

# **Appendix C**

## **Statutory Compliance**

## C-1 Approval pathway and permissibility

### C-1-1 Environmental Planning and Assessment Act 1979

The key legislation in NSW regulating the use of land is the EP&A Act and the EP&A Regulation. The EP&A Act establishes a regime for the making of development applications, assessment of their environmental impacts, and the determination of those applications. It also allows for the making of environmental planning instruments such as Local Environmental Plans (LEPs) and State Environmental Planning Policies (SEPPs).

Part 4, Division 4.7 of the EP&A Act provides for declaration, assessment and approval of SSD. The project requires development consent in accordance with the requirements of Part 4 of the EP&A Act as a result of the operation of *Berrigan Local Environment Plan 2013* (the 'LEP') and as it is considered to be SSD as Major Hazard Facility pursuant to Schedule 1, Clause 10(3) of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP).

The process for environmental assessment and approval for SSD is set out as follows:

- Scoping Report and Application for EIS scope requirements
- Development and issuance of SEARs
- Preparation of an EIS
- Public exhibition of the EIS
- Response to submission(s) received during public exhibition of the EIS
- Assessment of development application

Determination regarding the development by the Minister.

#### Assessment under Part 4 of the EP&A Act

Section 4.15 of the EP&A Act outlines the matters that must be taken into consideration by a consent authority when assessing a DA under Part 4 of the EP&A Act. Table C.1 provides a summary of matters listed under section 4.15 and their relevance to the project.

Table C.1 Section 4.15 of the EP&A Act – Matters for consideration

| Matter for consideration – general                                                                                                                                                                                                                                                                                                | Report section                                                                                                                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| (a) the provisions of:                                                                                                                                                                                                                                                                                                            |                                                                                                                                       |
| (i) any environmental planning instrument                                                                                                                                                                                                                                                                                         | Applicable State Environmental Planning Policy's (SEPPs) are addressed in in Section C-1-3.<br>The LEP is discussed in Section C-1-3. |
| (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 | Not applicable                                                                                                                        |
| (iii) any development control plan                                                                                                                                                                                                                                                                                                | The DCP is addressed in Section C-2-1.                                                                                                |
| (iiia) any planning agreement that has been entered into under section 7.4 of the (EP&A Act), or any draft planning agreement that a developer has offered to enter into under section 7.4 of the (EP&A Act)                                                                                                                      | Not applicable                                                                                                                        |
| (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                                                                                                                                                          | Not applicable                                                                                                                        |
| (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                                                                                                                                                           | Impacts to the environment are assessed in Section 6.                                                                                 |

| Matter for consideration – general                                      | Report section                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (c) the suitability of the site for the development                     | <p>The site is an existing facility. The project would ensure that the facility operates in accordance with the AS2187 Standard and enhance existing operations.</p> <p>The technical assessments provided in Chapter 6 and the associated appendices demonstrate that where potential impacts are identified, the impacts can be avoided or mitigated.</p> <p>Land uses in the vicinity of the site are sufficiently separated from the project.</p> <p>The project has been designed to adhere with the codes of practice and to minimise risk.</p> <p>The project will continue to operate in accordance with the suite of safety plans applicable to the project.</p> <p>For these reasons, the site is suitable for the project.</p> |
| (d) any submissions made in accordance with this Act or the regulations | Should any submissions be received as a result of the project, it is envisaged that these can be addressed by this report.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| (e) the public interest.                                                | <p>The project would have a long-term positive social, environmental, and economic impact for the wider community and would ensure the continued supply of munitions in the network.</p> <p>Given the planning merits, low-negligible environmental impacts, the significant benefits associated with the project, the project is in the public interest.</p>                                                                                                                                                                                                                                                                                                                                                                             |

### State Significant Development

Section 4.36(2) of the EP&A Act provides that a State Environmental Planning Policy (SEPP) may declare any development, or any class or description of development, to be SSD.

The project is deemed SSD in accordance with Schedule 1, Clause 10(3) of the Planning Systems SEPP. Consequently, the project is to be assessed in accordance with the provisions of Division 4.7 of the EP&A Act.

Additionally, the project would be development for the purpose of the manufacture, storage or use of dangerous goods in such quantities that constitute the development as a major hazard facility within the meaning of Chapter 6B of the Occupational Health and Safety Regulation 2001. The Minister for Planning or the Independent Planning Commission would be the consent authority.

### Approvals not required for SSD

Under section 4.41 of the EP&A Act, certain other approvals are integrated into the SSD approval process and are not required to be separately obtained for the proposal. Such approvals are listed in Table C.2. None of these are relevant to the project.

Although approvals are not required under the legislation listed in Table C.2, the objectives of the legislation have been considered in the environmental impact assessment for the project.

Table C.2 Approvals that would not be required for the project

| Legislation                                              | Purpose / description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Approval required / not required                                                                                                                                                                                                                                         |
|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Fisheries Management Act 1994</i><br>(FM Act)         | The objectives of the FM Act are to conserve, develop and share the fisheries resources of NSW for the benefit of present and future generations. Part 7 of the FM Act outlines a number of permits required for works within fisheries areas, including dredging or reclamation works (section 201), marine vegetation in protected areas (section 205) and fish passages (section 219).                                                                                                                                                                                | Not required for SSD.<br>The project would not impact any fisheries resources.                                                                                                                                                                                           |
| <i>Heritage Act 1977</i><br>(Heritage Act)               | The Heritage Act is concerned with all aspects of the conservation of heritage places and items, with items of state significance listed on the State Heritage Register. Part 4 of the Heritage Act states that approval must be obtained for works that have the potential to interfere with an item on the State Heritage Register or that is subject to an Interim Heritage Order.                                                                                                                                                                                    | Not required for SSD.<br>The project would not impact any heritage items. Refer Section 6.12.1.                                                                                                                                                                          |
| <i>National Parks and Wildlife Act 1974</i><br>(NPW Act) | The NPW Act provides for the protection of Aboriginal objects and places in NSW. Section 86 of the NPW Act states it is an offence to harm an Aboriginal object, defined as destroying, defacing, damaging or moving an object from the land. Section 87 states a defence to the harm or destruction of an Aboriginal object is the authorisation of an Aboriginal Heritage Impact Permit (AHIP) issued under section 90 of NPW Act.                                                                                                                                     | Not required for SSD.<br>The project would not impact any known Aboriginal objects. Refer Section 6.10 and Appendix G.                                                                                                                                                   |
| <i>Rural Fires Act 1997</i><br>(RF Act)                  | The objectives of the RF Act are to provide for the prevention, mitigation, and suppression of bush and other fires; for the co-ordination of bush firefighting and bush fire prevention; for the protection of persons from injury or death, and property from damage, arising from fires; and for the protection of infrastructure and environmental, economic, cultural, agricultural, and community assets from damage arising from fires. A bush fire safety authority must be obtained before developing in bush fire prone land under section 100B of the RF Act. | Not required.<br>The Bushfire Hazard Assessment prepared by GHD (Appendix F) identifies that the project can provide bushfire protection measures meeting the objectives of Planning for Bush Fire Protection 2019 (NSW RFS, 2019) and meeting all Acceptable Solutions. |
| <i>Water Management Act 2000</i><br>(WM Act)             | The WM Act provides for the sustainable and integrated use and management of water resources in NSW. The WM Act controls the extraction of water, its use, and the carrying out of activities on or near water sources.                                                                                                                                                                                                                                                                                                                                                  | Not required. The project would not affect water resources or require a controlled activity approval.                                                                                                                                                                    |

| Legislation | Purpose / description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Approval required / not required |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
|             | <p>Part 3 of the WM Act outlines the approval requirements for water use (section 89), management works approvals (section 90), and activity approvals other than aquifer interference (section 91). These approvals include two activity types, controlled activity approvals and aquifer interference approvals.</p> <p>A controlled activity approval allows the holder to carry out a specific controlled activity on waterfront land, defined as land within 40 metres of a river, lake, estuary, or shoreline.</p> |                                  |

## Approvals required for SSD

Under section 4.42 of the EP&A Act, certain approvals are still required for SSD and cannot be refused if it is necessary for carrying out SSD that is authorised by a development consent under Division 4.7 of the EP&A Act. They must also be substantially consistent with the SSD approval. Such approvals are outlined in Table C.3.

**Table C.3** Approvals that would be required for the project

| Legislation                                                         | Purpose / description                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Approval required / not required                                                                                                                            |
|---------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| FM Act                                                              | <p>Part 7 of the FM Act outlines a number of permits required for works within fisheries areas including aquaculture.</p> <p>The project is not located within a fisheries area and would not require an aquaculture permit under section 144 of the FM Act.</p>                                                                                                                                                                                                                           | <p>Not required.</p> <p>The project is not located within a fisheries area and would not require an aquaculture permit under section 144 of the FM Act.</p> |
| <i>Coal Mine Subsidence Compensation Act 2017</i> (CMSC Act)        | <p>The object of the CMSC Act is to provide for a fair, efficient, and sustainable compensation framework for dealing with the impacts of coal mine subsidence.</p> <p>In particular, it provides for the provision of compensation for damage caused by subsidence resulting from coal mine operations, and assessment and management of risks associated with subsidence resulting from coal mine operations. Certain development within mine subsidence districts require approval.</p> | <p>Not required. The project is not located within a mine subsidence district, therefore the project does not require approval.</p>                         |
| <i>Mining Act 1992</i>                                              | <p>The Mining Act 1992 facilitates the discovery and development of mineral resources in NSW, having regard to the need to encourage ecologically sustainable development. Mining leases are issued under Part 5 of the Act.</p> <p>The project would not include mining for mineral resources or any activity which would require a lease under the Act.</p>                                                                                                                              | <p>Not required. The project would not include mining for mineral resources or any activity which would require a lease under the Act.</p>                  |
| <i>Petroleum (Onshore) Act 1991</i>                                 | <p>The Petroleum (Onshore) Act 1991 facilitates the discovery and development of petroleum resources in NSW, having regard to the need to encourage ecologically sustainable development.</p> <p>The project would not include any activity which would develop any petroleum resources which would require a production lease.</p>                                                                                                                                                        | <p>Not required. The project would not include any activity which would develop any petroleum resources which would require a production lease.</p>         |
| <i>Protection of the Environment Operations Act 1997</i> (POEO Act) | <p>The objectives of the POEO Act are to protect, restore and enhance the quality of the environment, in recognition of the need to maintain ecologically sustainable development. The POEO Act provides for an integrated system of licensing and contains a core list of activities requiring an Environment Protection Licence (EPL) from the NSW EPA. These activities are called 'scheduled activities' and are listed in Schedule 1 of the POEO Act.</p>                             | <p>The project would not include any scheduled activities listed under Schedule 1 of the POEO Act, therefore no EPL would be required for the project.</p>  |

| Legislation                          | Purpose / description                                                                                                                                                                                                                                                                                                                                                                                                                | Approval required / not required                                                                                                                                                                                                                                                                             |
|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Roads Act 1993</i><br>(Roads Act) | The Roads Act provides for the classification of roads and requirements for carrying out road works within NSW.<br>Section 138 requires consent from TfNSW to be obtained prior to any works which occur on or over a public road.                                                                                                                                                                                                   | The project would require work to be carried out in, on, or over a public road. Consent under section 138 would be required for the project from Berrigan Shire Council (Council). Council has regulatory authority for the Newell Highway and will require concurrence from TfNSW for the proposed upgrade. |
| <i>Pipelines Act 1967</i>            | The Pipelines Act 1967 outlines the licensing application requirements for pipelines in NSW. A licence is required under section 11 to commence, or continue, the construction of a pipeline, alter or reconstruct a pipeline or operate a pipeline.<br>The project would not include pipeline construction, alteration of an existing pipeline or operation of a pipeline. A pipeline licence will not be required for the project. | Not required.                                                                                                                                                                                                                                                                                                |

## C-1-2 Environmental Planning and Assessment Regulation 2021

Part 8 of the EP&A Regulation describes the requirements for an EIS. Section 190 outlines the required form for an EIS, while Section 192 outlines the required content. These requirements and where they are addressed in the EIS are outlined below in Table C.4.

Table C.4 EP&A Regulation checklist

| Requirement                                                                                                                                                                                                                                                                                                                                                                                                                                              | Assessment/ EIS Reference                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| <b>61 Additional matters that consent authority must</b><br>(1) In determining a development application for the demolition of a building, the consent authority must consider the Australian Standard AS 2601—2001: <i>The Demolition of Structures</i> .                                                                                                                                                                                               | The project is capable of complying with this requirement. A condition of consent can be applied in this regard. |
| <b>190 Form of the environmental impact statement</b><br>An environmental impact statement must contain the following information:                                                                                                                                                                                                                                                                                                                       |                                                                                                                  |
| (a) the name, address and professional qualifications of the person by whom the statement is prepared                                                                                                                                                                                                                                                                                                                                                    | Certification.                                                                                                   |
| (b) the name and address of the responsible person                                                                                                                                                                                                                                                                                                                                                                                                       | Certification.                                                                                                   |
| (c) the address of the land:<br>(i) in respect of which the development application is to be made, or<br>(ii) on which the activity or infrastructure to which the statement relates is to be carried out,                                                                                                                                                                                                                                               | Certification.                                                                                                   |
| (d) a description of the development, activity or infrastructure to which the statement relates                                                                                                                                                                                                                                                                                                                                                          | Section 3.                                                                                                       |
| (e) an assessment by the person by whom the statement is prepared of the environmental impact of the development, activity or infrastructure to which the statement relates, dealing with the matters referred to in this Schedule                                                                                                                                                                                                                       | Throughout the EIS.                                                                                              |
| (3) a declaration by the person by whom the statement is prepared to the effect that:<br>(a) the statement has been prepared in accordance with this Schedule, and<br>(b) the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure to which this statement relates, and<br>(c) that the information contained in this statement is neither false nor misleading. | Certification.                                                                                                   |
| <b>192 Content of environment impact statement</b><br>(1) An environmental impact statement must also include each of the following:                                                                                                                                                                                                                                                                                                                     |                                                                                                                  |
| (a) a summary of the environmental impact statement                                                                                                                                                                                                                                                                                                                                                                                                      | Summary.                                                                                                         |
| (b) a statement of the objectives of the development, activity or infrastructure                                                                                                                                                                                                                                                                                                                                                                         | Summary.                                                                                                         |

| Requirement                                                                                                                                                                                                                                                                     | Assessment/ EIS Reference                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| (c) an analysis of any feasible alternatives to the carrying out of the development, activity or infrastructure, having regard to its objectives, including the consequences of not carrying out the development or infrastructure                                              | Section 2.4.                                 |
| (d) an analysis of the development, activity or infrastructure, including:<br>(i) a full description of the development, activity or infrastructure, and                                                                                                                        | Section 3                                    |
| (ii) a general description of the environment likely to be affected by the development, activity or infrastructure, together with a detailed description of those aspects of the environment that are likely to be significantly affected, and                                  | Throughout the EIS, in particular Section 6. |
| (iii) the likely impact on the environment of the development, activity or infrastructure, and                                                                                                                                                                                  | Section 6                                    |
| (iv) a full description of the measures proposed to mitigate any adverse effects of the development, activity or infrastructure may lawfully be carried out,                                                                                                                    | Section 6, and Section 7.2                   |
| (v) a list of the approvals that must be obtained under another Act or law before the development, activity or infrastructure may lawfully be carried out                                                                                                                       | Appendix C                                   |
| (e) a compilation (in a single section of the environmental impact statement) of the measures referred to in item (d) (iv),                                                                                                                                                     | Section 7.2 and Appendix L                   |
| (f) the reasons justifying the carrying out of the development, activity or infrastructure in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development set out in subclause (4). | Section 8                                    |
| (2) This section is subject to the environmental assessment requirements that relate to the environmental impact statement.                                                                                                                                                     | Appendix A                                   |

## C-1-3 Environmental planning instruments

Environmental planning instruments (EPIs) are made under Part 3 of the EP&A Act. The relevant EPIs are discussed in the following sections.

### Berrigan Local Environmental Plan 2013

#### Zoning and Permissibility

The site is zoned RU1 Primary Production. The proposed development is defined as a 'heavy industrial storage establishment', which is defined in the LEP as follows:

***“heavy industrial storage establishment means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and that requires separation from other development because of the nature of the processes involved, or the goods, materials, plant or machinery stored, and includes any of the following—***

- (a) a hazardous storage establishment,*
- (b) a liquid fuel depot,*
- (c) an offensive storage establishment”.*

Heavy industrial storage establishments are permissible with development consent in the RU1 zone.

The objectives of the zone are:

#### ***“Zone RU1 Primary Production***

##### ***1 Objectives of zone***

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- To minimise the fragmentation and alienation of resource lands.*



- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To permit development that enhances the agricultural and horticultural production potential of land in the locality.
- To permit low-key tourist and visitor accommodation that is compatible with the scenic amenity, and promotes the character, of the area.
- To enable function centres to be developed in conjunction with agricultural uses”.

The project aligns with the objectives of the zone for the following reasons:

- The proposal does not further fragment or alienate resource lands, or create further land use conflict within the zone or adjoining land use zones given the land use is existing, and clause 6.11 of the LEP identifies the site as” “Explosive Storage Area Map”.
- The proposal is antipathetic to the remaining objectives.

### Clause 2.7 Demolition

This clause requires that *“the demolition of a building or work may be carried out only with development consent”*. This application seeks consent for the demolition of eight (8) of the existing magazines.

### Clause 5.10 Heritage Conservation

The site does not contain any heritage items and is not located in a Heritage Conservation Area (Refer Section 6.12.1). An Aboriginal Cultural Heritage Stu Assessment Report (ACHAR) undertaken by Ozark (dated October 2023), (Appendix G), which identifies that:

*“No Aboriginal sites were identified and no landforms within the Study Area were assessed as having potential to contain subsurface archaeological deposits. Further, no Aboriginal cultural heritage values have been identified through consultation with the Aboriginal community”.*

On this basis, the proposal is consistent with the objectives of this clause.

### Clause 5.21 Flood Planning

The site is not mapped as flood prone land, however the SEARs requested a detailed Flooding Assessment be undertaken. Section 6.1.3 of this EIS provides an assessment of the project in relation to flooding, and identifies:

*“In accordance with the LEP, this would designate the Flood Planning Level to be 0.5m above the 1% AEP flood level. Following the Berrigan Shire DCP, for commercial and industrial development, the magazine floor levels would need to be at least the height of the Flood Planning Level”.*

Subject to compliance with the floor levels, the consent authority can be satisfied that the project is capable of compliance with the matters in clause 5.21 (2).

### Clause 6.1 Earthworks

The project requires ancillary earthworks to construct the magazines and the earthen mounds. An assessment against clause 6.1(3) is provided in Table C.4 below.

Table C.4 Clause 6.1 Earthworks

| Clause                                                                                                                               | Assessment                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, | Refer to assessment at Section 6.1.                                               |
| (b) the effect of the development on the likely future use or redevelopment of the land,                                             | Refer to assessment at Section 8.                                                 |
| (c) the quality of the fill or the soil to be excavated, or both,                                                                    | The Consent Authority is invited to impose conditions in relation to this matter. |



| Clause                                                                                                                                | Assessment                                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (d) the effect of the development on the existing and likely amenity of adjoining properties,                                         | Given the size of the site, and the location of the proposed earthworks in relation to surrounding development, the project is unlikely to have any impacts on the amenity of adjoining properties. |
| (e) the source of any fill material and the destination of any excavated material,                                                    | The Consent Authority is invited to impose conditions in relation to this matter.                                                                                                                   |
| (f) the likelihood of disturbing relics,                                                                                              | Refer to assessment at Section 6.1.                                                                                                                                                                 |
| (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, | The Consent Authority is invited to impose conditions in relation to this matter.                                                                                                                   |
| (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.                                  | The Consent Authority is invited to impose conditions in relation to this matter.                                                                                                                   |

In summary the proposed ancillary earthworks are unlikely to have a significant impact on the matters for consideration in this clause.

### Clause 6.3 Terrestrial biodiversity

A BDAR was undertaken by Ozark (dated May 2024), which identifies that:

*“The significance of the proposed impact to EPBC Act-listed threatened, migratory, wetland and marine species, populations and communities predicted to occur within a 10 km search area was assessed. No significant impact to any threatened entity likely to result in the extinction of a local population was identified. The residual ecological impacts of the proposal would be adequately mitigated and offset using the management actions recommended and the offset requirements detailed within this BDAR. Therefore, a referral of the proposal to the Federal Department of Climate Change, Energy, the Environment and Water (DCCEEW) for these matters is not required”.*

Further discussion is provided in Section 6.11.

### Clause 6.11 Development near explosive storage area

The objectives of this clauses are reproduced below:

- “(a) to ensure that the explosive storage area near Tocumwal is preserved and protected from the impacts of development,*
- (b) to allow development within a buffer area to the explosive storage area that is compatible with the potential hazard.*

As the site is identified on the “Explosive Storage Area Map” as “Explosive storage area”, this clause applies.

Development consent must not be granted unless the consent authority has considered the following:

- “(a) any likely adverse impacts on the proposed development from the explosive storage area,*
- (b) any likely adverse impacts on the explosive storage area from the proposed development”.*

Given the proposal relates to building four new 250 t HE magazines and a new detonator magazine in new locations on the existing Orica site, compliant with the construction requirements for Fixed or Permanent Magazines – Above Ground as defined in AS 2187.1 – 1998, it is unlikely that the proposal would have any adverse impacts on the existing explosive storage area, or that the existing explosive storage area would have any adverse impacts on the proposed development.

## NSW Legislation

Environmental planning instruments and legislation applicable to the project are summarised in Table C.5.

Table C.5 NSW Legislation

| Environmental Planning Instruments                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SEPP                                                                                                                   | Relevance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| The Planning Systems SEPP                                                                                              | <p>The Planning Systems SEPP replaced <i>State Environmental Planning Policy (State and Regional Development) 2011</i> (SRD SEPP) on 1 March 2021. The transfer of provisions is in Chapter 2 of the Planning Systems SEPP.</p> <p>Section 4.36(2) of the EP&amp;A Act provides that a State Environmental Planning Policy (SEPP) may declare any development, or any class or description of development, to be SSD.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>The project is deemed SSD in accordance with Schedule 1, Clause 10(3) of the Planning Systems SEPP.</p> <p>The project would be development for the purpose of the manufacture, storage or use of dangerous goods in such quantities that constitute the development as a major hazard facility within the meaning of Chapter 6B of the Occupational Health and Safety Regulation 2001. The Minister for Planning or the Independent Planning Commission would be the consent authority.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (the Transport and Infrastructure SEPP) | <p>The Transport and Infrastructure SEPP replaced <i>State Environmental Planning Policy (Infrastructure) 2007</i> on 1 March 2021. The provisions were adopted into Chapter 2 of the Transport and Infrastructure SEPP.</p> <p>The Transport and Infrastructure SEPP aims to facilitate effective delivery of infrastructure across NSW.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>There is no power infrastructure located proximate to the project.</p> <p>Based on the TIA, the project does not require referral to TfNSW as it will not generate more than 50 or more motor vehicles per hour (any other purpose Column 3 to Schedule, 1 of this SEPP).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> (Resilience and Hazards SEPP)                 | <p><b>Hazardous and offensive development</b></p> <p>The Resilience and Hazards SEPP replaced the State Environmental Planning Policy (Hazardous and Offensive Development) (SEPP 33) on 1 March 2022. The Provisions of SEPP 33 are carried over to Chapter 3 of the Resilience and Hazards SEPP.</p> <p>The Resilience and Hazards SEPP presents a systematic approach to planning and assessing projects for potentially hazardous and offensive development or industry. The Resilience and Hazards SEPP applies to any project which falls under the policy's definition of 'potentially hazardous industry' or 'potentially offensive industry'. If not controlled appropriately some activities within these industries may create an offsite risk or offence to people, property or the environment, thereby making them potentially hazardous or potentially offensive.</p> <p>Clause 3.2 of the Resilience and Hazards SEPP defines a 'potentially hazardous industry' as:</p> <p><i>'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</i></p> | <p>A Preliminary Hazard Analysis (PHA) was prepared by GHD dated 15 May 2024 (Refer Appendix J). The PHA concluded as follows:</p> <p><i>"This report includes a risk screening of the proposal in accordance with the requirements of the SEPP (Resilience and Hazards). The results indicate that the screening thresholds for DG storage and transportation during construction and operation are not exceeded by any of the DGs proposed to be stored.</i></p> <p><i>Although none of the thresholds are exceeded a hazard identification process was completed to identify hazards with potential for off-site impacts. The process identified six hazards with the potential for off-site impact.</i></p> <p><i>A consequence analysis was completed to confirm any off-site impacts. The consequence results validated that there is suitable separation of the magazine and diesel storages from, each other and the site boundary. The site upgrades, specifically the relocation of the magazines further from the site boundary, are an improvement from the previous storage arrangement. Furthermore, the new placement of the diesel tank ensures a safer distance between the diesel which is a possible ignition source and the magazines. The consequence analysis found that the hazards with potential off-site impact can be suitably controlled using the safeguards defined in Table 7.</i></p> |

| Environmental Planning Instruments |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| SEPP                               | Relevance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                    | <p><i>a significant risk in relation to the locality:</i></p> <p><i>(a) to human health, life or property, or</i></p> <p><i>(b) to the biophysical environment and includes a hazardous industry and a hazardous storage establishment.'</i></p> <p>Clause 2 of the Resilience and Hazards SEPP defines a 'potentially offensive industry' as:</p> <p><i>'development for the purposes of an 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 emit a polluting discharge (including for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land, and includes an offensive industry and an offensive storage establishment'.</i></p> <p><b>Remediation of land</b></p> <p>The Resilience and Hazards SEPP also replaced the State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) on 1 March 2022. The provisions of SEPP 55 are carried over to Chapter 4 of the Resilience and Hazards SEPP.</p> <p>Chapter 4 of the Resilience and Hazards SEPP provides a state-wide planning approach to the remediation of contaminated land and states that all remediation work must be carried out in accordance with:</p> <ul style="list-style-type: none"> <li>– The contaminated land planning guidelines.</li> <li>– Any guidelines in force under the Contaminated Land Management Act 1997.</li> <li>– In the case of remediation work defined as category 1 remediation work under the Resilience and Hazards SEPP, a plan of remediation approved by the consent authority and prepared in accordance with the contaminated land planning guidelines.</li> </ul> <p>Chapter 4 Clause 4.6 of the Resilience and Hazards SEPP states that "a consent authority must not consent to the carrying out of any development on land unless:</p> <p>a. It has considered whether the land is contaminated.</p> | <p><i>The hazard identification and analysis demonstrate that the proposal can be designed, constructed, and operated in a manner that will minimise hazardous impact to the public".</i></p> <p>A Preliminary Site investigation (PSI) was prepared by GHD (14 June 2023). The PSI stated as follows:</p> <p><i>"The assessment identified that there is a low potential for contamination to be present within the project area.</i></p> <ul style="list-style-type: none"> <li>– <i>The potential impacts of contamination to human health and the environment during construction and future operation of the project is considered to be low with the only potentially complete source-pathway-receptor linkages during construction of the project relate to soil potentially impacted from spills from storage, spillage or leakage of fuels / oils in the vicinity of the diesel AST.</i></li> <li>– <i>During operation of the proposal, it is understood that all fuels and explosive materials will be stored undercover in buildings to prevent any unintended runoff of hazardous materials occurring. Given that this will occur under the implementation of Construction Environmental Management Plans (CEMPs) and Soil and Water Management Plans (SWMPs), the operation of the project is not anticipated to result in soil or groundwater contamination.</i></li> </ul> <p><i>To mitigate potential exposure to soil or groundwater contamination it is recommended that:</i></p> <ul style="list-style-type: none"> <li>– <i>The soil in the vicinity of the diesel AST be further assessed if it is to be disturbed.</i></li> </ul> |

| Environmental Planning Instruments                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SEPP                                                                            | Relevance                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                                                 | <p>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.</p> <p>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> | <p>– <i>The CEMP for the project includes an ‘unexpected finds protocol’, to manage any potential impacts associated with the disturbance of potentially contaminated soils (if encountered) during works of the project. The CEMP is to include actions to cease work on discovery, test suspected contaminated material, and safely store, treat, and dispose of the material as relevant”.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> | Chapter 3 of the Biodiversity and Conservation SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline. The Biodiversity and Conservation SEPP applies to development assessed under Part 4 of the EP&A Act.                                                | <p>The BDAR (Appendix K) identified the following:</p> <p><i>“Chapter 3 of the SEPPBC 2021 applies to the subject land as the Berrigan LGA is listed in Schedule 2 of the SEPPBC 2021 and the land is zoned RU1.</i></p> <p><i>Assessment of the subject land according to the provisions of Chapter 3 of the SEPPBC 2021 determined that areas of PCT 9 (0.5 ha) within the site (see Section 4.2) constitute potential koala habitat for the Koala as a feed tree listed under Schedule 1 of the SEPP, River Red Gum (Eucalyptus camaldulensis), is the sole canopy tree in these areas. The site does not constitute core koala habitat, however, as there are no historical records of a resident population within the site and targeted surveys conducted as part of the present assessment did not identify any evidence of ongoing or recent occupancy. No further consideration is required for this area”.</i></p> |
| Other Relevant NSW Legislation                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <i>BC Act</i>                                                                   | The purpose of the BC Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future. The BC Act lists threatened species, populations and ecological communities as well as critical habitat and key threatening processes that must be considered when assessing the effects of an activity. Refer to Section 19.2 which discusses the project in relation to this Act.              | An application to carry out SSD is required to be accompanied by a BDAR under Section 7.9 of the BC Act. A BDAR has been prepared as part of this EIS. Biodiversity factors are discussed in further detail in Section 6.11 and Appendix K.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

| Environmental Planning Instruments     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| SEPP                                   | Relevance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| NPW Act                                | The purpose of the NPW Act is to provide for the protection of Aboriginal objects and Aboriginal places. Section 86 of the NPW Act states it is an offence to harm or desecrate an object the person knows is an Aboriginal object. Section 87 of the NPW Act provides a series of defences against the offences listed in Section 86 which includes if the harm was authorised by and conducted in accordance with the requirements of an Aboriginal Heritage Impact Permit (AHIP) under Section 90 of the NPW Act.                     | Despite the requirements of the NPW Act, an AHIP is not required for SSD projects under Section 4.41 of the EP&A Act, however an appropriate level of assessment of potential impact to Aboriginal objects is required. An ACHAR has been prepared for the project. The ACHAR found that the project is unlikely to impact on any Aboriginal objects. Aboriginal heritage factors are discussed further in Section 6.10 and Appendix G. |
| Heritage Act                           | The purpose of the Heritage Act is to protect heritage items within NSW. Heritage places and items of particular importance are listed on the State Heritage Register. An application for approval under Section 59, Part 4 of the Heritage Act is required for any direct impacts on an item on the register. An application for a permit from the NSW Heritage Council under Section 139 of the Heritage Act is required to be made prior to disturbance or excavation likely to discover, expose, move, damage or destroy a relic.    | The project is not expected to impact upon any identified heritage item or relic, and therefore would not require approval under the Heritage Act. Heritage factors are discussed further in Section 6.12.1.                                                                                                                                                                                                                            |
| Roads Act 1993 (Roads Act)             | The purpose of the Roads Act is to make provisions for roads in NSW. Under Section 138 of the Roads Act a person must not impact on, or carry out work on or over, a public road other than with the consent of the appropriate road's authority.                                                                                                                                                                                                                                                                                        | The project would carry out work on or over, a public road for the upgraded access to the Newell Highway. An approval under Section 138 of the Roads Act is required. Traffic and transport factors are discussed further in Section 6.6 and Appendix E.                                                                                                                                                                                |
| CLM Act                                | The purpose of the CLM Act outlines the circumstances under which notification to the NSW Environment Protection Authority (EPA) is required in relation to the contamination of land. Under Clause 60 of the CLM Act, the owner of land that has been contaminated must notify the EPA in writing that the land has been contaminated.                                                                                                                                                                                                  | The site is not a registered contaminated site on the NSW EPAs contaminated sites register and is deemed suitable for the proposed land use. Contamination factors are discussed further in Section 6.2 and Appendix I                                                                                                                                                                                                                  |
| Biosecurity Act 2015 (Biosecurity Act) | The purpose of the Biosecurity Act is to provide the statutory framework to protect the NSW economy, environment, and community from the negative impact of pests, diseases, and weeds. In NSW, all plants are regulated through a general biosecurity duty to prevent, eliminate, or minimise any biosecurity risk they may pose. Any person who deals with any plant, who knows (or ought to know) of any biosecurity risk, has a duty to ensure the risk is prevented, eliminated, or minimised, so far as is reasonably practicable. | Any biosecurity matters encountered during the project would need to be managed in accordance with the Biosecurity Act. Biodiversity factors are discussed in further detail in Section 6.11.                                                                                                                                                                                                                                           |



| Environmental Planning Instruments |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                 |
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| SEPP                               | Relevance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Comment                                                                                                                                                                                                                                         |
| WM Act                             | The WM Act main objective is to manage NSW water in a sustainable and integrated manner that will benefit today's generations without compromising future generations' ability to meet their needs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | The project does/ does not involve any activities that require a water use approval under section 89, a water management work approval under section 90 or an activity approval (other than an aquifer interference approval) under section 91. |
| RF Act                             | <p>The objects of the RF Act are as follows:</p> <p><i>"The objects of this Act are to provide—</i></p> <p><i>(a) for the prevention, mitigation and suppression of bush and other fires in local government areas (or parts of areas) and other parts of the State constituted as rural fire districts, and</i></p> <p><i>(b) for the co-ordination of bush fire fighting and bush fire prevention throughout the State, and</i></p> <p><i>(c) for the protection of persons from injury or death, and property from damage, arising from fires, and</i></p> <p><i>(c1) for the protection of infrastructure and environmental, economic, cultural, agricultural and community assets from damage arising from fires, and</i></p> <p><i>(d) for the protection of the environment by requiring certain activities referred to in paragraphs (a)–(c1) to be carried out having regard to the principles of ecologically sustainable development described in section 6 (2) of the Protection of the Environment Administration Act 1991".</i></p> | The Bushfire Assessment prepared by GHD (Appendix F) identifies that the project can provide bushfire protection measures meeting the objectives of Planning for Bush Fire Protection 2019 (NSW RFS, 2019).                                     |

## C-1-4 Commonwealth legislation

### Environment Protection and Biodiversity Conservation Act 1999

The EPBC Act is administered by the Department of Climate Change, Energy, the Environment and Water (DCCEEW) and provides a legal framework to protect and manage nationally important flora, fauna, ecological communities and heritage places defined as 'matters of national environmental significance' (MNES). An action that 'has, will have or is likely to have a significant impact on a matter of National Environmental Significance' may not be undertaken without prior approval from the Commonwealth Minister for the Environment, under Part 9 of the EPBC Act. Approval under the EPBC Act is also required where actions are proposed on, or will affect, Commonwealth land and its environment.

The BDAR concludes *"that no MNES will be significantly impacted by the proposal"*.

### Native Title Act 1993

The objectives of the *Native Title Act 1993* (Native Title Act) are to:

- Recognise native title rights and set down basic principles in relation to native title in Australia.
- Provide for the validation of past acts and intermediate period acts, which may be invalid because of the existence of native title.

- Provide for a future regime in which native title rights are protected and conditions imposed on acts affecting native title land and waters.
- Provide a process by which native title rights can be established and compensation determined, and by which determinations can be made as to whether future grants can be made or acts done over native title land and waters.
- Provide for a range of other matters, including the establishment of a National Aboriginal and Torres Strait Islander Land Fund.

Under the Native Title Act, the valid grant of a freehold estate on or before 23 December 1996 is known as a 'previous exclusive possession act'. This means that native title has been extinguished over the area and native title claimants cannot include this land in their applications.

The project is located on freehold land owned by Orica and therefore native title does not exist within the project area. The project is located on freehold land owned by Orica and therefore native title does not exist within the project area.

### **Protection of the Environment Operations Act 1997**

The POEO Act is administered by the EPA, which is an independent statutory authority and the primary environmental regulator for NSW. The objectives of the POEO Act are to protect, restore and enhance the quality of the environment. Some of the mechanisms that can be applied under the POEO Act to achieve these objectives include programs to reduce pollution at the source and monitoring and reporting on environmental quality. The POEO Act regulates and requires licensing for environmental protection, including in some cases for waste generation and disposal and for water, air, land, and noise pollution.

The project would not include any scheduled activities listed under Schedule 1 of the POEO Act, therefore no EPL would be required for the project.



## C-2 Local Requirements

### C-2-1 Berrigan Development Control Plan 2014

The Berrigan Development Control Plan 2014 (the 'DCP') contains detailed guidelines and planning controls applying to all development within the LGA. Below provides an assessment of the project against relevant provisions of DCP 2022.

Table C.6 DCP 2022

| Section of DCP                         | Controls                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Assessment                                                                                                                                                                                                                                                                                          |
|----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CHAPTER 3<br>INDUSTRIAL<br>DEVELOPMENT | <b>3.1 Appearance</b><br><b>General</b> <ul style="list-style-type: none"> <li>Buildings are to have their main building facade and entries addressing the primary street frontage.</li> <li>High quality materials and finishes should be used for building exteriors as well as any fences.</li> <li>Office components shall be located at the street frontage of the structure to enable the placement of windows and doors to 'break up' the façade.</li> <li>Industrial developments which are not located in industrial zones must be compatible with and minimize impacts on adjoining land uses Industrial developments which are not located in industrial zones must be compatible with and minimize impacts on adjoining land uses.</li> </ul>                                                                                                                                                                                          | <p>No new buildings are proposed.</p> <p>The site is located in the RU1 zone and is related to an existing development. The proposed location of the project, and distance to proximate development is sufficient to minimise impacts on adjoining land uses.</p>                                   |
|                                        | <b>3.2 Landscaping</b><br>All industrial sites are to be landscaped. <ul style="list-style-type: none"> <li>Landscaping areas are to be identified on development application plans submitted to Council with a comprehensive landscape plan required to show all areas of vegetation, pathways and vehicles access areas.</li> <li>A range of plant species of various heights are to be used in the landscaping to create interest, improve visual amenity and help screen storage and car parking areas.</li> <li>Landscaping areas are to be protected from vehicle movement areas to prevent the damage to these vegetated areas.</li> <li>Landscaping must be designed to ensure low maintenance.</li> <li>Existing mature trees should be incorporated in the development where possible.</li> <li>Where ever possible native plant species are to be utilised in landscaping with preference given to drought tolerant species.</li> </ul> | <p>The site is located in the RU1 zone and is related to an existing development. The proposed location of the project, and distance to proximate development is sufficient to minimise visual impacts on adjoining land uses.</p> <p>Accordingly, further landscaping is not deemed necessary.</p> |
|                                        | <b>3.3 Building Setbacks</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Not applicable. No new buildings are proposed.                                                                                                                                                                                                                                                      |
|                                        | <b>3.4 Parking Access</b><br><b>General</b><br>Parking is to be provided on-site at the following minimum rates: <ul style="list-style-type: none"> <li>Industry component: 1 space per 100 m<sup>2</sup> of gross floor area or part thereof.</li> <li>Warehouse/storage component: 1 space per 100 m<sup>2</sup> of gross floor area or part thereof.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>The site has sufficient area for the provision of car parking spaces in accordance with the DCP. No new car parking spaces will be generated. Refer to the TIA (Appendix E).</p>                                                                                                                 |

| Section of DCP | Controls                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Assessment                                                                                                                                                                   |
|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                | <ul style="list-style-type: none"> <li>Office/showroom components: 1 space per 50 m2 of gross floor area or part thereof.</li> <li>Disabled: Minimum of 1 space in accordance with the Building Code of Australia.</li> <li>The total minimum number of parking spaces to be provided on-site is the sum of the components.</li> <li>Council may consider a reduction in these controls if it can be demonstrated the proposed use of the premises does not warrant such provision. However, applicants must demonstrate there is sufficient room on the site to provide parking in accordance with the controls should the use of the premises change.</li> <li>Council may require on-site parking at a rate in excess of the above if the proposed use of the premises warrants such an outcome.</li> <li>Parking spaces must be physically separated from access ways, loading and unloading areas, and manoeuvring areas.</li> <li>All parking areas are to be constructed so as to allow for the catchment and disposal of stormwater to a point of discharge agreed to by Council.</li> <li>All parking, loading or unloading of vehicles is to be carried out on the development site.</li> <li>All vehicles (including trucks) must be capable of entering and exiting the site in a forward direction.</li> <li>Developments must be designed with sufficient turning areas for the vehicles expected to require access to the site. If the development is likely to be accessed by larger vehicles, the appropriate access and manoeuvring areas are to be shown on plans provided with the development application.</li> <li>It is expected that major expansion of existing developments and new developments will provide the required parking spaces. Should this not be the case, Council may require a financial contribution towards the provision of parking within the town area. To calculate these payments, refer to Council's s.94 Contributions Plan in force at the time</li> </ul> |                                                                                                                                                                              |
|                | <b>3.5 Outdoor Areas</b> <ul style="list-style-type: none"> <li>Outdoor storage and work areas are to be substantially screened from public roads and adjoining lots by landscaping, fencing, etc.</li> <li>Outdoor storage and work areas must be suitably surfaced to prevent dust rising from vehicle movements or wind, should this be a potential impact dust suppression measures are to be employed.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Not applicable. No new outdoor areas proposed.                                                                                                                               |
|                | <b>3.6 Amenity</b><br><b>General</b> <ul style="list-style-type: none"> <li>All development is required to comply with the requirements of the Protection of the Environment Operations Act 1997 (as amended) and its Regulation.</li> <li>Applications for potentially hazardous or offensive development are to submit information demonstrating compliance with SEPP 33- Hazardous and Offensive Development.</li> <li>Outdoor areas must be treated and maintained to minimize the impacts of dust.</li> <li>All stormwater is to be appropriately managed.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>Not applicable.</p> <p>Refer to assessment at Section 6.7.</p> <p>Not applicable.</p> <p>Refer to Section 6.1.</p> <p>The project relates to an existing development.</p> |

| Section of DCP         | Controls                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Assessment                                                                                                            |
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|                        | <ul style="list-style-type: none"> <li>– A trade waste agreement is to be entered into with Council for disposal of liquid waste to Councils sewerage system for certain activities.</li> <li>– Land uses or development considered by Council to potentially have a detrimental impact on adjoining properties through noise or air emissions (e.g. dust or odour) are to provide information in respect to the likely impacts and proposed mitigation measures of these impacts.</li> <li>– Land uses or development considered by Council to potentially have a detrimental impact on existing or future residential areas through noise or air emissions (e.g. dust or odour) will be discouraged without the submission of a relevant Impact Statement by the applicant demonstrating otherwise. Compliance with the Impact Statements will then become a condition of consent.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Not applicable. The site is located in a rural zone.                                                                  |
| 11 FLOOD PRONE LAND    | <p>The objectives of this chapter are to:</p> <ol style="list-style-type: none"> <li>Provide detailed controls and criteria for the assessment of development applications on land effected by flooding in Berrigan Shire.</li> <li>Consolidate existing flood planning principles and policies from relevant government agencies into a coherent framework for application at the development control level by Berrigan Shire Council.</li> <li>Reduce the impact of flooding and flood liability on individual property owners and occupiers.</li> <li>Reduce private and public losses resulting from flooding.</li> <li>Restrict the intensification of development below the Flood Planning Level (FPL).</li> <li>Limit development below the FPL to those activities and works considered to have an essential relationship with the river and its floodplain.</li> <li>Provide specific measures for the control of caravan parks and associated development types within flood affected areas.</li> <li>Provide for the consideration of the cumulative effects of any development on flood affected land, which in or of itself may be considered to be insignificant.</li> <li>Provide for and protect the natural passage, storage and quality of flood waters.</li> <li>Recognise and help sustain the natural ecosystems of floodplains and riparian zones.</li> </ol> | Refer to Section 6.1.                                                                                                 |
| 12 NOTIFICATION POLICY |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | It is anticipated that the Consent Authority will notify the project in accordance with the Legislative requirements. |

## C-2-2 Developer contributions

The Minister for Planning and Public Spaces has the discretion to impose a condition of approval requiring payment of a development contribution after considering the provisions of any applicable development contributions plan. Council has confirmed that there is no nexus for the imposition of Developer contributions for the project.

## **C-3      Summary of statutory position**

The following approvals must be obtained before the project may commence:

- Development consent granted pursuant to Division 4.3 the EP&A Act.
- A Section 138 application under the Roads Act.