

the regulations	<p>are Designated development.</p> <p>The site is identified as being within a Medium Risk Flood Planning Precinct, hence any chemical storage (irrespective of the quantity) is Designated development.</p>
Section 4.12 (8) - Designated development	<p>Any application for Designated development is to be accompanied by an environmental impact statement (EIS), prepared by or on behalf of the applicant in the form prescribed by the regulations.</p> <p>An EIS has been provided by the applicant, prepared by Corona Projects, dated January 2023. A discussion on the EIS's consistency with the prescribed form is provided elsewhere in this report.</p>
Section 4.16(9) - Restrictions on determination of development applications for designated development	<p>The application cannot be determined until the consent authority has forwarded to the Planning Secretary any submissions received during notification. The two (2) submissions received during notification have been forwarded to the Secretary (acknowledged in their correspondence dated 20 February 2023), as required by Section 4.16(9).</p>

Environmental Planning and Assessment Regulation 2021 (Part 3, Division 5; Part 8, Divisions 2 and 5 and Schedule 3)	Comments
Section 56 - Notice of development applications	<p>The provisions of Section 56 require that Designated development be publicly notified in the following manner:</p> <ul style="list-style-type: none"> the consent authority must publish notice of the application on the consent authority's website; give notice of the application to any public authorities that, in the consent authority's opinion, may have an interest in the determination of the application and persons that own or occupy the land adjoining the land to which the application relates; and ensure that the public notice contains the relevant information specified in Section 56(6). <p>The application was publicly exhibited on Council's website, for a period of 30 days, between 2 February 2023 and 4 March 2023.</p> <p>Notification was made in writing to adjoining property owners to the subject site.</p> <p>The application was also referred to the following public authorities:</p>

	<ul style="list-style-type: none"> • NSW Department of Planning and Environment; • Transport NSW; • NSW Fire and Rescue; • NSW Environment Protection Authority; • Ausgrid; • NSW National Parks and Wildlife Service; and • Aboriginal Heritage Office. <p>The responses from these public authorities are discussed elsewhere in this report. In summary, no in-principle objection was raised by any of these public authorities to the proposed development.</p>
Section 58 - Exhibition of notice of designated development application	The applicant was provided with a sign, with the necessary information, prior to the notification period commencing. The applicant has provided photographic evidence that the sign was installed on the site, in a location that was able to be read from the adjoining road reserve of Chard Road.
Section 60 - Submissions about designated development to be given to Planning Secretary	During the public exhibition of the application as Designated development, no submissions were received from the public. However, when the application was initially notified as Local development, two (2) submissions were received. These submissions have been forwarded to the Planning Secretary (on 15 February 2023), as required by Section 60.
Section 173 - Application to Planning Secretary for environmental assessment requirements	<p>The applicant for any Designated development is to apply to the Planning Secretary for environmental assessment requirements to be provided in the environmental impact statement that supports the application.</p> <p>The NSW Department of Planning has provided the applicant with "Planning Secretary's Environmental Assessment Requirements SEARS (1742)" in correspondence dated 5 December 2022. The SEARS were used in the preparation of the EIS.</p>
Section 176 - Notice of environmental assessment requirements	Written notice of the requirements of SEARS 1742 were received by Council on 8 December 2022.
Section 177 - Expiry of environmental assessment requirements for State significant development	SEARS (1742) was issued on 5 December 2023 and the application has been made within the 2 year period since the requirements were issued.
Section 190(1) - Form of environmental impact statement / information	<p>Section 190(1) requires that form of an EIS must contain the following information:</p> <ul style="list-style-type: none"> (a) <i>the name, address and professional qualifications of the person who prepared the statement,</i> (b) <i>the name and address of the responsible person,</i> (c) <i>the address of the land—</i> <ul style="list-style-type: none"> (i) <i>to which the development application relates, or</i>

	<p><i>(ii) on which the activity or infrastructure to which the statement relates will be carried out,</i></p> <p><i>(d) a description of the development, activity or infrastructure,</i></p> <p><i>(e) an assessment by the person who prepared the statement of the environmental impact of the development, activity or infrastructure, dealing with the matters referred to in this Division.</i></p> <p>This information is adequately provided for in the EIS.</p>
Section 190(3) - Form of environmental impact statement / declaration	<p>Section 190(3) requires that the person who has prepared the EIS has done so in accordance with the Regulations; all available information relevant to the proposal; and that all the information contained in the statement is not false or misleading. Page 3 and Appendix B of the EIS contains a statement that affirms these requirements have been complied with.</p>
Section 191 - Compliance with environmental assessment requirements	<p>Section 191 requires that the EIS contains all of the necessary requirements for assessment made under SEARS 1742. The SEARS requirements were (in summary):</p> <ul style="list-style-type: none"> • the strategic and statutory context of the subject land; • a consideration of whether the site is suitable for the proposed development; • any hazard or risks; • consideration of any soil and water impacts / risks; • the provision of adequate traffic and transport facilities; • adequate / appropriate waste management measures; • potential impacts on air quality and any measures required to mitigate impacts; • any generation of noise and vibration; • potential visual impact; and • any impact on heritage, Aboriginal or non-Aboriginal. <p>The EIS (prepared by Corona Projects, dated January 2023) has provided a detailed response to the SEARS in pages 9 to 13. This satisfies the requirements of Section 191.</p> <p>A more detailed review of the adequacy of the response to the SEARS in the EIS, is provided further in this report.</p>
Section 192 - Content of environmental impact statement	<p>Section 192(1) specifies certain basic content requirements for an EIS, in subsections (a) to (f).</p>

	<p>A review of the EIS provided with the application has found that this necessary content has been provided, to the satisfactory compliance with Section 192.</p>
<p>Section 193 - Principles of ecologically sustainable development</p>	<p>Section 193 requires a consideration of the principles of ecologically sustainable development as they relate to the proposal; which include:</p> <ul style="list-style-type: none"> • the precautionary principle; • inter-generational equity; • conservation of biological diversity and ecological integrity; and • improved valuation, pricing and incentive mechanisms. <p>The EIS contains a discussion on this matter. In summary: there is no lack of full scientific certainty in respect to the specific impacts of the proposal; the future health, diversity and productivity of the environment is not considered to be compromised; there will be negligible impact on the biological diversity and ecological integrity of the immediate area; and there is identifiable impact or contravention to any relevant valuation, pricing and incentive mechanisms.</p>
<p>Section 194 - Publication of environmental impact statements —the Act, s 5.8</p>	<p>The application has been publicly notified, most recently between the period of 22 May and 19 June 2023. The EIS was made available in hard copy form at Council offices in Dee Why, Manly, Mona Vale and Avalon. The public exhibition notice of the EIS was made available on the NSW Planning Portal. The EIS was also made available on Council's website, as both the determining authority and the Council within which the land is located. Therefore, the application is consistent with the requirements of Section 194.</p>
<p>Schedule 3, Part 2, Clause 13 - Chemical storage facilities</p>	<p>Schedule 3 - Designated Development defines a range of land uses / activities that are within the category of "Designated" development.</p> <p>Specifically, the proposed development is consistent with Part 2, Clause 13(2)(e) which nominates as Designated development any chemical storage facility (irrespective of capacity) that is located on a floodplain. The land is defined under Council's relevant flood studies as being within a "Medium Risk Precinct" for potential flood events. Hence, the application has been assessed as Designated development.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 22/05/2023 to 19/06/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Russell Aubrey Stanford	9 Beatty Street BALGOWLAH HEIGHTS NSW 2093
Gavin Hugh Cooke	20 Windward Avenue MOSMAN NSW 2088

The submissions referred to above relate to submissions from the general public, not submissions / responses received from public authorities during the public notification, which are discussed elsewhere in this report.

The issues raised in the submissions are summarised and addressed as follows:

- **Objection is raised to the storage of dangerous goods on Chard Road.**

Comment: Based on the documentation provided by the applicant and the subsequent assessment of the proposal, the proposed storage tank does not constitute hazardous development. This issue is hence not considered to be a relevant matter to refuse the application.

- **The proposed development will result in an unacceptable increase in traffic congestion on Chard Road.**

Comment: The application has been referred to Council's Traffic Engineer for comment, who has raised no objection to the proposal. Sufficient capacity exists in the surrounding road network to support the proposed intensification of the existing use. The Traffic Engineer has recommended conditions that will ensure that traffic management procedures and systems must be in place and practised during the deliveries and pick ups of gas from the premises to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic. A Traffic Guidance Scheme is to be developed and lodged with Council's Traffic Team for review as an application for a Permit to Implement Traffic Control, which is issued separately under the Roads Act 1993. Subject to these recommended conditions, the proposed use is therefore acceptable and this issue is not considered to warrant refusal of the application.

- **The site has insufficient loading / unloading for service vehicles.**

Comment: Existing areas for loading and unloading already exist on the site and the recommended conditions discussed previously will ensure that such areas are used for all service vehicles accessing the site. In the event that any part of the public road needs to be used, this can be sought through Council's Traffic Team and there are recent examples of loading zones in the area installed in the surrounding area, which is typical on road networks within an industrial / employment zone. Hence, this issue is not adverse to the extent that it warrants the refusal of the application.

- **In the event of an emergency or accident on the site, emergency services will experience difficulty accessing the area.**

Comment: Based on the advice from Council's Traffic Engineer, the road network adjoining the site will remain at an adequate level of service to facilitate all vehicular movements along Chard Road, including emergency vehicles. During the public notification of the Designated development, Council sought comment from NSW Fire and Rescue and the NSW Rural Fire Service (RFS). The RFS advised that they have no objection to the proposed development. NSW Fire and Rescue have not responded. Therefore, no reasonable impediment to emergency services is considered likely.

- **The proprietors of No.49 Chard Road are now using Nos.45 and 47 Sydenham Road and the land use is likely to also result in adverse impacts on traffic operations on Sydenham Road.**

Comment: The subject application only relates to No.49 Chard Road. A search of Council's records does not indicate any relevant development consents specific to the storage of chemicals. A development application (DA2023/0193) has been lodged at No.47 Sydenham Road for warehousing and storage of products (not chemicals) associated with the existing land use at No.49 Chard Road. These matters are not considered relevant in the assessment of the current application.

- **A consolidated application should be lodged by the proprietors of No.49 Chard Road as adjoining properties, such as No.47 Sydenham Road, have recently been used to store gas with consent being granted.**

Comment: As stated above, these matters are not considered relevant in the assessment of the current application. However, the matter of gas storage at No.47 Sydenham Road has been referred to Council's Environmental Compliance team for further investigation, and were necessary, action.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<i>Supported, subject to Conditions</i> The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no

Internal Referral Body	Comments
	<p>objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Environmental Health (Industrial)	<p><i>Supported subject to Conditions</i></p> <p>The applicant has supplied a document RISK SCREENING DOCUMENTATION AND PRELIMINARY HAZARD ANALYSIS by HAZKEM dated May 2023.</p> <p>The report concludes it has been determined via assessment of this proposal under the NSW State Environmental Planning Policy (Resilience and Hazards) and the NSW “Applying SEPP 33” Guideline Document that the site is deemed “not potentially hazardous”, and “not potentially offensive” as carbon dioxide storage is exempt from SEPP 33 assessment.</p> <p>As a result of this finding there is no requirement for a Preliminary Hazard Analysis to be undertaken.</p> <p>The various codes and standards that are applicable to this product must still be applied under NSW Workcover regulation.</p>
NECC (Development Engineering)	<p><i>Supported, no Conditions required</i></p> <p>Development Engineering has no objection to the application.</p>
NECC (Flooding)	<p><i>Supported, no Conditions required</i></p> <p>The development proposes to install a Gas Storage Cylinder at this site.</p> <p>There are no flood related objections.</p>
Traffic Engineer	<p><i>Supported, subject to Conditions</i></p> <p>The development application is for erection of a large gas storage cylinder on the property. Two similar gas cylinders are already present on the property. the application has been referred to traffic for feedback following resident submissions which raised concerns about parking impacts during deliveries/pick up of gas from the site. This aspect of the proposal has not been addressed in the information provided with the application and it is suggested in the submissions that trucks are double parking while undertaking deliveries.</p> <p>To address this aspect of the proposal a delivery management plan will be requested together with a traffic control plan to demonstrate how traffic will be managed during deliveries. It is noted that Council</p>

Internal Referral Body	Comments
	has recently introduced two Loading Zones in Chard Road east of Mitchell Road to provide parking for trucks undertaking deliveries to premises in this part of Chard Road.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported, no Conditions required</p> <p>The proposal was referred to Ausgrid who provided a response (dated 31 January 2023) stating no objection, nor any recommended conditions of consent.</p>

Public Authority	Response / Comment
<u>NSW Department of Planning & Environment (DPE)</u>	<p>A response was received from the DPE on 20 February 2023, which in part states:</p> <p><i>"The Department has reviewed the submissions and notes that there are no issues of State or regional significance that apply to the proposal.</i></p> <p><i>However, the Department also notes the concerns raised by several members of the public in relation to traffic and loading impacts associated with the new storage cylinder. The Department recommends Northern Beaches Council (Council) ensure these concerns are adequately addressed before finalising its assessment of the subject development application."</i></p> <p>A review of the matters relevant to vehicular access, including seeking advice from Council's Traffic Engineer, has determined that matters related to traffic generation and loading / unloading of service vehicles will not be adverse to the extent that warrants refusal of the application.</p>
<u>Sydney Water Corporation (SWC)</u>	SWC responded on 16 February 2023, advising no objection to the proposed development, subject to standard conditions of consent. These have been incorporated into the recommended conditions of consent.
<u>NSW Environment Protection Authority (EPA)</u>	<p>The EPA responded on 31 January 2023, stating in part:</p> <p><i>"Based on the information provided, the EPA has no comment on this proposal and no further consultation is required. This is because:</i></p> <ul style="list-style-type: none"> <i>the proposal does not constitute a Scheduled Activity under Schedule 1 of the Protection of the Environment Operations Act (1997) and so, will not require an Environment Protection Licence under this Act,</i> <i>the proposal is not being undertaken by or on behalf of a NSW Public Authority, nor are there activities for which the EPA is the appropriate regulatory authority.</i>

	<ul style="list-style-type: none"> <i>the site is not being regulated by the EPA under the Contaminated Land Management Act (1997)."</i>
<u>Transport for NSW (TfNSW)</u>	<p>TfNSW has responded on 30 January 2023, stating in part:</p> <p>"The Agency returned this request for the following reason/s: TfNSW advises that a referral under Sec.56(2) Referral for Designated Development is not required."</p>
<u>NSW Fire and Rescue</u>	No response was received.
<u>Ausgrid Heritage NSW</u>	<p>Ausgrid responded on 31 January 2023, advising no objection.</p> <p>Heritage NSW responded on 1 February 2023, stating in part:</p> <p><i>"The Agency returned this request for the following reason/s: This referral has not been accepted as the project area does not adjoin (nor is it in the vicinity of) a site listed on the State Heritage Register (SHR), subject to an Interim Heritage Order, or an SHR nomination. No heritage comment is required."</i></p>
<u>NSW Rural Fire Service (RFS)</u>	<p>The RFS responded on 6 February 2023, stating in part:</p> <p><i>"The New South Wales Rural Fire Service (NSW RFS) has reviewed the plans and documents received for the proposal and subsequently raise no concerns or issues in relation to bush fire."</i></p>
<u>Aboriginal Heritage Office</u>	The Aboriginal Heritage Office have advised on 31 January 2023 that they have no objection to the proposed development, subject to standard condition.
<u>National Parks and Wildlife Service (NPWS)</u>	<p>The NPWS responded on 1st February 2023, stating in part:</p> <p><i>"The Agency returned this request for the following reason/s: This Development Application is not in close proximity to national parks and reserves managed by National Parks and Wildlife Service and is of no interest to our agency."</i></p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment: The proposal was referred to Ausgrid who raised no objections.

SEPP (Resilience and Hazards) 2021

Chapter 3 – Hazardous and Offensive Development

Chapter 3 of State Environmental Planning Policy (Resilience and Hazards) 2021 (the SEPP) applies to the application, based on the nature of the proposal.

The relevant provisions of Chapter 3 are discussed below:

3.2 Definitions of “potentially hazardous industry” and “potentially offensive industry”

Of relevance to the proposed development is the definition of a "potentially hazardous industry" which means:

"... a development for the purposes of any industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to the locality—

(a) to human health, life or property, or

(b) to the biophysical environment,

and includes a hazardous industry and a hazardous storage establishment."

The preliminary hazard analysis (PHA) provided with the application has determined that the proposed storage of CO² in the volume proposed (maximum of 13 tonnes) is not considered to be a potentially hazardous industry, consistent with this definition.

3.1 Aims, objectives etc

The proposed development is considered against the objectives of the SEPP, below:

- *to amend the definitions of hazardous and offensive industries where used in environmental*

planning instruments, and

Comment:

The Warringah Local Environmental Plan 2011 (WLEP 2011) provides a definition of a "hazardous storage establishment". This definition could apply to the proposed development, however the Designated development definition of a "chemical storage facility" applies in this instance. Nonetheless, this land use is still permissible land use in the IN1 zone, as "Any other development not specified in item 2 or 4".

- to render ineffective a provision of any environmental planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Policy, and*

Comment: Whilst the proposed development is considered to be a storage facility, no environmental planning instruments that apply to the site would have the effect of prohibiting the proposed development. Hence this objective is not compromised.

- to require development consent for hazardous or offensive development proposed to be carried out in the Western Division, and*

Comment: No relevant to the proposed development.

- to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and*

Comment: A Risk Screening Documentation and Preliminary Hazard Analysis report has been provided with the application. This report makes numerous recommendations to reduce the the potential impact of the proposal. These are all operational measures and actions to be undertaken when the development is in use, with no measures proposed to modify the physical capacity, size or location of the proposed development is necessary.

- to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and*

Comment: The information provided with the application is considered sufficient for the full extent of the potential hazards of the development to be readily determined. The proposal is not considered to be offensive development. Whilst some hazards may be present with the proposal, these will not be to the extent that refusal of the application is warranted. Conditions are recommended to further mitigate the risk, specifically: the development be installed as per all measures specified in the Hazard Analysis; all works be carried out in accordance with manufacturers specifications; and the recommended safety features be installed in accordance with the Hazard Analysis.

- to require the advertising of applications to carry out any such development.*

Comment: The application has been advertised, as Designated Development, for the period prescribed under the Act and its associated regulations (30 days).

3.7 Consideration of Departmental guidelines

The relevant Departmental guidelines that apply to the proposed development are:

- *Planning Circular PS 21-031 "Planning and assessment guidelines for hazardous industry"; and*
- *Hazardous and Offensive Development Application Guidelines January 2011.*

PS 21-031 dates from 2 December 2021 and requires specifically that a preliminary hazard analysis (PHA) be provided in any application for potentially hazardous industry. The circular requires that:

- the PHA is to make an estimation on the risk to people, property and the environment at the proposed location;
- the consent authority is to take the PHA into account during the assessment of the proposal; and
- if such risk exceeds nominated acceptability criteria, the development is to be classified as 'hazardous industry'.

The applicant has provided a PHA, prepared by Hazkem Dangerous Goods Consulting, dated December 2022. This PHA has been assessed by the relevant Council officers and the findings of this assessment are elaborated upon in this report. It has been established in this assessment that the proposal is neither a hazardous industry and is specifically exempt from the category of potentially hazardous industry.

The Hazardous and Offensive Development Application Guidelines January 2011 likewise require a PHA to be provided. However, as the judgement of both the PHA and this assessment is that the proposed CO² storage cylinder is of a nature that is exempt from the screening thresholds, then the guidelines do not in effect apply.

3.8 Storage facilities

Based on the nature of the proposed development, this clause is relevant in the assessment of the application.

The clause would have the effect of limiting any prohibitions on storage facilities, if identified as a hazardous or offensive.

No such land use prohibition exists in WLEP 2011 and the proposal has not been identified and either hazardous or offensive.

3.11 Preparation of preliminary hazard analysis

Section 3.11 requires that any application for the purposes of a potentially hazardous industry must prepare 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 PHA has been provided with the application, consistent with this provision.

3.12 Matters for consideration by consent authorities

Section 3.12 requires the consideration of the following matters for any potentially hazardous development:

(a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and

Comment: The relevant guidelines and circulars have been considered in the assessment of the proposed development.

(b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and

Comment: The application was referred to a number of public authorities, specifically the NSW Department of Planning and Environment. The Department has reviewed the submissions and notes that there are no issues of State or regional significance that apply to the proposal.

(c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and

Comment: As outlined previously, the proposal has not triggered the necessary thresholds for it to be a potentially hazardous industry. Nonetheless, a PHA has been provided by the applicant, to assist in the assessment of the proposal.

(d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and

Comment: No consideration of alternatives or reasons for the proposal have been provided. However, as the proposal is not considered in effect to be either potentially hazardous or offensive industry, then no such analysis is considered relevant to the applicant.

(e) any likely future use of the land surrounding the development.

Comment: All adjoining allotments of land to the subject site are similarly zoned, and used, for general industrial purposes. The nearest non-industrial zones / land uses are approximately 300 metres to the east (public recreation zone) and 200 metres to the north (business zone adjacent Pittwater Road). The proposed use will have negligible impacts and hence is not considered adverse to the economic and orderly future use of the land surrounding the subject site.

3.13 Advertising of applications

The application has been advertised for the prescribed period under the Environmental Planning & Assessment Act 1979 and associated Regulations.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for the industrial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination given that the storage tank is above ground and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the proposed chemical storage facility land use.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	10.1m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone IN1 General Industrial

The proposed land use is consistent with the definition of "chemical storage facility", which falls under the broader category of Designated development. In terms of the land use that applies in the General Industrial E4 zone, this land use falls within the definition of "Any other development not specified in item 2 or 4", which is permissible with consent.

Further, an assessment of the proposal against the objectives of the E4 zone is provided below:

To provide a range of industrial, warehouse, logistics and related land uses.

Comment: The proposed chemical storage facility is a type of land use that is easily relatable to industrial, warehouse and logistical uses so stated in the objective. Hence, the proposed development can achieve this objective.

To ensure the efficient and viable use of land for industrial uses.

Comment: The proposed chemical storage facility makes adequate use of the existing site and is viable in the context of similar land uses in the surrounding area and will easily achieve this objective.

To minimise any adverse effect of industry on other land uses.

Comment: After a detailed consideration of the information provided by the applicant on the specific nature of the proposed land use, it is unlikely that there will be any adverse effect on any adjoining industrial land use.

To encourage employment opportunities.

Comment: The proposed development will increase the intensity of the land use on the site (by increasing the total storage of waste gases on the existing site) in a manner that may increase employment opportunities in the area.

To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.

Comment: Not relevant to the proposed development, as it is industrial in nature.

To provide areas for land uses that need to be separated from other zones.

Comment: The proposed development is typical of the kind of land use that is best separated from other zones, based on the potential impacts that may occur on other sensitive types of land uses and / or zones. Hence, the E4 General Industrial zone in which the site is located is entirely appropriate for the proposed development.

To provide healthy, attractive, functional and safe light industrial areas.

Comment: The physical attributes of the proposed development and its nature and intensity is not in itself adverse to the qualities required by this objective.

In summary, the proposed development is both permissible with consent in the zone it is located in and can readily achieve the objectives of this zone.

5.21 Flood planning

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

Comment: The application was referred to Council's Floodplain Management team, who advised they had no objection to the proposed development and no requested conditions of consent. Hence, the

development can satisfies the requirements of Clause 5.21(2) and presents no significant or adverse flood risk.

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- (a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) *the intended design and scale of buildings resulting from the development,*
- (c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Comment: The proposed development is able to satisfy the requirements of Clause 5.21(3) and presents no significant or adverse flood risk.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation	Complies
B5 Side Boundary Setbacks	Merit assessment (west)	9.4m	N/A	Yes*
	Merit assessment (east)	3m	N/A	Yes*
B7 Front Boundary Setbacks	4.5m	39.7m	N/A	Yes
B9 Rear Boundary Setbacks	Merit assessment	6.2	N/A	Yes*
D1 Landscaped Open Space (LOS) and Bushland Setting	N/A	N/A	N/A	N/A

* refer to discussion on the objectives of the control further in this report

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C8 Demolition and Construction	Yes	Yes

C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D9 Building Bulk	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

B6 Merit Assessment of Side Boundary Setbacks

Merit consideration:

No numerical requirement is set for side setbacks in the IN1 zone, with a merit assessment against the underlying Objectives of the Control to be undertaken. A setback of 9.4 metres is provided on the western side boundary, and 3 metres setback is proposed for the eastern side boundary.

A: consideration of the proposal against the objectives of the control is provided below:

- *To provide ample opportunities for deep soil landscape areas.*

Comment: The proposed tank structure is located over existing paved area, with no loss in any existing landscaped area on the site.

- *To ensure that development does not become visually dominant.*

Comment: The proposal is situated to the rear of the site and located partially behind existing buildings located on the frontage of the site.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment: The proposal, whilst having vertical proportions, is not wide in dimension nor does occupy any significant site area.

- *To provide adequate separation between buildings to ensure a reasonable level of amenity and solar access is maintained.*

Comment: The setbacks provided on both the east and west side boundaries are adequate, particularly in the context of many existing larger buildings that often have nil setbacks from side boundaries. No adverse amenity impact on adjoining properties is considered likely.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment: There are likely to be no significant views from adjoining properties that will be effected by the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979.

B10 Merit assessment of rear boundary setbacks

Merit consideration:

No numerical requirement is set for rear setbacks in the IN1 zone, with a merit assessment against the underlying Objectives of the Control to be undertaken. A setback of 6.1 metres is proposed for southern rear boundary.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment: There will be no loss of any existing landscaped open space on the site as a result of the proposed development, hence this objective is achieved.

- *To Create a sense of openness in rear yards.*

Comment: A sufficient sense of openness is provided in the rear setback that is proposed.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment: Being an industrial zone where residential development is prohibited, the expectation for amenity protection is somewhat diminished. There are no residential dwellings that adjoin the site. Hence, this objective is achieved.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment: As discussed previously, the subject site is within an industrial zone, therefore this objective is not critical in the assessment of rear setbacks. Nonetheless, the proposal is not considered to compromise this objective.

- *To provide opportunities to maintain privacy between dwellings.*

Comment: Not relevant to the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

Part C3 / Schedule 1 of WDCP 2011 specifies no parking requirement for a *chemical storage facility*.

Nonetheless, the proposed works will involve no additional floor space and hence will not trigger any quantum for additional parking, as is the case for similar "industry" or "warehouse/distribution centre" land uses.

The traffic generated by the proposed tank (in addition to the existing two tanks) is likely to be negligible, as:

- no additional floor space is proposed; and
- no additional employees are required to service the proposed tank.

Whilst the additional storage may increase the frequency of delivery vehicles, the existing loading areas on the site are adequate to service the ingress and egress of these vehicles. The capacity of the adjoining road network is likewise adequate to accommodate the expected increase in vehicles, which is likely to be negligible.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

The following table outlines the responses received from public authorities during the notification period:

In summary, no public authority has objected to the proposed development. Two (2) of these authorities (SWC and the Aboriginal Heritage Office) have requested standard conditions of consent, which are incorporated into the recommendations of this consent.

Copies of all received responses are attached to this report.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;

- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

PLANNING CONCLUSION

This proposal, for a chemical storage facility, has been referred to the NBLPP due to the application falling into the category of Designated development.

Specifically, the development constitutes Designated development as it proposes to store chemicals on land that is has been identified as potentially subject to flood risk.

The issues of relevant concern in this assessment centre on: the nature of the proposed chemicals to be stored; the potential risks involved with the storage of these chemicals; general amenity issues on surrounding land uses; and commentary from other public authority authorities during the public exhibition period.

The concerns raised in the objections received from adjoining property owners centred on increased traffic generation and the potential impact of the hazardous chemicals on the safety of the surrounding area.

These issues have been addressed and resolved by the information provided in the application. Overall, the proposal development is unlikely to result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2022/1205 for Designated Development - chemical storage facility (installation of CO2 storage tank) on land at Lot B DP 401454, 49 Chard Road, BROOKVALE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Traffic Management

Traffic management procedures and systems must be in place and practised during the deliveries and pick ups of gas from the premises to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

A Traffic Guidance Scheme is to be developed and lodged with Council's Traffic Team for review as an application for a Permit to Implement Traffic Control.

All fees and charges associated with the review of this plan are to be in accordance with Council's Schedule of Fees and Charges and are to be paid at the time that the Traffic Management Plan is submitted

Reason: To ensure appropriate traffic management is in place and to ensure continued efficient transport network operation.

2. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01 Issue A	January 23	Peter Princi Architects
DA02 Issue A	January 23	Peter Princi Architects
DA03 Issue A	January 23	Peter Princi Architects
DA04 Issue A	January 23	Peter Princi Architects
DA05 Issue A	January 23	Peter Princi Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report Title / No.	Dated	Prepared By
Risk Screening Documentation and Preliminary Hazard Analysis	8 December 2022	Hazkem Dangerous Goods Consulting

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	22 July 2022	-

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the

development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) 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.
- (iv) 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 clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is

required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming

- pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

5. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

6. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

7. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

8. **Loading/Unloading Management Plan**

A Loading/Unloading Management Plan shall be prepared by the applicant and submitted to and approved by the Principal Certifier prior to the issue of any Occupation Certificate.

The Plan will need to demonstrate how pick ups and deliveries will be managed to ensure that there will be only one vehicle delivering or picking up at a time and how safe servicing arrangements including waste collection will be undertaken without interrupting general traffic. Vehicle queuing on public road(s) or double parking is not permitted.

Reason: to ensure that deliveries and servicing are managed appropriately and that tenants are aware of the conditions of use.

9. **Chemical storage tanks installed as per manufacturers recommendations and compliance with standards**

Details demonstrating that all chemical storage tanks on site have been installed to manufacturer's recommendations and comply with all the relevant standards listed within the document HAZKEM dated May 2023 referenced as RISK SCREENING DOCUMENTATION AND PRELIMINARY HAZARD ANALYSIS SPEED GAS PTY LTD 49 Chard rd Brookvale NSW is to be provided to the satisfaction of the principle certifier prior to the release of the occupation certificate.

Reason: To manage risks associated with gas storage unit.

10. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure bushland management.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

11. **Site specific safety features**

Specific safety features of the site listed in the document HAZKEM dated May 2023 referenced as RISK SCREENING DOCUMENTATION AND PRELIMINARY HAZARD ANALYSIS SPEED GAS PTY LTD 49 Chard rd Brookvale NSW are to be maintained and reviewed on a regular basis to ensure that they maintain, or exceed industry standards.

Reason: To manage the risk of the site in perpetuity.

12. **Storage of Gas and/or Chemicals**

The approved storage cylinder is to be only used for the storage of carbon dioxide. The use of this storage cylinder for any other purpose may require further development consent.

Reason: To ensure compliance with the limitations of this consent and any relevant legislation and/or environmental planning instrument.