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Appendix N – Statutory Compliance Table

SSD-91539707 – Mixed Use Development, Gordon Street, Coffs Harbour

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 6.0, Section 9.0	N/A
2) In considering those matters, the Minister must take into account: (a) the principles of ecologically sustainable development; and	Section 6.0, Section 79.0	
(b) the assessment report (if any) relating to the action		
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 ii. the Apia Convention; or iii. CITES; or (b) a recovery plan or threat abatement plan.	Section 6.0	N/A
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	N/A	N/A

(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.		
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, (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 6.5** & refer to the Environmental Planning Instruments presented further below.	N/A
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— (a) the provisions of— i. any environmental planning instrument, and	**Section 6.5** & refer to the Environmental Planning Instruments presented further below.	N/A

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 7.0**	-
iii. any development control plan, and	**Section 6.5**	
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 6.5**	-
(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 8.0, Section 9.0**	-
(c) the suitability of the site for the development,	**Section 9.4**	-
(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 9.5**	-
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— (a) an application for development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* for State significant development, and (b) an application for approval under Division 5.2 of the *Environmental Planning and Assessment Act 1979* 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 *Environmental Planning and Assessment Act 1979*.	**Section 6.4**	Appendix O
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 *Environmental Planning and Assessment Act 1979*, or an application for approval for State significant infrastructure under the *Environmental Planning and Assessment Act 1979*, Division 5.2, that is required under Division 2 to be accompanied by a biodiversity development assessment report. 2) The relevant authority, when determining in accordance with the *Environmental Planning and Assessment Act 1979* any such application, is to take into consideration under that Act the likely impact of the proposed development on biodiversity 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.	**Section 6.4**	Appendix)
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— (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— (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 6.4**	Appendix M
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. 5) The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.	**Section 6.4**	Appendix M

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 (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.	**Section 6.4**	Appendix I
State Environmental Planning Policy (Housing) 2021		
Chapter 4 – Design of residential apartment development	**Section 6.5**	Appendix A and 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 *BASIX development* in the *Environmental Planning and Assessment Regulation 2021*. 2) Schedule 2 sets out the standards that apply to— (a) BASIX development referred to in paragraph (c) or (d) of the definition of *BASIX development* in the *Environmental Planning and Assessment Regulation 2021*, and (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 *BASIX development* in the *Environmental Planning and Assessment Regulation 2021*.	**Section 6.5**	Appendix K and GG

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.

Coffs Harbour Local Environmental Plan 2013		
Clause 2.3 Zone objectives and Land Use Table		
1) The Land Use Table at the end of this Part specifies for each zone— a. the objectives for development, and b. development that may be carried out without development consent, and c. development that may be carried out only with development consent, and d. development that is prohibited. 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. 3) In the Land Use Table at the end of this Part— a. a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and b. a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the same zone.	**Section 6.5**	-
Clause 4.3 Height of buildings		
1) The objectives of this clause are as follows— a. to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity, b. to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities, c. to ensure that the height of future buildings has regard to heritage sites and their settings and their visual interconnections, d. to enable a transition in building heights between urban areas having different characteristics, e. to limit the impact of the height of a building on the existing natural and built environment, f. to encourage walking and decreased dependency on motor vehicles by promoting greater population density in urban areas. 2) The height of a building on any land is not to exceed the maximum height shown for the land on the *Height of Buildings Map*.	**Section 6.5**	-
Clause 4.4 Floor space ratio		

1) The objectives of this clause are as follows— a. to define the allowable development density of a site, b. to encourage increased building densities through site amalgamation at certain locations. 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 *Floor Space Ratio Map*.	**Section 6.5**	-
Clause 5.11 Bush fire hazard reduction		
The site is not identified as bush-fire prone land.	**Section 6.5**	-
Clause 5.21 Flood Planning		
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— a. is compatible with the flood function and behaviour on the land, and 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 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 d. incorporates appropriate measures to manage risk to life in the event of a flood, and 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. 3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters— a. the impact of the development on projected changes to flood behaviour as a result of climate change, b. the intended design and scale of buildings resulting from the development, 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, d. the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion. 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.	**Section 6.5**	Appendix L
Clause 7.1 Acid sulfate soils		
1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	**Section 6.5**	Appendix G

2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the *Acid Sulfate Soils Map* as being of the class specified for those works.		
Clause 7.2 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. 2) Development consent is required for earthworks unless— a. the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or 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. 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, b. the effect of the development on the likely future use or redevelopment of the land, c. the quality of the fill or the soil to be excavated, or both, d. the effect of the development on the existing and likely amenity of adjoining properties, e. the source of any fill material and the destination of any excavated material, f. the likelihood of disturbing relics, g. the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, h. any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development, i. the effect of the development on Aboriginal cultural heritage.	**Section 6.5**	Appendix P
Clause 7.9 Airspace operations		
1) The objectives of this clause are as follows— a. to provide for the effective and ongoing operation of the Coffs Harbour Regional Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport, b. to protect the community from undue risk from that operation. 2) If a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application. 3) The consent authority may grant development consent for the development if the relevant Commonwealth body advises that— a. the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or	**Section 6.5**	Appendix T

b. the development will not penetrate the Limitation or Operations Surface. 4) The consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the Limitation or Operations Surface and should not be constructed.		
Cause 7.10 Development in areas subject to aircraft noise		
1) The objectives of this clause are as follows— a. to prevent certain noise sensitive developments from being located near the Coffs Harbour Regional Airport and its flight paths, 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, 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— a. is on land that— i. is near the Coffs Harbour Regional Airport, and ii. is in an ANEF contour of 20 or greater, and 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— a. must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and 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 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.	**Section 6.5**	Appendix T
Clause 7.12 Design excellence		
3) Development consent must not be granted for development on land to which this clause applies unless the consent authority considers that the development exhibits design excellence.	**Section 6.5**	Appendix B
Clause 7.13 Coffs Harbour City Centre		
2) Development consent must not be granted to development on any land unless the consent authority has considered whether the development maintains the primacy of the Coffs Harbour City Centre as the principal business, office, retail, cultural, civic and entertainment hub of the Coffs Harbour City.	**Section 5.1**	-

Clause 7.20 Overshadowing of certain public places		
1) Despite clause 4.3, development consent must not be granted to development that results in any part of a building causing additional overshadowing, on 21 June in any year, of any of the following locations (as shown with blue hatching on the *Sun Access Protection Map*) between 12.00 and 14.00— a. City Square, b. Brelsford Park, c. Lions Safety Park, d. ANZAC Memorial Park, e. Footpath areas on the southern side of Harbour Drive and West High Street. 2) Development results in a building causing additional overshadowing if the total overshadowing of the relevant location during the specified times would be greater after the development is carried out than the overshadowing of that location during the specified times caused by buildings existing on the commencement of this Plan.	**Section 8.3.2**	-
Clause 7.21 Minimum building street frontage		
2) Development consent must not be granted for the erection of a building over 28 metres in height on land in Zone E2 Commercial Centre that does not have at least one street frontage of 30 metres or more, or at least two street frontages of 30 metres or more if the two street frontages form a street corner. 3) Despite subclause (2), development consent may be granted for the erection of a building on the land if the consent authority is satisfied that— a. due to the physical constraints of the site or an adjoining site or sites, it is not possible for the building to be erected with at least one street frontage of 30 metres or more, and b. the development is consistent with the aims and objectives of this Plan.	**Section 6.5**	-