

Department of Planning and Environment

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# Development referrals guide

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

September 2022



# Acknowledgement of Country

The Department of Planning and Environment 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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# Purpose of this document

Councils assess and determine most local development applications (DAs) in NSW under the *Environmental Planning & 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. Some local 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.

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

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

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

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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
- 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 section titled ‘DAs where referral authorities have a role’. A DA may trigger referrals across multiple themes such as environment protection, development impacting roads and bushfire 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 one document.



This guide does not cover referrals for activities under Part 5 of the EP&A Act. 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 local 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 consent of the landowner. Some proposals may benefit from a pre-lodgement meeting with the relevant referral authority. The guide lists examples of such proposals in later sections.



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## The NSW Government's role in local development

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, Industry and Environment 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.



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 a level of 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 and 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 other legislation such as the NSW *Roads Act 1993*.

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 agency will provide the council with advice to inform its assessment.



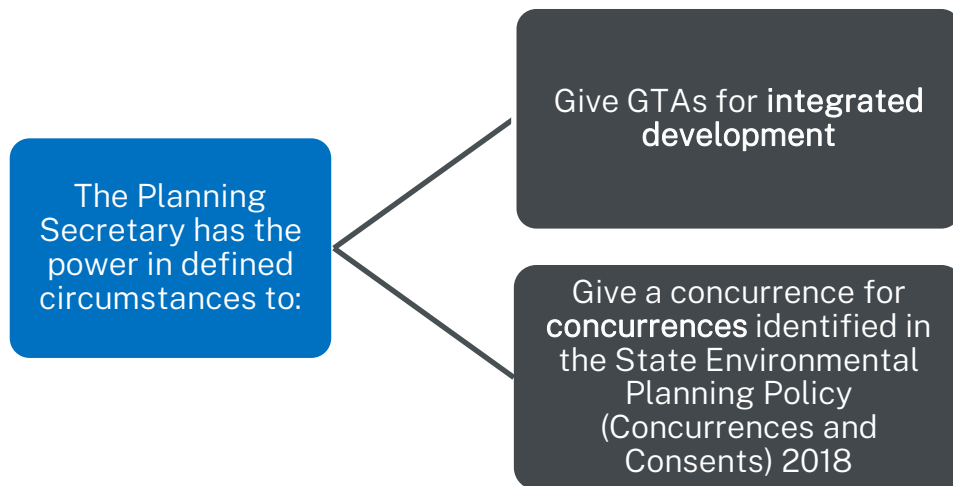
## Functions of the NSW Planning Secretary

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 Environmental Planning and Assessment Regulation 2021 (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:

		Primary target audience	
Step		Council	Proponent
1	Which developments require approval, concurrence or referral for [topic XYZ] matters?		
2	How do I address [topic XYZ] 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.

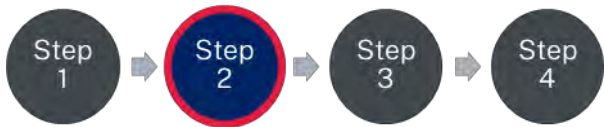
# Development impacting electricity infrastructure

<b>Referral authorities</b>	<b>Electrical supply authorities:</b> TransGrid, Ausgrid, Endeavour Energy, Essential Energy For rail infrastructure: Transport Asset Holding Entity of NSW and Sydney Metro.
Legislation	<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 2 (Infrastructure), section 2.47 and 2.48
Summary	Electrical supply authorities 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	Electrical supply authorities determine information requirements in a DA triggering section 2.47 or 2.48.



## Determine if the development requires referral for electricity network matters

Refer to the [Transport and Infrastructure SEPP, Chapter 2 \(Infrastructure\), section 2.47 and 2.48](#) for developments that require referrals for electricity network matters.



## Address electricity network matters in the application

### General

Applicants should contact the relevant electrical supply authority for specific information requirements for electricity network referrals triggered by Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.47 or 2.48. 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 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.

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

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## 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 document](#) (PDF 167 KB).

## Essential Energy

Essential Energy has developed a [development application referral webpage](#) 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 document](#) (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 webpage](#).

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 electrical supply authority. Further information in relation to these referrals when made to Transport Asset Holding Entity of NSW or Sydney Metro can be found later in this Guide under 'Development impacting rail infrastructure'.





## Undergo the assessment

Referrals under Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.47 and 2.48 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.



## Get an outcome

Feedback may be provided by the electrical supply 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

- [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.

# Bushfire protection

Referral authority	NSW Rural Fire Service (NSW RFS)
Legislation	<p>EP&amp;A Act section 4.14</p> <p><i>Rural Fires Act 1997</i> NSW (Rural Fires Act) section 100B</p> <p>Rural Fires Regulation 2022 (Rural Fires Regulation)</p> <p>Concurrences and referrals for bushfire protection may also be triggered under other SEPPs and LEPs</p>
Summary	<p>The NSW 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 bushfire. Regard is given to development potential, site characteristics and the environment.</p>
DA requirement	<p>Development on bushfire prone land must satisfy the requirements of <a href="#">Planning for Bush Fire Protection</a>.</p> <p>Development for land uses (such as schools) or developments occupied by people who are identified as at-risk members of the community (such as nursing homes) is defined by the Rural Fires Act as development for ‘special fire protection’ purposes. Development for a special fire protection purpose and for the subdivision of land for residential or rural residential purposes is integrated development and requires approval under the Rural Fires Act (in the form of a bushfire safety authority) and the EP&amp;A Act. A bushfire safety authority can only be issued by the Commissioner of the NSW RFS.</p> <p>All other forms of development (such as new houses) on bushfire-prone land are assessed by the consent authority.</p> <p>DAs may also trigger a concurrence and/or referral requirement under an EPI.</p>



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

### What land is bushfire-prone land?



The [NSW Planning Portal](#) provides an indication of where likely bushfire-prone land is in relation to an address or lot. An applicant can contact the relevant council to confirm whether land is bushfire prone.

If any part of the land is shown on the maps as bushfire-prone land, the DA must assess bushfire issues.

## Integrated development

Under the Rural Fires Act section 100B, development for residential and rural residential subdivisions or for special fire protection purposes on bushfire-prone land is integrated development. A bushfire safety authority is required from the NSW RFS for those developments.

### What are special fire protection purposes?

Examples of development types for special fire protection purposes include schools, childcare centres, hospitals, tourist and visitor 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 bushfire refuges. 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 bushfire 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.

## 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](#):

Section 4.14 of the EP&A Act:

- Bushfire impacts on all other forms of development are assessed by councils under the provisions of section 4.14 of the EP&A Act.
- Council may rely on a certificate issued by a qualified bushfire consultant to be satisfied that a development meets the acceptable solution requirements of [Planning for Bush Fire Protection](#). The NSW RFS website includes links to the details of qualified bushfire consultants.

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If you include this certificate with a DA, council may not need to consult with the commissioner and the assessment process will be simpler.

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- 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.

Section 4.15 of the EP&A Act:

- A consent authority (such as council) may refer developments to the NSW RFS for advice even if the development is not located on bushfire-prone land. This happens infrequently, but in



preliminary communications with council an applicant should get clarification as to whether such a referral is likely in the circumstances.

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



## Address bushfire in the application

### Integrated development

All applications for development on bushfire-prone land must be accompanied by a bushfire assessment report.

A bushfire assessment report should include:

- description (including the address) of the property on which the development is proposed to be carried out
- details of compliance methods (for example, whether the proposed compliance is with the acceptable solutions or involves performance-based solutions to Planning for Bush Fire Protection). If the proposal involves performance-based compliance, detail that performance solution

- a classification of the vegetation on and surrounding the property (out to 140m from the boundaries of the property) in accordance with the system for classification of vegetation contained in [Planning for Bush Fire Protection](#)
- an assessment of the slope of the land on and surrounding the property, out to 100m from the boundaries of the property
- identification of any significant environmental features on the property
- details of any threatened species, population or ecological community identified under the NSW *Biodiversity Conservation Act 2016* that is known to the applicant to exist on the property
- details and location of any Aboriginal object or Aboriginal place (within the meaning of the NSW *National Parks and Wildlife Act 1974*) that is known to the applicant to be situated on the property, or a copy of the documented due diligence and (where necessary) Aboriginal cultural heritage assessment report.

More information on **Aboriginal cultural heritage assessment** can be found on the [Heritage NSW website](#).

A bushfire assessment should also include an assessment for the proposed development (including the methodology used in the assessment) that addresses:

- the extent to which the development is to provide for setbacks, including asset protection zones
- the siting and adequacy of water for firefighting
- the capacity of public roads in the vicinity to handle increased volumes of traffic in the event of a bushfire emergency
- whether public roads in the vicinity that link with the fire trail network have two-way access
- the construction standards to be used for building elements in the development
- an assessment of the extent to which the proposed development conforms with or deviates from the standards, specific objectives and performance criteria set out [Planning for Bush Fire Protection](#)
- the adequacy of:
  - arrangements for access to and egress from the development site for the purposes of an emergency response
  - bushfire maintenance plans and fire emergency procedures for the development site
  - sprinkler systems and other fire protection measures to be incorporated into the development.

## Concurrences and referrals

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





## Undergo the assessment

### Integrated development

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

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 an accredited bushfire safety consultant that the development meets the acceptable solution requirements of [Planning for Bush Fire Protection](#), it may grant development consent.

The National Construction Code NSW Variation considers that Bushfire Attack Level Flame Zone (BAL-FZ) is not a 'deemed-to-satisfy' solution and therefore referral to the NSW RFS is required for BAL-FZ situations.

For DAs requiring approval under section 4.14, the council may approve or refuse the development based on comments received from the NSW RFS.

### Concurrences and other referrals

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



## Get an outcome

### Integrated development

If satisfied with the development, the Commissioner of the NSW RFS will concurrently issue GTAs and a bushfire safety authority. Any development approval issued by council must be consistent with the GTAs or the bushfire safety authority. The bushfire safety authority is the final approval required from the NSW RFS.

If the Commissioner of the NSW RFS refuses to issue GTAs and grant a bushfire 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 will be refused. The applicant will be notified and be given reasons for the refusal.

## Concurrences and referrals

If NSW RFS does not provide concurrence, consent cannot be granted to the DA. The DA could be withdrawn and/or modified to meet the relevant bushfire safety requirements.

NSW RFS may provide feedback in response to a referral request. The consent authority will generally consider 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

- [Planning for Bush Fire Protection](#)
- Other publications and documents are available from the [Building in a bush fire area web page](#).

## Heritage conservation

Referral authority	<p>Heritage Council of NSW (Heritage Council)</p> <p>Willandra Lakes Region World Heritage Property Community Management Council</p> <p>Willandra Lakes Region World Heritage Area Three Traditional Tribal Groups Elders Council</p> <p>Willandra Lakes Region World Heritage Property Technical and Scientific Advisory Committee</p>
Legislation	<p><i>Heritage Act 1977</i> NSW (Heritage Act) section 57 and 58</p> <p><i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 4 (Western Sydney Aerotropolis), section 4.26(8) and 4.26(10)</p> <p><i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 12 (Willandra Lakes Region World Heritage Property), section 12.10</p> <p><i>Shellharbour Local Environmental Plan 2000</i> (Shellharbour LEP 2000) clause 75B(1)(b)</p> <p><i>Standard Instrument – Principal Local Environmental Plan</i> (Standard Instrument LEP) clauses 5.10(7) and 5.10(9)</p> <p>Concurrences and referrals for heritage conservation may also be triggered under other SEPPs or LEPs.</p>
Summary	The conservation and protection of items of environmental heritage (including places, buildings, works, relics and movable objects) is important to preserve NSW history.
DA requirements	<p>A statement of heritage impact may be required.</p> <p>DAs may also trigger a concurrence and/or referral requirement under an EPI.</p>



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

Heritage NSW has published information on [Guidance for local councils](#) pages of 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 concurrence and referral](#) when lodging 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 [online heritage database](#).

### 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. 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 web 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, 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.

#### 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.

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

### Concurrences and referrals

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

- 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
- Biodiversity and Conservation SEPP, Chapter 12 (Willandra Lakes Region World Heritage Property), section 12.10 for plan making and development or activity approval
- 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

- Standard instrument LEPs:
  - clause 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)
  - clause 5.10(9) for the demolition of a nominated State heritage item.



## Address heritage in the application

### Submission requirements

Heritage NSW has published information on the [Guidance for local councils page](#) of its website to help councils understand when to refer DAs to Heritage NSW. There is also other supporting information to help manage local heritage. This includes [guidance for councils on concurrence and referral](#) when lodging DAs to Heritage NSW in the NSW Planning Portal.

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 sets out what is significant about a place and what actions are appropriate to retain that significance in its future use and development.

### Statement of heritage impact

The statement of heritage impact explains why a place or item is significant. The statement should include a ‘statement of significance’ that provides a concise summary of the heritage significance of the place. It must address whether the place is significant, and why/how it is significant.

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
- why more sympathetic solutions are not viable.

The Heritage Council must give approvals for all items and places that are listed on the State Heritage Register.

The applicant should contact the relevant referral authority for specific information requirements for concurrence and/or referrals triggered by a LEP or SEPP concurrence/referral provision. Responses to concurrences and referrals will come from the referral authority specified in the relevant LEP or SEPP concurrence/referral provision.





## Undergo the assessment

### Integrated development

The Heritage Council will assess the heritage 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

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

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. An explanation

of each reason is given on the [development application referral rejection page](#) of the Heritage NSW website.

## Concurrences and referrals

If the referral authority does not 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.

## Reference documents

- [Guidance for councils when referring DAs to Heritage NSW](#)
- [Additional guidance material for local councils and heritage advisors](#)
- [Introducing the Heritage Council Approvals Process \(PDF 146 KB\)](#)
- [How to prepare a Statement of Heritage Impact \(PDF 35.9 KB\)](#)
- [Design in Context: Guidelines for infill development](#)



## Aboriginal cultural heritage

Referral authority	Heritage NSW
Legislation	<p><i>National Parks and Wildlife Act 1974</i> (NPW Act) section 90</p> <p><i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 4 (Western Sydney Aerotropolis), section 4.26(9)</p> <p><i>Lake Macquarie Local Environmental Plan 2004</i> (Lake Macquarie LEP 2004) clause 50</p> <p><i>Moree Plains Local Environmental Plan 2011</i> (Moree Plains LEP 2011) clause 7.7</p> <p><i>Standard Instrument – Principal Local Environmental Plan</i> (Standard Instrument LEP) – standard LEP clause 5.10(8)</p> <p>Concurrences and referrals for Aboriginal heritage may also be triggered under other SEPPs and/or LEPs.</p>
Summary	<p>Heritage NSW is responsible for protecting and conserving Aboriginal cultural heritage in NSW. Aboriginal cultural heritage includes places and items that are significant to Aboriginal people because of their traditions, observances, lore, customs, beliefs and history. The NPW Act protects Aboriginal objects and declared Aboriginal places.</p> <p>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.</p>
DA requirement	<p>If a development proposal will directly or indirectly harm an Aboriginal object or a declared Aboriginal place, the DA must be accompanied by an Aboriginal cultural heritage assessment report prepared in accordance with Heritage NSW's <a href="#">Guide to investigating, assessing, and reporting on Aboriginal Cultural Heritage in NSW</a> (Aboriginal cultural heritage guidelines).</p> <p>The DA must be approved before Heritage NSW can approve an Aboriginal heritage impact permit.</p> <p>DAs may also trigger a concurrence and/or referral requirement under an EPI.</p>



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

The [Guidance for local councils page](#) on the Heritage NSW website provides information to help councils understand when to refer DAs to Heritage NSW. The page also provides other supporting

information to manage local heritage. This includes [guidance for councils on concurrence and referral](#) when lodging DAs to Heritage NSW in the NSW Planning Portal.

## 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.

Aboriginal heritage impact permits take significant time and resources to prepare and obtain. There are extensive investigations and supporting documents required under the NPW Act. We recommend 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. 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 the [Aboriginal cultural heritage guidelines](#) before preparing their DA.

## Aboriginal objects and places

### Aboriginal objects

Aboriginal objects are physical evidence of the use of an area by Aboriginal people. There are about 65,000 recorded Aboriginal objects in NSW. They can also be referred to as 'Aboriginal sites', 'relics' or 'cultural material'.

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 are places declared under the NPW Act to be of special significance to Aboriginal culture. Aboriginal places protect ceremonial and spiritual values and areas containing Aboriginal objects. You can search for detailed information on Aboriginal places (including maps, photos, location information, gazettal notices and an explanation of the significance for each declared Aboriginal place) on the [State Heritage Inventory](#).

## Consider Aboriginal values of land and undertake due diligence

### 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 as a result of the proposed activities on land. The first step in this process is applying due diligence.

## Due diligence

Exercising due diligence means taking reasonable and practical steps to determine whether actions will harm an Aboriginal object and, if so, what measures can be taken to avoid that harm. Undertaking proper due diligence will avoid unintended harm to Aboriginal objects and 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 an 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.

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.

The [Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW](#) provides guidance on whether further investigation in the process above is required.

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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.

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

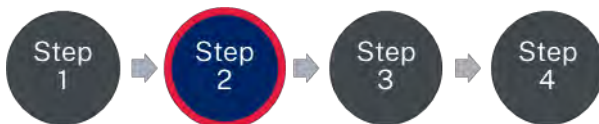
Known Aboriginal objects and declared Aboriginal places are recorded on the Aboriginal Heritage Information Management System (AHIMS). Checking AHIMS is part of the due diligence process. Any objects that have been recorded on a property can be found by [searching the AHIMS database](#). You can searching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

## Concurrences and referrals

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

- Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.26(9) for development in an Aboriginal place of heritage significance
- Lake Macquarie LEP 2004 clause 50 for consultation with local Aboriginal land councils for development in proximity to items of Aboriginal heritage listed in Schedule 6
- 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
- Standard instrument LEP clause 5.10(8) for carrying out development in an Aboriginal place of heritage significance.



## Address Aboriginal cultural heritage in the application

The [Guidance for local councils page](#) on the Heritage NSW website provides information to help councils understand when to refer DAs to Heritage NSW. The page also provides other supporting information to manage local heritage. This includes [guidance for councils on concurrence and referral](#) when lodging DAs to Heritage NSW in the NSW Planning Portal.

## 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.

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](#).

We recommend applicants engage a consultant to prepare the report to ensure that it meets the requirements of the NPW Act. 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.



## Undergo the assessment

### Integrated development

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 \(PDF 555 KB\)](#) 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](#).

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.

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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.

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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 that 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 2010 \(PDF 4 MB\)](#)

- 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.

### 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 concurrence/referral provision. Development types that trigger a concurrence and/or referral for Aboriginal heritage matters will be processed in accordance with the relevant LEP or SEPP concurrence/referral 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 directly or indirectly harm an Aboriginal object or place.



## Concurrences and referrals

If the referral authority does not 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. An explanation of each reason is given on the [development application referral rejection page](#) of the Heritage NSW website.

## Reference documents

- [Guidance for councils when referring DAs to Heritage NSW](#)
- [Additional guidance material for local councils and heritage advisors](#)
- [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 2010](#)
- [Applying for an Aboriginal Heritage Impact Permit: Guide for applicants](#)
- [Aboriginal heritage impact permit application forms](#)
- [Applying for an Aboriginal Heritage Impact Permit webpage](#)
- [Applying for an Aboriginal Heritage Impact Permit: Guide for applicants](#)
- [OEH Aboriginal Site Recording Form](#) (section 89A NPW Act)
- [Aboriginal Heritage Information Management System \(AHIMS\)](#)
- [Guidelines for the preparation of Archaeological Management Plans \(PDF 4.04 MB\)](#)

## Environment protection

<b>Referral authorities</b>	<p>The following agencies or groups within Department of Planning, Industry and Environment:</p> <ul style="list-style-type: none"> <li>• Environment Protection Authority (EPA)</li> <li>• Environment, Energy and Science group</li> <li>• NSW National Parks and Wildlife Service</li> <li>• Planning Secretary</li> <li>• Water group – for the former Minister for Regional Water (now the Minister for Water, Property and Housing)</li> </ul>
<b>Legislation</b>	<p><i>Biodiversity Conservation Act 2016</i> (BC Act) section 7.12</p> <p><i>Protection of the Environment Operations Act 1997</i> (POEO Act) section 43 47, 48, 49 and 55 and 122</p> <p><i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 3 (Koala habitat protection 2020), section 3.11(1)</p> <p><b>Note:</b> referrals under Biodiversity and Conservation SEPP, Chapter 4 (Koala habitat protection 2021) are out of scope for this guide as they do not directly relate DA processes.</p> <p><i>State Environmental Planning Policy (Precincts – Regional) 2021</i> (Regional SEPP), Chapter 4 (Kosciuszko National Park and alpine resorts), section 4.15(1) and 4.15(2)</p> <p><i>State Environmental Planning Policy (Resources and Energy) 2021</i> (Resources and Energy SEPP), Chapter 2 (Mining, petroleum production and extractive industries), section 2.26(2) and 2.30(1)(a)</p> <p><i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 6 (St Marys), section 6.44(2)</p> <p><i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i> (Eastern Harbour City SEPP), Chapter 6 (Cooks Cove), section 6.16</p> <p><i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 5 (River Murray lands), section 5.12</p> <p>Concurrences and referrals for environment protection may also be triggered under other SEPPs and/or LEPs.</p>
<b>Summary</b>	<p>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.</p>
<b>DA requirement</b>	<p>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.</p> <p>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</p>



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 Environment, Energy and Science group provides responses to concurrences and referrals triggered under EPIs. National Parks and Wildlife Service also provides responses to referrals for developments on or in the vicinity of existing parks or lands zoned (or to be zoned) E1 or their equivalent.



## 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 concurrence/referral provision, including:

- BC Act section 7.12 for development and activities which are likely to significantly affect threatened species
- Biodiversity and Conservation SEPP, Chapter 3 (Koala habitat protection 2020), section 3.11(1) for approval of a koala plan of management.
- Regional SEPP, Chapter 4 (Kosciuszko National Park and alpine resorts), section 4.15(1) and 4.15(2) for Part 4 DAs in the resort areas of Kosciuszko National Park
- Resources and Energy SEPP, Chapter 2 (Mining, petroleum production and extractive industries), section 2.26(2) for site verification certificates – biophysical strategic agricultural land
- Resources and Energy SEPP, Chapter 2 (Mining, petroleum production and extractive industries), section 2.30(1)(a) for development on biophysical strategic agricultural land
- Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 6.44(2) for:
  - development of land adjoining land within the ‘Regional Park’ zone
  - any road or public utility development on land within the ‘Regional Park’ zone if the land is yet to be reserved under the NPW Act
- Eastern Harbour City SEPP, Chapter 6 (Cooks Cove):
  - section 6.16(1)(a) for referral of wetlands environmental management plans
  - section 6.16(1)(b) for referral of soil and water management plans
  - section 6.16(1)(c) for referral of green and golden bell frog management plans
- Biodiversity and Conservation SEPP, Chapter 5 (River Murray lands), section 5.12 for various development types in the area where this plan applies.

For DAs on or that may affect land zoned E1 (or equivalent), the consent authority may (voluntarily) notify National Parks and Wildlife Service irrespective of current land ownership. Examples include land:

- zoned ‘Regional Park’ under Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis)
- agreed for future reservation under a voluntary planning agreement
- covered by the former 8(b) zoning as a future park addition.

DAs affecting 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 Energy and Environment).



## 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.

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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.

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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 concurrence/referral 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 proposal is 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, and that a biodiversity development assessment report has been prepared by an accredited assessor
  - where proposal is 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 Floodplain Development Manual 2005 (consistent with the section 9.1 Direction 4.3 ‘Flood Prone Land’ of the EP&A Act).



## Undergo the assessment

### Integrated development – environmental protection licences

Integrated development applications 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 not inconsistent 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 concurrence is not provided, 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 \(PDF 160 KB\) \(note an updated guide is under preparation as of 2021\)](#)
- [Technical Framework – Assessment and Management of Odour from Stationary Sources in NSW](#)
- [Approved Methods for the Modelling and Assessments of Air Pollutants \(PDF 1,066 KB\)](#)
- [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 \(PDF 54.9 KB\)](#)
- [Clean Air for NSW strategy \(note this is yet to be finalised as of 2021\)](#)
- [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 \(PDF 1,447 KB\)](#)
- [Interim Construction Noise Guideline \(PDF 1,207 KB\)](#)
- [Assessing Vibration: A Technical Guide](#)
- [Rail Infrastructure Noise Guidelines \(PDF 556 KB\)](#)
- [Road Noise Policy and Application Notes](#)
- [Technical Basis for Guidelines to Minimise Annoyance due to Blasting Overpressure and Ground Vibration \(PDF 256 KB\)](#)

**Note:** A noise measurement and analysis guideline is also being prepared as of 2021.

## Waste

- Waste guidelines and resources about legislation can be found on the EPA [waste strategy](#) and [waste regulation](#) webpages.
- [EPA's Waste Classification Guidelines](#)
- [Environmental Guidelines: Solid Waste Landfills \(PDF 1,207 KB\)](#)
- [Environmental Guidelines: Use and Disposal of Biosolids Products \(PDF 855 KB\)](#)
- [Environmental Guidelines: Composting and Related Organics Processing Facilities \(PDF 367 KB\)](#)
- [Storing and Handling Liquids: Environmental Protection \(PDF 3.7 MB\)](#)
- [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 \(PDF 1,842 KB\)](#)

## Water

- [Approved Methods for the Sampling and Analysis of Water Pollutants in NSW \(PDF 166 KB\)](#) (Department of Environment and Conservation 2004) *(note an updated water sampling and analysis methods guideline is being prepared as of 2021)*
- [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 \(PDF 338 KB\)](#)
- [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](#) (OEH 2012)
- [Environmental Guidelines: Use of Effluent by Irrigation](#) (PDF 2,040 KB)
- [Storing and Handling Liquids: Environmental Protection](#) (PDF 3.7 MB)
- [Environment Protection Authority Licensing Fact Sheet: Using environment protection licensing to control water pollution](#)

## Other

- [Chemical Control Orders](#)
- [Radiation Shielding Design Assessment and Verification Requirements](#) (PDF 1,083 KB)
- [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 Sites](#) (PDF 1,392 KB)
- [NSW EPA Sampling Design Guidelines \(Contaminated Sites\)](#) (PDF 2.0 MB)

The guideline for [Developments adjacent to National Parks and Wildlife Service lands](#) (PDF 749 KB) contains information about issues to be considered when assessing proposals in the vicinity of National Parks and Wildlife Service lands. This includes (for example) national parks, nature reserves, or other lands reserved or acquired under the NPW Act. 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.

Some land in NSW has been acquired by the National Parks and Wildlife Service but not yet gazetted as formal reserve. The [Land Vested in NPW Act Minister - acquisition of land for reservation database](#) dataset captures areas in NSW that are vested in the minister administering the NPW Act under Part 11.



## Aquatic and marine matters

*Fish habitats, aquaculture, aquatic threatened species, marine parks and aquatic reserves*

<p>Referral authorities</p>	<p>Department of Regional NSW – Department of Primary Industries – Fisheries (DPI – Fisheries)</p> <p>Marine Estate Management Authority</p> <p>Transport for NSW – Maritime</p> <p>Minister for Planning</p> <p>Planning Secretary</p> <p>Others (see below)</p>
<p>Legislation</p>	<p><i>Fisheries Management Act 1994 (FM Act) section 144, 201, 205, 219, 221ZZ</i></p> <p>Fisheries Management (General) Regulation 2010</p> <p>Fisheries Management (Aquaculture) Regulation 2017</p> <p><i>Marine Estate Management Act 2014 (MEM Act) section 55 and 56</i></p> <p>Marine Estate Management (Management Rules) Regulation 1999</p> <p>Marine Estate Management Regulation 2017</p> <p><i>State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP), Chapter 2 (Infrastructure), section 2.14</i></p> <p><i>State Environmental Planning Policy (Primary Production) 2021 (Primary Production SEPP), Chapter 2 (Primary production and rural development), section 2.27</i></p> <p><i>State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP), Chapter 10 (Sydney Harbour Catchment), section 10.39(2), 10.45(2) and 10.45(4)</i></p> <p>Concurrences and referrals for aquatic and marine matters may also be triggered under other SEPPs and/or LEPs.</p>
<p>Summary</p>	<p>Aquatic habitats (freshwater, estuarine and marine) support around half of NSW's biodiversity and underpin NSW's recreational and commercial fishing and aquaculture industries. Marine protected areas (marine parks and aquatic reserves) conserve biological diversity while also supporting the management and use of resources, scientific research and education, opportunities for public enjoyment and Aboriginal cultural uses. DPI – Fisheries assesses and manages impacts on aquatic habitats, aquaculture, threatened fish and marine vegetation and marine protected areas.</p> <p>Other referral requirements also exist for proposed development in or near certain waterways.</p>



<p>DA and permit requirements</p>	<ul style="list-style-type: none"> <li>• Aquaculture ventures must have a permit under section 144 of the FM Act.</li> <li>• Developments, works and activities within key fish habitat must be assessed to ensure that they will not have a significant adverse impact upon fish habitat, fish communities, recreational and commercial fishing, threatened aquatic species, populations and ecological communities. Works affecting fish habitat components (the substrate, seagrass, seaweeds, saltmarsh, mangroves, snags, riparian vegetation, etc.), fish passage and/or fish spawning can only be carried out in accordance with the conditions of a permit issued under Part 7 of the FM Act.</li> <li>• Developments, works and activities within the catchment of an estuary that supports oyster aquaculture need to be assessed to ensure that they will not cause deterioration in water quality and jeopardise the productivity of the industry or the ability of the industry to produce safe product in accordance with Primary Production SEPP, Chapter 2 (Primary production and rural development).</li> <li>• Any development and activities within marine parks and aquatic reserves are assessed in accordance with the requirements of section 55 of the MEM Act.</li> <li>• Development in the locality, and likely to affect marine parks and aquatic reserves are assessed against the requirements of section 56 of the MEM Act.</li> <li>• Once development consent has been granted, any works within a marine park or aquatic reserve will require a permit under clauses 1.11, 1.13, 1.16, 1.19 and/or 1.22 of the Marine Estate Management (Management Rules) Regulation 1999. In deciding whether to give consent to carry out an activity in a marine park or aquatic reserve, the relevant ministers must consider the assessment criteria provided in clause 9 of the Marine Estate Management Regulation 2017.</li> <li>• Developments, works and activities are to be assessed for significant impacts to threatened species, populations or ecological communities listed under the FM Act in accordance with Part 7A Division 12 of the FM Act.</li> <li>• DAs may also trigger a concurrence and/or referral requirement under other EPIs to help protect current and future waterway infrastructure and operations.</li> </ul>
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## Overview

DPI – Fisheries is responsible for conserving the state’s fishery resources, protecting and conserving fish habitats and threatened aquatic species in NSW waters, managing marine parks and aquatic reserves and managing and overseeing the implementation of the Marine Estate Management Strategy. DPI – Fisheries issues permits for several types of activities which may harm fish habitats and for aquaculture developments. Depending on the location and type of development you’re proposing, DPI – Fisheries will have an integrated approval role, concurrence or advice role.

The responsibilities of the DPI – Fisheries within marine parks and aquatic reserves is to ensure marine biological diversity and marine habitats are conserved and ecological processes are maintained. DPI – Fisheries also ensures development activities comply with or a consistent with the

requirements of the MEM Act, Marine Estate Management Regulation 2017 and Marine Estate Management (Management Rules) Regulation 1999.

DPI – Fisheries requires proposals to be consistent with:

- [NSW Land Based Sustainable Aquaculture Strategy](#)
- [Healthy Estuaries for Healthy Oysters -Guidelines \(PDF 2.5 MB\)](#)
- [NSW Oyster Industry Sustainable Aquaculture Strategy](#)
- [Marine Waters Sustainable Aquaculture Strategy](#)
- [Policy and Guidelines for Fish Habitat Conservation and Management](#)
- the DPI – Fisheries Priority Action Statement and Recovery Plans developed for threatened species listed under the FM Act
- any management rules for a marine park as outlined in the Marine Estate (Management Rules) Regulation 1999 as follows:
  - 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 clause 5 of Schedule 2 to the MEM Act.
  - any management plan for a marine park or aquatic reserve
- [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 Threat and Risk Assessment \(PDF 5.0 MB\)](#).



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 [NSW Oyster Industry Sustainable Aquaculture Strategy pages](#) of the DPI website and on the [Spatial Data Portal](#).

Proposals within 10 kilometres of priority oyster aquaculture areas should be made consistent with the DPI – Fisheries' [Healthy Estuaries for Healthy Oysters Guidelines \(PDF 2.5 MB\)](#).

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

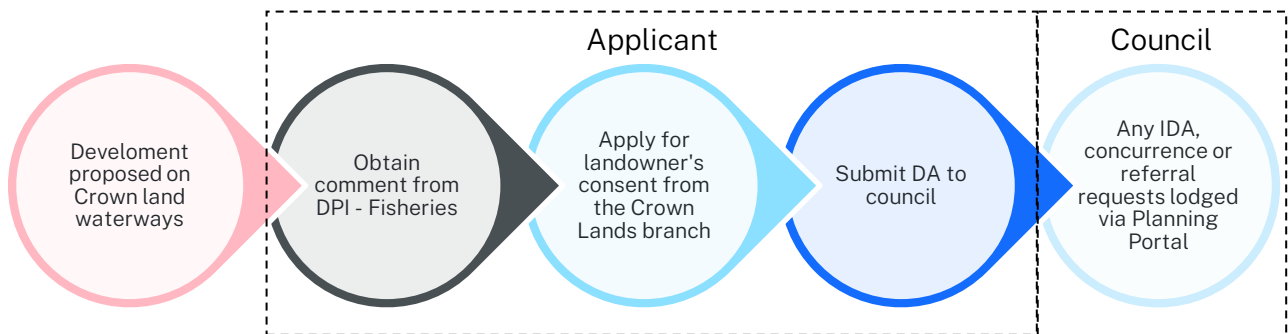
## **Preliminary step: obtaining landowner's consent from the department**

This preliminary step only applies if the development proposal includes a component that is partly or wholly located on Crown land. 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, Industry and Environment has ownership, control and management of most of the 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 the department (or Transport for NSW in some cases) in order to submit a DA to council. This includes most domestic waterfront facilities such as jetties, boatsheds,

berthing areas, boat ramps, slipways, pontoons, seawalls and oyster aquaculture outside non-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 DPI – Fisheries. The proposal may also trigger an integrated development referral, concurrence and/or advice from DPI – Fisheries at DA stage. The proposal will be reviewed by the DPI – Fisheries (marine operations) if it is located within a marine park or aquatic reserve. The Crown Lands branch will only consider applications for landowner's consent if Transport for NSW and the DPI – Fisheries have no concerns in relation to navigation or impact upon fisheries values.

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.



### Process for DPI – Fisheries landowner's consent review

Prior to applying for landowners' consent with the Department of Planning, Industry and Environment, the applicant must obtain comment from DPI – Fisheries. Application for this comment involves sending DPI – 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). 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.

DPI – Fisheries will assess the development proposal against a range of criteria related to relevant statutory and policy requirements. If DPI – 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 the Crown Lands branch of the Department of Planning, Industry and Environment when applying for landowner's consent.

If DPI – 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 DPI – Fisheries if the proposal:

- is aquaculture development
- is within key fish habitat
- may affect oyster farming operations
- may significantly affect threatened aquatic animals, plants, communities or populations
- is within a marine park or aquatic reserve
- has the potential to effect (is 'in the locality of') a marine park or aquatic reserve.

### 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 consent from the relevant council. To determine if the proposed aquaculture development requires the lodgement of a DA, we strongly encourage the applicant to contact DPI – Fisheries for some pre-lodgement advice or refer to information provided in the [NSW Oyster Industry Sustainable Aquaculture Strategy](#).

#### Does the proposal require a permit under Part 7 of the FM Act?

Development will be integrated development if it requires a permit under Part 7 the FM Act as well as development consent under the EP&A Act if:

- the site is within key fish habitat – regardless of whether it is currently under water (that is rivers, freshwater lakes, billabong, creeks, wetlands, estuaries or oceanic waters)
- the proposed development will directly impact upon that habitat (below the top of the high bank for freshwater habitats and below the highest astronomical tide level for tidal waterways).



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 at when zoomed in.

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.

**Does the development involve 'dredging' within key fish habitat?**

Dredging refers to any excavation of the substrate (bed) of the waterway. If the proposal requires any excavation of sand, mud, gravel, rocks, cobbles, aquatic vegetation, snags, large woody debris etc comprising the substrate of the waterway (between the top of the banks) comprising the key fish habitat, the applicant will require a permit under section 201 of the FM Act.

**Does the development involve 'reclamation' work within key fish habitat?**

Reclamation refers to placing any material onto the bed of a waterway. If the proposal requires any filling of any part of the waterway (between the top of the banks, such as bank protection works, groynes, causeways, dams, etc.) comprising key fish habitat, the applicant will need a permit under section 201 of the FM Act.

**Will the development cause any harm or damage to 'protected marine vegetation' within key fish habitat?**

Protected marine vegetation includes marine algae/seaweeds, seagrasses, mangroves or saltmarsh on public water land or on freehold land adjacent to public water land up to the highest astronomical tide level. If the proposal will do any damage or harm to such vegetation (such as removal, cutting, trimming, poisoning, shading, etc.), 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 will be specified in the relevant LEP or SEPP concurrence/referral provision.



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

The proposed development may require a referral to, and/or concurrence from, DPI – 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, such as storm and wastewater discharges from land-based development that have the potential to significantly impact:

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

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



The applicant should check the maps of the priority oyster aquaculture areas to see if your site is within the catchment. The maps are available from [NSW Oyster Industry Sustainable Aquaculture Strategy](#) pages of the DPI website, and on the [Spatial Data Portal](#).

If the site is in a catchment of a priority oyster aquaculture area, is there a possibility that the proposal might be incompatible with oyster aquaculture by having an adverse impact upon water quality either during the construction phase or operational phase or by impinging upon a lease area or affecting access to a lease area? On-site sewage treatment and disposal is particularly high risk for oyster aquaculture.

Primary Production SEPP, Chapter 2 (Primary production and rural development), section 2.27 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 map of marine protected areas](#) on the DPI 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 DPI – Fisheries to obtain concurrence of the relevant ministers under section 55 of the MEM Act to the granting of development consent.

Is the proposed development ‘in the locality of’ a marine park or aquatic reserve?

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 site is in the locality of a marine park or aquatic reserve, is the proposal likely to affect the plants or animals within the marine park or aquatic reserve or their habitat?

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. If so, under section 56 of the MEM Act, the council must consult with the DPI – 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 DPI – 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 DPI – Fisheries' [Guidelines an Assessment of Significance \(PDF 2.6 MB\)](#).

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

- 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 DPI – Fisheries must be sought.

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

### **Permits in relation to marine parks and aquatic reserves**

If the development is wholly or partly within a marine park or aquatic reserve, it may require a permit under the MEM Act. However, it is not integrated development as it is not listed under section 4.46 of the EP&A Act.

Any works within a marine park or aquatic reserve require a permit under clauses 1.11, 1.13, 1.16, 1.19, and/or 1.22 of the Marine Estate Management (Management Rules) Regulation 1999. In deciding whether to give consent, the relevant ministers must have regard to the assessment criteria provided in clause 9 of the Marine Estate Management Regulation 2017.

An applicant can apply for a permit from DPI – Fisheries after they have obtained development consent from council. Council will consult with DPI – Fisheries as part of the development

assessment process under section 55 of the MEM Act. Permit procedures are set out in the [Marine Parks Permit Policy \(PDF 92.9 KB\)](#).

### Referrals for coastal and other waterway matters

Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.14 requires referral to the relevant council for development with impacts on certain land within the coastal zone. The coastal zone is defined in the *Coastal Management Act 2016*.

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 10 (Sydney Harbour Catchment):

- section 10.39(2) for waiving the requirement for a master plan for strategic foreshore sites
- section 10.45(2) and 10.45(4) for referral of a draft master plan.

See the sections of this guide titled '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*. These include (for example) the controlled activity approval or water supply work approval.



## Address aquatic and marine matters in the application

### The application

#### What needs to be lodged with a DA application?

Before lodging a DA, an applicant should refer to the DPI's *Policy and Guidelines for Fish Habitat Conservation and Management*, particularly the information requirements outlined in section 3.3. The DPI guidelines outline the general position of DPI – 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 DPI website.

Prior to lodging a DA for aquaculture, an applicant should consult the appropriate aquaculture industry development plan (for example, the Land Based Aquaculture Sustainable Aquaculture Strategy) to determine what is permissible or considered appropriate for the area. This will influence the level of assessment required for the project. Applicants should discuss the project with DPI's aquaculture unit staff to understand the application process and the technical and economic aspects of the project prior to lodging a DA. The [NSW Oyster Industry Sustainable Aquaculture Strategy](#) also has information on this.

If the proposed work site is also within a [marine park or aquatic reserve](#), a permit will be needed to harm animals or plants or damage, take or interfere with habitat (including soil, sand, shells or other natural materials) under Part 1 of the Marine Estate Management (Management Rules) Regulation 1999 once development consent has been granted.

For the most up-to-date application form and application requirements, please contact the local marine protected area office. Contact details are provided on the [relevant reserve pages](#) on the DPI website.

Applicants need to supply sufficient relevant information needs to enable DPI – Fisheries to clearly understand what is proposed and how it may affect fish populations, aquatic habitats, aquatic threatened species, commercial and recreational fishing and aquaculture industries (both directly and indirectly). If suitable information is not provided, DPI is likely to 'stop the clock' and request further information, which could delay approvals. Applicants should provide adequate relevant 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)
- 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
- 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 DPI-Fisheries website.

An applicant can discuss these information requirements with DPI – 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 DPI – 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, DPI – 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*
- Primary Production SEPP, Chapter 2 (Primary production and rural development).

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

DPI – 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. DPI – Fisheries is then obliged to issue a conditional permit to enable the proposal to proceed. The permit must not be inconsistent with the GTAs previously provided.

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

If DPI – Fisheries decides that the proposal (or part of the proposal) will have a significant adverse environmental impact 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.

## Concurrences

When considering applications, DPI – 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. DPI – Fisheries will not provide concurrence to proposals that are likely to have a significant adverse impact in the absence of reasonable compensatory measures. Council is then obliged not to issue development consent.

### Referrals for DPI–Fisheries’ advice

When considering applications, DPI – 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 DPI believes a proposal is likely to have a significant adverse impact, 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 DPI website provides [maps of priority oyster aquaculture areas](#), as does the [Spatial Data Portal](#).
- Proposals within 10 kilometres of priority oyster aquaculture proposals should be made consistent with DPI 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 \(PDF 2.7 MB\)](#)
- [NSW Oyster Industry Sustainable Aquaculture Strategy](#)
- [NSW Marine Waters Sustainable Aquaculture Strategy](#)
- [Aquaculture permit application requirements](#)
- [How to prepare a commercial farm development plan \(PDF 73.3 KB\)](#)

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

- DPI – Fisheries’ [Policy and Guidelines for Fish Habitat Conservation and Management](#)
- Proposals should be consistent with the following documents:
  - [Key Fish Habitat definition and maps](#)
  - [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](#)

- DPI 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 DPI 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 and aquatic reserves listed under the [Marine Estate Management \(Management Rules\) Regulation 1999](#).
- [Marine park permit application forms](#):
  - [Marine parks permit policy \(PDF 92.9 KB\)](#)
  - [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 Threat and Risk Assessment](#)

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## Water management (part 1) – controlled activities

Referral authority	Natural Resource Assessment Regulator (NRAR)
Legislation	<i>Water Management Act 2000</i> (WM Act) section 91(2) 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. <u>NRAR</u> is responsible for compliance and enforcement of NSW water laws including controlled activity requirements.
DA requirement	For the purposes of this guide, the role of NRAR 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.

### NRAR overview

NRAR was established under the *Natural Resources Access Regulator Act 2017* (NRAR Act) to be an independent, transparent and effective regulator with total responsibility for compliance and enforcement of water laws in NSW. NRAR has an independent board that is responsible for decisions about its compliance and enforcement functions. NRAR has a broad role with key legislative responsibilities under the:

- NRAR Act
- *NSW Water Management Act 2000* (WM Act) sections 89, 90 and 91
- *Water Management (General) Regulation 2018*
- *NSW Water Act 1912* (Water Act) Part 4 and 5
- *NSW Dams Safety Act 2015*.

NRAR is solely responsible for all controlled activity approvals, for work carried out in, on or beside rivers, lakes and estuaries under Part 1 of the WM Act. NRAR is also responsible for water access licences and associated approvals required by or for:

- government agencies, including NSW and federal government agencies and councils
- state-owned corporations
- major water utilities, water supply authorities and licensed network operators under the *Water Industry Competition Act 2006* (NSW)
- entities who are carrying out activities under the *Mining Act 1992*, the *Offshore Minerals Act 1999* (NSW), the *Petroleum (Onshore) Act 1991* (NSW) or the *Petroleum (Offshore) Act 1982* (NSW)
- irrigation corporations
- public schools and public hospitals

- entities who hold or are eligible to hold an Aboriginal commercial, Aboriginal community development, Aboriginal cultural or Aboriginal environmental subcategory of access licence
- entities undertaking major developments (state significant developments and state significant infrastructure).

## 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.

### What is a controlled activity?

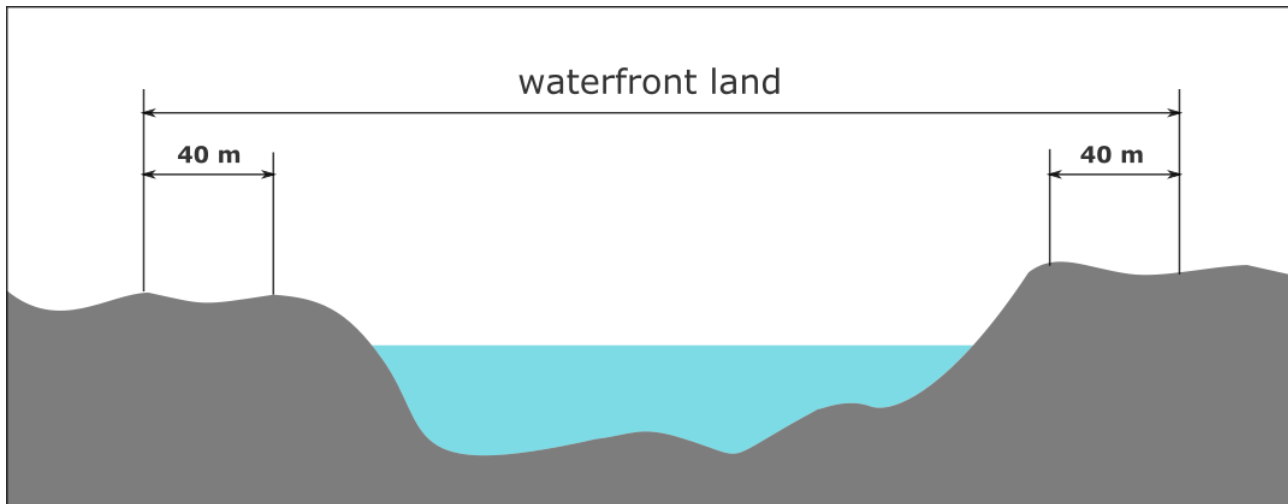
Controlled activities are certain types of activities carried out on waterfront land and defined as a controlled activity in the WM Act. Examples include:

- erection of a building
- carrying out a work
- removing material from waterfront land, such as vegetation or extractive material
- depositing material on waterfront land, such as extractive material
- carrying out an 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 [NRAR hydro line layer](#) and locate a property.

The NRAR 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, NRAR 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 NRAR can make this determination:

- a map or aerial photograph of the property identifying the location of the mapped watercourse/s
- 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 by NRAR 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.

### How to determine a stream order for the purpose of controlled activities?

Stream order is determined using the Strahler method. Use the [Determining stream order fact sheet](#) (PDF 93.1 KB) as a guide.

## How to determine what is exempt from requiring a CAA?

There are several exemptions from the need to obtain a CAA. Please refer to the [NRAR exemption fact sheet](#) (PDF 504 KB) for a complete list 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 as defined by [NRAR published maps](#).

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 NRAR's [Controlled Activity Guidelines](#), and include:
  - justification for any non-compliance with the guidelines
  - consideration of any guideline conflict with bushfire 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 bushfire plans and reports appropriate for the development works.

### Information needed to apply for a CAA

Information requirements will be a combination of both **integrated development** and **CAA**, and include:

- a completed application form ensuring owner's consent has been provided by all landowners where works are proposed – refer to NRAR's [Application form – New or amended controlled activity approval](#) (PDF 242 KB)

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

Refer to NRAR’s [Guide to completing and submitting a new or amended controlled activity approval \(PDF 375 KB\)](#) for more information on filling out the CAA form.



## 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 NRAR for assessment and the issue of GTAs.

If development consent is granted by council, an application must be made directly to NRAR 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 NRAR for CAA through the [NSW Planning Portal](#) after confirming with council that development consent is not required.

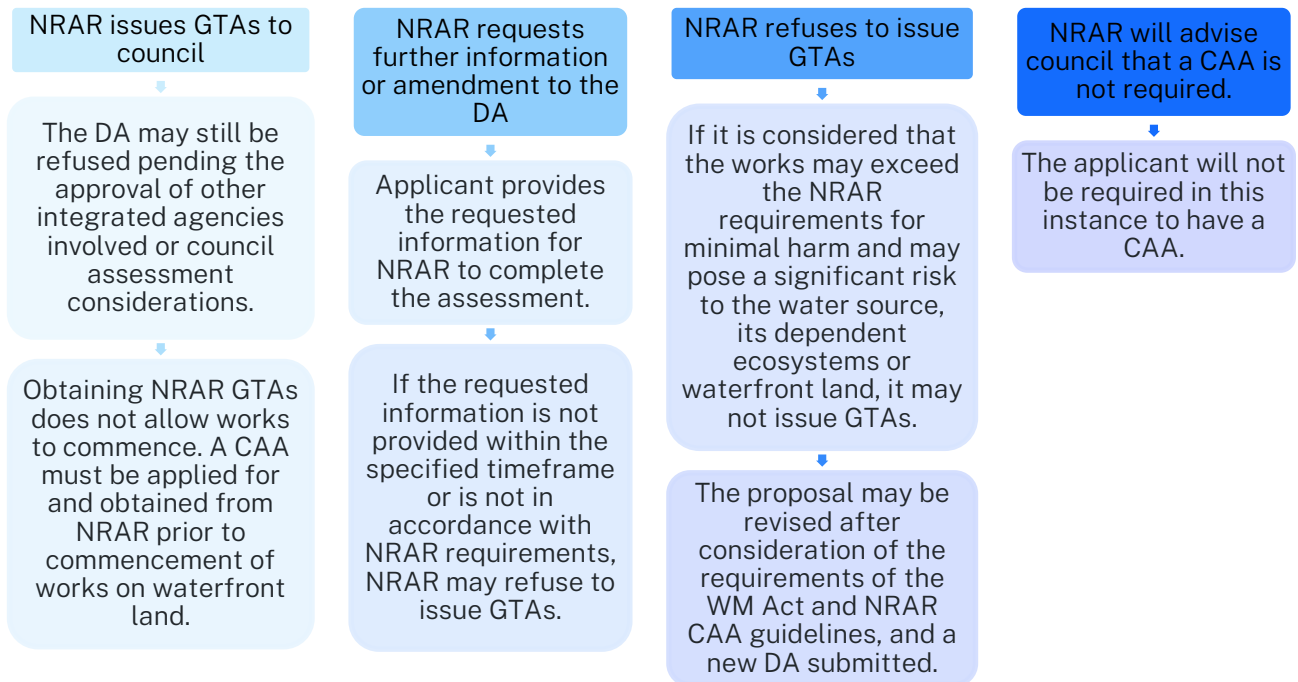


## Get an outcome

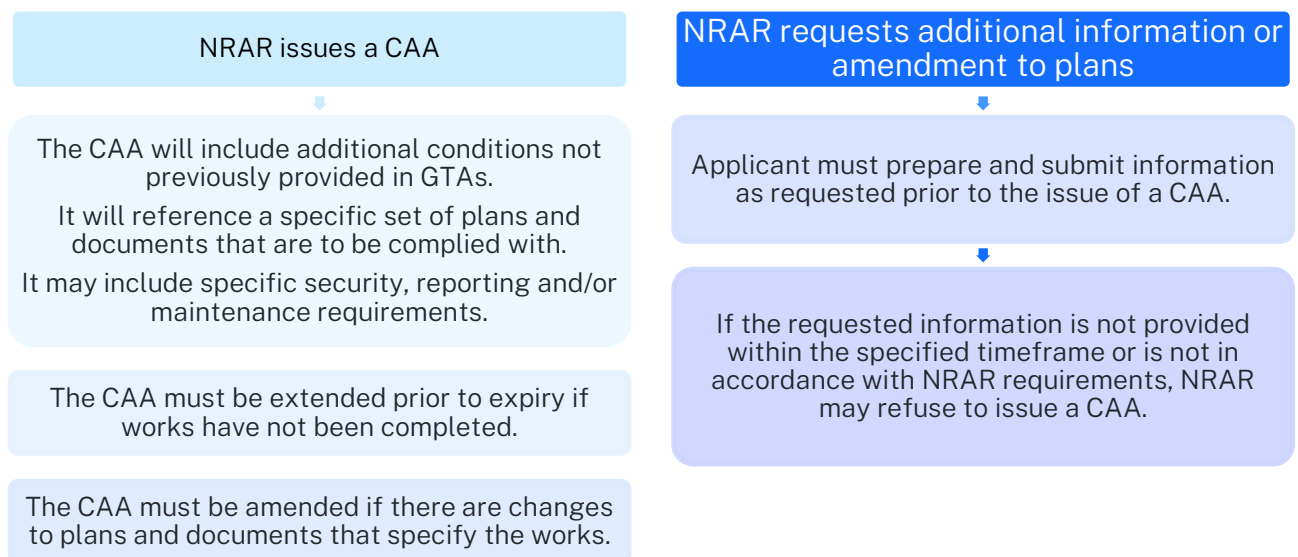
The outcomes for CAA are listed below. In addition to these outcomes, the application may be refused if it is considered the works may exceed the NRAR requirements for minimal harm and may pose a significant risk to the water source, its dependent ecosystems or waterfront land. The proposal may be revised after consideration of WM Act requirements and NRAR CAA guidelines, 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

- Guidelines for controlled activities
  - [In-stream works \(PDF 48.0 KB\)](#)
  - [Laying pipes and cables in watercourses \(PDF 48.0 KB\)](#)
  - [Outlet structures \(PDF 131 KB\)](#)
  - [Riparian corridors \(PDF 165 KB\)](#)
  - [Vegetation management plans on waterfront land \(PDF 138 KB\)](#)
  - [Watercourse crossings](#)
- [Hydro line layer](#)
- [Exemptions factsheet \(PDF 504 KB\)](#)
- [Controlled Activity Approval application form \(PDF 242 KB\)](#)
- [Controlled Activity Approval application supporting guide \(PDF 375 KB\)](#)
- [Works on certain waterfront land exemption maps](#)
- [Controlled Activity Guidelines](#)
- [NRAR website](#)





## 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 website licensing pages](#)
- The department's [Licensing and trade web pages](#).

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

Referral Authorities	NRAR WaterNSW
Legislation	<p>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).</p> <p>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. <a href="#">The water sharing plans webpage</a> identifies whether a river or aquifer is in a water sharing plan, and whether the WM Act applies to particular land.</p> <p>Concurrences and referrals for water management may also be triggered under other SEPPs and/or LEPs.</p>
Summary	<p>Water is a limited resource and must be managed sustainably for immediate and long-term needs.</p> <p>Section 4.46 of the EP&amp;A Act provides that water management work approvals are types of integrated development approvals.</p> <p>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 clause 34 and 35 of the <i>Water Management (General) Regulations 2018</i> (WM Regulations).</p> <p>The requirement for a licence under Water Act does not trigger the integrated development provisions under the EP&amp;A Act. Such licences must be applied for separately outside the integrated development process through council.</p>
DA requirement	<p>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.</p> <p>If a licence under the Water Act is required, the applicant must apply for this licence outside the integrated development process through the council.</p> <p>DAs may also trigger a concurrence and/or referral requirement under an EPI.</p>

## Overview

WaterNSW and NRAR are responsible for managing access to water and ensuring water is shared equitably between the environment, farmers and industry. NRAR is responsible for water access licences and associated approvals for the stakeholders listed in NRAR overview (see ‘Water management (part 1) – controlled activities’ section). WaterNSW is responsible for water access licences and associated approvals required by:

- rural landholders
- rural industries
- developments which 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. NRAR and WaterNSW are required to consider:

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

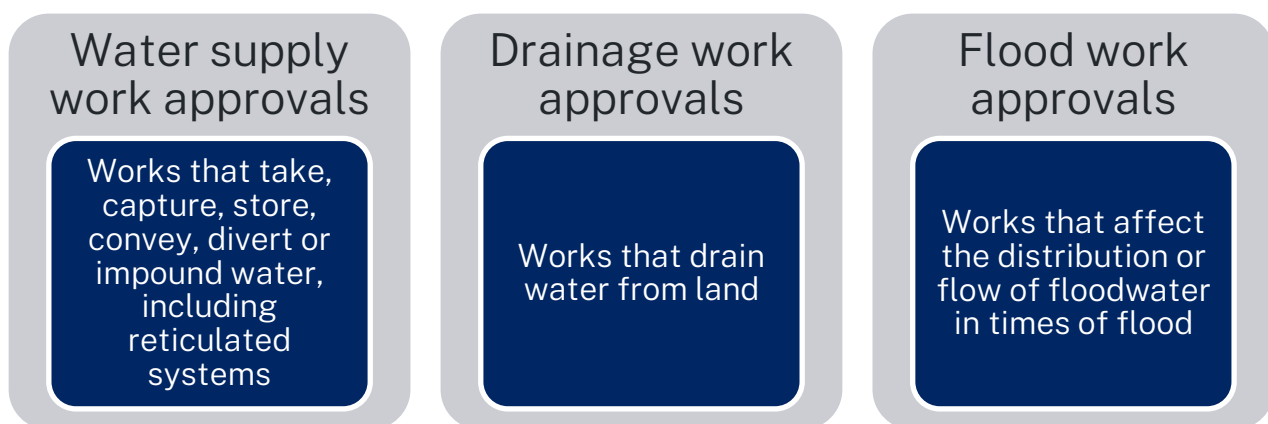




## Determine if the development triggers any water-related approvals, concurrences or referrals

A development will require an approval if it involves an activity that is authorised by a water management work approval or water use approval. Clause 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, noting drainage work approvals are not in force as of 2021.



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 isn't 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 [Approvals pages](#) on the department's website, including links to NRAR
- 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 clause 21 of the WM Regulations exists.

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

- the [Licences web page](#) on the department's website, including links to NRAR
- the [Water Licensing pages](#) 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 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 the department's Water team](#).

## 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 concurrence/referral 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. If relevant, include pump type, outlet sizes and capacity
- 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 \(PDF 254 KB\)](#) 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 development application. For documentation requirements for temporary construction dewatering, please visit the [Construction dewatering pages](#) 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 [Assessing groundwater applications fact sheet](#) available from the department's website. Providing all the requested information will enable the department 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 concurrence/referral 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. Application can [apply for a new water access licence](#) on the WaterNSW website.

## 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 consent authority grants development consent to integrated development, no person has any right to lodge an objection under to the granting of the approval or has any right under the WM Act to appeal to the Land and Environment Court against the granting of the approval.

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 concurrence 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 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

## Water quality

Referral Authority	<p>WaterNSW Hunter Water Rous County Council Victorian Department of Environment, Land, Water and Planning Victorian councils adjacent to the Murray River</p>
Legislation	<p><i>Environmental Planning and Assessment Act 1979</i> (EP&amp;A Act) section 3.26 <i>Hunter Water Act 1991</i> (Hunter Water Act) sections 51, 54, 55, 56 <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 5 (River Murray lands), section 5.11(1)(a) <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 8 (Sydney drinking water catchment), section 8.9 <i>Ballina Local Environmental Plan 1987</i> (Ballina LEP 1987) clause 24A(2)(d) Concurrences and referrals for water quality may also be triggered under other SEPPs and/or LEPs.</p>
Summary	Water quality management seeks to provide for healthy water catchments that ensure we have high quality drinking water while permitting compatible development that has a neutral or beneficial effect on water quality.
DA requirement	<p>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. Council may need to refer the DA to WaterNSW for assessment of water quality impacts for more complex DAs.</p> <p>DAs may also trigger other concurrence and/or referral requirements under other Acts, SEPPs and LEPs.</p>



### Determine if the development require 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 should comply with 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, Biodiversity and Conservation SEPP, Chapter 8 (Sydney drinking water catchment) does not apply and won't need concurrence.

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.

### 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 referral provision. These include:

- Hunter Water Act:
  - section 51 for development application or building application in 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 for action under the *Crown Land Management Act 2016* in relation to land within a special area
  - section 55 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 REP and may have a significant environmental effect along the Murray river
- Ballina LEP 1987 clause 24A(2)(d) for development within zone 7(c) – Environmental Protection (Water Catchment).





## 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

[Neutral or Beneficial Effect on Water Quality Assessment Guideline \(PDF 2065.62 KB\)](#) 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.

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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.

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### **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.

Appendix E gives a brief outline of the modules and the additional information required that addresses erosion and sediment control, stormwater, and wastewater. More detailed information can be found in the document [Developments in Sydney's Drinking Water Catchments – Water Quality Information Requirements](#) available from the WaterNSW website, and in Tables A1 and A3 of the Neutral or Beneficial Effect Assessment Guideline 2020. 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 \(PDF 181 KB\)](#) to help choose an appropriate consultant.

### 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.

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 acting, WaterNSW and council must consider Biodiversity and Conservation SEPP, Chapter 8 (Sydney drinking water catchment), section 8.9(2) 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 concurrence 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 not 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

- [Neutral or Beneficial Effect on Water Quality Assessment Guideline 2021 \(PDF 2.0 MB\)](#)
- [Developments in Sydney's Drinking Water Catchments – Water Quality Information Requirements \(PDF 2.5 MB\)](#)
- [Using a consultant to prepare your water cycle management study \(PDF 181 KB\)](#)
- [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 8 (Sydney drinking water catchment) as relevant for their DA
- [Hunter Water Guidelines for Developments in the Drinking Water Catchments \(PDF 1,236\) 2017](#)

# Development impacting water infrastructure

Referral authorities	Sydney Water, Water NSW
Legislation	<p><i>Sydney Water Act 1994</i> (Sydney Water Act) section 78</p> <p><i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 4 (Western Sydney Aerotropolis), section 4.28</p> <p>See also ‘Water quality’ section of this Guide in relation to <i>Hunter Water Act 1991</i> section 51</p>
Summary	Referral requirements exist for proposed development which may impact water, sewerage and stormwater infrastructure.
DA requirements	DAs may trigger a notification requirement under the Sydney Water Act or concurrence requirement under Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis)

## Overview

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



## Determine if the project impacts water infrastructure and 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:

- Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.28 for development on land shown on the Warragamba Pipelines Map
- Sydney Water Act section 78 for notification of building and development applications.

See also the ‘Water quality’ section of this guide in relation to Hunter Water Act section 51 for notification of building and development applications. 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* that provides the specific information that developments need to address to meet these requirements.

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.



## Get an outcome

### Concurrences

If concurrence 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 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.

# Flood prevention

Referral authority	Environment, Energy and Science group within Department of Planning, Industry and Environment
Legislation	<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP), Chapter 5 (River Murray lands), section 5.12
Summary	Referral requirements exist for proposed development 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 provision. 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.

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 NRAR. See the section ‘

Water management (part 2) – water licences and approvals’ for more information on flood work approvals.



### Address flooding 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 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.







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## Coal mine subsidence

Referral Authority	Subsidence Advisory NSW
Legislation	<i>Coal Mine Subsidence Compensation Act 2017</i> (CMSC Act) section 22 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 historical, current or future 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. 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 following the extraction of underground coal. After underground coal is extracted, the overlying ground may move both vertically and horizontally or curve and bend.

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 underground coal mining that has occurred or may take place in the future.

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 concurrence/referral provision.



## Address mine subsidence in the application

### Integrated development

Subsidence Advisory NSW has assigned one of 8 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. The [Mine subsidence districts web page](#) sets out the process for determining which district a property is located in by using the [Planning Portal](#). This determines which guideline applies to the property.

### 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 an accredited certifier. Others require assessment by Subsidence Advisory NSW. The [Development guidelines webpage](#) 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.

### Subdivision of land within mine subsidence districts

All applications for the subdivision of land within mine subsidence districts require assessment by Subsidence Advisory NSW. Ready 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.

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 Policy](#) and/or [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 concurrence/referral 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

Subsidence Advisory NSW processes applications that comply with the applicable surface development guideline within 5 working 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 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](#) 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 cannot be inconsistent 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 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 5 working 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 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 concurrence 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 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 guidelines web page](#).



# Mining leases

Referral authority		Department of Regional NSW – Mining, Exploration and Geoscience (MEG)
Legislation	<i>Mining Act 1992</i> (Mining Act) Mining Regulation 2016 (Mining Regulation) Concurrences and referrals for mining matters may also be triggered under SEPPs and/or LEPs.	
Summary	In assessing applications for mining leases, MEG focuses on ensuring that mineral resource recovery is maximised, and that land is effectively rehabilitated. 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.	
DA requirement	The applicant will need to lodge your 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 Mining, Exploration and Geoscience (MEG) 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 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.



## 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 section 63 of the Mining Act will be needed.

## What is a mineral?

A mineral means any substance prescribed by Schedule 1 of the Mining Regulation as a mineral and includes 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.

For help determining what constitutes a mineral, we encourage applicants to contact MEG 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 MEG 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

#### Conceptual project development plans for mining projects

The initial step in obtaining a mining lease is to present a conceptual project development plan to MEG. You can find details on the conceptual project development plan process on the [Assistance for new mining projects page](#) of the Department of Regional NSW website. MEG encourages potential applicants to consult with it in the early stages of a project's planning ideally before developing a conceptual project development plan. 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 conceptual project development plan process gives potential applicants the opportunity to discuss all aspects of the project with MEG 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.

## What must be lodged with a DA application?

### Integrated development

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



### Undergo the assessment

When assessing an application, MEG 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, while being accordance with the:
  - [Indicative Secretary’s Environmental Assessment Requirements \(October 2015\)](#) (PDF 656 KB)
  - [Guidelines for the Economic Assessment of Mining & Coal Seam Gas Proposals \(December 2015\)](#) (PDF 288 KB).
- the guidance principles outlining the matters of state interest (see [the state assessment requirements document](#) (PDF 701 KB)).

### 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 development application must be accompanied by written consent of each landowner. For lands under the control of the Department of Planning, Industry and Environment’s Crown Lands branch, 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 concurrence/referral provision. The applicant should contact MEG for specific information requirements for concurrence and/or referrals triggered by a LEP or SEPP concurrence/referral provision.



## Get an outcome

If MEG refuses to give GTAs, the council cannot grant development consent. In determining whether to issue GTAs, MEG will consider the matters outlined above. If MEG refuses to grant GTAs, the DA will be refused. 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 concurrence 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 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 the Department of Regional NSW website.

## Reference documents

- [Policy on Conceptual Project Development Plans for Mining Projects](#)
- [ESG1 Rehabilitation Cost Estimate Guidelines \(PDF 735 KB\)](#)

## Other rules and forms for miners and explorers

See [the rules and forms for miners and explorers webpage](#) for a range of guidance material and forms, including those below:

- Guideline for the Publication of a Notice of an Application for a Mining Lease
- ESG3 Mining Operations Plan MOP Guidelines
- AEMR Guidelines for MOPs prepared to EDG03 requirements
- EDG12 Small Mine Annual Environmental Management Report Guideline



## Development impacting pipeline infrastructure

<b>Referral authority</b>	<b>Pipeline operators including (but not limited to):</b> Jemena, Viva Energy, Caltex, Qenos, Exxon Mobil, APA Group, Energy Australia and BP Australia
Legislation	<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 2 (Infrastructure), section 2.77
Summary	Referral requirements exist for proposed development near pipeline corridors that transport dangerous goods.
DA requirements	DAs may trigger a referral requirement in relation to pipeline infrastructure under EPIs.

### Overview

Referral requirements may apply to certain development proposals to help protect current and future 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 pipeline infrastructure matters will be specified in the relevant SEPP provision. These include the Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.77 for development adjacent to land in a pipeline corridor. 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, 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 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 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 railway infrastructure

Referral authorities	Sydney Trains, Sydney Metro, Transport for NSW and Australian Rail Track Corporation
Legislation	<p><i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 3 (Educational establishments and child care facilities), section 3.12(2)(b)</p> <p><i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 2 (Infrastructure), section 2.48, 2.97(3), 2.98, 2.99(3), 2.101(3) and 2.102</p> <p><i>State Environmental Planning Policy (Precincts – Central River City) 2021</i> (Central River City SEPP) section 6.10 of Appendix 7, 9 and 11</p> <p><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 4.27(3)</p> <p><i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 4 (Major infrastructure corridors), section 4.7 and 4.9</p> <p>Concurrences and referrals for railway infrastructure may also be triggered under other SEPPs and/or LEPs.</p>
Summary	<p>Sydney Trains, Sydney Metro and Transport for NSW are responsible for rail infrastructure across NSW. These authorities make sure:</p> <ul style="list-style-type: none"> <li>• existing and future rail transport infrastructure is protected</li> <li>• any buildings or works undertaken near rail infrastructure do not cause a risk to this infrastructure, on rail operations, the future occupants of the building and workers on building sites.</li> </ul>
DA requirement	<p>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:</p> <ul style="list-style-type: none"> <li>• a rail corridor or rail infrastructure (particularly for those away from a rail corridor)</li> <li>• an interim rail corridor</li> <li>• a public transport corridor.</li> </ul>

### 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. 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 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 and Transport for NSW 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.

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 3 (Educational establishments and child care facilities), section 3.12(2)(b) for development on land immediately adjacent to a rail corridor
- Transport and Infrastructure SEPP, Chapter 2 (Infrastructure):
  - section 2.48 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(3) for development involving access via level crossings
  - section 2.98 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(3) for excavation in, above, below or adjacent to rail corridors
  - section 2.101(3) for development within or adjacent to an interim rail corridor
  - section 2.102 for major development on land within the Interim Metro Corridor
- 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)
- 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
- Transport and Infrastructure SEPP, Chapter 4 (Major infrastructure corridors):
  - section 4.7(1) for development within a future infrastructure corridor with a capital investment value of more than \$200,000
  - section 4.9(3) for excavation in, above, below or adjacent to future infrastructure corridors.



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](#).

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

## Pre-DA consultation

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

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The relevant rail authority may also offer a more formal pre-DA detailed review/assessment and/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 detailed issues/shortcomings that would otherwise be identified later in the assessment process during the DA assessment period.

Applicants should contact the relevant area within Sydney Trains, Sydney Metro and Transport for NSW that has the delegation for processing concurrence 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 a Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.97(3) concurrence

Documentation includes:

- existing and proposed traffic data
- site-specific location information, such as road and train speed limits, number of trains, level crossing configuration, etc.
- a level crossing risk assessment
- details as to how compliance with the relevant Australian Standards and standards/guidelines/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 Rail Corridors and Busy Roads – Interim Guideline \(PDF 4.4 MB\)](#).

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 in Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.99 and 2.101, Transport and Infrastructure SEPP, Chapter 4 (Major infrastructure corridors), section 4.7(1) and 4.9(3), and Central River City SEPP, section 6.10 of Appendix 7, 9 and 11

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.

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 and 2.98 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 – 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 electrical 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 – 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 – 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, etc.)
  - 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.
- Transport and Infrastructure SEPP, Chapter 3 (Educational establishments and child care facilities), section 3.12(2)(b) – for development on land immediately adjacent to a rail corridor. To enable the rail authorities to assess the DA the applicant will need to provide documentation which may include the documentation required for a referral listed immediately below.

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, etc.
- 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 External Developments – T HR CI 12080 ST and Developments Near Rail Tunnels – T HR CI 12051 ST
- 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, stratum, 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 [Development Near Rail Corridors and Busy Roads – Interim Guideline \(PDF 4.4 MB\)](#).
- 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 Rail Corridors and Busy Roads – Interim Guideline](#). This document is useful for both consent authorities and applicants for DAs in these locations.

Where Sydney Trains, Sydney Metro or Transport for NSW 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 or Transport for NSW 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

- [External Developments standard - T HR CI 12080 ST](#)
- [Developments Near Rail Tunnels standard - T HR CI 12051](#)
- [Sydney Metro Underground Corridor Protection Guidelines Revision 1](#)
- [Sydney Metro At Grade and Elevated Sections Corridor Protection Guidelines Corridor Protection Guidelines Revision 1](#)
- [Development Near Rail Corridors and Busy Roads – Interim Guideline \(PDF 4.4 MB\)](#)

## Development impacting roads

Referral authority	Transport for NSW – Roads
Legislation	<p><i>Roads Act 1993</i> (Roads Act) – e.g. sections 26, 125 and 138</p> <p><i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 3 (Educational establishments and child care facilities), section 3.12(3) and 3.58</p> <p><i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP), Chapter 2 (Infrastructure), section 2.118(1), 2.118(2), 2.121 and 2.122</p> <p><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 2.22(3)</p> <p><i>State Environmental Planning Policy (Precincts – Central River City) 2021</i> (Central River City SEPP), section 6.10 of Appendix 9 and 11</p> <p><i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 4 (Western Sydney Aerotropolis), section 4.27(1)</p> <p><i>State Environmental Planning Policy (Industry and Employment) 2021</i> (Industry and Employment SEPP), Chapter 2 (Western Sydney employment area), section 2.25</p> <p><i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 7 (Western Sydney Parklands), section 7.15(2)(b)</p> <p><i>State Environmental Planning Policy (Industry and Employment) 2021</i> (Industry and Employment SEPP), Chapter 3 (Advertising and signage), section 3.13(2)(a)(ii), 3.15(2)(b) and 3.16(2)</p> <p><i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i> (Eastern Harbour City SEPP), Chapter 6 (Cooks Cove), section 6.12</p> <p><i>Camden Local Environmental Plan 2010</i> (Camden LEP 2010) clause 7.10</p> <p><i>Campbelltown Local Environmental Plan 2015</i> (Campbelltown LEP 2015) clause 7.24</p> <p><i>Shellharbour Rural Local Environmental Plan 2004</i> (Shellharbour Rural LEP 2004) clause 81</p> <p><i>Penrith Local Environmental Plan (Urban Land) 1998</i> (Penrith LEP (Urban Land) 1998) clause 20</p> <p><i>Penrith Local Environmental Plan No. 201 (Rural Lands)</i> (Penrith LEP (Rural Lands)) clause 25 and 26</p> <p>Concurrences and referrals for development impacting roads may also be triggered under other SEPPs and/or LEPs.</p>
Summary	<p>Transport for NSW – Roads regulates activities on public roads by requiring applicants to obtain its consent before carrying out works on classified roads that are managed and financed by Transport for NSW – Roads.</p>

DA requirements	Transport for NSW – Roads adopts a risk based approach to development, with the level of technical documentation required dependent on the nature and impact of the development. A traffic and engineering report may be required.
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## 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 interferes with a road, it is necessary to determine the road authority first. This will help determine what approvals are needed and whether the development triggers GTAs and approvals from Transport for NSW – Roads under the Roads Act.

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 roads authority.



## Determine if the development triggers any roads approvals, concurrences or advice from Transport for NSW – Roads

### Confirm the roads authority

A public road is defined under the Roads Act as any road that is opened or dedicated as a public road. Transport for NSW – Roads is the roads authority for all freeways. Council is the roads authority for all other public roads within the local government area with limited exceptions. Those exceptions are if it is a Crown road or a road for which some other public authority is declared to be the roads authority. Check with your council in the first instance.

If development is intended on a Crown road, landowner’s consent from the department would be required prior to DA submission. However, when the department 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 wouldn’t need the department’s consent as landowner, and the associated notification to the department wouldn’t be needed.

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

- Roads Act:
  - section 26 for constructions on land affected by a road widening order

- section 125 for approval to use part of the public road for restaurant purposes
- 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
- other relevant provisions may include section 70 (constructing access to or from a freeway, transitway or controlled access road) and 87 (traffic control facilities)
- Transport and Infrastructure SEPP, Chapter 3 (Educational establishments and child care facilities):
  - section 3.12(3) for specified development relating to impacts on traffic or roads
  - section 3.58 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
- Transport and Infrastructure SEPP, Chapter 2 (Infrastructure):
  - section 2.118(1) and 2.118(2) for development on a proposed classified road
  - section 2.121 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 for traffic generating development
- Resources and Energy SEPP, Chapter 2 (Mining, petroleum production and extractive industries), section 2.22(2) and 2.22(3) for the transportation of materials on a public road
- Central River City SEPP section 6.10 of:
  - 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
- 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
- Industry and Employment SEPP, Chapter 2 (Western Sydney employment area), section 2.25 for development near transport infrastructure routes
- Western Parkland City SEPP, Chapter 7 (Western Sydney Parklands), section 7.15(2)(b) for road signage
- Industry and Employment SEPP, Chapter 3 (Advertising and signage):
  - section 3.13(2)(a)(ii) when preparing a DCP that makes provision for or with respect to signage or advertising to which this policy applies within 250 metres of a classified road in a rural/non-urban area

- 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
- Eastern Harbour City SEPP, Chapter 6 (Cooks Cove), section 6.12 for a Transport Management Plan for Cooks Cove
- Camden LEP 2010 clause 7.10 for development in ‘Area 1’ on the Clause Application Map (Glenlee)
- Campbelltown LEP 2015 clause 7.24 for development in ‘Area 1’ on the Clause Application Map (Glenlee)
- Penrith LEP (Urban Land) 1998 clause 20 for development of land reserved for roads
- Penrith LEP (Rural Lands) clause 25 and 26 for concurrence on land reserved for roads
- Shellharbour Rural LEP 2004 clause 81 for Light Industrial – satisfactory arrangements for the provision of designated State public infrastructure.

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

Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.119 does **not** trigger an approval, concurrence or referral requirement. However, Transport for NSW – Roads provides the following general advice to applicants and councils for DAs where the proposal has frontage to a classified road:

This section is for the consent authority to consider. It is aimed at:

- not compromising the safety, ongoing operation and function (efficiency) of the classified road network
- preventing or reducing the potential impact of traffic noise and vehicle emission on development adjacent to classified roads through development access being via local roads rather than classified roads when safe and practicable to do so.



## Address roads infrastructure in the application

### How to apply?

#### What must be lodged with a DA?

For approval under sections 87 and 138 of the Roads Act when lodging a DA, if it is known that an approval under the Roads Act will subsequently be required, the applicant must also provide the standard information shown below (where relevant). In addition, if council refers the application to Transport for NSW – Roads for concurrence and advice, the applicant will need to provide the following information when lodging a DA:

- design report.
- completed design drawings to Transport for NSW – Roads’ standards
- geotechnical report and pavement design



- design of traffic control signals
- traffic modelling
- swept path plans demonstrating vehicles entering and exiting the site in a forward direction
- concurrence under Transport and Infrastructure SEPP, Chapter 2 (Infrastructure) (where obtained).

If there is no development on a Crown road but the development impacts on a Crown road in some other way (such as generating additional traffic), notification to the department is required. The department would then work with the relevant council to transfer the Crown road if appropriate.

The applicant should contact the roads authority to discuss the submission requirements to ensure all the required information has been included.

### Guides

The [Guide to Traffic Generating Development \(PDF 1,946 KB\)](#) is a helpful tool for understanding the kinds of issues which will be assessed relating to traffic generation if the development triggers Transport and Infrastructure SEPP, Chapter 2 (Infrastructure), section 2.122.

The [Transport Corridor Outdoor Advertising and Signage Guidelines \(PDF 1,420 KB\)](#) outlines best practice for the planning and design of outdoor advertisements in transport corridors. The guide specifically complements the provisions of the Industry and Employment SEPP, Chapter 3 (Advertising and signage) including the referrals mentioned below.

### Specific requirements

The applicant should contact the relevant referral authority (usually Transport for NSW – Roads or council) for specific information requirements for other approvals, concurrences and/or referrals triggered by an Act, LEP or SEPP concurrence/referral provision.



### Undergo the assessment

When deciding whether to give a concurrence or approval to an applicant, Transport for NSW – Roads must consider:

- 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
- any submissions received from the public during community consultation
- potential impacts on the road, transport, pedestrian and cyclist networks
- road network efficiency, sustainable transport and road safety impacts
- possible solutions to reduce these impacts.



## Get an outcome

### Integrated development

For applications under section 138 of the Roads Act where Transport for NSW – Roads is the approval body, once it has received your application it may decide to issue or refuse to issue GTAs. If GTAs are issued, you can apply to Transport for NSW – Roads under the Roads Act for approval. If Transport for NSW – Roads 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. Council may still refuse to grant development consent, even if GTAs are issued.

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

### Concurrences

Once Transport for NSW – Roads 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 for Transport for NSW – Roads to respond to the request for concurrence.

### 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.

### Reference documents

- [Private development and other third party work project planning tool](#)
- [Schedule of Classified Roads and Unclassified Regional Roads \(PDF 669 KB\)](#)
- [Traffic and Transport Policies and Guidelines](#)
- [CADD Manual](#) – this manual contains standard drawings that can be 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
- [Design reference documents](#) have been developed by RMS to set minimum design standards and provide guidance to designers of RMS funded infrastructure including roadworks and bridgeworks. These reference documents may be useful for applicants preparing their application.
- [Guide to Traffic Generating Development \(PDF 1,946 KB\)](#)



## Development impacting air infrastructure

Referral authorities	Air Service Australia, Sydney Airports Corporation
Legislation	<p><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), 4.22(3)(a) and 4.22(3)(b)</p> <p><i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i> (Eastern Harbour City SEPP), Chapter 6 (Cooks Cove), section 6.20</p> <p><i>Bega Valley Local Environmental Plan 2002</i> (Bega Valley LEP 2002) clause 86</p> <p><i>Deniliquin Local Environmental Plan 1997</i> (Deniliquin LEP 1997) clause 32(2)</p> <p><i>Queanbeyan Local Environmental Plan 1998</i> (Queanbeyan LEP 1998) clause 69(2)</p> <p><i>Standard Instrument – Principal Local Environmental Plan</i> (Standard Instrument LEP) – model clause 7.4</p>
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.
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:

- 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 4.22(3)(a) and 4.22(3)(b) for development on land shown on the Obstacle Limitation Surface Map that is a controlled activity within the meaning of the *Airports Act 1996*

- Eastern Harbour City SEPP, Chapter 6 (Cooks Cove), section 6.20 for development near protected airspace
- Bega Valley LEP 2002 clause 86 for development in flight paths
- Deniliquin LEP 1997 clause 32(2) for development near aerodromes
- Queanbeyan LEP 1998 clause 69(2) for obstacle height limitation and ANEF noise contours
- Standard Instrument LEP model clause 7.4 for development impacting airspace operations.



## 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	<p>Queanbeyan Local Environmental Plan 1998 (Queanbeyan LEP 1998) clause 70 (see also air infrastructure section re Queanbeyan LEP 1998 clause 69(2))</p> <p>Standard Instrument – Principal Local Environmental Plan (Standard Instrument LEP) clause 5.15</p>
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:

- Queanbeyan LEP 1998 clause 70 for development within 2 km of Bonshaw radio station
- Standard Instrument LEP clause 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.

## 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
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 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 concurrence 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 education infrastructure requirements.

### Reference documents

The [Child Care Planning Guideline \(PDF 3.5 MB\)](#) provides a consistent statewide 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.



## Development impacting observatory infrastructure

Referral authority	Siding Springs Observatory, Planning Secretary
Legislation	<i>Standard Instrument – Principal Local Environmental Plan</i> (Standard Instrument LEP) – standard LEP clause 5.14
Summary	Referral and concurrence requirements exist for proposed development near the Siding Springs observatory. These help protect observatory 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 astronomy infrastructure and if a concurrence or referral request is needed

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

This includes Standard Instrument LEP clause 5.14 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 \(PDF 5.1 MB\)](#).



### Address astronomy 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 infrastructure matters will be processed in accordance with the relevant LEP or SEPP provision.



## Get an outcome

### Concurrences and referrals

If concurrence is not provided by the Planning Secretary, consent cannot be granted to the DA. The DA could be withdrawn and modified to meet the relevant astronomy requirements.

Feedback may be provided by the Siding Springs Observatory 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

- [Dark Sky Planning Guideline \(PDF 5.1 MB\)](#)



## 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) section 7(5)(c) and 7(6)(b) of Appendix 18 <i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 4 (Western Sydney Aerotropolis), section 4.31 and 4.32(2) <i>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</i> (SEPP 65) clause 28 and 29(2)(a)
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 section 7(5)(c) and 7(6)(b) of Appendix 18 Sirius site, for review of the design of the proposed development by a design review panel
- Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis):
  - section 4.31 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
- SEPP 65 clause 28 and 29(2)(a) for development to which this SEPP applies other than state significant development.



## 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 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
Legislation	<p><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), 3.22(3) and section 5.1A and 6.2 of Appendix 7 and 8</p> <p><i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 4 (Western Sydney Aerotropolis), section 4.48(1)</p> <p><i>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</i> (Western Parkland City SEPP), Chapter 6 (St Marys), section 6.15(1)(c) and 6.15(2)</p> <p><i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i> (Eastern Harbour City SEPP), Chapter 6 (Cooks Cove), section 6.13(1) and 6.13(2)</p> <p><i>Warringah Local Environmental Plan 2000</i> (Warringah LEP 2000) Appendices for various localities</p> <p><i>Standard Instrument – Principal Local Environmental Plan</i> (Standard Instrument LEP) – standard LEP clause 4.6 and model clause 6.1</p>
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 EPIs.



## 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:

- Western Parkland City SEPP:
  - Chapter 3 (Sydney region growth centres), section 3.19(1)(b) for development prior to land acquisition
  - Chapter 3 (Sydney region growth centres), section 3.22(2) and 3.22(3) for development on land within a growth centres precinct that has been released
  - Appendix 7 and 8, section 5.1A for development in Zone 1 Urban Development
  - Appendix 7 and 8, section 6.2 for subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area



- Western Parkland City SEPP, Chapter 4 (Western Sydney Aerotropolis), section 4.48(1) for development prior to precinct plans, for commercial or industrial purposes, or for residential purposes that results in an increase in the number of dwellings on the land
- Western Parkland City SEPP, Chapter 6 (St Marys), section 6.15(1)(c) and 6.15(2) for adopting a draft precinct plan with amendments not agreed to by the proponent or refusing to adopt a draft precinct plan which has been submitted by or on behalf of the owner of land within the precinct
- Eastern Harbour City SEPP, Chapter 6 (Cooks Cove), section 6.13(1) and 6.13(2) for the preparation of a draft master plan
- Warringah LEP 2000 Appendices for variations to housing density controls
- Standard Instrument LEP:
  - clause 4.6 for exceptions to development standards
  - model clause 6.1 for arrangements for designated State public infrastructure.



## Address land-use planning matters in the application

Specific information requirements for inclusion in a DA are:

- Standard Instrument LEP:
  - section 4.6: Varying development standards: A Guide – assists applicants to vary development standards where appropriate as well as councils in determining applications.

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 concurrence is not provided the referral authority, 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.

### Reference documents

- [Varying development standards: A Guide\(PDF 172 KB\) \(2011\)](#)

## Development at ports

Referral authority	Port operator (NSW Ports)
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(4)(a)
Summary	Referral requirements exist for certain proposed development at Port Botany. These help protect current and future port infrastructure and operations.
DA requirements	DAs may trigger a referral requirement in relation to port infrastructure under EPIs.



### Determine whether the project impacts port infrastructure

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(4)(a) for notifying the port operator of certain development applications at Port Botany. The port operator at Port Botany is NSW Ports.



### 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.

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.



# 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)
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 487 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 the Environment, Energy and Science group within Department of Planning, Industry and Environment 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
<p>Proposals that are reliant on complex performance-based solutions* that require advice on the applicable assessment parameters and relevant acceptance criteria</p> <p>* That deviate from the acceptable solutions of <a href="#">Planning for Bush Fire Protection</a></p>	NSW RFS
<p>Development that may impact an item listed on the <a href="#">State Heritage Register</a></p>	Heritage Council of NSW
<p>Development that may directly or indirectly harm an Aboriginal object or declared Aboriginal place</p> <p>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.</p>	Heritage NSW
<p>Development that requires an environmental protection licence – examples include marinas, livestock processing, quarries, mineral processing, storing waste and composting</p>	EPA
<p>Development that involves mineral extraction or petroleum production</p> <p>We encourage applicants and council to contact MEG at an early stage for all mining and extractive applications due to the variety of potential elements of a proposal that may be significant. For example, some of these elements may be threshold issues determining if a mining lease is required. Where a mining lease is required, contact will facilitate drawing out matters that may require attention during the consent pathway.</p>	Department of Regional NSW – MEG
<ul style="list-style-type: none"> <li>• Any development:             <ul style="list-style-type: none"> <li>– on classified a road except single dwellings and duplexes</li> <li>– that impacts on existing traffic control signals or requires installation of a new traffic control signals</li> <li>– that proposes modification to an existing speed zone</li> </ul> </li> </ul>	Transport for NSW – Roads

<ul style="list-style-type: none"> <li>– that includes advertisements that don't comply with the road safety requirements</li> </ul>	
<ul style="list-style-type: none"> <li>• Proposals for new or expanded aquaculture enterprises</li> <li>• Construction of dams, weirs or waterway crossings that will or could block or obstruct the free passage of fish along a waterway</li> <li>• Construction of a fishway for fish passage through a waterway obstruction</li> <li>• Developments that will impact (directly or indirectly) seagrass beds, saltmarsh, mangrove and rocky reef communities</li> <li>• Developments that involve dredging and reclamation of waterways</li> <li>• Developments that may trigger offset requirements due to unavoidable destruction or alteration of aquatic habitat</li> <li>• Developments with a risk of causing a deterioration in water quality either during the construction or operational phases</li> <li>• Developments within, adjacent to or affecting a marine park or aquatic reserve</li> <li>• Developments within or adjacent to waterways that are known habitat for threatened fish, aquatic invertebrates or marine vegetation</li> </ul>	<p>Department of Regional NSW – DPI – Fisheries</p>
<p>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</p>	<p>Sydney Trains, Sydney Metro and Transport for NSW</p>
<p>Development that requires a water access licence or associated approval for:</p> <ul style="list-style-type: none"> <li>• rural landholders</li> <li>• rural industries</li> <li>• developments that are not state significant development or state significant infrastructure</li> </ul> <p>For WaterNSW customers (defined on page 31 of the <a href="#">WaterNSW Operating Licence (PDF 1,638KB)</a>):</p> <ul style="list-style-type: none"> <li>• if the development requires an approval for water use, water supply, drainage and flood works under the <i>Water Management Act 2000</i></li> </ul>	<p>WaterNSW</p>
<p>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></p> <p>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> as well</p>	<p>NRAR</p>

<p>as development that requires a water access licence or associated approval for:</p> <ul style="list-style-type: none"> <li>• government agencies, including state and federal government agencies and councils</li> <li>• state-owned corporations</li> <li>• major water utilities, water supply authorities and licensed network operators under the <i>Water Industry Competition Act 2006</i></li> <li>• entities who are carrying out activities under the Mining Act 1992, the Offshore Minerals Act 1999, the Petroleum (Onshore) Act 1991 or the Petroleum (Offshore) Act 1982</li> <li>• irrigation corporations</li> <li>• public schools and public hospitals</li> <li>• entities who hold or are eligible to hold an Aboriginal commercial, Aboriginal community development, Aboriginal cultural or Aboriginal environmental subcategory of access licence</li> <li>• entities undertaking major developments (state significant developments and state significant infrastructure)</li> </ul> <p>Note that NRAR determines the need for pre-lodgement meetings based on risk and complexity of the project.</p>	
<p>Development adjacent to lands reserved or acquired under the NPW Act</p>	<p>National Parks and Wildlife Service</p>
<p>Development on Crown land including Crown waterways</p>	<p>Crown Lands (within the Department of Planning, Industry and Environment)</p>

# Glossary

Term	Definition
<b>Concurrence</b>	The agreement of a concurrence authority to a development that must be obtained before the consent authority (typically council) can grant development consent
<b>Consent authority</b>	The authority that determines whether to grant development consent to a DA – typically council for local development
<b>Referral</b>	Typically requests for consultation with a referral authority about a DA, as required by an EPI
<b>Development application (DA)</b>	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.
<b>Development consent</b>	Consent under the EP&A Act to carry out development
<b>Environmental planning instrument (EPI)</b>	A local environmental plan (LEP) or state environmental planning policy (SEPP)
<b>General terms of approval (GTAs)</b>	The general terms of any approval proposed to be granted by a referral authority for a development that is integrated development
<b>Integrated development</b>	Development that, in order for it to be carried out, requires development consent and one or more approvals under another Act
<b>Referral authority</b>	Entities (typically NSW Government agencies or private-public utilities) with authority to respond to requests for: <ul style="list-style-type: none"> <li>• integrated development approval</li> <li>• concurrence</li> <li>• referrals for consultation or reason other than those listed above.</li> </ul>

# Acronyms

Term	Definition
AHIMS	Aboriginal Heritage Information Management System
ASA	Asset Standards Authority (under Transport for NSW)
BAL-FZ	Bushfire Attack Level Flame Zone
CAA	Controlled activity approval
DA	Development application
DPI	Department of Primary Industries (agency under Department of Regional NSW)
EIS	Environmental impact statement
EPA	Environmental Protection Authority
EPI	Environmental planning instrument
GTA	General terms of approval
MIC	Major infrastructure corridor
MEG	Mining, Exploration and Geoscience (group under Department of Regional NSW)
MUSIC	Model for urban stormwater improvement conceptualisation
NorBE	Neutral or beneficial effect
NRAR	Natural Resources Access Regulator
OEH	The former Office of Environment and Heritage
NSW RFS	New South Wales 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 electrical 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 stratums, 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 document ‘Development Near Rail Corridors and Busy Roads – Interim Guideline’

### 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 stratum, 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 document [Development Near Rail Corridors and Busy Roads – Interim Guideline \(PDF 4.4 MB\)](#)

### 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 Guidelines Revision 1 (Transport for NSW, 2017)
  - Sydney Metro At Grade and Elevated Sections Corridor Protection Guidelines Revision 1 (Transport for NSW, 2018)
- 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, Industry and Environment’s document titled ‘Development near rail corridors and busy roads – Interim Guideline’ 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 stratum, 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 document [Development Near Rail Corridors and Busy Roads – Interim Guideline \(PDF 4.4 MB\)](#)

In relation to either a **light rail corridor** or **Sydney Trains corridor**, 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 the **Sydney Metro corridor**, report on how the development complies with (see the [Sydney Metro website](#) for these documents):

- Sydney Metro Underground Corridor Protection Guidelines Revision 1 (Transport for NSW, 2017)
- Sydney Metro At Grade and Elevated Sections Corridor Protection Guidelines Revision 1 (Transport for NSW, 2018)

**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, Industry and Environment’s document titled ‘Development near rail corridors and busy roads – Interim Guideline’ 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 section 6.10 of Appendix 7 (Alex Avenue and Riverstone Precinct Plan 2010), section 6.10 of Appendix 9 (Schofields Precinct Plan 2012) and section 6.10 of Appendix 11 (Blacktown Growth Centres Precinct Plan 2013)

### *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 stratums, 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 Guidelines Revision 1 (Transport for NSW, 2017)
- Sydney Metro At Grade and Elevated Sections Corridor Protection Guidelines Revision 1 (Transport for NSW, 2018)

#### **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, Industry and Environment's document titled 'Development near rail corridors and busy roads – Interim Guideline' 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, stratum 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 [Development Near Rail Corridors and Busy Roads – Interim Guideline \(PDF 4.4 MB\)](#)
- 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 Guidelines and Sydney Metro At Grade and Elevated Sections Corridor Protection Guidelines – available from the [Sydney Metro website](#)



# Appendix B – Information requirements for environment protection – integrated development environmental protection licences

Issue	Submission criteria
Air	<p>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.</p> <p>The air quality impact assessment should:</p> <ul style="list-style-type: none"> <li>• demonstrated 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</li> <li>• provide a cumulative local and regional air quality impact assessment</li> <li>• give an assessment of odour impacts.</li> </ul>
Noise	<p>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.</p>
Waste	<p>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.</p>
Water	<p><b>Performance outcome</b></p> <p>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.</p>

	<p><b>Assessment criteria</b></p> <p>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.</p> <p>Applicants must:</p> <ul style="list-style-type: none"> <li>• 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)</li> <li>• demonstrate compliance with the <u>ambient 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)</li> <li>• 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: <ul style="list-style-type: none"> <li>– protect the NSW water quality objectives for receiving waters where they are currently being achieved</li> <li>– contribute towards achievement of the NSW water quality objectives over time where they are not currently being achieved</li> <li>– identify any proposed monitoring of water quality.</li> </ul> </li> </ul>
<p><b>Others – where relevant</b></p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Demonstrate how the requirements of the <i>Radiation Control Act 1990</i> and the <i>Radiation Control Regulation 2013</i> will be met.</li> </ul>

# Appendix C – Submission requirements for aquatic and marine matters by development type

Activity and approval	Submission requirements
<p><b>Approval to conduct dredging or reclamation under Part 7 of the FM Act</b></p>	<p>In addition to the standard submission requirements in the ‘Aquatic and marine matters’ section, the following questions should be answered:</p> <ul style="list-style-type: none"> <li>• How long will the dredging or reclamation works/activities occur? (indicate if ongoing)</li> <li>• What period of the year will the dredging or reclamation works/activities occur?</li> <li>• What are the dimensions of the area(s) to be dredged/reclaimed?</li> <li>• What is the total volume of material to be dredged or deposited?</li> <li>• Where and how will the dredged material be disposed of?</li> <li>• To what depth below the existing bed will material be removed? (give range if variable)</li> <li>• What is the nature of the material to be dredged or included in reclamation?</li> <li>• Is the material to be dredged or used in reclamation likely to be contaminated by heavy metals or chemicals? (give details)</li> <li>• Does the material to be dredged or used in reclamation have acid forming characteristics? (give details)</li> <li>• How is the area of works/activities to be marked or delineated?</li> <li>• What environmental safeguards will be used during and after dredging or reclamation?</li> </ul>
<p><b>Approval to block/obstruct fish passage under Part 7 of the FM Act</b></p>	<p>In addition to the standard submission requirements in the ‘Aquatic and marine matters’ section, the following questions should be answered:</p> <ul style="list-style-type: none"> <li>• How often does the waterbody contain water? (if intermittent, estimate average annual frequency)</li> <li>• Are there permanent waterholes upstream or downstream? (give details)</li> <li>• Are there any natural or man-made obstructions to fish passage nearby? (give details) If so, how often are these obstructions ‘drowned out’?</li> <li>• Are fish migrations known to occur in the area? (give details of fish species and the time(s) of migrations)</li> <li>• For how long do you propose to obstruct or block fish passage?</li> </ul>

	<ul style="list-style-type: none"> <li>• By how much will the proposed obstruction or blockage to fish passage reduce the cross-sectional area of the water course?</li> <li>• 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?</li> <li>• What ‘headloss’ or ‘afflux’ is expected across the obstruction or blockage to fish passage under a range of flow conditions?</li> <li>• What measures are proposed for maintaining fish passage during the proposed works/activities (such as fishways, bypass channels, trapping and manual relocation)?</li> <li>• If works will be removed after a time, how will fish passage be restored?</li> <li>• Will restoration of fish passage restore similar conditions to the waterbody as existed before the blocking of fish passage?</li> <li>• What environmental compensation measures will there be for unavoidable and permanent blockage of fish passage (such as other improvement projects for the aquatic environment)?</li> <li>• Why is it necessary to obstruct or block fish passage?</li> </ul>
<p><b>Approval to harm Marine Vegetation under Part 7 of the FM Act</b></p>	<p>In addition to the standard submission requirements in the ‘Aquatic and marine matters’ section, specify the:</p> <ul style="list-style-type: none"> <li>• type of marine vegetation (saltmarsh, mangroves, seagrasses, marine macroalgae) to be harmed – include species names</li> <li>• area or number of each type of marine vegetation to be harmed.</li> </ul>
<p><b>Approval for works in a marine park or aquatic reserve</b></p>	<p>In addition to the standard submission requirements in the ‘Aquatic and marine matters’ section, the following questions should be answered:</p> <ul style="list-style-type: none"> <li>• What is the name of the marine park or aquatic reserve where the works are proposed?</li> <li>• Is the proposal a form of development that is prohibited in that zone or by the management rules?</li> <li>• What animals, plants and habitat are present at the location? (provide species names)</li> <li>• How will or might they be harmed or interfered with by the proposed works?</li> <li>• How long will the works take?</li> <li>• When will the works be undertaken?</li> <li>• What materials will be used in the works?</li> <li>• Will any paints, preservatives or antifouling treatments be used?</li> <li>• What equipment and machinery will be used in undertaking the works?</li> <li>• If installing or replacing pylons, what methods will be used?</li> <li>• If beach-scraping or otherwise operating vehicles/machinery below the mean high water mark, how is the area of works/activities to be marked?</li> <li>• Will vessels or barges be used to access the area or carry equipment, materials, etc.?</li> </ul>

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|--|---|
|  | <ul style="list-style-type: none"><li>• What environmental safeguards will be used during and after the proposed works?</li></ul> |
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# Appendix D – Information requirements for mining leases

## Standard information to be submitted with the DA

- The mineral or minerals, or the mining purpose and the mining methods to be used
- Details of any existing exploration licences or mining leases held by the applicant
- The period for which lease is sought – mining leases may be granted for a maximum of 21 years
- A description of the proposed mining area
- An assessment of the mineral bearing capacity of land in that area and of the extent of any mineral deposits in that land. The EA/EIS is to include a resource/reserve statement appropriate to the type of deposit and/or nature of proposed development. More specific guidance will be provided at the conceptual project development plan stage tailored to the specific mineral(s), extraction method and locality
- A description of existing environment, identification of impacts and constraints
- Particulars of the program of work proposed to be carried out by the applicant in the proposed mining area
- If the application is for a mining (mineral owner) lease, evidence that the minerals to which the application relates are owned by the applicant
- Proof of extinguishment of native title. A mining lease cannot be granted over any potential native title land without first going through the 'Right to Negotiate' process under the *Commonwealth Native Title Act 1993*
- 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

## 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
<b>Module 1</b>	
<p>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, <b>in sewerred areas.</b></p>	<p>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</p> <p>Conceptual erosion and sediment controls to be used during construction</p>
<b>Module 2</b>	
<p>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, <b>in unsewerred areas.</b></p>	<p>Stormwater quality modelling where required using a modelling program such as MUSIC or S3QM, depending on the size of the impervious area</p> <p>Conceptual erosion and sediment controls to be used during construction</p> <p>On-site wastewater management report</p>
<b>Module 3</b>	
<p>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) <b>in sewerred areas.</b></p>	<p>Stormwater quality modelling using a modelling program such as MUSIC or S3QM, depending on the size of the impervious area</p> <p>Conceptual erosion and sediment control plan or a more detailed conceptual soil and water management plan</p>
<b>Module 4</b>	
<p>Moderately complex developments that are a high risk to water quality – typically includes multi-dwelling housing and residential subdivisions <b>in unsewerred areas.</b></p>	<p>Stormwater quality modelling using a modelling program such as MUSIC or S3QM, depending on the size of the impervious area</p> <p>Conceptual erosion and sediment control plan, primary erosion and sediment control plan or a</p>

	<p>more detailed conceptual soil and water management plan</p> <p>On-site wastewater management report</p>
<b>Module 5</b>	
<p>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.</p>	<p>Stormwater quality modelling using a modelling program such as MUSIC or S3QM, depending on the size of the impervious area</p> <p>Conceptual soil and water management plan</p> <p>On-site wastewater management report (if relevant)</p> <p>Development specific pre- and post-development pollutant assessment requirements</p>