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Statutory Compliance Table

SSD-100293708 – Demolition and Excavation for Residential Development, 300 Burns Bay Road, Lane Cove

Requirement	Report/EIS	Technical Study
Commonwealth Acts of Parliament		
Environmental Protection and Biodiversity Conservation Act 1999		
Section 136 General Considerations		
1) In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must consider the following, so far as they are not inconsistent with any other requirement of this Subdivision: (a) matters relevant to any matter protected by a provision of Part 3 that the Minister has decided is a controlling provision for the action; (b) economic and social matters.	**Section 2.0** **Section 5.0** **Section 7.3**	-
2) In considering those matters, the Minister must take into account: (a) the principles of ecologically sustainable development; and (b) the assessment report (if any) relating to the action.	**7.2**	-
Section 139 Requirements for decisions about threatened species and endangered communities		
1) In deciding whether or not to approve for the purposes of a subsection of section 18 or section 18A the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with: (a) Australia's obligations under: i. the Biodiversity Convention; or ii. the Apia Convention; or iii. CITES; or (b) a recovery plan or threat abatement plan.	**Section 4.0**	**Appendix Z- Biodiversity Development Assessment Report**
2) If: (a) the Minister is considering whether to approve, for the purposes of a subsection of section 18 or section 18A, the taking of an action; and	**Section 4.0**	**Appendix Z- Biodiversity Development Assessment Report**

Requirement	Report/EIS	Technical Study
(b) the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community; the Minister must, in deciding whether to so approve the taking of the action, have regard to any approved conservation advice for the species or community.		
NSW Acts of Parliament		
Environmental Planning and Assessment Act 1979		
Section 1.3 Objects of the Act		
The objects of this Act are as follows— (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources, (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment, (c) to promote the orderly and economic use and development of land, (d) to promote the delivery and maintenance of affordable housing, (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats, (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage), (g) to promote good design and amenity of the built environment, (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants, (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State, to provide increased opportunity for community participation in environmental planning and assessment.	**Section 7.2.1**	**N/A**
Section 4.15 Evaluation		

Requirement	Report/EIS	Technical Study
1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application— (a) the provisions of— i. any environmental planning instrument, and	**Section 4.4** **Section 4.5**	**N/A**
ii. any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	**N/A**	-
iii. any development control plan, and	**Section 4.5**	-
iiia. any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	**N/A**	-
iv. the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,	**Section 4.5**	-
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	**Section 6.0** **Section 7.0**	-
(c) the suitability of the site for the development,	**Section 7.4**	-
(d) any submissions made in accordance with this Act or the regulations,	Public consultation is expected to be carried out by the Department of Planning, Housing and Infrastructure (DPHI) on the submitted SSDA. Any submissions received as a result are for DPHI's consideration in its assessment of the application against applicable plans and policies.	
(e) the public interest.	**Section 7.5**	-
Biodiversity Conservation Act 2016		
Division 2 Biodiversity assessment requirements – Section 7.9 Biodiversity assessment for State significant development or infrastructure		

Requirement	Report/EIS	Technical Study
1) This section applies to— (a) an application for development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* for State significant development, and (b) an application for approval under Division 5.2 of the *Environmental Planning and Assessment Act 1979* to carry out State significant infrastructure. 2) Any such application is to be accompanied by a biodiversity development assessment report unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values. 3) The environmental impact statement that accompanies any such application is to include the biodiversity assessment required by the environmental assessment requirements of the Planning Agency Head under the *Environmental Planning and Assessment Act 1979*.	**Section 4.4** **Section 6.7**	**Appendix Z - Biodiversity Development Assessment Report**
Division 4 Biodiversity assessment and offsets – Section 7.14 State Significant Development or Infrastructure		
1) This section applies to an application for development consent for State significant development under Part 4 of the *Environmental Planning and Assessment Act 1979*, or an application for approval for State significant infrastructure under the *Environmental Planning and Assessment Act 1979*, Division 5.2, that is required under Division 2 to be accompanied by a biodiversity development assessment report. 2) The relevant authority, when determining in accordance with the *Environmental Planning and Assessment Act 1979* any such application, is to take into consideration under that Act the likely impact of the proposed development on biodiversity values as assessed in the biodiversity development assessment report. The relevant authority may (but is not required to) further consider under that Act the likely impact of the proposed development on biodiversity values.	**Section 4.4** **Section 6.7**	**Appendix Z - Biodiversity Development Assessment Report**
NSW EPIs		
State Environmental Planning Policy (Transport and Infrastructure) 2021		
Section 2.48 Determination of development applications – other development		

Requirement	Report/EIS	Technical Study
1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following— (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower, (b) development carried out— i. within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or ii. immediately adjacent to an electricity substation, or iii. within 5m of an exposed overhead electricity power line, (c) installation of a swimming pool any part of which is— i. within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or ii. within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool, (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned. 2) Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must— (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and (b) take into consideration any response to the notice that is received within 21 days after the notice is given.	**Section 4.4**	**Appendix H – Construction Traffic Management Plan**
Section 2.120 Impact of road noise or vibration on non-road development		
1) This section applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway	**Section 4.4**	**N/A**

Requirement	Report/EIS	Technical Study
or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration— (a) residential accommodation, (b) a place of public worship, (c) a hospital, (d) an educational establishment or centre-based child care facility.		
State Environmental Planning Policy (Resilience and Hazards) 2021		
Section 2.10 Development on land within the coastal environment area		
1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following— (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, (b) coastal environmental values and natural coastal processes, (c) the water quality of the marine estate (within the meaning of the *Marine Estate Management Act 2014*), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1, (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability, (f) Aboriginal cultural heritage, practices and places, (g) the use of the surf zone. (2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that— (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or	**Section 4.5**	**Appendix P – Integrated Water Management Plan**

Requirement	Report/EIS	Technical Study
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact. (3) This section does not apply to land within the Foreshores and Waterways Area within the meaning of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6.		
Section 2.11 Development on land within the coastal use area		
(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority— (a) has considered whether the proposed development is likely to cause an adverse impact on the following— (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability, (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores, (iii) the visual amenity and scenic qualities of the coast, including coastal headlands, (iv) Aboriginal cultural heritage, practices and places, (v) cultural and built environment heritage, and (b) is satisfied that— (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	**Section 4.5**	-

Requirement	Report/EIS	Technical Study
(2) This section does not apply to land within the Foreshores and Waterways Area within the meaning of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6.		
Section 4.6 Contamination and remediation to be considered in determining development application		
1) A consent authority must not consent to the carrying out of any development on land unless— (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose. 2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines. 3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.	**Section 4.4** **Section 6.7**	**Appendix K – Preliminary Site Investigation** **Appendix L – Detailed Site Investigation**
State Environmental Planning Policy (Biodiversity and Conservation) 2021		
Chapter 2 Vegetation in non-rural areas	**Section 4.5**	**Appendix P - Integrated Water Management Plan**
Lane Cove Local Environmental Plan 2009		
Clause 2.1 Land Use Zones		
The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	**Section 4.5**	**-**

Requirement	Report/EIS	Technical Study
Clause 2.7 Demolition requires development consent		
The demolition of a building or work may be carried out only with development consent. **Note.** *If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, as exempt development, the Act enables it to be carried out without development consent.*	**Section 4.5**	**Appendix B – Demolition and Excavation Plans**
Clause 4.3 Height of buildings		
The height of a building on any land is not to exceed the maximum height shown for the land on the *Height of Buildings Map*.	**Section 4.5**	**-**
Clause 4.4 Floor space ratio		
The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the *Floor Space Ratio Map*.	**Section 4.5**	**-**
Clause 5.10 Heritage conservation		
2) Requirement for consent Development consent is required for any of the following— (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)— i. a heritage item, ii. an Aboriginal object, iii. a building, work, relic or tree within a heritage conservation area, (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item, (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is	**Section 4.5**	**Appendix S - Statement of Heritage Impact**

Requirement	Report/EIS	Technical Study
likely to result in a relic being discovered, exposed, moved, damaged or destroyed, (d) disturbing or excavating an Aboriginal place of heritage significance, (e) erecting a building on land— i. on which a heritage item is located or that is within a heritage conservation area, or ii. on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance, (f) subdividing land— ii. on which a heritage item is located or that is within a heritage conservation area, or on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,		
Clause 5.11 Bushfire Hazard Reduction		
Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent. Note. The Rural Fires Act 1997 also makes provision relating to the carrying out of development on bush fire prone land.	**Section 4.5 and 6.7**	**Appendix U – Bushfire Impact Assessment**
Clause 5.21 Flood Planning		
(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development— (a) is compatible with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and	**Section 4.5**	**Appendix Q – Desktop Flood Review**

Requirement	Report/EIS	Technical Study
(d) incorporates appropriate measures to manage risk to life in the event of a flood, and (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses. (3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters— (a) the impact of the development on projected changes to flood behaviour as a result of climate change, (b) the intended design and scale of buildings resulting from the development, (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood, (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.		
Clause 6.1 Acid sulfate soils		
1) Development consent must not be granted under this section for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority. 2) Despite subsection (2), development consent is not required under this section for the carrying out of works if— (a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.	**Section 4.5**	**Appendix M – Acid Sulfates Soil Assessment**
Clause 6.1A Earthworks		
((2) This clause applies to development on land to which this part applies involving—	**Section 4.5**	**Appendix B – Bulk Excavation Plan-**

Requirement	Report/EIS	Technical Study
(a) the erection of a new building that will have 3 or more storeys or a building height of at least 12m, or (b) external alterations to an existing building that— (i) has 3 or more storeys or a building height of at least 12m, or (ii) will have 3 or more storeys or a building height of at least 12m as a result of the development.		