

Appendix C

Statutory Compliance Table

Statutory Requirement	Relevance and Assessment	Compliance
NSW Acts of Parliament		
<i>Environmental Planning and Assessment Act 1979</i>		
<i>Section 1.3 – Objects of the Act</i>		
a. <i>to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</i>	The development will result in the increase in economic welfare of the community through the creation of jobs, while managing any potential social impacts.	✓
b. <i>to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	The development will facilitate the ecological sustainable development of the site, with economic, environmental and social considerations integrated into the proposed development.	✓
c. <i>to promote the orderly and economic use and development of land,</i>	The proposed development constitutes the orderly and economic development of the site delivering in demand warehouse floorspace within a dedicated industrial precinct.	✓
d. <i>to promote the delivery and maintenance of affordable housing,</i>	Not applicable.	✓
e. <i>to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</i>	The proposed development will not impact the environment as the project area is already devoid of vegetation, as approved under Stage 1 of the development (SSD-10479).	✓
f. <i>to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	The proposed development does not impact heritage and matters of cultural heritage have been addressed as part of the underlying Concept Approval (SSD-10479).	✓

g. to promote good design and amenity of the built environment,	The proposed development promotes good design, with the proposed development layout, landscaping, built form and external façade presenting a resolve solution that will contributing to the creation of amenity.	✓
h. to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The proposed development will promote the proper construction and maintenance of the building with the Applicant aiming to create a high-quality warehouse development for the future operator at the site.	✓
i. to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	Not applicable.	✓
j. to provide increased opportunity for community participation in environmental planning and assessment.	The applicant has and will continue to provide the opportunity for the local community and stakeholders to participate in consultation of the development.	✓
Section 4.15 – Evaluation		
1. Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—	This EIS has assessed the development in accordance with the relevant NSW environmental planning instruments. The assessment demonstrates the proposed development is in accordance with the relevant provisions and consistent with the relevant objectives.	✓
a. the provisions of—		
i. any environmental planning instrument, and		
ii. any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	The EIS has assessed the proposal in accordance with the relevant State and Local planning instruments as detailed in this table. The assessment demonstrates the proposed development is in accordance with the objectives of the provisions of the draft policies.	✓
iii. any development control plan, and	An assessment against the Mamre Road Precinct Development Control Plan (MRP DCP) is provided at Appendix CC and the proposed development is generally consistent with the relevant DCP provisions.	✓
(ivia.) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	-	✓
iv. the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,	The EIS has been prepared in accordance with the relevant provisions of the EP&A Regulation.	✓

b. the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	The potential impacts of the proposed have been assessed within the EIS and supporting technical consultant appendices. The assessment has had regard to the environmental impacts on both the natural and built environments, and social and economic impacts in the locality	✓
c. the suitability of the site for the development,	<p>Having regard to the characteristics of the site and its location within the MRP at Kemps Creek, the development is considered suitable in that:</p> <ul style="list-style-type: none"> • The site is zoned as INT General Industrial within the MRP which has been identified and recognised as appropriate for the development of warehouse and distribution centres; • The development involves the construction of part of the approved 200 Aldington Road Industrial Estate which is consistent with the MRP Structure Plan; • Development of the site for employment uses is complementary to the WSEA and the soon to be operational WSI Airport, through ensuring logistics and warehousing is available in close proximity; and <p>The surrounding area will be developed for industrial purposes consistent with the development, ensuring a well-structured and accessible employment precinct is established to provide for ongoing jobs for workers within the broader WSEA</p>	✓
d. any submissions made in accordance with this Act or the regulations	Any submissions received will be considered by the applicant following exhibition of the EIS.	✓
e. the public interest	<p>The development is identified as being in the public interest for the following reasons:</p> <ul style="list-style-type: none"> • It is consistent with relevant state and local strategic plans and complies with the relevant state and local planning controls; • It is estimated to contribute to the creation of 180 construction jobs and 80 operational jobs; • It will deliver large-format warehouse and distribution centres to meet current market demands for warehouse floorspace enabling the creation of a more efficient logistics supply chain enabling consumers and businesses to receive goods faster; • It will align with the needs of modern tenant and business requirements, supporting the long-term potential and objectives of the locality, including WSI Airport; • It is consistent with the Concept Approval (SSD-10479) resulting in a greater design outcome and reduced environmental impact; and <p>It minimises any environmental impacts with appropriate mitigation and management measures proposed where appropriate.</p>	✓

Section 7.9 – Biodiversity Assessment for State Significant Development

1. This section applies to—
 - a. an application for development consent under Part 4 of the Environmental Planning and Assessment Act 1979 for State significant development,
2. Any such application is to be accompanied by a biodiversity development assessment report unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values.

The environmental impact statement that accompanies any such application is to include the biodiversity assessment required by the environmental assessment requirements of the Planning Agency Head under the Environmental Planning and Assessment Act 1979.

The proposed development will not impact biodiversity as the project area has been cleared as part of the approved Stage 1 development (SSD-10479). As such, no BDAR Waiver has been sought for this SSDA.

✓

Section 7.14 – State Significant Development or Infrastructure

1. This section applies to an application for development consent for State significant development under Part 4 of the Environmental Planning and Assessment Act 1979, or an application for approval for State significant infrastructure under Part 5.1 of the Environmental Planning and Assessment Act 1979, that is required under Division 2 to be accompanied by a biodiversity development assessment report.

The Minister for Planning, when determining in accordance with the Environmental Planning and Assessment Act 1979 any such application, is to take into consideration under that Act the likely impact of the proposed development on biodiversity values as assessed in the biodiversity development assessment report. The Minister for Planning may (but is not required to) further consider under that Act the likely impact of the proposed development on biodiversity values.

As per above. The site is certified as urban capable land under the CPCP and does not require assessment under the BC Act and regulations.

✓

Statutory Instruments

Environmental Planning and Assessment Regulation 2021

Part 8 – Infrastructure and Environment Impact Assessment

Part 8 of the Environmental Planning and Assessment Regulation 2021 include relevant statutory requirements under:

- Division 2 Environmental assessment requirements for State significant development, designated development and activities.
- Division 5 Environmental impact statements.

The EIS and SSDA has been prepared to address the relevant provisions under Part 8 of the Environmental Planning and Assessment Regulation 2021.

✓

NSW Environmental Planning Instruments

State Environmental Planning Policy (Planning Systems) 2021

Section 2.6 – Declaration of State Significant Development

1. Development is declared to be State significant development for the purposes of the Act if—

- the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and
- the development is specified in Schedule 1 or 2.

✓

Schedule 1

12 Warehouses or distribution centres

- Development that has a capital investment value of more than the relevant amount for the purpose of warehouses or distribution centres (including container storage facilities) at one location and related to the same operation.
- This section does not apply to development for the purposes of warehouses or distribution centres to which section 18 or 19 applies.
- In this section—
- relevant amount means—
 - for development in relation to which the relevant environmental assessment requirements are notified under the Act on or before 31 May 2023—\$30 million, or
 - for any other development—\$50 million.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Section 2.122 – Traffic-generating development

1. This section applies to development specified in Column 1 of the Table to Schedule 3 that involves—

- new premises of the relevant size or capacity, or
- an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.

The proposed development is a 'traffic generating activity' as it is for a Warehouse or distribution centre with a site area of more than 8,000m². ✓

State Environmental Planning Policy (Industry and Employment) 2021

Section 2.10 – Zone Objectives and Land Use Table

(1) The Table at the end of this section specifies for each zone—

Zone IN1 General Industrial

1. Objectives of zone

- To facilitate a wide range of employment-generating development including industrial, manufacturing, warehousing, storage and research uses and ancillary office space.

The proposed development constitutes a *Warehouse and distribution centre* with ancillary *Office* premises uses as defined under the Standard Instrument. The uses and activities, primarily involve the for storing and handling of goods pending their sale and therefore fall under the *Warehouse and distribution centre* use as defined under the Standard Instrument. ✓

- To encourage employment opportunities along motorway corridors, including the M7 and M4.
- To minimise any adverse effect of industry on other land uses.
- To facilitate road network links to the M7 and M4 Motorways.
- To encourage a high standard of development that does not prejudice the sustainability of other enterprises or the environment.
- To provide for small-scale local services such as commercial, retail and community facilities (including child care facilities) that service or support the needs of employment-generating uses in the zone.

(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

Section 2.17 – Requirements for development control plans (DCP)

(1) Except in such cases as the Secretary may determine by notice in writing to the consent authority or as provided by section 2.18, the consent authority must not grant consent to development on any land to which this Chapter applies unless a development control plan has been prepared for that land.

(2) The requirements specified in Schedule 2 apply in relation to any such development control plan.

(3) For the purposes of section 3.44(3) of the Act, a development control plan that is required by this section may be prepared and submitted by 60% of the owners of the land to which the plan applies.

(4) The Minister is authorised, for the purposes of section 3.44(5)(b) of the Act, to act in the place of the relevant planning authority in accordance with that section.

Section 2.19 – Ecologically Sustainable Development

The consent authority must not grant consent to development on land to which this Chapter applies unless it is satisfied that—

- (a) building heights will not adversely impact on the amenity of adjacent residential areas, and
- (b) site topography has been taken into consideration.

Section 2.20 – Height of Buildings

The consent authority must not grant consent to development on land to which this Chapter applies unless it is satisfied that—

- (a) building heights will not adversely impact on the amenity of adjacent residential areas, and
- (b) site topography has been taken into consideration.

Section 2.21 – Rainwater Harvesting

The Warehouse and distribution centre use is permissible with consent under the INT zone. As the Office premises use is ancillary to the Warehouse and distribution centre use, it is permissible with consent.

As noted above, the MRP DCP has been prepared for the entirety of the MRP by DPE and encompasses the site. The design and built form of the proposed development responds to the requirements of the DCP.

A comprehensive analysis of the proposed developments compliance with the MRP DCP is provided at **Appendix CC**

✓

The proposed development encompasses ecologically sustainable development principles, as outlined in the Sustainable Report.

✓

The maximum height of buildings is consistent with the Concept Approval (SSD-10479) in that the heights of the building are equal or lower.

✓

The consent authority must not grant consent to development on land to which this Chapter applies unless it is satisfied that adequate arrangements will be made to connect the roof areas of buildings to such rainwater harvesting scheme (if any) as may be approved by the Secretary.

The proposed development includes rainwater harvesting as part of the stormwater management strategy.

✓

Section 2.24 – Public Utility Infrastructure

(1) *The consent authority must not grant consent to development on land to which this Chapter applies unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.*

(2) *In this section, public utility infrastructure includes infrastructure for any of the following—*

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the supply of natural gas,*
- (d) the disposal and management of sewage.*

(3) *This section does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this section.*

The infrastructure requirements for the wider 200 Aldington Road Industrial Estate were considered and addressed as part of the Concept Approval (SSD-10479). As aforementioned, the proposed development is consistent with the Concept Approval, resulting in an approximate 30% reduction in GFA. As such, the infrastructure being constructed as part of the Stage 1 Development works will cater for Lot E.

✓

Section 2.28 – Industrial Release Area – satisfactory arrangements for the provision of regional transport infrastructure services

(1) *This section applies to the land shown edged heavy black on the Industrial Release Area Map, but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 7.1 of the Act).*

(2) *The object of this section is to require assistance to authorities of the State towards the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) to satisfy needs that arise from development on land to which this section applies.*

(3) *Despite any other provision of this Chapter, the consent authority must not consent to development on land to which this section applies unless the Secretary has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) in relation to the land to which this Chapter applies.*

(4) *Subsection (3) only applies if the land that is the subject of the application for development consent was not being used for industrial purposes immediately before the application was made.*

(5) *Subsection (3) does not apply in relation to—*

- (a) any land that is reserved exclusively for a public purpose, or*
- (b) any development that is, in the opinion of the consent authority, of a minor nature.*

MOD 3 sought the same scope of road works as approved for the Westlink Industrial Estate, as well as further widening works along the length of Aldington Road to the north of the site. This sought to complete the 'interim' design which includes road widening within the existing road corridor, on land within the developer's ownership and on land owned by other LOG-E developers. It also sought consent for further widening works referred to as the 'ultimate' design. These works are consistent with the recent amendment to the Industry and Employment SEPP which provides a widened road corridor (SP2 zone) along Abbotts and Aldington Roads. These works required additional land acquisition, and depending on the timing of this, they could have been undertaken as a single package of works by LOG-E, or at a later stage by Council or other landowners.

✓

Section 2.30 – Design Principles

In determining a development application that relates to land to which this Chapter applies, the consent authority must take into consideration whether or not—

- (a) the development is of a high quality design, and
- (b) a variety of materials and external finishes for the external facades are incorporated, and
- (c) high quality landscaping is provided, and
- (d) the scale and character of the development is compatible with other employment-generating development in the precinct concerned.

The proposed development has sought to take into consideration all design elements (architectural, civil and landscape) to create, on balance, the most appropriate development response and consistent with the Concept Approval (SSD-10479). ✓

Section 2.31 – Preservation of trees or vegetation

- (1) The objective of this section is to preserve the amenity of the area through the preservation of trees and other vegetation.
- (2) This section applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this section by a development control plan made under Division 3.6 of the Act.

The proposed development site does not contain prescribed trees by an existing development control plan. ✓

Section 2.34 – Development of land within or adjacent to transport investigation area

Consent must not be granted to development in the area marked "Transport Investigation Areas A and B" on the Land Zoning Map that has a capital investment value of more than \$200,000 without the concurrence of Transport for NSW.

The site is not within a transport investigation area. ✓

Section 2.35 – Development within the Mamre Road Precinct

- (1) Consent must not be granted to development in the area marked "Transport Investigation Areas A and B" on the Land Zoning Map that has a capital investment value of more than \$200,000 without the concurrence of Transport for NSW.
- (2) In determining whether to provide concurrence, Transport for NSW is to take into account the likely effect of the development on—
 - (a) the practicability and cost of carrying out transport projects on the land in the future, and
 - (b) without limiting paragraph (a), the structural integrity or safety of, or ability to operate, transport projects on the land in the future, and
 - (c) without limiting paragraph (a), the land acquisition costs and the costs of construction, operation or maintenance of transport projects on the land in the future, and
 - (d) in relation to Transport Investigation Area A—current or future development and operation of an intermodal terminal, including whether the development for which consent is sought is likely to impede access to or from an intermodal terminal.

The site is located in the MRP and has a capital investment value in excess of \$200,000. Concurrence with Transport for NSW will be required under this clause for the proposed development. ✓

Section 2.37 – Airspace operations

- (1) The objectives of this section are as follows—

While the proposed development is proximate to the new WSI Airport, it does not propose any sensitive land uses such as residential or childcare ✓

(a) to provide for the effective and ongoing operation of the Airport by ensuring that such operation is not compromised by proposed development that penetrates the prescribed airspace for the Airport,

(b) to protect the community from undue risk from that operation.

(2) If a development application is received and the consent authority is satisfied that the proposed development will penetrate the prescribed airspace, before granting development consent, the consent authority must consult with the relevant Commonwealth body about the application.

(3) The consent authority may grant development consent for the development if the relevant Commonwealth body advises that—

(a) the development will penetrate the prescribed airspace but it has no objection to its construction, or

(b) the development will not penetrate the prescribed airspace.

(4) To avoid doubt, the consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the prescribed airspace and should not be constructed.

Section 2.38 – Development of land adjacent to airport

(1) The objectives of this section are as follows—

(a) to provide for the effective and ongoing operation of the Airport by ensuring that such operation is not compromised by proposed development in close proximity to the Airport,

(b) to protect the community from undue risk from that operation.

(2) This section applies to development on land, any part of which is less than 13 kilometres from a boundary of the Airport.

(3) The consent authority must not grant consent for development to which this section applies unless the consent authority is satisfied that the proposed development will not attract birds or animals of a kind and in numbers that are likely to increase the hazards of operating an aircraft.

Section 2.40 – Earthworks

(1) The objectives of this section are as follows—

(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,

(b) to allow earthworks of a minor nature without separate development consent.

(2) Development consent is required for earthworks unless—

(a) the work is exempt development under this Chapter or another applicable environmental planning instrument, or

centres, and the uses proposed (being warehouses and distribution centres), will not result in any significant air emissions. Therefore, the proposed development will not result in any impacts to airspace operations.

The proposed development is located within 13km from the Airport boundary but will not attract birds or animals and will not impact on airport operations in the area. ✓

The proposed development only includes minor earthworks with the bulk earthworks completed as part of the approved Stage 1 Development works. The proposed development is therefore consistent with section 2.40 of the Industry and Employment SEPP. ✓

(b) the work is ancillary to other development for which development consent has been given.

(3) Before granting development consent for earthworks, the consent authority must consider the following matters—

(a) the likely disruption of, or detrimental effect on, existing drainage patterns and soil stability in the locality,

(b) the effect of the proposed development on the likely future use or redevelopment of the land,

(c) the quality of the fill or the soil to be excavated, or both,

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,

(e) the source of fill material and the destination of excavated material,

(f) the likelihood of disturbing relics,

(g) the proximity to and potential for adverse impacts on a waterway, drinking water catchment or environmentally sensitive area,

(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,

(i) the proximity to and potential for adverse impacts on a heritage item, an archaeological site, or a heritage conservation area,

(j) the visual impact of earthworks as viewed from the waterways.

Section 2.41 – Development on flood prone land

(1) This section applies to development requiring consent that is carried out on flood prone land.

This project area is not identified as flood prone land.

✓

Section 2.42 – Heritage Conservation

(1) Objectives The objectives of this section are as follows—

- (a) to conserve the environmental heritage of the Western Sydney Employment Area,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

No heritage items are located on the site, and the site is not located within a Heritage Conservation Area.

✓

(2) Requirement for consent Development consent is required for any of the following—

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 3 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land—
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land—
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

Section 2.43 – Consent for clearing native vegetation

<ul style="list-style-type: none">(1) A person must not clear native vegetation on land in Zone C2 Environmental Conservation or Zone RE1 Public Recreation without development consent.(2) Development consent under this section is not to be granted unless the consent authority is satisfied of the following in relation to the disturbance of native vegetation caused by the clearing of the vegetation—<ul style="list-style-type: none">(a) that there is no reasonable alternative available to the disturbance of the native vegetation,(b) that any impact of the proposed clearing on biodiversity values is avoided or minimised,(c) that the disturbance of the native vegetation will not increase salinity,(d) that native vegetation inadvertently disturbed for the purposes of construction will be re-instated where possible on completion of construction,(e) that the loss of remnant native vegetation caused by the disturbance will be compensated by revegetation on or near the land to avoid a net loss of remnant native vegetation,(f) that the clearing of the vegetation is unlikely to cause or increase soil erosion, salination, land slip, flooding, pollution or other adverse land or water impacts.	The proposed development will not impact vegetation as the site is devoid of vegetation. ✓
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(3) The consent authority must, when determining a development application in respect of the clearing of native vegetation on land zoned E2 Environmental Conservation have regard to the objectives for development in that zone.

Section 2.44 – Stormwater, water quality and water sensitive design

(1) The objective of this section is to avoid or minimise the adverse impacts of stormwater on the land on which development is to be carried out, adjoining properties, riparian land, native bushland, waterways, groundwater dependent ecosystems and groundwater systems.

(2) Before granting development consent to development on land to which this Chapter applies, the consent authority must take into consideration whether—

- (a) water sensitive design principles are incorporated into the design of the development, and
- (b) riparian, stormwater and flooding measures are integrated, and
- (c) the stormwater management system includes all reasonable management actions to avoid adverse impacts on the land to which the development is to be carried out, adjoining properties, riparian land, native bushland, waterways, groundwater dependent ecosystems and groundwater systems, and
- (d) if a potential adverse environmental impact cannot be feasibly avoided, the development minimises and mitigates the adverse impacts of stormwater runoff on adjoining properties, riparian land, native bushland, waterways, groundwater dependent ecosystems and groundwater systems, and
- (e) the development will have an adverse impact on—
 - (i) the water quality or quantity in a waterway, including the water entering the waterway, and
 - (ii) the natural flow regime, including groundwater flows to a waterway, and
 - (iii) the aquatic environment and riparian land (including aquatic and riparian species, communities, populations and habitats), and
 - (iv) the stability of the bed, banks and shore of a waterway, and
- (f) the development includes measures to retain, rehabilitate and restore riparian land.

(3) For the purposes of subsection (2)(a), the **water sensitive design principles** are as follows—

- (a) protection and enhancement of water quality, by improving the quality of stormwater runoff from catchments,
- (b) minimisation of harmful impacts of development on water balance and on surface and groundwater flow regimes,
- (c) integration of stormwater management systems into the landscape in a manner that provides multiple benefits, including water quality protection, stormwater retention and detention, public open space, habitat improvement and recreational and visual amenity,
- (d) retention, where practical, of on-site stormwater for use as an alternative supply to mains water, groundwater or river water.

The proposed development will incorporate water quality and water sensitive urban design measures.

✓

Section 4.17 – Aircraft noise

(1) The objectives of this section are—

- (a) to prevent certain noise sensitive development on land near the Airport, and
- (b) to minimise the impact of aircraft noise for other noise sensitive development, and
- (c) to ensure that land use and development near the Airport do not hinder or have other adverse impacts on the ongoing, safe and efficient 24 hours a day operation of the Airport.

(2) Development consent must not be granted to noise sensitive development if the development is to be located on land that is in an ANEF or ANEC contour of 20 or greater.

(3) Subsection (2) applies despite the following—

- (a) Part 2, Divisions 7 and 8 of State Environmental Planning Policy (Affordable Rental Housing) 2009,
- (b) Chapter 3 of State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004,
- (c) State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

(4) Despite subsection (2), development consent may be granted to development for the purposes of dwelling houses on land that is in an ANEF or ANEC contour of 20 or greater if—

- (a) immediately before the commencement of this Chapter—
 - (i) there were no dwellings on the land, and
 - (ii) development for the purposes of dwelling houses was permitted on the land, and
- (b) the consent authority is satisfied that the development will meet the indoor design sound levels.

(4A) Subsection (2) does not apply to development for the purposes of subdivision of land in an ANEF or ANEC contour of 20 or greater if the development application was made before 1 October 2020.

Section 4.18 – Building wind shear and turbulence

(1) The objective of this section is to safeguard Airport operations from wind shear and turbulence generated by buildings.

(2) This section applies to development—

- (a) on land shown as the “Windshear Assessment Trigger Area” on the Lighting Intensity and Wind Shear Map, and
- (b) that penetrates the 1:35 surface.

(2A) Development consent must not be granted to the development unless the consent authority has consulted the relevant Commonwealth body.

The proposed development is considered as 'Other Industrial' which can be accommodated within ANEF zones as per the Australian Standard (AS2021-2015),

✓

The proposed development site will be located beyond the airport boundary and will not have the risk of generating windshear and turbulence at the airport. The buildings and the cranes will not have an impact upon the airport.

✓

(3) For the purposes of this section, development penetrates the 1:35 surface if the distance from the runway centreline to the closest point of the building is less than or equal to 35 times the height above runway level of the building.

Section 4.19 – Wildlife hazards

(1) The objective of this section is to regulate development on land surrounding the Airport where wildlife may present a risk to the operation of the Airport.

(2) Development consent must not be granted to relevant development on land in the 13 km wildlife buffer zone unless the consent authority—

- (a) has consulted the relevant Commonwealth body, and
- (b) has considered a written assessment of the wildlife that is likely to be present on the land and the risk of the wildlife to the operation of the Airport provided by the applicant, which includes—
 - (i) species, size, quantity, flock behaviour and the particular times of day or year when the wildlife is likely to be present, and
 - (ii) whether any of the wildlife is a threatened species, and
 - (iii) a description of how the assessment was carried out, and

(c) is satisfied that the development will mitigate the risk of wildlife to the operation of the Airport, including, for example, measures relating to—

- (i) waste management, landscaping, grass, fencing, stormwater or water areas, or
- (ii) the dispersal of wildlife from the land by the removal of food or the use of spikes, wire or nets.

(3) Despite subsection (2), development for the following purposes is prohibited on land in the 3 km wildlife buffer zone—

- (a) livestock processing industries,
- (b) turf farming,
- (c) waste or resource management facilities that consist of outdoor processing, storage or handling of organic or putrescible waste.

The proposed development site is planned to be located in currently under construction industrial allotments within the 200 Aldington Road Industrial precinct. The industrial estate consumes a significant amount of the surrounding grassland and farming activity, effectively reducing the amount of wildlife present in the area that could cause a hazard to overflying aircraft.

✓

Section 4.20 – Wind turbines

(1) The objective of this section is to regulate the construction of wind turbines and wind monitoring towers on land within 30 kilometres of the Airport.

(2) Development for the following purposes is prohibited on land in the 3 km zone—

- (a) electricity generating works comprising a wind turbine,
- (b) wind monitoring towers that are not ancillary or incidental to the Airport.

(3) Development consent must not be granted to development for the purposes of a large wind monitoring tower in the 3–30 km zone unless the consent authority has consulted the relevant Commonwealth body.

(4) Development consent must not be granted to development for the purposes of a electricity generating works comprising a wind turbine on land in the 3–30 km zone unless the consent authority—

No wind turbines are planned for the site. Therefore, the site will be in compliance with the requirements.

✓

- (a) has consulted the relevant Commonwealth body, and
- (b) has considered a written assessment of the risk of the development to the safe operation of the Airport provided by the applicant, and
- (c) is satisfied that the development will adequately mitigate the risk to the safe operation of the Airport.

Section 4.21 – Lighting

- (1) The objective of this section is to safeguard Airport operations from the risk of lighting and reflectivity distractions for pilots. ✓
- (2) Development consent must not be granted to development for the following purposes on land shown as the “6km Lighting Intensity Radius”, a “Light Control Zone” or a “Runway Boundary” on the Lighting Intensity and Wind Shear Map unless the consent authority has consulted the relevant Commonwealth body—
 - (a) installation and operation of external lighting (whether coloured or white lighting) in connection with development for the following purposes—
 - (i) classified roads,
 - (ii) freight transport facilities,
 - (iii) heavy industrial storage establishments,
 - (iv) recreation facilities (major),
 - (v) recreation facilities (outdoor),
 - (b) installation and operation of external lighting in connection with construction works that is likely to be obtrusive or create light spill outside the land on which the construction works are carried out.

The nearest point of the proposed development site is approximately 8.5 km from the centre of Runway 05L/23R and does not lie within any of the NASF light zones and therefore no special lighting requirements apply. The building and the cranes will not have the risk of distractions to pilots from lighting in the vicinity of WSA airport.

Section 4.22 – Airspace operations

- (1) The objectives of this section are—
 - (a) to provide for the effective and ongoing operation of the Airport by ensuring that its operation is not compromised by development that penetrates the prescribed airspace for the Airport, and
 - (b) the relevant Commonwealth body does not object to the development.
- (2) This section applies to development on land shown on the Obstacle Limitation Surface Map that is a controlled activity within the meaning of Part 12, Division 4 of the Airports Act 1996 of the Commonwealth.
- (3) Development consent must not be granted to development to which this section applies unless—
 - (a) the consent authority has consulted the relevant Commonwealth body, and
 - (b) the relevant Commonwealth body advises the consent authority that—
 - (i) the development will penetrate the prescribed airspace but it does not object to the development, or
 - (ii) the development will not penetrate the prescribed airspace.

Planned activity within the estate is not likely to produce such an exhaust plume and therefore not have an impact on WSA. With maximum building heights projected to be beneath 188 m AHD there will not be any infringements of the PANS-OPS for Western Sydney Airport. There is also adequate clearance for typical construction cranes to be used on the site. Further, the proposed development site will not have any impact upon the performance of ATC Communications systems installed at WSA. The Aldington South Estate Development Site is located outside the Building Restricted Areas (BRA) and will not have any impact upon the performance of navigation aids installed at WSA. ✓

Section 4.23 – Public safety

(1) The objective of this section is to regulate development on land on which there is an appreciable risk to public safety from the operation of the Airport. The proposed development site is located outside of the designated PSAs associated with the runways at WSA. ✓

(2) Development for the following purposes is prohibited on land shown as the “public safety area” on the Public Safety Area Map—
Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Commercial premises; Community facilities; Correctional centres; Crematoria; Eco-tourist facilities; Education establishments; Entertainment facilities; Function centres; Funeral homes; Health services facilities; Heavy industrial storage establishments; Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Service stations; Tourist and visitor accommodation

(3) Development consent must not be granted to development for a purpose not specified in subsection (2) on land shown as the “public safety area” on the Public Safety Area Map unless the consent authority—
(a) has considered a written assessment of the risk of the development to persons provided by the applicant, which includes—
(i) the risk to persons on the land in the event of an emergency or other incident at or around the Airport, including an incident involving an aircraft landing or taking off from the Airport, and
(ii) the likely number of people who will use or otherwise be present on the land, and
(iii) the compatibility of the development with the risk, including in relation to the number of people who will use or otherwise be present on the land, and
(b) is satisfied that the development will adequately mitigate the risk to persons on the land, including by limiting the number of people or vehicles.

Section 4.23A – Operation of certain air transport facilities

(1) The objective of this section is to regulate development that may impact the operation of certain air transport facilities. The proposed development site is not within the “Building Restricted Area”. ✓

(2) Development consent must not be granted to development on land shown as the “Building Restricted Area” on the Building Restricted Area Map unless the consent authority—
(a) has consulted the relevant Commonwealth body, and
(b) is satisfied that the development will not adversely impact the operation of communication and air traffic control facilities or structures associated with the Airport’s air transport facilities.

State Environmental Planning Policy (Resilience and Hazards) 2021

Section 4.6 – Contamination and Remediation to be considered in determining development application

1. A consent authority must not consent to the carrying out of any development on land unless—

- it has considered whether the land is contaminated, and
- if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

2. Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

3. The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

State Environmental Planning Policy (Sustainable Buildings) 2022

Section 3.2 – Development consent for non-residential development

1. In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—

- the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,
- a reduction in peak demand for electricity, including through the use of energy efficient technology,
- a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,
- the generation and storage of renewable energy,
- the metering and monitoring of energy consumption,
- the minimisation of the consumption of potable water.

2. Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

A SEPP (Resilience and Hazards) assessment has been prepared by Riskcon It concludes, the facility is not considered 'potentially hazardous' or 'potentially offensive', it is not necessary to prepare a Preliminary Hazard Analysis for the facility as Chapter 3 of SEPP (Resilience and Hazards) will not apply. ✓

An assessment is undertaken in the EIS, with the Sustainability Report outlining the sustainability measures implemented and being considered as part of the proposed development. ✓

The proposed developments embodied emissions have been quantified as part of the Embodied Emissions Materials Form complete by Cundall ✓

Section 3.3 – Other considerations for large commercial development

(1) In deciding whether to grant development consent to large commercial development, the consent authority must consider whether the development minimises the use of on-site fossil fuels, as part of the goal of achieving net zero emissions in New South Wales by 2050.

The project is committed to assessing and implementing a net zero carbon strategy across its entire lifecycle, including:

- Phasing out fossil fuels in permanent building operations where feasible;
- Considering onsite renewable energy installations;
- Minimizing carbon emissions in construction; and
- Integrating passive design principles and energy efficiency to enhance sustainability.

✓

(2) Development consent must not be granted to large commercial development unless the consent authority is satisfied the development is capable of achieving the standards for energy and water use specified in Schedule 3.

The Proposal is also committed to achieving 5.5 star NABERS Energy and 3-star NABERS Water Ratings in accordance with the Sustainable Buildings SEPP, with reverse calculations provided in Appendix A of the Sustainability Report.

✓

(3) For the purposes of subsection (2), development is capable of achieving a standard specified in Schedule 3 if there is a NABERS commitment agreement in place to achieve the standard.

Penrith Local Environmental Plan 2010

As the subject site contains to remain wholly within the WSEA Land Application Area, the provisions of the Industry and Employment SEPP prevail over the Penrith Local Environmental Plan 2010. Therefore, the provisions of the Penrith LEP do not apply to the proposed development.

Mamre Road Precinct Development Control Plan

An assessment of the proposed developments compliance with the MRP DCP is provided at **Appendix CC**.