

Appendix C – Statutory Compliance Table

This table identifies the principal statutory instruments, environmental planning instruments and relevant statutory requirements applicable to the project and supports where those are addressed in the EIS. It should be read together with Appendix A – SEARs Compliance Table, which identifies where each SEARs issue is addressed in the EIS and supporting technical documentation.

SSD-83538214 – Shop Top Housing with In-fill Affordable Housing, 43-45 Beane Street and 2 Keevers Lane, Gosford

Statutory Requirement	Report/EIS	Technical Study
Commonwealth Acts of Parliament		
Environmental Protection and Biodiversity Conservation Act 1999		
Section 136 General Considerations		
1) In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must consider the following, so far as they are not inconsistent with any other requirement of this Subdivision: (a) matters relevant to any matter protected by a provision of Part 3 that the Minister has decided is a controlling provision for the action; (b) economic and social matters.	Section 5.0, Section 8.0	N/A
2) In considering those matters, the Minister must take into account: (a) the principles of ecologically sustainable development; and (b) the assessment report (if any) relating to the action	Section 5.0, Section 8.0	Appendix M
Section 139 Requirements for decisions about threatened species and endangered communities		
1) In deciding whether or not to approve for the purposes of a subsection of section 18 or section 18A the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with: (a) Australia's obligations under: i. the Biodiversity Convention; or	Section 5.0	N/A

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ii. the Apia Convention; or iii. CITES; or (b) a recovery plan or threat abatement plan.		
2) If: (a) the Minister is considering whether to approve, for the purposes of a subsection of section 18 or section 18A, the taking of an action; and (b) the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community; the Minister must, in deciding whether to so approve the taking of the action, have regard to any approved conservation advice for the species or community.	N/A	N/A
NSW Acts of Parliament		
Environmental Planning and Assessment Act 1979		
Section 1.3 Objects of the Act		
The objects of this Act are as follows— (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources, (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment, (c) to promote the orderly and economic use and development of land, (d) to promote the delivery and maintenance of affordable housing, (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats, (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage), (g) to promote good design and amenity of the built environment,	Section 5.5 & refer to the Environmental Planning Instruments presented further below.	N/A

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(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants, (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State, (j) to provide increased opportunity for community participation in environmental planning and assessment.		
Section 4.15 Evaluation		
1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—	Section 5.5 & refer to the Environmental Planning Instruments presented further below.	N/A
(a) the provisions of—		
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	Section 5.0	-
iii. any development control plan, and	Section 5.5	Appendix OO
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	N/A	N/A
iv. the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,	Section 5.5	-
(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,	Section 7.0, Section 8.4	-
(c) the suitability of the site for the development,	Section 8.5	-

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(d) any submissions made in accordance with this Act or the regulations,	Public consultation is expected to be carried out by the Department of Planning, Housing and Infrastructure (DPHI) on the submitted SSDA. Any submissions received as a result are for DPHI's consideration in its assessment of the application against applicable plans and policies.	
(e) the public interest.	Section 8.6	-
Biodiversity Conservation Act 2016		
Division 2 Biodiversity assessment requirements – Section 7.9 Biodiversity assessment for State significant development or infrastructure		
1) This section applies to—	Section 5.4	-
(a) an application for development consent under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> for State significant development, and		
(b) an application for approval under Division 5.2 of the <i>Environmental Planning and Assessment Act 1979</i> to carry out State significant infrastructure.		
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.		
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 <i>Environmental Planning and Assessment Act 1979</i> .		
Division 4 Biodiversity assessment and offsets – Section 7.14 State Significant Development or Infrastructure		
1) This section applies to an application for development consent for State significant development under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> , or an application for approval for State significant infrastructure under the <i>Environmental Planning and Assessment Act 1979</i> , Division 5.2, that is required under Division 2 to be accompanied by a biodiversity development assessment report.	Section 5.4, Section 5.5, Section 7.13	Appendix Z
2) The relevant authority, when determining in accordance with the <i>Environmental Planning and Assessment Act 1979</i> any such application, is to take into consideration under that Act the likely impact of the proposed development on biodiversity		

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values as assessed in the biodiversity development assessment report. The relevant authority may (but is not required to) further consider under that Act the likely impact of the proposed development on biodiversity values.		
NSW EPIs		
State Environmental Planning Policy (Transport and Infrastructure) 2021		
Section 2.48 Determination of development applications – other 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—	Section 5.4	Appendix Q
(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— i. within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or ii. immediately adjacent to an electricity substation, or iii. within 5m of an exposed overhead electricity power line, (c) installation of a swimming pool any part of which is— 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 ii. within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool, (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.		
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—		

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(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 (b) take into consideration any response to the notice that is received within 21 days after the notice is given.		
Section 2.122 Traffic-generating development		
4) Before determining a development application for development to which this section applies, the consent authority must— (a) give written notice of the application to TfNSW within 7 days after the application is made, and (b) take into consideration— 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 ii. the accessibility of the site concerned, including— (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and (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 iii. any potential traffic safety, road congestion or parking implications of the development.	Section 5.4	Appendix Q
5) The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.		
State Environmental Planning Policy (Resilience and Hazards) 2021		
Section 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— (a) it has considered whether the land is contaminated, and	Section 5.4, Section 7.13	Appendix T

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(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) (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. 2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines. 3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.		
State Environmental Planning Policy (Housing) 2021		
Chapter 4 – Design of residential apartment development	Section 5.5, Section 7.2	Appendix B
State Environmental Planning Policy (Sustainable Buildings) 2022		
Section 2.1 Standards for BASIX development and BASIX optional development		
1) Schedule 1 sets out the standards that apply to BASIX development referred to in paragraphs (a) and (b) of the definition of <i>BASIX development</i> in the <i>Environmental Planning and Assessment Regulation 2021</i>. 2) Schedule 2 sets out the standards that apply to— (a) BASIX development referred to in paragraph (c) or (d) of the definition of <i>BASIX development</i> in the <i>Environmental Planning and Assessment Regulation 2021</i>, and	Section 5.0, Section 7.9	Appendix M, Appendix N, Appendix O, Appendix P

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(b) BASIX optional development if the development application or the application for a complying development certificate was accompanied by a BASIX certificate. 3) The standard specified in Schedule 2, section 4 extends to a swimming pool or spa that has a capacity of less than 40,000L if the swimming pool or spa is part of development referred to in paragraph (c) of the definition of <i>BASIX development</i> in the <i>Environmental Planning and Assessment Regulation 2021</i>. 4) A standard specified in Schedule 1 or 2 does not apply to development involving a heritage item or in a heritage conservation area to the extent that the Planning Secretary is satisfied that the development is not capable of achieving a standard because of other development controls that apply. 5) Development consent must not be granted to development to which the standards specified in Schedule 1 or 2 apply unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.		
State Environmental Planning Policy (Precincts-Regional) 2021		
Clause 5.13 Zone objectives and land use table		
2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	Section 5.5	-
Clause 5.25 Height of buildings		
2) The height of a building on any land is not to exceed the maximum height shown for the land on the <i>Height of Buildings Map</i> .	Section 5.5, Section 7.1	Appendix NN
Clause 5.26 Floor space ratio		
2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the <i>Floor Space Ratio Map</i> .	Section 5.5	-
Clause 5.36 Heritage conservation		

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2) Requirement for consent Development consent is required for any of the following— (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)— i. a heritage item, ii. an Aboriginal object, iii. a building, work, relic or tree within a heritage conservation area, (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item, (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed, (d) disturbing or excavating an Aboriginal place of heritage significance, (e) erecting a building on land— i. on which a heritage item is located or that is within a heritage conservation area, or ii. on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance, (f) subdividing land— i. on which a heritage item is located or that is within a heritage conservation area, or ii. on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,	Section 5.5	-
Clause 5.39 Acid sulfate soils		
1) Development consent must not be granted under this section for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	Section 5.5	-

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2) Despite subsection (2), development consent is not required under this section for the carrying out of works if— (a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.		
Clause 5.45 Design excellence		
1) The objective of this section is to ensure that development exhibits design excellence that contributes to the natural, cultural, visual and built character values of Gosford City Centre. 2) This section applies to development involving the erection of a new building or external alterations to an existing building. 3) Development consent must not be granted for development to which this section applies unless the consent authority considers that the development exhibits design excellence. 4) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters— (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain, (c) whether the development is consistent with the objectives of sections 5.52 and 5.53, (d) any relevant requirements of applicable development control plans, (e) how the development addresses the following matters— (i) the suitability of the land for development, (ii) existing and proposed uses and use mix, (iii) heritage issues and streetscape constraints,	Section 5.5 -	

Statutory Requirement	Report/EIS	Technical Study
(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, (v) bulk, massing and modulation of buildings,		
Clause 5.46 Exceptions to height and floor space in Zones B3, B4 and B6		
1) This section applies to land in the following zones— (a) Zone B3 Commercial Core, (b) Zone B4 Mixed Use, (c) Zone B6 Enterprise Corridor. 2) Development consent may be granted to development on land to which this section applies that results in a building with a floor space ratio that exceeds the floor space ratio shown for the land on the <i>Floor Space Ratio Map</i> if— (a) the site area of the development is less than 2,800 square metres or the building has a street frontage of 36 metres or less, and (b) the floor space ratio does not exceed the ratio calculated in accordance with $2 + (X \times 0.02):1$, where X is the percentage of the gross floor area of the building that is used for a purpose other than residential purposes. 3) Development consent may be granted to development on land to which this section applies that results in a building with a height that exceeds the maximum height shown for the land on the <i>Height of Buildings Map</i>, by an amount to be determined by the consent authority, if— (a) the site area of the development is at least 2,800 square metres but less than 5,600 square metres, or the building will have a street frontage of at least 36 metres, and (b) a design review panel reviews the development, and (c) the consent authority takes into account the findings of the design review panel, and (d) the consent authority is satisfied with the amount of floor space that will be provided for the purposes of commercial premises, and	Section 5.5, Section 7.1	Appendix NN

Statutory Requirement	Report/EIS	Technical Study
(e) the consent authority is satisfied that the building meets or exceeds minimum building sustainability and environmental performance standards.		
Clause 5.47 Car parking in Zones B3 and B4		
1) Development consent must not be granted for development on land in Zone B3 Commercial Core or Zone B4 Mixed Use that involves the erection of a new building or an alteration or addition to an existing building that increases the gross floor area of the building unless— (a) at least 1 car parking space is provided for every 75 square metres of the gross floor area of the building that is to be used for commercial activities, and (b) at least 1 car parking space is provided for every 40 square metres of the gross floor area of the building that is to be used for the purpose of retail premises. 2) Car parking that is required to be provided must be provided on site unless the consent authority is satisfied that the provision of car parking is adequately provided elsewhere. 3) In this section, a building's gross floor area includes— (a) any area of the building that is used for car parking that is at or above street level, unless the car parking is not visible from the street and is a condition of a development consent, and (b) any area of the building that is used for car parking below ground level (existing), unless the car parking is a condition of a development consent, but does not include any Council-owned public car parking.	Section 6.5	Appendix Q
Clause 5.52 Solar access to key public open spaces		
1) The objectives of this section are— (a) to protect and enhance sun access to key public open spaces, and (b) to prevent adverse cumulative impacts of development. 2) Development consent may be granted to development if the development will not result in—	Section 7.3	N/A

Statutory Requirement	Report/EIS	Technical Study
(a) any more than 40 per cent of Kibble Park receiving less than 4 hours of sunlight between 9 am and 3 pm at the winter solstice, and (b) any more than 30 per cent of Leagues Club Field receiving less than 4 hours of sunlight between 9 am and 3 pm at the winter solstice.		
Clause 5.53 Key vistas and view corridors		
1) The objective of this section is to protect and enhance key vistas and view corridors in Gosford City Centre. Development consent must not be granted to development unless the consent authority is satisfied that the development is consistent with the objectives of this section.	Section 7.3	Appendix G