

APPENDIX C

Statutory Context

1.0 Commonwealth Legislation

Table 1: Commonwealth Legislation Considerations Table

Statutory Context	Site Context	Response
Environment Protection and Biodiversity Conservation Act 1999		
<p>The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) is administered by the Commonwealth Department Agriculture, Water and the Environment (DAWE). The EPBC Act provides a framework for the protection of the Australian environment, including its biodiversity, natural resources and culturally significant places. Nine Matters of National Environmental Significance (Matters of NES) are identified under the act. An action that “has, will have or is likely to have a significant impact on a Matters of NES “may not be undertaken without prior approval of the Commonwealth Minister, as provided under Part 9 of the EPBC Act. Approval under the EPBC Act is also required where actions are proposed on, or will affect, Commonwealth land and its environment. A Protected Matters Search was performed via the DAWE website to ascertain if any Matters of NES protected by the EPBC Act have been identified as occurring in, or close to, the site. A summary of the findings is presented below.</p>		
World Heritage Properties	None	<p>The BDAR Waiver (SLR Consulting, 2023) prepared for the Project concluded that the Project site contains very limited or negligible biodiversity values, with the only notable feature of biodiversity value being a small patch of native trees, which through the application of avoidance measures during the design and siting of the BESS compound, will be retained in situ. Additional details are provided in Section 6.3 of the EIS and Appendix G.</p>
National Heritage	None	
Wetlands of International Significance (RAMSAR Wetlands)	4	
Commonwealth Marine Areas	None	
Great Barrier Reef Marine Park	None	
Threatened Ecological Communities	2	
Threatened Species	39	
Nationally Listed Migratory Species	12	
All Nuclear Actions	None	
Water Triggers	None	
Native Title Act 1993		

Statutory Context	Site Context	Response
<p>The Native Title Act 1993 (NT Act) recognises the interests and rights Aboriginal people have to land and aims to provide recognition and protection of common law native title rights.</p>	<p>A search of the Register of Native Title Claims showed no claim at the site, while a search of the Register of Native Title Claims returned one active claim within the Bathurst LGA under NC2018/002 for Warrabinga-Wiradjuri #7.</p> <p>The Project Area consists of freehold land which is exempt from native title claims.</p>	<p>No sites listed on the Native Title register are impacted by the project.</p>



2.0 State Legislation

Table 2: State Legislation Considerations Table

Statutory Reference	Consideration	Response
Environmental Planning and Assessment Act 1979		
1.3 <i>Objects of Act</i>	a) <i>to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.</i>	The BESS is considered to improve social and economic welfare by enhancing providing large scale investment in the Central and Southern Tablelands region and locally to Bathurst and its surrounds. The development for a zero emission energy storage facility will assist in manage electrical supply providing stability in the supply network and enhance economic benefits of renewable energy generation leading to overall benefits for the community.
	a) <i>to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.</i>	The BESS is considered to improve social and economic welfare by enhancing providing large scale investment in the Central and Southern Tablelands region and locally to Bathurst and its surrounds. The development for a zero emission energy storage facility will assist in manage electrical supply providing stability in the supply network and enhance economic benefits of renewable energy generation leading to overall benefits for the community.
	b) <i>to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	The proposed BESS development will provide an energy storage facility to support the growth in renewable energy in the larger region and provide zero emission base load power during peak periods and times of low/no power generation by renewable energy sources.
	c) <i>to promote the orderly and economic use and development of land,</i>	The proposed BESS development is a permissible land use on the RU1 Primary Production site and will occupy a small



Statutory Reference	Consideration	Response
		portion of the larger site allowing for the continuation of existing use.
	d) <i>to promote the delivery and maintenance of affordable housing</i>	The Project does not include residential development. The development will enhance economic benefits of renewable energy generation leading to overall benefits for the community.
	e) <i>to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</i>	The development has been located as to avoid vegetated areas and watercourses to protect native flora and fauna, and ecological communities. Appropriate mitigation measures are to be in place to further protect the environment during construction and operations, refer to Appendix E for list of proposed mitigation measures.
	f) <i>to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	<p>The site is not identified as a heritage item and is not located in a heritage conservation area per the Bathurst Regional LEP 2014.</p> <p>An ACHAR (Austral Archaeology, 2023) is contained in Appendix H with a detailed summary of the findings contained in Section 6.4 of the EIS.</p> <p>The ACHAR concluded that there would be a direct impact and total loss of value to two identified Aboriginal sites identified during a test excavation program completed between 13 March 2023 and 17 March 2023, identified as Evans Plains AS1 (AHIMS #PENDING) and Evans Plains IF1 (AHIMS #PENDING), containing a total of five (5) artefacts. The ACHAR recommends that these reburied in proximity to their original locations (outside of the construction impact) in consultation with Aboriginal stakeholders and protected for the duration of works associated with the construction and operation of the Project.</p>



Statutory Reference	Consideration	Response
	g) <i>to promote good design and amenity of the built environment,</i>	The Project involves the construction and operations of electrical infrastructure. Mitigation of potential visual impacts are proposed.
	h) <i>to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	The Project involves the construction and operations of electrical infrastructure.
	i) <i>to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i>	Consultation with relevant stakeholders including various public agencies and local Council has been undertaken. The formal exhibition will also allow the range of public agencies and local Council to provide input on the development during the assessment process.
	j) <i>to provide increased opportunity for community participation in environmental planning and assessment.</i>	Consultation with the local community has been undertaken as part of the preparation of this EIS. Formal Exhibition to be undertaken during the assessment of the application will also allow for the community to provide input on the development.
4.15 <i>Evaluation</i> (1) <i>Matters for Consideration - General</i>	a) <i>the provisions of—</i> i. <i>any environmental planning instrument, and</i>	The provision of relevant environmental planning instrument (EPI's) has been included at Table 3 of this Appendix.
	ii. <i>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</i>	Discussion on draft EPIs in which public consultation has occurred has been undertaken at Table 3 of this Appendix.
	iii. <i>any development control plan, and</i>	As the the Project triggers State Significant Development as it holds a capital investment value greater than \$30 million, the DCP does not require consideration.
	liia. <i>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</i>	N/A, no planning agreement has been entered into.
	iv. <i>the regulations (to the extent that they prescribe matters for the purposes of this paragraph),</i>	The EP&A Regulation 2021 has been addressed at Table 1 of this Appendix.



Statutory Reference	Consideration	Response
	b) <i>the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	Impacts on natural and built environments along with social and economic impacts for the area have been addressed as part of the larger EIS.
	c) <i>the suitability of the site for the development,</i>	The suitability of the site for the development has been address in Section 2.4.3 of the EIS.
	d) <i>any submissions made in accordance with this Act or the regulations,</i>	Noted, a Response to Submissions is to be prepared post exhibition of the EIS.
	e) <i>the public interest.</i>	The interest to the public has been discussed at Chapter 5 of the EIS.
<i>Division 4.8 Integrated development</i>	<p><i>Integrated development is defined under Section 4.46 of the EP&A Act. It includes development proposals that require development consent and one or more specific approvals under the following Acts:</i></p> <ul style="list-style-type: none"> <i>• Fisheries Management Act, 1994;</i> <i>• Heritage Act, 1977;</i> <i>• Mine Subsidence Compensation Act, 1961;</i> <i>• National Parks and Wildlife Act, 1974;</i> <i>• Protection of the Environment Operations Act, 1997;</i> <i>• Roads Act, 1993;</i> <i>• Rural Fires Act, 1997; and</i> <i>• Water Management Act, 2000.</i> <p><i>Where one of these approvals or permits is required the development application must be submitted to the relevant approval body, for the purposes of obtaining the General Terms of Approval (GTA) from that approval body which may include any conditions to be imposed on any development consent issued by the consent authority. Whether any of these approvals are triggered is discussed in the following pages.</i></p> <p><i>It is noted that pursuant to Section 4.41 of the EP&A Act 1979 the following authorisation are not required for SSD applications:</i></p> <ul style="list-style-type: none"> <i>• A permit under section 201, 205 or 219 of the Fisheries Management Act 1994;</i> <i>• An approval under Part 4, or an excavation permit under section 139, of the Heritage Act 1977;</i> <i>• An Aboriginal heritage impact permit under section 90 of the National Parks and Wildlife Act 1974;</i> 	Not integrated development approvals are required or proposed as part of the SSDA.



Statutory Reference	Consideration	Response
	<ul style="list-style-type: none"> • A bush fire safety authority under section 100B of the Rural Fires Act 1997; and <p>A water use approval under section 89, a water management work approval under section 90 or an activity approval under section 91 of the Water Management Act 2000.</p>	
Subdivision 3 Local infrastructure contributions		A Voluntary Planning Agreement is not proposed.
Environmental Planning and Assessment Regulation 2021		
<p>Part 8 Infrastructure and environmental impact assessment</p> <p>Division 5 Environmental impact statements—the Act, ss 4.12(8), 5.7(1) and 5.16(2)</p>	<p>190 Form of environmental impact statement</p> <p>(1) An environmental impact statement must contain the following information—</p> <p>...</p> <p>191 Compliance with environmental assessment requirements</p> <p>The environmental impact statement must comply with the environmental assessment requirements notified under section 176 or the Act, section 5.16(4).</p> <p>192 Content of environmental impact statement</p> <p>(1) An environmental impact statement must contain the following—</p> <p>...</p> <p>193 Principles of ecologically sustainable development</p> <p>(1) The principles of ecologically sustainable development are the following—</p> <p>....</p>	<p>This EIS has been prepared in accordance with the requirements of Clause 190 of the EP&A Regulation 2021 and follows the State Significant Development Guidelines published by the NSW DPHI.</p> <p>The EIS has been prepared in accordance with the Project SEARs (as assessed in Appendix A). The structure and content of this EIS has been designed with consideration of the recommendations of Appendix B to the State Significant Infrastructure Guidelines – Preparing Environmental Impact Statement.</p> <p>Assessment of the Project against the principles of ESD has been assessed in Section 7.8 of the EIS.</p>
Biodiversity Conservation Act 2016		
7.9 Biodiversity assessment for State significant development or infrastructure	<p>1) This section applies to—</p> <p>a) an application for development consent under Part 4 of the Environmental Planning and Assessment Act 1979 for State significant development, and</p> <p>b) an application for approval under Division 5.2 of the Environmental Planning and Assessment Act 1979 to carry out State significant infrastructure.</p> <p>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.</p>	A Biodiversity Development Assessment Report Waiver (SLR Consulting, 2023) and the subsequent approval from DPHI has been provided for the Project and is submitted alongside this EIS in Appendix G .



Statutory Reference	Consideration	Response
	(3) <i>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.</i>	
Heritage Act 1977		
57 <i>Effect of interim heritage orders and listing on State Heritage Register</i>	<p>1) <i>When an interim heritage order or listing on the State Heritage Register applies to a place, building, work, relic, moveable object, precinct, or land, a person must not do any of the following things except in pursuance of an approval granted by the approval body under Subdivision 1 of Division 3—</i></p> <ul style="list-style-type: none"> a) <i>demolish the building or work,</i> b) <i>damage or despoil the place, precinct or land, or any part of the place, precinct or land,</i> c) <i>move, damage or destroy the relic or moveable object,</i> d) <i>excavate any land for the purpose of exposing or moving the relic,</i> e) <i>carry out any development in relation to the land on which the building, work or relic is situated, the land that comprises the place, or land within the precinct,</i> f) <i>alter the building, work, relic or moveable object,</i> g) <i>display any notice or advertisement on the place, building, work, relic, moveable object or land, or in the precinct,</i> h) <i>damage or destroy any tree or other vegetation on or remove any tree or other vegetation from the place, precinct or land.</i> 	A search of the Heritage Council of NSW administered heritage databases and Bathurst Regional LEP 2014 returned no records for historical heritage sites within the site.
National Parks and Wildlife Act 1974		
Part 6 Aboriginal objects and Aboriginal places	<p>The National Parks and Wildlife Act 1974 (NPW Act) provides for the protection of Aboriginal objects (sites, objects and cultural material) and Aboriginal places. Under the Act (Part 6), an Aboriginal object is defined as:</p> <p style="padding-left: 40px;"><i>“any deposit, object or material evidence (not being a handicraft for sale) relating to indigenous and non-European habitation of the area that comprises NSW, being habitation both prior to and concurrent with the occupation of that area by persons of European extraction, and includes Aboriginal remains”.</i></p> <p>An Aboriginal place is defined under the NPW Act as an area which has been declared by the Minister administering the Act as a place of</p>	<p>An Aboriginal Cultural Heritage Assessment (Austral Archaeology, 2023) is contained in Appendix H with a detailed summary of the findings contained in Section 6.4 of the EIS.</p> <p>The ACHA (Austral Archaeology, 2023) prepared for the Project concluded that there would be a direct impact and total loss of value to two identified Aboriginal site identified during a test excavation program completed between 13 March 2023 and 17 March 2023, identified as Evans Plains AS1 (44-3-0282) and Evans Plains IF1 (44-3-0283) containing a total of</p>



Statutory Reference	Consideration	Response
	<p>special significance for Aboriginal culture. It may or may not contain physical Aboriginal objects.</p> <p>Identified Aboriginal items and sites are registered on Aboriginal Heritage Information Management System (AHIMS).</p>	<p>five (5) artefacts. It is recommended that these reburied in proximity to their original locations (outside of the construction impact) in consultation with Aboriginal stakeholders and protected for the duration of works associated with the construction and operation of the Project.</p>
Roads Act 1993		
<p>138 Works and structures</p>	<p>1) A person must not—</p> <p>a) erect a structure or carry out a work in, on or over a public road, or</p> <p>b) dig up or disturb the surface of a public road, or</p> <p>c) remove or interfere with a structure, work or tree on a public road, or</p> <p>d) pump water into a public road from any land adjoining the road, or</p> <p>e) connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.</p> <p>2) A consent may not be given with respect to a classified road except with the concurrence of TfNSW.</p>	<p>An existing access to the Mid Western Highway is to be utilised by the Project with alteration to provide Project site access with a Basic Left Turn (BAL) treatment as per Austroads Guidelines prior to the commencement of construction and movement of heavy and light vehicles associated with the Project. Approval under s138 of the Roads Act 1993 is required in this instance as per the Traffic and Transport Assessment (SLR Consulting, 2023).</p>
Local Land Services Act 2013		
<p>60H Category 1 – exempt land mapping</p>	<p>1) Land is to be designated as category 1-exempt land if the Environment Agency Head reasonably believes that—</p> <p>a) the land was cleared of native vegetation as at 1 January 1990, or</p> <p>b) the land was lawfully cleared of native vegetation between 1 January 1990 and the commencement of this Part.</p> <p>2) Land is to be designated as category 1-exempt land if the Environment Agency Head reasonably believes that—</p> <p>a) the land contains low conservation value grasslands, or</p> <p>b) the land contains native vegetation that was identified as regrowth in a property vegetation plan referred to in section 9 (2) (b) of the Native Vegetation Act 2003, or</p> <p>c) the land is of a kind prescribed by the regulations as category 1-exempt land.</p>	<p>Confirmation of the sites cleared nature has been established via aerial imagery dated 5/10/1989.</p> <p>The site is able to be classified as Category 1 – Exempt Land under the LLS Act 2013.</p>



Statutory Reference	Consideration	Response
	<p>3) Land is to be designated as category 1-exempt land if the land is biodiversity certified under Part 8 of the Biodiversity Conservation Act 2016 or under any Act repealed by that Act.</p> <p>4) However—</p> <p>a) land described in subsection (1) or (2) is not to be designated as category 1-exempt land if section 60I (2) requires the land to be designated as category 2-regulated land, and</p> <p>b) and described in subsection (1) (a) is not to be designated as category 1-exempt land if the land was unlawfully cleared of native vegetation after 1 January 1990, and</p> <p>c) land described in subsection (2) (a) is not to be designated as category 1-exempt land if the land was unlawfully cleared of native vegetation after 1 January 1990.</p> <p>5) The regulations may make provision for the purposes of determining whether grasslands are low conservation value grasslands for the purposes of this Division.</p>	
Protection of the Environment Operations Act 1997		
Chapter 3 Environment Protection Licences		
43 Types of licences	<p>Environment protection licences may be issued for the following purposes—</p> <p>a) to authorise the carrying out of scheduled development work at any premises, as required under section 47,</p> <p>b) to authorise the carrying out of scheduled activities at any premises, as required under section 48,</p> <p>c) to authorise the carrying out of scheduled activities not related to premises, as required under section 49,</p> <p>d) to control the carrying out of non-scheduled activities for the purpose of regulating water pollution resulting from any such activity, as referred to in section 122.</p>	Per Schedule 1, the Project does not involve the generation of electricity. The Project stores and releases electricity that has already been generated. As such, clause 17 does not apply to the Project, and an EPL is not required.
Water Management Act 2000		
Part 3 Approvals	<p>89 Water use approvals</p> <p>1) A water use approval confers a right on its holder to use water for a particular purpose at a particular location.</p> <p>2) A water use approval may authorise the use within New South Wales of water taken from a water source outside New South Wales.</p>	<p>The Project does not require any controlled activity approvals or aquifer interference approvals.</p> <p>A water use approval under section 89, a water management work approval under section 90 or an activity approval (other</p>



Statutory Reference	Consideration	Response
	<p>90 Water management work approvals</p> <ol style="list-style-type: none"> 1) There are three kinds of water management work approvals, namely, water supply work approvals, drainage work approvals and flood work approvals. 2) A water supply work approval authorises its holder to construct and use a specified water supply work at a specified location. 3) A drainage work approval confers a right on its holder to construct and use a specified drainage work at a specified location. 4) A flood work approval confers a right on its holder to construct and use a specified flood work at a specified location. 	<p>than an aquifer interference approval) under section 91 of this Act is not required for SSD.</p>
	<p>91 Activity approvals</p> <ol style="list-style-type: none"> 1) There are two kinds of activity approvals, namely, controlled activity approvals and aquifer interference approvals. 2) A controlled activity approval confers a right on its holder to carry out a specified controlled activity at a specified location in, on or under waterfront land. 3) (3) An aquifer interference approval confers a right on its holder to carry out one or more specified aquifer interference activities at a specified location, or in a specified area, in the course of carrying out specified activities. 	
Contaminated Land Management Act 1997		
	<p>The Contaminated Land Management Act 1997 (CLM Act) establishes a system for investigating and remediating land that the EPA considers to be contaminated significantly enough to require regulation.</p> <p>Section 5 of the CLM Act defines “contamination” of land as: “the presence in, on or under the land of a substance at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.”</p>	<p>A search of the NSW EPA POEO Public Register was made on 15 June 2023 indicating three (3) contaminated land sites located within the Bathurst LGA, two (2) being in the suburb of Bathurst located over 5 km to the east of the Project site, and one (2) being in the suburb of Yetholme. A search was also made on this date of the NSW EPA POEO Public Register indicating 34 POEO licences registered in the Bathurst LGA, with the closest licence (No. 20550) registered to 1088 Mid Western Highway, Evans Plains approximately 3.5 km to the south-west of the Project site.</p> <p>Whilst no contaminated land sites or EPLs have been registered for the site, given the</p>



Statutory Reference	Consideration	Response
		<p>historic agricultural use of the broader Project site, it is reasonable to consider the potential for contamination from agricultural sources that may not have been notified or identified during site visits, and therefore appropriate unexpected finds protocols will be implemented during construction and decommissioning phases.</p> <p>Contamination is discussed in Section 4.1.1.2 of this EIS.</p>
Electricity Infrastructure Investment Act 2020		
Section 19	<ol style="list-style-type: none"> 1) The Minister may, by order published in the Gazette, declare a renewable energy zone comprising— <ol style="list-style-type: none"> a) specified geographical area of the State, and b) specified generation, storage or network infrastructure, including planned or existing infrastructure. 	The site is located in the Central-West Orana.



2.1 Environmental Planning Instruments

Table 3 Environmental Planning Instruments Assessment

Statutory Reference	Consideration	Response
State Environmental Planning Policy (Biodiversity and Conservation) 2021		
Chapter 3 Koala Habitat Protection 2020		
Part 3.1 Preliminary		
3.3 Land to which Chapter applies	<p>1) This Chapter applies to land in the following land use zones, or an equivalent land use zone, in a local government area specified in Schedule 1 of State Environmental Planning Policy (Koala Habitat Protection) 2021, but not if the local government area is marked with an * in that Schedule—</p> <p>a) Zone RU1 Primary Production, b) Zone RU2 Rural Landscape, c) Zone RU3 Forestry.</p> <p>1a) This Chapter does not apply to certified urban capable land within the meaning of Chapter 13.</p>	<p>Chapter 3 applies as the site is zoned RU1 Primary Production with the Bathurst LGA listed within Schedule 1 of the repealed SEPP (Koala Habitat Protection) 2021 and is not listed with an asterisk.</p> <p>The site is not certified urban capable land.</p>
Part 3.2 Development control of koala habitats		
3.6 Step 1—Is the land potential koala habitat?	<p>1) Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies, the council must be satisfied as to whether or not the land is a potential koala habitat.</p> <p>2) The council may be satisfied as to whether or not land is a potential koala habitat only on information obtained by it, or by the applicant, from a person who is qualified and experienced in tree identification.</p> <p>3) If the council is satisfied—</p> <p>a) that the land is not a potential koala habitat, it is not prevented, because of this Chapter, from granting consent to the development application, or</p> <p>b) (b) that the land is a potential koala habitat, it must comply with section 3.7.</p>	<p>The BDAR Waiver (SLR Consulting, 2023) prepared for the Project concluded that the Project site contains very limited or negligible biodiversity values, with the only notable feature of biodiversity value being a small patch of native trees, which through the application of avoidance measures during the design and siting of the BESS compound, will be retained in situ.</p> <p>No koala habitat is present within the development footprint.</p>
Chapter 4 Koala Habitat Protection 2021		
Part 4.1 Preliminary		
4.4 Land to which Chapter applies	1) This Chapter applies to each local government area listed in Schedule 2.	



Statutory Reference	Consideration	Response
	<p>2) The whole of each local government area is—</p> <p>a) in the koala management area specified in Schedule 2 opposite the local government area, or</p> <p>b) if more than 1 koala management area is specified, in each of those koala management areas.</p> <p>3) Despite subsection (1), this Chapter does not apply to—</p> <p>a) land dedicated or reserved under the National Parks and Wildlife Act 1974, or acquired under Part 11 of that Act, or</p> <p>b) land dedicated under the Forestry Act 2012 as a State forest or a flora reserve, or</p> <p>c) land on which biodiversity certification has been conferred, and is in force, under Part 8 of the Biodiversity Conservation Act 2016, or</p> <p>d) land in the following land use zones, or an equivalent land use zone, unless the zone is in a local government area marked with an * in Schedule 2—</p> <p>i. Zone RU1 Primary Production,</p> <p>ii. Zone RU2 Rural Landscape,</p> <p>iii. (iii) Zone RU3 Forestry.</p>	<p>Chapter 4 does not apply, as the site is zoned RU1 Primary Production with the Bathurst LGA listed within Schedule 2, and is not listed with an asterisk.</p>
State Environmental Planning Policy (Planning Systems) 2021		
<p>2.6 Declaration of State significant development: section 4.36</p>	<p>1) Development is declared to be State significant development for the purposes of the Act if—</p> <p>a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and</p> <p>b) the development is specified in Schedule 1 or 2.</p> <p>2) If a single Project the subject of one development application comprises development that is only partly State significant development declared under subsection (1), the remainder of the development is also declared to be State significant development, except for—</p> <p>a) so much of the remainder of the development as the Director-General determines is not sufficiently related to the State significant development, and</p> <p>b) coal seam gas development on or under land within a coal seam gas exclusion zone or land within a buffer zone (within the meaning of clause 9A of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007), and</p>	<p>Per Item 20 of Schedule 1, the Project triggers State Significant Development as it holds a capital investment value greater than \$30 million.</p> <p>Noted, all ancillary elements which do not meet the trigger for State Significant Development have been included within this SSDA.</p>



Statutory Reference	Consideration	Response
	c) development specified in Schedule 1 to State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.	
	3) This section does not apply to development that was the subject of a certificate in force under clause 6C of State Environmental Planning Policy (Major Development) 2005 immediately before the commencement of this Chapter.	N/A Development does not hold a certificate under Clause 6C of the State Environmental Planning Policy (Major Development) 2005.
2.19 Declaration of regionally significant development: section 4.5(b)	<p>1) Development specified in Schedule 6 is declared to be regionally significant development for the purposes of the Act.</p> <p>2) However, the following development is not declared to be regionally significant development—</p> <p>a) complying development,</p> <p>b) development for which development consent is not required,</p> <p>c) development that is State significant development,</p> <p>d) development for which a person or body other than a council is the consent authority,</p> <p>e) development within the area of the City of Sydney.</p>	N/A The Project is classified as State Significant Development.
State Environmental Planning Policy (Resilience and Hazards) 2021		
Chapter 3 Hazardous and offensive development		
Part 3 Potentially hazardous or potentially offensive development		
3.11 Preparation of preliminary hazard analysis	A person who proposes to make a development application to carry out development for the purposes of a potentially hazardous industry must prepare (or cause to be prepared) a preliminary hazard analysis in accordance with the current circulars or guidelines published by the Department of Planning and submit the analysis with the development application.	A Hazard and Risk Assessment (SLR Consulting, 2023) contained in Appendix P. On the basis of the risk assessment completed, the residual risk associated with the Project-related fire hazard, EMF hazard, and bushfire hazard to be low, and hence adequately mitigated.
3.12 Matters for consideration by consent authorities	<p>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)—</p> <p>a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and</p> <p>b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and</p>	



Statutory Reference	Consideration	Response
	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.	
Chapter 4 Remediation of land		
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) 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.	A search of the NSW EPA POEO Public Register was made on 15 June 2023 indicating three (3) contaminated land sites located within the Bathurst LGA, two (2) being in the suburb of Bathurst located over 5 km to the east of the Project site, and one (2) being in the suburb of Yetholme. A search was also made on this date of the NSW EPA POEO Public Register indicating 34 POEO licences registered in the Bathurst LGA, with the closest licence (No. 20550) registered to 1088 Mid Western Highway, Evans Plains approximately 3.5 km to the south-west of the Project site.
State Environmental Planning Policy (Transport and Infrastructure) 2021		
Division 4 Electricity generating works or solar energy systems		
2.36 Development permitted with consent	1) Development for the purpose of electricity generating works may be carried out by any person with consent on the following land— a) in the case of electricity generating works comprising a building or place used for the purpose of making or generating electricity using waves, tides or aquatic thermal as the relevant fuel source—on any land, b) in any other case—any land in a prescribed non-residential zone. 2) Development for the purpose of a back-up electricity generating plant that operates for not more than 200 hours in any year may be carried out by any person with consent on any land. 3) Development for the purpose of the expansion of existing electricity generating works may be carried out by or on behalf of a public authority with consent on any land that is adjacent to the existing works.	The site is located in a RU1 Primary Production zone which is listed as a prescribed non-residential zone. N/A Purpose is not for back-up electricity N/A Development is for a new development.



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	4) Consent is not required to carry out any such development on land if the development could, but for subsection (3), be carried out on that land without consent.	N/A Development is for a new development.
	5) Development for the purpose of, or resulting in, a change of fuel source of an existing coal or gas fired generating works by a proportion of more than 5 per cent in any 12 month period may only be carried out with consent.	N/A Development does not include a fuel source.
	6) If, under any environmental planning instrument (including this Chapter), development for the purpose of— a) industry, or b) a waste or resource management facility, may be carried out on land with consent, development for the purpose of electricity generating works that generate energy from waste, or from gas generated by waste, may also be carried out by any person with consent on that land.	N/A The Project does not include any component which generates electricity from waste or gas.
	7) Without limiting subsection (1), development for the purpose of a small wind turbine system may be carried out by any person with consent on any land.	N/A No wind turbines proposed.
	8) However, subsection (7) only applies in relation to land in a prescribed residential zone if— a) the small wind turbine system has the capacity to generate no more than 10kW, and b) the height of any ground-mounted small wind turbine in the system from ground level (existing) to the topmost point of the wind turbine is no more than 18m.	N/A No wind turbines proposed.
	9) Solar energy systems Development for the purpose of a solar energy system may be carried out by any person with consent on any land.	N/A The Project does not include a solar energy component.
Division 5 Electricity transmission or distribution		
Subdivision 2 Development likely to affect an electricity transmission or distribution network		
Section 2.48 Determination of development applications—other development	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,	The Project will require penetration of ground within 2m of an underground electricity power line.



Statutory Reference	Consideration	Response
	b) development carried out— <ul style="list-style-type: none"> 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. (iii) within 5m of an exposed overhead electricity power line, 	The Project will occur immediately adjacent to an easement for electricity purposes, and immediately adjacent to an electricity substation.
	c) installation of a swimming pool any part of which is— <ul style="list-style-type: none"> 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. (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool, 	N/A No swimming pool proposed.
	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.	The Project will require the placement of an underground powerline.
	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— <ul style="list-style-type: none"> 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. 	The Project will require referral based on the matters above.
	3) Subsection (2) does not apply to development specified in subsection (1)(b) if the development involves only one or more of the following— <ul style="list-style-type: none"> a) internal alterations to a building, b) a change of use of an existing building, c) a change to the hours of operation specified in the development consent, d) a subdivision that does not involve construction work. 	N/A.
Division 17 Roads and road infrastructure facilities		
Subdivision 2 Development in or adjacent to road corridors and road reservations		
2.119 Development with frontage to classified road	2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—	Existing access crossover to be utilised with upgraded BAL treatment.



Statutory Reference	Consideration	Response
	<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> <ul style="list-style-type: none"> i. the design of the vehicular access to the land, or ii. the emission of smoke or dust from the development, or iii. (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and <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>Existing access crossover to be utilised with a Basic Left Turn (BAL) treatment as per Austroads Guidelines prior to the commencement of construction and movement of heavy and light vehicles associated with the Project as per the TIA (SLR Consulting, 2023) in Appendix I.</p> <p>Potential impacts from the development are largely contained within the construction period and are to be managed through appropriate mitigation measures.</p> <p>Ongoing impacts on the classified road due to traffic generation are considered to be minimal as per the TIA (SLR Consulting, 2023) in Appendix I.</p> <p>The development is not sensitive to traffic noise or vehicle emissions as it consists of electrical infrastructure.</p>
2.120 Impact of road noise or vibration on non-road development	<p>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 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—</p> <ul style="list-style-type: none"> a) residential accommodation, b) a place of public worship, c) a hospital, d) an educational establishment or centre-based child care facility 	N/A, the Project does not involve any of the listed land uses.
2.122 Traffic-generating development	<p>1) This section applies to development specified in Column 1 of the Table to Schedule 3 that involves—</p> <ul style="list-style-type: none"> a) new premises of the relevant size or capacity, or b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity. <p>2) In this section, relevant size or capacity means—</p> <ul style="list-style-type: none"> a) in relation to development on a site that has direct vehicular or pedestrian access to any road (except as provided by paragraph (b))—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or 	The Project will have minimal impact on existing and future traffic volumes within the surrounding road network and will not exceed 50 or more vehicles per hour on the classified road.



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	b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.	
	3) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this section applies that this Chapter provides may be carried out without consent unless the authority or person has— a) given written notice of the intention to carry out the development to TfNSW in relation to the development, and b) taken into consideration any response to the notice that is received from TfNSW within 21 days after the notice is given. 4) Before determining a development application for development to which this section applies, the consent authority must— a) give written notice of the application to TfNSW within 7 days after the application is made, and b) take into consideration— 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 ii. the accessibility of the site concerned, including— A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and 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 iii. any potential traffic safety, road congestion or parking implications of the development.	Noted, TfNSW will be consulted with as part of the public exhibition with any concerns raised to be addressed as part of the SSD assessment process.
	5) The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.	Noted.
Draft State Environmental Planning Policies		
Draft Corridor Protection SEPP	The purpose of the Corridor Protection SEPP is to introduce amendments to the Transport and Infrastructure SEPP to provide protections for future transport corridors and clarify its relationship with the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.	Based on the available Explanation of Intended Effects, the amendments will not impact the proposed development.



Statutory Reference	Consideration	Response
Draft State Environmental Planning Policy (Remediation of Land)	The Draft Statement of Environmental Planning Policy (Remediation of Lands) (Draft Remediation of Lands SEPP) intends to supersede SEPP 55 which has been the framework for contaminated lands for 20-years. The new draft SEPP will retain elements of SEPP 55 and add new provisions to establish a modern approach to the management of contaminated land.	SEPP55 has since been consolidated within the State Environmental Planning Policy (Resilience and Hazards) 2021 as Chapter 4 and remains consistent with the new legislated chapter noting no policy changes were made.
Draft State Environmental Planning Policy (Environment)	The Draft State Environmental Planning Policy (Environment) (Draft SEPP Environment) aims to consolidate environmental SEPPs to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. Many of the impacted SEPP's have since been consolidated within the State Environmental Planning Policy (Biodiversity and Conservation) 2021.	The site is not mapped on the Draft SEPP Environment mapping as being within coastal management areas, urban bushland, waterways, Sydney Harbour, critical habitat, seagrass or rocky foreshores area, canal estate development land or Willandra Lakes World Heritage Property. No further consideration is required to be given to the Draft SEPP Environment.
Bathurst Regional Local Environmental Plan 2014		
Part 1 Preliminary		
1.2 Aims of Plan	1) This Plan aims to make local environmental planning provisions for land in the Bathurst Regional local government area in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.	Noted.
	2) The particular aims of this Plan are as follows— (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,	The Project relates to the utilisation of rural zoned land for the purposes of electrical generation works being a battery energy storage system. The provision of renewable energy may assist in the development of art and cultural activity by reducing energy cost and providing action on Climate Change and Ecologically Sustainable Development.
	a) to deliver growth and development in the city of Bathurst and rural localities,	The Project will contribute to the continued development of Bathurst Cities energy profile which will assist in the growth and development of the city and broader region.
	b) to promote development that is consistent with the principles of ecologically sustainable development and the management of climate change and water resources,	The Project is considered to direct contribute to the principles of Ecologically Sustainable Development by addressing climate change through provision of large scale energy storage to work in conjunction with the broad establishment of renewable energy.
	c) to enhance and protect the region's unique Aboriginal and European cultural heritage as key social and economic assets,	The Project is not in the vicinity of any identified European heritage.



Statutory Reference	Consideration	Response
		<p>The ACHA (Austral Archaeology, 2023) prepared for the Project concluded that there would be a direct impact and total loss of value to two identified Aboriginal site identified during a test excavation program completed between 13 March 2023 and 17 March 2023, identified as Evans Plains AS1 (AHIMS #PENDING) and Evans Plains IF1 (AHIMS #PENDING) containing a total of five (5) artefacts. These are proposes to be reburied in proximity to their original locations (outside of the construction impact) in consultation with Aboriginal stakeholders and protected for the duration of works associated with the construction and operation of the Project.</p>
	<p>d) to identify, protect, enhance and manage areas of high biodiversity conservation value as a means to—</p> <ul style="list-style-type: none"> i. preserve and improve the ecosystem services they provide, and ii. protect the region’s significant vegetation and scenic quality, and iii. (iii) respond to and plan for climate change by identifying and protecting habitat corridors and links through the local government area, 	<p>The development site consists of cleared rural land with the Project considered to have minimal impact on the biodiversity of the area.</p>
	<p>e) to facilitate rural housing choice through sustainable rural settlement growth that includes rural village living and strategic rural lifestyle living opportunities,</p>	<p>No residential component is proposed. The proposal consists of infrastructure to an existing rural lot. The development will contribute to affordable living in the broader Bathurst area.</p>
	<p>f) to provide greater housing choice within the city of Bathurst through sustainable urban settlement growth that includes greater opportunities for medium density housing and the minimisation of the city’s environmental footprint,</p>	<p>No residential component is proposed. The proposal consists of infrastructure to an existing rural lot. The development will contribute to affordable living in the broader Bathurst area.</p>
	<p>g) to promote the well-being of the people of the region by encouraging living, vibrant and growing rural settlement areas, urban villages and suburbs that generate a sense of community and place,</p>	<p>The Project is considered to contribute to the areas contribution to climate change action and affordable energy.</p>
	<p>h) to protect the region’s key transport assets and to promote opportunities for sustainable transport, particularly public and active transport,</p>	<p>No change to the regions transport infrastructure proposed.</p>
	<p>i) to provide a secure future for the region’s recreation assets, in particular, the Mount Panorama and the Macquarie River precincts,</p>	<p>No change to the regions recreational assets proposed.</p>



Statutory Reference	Consideration	Response
	j) to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bush fires and to minimise cumulative impacts on environmentally sensitive areas,	The development is considered to have minimal impact on the local areas hazard profile and is considered to have minimal impact on environmentally sensitive areas.
	k) to encourage the dynamic and innovative development and growth of the region's primary resources,	The Project is an innovative form of electrical energy infrastructure which will contribute to the overall energy profile of the broader Bathurst region.
	l) to protect and enhance the region's landscapes, views, vistas and open spaces,	The Project has been co-located with an existing electrical substation to manage potential visual intrusion in existing views.
	m) to create a land use framework for controlling development in the region that allows detailed provisions to be made in any development control plan made for that purpose.	Noted. The development is consistent with the general desired outcomes for the region.
1.3 Land to which Plan applies	This Plan applies to the land identified on the Land Application Map.	
Part 2 Permitted or prohibited development		
2.2 Zoning of land to which Plan applies	For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.	The site is zoned RU1 Primary Production under the Bathurst Regional LEP 2014.
Land Use Table – Zone RU1 Primary Production		
1 Objectives of zone	• To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.	Whilst the development will reduce the overall primary production land available on the larger site, the amount of space taken is considered to be minimal with the development being collocated with an existing electrical substation to maximise outcomes for the site. The provision of sustainable and reliable energy storage in the region will assist in the ongoing success and growth of primary production in the Bathurst area.
	• To encourage diversity in primary industry enterprises and systems appropriate for the area.	The development directly contributes to the diversity of uses within the rural area.
	• To minimise the fragmentation and alienation of resource lands.	The development is collocated with an existing electrical substation to minimise potential fragmentation.
	• To minimise conflict between land uses within this zone and land uses within adjoining zones.	The development is collocated with an existing electrical substation to minimise potential land use conflict between primary production and the electrical infrastructure.
	• To maintain the rural and scenic character of the land.	The collocation of energy infrastructure managed potential impacts on rural character.



Statutory Reference	Consideration	Response
	<ul style="list-style-type: none"> To provide for a range of compatible land uses that are in keeping with the rural character of the locality, do not unnecessarily convert rural land resources to non-agricultural land uses, minimise impacts on the environmental qualities of the land and avoid land use conflicts. 	<p>Whilst the development will reduce the overall primary production land available on the larger site, the amount of space taken is considered to be minimal with the development being collocated with an existing electrical substation to maximise outcomes for the site.</p> <p>The Project contributes minimal impact to the local environment and productivity of the surrounding rural lands.</p> <p>The use is considered to be compatible with rural operations and will even contribute to the ongoing growth of primary production industries in the region.</p>
2 Permitted without consent	Environmental protection works; Extensive agriculture; Home-based child care; Home businesses; Home occupations; Intensive plant agriculture; Roads	Development is not listed under Item 2.
3 Permitted with consent	Aquaculture; Artisan food and drink industries; Cellar door premises; Dwelling houses; Extractive industries; Farm buildings; Food and drink premises; Funeral homes; Garden centres; High technology industries; Home industries; Hostels; Intensive livestock agriculture; Landscaping material supplies; Markets; Neighbourhood shops; Open cut mining; Plant nurseries; Roadside stalls; Rural supplies; Rural workers' dwellings; Secondary dwellings; Any other development not specified in item 2 or 4	The Project, being electricity storage (electricity generating works), is considered to be permitted with consent within the sites RU1 Primary Production zone by virtue of not being listed within Item 2 or 4.
4 Prohibited	Amusement centres; Commercial premises; Exhibition homes; Exhibition villages; Heavy industrial storage establishments; Home occupations (sex services); Industries; Local distribution premises; Public administration buildings; Residential accommodation; Restricted premises; Sex services premises; Storage premises; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Wholesale supplies	Development is not listed under Item 4.
Part 4 Principal development standards		
4.1 Minimum subdivision lot size	1) The objectives of this clause are as follows—	N/A, no subdivision proposed as part of this development.
4.3 Height of buildings	1) The objectives of this clause are as follows— a) to establish the maximum height limit to which buildings may be erected in certain locations. 2) 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.	N/A, no height of building limitation applies to the site.



Statutory Reference	Consideration	Response
<p>2.4</p> <p>Floor space ratio</p>	<p>1) The objectives of this clause are as follows—</p> <p>a) to ensure that the density, bulk and scale of development is appropriate for employment zones, and</p> <p>b) to ensure that the density, bulk and scale of development integrates with the streetscape and character of the area in which the development is located.</p> <p>2) 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.</p>	<p>N/A, no floor space limitation applies to the site.</p>
<p>Part 5 Miscellaneous provisions</p>		
<p>5.10 Heritage conservation</p>	<p>1) Objectives The objectives of this clause are as follows—</p> <p>a) to conserve the environmental heritage of Bathurst Regional local government area,</p> <p>b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>c) to conserve archaeological sites,</p> <p>d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>N/A, the site is not mapped as a State or Local heritage item and is not located within a heritage conservation area. No listed heritage items or heritage conservation areas are located in proximity to the site.</p>
<p>5.11 Bush fire hazard reduction</p>	<p>Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.</p>	<p>N/A, the site is not mapped as bushfire prone lane.</p>
<p>5.21 Flood planning</p>	<p>1) The objectives of this clause are as follows—</p> <p>a) to minimise the flood risk to life and property associated with the use of land,</p> <p>b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,</p> <p>c) to avoid adverse or cumulative impacts on flood behaviour and the environment,</p> <p>d) (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.</p>	<p>N/A, the site is not mapped as flood prone and is not known to be flood prone per records held by Council.</p>
<p>Part 7 Additional local provisions</p>		
<p>7.3 Airspace operations</p>	<p>1) The objectives of this clause are as follows—</p> <p>a) to provide for the effective and ongoing operation of the Bathurst Airport by ensuring that the operation of the airport is not compromised by Project that penetrates the Limitation or Operations Surface for that airport,</p> <p>b) to protect the community from undue risk from that operation.</p>	<p>The Project is not located inside the Obstacle Limitation Surface mapping under the LEP and is not likely to impact the safe operation of the Bathurst Airport or any other general airspace operations.</p>



Statutory Reference	Consideration	Response
	<p>2) If a development application is received and the consent authority is satisfied that the Project will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application.</p> <p>3) The consent authority may grant development consent for the development if the relevant Commonwealth body advises that—</p> <p>a) the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or</p> <p>b) the development will not penetrate the Limitation or Operations Surface.</p> <p>4) The consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the Limitation or Operations Surface and should not be carried out.</p>	
7.4 Development in areas subject to aircraft noise	<p>1) The objectives of this clause are as follows—</p> <p>a) to prevent certain noise sensitive developments from being located near the Bathurst Airport and its flight paths,</p> <p>b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,</p> <p>c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.</p> <p>2) This clause applies to development that—</p> <p>a) is on land that—</p> <p>i. is near the Bathurst Airport, and</p> <p>ii. is in an ANEF contour of 20 or greater, and</p> <p>b) the consent authority considers is likely to be adversely affected by aircraft noise.</p> <p>3) In deciding whether to grant development consent to development to which this clause applies, the consent authority—</p> <p>a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and</p> <p>b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and</p>	The Project is for the construction and operation of a BESS and is not considered to be a sensitive receiver which would be adversely impacted by airport operations or aircraft noise.



Statutory Reference	Consideration	Response
	c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.	
7.5 Essential services	<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 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>d) stormwater drainage or on-site conservation,</p> <p>e) suitable vehicular access.</p>	The development is for the purpose of energy storage. Appropriate provision of services to be established for the site.
7.14 Drinking water catchments		N/A, the site is not located within the Drinking Water Catchment under the Bathurst Regional LEP 2014.

