

Appendix B Updated statutory compliance table

Statutory reference (NSW)	Pre-condition	Relevance
<p><i>Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act)</i></p>	<p>Under the EPBC Act, if the Minister determines that an action is a ‘controlled action’ which would have or is likely to have a significant impact on a Matter of National Environmental Significance (MNES) or Commonwealth land, then the action may not be undertaken without prior approval of the Minister.</p>	<p>The approved project was deemed not a controlled action by DCCEEW.</p> <p>Regarding the Amended Project, MNES have been reviewed and the Amended Project is not expected to generate a significant impact and referral is not being undertaken at this time.</p>
<p>EP&A Act</p>	<p>Clause 8, section 4.12 of the EP&A Act, requires an EIS to support a DA for SSD.</p> <p>Section 4.36 of the EP&A Act provides that a development would be State Significant Development (SSD) if it is declared to be SSD by a SEPP.</p>	<p>The Project is SSD</p>
<p>Environmental Planning and Assessment Regulation 2021 (EP&A Reg)</p>	<p>Part 8 Division 5 of the EP&A Regulation specifies the form and content of EISs, which provide the basis for the Secretary’s Environmental Assessment Requirements (SEARs) issued for Projects.</p> <p>Section 59 of the EP&A Regulation addresses public participation for SSD.</p> <p>Section 251 requires an ‘estimated cost’ of the CIV of a DA in order for the Planning Secretary to make their determination.</p>	<p>The Project is an SSD and must follow the SSD assessment process outlined in the EP&A Regulation</p>

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<p>State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)</p>	<p>Schedule 1 and Schedule 2 of the Planning Systems SEPP identifies development which is SSD due to the size, economic value or potential impacts of the development.</p> <p>Clause 20 of Schedule 1 of the Planning Systems SEPP defines SSD as including:</p> <p><i>Development for the purpose of electricity generating works or heat or their co-generation (using any energy source, including gas, coal, biofuel, distillate, waste, hydro, wave, solar or wind power) that:</i></p> <p><i>has a capital investment value of more than \$30 million...</i></p>	<p>The Project is SSD under the SEPP Planning Systems</p>
<p>Bathurst Regional Local Environmental Plan 2014</p> <p>State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)</p>	<p>The site is located within land zoned RU1 under the Bathurst Regional LEP. Electricity generation is permissible with consent in this land zone. ‘Electricity generating works’ as defined by the Principal Local Environment Plan (2006) include electricity storage.</p> <p>Part 2.3 Division 4 of TISEPP relates to electricity generating works. The Project falls under a development for the purpose of ‘electricity generating work–’ – as defined in the Standard Instrument, for making or generating electricity, or electricity storage in any land in a prescribed rural, industrial or special use zone. Therefore, under the TISEPP, electricity generating works are permissible in the land zone RU1</p> <p>Section 2.122 of the Transport and Infrastructure SEPP requires certain developments to be referred to TfNSW. Electricity generation/storage are not included within the SEPP. However, the Project would result in the generation of fewer than 200 vehicles per hour during peak construction and operation. As such, the requirements under Section 2.122 of the SEPP do not apply.</p>	<p>The Land use zone of the Development Footprint is RU1 Primary Production which is a prescribed zone. The declaration of the Project as SSD extends to all parts of the Project.</p> <p>The Project would result in the generation of fewer than 50 vehicles per hour during peak construction and operation, thus the requirements under Section 2.121 of the Transport and Infrastructure SEPP do not apply.</p>

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<p>State Environmental Planning Policy Resilience and Hazards 2021 (SEPP Resilience and Hazards)</p>	<p>Section 3.12 of the SEPP Resilience and Hazards requires consent authorities to consider the Project’s preliminary hazard analysis (PHA).</p>	<p>The Project includes a BESS which requires preparation of a PHA.</p>
	<p>The SEPP Resilience and Hazards aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Chapter 4 Section 4.6 of the SEPP Resilience and Hazards requires the remediation of land to be considered by a consent authority, when determining a DA.</p>	<p>Contamination associated with agricultural activities (e.g., pesticides, petrochemicals) may be present on the site.</p>
<p>State Environmental Planning Policy (Primary Production) 2021 (Primary Production SEPP)</p>	<p>The Primary Production SEPP provides for agricultural land use matters of State or regional significance. Part 2.2 Section 2.8 of the Primary Production SEPP identifies State significant agricultural land as land listed in Schedule 1. Schedule 1 of the Primary Production SEPP is currently incomplete/blank, with mapping yet to be completed or publicly available.</p>	<p>The entirety of the Development Footprint impacts RU1 land. However, in decommissioning, all above ground infrastructure would be removed and decommissioning and rehabilitation of the site would commence to return the disturbed area to a safe, non-polluting and stable state. The broader area would remain suitable for continued agricultural or other land use options.</p>
<p>National Parks and Wildlife Act 1974 (NPW Act)</p>	<p>The NPW Act is responsible for the conservation of objects, places or features of cultural value within the landscape, such as but not limited to places, object and features of significance to Aboriginal people, places of social value and places of historic, architectural or scientific value.</p>	<p>An Aboriginal Cultural Heritage Assessment (ACHA) was completed for the Project. Updated consideration of impacts and consultation with RAPs has been carried out for the Amended Project.</p>

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Bioresecurity Act 2015 (Bioresecurity Act)	The Bioresecurity Act and supporting Bioresecurity Regulation 2017 provide for the establishment and functions of Local Control Authorities for weeds (LGA or County Councils) and weed control obligations on public and private land.	The EIS provides for the control of priority weeds occurring at the Development Footprint as part of the Project.
Heritage Act 1977 (Heritage Act)	The Heritage Act defines ‘environmental heritage’ as those places, buildings, works, relics, moveable objects, and precincts, of State or local heritage significance, and aims to conserve these values. A property is a heritage item if it is listed in the heritage schedule of the local council’s LEP or listed on the State Heritage Register	The Project would be located near no heritage item listed under the Bathurst LEP. No impacts are anticipated.
Roads Act 1993 (Roads Act)	Under section 138 of the Roads Act, work cannot be carried out over a public road without consent of the appropriate roads authority.	The Project requires upgrades to the local road network. Mitchells Highway and Mid-Western Highway are state roads under the management of TfNSW.
Biodiversity Conservation Act 2016 (BC Act)	Section 7.9 of the BC Act requires a biodiversity development assessment report (BDAR) to be prepared for SSD unless determined otherwise by the Planning Agency Head and the Environment Agency Head.	The Project has approval of a BDAR Waiver Report to be prepared. This has been updated to reflect the Amended Project.
Conveyancing Act 1919 (and Real Property Act 1900)	When land is leased from a landowner and the lease affects part of a lot or lots in a current plan, a subdivision under section 7A of the Conveyancing Act is required when the total term of the lease, together with any options of renewal, is more than five years. However, a lease of a BESS is treated as a lease of premises, irrespective of the lease term. A deposited plan would be prepared by a surveyor showing the part of the land as the BESS premises, together	Land acquisition and indicative subdivision plans are provided in Section 3.4 of the EIS. No changes are generated by the Amended Project.

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	with any associated easements. Subdivision under section 23G of the Conveyancing Act is not required.	
<i>Waste Avoidance and Resource Recovery Act 2001 (WARR Act)</i>	The WARR Act includes resource management hierarchy principles to encourage the most efficient use of resources and to reduce environmental harm. The Project’s resource management options would be considered against a hierarchy.	Waste management and avoidance is assessed in Section 6.12 of the EIS. No changes are generated by the Amended Project.