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Appendix C – Statutory Compliance Table

SSD-99910476 – Demolition and Remediation for Mixed-Use Development, 17-24 Loftus Crescent, Homebush

Requirement	Report/EIS	Technical Study
Commonwealth Acts of Parliament		
Environmental Protection and Biodiversity Conservation Act 1999		
Section 136 General Considerations		
1) In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must consider the following, so far as they are not inconsistent with any other requirement of this Subdivision: (a) matters relevant to any matter protected by a provision of Part 3 that the Minister has decided is a controlling provision for the action; (b) economic and social matters.	**Section 2.0, Section 5.0, Section 8.3**	**-**
2) In considering those matters, the Minister must take into account: (a) the principles of ecologically sustainable development; and (b) the assessment report (if any) relating to the action	**Section 8.2**	**-**
Section 139 Requirements for decisions about threatened species and endangered communities		
1) In deciding whether or not to approve for the purposes of a subsection of section 18 or section 18A the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with: (a) Australia's obligations under: i. the Biodiversity Convention; or ii. the Apia Convention; or iii. CITES; or (b) a recovery plan or threat abatement plan.	**Section 5.0**	**BDAR**
2) If:	**N/A**	**-**

Requirement	Report/EIS	Technical Study
(a) the Minister is considering whether to approve, for the purposes of a subsection of section 18 or section 18A, the taking of an action; and (b) the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community; the Minister must, in deciding whether to so approve the taking of the action, have regard to any approved conservation advice for the species or community.		
NSW Acts of Parliament		
Environmental Planning and Assessment Act 1979		
Section 1.3 Objects of the Act		
The objects of this Act are as follows— (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources, (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment, (c) to promote the orderly and economic use and development of land, (d) to promote the delivery and maintenance of affordable housing, (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats, (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage), (g) to promote good design and amenity of the built environment, (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants, (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	**Section 5.5** refers to the Environmental Planning Instruments presented further below.	-

Requirement	Report/EIS	Technical Study
to provide increased opportunity for community participation in environmental planning and assessment.		
Section 4.15 Evaluation		
1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application— (a) the provisions of— i. any environmental planning instrument, and	**Section 5.5** refers to the Environmental Planning Instruments presented further below.	-
j. 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	**Section 5.0**	-
k. any development control plan, and	**Section 5.5**	-
l. iiia. any planning agreement that has been entered into under section 7.4, or any draft planning m. agreement that a developer has offered to enter into under section 7.4, and	**N/A**	-
n. iv. the regulations (to the extent that they prescribe matters for the purposes of this paragraph), o. that apply to the land to which the development application relates,	**Section 5.5**	-
(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,	**Section 7.0,** **Section 8.0**	-
(c) the suitability of the site for the development,	**Section 8.4**	-
(d) any submissions made in accordance with this Act or the regulations,	Public consultation is expected to be carried out by the Department of Planning, Housing and Infrastructure (DPHI) on the submitted SSDA. Any submissions received as a result are for DPHI's consideration in its assessment of the application against applicable plans and policies.	

Requirement	Report/EIS	Technical Study
(e) the public interest.	**Section 8.5**	**-**
Biodiversity Conservation Act 2016		
Division 2 Biodiversity assessment requirements – Section 7.9 Biodiversity assessment for State significant development or infrastructure		
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, and (b) an application for approval under Division 5.2 of the *Environmental Planning and Assessment Act 1979* to carry out State significant infrastructure. 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. 3) 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*.	**Section 5.4,** **Section 7.9**	**BDAR**
Division 4 Biodiversity assessment and offsets – 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 the *Environmental Planning and Assessment Act 1979*, Division 5.2, that is required under Division 2 to be accompanied by a biodiversity development assessment report. 2) The relevant authority, 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 relevant authority may (but is not required to) further consider under that Act the likely impact of the proposed development on biodiversity values.	**Section 5.4,** **Section 7.9**	**BDAR**
NSW EPIs		

Requirement	Report/EIS	Technical Study
State Environmental Planning Policy (Transport and Infrastructure) 2021		
Section 2.48 Determination of development applications – other development		
1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following— (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower, (b) development carried out— i. within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or ii. immediately adjacent to an electricity substation, or iii. within 5m of an exposed overhead electricity power line, (c) installation of a swimming pool any part of which is— i. within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or ii. within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool, (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned. 2) Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must— (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and (b) take into consideration any response to the notice that is received within 21 days after the notice is given.	**Section 5.4**	**Appendix I**

Requirement	Report/EIS	Technical Study
Section 2.122 Traffic-generating development		
4) Before determining a development application for development to which this section applies, the consent authority must— (a) give written notice of the application to TfNSW within 7 days after the application is made, and (b) take into consideration— i. any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and ii. the accessibility of the site concerned, including— (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and iii. any potential traffic safety, road congestion or parking implications of the development. 5) The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.	**Section 5.4**	-
State Environmental Planning Policy (Resilience and Hazards) 2021		
Section 4.6 Contamination and remediation to be considered in determining development application		
1) A consent authority must not consent to the carrying out of any development on land unless— (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) (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.	**Section 5.4** **Section 7.1**	**Appendix N,** **Appendix O**

Requirement	Report/EIS	Technical Study
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.		
Strathfield Local Environmental Plan 2012		
Clause 2.1 Land Use Zones		
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 5.5**	**-**
Clause 2.7 Demolition requires development consent		
The demolition of a building or work may be carried out only with development consent. ***Note.*** *If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, as exempt development, the Act enables it to be carried out without development consent.*	**Section 5.5**	**Appendix B**
Clause 4.3 Height of buildings		
The height of a building on any land is not to exceed the maximum height shown for the land on the *Height of Buildings Map*.	**Section 5.5**	**-**
Clause 4.4 Floor space ratio		
The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the *Floor Space Ratio Map*.	**Section 5.5**	**-**

Requirement	Report/EIS	Technical Study
Clause 5.10 Heritage conservation		
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 5 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— ii. on which a heritage item is located or that is within a heritage conservation area, or on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,	**Section 5.5**	-
Clause 5.11 Bush fire hazard reduction		
Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	**Section 5.5**	-

Requirement	Report/EIS	Technical Study
Note— The Rural Fires Act 1997 also makes provision relating to the carrying out of development on bush fire prone land.		
Clause 5.21 Flood Planning		
(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development— (a) is compatible with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and (d) incorporates appropriate measures to manage risk to life in the event of a flood, and (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses. (3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters— (a) the impact of the development on projected changes to flood behaviour as a result of climate change, (b) the intended design and scale of buildings resulting from the development, (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood, (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.	**Section 5.5**	**Appendix G**
Clause 6.1 Acid sulfate soils		

Requirement	Report/EIS	Technical Study
1) Development consent must not be granted under this section for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority. 2) Despite subsection (2), development consent is not required under this section for the carrying out of works if— (a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.	**Section 5.5**	-
Clause 7.4 Design Excellence		
(1) The objective of this clause is to deliver the highest standard of architectural and urban design. (2) This clause applies to development on land to which this part applies involving— (a) the erection of a new building that will have 3 or more storeys or a building height of at least 12m, or (b) external alterations to an existing building that— (i) has 3 or more storeys or a building height of at least 12m, or (ii) will have 3 or more storeys or a building height of at least 12m as a result of the development. (3) Development consent must not be granted to development to which this clause applies unless the consent authority is satisfied that the development exhibits design excellence. (4) In considering whether the development exhibits design excellence, the consent authority must consider the following— (a) the requirements of the *Homebush Transport Oriented Development Precinct Design Guide*, (b) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,	**Section 5.5**	**-**

Requirement	Report/EIS	Technical Study
(c) whether the form and external appearance of the development will improve the quality and amenity of the public domain, (d) whether the development detrimentally impacts on view corridors, (e) how the development responds to the physical and cultural connection of the local Aboriginal community to the land, (f) how the development addresses the following— (i) the suitability of the land for development, (ii) existing and proposed uses and use mix, (iii) heritage issues and streetscape constraints, (iv) Aboriginal cultural heritage, (v) the relationship of the development with other development, existing or proposed, on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, (vi) bulk, massing and modulation of buildings, (vii) street frontage heights, (viii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity, (ix) the achievement of the principles of ecologically sustainable development, (x) pedestrian, cycle, vehicular and service access, circulation and requirements, (xi) the impact on, and proposed improvements to, the public domain, (xii) achieving appropriate interfaces at ground level between the building and the public domain, (xiii) excellence and integration of landscape design.		