

## Appendix T – Statutory Compliance Table

Table 1: Permissibility, approvals regime, pre-conditions, and mandatory matters for consideration

Category	Action Required
<b>Power to grant approval</b>	<p>The power for the Minister (or the Minister's delegate) to grant approval / consent variously lies within the provisions of:</p> <ul style="list-style-type: none"> <li>Shoalhaven LEP 2014 (clause 2.3 and land use table) in relation to permissibility (and as proposed via the concurrent rezoning process)</li> <li>Transport and Infrastructure SEPP (section 2.60) in relation to reinforcing or confirming permissibility</li> <li>Planning Systems SEPP (section 2.6(1)(b) and Schedule 1 – section 14(a)) in relation to designation of the development as SSD</li> <li>EP&amp;A Act (section 4.38(1) in relation to the granting of consent to a SSD that is permissible.</li> <li>Concurrent rezoning and DA processes are available under section 4.38(5) and Division 3.5 of the EP&amp;A Act.</li> </ul>
<b>Permissibility</b>	<p>Under Shoalhaven LEP 2014, the development site is in part zoned SP2 – Health Services Facility, and is in the process of concurrently being wholly rezoned to SP2 – Health Services Facility, to be wholly permissible.</p> <p>The land use table in the LEP permits with consent a <i>purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose</i>. The definition of a <i>health services facility</i> includes a hospital.</p> <p>The Transport and Infrastructure SEPP further reinforces or confirms permissibility at section 2.60(1) by stating <i>development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone</i>. Under section 2.59, the SP2 zone is identified as a prescribed zone.</p> <p>At determination of the DA (due to the concurrent rezoning), no part of the proposed development is prohibited or partly prohibited.</p>
<b>Other approvals</b>	<p><b>Consistent approvals:</b> Roadworks under s138 of the <i>Roads Act 1993</i> as they relate to the works within the road reservation of each of North Street and Shoalhaven Street, as well as the removal of trees 61 and 62 within the Shoalhaven Street road reservation.</p> <p><b>EPBC Act approval:</b> Several biodiversity-related Matters of National Environmental Significance (MNES) are present within a 5km radius of the subject land. However, the proposal is not likely to have a significant impact on any MNES, and as such no referral to the Commonwealth Minister for the Environment is required. No other MNES relate to the site or development.</p> <p><b>Other approvals:</b> No other approvals apply, noting the site is not bushfire prone land. The new Acute Services Building and the relevant land parcels are clear of bushfire affectation and are not on bushfire prone land. Notwithstanding, the development is a Special Fire Protection Purpose but does not need approval under s100B of the <i>Rural Fires Act 1997</i>. Eco Logical has assessed the proposed development in accordance with Section 100B of the <i>Rural Fires Act 1997</i> and 'Planning for Bush Fire Protection 2019'.</p>
<b>Pre-condition to exercising the power to grant approval</b>	See Table 3 set out further below.
<b>Mandatory matters for consideration</b>	<p>Section 4.15 of the EP&amp;A Act outlines the matters that a consent authority must take into consideration when determining DAs. These matters as relevant to this phase of the assessment process may be summarised as:</p> <ul style="list-style-type: none"> <li>the provisions of environmental planning instruments (including draft instruments), development control plans, planning agreements, and the <i>Environmental Planning and Assessment Regulation 2021</i> (EP&amp;A Regulation)</li> <li>the environmental, social and economic impacts of the development</li> </ul>

	<ul style="list-style-type: none"> <li>the suitability of the site</li> <li>the public interest, including the objects in the EP&amp;A Act and the encouragement of ecologically sustainable development (ESD).</li> </ul> <p>See Table 2 set out below setting out the following:</p> <ul style="list-style-type: none"> <li>Consideration of the EP&amp;A Act and EP&amp;A Regulation</li> <li>Consideration of environmental planning instruments</li> <li>Considerations under other legislation</li> <li>Development Control Plan provisions</li> </ul>
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**Table 2: Mandatory considerations table**

Statutory reference	Mandatory consideration	Section in EIS
<b>Consideration under the EP&amp;A Act and Regulation</b>		
Section 1.3 Objects of the EP&A Act	<ul style="list-style-type: none"> <li>Objects of the Act               <ul style="list-style-type: none"> <li>(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,</li> <li>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</li> <li>(c) to promote the orderly and economic use and development of land,</li> <li>(d) to promote the delivery and maintenance of affordable housing,</li> <li>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</li> <li>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</li> <li>(g) to promote good design and amenity of the built environment,</li> <li>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</li> <li>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</li> <li>(j) to provide increased opportunity for community participation in environmental planning and assessment.</li> </ul> </li> </ul>	5.1 and throughout EIS
Section 4.15(1) Matters for consideration	<ul style="list-style-type: none"> <li>Relevant environmental planning instruments (as set out below)</li> <li>Relevant proposed environmental planning instruments (as set out below)</li> <li>Shoalhaven DCP 2014</li> <li>The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>The public interest</li> </ul>	5.0 generally 5.1 5.1.15 7.0 generally, as well as 7.20, 7.21, 7.22 and 7.23.
Environmental Planning and Assessment Regulation 2021	<ul style="list-style-type: none"> <li>Section 24 – how must a (SSD) DA be made.</li> <li>Sections 190, 191 and 192 – form and content of DA / EIS.</li> </ul>	Environmental Impact Statement Declaration & Certification
Ecologically sustainable development	<ul style="list-style-type: none"> <li>Section 193 of EP&amp;A Regulation</li> <li>193 Principles of ecologically sustainable development</li> </ul>	7.8

	<p>(1) The principles of ecologically sustainable development are the following—</p> <p>(a) the precautionary principle,</p> <p>(b) inter-generational equity,</p> <p>(c) conservation of biological diversity and ecological integrity,</p> <p>(d) improved valuation, pricing and incentive mechanisms.</p> <p>(2) The precautionary principle is that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.</p> <p>(3) In applying the precautionary principle, public and private decisions should be guided by—</p> <p>(a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and</p> <p>(b) an assessment of the risk-weighted consequences of various options.</p> <p>(4) The principle of inter-generational equity is that the present generation should ensure the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations.</p> <p>(5) The principle of the conservation of biological diversity and ecological integrity is that the conservation of biological diversity and ecological integrity should be a fundamental consideration.</p> <p>(6) The principle of improved valuation, pricing and incentive mechanisms is that environmental factors should be included in the valuation of assets and services, such as—</p> <p>(a) polluter pays, that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement, and</p> <p>(b) the users of goods and services should pay prices based on the full life cycle of the costs of providing the goods and services, including the use of natural resources and assets and the ultimate disposal of waste, and</p> <p>(c) established environmental goals should be pursued in the most cost effective way by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.</p>	
<b>Considerations under environmental planning instruments</b>		
State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2	<ul style="list-style-type: none"> <li>• Section 2.3(1)(b) - Land to which Chapter applies</li> <li>• Section 2.7(1) - Clearing that does not require permit or approval.</li> </ul>	5.1.7 7.2
State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3	<ul style="list-style-type: none"> <li>• Section 3.4 - Signage to which this Chapter applies</li> <li>• Section 3.6 - Granting of consent to signage (section 3.1(1)(a) and Schedule 5)</li> </ul>	4.6 5.1.11 7.17
State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 2	<ul style="list-style-type: none"> <li>• Section 2.3 - Land to which Chapter applies</li> <li>• Section 2.4 - Identification of coastal management areas</li> <li>• Section 2.10 - Development on land within the coastal environment area</li> <li>• Section 2.11 - Development on land within the coastal use area</li> <li>• Section 2.12 – Development in coastal zone generally—development not to increase risk of coastal hazards</li> </ul>	5.1.8 7.2

	<ul style="list-style-type: none"> <li>Section 2.13 – Development in coastal zone generally—coastal management programs to be considered</li> <li>Section 2.15 - Hierarchy of development controls if overlapping</li> </ul>	
State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 3	<ul style="list-style-type: none"> <li>Section 3.6 - New definitions of “hazardous industry” and “offensive industry” – section 3.3 of the SEPP</li> <li>Section 3.7 - Departmental guidelines: <ul style="list-style-type: none"> <li>Applying SEPP 33 (identify relevant requirements)</li> <li>HIPAP No.3 – Risk Assessment (identify relevant requirements)</li> <li>HIPAP No.12 – Hazards – related Conditions of Consent</li> </ul> </li> <li>Section 3.10 – Development to which Part 3 applies (Does Part 3 of former SEPP 33 apply?)</li> <li>Section 3.11 - Preparation of preliminary hazard analysis</li> <li>Section 3.12 – Matters for consideration by consent authorities.</li> </ul>	5.1.9 7.13
State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4	<ul style="list-style-type: none"> <li>Section 4.6 - Contamination and remediation to be considered in determining development application</li> <li>Section 4.8 - Category 1 remediation work: work needing consent</li> <li>Section 4.11 - Category 2 remediation work: work not needing consent</li> <li>Section 4.12 - Remediation work that is ancillary to other development</li> </ul>	2.3 4.9 5.1.10 7.1
State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 2	<ul style="list-style-type: none"> <li>Division 10 – Health Services Facilities (section 2.60 – development permitted with consent)</li> <li>Division 17 – Roads and Traffic (section 2.121 and Schedule 3 – traffic-generating development)</li> </ul>	5.1.6 7.7
Shoalhaven LEP 2014	<ul style="list-style-type: none"> <li>Part 2 – Permitted or prohibited development <ul style="list-style-type: none"> <li>clause 2.3 - Zone objectives and land use table for SP2 – Infrastructure zone</li> <li>clause 2.7 - Demolition requires development consent</li> </ul> </li> <li>Part 4 – Principal development standards <ul style="list-style-type: none"> <li>clause 4.3(2A) – Height of buildings</li> <li>clause 4.4 – Floor space ratio</li> <li>clause 4.6 - Exceptions to development standards</li> </ul> </li> <li>Part 5 – Miscellaneous provisions <ul style="list-style-type: none"> <li>clause 5.10 – Heritage conservation</li> <li>clause 5.12 - Infrastructure development and use of existing buildings of the Crown</li> </ul> </li> <li>Part 7 – Additional local provisions <ul style="list-style-type: none"> <li>clause 7.1 – Acid sulfate soils</li> <li>clause 7.2 – Earthworks</li> <li>clause 7.8 – Scenic protection</li> <li>clause 7.9 – HMAS Albatross airspace operations</li> <li>clause 7.11 – Essential services</li> </ul> </li> </ul>	5.1.13   7.6  7.4  2.3 and 7.1 7.5 7.6 7.15 7.10
<b>Consideration under proposed environmental planning instruments</b>		
Draft SEPP (Remediation of Land)	Corresponding provisions to former SEPP 55, now Chapter 4 of Hazards and Resilience SEPP.	5.1.10
Draft SEPP (Environment)	No provisions apply.	5.1.12
<b>Considerations under other legislation</b>		
Biodiversity Conservation Act 2016 (section 7.14)	The likely impact of the proposed development on biodiversity values as assessed in the biodiversity development assessment report (BDAR). 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.	5.1.4 and 7.2

Development Control Plan (DCP) provisions		
Shoalhaven DCP 2014	<p>As set out in section 2.10(a) of the Planning Systems SEPP, Development Control Plans (DCPs) do not apply to SSD DAs. The SEARs have also correspondingly not explicitly sought the DCP to be addressed. Notwithstanding, the few relevant provisions applicable to the site and the proposed development are assessed by the EIS.</p> <p>These include:</p> <ul style="list-style-type: none"> <li>• Heritage conservation and Aboriginal Cultural Heritage</li> <li>• Crime Prevention Through Environmental Design (CPTED)</li> <li>• Site analysis, site design, and building materials</li> <li>• Sustainable water management and sediment and erosion control</li> <li>• Landscape design</li> <li>• Tree and vegetation management</li> <li>• Biodiversity impacts</li> <li>• Coastal management areas</li> <li>• Waste minimisation and management</li> <li>• Car parking and traffic</li> <li>• Acid Sulfate Soils and geotechnical matters</li> </ul>	5.1.15

**Table 3: Pre-Conditions Table**

Statutory reference	Pre-condition	Relevance	Section in EIS
State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3  Section 3.6	<b>3.6 Granting of consent to signage</b> A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied— (a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.	The development involves the display of new illuminated building identification signage.	7.17
State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 2  Sections 2.10, 2.11, 2.12 and 2.13	<b>2.10 Development on land within the coastal environment area</b> (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 (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.	The development site sits wholly or partly within the Coastal Environment Area and the Coastal Use Area.	7.2

	<p><b>2.11 Development on land within the coastal use area</b></p> <p>(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—</p> <ul style="list-style-type: none"> <li>(a) has considered whether the proposed development is likely to cause an adverse impact on the following— <ul style="list-style-type: none"> <li>(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</li> <li>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</li> <li>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</li> <li>(iv) Aboriginal cultural heritage, practices and places,</li> <li>(v) cultural and built environment heritage, and</li> </ul> </li> <li>(b) is satisfied that— <ul style="list-style-type: none"> <li>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</li> <li>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</li> <li>(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and</li> </ul> </li> <li>(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</li> </ul> <p><b>2.12 Development in coastal zone generally—development not to increase risk of coastal hazards</b></p> <p>Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.</p> <p><b>2.13 Development in coastal zone generally—coastal management programs to be considered</b></p> <p>Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.</p>		
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<p>State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 3</p> <p>Section 3.1(d) and (e)</p> <p>Section 3.7</p> <p>Section 3.12</p>	<p><b>3.1 Aims, objectives etc</b>            (d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and            (e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact,</p> <p><b>3.7 Consideration of Departmental guidelines</b>            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.</p> <p><b>3.12 Matters for consideration by consent authorities</b>            In determining an application to carry out development to which this Part applies, the consent authority must consider (in addition to any other matters specified in the Act or in an environmental planning instrument applying to the development)—            (a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and            (b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and            (c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and            (d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and            (e) any likely future use of the land surrounding the development.</p>	<p>The development is potentially hazardous development.</p>	<p>7.13</p>
<p>State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4</p>	<p><b>4.6 Contamination and remediation to be considered in determining development application</b>            A consent authority must not consent to the carrying out of any development on land unless—</p>	<p>A small part of the development site is contaminated, and/or the land requires remediation before it is used for the project.</p>	<p>7.1</p>



Section 4.6(1)	<p>(a) it has considered whether the land is contaminated, and</p> <p>(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</p> <p>(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.</p>		
<p>State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 2</p> <p>Section 2.122</p>	<p><b>2.122 Traffic-generating development</b></p> <p>(4) Before determining a development application for development to which this clause applies, the consent authority must—</p> <p>(a) give written notice of the application to TfNSW within 7 days after the application is made, and</p> <p>(b) take into consideration—</p> <p>(i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and</p> <p>(ii) the accessibility of the site concerned, including—</p> <p>(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and</p> <p>(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and</p> <p>(iii) any potential traffic safety, road congestion or parking implications of the development.</p>	<p>Consideration of whether the development is traffic-generating development to trigger this requirement.</p> <p>The development is traffic-generating development and referral under this provision is relevant as a total of 178 new beds arises from 2022 to 2031.</p>	5.1.6 and 7.7
<p>Shoalhaven LEP 2014</p> <p>Clause 7.1 – Acid Sulfate Soils</p> <p>Clause 7.11 – Essential Services</p>	<p><b>7.1 - Acid Sulfate Soils</b></p> <p>(3) Development consent must not be granted under this clause 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.</p> <p><b>7.11 – Essential Services</b></p> <p>(1) Development consent must not be granted for development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage.</p>	<p>The site is affected by Class 5 Acid Sulfate Soils and is laterally within 100m of land that is classed as Class 1 Acid Sulfate Soils (namely the Shoalhaven River and its immediate foreshores).</p> <p>Essential services will be necessary to operate the development.</p>	<p>2.3, 5.1.13 and 7.1</p> <p>4.11 and 7.10</p>

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