

# APPENDIX Q

## COMMONWEALTH LEGISLATION

### Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) is the key Federal legislation that addresses environmental impact through seeking to protect matters of national environmental significance. Matters of national environmental significance include:

- World heritage properties;
- National heritage places;
- Wetlands of international importance;
- Commonwealth-listed threatened species and ecological communities;
- Commonwealth-listed migratory species;
- Commonwealth marine areas;
- The Great Barrier Reef Marine Park;
- Nuclear actions; and
- Other matters, including: the environment, where the action will be undertaken on Commonwealth land or will significantly affect Commonwealth land significant impact on the environment, where the Commonwealth is proposing to take the action.

Under the EPBC Act, referral to the Commonwealth Minister for the Environment is required for proposed 'actions' (including projects, developments and activities), which have the potential to have a significant impact on a matter of national environmental significance.

The proposed development of OWE would not impact upon:

- World heritage properties;
- National heritage places;
- Wetlands of international importance;
- Commonwealth-listed migratory species;
- Commonwealth marine areas;
- The Great Barrier Reef Marine Park;
- Nuclear actions; or
- The other matters identified under the EPBC Act.

The proposal would require the removal of some vegetation on the site which has previously been identified as containing Cumberland Plain Woodland. Cumberland Plain Woodland in the Sydney Basin Bioregion is listed under the EPBC Act as a 'critically endangered ecological community' and is therefore a matter protected by the EPBC Act.

Pursuant to the provisions of the EPBC Act, consideration of whether the proposed development could have a 'significant' impact upon Cumberland Plain Woodland is required to determine whether a referral

is required to the Minister for Environment. A referral allows the Minister for Environment to determine whether the proposed action is a 'controlled action' and requires further assessment prior to approval.

A referral under the EPBC Act has been prepared and submitted concurrently with the SSDA for the OWE.

<b>Legislation</b>	<b>Relevant Requirements</b>	<b>Application to OWE SSDA</b>
NSW Environmental Planning and Assessment Act 1979	<ul style="list-style-type: none"> <li>• The EP&amp;A Act establishes the framework for the assessment and approval of development and activities in NSW. The Act also facilitates the making of State Environmental Planning Policies, Local Environmental Plans and Development Control Plans which guide the way in which development should occur in different places across the State.</li> <li>• The Act establishes three kinds of development:</li> <li>• Development which can be undertaken without consent</li> <li>• Development which requires consent</li> <li>• Development which is prohibited.</li> <li>• Division 2A of the Act sets out provisions for staged development applications and Division 4.1 establishes the requirements for State significant development.</li> </ul>	<ul style="list-style-type: none"> <li>• The proposed development meets the threshold for State Significant Development which requires an application to be made to the Minister for Planning, accompanied by an EIS.</li> <li>• The proposed development would be implemented in stages therefore the SSDA submitted will also be a staged development application.</li> <li>• A staged development application sets out the concept proposals for the development of a site for which detailed proposals for separate parts of the site are to be the subject of subsequent development applications.</li> </ul>
NSW Threatened Species Conservation Act 1995 (TSC Act)	<ul style="list-style-type: none"> <li>• The TSC Act aims to protect threatened flora and fauna and their habitats. Section 94 of the TSC Act requires assessment of impact on threatened species, populations and communities in relation to any development proposal.</li> </ul>	<ul style="list-style-type: none"> <li>• Assessment of threatened species in accordance with the TSC Act has been undertaken and is documented in Section 6 and Appendix X and X of the EIS.</li> </ul>
NSW Native Vegetation Act 1997 (NV Act)	<ul style="list-style-type: none"> <li>• The NV Act applies to State protected land and native vegetation that is identified by the Minister for Planning.</li> </ul>	<ul style="list-style-type: none"> <li>• Pursuant to section 89J of the EP&amp;A Act, SSD is exempt from the need for an authorisation under section 12 of the Native</li> </ul>

Legislation	Relevant Requirements	Application to OWE SSDA
		Vegetation Act 2003 to clear native vegetation.
NSW National Parks and Wildlife Act 1974 (NPW Act)	<ul style="list-style-type: none"> <li>The NPW Act aims to prevent the unnecessary or unwarranted destruction of relics and the active protection and conservation of relics of high cultural significance. The provisions of the Act apply to both indigenous and non-indigenous relics.</li> </ul>	<ul style="list-style-type: none"> <li>Pursuant to Section 89J of the EP&amp;A Act, SSD is exempt from the need for a section 90 permit the removal of items of Aboriginal heritage.</li> <li>An archaeological assessment has been undertaken as part of the EIS and recommendations have been made to minimise potential heritage impacts in relation to the proposed development.</li> </ul>
NSW Heritage Act 1977 (Heritage Act)	<ul style="list-style-type: none"> <li>The Heritage Act protects heritage items, sites and relics in NSW older than 50 years regardless of cultural heritage significance.</li> </ul>	<ul style="list-style-type: none"> <li>Pursuant to section 89J of the EP&amp;A Act, SSD is exempt from the application of Division 8 of Part 6 of the Heritage Act.</li> </ul>
NSW Roads Act 1973 (Roads Act)	<ul style="list-style-type: none"> <li>Section 138 of the Roads Act requires the consent of NSW Roads and Maritime Services (RMS) for work in, on, under or over a public road.</li> </ul>	<ul style="list-style-type: none"> <li>Any works proposed to a public road as part of the proposed development would require the consent of the RMS. Consultation has been undertaken with the RMS during the preparation of the EIS to ensure adequate consideration of potential issues affecting public roads within or surrounding the site.</li> </ul>
NSW Water Management Act 2000	<ul style="list-style-type: none"> <li>Under the Act, a licence would be required if water was to be extracted from a creek or if any waterways were to be realigned during construction.</li> </ul>	<ul style="list-style-type: none"> <li>Under s89J of the EP&amp;A Act approvals under s89, 90 or 91 of the Water Management Act 2000 are not required.</li> </ul>
NSW Rural Fires Act 1997 (Rural Fires Act)	<ul style="list-style-type: none"> <li>The Rural Fires Act requires consideration of potential bush fire impacts on development at the planning assessment stage in order to protect people and</li> </ul>	<ul style="list-style-type: none"> <li>Pursuant to section 89J of the EP&amp;A Act, SSD is exempt from the need for a bushfire safety authority under Section 100B of the Rural Fires Act.</li> </ul>

Legislation	Relevant Requirements	Application to OWE SSDA
NSW Protection of the Environment Operations Act 1997 (POEO Act)	<p>property from the effects of bush fire.</p> <ul style="list-style-type: none"> <li>Section 100B requires a bush fire authority to be issued prior to undertaking certain types of development on bushfire prone land.</li> <li>The POEO Act enforces licences and approvals formerly required under separate Acts relating to air, water and noise pollution, and waste management with a single integrated licence.</li> <li>Under Section 48 of the POEO Act, premise-based scheduled activities (as defined in Schedule 1 of the Act) require an Environment Protection Licence (EPL).</li> </ul>	<ul style="list-style-type: none"> <li>The proposed development would not require an EPL under the POEO Act.</li> <li>The general provisions of the POEO Act in relation to the control of pollution of the environment will apply throughout the development.</li> </ul>

### State Environmental Planning Policies

State Environmental Planning Policies (SEPPs) are environmental planning instruments established under the EP&A Act and administered by the Minister for Planning. These instruments generally relate to issues or places of significance to the State and can include high level strategic guidance as well as controls to regulate land use planning and development. A review of SEPPs of relevance to the proposed Oakdale South development is provided in Table B2.

Legislation	Relevant Requirements	Application to Oakdale West
State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)	<ul style="list-style-type: none"> <li>The SRD SEPP identifies and establishes assessment frameworks for SSD and State Significant Infrastructure (SSI). Projects that fall within these categories are subject to an alternative assessment and approval process with the Minister for Planning being the consent authority.</li> <li>Schedule 1 of the SEPP identifies the general classes</li> </ul>	<ul style="list-style-type: none"> <li>Schedule 1 of the SRD SEPP identifies development for the purposes of 'warehouses and distribution centres' with a capital investment value (CIV) of more than \$50 million at one location and related to the same operation as SSD.</li> <li>The proposal involves the planning and development for a warehousing and distribution centre with a CIV of over \$50 million. The proposal</li> </ul>

Legislation	Relevant Requirements	Application to Oakdale West
	of SSD including relevant thresholds.	<p>therefore meets the criteria for consideration as SSD.</p> <ul style="list-style-type: none"> <li>• Other notable provisions of the SRD SEPP including:</li> <li>• Clause 11 which states that Development Control Plans do not apply to SSD.</li> <li>• Clause 12 which confirms that staged development applications may still be considered as SSD despite even if individual stages of the development do not meet the minimum threshold.</li> <li>• These provisions are discussed in Section 5 of the EIS.</li> </ul>
State Environmental Planning Policy (Western Sydney Employment Area) 2009 (WSEA SEPP)	<ul style="list-style-type: none"> <li>• The WSEA SEPP applies to lands within the Western Sydney Employment Area and provides planning and development controls to guide the efficient release and development of land within eight key precincts.</li> <li>• The SEPP zones the land and establishes key development controls and design principles as well as setting the framework for regional infrastructure contributions.</li> <li>• Part 4 of the SEPP requires the preparation of a development control plan for any land within the WSEA prior to development consent being granted.</li> </ul>	The development controls and principles contained in the WSEA SEPP are discussed in relation to the proposal in Section 5 of the EIS.
State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)	<ul style="list-style-type: none"> <li>• The Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across the State by providing</li> </ul>	<ul style="list-style-type: none"> <li>• Schedule 3 of the Infrastructure SEPP identifies 'traffic generating development' which must be referred to the RMS for</li> </ul>

Legislation	Relevant Requirements	Application to Oakdale West
	<p>a consistent planning regime for infrastructure and the provision of services.</p> <ul style="list-style-type: none"> <li>• The SEPP provides an alternative approvals pathway for major infrastructure development such as educational establishments, air transport facilities, road infrastructure, telecommunications and water supply infrastructure. The SEPP also seeks to protect key infrastructure from the potential effects of new development by controlling sensitive development within or adjacent to road and rail corridors.</li> <li>• The SEPP also deals with traffic generating development and requires referral and concurrence of the NSW RMS for certain development which is expected to generated significant traffic.</li> </ul>	<p>concurrence. The schedule includes development for the purposes of industry incorporating 20,000m<sup>2</sup> or more of gross floor area (GFA).</p> <ul style="list-style-type: none"> <li>• The proposed development would create some 453,369m<sup>2</sup> of warehousing GFA. The project would be referred to the RMS as part of the SSDA process.</li> </ul>
State Environmental Planning Policy 55 (Remediation of Land) (SEPP 55)	<ul style="list-style-type: none"> <li>• SEPP 55 seeks to provide a State-wide planning approach to the remediation of contaminated land.</li> <li>• Clause 7(1)(a) of the SEPP requires that the consent authority, when assessing a development application, consider whether the land is contaminated and whether it</li> </ul>	<ul style="list-style-type: none"> <li>• The potential contamination of land is a key consideration in any rezoning proposal pursuant to the requirements of SEPP 55. As such, a preliminary investigation of contamination on the site would have been carried out and reviewed as part of the rezoning of the land to IN1.</li> <li>• The proposed development would result in a change of use of the land and would introduce new</li> </ul>

Legislation	Relevant Requirements	Application to Oakdale West
State Environmental Planning Policy 33 – Hazardous and Offensive Development (SEPP 33)	<p>is suitable for the proposed use.</p> <ul style="list-style-type: none"> <li>It also requires that the consent authority review a report specifying the findings of a preliminary contamination investigation of the land concerned when considering an application which involves a change of use of the land.</li> <li>SEPP 55 also establishes a framework to ensure that the remediation of land complies with specified standards, and that local councils are notified prior to remediation work being carried out and once they are finished.</li> </ul>	<p>development to the site. Potential contamination and its management has been considered and documented in the EIS.</p>
	<ul style="list-style-type: none"> <li>SEPP 33 requires the consent authority to consider whether an industrial proposal is a potentially hazardous or a potentially offensive industry. In doing so, the consent authority must give careful consideration to the specific characteristics and circumstances of the development, its location and the way in which the proposed activity is to be carried out. Any application to carry out potentially hazardous development must be supported by a preliminary hazard analysis (PHA).</li> </ul>	<ul style="list-style-type: none"> <li>The proposal is for a master planned warehousing and distribution complex which is intended to have a freight and logistics focus. The proposal is not potentially hazardous or potentially offensive development.</li> </ul>