

Appendix E EP&A and EPBC Regulation list



Appendix E – Compliance with EP&A Regulation and EPBC Act requirements

This appendix addresses how Sydney Water has complied with Schedule 2 of the NSW Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) and Schedule 4 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

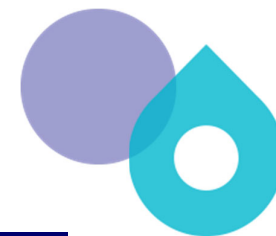
Table 1 addresses Schedule 2 of the EP&A Regulation. It only includes requirements relevant to the content of the EIS and those that are the responsibility of the proponent.

Table 2 addresses Schedule 4 of the EPBC Act.

Table 1 Project compliance with Schedule 2 of EP&A Regulation

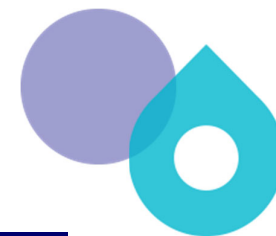
Clause	Requirement	Where addressed
3(1)	Before preparing an environmental impact statement, the responsible person must make a written application to the Planning Secretary for the environmental assessment requirements with respect to the proposed statement.	Sydney Water requested environmental assessment requirements through the NSW Planning Portal for Major Projects on 24 July 2020.
3(2)	The application is to be in a form approved by the Planning Secretary and must include particulars of the location, nature and scale of the development or activity.	Sydney Water requested environmental assessment requirements through the NSW Planning Portal for Major Projects on 24 July 2020 and provided the requested information.





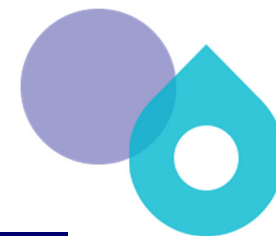
Clause	Requirement	Where addressed
3(7)	If the development application or application for approval to which the environmental impact statement relates is not made within 2 years after notice is last given under subclause (5), the responsible person must consult further with the Planning Secretary in relation to the preparation of the statement.	DPIE issued the latest environmental assessment requirements for the project on 28 January 2021 so the EIS has been submitted within two years.
3(8)	The responsible person must ensure that an environmental impact statement complies with any environmental assessment requirements that have been provided in writing to the person in accordance with this clause.	Appendix A summarises where in the EIS the environmental assessment requirements have been addressed.
6	An environmental impact statement must contain the following information -	
6 (a)	the name, address and professional qualifications of the person by whom the statement is prepared,	EIS certification (page 1)
6 (b)	the name and address of the responsible person	EIS certification (page 1)
6 (c)	the address of the land – (ii) on which the activity or infrastructure to which the statement relates is to be carried out	EIS certification (page 1) and Chapter 4
6 (d)	a description of the development, activity or infrastructure to which the statement relates	EIS certification (page 1) and Chapter 4





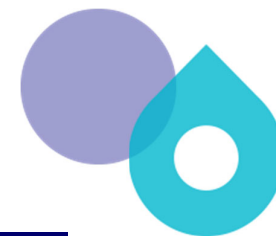
Clause	Requirement	Where addressed
6 (e)	an assessment by the person by whom the statement is prepared of the environmental impact of the development, activity or infrastructure to which the statement relates, dealing with the matters referred to in this Schedule	This EIS
6 (f)	a declaration by the person by whom the statement is prepared to the effect that – (i) the statement has been prepared in accordance with this Schedule, and (ii) the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure to which the statement relates, and (iii) that the information contained in the statement is neither false nor misleading.	EIS certification (page 1)
7(1)	An environmental impact statement must also include each of the following -	
7(1) (a)	a summary of the environmental impact statement	Executive Summary document
7(1) (b)	a statement of the objectives of the development, activity or infrastructure	Chapter 2
7(1) (c)	an analysis of any feasible alternatives to the carrying out of the development, activity or infrastructure, having regard to its objectives, including the consequences of not carrying out the development, activity or infrastructure	Chapter 3
7(1) (d)	an analysis of the development, activity or infrastructure, including -	
7(1) (d) (i)	a full description of the development, activity or infrastructure, and	Chapter 4





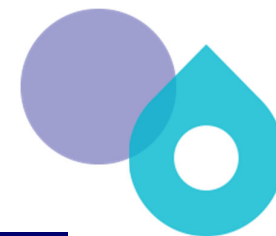
Clause	Requirement	Where addressed
7(1) (d) (ii)	a general description of the environment likely to be affected by the development, activity or infrastructure, together with a detailed description of those aspects of the environment that are likely to be significantly affected, and	Chapter 1, Chapters 8-13
7(1) (d) (iii)	the likely impact on the environment of the development, activity or infrastructure, and	Chapters 8-13
7(1) (d) (iv)	a full description of the measures proposed to mitigate any adverse effects of the development, activity or infrastructure on the environment, and	Chapters 8-13
7(1) (d) (v)	a list of any approvals that must be obtained under any other Act or law before the development, activity or infrastructure may lawfully be carried out,	Chapter 5
7(1) (e)	a compilation (in a single section of the environmental impact statement) of the measures referred to in item (d) (iv)	Chapter 15
7(1) (f)	<p>the reasons justifying the carrying out of the development, activity or infrastructure in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development set out in subclause (4).</p> <p>Note – A cost benefit analysis may be submitted or referred to in the reasons justifying the carrying out of the development, activity or infrastructure.</p>	Chapter 15
7(2)	Subclause (1) is subject to the environmental assessment requirements that relate to the environmental impact statement.	Appendix A summarises where in the EIS the environmental assessment requirements have been addressed.





Clause	Requirement	Where addressed
7(4)	<p>The principles of ecologically sustainable development are as follows –</p> <p>(a) the precautionary principle, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by –</p> <p>(i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and</p> <p>(ii) an assessment of the risk-weighted consequences of various options,</p> <p>(b) inter-generational equity, namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,</p> <p>(c) conservation of biological diversity and ecological integrity, namely that conservation of biological diversity and ecological integrity should be a fundamental consideration,</p> <p>(d) improved valuation, pricing and incentive mechanisms, namely that environmental factors should be included in the valuation of assets and services, such as –</p> <p>(i) polluter pays, that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement.</p> <p>(ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,</p>	Section 12.1 (sustainability) and Chapter 15





Clause	Requirement	Where addressed
	(iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.	
13	The responsible person must ensure that an environmental impact statement complies with the environmental assessment requirements that have been notified to the proponent by the Planning Secretary under section 5.16 of the Act.	Appendix A summarises where in the EIS the environmental assessment requirements have been addressed.
14	If an environmental impact statement is not submitted to the Planning Secretary under section 5.17 of the Act within 2 years after notice is last given under section 5.16(4) of the Act, the responsible person must consult further with the Planning Secretary in relation to the preparation of the statement.	DPIE issued the latest environmental assessment requirements for the project on 28 January 2021 so the EIS has been submitted within two years.

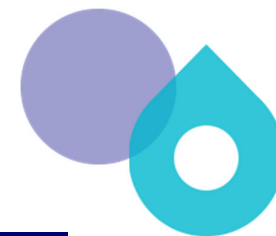




Table 2 Project compliance with Schedule 4 of EPBC Act

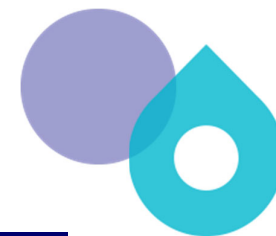
Clause	Requirement	Where addressed
1.01	The background of the action including: (a) the title of the action;	EIS certification, page 1
1.01	(b) the full name and postal address of the designated proponent;	EIS certification, page 1
1.01	(c) a clear outline of the objective of the action;	Section 2.4
1.01	(d) the location of the action;	EIS certification, page 1 Chapter 4
1.01	(e) the background to the development of the action;	Chapter 2, Chapter 3
1.01	(f) how the action relates to any other actions (of which the proponent should reasonably be aware) that have been, or are being, taken or that have been approved in the region affected by the action;	Cumulative impact assessment sections of Chapters 8-13.
1.01	(g) the current status of the action;	The action has not commenced. Sydney Water is seeking approval for the action as outlined in this EIS.
1.01	(h) the consequences of not proceeding with the action.	Section 3.2.1
2.01	A description of the action, including:	





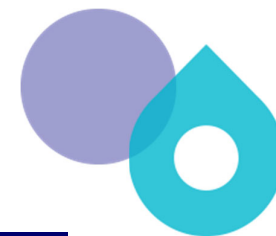
Clause	Requirement	Where addressed
2.01	(a) all the components of the action	Chapter 4
2.01	(b) the precise location of any works to be undertaken, structures to be built or elements of the action that may have relevant impacts;	Chapter 4
2.01	(c) how the works are to be undertaken and design parameters for those aspects of the structures or elements of the action that may have relevant impacts;	Chapter 4
2.01	(d) relevant impacts of the action;	Chapters 8-13. Impacts on matters of national environmental significance in Chapter 8, section 9.1 and section 10.3.
2.01	(e) proposed safeguards and mitigation measures to deal with relevant impacts of the action;	Chapters 8-13 and consolidated in Chapter 15.
2.01	(f) any other requirements for approval or conditions that apply, or that the proponent reasonably believes are likely to apply, to the proposed action;	Chapter 5
2.01	(g) to the extent reasonably practicable, any feasible alternatives to the action, including: (i) if relevant, the alternative of taking no action; (ii) a comparative description of the impacts of each alternative on the matters protected by the controlling provisions for the action; (iii) sufficient detail to make clear why any alternative is preferred to another;	No feasible alternatives to the action. Chapter 3 outlines options considered, including the alternative of taking no action and why options are preferred. Section 9.1 outlines how design refinements have minimised impacts on terrestrial biodiversity.





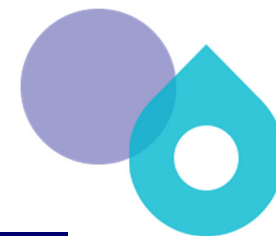
Clause	Requirement	Where addressed
2.01	(h) any consultation about the action, including: (i) any consultation that has already taken place; (ii) proposed consultation about relevant impacts of the action; (iii) if there has been consultation about the proposed action – any documented response to, or result of, the consultation	Chapter 6
2.01	(i) identification of affected parties, including a statement mentioning any communities that may be affected and describing their views.	Chapter 6
3.01	Information given under paragraph 2.01(d) must include:	
3.01	(a) a description of the relevant impacts of the action;	Chapters 8-13. Impacts on matters of national environmental significance in Chapter 8, section 9.1 and section 10.3.
3.01	(b) a detailed assessment of the nature and extent of the likely short term and long term relevant impacts;	Chapters 8-13. Impacts on matters of national environmental significance in Chapter 8, section 9.1 and section 10.3.
3.01	(c) a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible	Chapters 8-13. Impacts on matters of national environmental significance in Chapter 8, section 9.1 and section 10.3.





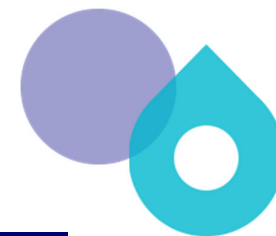
Clause	Requirement	Where addressed
3.01	(d) analysis of the significance of the relevant impacts;	Chapters 8-13. Impacts on matters of national environmental significance in Chapter 8, section 9.1 and section 10.3.
3.01	(e) any technical data and other information used or needed to make a detailed assessment of the relevant impacts.	Chapters 8-13. Impacts on matters of national environmental significance in Chapter 8, section 9.1 and section 10.3.
4.01	Information given under paragraph 2.01(e) must include:	
4.01	(a) a description, and an assessment of the expected or predicted effectiveness of, the mitigation measures;	Chapters 8-13. Impacts on matters of national environmental significance in Chapter 8, section 9.1 and section 10.3. Chapter 7 provides information about predicted effectiveness of mitigation measures.





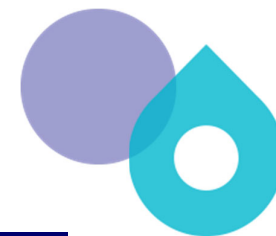
Clause	Requirement	Where addressed
4.01	(b) any statutory or policy basis for the mitigation measures;	Chapters 8-13. Impacts on matters of national environmental significance in Chapter 8, section 9.1 and section 10.3. Chapter 7 provides information about statutory and policy context for mitigation measures.
4.01	(c) the cost of the mitigation measures;	The cost of mitigation measures is not known at this stage and is therefore not included.
4.01	(d) an outline of an environmental management plan that sets out the framework for continuing management, mitigation and monitoring program for the relevant impacts of the action, including any provisions for independent environmental auditing;	Chapter 14 describes the overall environmental management approach for the project, including the framework to be followed in developing a management plan.
4.01	(e) the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program;	Chapter 14 describes the overall environmental management approach for the project.
4.01	(f) a consolidated list of mitigation measures proposed to be undertaken to prevent, minimise or compensate for the relevant impacts of the action, including mitigation measures proposed to be taken by State government, local governments or the proponent.	Chapter 15





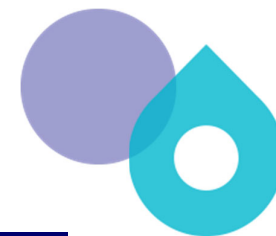
Clause	Requirement	Where addressed
5.01	Information given under paragraph 2.01(f) must include:	
5.01	(a) details of any local or State government planning scheme, or plan or policy under any local or State government planning system that deals with the proposed action, including: (i) what environmental assessment of the proposed action has been, or is being, carried out under the scheme, plan or policy; (ii) how the scheme provides for the prevention, minimisation and management of relevant impacts;	Chapter 2 outlines the project's strategic context and how the project aligns with key policies. Chapter 6 describes the statutory context. Chapters 8-13 discuss legislation relevant to specific environmental matters.
5.01	(b) a description of any approval that has been obtained from a State, Territory or Commonwealth agency or authority (other than an approval under the Act), including any conditions that apply to the action;	Approval under Division 5.1 of the EP&A Act was obtained for construction of the AWRC access road off Clifton Avenue, Kemps Creek. No specific conditions were applied to the approval. However, there will be a range of environmental management measures implemented during construction.
5.01	(c) a statement identifying any additional approval that is required;	Chapter 5
5.01	(d) a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.	Chapters 8-13, Chapter 15





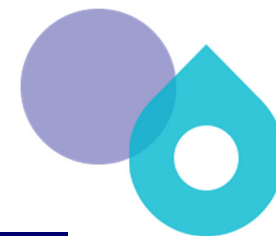
Clause	Requirement	Where addressed
6.01	<p>Details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against:</p> <p>(a) the person proposing to take the action; and</p> <p>(b) for an action for which a person has applied for a permit, the person making the application.</p>	<p>Sydney Water has had the following convictions for breaches of the NSW <i>Protection of the Environment Operations Act 1997</i> (POEO Act):</p> <ul style="list-style-type: none">• March 2000 - equipment failure that led to a discharge of aluminium sulfate from a sewage treatment plant, killing around 100 fish in Matahil Creek at Camden.• July 2000 - sewage overflow into Camp Creek causing localised harm to the environment.• April 2015 - discharge from Malabar cliff face due to an effluent pipeline leak at Malabar Wastewater Treatment Plant in September 2013.• July 2019 - for overflows into Mill Stream Botany between May and June 2017 due to isolation and diversions during desilting works.





Clause	Requirement	Where addressed
		<ul style="list-style-type: none">• November 2020 - for wastewater overflow into bushland and tributary of Lane Cover River• February 2021 – for wastewater overflow into bushland and tributary of Woronora River• March 2021 – for wastewater discharge into Parramatta River <p>Current proceedings for breaches of the POEO Act.</p> <ul style="list-style-type: none">• January 2019 - wastewater overflow into Prospect Creek (heard in August/September 2021, and at time of writing judgement is reserved).





Clause	Requirement	Where addressed
6.02	If the person proposing to take the action is a corporation – details of the corporation’s environmental policy and planning framework.	<p>Sydney Water’s environmental policy is available on Sydney Water’s website here.</p> <p>Sydney Water’s Environment Strategy is available on Sydney Water’s website here.</p> <p>Sydney Water also has an Environmental Management System certified to the international standard ISO14001 (2015). This includes provisions to ensure appropriate environmental management for planning and delivery of Sydney Water’s projects.</p>
7.01	<p>For information given in a draft public environment report or environmental impact statement, the draft must state:</p> <ul style="list-style-type: none">(a) the source of the information; and(b) how recent the information is; and(c) how the reliability of the information was tested; and(d) what uncertainties (if any) are in the information.	Chapters 8-13. Chapter 7 provides details about information sources.

