

Appendix B

Statutory Compliance Table

Statutory Requirement	Relevance and Assessment	Reference
NSW Acts of Parliament		
<i>Environmental Planning and Assessment Act 1979</i>		
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 modifications constitute the orderly and economic development of Lot 3 as it seeks to facilitate the necessary changes to enable the future customer. The proposed modification includes the increase in ancillary office area to enable Lot 3 to act as the customer's NSW head office, supporting the creation and retention of jobs.	-
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. <i>to provide increased opportunity for community participation in environmental planning and assessment.</i>	Not applicable.	-
Section 4.55 – Modification of consents—generally		
(1A) <i>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—</i>	As demonstrated below, the Modification Application falls under Section 4.55(1A) of the EP&A Act given it constitutes minimal environmental impact and substantially the same development. As such, the consent authority can be satisfied that the development, as proposed to be modified, is substantially the same development as that originally approved. The Modification Application can therefore be lawfully made under Section 4.55(1A) of the EP&A Act.	-
(a) <i>it is satisfied that the proposed modification is of minimal environmental impact, and</i>	The proposed modifications are of minimal environmental impact as: <ul style="list-style-type: none"> • The design changes are a result of future customer operational requirements, primarily internal, and do not impact on any external receivers; and • The proposed design changes are minor in nature and therefore will not result in any perceptible environmental impact. 	Section 4.0 Section 6.0
(b) <i>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</i>	The development, as proposed to be modified, is substantially the same development as that originally approved, in that: <ul style="list-style-type: none"> • The proposed modifications are relatively minor in nature and are in response to the operational requirements of the recently secured future customer for Lot 3, who require specific design changes to accommodate their aspirations for Lot 3 to be their NSW head office; • The Lot 3 development remains as originally approved in terms of its intended use, being a <i>Warehouse or distribution centre</i>, as well as overarching design principles; • The proposed increase in ancillary office GFA does not exceed 20% of the total GFA for Lot 3; • The proposed modifications do not alter the key components of the approved development, being an industrial estate with supporting infrastructure; • The operational elements of the development remain generally unchanged, with modification elements purely being a refinement to ensure the efficient operation of the development by the future customer; and • The proposed modifications only present a marginal increase in the GFA and are located within the existing building envelope. 	Section 3.0 Section 4.0

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— (i) the approved form, and (ii) the Act or this Regulation, and (c) be submitted on the NSW planning portal.	Complies.	-
(2) If the modification application is for State significant development— (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 modifications and has had regard to the Department of Planning Housing and Infrastructure's (DPHI's) <i>State Significant Development Guidelines – Preparing a Modification Report</i> .	-
Section 100 – Consent of Modification Application		
(1) A modification application must contain the following information— (a) the name and address of the applicant,	Complies.	Section 1.1
(b) a description of the development that will be carried out under the development consent,	Complies.	Section 1.2
(c) the address and folio identifier of the land on which the development will be carried out,	Complies.	Section 1.2
(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

(e) whether the modification is intended to— (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 the proposed modifications relate to minimal environmental impacts.	Section 4.0
(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
(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
(h) for a modification application that is accompanied by a biodiversity development assessment report—the biodiversity credits information,	Not applicable.	-
(i) if the applicant is not the owner of the land—a statement that the owner consents to the making of the modification application,	ESR Australia & New Zealand (the Applicant) is the owner of the Site.	Section 2.0
(j) whether the modification application is being made to— (i) the Court under the Act, section 4.55, or (ii) the consent authority under the Act, section 4.56.	Not applicable.	-

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	The Site is zoned IN1 General Industrial. The approved <i>Warehouse and distribution centre</i> use is permissible with consent. The development, as proposed to be modified, 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, it is consistent with the objectives of the IN1 zone as:	-
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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 not prejudice environmental sustainability. <p>The proposed modifications support the objectives of the IN1 zone as it will enable the future customer to operate Lot 3 of the Westlink Industry Park, in accordance with the approved uses.</p>	

Clause 2.20 Height of Buildings		
<i>The consent authority must not grant consent to development on land to which this Chapter applies unless it is satisfied that—</i>	The proposed modifications do not seek to alter the approved building height.	Appendix C
<ul style="list-style-type: none"> a. <i>building heights will not adversely impact on the amenity of adjacent residential areas, and</i> b. <i>site topography has been taken into consideration.</i> 		
Clause 2.22 Development adjoining residential land		
<i>This section applies to any land to which this Chapter applies that is within 250 metres of land zoned primarily for residential purposes.</i>	Lot 3, which the proposed modification relates to, is not located within 250m of the Mount Vernon rural-residential area as illustrated in the Architectural Drawings.	Appendix C
Clause 2.30 Design Principles		
<i>In determining a development application that relates to land to which this Chapter applies, the consent authority must take into consideration whether or not—</i>	The proposed modification includes changes to incorporate a larger office that will provide high amenity for future workers. The changes include additional glazing of the northern elevation to provide natural light into the enlarged office area.	Appendix C Appendix F
<ul style="list-style-type: none"> a. <i>the development is of a high quality design, and</i> b. <i>a variety of materials and external finishes for the external facades are incorporated, and</i> c. <i>high quality landscaping is provided, and</i> d. <i>the scale and character of the development is compatible with other employment-generating development in the precinct concerned.</i> 		
State Environmental Planning Policy (Resilience and Hazards) 2021		
Chapter 3 – Hazardous and offensive development		
Section 3.12 – Matters for consideration by consent authorities		
<i>In determining an application to carry out development to which this Part applies, the consent authority must consider (in addition to any other matters specified in the Act or in an environmental planning instrument applying to the development)—</i>	The Proposal is not classified as 'potentially hazardous industry' as it would not store dangerous goods in excess of the screening thresholds set out in DPHI's Applying SEPP 33 guideline. It is also not classified as a 'potentially offensive industry'.	Section 4.0
(a) <i>current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and</i>	Specifically, the 2,000L diesel tank accompanying the emergency back-up generator is below 5 tonnes and more than 2m away from the Site boundary. It is therefore below the relevant screen levels established under the Applying SEPP 33 guideline.	
(b) <i>whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and</i>		
(c) <i>in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and</i>		
(d) <i>any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and</i>		
(e) <i>any likely future use of the land surrounding the development.</i>		

Mamre Road Precinct Development Control Plan

Section 4.2 – Built Form Design Controls

Section 4.2.4 – Communal Areas

1) Each building shall be provided with at least 1 communal area for the use and enjoyment of employees and visitors to that development. The space shall be commensurate with the scale of the development and be accessible from the main office.

The proposed modifications do not include changes to the external communal open space on Lot 3. It is noted that the proposed increase in ancillary office area is supported by large internal spaces that either face the communal open space or glazing along the northern elevation.

Appendix C

Section 4.2.5 – Building Design

- 15) The design of the main office and administration components shall:
- Be located at the main frontage of the building and be designed as an integral part of the overall building, rather than a 'tack on' addition;
 - Have a designated entry point that is highly visible and directly accessible from visitor parking and the main street frontage; and
 - Incorporate the principles of Universal Design.

The proposed modifications to the Lot 3 ancillary office area retain the approved external design of the office from the street frontage with the proposed changes internal only with the exception of additional glazing along the northern elevation.

Appendix C

Section 4.6 – Access and Parking

Section 4.6.1 – Parking and Manoeuvring Areas

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. Table 12. Minimum parking rates

The development, as proposed to be modified, requires 122 car parking spaces. It includes a provision of 146 car parking spaces and therefore complies with the MRP DCP.

**Section 6.1.2
Appendix F**

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

5) The movement of pedestrians throughout the car park shall be clearly delineated and be visible for all users of the car park to minimise conflict with vehicles.

The proposed modification to include car parking on the southern portion of the hardstand includes supporting safety features such as fencing to separate the car parking area from the heavy vehicle area and pedestrian access ways to support safe pedestrian access. Pedestrian access from the car parking is available directly to the warehouse adjacent to the dock office, or to the office via the pedestrian pathway along the Access Road to the east. It is noted the hardstand car park will be used primarily by warehouse workers. \

**Section 3.3
Appendix C**

Section 4.6.2 – Driveways

1) <i>The road access to the site must provide for safe entry and exit, with appropriate traffic sight distance. All vehicles should enter/exit the site in a forward direction.</i>	The proposed modifications to driveways along the eastern boundary include appropriate separation distance with all vehicles to enter/exit the Site in a forward direction.	Appendix B
2) <i>Driveways and access roads shall be designed in accordance with AS2890.1 and 2 - 2004</i>	The driveways will comply with all relevant Australia Standards.	Appendix F
3) <i>The design of driveways shall consider traffic volumes on the surrounding road network and to and from the development.</i>	The driveways are appropriately located along the eastern boundary to the Access Road in accordance with the <i>Mamre Road Precinct Development Control Plan</i> (MRP DCP).	Appendix F
4) <i>Driveways should be:</i> <ul style="list-style-type: none">• <i>Provided from lanes and secondary streets rather than the primary street;</i>• <i>Located taking into account any services within the road reserve, such as power poles, drainage inlet pits and existing street trees;</i>• <i>Designed to avoid conflict between heavy vehicle and staff, customer and visitor vehicular and cycle movements, preferably by providing separate access driveways;</i>• <i>Located to minimise amenity impacts to adjacent rural-residential development;</i>• <i>Designed to avoid direct access across a site boundary with a major road. Auxiliary lanes (deceleration and acceleration) may need to be provided to minimise conflicts between entering / leaving traffic and fast moving through traffic; and</i>• <i>For driveways with high traffic volumes, located away from major roads, intersections, opposite other intense developments, high pedestrian zones, and where right turn movements would obstruct traffic.</i>	The driveway, as proposed to be modified, complies with the relevant provisions of the subject control.	Appendix B