

Appendix A1

Legal and other requirements

Legal register

Legislation	Activity / aspect	Requirement	Reference	Part 5.1/3A* applicability
General				
<i>Environmental Planning and Assessment Act 1979</i>	All	Comply with the Minister for Planning's approval for the project. Obtain the Minister's approval for any project modifications that are not consistent with the planning approval.	S75W	Yes
Water				
<i>Water Management Act 2000</i>	Water access and use.	Do not take water from a water source (a lake, river or estuary or place where water occurs naturally on or below the surface of the ground, and includes coastal waters) without an access licence.	S56 S60A S89	No
With the exception of controlled activity approvals, the <i>Water Management Act 2000</i> (WM Act) only applies in relation to those water sources covered by operational water sharing plans – these areas cover most of the State's major regulated river systems.				
<i>Water Management Act 2000</i>	Water management works	Do not construct/use a water supply work, drainage work or flood work without the appropriate approval.	S90 S91B S91C S91D	No

* Note that pursuant to Schedule 6A of the *Environmental Planning and Assessment Act 1979*, the project is a transitional Part 3A project. The provisions of Part 3A therefore continue to apply.

Legislation	Activity / aspect	Requirement	Reference	Part 5.1/3A* applicability
<i>Water Management Act 2000</i>	Waterfront land.	Do not deposit material, excavate, or remove material within a watercourse bank, shore or bed, or on land 40 metres inland, or interfere with the likely flow of water to such a body, without a controlled activity approval.	S91	No Public authorities are exempt from the need to obtain a controlled activity approval. Water Management (General) Regulation 2004 (cl.39A)
<i>Water Act 1912</i> Note that this Act is being progressively repealed by the <i>Water Management Act 2000</i> (WM Act). With the exception of controlled activity approvals, the WM Act only applies in relation to those water sources covered by operational water sharing plans – these areas cover most of the State's major regulated river systems.	Surface water	Obtain a licence or permit for construction or use of 'work' for purposes including the taking and using of water	S21B	Yes
	Groundwater	Obtain a licence where interference with groundwater is likely to occur.	S112 S121A	S112 does not apply to the Crown. RMS is therefore not required to obtain a licence under this provision.
	Floodplains	Obtain an approval for controlled works. These include works which occur on a designated floodplain, which can prevent land from being flooded or which can affect water flow to or from a river or lake.	S180	An exemption in relation to roads potentially applies – see clause 4 of the Water (Part 8-General) Regulation 1995.
<i>Protection of the Environment Operations Act 1997</i>	Water pollution	Do not cause water pollution (other than to a sewer), except in accordance with the conditions of any EPA licence.	S120 S122	Yes
Noise				
<i>Protection of the Environment Operations Act 1997</i>	Plant maintenance and operation	Do not operate plant if it emits noise caused by poor maintenance or operation.	S139	Yes

Legislation	Activity / aspect	Requirement	Reference	Part 5.1/3A* applicability
<i>Protection of the Environment Operations Act 1997</i>	Materials management	Do not cause noise by failing to properly and efficiently deal with materials.	S140	Yes
<i>Protection of the Environment Operations (Noise Control) Regulation 2008</i>	Marine vessels – offensive noise and noise control equipment	As owner or captain, do not allow a vessel to be used on navigable waters so as to emit offensive noise. Do not use a vessel on navigable waters if its noise control equipment is defective.	cl. 30-31 cl. 32	NA
Contaminated material				
<i>Protection of the Environment Operations Act 1997</i>	Land pollution	Do not cause or permit land pollution other than under authority of a licence or regulation. (However it is not a land pollution offence to place virgin excavated natural material or lawful pesticides and fertilisers on land, or by placing matter on land that has been notified to the EPA as an unlicensed landfill and which is operated in accordance with the regulations.)	S142A – S142E	Yes
<i>Contaminated Land Management Act 1997</i>	Reporting contamination	Notify the EPA if <ul style="list-style-type: none"> Contaminants exceed thresholds contained in guidelines or the regulations where contamination has entered or will foreseeably enter neighbouring land, the atmosphere, groundwater or surface water. Contaminants in soil are equal to or exceed guideline levels with respect to the current or approved use of the land. Contamination meets other criteria that may be prescribed by the regulations. 	S60	Yes
Biodiversity				

Legislation	Activity / aspect	Requirement	Reference	Part 5.1/3A* applicability
<i>Noxious Weeds Act 1993</i>	Weed control	As a public authority occupier of land, control noxious weeds on the land as required under the control category or categories specified in relation to the weeds concerned. Notify relevant control authority within 3 days of becoming aware that a notifiable weed (W1 weed) is on land. (or ought reasonably to have known). Must not scatter or cause to scatter notifiable weed material.	S13 S16 S30	Yes
<i>National Parks and Wildlife Act 1974</i>	Native fauna	Do not harm any animal that is of a threatened species population or ecological community, or its habitat except in accordance with a planning approval.	Part 8A	Yes
		Do not harm critical habitat except as in accordance with a planning approval.	S98	Yes
		Do not harm native fauna (other than listed unprotected fauna) except in accordance with a planning approval or licence.	S120, S127, 132C	Yes
<i>Native Vegetation Act 2003</i>	Flora and native vegetation conservation	Only clear native vegetation in accordance with a planning approval or property vegetation plan.	S12	Yes
<i>National Parks and Wildlife Act 1974</i>	Flora and native vegetation conservation	Do not pick protected native plants without a licence.	S117 S131	Yes
<i>Fisheries Management Act 1994</i>	Dredging or reclamation	Provide the Minister for Primary Industries 28 days notice of planned dredging or reclamation work.	S199	Yes
<i>Fisheries Management Act 1994</i>	Mangroves, seagrasses and	Do not harm any mangroves, seagrasses or other marine vegetation on public water land protected by	S205	No

Legislation	Activity / aspect	Requirement	Reference	Part 5.1/3A* applicability
	marine vegetation	the regulations without a permit.		
<i>Fisheries Management Act 1994</i>	Fish passage	Do not block fish passage without a permit	S219	No
<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>	Flora and fauna conservation	Do not kill, injure or take a member of a listed threatened species without a permit.	Part 13	Yes
		Comply with the terms of any EPBC Act approval for the project.		NA
Waste				
<i>Protection of the Environment Operations Act 1997</i>	Littering	Do not litter in a public place or an open private place. Do not litter from a vehicle. Only deposit advertising material in receptacles provided for mail or newspapers or under the door of the premises. Do not deposit advertising material on or in vehicles.	Part 5.6A	Yes
<i>Protection of the Environment Operations Act 1997</i>	Waste and transportation	Do not undertake a scheduled waste activity unless in accordance with an environmental protection licence. A licence must be obtained when construction and demolition wastes are applied to land under certain circumstances. This includes the reincorporation of crushed road base material back into roads and the placing of excess fill material onto properties. A licence is not required if the material: <ul style="list-style-type: none"> • Is VENM. • Does not exceed 200 tonnes in the Sydney, Newcastle and Wollongong areas, or 20,000 tonnes outside these areas. • Is covered by a “general exemption”. 	Part 3.2 Schedule 1	Yes

Legislation	Activity / aspect	Requirement	Reference	Part 5.1/3A* applicability
		<p>Current exempted materials are ENM, recycled aggregates and raw mulch. These exemptions are conditional and require some chemical testing of materials before they are placed onto land.</p> <p>A licence must be obtained if more than 2,500 tonnes (or cubic metres) is stored on a stockpile site at any one time, or more than 30,000 tonnes of waste is received per year from off site.</p>		
		Only transport waste to a facility that can lawfully accept the waste.	S143	Yes
		Do not dispose of waste in a manner that harms or is likely to harm the environment.	S115	Yes
<i>Protection of the Environment Operations (Waste) Regulation 2005</i>	Waste and transportation	Comply with general requirements for the transport of waste. For example, any vehicle used by the person to transport waste must be kept in a clean condition and be maintained so as to prevent spillage of waste. For some wastes only licensed transporters can be used.	Regulation cl.49	Yes
		Comply with record keeping requirements in relation to the transport of certain types of waste.	Regulation Part 3	Yes
Heritage				
<i>Heritage Act 1977</i>	Heritage	Do not undertake an activity that will affect a place, building, work, relic, moveable object or precinct which is subject to an Interim Heritage Order or is listed on the State Heritage Register without approval from OEH (Heritage Division).	S56-57	No

Legislation	Activity / aspect	Requirement	Reference	Part 5.1/3A* applicability
		Do not disturb or excavate land with knowledge or reasonable cause to suspect that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed; or Do not disturb or excavate land on where a relic has been discovered or exposed.	S139	No
		Notify OEH (Heritage Division) on discovery of a relic	S146	Yes
<i>National Parks and Wildlife Act 1974</i>	Aboriginal places and objects	Do not harm or desecrate an Aboriginal object or Aboriginal place without consent.	S86 S90	No
		Notify the NPWS within reasonable time of becoming aware of the location or discovery of certain Aboriginal objects.	S89A	Yes
<i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)</i>	Protection of areas and objects	Report any discovery of Aboriginal remains to the Federal Minister for the Environment and Heritage.	S20	Yes
		Comply with the provisions of any declaration in relation to a significant Aboriginal area or object.	S22	Yes
General				
<i>Protection of the Environment Operations Act 1997</i>	Harming the environment	Do not risk harming the environment by wilfully or negligently: <ul style="list-style-type: none"> disposing of waste unlawfully. causing any substance to leak, spill or otherwise escape (whether or not from a container); or emitting an ozone depleting substance 	S115 S116 S117	Yes
<i>Protection of the Environment Operations</i>	Control equipment	Properly and efficiently maintain and operate any installed pollution control equipment (including	S167	Yes

Legislation	Activity / aspect	Requirement	Reference	Part 5.1/3A* applicability
<i>Act 1997</i>		monitoring devices).		
<i>Protection of the Environment Operations Act 1997</i>	Notification of pollution incidents	Notify the EPA immediately of pollution incidents where material harm to the environment is caused or threatened.	S148	Yes
<i>Protection of the Environment Operations Act 1997</i>	Site licensing	Do not carry out or allow an activity listed in Schedule 1, or carry out work to enable such an activity, unless the premises are licensed by the EPA. This applies to: <ul style="list-style-type: none"> road construction: meaning the construction, widening or re-routing of roads if it results in the existence of 4 or more traffic lanes (other than bicycle lanes or lanes used for entry or exit) for 1 kilometres of their length in the metropolitan area, or 5 kilometres in length in any other area, where the road is classified, or proposed to be classified, as a freeway or tollway under the <i>Roads Act 1993</i>. 	S47 S48	Yes
<i>Environmentally Hazardous Chemicals Act 1985</i>	Hazards and risks	Obtain a licence to undertake prescribed activities involving environmentally hazardous chemicals or declared chemical wastes.	S28	Yes
<i>Dangerous Goods (Road and Rail Transport) Act 2008</i>	Hazards and risks	Ensure that dangerous goods are transported in a safe manner.	S9	Yes
<i>Pesticides Act 1999</i>	Hazards and risks	Use pesticides in an environmentally sensitive manner. Do not use an unregistered pesticide without a permit.	S12 S13 S14 S15	Yes

Legislation	Activity / aspect	Requirement	Reference	Part 5.1/3A* applicability
		<p>Read the label or permit for the pesticide.</p> <p>Use registered pesticides in accordance with instructions on the label.</p> <p>Do not use any restricted pesticide unless authorised by a certificate of competency or a pesticide control order under the Act.</p> <p>Compliance with pesticide codes of practice is required.</p>	S17	
<i>National Greenhouse and Energy Reporting Act, 2007 and Regulations 2008</i>	Greenhouse gas emissions	Accounting and reporting of greenhouse gases produced and energy consumed during construction. Applicability dependent on thresholds.	-	Yes

Table 1: RMS G36 requirements¹

G36 reference	Requirement	Relevant section of CEMP or supporting documentation
3.1	CEMP for Contractor's Work, including Environmental Policy and Sub-Plans	This CEMP, Sections 1.2, 1.3, 3.4, Appendix A4, Sub-plans (Appendices B1 - B7)
3.2.2	Compliance tracking program	Section 8.3
3.2.3	Environmental objectives and targets	Section 3.6
3.3	Names, responsibilities and authority of site management personnel, including EM, with responsibility for implementing CEMP. Where applicable, the relationship between Environmental Representative and EM.	Section 4.1 CEMP Contacts (page ii)
3.4	Procedures to ensure subcontractor compliance	Section 4.2
3.5	Environmental induction and training plan	Chapter 5
3.6	Procedure for notifying the RMS Representative and all relevant Authorities in advance of any proposed extension to working hours	Section 6.3.1, Community Communication Strategy
3.7	Details of processes for external and internal communication in relation to environmental aspects of work	Chapter 6
3.7.2	Community Communication Strategy	Section 6.3.1
3.7.3	Complaints Management System	Section 6.3.2, Community Communication Strategy
3.8	Emergency planning and response procedures Pollution Incident Response Management Plan	Chapter 7, Appendix A3, Appendix A7
3.9	Procedure(s) to monitor and measure environmental management performance and to evaluate compliance	Sections 3.5, 3.6, 8.3, 8.4, Appendix A3, Appendix A8, Sub-Plans (Appendices B1 – B7)
3.9	Environmental monitoring and auditing program	Chapter 8, Sub-Plans (Appendices B1 – B7)
4.1	Soil and Water Quality Management Plan	Appendix B4 - CSWQMP

G36 reference	Requirement	Relevant section of CEMP or supporting documentation
4.2	Proposed sources of water to be used for construction activities	Appendix B4 - CSWQMP
4.3	Dewatering Work Method Statement	Section 1.3.2, Appendix B4 - CSWQMP
4.4	Work Method Statement for working in waterways	Section 1.3.2 Appendix B4 - CSWQMP
4.5	Contaminated Land Management Plan and Remediation Action Plan	Appendix B4 - CSWQMP
4.6	Work Method Statement for spill prevention and response	Section 1.3.2, Chapter 7, Appendix A3
4.6	Procedures for controlling and removing chemical, fuel and lubricant spillage on the Construction Site and adjoining areas	Chapter 7, Appendix A3
4.7	Air Quality Management Plan	Appendix B6 - CAQMP
4.9/4.10	Noise and Vibration Management Plan	Appendix B3 – CNVMP
4.11	Work Method Statement for clearing and grubbing	Section 1.3.2 Appendix B2 – CFFMP
4.11	Flora and Fauna Management Plan	Appendix B2 – CFFMP
4.12	Aboriginal Heritage Management Plan	Appendix B5 – CHMP
4.13	Non-Aboriginal Heritage Management Plan	Appendix B5 – CHMP
4.14	Waste and Energy Management Plan and Waste Management Register	Appendix B7 – CWEMP
4.16	Sensitive Areas Plans and Work Method Statement for working in or near environmentally sensitive areas.	Sections 1.3.2, 1.3.4, Appendix A6
4.17	Environmental incident reporting and investigation procedure	Chapter 7, Appendix A7
4.18.1	Traffic Management Plan	Appendix B1 - CTMP

¹ In accordance with Annexure G36/D – Planning Documents.