Ethos Urban

Appendix B

Updated Statutory Compliance Table

Statutory Requirement	Relevance and Assessment	Location
NSW Acts of Parliament		
Environmental Planning and Assessment Act 1979		
Section 1.3 – Objects of the Act		
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,*	The development will result in the increase in economic welfare of the community through the creation of jobs, while managing any potential social impacts	**Section 6.11**
b. *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*	The development will facilitate the ecological sustainable development of the site, with economic, environmental and social consideration integrated into the Proposal.	**Appendix II** **Section 6.19**
c. *to promote the orderly and economic use and development of land,*	The development constitutes the orderly and economic development of the site delivering in demand warehouse floorspace within a dedicated industrial precinct while also facilitating earthworks across the site to enable further future warehouse floorspace.	-
d. *to promote the delivery and maintenance of affordable housing,*	Not applicable.	-
e. *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*	The site is certified as urban-capable land and there are no feasible alternatives available to avoid impacts on native vegetation. The Biodiversity Impact Assessment provides appropriate mitigation measures to manage any adverse impacts on natural areas or habitat.	**Appendix Y** **Section 6.10**
f. *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*	A Heritage Letter of Compliance has been prepared by Biosis which provides clarification as to what Aboriginal and historical (non-Aboriginal) heritage assessments have been undertaken across the amended development site area to date.	**Appendix BB** **Section 6.12** **Section 6.13**

	It outlines that no further investigations be undertaken and the development proceeds with caution and includes appropriate mitigation measures to promote the sustainable management of heritage.	
g. to promote good design and amenity of the built environment,	The development promotes good design, with the amended development layout, landscaping, built form and external façade presenting a resolve solution that will contributing to the creation of amenity.	**-**
h. to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	Will promote the proper construction and maintenance of the building with Frasers Property aiming to create a high quality warehouse development for future tenants.	**-**
i. to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	Not applicable.	**-**
j. to provide increased opportunity for community participation in environmental planning and assessment.	Has provided and will continue to provide the opportunity for the local community and stakeholders to participate in consultation of the development.	**Section 5.0**
Section 4.15 – Evaluation		
1. Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application— *a. the provisions of—* *i. any environmental planning instrument, and*	This Amendment Report has assessed the development in accordance with the relevant NSW environmental planning instruments. The assessment demonstrates the proposal is in accordance with the relevant provisions and consistent with the relevant objectives.	**-**
ii. any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	The Amendment Report has assessed the proposal in accordance with the relevant State and Local planning instruments as detailed in this table. The assessment demonstrates the proposal is in accordance with the objectives of the provisions of the draft policies.	**-**
iii. any development control plan, and	An assessment against the Mamre Road Precinct Development Control Plan (MRP DCP) is provided at **Appendix I**.	**Appendix I**
(iiia.) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	-	**-**
iv. the regulations (to the extent that they prescribe matters for the purposes of this paragraph),that apply to the land to which the development application relates,	The Amendment Report has been prepared in accordance with the relevant provisions of the EP&A Regulation.	**-**

b. *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 potential impacts of the proposal have been assessed within the Amendment Report and supporting technical consultant appendices. They assessment has had regard to the environmental impacts on both the natural and built environments, and social and economic impacts in the locality	**Section 6.0** **Supporting Appendices**
c. *the suitability of the site for the development,*	Having regard to the characteristics of the site and its location within the MRP at Kemps Creek, the development is considered suitable in that: • The site is zoned as IN1 General Industrial within the MRP which has been identified and recognised as appropriate for the development of warehouse and distribution centre; • The development involves an industrial estate that is consistent with the MRP Structure Plan; • The development enables the future utilisation of Transgrid easement; • Development of the site for employment uses is complementary to the Western Sydney Aerotropolis and the soon to be operational WSA, through ensuring logistics and warehousing is available in close proximity; • It appropriately responds to the sloping and undulating topography of the site to deliver the most contextually and economically appropriate design in consideration of the design criteria; • The bulk earthworks for the site have been carefully considered to ensure a balanced cut and fill is achieved and to minimise the height and visual impacts of retaining walls; and • The surrounding area will be developed for industrial purposes consistent with the development, ensuring a well-structured and accessible employment precinct is established to provide for ongoing jobs for workers within the broader Western Sydney Employment Area.	**Section 7.6**
d. *any submissions made in accordance with this Act or the regulations*	Any submissions received will be considered by the applicant following exhibition of the Amendment Report.	**-**
e. *the public interest*	The development is identified as being in the public interest for the following reasons: • It is consistent with relevant state and local strategic plans and complies with the relevant state and local planning controls; • It is estimated to contribute to the creation of 360 direct construction jobs and 550 direct operational jobs per annum as well as total value-add to the economy of $231.2 Million for construction and $304.4 Million per annum during operation; • It will deliver large-format warehouse and distribution centres to meet current market demands for warehouse floorspace enabling the creation of a more efficient logistics supply chain enabling consumers and businesses to receive goods faster;	**Section 7.7**

	• It will align with the needs of modern tenant and business requirements, supporting the long-term potential and objectives of the locality including WSA; and • It minimises any environmental impacts.	
Biodiversity and Conservation Act 2016		
Section 7.9 – Biodiversity Assessment for State Significant Development		
1. This section applies to— *a. an application for development consent under Part 4 of the Environmental Planning and Assessment Act 1979 for State significant development,* *2. Any such application is to be accompanied by a biodiversity development assessment report unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values.* *The environmental impact statement that accompanies any such application is to include the biodiversity assessment required by the environmental assessment requirements of the Planning Agency Head under the Environmental Planning and Assessment Act 1979.*	The site is certified as urban capable land under the CPCP and does not require assessment under the Biodiversity and Conservation Act 2016 (BC Act) and regulations.	**Appendix Y** **Section 6.10**
Section 7.14 – Sate Significant Development or Infrastructure		
1. This section applies to an application for development consent for State significant development under Part 4 of the Environmental Planning and Assessment Act 1979, or an application for approval for State significant infrastructure under Part 5.1 of the Environmental Planning and Assessment Act 1979, that is required under Division 2 to be accompanied by a biodiversity development assessment report. *2. The Minister for Planning, when determining in accordance with the Environmental Planning and Assessment Act 1979 any such application, is to take into consideration under that Act the likely impact of the proposed development on biodiversity values as assessed in the biodiversity development assessment report. 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.*	The site is certified as urban capable land under the CPCP and does not require assessment under the BC Act and regulations.	**Appendix Y** **Section 6.10**
NSW Statutory Instruments		
Environmental Planning and Assessment Regulation 2021		
Part 3 – Development Applications		
(1) An applicant may, at any time before a development application is determined, apply to the consent authority for an amendment to the development application. *(2) The application must be made on the NSW planning portal.* *(3) If the application relates to State significant development—*	An Amendment Report and supporting technical documents has been prepared to support the amended SSDA. This Amendment Report has been prepared in accordance with the State Significant Development Guidelines and contains details of the changes to	**Amendment Report**

(a) the application must be in the approved form, and *(b) the applicant must have regard to the State Significant Development Guidelines in preparing the application.* *(4) If the amendment relates to a BASIX certificate that accompanied the original development application only, the development application may instead be amended by submitting on the NSW planning portal—* *(a) a new BASIX certificate to replace the current BASIX certificate for the original development application, or* *(b) if a new document is required or a document that accompanied the original development application requires amendment—the new or amended document.* *(5) If the amendment will result in the development differing materially from the description contained in the BASIX certificate that accompanied the original development application, the application must be accompanied by a new BASIX certificate that takes account of the amendment.* *(6) If the amendment will result in a change to the development, the application must contain details of the change, including the name, number and date of any plans that have changed, to enable the consent authority to compare the development with the development originally proposed.* *(7) A requirement to use the NSW planning portal under this section does not apply if the development application is subject to proceedings in the Court.*	enable the consent authority to compare the amended development with the development originally proposed.	
NSW Environmental Planning Instruments		
State Environmental Planning Policy (Planning Systems) 2021		
Section 2.6 – Declaration of State Significant Development		
Schedule 1 *12 Warehouses or distribution centres* *1. Development that has a capital investment value of more than the relevant amount for the purpose of warehouses or distribution centres (including container storage facilities) at one location and related to the same operation.* *2. This section does not apply to development for the purposes of warehouses or distribution centres to which section 18 or 19 applies.* *3. In this section—* *4. relevant amount means—* *a. for development in relation to which the relevant environmental assessment requirements are notified under the Act on or before 31 May 2023—$30 million, or* *b. for any other development—$50 million.*	As the amended development is for the purposes of a Warehouse or distribution centres, the relevant environmental assessment requirements were notified under the Act before 31 May 2023 and it has warehouse and distribution centre with a cost in excess of $30 Million, it is still declared SSD.	**Appendix F**
State Environmental Planning Policy (Transport and Infrastructure) 2021		
Section 2.122 – Traffic-generating development		

1. *This section applies to development specified in Column 1 of the Table to Schedule 3 that involves—* a. *new premises of the relevant size or capacity, or* b. *an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*		
State Environmental Planning Policy (Industry and Employment) 2021		
Section 2.10 – Zone Objectives and Land Use Table		
(1) The Table at the end of this section specifies for each zone— ***Zone IN1 General Industrial*** *1. Objectives of zone* • *To facilitate a wide range of employment-generating development including industrial, manufacturing, warehousing, storage and research uses and ancillary office space.* • *To encourage employment opportunities along motorway corridors, including the M7 and M4.* • *To minimise any adverse effect of industry on other land uses.* • *To facilitate road network links to the M7 and M4 Motorways.* • *To encourage a high standard of development that does not prejudice the sustainability of other enterprises or the environment.* • *To provide for small-scale local services such as commercial, retail and community facilities (including child care facilities) that service or support the needs of employment-generating uses in the zone.* (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	As aforementioned, the site is zoned IN1 General Industrial pursuant to the Industry and Employment SEPP. The proposed development for the purposes of warehouses and distribution centres is permissible with consent and is consistent with the relevant objectives of the zone to encourage employment opportunities and facilitate a wide range of employment-generating land uses. The Warehouse and distribution centres use is permissible with consent under the IN1 zone. The ancillary Office Premises use is permissible with consent as it constitutes an ancillary use to the proposed Warehouse or distribution centre use. Further, the development includes the use of Roads within the site which are permissible with consent under the IN1 zone.	**Section 4.2**
Section 2.12 – Subdivision – consent requirements		
(1) Land to which this Chapter applies may be subdivided, but only with consent.	Since the proposed development involves subdivision of the land, consent is required.	**Appendix D**
Section 2.14 – Demolition requires development consent		
The demolition of a building or work may be carried out only with development consent.	Since the amended development involves demolition of existing structures, consent is required.	**Appendix D**
Section 2.17 – Requirements for development control plans (DCP)		
(1) Except in such cases as the Secretary may determine by notice in writing to the consent authority or as provided by section 2.18, the consent authority must not grant consent to development on any land to which this Chapter applies unless a development control plan has been prepared for that land.	As noted above, the MRP DCP has been prepared for the entirety of the MRP by DPE and encompasses the site. The design and built form of the proposed development responds to the requirements of the DCP.	**Appendix I**

(2) The requirements specified in Schedule 2 apply in relation to any such development control plan. *(3) For the purposes of section 3.44(3) of the Act, a development control plan that is required by this section may be prepared and submitted by 60% of the owners of the land to which the plan applies.* *(4) The Minister is authorised, for the purposes of section 3.44(5)(b) of the Act, to act in the place of the relevant planning authority in accordance with that section.*	A comprehensive analysis of the proposal's compliance with the MRP DCP is provided at **Appendix I**.	
Section 2.19 – Ecologically Sustainable Development		
The consent authority must not grant consent to development on land to which this Chapter applies unless it is satisfied that— *(a) building heights will not adversely impact on the amenity of adjacent residential areas, and* *(b) site topography has been taken into consideration.*	The proposed development encompasses ecologically sustainable development principles, as outlined in the Ecologically Sustainable Development Report prepared by Frasers Property.	**Appendix II** **Section 6.19**
Section 2.20 – Height of Buildings		
The consent authority must not grant consent to development on land to which this Chapter applies unless it is satisfied that— *(a) building heights will not adversely impact on the amenity of adjacent residential areas, and* *(b) site topography has been taken into consideration.*	The maximum height of buildings has been informed by market specific requirements in the context of a detailed analysis of the topography of the site and the cut and fill balance requirements.	**Appendix D**
Section 2.21 – Rainwater Harvesting		
The consent authority must not grant consent to development on land to which this Chapter applies unless it is satisfied that adequate arrangements will be made to connect the roof areas of buildings to such rainwater harvesting scheme (if any) as may be approved by the Secretary.	The proposed development includes a rainwater tanks for rainwater harvesting as part of the stormwater management strategy.	**Appendix R**
Section 2.23 – Development involving subdivision		
The consent authority must not grant consent to the carrying out of development involving the subdivision of land unless it has considered the following— *(a) the implications of the fragmentation of large lots of land,* *(b) whether the subdivision will affect the supply of land for employment purposes,* *(c) whether the subdivision will preclude other lots of land to which this Chapter applies from having reasonable access to roads and services.*	The amended development subdivision has been facilitated to most appropriately orientate the lots to deliver employment generating land uses. As such, it is considered that the proposed subdivision layout will not have any adverse impacts on the supply of land for employment generating purposes.	**Appendix D**
Section 2.24 – Public Utility Infrastructure		
(1) The consent authority must not grant consent to development on land to which this Chapter applies unless it is satisfied that any public utility infrastructure that is essential	A Service Infrastructure Assessment has been prepared that assesses the public utility infrastructure requirements needed to support the proposed development. The assessment concludes that wastewater, potable water,	**Appendix HH**

for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required. *(2) In this section, public utility infrastructure includes infrastructure for any of the following—* *(a) the supply of water,* *(b) the supply of electricity,* *(c) the supply of natural gas,* *(d) the disposal and management of sewage.* *(3) This section does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this section.*	power and telecommunications can be made available to the site to support the proposed development.	
Section 2.28 – Industrial Release Area – satisfactory arrangements for the provision of regional transport infrastructure services		
(1) This section applies to the land shown edged heavy black on the Industrial Release Area Map, but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 7.1 of the Act). *(2) The object of this section is to require assistance to authorities of the State towards the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) to satisfy needs that arise from development on land to which this section applies.* *(3) Despite any other provision of this Chapter, the consent authority must not consent to development on land to which this section applies unless the Secretary has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) in relation to the land to which this Chapter applies.* *(4) Subsection (3) only applies if the land that is the subject of the application for development consent was not being used for industrial purposes immediately before the application was made.* *(5) Subsection (3) does not apply in relation to—* *(a) any land that is reserved exclusively for a public purpose, or* *(b) any development that is, in the opinion of the consent authority, of a minor nature.*	LOG-E are in negotiation with the DPE and Penrith City Council to contribute to transport upgrades consistent with the road network described in the MRP DCP. This includes the upgrade and signalisation of the Mamre Road intersection at Mamre Road. It also includes the widening of Aldington Road and Abbotts Road which requires the dedication of LOG-E owned land along the road frontages. This involves construction of new signalised intersections on Aldington Road, including one which will form the main access to the Edge Estate. The upgrades are proposed to be undertaken as part of Planning Agreements with NSW Government and Penrith City Council, respectively. The Planning Agreements are in advanced stages of negotiations and are expected to be executed by the end of 2023, with construction to commence early 2024.	-
Section 2.30 – Design Principles		
In determining a development application that relates to land to which this Chapter applies, the consent authority must take into consideration whether or not— *(a) the development is of a high quality design, and* *(b) a variety of materials and external finishes for the external facades are incorporated, and* *(c) high quality landscaping is provided, and* *(d) the scale and character of the development is compatible with other employment-generating development in the precinct concerned.*	The amended development has sought to take into consideration all design elements (architectural, civil and landscape) to create is, on balance, the most appropriate development response.	**Appendix D** **Appendix G** **Appendix H** **Appendix P**

Section 2.31 – Preservation of trees or vegetation		
(1) The objective of this section is to preserve the amenity of the area through the preservation of trees and other vegetation. *(2) This section applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this section by a development control plan made under Division 3.6 of the Act.*	The amended development site does not contain prescribed trees by an existing development control plan.	-
Section 2.34 – Development of land within or adjacent to transport investigation area		
Consent must not be granted to development in the area marked "Transport Investigation Areas A and B" on the Land Zoning Map that has a capital investment value of more than $200,000 without the concurrence of Transport for NSW.	The site is not within a transport investigation area.	-
Section 2.35 – Development within the Mamre Road Precinct		
(1) Consent must not be granted to development in the area marked "Transport Investigation Areas A and B" on the Land Zoning Map that has a capital investment value of more than $200,000 without the concurrence of Transport for NSW. *(2) In determining whether to provide concurrence, Transport for NSW is to take into account the likely effect of the development on—* *(a) the practicability and cost of carrying out transport projects on the land in the future, and* *(b) without limiting paragraph (a), the structural integrity or safety of, or ability to operate, transport projects on the land in the future, and* *(c) without limiting paragraph (a), the land acquisition costs and the costs of construction, operation or maintenance of transport projects on the land in the future, and* *(d) in relation to Transport Investigation Area A—current or future development and operation of an intermodal terminal, including whether the development for which consent is sought is likely to impede access to or from an intermodal terminal.*	The site is located in the MRP and has a capital investment value in excess of $200,000. Concurrence with Transport for NSW will be required under this clause for the amended proposal.	
Section 2.37 – Airspace operations		
(1) The objectives of this section are as follows— *(a) to provide for the effective and ongoing operation of the Airport by ensuring that such operation is not compromised by proposed development that penetrates the prescribed airspace for the Airport,* *(b) to protect the community from undue risk from that operation.* *(2) If a development application is received and the consent authority is satisfied that the proposed development will penetrate the prescribed airspace, before granting development consent, the consent authority must consult with the relevant Commonwealth body about the application.* *(3) The consent authority may grant development consent for the development if the relevant Commonwealth body advises that—*	While the proposed development is proximate to the new Airport, it does not propose any sensitive land uses such as residential or childcare centres, and the uses proposed (being warehouses and distribution centres), will not result in any significant air emissions. Therefore, the proposed amended development will not result in any impacts to airspace operations.	**Appendix GG Section 6.16**

(a) the development will penetrate the prescribed airspace but it has no objection to its construction, or *(b) the development will not penetrate the prescribed airspace.* *(4) To avoid doubt, the consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the prescribed airspace and should not be constructed.*		
Section 2.38 – Development of land adjacent to airport		
(1) The objectives of this section are as follows— *(a) to provide for the effective and ongoing operation of the Airport by ensuring that such operation is not compromised by proposed development in close proximity to the Airport,* *(b) to protect the community from undue risk from that operation.* *(2) This section applies to development on land, any part of which is less than 13 kilometres from a boundary of the Airport.* *(3) The consent authority must not grant consent for development to which this section applies unless the consent authority is satisfied that the proposed development will not attract birds or animals of a kind and in numbers that are likely to increase the hazards of operating an aircraft.*	The proposed amended development is located within 13km from the Airport boundary but will not attract birds or animals and will not impact on airport operations in the area.	**Appendix GG** **Section 6.16**
Section 2.40 – Earthworks		
(1) The objectives of this section are as follows— *(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*	The proposed earthworks will not have a detrimental impact as outlined in this Amendment Report and supporting technical appendices. The proposed earthworks will facilitate the intended use of the site under the 2020 MRP rezoning, consistent with the objectives of the IN1 zone. As aforementioned, the proposed civil design has considered all relevant factors to create the most appropriate civil design for the amended development.	-
(b) to allow earthworks of a minor nature without separate development consent.	Not applicable.	-
(2) Development consent is required for earthworks unless— *(a) the work is exempt development under this Chapter or another applicable environmental planning instrument, or* *(b) the work is ancillary to other development for which development consent has been given.*	Development consent is required for the proposed earthworks.	**Appendix G**
(3) Before granting development consent for earthworks, the consent authority must consider the following matters— *(a) the likely disruption of, or detrimental effect on, existing drainage patterns and soil stability in the locality,*	The proposed stormwater management strategy has been designed in accordance with the proposed bulk earthworks plan and the MRP SPP requirements. The Amendment Report is accompanied by an Erosion and Sediment Control Plan which will be implemented to maintain soil stability on the site and along common property boundaries.	**Appendix G** **Appendix S**

(b) the effect of the proposed development on the likely future use or redevelopment of the land,	The proposed earthworks will enable the future development of the entire site for its intended use under the MRP rezoning. The requirement for large building pads come as a result of market demand for large format warehousing type built form, of which there is a significant undersupply of in the Sydney region. The proposed earthworks will not affect the likely future use or redevelopment of the land, rather it will support future development through creation of residual building pads ready for future warehouses.	**Appendix R**
(c) the quality of the fill or the soil to be excavated, or both,	Geotechnical investigations have been undertaken to determine the quality of fill. A Remediation Action Plan has been prepared to ensure any contaminated material of the site is appropriately dealt with. The source of fill will be consistent with the imported fill requirements set out in section 3.2.1 of the Bulk Earthworks Specification Report.	**Appendix O**
(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,	The proposed earthworks will not have a detrimental impact on adjoining properties. The site's surrounding context is undergoing a significant change in character with similar development surrounding the site now approved and under construction.	**Appendix G**
(e) the source of fill material and the destination of excavated material,	The amended development requires the import of 29,185m^3 of fill. The source of fill will be consistent with the imported fill requirements set out in section 3.2.1 of the Bulk Earthworks Specification Report.	**Appendix O** **Appendix R**
(f) the likelihood of disturbing relics,	Based on the Aboriginal and non-Aboriginal heritage investigations, it is considered unlikely to disturb any relics. Refer to Section 6.12 and 6.13.	**Section 6.12** **Section 6.13**
(g) the proximity to and potential for adverse impacts on a waterway, drinking water catchment or environmentally sensitive area,	The amended development will not have any impact on waterways. In relation to biodiversity, the site has been certified-urban capable land under the Cumberland Plain Conservation Plan.	**Section 6.10**
(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,	As aforementioned, the proposed civil design has considered all relevant factors to create the most appropriate civil design for the amended development. All earthworks will be undertaken with the Bulk Earthworks Specification Report.	**Appendix O**
(i) the proximity to and potential for adverse impacts on a heritage item, an archaeological site, or a heritage conservation area,	The impact of the amended development has been adequately assessed in regard to Aboriginal and non-Aboriginal heritage with impact assessed as acceptable.	**Section 6.12** **Section 6.13**
(j) the visual impact of earthworks as viewed from the waterways.	As aforementioned, the amended civil design has considered all relevant factors to create the most appropriate civil design for the amended development. The amended development includes significant landscape planting throughout the estate but also along the Aldington Road frontage that results in a high amenity presentation of the development to Aldington Road.	**Appendix K**

Section 2.41 – Development on flood prone land		
(1) This section applies to development requiring consent that is carried out on flood prone land.	This site is not identified as flood prone land.	**Appendix Q**
Section 2.42 – Heritage Conservation		
1) Objectives The objectives of this section are as follows— *(a) to conserve the environmental heritage of the Western Sydney Employment Area,* *(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,* *(c) to conserve archaeological sites,* *(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.* *(2) Requirement for consent Development consent is required for any of the following—* *(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—* *(i) a heritage item,* *(ii) an Aboriginal object,* *(iii) a building, work, relic or tree within a heritage conservation area,* *(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 3 in relation to the item,* *(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,* *(d) disturbing or excavating an Aboriginal place of heritage significance,* *(e) erecting a building on land—* *(i) on which a heritage item is located or that is within a heritage conservation area, or* *(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,* *(f) subdividing land—* *(i) on which a heritage item is located or that is within a heritage conservation area, or* *(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*	No heritage items are located on the site, and the site is not located within a Heritage Conservation Area.	**Appendix BB**
Section 2.43 – Consent for clearing native vegetation		
1) A person must not clear native vegetation on land in Zone C2 Environmental Conservation or Zone RE1 Public Recreation without development consent.	The site is certified as urban-capable land and there are no feasible alternatives available to avoid impacts on native vegetation. The	**Appendix Y** **Section 6.10**

(2) Development consent under this section is not to be granted unless the consent authority is satisfied of the following in relation to the disturbance of native vegetation caused by the clearing of the vegetation— *(a) that there is no reasonable alternative available to the disturbance of the native vegetation,* *(b) that any impact of the proposed clearing on biodiversity values is avoided or minimised,* *(c) that the disturbance of the native vegetation will not increase salinity,* *(d) that native vegetation inadvertently disturbed for the purposes of construction will be re-instated where possible on completion of construction,* *(e) that the loss of remnant native vegetation caused by the disturbance will be compensated by revegetation on or near the land to avoid a net loss of remnant native vegetation,* *(f) that the clearing of the vegetation is unlikely to cause or increase soil erosion, salination, land slip, flooding, pollution or other adverse land or water impacts.* *(3) The consent authority must, when determining a development application in respect of the clearing of native vegetation on land zoned E2 Environmental Conservation have regard to the objectives for development in that zone.*	Biodiversity Impact Assessment provides appropriate mitigation measures to manage any adverse impacts on natural areas or habitat.	
Section 2.44 – Stormwater, water quality and water sensitive design		
(1) The objective of this section is to avoid or minimise the adverse impacts of stormwater on the land on which development is to be carried out, adjoining properties, riparian land, native bushland, waterways, groundwater dependent ecosystems and groundwater systems. (2) Before granting development consent to development on land to which this Chapter applies, the consent authority must take into consideration whether— (a) water sensitive design principles are incorporated into the design of the development, and (b) riparian, stormwater and flooding measures are integrated, and (c) the stormwater management system includes all reasonable management actions to avoid adverse impacts on the land to which the development is to be carried out, adjoining properties, riparian land, native bushland, waterways, groundwater dependent ecosystems and groundwater systems, and (d) if a potential adverse environmental impact cannot be feasibly avoided, the development minimises and mitigates the adverse impacts of stormwater runoff on adjoining properties, riparian land, native bushland, waterways, groundwater dependent ecosystems and groundwater systems, and (e) the development will have an adverse impact on— (i) the water quality or quantity in a waterway, including the water entering the waterway, and (ii) the natural flow regime, including groundwater flows to a waterway, and (iii) the aquatic environment and riparian land (including aquatic and riparian species, communities, populations and habitats), and	The proposed amended development will incorporate water quality and water sensitive urban design measures.	**Appendix R** **Appendix G**

(iv) the stability of the bed, banks and shore of a waterway, and (f) the development includes measures to retain, rehabilitate and restore riparian land. (3) For the purposes of subsection (2)(a), the ***water sensitive design principles*** are as follows— (a) protection and enhancement of water quality, by improving the quality of stormwater runoff from catchments, (b) minimisation of harmful impacts of development on water balance and on surface and groundwater flow regimes, (c) integration of stormwater management systems into the landscape in a manner that provides multiple benefits, including water quality protection, stormwater retention and detention, public open space, habitat improvement and recreational and visual amenity, (d) retention, where practical, of on-site stormwater for use as an alternative supply to mains water, groundwater or river water.		
Section 3.6 – Granting consent to signage		
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 Chapter as set out in section 3.1(1)(a), and* *(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.*	The amended development signage includes signage associated with the proposed warehouse and distribution centre as detailed within the Amendment Report. The proposed signage is consistent with the objectives as it is directly associated with the proposed development, provides effective communication in suitable locations and will be of a high quality design and finish. The proposed signage satisfies Schedule 5 as outlined below.	**Section 3.9** **Appendix D**
Schedule 5 – Assessment Criteria		
1 Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed façade signage is compatible with the desired future character as it appropriately identifies the site and tenants, while also providing wayfinding.	-
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Not applicable, there is currently no theme for outdoor advertising in the area, noting the future character is for industrial development and the proposed signs are for estate and business identification purposes.	-
2 Special Areas		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed façade signage will not detract from the amenity or visual quality of the area as it will feature high quality materials that are consistent with external façade materials and finishes	-
3 Views and Vistas		
Does the proposal obscure or compromise important views?		-

Does the proposal dominate the skyline and reduce the quality of vistas?	No, the proposed façade signage is appropriately sized and located, and would not dominate the skyline or any important views.	-
Does the proposal respect the viewing rights of other advertisers?		-
4 Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes, the amended developments signage is scaled to be clearly visible for road users and pedestrians, while not appearing out of scale, setting or landscape. The signage will be integrated with the developments built form and landscape to ensure it does not appear out of place.	-
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	Not applicable, there is no existing advertising on the site.	-
Does the proposal screen unsightliness?	The amended development signage does not screen unsightliness and instead provides for identification of the Proposal including future tenants within the proposed buildings.	-
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage does not protrude above the proposed buildings, structure or tree canopies in the locality.	-
Does the proposal require ongoing vegetation management?	No.	-
5 Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage has been thoughtfully considered to provide site, operator and future tenant identification. The signage is entirely compatible with the characteristics of the site and the proposed warehouse building.	-
Does the proposal respect important features of the site or building, or both?	Yes. The proposed signage is consistent with the design of the proposed development and site to ensure it does not appear out of place.	-
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage has been designed to be consistent with the finishes of warehouse building to ensure there is a strong visual association between the two.	-
6 Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed signage does not propose any associated devices, logos or any form of advertising or will form an integral part of any structure.	-
7 Illumination		
Would illumination result in unacceptable glare?	No, the proposed signage is backlit with no direct light, as such there will be no presence of glare.	-

Would illumination affect safety for pedestrians, vehicles or aircraft?	No, the proposed signage is backlit with no direct light, as such it will not affect safety.	-
Would illumination detract from the amenity of any residence or other form of accommodation?	No, the proposed illumination will provide accurate identification of the site, operator and future tenants assisting with wayfinding. It will not affect any form of accommodation. As outlined previously, all illuminated signage is proposed to be backlit that will not result in bright or glaring light.	-
Can the intensity of the illumination be adjusted, if necessary?	This will not be necessary considering the proposed signage is backlit with no direct light, providing accurate identification of the estate and future tenants assisting with wayfinding.	-
Is the illumination subject to a curfew?		-
8 Safety		
Would the proposal reduce the safety for any public road?	No, the proposed signage has been designed and positioned to assist motorists, pedestrians and cyclists in identifying the site.	-
Would the proposal reduce the safety for pedestrians or bicyclists?		-
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No, the signage is not positioned to obstruct sightlines from public roads. The proposed signage zones are located substantial distances from public roads	-
State Environmental Planning Policy (Precincts–Western Parkland City) 2021		
Section 4.17 – Aircraft noise		
(1) The objectives of this section are— *(a) to prevent certain noise sensitive development on land near the Airport, and* *(b) to minimise the impact of aircraft noise for other noise sensitive development, and* *(c) to ensure that land use and development near the Airport do not hinder or have other adverse impacts on the ongoing, safe and efficient 24 hours a day operation of the Airport.* *(2) Development consent must not be granted to noise sensitive development if the development is to be located on land that is in an ANEF or ANEC contour of 20 or greater.* *(3) Subsection (2) applies despite the following—* *(a) Part 2, Divisions 7 and 8 of State Environmental Planning Policy (Affordable Rental Housing) 2009,* *(b) Chapter 3 of State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004,* *(c) State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.* *(4) Despite subsection (2), development consent may be granted to development for the purposes of dwelling houses on land that is in an ANEF or ANEC contour of 20 or greater if—*	The amended development is considered as 'Other Industrial' which can be accommodated within ANEF zones as per the Australian Standard (AS2021-2015),	**Section 6.16** **Appendix GG**

(a) immediately before the commencement of this Chapter— *(i) there were no dwellings on the land, and* *(ii) development for the purposes of dwelling houses was permitted on the land, and* *(b) the consent authority is satisfied that the development will meet the indoor design sound levels.* *(4A) Subsection (2) does not apply to development for the purposes of subdivision of land in an ANEF or ANEC contour of 20 or greater if the development application was made before 1 October 2020.*		
Section 4.18 – Building wind shear and turbulence		
(1) The objective of this section is to safeguard Airport operations from wind shear and turbulence generated by buildings. *(2) This section applies to development—* *(a) on land shown as the "Windshear Assessment Trigger Area" on the Lighting Intensity and Wind Shear Map, and* *(b) that penetrates the 1:35 surface.* *(2A) Development consent must not be granted to the development unless the consent authority has consulted the relevant Commonwealth body.* *(3) For the purposes of this section, development penetrates the 1:35 surface if the distance from the runway centreline to the closest point of the building is less than or equal to 35 times the height above runway level of the building.*	The amended development site will be located beyond the airport boundary and will not have the risk of generating windshear and turbulence at the airport. The buildings and the cranes will not have an impact upon the airport.	**Section 6,16** **Appendix GG**
Section 4.19 – Wildlife hazards		
(1) The objective of this section is to regulate development on land surrounding the Airport where wildlife may present a risk to the operation of the Airport. *(2) Development consent must not be granted to relevant development on land in the 13 km wildlife buffer zone unless the consent authority—* *(a) has consulted the relevant Commonwealth body, and* *(b) has considered a written assessment of the wildlife that is likely to be present on the land and the risk of the wildlife to the operation of the Airport provided by the applicant, which includes—* *(i) species, size, quantity, flock behaviour and the particular times of day or year when the wildlife is likely to be present, and* *(ii) whether any of the wildlife is a threatened species, and* *(iii) a description of how the assessment was carried out, and* *(c) is satisfied that the development will mitigate the risk of wildlife to the operation of the Airport, including, for example, measures relating to—* *(i) waste management, landscaping, grass, fencing, stormwater or water areas, or* *(ii) the dispersal of wildlife from the land by the removal of food or the use of spikes, wire or nets.*	The amended development site is planned to be located is currently farm allotments and open vegetation paddocks. The industrial estate will consume a significant amount of this grassland and farming activity, effectively reducing the amount of wildlife present in the area that could cause a hazard to overflying aircraft.	**Section 6,16** **Appendix GG**

(3) Despite subsection (2), development for the following purposes is prohibited on land in the 3 km wildlife buffer zone— *(a) livestock processing industries,* *(b) turf farming,* *(c) waste or resource management facilities that consist of outdoor processing, storage or handling of organic or putrescible waste.*		
Section 4.20 – Wind turbines		
(1) The objective of this section is to regulate the construction of wind turbines and wind monitoring towers on land within 30 kilometres of the Airport. *(2) Development for the following purposes is prohibited on land in the 3 km zone—* *(a) electricity generating works comprising a wind turbine,* *(b) wind monitoring towers that are not ancillary or incidental to the Airport.* *(3) Development consent must not be granted to development for the purposes of a large wind monitoring tower in the 3–30 km zone unless the consent authority has consulted the relevant Commonwealth body.* *(4) Development consent must not be granted to development for the purposes of a electricity generating works comprising a wind turbine on land in the 3–30 km zone unless the consent authority—* *(a) has consulted the relevant Commonwealth body, and* *(b) has considered a written assessment of the risk of the development to the safe operation of the Airport provided by the applicant, and* *(c) is satisfied that the development will adequately mitigate the risk to the safe operation of the Airport.*	No wind turbines are planned for the site. Therefore, the site will be in compliance with the requirements.	**Section 6,16** **Appendix GG**
Section 4.21 – Lighting		
(1) The objective of this section is to safeguard Airport operations from the risk of lighting and reflectivity distractions for pilots. *(2) Development consent must not be granted to development for the following purposes on land shown as the “6km Lighting Intensity Radius”, a “Light Control Zone” or a “Runway Boundary” on the Lighting Intensity and Wind Shear Map unless the consent authority has consulted the relevant Commonwealth body—* *(a) installation and operation of external lighting (whether coloured or white lighting) in connection with development for the following purposes—* *(i) classified roads,* *(ii) freight transport facilities,* *(iii) heavy industrial storage establishments,* *(iv) recreation facilities (major),* *(v) recreation facilities (outdoor),*	The nearest point of the amended development site is approximately 8.5 km from the centre of Runway 05L/23R and does not lie within any of the NASF light zones and therefore no special lighting requirements apply. The building and the cranes will not have the risk of distractions to pilots from lighting in the vicinity of WSA airport.	**Section 6,16** **Appendix GG**

(b) installation and operation of external lighting in connection with construction works that is likely to be obtrusive or create light spill outside the land on which the construction works are carried out.		
Section 4.22 – Airspace operations		
(1) The objectives of this section are— *(a) to provide for the effective and ongoing operation of the Airport by ensuring that its operation is not compromised by development that penetrates the prescribed airspace for the Airport, and* *(b) the relevant Commonwealth body does not object to the development.* *(2) This section applies to development on land shown on the Obstacle Limitation Surface Map that is a controlled activity within the meaning of Part 12, Division 4 of the Airports Act 1996 of the Commonwealth.* *(3) Development consent must not be granted to development to which this section applies unless—* *(a) the consent authority has consulted the relevant Commonwealth body, and* *(b) the relevant Commonwealth body advises the consent authority that—* *(i) the development will penetrate the prescribed airspace but it does not object to the development, or* *(ii) the development will not penetrate the prescribed airspace.*	Planned activity within the estate is not likely to produce such an exhaust plume and therefore not have an impact on WSA. With maximum building heights projected to be beneath 188 m AHD there will not be any infringements of the PANS-OPS for Western Sydney Airport. There is also adequate clearance for typical construction cranes to be used on the site. Further, the amended development site will not have any impact upon the performance of ATC Communications systems installed at WSA. The Aldington South Estate Development Site is located outside the Building Restricted Areas (BRA) and will not have any impact upon the performance of navigation aids installed at WSA.	**Section 6,16** **Appendix GG**
Section 4.23 – Public safety		
(1) The objective of this section is to regulate development on land on which there is an appreciable risk to public safety from the operation of the Airport. *(2) Development for the following purposes is prohibited on land shown as the "public safety area" on the Public Safety Area Map—* *Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Commercial premises; Community facilities; Correctional centres; Crematoria; Eco-tourist facilities; Education establishments; Entertainment facilities; Function centres; Funeral homes; Health services facilities; Heavy industrial storage establishments; Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Service stations; Tourist and visitor accommodation* *(3) Development consent must not be granted to development for a purpose not specified in subsection (2) on land shown as the "public safety area" on the Public Safety Area Map unless the consent authority—* *(a) has considered a written assessment of the risk of the development to persons provided by the applicant, which includes—*	The amended development site is located outside of the designated PSAs associated with the runways at WSA.	**Section 6,16** **Appendix GG**

(i) the risk to persons on the land in the event of an emergency or other incident at or around the Airport, including an incident involving an aircraft landing or taking off from the Airport, and *(ii) the likely number of people who will use or otherwise be present on the land, and* *(iii) the compatibility of the development with the risk, including in relation to the number of people who will use or otherwise be present on the land, and* *(b) is satisfied that the development will adequately mitigate the risk to persons on the land, including by limiting the number of people or vehicles.*		
Section 4.23A – Operation of certain air transport facilities		
(1) The objective of this section is to regulate development that may impact the operation of certain air transport facilities. *(2) Development consent must not be granted to development on land shown as the "Building Restricted Area" on the Building Restricted Area Map unless the consent authority—* *(a) has consulted the relevant Commonwealth body, and* *(b) is satisfied that the development will not adversely impact the operation of communication and air traffic control facilities or structures associated with the Airport's air transport facilities.*	The amended development site is not within the "Building Restricted Area".	**Section 6,16** **Appendix GG**
State Environmental Planning Policy (Resilience and Hazards) 2021		
Section 4.6 – Contamination and Remediation to be considered in determining development application		
1. 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.* *2. Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.* *3. The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed*	In response to the Detailed Site Investigation identifying contamination on the amended development site, a Remediation Action Plan (RAP) has been prepared. It outlined the site can be made suitable for redevelopment subject to the successful implementation of the measures described in this RAP and the recommendations.	**Section 6.3** **Appendix M** **Appendix N**

investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.	
Penrith Local Environmental Plan 2010	
As the subject site contains to remain wholly within the WSEA Land Application Area, the provisions of the Industry and Employment SEPP prevails over the *Penrith Local Environmental Plan 2010*. Therefore, the provisions of the Penrith LEP do not apply to the amended development.	-
Mamre Road Precinct Development Control Plan	
An assessment of the amended developments compliance with the MRP DCP is provided at **Appendix I**.	**Appendix I**