

Appendix B

Statutory Compliance Table

Statutory Requirement	Relevance and Assessment	Reference
NSW Acts of Parliament		
Environmental Planning and Assessment Act 1979		
Section 1.3 – Objects of the Act		
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>	No change to the approved development.	-
b. <i>to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	No change to the approved development.	-
c. <i>to promote the orderly and economic use and development of land,</i>	The proposed modification constitutes the orderly and economic development of the site.	-
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>	No change to the approved development.	-
f. <i>to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	No change to the approved development.	-
g. <i>to promote good design and amenity of the built environment,</i>	No change to the approved development.	-
h. <i>to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	No change to the approved development.	-
i. <i>to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i>	Not applicable.	-

j. to provide increased opportunity for community participation in environmental planning and assessment.	Not applicable.	-
Section 4.55 – Modification of consents—generally		
(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—	The Modification Application falls under Section 4.55(1A) of the EP&A Act, as outlined in the following sections.	-
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	The proposed modifications are of minimal environmental impact as the proposed design changes are minor in nature, resulting in a reduced retaining wall height overall which will not alter visual, acoustic or stormwater impacts of the project.	Section 3.4
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed to be modified, is substantially the same development as that originally approved in that:</p> <ul style="list-style-type: none"> • The proposed modifications are minor in nature and are in response to the change in levels of the northern neighbouring site at 272-280 Aldington Road (Lot 15 DP 253503); and • The proposed modifications do not alter the key components of the approved development, only resulting in a decrease in height of an approved retaining wall. 	Section 3.3
c) it has notified the application in accordance with— (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and	Not applicable.	-
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	Not applicable.	-
Statutory Instruments		
Environmental Planning and Assessment Regulation 2021		
Section 99 – Making a Modification Application		
(1) A modification application must— (a) be in the approved form, and (b) contain all the information and documents required by—	Complies.	-

<ul style="list-style-type: none"> (i) the approved form, and (ii) the Act or this Regulation, and (c) be submitted on the NSW planning portal. 		
<ul style="list-style-type: none"> (2) If the modification application is for State significant development— <ul style="list-style-type: none"> (a) the application must also include particulars of the nature of the modification, and (b) the applicant must have regard to the State Significant Development Guidelines in preparing the application. 	The Modification Application accurately describes the proposed modification and has had regard to the Department's State Significant Development Guidelines.	-
Section 100 – Consent of Modification Application		
<ul style="list-style-type: none"> (1) A modification application must contain the following information— <ul style="list-style-type: none"> (a) the name and address of the applicant, 	Complies.	Section 1.1
<ul style="list-style-type: none"> <ul style="list-style-type: none"> (b) a description of the development that will be carried out under the development consent, 	Complies.	Section 1.2
<ul style="list-style-type: none"> <ul style="list-style-type: none"> (c) the address and folio identifier of the land on which the development will be carried out, 	Complies.	Section 1.2.1
<ul style="list-style-type: none"> <ul style="list-style-type: none"> (d) a description of the modification to the development consent, including the name, number and date of plans that have changed, to enable the consent authority to compare the development with the development originally approved, 	Complies.	Section 3.0
<ul style="list-style-type: none"> (e) whether the modification is intended to— <ul style="list-style-type: none"> (i) merely correct a minor error, misdescription or miscalculation, or (ii) have another effect specified in the modification application, 	The Modification Application is categorised as being under Section 4.55(1A) of the EP&A Act as it the proposed modifications relate to minimal environmental impacts.	Section 4.0
<ul style="list-style-type: none"> (f) a description of the expected impacts of the modification, 	An assessment of any potential impacts from the proposed modification can be found in the Modification Report.	Section 6.0
<ul style="list-style-type: none"> (g) an undertaking that the modified development will remain substantially the same as the development originally approved, 	The development, as proposed to be amended, remains substantially the same as the development approved by the DPE in April 2023.	Section 4.0
<ul style="list-style-type: none"> (h) for a modification application that is accompanied by a biodiversity development assessment report—the biodiversity credits information, 	Not applicable.	-
<ul style="list-style-type: none"> (i) if the applicant is not the owner of the land—a statement that the owner consents to the making of the modification application, 	The Applicant is the owner of the site as identified in the Modification Report.	Section 2.0
<ul style="list-style-type: none"> (j) whether the modification application is being made to— <ul style="list-style-type: none"> (i) the Court under the Act, section 4.55, or 	Not applicable.	-

(ii) the consent authority under the Act, section 4.56.

Environmental Planning Instruments

State Environmental Planning Policy (Industry and Employment) 2021

Clause 2.10 Zone Objectives and Land Use Table

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

Zone IN1 General Industrial

1. Objectives of zone

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

The site is zoned IN1 General Industrial. The proposed development is consistent with the zone objectives in that it will encourage industrial employment opportunities and facilitate a wide range of employment generating land uses. Specifically, the proposed development is consistent with the objectives of the IN1 Zone as:

- It will facilitate employment generating development including warehousing and ancillary office space;
- It will provide a high number of employment opportunities within close proximity to the M7, M4 and future M12 Motorways;
- It does not result in significant adverse impact to the adjoining Mount Vernon rural-residential area; and
- It will provide a high-quality development that does no prejudice environmental sustainability.

Section 4.0

Clause 2.20 Height of Buildings

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

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

The building heights remain unchanged.

Appendix C

Clause 2.22 Development adjoining residential land

This section applies to any land to which this Chapter applies that is within 250 metres of land zoned primarily for residential purposes.

Lot 1, which the proposed modification relates to, is not located within 250m of the Mount Vernon rural-residential area.

Appendix C

Clause 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—

The development, as proposed to be modified, remains unchanged

Appendix C

- 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.

Mamre Road Precinct Development Control Plan

Section 2.4 – Integrated Water Cycle Management

11) Naturalised trunk drainage paths are to be provided when the:

Not applicable.

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- Contributing catchment exceeds 15ha; or
- 1% AEP overland flows cannot be safely conveyed overland as described in Australian Rainfall and Runoff – 2019;
- unless otherwise agreed by the consent authority.

12) The design and rehabilitation of naturalised trunk drainage paths is to be generally in accordance with NRAR requirements (refer to Section 2.3) that replicates natural Western Sydney streams. An example of a naturalised trunk drainage path is shown in Figure 3.

13) Naturalised trunk drainage paths shall be designed to:

- Contain the 50% AEP flows from the critical duration event in a low flow natural invert;
- Convey 1% AEP flows from the critical duration event with a minimum 0.5m freeboard to applicable finished floor levels and road/driveway crossings; and
- Provide safe conveyance of flows up to the 1% AEP flood event.

14) Where naturalised trunk drainage paths traverse development sites, they may be realigned to suit the development footprint, provided that they:

- Comply with the performance requirements for flow conveyance and freeboard; o
- Are designed to integrate with the formed landscape and permit safe and effective access for maintenance;
- Do not have adverse flood impacts on neighbouring properties; and
- Enter and leave the development site at the existing points of flow entry and exit.

15) Trunk drainage paths shall remain in private ownership with maintenance covenants placed over them to the satisfaction of Council (standard wording for positive covenants is available from Council). Easements will also be required to benefit upstream land.

16) Where pipes/ culverts are implemented in lieu of naturalised trunk drainage paths, they must remain on private land and not burden public roads, unless otherwise accepted by Council.

17) High vertical walls and steep batters shall be avoided. Batters shall be vegetated with a maximum batter slope 1V:4H. Where unavoidable, retaining walls shall not exceed 2.0m in cumulative height.

18) Raingardens and other temporary water storage facilities may be installed online in naturalised trunk drainage paths to promote runoff volume reductions. Not applicable. -

19) Subdivision and development are to consider the coordinated staging and delivery of naturalised trunk drainage infrastructure. Development consent will only be granted to land serviced by trunk drainage infrastructure where suitable arrangements are in place for the delivery of trunk infrastructure (to the satisfaction of the relevant Water Management Authority). Not applicable. -

Section 4.6 – Access and Parking

1) On-site car parking is to be provided to a standard appropriate to the intensity of the proposed development as set out in Table 11. Parking is to meet AS 2890 and AS 1428. Not affected by the proposed modification. -

Table 12. Minimum parking rates

Activity	Parking Requirement
Warehouses or distribution centres	1 space per 300m ² of gross floor area or 1 space per 4 employees, whichever is the greater
Ancillary office space	1 space per 40m ² of gross floor area