
Appendix C

Statutory compliance

Requirements of the Environmental Planning and Assessment Regulation 2021

Table C.1 provides the form and content requirements for the EIS in accordance with Division 5 of Part 8 of the Environmental Planning and Assessment Regulation 2021 (as required by the SEARs – see Table A.1 in Appendix A (SEARs compliance table)).

Table C.1 Form and content requirements of the EIS

Requirement	Reference
190. Form of environmental impact statement	
An environmental impact statement must contain the following information –	
(a) the name, address and professional qualifications of the person who prepared the statement,	EIS Declaration page
(b) the name and address of the responsible person,	EIS Declaration page
(c) the address of the land – (i) to which the development application relates, or (ii) on which the activity or infrastructure to which the statement relates will be carried out,	EIS Declaration page
(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.	Part C - Chapters 6 to 23
The person preparing the statement must have regard to –	The assessment was prepared in accordance with the State significant infrastructure guidelines – preparing an environmental impact statement (DPIE, 2021a) (Appendix B to the State Significant Infrastructure Guidelines (DPIE, 2020))
... (b) for State significant infrastructure – the State Significant Infrastructure Guidelines.	
An environmental impact statement must also contain a declaration by a relevant person that –	EIS Declaration page
(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.	

Requirement	Reference
192. Content of environmental impact statement	
(1) An environmental impact statement must contain the following –	
(a) a summary of the environmental impact statement,	Executive summary
(b) a statement of the objectives of the development, activity or infrastructure,	Section 1.2
(c) an analysis of feasible alternatives to the carrying out of the development, activity or infrastructure, considering its objectives, including the consequences of not carrying out the development, activity or infrastructure,	Section 2.7
(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	Part C - Chapters 6 to 23
(iii) the likely impact on the environment of the development, activity or infrastructure, and	Part C - Chapters 6 to 23
(iv) a full description of the measures to mitigate adverse effects of the development, activity or infrastructure on the environment, and	Part C - Chapters 6 to 23
(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,	Section 4.2
(e) a compilation, in a single section of the environmental impact statement, of the measures referred to in paragraph (d)(iv),	Appendix F
(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.	Section 2.1

Statutory compliance table

Table C.2 provides a description of how the project and EIS complies with the relevant statutory requirements summarised in Chapter 4 (Statutory context).

Table C.2 Statutory compliance table

Statutory requirement	Detail	Where addressed in the EIS
Environmental Planning and Assessment Act 1979 and Regulation		
Environmental Planning and Assessment Act 1979 (EP&A Act) Section 1.3 Objects of Act	The objects of the EP&A Act are guiding principles that need to be considered by planning authorities when making decisions under the Act.	Table C.3
EP&A Act Division 5.2	Section 5.14(1) provides that the approval of the Minister for Planning and Public Spaces is required to carry out State significant infrastructure. Section 5.17(1) provides that the proponent must submit an EIS for approval to carry out the State significant infrastructure.	Chapter 4 This EIS has been prepared in accordance with the requirements of Division 5.2.
EP&A Regulation Part 8 (Infrastructure and environmental impact assessment)	The SEARs (General SEARs, item 1) require the EIS to be prepared in accordance with Part 8 of the EP&A Regulation (see Appendix A (SEARs compliance table)). Part 8 provides requirements in terms of the form and contents of the EIS.	Table C.1 documents where the requirements of Part 8 have been addressed in the EIS. The EIS is also consistent with the form and content requirements of the current EP&A Regulation as defined by sections 190 and 192 of Division 5 of Part 8.
Biodiversity Conservation Act 2016	Sections 7.9(1) and 7.9(2) provide that an application for approval of State significant infrastructure must be accompanied by a biodiversity development assessment report unless the proposed development is not likely to have any significant impact on biodiversity values. Clause 7.14(2) provides that, when determining an application in accordance with the EP&A Act, the Minister for Planning and Public Spaces must take into account the likely impact of a proposed development on biodiversity values as assessed in the biodiversity development assessment report.	A biodiversity development assessment report has been prepared (see Appendix L). Potential biodiversity impacts are considered in Chapter 11.
Other relevant Acts		
Roads Act 1993	Consent under Section 138 for works on or over a road at Concargo Road and the Cobb Highway	Section 4.2.1 (Table 4-1)
Crown Land Management Act 2016	Ongoing Licence to Occupy land in accordance with Section 5.21 for works on Crown Land	Section 4.2.1 (Table 4-1)

Statutory requirement	Detail	Where addressed in the EIS
Fisheries Management Act 1994	Notification of dredging and/or reclamation works in Billabong Creek to the Minister for Agriculture in accordance with Section 199.	Section 4.2.1 (Table 4-1)
	Notification of works to upgrade weirs to the Minister for Agriculture in accordance with section 218(5)	Section 4.2.1 (Table 4-1)

Statutory and Strategic Context table

Table C.3 addresses the statutory provisions applying to the development as required by the SEARs

Table C.3 Statutory compliance table

Statutory requirement	Detail	Where addressed in the EIS
Statutory provisions applying to the development		
State Environmental Planning Policy (Planning Systems) 2021	The proposal is declared State significant infrastructure by operation of State Environmental Planning Policy (Planning Systems) 2021.	Section 4.1
State Environmental Planning Policy (Transport and Infrastructure) 2021	The proposal is permissible without consent as a result of the operation of the Transport and Infrastructure SEPP. Section 2.159(2A) of the Transport and Infrastructure SEPP.	Section 4.1
State Environmental Planning Policy (Primary Production) 2021	The aims of this policy which relate to this proposal are: (a) to facilitate the orderly economic use and development of lands for primary production, (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources, (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations.	Chapter 2 Chapter 14 (Land use, property and agriculture) Appendix O (Land use assessment)
State Environmental Planning Policy (Biodiversity and Conservation) 2021	The aims of this policy which relate to this proposal are: Chapter 3 Koala habitat protection 2020 Chapter 4 Koala habitat protection 2021 Chapter 5 River Murray Lands	Impacts on Koalas has been assessed in accordance with the BAM refer to: Appendix L (Biodiversity development assessment report) River Murray lands have been discussed throughout the EIS
State Environmental Planning Policy (Resilience and Hazards) 2021	This policy relates to coastal management, hazardous and offensive development, remediation of land. This policy is not relevant to the proposal and has not been discussed further.	Not applicable.

Statutory requirement	Detail	Where addressed in the EIS
Conargo Local Environmental Plan (LEP) 2013.	<p>The following aspects of the LEP are relevant to the proposal:</p> <p>Land zoning</p> <p>Heritage items, heritage conservation areas and archaeological sites</p>	<p>Chapter 12 (Aboriginal heritage)</p> <p>Appendix M (Aboriginal cultural heritage assessment report)</p> <p>Chapter 13 (Non-Aboriginal heritage)</p> <p>Appendix N (Non-Aboriginal heritage assessment report)</p> <p>Chapter 14 (Land use, property and agriculture)</p> <p>Appendix O (Land use assessment)</p> <p>Chapter 19 (Social)</p> <p>Appendix R (Social impact assessment)</p>
Relevant planning provisions, goals and strategic planning objectives		
NSW Premier's Priorities	<p>The priority with most relevance to this proposal comprises developing 'well connected communities with quality local environments'.</p>	<p>Section 2.4, Table 2.4</p>
Flood Risk Management Manual (DPE 2023)	<p>This manual provides for the development and implementation of sustainable strategies for managing human occupation and use of the floodplain.</p>	<p>Chapter 7 (Flooding)</p> <p>Appendix H (Flooding assessment report)</p>
State Infrastructure Strategy 2018 – 2038: Building the Momentum (2018)	<p>The strategy outlines a number of objectives which include to 'support the growth, productivity and liveability of metropolitan and regional communities by ensuring that water security, quality and wastewater services protect public health and the environment'.</p>	<p>Section 2.4, Table 2.4</p>
NSW Aquifer Interference Policy (2012)	<p>The policy outlines how a project should respond in the event that it would lead to more than minimal harm through penetration, interference or obstruction of the flow of water in an aquifer.</p>	<p>Section 2.4, Table 2.4</p>
Guidelines for Controlled Activities on Waterfront Land (2018)	<p>The guidelines outline the measure to avoid and protect water front land.</p>	<p>Section 2.4, Table 2.4</p>
NSW Weirs Policy (1997)	<p>The goal of the NSW Weirs Policy is to halt and, where possible, reduce and remediate the environmental impact of weirs.</p>	<p>Section 2.4, Table 2.4</p>
Policy and Guidelines for Fish Habitat Conservation and Management (update 2013)	<p>This policy is aimed at maintaining and enhancing fish habitat for the benefit of native fish species, including threatened species.</p>	<p>Section 2.4, Table 2.4</p>
Riverina Murray Regional Plan 2036 (2017)	<p>The proposal would support the delivery of a number of options and commitments outlined in the strategy (dated 2022 which has superseded the 2017 plan).</p>	<p>Section 2.4, Table 2.4</p>

Statutory requirement	Detail	Where addressed in the EIS
Reconnecting River Country Program	The Reconnecting River Country Program aims to achieve a balance of economic, social, cultural and environmental outcomes across southern NSW by improving wetland and floodplain connectivity.	Section 2.4, Table 2.4
Draft Murrumbidgee Regional Water Strategy (2022)	This strategy guides how the NSW Government address water-related challenges to support the Murrumbidgee region	Section 2.4, Table 2.4
Draft Murray Regional Water Strategy (2022)	The proposal would support the delivery of a number of options and commitments outlined in the strategy.	Section 2.4, Table 2.4
The Murray-Darling Basin Plan.	The aim of the Basin Plan is to bring the Basin back to a healthier and sustainable level. The Basin Plan sets sustainable diversion limits for each catchment or group of catchments.	Section 1.3.1, Section 2.4, Table 2.4

Objects of the Environmental Planning and Assessment Act 1979

Table C.4 provides a review of the relevance of the project to the objects of the EP&A Act.

Table C.4 Meeting the objects of the Environmental Planning and Assessment Act 1979

EP&A Act objects	Comment
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	The proposal would improve the environmental management measures available to the local environment and contribute to the conservation of fish species in the creek and water flow to the environment and irrigators. The regulators are proposed to be built within the creek stream instead of adjacent dry land, involving less land clearing and decreasing the risk of impacting Aboriginal heritage items.
To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	Aspects of sustainability and climate change have been considered in regard to the proposal (refer to Chapter 22).
To promote the orderly and economic use and development of land	The project will provide upgrades to existing outdated weirs to improve the efficiency and increase the functionality of the water flow system in the proposal areas. The project will also contribute to implementing the goal of the State Weirs Policy 1997 (<i>to halt and, where possible, reduce and remediate the environmental impact of weirs</i>) through the revitalisation and upgrade of existing water infrastructure, hence enabling the promotion of orderly use and development of land.
To promote the delivery and maintenance of affordable housing	Not relevant to the project.

EP&A Act objects	Comment
<p>To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats</p>	<p>The impact of the proposal to flooding, groundwater, aquatic flora and fauna, terrestrial flora and fauna, Aboriginal and non-Aboriginal heritage and sustainability and climate change has been assessed through technical reports in Chapters 6 to 23. Each technical chapter also proposes mitigation measures, contributing to protecting the environment, biodiversity and habitats in the proposal areas.</p>
<p>To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)</p>	<p>Design development has included a focus on avoiding or minimising potential Aboriginal and non-Aboriginal heritage impacts. Heritage values have been, and would continue to be, considered as part of design development. Comprehensive assessments of potential heritage impacts have been undertaken and are provided in Appendices M (Aboriginal heritage) and N (Non-Aboriginal heritage).</p> <p>The proposal would result in the following impacts:</p> <p>Five Aboriginal heritage sites have been identified as being directly impacted through either minor impacts such as trimming of branches, or major impacts such as their removal and/or destruction</p> <p>Hartwood Weir (S170 4550110), is registered under Section 170 of the Heritage Act for NSW government state agencies. This weir would be demolished.</p> <p>Measures to avoid, mitigate and offset potential impacts on heritage have been developed (see Chapters 12 (Aboriginal heritage) and 13 (Non-Aboriginal heritage)).</p>
<p>To promote good design and amenity of the built environment</p>	<p>The new regulators would be built downstream of the existing weirs. This would mean that that the existing weirs would be able to continue to be used and operated during construction of the new regulators.</p> <p>The fishways have been designed to be applicable to the fish populations within the Yanco Creek system to support their movement along the creek system. The structure would comprise a low turbulence ‘keyhole’ type vertical slot fishway with allowances for variable headwater to provide upstream fish passage and include automated sidewinder gates to allow for variable headwater conditions.</p> <p>A flood bypass channel was added to the design for the Wanganella Regulator to ensure that the works do not result in an increase to upstream flooding of Wanganella village. This channel would start to flow in about a one in fifty year flood event.</p>
<p>To promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants</p>	<p>All structures would be designed and constructed in accordance with applicable Australian and international safety standards as well as any applicable Transport for NSW Safety in Design guidelines.</p>
<p>To promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State</p>	<p>Consultation has been carried out with the relevant local councils and government agencies throughout the development of the project and the preparation of this EIS. All levels of government have been encouraged to be actively involved in and to contribute to the evolution of the project through consultation to date and continuing consultation activities. Key groups engaged include:</p> <ul style="list-style-type: none"> • Government agencies and council • Community including First Nations groups and landowners • Yanco Creek and Tributaries Advisory Council members • Technical Advisory Group. <p>Further information is provided in Chapter 5 (Engagement).</p>

EP&A Act objects	Comment
To provide increased opportunity for community participation in environmental planning and assessment.	An engagement process related to the project has been ongoing since late-2018. Results of these engagement activities have fed into the design of the project. Further details of the consultation undertaken and feedback is provided in chapter 5.