

CPCP Infrastructure Guidelines

This document answers frequently asked questions about the Cumberland Plain Conservation Plan (CPCP) Guidelines for Infrastructure Development (Infrastructure Guidelines).

Note about Part 10 approvals

The NSW Government is currently pursuing a Strategic Assessment under Part 10 of the EPBC Act over land to which the CPCP applies. Currently the Cumberland Plain Conservation Plan is a biodiversity certification under Part 8 of the NSW *Biodiversity Conservation Act 2016*.

The proposed 'essential infrastructure' pathway will not be available until the CPCP is approved under the EPBC Act.

Any projects that are likely to have a significant impact on matters of national environmental significance must be referred to the Commonwealth Government for assessment and approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) before any action is taken to commence the project.

For more information in relation to how the Commonwealth Government may treat the referral, assessment and approval of individual projects in light of the NSW Government's application for Strategic Assessment, please see '[Strategic Assessments: Policy Statement for EPBC Act referrals](#)' on the [Australian Government website](#).

What are the infrastructure guidelines?

The infrastructure guidelines are designed to support the CPCP's commitments and actions, particularly in relation to impacts from infrastructure development.

The intended audience for the infrastructure guidelines includes proponents and public authorities that deliver infrastructure development, including some development under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) or activities under Part 5, Division 5.1 of the EP&A Act.

What do the infrastructure guidelines do?

The infrastructure guidelines aim to:

- Provide a pathway for essential infrastructure on avoided land to access the CPCP's strategic assessment approval under Part 10 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act).
- Ensure that essential infrastructure development and Part 5, Division 5.1 activities are consistent with the conservation outcomes of the CPCP and the Strategic Conservation

Planning chapter of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (hereafter referred to as Chapter 13 of the B&C SEPP).

- Ensure that Part 5, Division 5.1 activities under the EP&A Act on avoided land, in a strategic conservation area, or on certified-urban capable land, address impacts to biodiversity before commencing any work. The guidelines provide objectives and controls which infrastructure providers must comply with.

Who needs to use the infrastructure guidelines?

- Applicants who are building infrastructure that is consistent with the definition of essential infrastructure on avoided land.
- Public authorities (such as councils or government agencies like Sydney Water) who are implementing Part 5, Division 5.1 activities – development without consent (under the EP&A Act) on avoided land, in a strategic conservation area, or on certified-urban capable land as identified in the CPCP.

Where do the infrastructure guidelines apply?

The guidelines apply to proponents and public authorities that deliver infrastructure development in areas identified as avoided land, certified-urban capable or strategic conservation area in Chapter 13 of the B&C SEPP.

Different sections of the guidelines may apply depending on the type of development, and the land category under the CPCP that the infrastructure is occurring on.

- Section 3.1 - Activities on avoided land
- Section 3.2 - Activities in the strategic conservation area
- Section 3.3 - Activities on certified-urban capable land

Part 2 of the guidelines applies to ‘essential infrastructure’ that is proposed on avoided land.

What is essential infrastructure?

Planning for infrastructure is in various stages for each of the CPCP nominated areas. The department recognises that additional, essential infrastructure development may be needed outside the certified-urban capable land to support growth.

Essential infrastructure, as defined by the CPCP includes development that is for a purpose identified in any of the following Divisions of the State Environmental Planning Policy (Transport and Infrastructure) 2021, Chapter 2, Part 2.3:

- Division 4: electricity generating works or solar energy systems
- Division 5: electricity transmission or distribution
- Division 12A: pipelines and pipeline corridors
- Division 17: roads and traffic

- Division 18: sewerage systems
- Division 20: stormwater management systems
- Division 21: telecommunications and other communication facilities
- Division 23: waste or resource management facilities
- Division 24: water supply systems

Essential Infrastructure can also be development for the purposes of a koala exclusion fence or fauna crossing as described in the Chapter 13 of the B&C SEPP.

Criteria for essential infrastructure development

Essential infrastructure development in avoided land must also be:

- essential infrastructure designed to service and support urban and industrial development within nominated areas of the Western Parkland City
- wholly or mostly within the nominated areas. The nominated areas include;
 - Greater Macarthur Growth Area
 - Greater Penrith to Eastern Creek Investigation Area
 - Western Sydney Aerotropolis
 - Wilton Growth Area.

It must also be:

- local development, under Part 4 (Division 4.3) of the *Environmental Planning and Assessment Act 1979*
- or
- Part 5 activities (Division 5.1) under the *Environmental Planning and Assessment Act 1979* (except for road activities).

It does not include:

- state-significant development
- state-significant infrastructure
- classified roads defined as 'Division 5.1 Road Activities' in the *Environmental Planning and Assessment Act 1979*.

What is a Part 5, Division 5.1 activity?

A 'Part 5, Division 5.1 Activity' is an activity listed under Division 5.1 of the *Environmental Planning and Assessment Act 1979*. Division 5.1 activities are undertaken by a public authority (or on behalf of a public authority) and do not require development consent. A public authority is required to fully consider environmental issues before they undertake or approve an activity.

These guidelines set out how to consider biodiversity issues within the CPCP area, consistent with the conservation outcomes of the CPCP and planning requirements in Chapter 13 of the B&C SEPP.

What parts of the infrastructure guidelines does essential infrastructure need to consider?

Essential infrastructure must address Part 2, Section 2.3 of the infrastructure guidelines in order to access the CPCP's strategic assessment approval under Part 10 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act).

For development which requires consent under Part 4 of the EP&A Act, that is essential infrastructure, it must also address Chapter 13 of the B&C SEPP in addition to Part 2 of the Guidelines.

For development without consent under Division 5.1 of the EP&A Act, that is essential infrastructure, it must also address Part 3, Section 3.1 of the infrastructure guidelines - Activities on avoided land.

How do the guidelines apply to Part 5, Division 5.1 activities on certified-urban capable land?

For development without consent under Part 5, Division 5.1 of the EP&A Act, on certified-urban capable land, it must address Part 3, Section 3.3 of the infrastructure guidelines - Activities on certified-urban capable land.

Whilst the land has received biodiversity certification, the commitments and actions of the CPCP and biodiversity approvals require specific mitigation of indirect and prescribed impacts from development, including infrastructure. The mitigation requirements in the guidelines address these impacts and are adapted from [Appendix E of the CPCP](#).

How do I use the guidelines if the activity is on more than one land category?

Development without consent may be located in more than one land category. Only the part of the development that is located on that category is required to be consider the relevant section of Part 3 of the infrastructure guidelines.

Development without consent must consider all sections relevant to the development. For example, if the development is located on both avoided and certified-urban capable land, it must consider section 3.1 for the part of the development in the avoided land and part 3.3 for the part of the development in the certified-urban capable land.

If a development without consent is located on avoided land with strategic conservation area over the top, which section takes precedence?

If a site is identified as avoided land with strategic conservation area overlaid, proponents and public authorities must address all objectives and biodiversity matters within Section 3.1, all objectives in Section 3.2.1 and only matter 6 within Section 3.2.2. Matters 1-5 of Section 3.2.2 are not required to be considered as they have already been considered when addressing Section 3.1.

What approvals are available for ‘essential infrastructure’ under Part 2 of the guidelines?

Essential infrastructure may access the CPCP’s strategic assessment approval under Part 10 of the EPBC Act if the essential infrastructure is consistent with Sections 2.2 and 2.3 of the guidelines.

Essential infrastructure consistent with the objectives and biodiversity matters set out in Section 2.3 do not require further assessment under the EPBC Act.

If the infrastructure is not consistent with the definition of essential infrastructure and Section 2.3 of the infrastructure guidelines, a separate assessment may be required under the EPBC Act.

The guidelines do not infer any other approval on avoided land or strategic conservation area. Separate approvals may be required under other legislation including the EPBC Act, *Biodiversity Conservation Act 2016*, *Fisheries Management Act 1994* and the *Water Management Act 2000*.

Do the Guidelines switch off the need to prepare a species impact statement or test of significance?

No, the Infrastructure Guidelines do not turn off these requirements. You may still require a biodiversity development assessment report or a species impact statement. However, for development on certified urban capable land, the biodiversity approvals are already in place.

What does the amendment to the Environmental Planning and Assessment Regulation 2021 include?

The amendment to the Regulation includes:

- a requirement for a development application for development consistent with the definition of essential infrastructure definition, other than State significant development, on avoided land identified by Chapter 13 of the B&C SEPP, to be accompanied by a statement setting out whether the activity is consistent with Section 2.3 of the infrastructure guidelines,
- a requirement for a determining authority to notify the Planning Secretary of a decision to carry out, or to grant an approval to carry out an activity with the definition of essential infrastructure definition on avoided land consistent, including a statement setting out whether the determining authority considers the activity is consistent with Section 2.3 of the infrastructure guidelines.

What does the statement of consistency require?

The statement of consistency requires proponents to demonstrate compliance with Section 2.3 of the infrastructure guidelines. A template for the statement required by the regulations can be found on the [NSW Planning Portal](#).

When did the infrastructure guidelines commence?

The infrastructure guidelines were published on the [NSW Planning Portal](#) with the commencement of Chapter 13 of the B&C SEPP.

Where can I find more information on the infrastructure guidelines?

More information is provided on the [department's website](#).
The infrastructure guidelines, consistency statement and other supporting documentation can be found on the [Planning Portal](#).