



APPENDIX

C

Updated statutory compliance table

C.1 Statutory compliance table

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Statutory document	Reference	Requirement	Section in EIS/Amendment Report
Commonwealth acts			
<i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act)		<p>The EPBC Act provides the legal basis to protect and manage internationally and nationally important flora, fauna, ecological communities, heritage places and water resources which are deemed to be matters of national environmental significance (MNES). MNES, as defined under the EPBC Act, are:</p> <ol style="list-style-type: none"> 1. world heritage properties 2. places listed on the National Heritage Register 3. wetlands of international significance listed under the Ramsar Convention 4. threatened flora and fauna species and ecological communities 5. migratory species 6. Commonwealth marine areas 7. Great Barrier Reef Marine Park 8. nuclear actions (including uranium mining) 9. water resources, in relation to coal seam gas or large coal mining development. <p>Under the EPBC Act, a proponent proposing to undertake an action that may or will have a significant impact on matters of national environmental significance (MNES), or the environment generally for 'Commonwealth agencies', is to be referred to the Department of Climate Change, Energy, the Environment and Water (DCCEEW) for determination as to whether or not it is a controlled action.</p> <p>A search of the Commonwealth Protected Matters Search Tool shows that there are no World Heritage Properties, National Heritage Places or wetlands of international importance within the vicinity of the study area.</p> <p>A biodiversity development assessment report (BDAR) was prepared for the project and updated to include assessment of the amended project. The updated BDAR concludes that the project is not likely to significantly impact on threatened species, ecological communities or migratory species listed under the EPBC Act.</p>	<p>EIS Section 6.2 Biodiversity</p> <p>Amendment Report Section 6.2.1 Biodiversity</p> <p>Appendix F.1 Updated Biodiversity Development Assessment Report</p>

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Statutory document	Reference	Requirement	Section in EIS/Amendment Report
<i>The Commonwealth Native Title Act 1993</i>		<p>The Commonwealth <i>Native Title Act 1993</i> recognises and protects native title rights in Australia. It allows a native title determination application (native title claim) to be made for land or waters where native title has not been validly extinguished, for example, extinguished by the grant of freehold title to land.</p> <p>There are currently no native title determinations over the study area.</p> <p>A native title claim covering an area from Dunedoo to Lithgow, that includes the study area, was registered on 31 August 2018 on behalf of the Warrabinga-Wiradjuri people (NC2018/002). There is another native title claim, registered on 20 December 2011 on behalf of the Gomeroi People (NC2011/006), approximately 2.4 km north of the study area.</p>	<p>EIS Section 6.5 Aboriginal heritage</p> <p>EIS Appendix I Aboriginal Cultural Heritage Assessment</p> <p>Amendment Report Section 6.2.4 Aboriginal heritage</p> <p>Appendix F.3 Amended Aboriginal Cultural Heritage Assessment</p>
NSW Acts			
<i>Environmental Planning and Assessment Act 1979</i> (EP&A Act)	Section 1.3	Relevant objects of the Act.	Amendment Report Chapter 7 Justification of the amended project
	Section 4.15(1)	<p>Matters for consideration—general.</p> <p>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:</p>	
		<p>(a) the provisions of—</p> <p style="padding-left: 20px;">(i) any relevant environmental planning instruments, and</p> <p style="padding-left: 20px;">...</p> <p style="padding-left: 20px;">(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),</p> <p>That apply to the land to which the development application relates.</p>	See below for consideration of the EP&A Regulation
(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.	EIS Chapter 6 Assessment of impacts Amendment Report Chapter 6 Assessment of impacts		

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Statutory document	Reference	Requirement	Section in EIS/Amendment Report
		(c) the suitability of the site for the development.	EIS Section 2.2 Site selection and justification Amendment Report Section 2.1.1 Site suitability
		(e) the public interest.	Amendment Report Chapter 7 Justification of the amended project
<i>Biodiversity Conservation Act 2016 (BC Act)</i>	Section 7.14	(2) The Minister for Planning, when determining in accordance with the <i>Environmental Planning and Assessment Act 1979</i> 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 Minister for Planning may (but is not required to) further consider under that Act the likely impact of the proposed development on biodiversity values.	EIS Section 6.2 Biodiversity Amendment Report Section 6.2.1 Biodiversity Appendix F.1 Updated Biodiversity Development Assessment Report
<i>Crown Lands Act 1989</i>		The NSW <i>Crown Lands Act 1989</i> provides for the administration and management of Crown land in the eastern and central divisions of NSW. Crown land may not be occupied, used, sold, leased, dedicated, reserved, or otherwise dealt with unless authorised by this Act or the NSW Crown Land (Continued Tenured) Act 1989. A number of Crown roads have been identified within the project area (Figure 4.1). Crown roads within the development footprint and road upgrade corridor will require closing or an application for tenure, which will be undertaken in consultation with NSW Crown Lands in parallel with the assessment process for the project.	EIS Chapter 4 Statutory context Amendment Report Chapter 4 Statutory context Figure 4.1
<i>NSW Waste Avoidance and Resource Recovery Act 2001 (WARR Act)</i>		The WARR Act promotes waste avoidance and resource recovery with the objective of minimising waste generation and disposal, and sets out objectives to ensure that resource management considers the following hierarchy: 1. Avoid unnecessary resource consumption. 2. Resource recovery (reuse, reprocessing, recycling, energy recovery). 3. Disposal. The project aligns with the objectives of the WARR Act.	EIS Section 6.13.2iii Mitigation measures Appendix E Updated mitigation measures table

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Statutory document	Reference	Requirement	Section in EIS/Amendment Report
<i>Protection of the Environment Operations Act 1997</i> (POEO Act)	section 48	The generation of electricity from solar power is not defined as a scheduled activity in Schedule 1 of the POEO Act and therefore an EPL is not required.	EIS Chapter 4 Statutory context Amendment Report Chapter 4 Statutory context
<i>Roads Act 1993</i>	section 138	Approval will be required under section 138 of the NSW <i>Roads Act 1993</i> , for any works in, on or over a public road. This will include the access road upgrade and public road crossings. Approval will be required from: <ul style="list-style-type: none"> • Warrumbungle Shire Council (Barneys Reef Road) • Mid-Western Regional Council (Barneys Reef Road and Birriwa Bus Route South). 	EIS Chapter 4 Statutory context Amendment Report Chapter 4 Statutory context
<i>Water Act 1912 and Water Management Act 2000</i>		<p><i>The NSW Water Act 1912</i> (Water Act) and WM Act regulate the management of water by granting licences, approvals for taking and using water, and trading groundwater and surface water. The WM Act applies to those areas where a water sharing plan has commenced. Alternatively, if a water sharing plan has not yet commenced, the Water Act applies. The WM Act is progressively replacing the Water Act as relevant water sharing plans are introduced across the State.</p> <p>Water sharing plans have commenced for most of NSW. Licensing of monitoring bores continues under the Water Act until a regulation for aquifer interference gives a mechanism to approve these activities.</p> <p>Clause 4.41 (1g) of the EP&A Act exempts an SSD authorised by a development consent from requiring a water use approval under section 89, a water management work approval under Section 90, or an activity approval (other than an aquifer interference approval) under Section 91 of the WM Act. These exemptions apply to the project as it has been declared an SSD and therefore there is no requirement to obtain approvals under the WM Act, including water use, water management work or controlled activity approvals.</p> <p>No take from the surface water resource is proposed as part of the project, however, bore water may be used as a water source for the accommodation facility. To use bore water, a water access licence would need to be obtained.</p>	Amendment Report Chapter 4 Statutory context

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Statutory document	Reference	Requirement	Section in EIS/Amendment Report
NSW Regulations			
Environmental Planning and Assessment Regulation 2021	Section 24	(1) A development application must— (a) be in the approved form, and (b) contain all of the information and documents required by: (i) the approved form, and (ii) the Act of this Regulation, and (c) be submitted on the NSW planning portal.	The EIS and this Amendment Report will be submitted via the NSW planning portal and have been prepared in the approved form.
	Section 190	(1) An environmental impact statement must contain the following information –	
		(a) the name, address and professional qualifications of the person who prepared the statement,	Certification page
		(b) the name and address of the responsible person,	EIS Section 1.3 Amendment Report Section 1.5
		(c) the address of the land— (i) to which the development application relates, or (ii) on which the activity or infrastructure to which the statement relates will be carried out,	Appendix A Schedule of lands
(d) a description of the development, activity or infrastructure,	EIS Chapter 3 Project description Amendment Report Chapter 3 Description of amendments Appendix B Detailed description of the amended project		
(e) an assessment by the person who prepared the statement of the environmental impact of the development, activity or infrastructure, dealing with the matters referred to in this Division.	This table		

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Statutory document	Reference	Requirement	Section in EIS/Amendment Report
		<p>(2) The person preparing the statement must have regard to—</p> <p>(a) for State significant development—the State Significant Development Guidelines, or</p> <p>(b) for State significant infrastructure—the State Significant Infrastructure Guidelines.</p> <p>(3) An environmental impact statement must also contain a declaration by a relevant person that—</p> <p>(a) the statement has been prepared in accordance with this Regulation, and</p> <p>(b) the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure, and</p> <p>(c) the information contained in the statement is not false or misleading, and</p> <p>(d) for State significant development or State significant infrastructure—the statement contains the information required under the Registered Environmental Assessment Practitioner Guidelines.</p>	<p>The EIS and this Amendment Report have been prepared in accordance with SSD guidelines.</p> <p>See certification page.</p>
	Section 192	<p>(1) An environmental impact statement must also include each of the following—</p> <p>(a) a summary of the environmental impact statement,</p> <p>(b) a statement of the objectives of the development, activity or infrastructure,</p> <p>(c) an analysis of any feasible alternatives to the carrying out of the development, activity or infrastructure, having regard to its objectives, including the consequences of not carrying out the development, activity or infrastructure,</p> <p>(d) an analysis of the development, activity or infrastructure, including—</p>	<p>EIS Executive summary Amendment Report Executive summary</p> <p>EIS Section 1,1 and Section 2.1 Project needs and objectives</p> <p>EIS Section 2.5 Project options and alternatives considered</p>

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Statutory document	Reference	Requirement	Section in EIS/Amendment Report
		(i) a full description of the development, activity or infrastructure, and	EIS Chapter 3 Project description Amendment Report Chapter 3 Description of amendments Appendix B Detailed description of the amended project
		(ii) a general description of the environment likely to be affected by the development, activity or infrastructure, together with a detailed description of those aspects of the environment that are likely to be significantly affected, and	EIS Section 2.1 Site and surrounds Amendment Report Section 2.1 Site and surrounds
		(iii) the likely impact on the environment of the development, activity or infrastructure, and	EIS Chapter 6 Assessment of impacts Amendment Report Chapter 6 Assessment of impacts
		(iv) a full description of the measures proposed to mitigate adverse effects of the development, activity or infrastructure on the environment, and	Appendix C Updated mitigation measures table
		(v) a list of any approvals that must be obtained under any other Act or law before the development, activity or infrastructure may lawfully be carried out,	EIS Chapter 4 Statutory context Amendment Report Chapter 4 Statutory context
		(e) a compilation (in a single section of the environmental impact statement) of the measures referred to in item (d)(iv),	Appendix C Updated mitigation measures table
		(f) the reasons justifying the carrying out of the development, activity or infrastructure in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development set out in section 193.	Chapter 7 Justification of the amended project
State Environmental Planning Policy (Planning Systems) 2021	Schedule 1, Section 20	The project is SSD as it is a type of electricity generating works that has a capital investment value of more than \$30 million.	EIS Chapter 4 Statutory context

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Statutory document	Reference	Requirement	Section in EIS/Amendment Report
State Environmental Planning Policy (Resilience and Hazards) 2021	Section 3.7	Consideration of Departmental guidelines in determining whether a development is— (a) a hazardous storage establishment, hazardous industry or other potentially hazardous industry, or (b) an offensive storage establishment, offensive industry or other potentially offensive industry, consideration must be given to current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development. The project is a type of hazardous industry. A PHA has been prepared (Appendix N)	EIS Section 6.6 Hazards and risk EIS Appendix J Preliminary hazard assessment
	Section 3.12	Potentially hazardous development <ul style="list-style-type: none"> • Whether any public authority should be consulted. • A preliminary hazard analysis. • Any feasible alternatives. • Any likely future land use of surrounding land. 	EIS Section 6.6 Hazards and risk
	Section 4.6	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) 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.	EIS Section 6.8 Land resources

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Statutory document	Reference	Requirement	Section in EIS/Amendment Report
State Environmental Planning Policy (Transport and Infrastructure) 2021	Section 2.48	<p>Before determining a development application for development immediately adjacent to an electricity substation, the consent authority must—</p> <p>(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</p> <p>(b) take into consideration any response to the notice that is received within 21 days after the notice is given. There is electricity infrastructure within the vicinity of the development boundary and the project will require connection to the electricity transmission network. TransGrid is the relevant electricity supply authority</p>	<p>EIS Section 2.3 Key features of the site and surrounds</p> <p>EIS Section 5.2 Regulatory requirements</p> <p>Amendment Report Section 2.1 Site and surrounds</p>
	Section 2.118(2)	<p>The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—</p> <p>(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and</p> <p>(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—</p> <p>(i) the design of the vehicular access to the land, or (ii) the emission of smoke or dust from the development, or</p> <p>(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</p> <p>(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</p>	<p>EIS Section 6.4 Traffic and transport</p> <p>EIS Appendix H Traffic impact assessment</p> <p>Amendment Report Section 6.2.3</p>
		<p>Chapter 3 and Chapter 4 of this SEPP aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free living population over their present range and reverse the current trend of koala population decline.</p>	<p>EIS Section 6.2 Biodiversity</p> <p>Section 6.2.1 Biodiversity</p> <p>Appendix F.1 Updated BDAR</p>

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Statutory document	Reference	Requirement	Section in EIS/Amendment Report
Mid-Western Regional LEP	Clause 4.1E (Subdivision on land in Zone RU1 for non-agricultural land uses)	(3) Development consent must not be granted for the subdivision of land in Zone RU1 Primary Production unless the consent authority is satisfied that— (a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and (b) the subdivision is necessary for the ongoing operation of the permissible use, and (c) the subdivision will not increase rural land use conflict in the locality, and (d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land.	EIS Section 6.8 Land resources EIS Appendix L Land resources assessment Amendment Report Section 6.2.7 Soil, erosion and agriculture
	Clause 6.4 (Groundwater vulnerability)	(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that— (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or (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.	EIS Section 6.9 Water resources EIS Appendix M Hydrology and Flood risk assessment EIS Appendix N Water quality impact assessment Amendment Report Section 2.1.1 Site suitability
	Clause 6.5 (Terrestrial biodiversity)	(4) Development consent must not be granted to development on land to which this clause applies (i.e., land identified as Moderate or High Biodiversity Sensitivity) unless the consent authority is satisfied that— (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—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.	EIS Section 6.2 Biodiversity Section 6.2.1 Biodiversity Appendix F.1 Updated BDAR

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Statutory document	Reference	Requirement	Section in EIS/Amendment Report
		<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required—</p> <ul style="list-style-type: none"> (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable road access. 	<p>Appendix B Detailed description of the amended project</p>
		<p>(4) Development consent must not be granted to development on land to which this clause applies (i.e., land identified as ‘biodiversity’ on the terrestrial biodiversity map) unless the consent authority is satisfied that—</p> <ul style="list-style-type: none"> (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—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. 	<p>EIS Section 6.2 Biodiversity Amendment Report Table 2.2 Site selection criteria used to evaluate landholdings</p>