



# WESTERN SYDNEY AIRPORT



## Conditions for the Stage 1 Development of a Western Sydney Airport.

This document contains the conditions to be included in the final Airport Plan. These conditions will be set out in Section 3.10 of the Airport Plan to be determined by the Minister for Urban Infrastructure, the Hon Paul Fletcher MP.

### 3.10 Conditions

In accordance with subsection 96C(5) of the Act, this section of the Airport Plan sets out the conditions to be complied with in relation to the Stage 1 Development. Section 96J of the Act provides penalties for non-compliance with a condition.

Subsection 96B(9) of the Act prevents the Infrastructure Minister from determining the Airport Plan unless it includes any conditions specified in the notice given by the Environment Minister under subsection 96B(3) of the Act in response to the draft Airport Plan. By operation of subsection 96C(8) of the Act, any other condition or provision of the Airport Plan is of no effect to the extent that it is inconsistent with a condition required to be included in the Airport Plan by subsection 96B(9) of the Act.

The structure of this section of the Airport Plan is as follows:

- Section 3.10.1 provides definitions and interpretation
- Section 3.10.2 contains construction conditions
- Section 3.10.3 contains airspace design conditions
- Section 3.10.4 contains operational conditions
- Section 3.10.5 contains general conditions
- Section 3.10.6 contains other conditions.

### 3.10.1. Definitions and interpretation

**Aircraft Overflight Noise** means noise generated by an aircraft in flight or when landing, taking off or taxiing at an airport.

**Airport Operations** means the operation of the Airport, providing access for air transport. Commissioning activities such as test flights are not Airport Operations.

**Approval Condition**, in relation to an Approved Plan, means the condition in accordance with which the plan was originally approved.

**Approved Plan** means a plan approved in accordance with a condition. However, see condition 41 (Variation of Approved Plans).

**Approver** means:

- (a) for condition 30 (Biodiversity Offset Delivery Plan) and any matter relating to the Biodiversity Offset Delivery Plan – the Environment Minister or an SES employee in the Environment Department; and
- (b) for other matters – the Infrastructure Minister or an SES employee in the Infrastructure Department.

**Biodiversity Assessment Report** has the same meaning as in the FBA.

**CEMP** means a construction environmental management plan required under a condition in section 3.10.2.

**Construction Period** means the period from the date of commencement of Main Construction Works in any part of the Airport Site until the date of commencement of Airport Operations.

**Direct Offset(s)** has the same meaning as in the EPBC Act Environmental Offsets Policy issued by the Environment Department in October 2012.

**Environment Department** means the Department of State administered by the Environment Minister.

**FBA** means the Framework for Biodiversity Assessment, which is a methodology that is adopted by the *NSW Biodiversity Offsets Policy for Major Projects* and administered by OEH, to assess the impacts of a project on biodiversity and to provide guidance on the implementation of offsets.

**Infrastructure Department** means the Department of State administered by the Infrastructure Minister.

**OEH** means the New South Wales Office of Environment and Heritage.

**OEMP** means an operational environmental management plan required under a condition in section 3.10.4.

**Other Compensatory Measures** has the same meaning as in the EPBC Act Environmental Offsets Policy issued by the Environment Department in October 2012.

**PFOS and PFOA** means per- and poly-fluorinated alkyl substances (PFASs) (also commonly known as PFCs (per- and poly-fluorinated chemicals)), and their derivatives including perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS).

**Plan Owner** means the person who is or was required to prepare a plan under a condition. However, after an Airport Lease is granted, the ALC is the Plan Owner for any plan that was approved under a condition before the lease was granted, except for any plan approved under condition 3 (Disinterment of Human Remains), condition 4 (TransGrid Relocation Works) or condition 30 (Biodiversity Offset Delivery Plan).

**Sensitive Receptor** means:

- (a) a dwelling;
- (b) an impermanent dwelling in a place designed, or reserved, for impermanent dwellings (for example, a caravan park or residential marina);
- (c) a hotel, motel or hostel;
- (d) a child care institution, kindergarten, school, college, university or other educational institution;
- (e) a hospital, medical centre or nursing home; or
- (f) a building that is a church or similar place of worship.

**SES employee** means an SES employee under the *Public Service Act 1999*.

**Shapefiles** means an ESRI Shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes of the offset area, including the shape and the protected matters present at the relevant site. Attributes should also be captured in '.xls' format.

**Site Occupier** means:

- (a) before an Airport Lease is granted – the Commonwealth; and

*Note: Where a condition specifies an activity to be carried out by the Commonwealth, the Infrastructure Department will be responsible for carrying out the activity on behalf of the Commonwealth (unless stated otherwise).*

- (b) after an Airport Lease is granted – the ALC.

**Suitably Qualified Expert** means any individual with tertiary qualifications and a minimum of five years demonstrated experience relevant to the task in question.

**TransGrid** means the network operator (as that term is defined in the *Electricity Supply Act 1995* (NSW)) which operates the 330 kV electricity transmission lines located on the Airport Site.

**Wilderness Area** has the same meaning as in the Wilderness Act 1987 (NSW).

The following interpretive provisions also apply to the conditions:

- (a) If a condition specifies a time by which something must be done, an Approver may vary that time, if requested to do so by a person to whom the condition applies.

- (b) Unless otherwise agreed by an Approver, a Plan Owner should submit a plan, or a variation to a plan, for approval at least three months before it wishes to have the plan or variation approved.
- (c) Other terms used in the conditions have the meanings given by Appendix A of the Airport Plan.

### 3.10.2. Construction conditions

#### 1. Construction plan

- (1) The Site Occupier must not commence Main Construction Works until a Construction Plan for the Airport Site and Associated Sites has been prepared and approved in accordance with this condition.
- (2) The Site Occupier must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;a Construction Plan in relation to the carrying out of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Construction Plan are that an Approver is satisfied that the Construction Plan:
  - (a) sets out:
    - (i) the program and timetable for carrying out the Stage 1 Development;
    - (ii) details of the construction methodology to be used for carrying out the Stage 1 Development;
    - (iii) any proposal to phase commencement of Main Construction Works in different parts of the Airport Site or Associated Sites at different times; and
    - (iv) details, not inconsistent with the Land Use Plan in Part 2 of the Airport Plan, of the size and location of the parts of the Airport Site or an Associated Site on which Main Construction Works are planned to occur;
  - (b) seeks to avoid or minimise, to the extent reasonably practicable, impacts on parts of the Airport Site that have important biodiversity values that are outside of the indicative Construction Impact Zone shown in Figure 2 in Part 2 of the Airport Plan; and
  - (c) is otherwise appropriate.
- (4) The Site Occupier must ensure that no CEMP is inconsistent with the approved Construction Plan.

*Note: Once the Construction Plan is approved, the details it sets out of the size and location of the part or parts of the Airport Site or an Associated Site on which Main Construction Works are planned to occur will be the Construction Impact Zone: see the definition of 'Construction Impact Zone'. The details will form part of the Environmental Management Framework and be reflected in the other CEMPs required to be produced.*

- (5) The approved Construction Plan may provide for Main Construction Works to be carried out in phases that commence at different times for different parts of the Airport Site or an Associated Site. If it does, the Site Occupier may prepare a CEMP in relation to one or more phases, and the criteria for approval of such a CEMP are taken to exclude any matter irrelevant to the phases for which approval is sought. A variation of the CEMP must be submitted for approval in accordance with condition 41 (Variation of Approved Plans) prior to commencement of any new phase.

## 2. Design of Stage 1 Development

- (1) The ALC must establish consultation arrangements with Commonwealth agencies that perform regulatory or aviation related functions at the Airport for the purpose of ensuring that the design and construction of the Stage 1 Development takes account of regulatory requirements and maximises the aeronautical capacity of the Airport.
- (2) From time to time, and when requested by an Approver, the ALC must publish information (excluding any confidential information) about the proposed layout and design of the Airport.
- (3) Where an aspect of the design of the Stage 1 Development or the methodology for carrying out the developments described in Part 3 of the Airport Plan will be relevant to a plan that is not required to be approved until a later time, the Site Occupier may, by agreement of an Approver, submit a preliminary plan to enable that aspect of the design or the methodology to be approved by an Approver in advance of the full plan being submitted.

*Note: An example of where such a preliminary plan may be required is in relation to specific aspects of the Ground Transport OEMP that may need to be approved well in advance of Airport Operations to enable the layout of the airport to be finalised.*

- (4) The Site Occupier should take into consideration opportunities to minimise noise impacts on Sensitive Receptors in the design of the Stage 1 Development.

## 3. Disinterment of human remains

- (1) The Site Occupier must not disinter any of the human remains located in grave sites identified in the European and other heritage technical report in volume 4 of the EIS:
  - (a) until a Cemeteries Relocation Management Plan has been prepared and approved in accordance with this condition; or
  - (b) inconsistently with the approved Cemeteries Relocation Management Plan.
- (2) The Infrastructure Department must prepare and submit to an Approver for approval a Cemeteries Relocation Management Plan, dealing with:
  - (a) Preparatory Activities to assist with determining the scope of the process involved in relocating the human remains located in grave sites identified in the European and other heritage technical report in volume 4 of the EIS;
  - (b) the disinterment of the remains; and
  - (c) the reinterment of the remains at another cemetery or other cemeteries.
- (3) In preparing the Cemeteries Relocation Management Plan, the Infrastructure Department

must take into account the following principles:

- (a) consultation with relatives and stakeholders;
- (b) reasonable public notice prior to the commencement of exhumation activities;
- (c) reasonable endeavours to contact surviving relatives;
- (d) consideration of public health and heritage matters; and
- (e) carrying out activities sensitively with due respect and reverence.

#### 4. TransGrid Relocation Works

- (1) The Site Occupier must not permit TransGrid Relocation Works (other than Preparatory Activities) to commence until a TransGrid Relocation Plan has been prepared and approved in accordance with this condition.
- (2) TransGrid must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;a TransGrid Relocation Plan in respect of the TransGrid Relocation Works.
- (3) TransGrid must not carry out TransGrid Relocation Works inconsistently with the approved TransGrid Relocation Plan.
- (4) The criteria for approval of the TransGrid Relocation Plan are that an Approver is satisfied that:
  - (a) an environmental assessment which would substantially satisfy the requirements for the assessment of environmental impacts under the laws which would apply to the TransGrid Relocation Works if the Act did not apply to the TransGrid Relocation Works has been completed in respect of any impacts of the TransGrid Relocation Works which were not assessed as part of the EIS;
  - (b) the plan includes appropriate management and mitigation measures to avoid, minimise or manage, the identified environmental impacts of the TransGrid Relocation Works;
  - (c) the plan identifies the persons responsible for implementing the plan; and
  - (d) the plan is otherwise appropriate.

#### 5. Preparatory Activities

- (1) If the Site Occupier proposes to commence the Aboriginal survey and salvage programmes described in Table 28–13 in Chapter 28 of the EIS before there is an approved Aboriginal Cultural Heritage CEMP, the Site Occupier must prepare a plan addressing those programmes and submit it for approval by an Approver before commencing the survey and salvage programmes.
- (2) If an Approver determines that an activity is a Preparatory Activity for paragraph (e) of the definition of 'Preparatory Activities', the Approver may require the Site Occupier to prepare and submit for approval a plan in relation to the carrying out of that Preparatory Activity.



- (3) In carrying out a Preparatory Activity, the Site Occupier must:
  - (a) implement any plan approved in accordance with subcondition (1) or (2), except to the extent that the plan is inconsistent with any subsequently approved CEMP or the approved Construction Plan; and
  - (b) not act inconsistently with any approved CEMP or the approved Construction Plan.

*Note: Preparatory Activities can generally commence before all CEMPs are approved. If a CEMP has been approved, however, Preparatory Activities must not be carried out inconsistently with the approved CEMP. Some conditions require a specific plan for the preparatory activity to be approved prior to the activity occurring (for example a plan required under subcondition (1) or the Cemeteries Relocation Management Plan required under condition 3).*

## 6. Noise and vibration management

- (1) The Site Occupier must not:
  - (a) commence Main Construction Works until a Noise and Vibration CEMP has been prepared and approved in accordance with this condition; or
  - (b) carry out any development described in Part 3 of the Airport Plan inconsistently with the approved Noise and Vibration CEMP.
- (2) The Site Occupier must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;a Noise and Vibration CEMP in relation to the carrying out of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Noise and Vibration CEMP are that an Approver is satisfied that:
  - (a) in preparing the Noise and Vibration CEMP, the Site Occupier has taken into account Table 28–2 in Chapter 28 of the EIS; and
  - (b) the Noise and Vibration CEMP complies with Table 28–3 in Chapter 28 of the EIS, and is otherwise appropriate.
- (4) The Noise and Vibration CEMP must:
  - (a) provide for respite periods for Sensitive Receptors from noise and vibration associated with construction activities; and
  - (b) not permit blasting activity during the hours of 5 pm to 9 am on weekdays, on weekends (other than 9 am to 1 pm Saturdays) and on public holidays.

## 7. Biodiversity management

- (1) The Site Occupier must not:
  - (a) commence Main Construction Works until a Biodiversity CEMP has been prepared and approved in accordance with this condition; or

- (b) carry out any development described in Part 3 of the Airport Plan inconsistently with the approved Biodiversity CEMP.
- (2) The Site Occupier must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;a Biodiversity CEMP in relation to the carrying out of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Biodiversity CEMP are that an Approver is satisfied that:
  - (a) in preparing the Biodiversity CEMP, the site Occupier has taken into account Table 28–4 in Chapter 28 of the EIS; and
  - (b) the Biodiversity CEMP complies with Table 28–5 in Chapter 28 of the EIS, and is otherwise appropriate.
- (4) The Biodiversity CEMP must be based on and informed by a Biodiversity Assessment Report that:
  - (a) includes the results of an updated ecological survey that has applied the field survey methodology of the FBA for areas outside the Construction Impact Zone (but within the Airport Site);
  - (b) has had regard to the key diagnostic characteristics and condition thresholds specified in the *Commonwealth Listing Advice on Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest* (Threatened Species Scientific Committee 2008), particularly regarding patch size and contiguous native vegetation; and
  - (c) has been independently verified by a person accredited in accordance with section 142B(1)(c) of the *Threatened Species Conservation Act 1995 (NSW)*, appointed following consultation with OEH.
- (5) The Biodiversity CEMP must contain measures to protect and manage the areas in the environmental conservation zone shown in the Land Use Plan (EC1) along the Badgerys Creek riparian corridor including to:
  - (a) replace exotic grasslands with suitable native vegetation;
  - (b) rehabilitate existing remnant and native vegetation; and
  - (c) provide ongoing protection of the biodiversity and environmental values.

## 8. Soil and water management

- (1) The Site Occupier must not:
  - (a) commence Main Construction Works until a Soil and Water CEMP has been prepared and approved in accordance with this condition; or
  - (b) carry out any development described in Part 3 of the Airport Plan inconsistently with the approved Soil and Water CEMP.
- (2) The Site Occupier must:



- (a) prepare; and
- (b) submit to an Approver for approval;

a Soil and Water CEMP in relation to the carrying out of the developments described in Part 3 of the Airport Plan.

- (3) The criteria for approval of the Soil and Water CEMP are that an Approver is satisfied that:
  - (a) in preparing the Soil and Water CEMP, the Site Occupier has taken into account Table 28–6 in Chapter 28 of the EIS; and
  - (b) the Soil and Water CEMP complies with Table 28–7 in Chapter 28 of the EIS, and is otherwise appropriate.
- (4) The groundwater monitoring to be undertaken for the Soil and Water CEMP must include groundwater monitoring points adjacent to woodlands in areas outside the Construction Impact Zone (but within the Airport Site).

*Note: This measure is intended to implement a groundwater monitoring network in relation to likely groundwater dependent vegetation.*

- (5) The Soil and Water CEMP must include the following trigger-action-response measures in relation to groundwater levels in areas outside the Construction Impact Zone (but within the Airport Site):
  - (a) target criteria, set with reference to relevant standards and site specific parameters;
  - (b) trigger values and corresponding corrective actions to prevent recurring or long-term exceedence of the target criteria described in (a); and
  - (c) corrective actions to compensate for any recurring or long-term exceedence of the target criteria described in (a).

*Note: Exceedence in this context should be understood to mean either elevated or depressed groundwater levels, with reference to an acceptable bandwidth.*

- (6) The Soil and Water CEMP must include soil, groundwater and surface water PFAS contamination monitoring requirements, testing and disposal procedures appropriate to the risk posed by any contamination, and consistent with relevant Commonwealth environmental management guidance on PFOS and PFOA as prepared by the Environment Department.

## 9. Traffic and access management

- (1) The Site Occupier must not:
  - (a) commence Main Construction Works until a Traffic and Access CEMP has been prepared and approved in accordance with this condition; or
  - (b) carry out any development described in Part 3 of the Airport Plan inconsistently with the approved Traffic and Access CEMP.
- (2) The Site Occupier must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;

a Traffic and Access CEMP in relation to the carrying out of the developments described in Part 3 of the Airport Plan.

- (3) The criteria for approval of the Traffic and Access CEMP are that an Approver is satisfied that:
  - (a) in preparing the Traffic and Access CEMP, the site Occupier has taken into account Table 28–8 in Chapter 28 of the EIS; and
  - (b) the Traffic and Access CEMP complies with Table 28–9 in Chapter 28 of the EIS, and is otherwise appropriate.

## 10. Air quality management

- (1) The Site Occupier must not:
  - (a) commence Main Construction Works until an Air Quality CEMP has been prepared and approved in accordance with this condition; or
  - (b) carry out any development described in Part 3 of the Airport Plan inconsistently with the approved Air Quality CEMP.
- (2) The Site Occupier must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;

an Air Quality CEMP in relation to the carrying out of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Air Quality CEMP are that an Approver is satisfied that:
  - (a) in preparing the Air Quality CEMP, the Site Occupier has taken into account Table 28–10 in Chapter 28 of the EIS; and
  - (b) the Air Quality CEMP complies with Table 28–11 in Chapter 28 of the EIS, and is otherwise appropriate.

## 11. Aboriginal cultural heritage management

- (1) The Site Occupier must not:
  - (a) commence Main Construction Works, until an Aboriginal Cultural Heritage CEMP has been prepared and approved in accordance with this condition;
  - (b) carry out any Preparatory Activities inconsistently with Table 28–13 in Chapter 28 of the EIS; or
  - (c) carry out any development described in Part 3 of the Airport Plan inconsistently with the approved Aboriginal Cultural Heritage CEMP.
- (2) The Site Occupier must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;

an Aboriginal Cultural Heritage CEMP in relation to the carrying out of the

developments described in Part 3 of the Airport Plan.

- (3) The criteria for approval of the Aboriginal Cultural Heritage CEMP are that an Approver is satisfied that:
  - (a) in preparing the Aboriginal Cultural Heritage CEMP, the Site Occupier has taken into account Table 28–12 in Chapter 28 of the EIS; and
  - (b) the Aboriginal Cultural Heritage CEMP complies with Table 28–13 in Chapter 28 of the EIS, and is otherwise appropriate.
- (4) The Infrastructure Department must consult with relevant Aboriginal stakeholders and relevant government agencies with the aim of establishing, with the support and collaborative action of governments and other stakeholders, an Aboriginal cultural heritage ‘keeping place’ that would provide secure, above ground storage of artefacts and enable future access for cultural purposes, interpretation, education or research.

## 12. European and other heritage management

- (1) The Site Occupier must not:
  - (a) commence Main Construction Works until a European and Other Heritage CEMP has been prepared and approved in accordance with this condition; or
  - (b) carry out any Preparatory Activities inconsistently with Table 28–15 in Chapter 28 of the EIS; or
  - (c) carry out any development described in Part 3 of the Airport Plan inconsistently with the approved European and Other Heritage CEMP.
- (2) The Site Occupier must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;a European and Other Heritage CEMP in relation to the carrying out of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the European and Other Heritage CEMP are that an Approver is satisfied that:
  - (a) in preparing the European and Other Heritage CEMP, the Site Occupier has taken into account Table 28–14 in Chapter 28 of the EIS; and
  - (b) the European and Other Heritage CEMP complies with Table 28–15 in Chapter 28 of the EIS, and is otherwise appropriate.

## 13. Waste and resources management

- (1) The Site Occupier must not:
  - (a) commence Main Construction Works until a Water and Resources CEMP has been prepared and approved in accordance with this condition; or
  - (b) carry out any development described in Part 3 of the Airport Plan inconsistently with the

- approved Water and Resources CEMP.
- (2) The Site Occupier must:
    - (a) prepare; and
    - (b) submit to an Approver for approval;a Water and Resources CEMP in relation to the carrying out of the developments described in Part 3 of the Airport Plan.
  - (3) The criteria for approval of the Water and Resources CEMP are that an Approver is satisfied that:
    - (a) in preparing the Water and Resources CEMP, the Site Occupier has taken into account Table 28–16 in Chapter 28 of the EIS; and
    - (b) the Water and Resources CEMP complies with Table 28–17 in Chapter 28 of the EIS, and is otherwise appropriate.

#### 14. Visual and landscape management

- (1) The Site Occupier must not:
  - (a) commence Main Construction Works until a Visual and Landscape CEMP has been prepared and approved in accordance with this condition; or
  - (b) carry out any development described in Part 3 of the Airport Plan inconsistently with the approved Visual and Landscape CEMP.
- (2) The Site Occupier must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;a Visual and Landscape CEMP in relation to the carrying out of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Visual and Landscape CEMP are that an Approver is satisfied that:
  - (a) in preparing the Visual and Landscape CEMP, the Site Occupier has taken into account Table 28–18 in Chapter 28 of the EIS; and
  - (b) the Visual and Landscape CEMP complies with Table 28–19 in Chapter 28 of the EIS, and is otherwise appropriate.

#### 15. Community and stakeholder engagement (construction)

- (1) The Site Occupier must not:
  - (a) commence Main Construction Works until a Community and Stakeholder Engagement Plan has been prepared and approved in accordance with this condition; or
  - (b) carry out any development described in Part 3 of the Airport Plan inconsistently with the approved Community and Stakeholder Engagement Plan.

- (2) The Site Occupier must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;  
a Community and Stakeholder Engagement Plan in relation to the carrying out of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Community and Stakeholder Engagement Plan are that an Approver is satisfied that:
  - (a) in preparing the Community and Stakeholder Engagement Plan, the Site Occupier has taken into account Table 28–20 in Chapter 28 of the EIS; and
  - (b) the Community and Stakeholder Engagement Plan complies with Table 28–21 in Chapter 28 of the EIS, and is otherwise appropriate.

### 3.10.3. Airspace design process

#### 16. Airspace design process

- (1) The ALC must not permit regular aircraft operations to commence at the Airport unless the requirements of this condition have been satisfied.
- (2) The airspace and flight path design are to be developed by a steering group led by the Infrastructure Department and involving Airservices Australia and the Civil Aviation Safety Authority. After an Airport Lease is granted the ALC will also be invited to participate in the steering group. The Infrastructure Department must establish a community and stakeholder reference group (Forum on Western Sydney Airport) which will operate until the end of the detailed design stage identified in Table 10 in Part 2 of the Airport Plan.
- (3) In developing the airspace and flight path design, the steering group must conduct public consultation with stakeholders who include the aviation industry, the community and state and local government authorities.
- (4) The airspace and flight path design, once developed, is to be referred as a plan for aviation airspace management, to the Environment Minister under section 161 of the EPBC Act.
- (5) The airspace and flight path design must take account of the following principles, in addition to the principles in section 2.2.5 of the Airport Plan:
  - (a) airspace and flight path design must explicitly consider the Aircraft Overflight Noise mitigation options presented in chapters 7 and 10 of the EIS;
  - (b) airspace and flight path design must have regard to the social and economic impacts on existing airspace users in the Sydney basin;
  - (c) airspace and flight path design must explicitly consider whether arrangements are required for managing Aircraft Overflight Noise at night; and
  - (d) airspace and flight path design must minimise to the extent practicable the impact of Aircraft Overflight Noise on the following:
    - (i) residential areas;

- (ii) Sensitive Receptors;
  - (iii) the Greater Blue Mountains World Heritage Area – particularly areas of scenic or tourism value; and
  - (iv) Wilderness Areas.
- (6) The airspace and flight path design for the Airport, once developed, must include or be accompanied by noise modelling of a range of realistic airport capacity and meteorological scenarios.
- (7) The Infrastructure Department must develop a noise insulation and property acquisition policy in relation to Aircraft Overflight Noise for buildings outside the Airport Site, having regard to the 24-hour nature of operations at the Airport.
- (8) Any referral(s) of a plan for aviation airspace management, in accordance with section 161 of the EPBC Act, must explain how all matters in this condition 16 have been addressed in developing the plan.

### 3.10.4. Operational conditions

#### 17. Environmental Management System

Before Airport Operations commence, the ALC must develop and adopt a comprehensive environmental management system for the Airport that maintains consistency with relevant Australian and international standards.

#### 18. Noise management

- (1) The ALC must not:
  - (a) commence Airport Operations until a Noise OEMP has been prepared and approved in accordance with this condition; or
  - (b) operate any development described in Part 3 of the Airport Plan inconsistently with the approved Noise OEMP.
- (2) The ALC must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;

a Noise OEMP in relation to the operation of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Noise OEMP are that an Approver is satisfied that:
  - (a) in preparing the Noise OEMP, the ALC has taken into account Table 28–23 in Chapter 28 of the EIS; and
  - (b) the Noise OEMP complies with Table 28–24 in Chapter 28 of the EIS, and is otherwise appropriate.
- (4) This condition ceases to have effect once there is a Master plan for the Airport.

## 19. Air quality management

- (1) The ALC must not:
  - (a) commence Airport Operations until an Air Quality OEMP has been prepared and approved in accordance with this condition; or
  - (b) operate any development described in Part 3 of the Airport Plan inconsistently with the approved Air Quality OEMP.
- (2) The ALC must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;

an Air Quality OEMP in relation to the operation of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Air Quality OEMP are that an Approver is satisfied that:
  - (a) in preparing the Air Quality OEMP, the ALC has taken into account Table 28–25 in Chapter 28 of the EIS; and
  - (b) the Air Quality OEMP complies with Table 28–26 in Chapter 28 of the EIS, and is otherwise appropriate.
- (4) This condition ceases to have effect once there is a Master plan for the Airport.

## 20. Ground transport management

- (1) The ALC must not:
  - (a) commence Airport Operations until a Ground Transport OEMP has been prepared and approved in accordance with this condition; or
  - (b) operate any development described in Part 3 of the Airport Plan inconsistently with the approved Ground Transport OEMP.
- (2) The ALC must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;

a Ground Transport OEMP in relation to the operation of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Ground Transport OEMP are that an Approver is satisfied that:
  - (a) in preparing the Ground Transport OEMP, the ALC has taken into account Table 28–27 in Chapter 28 of the EIS; and
  - (b) the Ground Transport OEMP complies with Table 28–28 in Chapter 28 of the EIS, and is otherwise appropriate.
- (4) The Ground Transport OEMP must explain how the Stage 1 Development has been designed to optimise connections to surrounding regional and local ground transport networks.



- (5) This condition ceases to have effect once there is a Master plan for the Airport.

## 21. Soil and water management

- (1) The ALC must not:
  - (a) commence Airport Operations until a Soil and Water OEMP has been prepared and approved in accordance with this condition; or
  - (b) operate any development described in Part 3 of the Airport Plan inconsistently with the approved Soil and Water OEMP.
- (2) The ALC must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;a Soil and Water OEMP in relation to the operation of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Soil and Water OEMP are that an Approver is satisfied that:
  - (a) in preparing the Soil and Water OEMP, the ALC has taken into account Table 28–29 in Chapter 28 of the EIS; and
  - (b) the Soil and Water OEMP complies with Table 28–30 in Chapter 28 of the EIS, and is otherwise appropriate.
- (4) The Soil and Water OEMP must include the following trigger-action-response measures in relation to the quality of water discharged from the Airport Site:
  - (a) target criteria, set with reference to relevant standards and site specific parameters;
  - (b) trigger values and corresponding corrective actions to prevent recurring or long-term exceedence of the target criteria described in (a); and
  - (c) corrective actions to compensate for any recurring or long-term exceedence of the target criteria described in (a).

*Note: Exceedence in this context should be understood to mean either elevated or depressed groundwater levels, with reference to an acceptable bandwidth.*

- (5) The Soil and Water OEMP must include soil, groundwater and surface water PFAS contamination monitoring requirements, testing and disposal procedures appropriate to the risk posed by any contamination, and consistent with relevant Commonwealth environmental management guidance on PFOS and PFOA as prepared by the Environment Department.
- (6) This condition ceases to have effect once there is a Master plan for the Airport.

## 22. Waste and resources management

- (1) The ALC must not:
  - (a) commence Airport Operations until a Waste and Resources OEMP has been prepared and approved in accordance with this condition; or

- (b) operate any development described in Part 3 of the Airport Plan inconsistently with the approved Waste and Resources OEMP.
- (2) The ALC must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;a Waste and Resources OEMP in relation to the operation of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Waste and Resources OEMP are that an Approver is satisfied that:
  - (a) in preparing the Waste and Resources OEMP, the ALC has taken into account Table 28–31 in Chapter 28 of the EIS; and
  - (b) the Waste and Resources OEMP complies with Table 28–32 in Chapter 28 of the EIS, and is otherwise appropriate.
- (4) This condition ceases to have effect once there is a Master plan for the Airport.

## 23. Biodiversity, land and safety management

- (1) The ALC must not:
  - (a) commence Airport Operations until a Biodiversity, Land and Safety OEMP has been prepared and approved in accordance with this condition; or
  - (b) operate any development described in Part 3 of the Airport Plan inconsistently with the approved Biodiversity, Land and Safety OEMP.
- (2) The ALC must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;a Biodiversity, Land and Safety OEMP in relation to the operation of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Biodiversity, Land and Safety OEMP are that an Approver is satisfied that:
  - (a) in preparing the Biodiversity, Land and Safety OEMP, the ALC has taken into account Table 28–33 in Chapter 28 of the EIS; and
  - (b) the Biodiversity, Land and Safety OEMP complies with Table 28–34 in Chapter 28 of the EIS, and is otherwise appropriate.
- (4) The Biodiversity, Land and Safety OEMP must contain measures to protect and manage the areas in the environmental conservation zone shown in the Land Use Plan (EC1) along the Badgerys Creek riparian corridor including to:
  - (a) replace exotic grasslands with suitable native vegetation;
  - (b) rehabilitate existing remnant and native vegetation; and
  - (c) provide ongoing protection of the biodiversity and environmental values.

- (5) This condition ceases to have effect once there is a Master plan for the Airport.

#### 24. Establishment of Operational Consultation forums

- (1) The ALC must establish a community aviation consultation group in accordance with guidelines issued by the Infrastructure Department to operate following the detailed design stage for the flight paths (as shown in Table 10 in Part 2 of the Airport Plan) and before Airport Operations commence.
- (2) The ALC must establish a planning coordination forum in accordance with guidelines issued by the Infrastructure Department before Airport Operations commence.

#### 25. Community and stakeholder engagement (operations)

- (1) The ALC must not:
  - (a) commence Airport Operations until a Community and Stakeholder Engagement Plan has been prepared and approved in accordance with this condition; or
  - (b) operate any development described in Part 3 of the Airport Plan inconsistently with the approved Community and Stakeholder Engagement Plan.
- (2) The ALC must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;a Community and Stakeholder Engagement Plan in relation to the operation of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Community and Stakeholder Engagement Plan are that an Approver is satisfied that:
  - (a) in preparing the Community and Stakeholder Engagement Plan, the ALC has taken into account Table 28–35 in Chapter 28 of the EIS; and
  - (b) the Community and Stakeholder Engagement Plan complies with Table 28–36 in Chapter 28 of the EIS, and is otherwise appropriate.
- (4) This condition ceases to have effect once there is a Master plan for the Airport.

#### 26. Aviation fuel supply corridor options report

By 31 December 2017, the Infrastructure Department must, in consultation with any NSW Government agencies specified by the NSW Department of Premier and Cabinet and any other relevant stakeholders, consider, analyse and report on options for a corridor for a pipeline to supply aviation fuel to the Airport Site.

#### 27. Statutory compliance – aviation fuels

- (1) The Site Occupier must ensure that contracts which it enters into in relation to the supply, transport, storage or disposal of aviation fuels for the Stage 1 Development of the airport

include provisions requiring compliance with all applicable Commonwealth, state and local laws relating to the protection of the environment.

- (2) This condition ceases to have effect if and when a contract has been entered into for the construction of a fuel supply pipeline.

## 28. Aviation fuel supply periodic cost benefit reviews

- (1) The ALC must, within two years of the grant of an Airport Lease, and at least once every five years thereafter, prepare and publish a review of aviation fuel supply options comparing the social, economic and environmental costs, savings and benefits of fuel supplied to the Airport by road with other alternatives including a fuel pipeline. The reviews must be undertaken in consultation with any New South Wales Government agencies specified by the New South Wales Department of Premier and Cabinet.
- (2) This condition ceases to have effect if and when a contract has been entered into for the construction of a fuel supply pipeline.

## 3.10.5. General conditions

### 29. Sustainability

- (1) The ALC must not design, carry out or operate any development described in Part 3 of the Airport Plan inconsistently with:
  - (a) Table 28–38 in Chapter 28 of the EIS; or
  - (b) a Sustainability Plan prepared and approved in accordance with this condition.
- (2) Within six months of the grant of an Airport Lease, the ALC must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;a Sustainability Plan in relation to the design, carrying out and operation of the developments described in Part 3 of the Airport Plan.
- (3) The criteria for approval of the Sustainability Plan are that an Approver is satisfied that:
  - (a) in preparing the Sustainability Plan, the ALC has taken into account Table 28–37 in Chapter 28 of the EIS; and
  - (b) the Sustainability Plan complies with Table 28–38 in Chapter 28 of the EIS, and is otherwise appropriate.
- (4) This condition ceases to have effect once there is a Master plan for the Airport.

### 30. Biodiversity Offset Delivery Plan

- (1) The Infrastructure Department must:
  - (a) prepare; and
  - (b) submit to an Approver for approval;

a Biodiversity Offset Delivery Plan in relation to the carrying out of the developments described in Part 3 of the Airport Plan.

- (2) The criteria for approval of the Biodiversity Offset Delivery Plan are that an Approver is satisfied that the Biodiversity Offset Delivery Plan:
  - (a) takes into account:
    - (i) sections 28.5.3.3 – 28.5.3.5 in Chapter 28 of the EIS; and
    - (ii) the Biodiversity Offset Package in volume 4 of the EIS; and
    - (iii) the EPBC Act Environmental Offsets Policy issued by the Environment Department in October 2012; and
  - (b) is otherwise appropriate.
- (3) The Site Occupier must not commence Main Construction Works until the Biodiversity Offset Delivery Plan has been approved in accordance with this condition.
- (4) The Biodiversity Offset Delivery Plan must be based on and informed by a Biodiversity Assessment Report that:
  - (a) includes the results of an updated ecological survey that has applied the field survey methodology of the FBA for areas within the Construction Impact Zone;
  - (b) has had regard to the key diagnostic characteristics and condition thresholds specified in the *Commonwealth Listing Advice on Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest* (Threatened Species Scientific Committee 2008), particularly regarding patch size and contiguous native vegetation; and
  - (c) has been independently verified by a person accredited in accordance with section 142B(1)(c) of the *Threatened Species Conservation Act 1995* (NSW), appointed following consultation with OEH.
- (5) The Biodiversity Offset Delivery Plan must be prepared by a Suitably Qualified Expert.
- (6) The Biodiversity Offset Delivery Plan must:
  - (a) be consistent with the EPBC Act Environmental Offsets Policy (2012) to the satisfaction of the Approver, including in particular:
    - (i) offsets must deliver an overall conservation outcome that improves or maintains the viability of the protected matter;
    - (ii) offsets must be built around Direct Offsets but may include Other Compensatory Measures (including that the offsets must be ‘like-for-like’);
    - (iii) offsets must be additional to what is already required, determined by law or planning regulations, or agreed to under other schemes or programs; and
    - (iv) the identification of offsets must be informed by scientifically robust information and incorporate the precautionary principle in the absence of scientific certainty;
  - (b) include measures to offset impacts on foraging habitat for the Swift Parrot (*Lathamus discolor*) in addition to those species and ecological communities listed in the Biodiversity Offset Strategy provided as part of the EIS;
  - (c) identify biodiversity credits (or other measure as appropriate) required to offset the total

- impacts of the Stage 1 Development on biodiversity, determined in accordance with the relevant policies;
- (d) provide evidence that the required biodiversity credits (or other measure as appropriate) can be secured in accordance with the relevant policies;
  - (e) provide evidence that the arrangements for managing the Direct Offsets will be provided through mechanisms that are enduring, enforceable and auditable; and
  - (f) if any Other Compensatory Measures are proposed, provide details of those measures along with a justification of why they should be considered acceptable.
- (7) The Biodiversity Offset Delivery Plan should capitalise wherever possible on opportunities to improve connectivity or contribute to Commonwealth, state or local government initiatives to secure offsets with strategic value.
- (8) In preparing the Biodiversity Offset Delivery Plan, the Infrastructure Department must consult with Local Aboriginal Land Councils and Aboriginal groups in Western Sydney, to identify complementary outcomes for biodiversity conservation and Aboriginal cultural heritage on the Cumberland Plain.
- (9) The Infrastructure Department must provide the Environment Department with Shapefiles identifying the location and boundaries of each Direct Offset site within three months of legally securing and establishing management arrangements for the site, unless otherwise approved by an Approver.
- (10) The Infrastructure Department must implement the approved Biodiversity Offset Delivery Plan on behalf of the Commonwealth.
- (11) The Infrastructure Department must:
- (a) ensure that an independent audit of its compliance with condition 30(10) is conducted in respect of;
    - (i) the 12-month period commencing with the approval of the Biodiversity Offset Delivery Plan; and
    - (ii) each subsequent 18-month period until all biodiversity offsets required by the Biodiversity Offset Delivery Plan have been secured or implemented; and
  - (b) submit a report of each audit that is carried out to the Environment Department within six months of the end of the period in respect of which the audit was conducted.
- (12) For each audit, the independent auditor must be approved by an Approver prior to the commencement of the audit. Audit criteria must be agreed to by an Approver and the audit report must address the criteria to the satisfaction of an Approver.
- (13) If there is a change to the Construction Impact Zone after the Biodiversity Offset Delivery Plan is approved, a variation of the Biodiversity Offset Delivery Plan in relation to that change must be prepared by the Infrastructure Department and submitted for approval in accordance with condition 41 (Variation of Approved Plans), unless an Approver decides that the change is not material to biodiversity offset requirements.
- (14) The Infrastructure Department must review the Biodiversity Offset Delivery Plan every five years to ensure that the Biodiversity Offset Delivery Plan continues to meet the approval

criteria for that plan. The Infrastructure Department must provide a report on the review to the Environment Minister. If the plan does not continue to meet the approval criteria, within three months of the provision of the report, the Infrastructure Department must prepare and submit for approval under condition 41(1), a variation to the Approved Plan to ensure it continues to meet the approval criteria.

(15) The Environment Minister may:

- (a) vary an approved Biodiversity Offset Delivery Plan; or
- (b) request in writing that the Infrastructure Department prepare and seek approval for a specified variation of an approved Biodiversity Offset Delivery Plan in accordance with condition 41(1),

if the Environment Minister believes on reasonable grounds that:

- (c) this condition 30 has been contravened; and
- (d) the variation or the request for a specified variation (as the case may be) will address the contravention.

### 31. Biodiversity Experts Group

- (1) The Infrastructure Department must establish an expert group consisting of appropriately qualified and experienced experts in fields relevant to the Biodiversity Offset Delivery Plan.
- (2) The expert group will be consulted on the development of the Biodiversity Offset Delivery Plan and any proposed biodiversity offsets and other compensatory measures that are secured or implemented before the approval of the Biodiversity Offset Delivery Plan.
- (3) Prior to a person being appointed to the Biodiversity Experts Group, the Infrastructure Minister, or SES employee within the Infrastructure Department, must consult with an Approver, about the proposed appointment.
- (4) The preparation of the Biodiversity Offset Delivery Plan must be informed by the advice of the Biodiversity Experts Group. In particular, the advice of the Biodiversity Experts Group must be sought on whether and how conservation outcomes improve or maintain the viability of the biodiversity values to be offset.
- (5) When published, the Biodiversity Offset Delivery Plan must include or be accompanied by the advice of the Biodiversity Experts Group.

### 32. Reliable supply of native seed

- (1) The Infrastructure Department must enter into an agreement with Greening Australia Ltd to contribute funds to the organisation's Native Seed Production Area (SPA) program in Western Sydney.
- (2) The agreement must ensure that the funded elements of the SPA program:
  - (a) have the objective of producing a reliable source of native seed for ecological restoration work in Western Sydney's Cumberland Plain; and
  - (b) are specific to the threatened vegetation communities found on the Cumberland



Plain, with the primary focus on species associated with the Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest ecological community listed as critically endangered under the EPBC Act.

- (3) The agreement cannot limit Greening Australia Ltd's rights to:
  - (a) own or sell native seed produced from the SPA program; and
  - (b) retain the proceeds of the sale of those seeds to support the purposes of the SPA program.
- (4) The agreement must, for a minimum of five years, provide a funding contribution from the Infrastructure Department to the SPA program of at least \$2 million annually, subject to the terms of the agreement.
- (5) The agreement must be executed by both parties within six months of the determination of the Airport Plan, or by 1 May 2017 at the latest, and the first year's funding must be provided within 10 business days of the date of the agreement.
- (6) The agreement must include provisions for Greening Australia Ltd to access the Airport Site (to the greatest possible extent) for the purpose of native seed collection.
- (7) The contribution of funds by the Infrastructure Department delivered under the agreement may be included as an Other Compensatory Measure in the Biodiversity Offset Delivery Plan.
- (8) The Environment Department and the Infrastructure Department will facilitate, where possible, access for Greening Australia Ltd to other Commonwealth lands for the purpose of native seed collection in relation to the SPA program as it relates to Western Sydney's Cumberland Plain.

### 33. Threatened Flora Propagation

As soon as possible after the Airport Plan has been determined, the Infrastructure Department must, in consultation with the Environment Department, OEH and the Mount Annan Botanic Garden, arrange for:

- (a) the collection of seed or other propagules from the Airport Site as biologically appropriate for *Marsdenia viridiflora* subsp. *viridiflora* and *Pultenaea parviflora* at the earliest seasonal opportunity; and
- (b) propagation trials, and field planting trials if possible, for *Marsdenia viridiflora* subsp. *viridiflora* and *Pultenaea parviflora*.

### 34. PFOS/PFOA

A person carrying out or operating an aspect of the Stage 1 Development must not act inconsistently with:

- (a) *National Environment Protection (Assessment of Site Contamination) Measure 1999* (as amended);
- (b) *Australian and New Zealand Guidelines for Fresh and Marine Water Quality* (under the National Water Quality Management Strategy) including the draft default guideline values

- for perfluorooctanoic acid (PFOS) and perfluorooctane sulfonic acid (PFOA) in freshwater as applied by the state government; and
- (c) relevant Commonwealth environmental management guidance on PFOS and PFOA.

### 35. Consultation on plans

An Approver must not approve a plan referred to in Chapter 28 of the EIS unless he or she is satisfied that the Plan Owner:

- (a) in preparing the plan, has:
- (i) consulted with any New South Wales Government agencies specified by the New South Wales Department of Premier and Cabinet; and
  - (ii) in the case of the Biodiversity CEMP, Biodiversity, Land and Safety OEMP, Soil and Water CEMP and Soil and Water OEMP, also consulted the Environment Department and OEH; and
- (b) has provided:
- (i) the Approver; and
  - (ii) each consulted agency,
- with an explanation of how any responses have been addressed.

### 36. Transition to Master plan

In preparing its first Master plan for the Airport, the ALC must address the substance of the matters set out in conditions 17 to 25 and condition 29 (to the extent they remain relevant) along with any Approved Plans under those conditions, to the satisfaction of the Infrastructure Minister.

*Note: Conditions relating to OEMPs cease to have effect once a Master Plan for the Airport is in place.*

### 3.10.6. Other conditions

#### 37. Informing others of conditions

- (1) The Site Occupier must take reasonable steps to ensure that:
- (a) each person involved in carrying out a development described in Part 3 of the Airport Plan:
- (i) is informed of the conditions that are relevant to the carrying out of the development; and
  - (ii) in carrying out the development, complies with those conditions as if they applied to the person in the same way as they apply to the Site Occupier; and
- (b) each person involved in operating a development described in Part 3 of the Airport Plan:

- (i) is informed of the conditions that are relevant to the operation of the development; and
  - (ii) in operating the development, complies with those conditions as if they applied to the person in the same way as they apply to the Site Occupier.
- (2) TransGrid must take reasonable steps to ensure that each person involved in carrying out TransGrid Relocation Works is informed of, and complies with, the approved TransGrid Relocation Plan.

### 38. Site Occupier and Plan Owner to maintain records about compliance with conditions

Each Site Occupier and each Plan Owner must maintain accurate records which demonstrate its compliance with the conditions, including measures taken to implement the Approved Plans, and must make the records available upon request to the Infrastructure Department.

### 39. Site Occupier to prepare and publish reports about its compliance with construction conditions

- (1) Unless otherwise agreed in writing by an Approver, the Site Occupier must prepare a report addressing its compliance with each condition set out in section 3.10.2 and condition 29 (Sustainability), including implementation of any Approved Plan, in respect of:
  - (a) the 12-month period commencing with the commencement of Main Construction Works; and
  - (b) each subsequent 12-month period until the end of the Construction Period; and
  - (c) any period between the commencement of Main Construction Works and the end of the Construction Period that is not covered by paragraph (a) or (b).
- (2) Unless otherwise agreed in writing by an Approver, the Site Occupier must publish each report prepared under subcondition (1) on its website within three months of the end of the period in respect of which the report was prepared. Documentary evidence providing proof of the date of publication must be provided to the Infrastructure Department at the same time as each report is published (with a copy to be provided to the Environment Department). Each report must remain on the Site Occupier's website for a minimum of 12 months (beginning on the date of publication).
- (3) Following approval of the Biodiversity Offset Delivery Plan, the Infrastructure Department must report to the Environment Department every 12 months on its implementation until all biodiversity offsets and other compensatory measures under the Biodiversity Offset Delivery Plan have been secured or implemented. The Infrastructure Department must publish the report on its website.

#### 40. Independent audits about the ALC's compliance with conditions

- (1) The ALC must ensure that an independent audit of its compliance with the conditions set out in section 3.10.2 is conducted in respect of the 12-month period commencing with the grant of an Airport Lease.
- (2) The ALC must ensure that an independent audit of its compliance with the conditions set out in section 3.10.4 is conducted in respect of the 12-month period from commencement of Airport Operations.
- (3) The ALC must submit the report of each audit conducted under subcondition (1) or (2) to an Approver (with a copy to the Environment Department) within six months of the end of the period in respect of which the audit was conducted. For each audit, the independent auditor must be approved by an Approver prior to the commencement of the audit. Audit criteria must be agreed by an Approver and the report of the audit report must address the criteria to the satisfaction of an Approver.

#### 41. Variation of Approved Plans

- (1) The Plan Owner may seek approval for a variation of an Approved Plan by submitting to an Approver a version of the plan with the proposed variation clearly marked in it (**varied plan**).
- (2) The criteria for approval of the varied plan are the same as those in the Approval Condition, but only to the extent that they are relevant to the proposed variation.
- (3) If an Approver approves a varied plan prepared under subcondition (1) or paragraph (5)(b), or the Infrastructure Minister varies an Approved Plan under paragraph (5)(a), then, from the date when it is approved or varied (as the case may be), the plan as varied is taken to be the Approved Plan for the purposes of the conditions.
- (4) The ALC must review each Approved Plan for which it is the Plan Owner every five years to ensure that the Approved Plan continues to meet the approval criteria for that plan. The ALC must provide a report on the review (which may be included in an annual report required under condition 39). If the plan does not continue to meet the approval criteria, within three months of the provision of the report, the ALC must prepare and submit for approval under subcondition (1) a variation to the Approved Plan to ensure it continues to meet the approval criteria.
- (5) The Infrastructure Minister may:
  - (a) vary an Approved Plan; or
  - (b) request in writing that the Plan Owner prepare and seek approval for a specified variation of an Approved Plan in accordance with subcondition (1),if the Infrastructure Minister believes on reasonable grounds that:
  - (c) a condition has been contravened and the nature of the contravention is relevant to the subject matter of the Approved Plan; and
  - (d) the variation or the request for a specified variation (as the case may be) will address the contravention.

- (6) The Plan Owner must comply with a request made by the Infrastructure Minister in accordance with subcondition (5) within three months of the date of the request.
- (7) Subconditions (5) and (6) do not apply in relation to the Biodiversity Offset Delivery Plan.
- (8) Within two months of the grant of an Airport Lease, the ALC must prepare and submit for approval, in accordance with subcondition (1), a variation of each plan that was approved under a condition before the lease was granted, and for which the ALC is the Plan Owner, to reflect the change in Site Occupier resulting from the grant of the Airport Lease.

#### 42. Publication of Approved Plans

- (1) Unless otherwise agreed in writing by an Approver, the Plan Owner must publish all Approved Plans on its website.
- (2) Each Approved Plan must be published on the Plan Owner's website within one month of being approved and remain so published:
  - (a) for CEMPs – until the end of the Construction Period;
  - (b) for the Biodiversity Offset Delivery Plan – until all biodiversity offsets and other compensatory measures required by the plan have been secured or implemented; and
  - (c) for all other plans – until there is a Master plan for the Airport.