

TEP&A REGULATION 2021 COMPLIANCE TABLE

A Development Application (DA) under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) is required under Section 4.12 (1) to meet the provisions of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation) (EP&A Regulation) as detailed under Part 3, Division 1. **TABLE 1** below provides consideration of compliance against the relevant Section.

Further to Part 3 of the EP&A Regulation, a DA must contain the following information (as per Department of Planning, Infrastructure and Environment (DPIE) requirements dated March 2022):

- a) the name and address of the applicant
- b) a description of the development to be carried out
- c) the address, and formal particulars of title, of the land on which the development is to be carried out
- d) an indication as to whether the land is, or is part of, critical habitat
- e) an indication as to whether the development is likely to significantly affect threatened species, populations or ecological communities, or their habitats, unless the development is taken to be development that is not likely to have such an effect because it is biodiversity compliant development
- f) the estimated cost of the development
- g) evidence that the owner of the land on which the development is to be carried out consents to the application, but only if the application is made by a person other than the owner and the owner's consent is required by the Regulation
- h) a list of the documents accompanying the application
- i) a Statement of Environmental Effects, unless identified as designated development which requires an Environmental Impact Statement.
- j) a site plan of the land.
- k) drawings of the development.

The above listed information has been provided to the consent authority through the approved form on the NSW Planning Portal.

Table 1: Assessment against Part 3 Division 1 of the EP&A Regulation 2021

No	Requirement	Response
22 Application of Part		
This part applies to all development applications.		
23 Persons who may make development applications		
1	A development application may be made by—	The application is made with the owners' consent, attached as an appendix to the SoEE.
1(a)	the owner of the land to which the development application relates, or	
1(b)	another person, with the consent of the owner of the land.	

2	The consent of the owner of the land is not required for a development application made by a public authority or for public notification development if the applicant complies with subsections (3) and (4).	Not applicable. The owner is not a public authority.
3	The applicant must give notice of the application—	Notification has been provided to the owner and is confirmed by the signature on the owner's consent form.
3(a)	(a) to the owner of the land before the application is made, or	
3(b)	(b) by publishing, no later than 14 days after the application is made, a notice in a newspaper circulating in the area in which the development will be carried out.	Not applicable. The owner has been notified.
4	If the applicant gives notice under subsection (3)(b), the applicant must also, no later than 14 days after the application is made—	Not applicable. The applicant is not a public authority.
4(a)	if the applicant is a public authority—publish the notice on the public authority's website, or	
4(b)	for public notification development—arrange for the consent authority to publish the notice on the NSW planning portal.	
5	A development application relating to land owned by a Local Aboriginal Land Council may be made only with the consent of the New South Wales Aboriginal Land Council.	Not applicable. The land is not owned by a LALC.
6	A lessee of Crown land may make a development application relating to Crown land only with the consent of the Crown.	Not applicable. The development application does not pertain to crown land.
7	The consent of the Crown is not required under subsection (6) for a development application for—	Not applicable. The development application does not pertain to crown land. The development application is not for State significant development.
7(a)	public notification development, or	
7(b)	other State significant development if the development application is made by a public authority.	
8	In this section— public authority includes an irrigation corporation, within the meaning of the <i>Water Management Act 2000</i> , that the Minister administering that Act has, by written order, declared to have the status of a public authority for the purposes of this section in relation to development of a kind specified in the order.	Noted.
24 Content development application		
1	A development application must—	The DA has been lodged via the NSW Planning Portal which is the approved form.
1(a)	be in the approved form, and	

1(b)	contain all the information and documents required by— (i) the approved form, and (ii) the Act or this Regulation, and	The DA contains the required mandatory documents required under Section 23 – 36 of the EP&A Regulation and in accordance with Table 1 of the document titled ‘Application Requirements’ prepared by the NSW Government dated March 2022 (Approved by the Planning Secretary’s delegate on 28 February 2022). A summary of supplied mandatory documents is provided in TABLE 2 below.
1(c)	be submitted on the NSW planning portal.	The DA has been submitted through the NSW Planning Portal.
2	The fees payable for a development application are specified in Schedule 4 and determined in accordance with Part 13, including additional fees for integrated development, development requiring concurrence and designated development.	Fees will be paid upon issue from the Consent Authority.
3	A development application is lodged— (a) on the day on which the fees payable for the development application under this Regulation are paid, or (b) if the applicant is notified under Part 13 that no fee is required—on the day the applicant submitted the application on the NSW planning portal.	Noted
4	The applicant must be notified through the NSW planning portal that the development application has been lodged.	Noted
5	If the council is not the consent authority, the consent authority must give the council a copy of—	The Council is the consent authority.
5(a)	the development application, and	
5(b)	for designated development—the environmental impact statement.	
25 Information about concurrence or approvals		
25	A development application must contain the following information—	The proposed development does not require concurrence from any other consent authority.
25(a)	a list of the authorities — (i) from which concurrence must be obtained before the development may lawfully be carried out, and	
	(ii) from which concurrence would have been required but for the Act, section 4.13(2A) or 4.41	The proposed development is not classified as State significant development.

25(b)	a list of the approvals of the kind referred to in the Act, section 4.46(1) that must be obtained before the development may lawfully be carried out.	The proposed development is not classified as Integrated Development under Section 4.46 of the EP&A Act.
26 Information about community housing, boarding houses, co-living housing		
26(1)	A development application for development permitted under State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 2, Division 1 or 2 must specify the name of the registered community housing provider who will be managing the boarding house.	Not applicable. The development is not for community housing or a boarding house.
26(2)	A development application for development for the purposes of boarding houses or co-living housing must be accompanied by a copy of the plan of management.	Not applicable. The development is not for co-living housing.
27 BASIX development		
27(1)	A development application for BASIX development must be accompanied by—	Not applicable. The proposed development is not classified as a BASIX development.
1(a)	a relevant BASIX certificate for the development issued no earlier than 3 months before the day on which the development application is lodged, and	
1(b)	the other matters required by the BASIX certificate.	
27(2)	If the development involves the alteration of a BASIX building that contains more than 1 dwelling, a separate BASIX certificate is required for each dwelling.	
28 Development applications relating to Biodiversity Conservation Act 2016		
28(1)	A development application for biodiversity compliant development must contain the reason the development is biodiversity compliant development.	The development does not include vegetation removal therefore no adverse impact has been identified on local biodiversity.
28(2)	A development application that is accompanied by a biodiversity development assessment report under the <i>Biodiversity Conservation Act 2016</i> must contain the biodiversity credits information.	Not applicable. The proposed development does trigger a BDAR.
28(3)	A development application relating to land that is subject to a private land conservation agreement under the <i>Biodiversity Conservation Act 2016</i> must contain a description of the kind of agreement and the area to which it applies.	Not applicable. The development land is not subject to a private land conservation agreement.
28(4)	In this section— biodiversity compliant development means—	Noted.

	<p>(a) development to be carried out on biodiversity certified land under the Biodiversity Conservation Act 2016, or</p> <p>(b) development to which the biodiversity certification conferred by the Threatened Species Conservation Act 1995, Schedule 7, Part 7 applies, or</p> <p>(c) development for which development consent is required under a biodiversity certified EPI, within the meaning of the Threatened Species Conservation Act 1995, Schedule 7, Part 8.</p>	
29 Residential apartment development		
29(1)	A development application that relates to residential apartment development must be accompanied by a statement by a qualified designer.	<p>Not applicable.</p> <p>The development is not a residential apartment.</p>
29(2)	<p>The statement must—</p> <p>(a) verify that the qualified designer designed, or directed the design of, the development, and</p> <p>(b) explain how the development addresses—</p> <p>(i) the design quality principles, and</p> <p>(ii) the objectives in Parts 3 and 4 of the Apartment Design Guide.</p>	<p>Not applicable.</p> <p>The development is not a residential apartment.</p>
29(3)	<p>If the development application is accompanied by a BASIX certificate for a building, the design quality principles do not need to be addressed to the extent to which they aim—</p> <p>(a) to reduce consumption of mains-supplied potable water or greenhouse gas emissions in the use of—</p> <p>(i) the building, or</p> <p>(ii) the land on which the building is located, or</p> <p>(b) to improve the thermal performance of the building.</p>	<p>Not applicable.</p> <p>The development is not a residential apartment.</p>
29(4)	The additional fee payable for a development application for residential apartment development that is referred to the relevant design review panel for advice is specified in Schedule 4.	<p>Not applicable.</p> <p>The development is not a residential apartment.</p>
30 Mining or petroleum development		
30(1)	This section applies to a development application that relates to mining or petroleum development on land—	<p>Not applicable.</p> <p>The proposed development is not for mining or petroleum development.</p>
1(a)	shown on the <i>Strategic Agricultural Land Map</i> , or	
1(b)	subject to a site verification certificate.	
2	The development application must be accompanied by—	Not applicable.

2(a)	for development on land shown on the <i>Strategic Agricultural Land Map</i> as critical industry cluster land—a current gateway certificate that applies to the development, or	The proposed development is not for mining or petroleum development.
2(b)	for development on other land— (i) a current gateway certificate that applies to the development, or (ii) a site verification certificate that certifies that the land on which the development will be carried out is not biophysical strategic agricultural land.	
31 Other documents required for certain development applications		
1	A development application that relates to development for which consent under the <i>Wilderness Act 1987</i> is required must be accompanied by a copy of the consent.	Not applicable. The development application does not require consent under the <i>Wilderness Act 1987</i> .
2	A development application that relates to development for which a site compatibility certificate is required by a SEPP must be accompanied by the site compatibility certificate.	Not applicable. The proposed development does not require a site compatibility assessment.
3	A development application made under the Act, section 4.12(3) must be accompanied by the matters that would be required under the <i>Local Government Act 1993</i> , section 81 if approval were sought under that Act.	Not applicable. The proposed development is not a listed activity under Section 68 of the LG Act 1993.
4	A development application that relates to development on land in an Activation Precinct under <i>State Environmental Planning Policy (Precincts—Regional) 2021</i> , Chapter 3 must be accompanied by a current Activation Precinct certificate.	Not applicable. The development is not within an Activation Precinct.
5	Subsection (4) does not apply to a development application made by a public authority, other than the Development Corporation within the meaning of <i>State Environmental Planning Policy (Precincts—Regional) 2021</i> , Chapter 3.	Not applicable. The development is not within an Activation Precinct.
32 Extract of development application for erection of building		
1	If a development application relates to the erection of a building, an extract of the application must be published on the NSW planning portal.	The development does not include the erection of a building.
2(a)	The extract must— identify the applicant and the land to which the application relates, and	The applicant and land have been identified on the NSW Planning Portal Application and within the Statement of Environmental Effects.

2(b)	contain a plan of the building that indicates the proposed height and external configuration of the site, if relevant for the development.	N/A
3	This section does not apply to the following—	N/A
3(a)	designated development	
3(b)	nominated integrated development	<p>The development is not classified as integrated development that requires approval under the Heritage Act 1977, the Water Management Act 2000 or the Protection of the Environment Act 1997.</p> <p>The development is not nominated integrated development.</p>
3(c)	threatened species development	<p>The development does not impact upon threatened species which requires a species impact statement.</p> <p>The development is not threatened species development.</p>
3(d)	Class 1 aquaculture development	The development is not for Class 1 aquaculture.
3(e)	State significant development	The development is not State significant development.
33 Concept development applications		
1	The information about the various stages of development, required by this Regulation to be included in a concept development application, may be deferred to a subsequent development application, with the approval of the consent authority.	<p>Not applicable.</p> <p>The development is not a concept development as defined under the Act.</p>
2	Section 29 applies in relation to a concept development application only if the application sets out detailed proposals for the development or part of the development.	<p>Not applicable.</p> <p>The development is not a concept development as defined under the Act.</p>
34 & 35 – Not applicable, as the development is not located in Sydney.		
36 Consent authority may request additional information from the applicant		
1	A consent authority that receives a development application may request additional information about the development from the applicant.	Noted
2	A consent authority may not request additional information in relation to building work or subdivision work if the information is required to accompany an application for a construction certificate or subdivision works certificate.	Noted

3	<p>A consent authority's request must—</p> <p>(a) be made through the NSW planning portal, and</p> <p>(b) specify a reasonable period within which the additional information must be given to the consent authority, and</p> <p>(c) specify the number of days in the assessment period that have elapsed, and</p> <p>(d) inform the applicant that the assessment period ceases to run, in accordance with Part 4, Division 4, during the period between—</p> <p>(i) the request, and</p> <p>(ii) the day on which the applicant provides the additional information or notifies, or is taken to have notified, the consent authority that the information will not be provided.</p>	Noted
4	<p>The applicant may, using the NSW planning portal, notify the consent authority that the applicant will not provide the additional information.</p>	Noted
5	<p>The applicant is taken to have notified the consent authority that the applicant will not provide the additional information if the applicant has not provided the information by the end of—</p> <p>(a) the period specified under subsection (3)(b), or</p> <p>(b) a further period allowed by the consent authority.</p>	Noted
6	<p>In this section—</p> <p>additional information, in relation to a development application, means information the consent authority considers necessary to properly consider the development application.</p>	Noted

Table 2: Mandatory documentation supplied to inform the development application

Applications that require or involve:	Requirement	Yes / No / Not Applicable
Arrangements before consent can be granted under an environmental planning instrument	Documentary evidence that such arrangements have been made	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: This table forms part of the documentary evidence supporting the DA to enable granting of consent under the EP&A Act 1979 and EP&A Regulation 2021.
Building work to alter, expand or rebuild an existing building	A scaled plan of the existing building	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: The development is not the alteration, expansion or rebuild of an existing building.
Change of use of a building (other than a dwelling-house or a building or structure that is ancillary to a dwellinghouse and other than a temporary structure)	A list of the Category 1 fire safety provisions that currently apply to the existing building	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: The application is not for a change of use.
	A list of the Category 1 fire safety provisions that are to apply to the building following its change of use	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: As above.
Concurrence	A list of any authorities from which concurrence must be obtained before the development may lawfully be carried out or from which concurrence would have been required but for section 4.13(2A) or 4.41 of the Act	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: A list of authorities which concurrence should be obtained are listed with the Statement of Environmental Effects.
	A statement by the applicant that the relevant matters in the	<input checked="" type="checkbox"/> Yes

	Development referrals guide have been considered	<input type="checkbox"/> No <input type="checkbox"/> Not Applicable Comment: Referral list has been generated in accordance with the development referrals guide.
Development involving mining for coal (within the meaning of section 380AA of the Mining Act 1992)	Documentary evidence that the applicant holds an authority under the Mining Act 1992 in respect of coal and the land concerned, or has the written consent of the holder of such an authority to make the development application	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: The development does not involve mining for coal.
Development referred to in State Environmental Planning Policy (Housing) 2021, clause 45(1)	Evidence or information demonstrating whether the development is likely to result in the loss of low-rental dwellings on the land to which the application relates during the relevant period, within the meaning of State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 3	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: The development does not impact the availability of affordable housing.
Development permitted under State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 2, Division 1 or 2	The name of the registered community housing provider who will be managing the boarding house	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: The development is not for a boarding house.
Development for a boarding house or co-living house	A plan of management	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: The development is not for co-living housing.
Entertainment venues, function centres, pubs, registered clubs or restaurants	A statement that specifies the maximum number of persons proposed to occupy, at any one time, that part of the building to which the use applies	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: The development is not for an entertainment venue.

Erection of a building	An A4 plan of the building that indicates its height and external configuration, as erected, in relation to its site	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: Plans are attached as an appendix to the SoEE.
Integrated development	A list of any approvals of the kind referred to in section 4.46(1) of the Act that must be obtained before the development may lawfully be carried out	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable Comment: TABLE 1 within the Statement of Environmental Effects lists any approvals required under s4.46 of the Act.
	A statement by the applicant that the relevant matters in the Development referrals guide have been considered	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable Comment: Referral list has been generated in accordance with the development referrals guide.
Land that is, or is part of, critical habitat or development that is likely to significantly affect threatened species, populations or ecological communities, or their habitats	A species impact statement	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: The development is not on land that is part of critical habitat nor is the development likely to significantly affect threatened species, populations or ecological communities, or their habitats.
Land that is in a wilderness area and is the subject of a wilderness protection agreement or conservation agreement within the meaning of the Wilderness Act 1987	A copy of the consent of the Minister for Energy and Environment to the carrying out of the development	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: The land is not identified as being a wilderness area.
Manor houses or multi-dwelling houses (terraces) to which State Environmental Planning	A statement, in the form approved by the Planning Secretary, by a qualified designer or a person	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable

Policy (Housing) 2021, Chapter 2, Part 2, Division 1 applies	<p>accredited as a building designer by the Building Designers Association of Australia that—</p> <ul style="list-style-type: none"> i. verifies that the designer or person designed, or directed the design of, the development ii. addresses how the design is consistent with the relevant design criteria set out in the Low Rise Housing Diversity Design Guide 	<p>Comment:</p> <p>The development is not for a manor house or multi-dwelling housing to which the SEPP applies.</p>
Subdivision	Preliminary engineering drawings of the work to be carried out	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Not Applicable</p> <p>Comment:</p> <p>The development does not include subdivision. Engineering drawings are attached as an appendix to the SoEE.</p>
Temporary structure	Documentation that specifies the live and dead loads the temporary structure is designed to meet	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Not Applicable</p> <p>Comment:</p> <p>The development is not a temporary structure.</p>
	A list of any proposed fire safety measures to be provided in connection with the use of the temporary structure	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Not Applicable</p> <p>Comment:</p> <p>As above.</p>
	In the case of a temporary structure proposed to be used as an entertainment venue—a statement as to how the performance requirements of Part B1 and NSW Part H102 of Volume One of the Building Code of Australia are to be	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Not Applicable</p> <p>Comment:</p> <p>As above.</p>

	complied with (if a performance solution, to meet the performance requirements, is to be used)	
	Documentation describing any accredited building product or system sought to be relied on for the purposes of section 4.15(4) of the Act	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: As above.
	Copies of any compliance certificates to be relied on	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable Comment: As above.