

Development referrals guide

A guide for applicants and consent authorities on integrated development approvals, concurrences and consultation referrals for development applications

October 2024



Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Development referrals guide

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Contents

Purpose of this document	5
Development assessment process	7
Integrated development.....	8
Concurrences.....	9
Referrals for consultation or other reason	9
Functions of the NSW Planning Secretary	10
DAs where referral authorities have a role.....	12
Development impacting electricity infrastructure	13
Bush fire protection.....	17
Development impacting roads	24
Development impacting railway infrastructure	35
Water management (part 1) – controlled activities	46
Water management (part 2) – water licences and approvals	54
Aquatic and marine matters.....	63
Water quality	80
Development impacting water and wastewater infrastructure	88
Flood prevention.....	92
Heritage conservation.....	96
Aboriginal cultural heritage	104
Environment protection	116
Coal mine subsidence.....	128
Mining leases	134
Development impacting high-pressure pipeline infrastructure	140
Development impacting air infrastructure	143
Development impacting defence infrastructure	147
Development impacting navigable waterways	149
Development at ports	151
Proposed education infrastructure	154
Development impacting observatory and meteorological infrastructure.....	157
Urban design	160
Land-use planning.....	162
Hazardous and offensive development.....	165
Pre-lodgement meetings	167

Glossary	171
Acronyms	172
Appendix A – Additional information requirements for certain railway provisions.....	173
Appendix B – Information requirements for environment protection – integrated development environmental protection licences	184
Appendix C – Submission requirements for aquatic and marine matters by development type .	187
Appendix D – Information requirements for mine projects	190
Appendix E – Information requirements for water cycle management studies.....	195

Purpose of this document

Councils assess and determine most local development applications (DAs) in NSW under the *Environmental Planning and Assessment Act 1979* (EP&A Act). Local development is the most common form of development and may include new dwellings and commercial, retail and industrial developments. Regionally significant DAs are determined by planning panels. Some DAs require input from ‘referral authorities’ before a determination can be made. Referral authorities are typically NSW Government agencies but may also be other entities such as electricity distributors.

When used in a general sense, the term ‘referral’ in this guide collectively refers to:

- integrated development approvals
- concurrences
- referrals for consultation or reasons other than those listed above.

The term ‘referral authority’ means entities with the responsibility to respond to the above requests, as identified in legislation.

The purpose of this guide is to help councils and applicants understand if their development requires input from referral authorities and if so, what information needs to be lodged with the DA. This guide details:

- when an integrated development approval, concurrence or referral is required by legislation
- the referral authority’s lodgement requirements
- how the referral authority will assess an application
- what outcome applicants should expect.

This guide groups referrals in the planning system into themes. These themes are headings in the ‘DAs where referral authorities have a role’ section. A DA may trigger referrals across multiple themes such as environment protection, development impacting roads and bush fire protection. Applicants can refer to each theme to comprehensively address referral requirements before submitting a DA to the consent authority (typically council).

The guide helps:

- applicants produce higher-quality DA documentation, leading to faster DA assessments
- councils improve their understanding of which referral provisions may apply to a DA by collating these into this document.



This guide does not cover referrals for activities under Part 5 of the EP&A Act, State significant projects or complying development. This Guide is not intended to be a substitute for current NSW legislative requirements – please refer to the [NSW Legislation website](#) to access these.

Development assessment process

Part 4 of the EP&A Act regulates the DA process. The publication [Your guide to the DA process](#) provides applicants with information on the development assessment processes for local development. The [Development Assessment – Best Practice Guide for Councils](#) helps councils determine DAs in a timely manner. You can find planning information about individual properties through the [NSW Planning Portal](#).

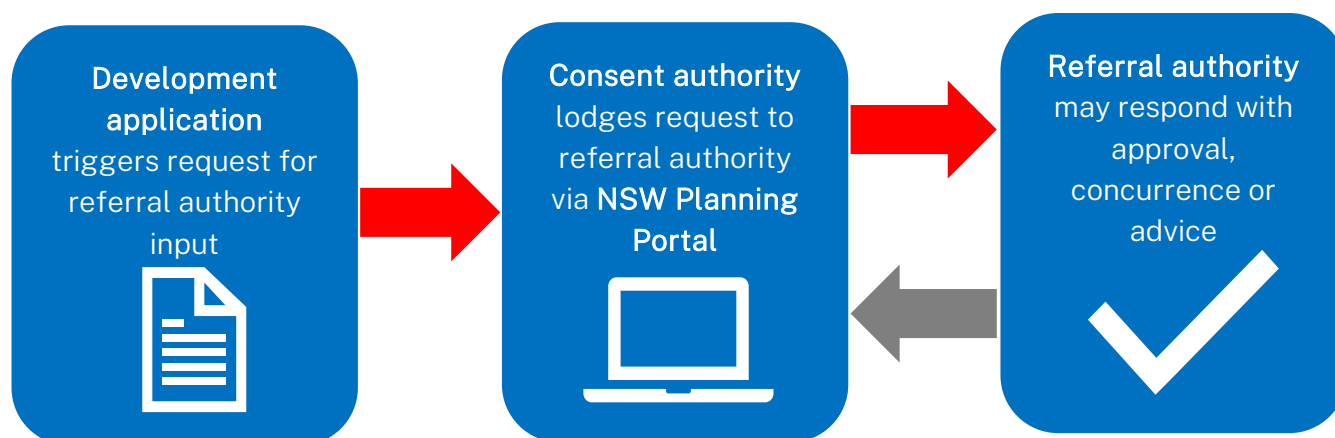
A landowner can make a DA, as can any other person with the written consent of the landowner. Some proposals may benefit from a pre-lodgement meeting with the relevant referral authority (see Pre-lodgement meetings).



The assessment of DAs is primarily the responsibility of councils. Where a development may have an impact on a matter of state interest, a referral authority provides the council with advice on that matter for input into its assessment.

The Department of Planning, Housing and Infrastructure has developed the NSW Planning Portal, an online platform making it easier for councils to seek advice from referral authorities and for applicants to track their case and pay fees.

Section 286 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation) requires the Portal be used for consultation referrals, concurrences and integrated development approvals.



A response from a referral may be in the form of an integrated development approval, concurrence or technical advice, as detailed below. If a referral authority does not respond to a request for concurrence or a referral by the time the statutory period lapses (where such a period applies), the council may determine the DA without the concurrence or consideration of comments.

Integrated development

Integrated development requires approval under both the EP&A Act and another NSW Act listed under section 4.46 of the EP&A Act.

An example of integrated development is a DA that proposes alterations and additions to a building that is listed on the State Heritage Register. That development would require approval under the EP&A Act and the *NSW Heritage Act 1977*.

Integrated development enables key issues under each Act to be assessed through the DA process. Integrated development helps reduce delays and duplication in assessment. It benefits applicants by providing certainty that they will be able to get all approvals required for the proposed development.

Councils must refer integrated DAs to the relevant referral authority to obtain what are known as their 'general terms of approval' (GTAs) before determining the DA. GTAs are an in-principle approval from a referral authority. GTAs list the terms and conditions that, if met, will allow the applicant to obtain an approval under the Act.

If the referral authority refuses to issue GTAs, the council must refuse the DA. If GTAs are granted, the approval issued by council must be consistent with them. If development consent is granted under the EP&A Act, an applicant must then apply for the other approval, which may be granted subject to conditions consistent with the development consent.

Concurrences

Concurrence is when agreement from a referral authority must be obtained before the council can determine a DA. Concurrence requirements are typically identified in environmental planning instruments (EPIs), but also exist in some Acts, such as the *Biodiversity Conservation Act 2016*.

Where you need concurrence, use this guide and contact the relevant referral authority to discuss what information is required to obtain concurrence.

If a referral authority refuses to give its concurrence to a development, the council must refuse the DA.

Referrals for consultation or other reason

The council must **refer** certain DAs to a referral authority where required under the legislation. This requirement is usually in an EPI and is typically for consultation purposes to obtain advice from the referral authority.

For example, under *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure SEPP), Chapter 2 (Infrastructure), section 2.122 councils must consult with Transport for NSW before determining development proposals for traffic-generating development on certain land.

The referral authority will provide the council with advice to inform its assessment.



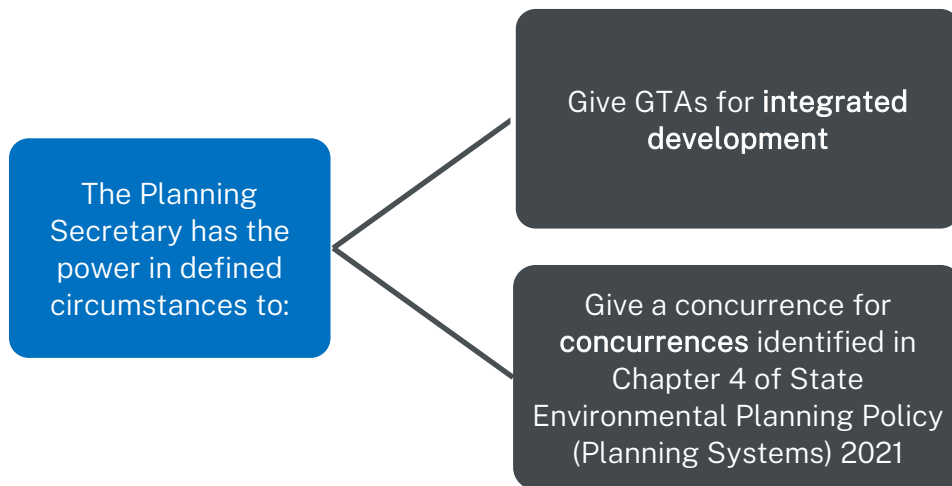
Functions of the NSW Planning Secretary

This guide supports faster DA determinations by helping improve the quality of DAs. Once a DA is lodged and an integrated development or concurrence request is submitted, there may still be circumstances where the Planning Secretary (the secretary of the department responsible for planning functions) needs to step in to prevent excessive delays in the assessment process.

The Planning Secretary's power to step in is triggered when:

- a referral authority has not decided to either grant or refuse concurrence where required under the EP&A Act or EPI, or has not given GTAs within a time set by the EP&A Regulation or
- where there is an inconsistency in the GTAs of 2 or more approval bodies. The inconsistency must be such that it would not be possible for a GTA of an approval body to be complied with without breaching a GTA of another approval body.

These functions are used sparingly and are only available where a referral authority has not met statutory timeframes or where 2 authorities give conflicting advice.



The Planning Secretary may issue GTAs or concurrence on behalf of one or more referral authority. The Planning Secretary may uphold conditions granted by one authority and alter conditions granted by another authority to remove any conflict. The Planning Secretary will become involved after the parties have made a genuine attempt to resolve the issues and only at the request of the consent authority.

When acting, the Planning Secretary must have regard to all the matters each referral authority would be required to consider under their legislation and weigh up conflicting matters against the guidance principles included in the [State Assessment Requirements \(PDF 700 KB\)](#). Under the step-in powers, the Planning Secretary will consult with the referral authority as part of the process to resolve issues.

DAs where referral authorities have a role

This section helps applicants and councils understand DAs where referral authorities have a role. It identifies:

- when a referral authority's approval, concurrence or consultation advice is required
- information required by the referral authority
- how the referral authority will assess the application
- what outcome you should expect.

Integrated development approvals, concurrences and referrals for consultation are grouped under topic headings. Information under each topic is split into questions/answers that are primarily targeted at the following audiences:

Step		Council	Proponent
1	Which developments require approval, concurrence or referral for [topic heading] matters?	✓	✓
2	How do I address [topic heading] in my application?		✓
3	What is the process for assessment?	✓	
4	What will the outcome be?		✓

Where appropriate, information under each step is categorised under the subheadings:

- **'Integrated development'** – for DAs that require integrated development approvals
- **'Concurrences and referrals'** – for DAs that require concurrences or referral for consultation.

This categorisation helps applicants and councils identify the information in each step that is relevant to the DA.

Development impacting electricity infrastructure

Referral authorities	Electricity supply authorities (ESAs): TransGrid, Ausgrid, Endeavour Energy, Essential Energy ESAs for rail infrastructure: Transport Asset Holding Entity of NSW and Sydney Metro
Legislation	State environmental planning policies <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 2 (Infrastructure), sections 2.47(2) and 2.48(2) Local environmental plans <i>Tweed Local Environmental Plan 2000</i> (Tweed LEP 2000) clause 37(3) Concurrences and referrals for development impacting electricity infrastructure may also be triggered under other SEPPs and LEPs.
Summary	ESAs provide advice on potential electrical safety risks in relation to proposed development. This advice is important to minimise the risk of safety issues occurring during construction and operation and to support the ongoing efficient operation of the electricity network.
DA requirements	ESAs determine information requirements for a DA triggering Transport and Infrastructure SEPP section 2.47 or 2.48, and Tweed LEP clause 37.



Determine if the development requires referral for electricity network matters

Development types that trigger a referral for electricity network matters will be specified in the relevant LEP or SEPP provision. These include:

- Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), sections 2.47(2) and 2.48(2) for developments that require referrals for electricity network matters
- Tweed LEP 2000, clause 37(3) for development, other than exempt development and agriculture, on land within a transmission line corridor.



Address electricity network matters in the application

General

Applicants should contact the relevant ESA for specific information requirements for electricity network referrals triggered by Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), sections 2.47(2) or 2.48(2). The [ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Electricity Infrastructure \(PDF 146 KB\)](#) defines the responsibilities of developers, property owners and occupiers, consent authorities and proponents for activities close to electricity easements and infrastructure. This guide may be useful in addressing electricity network matters in a DA.



Network maps for TransGrid, Ausgrid, Endeavour Energy and Essential Energy identify which authority is managing the electrical infrastructure or easement near a proposed development.

[TransGrid](#)

[Ausgrid](#)

[Endeavour Energy](#)

[Essential Energy](#)

TransGrid

TransGrid's [easement guidelines](#) identify its information requirements, including 3D DXF plans and requirements for activities within or immediately adjacent to transmission line easements.

Ensure you meet these requirements to help speed up the application process.

Ausgrid

Ausgrid has recently developed a [Safety Clearance Checker](#) tool which allows you to check if a development application at an address requires a referral to Ausgrid. See also the [Clearance enquiries page](#) of the Ausgrid website which includes the [Quick Reference Guide \(PDF 21.5MB\)](#). This provides advice for working near Ausgrid assets.

Endeavour Energy

Endeavour Energy's design requirements for new easements, other property tenure requirements, and the management of existing easements are available in the [Mains Design Instruction \(PDF 167 KB\)](#). Please also refer to the [Safety page](#) on Endeavour Energy's website.

Essential Energy

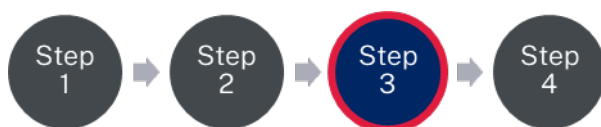
Essential Energy has developed a [DA referral web page](#) which contains guidance information for both councils and applicants to help navigate the company's DA referral process. The page will include information on why it is important to refer DAs to Essential Energy, when developments should be referred and the information required to support applications.

Essential Energy's [Easement Requirements \(PDF 1.11 MB\)](#) identifies the easement widths that Essential Energy applies when assessing whether a development is likely to encroach on their network. Further information on easements can be found on [the easements web page](#).

Essential Energy publishes network data that can be used to help assess whether a development needs to be referred in its Network Information Portal. A link to the Network Information Portal and a short user guide video can be found on the company's [electricity network maps web pages](#).

Rail electricity infrastructure

Development near rail electricity infrastructure may instead mean Transport Asset Holding Entity of NSW or Sydney Metro is the relevant ESA. Further information in relation to these referrals can be found later in this Guide under 'Development impacting rail infrastructure.'



Undergo the assessment

Referrals under Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), sections 2.47(2) and 2.48(2) will be processed in accordance with the requirements of those sections. TransGrid's [easement guidelines](#) set out the process for their permission as easement holder.

Consideration of representations received from Essential Energy is also required for the referral under Tweed LEP 2000 clause 37(3).



Get an outcome

Feedback may be provided by the ESA in response to a referral request. This feedback will generally be considered by the consent authority as part of the DA assessment process in accordance with the relevant EPI referral provision.

Reference documents

- [ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Electricity Infrastructure \(PDF 146 KB\)](#)
- Note: Diagrams are available from electricity supply authorities which illustrate the different typical powerline voltages for distribution and transmission lines. Please contact the relevant electricity supply authority for this information.

Bush fire protection

Referral authority	NSW Rural Fire Service (RFS)
Legislation	Acts and regulations EP&A Act section 4.14(1A) <i>Rural Fires Act 1997</i> NSW (Rural Fires Act) section 100B (integrated development) Rural Fires Regulation 2022 (Rural Fires Regulation) State environmental planning policies <i>State Environmental Planning Policy (Housing) 2021</i> (Housing SEPP) section 96(2)(a) Local environmental plans <i>Central Coast Local Environmental Plan 2022</i> (Central Coast LEP 2022) Schedule 1, clause 23(3)(a) Concurrences and referrals for bush fire protection may also be triggered under other SEPPs and LEPs
Summary	The RFS has a statutory obligation to protect life, property and the natural environment. This is done through fire suppression, fire prevention and by minimising the impacts on property from the threat of bush fire. Regard is given to development potential, site characteristics and the environment.
DA requirement	Development on Bush Fire Prone Land must satisfy the requirements of Planning for Bush Fire Protection and the Addendum to PBP-2019. This includes the preparation of a bush fire assessment report. The Bush Fire Prone Land map is a trigger for the consideration of bush fire risk, it is not intended as a detailed measure of risk. If the proposed development is potentially exposed to a bush fire threat, bush fire risk should still be considered by the consent authority. Development for subdivision of Bush Fire Prone Land that could lawfully be used for residential or rural residential purposes or development of Bush Fire Prone Land for a Special Fire Protection Purpose is integrated development and requires approval under the Rural Fires Act and the EP&A Act. Approval is required in the form of a Bush Fire Safety Authority, which can only be issued by the Commissioner of the RFS. Applications for a Bush Fire Safety Authority must include the requirements of section 45 of the Rural Fire Regulation. All other forms of development (such as new dwellings) on Bush Fire Prone Land are local development, assessed by the consent authority. The consent authority may grant consent to carrying out the development if it does not conform to the relevant specifications and requirements in Planning for Bush Fire Protection but only if it has consulted with the Commissioner of the NSW Rural Fire Service.

DAs may also trigger a concurrence and/or referral requirement under an EPI.



Determine if the development requires approval, concurrence or referral for bush fire matters

What land is bush fire-prone land?



Bush Fire Prone Land is legislated under section 10.3 of the EP&A Act.

The [NSW Planning Portal](#) provides an indication of where likely Bush Fire Prone Land is in relation to an address or lot. An applicant can also contact the relevant council to confirm whether land is bush fire prone.

If any part of the land is shown on the maps as Bush Fire Prone Land, the DA must assess bush fire issues. For more information, refer to the [Bush Fire Prone Land page](#) on the NSW RFS website.

Integrated development

Under the Rural Fires Act section 100B, development for residential and rural residential subdivisions or for a Special Fire Protection Purpose on Bush Fire Prone Land is generally integrated development. A Bush Fire Safety Authority is required from the RFS for those developments.

What are Special Fire Protection Purposes?

Examples of development types for Special Fire Protection Purposes include schools, childcare centres, hospitals, hotels, motels or other tourist accommodation, respite day care centres, group homes, retirement villages, manufactured homes, workplaces established for employment of people with disabilities, student or staff accommodation associated with educational establishments and community bush fire refuges approved by the Commissioner of the NSW RFS. A complete list of Special Fire Protection Purposes development is available in Section 100B of the Rural Fires Act and section 47 of the Rural Fires Regulation.

The Bush Fire Safety Authority is critical in ensuring buildings and land uses are designed, carried out and located in a way that is suitable to protect human life and facilitate appropriate operational firefighting arrangements.

Applications for a Bush Fire Safety Authority should be sent to the RFS via the Planning Portal. Bush Fire Safety Authorities must meet the requirements of section 45 of the Rural Fires Regulation, which includes consideration of mandatory requirements to support the application.

Not all proposals are for Special Fire Protection Purpose developments and residential or rural subdivision. Under section 100B(5) of the Rural Fires Act, a Bush Fire Safety Authority is not required for development which:

- comprises only the carrying out of internal alterations to a building
- is exempt under section 46 of the Rural Fires Regulation
- is complying development.

Concurrences and referrals

Certain development is excluded from section 100B and is not integrated development. Further details about exclusions are set out in [section 46 of the Rural Fires Regulation](#). Development types that are not integrated development and trigger referrals will be specified in the relevant Act, LEP or SEPP provision. These include:

- Section 4.14(1A) of the EP&A Act:
 - Bush fire impacts on all other forms of local development requires that a consent authority must be satisfied that a proposed development on Bush Fire Prone Land conforms with the specifications and requirements of [Planning for Bush Fire Protection](#).
 - The consent authority can undertake this assessment themselves, or rely on a certificate from a [suitably qualified consultant](#). Proposals that conform to [Planning for Bush Fire Protection](#) do not require referral to the RFS under these provisions, including performance solutions.
 - Developments that are located in Bush fire Attack Level Flame Zone (BAL-FZ) should be sent to the RFS as a referral in the Planning Portal.

If you include a Section 4.14(1)(b) certificate with a DA, council may not need to consult with the RFS and the assessment process will be simpler.

- The NSW RFS has a [Single Dwelling Application Kit \(PDF 8.71 MB\)](#) that can be used to prepare bushfire assessment reports for proposals involving alterations to an existing single dwelling or the construction of a new single dwelling. Not all councils will accept the single dwelling application kit so check with your council before proceeding.

- Section 4.15 of the EP&A Act: A consent authority (such as council) may refer developments to the RFS for advice even if the development is not located on Bush Fire Prone Land where bush fire may still present a risk. These referrals should be sent to the RFS as an ‘other’ referral via the Planning Portal for advice only.
- Housing SEPP section 96(2)(a) for senior or disability housing near Bush Fire Prone Land.
- Central Coast LEP 2022 Schedule 1, clause 23(3)(a) for use of certain land at Calga and Glenworth Valley.

Development types that trigger a concurrence and/or referral for bush fire safety matters will be specified in the relevant legislative provision.



Address bush fire in the application

The [Planning for Bush Fire Protection](#) published by the RFS and the [Development on Bush Fire Prone Land planning circular \(PDF 149 KB\)](#) contain relevant information to help identify planning and bush fire considerations for DAs.

Integrated development

All integrated development applications for development on Bush Fire Prone Land must be accompanied by the information specified in [section 45 of the Rural Fires Regulation](#).

It is recommended that bush fire reports for all other developments also meet these requirements.

Concurrences and referrals

An applicant should contact the RFS for specific information requirements for concurrence and/or referrals triggered by a LEP or SEPP provision.



Undergo the assessment

Integrated development

Integrated DAs will be assessed by the RFS and be required to comply with the requirements of [Planning for Bush Fire Protection](#). Council will refer the DA to the RFS. Minimum requirements for information that is to be submitted with a DA lodged under section 100B of the Rural Fires Act is specified in [section 45 of the Rural Fires Regulation](#).

When deciding whether to issue GTAs, the Commissioner will consider the objects of the Rural Fires Act and Rural Fires Regulation and how the development complies with matters outlined in Planning for Bush Fire Protection.

Development subject to EP&A Act section 4.14

Council assesses the application and if satisfied it complies with [Planning for Bush Fire Protection](#) or a certificate has been issued by a [suitably qualified consultant](#) that the development meets the requirements of Planning for Bush Fire Protection, it may grant development consent.

If the consent authority forms the view that the development does not conform to the relevant specifications and requirements of Planning for Bush Fire Protection, development consent may still be granted in some circumstances. Consent may be granted if the consent authority has consulted with the RFS regarding measures to be taken to protect persons, property and the environment from bush fire.

The National Construction Code NSW Variation considers that BAL-FZ is not a 'deemed-to-satisfy' solution and therefore referral to the RFS is required for BAL-FZ situations. These should be sent to the RFS as a referral in the Planning Portal.

For DAs requiring consideration under section 4.14, the council may consider comments received from the RFS. Councils must still satisfy their statutory obligations to determine whether a proposal conforms with the Planning for Bush Fire Protection in any assessment report.

Concurrences and other referrals

Development types which trigger a concurrence and/or other referrals for bush fire safety matters will be processed in accordance with the relevant LEP or SEPP provision.



Get an outcome

Integrated development

If satisfied with the development, the Commissioner of the RFS will concurrently issue GTAs and a Bush Fire Safety Authority. Any development approval issued by council must be consistent with the GTAs or the Bush Fire Safety Authority. The Bush Fire Safety Authority is the final approval required from the RFS.

If the Commissioner of the RFS refuses to issue GTAs and grant a Bush Fire Safety Authority, the council cannot issue the development consent and the DA cannot proceed.

Section 4.14 of the EP&A Act

If the council is not satisfied that the development proposes adequate fire protection measures under Planning for Bush Fire Protection, the DA should be referred to the RFS for consultation on measures to protect life, property and the environment from bush fire risk. If the RFS does not support the proposal, council should consider this in their assessment. If the DA is refused, the applicant will be notified and be given reasons for the refusal.

If the consent authority forms the view that the development does not conform to the relevant specifications and requirements of Planning for Bush Fire Protection, development consent may still be granted in some circumstances. Consent may be granted if the consent authority has consulted with the RFS regarding measures to be taken to protect persons, property and the environment from bush fire.

Concurrences and referrals

If the RFS refuses to provide concurrence, consent cannot be granted to the DA. If the RFS does not provide advice for any other referral, or does not support a referral, the consent authority should

take this into consideration when determining a DA. The DA could be withdrawn and/or modified to meet the relevant bush fire safety requirements.

The RFS may provide feedback in response to a referral request. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.

Reference documents

- [Development on Bush Fire Prone Land planning circular \(PDF 149 KB\)](#)
- [Planning for Bush Fire Protection](#)
- Other publications and documents are available from the [Building in a bush fire area web page](#).

Development impacting roads

Referral authority	Transport for NSW Planning Secretary
Legislation	Acts and regulations <i>Roads Act 1993</i> (Roads Act) section 26(3) Roads Act section 138 (integrated development) State environmental planning policies <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 2 (Infrastructure), sections 2.118(1) and (2), 2.121(2) and 2.122(4) Transport and Infrastructure SEPP, Chapter 3 (Educational establishments and child care facilities), section 3.58(2) <i>State Environmental Planning Policy (Industry and Employment) 2021</i> (Industry and Employment SEPP), Chapter 2 (Western Sydney employment area), sections 2.25(2) and (3), 2.34(1) and 2.35(1) Industry and Employment SEPP, Chapter 3 (Advertising and signage), sections 3.15(2)(b) and 3.16(2) <i>State Environmental Planning Policy (Precincts – Central River City) 2021</i> (Central River City SEPP), section 6.10 of Appendix 7, 9 and 11 <i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i> (Eastern Harbour City SEPP), Chapter 4 (City West), section 4.60(1) and (2) and 4.63(4) Eastern Harbour City SEPP, Chapter 6 (Cooks Cove), section 6.12(1) and (3)(a) Eastern Harbour City SEPP, Chapter 7 (Moore Park Showground), section 7.15(b) Eastern Harbour City SEPP, Appendix 2, section 2(7)(a) <i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 4 (Western Sydney Aerotropolis), section 4.27(1) Western Parkland City SEPP, Chapter 7 (Western Sydney Parklands), section 7.15(2)(b) Western Parkland City SEPP, Appendix 10, section 6.5(1)

	<i>State Environmental Planning Policy (Resources and Energy) 2021</i> (Resources and Energy SEPP), Chapter 2 (Mining, petroleum production and extractive industries), section 2.22(2) and (3) Local environmental plans <i>Ballina Local Environmental Plan 1987</i> (Ballina LEP 1987) clause 34C(3) <i>Camden Local Environmental Plan 2010</i> (Camden LEP 2010) clause 7.10(3) <i>Campbelltown Local Environmental Plan 2015</i> (Campbelltown LEP 2015) clause 7.24(3) <i>Great Lakes Local Environmental Plan 2014</i> (Great Lakes LEP 2014) clause 6.9(3) <i>Parramatta Local Environmental Plan 2023</i> (Parramatta LEP 2023) clauses 7.39(3) and 8.3(1) <i>The Hills Local Environmental Plan 2019</i> (The Hills LEP 2019) clauses 7.16(2), 7.24(2) and 7.26(2)(a) Concurrences and referrals for development impacting roads may also be triggered under other SEPPs and/or LEPs.
Summary	Transport for NSW is responsible for State roads infrastructure across NSW. The DA process is a planning approval and does not include a consent under the <i>Roads Act 1993</i> (the Roads Act). A planning approval is typically required prior to seeking consent under the Roads Act. It is important that any works and structures proposed by DAs in public roads can meet the requirements of the Roads Act. For this reason, the DA process requires input from Transport for NSW.
DA requirements	DAs may trigger a concurrence and/or referral requirement under the Act, Regulation, or an environmental planning instrument. When lodging a DA, the applicant will need to nominate whether integrated development or a concurrence or a referral is applicable. The applicant will also need to submit documentation to demonstrate how the proposal will mitigate potential impacts on any: • freeway (other road which Transport for NSW is specified as Roads Authority) • classified road (for which Transport for NSW is responsible)

- | | |
|--|--|
| | <ul style="list-style-type: none">• proposed classified road• traffic control signals (including any need for new traffic signals). |
|--|--|

Overview

The roads network in NSW is critical to the way we live and work. It is essential for the operation of our economy and it facilitates links in our communities. Transport for NSW is responsible for delivering safe and efficient journeys throughout NSW, managing the operations and programs of roads.

Step 1 will help applicants determine if the council is the roads authority. If the development impacts upon a road, it is necessary to identify the road authority when preparing the DA. This will help determine what approvals are needed and whether the development triggers a requirement to consult with Transport for NSW.

A person must not carry out development that affects a public road (such as erect a structure, dig up or disturb, remove or interfere with a structure, work or tree, pump water into a public road from any adjoining land or connect a road to a road) without the consent of the appropriate road authority.





Determine if the development triggers any roads approvals, concurrences or referrals

Confirm the roads authority

A public road is defined under the Roads Act as any road that is opened, dedicated or declared as a public road. Council is the roads authority for all public roads within the local government area with limited exceptions:

- Crown Lands is the roads authority for all Crown roads
- Transport for NSW is the roads authority for all freeways
- A different roads authority may be identified for a specified public road or all public roads within a specified area.

Transport for NSW may declare the route of a Light Rail system to be a 'Transit Way' under the provisions of the Roads Act.

Applicants should check with council in the first instance to confirm the relevant roads authority.

Crown roads

If development is intended on a Crown road, landowner's consent from Crown Lands would be required prior to DA submission. However, when Crown Lands receives the application, it may approach council at that time to transfer the road (if appropriate) prior to the DA being lodged. If the road ends up being transferred, the applicant would not need the department's consent as landowner, and the associated notification to the department would not be needed.

Freeway

If a DA proposes works or structures in relation a freeway, which require consent under section 138 of the Roads Act, consent must be obtained from Transport for NSW following DA approval. The applicant can nominate integrated development when lodging the DA and the consent authority will require GTAs from Transport for NSW. Pre-lodgement consultation with Transport for NSW is recommended prior to lodgement of any DA for integrated development on freeways.

Classified roads and other road facilities administered by Transport for NSW

Where a council is the roads authority for a classified road forming part of the State network, then Transport for NSW will exercise council functions in granting any Roads Act consent relating to its interests. Pre-lodgement consultation with Transport for NSW is recommended prior to lodgement

of any DA proposing or likely to require works, structures or facilities that require Roads Act approval from Transport for NSW.

Identify the approval, concurrence or referral

Development types that trigger an approval, concurrence and/or referral for road matters will be specified in the relevant Act, LEP or SEPP provision. These include:

- Roads Act:
 - section 26(3) for constructions on land affected by a road widening order
 - section 138 for works to classified road. Note that while the council may often be the road authority and ultimately issue this approval, they will need concurrence from Transport for NSW to issue this where it relates to a classified road
- Transport and Infrastructure SEPP:
 - Chapter 2 (Infrastructure):
 - section 2.118(1) and (2) for development on a proposed classified road
 - section 2.121(2) for development that involves the penetration of ground to a depth of at least 3m below ground level (existing) on land that is the road corridor of any of the roads listed in the section, or road projects described in Schedule 2
 - section 2.122(4) for traffic generating development
 - Chapter 3 (Educational establishments and child care facilities), section 3.58(2) for development for an educational establishment that will result in the educational establishment being able to accommodate 50 or more additional students, and that involves an enlargement or extension of existing premises, or new premises, on a site that has direct vehicular or pedestrian access to any road
- Industry and Employment SEPP:
 - Chapter 2 (Western Sydney employment area):
 - section 2.25(2) and (3) for development near transport infrastructure routes
 - section 2.34(1) for development in 'Transport Investigation Areas A and B' with a capital investment value of more than \$200,000
 - section 2.35(1) for development on Precinct 12 (Mamre Road) that has a capital investment value of more than \$200,000
 - Chapter 3 (Advertising and signage) section 3.15(2)(b) and 3.16(2) for advertisements greater than 20 square metres and within 250 metres of, and visible from, a classified road
- Central River City SEPP section 6.10 of:
 - Appendix 7 for development on land within or adjacent to a transport corridor - Alex Avenue and Riverstone Precinct Plan

- Appendix 9 for development on land within or adjacent to a transport corridor - Schofields Precinct Plan
- Appendix 11 for development on land within or adjacent to a transport corridor - Blacktown Growth Centres Precinct Plan
- Eastern Harbour City SEPP:
 - Chapter 4 (City West):
 - section 4.60(1) and (2) for development relating to land in the Eveleigh and Bays precincts - consultation by consent authority 'where it considers it appropriate'
 - section 4.63(4) for development involving temporary use of land for the purpose of a school at Wentworth Park
 - Chapter 6 (Cooks Cove), section 6.12(1) and (3)(a) for a Transport Management Plan for Cooks Cove
 - Chapter 7 (Moore Park Showground), section 7.15(b) for development generating traffic and parking and measures to facilitate the use of public transport
 - Appendix 2, section 2(7)(a) for the erection of any building on the cliff top sites near Luna Park
- Western Parkland City SEPP:
 - Chapter 4 (Western Sydney Aerotropolis), section 4.27(1) for development on transport corridor land with a capital investment value of more than \$200,000 or that involves the penetration of ground to a depth of at least 2 metres below ground level (existing) on land within 25 metres (measured horizontally) of transport corridor land
 - Chapter 7 (Western Sydney Parklands), section 7.15(2)(b) for road signage
 - Appendix 10, section 6.5(1) for development with capital investment value of greater than \$200,000 or involves penetration of ground at least 2m below ground level, within 25m of transport corridor land
- Resources and Energy SEPP, Chapter 2 (Mining, petroleum production and extractive industries), section 2.22(2) and (3) for the transportation of materials on a public road
- Ballina LEP 1987 clause 34C(3) for development of land at McLeans Ridges Road, Wollongbar
- Camden LEP 2010 clause 7.10(3) for development in 'Area 1' on the Clause Application Map (Glenlee)
- Campbelltown LEP 2015 clause 7.24(3) for development in 'Area 1' on the Clause Application Map (Glenlee)
- Great Lakes LEP 2014 clause 6.9(3) for development which could impact the State road network
- Parramatta LEP 2023:

- clause 7.39(3) for development on 142–154 Macquarie Street, Parramatta
- clause 8.3(1) for development on 'Transport Investigation Area' land
- The Hills LEP 2019:
 - clause 7.16(2) for development on land in "Area 1" at Castle Hill
 - clause 7.24(2) and 7.26(2)(a) for development in various localities with potential effects on existing and proposed transport infrastructure.

Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.119

Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.119 for development fronting classified roads does **not** trigger an approval, concurrence or referral requirement. It is the role of the consent authority to consider the requirements of this provision.

Pre-DA consultation

Transport for NSW encourages developers to liaise with them during the pre-lodgement phase to assist in the early identification detailed issues that would otherwise be identified later in the assessment process during the DA assessment period.

Applicants should contact the relevant area within Transport for NSW that has the delegation for processing concurrence and referrals. Contact details can be obtained from the [Transport for NSW website](#).



Address roads infrastructure in the application

How to apply?

What must be lodged with a DA?

Transport for NSW adopts a risk-based approach to development impacting roads. The level of information required with a DA will depend on the scope, impact and complexity of the development, the nature of the surrounding road environment, and the requirements of any EPI provision requiring a concurrence or referral to Transport for NSW.

If council refers a DA to Transport for NSW, the applicant will need to provide the following information when lodging a DA:

- An Environmental Assessment (EA), addressing any works or structures proposed in, on or over a public road. The evaluation must identify and address all impacts on transport networks and services, including the provisions of any EPI. Where the EA defers to a supporting

technical assessment, such as a Traffic Impact Assessment, then the supporting document must identify all mitigation measures proposed by the applicant.

- A Traffic Impact Assessment (TIA), inclusive of a Road Safety Assessment, prepared with reference to current guidance adopted by Transport for NSW. For all traffic generating developments or complex existing conditions, a TIA will be required. A basic Traffic Impact Statement will be acceptable where existing conditions are compliant with design requirements and flow is unconstrained, and where proposed travel demands are below the size or capacity listed in Schedule 3 of the Transport and Infrastructure SEPP.
- Strategic designs demonstrating all works and structures proposed (or required by the consent authority) in public roads or freeways. All drawings are to be prepared with reference to Transport for NSW's Strategic design requirements for DAs, including swept path analysis for design and check vehicles.
- Any supporting technical and design reports (where applicable to a scope of proposed works):
 - Pavement and Geotechnical
 - Traffic Signal Design
 - Independent Road Safety Audit
- Any supporting draft management plans (where applicable to the impacts of a proposed development):
 - Travel Plan
 - Construction Traffic and Pedestrian Management Plan
 - Event Management Plan
 - Service and Delivery Plan
- Evidence of any pre-DA consultation carried out, and documentation demonstrating compliance with any advice provided by Transport for NSW in relation to:
 - impacts of works on a freeway, classified road or facility managed by Transport for NSW
 - proposed non-conformance to applicable standards, guidelines or Transport for NSW supplements.

Applicants are encouraged to contact the relevant roads authority and Transport for NSW to discuss submission requirements to ensure it is all included in the DA.



Undergo the assessment

When considering concurrences and referrals, Transport for NSW must consider whether the DA and supporting technical evidence has adequately addressed:

- the matters for consideration under the referral trigger
- the extent to which the development complies with the objects and principles of the Roads Act and any relevant guidelines for the proposed type of development
- potential impacts on all modes of travel, road users and the community
- potential impacts on the safety, efficiency and ongoing operation of the State road network
- proposed mitigation measures, inclusive of any works, structures or facilities relating to public roads
- any submissions received from the public during community consultation
- possible solutions to reduce negative impacts.

Development types which trigger an approval, concurrence or referral to other referral authorities for road matters will be processed in accordance with the relevant Act, LEP or SEPP provision.



Get an outcome

Integrated development

For applications under section 138 of the Roads Act where Transport for NSW is the approval body: once Transport for NSW has received your application, it will consider if sufficient information has been provided to inform a decision issue or refuse to issue GTAs. The DA must include all relevant details to satisfy Transport for NSW that an approval under the Roads Act can be achieved.

GTAs are not an approval under the Roads Act, rather they list the terms proposed to be granted by Transport for NSW in relation to the development. If Transport for NSW agrees to grant GTAs, the GTAs will be sent to the council to inform the determination of the DA. If the council subsequently issues a DA under the EP&A Act, it must be consistent with the GTAs. Council may still refuse to grant development consent, even if GTAs are issued. If GTAs are issued and the consent authority determines to grant development consent, then you can apply to Transport for NSW under the

Roads Act for approval subject to the terms of a Works Authorisation Deed (WAD) or other suitable agreement as determined by Transport for NSW. The terms of the WAD or agreement must be consistent with the GTAs issued in relation to the integrated development approval.

Where Transport for NSW refuses to issue GTAs, the council cannot grant development consent. The applicant will be notified and given reasons for the refusal.

Concurrences

Once the referral authority has received an application, it has the relevant statutory period to issue its response to council. The council must take that response into consideration when determining the DA. There is no obligation to respond to a request for concurrence. A referral authority may decline to provide concurrence on basis of the DA providing insufficient information to inform its decision. Council will consider the referral authority's comments and decide whether to request additional information.

Referrals

Feedback may be provided by the referral authority in response to a referral request. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision. The referral authority will comment on any relevant post-approval considerations to assist the consent authority in considering relevant conditions of development consent. Such comments do not constitute a Roads Act approval or concurrence, which must be obtained separately from the relevant roads authority following DA approval.

Reference documents

- [Road classification web page](#)
- [Schedule of Classified Roads and Unclassified Regional Roads \(PDF 669 KB\)](#)
- [Private development and other third party work \(roads\) web page](#)
- [Our role and what you need to provide \(roads\) web page](#)
- [Strategic design requirements for DAs](#)
- [NSW Movement and Place Framework guides](#)
- [Towards Zero – 2026 Roads Safety Action Plan – Safe Systems Framework](#)
- [Guide to Traffic Management Part 12: Integrated Transport Assessments for Developments](#)
- [Guide to Traffic Impact Assessment \(PDF 9.2 MB\)](#)
- [Urban Freight - Last Mile Toolkit](#)
- [Delivery and Servicing Plan Guidance \(PDF 3.04 MB\)](#)
- [Travel demand management web page](#)

- [Event management guidelines](#)
- [Temporary traffic management web page](#)
- [Design reference documents](#) set minimum design standards and provide guidance to designers of Transport for NSW funded infrastructure including roadworks and bridgeworks. These reference documents may be useful for applicants preparing their application.
- [Transport Corridor Outdoor Advertising and Signage Guidelines \(PDF 1.38 MB\)](#)
- [CADD Manual](#) (search 'CADD' in sub-discipline drop-down list) – this manual contains standard drawings that can implemented on road and bridge design sites
- [Traffic control at work sites Technical Manual](#) – the principles outlined in this manual are recommended to those responsible for the control of traffic at work sites
- [Traffic and transport policies and guidelines search](#)

Development impacting railway infrastructure

Referral authorities	Sydney Trains Sydney Metro Transport for NSW Australian Rail Track Corporation
Legislation	State environmental planning policies <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 2 (Infrastructure), sections 2.48(2), 2.97(2) and (3), 2.98(2), 2.99(2) and (3), 2.101(2) and (3) and 2.102(2) Transport and Infrastructure SEPP, Chapter 4 (Major infrastructure corridors), sections 4.7(1)(b) and (2) and 4.9(2) and (3) <i>State Environmental Planning Policy (Precincts – Central River City) 2021</i> (Central River City SEPP), Appendices 7, 9 and 11, section 6.10 <i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i> (Eastern Harbour City SEPP), Chapter 4 (City West), section 4.60(1) <i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 4 (Western Sydney Aerotropolis), section 4.27(1) and (3) Western Parkland City SEPP, Appendix 10, section 6.5(1) Local environmental plans <i>Parramatta Local Environmental Plan 2023</i> (Parramatta LEP 2023) clause 8.3(1) Concurrences and referrals for railway infrastructure may also be triggered under other SEPPs and/or LEPs.
Summary	Sydney Trains, Sydney Metro and Transport for NSW are responsible for rail infrastructure across NSW. These authorities make sure: - existing and future rail transport infrastructure is protected - any buildings or works undertaken near rail infrastructure do not cause a risk to this infrastructure, rail operations, the future occupants of the building and workers on building sites.
DA requirement	DAs may also trigger a concurrence and/or referral requirement under an EPI. When lodging a DA, the applicant will need to notify council that they require concurrence or a referral and will also need to submit documentation which addresses how the proposal will mitigate potential impacts on: a rail corridor or rail infrastructure (particularly for those away from a rail corridor)

- | | |
|--|---|
| | <ul style="list-style-type: none">• an interim rail corridor• a public transport corridor. |
|--|---|

Overview

The rail system in NSW is an essential part of the state's infrastructure. To protect the existing and future rail systems, applicants who are proposing works near or that may affect the rail network are required to have their application considered by the rail authority of NSW to ensure the continued safety of the network.

Under Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), Transport for NSW is the rail authority for all rail corridors apart from those for which there is a lease arrangement in place with Australian Rail Track Corporation (ARTC). ARTC is the rail authority who provides concurrence in rail corridors they own or lease. The Secretary of Transport has delegated the functions under certain SEPPs to the relevant Transport for NSW divisions or rail operators such as Sydney Trains and Sydney Metro. Those areas will review any referral or concurrence matter and issue the appropriate response.

Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), also makes Transport Asset Holding Entity of NSW and Sydney Metro electricity supply authorities and the responsible entities for any referrals under section 2.48(2) of the SEPP. Sydney Trains has been delegated to act on behalf of Transport Asset Holding Entity of NSW in this instance.

Sydney Trains, Sydney Metro, Transport for NSW and ARTC use their statutory concurrence and referral roles to protect rail land, infrastructure assets and future corridor proposals from development by considering development proposals on a case-by-case basis. They decide whether to give concurrence with or without the imposition of conditions.

Under the Transport and infrastructure SEPP, facilities, buildings, works or infrastructure related to light rail purposes can trigger concurrence and referral requirements.

The system of concurrences protects the assets of the rail groups, allows for future planning across the state and ensures the general public's safety.



Determine if the development triggers a concurrence or referral

Instances where council will need to obtain concurrence or refer a DA include:

- Transport and Infrastructure SEPP:
 - Chapter 2 (Infrastructure):
 - section 2.48(2) to the relevant electricity supply authority either Sydney Trains (acting on behalf of Transport Asset Holding Entity of NSW) or Sydney Metro, depending on the location - see the [NSW Planning Portal](#)
 - section 2.97(2) and (3) for development involving access via level crossings
 - section 2.98(2) for development likely to have an adverse effect on rail safety, or involves placing a metal finish on a structure in rail corridor used by electric trains, or involves the use of a crane in air space above any rail corridor, or is located within 5 metres of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities
 - section 2.99(2) and (3) for excavation in, above, below or adjacent to rail corridors
 - section 2.101(2) and (3) for development within or adjacent to an interim rail corridor
 - section 2.102(2) for major development on land within the Interim Metro Corridor
 - Chapter 4 (Major infrastructure corridors):
 - section 4.7(1)(b) and (2) for development within a future infrastructure corridor with a capital investment value of more than \$200,000
 - section 4.9(2) and (3) for excavation in, above, below or adjacent to future infrastructure corridors
- Central River City SEPP for development of land within or adjacent to the public transport corridor section 6.10 of:
 - Appendix 7 (Alex Avenue and Riverstone Precinct Plan 2010)
 - Appendix 9 (Schofields Precinct Plan 2012)
 - Appendix 11 (Blacktown Growth Centres Precinct Plan 2013)
- Eastern Harbour City SEPP, Chapter 4 (City West), section 4.60(1) for development relating to land in the Eveleigh Precinct - consultation by consent authority 'where it considers it appropriate'
- Western Parkland City SEPP:

- Chapter 4 (Western Sydney Aerotropolis):
 - section 4.27(1) for development on transport corridor land with a capital investment value of more than \$200,000 or that involves the penetration of ground to a depth of at least 2 metres below ground level (existing) on land within 25 metres (measured horizontally) of transport corridor land
 - section 4.27(3) for development with a capital investment value of more than \$200,000 on land in the 400-metre zone
- Appendix 10, section 6.5(1) for development with capital investment value of greater than \$200,000 or involves penetration of ground at least 2m below ground level, within 25m of transport corridor land
- Parramatta LEP 2023 clause 8.3(1) for development on 'Transport Investigation Area' land
- The Hills LEP 2019 clause 7.24(2) and 7.26(2)(a) for development in various localities with potential effects of the development on existing and proposed transport infrastructure.



To determine whether a property is within the relevant proximity of a rail corridor, search for a property on the maps in the [NSW Planning Portal Spatial Viewer](#).

DAs may also trigger other concurrence and/or referral requirements under other EPI provisions.

Pre-DA consultation

As each development proposal is unique and its impact on the rail corridor or rail infrastructure may vary, we highly recommend having a pre-DA meeting or liaison with Sydney Trains, Sydney Metro.

Transport for NSW or ARTC to discuss and clarify the application process and what information is specifically required for a development.

The relevant rail authority may also offer a more formal pre-DA detailed assessment or in-principle endorsement of the proposal and documentation prior to any formal DA lodgement with the consent authority. This may assist in the early identification of detailed issues that would otherwise be identified later in the assessment process during the DA assessment period. Contact details for the

relevant teams can be found online at the bottom of the [Rail - Private development page](#) on the Transport for NSW website.

Applicants should contact the relevant area within Sydney Trains, Sydney Metro, Transport for NSW and ARTC that has the delegation for processing concurrences and referrals.



Address railway infrastructure in the application

Once a DA has been lodged, the council will give written notice of the application to the relevant referral authority and take into consideration any response received within the statutory period.

What must be lodged with a DA application?

When lodging a DA, the applicant will need to ensure that documents submitted with the application advise council that the development triggers the requirement for concurrence or a referral.

Documents must address the relationship of the development with the rail corridor and any rail related impacts.

An applicant can engage an engineering consultant to prepare the technical information for the DA relating to railway infrastructure.

Concurrences

The lists below are a general summary of the documentation and information that may be required in addition to the material required by council. Appendix A to this guide provides a more detailed list of material and reports that you will need to provide with your DA for certain rail-related concurrences so the potential impacts on the rail corridor and rail operations can be correctly assessed.

It is unlikely that all the listed information will be required in every instance and applicants should contact the relevant rail authority to confirm documentation requirements. Additional documentation not listed in Appendix A may also be required.

Rail authorities need to consider the impacts of not just the single development but what the combined impact of all surrounding developments might be.

Documentation that may be required for concurrence for development involving access via level crossings

This section applies to concurrence required under Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.97(2) and (3).

Documentation includes:

- existing and proposed traffic data
- site-specific location information, such as road and train speed limits, number of trains, level crossing configuration and any other relevant details
- a level crossing risk assessment
- details as to how compliance with the relevant Australian Standards and standards, guidelines, and technical notes from the Transport for NSW Asset Standards Authority (ASA) will be achieved
- details as to how compliance will be achieved with the [Development near road and rail corridor guidelines](#).

Proposed subdivisions triggering this concurrence requirement should not create a situation where public road access can only be obtained by the creation of a new level crossing.

Documentation requirements for concurrences for development in or near rail corridors, future infrastructure corridors or transport corridors

This section applies to concurrence required under:

- Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.99(2) and (3) and 2.101(2) and (3)
- Transport and Infrastructure SEPP, Chapter 4 (Major infrastructure corridors), section 4.7(1)(b) and (2) and 4.9(2) and (3)
- Central River City SEPP, Appendices 7, 9 and 11, section 6.10
- Western Parkland City SEPP, Appendix 10, section 6.5(1).

For railways where:

- construction has begun, documentation should be provided as outlined under 'Approved or Operating Railways – Concurrence' in Appendix A unless otherwise advised by the relevant transport cluster agency or ARTC
- construction has not yet begun and the transport corridor has not yet been approved, documentation should be provided as outlined under 'Future Railways – Concurrence' in Appendix A.

Documentation requirements for Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.27(1) concurrence

For Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.27(1), DAs involving development on transport corridor land with a capital investment value of more than \$200,000 or that involve the penetration of ground to a depth of at least 2 metres below ground level (existing) on land within 25 metres (measured horizontally) of transport corridor land require concurrence of Transport for NSW before development consent can be granted. The information requirements for this concurrence are a response to the matters for consideration in the legislation and the requirements for information outlined in Appendix A.

For railways where:

- construction has begun, documentation should be provided as outlined under 'Approved or Operating Railways – Concurrence' in Appendix A unless otherwise advised by the relevant transport cluster agency
- construction has not yet begun and the transport corridor has not yet been approved, documentation should be provided as outlined under 'Future Railways – Concurrence' in Appendix A.

See Appendix A for documentation that may be required for other concurrences.

Referrals

Appendix A to this guide provides a more detailed list of material and reports for Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.48(2) and 2.98(2) that applicants will need

to provide with a DA so the potential impacts on the rail corridor and rail operations can be correctly assessed.

Other requirements are:

- Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.48(2) – DAs located near rail electrical power lines (both above and below ground) require a referral to the relevant rail electricity supply authority – either Transport Asset Holding Entity of NSW/Sydney Trains or Sydney Metro. To enable the rail electricity supply authority to assess your development in accordance with the relevant electrical standards, the DA will need some specific documentation. This may include the material listed below under ‘Documentation that may be required for a referral,’ in addition to the requirements outlined in Appendix A.
- Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.98(2) – DAs that may impact on rail safety, have metal finishes or require the use of a crane (but do not require concurrence under section 2.99) require a referral to either Sydney Trains, Sydney Metro or Transport for NSW. To enable the rail authorities to assess the DA the applicant will need to provide some specific documentation, which may include the material listed below under ‘Documentation that may be required for a referral,’ in addition to the requirements outlined in Appendix A.
- Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.102(2) – certain development within Sydney that may impact on the Interim Metro Corridor (as defined in the SEPP) requires a referral to Transport for NSW. The DA should include the following documents to enable assessment by Transport for NSW:
 - a detailed property and survey information (including location of nearest rail corridor, rail infrastructure, tunnels, easements and any other relevant details)
 - a project summary.
- Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.27(3) – development with a capital investment value of more than \$200,000 on land in the land within 400 metres of a train station (as shown on the Transport Corridors Map) must be referred to Sydney Metro for consultation on the:
 - appropriateness of the development in relation to planned train stations, including the service capability of planned train stations and the provision of sustainable transport options
 - timing of the carrying out of the proposed development and the timing for constructing train stations
 - effect of the development on planned train stations.

- Documentation that may be required includes:
 - proposed maximum GFA for each land use type
 - urban design report including details of active uses and street interfaces
 - connections to pedestrian and bus network links
 - ‘green’ transport plan
 - identification of servicing, parking and travel demand management
 - landscape design approach
 - an outline of public art provision
 - a crime prevention through environmental design report
 - operational management plans
 - construction management plan (including transport)
 - acoustic assessment report.

Documentation that may be required for a referral

Documentation includes:

- detailed property and survey information, including location of nearest rail corridor, rail infrastructure, tunnels, easements and any other relevant details
- a project summary
- architectural drawings showing the proposed development in relation to the above or below electrical infrastructure including basement depths and extents in elevation, plan and section views
- details of external finishes and use of any cranes
- drainage details – there is to be no drainage into the rail corridor
- if near high tension transmission lines, an electrical blow-out design
- details as to how compliance will be achieved with the relevant Australian Standards and standards, guidelines and technical notes from the Transport for NSW Asset Standards Authority (ASA), especially Airspace and External Developments and Developments Near Rail Tunnels
- detailed geotechnical report with borehole information
- detailed structural report with structural drawings – both plan, elevations and section views with measurements to the above or below electrical infrastructure. Rock anchors will not be permitted within rail land, strata, easements or near underground electrical infrastructure
- details of the location of the underground services and how the works will comply with the relevant ASA standard, AS 7000, ISSC 20 – Guideline for the management of activities within

Electrical Easements and Close to Electrical Infrastructure, and Sydney Trains Guideline SMS-06-GD-0268 – Working around electrical equipment

- for above ground electrical assets, an electrical blow-out design report in addition to a construction management plan detailing the unloading of building material and equipment and method of construction near power lines
- for below ground electrical assets, details of the actual location of the underground power services and how they will be protected during works
- details of how compliance will be achieved with the Development near road and rail corridors guidelines.
- in relation to developments adjoining a Sydney Metro corridor, details as to how compliance will be achieved with any relevant Sydney Metro guidelines.



Undergo the assessment

Matters for consideration

When acting, the relevant referral authority must consider:

- the aims of the applicable legislation and environmental planning instruments
- any relevant matters under the applicable legislation, including maps
- any relevant standards technical notes or guidelines, including interim guidelines
- any operating procedures or advice/direction from a regulator
- any technical reports and drawings provided by the applicant
- any submissions from the public received by council during community consultation.



Get an outcome

Once the council has provided the relevant referral authority with the DA and the applicable Appendix A documentation/information, it has the prescribed statutory period to provide or refuse concurrence or provide council with comments.

When deciding whether to grant concurrence, the rail authority must consider the matters listed above and as specified by the applicable legislation. Under Transport and Infrastructure SEPP,

Chapter 2 (Infrastructure), section 2.98(2)(b)(ii), the consent authority must take into consideration the [Development near road and rail corridors guidelines](#). This document is useful for both consent authorities and applicants for DAs in these locations.

Where Sydney Trains, Sydney Metro, Transport for NSW or ARTC refuses to grant concurrence, the council must refuse the DA.

If concurrence is granted, notification of the concurrence and any conditions will be sent to council. If the council subsequently decides to approve the DA under the EP&A Act, it must be consistent with the concurrence. If concurrence is granted, the council may still refuse the DA on other grounds.

Council will provide Sydney Trains, Sydney Metro, Transport for NSW or ARTC with a copy of the determination it makes in relation to the DA (a copy of the DA approval, conditions or refusal) within 7 days of making that determination.

Reference documents

- [Private development and other third party work \(rail\) web page](#)
- [Airspace and External Developments standard](#)
- [Developments Near Rail Tunnels standard](#)
- [Sydney Metro Underground Corridor Protection Technical Guidelines \(PDF 1.57 MB\)](#)
- [Sydney Metro At Grade and Elevated Sections Corridor Protection Guidelines \(PDF 1.16 MB\)](#)
- [Development near road and rail corridors guidelines](#)

Water management (part 1) – controlled activities

Referral authority	Department of Climate Change, Energy, the Environment and Water (DCCEEW) – Water Group
Legislation	<i>Water Management Act 2000</i> (WM Act) section 91(2) (integrated development) Concurrences and referrals for water management may also be triggered under other SEPPs and/or LEPs.
Summary	Water is a limited resource and must be managed sustainably for immediate and long-term needs. DCCEEW – Water Group is responsible for administering the WM Act including controlled activity requirements.
DA requirement	For the purposes of this guide, the role of DCCEEW– Water Group within the DA process is to assess works on waterfront land to administer the requirements of the controlled activity provisions of the section 91(2) of the WM Act. The steps in this section outline the process and requirements to ensure applicants meet these obligations for controlled activities.

Controlled activities

Controlled activities are works carried out within waterfront land. Some activities on waterfront land can cause negative impacts such as altering water flow or water quality, destabilising bed and banks, causing erosion, disturbing vegetation and wildlife habitats, and affecting environmental connectivity and diversity.

The purpose of a controlled activity approval is to ensure that works on waterfront land are carried out in a way that avoids or minimises negative impacts to waterways and other water users.

Regulating controlled activities protects waterfront land and its important natural functions while supporting appropriate private development and community infrastructure.

Healthy, productive watercourses and riparian corridors are vital to the community and environment. Riparian corridors perform a range of important environmental functions. The protection, restoration or rehabilitation of vegetated riparian corridors is important for maintaining or improving the shape, stability (or geomorphic form) and ecological functions of a watercourse.



Determine if the development requires a controlled activity approval for waterways matters

An applicant requires a controlled activity approval (CAA) to undertake a controlled activity on waterfront land, unless the activity is exempt. See the [Controlled activity approvals](#) web page for more information. The [Water Assist](#) tool may be useful to help identify the right government agency for applications and provide information on lodgement.

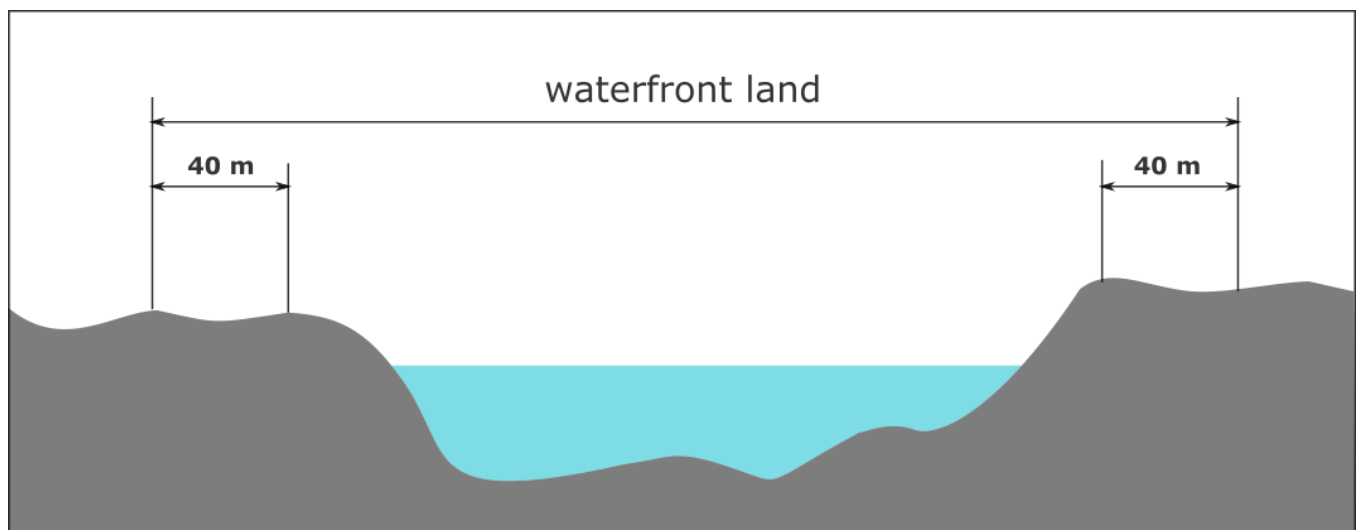
What is a controlled activity?

Controlled activities are certain types of activities carried out on waterfront land and defined as a controlled activity in the WM Act. Examples include:

- erecting building
- carrying out a work: including the construction of bridges, roads, control measures, sea walls, and more
- removing material from waterfront land: including plants, rocks, sand, gravel and more
- depositing material on waterfront land: including gravel or fill
- any activity that affects the quantity or flow of water in a water source.

What is waterfront land?

Waterfront land means the bed of any river, lake or estuary, and the land within 40 metres of the riverbanks, lake shore or estuary mean high water mark.



The [Waterfront land e-tool](#) can be used to help determine which land falls under this definition.



How to determine what constitutes a river for the purpose of controlled activities?

Refer to the [hydro line layer](#) and locate a property.

The hydro line layer is not always accurate in identifying the true on-ground location of rivers. Applicants should provide clear information about the location of the river in their application. Please refer to Step 2.

Where a mapped watercourse does not exhibit the features of a defined channel with bed and banks, or sufficient riverine features, DCCEE – Water Group may determine that the watercourse is not waterfront land for the purposes of the WM Act. In this case a controlled activity approval will not be required. If an applicant believes there is no river, the following information should be provided with the DA so DCCEE – Water Group can make this determination:

- a map or aerial photograph of the property identifying the location of the mapped watercourses
- photos of the mapped watercourse area up and downstream of the subject property
- photo locations and direction clearly marked on the map of the property.

Any mapped watercourse determined not to be waterfront land does not change Strahler stream ordering of any other mapped watercourses within the subject property or on neighbouring properties. Stream order is defined by the hydro line layer only.

What is the stream order for the purpose of controlled activities?

Stream order is determined using the Strahler method. Use the [Determining stream order fact sheet \(PDF 93 KB\)](#) as a guide.

What is exempt from requiring a CAA?

There are several exemptions from the need to obtain a CAA. Please refer to the [Controlled activity approval exemptions factsheet \(PDF 194 KB\)](#) for a summary of exemptions and detailed requirements for their applicability. Some of these exemptions include:

- construction of individual dwellings or dual occupancies
- waterfront land where the river is fully concrete lined or piped
- maintenance of existing lawful works
- repair and restoration work after storms
- construction of fencing, crossings or tracks
- works on certain waterfront land.

Further information on exemptions can also be found in the [Water Management Act \(General\) Regulation 2018](#) (section 40 to 43 and Schedule 4).



Address waterways matters in the application

Information needed for integrated development

- Include a riparian and waterfront land section in the statement of environmental effects outlining compliance with the [Guidelines for controlled activity approvals](#), and include:
 - justification for any non-compliance with the guidelines
 - consideration of any guideline conflict with bush fire asset protection or flood study requirements.
- Provide clear development plans that define:
 - waterfront land including top of bank of all watercourses or mean high water mark of any lakes or estuaries
 - the location and type of works including any structures, drainage, excavation or filling.
- Supply photographs of the subject waterfront land including photos taken upstream and downstream.
- Provide detailed drainage, flood and bush fire plans and reports appropriate for the development works.

Information needed to apply for a CAA

CAAs should be applied for through the NSW Planning Portal. Information about how to apply for a CAA can be found on the [How to apply for controlled activity approvals](#) web page. Information requirements will be a combination of both **integrated development** and **CAA**, and include:

- owner's consent
- a copy of council DA consent and approved council development plans
- supporting documents may also be required including:
 - final construction plans
 - all information requested in the NRAR GTAs that may include:
 - additional/revised plans and documents
 - costing of works
 - security bonds.



Undergo the assessment

What are the types of approvals?

Where a DA is required from council, the application should be lodged as **integrated development**. This will be referred to DCCEEW – Water Group for assessment and the issue of GTAs.

If development consent is granted by council, an application must be made directly to DCCEEW – Water Group to obtain a **CAA**. Alternatively, council may provide a letter or statement that a DA is not required, depending on the impact of the proposed development.

Where works are proposed on waterfront land and a DA is not required, the applicant should apply to DCCEEW – Water Group for CAA through the [NSW Planning Portal](#) after confirming with council that development consent is not required.

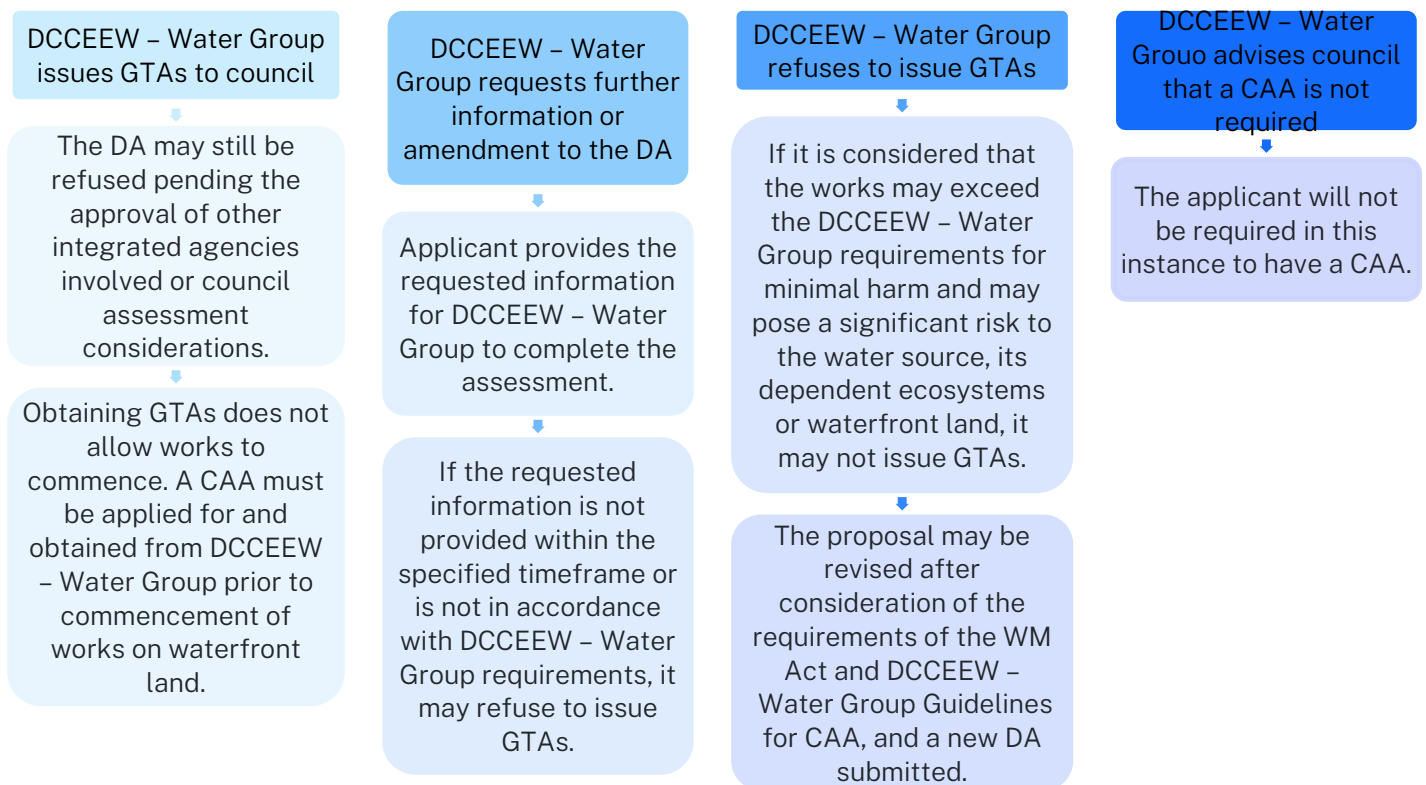


Get an outcome

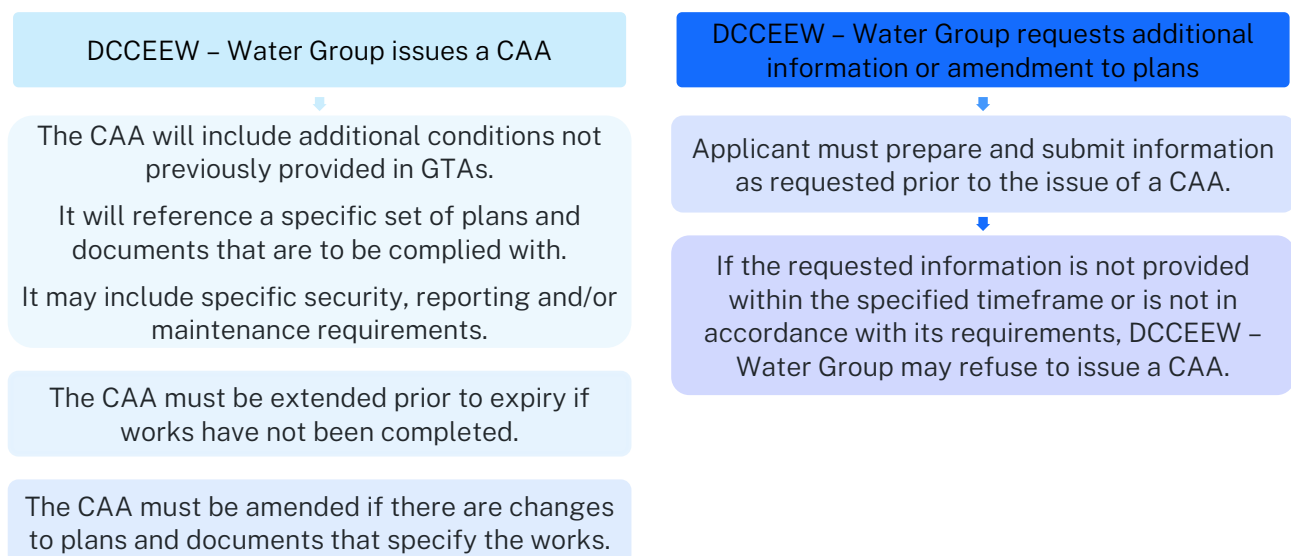
The outcomes for CAA are listed below. In addition to these outcomes, the application may be refused if it is considered the works may exceed the DCCEEW – Water Group requirements for minimal harm and may pose a significant risk to the water source, its dependent ecosystems or waterfront land. The proposal may be revised after consideration of WM Act requirements and DCCEEW – Water Group's [Guidelines for CAA](#), and a new application submitted.

What type of outcome should be expected for an application?

Integrated development outcomes



CAA outcomes



Reference documents

Key sections of the legislation

- WM Act sections:

- 3 – Objects
- 5 – Water management principles
- 91(2) – CAAs
- Dictionary (controlled activity, estuary, lake, river, waterfront land)
- [Water Management Act \(General\) Regulation 2018](#) sections
 - 3 – Definitions (hydro line spatial data, minor stream, definition of a river)
 - 40 to 43 – Exemption from requirement for CAA
 - Schedule 2 – Stream order of a watercourse
 - Schedule 4 – Exemptions

Key guides, factsheets and links

- [Hydro line layer](#)
- [Controlled activity approvals web page](#)
- [Controlled activity exemptions web page](#)
- [Controlled activity approval exemptions factsheet \(PDF 193 KB\)](#)
- [Guidelines for controlled activity approvals](#) including:
 - [In-stream works \(PDF 48 KB\)](#)
 - [Laying pipes and cables in watercourses \(PDF 48 KB\)](#)
 - [Outlet structures \(PDF 132 KB\)](#)
 - [Riparian corridors \(PDF 275 KB\)](#)
 - [Vegetation management plans \(PDF 138 KB\)](#)
 - [Watercourse crossings \(PDF 199 KB\)](#)



Water management (part 2) – water licences and approvals

The information provided below is a summary only. Refer to Water management (part 1) for information on controlled activity approvals. For further information please refer to the relevant legislation outlined below and information on the:

- WaterNSW [Water licensing pages](#)
- DCCEEW – Water Group [Licensing and trade web pages](#).

WaterNSW is not liable for consequences of actions taken in reliance of information provided or omitted from this document.

Referral Authorities	DCCEEW – Water Group WaterNSW
Legislation	Parts 2 and 3 of Chapter 3 <i>Water Management Act 2000</i> (WM Act) and Part 5 <i>Water Act 1912</i> (Water Act). Where water sharing plans do not apply, the Water Act may still govern the issue of new water licences and the trade of water licences and allocations. The water sharing plans web page identifies whether a river or aquifer is in a water sharing plan, and whether the WM Act applies to particular land. Concurrences and referrals for water management may also be triggered under other SEPPs and/or LEPs.
Summary	Water is a limited resource and must be managed sustainably for immediate and long-term needs. Section 4.46 of the EP&A Act provides that water management work approvals are types of integrated development approvals. In most cases, unless an exemption applies, a water access licence will be required in addition to a water management approval to entitle the holder of the access licence to the water that is taken. A water use approval may not be required if the use of water falls within one of the exemptions under sections 34 and 35 of the Water Management (General) Regulations 2018 (WM Regulations). The requirement for a licence under the Water Act does not trigger the integrated development provisions under the EP&A Act. Such licences must be applied for separately outside the integrated development process through council.
DA requirement	An applicant will need to lodge a DA and notify on the application form that approval under the WM Act may also be required. If the DA is approved and GTAs are granted, you will then need to obtain a water supply work approval under the WM Act before commencing any work.

	If a licence under the Water Act is required, the applicant must apply for this licence outside the integrated development process through the council. DAs may also trigger a concurrence and/or referral requirement under an EPI.
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Overview

DCCEEW – Water Group is responsible for water access licences and associated approvals for:

- councils
- State or Commonwealth government agencies or authorities
- major water utilities, water supply authorities or irrigation corporations
- Aboriginal commercial, Aboriginal community development, Aboriginal cultural or Aboriginal environmental subcategories of access licence
- licensed network operators under the *Water Competition Act 2006*
- entities carrying out activities under the *Mining Act 1992*, the *Offshore Minerals Act 1999*, the *Petroleum (Onshore) Act 1991* or the *Petroleum (Offshore) Act 1982*
- State significant development and State significant infrastructure.

WaterNSW is responsible for water access licences and associated approvals required by:

- rural landholders
- rural industries
- developments that are not state significant development or state significant infrastructure.

The WM Act provides that a licence or approval should not be granted unless there are adequate arrangements in place to ensure no more than minimal harm is done to any water source (including an aquifer), its dependent ecosystems, or impact on rights of other water users, or waterfront land because of the work or activity being carried out. DCCEEW – Water Group and WaterNSW are required to consider:

- water management principles (section 5)
- requirements of water sharing plans (section 48)
- grounds of refusal based on minimal harm (section 97)
- any other matters relevant to the works in determining the application (section 96).

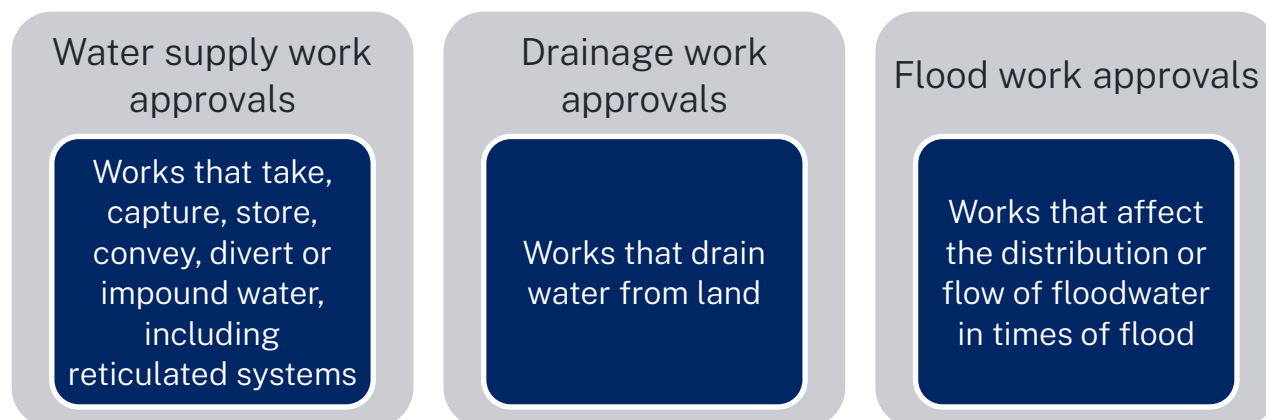


Determine if the development triggers any water-related approvals, concurrences or referrals

The [Water Assist](#) tool is a valuable resource for identifying the right government agencies for applications and providing information on lodgement.

A development will require an approval if it involves an activity that is authorised by a water management work approval or water use approval. Sections 34, 35 and 36 of the WM Regulations provide exemptions for the requirement to obtain a water use approval in certain circumstances.

There are 3 types of water management work approvals as shown below. All are integrated development.



A water use approval confers a right on its holder to use water for a particular purpose at a particular location.

Developments that may require approvals include pumps, dams, bores or other water infrastructure that is not state significant development. DAs for building construction with a dewatering component may require an approval under Section 90(2) of the WM Act and/or an access licence.

For further information on approvals, please visit the following web pages:

- the [Water access licences and approvals web page](#) on DCCEEW – Water Group’s website
- the [Water supply work and use approvals pages](#) on the WaterNSW website.

Separately to the requirement to hold approvals under the WM Act, a development may also require a water access licence, unless an exemption under section 21 of the WM Regulations exists.

A water licence may be required for groundwater aquifer interference. Dewatering that requires a person to use more than 3ML of groundwater per year also requires an access licence. Further information can be found in the [NSW Aquifer Interference Policy \(PDF 505 KB\)](#).

For further information on access licences, please visit the following web pages:

- [Water access licences and approvals web page](#) on DCCEE – Water Group’s website
- [Water Licensing](#) on the WaterNSW website.

Check whether a development is exempt from approval under the WM Act

A water management approval or water use approval is not required if a development falls within an exemption. If the development is exempt, approval under the WM Act is not required. An applicant only needs to comply with DA requirements.

Development that does not require water management/use approval

There are several exemptions from requiring a water management approval or water use approval under Part 3 [Division 2 of the Water Management \(General\) Regulation 2018](#). Please also see [Schedule 4 of the Regulation](#) for exemptions for access licence and controlled activities.

If a proposed development is exempt from the need to hold an approval under the WM Act, an approval will not be required. However, a water access licence may still be required. If an exemption applies, no further action is required with respect to an approval.

Development that is prohibited in a water sharing/floodplain area

Some types of development may be prohibited in some water sharing or floodplain management plan areas. If the work is shown on a water sharing or floodplain management plan area as prohibited, WaterNSW cannot issue GTAs or any approval under the WM Act. Consequently, the council must refuse the application. The applicant should check the relevant [water sharing plan](#) or [floodplain management plan](#) to confirm the proposed development is permissible.

Embargoes and water restrictions

Embargoes and water restrictions under the WM Act may impact on proposed development. An embargo is a partial or complete prohibition of access, extraction or use of water from a defined water management area (such as a catchment, aquifer or water source). Temporary water restrictions may also be in operation and these may prohibit access to water or limit water trading.

Development that might be affected by an embargo or temporary water access restrictions includes construction of:

- a (farm) dam on a third or higher order stream
- a diversion channel or other activities that may divert flow
- flood works.

Embargoes are made by the Governor by proclamation and published in the government gazette. To find out if land is affected by any embargoes or water restrictions, you can [contact](#) DCCEEW – Water Group.

Concurrences and referrals

Development types which trigger a concurrence and/or referral for water-related matters will be specified in the relevant LEP or SEPP provision.



Address water matters in the application

When lodging a DA, if an applicant knows that the development will subsequently require approval under the WM Act, the applicant is required to provide the following information to assess likely impacts of the development on the water source, its dependent eco-systems and existing users:

- relevant property details, including the lot or portion, deposited plan, section number (if applicable), house number, street, suburb or town. Location plans must clearly identify (using GPS co-ordinates where possible) the site of the work or activity in relation to the water source or waterfront land. The coordinate projection must be clearly identified (such as GDA 94 for longitude and latitude of MGA 94) and include zone, easting/northing
- plans or diagrams showing:
 - the width of any setbacks from water source – river, stream, lake, wetland or estuary
 - indicative footprint (dimensions and size) of the proposed work – if dam or diversion structure, include the height of embankments or walls
 - distances of setbacks from water source and areas of waterfront land including width of riparian corridors
 - construction and design plans for dams
- flow characteristics or flow regime of the water source or floodplain
- amount of water to be extracted including annual extraction volumes and purpose of extraction, including through inflow and seepage
- detailed description of the work, including pump type, outlet sizes and capacity if relevant
- information on site rehabilitation – restoration, replanting or rehabilitation of disturbed area, rehabilitation of affected water sources
- acid sulphate soil management plan and flood management plan – discuss with WaterNSW if your proposal requires these plans

- likely impacts on water sources and dependent eco-systems considering water management principles, minimal harm provisions and requirements of water management plans – water sharing plans and flood management plans.

Applicants must also provide a detailed statement of environmental effects to demonstrate (where relevant) how their proposal will minimise or mitigate impacts (including cumulative impacts) on the following matters:

- water sources, floodplains and dependent ecosystems, including groundwater dependent ecosystems and wetlands, swamps, bogs, depressions and perennial streams. These should be protected and restored where possible
- habitats, animals and plants that benefit from water
- results from any [Aboriginal Heritage Information Management System](#) search
- water quality including sediment and dissolved oxygen, its beneficial use classification and impacts
- groundwater pollution, disposal and contamination, including short- and long-term protection measures
- acidity, waterlogging, or salinity – including dryland salinity where relevant
- cumulative impacts associated with other approvals, and impacts on existing groundwater users
- geographical and other features of indigenous, major cultural, heritage or spiritual significance (natural or built)
- soil erosion and compaction (the impact of final land form on groundwater regime) and results of soils tests and geotechnical reports for dams
- vegetation clearing, include dimensions of area and details of native species to be cleared
- contamination of soils, sediment control, contamination of water and other relevant sites
- geomorphic instability
- impacts on other users

Flood works approvals

See the [Flood work approvals](#) pages of the WaterNSW website for information on flood work approvals. The guides [Application for a new flood work approval \(PDF 615 KB\)](#) and [Application to amend a flood work approval \(PDF 261 KB\)](#) provide the specific steps required to apply for these approvals.

Submission requirements

In addition to the standard submission requirements above or approvals to extract, store or divert water under section 90 of the WM Act, the DA must be accompanied by:

- estimated volume or storage capacity of the structure. If the volume exceeds maximum harvestable right, a water supply work approval and a water access licence will be required
- stream order. Dams are not permitted on some watercourses and are prohibited in some management zones
- confirmation the structure is permitted and complies with the requirements of the water sharing or flood plain management plan
- details of provision for fish passage – for dams, structures on perennial streams
- concept plans for instream works require cross sections and longitudinal sections
- information regarding the water access licence and how the applicant will obtain the commensurate volume of water required in accordance with rules in the water sharing plan.

Applications for building construction with a dewatering component have specific information requirements that require lodgement with the DA. For documentation requirements for temporary construction dewatering, please visit the [Construction dewatering page](#) on the WaterNSW website.

For dams, applicants must provide details on the design and low flow bypass to comply with water sharing plan rules on cease to pump and comply with dam safety requirements.

Some applications for integrated development require an assessment of groundwater related information. These can include DAs for building construction with a dewatering component. In this scenario, WaterNSW will need to refer the requested information to the department for hydrogeological assessment. The groundwater assessment criteria is available on the [Process to assess applications to take water fact sheet \(PDF 3.07 MB\)](#) available from DCCEE – Water Group's website. Providing all the requested information will enable DCCEE – Water Group to complete its assessment.

Concurrences and referrals

The applicant should contact the relevant referral authority for specific information requirements for concurrence and/or referrals triggered by a LEP or SEPP provision.



Undergo the assessment

Integrated development

If GTAs are issued by the approval body, the applicant can apply under the WM Act for the relevant approval.

Concurrences and referrals

Development types which trigger a concurrence or referral for water matters will be processed in accordance with the relevant Act, LEP or SEPP provision.



Get an outcome

Integrated development

If the approval body refuses to grant GTAs, the DA will be refused. The applicant will be notified and be given reasons for the refusal.

If approval body agrees to grant GTAs, the GTAs will be sent to the council. If the council subsequently issues a DA under the EP&A Act, it must be consistent with the GTAs. A council may still refuse to grant development consent even if GTAs are issued.

Concurrences and referrals

If the referral authority refuses to provide concurrence, consent cannot be granted to the DA. The DA could be withdrawn and modified to meet the relevant water management requirements.

Feedback may be provided by the referral authority in response to a referral request. This feedback will generally be considered by the consent authority as part of the DA assessment process in accordance with the relevant EPI referral provision.

Applying for the water supply work approval after the DA is approved

The applicant must apply for the water supply work approval or water use approval using the correct application form. A water access licence may also be required, unless one of the exemptions applies. Applicants can apply for a water supply work approval or water use approval on the [Water supply work and use approvals](#) page of the WaterNSW website.

Applicants can apply for a new water access licence using [Water Applications Online](#) or by completing an [Application for a new specific purpose water access licence \(PDF 271 KB\)](#) on the WaterNSW website. Further information can also be found in the [Process to assess applications to take water fact sheet \(PDF 3.07MB\)](#).

Aquatic and marine matters

Fish habitats, aquaculture, threatened species of fish and marine vegetation, marine parks and aquatic reserves

Referral authorities	Department of Primary Industries and Regional Development – Fisheries and Forestry (DPIRD – Fisheries) Marine Estate Management Authority Transport for NSW – Maritime Minister for Agriculture Secretary of the Department of Primary Industries and Regional Development Others (see below)
Legislation	Acts and regulations <i>Fisheries Management Act 1994</i> (FM Act) sections 144, 201, 205, 219 (integrated development) FM Act section 221ZZ(2) and (4) Fisheries Management (General) Regulation 2010 Fisheries Management (Aquaculture) Regulation 2017 <i>Marine Estate Management Act 2014</i> (MEM Act) sections 55(1)(b) and 56(2) Marine Estate Management (Management Rules) Regulation 1999 Marine Estate Management Regulation 2017 State environmental planning policies <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 6 (Water catchments) section 6.10 and 6.50(2), (3) and (4) <i>State Environmental Planning Policy (Primary Production) 2021</i> (Primary Production SEPP), Chapter 2 (Primary production and rural development), section 2.27(1)(b) Concurrences and referrals for aquatic and marine matters may also be triggered under other SEPPs and/or LEPs.
Summary	Aquatic habitats (freshwater, estuarine and marine) support around half of NSW's biodiversity and underpin NSW's recreational and commercial fishing and aquaculture industries. DPIRD – Fisheries assesses and manages impacts on aquatic habitats, threatened fish and marine vegetation. DPIRD – Fisheries manages the network of 6 marine parks and 12 aquatic reserves in NSW. The primary purpose of marine parks and aquatic reserves is to conserve biological diversity and maintain ecosystem integrity and function,

	while also providing for secondary purposes including supporting the management and use of resources, scientific research and education, opportunities for public enjoyment and Aboriginal cultural uses (where consistent with the primary purpose). DPIRD – Fisheries manages aquaculture leases, permits and associated aquaculture activities that are undertaken on land and in the water. Other referral requirements also exist for proposed development in or near certain waterways.
DA requirements	• Applicant: – obtains ‘no objection to the granting of landowner consent’ from DPIRD-Fisheries – obtains land-owner consent (for example from Crown Lands) – submits DA (Part 4 of EP&A Act). • Council: – has regard to the <u>Marine Estate Management Strategy</u> (MEM Act) – considers matters under the MEM Act for DA’s <u>in</u> a marine park or aquatic reserve (section 55) and DA’s <u>in the locality of</u> a marine parks or aquatic reserve (section 56) – refers the DA to DPIRD – Fisheries and/or other appropriate authorities for their concurrence/consideration if required – determines the DA. • If the DA is granted, the applicant applies for relevant permits under the FM Act and MEM Act if required.
Permit requirements	Permits under the FM Act and/or MEM Act are likely to be required following the approval of a DA, including: • Aquaculture developments must have a permit under section 144 of the FM Act. • Developments, works and activities within key fish habitat must be assessed to ensure that they will not have negative impacts upon key fish habitat, fish communities, recreational and commercial fishing, threatened fish species, populations and ecological communities. Works affecting key fish habitat components (such as the substrate, seagrass, seaweeds, saltmarsh, mangroves or snags) (section 205), dredging and reclamation (section 201) and obstruction of fish passage (section 219) can only be carried out in accordance with the conditions of a permit issued under Part 7 of the FM Act. • Development within a marine park which may harm, take or interfere with fish, plants or habitat (sections 1.11, 1.16, 1.19 and/or 1.22) or require dredging (section 1.13) will require a marine park permit under of the Marine Estate Management (Management Rules) Regulation 1999.

- | | |
|--|---|
| | <ul style="list-style-type: none"> • Development within an aquatic reserve which constitutes a prohibited activity under the Marine Estate Management (Aquatic Reserve) Notification 2020, such as impacting fish (including invertebrates) and/or marine vegetation, will require a permit. |
|--|---|

Overview

DPIRD – Fisheries is responsible for conserving the state’s fishery resources, including aquaculture, protecting and conserving key fish habitats and threatened fish species and marine vegetation, managing marine parks and aquatic reserves and managing and overseeing the implementation of the Marine Estate Management Strategy.

Depending on the location and type of development you are proposing, DPIRD – Fisheries will have an integrated approval, concurrence or advice role.

DPIRD - Fisheries are the responsible agency for the FM Act and MEM Act and ensure development activities comply with the requirements of these Acts, their supporting regulations and instruments made under these Act (see box above).

The primary purpose of the FM Act is to conserve fish and key fish habitats (including threatened species and marine vegetation) and promote ecologically sustainable development including the conservation of biological diversity. Where consistent with the primary purposes, the secondary purposes include promoting:

- viable commercial fishing and aquaculture
- recreational fishing opportunities
- shared fisheries resources
- social and economic benefits
- recognition of spiritual, social and customary significance of fisheries resources to Aboriginal peoples.

The purpose of the MEM Act is to provide for the management of NSW marine estate consistent with the principles of ecologically sustainable development. The MEM Act provides for the establishment of the Marine Estate Management Strategy. The purpose of the Strategy is to set the over-arching strategy for the NSW Government to co-ordinate the management of the marine estate.

Marine parks and aquatic reserves within the NSW marine estate seek to protect marine biodiversity. Under the MEM Act, the primary purpose of marine parks and aquatic reserves is to conserve biological diversity with secondary purposes such as supporting the management and use of resources, scientific research and education, opportunities for public enjoyment and Aboriginal cultural uses also provided for where consistent with the primary purpose.

DPIRD – Fisheries requires proposals to be consistent with:

- objects of the MEM Act (s3) and FM Act (s3)
- purposes of marine parks (s22) or aquatic reserves (s33) under the MEM Act
- objects of the zone in which the activity is proposed to be carried out
- activities that are permissible in the zone
- any operational plan for a marine park adopted by the Marine Parks Authority pursuant to section 25(4) of the *Marine Parks Act 1997* (before its repeal) that continues to have effect because of section 5 of Schedule 2 to the MEM Act
- any management plan for the marine park or aquatic reserve
- the [NSW Land Based Sustainable Aquaculture Strategy 2021](#)
- the NSW Oyster Industry Sustainable Aquaculture Strategy 2021: certain proposals are considered to represent a significant risk and should be consistent with DPIRD – Fisheries' [Healthy Estuaries for Healthy Oysters Guidelines](#). These are:
 - proposals within 10 km of an oyster aquaculture lease, or
 - any development or activity that is located within 10 km of a point where a stream enters an estuary that is within 10 km of an oyster aquaculture lease.
- NSW Marine Waters Sustainable Aquaculture Strategy 2018
- [Policy and Guidelines for Fish Habitat Conservation and Management](#)
- the DPIRD – Fisheries Priority Action Statement and Recovery Plans developed for threatened species listed under the FM Act
- the [Marine Estate Management Strategy](#) – public authorities are required to have regard to this in the exercise of their functions.



Some proposals can have impacts on oyster aquaculture either individually or cumulatively with other developments within the catchment. Maps of priority oyster aquaculture areas are available on the [Spatial Data Portal](#).

Referral requirements may apply to certain development proposals to help protect current and future waterway infrastructure and operations.

Preliminary step: obtaining landowner's consent from Crown Lands

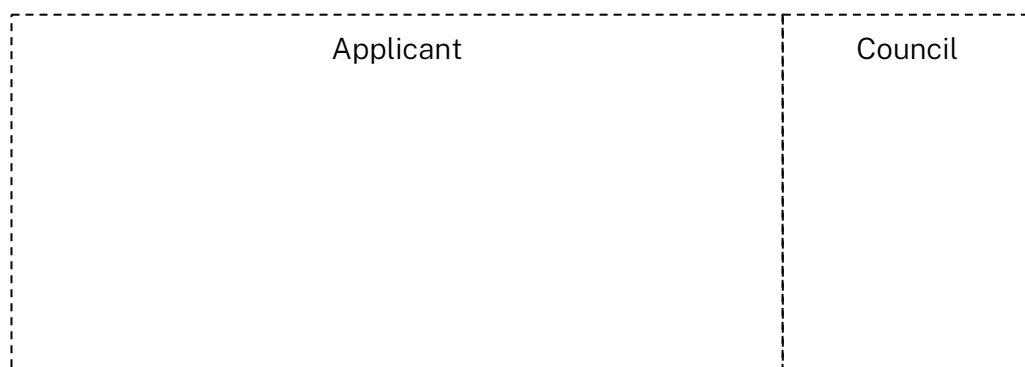
This preliminary step only applies if the development proposal includes a component that is partly or wholly located on Crown land (within the meaning of the *Crown Land Management Act 2016*). In NSW, the bed and banks of major waterways (rivers, estuaries, bays, harbours, lakes and three nautical miles seaward) are generally Crown land. The Department of Planning, Housing and

Infrastructure (DPHI) has ownership, control and management of most Crown land, which is administered by the department's Crown Lands branch. Most proposals in waterways (such as those below the mean high-water mark of tidal waterways) will require prior landowner's consent from DPHI (or Transport for NSW in some cases – such as in Sydney Harbour and Botany Bay) in order to submit a DA to the consent authority. This includes most domestic waterfront facilities such as jetties, boatsheds, berthing areas, boat ramps, slipways, pontoons, moorings, seawalls and any aquaculture development (except oyster aquaculture inside priority oyster aquaculture areas).

If part or all of the proposal is on Crown land, an applicant will need to obtain landowner's consent before lodging the DA or submitting a permit application to DPIRD – Fisheries. The proposal will be reviewed by DPIRD – Fisheries. The Crown Lands branch will only consider applications for landowner's consent if Transport for NSW has no concerns in relation to navigation and DPIRD-Fisheries has no concerns in relation to fisheries and marine matters.

Landowner's consent for development on Crown land is an essential step in the development approval process. DAs will be rejected if they do not have the consent of all landowners. This process is illustrated below.

The step by step process of obtaining landowner's consent from Crown Lands



Process for DPIRD – Fisheries landowner’s consent review

Before applying for landowners’ consent with Crown Lands, the applicant must obtain comment from DPIRD – Fisheries. Application for this comment involves sending DPIRD – Fisheries a completed application form and assessment fee, a description of your proposed development and relevant supporting information and documentation (such as plans, maps, photos, hydrographic survey and assessment of impacts to aquatic environments). The project description does not need to be finalised, but it should give a clear indication of the proposal together with the proposed development footprint.

DPIRD – Fisheries will assess the development proposal against a range of criteria related to relevant statutory and policy requirements. If DPIRD – Fisheries considers that the proposal is consistent with statutory and policy requirements, it will issue a ‘no objection to the granting of landowner’s consent’ letter to the applicant. The applicant is then able to supply a copy of the letter to Crown Lands when applying for landowner’s consent.

If DPIRD – Fisheries considers that the proposal is inconsistent with statutory or policy requirements, it will issue an objection to the granting of landowner’s consent. In this case, the development proposal will not be able to proceed in its current form and will need to be modified or withdrawn.

Letters that advise ‘no objection to the granting of landowner’s consent’ remain valid for 12 months.



Determine if the development requires approval, concurrence or referral for aquatic and marine matters

You will need input from DPIRD – Fisheries if the proposal:

- requires an aquaculture permit
- may harm marine vegetation (seagrass, mangroves, saltmarsh)
- includes dredging or reclamation works (refer to section 198A of the *Fisheries Management Act 1994*)
- obstructs fish passage
- may affect oyster aquaculture operations
- may significantly affect threatened fish and marine vegetation including communities or populations
- is within a marine park or aquatic reserve

- is in the 'locality' of a marine park or aquatic reserve and has the potential to affect the plants, animals or habitat of the marine park or aquatic reserve.

Before lodging a DA, a proponent should refer to DPIRD's [Policy and Guidelines for Fish Habitat Conservation and Management](#), particularly the information requirements outlined in section 3.3. The DPIRD guidelines outline the general position of DPIRD – Fisheries on many types of development and activities likely to affect key fish habitat. There is more detailed guidance on waterway crossings in the document [Why do fish need to cross the road? Fish passage requirements for waterway crossings 2003](#). Both documents are from the [Council and Developer Toolkit](#) on the DPIRD website.

Before lodging a DA, an aquaculture proponent should identify if their development will be State significant development (for all aquaculture in state waters, excluding oyster aquaculture), integrated development (for all oyster aquaculture developments outside of priority oyster aquaculture areas), or not requiring development assessment (for oyster aquaculture in priority oyster aquaculture areas and some land-based aquaculture).

Under s4.46(1) of the EP&A Act, integrated development can require one or more approvals under sections 144, 201, 205 and 219 of the FM Act.

Integrated development

Does the proposal involve aquaculture?

Aquaculture

'Aquaculture' means cultivating fish or marine vegetation for harvesting for sale or other commercial purposes. It includes ponds stocked with fish for paid recreational fishing. Aquaculture can include indoor and outdoor tank-based, pond-based and natural waterway-based aquaculture. In this context, aquaculture does not include a pet shop or aquarium.

If the proposal involves aquaculture, the applicant will need to obtain an aquaculture permit under section 144 of the FM Act.

Some aquaculture developments do not require development consent. Applicants are strongly encouraged to contact DPIRD-Fisheries for pre-lodgement advice or refer to the [NSW Oyster Industry Sustainable Aquaculture Strategy](#) for lease-based (estuarine) aquaculture, and the [NSW Land Base Sustainable Aquaculture Strategy](#) for land-based aquaculture (land-based ponds and tanks). These will help determine what is permissible or considered appropriate for the area. This will influence the level of assessment required for the project.

If a development site is located within key fish habitat and the proposal requires one or more of the activities described below, the applicant will need to submit the application as an integrated DA and subsequently (if development consent is granted) apply for a permit under the relevant provision of the FM Act.



Key fish habitat has been defined and mapped across the whole of NSW. The 'policy definition' and Key Fish Habitat maps by local government area are available from the DPI website. The applicant should check both the policy definition and the relevant map to determine the status of a site. The policy definition prevails to the extent of any inconsistency. A 40 metre buffer has been applied on the maps to ensure that mapping inconsistencies are captured. The extent of key fish habitat may therefore appear exaggerated when zoomed in.

Does the development involve dredging or reclamation?

The applicant will require a permit under section 201 of the FM Act if the development involves dredging or reclamation:

- Dredging refers to any excavation of the substrate (bed) of the waterway that requires any excavation of things such as sand, mud, gravel, rocks, cobbles, aquatic vegetation, snags, large woody debris comprising the substrate of the waterway (between the top of the banks).
- Reclamation refers to placing any material onto the bed of a waterway to fill any part of the waterway (between the top of the banks). Examples include bank protection works, groynes, causeways, dams, and temporary road crossings.

Will the development cause any harm or damage to marine vegetation?

If the proposal will do any damage or harm to such vegetation (such as removal, cutting, trimming, poisoning or shading), the applicant will need a permit under section 205 of the FM Act.

Will the development require construction or alteration of a dam, floodgate, causeway or weir or otherwise create an obstruction within a waterway?

If the proposal involves placing any structure or material within a waterway that will obstruct or block the free passage of fish (such as a weir, dam or road crossing), or involve the alteration of an existing structure such as a dam, weir, floodgate, culverts or causeway, the applicant will require a permit under section 219 of the FM Act.

Concurrences and referrals

Development types that trigger a concurrence and/or referral for aquatic and marine matters are specified in the *Fisheries Management Act 1994*, *Marine Estate Management Act 2014* or the relevant LEP and SEPP.

Will the development require referral to and/or concurrence from DPIRD – Fisheries?

The proposed development may require a referral to DPIRD – Fisheries and/or concurrence from DPIRD – Fisheries if the answer is ‘yes’ to any of the questions listed below. These referrals and/or concurrences may occur both in addition to an integrated development referral or in situations where an integrated development referral is not triggered. For example, a concurrence or referral may be required for storm and wastewater discharges from land-based development where the activity has the potential to impact:

- an oyster lease area
- a marine park or aquatic reserve
- threatened species.

Is the site within the catchment of an oyster producing estuary or an estuary with a priority oyster aquaculture area (POAA)?



The applicant should check the maps of oyster lease areas to see if the proposed development site is within a catchment that supports aquaculture. These maps are available from the DPIRD - Fisheries [Spatial Data Portal](#).

Is the site in a catchment that supports aquaculture, or includes a POAA?

If so, the council should consider if the proposal might have an adverse effect on, impede or be incompatible with oyster aquaculture. For example, development may have an adverse impact upon water quality either during the construction phase or operational phase, impinge on a lease area or affect access to a lease area. On-site sewage treatment and disposal is a particularly high-risk for oyster aquaculture.

Primary Production SEPP, Chapter 2 (Primary production and rural development), section 2.27(1)(b) requires referral for development that may have an adverse effect on oyster aquaculture development or a priority oyster aquaculture area.

Is the proposal within a marine park or aquatic reserve?



Check [the DPIRD website](#) to see if the site is within a marine park or aquatic reserve. The boundary of marine parks and aquatic reserves extends to the mean high-water mark and includes estuaries.

If so, the council is required to refer the proposal to DPIRD – Fisheries to obtain concurrence of the relevant ministers under section 55(1)(b) of the MEM Act prior to the granting of development consent.

If the development is wholly or partly within a marine park or aquatic reserve, it may require a permit under the MEM Act

Development within a marine park that may harm, take or interfere with fish, plants or habitat (s1.11, s1.16, s1.19, s1.22), or require dredging (s1.13) requires a marine park permit under the Marine Estate Management (Management Rules) Regulation 1999.

Development within an aquatic reserve that may impact fish (including seabed invertebrates) and/or marine vegetation which is typically a prohibited activity in aquatic reserves requiring consent in the form of an aquatic reserve permit under the Marine Estate Management (Aquatic Reserve) Notification 2020. In deciding whether to give consent, the relevant ministers must have regard to the assessment criteria provided in section 9 of the Marine Estate Management Regulation 2017.

An applicant can apply for a permit from DPIRD – Fisheries after they have obtained development consent from council. Marine park permit procedures are set out in the [Marine Parks Permit Policy \(PDF 93 KB\)](#).

Is the proposed development ‘in the locality of’ a marine park or aquatic reserve and likely to affect plants or animals?

In this context, ‘in the locality of’ means within the catchment of a stream, creek, river or other waterway that ultimately discharges into an estuary, coastal lake or marine waters within a marine park or aquatic reserve and is within the coastal zone as defined in *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 2 (Coastal management).

If the proposal is also likely to affect the plants or animals within the marine park or aquatic reserve or their habitat, a referral is required. This could include by causing a deterioration in the quality of the water discharging to the marine park or aquatic reserve or a change in hydrology and freshwater flows. In this case, under section 56(2) of the MEM Act, the council must consult with DPIRD – Fisheries before determining the application.

Is there a possibility that the proposal could affect a species, population or ecological community of fish, aquatic invertebrate or marine vegetation that is listed as threatened under the FM Act?

Threatened species, populations and ecological communities of fish, aquatic invertebrates and marine vegetation are listed under the provisions of Part 7A of the FM Act (Schedules 4, 4A and 5). The DPIRD – Fisheries website provides a current [list of threatened species](#).

If the proposal is within the range of a threatened species, population or ecological community (including within a critical habitat) listed under the FM Act and there is a possibility of an adverse effect upon one or more of those matters, then the applicant must complete an assessment of significance for each potentially affected matter in accordance with Part 7A, Division 12 of the FM Act. The assessment of significance will determine whether your development is likely to have a significant effect on threatened species. Refer to DPIRD – Fisheries' [Threatened species assessment guidelines: The assessment of significance \(PDF 2.6 MB\)](#).

Development determined to be likely to significantly affect threatened species, populations or ecological communities requires concurrence to be obtained under FM Act section 221ZZ(2) and (4) if it is Part 4 development (not being State significant development or complying development) when a Minister is not the consent authority.

Development consent cannot be granted without the concurrence of the Minister for Agriculture:

- development on land that is, or is a part of, a critical habitat
or
- development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat.

So, if one or more of the assessments of significance indicate that a significant effect is likely, then the proposal will need to be modified to eliminate the effect or reduce it to the level of insignificance or the concurrence of DPIRD – Fisheries must be sought.

The applicant will need to engage a specialist consultant to prepare a species impact statement to assist DPIRD – Fisheries to grant concurrence. A concurrence from DPIRD – Fisheries may be conditional on taking biodiversity offset actions such as habitat rehabilitation or providing environmental compensation.

Referrals for coastal and other waterway matters

Development types that trigger a referral for other waterways matters will be specified in the relevant SEPP provision. These include the Biodiversity and Conservation SEPP, Chapter 6 (Water catchments):

- section 6.10 for development on land in a regulated catchment if the development is likely to have an adverse environmental impact

- section 6.50 (2), (3) and (4) for waiving the requirement for a master plan for strategic foreshore sites.

See the sections of this guide titled ‘Water management (part 1) – controlled activities,’ Water management (part 2) – water licences and approvals,’ ‘Water quality’ and ‘Development impacting navigable waterways’ for other requirements for approvals and referrals.



Address aquatic and marine matters in the application

The application

What needs to be lodged with a DA application?

Applicants need to supply sufficient, relevant information to enable DPIRD – Fisheries to clearly understand what is proposed and how it may affect fish populations, aquatic habitats, aquatic threatened species, marine parks and aquatic reserves, commercial and recreational fishing and aquaculture industries (both directly and indirectly). If suitable information is not provided, DPIRD is likely to ‘stop the clock’ and request further information, which could delay approvals. Applicants should provide information as outlined below. The document *Aquatic Ecology in Environmental Impact Assessment* (Lincoln-Smith 2003) provides detailed guidance in relation to assessing aquatic flora and fauna impacts during the preparation of environmental assessment documents.

The required information includes:

- a site address and property description (lot and DP numbers)
- a clear description (including plans) of the proposal including details of construction methods and materials, timing and duration
- description of the purpose of the works, justification for the works and consideration of alternatives
- map(s) and photographs of the area affected and adjacent areas, including nearby infrastructure and features (such as dams, weirs, bridges, road crossings and waterfalls) and surrounding land uses (such as oyster leases or other aquaculture facilities and recreational and commercial fishing areas) including the extent of wetlands, tidal inundation and flooding if relevant
- a clear description of the physical, geologic, geomorphic and hydrological features of the waterway/impacted area. The impacted area may extend upstream and downstream of the development site in the case of flowing rivers or tidal waterways

- a clear description (including maps) of the nature, extent and condition of aquatic environments (including habitat type and class), water quality characteristics and marine, freshwater and riparian vegetation that occur within and adjacent to the footprint of the development with emphasis on those features likely to be directly affected
- a summary of fish species and communities (including threatened and/or migratory species) resulting from database searches, observations and aquatic surveys
- hydrographic depth contour mapping within 20 metres of the proposal (for boating related infrastructure such as jetties and moorings)
- details of the nature, timing, magnitude and duration of any disturbance to aquatic environments, aquaculture or fishing operations. This should include direct impacts (such as physical damage and shading) and indirect impacts (such as increased erosion and propeller damage) over both the short and long term from the construction and operation of the facility
- assessments of predicted impacts on any threatened species, populations, ecological communities (fish and marine vegetation) or critical habitat listed under the FM Act (such as an assessment of significance and/or species impact statements)
- details of proposals for ameliorating any environmental effects, including habitat compensation or rehabilitation
- details of the general regional context, any protected areas, other developments in the area, and/or cumulative impacts
- (if in a marine park or aquatic reserve): address the assessment criteria in clause of the [MEM Regulation 2017](#)
- notification of any other matters relevant to the particular case
- for aquaculture developments, applicants must complete the appropriate aquaculture permit application form, include all necessary maps and diagrams, and include a completed commercial farm development plan. Application forms are available from the [Aquaculture page](#) on the DPIRD-Fisheries website.

An applicant can discuss these information requirements with DPIRD – Fisheries to determine the level of detail required. An applicant can engage an environmental consultant to prepare the required documentation. To apply for a permit under the FM Act or the MEM Act, the applicant will need to submit the above information together with a completed single [permit application form](#) for both permits (where relevant).

Appendix C details the submission requirements for different types of approvals. Once the applicant submits a DA to council, the council will forward a copy to DPIRD – Fisheries for assessment.

Other referrals

The applicant should contact the relevant referral authority for specific information requirements for other approvals, concurrences or referrals triggered by an Act, LEP or SEPP provision.



Undergo the assessment

Integrated development

When considering integrated DAs, DPIRD – Fisheries will decide whether the proposal should proceed having regard to the matters outlined in the:

- Policy and Guidelines for Fish Habitat Conservation and Management
- NSW Land Based Sustainable Aquaculture Strategy
- NSW Oyster Industry Sustainable Aquaculture Strategy
- [Healthy Estuaries for Healthy Oysters Guidelines](#)
- Primary Production SEPP, Chapter 2 (Primary production and rural development)
- Assessment criteria set out in section 9 of the MEM Regulation 2017.

The decision is based on the predicted impacts upon marine protected areas, fish populations, aquatic habitats, aquatic threatened species, commercial and recreational fishing and aquaculture industries. Proposals that are likely to have a significant adverse impact are not likely to be approved in the absence of reasonable mitigation and/or compensatory measures.

Concurrences and referrals

Development types that trigger a concurrence or referral for aquatic and marine matters will be processed in accordance with the relevant Act, LEP or SEPP provision.



Get an outcome

DPIRD – Fisheries is required to assess the proposal and provide GTAs to council within 40 days (unless insufficient information has been provided, in which case the ‘clock is stopped’ until the relevant information is provided). If GTAs are issued, they will be sent to council. If the council issues development consent, it must be consistent with the GTAs. DPIRD – Fisheries is then obliged to issue a conditional permit to enable the proposal to proceed. The permit must be consistent with the GTAs previously provided.

A council may still refuse to grant development consent, even if GTAs are issued.

If DPIRD – Fisheries decides that the proposal (or part of the proposal) is inconsistent with the purposes of the FM Act and /or MEM Act and relevant policies and should not be approved, it will advise the council that it will not grant the approval and is not prepared to issue the permit. In this case, GTAs will not be issued and the consent authority is obliged to refuse consent.

If a marine park and/or aquatic reserve permit is required and is refused, the development cannot proceed.

Concurrences

When considering applications, DPIRD – Fisheries will decide whether the proposal should proceed based on compatibility with the objects of the relevant legislation and policies and other matters referred to above. The decision is based on the predicted impacts upon marine protected areas, fish populations, aquatic habitats, aquatic threatened species, commercial and recreational fishing and aquaculture industries. DPIRD – Fisheries will refuse to provide concurrence to proposals that are inconsistent with the purposes of the FM Act and /or MEM Act and relevant policies in the absence of reasonable compensatory measures. Council is then obliged not to issue development consent.

Referrals for DPIRD–Fisheries’ advice

When considering applications, DPIRD – Fisheries will decide whether the proposal should proceed based on compatibility with the objects of the relevant legislation and policies and other matters referred to above. The decision is based on the predicted impacts upon marine protected areas, fish populations, aquatic habitats, aquatic threatened species, commercial and recreational fishing and aquaculture industries. If DPIRD – Fisheries believes a proposal is inconsistent with the purposes of the FM Act and /or MEM Act and relevant policies, it will advise the consent authority not to issue development consent.

Other referrals

Feedback may be provided by the referral authority in response to a referral request. This feedback will generally be considered by the consent authority as part of the DA assessment process in accordance with the relevant EPI referral provision.

Reference documents

Aquaculture:

- The [Spatial Data Portal](#) provides maps of priority oyster aquaculture areas
- Development which may impact priority oyster aquaculture areas or oyster aquaculture development proposals should be consistent with DPIRD Fisheries’ [Healthy Estuaries for Healthy Oysters Guidelines](#)
- Matters to be considered in aquaculture developments within [Primary Production SEPP](#), Chapter 2 (Primary production and rural development)
- [NSW Land Based Sustainable Aquaculture Strategy](#)
- [NSW Oyster Industry Sustainable Aquaculture Strategy](#)

- Aquaculture permit application requirements, including Commercial Farm Development Plan requirements

Developments affecting fish habitats, threatened species and marine protected areas:

- DPIRD – Fisheries’ Policy and Guidelines for Fish Habitat Conservation and Management
- Proposals should be consistent with the following documents:
 - Key Fish Habitat definition and maps on the DPIRD Fisheries Spatial Data Portal
 - Best practice design for waterway crossings – Why do fish need to cross the road? Fish Passage Requirements for Waterway Crossings (PDF 855 KB)
 - Environmentally Friendly Seawalls – A Guide to improving the Environmental Value of Seawalls and Seawall-lined Foreshores in Estuaries
 - DPIRD Fisheries’ Priority Action Statement and Recovery Plans developed for threatened species listed under the FM Act
 - threatened species distribution maps (for NSW listed species under the FM Act), available threatened species distribution maps pages of the DPIRD website and on the spatial data portal
 - Threatened species assessment guidelines (PDF 2.6 MB)
 - Threatened species (for Commonwealth listed species)
 - User guides, zoning map and management/operational plans for marine parks
 - Assessment criteria for permits within marine parks and aquatic reserves available in the Marine Estate Management Regulation 2017
 - Management rules for marine parks are in the Marine Estate Management (Management Rules) Regulation 1999
 - Prohibited activities in aquatic reserves are set out in the Marine Estate Management (Aquatic Reserve) Notification 2020
- Marine park permit application forms:
 - Marine parks permit policy (PDF 93 KB)
 - Marine Estate Management Strategy
- Proposals should be designed in a way that addresses threats and risks to the NSW Marine Estate identified in the NSW Marine Estate Threat and Risk Assessment Final Report

Water quality

Referral Authority	WaterNSW Hunter Water Rous County Council Victorian Department of Energy, Environment and Climate Action & Department of Transport and Planning Victorian councils adjacent to the Murray River
Legislation	Acts and regulations <i>Hunter Water Act 1991</i> (Hunter Water Act) sections 51(2) and (3), 55(1) and (3) and 56 State environmental planning policies <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 5 (River Murray lands), section 5.11(1)(a) Biodiversity and Conservation SEPP, Chapter 6 (Water catchments), section 6.64(1) Local environmental plans <i>Ballina Local Environmental Plan 1987</i> (Ballina LEP 1987) clause 24A(2)(d) <i>Ballina Local Environmental Plan 2012</i> (Ballina LEP 2012) clause 7.4(3)(d) <i>Lismore Local Environmental Plan 2000</i> (Lismore LEP 2000) clause 45(2) Concurrences and referrals for water quality may also be triggered under other SEPPs and/or LEPs.
Summary	Water quality management seeks to provide for healthy water catchments that ensure we have high quality drinking water while permitting compatible development.
DA requirement	If a development proposal is located within the Sydney drinking water catchment, the DA must be accompanied by a water cycle management study or equivalent to help council assess whether the development will have a neutral or beneficial effect on water quality. Developments also need to be consistent with the Neutral or Beneficial Effect on Water Quality Assessment Guideline (PDF 6.63 MB). Council may need to refer the DA to WaterNSW for assessment of water quality impacts for more complex DAs. DAs may also trigger other concurrence and/or referral requirements under other Acts, SEPPs and LEPs.



Determine if the development requires approval, concurrence or referral for water quality matters

Sydney drinking water catchment concurrence

If a proposed development is in the Sydney drinking water catchment, the development will trigger concurrence. The concurrence role is assumed by the council for most 'Module 1' and 'Module 2' developments for the purposes of neutral or beneficial effect assessment and the 'neutral or beneficial effect (NorBE) tool'. However, other development types require the formal concurrence of WaterNSW. The development must also have a neutral or beneficial effect on water quality and be consistent with the [Neutral or Beneficial Effect on Water Quality Assessment Guideline \(PDF 6.63 MB\)](#) (NorBE Guideline). This document provides links to WaterNSW current recommended practices and standards.



To find out if a property is in the Sydney drinking water catchment check [the interactive map](#) on the WaterNSW website. If the proposed development is not in the catchment, Part 6.5 of the Biodiversity and Conservation SEPP does not apply and concurrence will not be required under section 6.64.

Councils must be satisfied that developments proposed in the Sydney drinking water catchment have a neutral or beneficial effect on water quality. If council is not satisfied, it cannot grant consent for the development.

In addition, the development should incorporate WaterNSW's [current recommended practices or performance standards related to water quality](#) listed on its website, or equivalent alternatives, as required by the NorBE Guideline.

Other water quality matters

Development types that trigger other concurrences or referrals for water quality matters will be specified in the relevant Act, LEP or SEPP provision. These include:

- Hunter Water Act:
 - section 51(2) and (3) for DA or building application that may significantly damage or interfere with the corporation's works, or significantly adversely affect the corporation's operations, or significantly adversely affect the quality of the water from which the corporation draws its supply of water in a special area

- section 54(1) for action under the *Crown Land Management Act 2016* in relation to land within a special area
- section 55(1) and (3) for a public agency exercising functions other than functions under this Act, in relation to land within a special area
- section 56 for the Secretary receiving notice of a proposal to take action under section 54(1) or a notice under section 55(1) in relation to any work that may damage or interfere with the Hunter Water Corporation's works or adversely affect the corporation's operations
- Biodiversity and Conservation SEPP:
 - Chapter 5 (River Murray lands), section 5.11(1)(a) for development inconsistent with the aims, objectives or principles of Chapter 5 of the SEPP and may have a significant environmental effect along the Murray River
 - Chapter 6 (Water catchments), section 6.64(1) for development in Sydney Drinking Water Catchment
- Ballina LEP 1987 clause 24A(2)(d) for development within zone 7(c) – Environmental Protection (Water Catchment)
- Ballina LEP 2012 clause 7.4(3)(d) for development on 'Drinking water catchment' land
- Lismore LEP 2000 clause 45(2) for development of the water catchment for Dunoon dam.





Address water quality matters in the application

Will the development have a neutral or beneficial effect on water quality?

What is 'neutral or beneficial effect'?

In relation to the Sydney drinking water catchment, a neutral or beneficial effect on water quality is satisfied if the development does any of the following:

- has **no** identifiable potential impact on water quality
- will **contain** any water quality impact to within the development site and prevent it from reaching any watercourse, waterbody or drainage depression on the site
- will **transfer** any water quality impact outside the site where it is treated and disposed of, to standards approved by the consent authority.

The [Building and development page](#) on WaterNSW's website provides a link to the [Neutral or Beneficial Effect on Water Quality Assessment Guideline \(PDF 6.63 MB\)](#). This document provides more information on what 'neutral or beneficial effect' means and how it is assessed.

How to apply

WaterNSW has developed an online assessment tool called the NorBE tool to enable councils to undertake water quality assessments for less complex developments such as new dwellings. Consultants can also access the NorBE tool to ensure water quality criteria is adequately addressed in the DA.

For more complex developments, the applicant should consider engaging a consultant to complete the neutral or beneficial effect assessment and prepare the DA so it addresses the relevant water quality criteria. The benefit of doing so is that when council comes to undertake its own neutral or beneficial effect assessment, it will be easier to show if the development will have a neutral or beneficial effect on water quality.

Information needed with an application

If a neutral or beneficial effect assessment is required because the development is in the Sydney drinking water catchment, the applicant will need to prepare a water cycle management study or equivalent. The water cycle management study includes standard information for all development types, as well as all the different reports and modelling that vary for different scales and types of development. The applicant will also need to identify which module the DA fits into to ensure the correct information is provided with the application.

Standard information to include in the water cycle management study includes:

- a clear outline of the development proposal, including a detailed site plan including site constraints
- copies of either a statement of environmental effects or an EIS
- a site contamination report, if relevant
- the flood planning level for the development site, if relevant
- a summary and location of on-site wastewater management proposed as part of the development – if the development is in an unsewered area or not serviced by a reticulated sewage management system
- a summary and location of the water quality control measures proposed as part of the development
- how the development is consistent with WaterNSW's current recommended practices and performance standards related to water quality
- other information that must be supplied with a DA under current planning provisions.

Given the specifics of each development or the assessing authority, non-standard information may be requested in some instances to determine if NorBE is achievable for the development.

Appendix E gives a brief outline of the modules and the additional information required that addresses erosion and sediment control, stormwater, and wastewater. The [Building and development page](#) on WaterNSW's website also provides links to some useful documents. More detailed information can be found in the document [Developments in Sydney's Drinking Water Catchments – Water Quality Information Requirements \(PDF 1.68 MB\)](#), and in Tables A1 and A3 of the [Neutral or Beneficial Effect on Water Quality Assessment Guideline \(PDF 6.63 MB\)](#).

If the DA is not straightforward and requires specialist studies, we recommend that consultant be engaged to prepare it and the supporting water cycle management study. WaterNSW has published a guideline [Using a Consultant to Prepare Your Water Cycle Management Study \(PDF 419 KB\)](#) to help choose an appropriate consultant.

Hunter Water

The [Guidelines for developments in the drinking water catchments \(PDF 1.23 MB\)](#) provides information on Hunter Water's expectations of how matters relating to the protection of drinking water quality should be addressed in DAs. See particularly Part 6 Minimum expectations for development in the catchments.

Other concurrences and referrals

The applicant should contact the relevant referral authority for specific information requirements for any other concurrence and/or referrals triggered by a LEP or SEPP provision.



Undergo the assessment

Sydney drinking water catchment

For straightforward developments such as new single dwellings, councils will assess the DA for water quality impacts. Council will do this assessment concurrently with their assessment under the EP&A Act.

For other, more complex, developments in the Sydney drinking water catchment, the application will be referred to WaterNSW for its concurrence. In this instance WaterNSW assessment staff will complete the assessment within 40 days, including contacting the applicant directly regarding a site inspection but excluding time required to request and obtain any additional information.

WaterNSW and council will base their neutral or beneficial effect assessment on information contained in the water cycle management study or equivalent documents and will use WaterNSW's wastewater effluent model for unsewered developments. Conditions will be set using the outcomes of the assessment and modelling, which may include relocating effluent disposal areas or an alternative treatment method.

When assessing, WaterNSW and council must consider Biodiversity and Conservation SEPP, Chapter 6 (Water catchments), Part 6.2 and 6.5, including the concurrence in section 6.64(1) and any technical reports provided by the applicant.

Other concurrences and referrals

Development types which trigger an approval, concurrence or referral for water infrastructure matters will be processed in accordance with the relevant Act, LEP or SEPP provision.



Get an outcome

Sydney drinking water catchment

If a development has a neutral or beneficial effect on water quality, the consent may be granted by council on water quality grounds. If WaterNSW agrees to grant concurrence, the advice will be sent to the council. If the council subsequently issues consent for a DA under the EP&A Act, it must be consistent with the concurrence advice. Council may still decide to refuse consent based on other planning grounds.

Prior to making their neutral or beneficial effect assessment, WaterNSW and council must consider the matters outlined above. If WaterNSW refuses to grant concurrence, the DA will be refused. If the development is found not to have a neutral or beneficial effect, and/or an alternative solution that achieves neutral or beneficial effect is not possible, then council must refuse consent for the DA. The applicant will be notified and be given reasons for the refusal.

Other water quality matters

A concurrence authority may grant concurrence, either conditionally or unconditionally, or refuse concurrence to a development. If concurrence is refused to be provided, consent cannot be granted to the DA. The DA could be withdrawn and modified to meet the relevant water management requirements.

Feedback may be provided by the referral authority in response to a referral request. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.

Reference documents

- [Developments in Sydney's Drinking Water Catchments – Water Quality Information Requirements \(PDF 1.68 MB\)](#)
- [Neutral or Beneficial Effect on Water Quality Assessment Guideline \(PDF 6.63 MB\)](#)
- [Using a Consultant to Prepare Your Water Cycle Management Study \(PDF 419 KB\)](#)
- [Small scale stormwater quality modelling \(S3QM\) user guide](#) – to help proponents understand S3QM modelling
- [Sydney Drinking Water Catchment maps](#) – to help proponents understand immediately if their developments are in the Sydney Drinking Water Catchment and required to comply with the

requirements of Biodiversity and Conservation SEPP, Chapter 6 (Water catchments) as relevant for their DA

- [Guidelines for Developments in the Drinking Water Catchments \(PDF 1.23 MB\)](#)

Development impacting water and wastewater infrastructure

Referral authorities	Sydney Water Water NSW
Legislation	Acts and regulations <i>Sydney Water Act 1994</i> (Sydney Water Act) section 78(1) State environmental planning policies <i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 4 (Western Sydney Aerotropolis), section 4.28(a) See also ‘Water quality’ section of this Guide in relation to <i>Hunter Water Act 1991</i> section 51 Concurrences and referrals for development impacting water and wastewater infrastructure may also be triggered under other SEPPs and/or LEPs.
Summary	Referral requirements exist for proposed development which may impact Sydney Water’s existing or future water, wastewater, recycled water and stormwater infrastructure. Referral requirements exist to Water NSW for proposed development which may impact water and stormwater infrastructure.
DA requirements	DAs may trigger a notification requirement under the Sydney Water Act or concurrence requirement under an EPI. DAs required to be referred under the Sydney Water Act with over 100 dwellings may be required to include a growth forecast.

Overview

Sydney Water supplies drinking water, sourced from a network of dams managed by WaterNSW. Sydney Water also recycles water, collects and treats wastewater before it is reused or released into the environment, provides stormwater services to some properties and works in partnership with WaterNSW to manage dams in NSW.

Water NSW supplies two-thirds of water used in NSW and has the following key functions:

- protects the Greater Sydney drinking water catchment
- supplies raw water
- manages water storages, operating the state's river systems and bulk water supply systems

- conducts infrastructure planning, delivery and operation projects to increase the security and reliability of water supplies
- facilitates customer water transactions and provides information services.

Referral requirements may apply to certain development proposals to help protect current and future water infrastructure and operations.



Determine whether a referral request is needed

Development types that trigger a referral for water infrastructure matters will be specified in the relevant Act, LEP or SEPP provision. These include:

- Sydney Water Act section 78(1) for notification of DAs and building applications which involve increased demand for water, wastewater, and stormwater services, proximity to Sydney Water critical assets, or are located in areas with identified constraints that may warrant further review.
- Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.28(a) for development on land shown on the Warragamba Pipelines Map

Sydney Water provides councils with the Sydney Water Council Referral Guidelines, to assist consent authorities understand the types of developments which require a referral under Sydney Water Act section 78(1). Council can contact Sydney Water for the latest version of these Guidelines.

See also the 'Water quality' section of this guide in relation to Hunter Water Act section 51 for notification of building and DAs. See the sections 'Water management (part 1) – controlled activities' and 'Water management (part 2) – water licences and approvals' for other requirements for approvals under the *Water Management Act 2000* for water infrastructure such as a controlled activity approval or water supply work approval.



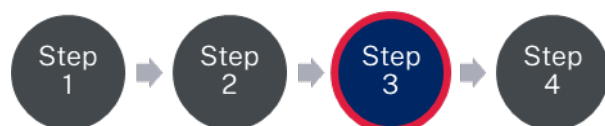
Address water infrastructure in the application

Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.28 requires the development not to adversely affect the quantity or quality of water in the Warragamba Pipelines controlled area or the operation and security of the water supply pipelines and associated

infrastructure. Water NSW has issued [Guidelines for Development Adjacent to the Upper Canal and Warragamba Pipelines \(PDF 4.21 MB\)](#) that provides the specific information that developments need to address to meet these requirements.

DAs requiring referral under section 78(1) of the Sydney Water Act for over 100 dwellings may be required to include a growth forecast.

The applicant should contact the relevant referral authority for specific information requirements for other approvals, concurrences or referrals triggered by an Act, LEP or SEPP provision.



Undergo the assessment

Development types which trigger an approval, concurrence or referral for water infrastructure matters will be processed in accordance with the relevant Act, LEP or SEPP provision.

Council should refer and seek comment on servicing capacity and asset impact significance. Sydney Water's Council Referral Guidelines provide conditions required in development consents. They also offer guidance on which specific types of developments conditions are required for, even if referral to Sydney Water is not required. Council can contact Sydney Water for the latest version of these Guidelines.



Get an outcome

Concurrences

If the referral authority refuses to provide concurrence, consent cannot be granted to the DA. The DA could be withdrawn and modified to meet the relevant education infrastructure requirements. In

relation to Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.28, WaterNSW is the owner, manager and concurrence authority for the Warragamba Pipelines.

Referrals

Feedback may be provided by the referral authority in response to a referral request. This feedback will generally be considered by the consent authority as part of the DA assessment process in accordance with the relevant EPI referral provision.

Reference documents

- Guidelines for Development Adjacent to the Upper Canal and Warragamba Pipelines (PDF 4.21 MB)

Flood prevention

Referral authority	Department of Climate Change, Energy, the Environment and Water– Biodiversity, Conservation and Science Group
Legislation	State environmental planning policies <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 5 (River Murray lands), section 5.12 Local environmental plans <i>Great Lakes Local Environmental Plan 2014</i> (Great Lakes LEP 2014) clause 6.8(3) Concurrences and referrals for flood prevention may also be triggered under other SEPPs and/or LEPs.
Summary	Referral requirements exist for proposed development on flood prone land.
DA requirements	DAs may trigger a referral requirement in relation to flooding under EPIs.

Overview

Referral requirements may apply to certain development proposals to help minimise flooding risks and impacts.



Determine if the project will be impacted by flooding and if a referral request is needed

Development types that trigger a referral for flooding matters will be specified in the relevant SEPP or LEP provisions. These include:

- Biodiversity and Conservation SEPP, Chapter 5 (River Murray lands), section 5.12 for certain proposals on flood-labile land or impacting flood patterns
- Great Lakes LEP 2014 clause 6.8(3) for subdivision design of the North Tuncurry Urban Release Area.

Works to manage or prevent floods may require a flood work approval under the Water Management Act, unless exempt under Subdivision 6 of the WM Regulations. These applications could come to either WaterNSW or Biodiversity, Conservation and Science Group of DCCEEW. See the section 'Water management (part 2) – water licences and approvals' for more information on flood work approvals.



Address flooding matters in the application

For applications requiring referral under Biodiversity and Conservation SEPP, Chapter 5 (River Murray lands), section 5.12 where proposals are subject to or may increase flood risks, the DA must submit a flood impact and risk assessment (FIRA) in accordance with the [Flood Risk Management Guideline LU01](#), and demonstrate consistency with the NSW Government's Flood Prone Land Policy and the principles of the 2023 [Flood Risk Management Manual](#). Applicants should consider any relevant flood risk management study or plan.

The applicant should contact the relevant referral authority for specific information requirements for other approvals, concurrences or referrals triggered by an Act, LEP or SEPP provision.



Undergo the assessment

Development types that trigger an approval, concurrence or referral for flooding matters will be processed in accordance with the relevant Act, LEP or SEPP provision.



Get an outcome

Referrals

Feedback may be provided by the referral authority in response to a referral request. The consent authority will consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.

Reference documents

[Flood Risk Management Toolkit](#)

[Flood Impact and Risk Assessment: Flood Risk Management Guideline LU01 \(PDF 4.2MB\)](#)

[NSW Flood Prone Land Policy and Flood Risk Management Manual: the management of flood liable land \(2023\)](#)

[Update on addressing flood risk in planning decisions planning circular \(PDF 618KB\)](#)

Heritage conservation

Referral authority	Heritage Council of NSW (Heritage Council) Willandra Lakes Region World Heritage Advisory Committee Museums of History NSW
Legislation	Acts and regulations <i>Heritage Act 1977</i> NSW (Heritage Act) section 58 (integrated development) State environmental planning policies <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 6 (Water catchments), sections 6.55(1) and 6.56(1) Local environmental plans <i>Balranald Local Environmental Plan 2010</i> (Balranald LEP 2010) clause 6.8(3) <i>Shellharbour Local Environmental Plan 2000</i> (Shellharbour LEP 2000) clause 75B(1)(b) <i>South Sydney Local Environmental Plan 1998</i> (South Sydney LEP 1998) clause 50(1) <i>Wentworth Local Environmental Plan 2011</i> (Wentworth LEP 2011) clause 7.11(3) <i>Standard Instrument – Principal Local Environmental Plan</i> (Standard Instrument LEP) clauses 5.10(7) and (9) Concurrences and referrals for heritage conservation may also be triggered under other SEPPs or LEPs.
Summary	Heritage includes the places, objects and stories that we have inherited from the past and want to protect for future generations. It gives us a sense of our history and provides meaningful insights into how earlier generations lived and developed. It also enriches our lives and helps us to understand who we are. The conservation and protection of items of environmental heritage (including places, buildings, works, relics, shipwrecks and movable objects) is important to preserve NSW history.
DA requirements	The heritage impacts of DAs received by councils must be assessed to appropriately manage heritage that is protected under the <i>Heritage Act 1977</i>. DAs may also trigger a concurrence and/or referral requirement under an EPI. Documents required may include: • a statement of heritage impact • a conservation management plan

- existing and proposed drawings.
- when there is known or suspected historical archaeology to manage:
 - Excavation director details CV and response to the Criteria for assessing excavation directors
 - An archaeological assessment report
 - An archaeological research design and excavation methodology.



Determine if the development requires approval, concurrence or referral for heritage matters

Heritage NSW has published [Guidance for local councils](#) on its website to help councils understand when to refer DAs to Heritage NSW. The pages also contain supporting information to manage local heritage. This includes guidance for councils on [concurrences and referrals](#) and when [referring DAs to Heritage NSW](#) in the NSW Planning Portal.

Does the land have state heritage significance?

If the land proposed for development is listed on the State Heritage Register, the applicant will need to obtain approval under the Heritage Act, unless an exemption applies.

To check if an item is listed on the State Heritage Register, search the [State Heritage Inventory](#). The Heritage Council or its delegate must give approvals for all items and places that are listed on the State Heritage Register.

What is the State Heritage Register?

The State Heritage Register is established under section 31 of the Heritage Act. Items can only be listed on or removed from the State Heritage Register at the direction of the responsible minister. The State Heritage Register is reserved for places and objects that are significant to the entire NSW community. The register is one category of heritage items that are included in the 'State Heritage Inventory,' which is a searchable database collating a range of different categories of heritage.

Exemptions

Heritage approval is not required if the development is under a standard exemption or site-specific exemption under the *Heritage Act 1977*. An applicant just needs to notify council when lodging the

DA. To determine whether a development falls within an exemption, read the information on the [standard exemptions page](#) of the Heritage NSW website.

Standard exemptions

Standard exemptions apply to all items listed on the State Heritage Register. They include maintenance, cleaning, repairs, painting, some excavation, restoration, development within a conservation management plan or conservation management strategy, minor activities with little or no adverse impact, non-significant fabric (the construction or installation of new fabric or the removal of building fabric), change of use, new buildings, temporary structures and landscape maintenance. Applicants must check the general terms for the exemptions as well as any specific additional requirements for each standard exemption, such as avoidance of historical archaeology.

The steps for using standard exemptions are detailed on the [standard exemptions page](#) of the Heritage NSW website.

Site-specific exemptions

Some sites listed on the State Heritage Register are also covered by additional site-specific exemptions. These sites include Luna Park, Walsh Bay, Parliament House, Newcastle City Hall and Parramatta District Hospital. To confirm whether the land may be the subject of an existing site-specific exemption, search the State Heritage Register.

Does the land have potential for archaeological relics?

If your proposal involves excavation on sites suspected or known to contain historical archaeological relics, concurrence or a referral may be required. Such sites may be identified:

- in an advisory document such as an archaeological management plan which has assessed the archaeological potential and/or significance of an area
- as an archaeological item in a local environmental plan or in a schedule (such as an archaeological conservation area)
- in an archaeological assessment as containing archaeological relics of (potential) State significance.

Concurrences and referrals

Concurrence or referral may often be required for development where the project area adjoins or is adjacent to:

- a State Heritage Register listed item
- a site that is subject to a nomination for the State Heritage Register
- a site subject to an interim heritage order that has not been gazetted by a council.

Development types that trigger a concurrence and/or referral for heritage matters will be specified in the relevant LEP or SEPP provision. These include the:

- Biodiversity and Conservation SEPP, Chapter 6 (Water catchments):
 - section 6.55(1) for heritage development that is on an archaeological site
 - section 6.56(1) for demolition of a nominated State heritage item
- Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis):
 - section 4.26(8) for development on an archaeological site
 - section 4.26(10) for demolition of a nominated State heritage item
- Balranald LEP 2010 clause 6.8(3) for development on the Willandra Lakes Region World Heritage Property
- Shellharbour LEP 2000 clause 75B(1)(b) for development that will be carried out on an archaeological site of a relic that has non-Aboriginal heritage significance
- South Sydney LEP 1998 clause 50(1) for development in the vicinity of Elizabeth Bay House
- Wentworth LEP 2011 clause 7.11(3) for development on the Willandra Lakes Region World Heritage Property
- Standard instrument LEPs (referrals have been adopted from the Standard Instrument LEP into a range of LEPs and SEPPs across NSW which have not been separately listed in this guide):
 - section 5.10(7) for the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act applies)
 - section 5.10(9) for the demolition of a nominated State heritage item.

Early engagement with Heritage NSW

If you are unsure about what information to include in your application or how to manage heritage matters within your development, it is recommended you seek pre-lodgement advice from Heritage NSW. See Heritage NSW's [Pre-lodgement service for heritage applications](#) for more information.



Address heritage in the application

Heritage NSW has published guidance for councils on [concurrences and referrals](#) and when [DA referrals](#) which provides information on documentation requirements for DA referrals and integrated development approvals.

Submission requirements for integrated development

If the development proposal involves land or an item listed on the State Heritage Register, heritage approval is required under the Heritage Act. A statement of heritage impact must accompany the DA. The statement of heritage impact is a report that assists owners, custodians and managers of heritage items to understand how proposed works to a heritage item or in its vicinity may impact the item's heritage significance. A statement of heritage impact can recognise and acknowledge measures proposed to conserve the significance of heritage items. The [Guidelines for preparing a statement of heritage impact](#) can be found on the Heritage NSW website.

Statement of heritage impact

A statement of heritage impact is a report that assists owners, custodians and managers of heritage items to understand how proposed works to a heritage item or in its vicinity may impact the item's heritage significance. A statement of heritage impact can recognise and acknowledge measures proposed to conserve the significance of heritage items.

A statement of heritage impact together with supporting information address:

- why the item is of heritage significance
- what impact the proposed works will have on that significance
- what measures are proposed to mitigate negative impacts and conserve the item's significance
- why more sympathetic solutions are not viable.

Submission requirements for referrals under Standard instrument LEP clause 5.10

If the site adjoins or is adjacent to an item on the State heritage register, then follow the information above regarding submission requirements for integrated development.

If the proposal involves excavation on a site suspected or known to contain historical archaeological relics, an archaeological assessment will be required. This assessment is a predictive study that will evaluate the extent, nature, integrity and significance of any potential historical archaeological relics and provide proposed management measures. Heritage NSW's website has [guidelines for archaeological assessments](#).

How to identify historical archaeological sites

Historical archaeological sites may be identified in an advisory document such as:

- an archaeological management plan which has assessed the archaeological potential and/or significance of an area
- as an archaeological item in a local environmental plan
- in a schedule (e.g. an archaeological conservation area) in an archaeological assessment as containing archaeological relics of (potential) State significance.

The applicant should contact the relevant referral authority for specific information requirements for concurrence and/or referrals triggered by a LEP or SEPP provision.



Undergo the assessment

Integrated development

The Heritage Council will assess the application to determine whether to issue GTAs. The DA will then be returned to council to assess the merits of the application under the EP&A Act.

When deciding whether to issue GTAs, the Heritage Council must consider:

- the objects of the Heritage Act
- advice on technical heritage matters under the Heritage Act from the Heritage Council
- how the development affects the significance of any state heritage item
- matters relating to the conservation of that item
- an applicable conservation management plan endorsed by the Heritage Council
- technical reports provided by the applicant, including a statement of heritage impact
- submissions from the public received by council during community consultation.

Concurrences and referrals

Heritage NSW will review appropriate referrals and provide advice based on the information provided. This may include advice on additional studies or recommended DA conditions.

Development types that trigger a concurrence and/or referral for heritage matters will be processed in accordance with the relevant LEP or SEPP provision.



Get an outcome

Integrated development

If the Heritage Council decides to issue GTAs, they will be sent to the council. The applicant can then apply to the Heritage Council for approval under section 60 of the Heritage Act. Where the Heritage Council issued GTAs, any DA subsequently issued by council must be consistent with them.

Where the Heritage Council refuses to issue GTAs, development approval cannot be granted and the DA will be refused.

GTAs are not the final heritage approval – a separate application (for a section 60 approval) must be made to the Heritage Council for your complete heritage approval. This ensures the final plans meet with the Heritage Council's approval. Any heritage approval issued must be consistent with the requirements of the GTAs.

Concurrences and referrals

If the referral authority refuses to provide concurrence, consent cannot be granted to the DA. The DA could be withdrawn and/or modified to meet the relevant heritage requirements.

The referral authority may provide feedback in response to a referral request. This feedback will generally be considered by the consent authority as part of the DA assessment process in accordance with the relevant EPI referral provision.

Rejections

When Heritage NSW rejects a referral, it will provide a brief reference indicating the reason. Councils and applicants will receive a notification by email that includes this reason.

A referral may be rejected by Heritage NSW for reasons including:

- the referral is incorrect (such as a DA referral is made when an integrated development application should be made)
- there is insufficient information provided (essential supporting documents)
- the proposal relates to a local heritage item where relics have not been identified
- the proposal does not adjoin or is not adjacent to (i.e. it is not in the vicinity of) a State Heritage Register listed (SHR) item, a site subject to an interim heritage order or a site with an SHR nomination
- where an historical archaeological assessment or statement:

- demonstrates there are no known or suspected relics to manage
- indicates there is a low likelihood of relics to manage
- the requirements of the request are not clear
- documents are still in draft.

An explanation of some of these reasons are given on the [DA referrals page](#) of the Heritage NSW website.

Reference documents

- [Guidance for councils when referring DAs to Heritage NSW](#)
- [Concurrence and referral process](#)
- [Guidelines for preparing a statement of heritage impact](#)
- [Assessing heritage significance](#)
- [Assessing significance for historic archaeological sites and ‘relics’](#)
- [Local Government Heritage Guidelines](#)
- [Introducing the Heritage Council Approvals Process](#)
- [Design in Context: Guidelines for infill development](#)



Aboriginal cultural heritage

Referral authority	Heritage NSW Local Aboriginal Land Councils Local Aboriginal community
Legislation	Acts and regulations <i>National Parks and Wildlife Act 1974</i> (NPW Act) section 90 (integrated development) State environmental planning policies <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 6 (Water catchments), section 6.54(2) and (3) <i>State Environmental Planning Policy (Precincts – Central River City) 2021</i> (Central River City SEPP), Chapter 4 (Homebush Bay area), section 4.25(b) <i>State Environmental Planning Policy (Precincts – Regional) 2021</i> (Regional SEPP), Chapter 4 (Kosciuszko Alpine Region), section 4.21(6) Regional SEPP, Appendix 5, section 27(6) <i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 6 (St Marys) sections 6.20(1) and 6.25(3) Western Parkland City SEPP, Appendix 2, section 5.10(8) Local environmental plans <i>Bega Valley Local Environmental Plan 2002</i> (Bega Valley LEP 2002) clause 63(b) <i>Blue Mountains Local Environmental Plan 2005</i> (Blue Mountains LEP 2005) clause 74(b) <i>Deniliquin Local Environmental Plan 1997</i> (Deniliquin LEP 1997) clause 25(1)(b) <i>Hawkesbury Local Environmental Plan 2012</i> (Hawkesbury LEP 2012) clause 6.9(2)(b) <i>Hurstville Local Environmental Plan 1994</i> (Hurstville LEP 1994) clause 31(b) <i>Lake Macquarie Local Environmental Plan 2004</i> (Lake Macquarie LEP 2004) clause 50(2) and (4) <i>Leichhardt Local Environmental Plan 2000</i> (Leichhardt LEP 2000) clause 16(5) <i>Lismore Local Environmental Plan 2000</i> (Lismore LEP 2000) clause 16(b) <i>Moree Plains Local Environmental Plan 2011</i> (Moree Plains LEP 2011) clause 7.7(2) <i>Shellharbour Local Environmental Plan 2000</i> (Shellharbour LEP 2000) clause 75A(b)

	<i>Shellharbour Rural Local Environmental Plan 2004</i> (Shellharbour Rural LEP 2004) clause 49(1)(b) <i>Shoalhaven Local Environmental Plan 1985</i> (Shoalhaven LEP 1985) clause 201(b) <i>Sutherland Shire Local Environmental Plan 2006</i> (Sutherland Shire LEP 2006) clause 54(8) <i>Tweed Local Environmental Plan 2000</i> (Tweed LEP 2000) clause 44(1)(b) <i>Warringah Local Environmental Plan 2000</i> (Warringah LEP 2000) clause 80 <i>Wollongong Local Environmental Plan 1990</i> (Wollongong LEP 1990) clause 29A(b) <i>Standard Instrument – Principal Local Environmental Plan</i> (Standard Instrument LEP) – standard LEP clause 5.10(8) Concurrences and referrals for Aboriginal heritage may also be triggered under other SEPPs and/or LEPs.
Summary	Heritage NSW is responsible for protecting and conserving Aboriginal cultural heritage in NSW. Aboriginal cultural heritage includes places and objects that are significant to Aboriginal people. The NPW Act protects Aboriginal objects and declared Aboriginal places. Where harm to an Aboriginal object or Aboriginal place cannot be avoided, an Aboriginal heritage impact permit can be issued by Heritage NSW. The permit process aims to explore suitable mechanisms for protecting Aboriginal objects and places and identify management options in consultation with the Aboriginal community.
DA requirement	If a development proposal will harm an Aboriginal object or a declared Aboriginal place, an integrated DA process is required. The DA must be accompanied by an Aboriginal cultural heritage assessment report prepared in accordance with Heritage NSW's <u>Guide to investigating, assessing, and reporting on Aboriginal Cultural Heritage in NSW</u> (Aboriginal cultural heritage guidelines). The integrated DA must be approved before Heritage NSW can approve an Aboriginal heritage impact permit. DAs may also trigger a concurrence and/or referral requirement under an EPI. Documents required will include: • a Statement of Environmental Effects • existing and proposed drawings and drawing schedule • an Aboriginal Cultural Heritage Assessment Report, prepared in line with the Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW and <u>Heritage NSW requirements</u>.



Determine if the development requires approval, concurrence or referral for Aboriginal cultural heritage matters

Heritage NSW has published [Guidance for local councils](#) on its website to help councils understand when to refer DAs to Heritage NSW. The pages also contain supporting information to manage heritage referral matters. This includes guidance for councils on [concurrences and referrals](#) and when [referring DAs to Heritage NSW](#) in the NSW Planning Portal.

Understanding Aboriginal cultural heritage

Aboriginal cultural heritage refers to places, object and stories which are significant for Aboriginal people and the story of New South Wales.

Aboriginal people have lived on this land for more than 60,000 years. Country represents the deep connection to land, water and sky which is important for spiritual, cultural, family, and economic wellbeing of Aboriginal communities.

The rich heritage of Aboriginal culture encompasses:

- tangible elements such as significant sites, landmarks and artefacts, examples include ceremonial sites, tools, fish traps, middens and scarred trees
- intangible values such as songlines, customs and ceremonies passed from generation to generation
- truth-telling and recognition of past events, for example places and stories associated with frontier conflict and the Stolen Generations.

Aboriginal objects

Aboriginal object means, ‘any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises NSW, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains and stone tools, rock art and scarred trees.’

Aboriginal places

Aboriginal places range from small ceremonial sites to lagoons and mountains. They can have spiritual, historical, social, educational, natural resource use or other types of significance to Aboriginal people. When a significant place is formally declared an Aboriginal place, it is protected under the NPW Act.

Are there any known Aboriginal objects or places within my property?

Known Aboriginal objects and declared Aboriginal places are recorded on the Aboriginal Heritage Information Management System (AHIMS). Checking AHIMS is part of the due diligence process. Any objects that have been recorded on a property can be found by searching the [AHIMS database](#). You can search for Aboriginal places in the [State Heritage Inventory](#).

Even if there are no Aboriginal objects **registered** within a property on AHIMS, this does not mean there are no Aboriginal objects existing on the property. Surveys for Aboriginal objects have not been done in many parts of NSW. Applicants still need to consider whether unknown Aboriginal objects that are not in AHIMS may be present as part of their due diligence assessment.

Consider Aboriginal cultural heritage values of land

Early engagement with Heritage NSW

Before carrying out an activity, an applicant should think about how it might affect Aboriginal objects or places. Under the NPW Act, everybody has a duty to exercise due diligence and check if Aboriginal objects or places will be harmed by their activities.

It is recommended that applicants engage with Heritage NSW before preparing their DA if there is a chance the development proposal will affect an Aboriginal object or declared Aboriginal place.

If you are unsure about what information to include in your application or how to manage heritage matters within your development, it is recommended you seek pre-lodgement advice from Heritage NSW. See Heritage NSW's [Pre-lodgement service for heritage applications](#) for more information. Applicants should provide information about the proposal such as a site map showing known or potential objects, a site plan, description of proposed development, details of Aboriginal consultation undertaken to date and any previous Aboriginal cultural heritage investigations. Ideally, applicants should start the investigations in accordance with [Heritage NSW guidelines](#) before preparing their DA.

Before preparing DA

Applicants should ensure they are aware of the potential impacts of the proposed development on Aboriginal objects and places. Before commencing any work, we recommend applicants fully determine that no Aboriginal object or place will be harmed because of the proposed activities on land. The first step in this process is applying due diligence.

The [Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW](#) provides the steps in the process and also provides guidance on whether further investigation will be required.

Due diligence

Exercising due diligence means taking reasonable and practical steps to determine whether actions will harm an Aboriginal object and if an application for an Aboriginal heritage impact permit is required. Undertaking due diligence will provide a defence against prosecution under the NPW Act for causing unexpected harm. The [Due Diligence Code of Practice for Protection of Aboriginal Objects in NSW](#) explains what due diligence means and what must be done to exercise it properly.

If an applicant doesn't know whether the activity will cause harm to an Aboriginal object or a declared Aboriginal place, the applicant should undertake further assessment to determine whether harm is likely to occur. If harm is likely to occur, the applicant must engage a suitably qualified person to commence an Aboriginal cultural heritage assessment in accordance with Aboriginal cultural heritage guidelines. If the applicant decides that no harm is reasonably likely to occur, they should keep a copy of the assessment process in case it needs to be checked in the future. Heritage NSW will not review due diligence information.

Consultation with the Aboriginal community

If the due diligence identifies that an Aboriginal place or Aboriginal objects are present or are likely to be present in the project area, additional investigation and consultation with the Aboriginal community is required. If harm is proposed an Aboriginal heritage impact permit will also be required.

To appropriately consult with the Aboriginal community you will need to follow the requirements of the [Aboriginal cultural heritage consultation requirements for proponents](#).

Archaeological test excavations

As part of your investigations, you may need to complete archaeological test excavations. Consultation with the Aboriginal community should have commenced. The [Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW](#) establishes the requirements for:

- undertaking test excavation as a part of archaeological investigation without an Aboriginal heritage impact permit
- carrying out archaeological investigation in NSW where an application for an Aboriginal heritage impact permit is likely to be made.

The code of practice should also be followed where a proponent:

- may be uncertain if their proposed activity may have the potential to harm Aboriginal objects or declared Aboriginal places
 - is required to undertake further investigation to understand and establish the potential harm their proposal may have on Aboriginal cultural heritage, and this involves archaeological assessment.
-

There are benefits to assessing upfront whether your development may impact Aboriginal objects or places. If an Aboriginal object is found after development has commenced, work must stop. Heritage NSW must be notified and an applicant may need to apply for an Aboriginal heritage impact permit.

Integrated development for Aboriginal Cultural Heritage

Development is integrated development under section 4.46 of the EP&A Act if:

- before the DA is made, an Aboriginal object is known to exist on the land to which the DA applies and the development cannot avoid harm to the Aboriginal object or
- the land to which the DA applies is an Aboriginal place, and the development cannot avoid harm to the Aboriginal place.

When lodging a DA, you will need to indicate on the form that you intend to apply for an approval (Aboriginal heritage impact permit) under section 90 of the NPW Act. If one is required, the [Applying for an Aboriginal Heritage Impact Permit: Guide for applicants](#) will help applicants to prepare one. Information about applying for an Aboriginal heritage impact permit can be found on the [Apply for an Aboriginal heritage impact permit web page](#).

Concurrences and referrals

Development types that trigger a concurrence and/or referral for heritage matters will be specified in the relevant LEP or SEPP provision. These include the:

- Biodiversity and Conservation SEPP, Chapter 6 (Water catchments), section 6.54(2) and (3) for heritage development in or likely to have an impact on an Aboriginal place of heritage significance
- Regional SEPP:

- Chapter 4 (Kosciuszko Alpine Region), section 4.21(6) for development on land that is, or contains, an Aboriginal heritage item
- Appendix 5, section 27(6) for development in an Aboriginal place of heritage significance in the Calderwood site
- Western Parkland City SEPP, Chapter 6 (St Marys), sections 6.20(1) and 6.25(3) for development on, and proposals for mechanisms for the management of, items of Aboriginal heritage significance in St Marys
- Hawkesbury LEP 2012 clause 6.9(2)(b) for subdividing in Pitt Town Heritage Area
- Leichhardt LEP 2000 clause 16(5) for development on land which comprises an Aboriginal site or that the Council considers is a potential Aboriginal site
- Moree Plains LEP 2011 clause 7.7 for development on land identified as a 'place of Aboriginal cultural significance' on the Aboriginal Cultural Significance Map
- Warringah LEP 2000 clause 80 for development that is likely to have an impact on an Aboriginal site, Aboriginal place or place of Aboriginal cultural significance
- Standard instrument LEP (C&Rs have been adopted from the Standard Instrument LEP into a range of LEPs and SEPPs across NSW which have not been separately listed in this guide) clause 5.10(8) for carrying out development in an Aboriginal place of heritage significance.
- Referrals similar to SI-LEP clause 5.10(8) but with 21 day response timeframe for development that is likely to have an impact on a place, potential place, or site of a relic that has Aboriginal heritage significance:
 - Central River City SEPP, Chapter 4 (Homebush Bay area), section 4.25(b)
 - Western Parkland City SEPP, Appendix 2, section 5.10(8)
 - Bega Valley LEP 2002 clause 63(b)
 - Blue Mountains LEP 2005 clause 74(b)
 - Deniliquin LEP 1997 clause 25(1)(b)
 - Hurstville LEP 1994 clause 31(b)
 - Lake Macquarie LEP 2004 clause 50(2) and (4)
 - Lismore LEP 2000 clause 16(b)
 - Shellharbour LEP 2000 clause 75A(b)
 - Shellharbour Rural LEP 2004 clause 49(1)(b)
 - Shoalhaven LEP 1985 clause 201(b)
 - Sutherland Shire LEP 2006 clause 54(8)
 - Tweed LEP 2000 clause 44(1)(b)
 - Wollongong LEP 1990 clause 29A(b).

An applicant should contact the relevant referral authority for specific information requirements for concurrences and referrals triggered by a LEP or SEPP provision. Development types that trigger concurrences and referrals for Aboriginal heritage matters will be processed in accordance with the relevant LEP or SEPP provision.



Address Aboriginal cultural heritage in the application

Heritage NSW has published guidance for councils on [concurrences and referrals](#) and when [DA referrals](#) which provides information on documentation requirements for DA referrals and integrated development approvals.

Will a development proposal harm Aboriginal cultural heritage?

You must explore alternatives that avoid harm to Aboriginal objects and places. Proposals that impact them should only be considered where there are no viable alternatives.

Submission requirements for integrated development

If harm to an Aboriginal object or place cannot be avoided, the DA must be accompanied by an Aboriginal cultural heritage assessment report prepared in accordance with the [Aboriginal cultural heritage guidelines](#).

Applicants must engage a suitably qualified consultant to prepare the report to ensure that it meets the requirements of the NPW Act and appropriate consultation with the Aboriginal community has occurred. Preparing an accurate and thorough Aboriginal cultural heritage report provides greater certainty for all parties and helps avoid delays in the consent process and subsequent development works.

The application should contain:

- a Statement of Environmental Effects
- existing and proposed drawings and drawing schedule
- an Aboriginal Cultural Heritage Assessment Report, prepared in line with the [Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW](#) and Heritage NSW requirements.

It is important that the Aboriginal cultural heritage assessment report thoroughly addresses the requirements below to allow Heritage NSW to make a timely decision on GTAs.

An Aboriginal cultural heritage assessment report must contain:

- a description of the Aboriginal objects and declared Aboriginal places located within the area of the proposed activity
- a description of the cultural heritage values, including the significance of the Aboriginal objects and declared Aboriginal places that exist across the whole area which will be affected by the proposed activity and the significance of these values for the Aboriginal people who have a cultural association with the land
- how the requirements for consultation with Aboriginal people have been met as specified in clause 80C of the NPW Regulation and also described in the Aboriginal Cultural Heritage Consultation Requirements for Proponents
- the views of those Aboriginal people regarding the likely impact of the proposed activity on their cultural heritage. If any submissions have been received as a part of the consultation requirements, the report must include a copy of each submission and the applicant's response
- a description of the actual or likely harm posed to the Aboriginal objects or declared Aboriginal places from the proposed activity, with reference to the cultural heritage values identified
- any practical measures that may be taken to protect and conserve those Aboriginal objects or declared Aboriginal places
- any practical measures that may be taken to avoid or mitigate any actual or likely harm, alternatives to harm or, if this is not possible, to manage (minimise) harm.

The Aboriginal cultural heritage assessment report should provide all the information needed by Heritage NSW, including completed consultation with Aboriginal community, to determine if Heritage NSW will be able to issue an Aboriginal heritage impact permit in accordance with the GTAs.

Submission requirements for concurrences and referrals

Applicants must engage a suitably qualified consultant to prepare the Aboriginal cultural heritage assessment report to ensure that it meets the requirements of the NPW Act and appropriate consultation with the Aboriginal community has occurred. Preparing an accurate and thorough

report provides greater certainty for all parties and helps avoid delays in the consent process and subsequent development.

These include, for Aboriginal cultural heritage:

- a Statement of Environmental Effects
- existing and proposed drawings with drawing schedule
- an Aboriginal Cultural Heritage Assessment Report prepared in line with the Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW and Heritage NSW requirements. See Aboriginal objects and places for details.



Undergo the assessment

Integrated development

Prior to the determination of an integrated DA, Heritage NSW must provide GTAs to the consent authority or indicate that approval will not be given. Before doing this, Heritage NSW will review the completed Aboriginal cultural heritage assessment report and may request additional information.

Concurrences and referrals

Heritage NSW will review appropriate referrals and provide advice based on the information provided. This may include advice on additional studies or recommended DA conditions.

Development types that trigger a concurrence and/or referral for heritage matters will be processed in accordance with the relevant LEP or SEPP provision.



Get an outcome

Integrated development

If Heritage NSW issues GTAs, the council will proceed to make its determination on the application under the EP&A Act. If the council subsequently issues development consent, it must be consistent with the GTAs.

In deciding whether to issue GTAs, Heritage NSW must consider the matters set out in section 90K(1) of the NPW Act.

If Heritage NSW refuses to issue GTAs, the council will refuse to grant development consent. The applicant will be notified and be given reasons for the refusal. A council may refuse to grant development consent on other grounds, even if GTAs are issued.

If development consent is granted, the applicant must apply to Heritage NSW for an Aboriginal heritage impact permit prior to commencing works that will harm an Aboriginal object or place.

Concurrences and referrals

If the referral authority refuses to provide concurrence, consent cannot be granted to the DA. The DA could be withdrawn and modified to meet the relevant Aboriginal heritage requirements.

The referral authority may provide feedback in response to a referral request. This feedback will generally be considered by the consent authority as part of the DA assessment process in accordance with the relevant EPI referral provision.

When Heritage NSW rejects a referral, it will provide a brief reference indicating the reason. Councils and applicants will receive a notification by email that includes this reason.

Rejections

A referral may be rejected by Heritage NSW for reasons including:

- the referral is incorrect (such as a development application referral is made when an integrated development application should be made)
- there is insufficient information provided (essential supporting documents)
- where an Aboriginal Cultural Heritage Assessment Report concludes that Aboriginal objects and/or cultural values will not be impacted through the proposed activity
- where a due diligence assessment has been provided as a supporting document
- when the requirements of the request are not clear
- documents are still in draft.

An explanation of some of these reasons are given on the [DA referrals page](#) of the Heritage NSW website.

Reference documents

- [Guidance for councils when referring DAs to Heritage NSW](#)
- [Concurrence and referral process](#)
- [Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW](#)
- [Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales](#)
- [Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW](#)
- [Aboriginal Cultural Heritage Consultation Requirements for Proponents](#)
- [Applying for an Aboriginal Heritage Impact Permit: Guide for applicants](#)
- [Applying for an Aboriginal Heritage Impact Permit web page](#)
- [Aboriginal Heritage Information Management System \(AHIMS\)](#)
- [Guidelines for the preparation of Archaeological Management Plans](#)

Environment protection

Referral authorities	Within Department of Climate Change, Energy, the Environment and Water: • Environment Protection Authority (EPA) • Biodiversity, Conservation and Science Group • NSW National Parks and Wildlife Service Planning Secretary
Legislation	Acts and regulations <i>Biodiversity Conservation Act 2016</i> (BC Act) section 7.12(2) and (3) <i>Protection of the Environment Operations Act 1997</i> (POEO Act) sections 43, 47, 48, 55 and 122 (integrated development) State environmental planning policies <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 5 (River Murray lands), section 5.12 <i>State Environmental Planning Policy (Precincts – Regional) 2021</i> (Regional SEPP), Chapter 4 (Kosciuszko National Park and alpine resorts), section 4.27(1) <i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 6 (St Marys), section 6.44(2) Western Parkland City SEPP, Appendix 10, section 6.4(2) Local environmental plans <i>Ballina Local Environmental Plan 1987</i> (Ballina LEP 1987) clause 36(4)(c) <i>Blue Mountains Local Environmental Plan 2005</i> (Blue Mountains LEP 2005) clause 44(1)(b) <i>Campbelltown Local Environmental Plan 2015</i> (Campbelltown LEP 2015) clause 7.28(2) <i>Hawkesbury Local Environmental Plan 2012</i> (Hawkesbury LEP 2012) clause 6.15(2) <i>Kempsey Local Environmental Plan 2013</i> (Kempsey LEP 2013) clause 4.2D(2)(b) Concurrences and referrals for environment protection may also be triggered under other SEPPs and/or LEPs.
Summary	Appropriate assessment and regulation of activities that have the potential to impact on the environment and human health is important to maintain healthy environments, healthy communities and enhance liveability.
DA requirement	If a development meets the definition of an activity listed in Schedule 1 of the POEO Act, the applicant must hold an environmental protection licence. For designated development, an EIS may also be required that addresses the

Planning Secretary's environmental assessment requirements and this must accompany the DA.

Some DAs may also trigger other approvals not included as integrated development. For example, any encroachment into National Parks and Wildlife Service lands associated with a development (including a temporary encroachment and access through park) would be subject to separate approvals under the NPW Act and is likely to be refused. Such approvals are not covered by integrated development.

DAs may also trigger a concurrence and/or referral requirement under an EPI.

Overview

Integrated development: Environmental protection licences

Environmental protection licences are issued by the NSW EPA. They regulate development to prevent or minimise emissions and pollutants from specific activities to protect the environment and human health. These include emissions to air, land and water and noise impacts. Environmental protection licences are often very complex and address technical environmental issues. It is recommended that applicants engage an environmental consultant to prepare an licence application and DA if the development triggers EPA approval.

Concurrences and referrals: other environment protection matters

The Biodiversity, Conservation and Science Group provides responses to concurrences and referrals triggered under EPIs.

National Parks and Wildlife Service provides responses to referrals for developments on or in the vicinity of existing parks or lands zoned (or to be zoned) C1 or their equivalent, or lands acquired under the NPW Act for reservation as a park.



Assess whether the development triggers the requirement for an approval, concurrence or referral

Integrated development – environmental protection licences

If an environmental protection licence is required under the POEO Act, the proposal is integrated development. [Schedule 1 of the POEO Act](#) is a list of defined activities and thresholds. Refer to this schedule and the EPA's [Guide to licensing](#) to determine if a proposed activity will require an environmental protection licence. It is the applicant's responsibility to determine if an activity is

listed. Licensing exemptions are included in the definition of relevant activities in Schedule 1 of the POEO Act.

Environmental protection licences are also required for certain construction activities (see ‘scheduled development work’ under the POEO Act). If a DA relates to a premises that has an existing environmental protection licence, the DA should be considered integrated development. Any required or potential variations to an environmental protection licence would need to be considered by the EPA. Most integrated developments are also designated development listed under Schedule 3 of the EP&A Act and preparation of an EIS will be required.

Concurrences and referrals

Separate from the environmental protection licence/integrated development process, development types may trigger a concurrence and/or referral for environment protection matters. These will be specified in the relevant LEP or SEPP provision, including:

- BC Act section 7.12 for development and activities which are likely to significantly affect threatened species where the DA is seeking a reduced credit obligation
- Biodiversity and Conservation SEPP, Chapter 5 (River Murray lands), section 5.12 for various development types in the riverine land of the Murray River
- Regional SEPP, Chapter 4 (Kosciuszko National Park and alpine resorts), section 4.27(1) for development in the resort areas of Kosciuszko National Park
- Western Parkland City SEPP:
 - Chapter 6 St Marys, section 6.44(2) for development of land adjoining land within the ‘Regional Park’ zone or any road or public utility development on land yet to be reserved under the NPW Act within the ‘Regional Park’ zone if the land
 - Appendix 10, section 6.4(2) for development in Appin (Part) Precinct on ‘koala corridor’ land
- Ballina LEP 1987 clause 36(4)(c) for works on certain land on acid sulfate soils
- Blue Mountains LEP 2005 clause 44(1)(b) for development on any land adjacent to the Blue Mountains National Park
- Campbelltown LEP 2015 clause 7.28(2) for development in ‘koala corridor’ land
- Hawkesbury LEP 2012 clause 6.15(2) for development of certain land at Kurmond
- Kempsey LEP 2013 clause 4.2D(2)(b) for subdivision of land that is ‘Area 1’ in Zone C3 Environmental Management land at Crescent Head.

For DAs that are likely to be of interest to National Parks and Wildlife Service, the consent authority may (voluntarily) notify that agency. Examples include land:

- zoned under Western Parkland City SEPP as ‘Environmental conservation’ in Chapter 3 (Sydney region growth centre) or ‘Environment and Recreation’ in Chapter 4 (Western Sydney Aerotropolis)
- agreed for future reservation under the NPW Act under a voluntary planning agreement
- covered by the former 8(b) zoning as a future park addition (whether or not subject to C1 zoning)
- within the vicinity of and with the potential to affect an existing reserve under the NPW Act.

There are very few examples of development **on** land reserved or acquired under the NPW Act (or zoned C1) that can be subject to a DA submitted to a local council. Most development on these lands occurs as development without consent, consistent with the land use table in LEPs for C1-zoned lands. DAs that do affect land already reserved or acquired under the NPW Act must be supported by landowner consent from the minister administering the NPW Act (currently the Minister for Climate Change, Energy, the Environment and Heritage).



Address environment matters in the application

Integrated development – environmental protection licences

You may need to assess, quantify and report on potential impacts related to the following environmental issues:

- air issues such as air quality, odour and dust emissions
- noise and vibration
- waste management, including the prevention of pollution, minimising resource use, improving the recovery of materials from the waste stream and ensuring the appropriate disposal of waste
- waste generation including wastes classified as hazardous and wastes containing radiation, including liquid waste
- water and soils including water pollution and contaminated sites including groundwater.

The application should address:

- all matters set out in section 45 of the POEO Act
- all potential or expected impacts from the proposal to the environment and/or human health, including:
 - proposed mitigation options

- predicted residual impacts after the mitigation options are in place
- the consequences of these residual impacts on the environment and the community.

A summary of submission requirements is provided in Appendix B. Impacts should be assessed in accordance with the relevant guidelines. See the 'Reference Documents' section below for links to some of the guidance that should be considered.

Where the complexity of an application or site-specific circumstances justifiably require information that is not outlined in these requirements, the EPA may request additional information that relates to the regulation of matters that are within its remit.

If the development is designated development, the applicant must apply through the consent authority for the Planning Secretary's environmental assessment requirements prior to preparing the EIS and lodging their DA. Applicants and their consultants are encouraged to have a pre-lodgement meeting with the consent authority and the EPA to discuss general assessment requirements. The Planning Secretary's environmental assessment requirements will generally require the EIS to address section 45 of the POEO Act and all relevant matters listed in Appendix B of this guide.

An EIS which addresses the EPA's information requirements will assist in streamlining the EPA's consideration of the licence application once development consent is received.

If the information is inadequate or missing, the EPA will 'stop the clock' and request additional information. It is in the applicant's best interest to provide adequate information at this stage of the process. This will also facilitate efficient assessment of a licence application further down the track.

The applicant should be aware that any statements or commitments set out in the EIS may be formalised as GTAs or environmental protection licence conditions.

Concurrences and referrals

An applicant should contact the relevant referral authority for specific information requirements for concurrence and/or referrals triggered by a LEP or SEPP provision. Specific requirements are listed below:

- BC Act section 7.12: if seeking a reduced credit obligation, a request must be made when the DA is lodged. The request must be accompanied by supporting information and a justification as outlined on [Seeking concurrence for a reduced credit obligation web page](#).

- Eastern Harbour City SEPP, Chapter 6 (Cooks Cove): All management plans prepared in accordance with section 6.16 must be exhibited in accordance with section 6.16(2), address aims (i), (j) and (k) of section 6.1, and address the following planning principles of section 6.9:
 - Foreshore, significant wetland areas and green and golden bell frog habitat areas are to be set aside for the maintenance and protection of wetland vegetation, mangrove communities and threatened fauna, with limited public access.
 - Riparian areas with estuarine and native vegetation are to be established and maintained for the protection and enhancement of the Cooks River estuary and remaining natural areas.
 - Development should not have adverse impacts on the water quality of the Cooks River, Muddy Creek or wetlands.
 - The significant wetlands within the Cooks Cove site and along the foreshores of Cooks Cove are to be conserved, and the strategy for conservation is to include:
 - establishing adequate vegetated riparian buffers around the significant wetlands, including the Spring Street, Eve Street and Landing Lights wetlands
 - establishing adequate vegetated corridors between Cooks River and Muddy Creek and the wetlands
 - promoting the on-site recovery of the green and golden bell frog.
- Eastern Harbour City SEPP, Chapter 6 (Cooks Cove) (continued):
 - section 6.16(1)(a) for referral of wetlands environmental management plans to include contents and level of detail described by section 6.16(3)
 - section 6.16(1)(b) for referral of soil and water management plans to include contents and level of detail described by section 6.16(4)
 - section 6.16(1)(c) for referral of green and golden bell frog management plans to include:
 - contents and level of detail described by section 6.16(5)
 - up-to-date green and golden bell frog population and distribution information, including from Transport for NSW, as the proponent, and WestConnex as the operator, of the New M5
 - consideration of the requirements of the New M5 (M8) approval with respect to green and golden bell frog, wetlands and soil and water protection
 - consideration of the draft green and golden bell frog recovery plan (Department of Environment and Conservation, 2005) and the strategic Management Plan for the Green and Golden Bell Frog Key Population of the Lower Cooks River (Department of Environment Climate Change and Water, August 2008), especially the future management and implementation recommendations sections of these plans. These

documents can be found on the [Green and golden bell frog profile page](#) of the Environment website.

- Biodiversity and Conservation SEPP, Chapter 5 (River Murray lands), section 5.12:
 - where proposals are likely to significantly affect threatened species (section 7.2 of the Biodiversity Conservation Act 2016) – DA must include evidence that the Biodiversity Offset Scheme entry thresholds have been applied. DAs likely to significantly affect threatened species must be accompanied by a biodiversity development assessment report has been prepared by an accredited assessor. The DA must address the planning principles in Part 5.2 of the SEPP and any specific matters for consideration listed under the development type in section 5.12.
 - where proposals are subject to or may increase flood risks DA must consider the most recent flood modelling and demonstrate consistency with the NSW Government's Flood Prone Land Policy and the principles of the 2023 [Flood Risk Management Manual](#). Applicants should consider any relevant flood risk management study or plan and submit a flood impact and risk assessment with the DA in accordance with the [Flood Risk Management Guideline LU01 \(PDF 4.8MB\)](#).



Undergo the assessment

Integrated development – environmental protection licences

Integrated DAs that require approval under the POEO Act will require 28 days of public consultation.

When assessing the DA, the EPA must consider:

- any EIS, statement of environmental effects, waste strategy or technical reports provided by the applicant
- any submissions from the public received by council during community consultation
- the matters set out in section 45 of the POEO Act in exercising its licensing functions.

Concurrences and referrals

Development types that trigger a concurrence and/or referral for environment protection matters will be processed in accordance with the relevant LEP or SEPP provision.



Get an outcome

Integrated development – environmental protection licences

Applicants must address the relevant environmental assessment requirements above as part of the DA. This will allow a proper assessment of impacts and for GTAs to be issued. It will also avoid delays and difficulties when subsequently applying for an environmental protection licence. The EPA also considers any public submissions made in respect of the DA when issuing GTAs. In determining whether to issue GTAs, the EPA may have regard to the matters outlined above.

If the EPA agrees to grant GTAs, the GTAs will be sent to the council. If the council subsequently issues a DA under the EP&A Act, it must be consistent with the GTAs. If the EPA issues GTAs, and the development consent is granted, the EPA is obliged to issue an environmental protection licence subject to conditions that are consistent with the development consent.

A council may still refuse to grant development consent even if GTAs are issued. The EPA cannot issue an environmental protection licence for an activity that requires development consent until development consent is obtained.

If the EPA refuses to issue GTAs, the council cannot issue the development consent and the DA cannot proceed. The applicant will be notified and be given reasons for the refusal.

Concurrences and referrals

A response may or may not be provided by the referral authority. If the referral authority refuses to provide concurrence, consent cannot be granted to the DA. The DA could be withdrawn and modified to meet the relevant environment protection requirements.

For referrals, the consent authority considers feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.



Reference documents

The list below is accurate at the time of this guide's publication. Updated guidance lists will be published from time to time on the Planning Portal and EPA website.

Air

- [Approved Methods for the Sampling and Analysis of Air Pollutants in NSW](#)
- [Technical Framework – Assessment and Management of Odour from Stationary Sources in NSW](#)
- [Approved Methods for the Modelling and Assessments of Air Pollutants](#)
- [Generic Guidance and Optimum Model Settings for the CALPUFF Modelling System for Inclusion into the 'Approved Methods for the Modelling and Assessments of Air Pollutants \(PDF 979 KB\)](#)
- [Ground-level ozone impact assessment framework \(PDF 54.9 KB\)](#)
- [NSW Clean Air strategy](#)
- [NSW Climate Change Policy Framework](#)

- [Load Calculation Protocol for use by holders of NSW Environment Protection Licences when calculating Assessable Pollutant Loads](#)

Noise

- [Noise Policy for Industry](#)
- [Interim Construction Noise Guideline](#)
- [Assessing Vibration: A Technical Guide](#)
- [Rail Infrastructure Noise Guidelines](#)
- [NSW Road Noise Policy and Application Notes](#)
- [Technical Basis for Guidelines to Minimise Annoyance due to Blasting Overpressure and Ground Vibration \(PDF 256 KB\)](#)
- [Approved Methods for Measurement and Analysis of Environmental Noise in NSW \(PDF 792KB\)](#)

Waste

- Waste guidelines and resources about legislation can be found on the EPA [Waste Avoidance and Resource Recovery Strategy](#) and [waste regulation](#) web pages.
- [EPA's Waste Classification Guidelines](#)
- [Environmental Guidelines: Solid Waste Landfills \(PDF 1.17 MB\)](#)
- [Environmental Guidelines: Use and Disposal of Biosolids Products](#)
- [Environmental Guidelines: Composting and Related Organics Processing Facilities \(PDF 367 KB\)](#)
- [Storing and Handling Liquids: Environmental Protection \(PDF 3.66 MB\)](#)
- [NSW Energy from Waste Policy Statement](#)
- [Draft protocol for managing asbestos during resource recovery of construction and demolition waste \(PDF 589 KB\)](#)
- [Standards for Managing Construction Waste in NSW \(PDF 189 KB\)](#)
- Environmental Guidelines: [Managing Industrial Waste](#)
- [Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities](#)

Water

- [Approved Methods for the Sampling and Analysis of Water Pollutants in NSW](#)
- [Australian and New Zealand Guidelines for Fresh and Marine Water Quality](#) (Australian and New Zealand Governments and Australian State and territory governments)

- [NSW Water Quality and River Flow Objectives](#)
- [Using the ANZECC Guidelines and Water Quality Objectives in NSW](#)
- [Managing Urban Stormwater: Soils and Construction Volume 1 \(Landcom 2004\) and Volume 2 \(A. Installation of Services; B Waste Landfills; C. Unsealed Roads; D. Main Roads; E. Mines and Quarries\) \(Department of Environment and Conservation 2008\)](#)
- [Erosion and Sediment Control on Unsealed Roads: A field guide for erosion and sediment control maintenance practices](#)
- [Environmental Guidelines: Use of Effluent by Irrigation \(PDF 1.99 MB\)](#)
- [Storing and Handling Liquids: Environmental Protection \(PDF 3.66 MB\)](#)
- [Licensing Fact Sheet: Using environment protection licensing to control water pollution](#)

Other

- [Chemical Control Orders](#)
- [Radiation Shielding Design Assessment and Verification Requirements](#)
- [Dangerous Goods Requirements](#)
- [Pesticides Requirements](#)
- [Circular Economy Policy](#)
- [Waste and Sustainable Materials Strategy](#)
- [Guidelines for the Assessment and Management of Groundwater Contamination](#)
- [Guidelines for the NSW Site Auditor Scheme \(PDF 998 KB\)](#)
- [Guidelines for Consultants Reporting on Contaminated Land \(PDF 1.35 MB\)](#)
- [NSW EPA Sampling Design Guidelines \(Contaminated Sites\)](#)

The guideline for [Developments adjacent to National Parks and Wildlife Service lands](#) contains information about issues to be considered when assessing proposals in the vicinity of National Parks and Wildlife Service lands. Issues include:

- erosion and sediment control, and stormwater runoff
- pests, weeds and edge effects
- fire and the location of asset protection zones
- visual, odour, noise, vibration, air quality and amenity impacts
- threats to ecological connectivity and groundwater-dependent ecosystems
- changes in access to National Parks and Wildlife Service lands, for either management or visitors.

National Parks and Wildlife Service lands include (for example) national parks, nature reserves, historic sites, other types of reserve or land acquired under the NPW Act. The [NSW National Parks and Wildlife Service \(NPWS\) All Managed Land Dataset on SEED](#) captures all lands reserved or acquired under the NPW Act, or otherwise managed by National Parks and Wildlife Service.

Coal mine subsidence

Referral Authority	Subsidence Advisory NSW
Legislation	<i>Coal Mine Subsidence Compensation Act 2017</i> (CMSC Act) section 22 (integrated development) Concurrences and referrals for coal mine subsidence may also be triggered under other SEPPs and/or LEPs.
Summary	Subsidence Advisory NSW services areas with potential subsidence risks arising from active or non-active underground coal mining. Under the CMSC Act, Subsidence Advisory NSW is responsible for regulating building and subdivision works within Mine Subsidence Districts to ensure new homes and structures are built to an appropriate standard that reduces the risk of damage should subsidence occur.
DA requirement	Development within a Mine Subsidence District requires Subsidence Advisory NSW approval. Approval must be obtained prior to commencing any construction work or activities. DAs are to be lodged noting the application is being lodged as integrated development. Council is required to refer applications for integrated development within a Mine Subsidence District to Subsidence Advisory NSW. Alternatively, applicants can obtain approval directly from Subsidence Advisory NSW prior to lodging the DA. See the Development approval process web page. Subsidence Advisory NSW does not charge a service fee for assessment of DAs. DAs may also trigger a concurrence and/or referral requirement under an EPI.

Overview

What is mine subsidence?

Mine subsidence is the movement of the ground that can occur after underground coal mining. After coal is extracted from beneath the ground, the land above can sink. This can cause tilts and strains on the ground surface.

Subsidence may result in damage to buildings and other structures. Subsidence impacts vary depending on the depth of mining, the geology, and how the coal is extracted. Structures built in declared mine subsidence districts must be constructed in accordance with Subsidence Advisory NSW's development requirements to be eligible for compensation under the CMSC Act in the event

of damage due to mine subsidence. Improvements built outside of or prior to the declaration of a mine subsidence district are automatically eligible for mine subsidence damage compensation.

Definition of a mine subsidence district

A mine subsidence district is a land zoning tool administered by Subsidence Advisory NSW under the CMSC Act to help protect homes and other structures from potential mine subsidence damage. Mine subsidence districts are declared in areas where there are potential subsidence risks from active or non-active underground coal mining.

Subsidence Advisory NSW helps mitigate potential mine subsidence damage by regulating development in mine subsidence districts to ensure buildings and other surface structures are constructed to an appropriate standard.



Determine if the development requires approval, concurrence or referral for mine subsidence matters



Is a site in a mine subsidence district?

An applicant can find out if a property is in a mine subsidence district online through the [NSW Planning Portal](#).

Do I need approval or need to request a concurrence or referral response?

Subsidence Advisory NSW's approval is required under section 22 of the CMSC Act to subdivide, erect or alter any improvements on land within a mine subsidence district.

Improvements built outside of or prior to the declaration of a mine subsidence district are eligible for compensation under the CMSC Act in the event of damage due to mine subsidence. However, improvements built in contravention of or without Subsidence Advisory NSW's approval in a mine subsidence district may not be eligible for compensation.

If a property is located outside a mine subsidence district, there is no need to obtain Subsidence Advisory NSW's approval. However, applicants can request advice from Subsidence Advisory NSW regarding development in areas where there is underground mining but no declared mine subsidence district.

Concurrences and referrals

Development types that trigger a concurrence and/or referral for subsidence matters will be specified in the relevant LEP or SEPP provision.



Address mine subsidence in the application

Integrated development

Subsidence Advisory NSW has assigned one of 10 surface development guidelines to each property within a mine subsidence district. The guidelines are assigned based on the subsidence risks at a property.

The surface development guidelines set out the requirements for building on a property based on potential subsidence risks. Subsidence Advisory NSW's guidelines include specifications related to the nature and class of any development on a property, the site, height and location of new structures, and the use of certain building materials and construction methods.

Prior to lodging an application for proposed development within a mine subsidence district, the applicant should check the Subsidence Advisory NSW surface development guideline that applies to the property.

Subsidence Advisory NSW provide a [step-by-step online guide](#) explaining how to find out a property's surface development guideline using the NSW Planning Portal.

DAs that comply with Subsidence Advisory NSW's applicable surface development guideline

Some of Subsidence Advisory NSW's surface development guidelines allow proposed development that complies with the applicable guideline to be assessed by council or a registered certifier.

Others require assessment by Subsidence Advisory NSW. The [Development approval process web page](#) provides detailed information about the requirements under each surface development guideline.

All proposed development that does not comply with the applicable guideline must be submitted to Subsidence Advisory NSW for a merit-based assessment.

DAs that do not comply with the applicable Subsidence Advisory NSW surface development guideline

Proposed development on properties in mine subsidence districts that does not comply with the applicable surface development guideline will be assessed by Subsidence Advisory NSW on merit under section 22 of the CMSC Act. Subsidence Advisory NSW will consider the:

- likelihood that mine subsidence events will occur at the site
- consequence of mine subsidence events on surface infrastructure and public safety
- reliability of information used to determine the above, including mine plans, assumed pillar and extraction dimensions, and assumptions regarding geotechnical modelling
- risks arising from the proposed engineering controls.

Read Subsidence Advisory NSW's [Merit Assessment Policy](#) for more information.

Subdivision of land within mine subsidence districts

All applications for the subdivision of land within mine subsidence districts require assessment by Subsidence Advisory NSW. Read Subsidence Advisory NSW's [Subdivision Assessment Policy](#) for more information.

What to include in applications for development in mine subsidence districts

Applications submitted to Subsidence Advisory NSW must include:

- site, floor and elevation plans
- approximate construction cost
- for subdivision applications only, a subdivision plan outlining proposed lot boundaries, size, and proposed lot numbering, and a CAD file for any subdivision application exceeding 5 lots.

Note: Subsidence Advisory requires subdivision plans to be submitted as a separate subdivision application.

Following an initial assessment of a DA, Subsidence Advisory NSW may request the applicant provide a:

- geotechnical desktop study assessing the risk of mine subsidence and giving recommended design parameters
- geotechnical site investigation – including boreholes – depending on the outcome of the desktop study
- building impact statement
- peer review of the initial geotechnical assessment.

For guidance on whether an application is likely to require any of the above, please refer to Subsidence Advisory NSW's [DA – Merit Assessment Policy \(PDF 2.25 MB\)](#) and [Subdivision Assessment Policy](#).

Concurrences and referrals

Development types that trigger a concurrence and/or referral for subsidence matters will be processed in accordance with the relevant LEP or SEPP provision. The applicant should contact the relevant referral authority for specific information requirements for any other concurrence and/or referrals triggered by a LEP or SEPP provision.



Undergo the assessment

Applications lodged through the NSW Planning Portal under Division 4.8 of the EP&A Act will be processed within 21 days of referral to Subsidence Advisory, excluding where further information is required to assess the application.

Applications submitted directly to Subsidence Advisory NSW that comply with the applicable surface development guideline will be processed within 7 calendar days of receipt. Applications that exceed the applicable surface development guideline will require Subsidence Advisory NSW to complete a merit-based assessment.

Subsidence Advisory NSW process applications requiring merit assessments within 40 calendar days of receipt (excluding 'stop the clock' periods where additional information is requested from the applicant or a third party to progress the application). Review Subsidence Advisory NSW's [DA – Merit Assessment Policy \(PDF 2.25 MB\)](#) for more information.



Get an outcome

Integrated development

If Subsidence Advisory NSW is satisfied with the proposed development, it will concurrently issue GTAs. Any development approval issued by council must be consistent with the GTAs issued by Subsidence Advisory NSW. GTAs issued may involve approval conditions that require further information to be provided to Subsidence Advisory NSW before, during or after construction.

Section 22 of the CMSC Act

Applications for development that complies with the property's surface development guideline will be processed by Subsidence Advisory NSW within 7 calendar days. Applications that do not comply with the relevant guideline will be assessed on merit. This may entail requests for additional supporting documentation following an initial assessment. Subsidence Advisory NSW may issue an approval with or without conditions. Conditions may include the requirement for additional information to be submitted to Subsidence Advisory NSW before, during or after construction to satisfy the approval.

In circumstances where subsidence risks cannot be reasonably mitigated, Subsidence Advisory NSW may refuse to grant approval for a proposed development in a mine subsidence district.

Concurrences and referrals

If the referral authority refuses to provide concurrence, consent cannot be granted to the DA. The DA could be withdrawn and modified to meet the relevant subsidence requirements.

Feedback may be provided by the referral authority in response to a referral request. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.

Reference documents

Refer to the publications and documents available from the Subsidence Advisory NSW [development approval process web page](#).

Mining leases

Referral authority	Department of Primary Industries and Regional Development – NSW Resources
Legislation	<i>Mining Act 1992</i> (Mining Act) sections 63 and 64 (integrated development) <i>Mining Regulation 2016</i> (Mining Regulation) Concurrences and referrals for mining leases may also be triggered under SEPPs and/or LEPs.
Summary	An applicant seeking to extract any mineral defined in Schedule 1 of the Mining Regulation must also apply for Mining Lease under the Mining Act. In assessing applications for mining leases, NSW Resources focuses on ensuring that mineral resource recovery is maximised, and that land is effectively rehabilitated.
DA requirement	The applicant will need to lodge a DA and notify the council on the application form if approval under the Mining Act is also required. If the DA and GTAs are granted, approval under the Mining Act must be obtained before commencing any work or activities. DAs may also trigger a concurrence and/or referral requirement under an EPI.

Overview

A mining lease gives the holder the exclusive right to mine for minerals over a specific area of land and is granted under the provisions of the Mining Act. Applicants must obtain development consent under the EP&A Act before NSW Resources can issue a mining lease.

It is important to determine whether a project is state significant development or local development. Different assessment processes apply to each. Development consents for mining projects are granted by both the Minister for Planning and Public Spaces and councils, dependent on the scale and nature of the project. Councils are the consent authority for local development.

The advice in this section is only relevant to applications for, and modifications to, local development. Note that mining within lands reserved under the NPW Act as state conservation area is state significant development.

Mining Development Panel Meeting

The Mine Development Panel process gives project proponents the opportunity to discuss all aspects of their project with NSW Resources, before lodging a DA or modification application with the relevant consent authority.

Resource and Economic Assessment

NSW Resources is responsible for ensuring the efficient and optimised development of the state's mineral resources. A Resource and Economic Assessment must be undertaken by NSW Resources before the DA or modification application is determined by the relevant consent authority. This involves the assessment of the mineral resource/reserve estimates and associated socio-economic benefits to NSW in terms of royalties and operational jobs.

Applicants should contact the Mining Concierge by email at mining.concierge@regional.nsw.gov.au, or phone: 02 4063 6860 to arrange a meeting before lodging a DA.



Determine if the project requires a mining lease

If it is proposed to extract material from land for the purpose of recovering a mineral defined in Schedule 1 of the Mining Regulation, a mining lease under sections 63 and 64 of the Mining Act will be needed.

What is a mineral?

A mineral means a material prescribed by Schedule 1 of the Mining Regulation as a mineral and includes, but is not limited to: coal and oil shale but does not include petroleum. It also does not include extractive materials such as sand (but not mineral sands), soil, gravel, rock or similar substances.

Extractive materials such as those extracted in quarries, for example sand, soil, gravel/aggregate, rock or similar materials, are not considered a mineral unless prescribed under the Mining Regulation 2016 (Schedule 1).

For help determining what constitutes a mineral, we encourage applicants to contact NSW Resources early in the project planning and discuss the matter.

Exemptions under the Mining Act

The minister may, in limited circumstances, declare that a development is not mining and is exempt from obtaining a mining lease (section 11A Mining Act). There is no list of prescribed exemptions, but an exemption may be given where extraction of the mineral is not the primary purpose of the proposed development, or its extraction is an ancillary activity to another approved development. Operations for rehabilitation purposes constitute mining, therefore are not exempt under section 11A.

We encourage applicants to contact NSW Resources early in the project planning to discuss whether the proposed development may be eligible for exemption.



Address mining leases in the application

Before lodging a DA

Mine Development Panel (MDP) for mining projects

The initial step in obtaining a mining lease is to contact NSW Resources and discuss your project with NSW Resources. You can find details on the process on the [Assistance for new mining projects page](#) on the NSW Resources website.

NSW Resources encourages potential applicants to consult with it in the early stages of a project's planning ideally at the Preliminary Feasibility Study stage before entering the development assessment process. The plan should demonstrate that a project is practical, feasible, optimises resource utilisation and can be achieved within known environmental, mining and production constraints.

The MDP process gives potential applicants the opportunity to discuss all aspects of the project with NSW Resources before commencing the project assessment and approvals process. This step provides an opportunity to demonstrate that the proposal is a responsible and sustainable mining development while drawing out any matters that may require attention during the consent pathway.

For further information, applicants should contact the Mining Concierge.

What must be lodged with a DA application?

Integrated development

To obtain GTAs for a mining lease, applicants must complete the NSW Resources Environmental Assessment Requirements and provide the standard information in Appendix D with their DA (where relevant). We encourage applicants to contact NSW Resources early in the project to discuss the required information and forms.



Undergo the assessment

When assessing an application, NSW Resources must consider if the conceptual project development plan demonstrates the project:

- is practical and feasible
- is achievable within existing legislative and best practice environmental constraints
- optimises resource recovery and use
- Consideration of the design stages of mine planning and rehabilitation, including progressive rehabilitation, final landform and post-mining land use (as relevant).

You can find further details on rehabilitation advice on the [Mine planning and rehabilitation advice page](#) of the Resources Regulator website.

Designated development

Often integrated developments are also designated development listed under Schedule 3 of the EP&A Regulation and an EIS will be required.

Landowner's consent

If mining is proposed on lands not owned by the mining company, the DA must be accompanied by written consent of each landowner. For lands under the control of the Crown Lands, Forestry Corporation or National Parks and Wildlife Service, landowner's consent will be required from the minister administering the relevant legislation under which the land is acquired, dedicated or reserved. A formal request for landowner's consent should be submitted to the relevant management agency before the DA is lodged.

Concurrences and referrals

Development types that trigger a concurrence and/or referral for mining matters will be processed in accordance with the relevant LEP or SEPP provision. For these, the applicant should contact NSW Resources for specific information requirements..



Get an outcome

If NSW Resources refuses to give GTAs, the council cannot grant development consent. In determining whether to issue GTAs, NSW Resources will consider the matters outlined above. The applicant will be notified and be given reasons for the refusal. Council may still refuse to grant development consent, even if GTAs are issued.

Concurrences and referrals

If the referral authority refuses to provide concurrence, consent cannot be granted to the DA. The DA could be withdrawn and modified to meet the relevant environment protection requirements.

Feedback may be provided by the referral authority in response to a referral request. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.

Native title

Information on the process and guidelines for determining native title land and administration of mining legislation in NSW in light of the Commonwealth Native Title Act is available from [the Native title pages](#) of NSW Resources website.

Reference documents

- [Assistance for new mining projects web page](#)
- [Mine Development Panel: Policy and requirements guide 2023 \(PDF 227 KB\)](#)
- [Applying to explore and mine in NSW web page](#)
- [MinView Website](#) - Information on mining authorities and locations
- [Resource Regulator website](#)
- [New standard rehabilitation conditions on mining leases.](#)

Development impacting high-pressure pipeline infrastructure

Referral authority	Pipeline operators including (but not limited to): Jemena, Viva Energy, Caltex, Qenos, Exxon Mobil, APA Group, Energy Australia and BP Australia
Legislation	State environmental planning policies <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 2 (Infrastructure), section 2.77(1) Local environmental plans <i>Georges River Local Environmental Plan 2021</i> (Georges River LEP 2021) clause 6.16(3) Concurrences and referrals for development impacting high-pressure pipeline infrastructure may also be triggered under other SEPPs and/or LEPs.
Summary	Referral requirements exist for proposed development near high-pressure pipeline corridors that transport dangerous goods.
DA requirements	DAs may trigger a referral requirement in relation to high-pressure pipeline infrastructure under EPLs.

Overview

Referral requirements may apply to certain development proposals to help protect current and future high-pressure pipeline infrastructure and operations. These high-pressure pipelines are used for the transport of dangerous goods and have a level of risk that must be assessed when considering development near the pipelines to ensure that risks to people, property and the pipelines are within acceptable levels.



Determine if the project impacts high-pressure pipeline infrastructure and whether a referral request is needed

Development types that trigger a referral for high-pressure pipeline infrastructure matters will be specified in the relevant SEPP or LEP provision. These include:

- Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.77(1) for development adjacent to land in a pipeline corridor
- Georges River LEP 2021 clause 6.16(3) for certain development on land identified as 'High Pressure Gas Pipeline Risk Area'.

To accompany the provisions within section 2.77, the Development adjacent to high pressure pipelines transporting dangerous goods planning circular includes a table listing the operators of pipelines across NSW. If there is a pipeline operator allocated to a local government area, the relevant council is to contact that operator to obtain information on the route of their pipeline.

It is best practice for developers to contact 'Dial Before You Dig' during the early stages of the development assessment process, such as during the concept planning phase, to ensure that risks from the development on high-pressure pipelines are adequately considered during this process.



Address high-pressure pipelines in the application

For Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.77(1), the referral ensures pipeline operators are aware of any new development at an early stage of the development assessment process. This will enable the pipeline operator to work with the consent authority and developer to review the level of risk both to and from the pipeline.

The applicant should contact the relevant referral authority for specific information requirements for other approvals, concurrences or referrals triggered by an Act, LEP or SEPP provision.



Undergo the assessment

Development types which trigger an approval, concurrence or referral for high-pressure pipeline infrastructure matters will be processed in accordance with the relevant Act, LEP or SEPP provision.



Get an outcome

Referrals

Feedback may be provided by the referral authority in response to a referral request. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.

Further information on the Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.77(1) referral and assessment requirements for development adjacent to high pressure pipelines transporting dangerous goods can be found in the [Development adjacent to high pressure pipelines transporting dangerous goods planning circular](#).



Development impacting air infrastructure

Referral authorities	Airservices Australia Sydney Airports Corporation Civil Aviation Safety Authority Department of Infrastructure, Transport, Regional Development, Communications and the Arts (Cth)
Legislation	State environmental planning policies <i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i> (Eastern Harbour City SEPP), Chapter 6 (Cooks Cove), section 6.20 <i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 4 (Western Sydney Aerotropolis), section 4.18(2A), 4.19(2)(a), 4.20(3), 4.20(4)(a), 4.21(2) and 4.23A(2) Local environmental plans <i>Bega Valley Local Environmental Plan 2002</i> (Bega Valley LEP 2002) clause 86(2) <i>Canterbury-Bankstown Local Environmental Plan 2023</i> (Canterbury-Bankstown LEP 2023) clause 6.8 <i>Deniliquin Local Environmental Plan 1997</i> (Deniliquin LEP 1997) clause 32(2) <i>Fairfield Local Environmental Plan 2013</i> (Fairfield LEP 2013) clause 6.13(2) <i>Hawkesbury Local Environmental Plan 2012</i> (Hawkesbury LEP 2012) clause 6.10(2) <i>Liverpool Local Environmental Plan 2008</i> (Liverpool LEP 2008) clause 7.17A(2) <i>Queanbeyan Local Environmental Plan 1998</i> (Queanbeyan LEP 1998) clause 69(2) <i>Queanbeyan-Palerang Regional Local Environmental Plan 2022</i> (Queanbeyan-Palerang Regional LEP 2022) clause 7.8(2) <i>Shellharbour Local Environmental Plan 2000</i> (Shellharbour LEP 2000) clause 84(b) <i>Shellharbour Rural Local Environmental Plan 2004</i> (Shellharbour Rural LEP 2004) clauses 61(b) and 75(3)(c) <i>Standard Instrument – Principal Local Environmental Plan</i> (Standard Instrument LEP) – model clauses 7.4 and 7.6 Concurrences and referrals for development impacting air infrastructure may also be triggered under other SEPPs and/or LEPs.
Summary	Approval and referral requirements exist for proposed development in flight paths or near airports. These help protect current and future air infrastructure

	and operations. They also assist in the implementation of the <u>National Airport Safe Guarding Framework</u> , which NSW has committed to implement by 2027.
DA requirements	DAs may trigger approval and/or referral requirements in relation to air infrastructure under EPIs.

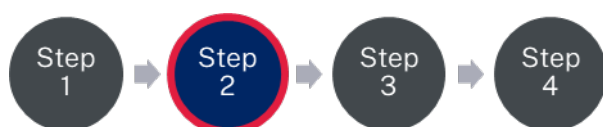


Determine if the project impacts air infrastructure and if an approval or referral request needed

Development types that trigger an approval and/or referral for air infrastructure matters will be specified in the relevant Act, LEP or SEPP provision. These include:

- Eastern Harbour City SEPP, Chapter 6 (Cooks Cove), section 6.20 for development near protected airspace
- Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis):
 - section 4.18(2A) for development on land shown on the Lighting Intensity and Wind Shear Map or development that penetrates the 1:35 surface
 - section 4.19(2)(a) for development on land in the 13-km wide wildlife buffer zone
 - section 4.20(3) for development for the purposes of a large wind monitoring tower in the 3–30 km zone
 - section 4.20(4)(a) for development for electricity generating works comprising a large wind turbine on land in the 3–30 km zone
 - section 4.21(2) for development on land shown on the Lighting Intensity and Wind for installation and operation of external lighting in relation to certain development
 - section 4.23A(2) for development that may impact the operation of certain air transport facilities
- Bega Valley LEP 2002 clause 86(2) for development in flight paths
- Deniliquin LEP 1997 clause 32(2) for development near aerodromes
- Fairfield LEP 2013 clause 6.13(2) for development under, or that intrudes into, hospital helicopter airspace
- Hawkesbury LEP 2012 clause 6.10(2) for certain development on Lot 1, DP 827148, Hawkesbury Valley Way, Clarendon
- Liverpool LEP 2008 clause 7.17A(2) for development under, or that intrudes into, hospital helicopter airspace

- Queanbeyan-Palerang Regional LEP 2022 clause 7.8(2) for development that will penetrate the Limitation or Operations Surface for Canberra Airport
- Shellharbour LEP 2000 clause 84(b) for development in the vicinity of Illawarra Regional Airport
- Shellharbour Rural LEP 2004
 - clause 61(b) for development in the vicinity of Illawarra Regional Airport
 - clause 75(3)(c) for development that exceeds the maximum height for the land
- Standard Instrument LEP (C&Rs have been adopted from the Standard Instrument LEP into a range of LEPs and SEPPs across NSW which have not been separately listed in this guide):
 - model clause 7.4 for development impacting airspace operations
 - model clause 7.6 for development in areas subject to aircraft noise.

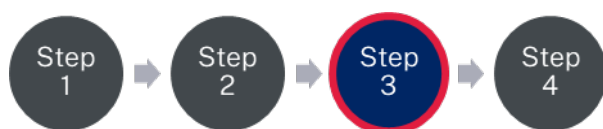


Address air infrastructure in the application

Specific information requirements for inclusion in the DA are:

- Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.18(2A), 4.19(2)(a), 4.20(3), 4.20(4)(a), 4.21(2), 4.22(3)(a) and 4.22(3)(b): for development that will impact or be impacted by airport operations specified in each of these referrals – contact the relevant federal body for specific requirements. The relevant federal body is defined in the SEPP’s Dictionary.

The applicant should contact the relevant referral authority for specific information requirements for other approvals or referrals triggered by an Act, LEP or SEPP provision.



Undergo the assessment

Development types which trigger an approval or referral for air infrastructure matters will be processed in accordance with the relevant Act, LEP or SEPP provision.



Get an outcome

Approvals and referrals

If an approval is not provided by the referral authority, consent cannot be granted to the DA. The DA could be withdrawn and modified to meet the relevant air infrastructure requirements.

Feedback may be provided by the referral authority in response to a referral request. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.

Development impacting defence infrastructure

Referral authority	Australian Department of Defence
Legislation	<i>Hawkesbury Local Environmental Plan 2012</i> (Hawkesbury LEP 2012) clause 6.10(2) <i>Queanbeyan-Palerang Regional Local Environmental Plan 2022</i> (Queanbeyan-Palerang Regional LEP 2022) clause 7.17(3) <i>Standard Instrument – Principal Local Environmental Plan</i> (Standard Instrument LEP) clause 5.15 <i>(see also air infrastructure section)</i> Concurrences and referrals for development impacting defence infrastructure may also be triggered under other SEPPs and/or LEPs.
Summary	Referral requirements exist for proposed development near Commonwealth defence infrastructure. These help protect current and future defence infrastructure and operations.
DA requirements	DAs may trigger a referral requirement in relation to defence infrastructure under EPIs.



Determine if the project impacts defence infrastructure and if a referral request is needed

Development types that trigger a referral for defence infrastructure matters will be specified in the relevant LEP or SEPP provision. These include:

- Hawkesbury LEP 2012 clause 6.10(2) for certain development on Lot 1, DP 827148, Hawkesbury Valley Way, Clarendon
- Queanbeyan-Palerang Regional LEP 2022 clause 7.17(3) for the erection of a building with a height exceeding 8.5m on land near HMAS Harman or in Zone E4 General Industrial
- Standard Instrument LEP (referrals have been adopted from the Standard Instrument LEP into a range of LEPs and SEPPs across NSW which have not been separately listed in this guide) section 5.15 for certain development on defence communications facility buffer land – currently applies to land near Morundah (west of Wagga Wagga).



Address defence infrastructure in the application

The applicant should contact the relevant referral authority for specific information requirements for other referrals triggered by an LEP or SEPP provision.



Undergo the assessment

Development types that trigger an approval or referral for defence infrastructure matters will be processed in accordance with the relevant LEP or SEPP provision.



Get an outcome

Referrals

Feedback may be provided by the referral authority in response to a referral request. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.

Development impacting navigable waterways

Referral authorities	Transport for NSW – Maritime
Legislation	<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 5 (River Murray lands), section 5.11(1)(b) and 5.12 <i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i> (Eastern Harbour City SEPP), Chapter 4 (City West), section 4.61 (note as of the date this Guide was published, no land is in the Waterways Zone) Eastern Harbour City SEPP, Chapter 5 (Walsh Bay), section 5.14(b) Concurrences and referrals for development impacting navigable waterways may also be triggered under other SEPPs and/or LEPs.
Summary	Referral requirements exist for proposed development in waterways which can be navigated by boats. These help ensure current and future development does not impact the ability for boats to pass through the water.
DA requirements	DAs may trigger approval and/or referral requirements in relation to navigable waterways under EPIs.



Determine if the project impacts navigable waterways and if an approval or referral request needed

Development types that trigger referrals for navigable waterways will be specified in the relevant Act, LEP or SEPP provision. These include:

- Biodiversity and Conservation SEPP:
 - section 5.11(1)(b) for development which may affect boating safety
 - section 5.12 for development in the riverine land of the Murray River
- Eastern Harbour City SEPP:
 - section 4.61 for development within Waterways Zone of City West (note as of the date this Guide was published, no land is in the Waterways Zone)
 - section 5.14(b) for development in Zone 2 Walsh Bay Waterway Zone.



Address navigable waterways in the application

An applicant should contact Transport for NSW – Maritime for specific information requirements for other concurrences or referrals triggered by an LEP or SEPP provision.



Undergo the assessment

Development types which trigger an approval or referral for navigable waterways will be processed in accordance with the relevant Act, LEP or SEPP provision.



Get an outcome

Referrals

Feedback may be provided by Transport for NSW – Maritime in response to a referral request. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.

Development at ports

Referral authority	Port operator (NSW Ports, Port of Newcastle) Port Authority of NSW Transport for NSW
Legislation	<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 5 (Three ports — Port Botany, Port Kembla and Port of Newcastle), section 5.17(2) and (4)(a) <i>State Environmental Planning Policy (Precincts — Eastern Harbour City) 2021</i> (Eastern Harbour City SEPP) sections 4.60(2) and 4.61 (note as of the date this Guide was published, no land is in the Waterways Zone for the purposes of section 4.61) Concurrences and referrals for development at ports may also be triggered under other SEPPs and/or LEPs.
Summary	Referral requirements exist for certain proposed development at Port Botany, Port Kembla and Port of Newcastle. These help protect current and future port infrastructure and operations. Consultation with Port Authority of NSW and Transport for NSW is also required, if it considers appropriate, for development applications in the Bays Precinct.
DA requirements	DAs may trigger a referral requirement in relation to ports under EPIs.



Determine whether the project impacts port infrastructure, operations and waterfront uses

Development types that trigger a referral for port infrastructure matters will be specified in the relevant SEPP provision. This includes:

- Transport and Infrastructure SEPP, Chapter 5 (Three ports — Port Botany, Port Kembla and Port of Newcastle), section 5.17(2) and (4)(a) for notifying the port operator of certain DAs at Port Botany. The port operator at Port Botany is NSW Ports.
- Eastern Harbour City SEPP:
 - section 4.60(2) for development relating to land in the Bays Precinct - consultation by consent authority 'where it considers it appropriate'

- section 4.61 for development within Waterways Zone of City West (note as of the date this Guide was published, no land is in the Waterways Zone).

Note permission may also be required under section 110 of the Ports and Maritime Administration Regulation. Information on this can be found on the [Harbour Master approval page](#) of the Port Authority of NSW's web page.



Address port infrastructure in the application

For Transport and Infrastructure SEPP, Chapter 5 (Three ports — Port Botany, Port Kembla and Port of Newcastle), section 5.17(4)(a), the port operator will consider the impacts of the proposed development on port infrastructure with specific consideration to the impacts on the shipping channel and ensuring continued unimpeded access to the port. The applicant should include information on construction or operational impacts on the shipping channel including both above and below-ground impacts. The referral can be made through the NSW Planning Portal.

For Transport and Infrastructure SEPP, Chapter 4 (City West), sections 4.60, the consent authority must, if the consent authority considers appropriate, consult Transport for NSW and Port Authority

of NSW for any DA in relation to land in the Bays Precinct. The applicant should include information on construction and operational impacts on operations in the precinct, including through the introduction of sensitive land uses or sensitive receivers that may be impacted by ongoing port and maritime 24/7 operations.

The applicant should contact the relevant referral authority for specific information requirements for other approvals, concurrences or referrals triggered by an Act, LEP or SEPP provision.



Undergo the assessment

Development types which trigger an approval, concurrence or referral for port infrastructure matters will be processed in accordance with the relevant Act, LEP or SEPP provision.



Get an outcome

Referrals

Feedback may be provided by the referral authority in response to a referral request. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.

Proposed education infrastructure

Referral authority	NSW Department of Education
Legislation	<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 3 (Educational establishments and child care facilities), section 3.22(2) Concurrences and referrals for proposed education may also be triggered under other SEPPs and/or LEPs.
Summary	Concurrence requirements exist for proposed education infrastructure proposals. These help manage existing and future education infrastructure and operations.
DA requirements	DAs may trigger a concurrence requirement in relation to education infrastructure under EPIs.



Determine if the project impacts education infrastructure and if a concurrence request required

Development types that trigger a concurrence for education infrastructure matters will be specified in the relevant SEPP provision. These include:

- Transport and Infrastructure SEPP, Chapter 3 (Educational establishments and child care facilities), section 3.22(2) for centre-based childcare facility if:
 - the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations
 - or
 - the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.



Address education infrastructure in the application

The applicant should contact the relevant referral authority for specific information requirements for other approvals, concurrences and/or referrals triggered by an Act, LEP or SEPP provision.



Undertake the assessment

Development types which trigger an approval, concurrence or referral for education infrastructure matters will be processed in accordance with the relevant Act, LEP or SEPP provision.



Get an outcome

Concurrences

If the referral authority refuses to provide concurrence, consent cannot be granted to the DA. The DA could be withdrawn and modified to meet the relevant education infrastructure requirements.

Reference documents

The [Child Care Planning Guideline \(PDF 21.3 MB\)](#) provides a consistent state-wide planning and design framework for preparing and considering DAs for childcare facilities. It informs state and local government, industry and the community about how good design can maximise the safety, health and overall care of young children. It also aims to deliver attractive buildings that are sympathetic to streetscapes, while minimising adverse impacts on surrounding areas.

The Department of Education's [website](#) includes additional information on concurrences, as well as an [Application for concurrence \(PDF 220KB\)](#) form which details the information and documents required for assessing concurrence applications.



Development impacting observatory and meteorological infrastructure

Referral authority	Siding Springs Observatory Planning Secretary
Legislation	<i>Moree Plains Local Environmental Plan 2011</i> (Moree Plains LEP 2011) clause 7.5(4) <i>Standard Instrument – Principal Local Environmental Plan</i> (Standard Instrument LEP) – standard LEP clause 5.14 Concurrences and referrals for development impacting observatory and meteorological infrastructure may also be triggered under other SEPPs and/or LEPs.
Summary	Referral and concurrence requirements exist for proposed development near observatory and meteorological infrastructure to help protect their operations.
DA requirements	DAs may trigger a referral and potentially also a concurrence requirement in relation to observatory infrastructure under EPIs.



Determine if the project impacts observatory and meteorological infrastructure and if a concurrence or referral request is needed

Development types that trigger a referral or concurrence for observatory and meteorological matters will be specified in the relevant SEPP or LEP provision. This includes:

- Moree Plains LEP 2011 clause 7.5(4) for erection of a building in a radar vector of Moree Meteorological Station
- Standard Instrument LEP clause 5.14 (referrals have been adopted from the Standard Instrument LEP into a range of LEPs and SEPPs across NSW which have not been separately listed in this guide) for certain development that may cause light pollution to the Siding Springs Observatory in Coonabarabran.

Clause 5.14 of the Coonamble, Dubbo, Gilgandra and Warrumbungle LEPs require consultation with the observatory director for certain development and gives the Planning Secretary a concurrence role for proposed developments that have the potential to emit over one million lumens, such as supermarket car parks, sports fields, commercial stock yards and transport terminals.

In some cases, an assumed consultation may be established in agreement with the observatory. We recommend applicants discuss a proposal with the relevant council to find out whether consultation with the observatory is needed.

Further information on protecting the observing conditions at Siding Spring can be found in the [Dark Sky Planning Guideline](#).



Address observatory and meteorological infrastructure in the application

An applicant should contact the relevant referral authority for specific information requirements for other concurrences or referrals triggered by an LEP or SEPP provision.



Undergo the assessment

Development types which trigger a concurrence or referral for observatory and meteorological infrastructure matters will be processed in accordance with the relevant LEP or SEPP provision.



Get an outcome

Concurrences and referrals

If the Planning Secretary refuses to provide concurrence, consent cannot be granted to the DA. The DA could be withdrawn and modified to meet the relevant observatory and meteorological requirements.

Feedback may be provided by the Siding Springs Observatory in response to a referral request for observatory matters. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.

Reference documents

- [Dark Sky Planning Guideline](#)



Urban design

Referral authority	Design review panels Government Architect NSW
Legislation	<i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i> (Eastern Harbour City SEPP), Appendix 7, section 7(5)(c) and (6)(b) <i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 4 (Western Sydney Aerotropolis), section 4.31(2) and 4.32(2) <i>State Environmental Planning Policy (Housing) 2021</i> (Housing SEPP), section 147 Concurrences and referrals for urban design may also be triggered under other SEPPs and/or LEPs.
Summary	Referral requirements exist for certain proposed development needing review by a design panel or for approval of an architectural design competition. These help enhance urban design outcomes.
DA requirements	DAs may trigger a referral requirement in relation to urban design under EPIs.



Determine if the project requires specific urban design consideration and if a referral request is needed

Development types that trigger a referral for urban design matters will be specified in the relevant SEPP provision. These include:

- Eastern Harbour City SEPP Appendix 7, section 7(5)(c) and (6)(b) for review of the design of proposed development by a design review panel
- Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis):
 - section 4.31(2) for state significant development, development with a capital investment value of more than \$20 million, development with a site area of at least 5,000 square metres or a gross floor area of at least 7,500 square metres, or development in relation to a building that has, or will have, 3 or more storeys above ground level (existing)
 - section 4.32(2) for development in relation to a building that has, or will have, a height above ground level (existing) greater than 40 metres or 12 storeys, or development with a capital investment value of more than \$40 million.

- Housing SEPP section 147 for residential apartment development which the SEPP applies to.



Address urban design in an application

An applicant should contact the relevant referral authority for specific information requirements for other approvals, concurrences or referrals triggered by an LEP or SEPP provision.



Undergo the assessment

Development types which trigger an approval, concurrence or referral for urban design matters will be processed in accordance with the relevant LEP or SEPP provision.



Get an outcome

Referrals

Feedback may be provided by the referral authority in response to a referral request. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.



Land-use planning

Referral authorities	Planning Secretary Minister for Planning and Public Spaces
Legislation	State environmental planning policies <i>State Environmental Planning Policy (Precincts – Central River City) 2021</i> (Central River City SEPP) section 3.19(1)(b) and 3.22(2) and (3) <i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 3 (Sydney region growth centres), section 3.19(1)(b), 3.22(2)(3) Western Parkland City SEPP, Appendices 7 to 9, section 5.1A Local environmental plans <i>Central Coast Local Environmental Plan 2022</i> (Central Coast LEP 2022), Schedule 1, clause 23(3)(b) <i>Penrith Local Environmental Plan 2010</i> (Penrith LEP 2010) clause 6.3A(1) <i>Shoalhaven Local Environmental Plan 1985</i> (Shoalhaven LEP 1985), Schedule 15, clause 20(2) <i>Warringah Local Environmental Plan 2000</i> (Warringah LEP 2000), Appendices for various localities <i>Standard Instrument – Principal Local Environmental Plan</i> (Standard Instrument LEP) –model clause 6.1 Concurrences and referrals for land-use planning may also be triggered under other SEPPs and/or LEPs.
Summary	Concurrence or referral requirements exist for certain proposed development needing additional oversight in relation to land-use planning outcomes. These help enhance land use planning outcomes.
DA requirements	DAs may trigger a concurrence and/or referral requirement in relation to land-use planning under EPLs.



Determine if the project requires specific land-use planning consideration, and if a concurrence or referral request is required

Development types that trigger a concurrence and/or referral for land use planning matters will be specified in the relevant LEP or SEPP provision. These include:

- Central River City SEPP:
 - section 3.19(1)(b) for development prior to land acquisition
 - section 3.22(2) and (3) for development on land within a growth centres precinct that has been released
- Western Parkland City SEPP:
 - Chapter 3 (Sydney region growth centres)
 - section 3.19(1)(b) for development prior to land acquisition
 - section 3.22(2) and 3.22(3) for development on land within a growth centres precinct that has been released
 - Appendices 7 to 9, sections 5.1A for development in Zone 1 Urban Development
- Central Coast LEP 2022, Schedule 1, clause 23(3)(b) for use of certain land at Calga and Glenworth Valley
- Penrith LEP 2010 clause 6.3A(1) for development in an urban release area
- Shoalhaven LEP 1985, Schedule 15, clause 20(2) for development to erect or alter a building by increasing its height, where the building will have a height of more than 11 metres
- Warringah LEP 2000, Appendices for variations to housing density controls
- Standard Instrument LEP (concurrences and referrals have been adopted from the Standard Instrument LEP into a range of LEPs and SEPPs across NSW which have not been separately listed in this guide), including model clause 6.1 referral for arrangements for designated State public infrastructure.



Address land-use planning matters in the application

The applicant should contact the relevant referral authority for specific information requirements for other approvals, concurrences or referrals triggered by an Act, LEP or SEPP provision.



Undergo the assessment

Development types that trigger an approval, concurrence or referral for land use planning matters will be processed in accordance with the relevant Act, LEP or SEPP provision.



Get an outcome

Concurrences and referrals

If the referral authority refuses to provide concurrence, consent cannot be granted to the DA. The DA could be withdrawn and modified to meet the relevant land use planning requirements.

Feedback may be provided by the referral authority in response to a referral request. The consent authority will generally consider this feedback as part of the DA assessment process in accordance with the relevant EPI referral provision.

Hazardous and offensive development

Referral authority	Various
Legislation	<i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> (Resilience and Hazards SEPP), Chapter 3 (Hazardous and offensive development), section 3.12(b) Concurrences and referrals for hazardous and offensive development may also be triggered under other SEPPs and/or LEPs.
Summary	Referral requirements exist for certain proposed development needing additional advice in relation to environmental and land safety. These help minimise impacts and risks from hazardous and offensive developments.
DA requirements	DAs may trigger a referral requirement in relation to hazardous and offensive development under EPIs.



Determine whether the project has hazardous or offensive aspects

Development types that trigger a referral for hazardous or offensive matters will be specified in the relevant SEPP provision. This includes Resilience and Hazards SEPP, Chapter 3 (Hazardous and offensive development) section 3.12(b) for environmental and land safety requirements. The [Hazardous and Offensive Development Application Guidelines \(PDF 483 KB\)](#) may help determine if Chapter 3 applies to a development.



Address hazardous or offensive aspects in the application

In line with Resilience and Hazards SEPP, Chapter 3 (Hazardous and offensive development), section 3.12(b), consent authorities may choose to consult with agencies such as EPA if they consider it necessary. Examples of when this is necessary include potentially offensive development and where significant quantities of dangerous goods will be transported.

The applicant should contact the relevant referral authority for specific information requirements for any other referrals triggered by an Act, LEP or SEPP provision.



Undergo the assessment

Development types which trigger a referral for hazardous or offensive development matters will be processed in accordance with the relevant Act, LEP or SEPP provision.



Get an outcome

Referrals

Feedback may be provided by the referral authority in response to a referral request. This feedback will generally be considered by the consent authority as part of the DA assessment process in accordance with the relevant EPI referral provision.



Pre-lodgement meetings

The following proposals may benefit from a pre-lodgement meeting with the relevant referral authority. This can save the applicant time and money by discussing issues before DA lodgement. Discuss the need for a pre-lodgement meeting with council.

Activity	Referral authority
Proposals that are reliant on complex performance-based solutions* that require advice on the applicable assessment parameters and relevant acceptance criteria. * That deviate from the acceptable solutions of <u>Planning for Bush Fire Protection</u>.	RFS

- Any development: - on classified a road managed by Transport for NSW except single dwellings and duplexes - that impacts on existing traffic control signals or requires installation of a new traffic control signals - that seeks changes to an existing speed zone - that includes advertisements that don't comply with the road safety criteria specified in the Transport Corridor Outdoor Advertising and Signage Guidelines (PDF 1.38 MB).	Transport for NSW
Proposed development that would trigger concurrence due to a rail corridor, interim rail corridor, public transport corridor or electrical infrastructure associated with a rail corridor where clarification is sought by the developer/landowner of the required documentation to be lodged with the DA.	Sydney Trains, Sydney Metro and Transport for NSW
Development that requires a water access licence or associated approval. For WaterNSW customers (defined on page 37 of the WaterNSW Operating Licence (PDF 1.93 MB)): if the development requires an approval for water use, water supply, drainage and flood works under the <i>Water Management Act 2000</i>.	WaterNSW
Development that requires a water use approval, water management work approval, CAA or aquifer interference approval under section 91 of the <i>Water Management Act 2000</i>. Controlled activities, for work carried out in, on or beside rivers, lakes and estuaries under Part 1 of the <i>Water Management Act 2000</i>, and development that requires a water access licence or associated approval. Note that DCCEEW determines the need for pre-lodgement meetings based on risk and complexity of the project.	DCCEEW – Water Group
Development that requires an environmental protection licence – examples include marinas, livestock processing, quarries, mineral processing, storing waste and composting.	EPA
Development that may impact an item listed on the State Heritage Register .	Heritage Council of NSW

Development that may directly or indirectly harm an Aboriginal object or declared Aboriginal place. To determine whether a pre-lodgement meeting would be beneficial, applicants should provide Heritage NSW with information about the proposal such as a site map showing known or potential objects, site plan and description of proposed development, details of Aboriginal consultation undertaken to date and any previous Aboriginal cultural heritage investigations.	Heritage NSW
Development adjacent to lands reserved or acquired under the NPW Act.	National Parks and Wildlife Service
Development requiring concurrence for a reduced credit obligation.	DCCEEW – Biodiversity, Conservation and Science Group
• Proposals for new or expanded aquaculture enterprises • Construction of dams, weirs or waterway crossings that will or could block or obstruct the free passage of fish along a waterway • Construction of a fishway for fish passage through a waterway obstruction • Developments that will impact (directly or indirectly) seagrass beds, saltmarsh, mangrove and rocky reef communities • Developments that involve dredging and reclamation of waterways • Developments that may trigger offset requirements due to unavoidable destruction or alteration of aquatic habitat • Developments with a risk of causing a deterioration in water quality either during the construction or operational phases • Developments within, adjacent to or affecting a marine park or aquatic reserve • Developments within or adjacent to waterways that are known habitat for threatened fish, aquatic invertebrates or marine vegetation.	Department of Primary Industries and Regional Development (DPIRD) – Fisheries and Forestry

All mining applications. The Mine Development Panel (MDP) process gives project proponents the opportunity to discuss all aspects of their project with NSW Resources, before lodging a DA or modification application with the relevant consent authority. Matters can include significant elements of the proposal, reporting requirements and safety issues. Contact will facilitate drawing out matters that may require attention during the consent pathway including legislative requirements. An MDP meeting provides: • the opportunity for proponents to demonstrate their proposal is a responsible and sustainable mining or petroleum development, and a development that minimises environmental impacts. • receive technical feedback to streamline the development consent process. For further information or to request a Mining Development Panel meeting contact the Mining Concierge team. For information on mining authorities including location, visit the MinView website.	Department of Primary Industries and Regional Development – NSW Resources and Resources Regulator
Development on Crown land, including Crown waterways.	Crown Lands (within the Department of Planning, Housing and Infrastructure)

Glossary

Term	Definition
Concurrence	The agreement of a concurrence authority to a development that must be obtained before the consent authority (typically council) can grant development consent
Consent authority	The authority that determines whether to grant development consent to a DA – typically council for local development
Referral	Typically requests for consultation with a referral authority about a DA, as required by an EPI
Development application (DA)	An application for consent under the EP&A Act to carry out development For the purpose of this guide, DA does not include an application for a complying development certificate.
Development consent	Consent under the EP&A Act to carry out development
Environmental planning instrument (EPI)	A local environmental plan (LEP) or state environmental planning policy (SEPP)
General terms of approval (GTAs)	The general terms of any approval proposed to be granted by a referral authority for a development that is integrated development
Integrated development	Development that, in order for it to be carried out, requires development consent and one or more approvals under another Act
Referral authority	Entities (typically NSW Government agencies or private-public utilities) with authority to respond to requests for: - integrated development approval - concurrence - referrals for consultation or reason other than those listed above.

Acronyms

Term	Definition
AHIMS	Aboriginal Heritage Information Management System
ASA	Asset Standards Authority (under Transport for NSW)
BAL-FZ	Bush fire Attack Level Flame Zone
CAA	Controlled activity approval
DA	Development application
DCCEEW	Department of Climate Change, Energy, the Environment and Water
DPIRD	Department of Primary Industries and Regional Development
EIS	Environmental impact statement
EPA	Environmental Protection Authority
EPI	Environmental planning instrument
GTA	General terms of approval
MDP	Mine Development Panel
MIC	Major infrastructure corridor
NSW Resources	NSW Resources (group under Department of Primary Industries and Regional Development)
MUSIC	Model for urban stormwater improvement conceptualisation
NorBE	Neutral or beneficial effect
NRAR	Natural Resources Access Regulator
RFS	Rural Fire Service
S3QM	Small-scale stormwater quality model
SEPP	State environmental planning policy

Appendix A – Additional information requirements for certain railway provisions

Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.48 – Referral Requirements for referrals to rail electricity supply authorities only (Transport Asset Holding Entity of NSW/Sydney Trains and Sydney Metro).

General

- Relevant property details, including the lot or portion, deposited plan, section number (if applicable), house number, street, suburb or town
- Project summary (maximum 1 page)
- A description of the proposed development (i.e. scope of work) and its intended purpose

Survey

- Legal boundary alignment along the length of the proposed site identified by a NSW registered surveyor
- Rail corridor fencing alignment and type along the length of proposed site identified by a NSW registered surveyor
- Railway infrastructure identified at ground level (such as anchor blocks), above ground level (such as overhead wiring structures/poles/towers, transmission line) and below ground level (such as service cables, culverts)
- Drawings showing the development in relation to the railway boundary and infrastructure such as tracks, OHWS embankment/cutting, cable route, etc.
- Any other rail assets within or outside the rail corridor
- Easements (including right of ways etc) or stratum, covenants and caveats identified by a NSW registered surveyor, specifying the purpose of the easement and the beneficiary

Electrical information

- Electrical blow-out design – documentation detailing the following items in relation to the Sydney Trains high-tension transmission line adjoining the development site:
 - blow-out design and calculations
 - compliance with AS 7000
 - compliance with ISSC 20, Guideline for the management of activities within Electrical Easements and Close to electrical Infrastructure

- compliance with SMS-06-GD-0268 – Working around electrical equipment
- compliance with relevant Transport for NSW Asset Standards Authority standards/guidelines
- construction management plan detailing as to the unloading of building material and equipment and method of construction in close proximity to power lines

Additional information (depending on individual circumstances)

- Compliance with the relevant Australian Standards and standards/guidelines/technical notes from the Transport for NSW Asset Standards Authority

Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.97 – Concurrence

General

- Relevant property details, including the lot or portion, deposited plan, section number (if applicable), house number, street, suburb or town
- Project summary (maximum one page)
- A description of the proposed development (scope of work) and its intended purpose
- Report on how the development complies with the Development near road and rail corridors guidelines

Survey

- Legal boundary alignment along the length of the proposed site identified by a NSW registered surveyor
- Rail corridor fencing alignment and type along the length of proposed site identified by a NSW registered surveyor
- Railway infrastructure identified at ground level (such as anchor blocks), above ground level (such as overhead wiring structures, transmission line) and below ground level (such as service cables, culverts)
- Drawings showing the development in relation to the railway boundary and infrastructure such as tracks, OHWS embankment/cutting, cable route, etc.
- Any other rail assets within or outside the rail corridor
- Easements (including right of ways, etc.) or stratums, covenants and caveats identified by a NSW registered surveyor, specifying the purpose of the easement and the beneficiary

Traffic information

- Existing traffic count/data (including breakdown of % heavy vehicles)
- Proposed traffic to be generated by development (including breakdown of percentage of heavy vehicles). Data should be for both construction phase and development's completion/operation phase. Estimate the traffic anticipated to use the level crossing in peak periods and throughout the day. Also include:

- LX configuration (file containing signal setting details)
- road speed
- train speed
- number of trains and stopping pattern
- signage, road markings and lighting, etc.
- road and track condition
- Australian Level Crossing Assessment Model re-modelling
- level crossing risk assessment using Asset Standards Authority/Sydney Trains risk assessment process

Additional information (depending on individual circumstances)

- Compliance with the relevant Australian Standards and standards/guidelines/technical notes from the Transport for NSW Asset Standards Authority.

Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.98 – Referral

General

- Relevant property details, including the lot or portion, deposited plan, section number (if applicable), house number, street, suburb or town
- Project summary (maximum one page)
- A description of the proposed development (scope of work) and its intended purpose

Survey

- Legal boundary alignment along the length of the proposed site identified by a NSW registered surveyor
- Rail corridor fencing alignment and type along the length of proposed site identified by a NSW registered surveyor
- Railway infrastructure identified at ground level (such as anchor blocks), above ground level (such as overhead wiring structures, transmission line) and below ground level (such as service cables, culverts)
- Drawings showing the development in relation to the railway boundary and infrastructure such as tracks, OHWS embankment/cutting, cable route, etc.
- Any other rail assets within or outside the rail corridor
- Easements (including right of ways etc) or strata, covenants and caveats identified by a NSW registered surveyor, specifying the purpose of the easement and the beneficiary
- Location of any railway tunnel and its dimensions, relative distances and reduced levels to the proposed excavation face and levels
- Geotechnical report to assess likely effects on rail infrastructure due to excavation, vibration associated with excavation methods and the relaxation in the rock mass due to reduction in pressure and unloading

- Development in relation to all rail infrastructures as identified above, displaying distances and reduced levels between the proposed development and the infrastructures in elevation view, plan view and section view
- Existing ground crossfalls, flow directions and overland run off
- Proposed ground crossfalls, flow directions and overland run off

Report on how the development complies with the Development near road and rail corridors guidelines

Additional information (depending on individual circumstances)

- In relation to Sydney Trains corridors, report on how the development complies with:
 - Asset Standards Authority (ASA) standard - External Developments - T HR CI 12080 ST
 - Asset Standards Authority (ASA) standard - Development Near Rail Tunnels - T HR CI 12051 ST
- In relation to Sydney Metro corridor, report on how the development complies with (see Sydney Metro website for these documents):
 - Sydney Metro Underground Corridor Protection Technical Guidelines (PDF 1.57 MB)
 - Sydney Metro At Grade and Elevated Sections Corridor Protection Guidelines (PDF 1.16 MB)
- In relation to light rail corridors, report on how the development complies with:
 - Asset Standards Authority (ASA) standard - External Developments - T HR CI 12080 ST
- Drainage details – there is to be no drainage into the rail corridor
- Derailment protection
- Electrical blow-out design – documentation detailing the following items in relation to the Sydney Trains high-tension transmission line adjoining the development site:
 - blow-out design and calculations
 - compliance with AS 7000
 - compliance with ISSC 20, Guideline for the management of activities within Electrical Easements and Close to electrical Infrastructure
 - compliance with SMS-06-GD-0268 – Working around electrical equipment
 - compliance with relevant Transport for NSW Asset Standards Authority standards/guidelines
 - Construction management plan detailing as to the unloading of building material and equipment and method of construction in close proximity to power lines
- Balcony design – enclosed balconies
- Dilapidation inspection

- Compliance with the relevant Australian Standards, WorkCover and standards/guidelines/technical notes from the Transport for NSW Asset Standards Authority (ASA)

The following may be required as part of the DA or may be imposed to be undertaken prior to CC (discussion with the rail authority to confirm will be required):

- electrolysis report to include:
 - details of the electrolysis risk to the development from stray currents
 - all structures must be designed, constructed and maintained so as to avoid any damage or other interference, which may occur as a result of stray electrical currents, electromagnetic effects and the like from railway operations
- acoustic report to include:
 - details of how the proposed development will comply with the Department of Planning, Housing and Infrastructure's Development near road and rail corridors guidelines and Transport and Infrastructure SEPP, Chapter 2 (Infrastructure) section 2.100 if applicable
 - the report is to assess the likely impact of airborne noise, ground borne noise and vibration that may emanate from the future rail operations

Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.99 – Concurrence

Transport and Infrastructure SEPP, Chapter 4 (Major infrastructure corridors), section 4.7 and 4.9 – Concurrence

Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.27 – Concurrence

Requirements in relation to approved or operating railways

For Transport and Infrastructure SEPP, Chapter 4 (Major infrastructure corridors), section 4.7 and 4.9 and Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.27:

- Documentation required for a future railway where construction has not yet begun and the transport corridor has not yet been approved should be provided as outlined for Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.101 unless otherwise advised by the relevant transport cluster agency.
- The documentation below is required for railways where construction has begun.

General

- Relevant property details, including the lot or portion, deposited plan, section number (if applicable), house number, street, suburb or town
- Project summary (maximum one page)
- A description of the proposed development (scope of work) and its intended purpose

Survey

- Legal boundary alignment along the length of the proposed site identified by a NSW registered surveyor
- Rail corridor fencing alignment and type along the length of proposed site identified by a NSW registered surveyor
- Railway infrastructure identified at ground level (such as anchor blocks), above ground level (such as overhead wiring structures, transmission line) and below ground level (such as service cables and culverts)
- Drawings showing the development in relation to the railway boundary and infrastructure such as tracks, OHWS embankment/cutting, cable route, etc.
- Any other rail assets within or outside the rail corridor
- Easements (including right of ways, etc.) or strata, covenants and caveats identified by a NSW registered surveyor, specifying the purpose of the easement and the beneficiary
- Location of any railway tunnel and its dimensions, relative distances and reduced levels to the proposed excavation face and levels
- Geotechnical report to assess likely effects on the tunnel due to excavation, vibration associated with excavation methods and the relaxation in the rock mass due to reduction in pressure and unloading
- Development in relation to all rail infrastructures as identified above, displaying distances and reduced levels between the proposed development and the infrastructures in elevation view, plan view and section view
- Existing ground crossfalls, flow directions and overland run off
- Proposed ground crossfalls, flow directions and overland run off

Geotechnical

- Geotechnical report describing the scope of the development in detail
- Geotechnical investigation report to include but not limited to:
 - description of the soil profile typical of the area
 - assessment of any effects on rail infrastructures, risk to rail infrastructures due to excavation, vibration associated with excavation methods
 - boreholes plan
 - boreholes log and photographic documentation
 - geotechnical design parameters
- Evidence of boreholes, with depth at least 5 metres below the depth of proposed excavation. A plan of the boreholes, borehole logs and photographic documentations must be attached
- Geotechnical assessment based on the findings from the geotechnical investigation, boreholes and general geographical area, ground water level, etc.
- Geotechnical assessment with comments on any possible effect on rail infrastructures

- Geotechnical consultant to recommend the footing design, methods of shoring and excavation
- Geotechnical consultant to calculate and state the predicted movement (if any) of relevant railway infrastructure (such as tracks, retaining walls and OHWS)
- Finite element analysis of the slope stability of the cutting/embankment at pre-construction, during excavation and after construction, with soil design parameters clearly defined (applicant will need to confirm whether 2D or 3D modelling is required)
- Report on how the proposal development address and/or complies with all relevant Asset Standards Authority standards/guidelines/technical notes (in particular External Developments – T HR CI 12080 ST and Developments Near Rail Tunnels – T HR CI 12051 ST)

Structural

- Structural report with comments on the possible impact of the rail infrastructures
- Structural report with recommendation of preventative and remedial action for any impacts on rail infrastructures as a consequence of the proposed development
- Zone of influence due to proposed development relative to the rail corridor boundary, fencing alignment and infrastructure (such as cutting/embankment and the closest railway track centreline)
- Structural drawings with designs for shoring plan and detail as per the recommendations of the geotechnical consultant (no rock anchors within rail land or easements is permitted)

Construction and risk

- Construction methodology for the development, including details of the structural support to be provided to the development and rail corridor during excavation and operation of the development
- Rail related risk assessment
- Report on how the development complies with the Development near road and rail corridors guidelines

In relation to either a **light rail corridor** or **Sydney Trains corridor**, report on how the development complies with:

- Asset Standards Authority (ASA) standard - Airspace and External Developments
- Asset Standards Authority (ASA) standard - Development Near Rail Tunnels

In relation to the **Sydney Metro corridor**, report on how the development complies with (see the Sydney Metro website for these documents):

- Sydney Metro Underground Corridor Protection Technical Guidelines (PDF 1.57 MB)
- Sydney Metro At Grade and Elevated Sections Corridor Protection Guidelines (PDF 1.16 MB)

Additional information (depending on individual circumstances)

- Fire life safety assessment report
- Drainage details (no drainage into the rail corridor)
- Derailment protection
- Electrical blow-out design – documentation detailing the following items in relation to the Sydney Trains high tension transmission line adjoining the development site:
 - blow-out design and calculations
 - compliance with AS 7000
 - compliance with ISSC 20, Guideline for the management of activities within Electrical Easements and Close to electrical Infrastructure
 - compliance with SMS-06-GD-0268 – Working around electrical equipment
 - compliance with relevant Transport for NSW Asset Standards Authority standards/guidelines
 - Construction management plan detailing as to the unloading of building material and equipment and method of construction in close proximity to power lines
- Balcony design – enclosed balconies
- Dilapidation inspection (especially for tunnels)

The following may be **required as part of the DA** or may be imposed to be undertaken prior to community consultation (discussion with the rail authority to confirm will be required):

- Electrolysis report to include:
 - details of the electrolysis risk to the development from stray currents
 - all structures must be designed, constructed and maintained so as to avoid any damage or other interference, which may occur as a result of stray electrical currents, electromagnetic effects and the like from railway operations
- Acoustic report to include:
 - details of how the proposed development will comply with the Department of Planning, Housing and Infrastructure's Development near road and rail corridors guidelines and Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.100 if applicable
 - an assessment of likely impact of airborne noise, ground borne noise and vibration that may emanate from the future rail operations

Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.101 Concurrence and section 2.102 referral

Transport and Infrastructure SEPP, Chapter 4 (Major infrastructure corridors), section 4.7 or 4.9 – Concurrence

Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.27 Concurrence

Central River City SEPP Appendices 7 (Alex Avenue and Riverstone Precinct Plan 2010), 9 (Schofields Precinct Plan 2012) and 11 (Blacktown Growth Centres Precinct Plan 2013), section 6.10

Requirements in relation to Future Railways

General

- Relevant property details, including the lot or portion, deposited plan, section number (if applicable), house number, street, suburb or town
- Project summary (maximum one page)
- A description of the proposed development (scope of work) and its intended purpose

Survey

- Legal boundary alignment along the length of the proposed site identified by a NSW registered surveyor
- Easements (including right of ways etc) or stratum, covenants and caveats identified by a NSW registered surveyor, specifying the purpose of the easement and the beneficiary

Geotechnical

- Geotechnical report describing the scope of the development in detail and any potential impacts on the future transport corridor
- Geotechnical investigation report to include but not limited to:
 - description of the soil profile typical of the area
 - boreholes plan
 - boreholes log and photographic documentations
 - geotechnical design parameters
- Evidence of boreholes, with depth at least 5 metres below the depth of proposed excavation. A plan of the boreholes, borehole logs and photographic documentation must be attached
- Geotechnical assessment based on the findings from the geotechnical investigation, boreholes and general geographical area, ground water level, etc.
- Geotechnical consultant to recommend the footing design, methods of shoring and excavation

Structural

- Zone of influence due to proposed development relative to the rail corridor boundary

- Structural drawings with designs for shoring plan and detail as per the recommendations of the geotechnical consultant (no rock anchors within rail land or easements is permitted)

In relation to the **Sydney Metro corridor**, report on how the development complies with (see [Sydney Metro website](#) for these documents):

- [Sydney Metro Underground Corridor Protection Technical Guidelines \(PDF 1.57 MB\)](#)
- [Sydney Metro At Grade and Elevated Sections Corridor Protection Guidelines \(PDF 1.16 MB\)](#)

Additional information (depending on individual circumstances)

The following may be required **as part of the DA** or may be imposed to be undertaken prior to community consultation (discussion with the rail authority to confirm will be required):

- Electrolysis report to include:
 - details of the electrolysis risk to the development from stray currents
 - all structures must be designed, constructed and maintained to avoid any damage or other interference, which may occur as a result of stray electrical currents, electromagnetic effects and the like from railway operations
- Acoustic report to include:
 - details of how the proposed development will comply with the Department of Planning, Housing and Infrastructure's [Development near road and rail corridors guidelines](#) and section 2.100 of Transport and Infrastructure SEPP, Chapter 2 (Infrastructure) if applicable
 - an assessment of the likely impact of airborne noise, ground borne noise and vibration that may emanate from the future rail operations

Documentation that may be required for other rail-related concurrences

- Detailed property and survey information, including location of nearest rail corridor, rail infrastructure, tunnels, easements etc
- Project summary
- Urban design report, including active use strategies and demonstrating design response to the corridor
- Proposed connections to pedestrian and bus network links
- Proposed landscape design approach
- Detailed drawings in both plan and section view with measurements to rail corridor and rail infrastructure certified by a registered surveyor
- Architectural drawings showing the proposed development in relation to the future rail corridor and protection zones including basement depths and extents in elevation, plan and section views
- Detailed geotechnical report with borehole information
- Detailed structural report with structural drawings – both plan, elevations and section views with measurements to rail corridor and infrastructure, and sequencing

of excavation and construction. Note that rock anchors will not be permitted within rail land, strata or easements or near underground electrical infrastructure or within a future corridor protection zone

- Finite element analysis – applicant will need to confirm whether 2D or 3D modelling is required
- Drainage details – there is to be no drainage into the rail corridor
- If near high tension transmission lines – an electrical blow-out design
- Details as to how compliance will be achieved with the relevant Australian Standards and standards/guidelines/technical notes from the Transport for NSW Asset Standards Authority, especially External Developments – T HR CI 12080 ST and Developments Near Rail Tunnels – T HR CI 12051 ST).
- Details as to how compliance will be achieved with the Development near road and rail corridors guidelines
- For developments adjoining a Sydney Metro corridor, details as to how compliance will be achieved with latest version of the Sydney Metro Underground Corridor Protection Technical Guidelines (PDF 1.57 MB) and Sydney Metro At Grade and Elevated Sections Corridor Protection Guidelines (PDF 1.16 MB).

Appendix B – Information requirements for environment protection – integrated development environmental protection licences

Issue	Submission criteria
Air	Emissions should not cause adverse impact upon human health and amenity. The DA should include a detailed air quality impact assessment for construction and operation of the project in accordance with Approved Methods for the Modelling and Assessment of Air Pollutants in NSW. The air quality impact assessment should: • demonstrate ability of the development to comply with the relevant regulatory framework, specifically the POEO Act and the Protection of the Environment Operations (Clean Air) Regulation 2021 • provide a cumulative local and regional air quality impact assessment • give an assessment of odour impacts.
Noise	The applicant should manage the impact of noise and vibration to protect the amenity and wellbeing of the community. Potential impacts should be minimised through the implementation of all feasible and reasonable mitigation measures. A noise and vibration impact assessment for both construction and operational phases should be undertaken as part of the DA in accordance with relevant guidelines including those listed in the reference documents.
Waste	The applicant will need to consider different assessment requirements based on the type of facility (landfills, alternative waste treatment plants, liquid waste treatment plants, waste recovery facilities, building demolition waste processing yards, scrap metal yards, waste processing, waste fuel production, energy recovery facilities) and in the context of resource recovery orders and exemptions. The waste transported, generated, or received as part of carrying out the activity should be minimised and managed in a way that protects all environmental values. Any human health or environmental impacts, risks and mitigation measures will need to be set out in accordance with relevant guidelines including those listed in the reference documents.

Water	Performance outcome All practical measures that could be taken to prevent, control, abate or mitigate water pollution and protect human health and the environment from harm should be considered and implemented where appropriate. Development construction and operation will maintain the environmental values of receiving waters where they are currently being achieved and contribute towards their achievement where they are not currently being met. Assessment criteria Applicants must demonstrate that all practical options to avoid discharge have been investigated and implemented and measures have been taken to reduce the level of contaminants in the discharge so that any impact is reduced where a discharge is necessary. Applicants must: • identify and estimate the quality and quantity of all pollutants that may be introduced into the water cycle by source and discharge point and describe the nature and degree of impact that any discharge(s) will have on the receiving environment, including consideration of all pollutants that pose a risk of non-trivial harm to human health and the environment (this should also include intercepted saline groundwater or acidic runoff generated by acid sulphate soil where appropriate) • demonstrate compliance with the ambient <u>NSW Water Quality Objectives</u> and environmental values for the receiving waters relevant to the infrastructure activity, including the indicators and associated trigger values or criteria for the identified environmental values (this information should be sourced from the ANZECC (2000) criteria) • assess the significance of any identified impacts including consideration of the relevant environmental values and ambient water quality outcomes. Assessment of discharges to surface waters should be guided by the ANZECC (2000) guidelines using local water quality objectives. Demonstrate how construction and operation of the infrastructure activity will: ○ protect the NSW water quality objectives for receiving waters where they are currently being achieved ○ contribute towards achievement of the NSW water quality objectives over time where they are not currently being achieved ○ identify any proposed monitoring of water quality.
Others – where relevant	• Demonstrate how materials and wastes containing scheduled chemical wastes and other waste subject to a chemical control order will be

	managed in accordance with a chemical control order and relevant national management plans. • Demonstrate how the requirements of the <i>Radiation Control Act 1990</i> and the Radiation Control Regulation 2013 will be met.
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Appendix C – Submission requirements for aquatic and marine matters by development type

Activity and approval	Submission requirements
Approval to conduct dredging or reclamation under section 201 of the FM Act	In addition to the standard submission requirements in the ‘Aquatic and marine matters’ section, the following questions should be answered: • How long will the dredging or reclamation works/activities occur? (indicate if ongoing) • What period of the year will the dredging or reclamation works/activities occur? • What are the dimensions of the area(s) to be dredged/reclaimed? • What is the total volume of material to be dredged or deposited? • Where and how will the dredged material be disposed of? • To what depth below the existing bed will material be removed? (give range if variable) • What is the nature of the material to be dredged or included in reclamation? • Is the material to be dredged or used in reclamation likely to be contaminated by heavy metals or chemicals? (give details) • Does the material to be dredged or used in reclamation have acid forming characteristics? (give details) • How will the area of works/activities be marked or delineated? • What environmental safeguards will be used during and after dredging or reclamation?

Approval to block/obstruct fish passage under section 219 of the FM Act	In addition to the standard submission requirements in the 'Aquatic and marine matters' section, the following questions should be answered: • How often does the waterbody contain water? (if intermittent, estimate average annual frequency) • Are there permanent waterholes upstream or downstream? (give details) • Are there any natural or manufactured obstructions to fish passage nearby? (give details) If so, how often are these obstructions 'drowned out'? • Are fish migrations known to occur in the area? (give details of fish species and the time(s) of migrations) • For how long do you propose to obstruct or block fish passage? • By how much will the proposed obstruction or blockage to fish passage reduce the cross-sectional area of the water course? • If the proposed obstruction or blockage to fish passage contains openable 'gates' or other structures (such as a regulator), how often and when will it be open and enable fish passage? • What 'headloss' or 'afflux' is expected across the obstruction or blockage to fish passage under a range of flow conditions? • What measures are proposed for maintaining fish passage during the proposed works/activities (such as fishways, bypass channels, trapping and manual relocation)? • If works will be removed after a time, how will fish passage be restored? • Will restoration of fish passage restore similar conditions to the waterbody as existed before the blocking of fish passage? • What environmental compensation measures will there be for unavoidable and permanent blockage of fish passage (such as other improvement projects for the aquatic environment)? • Why is it necessary to obstruct or block fish passage?
Approval to harm Marine Vegetation under section 205 of the FM Act	In addition to the standard submission requirements in the 'Aquatic and marine matters' section, specify the:

	• type of marine vegetation (saltmarsh, mangroves, seagrasses, marine macroalgae) to be harmed – include species names • area or number of each type of marine vegetation to be harmed.
Approval for works in a marine park or aquatic reserve	In addition to the standard submission requirements in the ‘Aquatic and marine matters’ section, the following questions should be answered: • What is the name of the marine park or aquatic reserve where the works are proposed? • Is the proposal a form of development that is prohibited in that zone or by the management rules? • What animals, plants and habitat are present at the location? (provide species names) • How will or might they be harmed or interfered with by the proposed works? • How long will the works take? • When will the works be undertaken? • What materials will be used in the works? • Will any paints, preservatives or antifouling treatments be used? • Will any wet pouring of concrete or grout materials occur? • What equipment and machinery will be used in undertaking the works? • If installing or replacing pylons, what methods will be used? • If beach-scraping or otherwise operating vehicles/machinery below the mean high water mark, how is the area of works/activities to be marked? • Will vessels or barges be used to access the area or carry equipment, materials, etc.? • What environmental safeguards will be used during and after the proposed works?

Appendix D – Information requirements for mine projects

NSW Resources standard Environment Assessment Requirements (EARs)

Project description

The proponent is to supply a comprehensive overview and description of all aspects of the project including:

- Location map showing the project area, nearest town/s, major roads etc
- Nature of the operation (for example, underground block caving) and ore minerals/s to be extracted.

Geology

The Proponent is to provide a basic description of the geological units and anticipated extent of each ore lenses/veins.

- A description of the physical characteristics and dimensions of the mineral resource, with representative plans and cross-sections including each ore body/lens (if appropriate) any drill holes and the area proposed for extraction.
- Details of the ore and waste rock, including mineralogy and deleterious elements.

Mineral Resources and Ore Reserves

The Proponent is to supply the most recent resource and reserve statement. The Proponent should also provide a summary of the mineral resource classifications and justification for each category.

Include a full and updated resource/reserve statement that has been prepared in accordance with the Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves of the Joint Ore Reserves Committee (the JORC code). It is preferred that a significant amount of the resources are estimated to at least indicated or equivalent high-level of confidence.

Resource extraction and mine design

The Proponent is to supply the following:

- The expected life of mine and total resource to be recovered over the mine life.
- a description of how the proposed mine plan and extraction method maximises resource recovery and is achievable and consistent with current industry best practice.
- The anticipated total meterage and volume of ore and waste to be extracted over mine life and if possible, year by year – with appropriate figures including plans and cross-sections - including older workings.

- A summary of the processing and recovery methods including equipment and mining loss and dilution.
- A summary of the economic, environmental, geological, geotechnical and other constraints to the recovery of the resource/reserve impacting the Project.
- Project economics and target market.

The Proponent is to supply an assessment of total royalty generated over the life of the Project.

Spatial data

The Proponent is to supply the following shapefile(s) and/or coordinates to enable NSW Resources' internal mapping and assessment of the project:

- a) The project/development application area(s).
- b) Discreet features within the existing AND proposed project area, for example mine extraction area/pit, ventilation shafts, underground entry portal/box cut, mine infrastructure area, ancillary water storage dam(s), tailings dam(s).

Discreet project features must be in separate files and labelled clearly to demarcate from the main project area. Data must be supplied in Geocentric Datum of Australia 2020 (GDA 2020) MGA coordinate system, UTM projection and shape files in ESRI shape file format.

Spatial data is to be sent to mining.concierge@regional.nsw.gov.au on submission of the EIS/SEE.

All above information should be summarised in the EIS/SEE, with full documentation appended. If deemed commercial-in-confidence, the resource summary included in the EIS/SEE must commit to providing NSW Resources with full resource documentation via NSW Resources' Resource and Economic Assessment process.

Additional matters for attention

Biodiversity offsets

NSW Resources requests that the Proponent consider potential resource sterilisation in relation to any proposed biodiversity offsets areas. Biodiversity offsets have the potential to preclude access for future resource discovery and extraction and could also potentially permanently sterilise access to mineral resources.

The EIS/SEE must therefore clearly illustrate the location (including offsite locations) of any biodiversity offsets being considered for the project and their spatial relationship to known and potential mineral and construction material resources and existing mining & exploration titles.

NSW Resources requests consultation with both the Geological Survey of NSW – Land Use Assessment team and holders of existing mining and exploration authorities affected by planned biodiversity offsets. Evidence of consultation should be included in the EIS/SEE.

Mining titles

If the project has a prescribed mineral under the Mining Act, the Proponent is required to hold an appropriate mining title(s) from NSW Resources in order to mine the mineral. Mining leases may be granted for a maximum of 21 years. If the application is for a mining (mineral owner) lease, evidence that the minerals to which the application relates are owned by the applicant.

The EIS/SEE for a project should clearly identify existing mineral titles, mineral title applications and the final proposed mining lease area(s) for the project site and areas surrounding the proposed project area and address the environmental impacts and management measures for the mining and mining purpose activities as licensed under the *Mining Act 1992*. Any area of the proposed operations that fall outside the existing title area must be clearly designated.

Where a proposal includes Crown Land the proponent is required to comply with the Commonwealth *Native Title Act 1993* and undertake the right to negotiate process for the Crown Lands within the current exploration licence area(s) if proof of extinguishment cannot be determined. Identify any Aboriginal land claims applied for or granted under the Aboriginal Lands Rights Act 1983 affecting the area quoting claim number and detailing area affected.

For ancillary mining activities, a proponent holding a mining lease granted in respect of mineral/s may, in accordance with the lease conditions, carry out any ancillary mining activity on that land (see definition of ancillary mining activity in clause 7 of the *Mining Regulations 2016*).

Post-mining land use

- Identification and assessment of post-mining land use options
- Identification and justification of the preferred post-mining land use outcome(s), including a discussion of how the final land use(s) are aligned with relevant local and regional strategic land use objectives
- Identification of how the rehabilitation of the project will relate to the rehabilitation strategies of neighbouring mines within the region, with a particular emphasis on the coordination of rehabilitation activities along common boundary areas

Rehabilitation objectives and domains

- Inclusion of a set of project rehabilitation objectives and completion criteria that clearly define the outcomes required to achieve the post-mining land use for each domain. Completion criteria should be specific, measurable, achievable, realistic and time-bound. If necessary, objective criteria may be presented as ranges

Rehabilitation methodology

- Details regarding the rehabilitation methods for disturbed areas and expected time frames for each stage of the rehabilitation process
- Mine layout and scheduling, including maximising opportunities for progressive final rehabilitation. The final rehabilitation schedule should be mapped against key production milestones (such as ROM tonnes) of the mine layout sequence before being translated to indicative timeframes throughout the mine life. The mine plan should maximise opportunities for progressive rehabilitation

Conceptual final landform design

- Inclusion of a drawing at an appropriate scale identifying key attributes of the final landform, including final landform contours and the location of the proposed final land use(s)

Monitoring and research

- An outline of the monitoring programs that will be implemented to assess how rehabilitation is trending towards the nominated land use objectives and completion criteria
- Details of the process for triggering intervention and adaptive management measures to address potential adverse results as well as continuously improve rehabilitation practices
- An outline of any proposed rehabilitation research programs and trials, including their objectives. This should include details of how the outcomes of research are considered as part of the ongoing review and improvement of rehabilitation practices

Post-closure maintenance

- Description of how post-rehabilitation areas will be actively managed and maintained in accordance with the intended land use(s) in order to demonstrate progress towards meeting the rehabilitation objectives and completion criteria in a timely manner

Barriers or limitations to effective rehabilitation

- Identification and description of those aspects of the site or operations that may present barriers or limitations to effective rehabilitation, including:
 - evaluation of the likely effectiveness of the proposed rehabilitation techniques against the rehabilitation objectives and completion criteria
 - an assessment and life of mine management strategy of the potential for geochemical constraints to rehabilitation (such as acid rock drainage and spontaneous combustion), particularly associated with the management of overburden/interburden and reject material
 - the processes that will be implemented throughout the mine life to identify and appropriately manage geochemical risks that may affect the ability to achieve sustainable rehabilitation outcomes
 - a life-of-mine-tailings management strategy that details measures to be implemented to avoid the exposure of tailings material that may cause environmental risk, as well as promote geotechnical stability of the rehabilitated landform
 - existing and surrounding landforms (showing contours and slopes) and how similar characteristics can be incorporated into the post-mining final landform design. This should include an evaluation of how key geomorphological characteristics evident in stable landforms within the natural landscape can be adapted to the materials and other constraints associated with the site
- Where a void is proposed to remain as part of the final landform, include:

- a constraints and opportunities analysis of final void options, including backfilling, to justify that the proposed design is the most feasible and environmentally sustainable option to minimise the sterilisation of land post-mining
- a preliminary geotechnical assessment to identify the likely long-term stability risks associated with the proposed remaining high wall(s) and low wall(s) along with associated measures that will be required to minimise potential risks to public safety
- outcomes of the surface and groundwater assessments in relation to the likely final water level in the void. This should include an assessment of the potential for fill and spill along with measures required be implemented to minimise associated impacts to the environment and downstream water users
- Where the mine includes underground workings:
 - determine (with reference to the groundwater assessment) the likelihood and associated impacts of groundwater accumulating and subsequently discharging (such as acid or neutral mine drainage) from the underground workings post cessation of mining
 - consideration of the likely controls required to either prevent or mitigate against these risks as part of the closure plan for the site
- Consideration of the controls likely to be required to either prevent or mitigate against rehabilitation risks as part of the closure plan for the site
- Where an ecological land use is proposed, demonstrate how the revegetation strategy such as seed mix, habitat features and corridor width) has been developed in consideration of the target vegetation community(s)
- Where the intended land use is agriculture, demonstrate that the landscape, vegetation and soil will be returned to a condition capable of supporting this
- Consider any relevant government policies

The following government policies should be considered when addressing rehabilitation issues:

- Mine Rehabilitation (Leading Practice Sustainable Development Program for the Mining Industry, 2006)
- Mine Closure and Completion (Leading Practice Sustainable Development Program for the Mining Industry, 2006)
- Strategic Framework for Mine Closure (ANZMEC-MCA, 2000)

Appendix E – Information requirements for water cycle management studies

Development type	Information required in the study
Module 1	
Less complex developments that are a minor risk to water quality – typically includes new single dwellings, dual occupancy or townhouses, multi-dwelling housing (3 dwellings or less), subdivisions (3 lots or less), or changes and additions to existing dwellings, in sewerred areas .	Stormwater quality modelling where required using a modelling program such as the model for urban stormwater improvement conceptualisation (MUSIC) or small-scale stormwater quality model (S3QM), depending on the size of the impervious area Conceptual erosion and sediment controls to be used during construction
Module 2	
Less complex developments that are a medium risk to water quality – typically includes new single dwellings, dual occupancy or townhouses, subdivisions (3 lots or less), or changes and additions to existing dwellings, in unsewerred areas .	Stormwater quality modelling where required using a modelling program such as MUSIC or S3QM, depending on the size of the impervious area Conceptual erosion and sediment controls to be used during construction On-site wastewater management report
Module 3	
Moderately complex developments that are a medium to high risk to water quality – typically includes multi-dwelling housing (more than 3 dwellings) and residential subdivisions (more than three lots) in sewerred areas .	Stormwater quality modelling using a modelling program such as MUSIC or S3QM, depending on the size of the impervious area Conceptual erosion and sediment control plan or a more detailed conceptual soil and water management plan
Module 4	

Moderately complex developments that are a high risk to water quality – typically includes multi-dwelling housing and residential subdivisions in unsewered areas.	Stormwater quality modelling using a modelling program such as MUSIC or S3QM, depending on the size of the impervious area Conceptual erosion and sediment control plan, primary erosion and sediment control plan or a more detailed conceptual soil and water management plan On-site wastewater management report
Module 5	
Highly complex or non-standard developments that are the highest risk to water quality – typically major industrial and commercial developments, agriculture developments such as intensive livestock farms and intensive plant growing, extractive industries, and tourism and recreational developments.	Stormwater quality modelling using a modelling program such as MUSIC or S3QM, depending on the size of the impervious area Conceptual soil and water management plan On-site wastewater management report (if relevant) Development specific pre- and post-development pollutant assessment requirements