

Appendix B Statutory Tables

The proposal is required to fulfil the legislative requirements and its environmental planning instruments, as listed and briefly described in Tables B.1. and B.2. below.

Table B.1. Power to grant consent, permissibility, and approvals.

Considerations	Summary of consideration
Power to grant consent	<p>The proposed development will trigger the requirement for State Significant Development under Clause 20(a)) of Schedule 1 of the State Environmental Planning Policy (Planning Systems) 2021.</p> <p>The Independent Planning Commission is declared to be the consent authority for this development application per Section 4.5(a) of the Environmental Planning and Assessment Act 1979:</p> <p><i>4.5 Designation of consent authority</i></p> <p><i>For the purposes of this Act, the consent authority is as follows—</i></p> <p><i>(a) in the case of State significant development—the Independent Planning Commission (if the development is of a kind for which the Commission is declared the consent authority by an environmental planning instrument) or the Minister (if the development is not of that kind).</i></p>
Permissibility	<p>It is noted that a ‘electricity generating works’ are not permissible under the <i>Singleton Local Environmental Plan 2013</i> in RU1 Primary Production zoning. However, under the State Environmental Planning Policy (Transport and Infrastructure) 2021, ‘electricity generating works’ are permitted in prescribes zones, including land zoned as RU1 Primary Production under Clause 2.36.</p>
Integrated approvals (under Section 4.46 of the EP&A Act)	<p>Protection of the Environment Operations Act 1997</p> <p>The Proposal is considered an integrated development and will require an Environment Protection Licence (EPL) from the NSW EPA under Schedule 1, Part 1 of the Protection of the Environment Operations Act 1997 for the following scheduled activities:</p> <ul style="list-style-type: none"> • ‘Electricity generation’ works (Clause 17); and • Energy recovery (Clause 18) <p>Water Management Act 2000</p> <p>The Proposal will require a Water access licence (WAL).</p>
Approvals that would have been required if the project was not an SSD project	<p>In accordance with Section 4.41, the <i>Environmental Planning and Assessment Act 1979</i>, the following authorisations are not required for State significant development that is authorised by a development consent granted after the commencement of Division 4.7:</p> <ul style="list-style-type: none"> • An approval under Part 4, or an excavation permit under section 139, of the <i>Heritage Act 1977</i>; • An Aboriginal heritage impact permit under section 90 of the <i>National Parks and Wildlife Act 1974</i>, • A bushfire safety authority under section 100B of the <i>Rural Fires Act 1997</i>, • A water use approval under section 89, a water management work approval under section 90 or an activity approval (other than an aquifer interference approval) under section 91 of the <i>Water Management Act 2000</i>.

Table B.2. Commonwealth legislation and NSW Acts, Regulations and Environmental Planning Instruments.

Legislation/EPI	Applicable section / requirements	Relevance to the Proposal
<i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i>	Under the EPBC Act an action (ie. a project, a development, an undertaking, an activity or a series of activities, or an alteration of any of these things) will require approval from the minister if the action has, will have, or is likely to have, a significant impact on a matter of national environmental significance (MNES).	No EPBC matters will be affected by the Proposal.
<i>Environmental Planning and Assessment Act 1979</i>	<p>Section 4.15</p> <ul style="list-style-type: none"> • Relevant objects of the Act • Relevant environmental planning instruments • Development control plans <p>Section 4.12(8) The proposed project is considered a state significant development under the <i>State Environmental Planning Policy (Planning Systems) 2021</i>. Therefore, the Proposal requires assessment under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i>.</p>	An EIS has been prepared to accompany the development application in the form prescribed by the Regulations.
<i>Environmental Planning and Assessment Regulation 2021</i>	<p>Clause 175 The Regulation under Clause 175 of the <i>Environmental Planning and Assessment Regulation 2021</i> sets out the environmental assessment requirements for State Significant Development. The EIS has been prepared to meet these requirements.</p>	
<i>Biodiversity Conservation Act 2016</i>	<p>A Biodiversity Development Assessment Report (BDAR) will be required to accompany a development application if the proposed development is likely to ‘significantly affect threatened species’ and the Biodiversity Offset Scheme (BOS) will apply. Section 7.2 states that a development will ‘significantly affect threatened species’ if:</p> <ol style="list-style-type: none"> it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or it is carried out in a declared area of outstanding biodiversity value. 	A Biodiversity Development Assessment Report has been prepared with the results of an ecological appraisal of the Site (Appendix Y). The Proposal is not likely to significantly affect threatened species, ecological communities or their habitat or biodiversity value land. The Proposal does not trigger biodiversity offsets.
<i>Protection of the Environment Operations (Waste) Regulation 2014</i>	Part 3 Records, measurement of waste and monitoring at scheduled waste facilities.	The Proposal will be required to accurately measure via a weighbridge (two are proposed for the Facility) all waste received and leaving the facility. The amount of waste (biomass) received and transported off-site will be reported to the EPA through the Waste and Resource Reporting Portal (WARRP).

Legislation/EPI	Applicable section / requirements	Relevance to the Proposal
	<p>Section 91 General provisions relating to exemptions</p> <p>(1) The EPA may, if authorised to do so by another provision of this Regulation, grant an exemption under this clause from specified provisions of the Act or this Regulation.</p>	<p>An application for a specific Resource Recovery Order and Exemption (RROE) will be needed for certain fuel types that meet the definition of an Eligible Waste Fuel.</p> <p>An application for a specific Resource Recovery Order and Exemption (RROE) will be sought for the use of eligible waste fuel at the Facility. The NSW EPA will be consulted. A Specific RROE may be sought for the application of biomass ash to land.</p>
<i>Protection of the Environment Operation (Clean Air) Regulation 2022</i>	Schedule 3 of the POEO Clean Air Regulation sets out the emissions standards for electricity generation (for any boiler operating on a fuel other than gas).	The proposal has been assessed against the most stringent air emission Group 6 limits in the POEO Clean Air Regulation.
	The definition of a standard fuel is contained in Part 1 of Schedule 2	Standard fuels form part of the biomass fuel proposed to be used at the Facility.

Legislation/EPI	Applicable section / requirements	Relevance to the Proposal
State Environmental Planning Policy (Resilience and Hazards) 2021	<p>Section 3.7</p> <p>Consideration of Departmental guidelines in determining whether a development is—</p> <ul style="list-style-type: none"> (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. 	A preliminary hazard analysis has been prepared for the EIS. Potential impacts to air quality, odour, noise, and vibration have been assessed in this EIS.
	<p>Section 3.12</p> <p>Potentially hazardous development:</p> <ul style="list-style-type: none"> • Whether any public authority should be consulted. • A preliminary hazard analysis. • Any feasible alternatives. • Any likely future land use of surrounding land. 	A preliminary hazard analysis has been prepared for this EIS.
	<p>Section 4.6</p> <p>A consent authority must not consent to the carrying out of any development on land unless—</p> <ul style="list-style-type: none"> (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 preliminary site investigation has been prepared for this EIS.
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p>Section 2.153 Development permitted with consent</p> <p>(1) Development for the purpose of waste or resource management facilities, other than development referred to in subsection (2), may be carried out by any person with consent on land in a prescribed zone.</p>	The Proposal is considered an 'Electricity generating works' and is located on land zoned as RU1 Primary Production, which is a prescribed zone. Therefore, the development is permitted with consent under Section 2.36
State Environmental Planning Policy (Industry and Employment) 2021	<p>Chapter 3 Advertising and signage</p> <p>A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied—</p> <ul style="list-style-type: none"> (a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and 	The Proposal will only include business identification signs and building identification signs. Therefore, no further assessment is required

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	(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.	
Singleton Local Environmental Plan 2013	<ul style="list-style-type: none"> Objectives for RU1 Primary Production zones Land use permissibility 	The Proposal is not permissible within RU1 zone under the LEP. However, the SEPP (Transport and Infrastructure) overrides the LEP. Objectives and requirements under the LEP
Singleton Development Control Plan 2014	Relevant sections of the DCP.	The Proposal has been assessed against the relevant objectives and requirements of the Singleton DCP (see Section 4.8)