

APPENDIX

C

DUNGOWAN DAM AND PIPELINE EIS

Statutory compliance table

A summary of the requirements of Section 190 and 192 of the EP&A Regulation and where they are addressed in this EIS is provided in Table C-1.

Table C-1 Section 190 and 192 requirements of an EIS

Requirement	Where contained in the EIS
Section 190 – Form of EIS	
(1) An environmental impact statement must contain the following information—	
<ul style="list-style-type: none"> the name, address and professional qualifications of the person who prepared the statement, 	Certification page at the front of this EIS
<ul style="list-style-type: none"> the name and address of the responsible person (the applicant), 	Certification page at the front of this EIS
<ul style="list-style-type: none"> the address of the land: to which the development application relates, or on which the activity or infrastructure to which the statement relates will be carried out, 	Certification page at the front of this EIS
<ul style="list-style-type: none"> a description of the development, activity or infrastructure, 	Chapter 4
<ul style="list-style-type: none"> 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. 	Chapters 6–21 of this EIS and the technical papers appended to the EIS
<p>(2) The person preparing the statement must have regard to—</p> <ul style="list-style-type: none"> a) for State significant development— the <i>State Significant Development Guidelines</i>, or b) for State significant infrastructure— <i>the State Significant Infrastructure Guidelines</i>. 	This EIS has been prepared having regard to the <i>State Significant Infrastructure Guidelines – preparing an Environmental Impact Statement (Appendix B, DPE November 2022)</i>
<p>(3) An environmental impact statement must also contain a declaration by the person who prepared the statement of the following—</p> <ul style="list-style-type: none"> a) the statement has been prepared in accordance with this Division, and b) the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure, and c) the information contained in the statement is not false or misleading. 	Certification page at the front of this EIS

Requirement	Where contained in the EIS
Section 1–2 - Content of EIS	
(1) An environmental impact statement must contain the following—	
<ul style="list-style-type: none"> a summary of the EIS, 	Executive summary
<ul style="list-style-type: none"> a statement of the objectives of the development, activity or infrastructure, 	Chapter 1
<ul style="list-style-type: none"> an analysis of feasible alternatives to the carrying out the development, activity or infrastructure, having regard to its objectives, including the consequences of not carrying out the development, activity or infrastructure, 	Chapter 2
<ul style="list-style-type: none"> an analysis of the development, activity or infrastructure, including: <ul style="list-style-type: none"> a full description of the development, activity or infrastructure, and 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 the likely impact on the environment of the development, activity or infrastructure, and a full description of the measures to mitigate adverse effects of the development, activity or infrastructure on the environment, and 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, 	Chapter 4 Chapter 1, Chapter 4 and Chapters 6 to 21 Chapters 6 to 21 Chapters 6 to 21 and Appendix E Chapter 3
<ul style="list-style-type: none"> a compilation, in a single section of the EIS, of the measures referred to in paragraph (d)(iv), 	Appendix E
<ul style="list-style-type: none"> 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. 	Chapter 22

Table C-2 List of statutory considerations

Legislation	Relevance	Compliance/Consistency of project
<i>Biodiversity Conservation Act 2016 (NSW)</i>	<ul style="list-style-type: none"> As CSSI, the project is subject to the Biodiversity Offsets Scheme, including assessment of the project using the biodiversity assessment method (the BAM), and is also stipulated as a requirement in the SEARs. The project will impact threatened ecological communities, species and their habitats listed under the BC Act and impacts require offsetting. 	<ul style="list-style-type: none"> A biodiversity assessment has been prepared to determine impacts to biodiversity values. This assessment has been undertaken using the BAM and is documented in a biodiversity development assessment report (BDAR). It has been prepared by accredited persons under the BC Act. A copy of the BDAR is provided in Appendix H of this EIS.
<i>Biosecurity Act 2015 (NSW)</i>	<ul style="list-style-type: none"> Weeds have been recorded within the project footprint and construction of the project has potential to spread weeds if not appropriately managed. A variety of feral animals are found within the project area including Feral Goats (<i>Capra hircus</i>), Feral Deer (<i>Cervus spp.</i>), Feral European Rabbits (<i>Oryctolagus cuniculus</i>), European Red Fox (<i>Vulpes vulpes</i>), Feral Cat (<i>Felis catus</i>) Feral Pig (<i>Sus scrofa</i>) and Black Rat (<i>Rattus rattus</i>). Introduced fish species including Rainbow Trout (<i>Oncorhynchus mykiss</i>) and European carp (<i>Cyprinus carpio</i>) occur in Dungowan Creek. 	<ul style="list-style-type: none"> A biodiversity assessment has been prepared to determine impacts to biodiversity values and considered the key threatening processes associated with feral species and introduction and spread of weeds. This assessment is documented in a biodiversity development assessment report (BDAR). A copy of the BDAR is provided in Appendix H of this EIS.
<i>Crown Land Management Act 2016 (NSW)</i>	<ul style="list-style-type: none"> The project footprint impacts portions of Crown land. 	<ul style="list-style-type: none"> A licence or easement will be separately sought for the construction and operation of the Dungowan pipeline and upgrade of Dungowan Dam Road over Crown land.

Legislation	Relevance	Compliance/Consistency of project
<i>Contaminated Land Management Act 1997</i> (NSW)	<ul style="list-style-type: none"> Some areas of known and potential contamination within the project footprint based on historical agricultural land uses. 	<ul style="list-style-type: none"> A contamination assessment has been prepared to determine if historic land uses have contaminated land within the project area. A copy of the contamination assessment is provided in Appendix R of this EIS. Potentially contaminated areas directly affected by the project will be investigated and managed in accordance with the requirements of guidance endorsed under section 105 of the <i>Contaminated Land Management Act 1997</i>. This includes further investigations in areas of potential contamination identified in the project footprint.
<i>Dams Safety Act 2015</i> (NSW) and <i>Dams Safety Regulation 2019</i>	<ul style="list-style-type: none"> A dam may be declared if it has a dam wall higher than 15 m, or if it would cause major or catastrophic damage or loss or endanger the life of a person if it failed. Based on this definition, the new Dungowan Dam will be a declared dam and subject to the regulation. 	<ul style="list-style-type: none"> Dam safety requirements were considered throughout the design of the project and a dam safety review was prepared and discussed in Chapter 12. The dam safety review describes the dam safety assessments completed as part of the project concept design and the measures that would be implemented during operation of the new Dungowan Dam to ensure all dam safety requirements are met.
<i>Electricity Supply Act 1995</i> (NSW)	<ul style="list-style-type: none"> The project requires relocation of electricity distribution lines to ensure continued electricity network supply to Nowendoc. 	<ul style="list-style-type: none"> Consultation with Essential Energy has been undertaken for the project and during the detailed design of the project and is ongoing. Powerline relocation will occur in consultation and with approval from the electricity supply authority.
<i>Environmental Planning and Assessment Regulation 2021</i> (NSW) (EP&A Regulation)	<ul style="list-style-type: none"> The project is CSSI and subject to the relevant content and form provisions of the EP&A Regulation. 	<ul style="list-style-type: none"> Consistency with the form and contents required by the EP&A Regulation is provided in Table C.1. An assessment of the project with regard to the principles of ESD is provided at Appendix Y. As the proponent, Water Infrastructure NSW, in accordance with s181(6) of the EP&A Regulation, will give notice of the project to landowners or advertise in the local newspaper.

Legislation	Relevance	Compliance/Consistency of project
<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Commonwealth)	<ul style="list-style-type: none"> The project is a controlled action under the EPBC Act for significant impacts to threatened species and communities. The Commonwealth Minister for the Environment and Water has accredited the NSW approval process and assessment requirements under the EPBC Act have been included in the SEARs issued for the project. The project footprint impacts the threatened ecological community, commonly known as Box Gum Woodland which is listed as critically endangered under the EPBC Act. This community is also known to provide habitat for threatened flora and fauna species listed under the EPBC Act. 	<ul style="list-style-type: none"> The EIS has addressed the assessment requirements under the EPBC Act as attached to the SEARs for the project. Compliance with these requirements is provided at Appendix A of this EIS. A biodiversity assessment has been prepared to determine impacts to biodiversity values. This assessment is documented in a biodiversity development assessment report (BDAR). The BDAR includes relevant assessment of species and impacts under EPBC Act. A copy of the BDAR is provided in Appendix H of this EIS.
<i>Fisheries Management Act 1994</i> (NSW)	<ul style="list-style-type: none"> The project includes dredging work within a waterway, construction of a dam and reservoir, and blockage of fish passage. Threatened species under the FM Act have been recorded during aquatic surveys for the project. 	<ul style="list-style-type: none"> An assessment of aquatic impacts including consideration of the FM Act has been undertaken for the project and is included as Appendix I to this EIS. No fishway is proposed for the new Dungowan Dam. Water Infrastructure NSW reached agreement with DPI Fisheries regarding an offset package for the removal of fish barriers downstream as part of the NSW Fish Passage Strategy. Further offsets for impacts to key fish habitats is required and would be negotiated with NSW Fisheries depending on the outcomes of the impact assessment Permits and notifications required under the FM Act have been identified in Chapter 3 of the EIS.
<i>Heavy Vehicle (Adoption of National Law) Act 2013</i> (NSW)	<ul style="list-style-type: none"> Heavy vehicles (including overmass vehicles) needed for transporting plant and materials to and from site. 	<ul style="list-style-type: none"> An assessment of traffic and transport impacts has been undertaken for the project and is included as Appendix S to this EIS.

Legislation	Relevance	Compliance/Consistency of project
<i>Heritage Act 1977</i> (NSW)	<ul style="list-style-type: none"> Heritage item of potential State heritage significance (Dungowan Station) identified in the vicinity of the project. Archaeological potential for items of historical significance associated with previous pastoral activities within the project footprint. 	<ul style="list-style-type: none"> An assessment of potential impacts on historical heritage has been undertaken for the project, as required by the SEARs. The Statement of heritage significance (SOHI) is included as Appendix K to the EIS.
<i>National Parks and Wildlife Act 1974</i> (NSW)	<ul style="list-style-type: none"> Aboriginal objects and places are known to occur in the region and have been recorded within and surrounding the project footprint during project surveys. 	<ul style="list-style-type: none"> An assessment of potential impacts on Aboriginal cultural heritage has been undertaken for the project, as required by the SEARs. The Aboriginal cultural heritage assessment is included as Appendix J to the EIS.
<i>Native Title Act 1993</i> (Commonwealth)	<ul style="list-style-type: none"> One registered claim – lodged by the Gomeroi People and entered on the Register on 21 January 2012. This claim covers an area from the NSW and Queensland border in the north, the Hunter Valley to the south, west of Walgett and to the east of Tamworth and includes the area of the project. 	<ul style="list-style-type: none"> The Native Title application has not been determined at the time of EIS submission. The Native Title Claimant has been provided with all relevant documentation associated with the project, including the assessment methodology, consultation strategy and Aboriginal cultural heritage assessment for the early works component. The Aboriginal Cultural Heritage Assessment for the project including consultation log is provided in Appendix J of this EIS.

Legislation	Relevance	Compliance/Consistency of project
<i>Protection of the Environment Operations Act 1997 (NSW)</i>	<ul style="list-style-type: none"> Construction of the project involves several scheduled activities being chemical storage, concrete works, and crushing, grinding or separating and will require an EPL. Operation of the project includes the potential for cold water pollution when water from the dam is discharged downstream into Dungowan Creek. Schedule 3 of the POEO Regulation defines discharging water 2 °C hotter or colder than the body of water into which it is discharged as 'water pollution' and would require an EPL under Section 120 of the POEO Act. 	<ul style="list-style-type: none"> Water Infrastructure NSW, or the construction contractor, would obtain an EPL for scheduled activities during construction. Clause 56A makes an exemption from a water pollution offence if the water is discharged from a water supply work pursuant to an approval under the <i>Water Management Act 2000</i> that contains conditions dealing with cold water releases. Due to this exemption, cold water pollution from WaterNSW dams is regulated by conditions of approval under the <i>Water Management Act 2000</i> and not regulated by the POEO Act and the 2 °C temperature differential limit does not apply to dam discharges. Water discharges have been assessed in the Surface Water Assessment for the project and provided in Appendix F of this EIS.
<i>Roads Act 1993 (NSW)</i>	<ul style="list-style-type: none"> Upgrade of Dungowan Dam Road (work in, on or over a public road) 	<ul style="list-style-type: none"> Consideration of road impacts has been undertaken and provided in a traffic impact assessment in Appendix S of this EIS.
<i>Rural Fires Act 1997 (NSW)</i>	<ul style="list-style-type: none"> The project occurs within bushfire prone land. Burning of waste is proposed on site. 	<ul style="list-style-type: none"> Consideration of bushfire risk and management has been undertaken and provided in Chapter 12 and Appendix O of this EIS.
<i>Waste Avoidance and Resource Recovery Act 2001 (NSW)</i>	<ul style="list-style-type: none"> Reuse and/or disposal of waste on site. Disposal of waste offsite. 	<ul style="list-style-type: none"> Consideration of the waste hierarchy has been undertaken and provided in Chapter 15 of this EIS and Appendix T of this EIS.

Legislation	Relevance	Compliance/Consistency of project
<i>Water Act 2007</i> (Commonwealth)	<ul style="list-style-type: none"> The <i>Water Act 2007</i> enables and gives effect to Murray Basin Plan 2012 and of the Murray-Darling Basin Authority. The Murray Basin Plan 2012 requires states to prepare a Water Resource Plan for each of the major river valleys within the Murray-Darling Basin to give effect to Sustainable Diversion Limits (SDLs) and achieve a range of other requirements. The Namoi Surface Water Resource Plan is the applicable state Water Resource Plan for the project. 	<ul style="list-style-type: none"> The Basin Plan and the Namoi Surface Water Resource Plan are reviewed in detail in the Surface Water Assessment provided at Appendix F of this EIS.
<i>Water Management Act 2000</i> (NSW)	<ul style="list-style-type: none"> The WM Act gives effect to Water Sharing Plans that set out objectives for the management of water sources, rules for the management of water for environmental outcomes, the number of water access licence share components on issue at the commencement of the plan, and rules for the use and trade of those water access licences. Four WSPs for the Peel Valley are applicable to the project. The project is located on waterfront land, would require extraction and use of surface water from the existing water source during construction, and involves construction of a water source. Potential for excavation during construction to be an aquifer interference activity. 	<ul style="list-style-type: none"> Changes to WSPs will be required as a result of changes to the operational surface water regime as described in Section 3.3. Assessment of the project against the relevant WSPs and licensing requirements is provided in detail in the Surface Water Assessment at Appendix F of this EIS. Permits required and any controlled activity exemptions have been addressed in Chapter 3 of this EIS. An assessment of groundwater impacts, consideration of the aquifer interference policy and groundwater licensing requirements is provided in detail in the groundwater impact assessment provided at Appendix G of this EIS.

Legislation	Relevance	Compliance/Consistency of project
<i>Water NSW Act 2014 (NSW)</i>	<ul style="list-style-type: none"> Water NSW will be responsible for the management of project infrastructure. 	<ul style="list-style-type: none"> Dam safety and operational requirements are addressed in Section 4 and Section 12 of the EIS. Licensing requirements are discussed in Chapter 3 of this EIS and in greater detail in the supporting technical study, Surface Water Assessment (Appendix F of the EIS).
<i>Work Health and Safety Act 2011 and Work Health and Safety Regulation 2017 (NSW)</i>	<ul style="list-style-type: none"> Hazards and risks associated with construction of the project to the safety of workers and hazards and risks to the public associated with the transport of hazardous goods. 	<ul style="list-style-type: none"> Consideration of DPIE's guideline Applying SEPP 33 (2011) has been undertaken and an assessment of public safety risks is provided in Chapter 12. Assessment of safety risks to workers during construction will form part of the management measures and plans to be prepared and must comply with the WHS Act and Regulations.
<i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>	<ul style="list-style-type: none"> Storage and transport of dangerous goods during the construction of the project. Historic agricultural activities have the potential to contaminate land within the project area. 	<ul style="list-style-type: none"> Consideration of DPIE's guideline Applying SEPP 33 (2011) has been undertaken and provided in Chapter 12. A contamination assessment has been prepared to determine if historic land uses have contaminated land within the project area. A copy of the contamination assessment is provided in Appendix R of this EIS.
<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>	<ul style="list-style-type: none"> Clearance of potential species habitat during the construction phase of the project, and flooding of potential species habitat during inundation of the dam following construction. 	<ul style="list-style-type: none"> A biodiversity assessment has been prepared to determine impacts to biodiversity values. This assessment is documented in a biodiversity development assessment report (BDAR). A copy of the BDAR is provided in Appendix H of this EIS.

Legislation	Relevance	Compliance/Consistency of project
<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	<ul style="list-style-type: none"> • The project involves development of a “water storage facility”, which is a type of water supply system. • Development on land within a travelling stock reserve. • Works impacting electricity distribution lines. 	<ul style="list-style-type: none"> • The SEPP permits development for the purpose of a water storage facility to be carried out by or on behalf of a public authority on land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone SP1 Special Activities, Zone SP2 Infrastructure or an equivalent land use zone, without development consent. The project is being carried out on land zoned RU1 Primary Production. Approval is nevertheless being sought from the Minister due to the declaration of the project as CSSI. • Small sections of the pipeline cross travelling stock reserves. The pipeline will be constructed below ground and will therefore not change the use of the travelling stock reserve in those sections. Separately, an easement will be obtained from Crown Lands for access during construction and operation. • Powerline relocation will occur in consultation and with approval from the electricity supply authority.
<i>Tamworth Regional Local Environmental Plan 2010</i>	<ul style="list-style-type: none"> • The project is being carried out land within the Tamworth Regional LGA. 	<ul style="list-style-type: none"> • The land in the project footprint is zoned RU1 Primary Production under the Tamworth Regional LEP. The land zoning under the LEP does not affect the permissibility of the project. However, project elements such as pipeline alignment have been selected to minimise land use conflict and ensure primary industry can continue with minimal impact. A land use assessment has been completed and a copy is provided in Appendix P of this EIS.