

Appendix V – Statutory Compliance Table

Table 1: Permissibility, approvals regime, pre-conditions, and mandatory matters for consideration

Category	Action Required
Power to grant approval	<p>The power for the Minister (or the Minister’s delegate) to grant approval / consent variously lies within the provisions of:</p> <ul style="list-style-type: none"> • Penrith LEP 2010 (clause 2.3 and land use table) in relation to permissibility • Infrastructure SEPP (clause 57(1)) in relation to reinforcing or confirming permissibility • State & Regional Development SEPP (clause 8(1)(b) and Schedule 1 – clause 14(a)) in relation to designation of the development as SSD • EP&A Act (section 4.38(1) in relation to the granting of consent to a SSD that is permissible.
Permissibility	<p>Under Penrith LEP 2010, the site is zoned SP2 – Health Services Facility.</p> <p>The land use table in the LEP permits with consent a <i>purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose</i>. The definition of a <i>health services facility</i> includes a hospital.</p> <p>The Infrastructure SEPP further reinforces or confirms permissibility at clause 57(1) by stating <i>development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone</i>. Under clause 56, the SP2 zone is identified as a prescribed zone.</p> <p>No part of the proposed development is prohibited or partly prohibited.</p>
Other approvals	<p>Consistent approvals: Roadworks under s138 of the <i>Roads Act 1993</i> as they relate to the upgrade of the existing Barber Avenue and potentially in relation to works involving the new HV cable connections that may lie within the road reserve.</p> <p>EPBC Act approval: Several biodiversity-related Matters of National Environmental Significance (MNES) are present within 5km of the subject land. However, the proposal is not likely to have a significant impact on any MNES, and as such no referral to the Commonwealth Minister for the Environment is required. No other MNES relate to the site or development.</p> <p>Other approvals: No other approvals apply, noting the site is not bushfire prone land and accordingly the development is not a Special Fire Protection Purpose and does not need approval under s100B of the <i>Rural Fires Act 1997</i>.</p>
Pre-condition to exercising the power to grant approval	See Table 3 set out further below.
Mandatory matters for consideration	<p>Section 4.15 of the EP&A Act outlines the matters that a consent authority must take into consideration when determining DAs. These matters as relevant to this phase of the assessment process may be summarised as:</p> <ul style="list-style-type: none"> • the provisions of environmental planning instruments (including draft instruments), development control plans, planning agreements, and the <i>Environmental Planning and Assessment Regulation 2000</i> (EP&A Regulation) • the environmental, social and economic impacts of the development • the suitability of the site • the public interest, including the objects in the EP&A Act and the encouragement of ecologically sustainable development (ESD). <p>See Table 2 set out below setting out the following:</p> <ul style="list-style-type: none"> • Consideration of the EP&A Act and Regulation • Consideration of environmental planning instruments • Considerations under other legislation • Development Control Plan provisions

Table 2: Mandatory considerations table

Statutory reference	Mandatory consideration	Section in EIS
Consideration under the EP&A Act and Regulation		
Section 1.3 Objects of the EP&A Act	<ul style="list-style-type: none"> • Objects of the Act <ul style="list-style-type: none"> (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources, (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment, (c) to promote the orderly and economic use and development of land, (d) to promote the delivery and maintenance of affordable housing, (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats, (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage), (g) to promote good design and amenity of the built environment, (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants, (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State, (j) to provide increased opportunity for community participation in environmental planning and assessment. 	5.1.1
Section 4.15(1) Matters for consideration	<ul style="list-style-type: none"> • Relevant environmental planning instruments (as set out below) • Relevant proposed environmental planning instruments (as set out below) • Penrith DCP 2014 • The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality • The suitability of the site for the development • The public interest 	5.0 5.1 5.1.15 7.0 generally, as well as 7.19, 7.20, 7.21 and 7.22.
Environmental Planning and Assessment Regulation 2000	<ul style="list-style-type: none"> • Clause 50(1AA) – how must a SSD DA be made • Parts 1 and 2 of Schedule 1 – form and content of DA • Schedule 2 of EP&A Regulation – Environmental Impact Statements 	Environmental Impact Statement Declaration & Certification
Ecologically sustainable development	<ul style="list-style-type: none"> • Clause 7(4) of Schedule 2 of EP&A Regulation The principles of ecologically sustainable development are as follows— <ul style="list-style-type: none"> (a) the precautionary principle, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. (b) inter-generational equity, namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations, 	7.7

	(c) conservation of biological diversity and ecological integrity, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration, (d) improved valuation, pricing and incentive mechanisms, namely, that environmental factors should be included in the valuation of assets and services.	
Considerations under environmental planning instruments		
SEPP 55 - Remediation of Land	<ul style="list-style-type: none"> • Clause 7 <p>A consent authority must not consent to the carrying out of any development on land unless—</p> <ul style="list-style-type: none"> (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. 	7.1
SEPP 33 – Hazardous and Offensive Development	<ul style="list-style-type: none"> • Clause 7 - Is the development a potentially hazardous or potentially offensive industry. • Clause 8 - Departmental guidelines: <ul style="list-style-type: none"> ○ Applying SEPP 33 (identify relevant requirements) ○ HIPAP No.3 – Risk Assessment (identify relevant requirements) ○ HIPAP No.12 – Hazards – related Conditions of Consent • Clause 11 – Does Part 3 of SEPP 33 apply? • Clause 13 – Matters for consideration by consent authorities. 	7.12
SEPP 64 – Advertising and Signage	<ul style="list-style-type: none"> • Clause 6 - Signage to which this Policy applies • Clause 8 - Granting of consent to signage (clause 3(1)(a) and Schedule 1) 	4.6 and 7.16
Infrastructure SEPP	<ul style="list-style-type: none"> • Division 10 – Health Services Facilities (clause 57 – development permitted with consent) • Division 17 – Roads and Traffic (clause 104 and Schedule 3 – traffic-generating development) 	5.1.6
Western Sydney Aerotropolis SEPP	<ul style="list-style-type: none"> • Clause 5 – land to which Policy applies • Clause 21 – wildlife hazards • Clause 24 – airspace operations 	5.1.7
SREP No.20 – Hawkesbury - Nepean River	<ul style="list-style-type: none"> • Clause 5 – General planning considerations • Clause 6 - Specific planning policies and recommended strategies 	5.1.11 and 7.4
Penrith LEP 2010	<ul style="list-style-type: none"> • Part 2 - Zone objectives and land uses for SP2 – Infrastructure zone • Part 4 – Principal development standards <ul style="list-style-type: none"> ○ Clause 4.3 – Height of buildings ○ Clause 4.4 – Floor space ratio • Part 5 – Miscellaneous <ul style="list-style-type: none"> ○ Clause 5.10 – Heritage conservation ○ Clause 5.21 – Flood planning • Part 7 – Additional local provisions <ul style="list-style-type: none"> ○ Clause 7.11 – Penrith Health and Education Precinct 	5.1.13 7.3 and 7.4
Consideration under proposed environmental planning instruments		
Draft SEPP (Remediation of Land)	Corresponding provisions to SEPP 55	5.1.9
Draft SEPP (Environment)	Corresponding provisions to SREP 20 in relation to catchments only	5.1.12
Considerations under other legislation		
Biodiversity Conservation Act 2016	The likely impact of the proposed development on biodiversity values as assessed in the biodiversity	5.1.4 and 7.2.1

(section 7.14)	development assessment report (BDAR). The Minister for Planning may (but is not required to) further consider under that Act the likely impact of the proposed development on biodiversity values	
Development Control Plan (DCP) provisions		
Penrith DCP 2014	<p>As set out in clause 11(a) of the SRD SEPP, Development Control Plans (DCPs) do not apply to SSD DAs. The SEARs have also correspondingly not sought the DCP to be addressed. Notwithstanding, the few relevant provisions applicable to the site and the proposed development are assessed at Section 7.0.</p> <p>This includes:</p> <ul style="list-style-type: none"> E12 Penrith Health and Education Precinct – Part A – Hospital Precinct 	5.1.15

Table 3: Pre-Conditions Table

Statutory reference	Pre-condition	Relevance	Section in EIS
SEPP 55 Clause 7	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.	<p>Parts of the development site are contaminated, and the land requires remediation before it is used for the project.</p> <p>A RAP has been prepared in relation to this development and is provided at Appendix F.</p>	7.1
SEPP 64 Clause 8	A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied— (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.	The development involves the display of new illuminated building identification signage	7.16
SEPP 33 Clause 2	(e) 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	The development is potentially hazardous development	7.12

<p>SEPP 33 Clause 13 Matters for consideration by consent authorities</p>	<p>In determining an application to carry out development to which this Part applies, the consent authority must consider (in addition to any other matters specified in the Act or in an environmental planning instrument applying to the development)—</p> <p>(a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and</p> <p>(b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and</p> <p>(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</p> <p>(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</p> <p>(e) any likely future use of the land surrounding the development.</p>		<p>7.12</p>
<p>Infrastructure SEPP Clause 104 (and Schedule 3)</p>	<p>(3) Before determining a development application for development to which this clause applies, the consent authority must—</p> <p>(a) give written notice of the application to TfNSW within 7 days after the application is made, and</p> <p>(b) take into consideration—</p> <p>(i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and</p> <p>(ii) the accessibility of the site concerned, including—</p> <p>(A) the efficiency of movement of people and freight to and</p>	<p>Consideration of whether the development is traffic-generating development to trigger this requirement.</p> <p>The development is not traffic-generating development.</p>	<p>5.1.6</p>

	<p>from the site and the extent of multi-purpose trips, and</p> <p>(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and</p> <p>(iii) any potential traffic safety, road congestion or parking implications of the development.</p>		
<p>Western Sydney Aerotropolis SEPP Clause 24 – Airspace Operations</p>	<p>(3) Development consent must not be granted to development to which this clause applies unless—</p> <p>(a) the consent authority has consulted the relevant Commonwealth body, and</p> <p>(b) the relevant Commonwealth body advises the consent authority that—</p> <p>(i) the development will penetrate the prescribed airspace but it does not object to the development, or</p> <p>(ii) the development will not penetrate the prescribed airspace.</p> <p>(4) Development consent must not be granted to development to which this clause applies if the relevant Commonwealth body advises that the development will penetrate the prescribed airspace and should not be carried out.</p>	<p>The site is located within the 230.5m AHD Outer Horizontal Surface contour on the Obstacle Limitation Surface Map, but has no impact upon general aviation.</p>	<p>5.1.7</p>
<p>Penrith LEP 2010 Clause 5.21 - Flood planning</p>	<p>(2) 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—</p> <p>(a) is compatible with the flood function and behaviour on the land, and</p> <p>(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</p> <p>(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</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable</p>	<p>The hospital site's north is in part affected by overland flows, however the Stage 2 Redevelopment is not affected by, and is designed to address, that flooding.</p>	<p>5.1.13 and 7.4.3</p>

	<p>erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> <p>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p> <p>(b) the intended design and scale of buildings resulting from the development,</p> <p>(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,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p>		
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