# APPENDIX C Statutory Context

# 1.0 Commonwealth Legislation

### Table 1 Commonwealth Legislation Considerations Table

| Statutory Context | Response |
|---|---|
| **Environment Protection and Biodiversity Conservation Act 1999** | |
| The EPBC Act is administered by the DAWE. The EPBC Act provides a framework for the protection of the Australian environment, including its biodiversity, natural resources and culturally significant places. Nine MNES are identified under the act. An action that "has, will have or is likely to have a significant impact on a MNES "may not be undertaken without prior approval of the Commonwealth Minister, as provided under Part 9 of the EPBC Act.<br>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 DCCEEW 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. | |
| • World Heritage Properties | There are no world heritage properties listed within proximity of the Project Area. |
| • National Heritage | There are no national heritage places listed within proximity of the Project Area. |
| • Wetlands of International Significance (RAMSAR Wetlands) | The Project Area is in proximity to three (3) Ramsar Wetlands |
| • Commonwealth Marine Areas | The Project Area is not located within proximity to the Great Barrier Reef Marine Park. |
| • Great Barrier Reef Marine Park | The Project Area is not located within proximity to a Commonwealth Marine Area. |
| • Threatened Ecological Communities | There are six (6) threatened Ecological Communities including the critically endangered Natural grasslands and the White Box-Yellow Box-Blakely's Red Gum |
| • Threatened Species | There are 21 threatened species or species habitat that may occur in the area. This includes a range of birds, mammals, reptiles, amphibians, and plants. |
| • Nationally Listed Migratory Species | A total of nine (9) migratory species are presented in the PMST results. |
| • All Nuclear Actions | Not proposed. |
| • Water Triggers | Not proposed. |

| Statutory Context | Response |
|---|---|
| **Native Title Act 1993** | |
| 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. | The Native Title Act 1993 (NTA) provides the legislative framework to:<br>• recognise and protect native title;<br>• establish ways in which future dealings affecting native title may proceed and to set standards for those dealings, including providing certain procedural rights for registered native title claimants and native title holders in relation to acts which affect native title;<br>• establish a mechanism for determining claims to native title; and<br>• provide for, or permit, the validation of past acts invalidated because of the existence of native title.<br>The NSW Native Title Act 1994 was introduced to make sure the laws of NSW are consistent with the Commonwealth's NTA on future dealings. It validates past and intermediate acts that may have been invalidated because of the existence of native title.<br>The National Native Title Tribunal has a number of functions under the NTA, including maintaining the Register of Native Title Claims, the National Native Title Register and the Register of Indigenous Land Use Agreements and mediating native title claims<br>A search of the Register of Native Title Claims showed that there was a Native Title Claim (NC2011/006) entered on the Register on 20/01/2012 within the Narrabri Shire LGA. No determination has been made to date. |

# 2.0 State Legislation

### Table 2 State Legislation Considerations

| Statutory Reference | Consideration | Response |
|---|---|---|
| **Environmental Planning and Assessment Act 1979** | | |
| *1.3 Objects of 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,* | The BESS is considered to improve social and economic welfare by enhancing providing large scale investment in the NENW region and more locally to the Narrabri Shire LGA.<br>The development for a zero-emission energy storage facility will assist in managing electrical supply, providing stability in the supply network and enhancing economic benefits of renewable energy, leading to overall benefits for the community. |
| | *(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,* | 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) to promote the orderly and economic use and development of land,* | The proposed BESS development is a permissible land use in the RU1 Primary Production zone under the Transport and Infrastructure SEPP and will occupy a small portion of the title containing BESS Site allowing for the continuation of existing agricultural use. |
| | *(d) to promote the delivery and maintenance of affordable housing,* | The Project does not include residential development. The development will enhance economic benefits of renewable energy, leading to overall benefits for the community. |
| | *(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,* | A BDAR waiver request has been prepared, supported by a detailed assessment confirming that the subject land has minimal biodiversity value. The Project Area is largely cleared and dominated by exotic vegetation, with no identifiable native plant communities, habitat features, or significant fauna resources. The proposed development |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | | will only affect cultivated vegetation with marginal habitat value, and is unlikely to significantly impact any threatened species, ecological communities, or their habitats, thereby satisfying clause (e) of the environmental protection objectives. A BDAR waiver has been received dated 18 August 2025 concluding that the Project will protect the environment including threatened and other native flora and fauna. |
| | *(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),* | The Project Area is not identified as a heritage item and is not located in a heritage conservation area per the Narrabri LEP 2012 . Nearby Heritage Items have been assessed in detail at Appendix H, determining the development will have little to no impact on these items.<br>An ACHAR has been prepared by Virtus Heritage at Appendix G. The ACHAR concluded that the Project will have both direct and indirect impacts of a new Aboriginal cultural heritage site identified in the site survey. In consultation with Aboriginal stakeholders, the artefact scatter directly impacted will be collected and the indirectly impacted scatter will be marked with temporary fencing for the duration of the works. |
| | *(g) to promote good design and amenity of the built environment,* | The Project involves the construction and operations of electrical infrastructure. Mitigation of potential visual impacts are proposed. |
| | *(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,* | The Project involves the construction and operations of electrical infrastructure. |
| | *(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,* | 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) to provide increased opportunity for community participation in environmental planning and assessment.* | Consultation with the local community has been undertaken as part of the preparation of this EIS. Formal |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | | Exhibition to be undertaken during the assessment of the application will also allow for the community to provide input on the development. |
| *4.10 Designated development* | *(1) Designated development is development that is declared to be designated development by an environmental planning instrument or the regulations.*<br>*(2) Designated development does not include State significant development despite any such declaration.* | N/A, Development is for State Significant Development. |
| *4.12 Application* | *(7) A development application cannot be made in respect of land that is, or is part of, a wilderness area (within the meaning of the Wilderness Act 1987) unless any consent to the development required under that Act has been obtained.*<br>*(8) A development application for State significant development or designated development is to be accompanied by an environmental impact statement prepared by or on behalf of the applicant in the form prescribed by the regulations.* | The Project Area is not located within a Wilderness Area.<br>An EIS has been provided as part of the application package. |
| *4.14 Consultation and development consent – certain bushfire prone land* | *4.14 Consultation and development consent—certain bush fire prone land*<br>*(cf previous s 79BA)*<br>*(1) Development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land (being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3(2)) unless the consent authority—*<br>*(a) is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection prepared by* | Subclause 1B excludes this control from SSD, notwithstanding a Bushfire Risk Assessment Report is provided at Appendix T. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (the relevant specifications and requirements), or*<br>*(b) has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.*<br>*(1A) If the consent authority is satisfied that the development does not conform to the relevant specifications and requirements, the consent authority may, despite subsection (1), grant consent to the carrying out of the development but only if it has consulted with the Commissioner of the NSW Rural Fire Service concerning measures to be taken with respect to the development to protect persons, property and the environment from danger that may arise from a bush fire.*<br>*(1B) This section does not apply to State significant development.*<br>*(1C) The regulations may exclude development from the application of this section subject to compliance with any requirements of the regulations. The regulations may (without limiting the requirements that may be made)—*<br>*(a) require the issue of a certificate by the Commissioner of the NSW Rural Fire Service or other qualified person in relation to the bush fire risk of the land concerned, and*<br>*(b) authorise the payment of a fee for the issue of any such certificate.*<br>*(2) In this section—*<br>***special fire protection purpose** has the same meaning as it has in section 100B of the Rural Fires Act 1997.* | |
| *4.15 Evaluation* | *(a) the provisions of—* | The provision of relevant environmental planning instrument (EPIs) are in Table 3 of this Appendix. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| *(1) Matters for Consideration - General* | *(i) any environmental planning instrument, and* | |
| | *(ii) 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* | Discussion on draft EPIs in which public consultation has occurred has been undertaken at Table 3 of this Appendix. |
| | *(iii) any development control plan, and* | As the Project triggers SSD, the DCP does not require consideration.<br>Regardless, consideration has been afforded to the Narrabri DCP where relevant. |
| | *(iiia) 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* | There are currently no planning agreements or draft planning agreements in place.<br>The proponent has committed to a community benefit fund for the Project. |
| | *(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),* | The EP&A Regulation 2021 has been addressed within this Table 2 of this Appendix. |
| | *(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,* | Impacts on natural and built environments along with social and economic impacts for the area have been addressed as part of the EIS. |
| | *(c) the suitability of the site for the development,* | The suitability of the Project Area for the development has been address in **Section 7.9** of the EIS. |
| | *(d) any submissions made in accordance with this Act or the regulations,* | Noted, a Response to Submissions (RTS) is to be prepared post exhibition of the EIS. |
| | *(e) the public interest.* | The interest to the public has been discussed at **Section 5** of the EIS. |
| *4.36 Development that is State significant development* | *(1) For the purposes of this Act, State significant development is development that is declared under this section to be State significant development.* | The proposed development holds an estimated development cost exceeding $30 million and as such triggers SSD via Schedule 1 Item 20 *Electricity generating works and heat or co-generation.* |

| Statutory Reference | Consideration | Response |
| --- | --- | --- |
| | *(2) A State environmental planning policy may declare any development, or any class or description of development, to be State significant development.*<br>*(3) The Minister may, by a Ministerial planning order, declare specified development on specified land to be State significant development, but only if the Minister has obtained and made publicly available advice from the Independent Planning Commission about the State or regional planning significance of the development.*<br>*Editorial note—*<br>*For orders under this subsection, see the Historical notes at the end of this Act.*<br>*(4) A State environmental planning policy that declares State significant development may extend the provisions of the policy relating to that development to State significant development declared under subsection (3).* | |
| *4.38 Consent for State significant development* | *4.38 Consent for State significant development (cf previous s 89E)*<br>*(1) The consent authority is to determine a development application in respect of State significant development by—*<br>*(a) granting consent to the application with such modifications of the proposed development or on such conditions as the consent authority may determine, or*<br>*(b) refusing consent to the application.*<br>*Note—*<br>*Section 380AA of the Mining Act 1992 provides that an application in respect of State significant development for the mining of coal can only be determined if it is made by or with the consent of the holder of an authority under that Act in respect of coal and the land concerned.*<br>*(2) Development consent may not be granted if the development is wholly prohibited by an environmental planning instrument.* | The Minister for Planning and Public Spaces will be the consent authority for the Project in accordance with Section 4.5 of the EP&A Act. The requirement for the IPC to be the determining authority is to be confirmed following the completion of the EIS public exhibition.<br><br>The proposed development is permitted in the RU1 zone under the Transport and Infrastructure SEPP. |

| Statutory Reference | Consideration | Response |
| --- | --- | --- |
| | *(3) Development consent may be granted despite the development being partly prohibited by an environmental planning instrument.*<br>*(4) If part of a single proposed development that is State significant development requires development consent to be carried out and the other part may be carried out without development consent—*<br>*(a) Division 5.1 does not apply to that other part of the proposed development, and*<br>*(b) that other part of the proposed development is taken to be development that may not be carried out except with development consent.*<br>*(5) A development application in respect of State significant development that is wholly or partly prohibited may be considered in accordance with Division 3.5 in conjunction with a proposed environmental planning instrument to permit the carrying out of the development. The Planning Secretary may (despite anything to the contrary in section 3.32) undertake the functions of the planning proposal authority under Part 3 for a proposed instrument if it is initiated for the purpose of permitting the carrying out of the development (whether or not it contains other provisions).*<br>*(6) If the determination under section 3.34 (Gateway determination) for a planning proposal declares that the proposed instrument is principally concerned with permitting the carrying out of State significant development that would otherwise be wholly prohibited—*<br>*(a) the proposed instrument may be made only by the Independent Planning Commission under a delegation from the Minister, and*<br>*(b) the development application for the carrying out of that development may be determined only by the Independent Planning Commission under a delegation from the Minister.* | |
| *4.39 Regulations—State* | *In addition to any other matters for or with respect to which regulations may be made under this Part, the regulations* | The relevant items required per the EP&A Regulation has been considered as part of this EIS. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| *significant development* | *may make provision for or with respect to the procedures and other matters concerning State significant development, including the following—*<br>*(a) the environmental impact statements to accompany development applications in respect of State significant development,*<br>*(b) the requirements for the preparation of those environmental impact statements, including consultation requirements with respect to government agencies and other affected persons,*<br>*(c) the making of orders under section 4.36(3) declaring specified development to be State significant development,*<br>*(d) the making of information publicly available relating to development applications in respect of State significant development and the determination of those applications,*<br>*(e) requiring applicants to provide responses to submissions made on development applications in respect of State significant development.* | |
| *4.41 Approvals etc legislation that does not apply* | *(1) The following authorisations are not required for State significant development that is authorised by a development consent granted after the commencement of this Division (and accordingly the provisions of any Act that prohibit an activity without such an authority do not apply)—*<br>*(a) (Repealed)*<br>*(b) a permit under section 201, 205 or 219 of the Fisheries Management Act 1994,*<br>*(c) an approval under Part 4, or an excavation permit under section 139, of the Heritage Act 1977,*<br>*(d) an Aboriginal heritage impact permit under section 90 of the National Parks and Wildlife Act 1974,*<br>*(e) (Repealed)*<br>*(f) a bush fire safety authority under section 100B of the Rural Fires Act 1997,* | Noted, the listed authorisations are not required.<br>However, where these items would otherwise be required, due consideration has been given to their requirements to ensure environmental impacts are appropriately managed. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(g) 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 Water Management Act 2000.*<br>*(2) Division 8 of Part 6 of the Heritage Act 1977 does not apply to prevent or interfere with the carrying out of State significant development that is authorised by a development consent granted after the commencement of this Division.*<br>*(3) A reference in this section to State significant development that is authorised by a development consent granted after the commencement of this Division includes a reference to any investigative or other activities that are required to be carried out for the purpose of complying with any environmental assessment requirements under this Part in connection with a development application for any such development.* | |
| *4.42 Approvals etc legislation that must be applied consistently* | *(1) An authorisation of the following kind cannot be refused if it is necessary for carrying out State significant development that is authorised by a development consent under this Division and is to be substantially consistent with the consent—*<br>*(a) an aquaculture permit under section 144 of the Fisheries Management Act 1994,*<br>*(b) an approval under the Coal Mine Subsidence Compensation Act 2017, section 22,*<br>*(c) a mining lease under the Mining Act 1992,*<br>*Note—*<br>*Under section 380A of the Mining Act 1992, a mining lease can be refused on the ground that the applicant is not a fit and proper person, despite this section.*<br>*(d) a production lease under the Petroleum (Onshore) Act 1991,*<br>*Note—* | Noted, the listed authorisation cannot be refused subject to SSD approval. |

| Statutory Reference | Consideration | Response |
| --- | --- | --- |
| | *Under section 24A of the Petroleum (Onshore) Act 1991, a production lease can be refused on the ground that the applicant is not a fit and proper person, despite this section.*<br>*(e) an environment protection licence under Chapter 3 of the Protection of the Environment Operations Act 1997 (for any of the purposes referred to in section 43 of that Act),*<br>*(f) a consent under section 138 of the Roads Act 1993,*<br>*(g) a licence under the Pipelines Act 1967.*<br><br>*(2) This section does not apply to or in respect of—*<br>*(a) an application for the renewal of an authorisation or a renewed authorisation, or*<br>*(b) an application for a further authorisation or a further authorisation following the expiry or lapsing of an authorisation, or*<br>*(c) in the case of an environment protection licence under Chapter 3 of the Protection of the Environment Operations Act 1997—any period after the first review of the licence under section 78 of that Act.*<br>*(3) A reference in this section to an authorisation or development consent includes a reference to any conditions of the authorisation or consent.*<br>*(4) This section applies to a person, court or tribunal that deals with an objection, appeal or review conferred on a person in relation to an authorisation in the same way as it applies to the person giving the authorisation.* | |

| Statutory Reference | Consideration | Response |
|---|---|---|
| *Division 4.8 Integrated development* | *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:*<br>*• Fisheries Management Act, 1994;*<br>*• Heritage Act, 1977;*<br>*• Mine Subsidence Compensation Act, 1961;*<br>*• National Parks and Wildlife Act, 1974;*<br>*• Protection of the Environment Operations Act, 1997;*<br>*• Roads Act, 1993;*<br>*• Rural Fires Act, 1997; and*<br>*• Water Management Act, 2000.*<br>*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.*<br>*It is noted that pursuant to Section 4.41 of the EP&A Act 1979 the following authorisation are not required for SSD applications:*<br>*• A permit under section 201, 205 or 219 of the Fisheries Management Act 1994;*<br>*• An approval under Part 4, or an excavation permit under section 139, of the Heritage Act 1977;*<br>*• An Aboriginal heritage impact permit under section 90 of the National Parks and Wildlife Act 1974;*<br>*• A bush fire safety authority under section 100B of the Rural Fires Act 1997; and*<br>*A water use approval under section 89, a water management work approval under section 90 or an activity* | As the proposal is SSD, no integrated development approvals are required.<br>Certain approvals which would ordinarily apply to integrated development do not apply to SSD per Section 4.41 of the EP&A Act 1979. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *approval under section 91 of the Water Management Act 2000.* | |
| **Environmental Planning and Assessment Regulation 2021** | | |
| *Clause 51 Concurrence under Biodiversity Conservation Act 2016* | *(1) This section applies if concurrence may be required under the Biodiversity Conservation Act 2016, Part 7 from a person (the biodiversity concurrence authority) because the development application indicates that a reduction is being sought in the number of biodiversity credits required to be retired under the biodiversity development assessment report.*<br>*(2) The development application must be given to the biodiversity concurrence authority within 10 days, instead of 14 days, after the development application is lodged.*<br>*(3) The consent authority must, within 30 days after the application is lodged, notify the biodiversity concurrence authority—*<br>*(a) whether it proposes to reduce the number of biodiversity credits required to be retired, and*<br>*(b) if so, the amount of and the reasons for the reduction, as referred to in the Biodiversity Conservation Act 2016, section 7.13(4).*<br>*(4) If the concurrence of the biodiversity concurrence authority is required because the consent authority proposes to reduce the number of biodiversity credits, the* | N/A, no reduction in required biodiversity credits is proposed. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *reference in section 53(1)(a) to a concurrence authority giving notice of its decision to a consent authority within 40 days after receiving the development application is taken to be a reference to giving notice within 50 days after the development application is lodged.* | |
| *190 Form of environmental impact statement* | *(1) An environmental impact statement must contain the following information—*<br>*(a) the name, address and professional qualifications of the person who prepared the statement,*<br>*(b) the name and address of the responsible person,*<br>*(c) the address of the land—*<br>*(i) to which the development application relates, or*<br>*(ii) on which the activity or infrastructure to which the statement relates will be carried out,*<br>*(d) a description of the development, activity or infrastructure,*<br>*(e) an assessment by the person who prepared the statement of the environmental impact of the development, activity or infrastructure, dealing with the matters referred to in this Division.*<br>*(2) The person preparing the statement must have regard to—*<br>*(a) for State significant development—the State Significant Development Guidelines, or*<br>*(b) for State significant infrastructure—the State Significant Infrastructure Guidelines.*<br>*(3) An environmental impact statement must also contain a declaration by a relevant person that—*<br>*(a) the statement has been prepared in accordance with this Regulation, and*<br>*(b) the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure, and* | 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. 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*. Assessment of the Project against the principles of ESD has been assessed in **Section 7.8** of the EIS. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(c) the information contained in the statement is not false or misleading, and*<br>*(d) for State significant development or State significant infrastructure—the statement contains the information required under the Registered Environmental Assessment Practitioner Guidelines.*<br>*(4) In this section—*<br>*registered environmental assessment practitioner means a person who is registered or certified under a professional scheme that is specified as a registered environmental assessment practitioner scheme in the Accredited Registered Environmental Assessment Practitioner (REAP) Schemes published on the NSW Planning Portal on 1 July 2021.*<br>*Registered Environmental Assessment Practitioner Guidelines means the Registered Environmental Assessment Practitioner Guidelines prepared by the Planning Secretary as in force from time to time and published on the Department's website.*<br>*relevant person means—*<br>*(a) for State significant development or State significant infrastructure—a registered environmental assessment practitioner, or*<br>*(b) otherwise—the person who prepares the environmental impact statement.* | |
| *192 Content of environmental impact statement* | *(1) An environmental impact statement must contain the following—*<br>*(a) a summary of the environmental impact statement,*<br>*(b) a statement of the objectives of the development, activity or infrastructure,*<br>*(c) an analysis of feasible alternatives to the carrying out of the development, activity or infrastructure, considering its objectives, including the consequences of not carrying out the development, activity or infrastructure,* | All required information listed in Section 192 has been included within this EIS.<br>a) See Executive Summary<br>b) The objectives of the project have been discussed within the Statutory Compliance Assessment in Appendix C.<br>c) An analysis of alternatives has been discussed within **Section 7.10** of the EIS. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(d) an analysis of the development, activity or infrastructure, including—*<br>*(i) a full description of the development, activity or infrastructure, and*<br>*(ii) a general description of the environment likely to be affected by the development, activity or infrastructure and a detailed description of the aspects of the environment that are likely to be significantly affected, and*<br>*(iii) the likely impact on the environment of the development, activity or infrastructure, and*<br>*(iv) a full description of the measures to mitigate adverse effects of the development, activity or infrastructure on the environment, and*<br>*(v) a list of the approvals that must be obtained under another Act or law before the development, activity or infrastructure may lawfully be carried out,*<br>*(e) a compilation, in a single section of the environmental impact statement, of the measures referred to in paragraph (d)(iv),*<br>*(f) the reasons justifying the carrying out of the development, activity or infrastructure, considering biophysical, economic and social factors, including the principles of ecologically sustainable development set out in section 193.*<br>*Note—*<br>*A cost benefit analysis may be submitted or referred to in the reasons justifying the carrying out of the development, activity or infrastructure.*<br>*(2) This section is subject to the environmental assessment requirements that relate to the environmental impact statement.*<br>*(3) This section does not apply if—*<br>*(a) the Planning Secretary has waived the requirement for an application for environmental assessment requirements* | d) A Project description has been provided in **Section 3.**<br>i. Environmental impacts of the project have been discussed within **Section 6.**<br>ii. Along with the discussion of environmental impacts, mitigation measures are addressed in **Section 6** and Appendix E.<br>iii. Assessment of Impacts in **Section 6**<br>iv. A list of other approvals is in Section 4.1.5.1.<br>e) A list of all proposed mitigation measures at Appendix E.<br>f) Justification for the Project along with consideration of the principles of ecologically sustainable development has been provided in **Section 7.** |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *in relation to an environmental impact statement for State significant development, and*<br>*(b) the conditions of the waiver specify that the environmental impact statement must instead comply with requirements set out or referred to in the conditions.*<br>*(4) A document adopted or referred to by an environmental impact statement is taken to form part of the statement.* | |
| *193 Principles of ecologically sustainable development* | *(1) The principles of ecologically sustainable development are the following—*<br>*(a) the precautionary principle,*<br>*(b) inter-generational equity,*<br>*(c) conservation of biological diversity and ecological integrity,*<br>*(d) improved valuation, pricing and incentive mechanisms.*<br>*(2) The precautionary principle is that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*<br>*(3) In applying the precautionary principle, public and private decisions should be guided by—*<br>*(a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*<br>*(b) an assessment of the risk-weighted consequences of various options.*<br>*(4) The principle of inter-generational equity is that the present generation should ensure the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations.*<br>*(5) The principle of the conservation of biological diversity and ecological integrity is that the conservation of biological diversity and ecological integrity should be a fundamental consideration.* | The Principles of ESD have been addressed at **Section 7** of the EIS. |

| Statutory Reference | Consideration | Response |
| --- | --- | --- |
| | *(6) The principle of improved valuation, pricing and incentive mechanisms is that environmental factors should be included in the valuation of assets and services, such as—*<br>*(a) polluter pays, that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement, and*<br>*(b) the users of goods and services should pay prices based on the full life cycle of the costs of providing the goods and services, including the use of natural resources and assets and the ultimate disposal of waste, and*<br>*(c) established environmental goals should be pursued in the most cost effective way by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.* | |
| **Biodiversity Conservation Act 2016** | | |
| *7.9 Biodiversity assessment for State significant development or infrastructure* | *(1) This section applies to—*<br>*(a) an application for development consent under Part 4 of the Environmental Planning and Assessment Act 1979 for State significant development, and*<br>*(b) an application for approval under Division 5.2 of the Environmental Planning and Assessment Act 1979 to carry out State significant infrastructure.*<br>*(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.*<br>*(3) 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.* | A BDAR Waiver has been provided at Appendix G with discussion provided within the EIS within **Section 6.** |

| Statutory Reference | Consideration | Response |
|---|---|---|
| **Contaminated Land Management Act 1997** | | |
| | The Contaminated establishes a system for investigating and remediating land that the EPA considers to be contaminated significantly enough to require regulation.<br>Section 5 of the CLM Act defines "contamination" of land as:<br>*"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."* | Searches of the NSW EPA contaminated land registers were undertaken on 16 June 2025, The lots within the Project Area are not listed on any NSW EPA public register.<br>As no contaminated land sites or EPLs have been registered for the Project Area, and the use of the land as a rural purpose it is reasonable to consider the potential for contamination unlikely and the land suitable for the purpose of the Project, being electricity storage works. An appropriate unexpected finds protocols will be implemented during construction and decommissioning phases. |
| **Coal Mine Subsidence Compensation Act 2017** | | |
| *20 Mine subsidence districts* | *The regulations may declare an area to be a mine subsidence district.* | The Project Area is not mapped within a coal mine subsidence area. |
| **Fisheries Management Act 1994** | | |
| *201 Circumstances in which a person (other than a public or local government authority) may carry out dredging or reclamation* | *(1) A person must not carry out dredging work or reclamation work except under the authority of a permit issued by the Minister.* | Approval under Section 201 is not required for SSD.<br>Regardless, no dredging or reclamation work is proposed as part of the development. |
| *205 Marine vegetation—regulation of harm* | *(1) This section applies to—*<br>*(a) mangroves, or*<br>*(b) seagrasses, or*<br>*(c) any other marine vegetation declared by the regulations to be marine vegetation to which this section applies,*<br>*but does not apply to protected marine vegetation under section 204A.* | There is no marine vegetation in proximity to the project. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| *219 Passage of fish not to be blocked* | *(1) A person who—*<br>*(a) sets a net, netting or other material, or*<br>*(b) constructs or alters a dam, floodgate, causeway or weir, or*<br>*(c) otherwise creates an obstruction,*<br>*across or within a bay, inlet, river or creek, or across or around a flat, so that—*<br>*(d) fish will or could be blocked or left stranded, or*<br>*(e) immature fish will or could be destroyed, or*<br>*(f) the free passage of fish will or could be obstructed,*<br>*is guilty of an offence.* | The Project Area is located in broader proximity to a key fish habitat. The proposed development does not involve the construction, alteration, or placement of any instream structures such as dams, weirs, floodgates, or causeways within or adjacent to any bay, inlet, river, creek, or flat. As such, it will not obstruct, block, or otherwise interfere with the free passage of fish, nor will it result in the stranding or destruction of fish, including immature individuals. |
| | *(5) This section does not apply to or in respect of the following—*<br>*(a) any activity that is otherwise permitted by or under this Act or any other Act,*<br>*(b) any activity that is done in accordance with a permit issued by the Minister under this Part,*<br>*(c) any activity or waters of a kind exempted from the operation of this section by the regulations.* | |
| **Heritage Act 1977** | | |
| *57 Effect of interim heritage orders and listing on State Heritage Register* | *(1) 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—*<br>*(a) demolish the building or work,*<br>*(b) damage or despoil the place, precinct or land, or any part of the place, precinct or land,*<br>*(c) move, damage or destroy the relic or moveable object,* | The Heritage Act aims to protect and conserve the natural and cultural history of NSW, including scheduled heritage items, sites and relics. The developments' impact on the nearest Local Heritage Item (Cemetery) has been assessed in detail. The Project will have little to no impact on the significance on the Cemetery, including but not limited to the curtilage of the cemetery, visual relationship between the Disturbance Footprint and the Heritage Item, and community significance. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(d) excavate any land for the purpose of exposing or moving the relic,*<br>*(e) 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,*<br>*(f) alter the building, work, relic or moveable object,*<br>*(g) display any notice or advertisement on the place, building, work, relic, moveable object or land, or in the precinct,*<br>*(h) damage or destroy any tree or other vegetation on or remove any tree or other vegetation from the place, precinct or land.* | Approvals under Part 4 or an excavation permit under Section 139 of the Heritage Act are not required for SSD by virtue of Section 4.41 of the EP&A Act. |
| **Local Land Services Act 2013** | | |
| 60H Category 1 – exempt land mapping | *(1) Land is to be designated as category 1-exempt land if the Environment Agency Head reasonably believes that—*<br>*(a) the land was cleared of native vegetation as at 1 January 1990, or*<br>*(b) the land was lawfully cleared of native vegetation between 1 January 1990 and the commencement of this Part.* | The subject land is mapped as Category 1 exempt land on the draft native vegetation regulatory (NVR) map. Clearing of vegetation on Category 1 lands is exempt from the Biodiversity Offset Scheme and does not require Local Land Services approval. |
| | | |
| | *(2) Land is to be designated as category 1-exempt land if the Environment Agency Head reasonably believes that—*<br>*(a) the land contains low conservation value grasslands, or*<br>*(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*<br>*(c) the land is of a kind prescribed by the regulations as category 1-exempt land.* | |
| | *(3) Land is to be designated as category 1-exempt land if the land is biodiversity certified under Part 8 of the* | |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *Biodiversity Conservation Act 2016 or under any Act repealed by that Act.* | |
| | *(4) However—*<br>*(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*<br>*(b) land 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*<br>*(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.* | |
| | *(5) The regulations may make provision for the purposes of determining whether grasslands are low conservation value grasslands for the purposes of this Division.* | |
| **Mining Act 1992** | | |
| *The purpose of the Act is to promote the discovery and responsible development of mineral resources in NSW, while ensuring environmental sustainability. It seeks to balance economic and social benefits with strong regulatory oversight, including compensation for landholders, fair returns to the State, environmental protection, and the rehabilitation of mined land and water* | | The Project does not involve the extraction of mineral resources.<br>An existing Exploration License (PEL) 238 exists over the Project Area and wider Narrabri region. SLR sent a letter dated 17 June 2025 providing notification of the proposed SSD to Santos NSW, project details and contact information to contact if a meeting or discussion is required. |
| **National Parks and Wildlife Act 1974** | | |
| *Part 6 Aboriginal objects and Aboriginal places* | *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:* | An ACHAR is provided at Appendix G with a detailed summary of the findings contained in **Section 6.2** of the EIS. The ACHAR concluded that the Development will have both direct and indirect impacts of a new Aboriginal cultural heritage site identified in the site survey. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *"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".*<br>*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 special significance for Aboriginal culture. It may or may not contain physical Aboriginal objects.*<br>*Identified Aboriginal items and sites are registered on Aboriginal Heritage Information Management System (AHIMS).* | The ACHAR recommended that collection of artefacts is undertaken with consultation with the RAP/s during initial ground disturbing works. |
| **Protection of the Environment Operations Act 1997** | | |
| **Chapter 3 Environment Protection Licences** | | |
| *43 Types of licences* | *Environment protection licences may be issued for the following purposes—*<br>*(a) to authorise the carrying out of scheduled development work at any premises, as required under section 47,* | 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. |
| | *(b) to authorise the carrying out of scheduled activities at any premises, as required under section 48,* | |
| | *(c) to authorise the carrying out of scheduled activities not related to premises, as required under section 49,* | |
| | *(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.* | |
| **Roads Act 1993** | | |
| *138 Works and structures* | *(1) A person must not—*<br>*(a) erect a structure or carry out a work in, on or over a public road, or* | It is proposed that access to and from the BESS Area will be provided via two access points from Stoney Creek |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(b) dig up or disturb the surface of a public road, or*<br>*(c) remove or interfere with a structure, work or tree on a public road, or*<br>*(d) pump water into a public road from any land adjoining the road, or*<br>*(e) connect a road (whether public or private) to a classified road,*<br>*otherwise than with the consent of the appropriate roads authority.* | Road. A Basic Left Turn treatment is to be constructed at the site access.<br>Consideration of the access is provided within **Section 3** of the EIS and within the TIA at Appendix O.<br>A Section 138 Application will be required to be submitted post SSD Approval.<br>Stoney Creek Road is not a classified road. |
| | *(2) A consent may not be given with respect to a classified road except with the concurrence of TfNSW.* | |
| **Rural Fires Act 1997** | | |
| *100B Bush fire safety authorities* | *(1) The Commissioner may issue a bush fire safety authority for—*<br>*(a) a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes, or*<br>*(b) development of bush fire prone land for a special fire protection purpose.* | A bushfire safety authority under section 100B of the Rural Fires Act 1997 (NSW) will not be required pursuant to Section 4.41 of the EP&A Act, as it is not identified as a use to which this section relates. |
| **Water Management Act 2000** | | |
| *89 Water use approvals* | *(1) A water use approval confers a right on its holder to use water for a particular purpose at a particular location.*<br>*(2) A water use approval may authorise the use within New South Wales of water taken from a water source outside New South Wales.* | The Project's proposed water facilities will be provided by a tanked system, being serviced by a potable water truck at the required regular intervals for supply purposes. A water use approval is not required. |
| *90 Water management work approvals* | *(1) There are three kinds of water management work approvals, namely, water supply work approvals, drainage work approvals and flood work approvals.*<br>*(2) A water supply work approval authorises its holder to construct and use a specified water supply work at a specified location.* | As above. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(3) A drainage work approval confers a right on its holder to construct and use a specified drainage work at a specified location.*<br>*(4) A flood work approval confers a right on its holder to construct and use a specified flood work at a specified location.* | |
| *91 Activity approvals* | *(1) There are two kinds of activity approvals, namely, controlled activity approvals and aquifer interference approvals.*<br>*(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.*<br>*(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.* | As the Project is classified as an SSD under Part 4 of the EP&A Act, approvals under section 91 (controlled activity) of the WM Act are not required.<br>While s91 does not apply to SSD, the impacts to watercourses have been assessed within this EIS and associated technical studies. Notably, appropriate erosion and sediment controls will be in place throughout the works period to ensure any impacts on surrounding watercourse are minimised. |

# 3.0 Environmental Planning Instruments

**Table 3 Environmental Planning Instruments Assessment**

| Statutory Reference | Consideration | Response |
|---|---|---|
| ***State Environmental Planning Policy (Biodiversity and Conservation) 2021*** | | |
| **Chapter 2 Vegetation in non-rural areas** | | |
| 2.3 Land to which Chapter applies | *1) This Chapter applies to the following areas of the State (the non-rural areas of the State)—*<br>*(a) land in the following local government areas—*<br>*Bayside, City of Blacktown, Burwood, Camden, City of Campbelltown, Canterbury-Bankstown, Canada Bay, Cumberland, City of Fairfield, Georges River, City of Hawkesbury, Hornsby, Hunter's Hill, Georges River, Inner West, Ku-ring-gai, Lane Cove, City of Liverpool, Mosman, Newcastle, North Sydney, Northern Beaches, City of Parramatta, City of Penrith, City of Randwick, Rockdale, City of Ryde, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Waverley, City of Willoughby, Woollahra.*<br>*(b) land within the following zones under an environmental planning instrument—*<br>*Zone RU5 Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone R5 Large Lot Residential, Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B3 Commercial Core, Zone B4 Mixed Use, Zone B5 Business Development, Zone B6 Enterprise Corridor, Zone B7 Business Park, Zone B8 Metropolitan Centre, Zone E1 Local Centre, Zone E2 Commercial Centre, Zone E3 Productivity Support, Zone E4 General Industrial, Zone E5 Heavy Industrial, Zone IN1 General Industrial, Zone IN2 Light Industrial, Zone IN3 Heavy Industrial, Zone IN4 Working Waterfront, Zone MU1 Mixed Use, Zone IN4 Working Waterfront, Zone SP1 Special Activities, Zone SP2 Infrastructure, Zone SP3 Tourist, Zone SP4 Enterprise, Zone SP5 Metropolitan Centre, Zone RE1 Public* | The Project Area is not located in any of the listed LGA's nor within any of the listed land zones. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *Recreation, Zone RE2 Private Recreation, Zone C2 Environmental Conservation, Zone C3 Environmental Management, Zone C4 Environmental Living, Zone W3 Working Waterways or Zone W4 Working Waterfront.*<br>*(2) This Chapter does not apply to national park estate and other conservation areas, or State forestry land, referred to in section 60A (b) and (c) of the Local Land Services Act 2013. However, this Chapter applies to land that is any such national park estate and other conservation area only because it is a declared area of outstanding biodiversity value under the Biodiversity Conservation Act 2016.* | |
| **Chapter 3 Koala Habitat Protection 2020** | | |
| 3.3 Land to which Chapter applies | *(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 2, but not if the local government area is marked with an * in that Schedule—*<br>*(a) Zone RU1 Primary Production,*<br>*(b) Zone RU2 Rural Landscape,*<br>*(c) Zone RU3 Forestry.*<br>*(1A) This Chapter does not apply to certified urban capable land within the meaning of Chapter 13.*<br>*(2) In this section—*<br>*equivalent land use zone has the same meaning as it has in Chapter 4.* | This chapter applies, as Narrabri LGA is listed in Schedule 2, without an asterisk. |
| 3.5 Land to which this Part applies | *This Part applies to land—*<br>*(a) that is land to which this Chapter applies, and*<br>*(b) that is land in relation to which a development application has been made, and*<br>*(c) that, whether or not the development application applies to the whole, or only part, of the land—*<br>*(i) has an area of more than 1 hectare, or* | This part applies as land applies to the chapter, and the Project Area is greater than 1 hectare. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(ii) has, together with adjoining land in the same ownership, an area of more than 1 hectare.* | |
| 3.6 Step 1—Is the land potential koala habitat? | *(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.*<br>*(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.*<br>*(3) If the council is satisfied—*<br>*(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*<br>*(b) that the land is a potential koala habitat, it must comply with section 3.7.* | 'Potential koala habitat' means areas of native vegetation where trees of the types listed in Schedule 1 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.<br><br>The Project Area is not considered potential koala habitat as the only native trees identified (*Eucalyptus melliodora*) are not listed on the *Schedule 1 Feed tree species – Chapter 3*. |
| 3.7 Step 2—Is the land core koala habitat? | *(1) Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a potential koala habitat, it must satisfy itself as to whether or not the land is a core koala habitat.*<br>*(2) The council may be satisfied as to whether or not land is a core koala habitat only on information obtained by it, or by the applicant, from a person with appropriate qualifications and experience in biological science and fauna survey and management.*<br>*(3) If the council is satisfied—*<br>*(a) that the land is not a core koala habitat, it is not prevented, because of this Chapter, from granting consent to the development application, or*<br>*(b) that the land is a core koala habitat, it must comply with section 3.8.* | 'Core koala habitat' means an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population.<br><br>Based on the results of an ecological site inspection, the areas of vegetation provide marginal habitats for threatened species and removal of these features is not likely to result in a significant impact on threatened species Therefore, the Project Area is not considered a core koala habitat |

| Statutory Reference | Consideration | Response |
|---|---|---|
| 3.8 Step 3—Can development consent be granted in relation to core koala habitat? | *(1) Before granting consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a core koala habitat, there must be a plan of management prepared in accordance with Part 3 that applies to the land.*<br>*(2) The council's determination of the development application must not be inconsistent with the plan of management.* | With no known or observed resident Koala population, the Project Area is not considered to be core koala habitat. |
| 3.9 Guidelines—matters for consideration | *Without limiting section 3.15, a council must take the guidelines into consideration in determining an application for consent to carry out development on land to which this Part applies.* | Noted, the consent authority must take into account any relevant guidelines for assessment. |
| **Chapter 4 Koala Habitat Protection 2021** | | |
| 4.4 Land to which Chapter applies | *(1) This Chapter applies to each local government area listed in Schedule 2.*<br>*(2) The whole of each local government area is—*<br>*(a) in the koala management area specified in Schedule 2 opposite the local government area, or*<br>*(b) if more than 1 koala management area is specified, in each of those koala management areas.*<br>*(3) Despite subsection (1), this Chapter does not apply to—*<br>*(a) land dedicated or reserved under the National Parks and Wildlife Act 1974, or acquired under Part 11 of that Act, or*<br>*(b) land dedicated under the Forestry Act 2012 as a State forest or a flora reserve, or*<br>*(c) land on which biodiversity certification has been conferred, and is in force, under Part 8 of the Biodiversity Conservation Act 2016, or*<br>*(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—*<br>*(i) Zone RU1 Primary Production,*<br>*(ii) Zone RU2 Rural Landscape,*<br>*(iii) Zone RU3 Forestry.* | This chapter does not apply, as Narrabri LGA is listed in Schedule 2, without an asterisk. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | | |
| ***State Environmental Planning Policy (Planning Systems) 2021*** | | |
| 2.6 Declaration of State significant development: section 4.36 | *(1) Development is declared to be State significant development for the purposes of the Act if—*<br>*(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*<br>*(b) the development is specified in Schedule 1 or 2.* | Per Item 20 of Schedule 1, the Project triggers SSD as it has an estimated development cost greater than $30 million. |
| | *(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—*<br>*(a) so much of the remainder of the development as the Director-General determines is not sufficiently related to the State significant development, and*<br>*(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*<br>*(c) development specified in Schedule 1 to State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.* | Noted, all ancillary elements which do not meet the trigger for SSD have been included within this SSDA. |
| | *(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.* | Development does not hold a certificate under Clause 6C of the State Environmental Planning Policy (Major Development) 2005. |
| 2.10 Application of development control plans to State significant development | *(1) Development control plans (whether made before or after the commencement of this Chapter) do not apply to—*<br>*(a) State significant development, or*<br>*(b) development for which a relevant council is the consent authority under section 4.37 of the Act.* | The Project is classified as SSD, therefore the DCP does not apply to the proposal. |

<table>
<tr><th>Statutory Reference</th><th>Consideration</th><th>Response</th></tr>
<tr><td>Schedule 1 State significant development—general</td><td>20 Electricity generating works and heat or co-generation<br>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—<br>(a) has an estimated development cost of more than $30 million, or<br>(b) has an estimated development cost of more than $10 million and is located in an environmentally sensitive area of State significance.</td><td>The proposal has an estimated cost of more than $30 million, and is therefore considered SSD.</td></tr>
<tr><td colspan="3">State Environmental Planning Policy (Resilience and Hazards) 2021</td></tr>
<tr><td colspan="3">Chapter 3 Hazardous and offensive development</td></tr>
<tr><td colspan="3">Part 3 Potentially hazardous or potentially offensive development</td></tr>
<tr><td>3.11 Preparation of preliminary hazard analysis</td><td>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.</td><td rowspan="4">Chapter 3 of the Resilience and Hazards SEPP establishes a comprehensive test by way of a preliminary screening assessment and preliminary hazard analysis (PHA) to determine the risk to people, property, and the environment. As the BESS is considered a ‘potentially hazardous or potentially offensive development’ under Part 3, a preliminary hazard analysis in accordance with the current circulars or guidelines published by DPHI must be prepared.<br>A Preliminary hazard Assessment (PHA) has been completed at Appendix O.</td></tr>
<tr><td rowspan="3">3.12 Matters for consideration by consent authorities</td><td>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)—<br>(a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and</td></tr>
<tr><td>(b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and</td></tr>
<tr><td>(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</td></tr>
</table>

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(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** | | |
| 4.1 Object of this Chapter | *(1) The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land.*<br>*(2) In particular, this Chapter 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—*<br>*(a) by specifying when consent is required, and when it is not required, for a remediation work, and*<br>*(b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*<br>*(c) by requiring that a remediation work meet certain standards and notification requirements.* | Chapter 4 of the Hazards SEPP aims to provide a state-wide planning approach to contaminated land remediation and to promote the remediation of contaminated land to reduce the risk of harm.<br>Searches of the NSW EPA contaminated land registers were undertaken on 16 June 2025, The lots within the Project Area are not listed on any NSW EPA public register.<br>As no contaminated land sites or EPLs have been registered for the Project Area, it is reasonable to consider the potential for contamination unlikely and the land suitable for the purpose of the Project, being electricity storage works. An appropriate unexpected finds protocols will be implemented during construction and decommissioning phases. |
| 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—*<br>*(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.* | |

| Statutory Reference | Consideration | Response |
|---|---|---|
| **State Environmental Planning Policy (Primary Production) 2021** | | |
| ***Part 2.2 State significant agricultural land*** | | |
| 2.8 State significant agricultural land | *(1) Land is State significant agricultural land if it is listed in Schedule 1.*<br>*(2) The provisions in Schedule 1 relating to the carrying out of development on State significant agricultural land have effect.*<br>*Note—*<br>*At the commencement of this Chapter, there were no areas listed in Schedule 1 to which this Chapter applies.* | There were no areas listed in Schedule 1 to which this Chapter applies. |
| ***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—*<br>*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,*<br>*b) in any other case—any land in a prescribed non-residential zone.* | The Project is a permissible land use under this SEPP. |
| | *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.* | |
| | *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.* | |

| Statutory Reference | Consideration | Response |
| --- | --- | --- |
| | *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.* | |
| | *6) If, under any environmental planning instrument (including this Chapter), development for the purpose of—*<br>*a) industry, or*<br>*b) a waste or resource management facility,*<br>*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.* | |
| | *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.* | |
| | *8) However, subsection (7) only applies in relation to land in a prescribed residential zone if—*<br>*a) the small wind turbine system has the capacity to generate no more than 10kW, and*<br>*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.* | |
| | *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.* | |
| ***Division 5 Electricity transmission or distribution*** | | |
| *Subdivision 2 Development likely to affect an electricity transmission or distribution network* | | |
| Section 2.48 Determination of 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—* | The project involves works in the vicinity of power lines and easements and works to the existing substation. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| applications—other development | *(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,* | |
| | *(b) development carried out—*<br>*(i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*<br>*(ii) immediately adjacent to an electricity substation, or*<br>*(iii) within 5m of an exposed overhead electricity power line,* | The project involves works in the vicinity of power lines and easements and works to the existing substation. |
| | *(c) installation of a swimming pool any part of which is—*<br>*(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*<br>*(ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,* | No swimming pools are 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 proposed power lines are aboveground and underground and are subject to approval of the relevant Electricity supplier. |
| | *(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—*<br>*(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*<br>*(b) take into consideration any response to the notice that is received within 21 days after the notice is given.* | The project will be referred to the relevant authority during the formal assessment period, noting discussions with TransGrid have occurred during the EIS and design process. |
| | *(3) Subsection (2) does not apply to development specified in subsection (1)(b) if the development involves only one or more of the following—*<br>*(a) internal alternations to a building,*<br>*(b) a change of use of an existing building,* | N/A |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(c) a change to the hours of operation specified in the development consent,*<br>*(d) a subdivision that does not involve construction work.* | |
| ***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—*<br>*(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and* | Access is not proposed from a classified road. |
| | *(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*<br>*(i) the design of the vehicular access to the land, or*<br>*(ii) the emission of smoke or dust from the development, or*<br>*(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and* | |
| | *(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.* | |
| 2.120 Impact of road noise or vibration on non-road development | *(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—*<br>*(a) residential accommodation,*<br>*(b) a place of public worship,*<br>*(c) a hospital,* | The land is not adjacent to the identified roads. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(d) an educational establishment or centre-based child care facility* | |
| 2.122 Traffic-generating development | *(1) This section applies to development specified in Column 1 of the Table to Schedule 3 that involves—*<br>*(a) new premises of the relevant size or capacity, or*<br>*(b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.* | The project is described as 'any other purpose' under Schedule 3 with 'access to a road (generally)'. The project will not generate more than 200 vehicle movements per hour, during operation or construction, and therefore is not considered traffic generating development. |
| | *(2) In this section, relevant size or capacity means—*<br>*(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*<br>*(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.* | Stoney Creek Road is not a classified road or within 90m of connection, measured along alignment of connecting road. |
| | *(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—*<br>*(a) given written notice of the intention to carry out the development to TfNSW in relation to the development, and*<br>*(b) taken into consideration any response to the notice that is received from TfNSW within 21 days after the notice is given.* | This section does not apply, as the proposal is not traffic generating development. |
| | *(4) Before determining a development application for development to which this section applies, the consent authority must—*<br>*(a) give written notice of the application to TfNSW within 7 days after the application is made, and*<br>*(b) take into consideration—* | This section does not apply, as the proposal is not traffic generating development. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(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*<br>*(ii) the accessibility of the site concerned, including—*<br>*(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*<br>*(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*<br>*(iii) any potential traffic safety, road congestion or parking implications of the development.* | |
| | *(5) The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.* | This section does not apply, as the proposal is not traffic generating development. |
| ***Draft State Environmental Planning Policies*** | | |
| 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 Chapter 4 of the SEPP (Resilience and Hazards) 2021.*<br>*The new draft SEPP will retain elements of the SEPP (Resilience and Hazards) 2021 and add new provisions to establish a modern approach to the management of contaminated land.* | |
| ***Narrabri Local Environmental Plan 2012*** | | |
| ***Part 1 Preliminary*** | | |
| 1.2 Aims of Plan | *(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,*<br>. | The Project relates to the utilisation of rural zoned land for the purposes of electrical generation works being a battery energy storage system.<br>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 ESD. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(a) to encourage the orderly management, development and conservation of resources by protecting, enhancing and conserving—*<br>*(i) land of significance for agricultural production, and*<br>*(ii) timber, minerals, soil, water and other natural resources, and*<br>*(iii) areas of high scenic or recreational value, and*<br>*(iv) native plants and animals including threatened species, populations and ecological communities, and their habitats, and*<br>*(v) places and buildings of heritage significance,* | The proposed BESS supports the orderly development and conservation of resources by using cleared farmland with low environmental and agricultural value. It avoids impacts on native vegetation, threatened species, heritage items, and scenic or recreational areas. |
| | *(b) to provide a choice of living opportunities and types of settlements,* | The proposed BESS indirectly supports a broader choice of living opportunities and settlement types by contributing to a resilient, reliable, and sustainable energy network. |
| | *(c) to facilitate development for a range of business enterprise and employment opportunities,* | The BESS helps create opportunities for businesses and jobs by supporting a stronger, more reliable energy network. By making the power supply more flexible and sustainable, it helps businesses operate more efficiently, encourages new industries—especially in renewables—and supports local job creation during both construction and ongoing operation. |
| | *(d) to ensure that development is sensitive to both the economic and social needs of the community, including the provision of community facilities and land for public purposes* | By improving energy reliability and supporting the transition to cleaner, more affordable power, BESS contributes to long-term economic resilience and helps lower energy costs, which benefits households and businesses alike. |
| 1.3 Land to which Plan applies | *This Plan applies to the land identified on the Land Application Map.* | The Project Area is located within the Narrabri Shire LGA as identified within the Land Application Map. |
| 1.9A Suspension of covenants, agreements and instruments | *(1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that* | The are a number of easements restricting the Project Area relating to the transmission lines that burden the Project Area. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *development does not apply to the extent necessary to serve that purpose.*<br>*(2) This clause does not apply—*<br>*(a) to a covenant imposed by the Council or that the Council requires to be imposed, or*<br>*(b) to any relevant instrument within the meaning of section 13.4 of the Crown Land Management Act 2016, or*<br>*(c) to any conservation agreement within the meaning of the National Parks and Wildlife Act 1974, or*<br>*(d) to any Trust agreement within the meaning of the Nature Conservation Trust Act 2001, or*<br>*(e) to any property vegetation plan within the meaning of the Native Vegetation Act 2003, or*<br>*(f) to any biobanking agreement within the meaning of Part 7A of the Threatened Species Conservation Act 1995, or*<br>*(g) to any planning agreement within the meaning of Subdivision 2 of Division 7.1 of the Act.*<br>*(3) This clause does not affect the rights or interests of any public authority under any registered instrument.*<br>*(4) Under section 3.16 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).* | Ongoing consultation will occur with Transgrid in relation to their requirements. |
| ***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 Project Area is zoned RU1 Primary Production. |
| ***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.* | While the development will reduce the overall primary production land available on the Title containing BESS Site, the disturbance footprint is minimal with the development adjoining an existing electrical substation to maximise outcomes for the site. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | | The provision of sustainable and reliable energy storage in the region will assist in the ongoing success and growth of primary production in the Narrabri Shire 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 BESS is adjacent to an existing electrical substation to minimise potential fragmentation. |
| | • *To minimise conflict between land uses within this zone and land uses within adjoining zones.* | The BESS is adjacent to an existing electrical substation to minimise potential land use conflict between primary production and the electrical infrastructure. Land Use Conflicts have been assessed at **Section 6.4** of the EIS indicating the Project poses a low risk of land use conflict. |
| | • *To allow for non-agricultural land uses that will not restrict the use of other land for agricultural purposes.* | The proposed BESS is a non-agricultural land use that allows diversification in land uses within the Primary Production zone. |
| 2 Permitted without consent | *Building identification signs; Environmental protection works; Extensive agriculture; Farm buildings; Forestry; Home occupations; Intensive plant agriculture; Roads* | Electricity Generating Works is not listed within Item 2. |
| 3 Permitted with consent | *Agritourism; Air transport facilities; Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Camping grounds; Cellar door premises; Cemeteries; Community facilities; Depots; Dual occupancies; Dwelling houses; Environmental facilities; Extractive industries; Farm experience premises; Farm stay accommodation; Flood mitigation works; Freight transport facilities; Helipads; Home businesses; Home industries; Information and education facilities; Intensive livestock agriculture; Landscaping material supplies; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Roadside stalls; Rural industries; Rural workers' dwellings;* | Electricity Generating Works is not listed within Item 3. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *Signage; Turf farming; Water recreation structures; Water supply systems* | |
| 4 Prohibited | *Any development not specified in item 2 or 3* | *Electricity Generating Works* are not specified within Item 2 or 3, the proposed development is prohibited under the Narrabri Shire LEP 2012.<br>Permissibility is obtained via the Transport and Infrastructure SEPP. |
| ***Part 4 Principal development standards*** | | |
| 4.1 Minimum subdivision lot size | *The objectives of this clause are as follows—* | No subdivision proposed as part of this development. |
| ***Part 5 Miscellaneous provisions*** | | |
| 5.10 Heritage conservation | *(1) Objectives The objectives of this clause are as follows—*<br>*(a) to conserve the environmental heritage of Greater Hume,*<br>*(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*<br>*(c) to conserve archaeological sites,*<br>*(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*<br>*5) Heritage assessment The consent authority may, before granting consent to any development—*<br>*(a) on land on which a heritage item is located, or*<br>*(b) on land that is within a heritage conservation area, or*<br>*(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),*<br>*require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*<br>*6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the* | N/A, the Project Area is not identified as a listed heritage item nor is it located within a heritage conservation area.<br>There is a Heritage Item located adjacent to the Project Area, identified as Local Item 1018. As a result of the distance, existing vegetation screening, scale of works and with the implementation of appropriate mitigation measures, no impacts are anticipated to this local heritage item.<br><br>An ACHAR has been prepared in accordance with the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* (OEH, 2011) and the *Code of Practice for the Archaeological Investigation of Aboriginal Objects in NSW* (DECCW, 2010). The ACHAR concluded that the Project will have both direct and indirect impacts of a new Aboriginal cultural heritage site identified in the site survey. In consultation with Aboriginal stakeholders, the artefact scatter directly impacted will be collected and the indirectly impacted scatter will be marked with temporary fencing for the duration of the works. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *submission of a heritage conservation management plan before granting consent under this clause.*<br>*(7) Archaeological sites The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies)—*<br>*(a) notify the Heritage Council of its intention to grant consent, and*<br>*(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*<br>*(8) Aboriginal places of heritage significance The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—*<br>*(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*<br>*(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.* | |
| 5.21 Flood planning | *(1) The objectives of this clause are as follows—*<br>*(a) to minimise the flood risk to life and property associated with the use of land,*<br>*(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,*<br>*(c) to avoid adverse or cumulative impacts on flood behaviour and the environment,*<br>*(d) to enable the safe occupation and efficient evacuation of people in the event of a flood.* | The Project Area is considered to be flood prone. Consideration of watercourses and flood impacts have been assessed as part of the Flood Risk and Impact Assessment at Appendix J.<br>Though slight flood level increases occur upstream during PMF events, they do not affect any above-ground structures. The modelling indicates that with the incorporation of the earthworks pad, the development is appropriate for the Project Area, given the flood constraints on the land. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—*<br>*(a) is compatible with the flood function and behaviour on the land, and*<br>*(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*<br>*(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*<br>*(d) incorporates appropriate measures to manage risk to life in the event of a flood, and*<br>*(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*<br>*(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—*<br>*(a) the impact of the development on projected changes to flood behaviour as a result of climate change,*<br>*(b) the intended design and scale of buildings resulting from the development,*<br>*(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*<br>*(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*<br>*(4) A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.* | |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(5) In this clause—*<br>*Considering Flooding in Land Use Planning Guideline means the Considering Flooding in Land Use Planning Guideline published on the Department's website on 14 July 2021.*<br>*flood planning area has the same meaning as it has in the Flood Risk Management Manual.*<br>*Flood Risk Management Manual means the Flood Risk Management Manual, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023.* | |
| ***Part 6 Additional local provisions*** | | |
| 6.1 Earthworks | *(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.* | Impacts of earthworks have been considered as part of the development design. |
| | *(2) Development consent is required for earthworks unless—*<br>*(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*<br>*(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.* | Earthworks for the purpose of establishing a development pad and sediment basin is included as part of the proposed development. |
| | *(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—* | |
| | *(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,* | The proposed development will have minimal impact on drainage patterns or soil stability with the areas.<br>Refer to Appendix J (FIA). Hydrological and hydraulic modelling shows minimal impact on regional flood levels, with localised afflux generally remaining below 100 mm. |
| | *(b) the effect of the development on the likely future use or redevelopment of the land,* | Once the development is decommissioned, the land is expected to be able to be resume agricultural operations. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(c) the quality of the fill or the soil to be excavated, or both,* | Any required fill material will be VENM. |
| | *(d) the effect of the development on the existing and likely amenity of adjoining properties,* | Noting the generally flat topography of the land, the earthworks are for preparation of the pad only and expected to have minimal impact on the amenity of adjoining properties.<br>Overall, the project is expected to integrate effectively within its setting while maintaining local amenity and environmental values. |
| | *(e) the source of any fill material and the destination of any excavated material,* | A waste management plans has been provided at Appendix S which provides destination of any waste material including excavated soil. |
| | *(f) the likelihood of disturbing relics,* | An unexpected finds protocol will be conditioned should any relics be uncovered.<br>Collection of the discovered Aboriginal site will be in accordance with the recommendations of the ACHAR in consultation with the RAPs. |
| | *(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,* | Waterway impacts have been considered as part of the Surface and Groundwater Impact Assessment at Appendix K. |
| | *(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.* | Earthworks have been designed to mitigate the flood implications pertaining to the Project Area. |
| 6.3 Airspace operations | *(1) This clause applies in relation to a development application if the proposed development is on land shown on the Obstacle Limitation Surface Map for which an obstacle limitation surface is identified and the consent authority is satisfied the proposed development will penetrate the obstacle limitation surface.* | The Project Area is shown on land shown on the Obstacle Limitation Surface Map, and accordingly this clause applies. |
| | *(2) Before deciding whether to grant development consent for the application, the consent authority must—*<br>*(a) consult the relevant Commonwealth body about the application, and* | The Project Area is located within an obstacle limitation surface threshold of 270AHD. The maximum finished floor level (FFL) of the concrete Pad is 217.2AHD and the proposed highest infrastructure (Lightning Mast) is 18m high. Therefore, the highest point of infrastructure will not reach the limited surface map. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(b) give the relevant Commonwealth body a period of not less than 28 days within which to consider and comment on the application.* | |
| | *(3) The consent authority may grant development consent for development referred to in subclause (1) if—*<br>*(a) the relevant Commonwealth body is satisfied the proposed development will not penetrate the obstacle limitation surface as shown on the Obstacle Limitation Surface Map, or*<br>*(b) the relevant Commonwealth body is satisfied the proposed development will penetrate the obstacle limitation surface as shown on the Obstacle Limitation Surface Map but—*<br>*(i) does not object to the consent authority granting development consent, or*<br>*(ii) does not object to the consent authority granting development consent subject to stated conditions.* | The proposed BESS and associated infrastructure will not penetrate the obstacle limitation surface. |
| | *(4) However, if the consent authority grants development consent for an application to which subclause (3)(b)(ii) applies, the consent authority must grant the development consent subject to the conditions stated by the relevant Commonwealth body as far as practicable.* | N/A |
| | *(5) The consent authority must not grant development consent for development referred to in subclause (1) if the relevant Commonwealth body—*<br>*(a) is satisfied the development will penetrate the obstacle limitation surface as shown on the Obstacle Limitation Surface Map, and*<br>*(b) objects to development consent being granted.* | N/A |
| 6.4 Development in areas subject to aircraft noise | *(1) The objectives of this clause are as follows—*<br>*(a) to prevent certain noise sensitive developments from being located near the Narrabri Airport and its flight paths,*<br>*(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,* | The proposed use is not a sensitive development or a dwelling that will result in people impacted by aircraft noise. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | *(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.* | |
| | *(2) This clause applies to development that—*<br>*(a) is on land that—*<br>*(i) is near the Narrabri Airport, and*<br>*(ii) is in an ANEF contour of 20 or greater, and*<br>*(b) the consent authority considers is likely to be adversely affected by aircraft noise.* | |
| | *(3) Before determining a development application for development to which this clause applies, the consent authority—*<br>*(a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and*<br>*(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*<br>*(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.* | |
| 6.5 Essential services | *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—*<br>*(a) the supply of water,*<br>*(b) the supply of electricity,*<br>*(c) the disposal and management of sewage,*<br>*(d) stormwater drainage or on-site conservation,*<br>*(e) suitable vehicular access.* | Essential services have been provided as identified below:<br>a. Water is provided via water tanks onsite to be delivered in regular intervals<br>b. Electricity supply is available within the site.<br>c. During construction, there will be portable facilities established on site to cater for the large numbers of construction workers when compared to operational staff numbers.<br>d. Onsite detention is provided via the sediment basin in the BESS Area. |

| Statutory Reference | Consideration | Response |
|---|---|---|
| | | e. Suitable vehicular access will be provided for both the construction and operational phases of the Project via Stoney Creek Road. |