



Appendix C: Statutory Compliance Table

Statutory Instrument / Requirement	Relevant Provision	Compliance Response	Location in EIS
Environmental Planning and Assessment Act 1979 (EP&A Act)	Part 4, Division 4.7 – State Significant Development	Division 4.7 provides that development declared by SEPP or Ministerial order to be State significant development (SSD) is to be determined under Part 4 of the Act and must be accompanied by an Environmental Impact Statement. The proposal has been declared SSD under the applicable SEPP and this EIS has been prepared to accompany the development application and satisfy the SSD assessment framework.	Chapter 5;
	Section 4.15 – Matters for Consideration	Section 4.15(1) requires consideration of: (a) the provisions of relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the regulations; (b) the likely environmental, social and economic impacts; (c) the suitability of the site; (d) submissions; and (e) the public interest. The EIS addresses (a) through Chapter 5 (statutory assessment of relevant planning instruments and regulation context); addresses (b) and (c) through the Chapter 7 SEARs-led impact assessment; addresses (d) through the Community Engagement chapter and SSD exhibition process; and addresses (e) through the overall planning balance and conclusions.	Chapter 5.2. Chapter 7;
Environmental Planning and Assessment Regulation 2021	Part 8, Division 2 – Section 173	Section 173 requires an application for Planning Secretary's Environmental Assessment Requirements (SEARs) prior to preparation of an EIS for SSD. SEARs were applied for and issued on 7 May 2025, and the EIS has been prepared in response to those SEARs.	Chapter 5.3; Chapter 7
Environmental Planning and Assessment Regulation 2021	Part 8, Division 5, Section 190(1)	Section 190(1) requires an EIS to include preparer details and qualifications, responsible person details, land identification, development description, and an assessment of environmental impacts. These details are provided in the Statement of Validity and project description chapters, with the environmental impact assessment provided in Chapter 7.	Statement of Validity; Chapters 1–3; Chapter 7
Environmental Planning and Assessment Regulation 2021	Section 190(2)	Section 190(2) requires the EIS to be prepared having regard to the SSD Guidelines. The EIS confirms it has been prepared having regard to the SSD Guidelines	Chapter 5.3; Statement of Validity



Environmental Planning and Assessment Regulation 2021	Section 190(3)	Section 190(3) requires a declaration that the EIS complies with the Regulation, contains all available relevant information, is not false or misleading, and includes information required under the REAP Guidelines. The required declaration is included in the Statement of Validity.	Statement of Validity
Environmental Planning and Assessment Regulation 2021	Section 191	Section 191 requires the EIS to comply with the issued environmental assessment requirements (SEARs). Chapter 7 provides the structured SEARs Response Directory demonstrating compliance.	Chapter 7
Environmental Planning and Assessment Regulation 2021	Section 192(1)	Section 192(1) requires the EIS to include a summary, statement of objectives, analysis of feasible alternatives (including not proceeding), and an assessment of environmental impacts. These matters are addressed through the Executive Summary, project description chapter and Chapter 7 assessment.	Chapter 1; Chapter 3; Chapter 7
Environmental Planning and Assessment Regulation 2021	Section 193 – Ecologically Sustainable Development	Section 193 requires the identification of how Ecologically Sustainable Development principles are incorporated. A dedicated ESD section addresses the precautionary principle, intergenerational equity, biodiversity conservation and resource efficiency measures.	Chapter 7.1.14
State Environmental Planning Policy (Housing) 2021	Chapter 4 – Residential Flat Buildings	Chapter 4 provides that residential flat buildings are permissible with consent in applicable zones and establishes non-discretionary development standards (including height, FSR, landscaped area, solar access, apartment size and parking) together with design quality requirements and consistency with the Apartment Design Guide. The EIS confirms permissibility (refer PSLEP zoning assessment) and assesses compliance with relevant non-discretionary standards and design quality requirements, with detailed analysis of built form, amenity, solar access, cross-ventilation, apartment sizes and parking.	Chapter 5.4.1; Chapter 5.6; Chapter 7
State Environmental Planning Policy (Housing) 2021	Schedule 9 – Design Quality Principles	A Design Verification Statement has been prepared confirming consistency with the Design Quality Principles and Better Placed framework.	Chapter 5.6;
State Environmental Planning Policy (Resilience and Hazards) 2021	Chapter 4 – Remediation of Land	Chapter 4 requires land to be suitable for the proposed use and requires consideration of contamination. The EIS includes a Preliminary Site Investigation, Detailed Site Investigation and Remediation Action Plan confirming the site can be made suitable for residential use subject to implementation of remediation measures.	Chapter 5.4.1; Chapter 7.1.12; PSI, DSI, RAP Appendix S, T & BB



State Environmental Planning Policy (Sustainable Buildings) 2022	Chapter 2 – BASIX Development (including water and energy standards)	Chapter 2 of SEPP (Sustainable Buildings) 2022 requires residential development to achieve prescribed BASIX water and energy performance standards and to obtain a BASIX certificate demonstrating compliance prior to determination. The EIS confirms that BASIX certification has been prepared for the proposal and that the development achieves the required water efficiency, thermal performance and energy reduction targets. Sustainability performance and broader ESD measures (including passive solar orientation, cross ventilation, deep soil planting and water-sensitive urban design) are assessed in the EIS.	Chapter 5.4.1; Chapter 7.1.14; BASIX Certificate (Appendix V)
Port Stephens Local Environmental Plan 2013	Land Use Tables – Zone R3 Medium Density Residential and Zone E1 Local Centre	The Land Use Tables for Zones R3 Medium Density Residential and E1 Local Centre identify residential flat buildings as development permissible with consent. The subject land comprises split zoning between R3 and E1. The proposed development is a residential flat building and is therefore permissible with consent within both zones. The EIS assesses permissibility and demonstrates consistency with the relevant zone objectives, including provision of higher density residential development within the Nelson Bay town centre context and orderly and economic use of serviced land.	Chapter 5.4.2
Port Stephens Local Environmental Plan 2013	Clause 4.3 – Height of Buildings	Clause 4.3(2) provides that development must not exceed the maximum building height shown on the Height of Buildings Map. The mapped maximum height applicable to the site is 28m. The proposed development marginally exceeds the mapped height. A written request under Clause 4.6 has been prepared addressing the matters required by Clause 4.6(3), including demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances and that sufficient environmental planning grounds justify the variation.	Chapter 5.4.2; Clause 4.6 Variation Report (Appendix G)
Port Stephens Local Environmental Plan 2013	Clause 4.4 – Floor Space Ratio	Clause 4.4(2) provides that development must not exceed the maximum floor space ratio shown on the Floor Space Ratio Map. The mapped maximum FSR applicable to the site is 3:1. The proposed development achieves an FSR of 2.8:1 and therefore complies with the development standard.	Chapter 5.4.2



Port Stephens Local Environmental Plan 2013	Clause 4.6 – Exceptions to Development Standards	Clause 4.6 permits the consent authority to grant consent to development that contravenes a development standard where a written request demonstrates that compliance is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention. A Clause 4.6 written request has been prepared in relation to the Clause 4.3 height exceedance and is submitted with the application. The EIS references and supports the variation request.	Chapter 5.4.2; Clause 4.6 Variation Report (Appendix G)
Port Stephens Development Control Plan 2014	D5 Nelson Bay Centre – Town Living & Commercial Precinct	Development Control Plans are not determinative for State significant development under the Environmental Planning and Assessment Act 1979. The Port Stephens DCP 2014, including Part D5 – Town Living & Commercial Precinct (Nelson Bay Town Centre), therefore does not apply as a matter of statutory control to the proposal. Notwithstanding this position, the EIS outlines the relevant precinct objectives and built form intent for the Nelson Bay Town Centre and demonstrates that the proposal is consistent with the strategic urban design framework, street activation objectives, scale transition principles and town centre consolidation intent underpinning Part D5. The DCP provisions are therefore not relied upon as assessment criteria but are acknowledged in understanding the local character context.	Chapter 5.7;