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ENVIRONMENTAL IMPACT STATEMENT

East Seaham Road Stages 5 & 6, East Seaham

CHAPTER TWO ASSESSMENT PROCESS & CHAPTER THREE STRATEGIC & STATUTORY CONTEXT



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2. ASSESSMENT PROCESS

The following flowchart illustrates the process for development, review and approval of the EIS and **Table 2-1** describes the planning approval process for the project as well as other relevant environmental planning and statutory approval requirements. **Table 2-1** outlines the SEARs, and how this EIS addresses the SEARs (SEAR Number 1927).

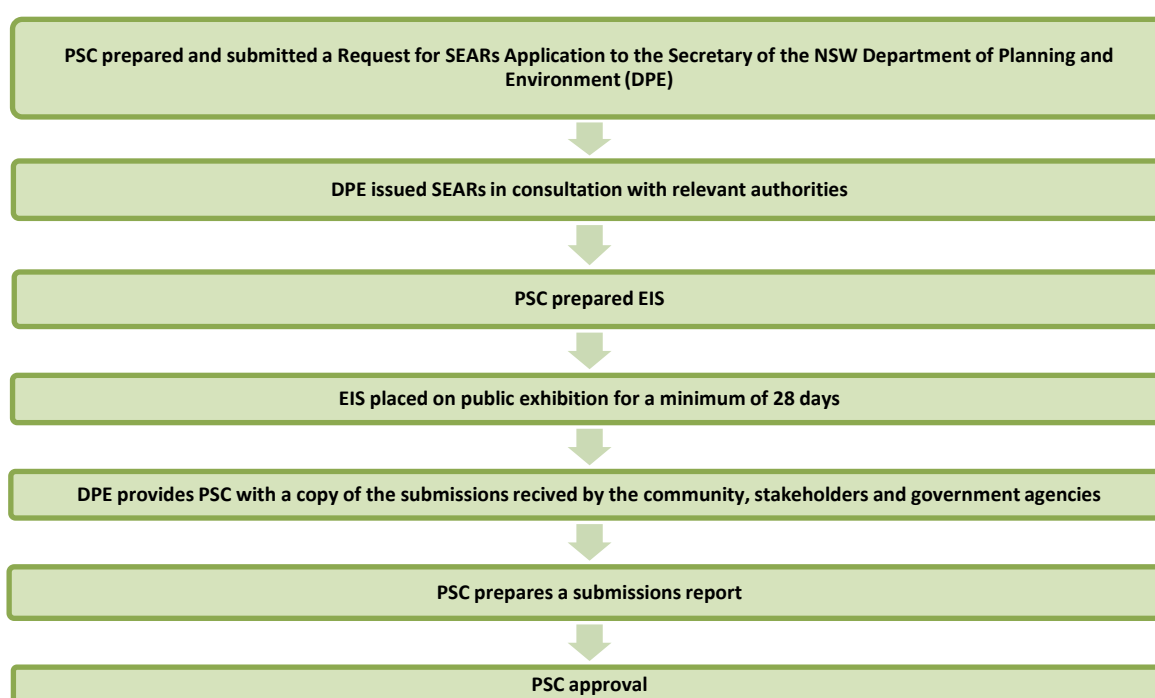


Figure 2-1 Flowchart for the development, review and approval of the EIS

Table 2-1 How the EIS will address the SEARs

Secretary's requirement	Where addressed
General requirements	
The Environmental Impact Statement (EIS) must meet the minimum form and content requirements in clauses 190, 192 and 193 of the <i>Environmental Planning and Assessment Regulation 2021</i>	Entire document.
Key issues	
The EIS must include an assessment of all potential impacts of the proposed development on the existing environment, during construction and operation (including cumulative impacts if necessary), and develop appropriate measures to avoid, minimise,	An assessment of all potential impacts including cumulative impacts is contained within Chapter 5 . Measures to avoid, minimise, mitigate, offset, manage and/or monitor these potential impacts are



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Secretary's requirement	Where addressed
mitigate, offset, manage and/or monitor these potential impacts.	included in Chapter 5 .
<p>The Proposal – including:</p> <ul style="list-style-type: none"> location of the proposed development and its context in the locality, including plans and maps; a description of the proposed development, including key components and activities required to construct it and operational elements including their physical layout and design; associated utility works; relationship to any other proposal; staging and timing of the proposed development; and proposed construction hours. 	<p>The EIS:</p> <ul style="list-style-type: none"> identifies the location of the proposed development and its context in the locality, including plans and maps in Chapter 1 and Attachment 2 provides a description of the proposed development, including key components and activities required to construct it and operational elements including their physical layout and design in Chapter 1, Section 1.3 provides a description of associated utility works Chapter 1, in Section 1.3.7 describes the relationship to any other proposal in Chapter 1, Section 1.11 identifies the staging and timing of the proposed development in Chapter 1, Section 1.5 states the proposed construction hours in Chapter 1, Section 1.6.
<p>Statutory context – including:</p> <ul style="list-style-type: none"> a justification for the proposal and suitability of the site for the proposed development; a demonstration that the proposal is consistent with relevant planning strategies, environmental planning instruments, development control plans (DCPs), or justification for any inconsistencies; consideration of impacts of 'no action' and consideration of alternative options as well as construction and operation technologies; and a list of approvals that must be obtained under any other Act or law before the development may lawfully be carried out 	<p>The EIS:</p> <ul style="list-style-type: none"> provides a justification for the proposal and suitability of the site for the proposed development in Chapter 1, Section 1.3.3 demonstrates the proposal's consistency with relevant planning strategies, environmental planning instruments, development control plans (DCPs), or justification for any inconsistencies in Chapter 2 and Chapter 3 considers the impacts of 'no action' and alternative options as well as construction and operation technologies in Chapter 1, Section 1.9 provides a list of approvals that must be obtained under any other Act or law before the development may lawfully be carried out in Chapter 3.
<p>Air Quality – including:</p> <ul style="list-style-type: none"> a description of potential sources of air emissions during construction and potential impacts on the environment and sensitive receivers 	The EIS addresses Air Quality in Chapter 5, Section 5.1 .
<p>Biodiversity – including</p> <ul style="list-style-type: none"> consideration of whether the activity is likely to significantly affect threatened species in accordance with Part 7 Division 2 Section 7.8 of the <i>Biodiversity Conservation Act 2016</i>. 	The EIS addresses Biodiversity in Chapter 5, Section 5.2 .
Contamination – including:	The EIS addresses Contamination in Chapter 5 ,



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Secretary's requirement	Where addressed
<ul style="list-style-type: none"> an assessment of the extent and nature of any potential soil (terrestrial and aquatic) and groundwater contamination at the site and demonstration that the site is suitable (or will be after remediation) for the proposal. 	Section 5.3.
<p>Flooding – including:</p> <ul style="list-style-type: none"> any flood risk having regard to adopted flood studies, the potential effects of climate change and relevant provisions of the NSW Floodplain Development Manual; impacts of the proposed development, including any changes to flood risks onsite and off-site and details of design and/or other mitigation measures to mitigate flood risks; and details of potential impacts to existing community flood emergency management and evacuation arrangements. 	The EIS addresses Flooding in Chapter 5, Section 5.4.
<p>Hazards and Risk – including:</p> <ul style="list-style-type: none"> the effects of coastal processes and coastal hazards including the effects of sea level rise and climate change on the proposed development, and arising from the proposed development. 	The EIS addresses Hazards and Risk in Chapter 5, Section 5.5.
<p>Heritage – including:</p> <ul style="list-style-type: none"> the preparation of an Aboriginal Cultural Heritage Assessment Report (ACHAR), prepared in accordance with relevant policy and guidelines, identifying, describing and assessing any impacts to Aboriginal cultural heritage sites or values associated with the project; the ACHAR must be prepared in accordance with the Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW (OEH, 2011) and the Code of Practice for the Archaeological Investigation of Aboriginal Objects in NSW (DECCW, 2010), including results of thorough archaeological survey and test excavations (where required); The ACHAR must include evidence of adequate and continuous consultation with Aboriginal stakeholders in determining and assessing impacts, developing and selecting options for avoidance of Aboriginal cultural heritage and mitigation measures (including the final proposed measures), having regard to the Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW, 2010); an assessment of direct and indirect impacts on environmental heritage (within the project site and in the vicinity of the project site) and archaeological significance prepared in accordance with the relevant guidelines, which assesses any impacts and outlines measures to ensure they are minimised and mitigated 	The EIS addresses Heritage in Chapter 5, Section 5.6.
<p>Noise and Vibration – including:</p> <ul style="list-style-type: none"> an assessment of construction noise and vibration impacts on nearby sensitive receivers and structures and outline the proposed management and mitigation measures that would 	The EIS addresses Noise and Vibration in Chapter 5, Section 5.7.



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Secretary's requirement	Where addressed
be implemented.	
<p>Soil and Water – including:</p> <ul style="list-style-type: none"> an assessment of potential impacts on soil resources and riparian lands on and near the site, including soil erosion, salinity and acid sulfate soils; and a surface and groundwater impact assessment, including surface water resources (quality and quantity), including related infrastructure, hydrology, dependent ecosystems, drainage lines, downstream assets and watercourses, and groundwater resources in accordance with the relevant groundwater guidelines. 	The EIS addresses Soil and Water in Chapter 5, Section 5.8 .
<p>Traffic and Transport – including:</p> <ul style="list-style-type: none"> a description of pedestrian and vehicular access arrangements during the construction of the proposal; and a description of any construction compounds and how the site will be accessed. 	The EIS addresses Traffic and Transport in Chapter 5, Section 5.9 .
<p>Waste Management – including:</p> <ul style="list-style-type: none"> details of the quantity and type of wastes generated; details of waste management practices including handling and transport; and identification, classification, disposal, receipt, stockpiling, reuse and quality control. 	The EIS addresses Waste Management in Chapter 5, Section 5.10 .
<p>Environmental Management and Monitoring – including:</p> <ul style="list-style-type: none"> a description of measures to manage, mitigate or offset potential impacts during construction, including unexpected (heritage, biodiversity and contamination) finds procedures; and details of how the operation and long-term care and maintenance of the development will be managed. 	The EIS describes the Environmental Management and Monitoring that will occur in Chapter 6 .
<p>Cumulative Impacts – including:</p> <ul style="list-style-type: none"> the cumulative impacts, including both construction and operational impacts, of the Applicant's existing proposals and other proposals and associated infrastructure as well as the cumulative impact of the proposed development in the context of other proposals located in the vicinity. 	The EIS details the Cumulative Impacts in Chapter 6 .
Environmental Planning Instruments and other policies	
<p>The EIS must assess the proposed development against the relevant environmental planning instruments, including but not limited to:</p> <ul style="list-style-type: none"> <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>; <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>; 	<p>The EIS addresses:</p> <ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 in Chapter 3 and Chapter 5, Section 5.5 State Environmental Planning Policy (Biodiversity and Conservation) 2021 in Chapter 3 and Chapter 5, Section 5.2



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Secretary's requirement	Where addressed
<ul style="list-style-type: none"> Hunter Regional Plan 2041; <i>Port Stephens Local Environmental Plan 2013</i>; and Relevant development control plans and section 7.11 plans (under the <i>NSW Environmental Planning and Assessment Act 1979</i>). 	<ul style="list-style-type: none"> Hunter Regional Plan 2041 in Chapter 3, Section 3.1 Port Stephens Local Environmental Plan 2013 in Chapter 3, Section 3.1 Relevant development control plans and section 7.11 plans (under the EP&A Act) in Chapter 3, Section 3.1.
Guidelines and Agency Issues	
<p>During the preparation of the EIS you should consult the Department's Register of Development Assessment Guidelines available on the Department's website at planning.nsw.gov.au. Whilst not exhaustive, this Register contains some of the guidelines, policies, and plans to take into account in the environmental assessment of the proposed development. Matters to be considered and guidelines identified in consultation with agencies in the preparation of these requirements should also be addressed.</p>	Completed.
Consultation	
<p>During the preparation of the EIS, you must consult the relevant local, State and Commonwealth government authorities, service providers and community groups, and address any issues they may raise in the EIS. In particular, you should consult with the:</p> <ul style="list-style-type: none"> Environment Protection Authority; NSW Rural Fire Service; Department of Climate Change, Energy, the Environment and Water; Department of Primary Industries (Fisheries); DPE Water Group; Heritage NSW; and NSW National Parks and Wildlife Service. Details of the consultation carried out and issues raised must be included in the EIS. 	A consultation summary can be found in Chapter 4 .



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3. STRATEGIC & STATUTORY CONTEXT

3.1. Planning framework

3.1.1 *Hunter Regional Plan 2041*

The Hunter Regional Plan encompasses the local government areas (LGAs) of Cessnock, Dungog, Lake Macquarie, Maitland, MidCoast, Muswellbrook, Newcastle, Port Stephens, Singleton and Upper Hunter.

The Hunter Regional Plan 2041 recognises the region is changing. It draws on the concepts of sequenced planning and infrastructure, creating great places and enriching community character. The plan is about sustainable growth. It looks at housing choice and lifestyle opportunities to cement the Hunter as a leading regional economy.

The project area would be considered *true rural* for the purpose of the Plan which is defined as agricultural producing areas and locations with large environmental and wilderness areas. These areas are predominately natural or agricultural areas with few dwellings and almost all trips require a car.

The locality is not located within a centre, strategic centre or metropolitan city, however, is located a short drive from Dungog and East Seaham. The project would help provide for a safer road and improved accessibility due to improved road conditions for public and school buses, commuters and visitors.

3.1.2 *Draft Hunter Strategic Regional Integrated Transport Plan*

The Draft Hunter Strategic Regional Integrated Transport Plan is the NSW Government's commitment to delivering a tailored regional transport plan for the Hunter Region that meets the State's objectives concerns for strategic transport planning and outlines a targeted program of initiatives that meet the region's needs.

Port Stephens has the second highest ranking fatalities and 4th highest ranking serious injuries within the Hunter region (Draft Hunter Strategic Regional Integrated Transport Plan, 2025 *Fig 19*).

The Draft Hunter Strategic Regional Integrated Transport Plan focuses on addressing high risk crash locations, rolling out consistent safety treatments across the regional road network and implementing safer speeds on local and low volume rural roads in order to achieve the objective. Immediate safety outcomes hoped to be achieved include a reduction in road fatalities and serious injuries.



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There are challenges to achieving this objective regionally where the works are proposed. The main challenge is how to prevent run off road and single vehicle crashes on rural roads. These roads often lack safety features such as crash barriers and guardrails, which are crucial for reducing the risk of fatal and serious injuries in the event of a collision and as a result, drivers and passengers utilising these roads are exposed to an increased risk of a crash region (Draft Hunter Strategic Regional Integrated Transport Plan, 2025 pp 64).

The proposed works will improve road surface condition, improve sight lines and reduce the number of trees within the clear zone. It is hoped that with these improvements the number of people killed or seriously injured on East Seaham Road is reduced. Whilst the project is not specifically identified in the Plan, the works will help contribute to creating a safer regional road environment and potentially contribute to a reduction in the overall regional statistics and assist in achieving the Plan's objective.

3.1.3 Port Stephens Council Hinterland Place Plan

Place plans within the Port Stephens LGA help plan for the growth of unique towns and villages across Port Stephens. Place plans provide a local filter on the Port Stephens Community Strategic Plan and other important planning documents to create actions which improve the liveability and wellbeing of our communities.

The project area falls within the Hinterland region with the place plan for this region completed in 2023. The Hinterland Place Plan 2023, encompasses the regional areas of Balickera, Brandy Hill, Butterwick, Duns Creek, Eagleton, East Seaham, Glen Oak, Hinton, Nelsons Plains, Osterley, Seaham, Wallalong and Woodville.

Residents in the Hinterland value the locality for:

- elements of the natural environment
- overall visual character of the neighbourhood
- physical comfort
- sense of neighbourhood safety
- locally owned and operated businesses.

The future needs of the communities within the locality are addressed within the Place Plan through following themes:

- economy: new experiences and distinct business opportunities
- movement: connection and access for all to enjoy
- open space: creating quality open space
- environment: protection and conservation of our environment
- management and safety: safe and resilient communities
- character: the Hinterland and our unique identity.



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The themes of economy, movement and management and safety all identify the need to create safe access such as:

- safe access for future predicted increased visitation and safe access to experiences and opportunities within the region
- safe access to aid connectivity between towns for local residents
- addressing community concerns about road safety to assist in the safety and wellbeing of the local community.

To help create better places and spaces in the Hinterland, the Place Plan identifies key projects to be delivered. These projects are immediate actions that can be undertaken to improve liveability in the Hinterland and include improvements or rehabilitation of existing roads. Future projects include:

- applying for funding for East Seaham Road with PSC successfully applying for funding through the Federal and NSW Governments
- East Seaham Road stage 5 including the installation of new seal, guardrail, signage and line marking from No.474 to 829 East Seaham Road.

3.1.4 Port Stephens Council Community Strategic Plan 2022 to 2032

The PSC Community Strategic Plan 2022 to 2032 (Strategic Plan) is at the heart of planning for local government, capturing the community's aspirations and priorities for the future to inform tangible programs and actions of PSC and its partners. Development of the Strategy Plan was guided by the Integrated Planning and Reporting framework, requirements of which are detailed in the *NSW Local Government Act 1993* (LG Act) and the *NSW Local Government (General) Regulation 2021*.

The Strategic Plan addresses social, economic, environmental and governance factors (quadruple bottom line) through four interconnected Focus Areas: Our Community, Our Place, Our Environment and Our Council and is based on social justice principles of equity, access, participation and rights (PSC Community Strategic Plan 2022 to 2032, pp 14)

The purpose of the Strategic Plan is to:

- identify the community's main priorities and aspirations over the next 10 years
- support community and stakeholders to play an active role in shaping their future
- work with other governments and agencies to achieve community priorities
- outline PSC's role in delivering these priorities and assigning resourcing to support delivery while balancing affordability
- maintain accountability and transparency in reporting on progress (PSC Community Strategic Plan 2022 to 2032, pp 14).



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The proposed work aligns with Focus Area: Our Place which aims to create liveable and connected places that support community wellbeing and local economic growth (PSC Community Strategic Plan 2022 to 2032, pp 31). To achieve this the Strategic Plan recognises that neighbourhoods will need well maintained and managed roads.

The Strategic Plan includes key direction/ goals and strategies. The proposed works are encapsulated by key direction/ goal P2 Infrastructure and facilities: Our community's infrastructure and facilities are safe, convenient, reliable and environmentally sustainable and sub action P2.1 to deliver and maintain sustainable community infrastructure.

Implementation of the Strategic Plan is achieved through the Delivery Program 2022 to 2026 and Operational Plan 2024 to 2025. Each newly elected council in New South Wales must develop a 4-year Delivery Program to outline how it will contribute to achieving the goals of the Strategic Plan. The Delivery Program is generally reviewed on a 4-year cycle, in line with the local government election timetable. The Operational Plan is PSC's annual action plan which contributes to the 4-year Delivery Program. It outlines what PSC proposes to deliver for that year and which area of PSC is responsible. The Operational Plan is implemented with a supporting annual budget to fund necessary work.

Specifically, the Delivery Program identifies activities to deliver the key direction/ goals and strategies outlined in the Strategic Plan. The proposed works are encapsulated by:

- P2.1.3 Deliver the 4 year Public Infrastructure Program
- P2.1.4 Deliver the program for maintenance of PSC's assets (Delivery Program 2022 to 2026, pp 22).

The key document that determines what works will be delivered as part of the public infrastructure program and asset maintenance program is the Port Stephens and Council Strategic Asset Management Plan.

3.1.5 Port Stephens Council Strategic Asset Management Plan 2017-2027

The Strategic Asset Management Plan (SAMP) provides a framework for the sustainable management of current and future PSC assets so that appropriate services are effectively delivered to the community now and in the future. It considers information about PSC's assets, asset management processes and practices, and presents a plan to improve PSC's asset provision and management capability.

When funds are realised and prioritised under the Asset Funding Strategy, the monies are to be allocated to the projects documented in the Capital Works Plus Program or



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existing projects in future years that may be brought forward. The Capital Works Plus Program includes:

- projects to reduce the infrastructure backlog
- major future projects to meet demand
- existing projects that require additional monies to further expand the scope of work.

East Seaham Road Stages 5 and 6 is a major project. Details for East Seaham Road upgrade within the SAMP are limited, as at the time of the SAMP's development the project was not comprehensively scoped and only indicative costs and timing as such were provided.

Since the SAMP was adopted PSC applied and was successful in gaining funding for the works through the Federal and NSW Governments. This has allowed the proposed works to progress with development of the detailed design, completion of the necessary background investigations and completion of this EIS.

3.2. Statutory considerations

Table 3-1 Statutory considerations

Commonwealth
<p><i>Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act)</i></p> <p>The EPBC Act and associated regulations provide a framework for the protection and management of unique plants, animals, habitats and places. This include heritage sites, marine areas and some wetlands and also threatened and migratory species and ecological communities.</p> <p>To support the project, a Biodiversity Development Assessment Report (BDAR) was prepared by Wildthing (2025). The BDAR identified that the nationally listed endangered ecological community Subtropical eucalypt floodplain forest and woodland of the New South Wales North Coast and South East Queensland bioregions was found to occur in the Study Area and 3 nationally listed species <i>Pteropus poliocephalus</i> (Grey-headed Flying Fox) listed as Vulnerable, <i>Phascolarctos cinereus</i> (Koala) which is listed as Endangered and <i>Calyptrorhynchus lathamii</i> (South-eastern Glossy Black Cockatoo) which is listed as Vulnerable were found to occur onsite. The project will remove 0.43 ha of the endangered ecological habitat and 1.77 ha of potential habitat for the 3 threatened species. Taking into consideration the area of retained habitat on site and presence on surrounding lands, Wildthing (2025) concluded that the project was unlikely to have a significant impact on threatened biodiversity.</p> <p>A range of mitigation measures to help mitigate the loss would be implemented including:</p> <ul style="list-style-type: none"> • Clearing limits being clearly marked to prevent unnecessary clearing beyond the extent of the development footprint. Tree clearing and disturbance will be limited to the areas indicated for removal on the approved plans within the project area. • Engagement of a suitably qualified and experienced ecologist to supervise removal of all significant habitat features including ground habitat and habitat trees. • Timing vegetation clearance outside of key breeding periods for key species to avoid critical life cycle events. <p>There are no other Matters of National Significance within the project area or general locality. Biodiversity impacts are further discussed in Chapter 5, Section 5.2.</p>
NSW



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Biodiversity Conservation Act 2016 (BC Act) and State Environmental Planning Policy (Biodiversity and Conservation) 2021 (SEPP BC)

The BC Act helps protect and enhance biodiversity in NSW. It includes provisions for the conservation of threatened species and ecological communities. The Act establishes a framework for biodiversity conservation, including the regulation of land management practices and the protection of habitats.

The SEPP BC regulates the clearing of native vegetation. The SEPP BC applies to land zoned for urban and environmental purposes that is not linked to a development application. It works together with the BC Act and the *NSW Local Land Services Act 2013*.

To support the project, a BDAR was prepared by Wildthing (2025). Wildthing (2025) identified that the majority of the Study Area consisted of existing gravel road with areas of non-native vegetation and 3 plant community types (PCTs) including:

- PCT 3433 Hunter Coast Foothills Spotted Gum Ironbark Grassy Forest which is commensurate with the state listed endangered ecological community Lower Hunter Spotted Gum Ironbark Forest in the Sydney Basin and NSW North Coast Bioregions
- PCT3431 Central Hunter Ironbark Grassy Woodland which is commensurate with the state listed endangered ecological community Lower Hunter Spotted Gum Ironbark Forest in the Sydney Basin and NSW North Coast Bioregions
- PCT 4042 Lower North Riverflat Eucalypt Paperbark Forest which was found to be consistent with the state listed endangered ecological community Subtropical Coastal Floodplain Forest of the NSW North Coast Bioregion.

Approximately 1.34 ha of PCT 3433, 0.36 ha of PCT 3431 and 0.43 ha of PCT 4042 will be removed as part of the works.

Threatened species with habitat onsite and/ or detected onsite included:

- *Ninox strenula* (Powerful Owl)
- *Phascogale tapoatafa* (Brush-tailed Phascogale)
- *Miniopterus australis* (Little Bent-winged Bat)
- *Pteropus poliocephalus* (Grey-headed Flying Fox)
- *Petaurus norfolcensis* (Squirrel Glider)
- *Phascolarctos cinereus* (Koala)
- *Micronomus norfolkensis* Eastern Coastal Free-tailed Bat
- *Falsistrellus tasmaniensis* Eastern False Pipistrelle
- *Calyptrorhynchus lathamii lathamii* (South-eastern Glossy Black Cockatoo)
- *Pomatostomus temporalis temporalis* (Grey-crowned Babbler)
- *Daphoenositta chrysoptera* (Varied Sittella).
- *Pterostylis chaetophora*
- *Corybas Dowlingii* (Red Helmet Orchid)
- *Ritidosis heterogama* (Heath Wrinklewort).

One candidate SAIL entities *Miniopterus australis* (Little Bent-winged Bat) was recorded within the subject land, however no preferred breeding habitat was present on site (Wildthing Environmental Consultants, 2025). The closest preferred roosting habitat is Thunderbolt Cave which is located approximately 1.8 km east of the subject land which could provide roosting habitat for *M. australis* and other SAIL candidate species *Miniopterus orianae oceanensis* (Large Bent-wing Bat) and *Chalinolobus dwyeri* (Large-eared Pied Bat) (Wildthing Environmental Consultants, 2025).

Ecological communities requiring offset as a result of the project include:

- PCT 3433 Hunter Coast Foothills Spotted Gum Ironbark Grassy Forest: 27 credits
- PCT3431 Central Hunter Ironbark Grassy Woodland: 3 credits
- PCT 4042 Lower North Riverflat Eucalypt Paperbark Forest: 14 credits.

Species credit species requiring offset as a result of the project including the removal of:



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- 1.09 ha of habitat of *Ninox strenula* (Powerful Owl): 2 credits
- 1.77 ha of habitat of *Petaurus norfolcensis* (Squirrel Glider): 2 credits
- 1.77 ha of habitat of *Phascogale tapoatafa* (Brush-tailed Phascogale): 2 credits
- 1.77 ha of habitat of *Phascolarctos cinereus* (Koala): 2 credits
- 1.07 ha of habitat of *Rutidosia heterogama* (Heath Wrinklewort): 2 credits.
- 1.77 ha of habitat of *Corybas dowlingii* (Red Helmet Orchid) with : 2 credits
- 2.13 ha of habitat of *Pterostylis chaetophora* with: 2 credits.

A range of mitigation measures to help mitigate the loss would be implemented including:

- clearing limits being clearly marked to prevent unnecessary clearing beyond the extent of the development footprint. Tree clearing and disturbance will be limited to the areas indicated for removal on the approved plans within the project area
- engagement of a suitably qualified and experienced ecologist to supervise removal of all significant habitat features including ground habitat and habitat trees
- salvaging of habitat within the project area prior to and during clearing activities to create a net positive increase of squirrel glider nesting habitat within the locality and retention of key connections
- timing vegetation clearance outside of key breeding periods for key species to avoid critical life cycle events.

PSC has an approved koala plan of management (KPoM) in accordance with Part 4.3 of the SEPP BC. Generally the requirements of the PSC KPoM only apply to Part 4 developments under the EP&A Act, however, PSC assesses all capital works against the performance criteria of the KPoM. In accordance with the Port Stephens KPoM the project will:

- remove or degrade native vegetation within koala habitat, however, minimise the removal or degradation of native vegetation wherever possible
- remove Koala feed trees, specifically Forest Red Gums (*Eucalyptus tereticornis*) would be removed. Trees removed would be offset in accordance with the ratios specified within the PSC Tree Technical Specifications, koala habitat is also being offset under the NSW Biodiversity Offset Scheme.
- install koala friendly temporary construction fencing, and permanent rural fencing being replaced as part of the project.

Overall, providing that koala offsets are undertaken, the project would be consistent with the PSC KPoM.

Biodiversity and koalas are discussed in further detail in **Chapter 5, Section 5.2.**

Biosecurity Act 2015 (Biosecurity Act)

The Biosecurity Act manages biosecurity risks related to plant, animal, and human health at the national border. It replaced multiple pieces of previous biosecurity legislation, streamlining policies and procedures to focus on risk management and achieving outcomes.

Five priority weed species listed under the Biosecurity Act were identified onsite by Wildthing (2025) including:

- *Asparagus aethiopicus* Ground Asparagus
- *Asparagus asparagoides* Bridal Creeper
- *Senecio madagascariensis* Fireweed
- *Lantana camara* Lantana
- *Rubus fruticosus* species aggregate, Blackberry.

Weed control would be implemented as part of the project and the spread of weeds minimised through recommended mitigation measures such as weed hygiene protocols. Providing the mitigation measures are implemented, the project is unlikely to result in further harm caused by priority or environmental weed species.

Biosecurity is further discussed in **Chapter 5, Section 5.2.**

Coastal Management Act 2016 (CM Act) and State Environmental Planning Policy (Resilience and Hazards) 2021



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(SEPP RH)

The CM Act promotes strategic and integrated management, use, and development of the state's coast. It focuses on ecologically sustainable development that protects and enhances sensitive coastal environments, habitats, and natural processes. The CM Act manages the use and development of the coastal environment for the social, cultural, and economic well-being of the people of NSW.

The SEPP RH contains planning provisions for land use planning within the coastal zone, in a manner consistent with the objects of the CM Act. The SEPP RH helps manage hazardous and offensive development and provides a state-wide planning framework for the remediation of contaminated land and to minimise the risk of harm.

In accordance with Part 2.2 of the SEPP RH development within mapped coastal management areas must comply with specific requirements.

There are no coastal management lands such as Coastal Wetland, Coastal Wetland Proximity Area, Littoral Rainforest, Littoral Rainforest Proximity Area, Coastal Environment Area or Coastal Use Zone mapped within or on adjacent lands to the project area. The site does not drain to lands mapped as Littoral Rainforest.

The project area drains to the Williams River, which drains into the Hunter River approximately 25 km downstream. The Hunter River drains into the Hunter River Estuary which is a mapped Coastal Wetland. The Hunter River Estuary is approximately 35 km downstream of the site. Whilst there is the potential for pollutants from the project to enter the waterway, the small scope and limited extent of the works would be unlikely to contribute to a significant impact in the scale of the catchment and pollutant loads entering the catchment from other sources. Provided the mitigation measures are implemented, no offsite pollution impacts are expected to occur.

The project does not fit the definition of potentially hazardous or offensive industry under Clause 3.2 of the SEPP RH.

For Contaminated Lands, see *Contaminated Land Management Act 1997* (CLM Act).

Contaminated Land Management Act 1997 (CLM Act)

The CLM Act and associated regulations help regulate the management of contaminated lands. Requirements include notification, investigation and remediation of contaminated lands. The NSW Environmental Protection Authority (NSW EPA) must be notified by the property owner in writing of any contamination identified within the proposal area in accordance with Section 60 of the CLM Act.

Hunter Environmental Consulting (2024) conducted a preliminary material classification of soils location within the project area. Material was assessed against the chemical criteria stipulated within the *Recovered Aggregate & Excavated Natural Material (ENM) Orders* (NSW EPA, 2014) and to visually assess subgrade against Virgin Excavated Natural Material (VENM) definitions as referenced by the *NSW Protection of Environment Operations Act 1997* (POEO Act).

A total of 15 samples were collected from pavement materials throughout the project area. Preliminary classification of the material onsite was that the pavement materials and topsoil met the criteria for excavated natural material and the subgrade is likely to meet the criteria for virgin excavated natural material.

There are no known contamination issues relating to the project area. Contamination is further addressed in **Chapter 5, Section 5.3**.

Crown Land Management Act 2016 (CLM Act)

The CLM Act regulates the occupation and use of Crown land. Crown land is governed by the CLM Act. It provides a framework for the NSW Government, local councils and members of the community to work together to provide care, control and management over Crown reserves.

There are no Crown Lands within or on adjacent lands to the project area.

Dangerous Goods (Road and Rail Transport) Act 2008 (DG(R&RT) Act)

The DG(R&RT) Act is legislation that provides provisions for safety in the transport of dangerous goods by road and rail. It aims to protect human health, property, and the environment during the transportation of hazardous materials.

Hazardous material and dangerous goods may be used onsite and pose a threat of environmental harm if not transported, stored and used correctly. Provided the mitigation measures are implemented the risk of environmental harm posed by hazardous materials and dangerous is low. Hazardous materials and substances are further discussed in **Chapter 5, Section 5.3**.



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Environmental Planning and Assessment Act 1979 (EP&A Act)

The EP&A Act establishes a system of environmental planning and assessment for the state. The act includes provisions related to building regulation and certification, which underpin the design, construction, and safety of buildings in NSW.

The project is subject to an approval under Division 5.1 of the EP&A Act as non-state significant infrastructure. An EIS was prepared to describe and assess the project and recommend management measures to address impacts.

The project is a Division 5.1 project as clause 2.109 of the *NSW State Environmental Planning policy (Transport and Infrastructure 2021)* (SEPP TI) applies to development for the purpose of a road or road infrastructure facilities and provides that these types of works are development which is permissible without consent. The project is appropriately classified as being for the purpose of a "road" and a "road infrastructure facility" under the SEPP TI. This allows the project to be assessed in accordance with Part 5 of the EP&A Act.

In accordance with Division 5.1; Clauses 5.2 and 5.3 of the EP&A Act, PSC is both the proponent and determining authority for the purposes of the assessment. As the proponent and determining authority PSC has an obligation under Division 5.1; Clause 5.5 to consider the environmental impact of the project.

Whilst considering the environmental impact of the project, PSC determined that an EIS was required in accordance with Division 5.1; Clause 5.5 of the EP&A Act. This was due to the cumulative impact of previous works and the proposed works resulting in a significant impact on local heritage item I5 Road Alignment East Seaham.

The SEARs were issued in September 2024 (see **Attachment 1**). For how the EIS was developed and addresses the SEARS see **Chapter 2**.

Fisheries Management Act 1994 (FM Act)

The FM Act relates to the management of fishery resources. The objectives of the FM Act are to conserve, develop and share the fishery resources of the State for the benefit of present and future generations. The FM Act gives NSW Department of Primary Industries and Regional Development (DPIRD) jurisdiction over regulating activities that can impact on fish habitats, livestock management and works in coastal and inland areas, and development approvals.

Part 7 of the FM Act identifies that for any works that involve harm to mangroves or other protected marine vegetation, degrading or reclamation, blocking of fish passage or impact to key fish habitat, a permit issued in accordance with Part 7 of the FM Act is required.

There is a watercourse mapped within the project area which is mapped as key fish habitat (KFH). Works will require the excavation of land within the KFH. A permit in accordance with Part 7 of the FM Act will be required. Impacts to KFH are further addressed in **Chapter 5, Section 5.3**.

Heritage Act 1977 (Heritage Act)

Section 5.31 in Part 5.5 of the SEPP TI provides that before granting consent to any development on land on which a heritage item is located or land in the vicinity of such land, a consent authority may require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item. The SEPP TI does not identify heritage items but defines 'local heritage item' as meaning, among other things, 'a place, building, work, relic, tree, archaeological site or Aboriginal object that is identified as a heritage item (or by a similar description) in a local or regional environmental plan'. As SEPP TI is not inconsistent with the local environmental plans, the status of those heritage items listed in the *Port Stephens Local Environment Plan 2013* (PS LEP) and the *Dungog Local Environment Plan 2014* that are identified in the preceding sections stands. The Statement of Heritage Impact (SoHI) prepared assesses the extent to which the carrying out of the proposed development would affect the heritage significance of those items.

Heritage in NSW is principally protected by the Heritage Act which was passed for the purpose of conserving items of environmental heritage of NSW. Environmental heritage is broadly defined under Section 4 of the Heritage Act as consisting of the following items: 'those places, buildings, works, relics, moveable objects, and precincts, of State or Local heritage significance'. The Heritage Act is administered by the NSW Heritage Council, under delegation by Heritage NSW, NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW). The Heritage Act is designed to protect both known heritage items (such as standing structures) and items that may not be immediately obvious (such as potential archaeological remains or 'relics'). Different parts of the Heritage Act deal with different situations and types of heritage and the Act provides a number of mechanisms by which items and places of heritage significance may be protected.

Protection of items of State significance is by nomination and listing on the NSW State Heritage Register (SHR) created under Part 3A of the Heritage Act. The SHR came into effect on 2 April 1999. The SHR was established under the NSW



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Heritage Amendment Act 1998. It replaces the earlier system of Permanent Conservation Orders as a means for protecting items with State significance. A permit under Section 60 of the Heritage Act is required for works on a site listed on the SHR, except for that work which complies with the conditions for exemptions to the requirement for obtaining a permit. There are no items listed on the SHR within the study area. Wallaroo National Park is a conservation area, which is adjacent to the project area, but not within the project area. Wallaroo National Park has heritage restrictions outlined within the Karuah, Medowie and Wallaroo Group Plan of Management.

The Port Stephens LEP contains schedules of heritage items that are managed by the controls in the instrument. As the project is being undertaken under Part 5 of the EP&A Act, PSC is responsible for approving controlled work via the development application system. Within the project area is an item of local significance listed on the Port Stephens LEP 2013 Schedule 5: Road Alignment (Item No. I5), East Seaham Road and road reserves, East Seaham, the northern 3.14 km of which falls within the project area. The project area is also situated within the vicinity of one heritage item and one archaeological site both of local significance listed on Schedule 5 of the adjacent Dungog LEP:

- Homestead, "Fotheringay" (Item No. I17), 221 Fotheringay Road, Fotheringay, Lot 3, DP 1221980 which is located approximately 450 m west of the study area across the Williams River. The works will have minor amenity impacts within the curtilage of the heritage item.
- Marshall & Lowe "Deptford" shipyard site (Item No. I150), Crown reserve (No street frontage), Clarence Town, Lot 7303, DP 1132982 which is an archaeological site located approximately 410 m west of the study area across the Williams River. There will be no excavation of Deptford archaeological site and therefore there will be no impacts.

Heritage impacts are further addressed in **Chapter 5, Section 5.6**.

National Parks and Wildlife Act 1974 (NP&W Act)

The NP&W Act helps conserve natural and cultural heritage, foster public appreciation, understanding and enjoyment of its natural and cultural heritage and manage any lands reserved for the purposes of conserving and fostering public appreciation and enjoyment of its natural and/or cultural heritage.

Sections 896, 87 and 90 of the NP&W Act require approval for any works which may impact an item of Aboriginal heritage. To support the project an Aboriginal Heritage Due Diligence (Biosis, 2024) was prepared. Biosis concluded that due to the degree of existing disturbance within the project area the likelihood of harm to Aboriginal heritage was low. For further discussion of Aboriginal Heritage see Section 5.6.

Section 151 to 153D of the NP&W Act specify the uses for which leases, licences or easements can be granted. The project area is not located on any land reserve under the NP&W Act, however Wallaroo National Park runs adjacent to the east of the project area. There are several gated access points to Wallaroo National Park along East Seaham Road. Discussions with NSW National Parks & Wildlife Service (NP&WS) identified each access point and helped determine the design requirements. The design complies with design requests from NSW NP&WS. Matters relating to Wallaroo National Park are further discussed in **Chapter 5, Section 5.9** and **Section 5.12**.

Protection of the Environment Operations Act 1997 (POEO Act)

The POEO Act establishes the NSW environmental regulatory framework and includes a licensing requirement for certain activities. Environment protection licences are a central means to control the localised, cumulative and acute impacts of pollution in NSW.

The project is not a scheduled activity pursuant to Schedule 1 of the POEO Act and no environmental protection licence would be required for the construction or operation and maintenance of the project.

Chapter 5 of the POEO Act identified offences for water pollution, air pollution, noise pollution, land pollution and waste. The project has the potential to cause environmental harm due to water pollution, air pollution, noise pollution, land pollution and waste. However, provided the mitigation measures are implemented, these impacts will be restricted to the project area.

For further information on water pollution see **Chapter 5, Section 5.8**, air pollution see **Chapter 5, Section 5.1**, noise pollution see **Chapter 5, Section 5.7** and land pollution and waste see **Chapter 5, Section 5.8, Section 5.3** and **Section 5.10**.

Roads Act 1993 (Roads Act)

The Roads Act aims to guide the application of laws related to road users and improve road safety outcomes. It enables contemporary uses for roads and simplifies road classification systems for better administration.

The project is not occurring on a classified road and will not involve the use of traffic control on a classified road. The project does not involve a deviation or alteration of the road or construction of a bridge tunnel or level crossing. The works are not



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constructing a bridge or tunnel across navigable waters and will not impact a main road, tollway or transit way. The project will not include the construction, erection, installation, maintenance, repair or removal or replacement of a traffic light control.

The works will include traffic control work on an unclassified road and works have a value of over \$2 million. Particulars of the project will be provided to Transport for NSW at least 28 days prior to the commencement of works.

Traffic impacts are further discussed in **Chapter 5, Section 5.9**.

Rural Fires Act 1997 (Rural Fires Act)

The Rural Fires Act aims to provide for the prevention, mitigation, and suppression of rural fires. It further provides for the constitution of rural fire districts in parts of the State that are not within fire districts.

The majority of the project area is mapped as bushfire prone. Provided that the mitigation measures such as ensuring bushfire is included in safe work method statements, responding in the event of an emergency is discussed during site induction, and evacuation plans are developed and clearly communicated, the bushfire threat to harm of personnel would be mitigated. Upon completion of works, the clearing of vegetation and improvement in road quality and safety will help ensure better access and response times in the event of an emergency bushfire event. Bushfire constraints are discussed in **Chapter 5, Section 5.5**.

Waste Avoidance and Resource Recovery Act 2001

The WARR Act promotes waste reduction and better use of our resources in NSW. It includes provisions for waste strategies and programs, and for industry actions to reduce waste.

Various waste streams would be generated during construction. The main waste streams would include:

- surplus spoil (excavated soil, sediment, rock) from bulk earthwork which is unable to be reused within backfilling or restoration
- demolition waste, including building materials, bridge removal materials, vegetation, kerbs and road surfaces
- rocks, geofabric and other materials
- packaging materials from items delivered to site, such as pallets, crates, cartons, plastics, and wrapping materials
- surplus material from construction and general site reinstatement, such as fencing, sediment from temporary basins, concrete, steel, formwork, and sand bags
- vegetative waste from clearing and grubbing
- plant and vehicle maintenance waste, such as oil containers
- general waste from construction sites, including office wastes, scrap materials and biodegradable waste
- liquid waste
- sewage waste generated through the use of personnel facilities.

The impact of potential waste expected to be generated by the project and the proposed measures to manage waste are detailed in **Chapter 5, Section 5.10**.

Waste materials generated during construction and operation of the project would be managed in accordance with principles of the waste management hierarchy. The impact of potential waste expected to be generated by the project and the proposed measures to manage waste are detailed in **Chapter 5, Section 5.10**.

Water Management Act 2000

The WM Act is the key piece of legislation for the management of water in NSW. The object of the act is the sustainable and integrated management of the state's water for the benefit of both present and future generations. The act governs the management of surface and groundwater resources within NSW.

Section 89 of the WM Act relates to water use approvals which confer a right on their holder to use water for a particular purpose at a particular location.

The project involves the construction of a culvert to convey water from one place to another, as it currently exists. The works are exempt in accordance with Section 37(1)(b). In accordance with subclause (2) the works are not on land to be declared of outstanding biodiversity value, are not within fisheries critical habitat, is not within a heritage conservation area, is not within an Aboriginal place, is not within a national park, is not on land subject to a conservation agreement, is not within



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State forest, is not within a coastal wetland or littoral rainforest area.

Clause 21(1) and Clause 2 of Schedule 4 of the WM Act provides an exemption for water access licence for road construction and maintenance by roads authorities. PSC fulfils the definition of a road authority within the meaning of the Roads Act. In accordance with Clause 7(2) of Schedule 4 of the WM Act groundwater volumes would not exceed 3ML.

Dewatering during excavations would be limited to a short period during installation of one of the culverts being upgraded. No other dewatering would be required as part of the project. Dewatering volumes would be dependent on groundwater levels and consolidation rates. Dewatering would be managed via a dewatering management plan, which would be prepared as part of the Construction Soil and Water Management Plan, under the CEMP.

For further impacts on water see **Chapter 5, Section 5.8**.

3.3. Approvals summary

Table 3-2 Approvals summary

Trigger		Type	Authority	Applicable
Land Owner	Working on land not owned or controlled by PSC	Land owner consent	NSW Crown Land NSW DPIRD ¹ (Marine Parks) Forestry NSW NSW NP&WS ⁻² Australian Government Private Landowner	No
	Aboriginal Land Claim and Native Title (native title check through Property)	Land owner consent	NSW Crown Land Local Aboriginal Land Council	No
	Working on Crown Land with no Plan of Management or works not permitted under Plan of Management	Land owner consent Crown Lands Licence	NSW Crown Land	No
National Parks	Working adjacent to a national park, nature reserve or other area reserved under NPW Act 1974	Written notice of intention to carry our works and scope of works to NPWS	NSW NP&WS ²	Yes
Water	Natural water usage (dewatering or ground water use)	Water Access License	NSW DCCEEW ³	Possible
	Discharging to sewer	Trade Waste Agreement	Hunter Water	No
Utilities	Earthworks near services (gas, telecommunications, electricity, water)	Dial Before you Dig check	Dial before you dig Australia	Yes
Heritage	Working near items on the State Heritage Register	Heritage Act: S57(2) exempt notification S60 approval	NSW DCCEEW ³	No



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		S140 excavation approval		
	Harm or potential harm to Aboriginal objects and places	Aboriginal Heritage Impact Permit (AHIP) S90 NPW Act	NSW DCCEEW ³	No
	Local heritage item	Concurrence	Port Stephens Council	Yes
Waterways/ Marine	Working near or in a Marine Park	Marine Park Permit	NSW DPIRD ¹ (Marine Parks)	No
	Constructing a fixed or floating structure in or over navigable waters (e.g. new boat ramp)	Written notice of intention to carry out works and scope of works to Transport for NSW	Transport for NSW	No
	Dredging or reclaiming of waterways	Land owner consent Fisheries Permit Marine Park Permit Crown Land License	Land owner: NSW DPIRD ¹ (Marine Parks) NSW DPIRD ¹ (Fisheries) NSW Crown Land	Yes
		Environmental Protection Licence (EPL)	NSW Environmental Protection Authority (EPA)	No
	Controlled activity in, on or under waterfront land	Controlled Activity Approval	NSW DPE (Water)	No
	Use explosives or electrical devices in a waterway	Fisheries Permit	NSW DPIRD ¹ (Fisheries)	No
Flora and Fauna	Working near aquatic reserves, habitat or marine vegetation	Fisheries Permit S205	NSW DPIRD ¹ (Fisheries)	No
	Obstructing fish passage	Fisheries Permit S219	NSW DPIRD ¹ (Fisheries)	Yes
	Taking or possessing fish or marine vegetation	Fisheries Permit S37/ S144	NSW DPIRD ¹ (Fisheries)	No
	Working near or with threatened species or part of an ecological community.	Threatened Species Licence	NSW DCCEEW ³	No
	Research, education or conservation activities involving protected, threatened and/or endangered species.	Scientific Licence	NSW DCCEEW ³	No
	Harm of protected native fauna	Licence	NSW DCCEEW ³	No
Pollution and hazards	Noise	Showing inconsistency with Construction Noise Guidelines	NSW EPA	No
	Pollution/ Scheduled Activity	Environmental Protection	NSW EPA	No



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		Licence (EPL)		
	Asbestos removal	Licensed removalist	SafeWork NSW	No
	Storage of hazardous chemicals	Hazardous chemical notification	SafeWork NSW	No
Flooding	Carry out development that may be permitted without consent under a relevant provision (see s2.13 SEPP TI) on flood liable land that is not minor alterations or additions to, or the demolition of, a building, emergency works or routine maintenance	Written notice of intention to carry out works and scope of works to State Emergency Service	State Emergency Service (SES)	Yes
Mine Subsidence	Development on land in a mine subsidence district	Written notice of intention to carry out works and scope of works to Mine Subsidence Board	Mine Subsidence Board	No
National	Significant impact on Matters of National Environmental Significance	Concurrence and permit EPBC Act	Australian Government Department of Agriculture, Water & the Environment	No
Transport	The activity is occurring on a classified road and involves a deviation or alteration of the road or construction of a bridge tunnel or level crossing.	Approval of plans and specifications	Transport for NSW	No
	The activity is occurring on a road and has a value of over \$2 million.	Particulars of proposed work provided at least 28 days before the commencement of the work	Transport for NSW	Yes
	Constructing a bridge or tunnel across navigable waters	Publication in local newspaper in accordance with S79 of NSW Roads Act	Transport for NSW	No
	The activity will affect the development or further development of a main road, tollway or transit way.	Particulars of proposed work provided at least 28 days before the commencement of the work	Transport for NSW	No
	Provision of conduits across a public road for the carriage of utility services.	Consultation	Utility Provider(s)	No
	Traffic control work on a classified road	Consent	Transport for NSW	No
	Traffic control work on an unclassified road	Notification of works	Transport for NSW	Yes
	Construction, erection, installation, maintenance, repair, removal or replacement	Consent	Transport for NSW	No



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	of a traffic light control.			
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¹ NSW DPIRD New South Wales Department of Primary Industries and Regional Development

² NSW NP&WS New South Wales National Parks & Wildlife Service

³ NSW DCCEEW New South Wales Department Climate Change, the Environment, Energy and Water