APPENDIX 3

Statutory Compliance Table

Appendix 3 – Statutory Compliance Table

1.1 Environmental Planning and Assessment Act 1979

When assessing a development application for SSD, the consent authority is required to take into consideration the matters outlined in Section 4.15(1) of the EP&A Act. **Table 1** lists the requirements under Section 4.15(1) and where these have been addressed in this EIS.

Table 1 Matters for consideration under Section 4.15(1) of the EP&A Act

Matters for Consideration – General	Where Addressed in the EIS
Relevant objects of the Act (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, (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment, (c) to promote the orderly and economic use and development of land, (d) to promote the delivery and maintenance of affordable housing, (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats, (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage), (g) to promote good design and amenity of the built environment, (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants, (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State, (j) to provide increased opportunity for community participation in environmental planning and assessment.	**Section 1.0** **Section 2.0** **Section 6.0** **Section 7.0**
Any environmental planning instrument	**Section 4.0** of the EIS and this appendix. The following environmental planning instruments were considered: *State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)* *State Environmental Planning Policy (Transport and Infrastructure) 2021* *State Environmental Planning Policy (Resilience and Hazards) 2021* *Richmond Valley LEP 2012*
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	There are no proposed environmental planning instruments that are relevant to the application at the time of the preparation of this EIS.

Matters for Consideration – General	Where Addressed in the EIS
consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)	
Any development control plan	Section 2.8 of the Planning Systems SEPP (2021) excludes the application of development control plans (whether made before or after the commencement of the SEPP) to SSD projects.
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	Spark Renewables is committed to entering into a planning agreement with Upper Lachlan Shire Council and Goulburn-Mulwaree Council, however such an agreement has not yet been entered into at the time of the preparation of this EIS. Ongoing consultation is being undertaken to finalise the agreement..
The regulations (to the extent that they prescribe matters for the purposes of this paragraph)	**Section 4.0** of the EIS and **Appendix 3**.
The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	**Section 6.0** of the EIS
The suitability of the site for the development	**Section 7.0** of the EIS
Any submissions made in accordance with this Act or the regulations	**Section 5.0** of the EIS
The public interest.	**Section 5.0, Section 6.0** and **Section 7.0** of the EIS

1.2 Commonwealth Legislation

Furthermore, apart from requiring development consent under the EP&A Act, the Project will also require several regulatory planning and environmental approvals under Commonwealth legislation. The relevant legislation relating to the Project and how these have been addressed are provided in **Section 4.0** of the EIS. **Table 2** provides where the EIS has been addressed each matter.

Table 2 Commonwealth Legislation addressed in the EIS

Applicable Legislation	Pre-condition	Where Addressed in the EIS
Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)	Under the EPBC Act the approval of the Commonwealth Minister for the Environment is required for any action that may have a significant impact on a matter of national environmental significance (MNES). Approval under Part 9 of the EPBC Act is required for actions that may result in a significant impact on MNES.	**Section 6.5**
Native Title Act 1993 (NT Act)	The 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.	**Section 6.6**
Heavy Vehicle Act 2013	Relevant approvals under the Heavy Vehicle (Adoption of National Law) Act 2013 will be required for the transport of Project infrastructure by OSOM vehicles.	**Section 6.8**

1.3 NSW Legislation

In addition to requiring development consent under the EP&A Act, the Project will require a number of separate regulatory planning and environmental approvals. NSW legislation that is applicable to the Project is outlined in **Table 3**. This table includes legislation that has been addressed in the EIS.

Table 3 NSW Legislation Relevant to the Project

Applicable Legislation	
Biosecurity Act 2015	The objective of the *Biosecurity Act 2015* (BSA Act) is to provide a framework for the prevention, elimination and minimisation of biosecurity risks within NSW. The BSA Act outlines priority weeds that pose a risk to reducing the diversity of native plant and animal species. Under Schedule 1 of the Act all private landowners, occupiers, public authorities and Councils are required to control weeds on their land. Upper Lachlan Shire Council is the Local Control Authority responsible for administering the BSA Act in the region that applies to the Project Area. An assessment of weeds present within the Project Area was undertaken as part of the BDAR included in **Appendix 7**. The assessment has identified invasive weed species on site including blackberry (Rubus fruticosus spp. agg.), serrated tussock (Nassella trichotoma) and St John's wort (Hypericum perforatum). A detailed protocol will be developed to confirm biosecurity is maintained.
Protection of the Environment Operations Act 1997 (POEO Act)	The POEO Act regulates pollution to the environment and requires licences for environmental protection including waste, air, water, and noise pollution control. Battery Energy Storage Systems are not a scheduled activity under the POEO Act; thus, the Project does not require an Environment Protection Licence (EPL).
Contaminated Land Management Act 1997 (CLM Act)	The *CLM Act 1997* establishes the process for investigating and if required, remediating land that the NSW Environment Protection Authority (EPA) considers to be sufficiently contaminated to require regulation under Part 3, Division 2. The Project Area does not contain land listed on the Contaminated Lands Register. Relevant mitigation and management measures have been incorporated into the EIS to address any potential contamination issues (see **Section 6.14**).
Local Land Service Act 2013 (LLS Act)	Under the 2016 amendments to the *Local Land Services Act 2013* (LLS Act), all rural land will be classified as either: • Category 1 (exempt land): clearing of native vegetation without authorisation under the LLS Act is permitted; or • Category 2 (regulated land): clearing of native vegetation is regulated under the LLS Act and some authorisation is required. Vulnerable land under this category will also be provided additional protection (e.g. riparian land). An assessment of non-native vegetation or areas exempt from further assessment was undertaken in accordance with BC Act s6.8(3), which states that any assessment relating to biodiversity is to exclude the clearing of native vegetation and loss of habitat on category 1-exempt land (within the meaning of Part 5A of the Local Land Services Amendment Act 2016 (LLS Act)). This excludes any impacts prescribed by the regulations under section 6.3. Additionally, in accordance with Section 1.5 of the BAM, biodiversity values that do not need to be assessed include: (d) biodiversity values associated with the assessment of the impacts of any clearing of native vegetation and loss of habitat on category 1-exempt land (within the meaning of Part 5A of the LLS Act), other than the additional biodiversity impacts in accordance with clause 6.1 of the BC regulation.
Waste Avoidance and Resource Recovery Act 2001	The *Waste Avoidance and Resource Recovery Act 2001* (WARR Act) includes resource management hierarchy principles to encourage the most efficient use of resources and to reduce environmental harm. Waste impacts from the project have been considered in

Applicable Legislation	
	Section 6.14 of the EIS, including details of the types of waste, expected volumes (where known) and how the waste would be transported and disposed. The Project's resource management options would be considered against a hierarchy of the following order: • avoidance of unnecessary resource consumption • resource recovery (including reuse, reprocessing, recycling and energy recovery) • disposal.
Roads Act 1993 (Roads Act)	The Roads Act 1993 (Roads Act) regulates the carrying out of various activities on public roads and provides for the declaration of Transport for NSW and other public authorities, including councils, as a roads authority for different types of roads (classified and unclassified). Under section 138 of the Roads Act, the consent of the appropriate roads' authority is required for works or structures that disturb the surface of a public road or connect a road to a classified road. However, section 4.42(f) of the EP&A Act applies to SSD projects and requires that consent must not be refused and is to be substantially consistent with the consent if the works are necessary for carrying out an approved project.
Biodiversity Conservation Act 2016 (BC Act)	Under the BC Act, biodiversity assessment in accordance with the Biodiversity Assessment Method (BAM) is required for any State significant development (SSD) project. A BDAR has been prepared for the Project in accordance with the BAM (refer to **Section 6.5** and **Appendix 7**).
Water Management Act (WM Act)	Any water extractions (take) from water sources (surface and groundwater) regulated by a Water Sharing Plan (WSP) required for construction purposes requires licensing under the WM Act. The Project will require water for construction and ongoing operations.
Crown Land Management Act	The Crown Land Act provides for the administration and management of Crown Land in NSW. Crown land may not be occupied, used, sold, leased, licensed, dedicated, reserved or otherwise dealt with unless authorised by the Crown Land Act. There are areas of Crown roads / paper roads within the Project Area and works proposed in these areas. Landowners consent is not required subject to Clause 69A of the Crown Land Management Regulation 2018.
State Environmental Planning Policy (Biodiversity and Conservation) 2021	This guideline provides a framework for addressing the requirement under the Biodiversity and Conservation SEPP for all development in the Sydney drinking water catchment to have a neutral or beneficial effect (NorBE) on water quality, requiring the use of the NorBE Tool. A Water Resources Impact Assessment (WRIA) has been prepared including a NorBE assessment on water quality, refer to **Appendix 11** and Section 6.9. Consultation with Water NSW has also been undertaken, refer to Section 5.0. The aims of Chapter 3 Koala Habitat Protection 2020 and Chapter 4 Koala Habitat Protection 2021 are to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. These aims and considerations have been addressed in accordance with the BAM and the BC Act, as well as the Commonwealth EPBC Act, in preparation of this BDAR. Habitat and opportunistic surveys have been undertaken for Koala to ascertain their presence within the Subject Land with measures to avoid and minimise impacts to the species have been employed.
State Environmental Planning Policy (Resilience and Hazards)	The Resilience and Hazards SEPP requires a consent authority to consider whether an industrial development is a potentially hazardous or potentially offensive industry. A hazard assessment is completed for potentially hazardous developments to assist the consent authority to determine acceptability. A preliminary hazard analysis (PHA) has been prepared for the Project (refer to Section 6.11.3 and **Appendix 15**). Consultation

Applicable Legislation	
2021 (Resilience and Hazard SEPP)	with DPHI Hazards has been undertaken during the preparation of the EIS, refer to Section 5.0 of the EIS. The Resilience and Hazards SEPP also requires consideration of whether land is contaminated and that the land is suitable for the proposed development. The previous agricultural use of the Project Area presents potential contamination sources however investigation across the Project Area including detailed soil analysis has not indicated any existing contamination. Additionally, the proposed industrial use of the site is considered a suitable use with consideration of previous agricultural land use. A CEMP is proposed which will include unexpected finds procedures and standard contamination management should any contamination be detected during construction works associated with the Project. Any potential contamination sources associated with the Project have also been considered and appropriate management and mitigation measures will be implemented, refer to Section 6.11 of the EIS.

1.4 Local Government Legislation

1.4.1 Upper Lachlan Local Environmental Plan 2010

The Project is located within the Upper Lachlan Shire LGA and is subject to the Upper Lachlan Local Environmental Plan 2010. The Project Area is wholly located within land zoned as RU2 Rural Landscape under the LEP. Electricity generating works are not permitted in this zone however Clause 2.36(1)(b) of the Transport and Infrastructure SEPP states that development for the purpose of electricity generating works may be carried out by any person with consent on any land in a prescribed rural, industrial or special use zone. Under Clause 2.7(1) of the Transport and Infrastructure SEPP, the provisions prevail where there are inconsistencies with any other EPIs, including LEPs.

The objectives of RU2 Rural Landscape zone are:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To protect, manage and restore areas with high conservation, scientific, cultural or aesthetic value.
- To encourage development that generates employment opportunities, integrates with tourism and is compatible with, and adds value to, local agricultural production.
- To retain the significant historic and social values expressed in existing landscapes and land use patterns.
- To conserve and enhance the quality of potentially valuable environmental assets, including waterways, riparian land, wetlands and other surface and groundwater resources, remnant native vegetation and fauna movement corridors.

The Project generally aligns with these objectives as it:

- Would diversify the current land use by providing landholders with an alternative source of income.

- Is highly reversible and will not impact the future productivity of the land (see **Section 6.10** of the EIS).
- Will not impede the agricultural operations of adjoining land or land use zones.
- Is an ecologically sustainable rural land use which provides socio-economic benefits to the region and generates renewable energy (see **Section 6.10**, **Section 6.12** and **Section 6.13** of the EIS).

1.4.1.1 Subdivision of Land

The Upper Lachlan LEP designates the Project Area as 'AD' on the Lot Size Map Sheet LSZ_007 where the minimum lot size is 100 ha. Subdivision would be permissible under Section 4.38 of the EP&A Act subject to the approval of the Minister for Planning as the development application is not wholly prohibited by an environmental planning instrument.

There is no proposed subdivision of land for this Project.

1.5 Relevant Guidelines and Policies

The following key guidelines and policies have been considered during the preparation of the EIS and the associated technical assessments:

- State significant development guidelines – preparing an environmental impact statement (DPIE, 2021).
- Large-scale Solar Energy Guideline (DPE, 2022).
- Cumulative Impact Assessment Guidelines for State Significant Projects (DPIE, 2022).
- NSW DPIE Social Impact Assessment Guideline for State Significant Projects (2023).
- Undertaking Engagement Guidelines for State Significant Projects (DPIE, 2022).
- Interim Construction Noise Guideline (DECC, 2009).
- NSW Noise Policy for Industry (EPA, 2017).
- NSW Road Noise Policy (RNP), (NSW Department of Environment, Climate Change and Water (DECCW), 2011)
- Assessing Vibration: A Technical Guideline (the Vibration Guideline), (NSW Department of Environment and Conservation (DEC), 2006)
- German Institute for Standardisation DIN 4150-3:1999-02 Structural vibration – Effects of vibration on structures (DIN4150) (the German Standard)
- Construction Noise and Vibration Guideline (CNVG), (Transport for NSW (TfNSW), 2023)
- Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW (OEH, 2011).
- the Code of Practice for the Archaeological Investigation of Aboriginal Objects in NSW (DECCW, 2010).
- Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW, 2010).
- NSW Heritage Manual (NSW Heritage Office, 1996).

- The Historical Archaeology Code of Practice (NSW Government Department of Planning (DoP), 2006)
- Assessing Significance for Historical Archaeological Sites and 'Relics' (NSW Government Office of Environment and Heritage (OEH), 2009)
- The Australia ICOMOS Charter for Places of Cultural Significance 2013 (the Burra Charter) (Australia International Council on Monuments and Sites (ICOMOS), 2013)
- Upper Lachlan Local Environmental Plan 2010 (Upper Lachlan Shire Council, 2010)
- Upper Lachlan Development Control Plan 2010 (Upper Lachlan Shire Council, 2010)
- Land Use Conflict Risk Assessment Guide (DPI, 2011).
- Landscape and Visual Impact Assessment (Technical Supplement) (NSW Government Department of Planning and Environment (DPE), 2023b).
- DPI Guidelines for Controlled Activities on Waterfront land (NSW Department of Planning, Industry and Environment (DPIE), 2018)
- Why Do Fish Need to Cross the Road? Fish Passage Requirements for Water Crossings (NSW Department of Primary Industries (DPI), 2003)
- Policy & Guidelines for Fish Habitat Conservation & Management (NSW Department of Primary Industries (DPI), 2003)
- Managing Urban Stormwater: Soils & Construction Volume 1 (Landcom, 2004) and Volume 2 (NSW Department of Energy and Climate Change (DECC), 2008)
- NSW State Groundwater Policy Framework Document and component policies (NSW Department of Planning, Industry and Environment (DPIE))
- NSW Aquifer Interference Policy 2012 (NSW Department of Primary Industries Office of Water (DPI), 2012)
- National Water Quality Management Strategy Guidelines for Groundwater Protection in Australia (ARMCANZ, ANZECC, 2000)
- Australian Guidelines for Fresh and Marine Water Quality (Australian and New Zealand Governments and Australian State and Territory Governments, Canberra ACT, Australia (ANZG), 2018)
- Storing and Handling Liquids: Environmental Protection – Participants Handbook (NSW Environment and Protection Authority (EPA), 2007)
- Land and Soil Capability Assessment Scheme (Office of Environment and Heritage (OEH), 2012)
- The International Commission on Non-Ionizing Radiation Protection (ICNIRP) published Guidelines for limiting exposure to time-varying electric, magnetic and EMFs (up to 300 GHz)
- EP&A Act: Section 10.3 Bushfire Prone Land
- Rural Fires Act 1997
- NSW Rural Fire Service (RFS) document Planning for Bushfire Protection (PBP)

- Standards for Asset Protection Zones (APZ) NSW Rural Fire Service (2006)
- ISSC 20 – Guideline for the Management of Activities Within Electricity Easements and Close to Electricity Infrastructure (2012).
- Hazardous Industry Planning Advisory Paper No. 4 – Risk Criteria for Land Use Safety Planning
- Hazardous Industry Planning Advisory Paper No. 6 – Guidelines for Hazard Analysis (HIPAP 6) (DoP, 2011d)
- Multi-level Risk Assessment (MLRA) (DoP, 2011d).
- the Draft Energy Policy Framework (2023)