

APPENDICES

C

**OVEN MOUNTAIN PUMPED HYDRO
ENERGY STORAGE EIS**

Statutory compliance table



**OVEN MOUNTAIN
PUMPED HYDRO STORAGE**



C.1 Statutory compliance tables

A summary of the requirements of Sections 190 and 192 of the NSW Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) and where they are addressed in this environmental impact statement (EIS), is provided in Table C.1.

Table C.1 Sections 190 and 192 EP&A Regulation – form requirements of an EIS

Requirement	Where addressed in the EIS
Section 190 – Form of EIS	
(1) An environmental impact statement must contain the following information —	
(a) the name, address and professional qualifications of the person who prepared the statement,	Certification page at the front of this EIS.
(b) the name and address of the responsible person (the applicant),	Certification page at the front of this EIS.
(c) the address of the land: <ul style="list-style-type: none"> (i) to which the development application relates, or (ii) on which the activity or infrastructure to which the statement relates will be carried out, 	Certification page at the front of this EIS.
(d) a description of the development, activity or infrastructure,	Chapter 3
(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.	Certification page at the front of this EIS.
(2) The person preparing the statement must have regard to—	This EIS has been prepared having regard to the <i>State Significant Infrastructure Guidelines – preparing an Environmental Impact Statement (Appendix B, DPE November 2021)</i> .
(a) for State significant development—the State Significant Development Guidelines, or (b) for State significant infrastructure—the State Significant Infrastructure Guidelines.	
(3) An environmental impact statement must also contain a declaration by a relevant person that—	Certification page at the front of this EIS.
(a) the statement has been prepared in accordance with this Regulation, 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, and	
(d) for State significant development or State significant infrastructure—the statement contains the information required under the Registered Environmental Assessment Practitioner Guidelines.	
Section 192 - Content of EIS	
(1) An environmental impact statement must contain the following—	
(a) a summary of the EIS,	Executive summary
(b) a statement of the objectives of the development, activity or infrastructure,	Chapter 1

Table C.1 Sections 190 and 192 EP&A Regulation – form requirements of an EIS

Requirement	Where addressed in the EIS
(c) an analysis of feasible alternatives to the carrying out the development, activity or infrastructure, considering its objectives, including the consequences of not carrying out the development, activity or infrastructure,	Chapter 2
(d) an analysis of the development, activity or infrastructure, including:	
(i) a full description of the development, activity or infrastructure, and	Chapter 3
(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	Chapter 6 Appendix H to Appendix AA
(iii) the likely impact on the environment of the development, activity or infrastructure, and	Chapter 6 Appendix H to Appendix AA
(iv) a full description of the measures to mitigate adverse effects of the development, activity or infrastructure on the environment, and	Chapter 6
(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,	Chapter 4
(e) a compilation, in a single section of the EIS, of the measures referred to in paragraph (d)(iv),	Appendix E
(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.	Chapter 7

Table C.2 List of statutory considerations

Legislation	Relevance to the Project	Consistency/Project compliance
NSW <i>Biosecurity Act 2015</i>	The weed <i>Solanum viarum</i> (Tropical Soda Apple) is located within the Project area.	<ul style="list-style-type: none"> Tropical Soda Apple is subject to a Control Order made under Section 62 of the NSW <i>Biosecurity Act 2015</i>. The Control Order applies to the whole of NSW and as occupier of the land during construction and operation, OMPS will be obliged to comply with the control measures.
NSW <i>Crown Land Management Act 2016</i>	Part of the Project crosses Crown land and a travelling stock route (TSR) along sections of the generation site, Eastern Access Road (EAR) and northern powerline.	<ul style="list-style-type: none"> An easement(s) or other appropriate land interest in favour of OMPS will need to be agreed with the NSW Minister for Lands and Water under the NSW <i>Crown Land Management Act 2016</i> for OMPS to have rights to use these areas during construction and operation of the Project.
NSW <i>Dams Safety Act 2015</i> and NSW Dams Safety Regulation 2019	Two dams will be constructed and operated as part of the Project.	<ul style="list-style-type: none"> The two dams to be constructed and operated as part of the Project, will likely be 'declared' dams under the NSW <i>Dams Safety Act 2015</i> because the dam walls meet the prescribed criteria in the Act and the NSW Dams Safety Regulation 2019. Once declared, OMPS will need to comply with the Act and Regulations with respect to ongoing safety management, in particular by implementing a dam safety management system, and preparing an operations and maintenance plan, and an emergency plan, for the dams.
NSW <i>Electricity Supply Act 1995</i>	The Project will both consume electricity from the electricity network and generate electricity that will be supplied into the network.	<ul style="list-style-type: none"> During construction and operations, the Project will be regulated under the NSW <i>Electricity Supply Act 1995</i>.
EP&A Regulation	The Project is critical State significant infrastructure (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 requirements of Sections 190 and 192 of the EP&A Regulation is provided in Table C.1. An assessment of the Project with regards to the principles of ecologically sustainable development (ESD) is provided in Chapter 7. As the proponent, OMPS will, in accordance with Section 181(6) of the EP&A Regulation, give notice of the Project to landowners or advertise in the local newspaper.

Table C.2 List of statutory considerations

Legislation	Relevance to the Project	Consistency/Project compliance
Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>	<p>The Project is a controlled action under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i> for significant impacts to World Heritage properties, National Heritage places and listed threatened species and communities.</p> <p>The Commonwealth Minister for the Environment and Water has accredited the NSW approval process and assessment requirements under the Act have been included in the Secretary’s environmental assessment requirements (SEARs) issued for the Project.</p>	<ul style="list-style-type: none"> • The EIS has addressed the assessment requirements under the 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 Act. A copy of the BDAR is provided in Appendix H of this EIS.
NSW <i>Fisheries Management Act 1994</i>	The Project includes construction of dams and reservoirs, and alteration of ephemeral watercourses	<ul style="list-style-type: none"> • An assessment of aquatic impacts including consideration of the NSW <i>Fisheries Management Act 1994</i> has been undertaken for the Project and is included as Appendix J to this EIS. • A permit under Section 219 of the Act is not required because of Section 5.23(1)(b) of the NSW <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act).
NSW <i>Heavy Vehicle (Adoption of National Law) Act 2013</i>	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 R to this EIS.
NSW <i>Heritage Act 1977</i>	A heritage item of State heritage significance (Kunderang East Pastoral Station) has been identified in the vicinity of the Project	<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 L to the EIS. • Approval under Part 4 or, an excavation permit under Section 139 of the NSW <i>Heritage Act 1977</i> is not required because of Section 5.23(1)(c) of the EP&A Act).
NSW <i>National Parks and Wildlife Act 1974</i>	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 report is included as Appendix K to the EIS. • A permit under Section 90 of the NSW <i>National Parks and Wildlife Act 1974</i> is not required because of Section 5.23(1)(d) of the EP&A Act.
Commonwealth <i>Native Title Act 1993</i>	EMM has been advised that at the time of application there are no native title claims relating to land in the Project area.	<ul style="list-style-type: none"> • No further assessment in this EIS.

Table C.2 List of statutory considerations

Legislation	Relevance to the Project	Consistency/Project compliance
NSW <i>Protection of the Environment Operations Act 1997</i>	The Project involves the scheduled activity of electricity generation. A number of ancillary activities may also be regulated under an environmental protection licence (EPL), including chemical storage, concrete batching, process water treatment, extractive activities and sewage treatment.	<ul style="list-style-type: none"> • OMPS, or the construction contractor, would obtain an EPL for scheduled activities during construction. • OMPS would obtain the EPL for scheduled activities during operation. • It is possible that ‘discharges to water’ will be added to a list of activities that will be regulated by the EPL. • Water discharges have been assessed in the Surface Water Assessment for the Project and provided in Appendix M of this EIS.
NSW <i>Roads Act 1993</i>	<p>The Project involves works within public road reserves, therefore prior to those works being carried out, consent will be obtained from Kempsey Shire Council, with the concurrence of Transport for NSW (TfNSW).</p> <p>TfNSW has advised that OMPS will be required to enter into a Works Authorisation Deed for any works deemed necessary to classified (State) roads as a result of the Project. If required, this can be included as a condition of approval.</p>	<ul style="list-style-type: none"> • Consideration of road impacts has been undertaken and provided in a traffic impact assessment in Appendix R of this EIS.
NSW <i>Rural Fires Act 1997</i>	The Project occurs within bushfire prone land	<ul style="list-style-type: none"> • Consideration of bushfire risk and management has been undertaken and provided in Section 6.12 and Appendix X of this EIS.
NSW <i>Waste Avoidance and Resource Recovery Act 2001</i>	The Project will reuse and/or dispose of waste on site and dispose of waste offsite.	<ul style="list-style-type: none"> • Consideration of the waste hierarchy has been undertaken and provided in Section 6.15 of this EIS.
NSW <i>Water Management Act 2000</i>	<p>Two water sharing plans (WSPs) are applicable to the Project, being the:</p> <ul style="list-style-type: none"> • <i>Water Sharing Plan for the Macleay Unregulated and Alluvial Water Sources 2016</i> (Macleay WSP) for management of surface water sources in the Project area. • <i>Water Sharing Plan for the North Coast Fractured and Porous Rock Groundwater Sources 2016</i> (Groundwater WSP) Invalid source specified. for management of groundwater sources in the Project area. <p>The Project area lies within the New England Fold Belt Coast (NEFBC) Groundwater Source.</p>	<ul style="list-style-type: none"> • The Project requires consideration against the NSW <i>Water Management Act 2000</i> because of the requirement to source water for construction, initial storage fill, and operations through water access licenses (WALs). • The WSPs define the overall limits to water take, environmental water rules, trading rules and mandatory licence conditions that will apply to WALs obtained for the Project. The Macleay WSP is considered in Section 6.6 and Appendix M (Surface Water Assessment) while the Groundwater WSP is considered in Section 6.6 and Appendix N (Groundwater Impact Assessment). • 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 Act is not required because of Section 5.23(1)(g) of the EP&A Act.

Table C.2 List of statutory considerations

Legislation	Relevance to the Project	Consistency/Project compliance
NSW Water Management (General) Regulation 2018	Part 2, Division 1 (10) of the NSW Water Management (General) Regulation 2018 includes 'unregulated river pumped hydro-electricity generation (construction and initial storage fill) access licence' as a Special Purpose Access Licence (SPAL) category. This SPAL category is applicable to the Project construction and initial storage fill.	<ul style="list-style-type: none"> • OMPS will apply for a SPAL for construction and initial storage fill. Once the SPAL is granted, the licence will need to be linked to works that are approved under the planning approval. OMPS will then obtain miscellaneous works approvals for water related infrastructure (i.e. pumps and bores). • See Appendix M for further information.
NSW <i>Work Health and Safety Act 2011</i> and Work Health and Safety Regulation 2017	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"> • 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 NSW <i>Work Health and Safety Act 2011</i> and NSW Work Health and Safety Regulation 2017.
<i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>	Storage and transport of dangerous goods during the construction of the Project.	<ul style="list-style-type: none"> • An assessment of dangerous goods and other hazardous items will form part of the management plans for the Project.
<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>	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 BDAR. A copy of the BDAR is provided in Appendix H of this EIS.
<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	The Project involves development of a type of "electricity generating works". Sections of the Project will be developed within a TSR.	<ul style="list-style-type: none"> • The <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> permits development for the purpose of electricity generating works on land zoned RU1 Primary Production under the <i>Armidale Dumaresq Local Environmental Plan 2012</i> (LEP), with development consent. The Project is being carried out on land zoned RU1 Primary Production. Approval is nevertheless being sought from the Minister for Planning under Part 5, Division 5.2 of the EP&A Act due to the declaration of the Project as critical State significant infrastructure (CSSI). • Sections of the Project cross Crown lands including a TSR. An easement or licence will be obtained from Crown Lands for access during construction and operation.
Armidale Dumaresq LEP	The Project is being carried out land within the Armidale Dumaresq local government area (LGA).	<ul style="list-style-type: none"> • The land in the Project footprint is zoned RU1 Primary Production under the Armidale Dumaresq LEP. The land zoning under the LEP does not affect the permissibility of the Project. However, Project elements 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 AA of this EIS.