

Appendix B

Statutory compliance table

Table B.1 Statutory compliance table

Legislation	Purpose/description	Approval required/not required	Requirement (approval/ licence/ consent)	Where addressed/considered in EIS	
				Section	Appendix
State legislation					
<i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) (NSW)	<p>The EP&A Act is the principal legislation regulating development in NSW. It establishes a regime for the making of development applications, assessment of their environmental impacts, and the determination of those applications. It also allows for the making of environmental planning instruments such as SEPPs and LEPs.</p> <p>Part 5, Division 5.2 of the EP&A Act provides for declaration, assessment, and approval of State Significant Infrastructure (SSI) and Critical State Significant Infrastructure (CSSI).</p> <p>The project has been declared Critical State Significant Infrastructure (CSSI) in accordance with Section 5.13 of the EP&A Act and Schedule 1 of the State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP). The Minister for Planning is the consent authority, and the project is to be assessed in accordance with the provisions of Division 5.2 of the EP&A Act.</p>	Required	Approval	This EIS.	This EIS.
<i>Mine Subsidence Compensation Act 1961</i> (repealed by the <i>Coal Mine Subsidence Compensation Act 2017</i>) (CMSC Act)	<p>The object of the CMSC Act is to provide for a fair, efficient, and sustainable compensation framework for dealing with the impacts of coal mine subsidence. In particular, it provides for the provision of compensation for damage caused by subsidence resulting from coal mine operations, and assessment and management of risks associated with subsidence resulting from coal mine operations. Certain development within mine subsidence districts require approval.</p> <p>The project site is located within a mine subsidence district, the Swansea North Entrance Mine Subsidence District, regulated by the Subsidence Advisory of NSW (SANSW). The project would, therefore, require approval under Section 22 of the CMSC Act.</p>	Required – cannot be refused if necessary for carrying out approved CSSI	Consent	Section 6.4	-

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<i>Biodiversity Conservation Act 2016</i> (BC Act) (NSW)	<p>The BC Act aims to maintain a healthy, productive, and resilient environment consistent with the principals of ecologically sustainable development. Importantly, it aims to conserve biodiversity in NSW.</p> <p>Part 4 of the BC Act provides for the listing of threatened species and threatened ecological communities. Part 6 of the BC Act provides for a biodiversity offsets scheme for biodiversity values. Part 7 of the BC Act provides for biodiversity assessment and approvals under the EP&A Act and includes a test to determine whether a proposed development will significantly affect threatened species or ecological communities.</p> <p>Section 7.9 of the BC Act states an application for SSI, including CSSI, under the EP&A Act is to be accompanied by a Biodiversity Development Assessment report (BDAR). Section 7.14 of the BC Act states the Minister, in making a determination, must take into account the likely impact of the development on biodiversity values assessed in the BDAR, and may require biodiversity offsets through the Biodiversity Offsets Scheme.</p>	Required	Approval	Section 6.2	Appendix D
<i>Biosecurity Act 2015</i> (NSW)	<p>The <i>Biosecurity Act 2015</i> provides the statutory framework to protect the NSW economy, environment, and community from the negative impact of pests, diseases, and weeds.</p> <p>The primary object of the Act is to provide a framework for the prevention, elimination and minimisation of biosecurity risks posed by biosecurity matter, dealing with biosecurity matter, carriers and potential carriers, and other activities that involve biosecurity matter.</p> <p>In NSW, all plants are regulated through a general biosecurity duty to prevent, eliminate, or minimise any biosecurity risk they may pose. Any person who deals with any plant, who knows (or ought to know) of any biosecurity risk, has a duty to ensure the risk is prevented, eliminated, or minimised, so far as is reasonably practicable. Any biosecurity matters encountered during the carrying out of the project would need to be managed in accordance with this duty.</p>	-	-	Section 6.2	Appendix D
<i>Contaminated Land Management Act 1997</i> (CLM Act) (NSW)	<p>The CLM Act establishes a process for investigating and (where appropriate) remediating land that the NSW EPA considers to be contaminated significantly enough to require regulation under Division 2 of Part 3 of the Act. A search of the NSW EPA contaminated land database (undertaken on 8 August 2022) confirmed that the project site is not listed as a contaminated site under the CLM Act.</p>	-	-	Section 6.4	Appendix E

Legislation	Purpose/description	Approval required/not required	Requirement (approval/licence/consent)	Where addressed/considered in EIS	
				Section	Appendix
<i>Water Management Act 2000</i> (WM Act) (NSW)	<p>The WM Act provides for the sustainable and integrated use and management of water resources in NSW. The WM Act controls the extraction of water, its use, and the carrying out of activities on or near water sources.</p> <p>Part 3 of the WM Act outlines the approval requirements for water use (Section 89), management works approvals (Section 90), and activity approvals other than aquifer interference (Section 91). These approvals include two activity types, controlled activity approvals and aquifer interference approvals. A controlled activity approval allows the holder to carry out a specific controlled activity on waterfront land, defined as land within 40 metres of a river, lake, estuary, or shoreline. The project would not involve a water use approval or involve any water management works under the WM Act. No works are being carried out on waterfront land and, as such, a controlled activity approval is not required.</p>	Not required for approved CSSI.	-	Section 6.8	Appendix H
<i>National Parks and Wildlife Act 1974</i> (NPW Act) (NSW)	The NPW Act provides for the protection of Aboriginal objects and places in NSW. Section 86 of the Act states it is an offence to harm an Aboriginal object, defined as destroying, defacing, damaging or moving an object from the land. Section 87 states a defence to the harm or destruction of an Aboriginal object is the authorisation of an Aboriginal Heritage Impact Permit (AHIP) issued under Section 90 of NPW Act.	Not required for approved CSSI.	-	Section 6.2	Appendix D
<i>Heritage Act 1977</i> (Heritage Act) (NSW)	The Heritage Act is concerned with all aspects of the conservation of heritage places and items, with items of state significance listed on the State Heritage Register. Part 4 of the Heritage Act states that approval must be obtained for works that have the potential to interfere with an item on the State Heritage Register or that is subject to an Interim Heritage Order.	Not required for approved CSSI.	-	Section 6.3	Appendix J
<i>Fisheries Management Act 1994</i> (FM Act) (NSW)	The objectives of the FM Act are to conserve, develop and share the fisheries resources of NSW for the benefit of present and future generations. Part 7 of the FM Act outlines a number of permits required for works within fisheries areas, including dredging or reclamation works (Section 201), marine vegetation in protected areas (Section 205) and fish passages (Section 219).	Not required for approved CSSI.	-	Section 6.2	Appendix D

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				Section	Appendix
<i>Rural Fires Act 1997</i> (RF Act) (NSW)	The objectives of the RF Act are to provide for the prevention, mitigation, and suppression of bush and other fires; for the co-ordination of bush firefighting and bush fire prevention; for the protection of persons from injury or death, and property from damage, arising from fires; and for the protection of infrastructure and environmental, economic, cultural, agricultural, and community assets from damage arising from fires. A bush fire safety authority must be obtained before developing in bush fire prone land under Section 100B of the RF Act.	Not required for approved CSSI.	-	Section 6.10	-
Federal legislation					
<i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) (Cth)	<p>The EPBC Act is the Australian Government's central piece of environmental legislation. It provides a legal framework to protect and manage nationally and internationally important flora and fauna, ecological communities, and heritage places defined as Matters of National Environmental Significance (MNES). Approval from the Australian Government Minister for the Environment is required for:</p> <ul style="list-style-type: none"> – An action which has, would have, or is likely to have a significant impact on MNES. – An action likely to have a significant impact on the environment in general (for actions by Commonwealth agencies or actions on Commonwealth land) or the environment on Commonwealth land (for actions outside Commonwealth land). 	Not required – no significant impact on MNES.	-	Section 6.2	Appendix D
<i>Native Title Act 1993</i> (Native Title Act) (Cth)	The Native Title Act provides for the recognition and protection of native title across Australia.	Not required – there are no registered native title claims within the vicinity of the project site.	-	Not applicable	Not applicable

Table B-2 *Statutory compliance table – environmental planning instruments*

Environmental planning instrument	Purpose/description	Applicability	Where considered in EIS	
			Section	Appendix
State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)	The Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across the state by establishing a planning regime for infrastructure. It establishes development controls and permissibility for a range of infrastructure types and provides a consistent planning regime that applies to land at the project site.	Not formally applicable to or in respect of CSSI, but considered as part of the environmental assessment.	Section 6.7	-
State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)	The Resilience and Hazards SEPP aims to promote an integrated and co-ordinated approach to planning within coastal management areas, defines hazardous and offensive industries and provides that the development assessment process for such industries, and provides a state-wide approach to the remediation of land to reduce the risk of harm to humans and the environment.	Not formally applicable to or in respect of CSSI, but considered as part of the environmental assessment.	Section 6.4 and Section 6.9	Appendix F and Appendix F
Central Coast Local Environmental Plan 2022 (Central Coast LEP)	The Central Coast LEP sets out the environmental planning provisions administered by the Central Coast Council within the Central Coast Local Government Area.	Not formally applicable to or in respect of CSSI, but considered as part of the environmental assessment.	Section 2.3.1.2	-