

Chapter 2. Planning framework and statutory requirements

2.1 Strategic planning context

2.1.1 The Metropolitan Rail Expansion Program

On 9 June 2005, the NSW Government announced that it would be investing in the Metropolitan Rail Expansion Program - the largest investment in Sydney's rail network since the 1930s.

The Metropolitan Rail Expansion Program comprises the following three projects (highlighted in Figure 2.1):

- » North West Rail Link - A new line to Rouse Hill from Cheltenham via Castle Hill with long term plans to extend to the Richmond Line (the project consists of the section between north of Epping Station and the stabling facility at Rouse Hill);
- » CBD Rail Link – A new tunnel between Central and the North Shore Line at St Leonards including new stations in the CBD and in the lower North Shore, and extra tracks between St Leonards and Chatswood; and
- » South West Rail Link – A new line to Leppington from Glenfield Station with long term plans for a western extension.

2.1.2 Sydney metropolitan strategy

In December 2005, the NSW Government released the Metropolitan Strategy *City of Cities – A Plan for Sydney's Future*. The Strategy forecasts that by 2013, there will be approximately 15,000 new dwellings in existing areas in Sydney's north west and by 2031, another 55,000 dwellings in existing areas (that is a total of 70,000 dwellings). This highlights the forecast growth in established urban areas and the need to provide reliable public transport in these areas.

As part of the Strategy, the Government plans to direct new greenfield development to nominated growth centres in north west and south west Sydney. A key requirement for these new greenfield areas would be to provision of access to local jobs, safe and reliable public transport, schools, shops and parks. The North West Growth Centre, located at the northern extent of the project (refer Figure 2.1), will accommodate approximately 66,000 new dwellings and over 300 hectares of land for business/employment uses, and a further 250 hectares for industrial uses. This is in addition to development that will occur elsewhere in North West Sydney, such as at Rouse Hill and in the Balmoral Road Release Area.

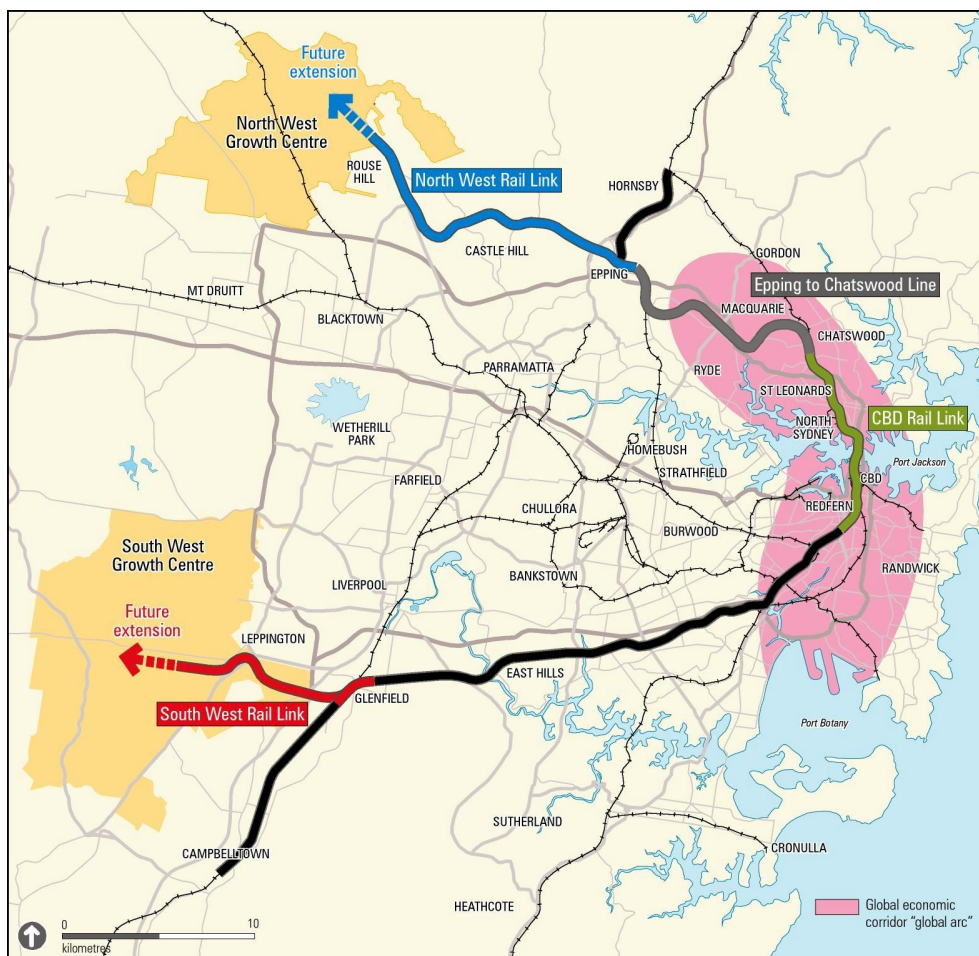


Figure 2.1 Metropolitan Rail Expansion Program

Actions relevant to the project include:

Centres and corridors strategy

- » Action B4.2 (support centres with transport infrastructure and services) and B4.2.1 (carry out transport planning and align investment in rail and bus corridors to support the concentration of employment in centres):
 - The Strategy notes ‘The recent announcement regarding the new rail lines connecting the North West and South West, and across the harbour through the global economic corridor, are all about strengthening the role of centres as locations for economic activity and connecting the labour force with jobs. Workers are more likely to use public transport if their home or job is located with easy reach of public transport.’
- » Action B5 (protect and strengthen the primary role of economic corridors):
 - The Strategy notes: ‘In this context the public transport and motorway connections for metropolitan wide travel are fundamental and the Government has three significant projects planned or underway to enhance these; the:

- NW-CBD-SW Rail Corridor;
- Rail Clearways; and
- Lane Cove Tunnel.’

Transport strategy

- » Action D1.1 (extend the rail and bus networks to connect centres) and Action D1.1.1 (plan and, as appropriate, construct the North West-CBD-South West Rail Link):
 - The Strategy notes: ‘The new North West-CBD-South West Rail Link, an \$8 billion rail extension announced in June 2005, would combine the largest public transport infrastructure projects ever seen in Australia to provide a continuous rail link between Rouse Hill and Castle Hill in the North West, the global economic corridor centre from Macquarie and Chatswood to North Sydney and the Sydney CBD, and Leppington and Campbelltown/Macarthur in the South West’.

Residential and commercial development in North West Sydney will lead to significant increases in population and employment, with associated increases in travel demand. Development in new release areas will dominate growth in this area. It will be accompanied by in-fill development and, particularly in areas of high land values, redevelopment of land to new more intensive uses. Whilst the project is mainly required to service established urban areas in North West Sydney, it would also service the transport needs of the future growth areas.

The project also supports other elements of the Strategy by:

- » Providing effective public transport to existing development areas in North West Sydney;
- » Providing a major public transport link to two regional centres (Rouse Hill and Castle Hill) and a specialised centre at Norwest Business Park;
- » Linking North West Sydney to major centres of employment within the ‘Global arc’ (the area of economic development from Macquarie Park to Botany Bay which contains nearly a quarter of all of Sydney’s jobs and half of the region’s professional jobs);
- » Supporting land releases;
- » Providing a link to services (such as health and education); and
- » Reducing car dependency and lowering vehicle kilometres travelled.

2.1.3 State Infrastructure Strategy NSW 2006-07 to 2015-16

The State Infrastructure Strategy includes reference to the Metropolitan Rail Expansion Program, noting that:

‘In recognition of anticipated population growth and increased demand for rail services, the Government is currently planning an expansion of the metropolitan rail network. The proposed \$8 billion Metropolitan Rail Expansion Program will expand the rail network into the growing areas of North West and South West Sydney and add additional capacity in the central business district.’

The Infrastructure Strategy provides for expenditure of \$129 million in 2006-07 towards the acquisition of rail corridors for North West and South West Sydney.

2.2 Approval requirements – Part 3A and the concept approval process

2.2.1 Permissibility of the project

The project is located in the Hornsby, Blacktown and Baulkham Hills local government areas. The provisions of the Hornsby Shire Local Environmental Plan (LEP) 1994, Blacktown LEP 1988 and Baulkham Hills LEP 2005 apply to land in those local government areas respectively.

A review of zonings was previously undertaken for the purpose of the Project Application and Preliminary Environmental Assessment (SKM, 2006) which was submitted to the Department of Planning on 24 May 2006. That report concluded that the project passes through various zones and would be permissible with consent in some zones and permissible without consent in others.

Further to the review undertaken by SKM, a review of the permissibility of the project under applicable LEPs has also been undertaken for the purpose of this environmental assessment (see Table 2.1). Based on this review, it is concluded that the project is not wholly prohibited in any land use zones within which it is proposed.

Table 2.1 Permissibility of the project under applicable LEPs

LEP	Zone	Permissibility	Notes
Hornsby Shire Local Environmental Plan 1994	Residential AS (Low Density - Sensitive Lands)	With development consent	Utility installations are permitted with development consent. The project meets the definition of utility installations (defined in clause 23) – see section 2.2.2 below. Therefore, the project would be permissible with consent in the Residential AS zone.
	Residential A (Low Density)	With development consent	Utility installations are permitted with development consent.
	Open space A (Public Recreation – Local)	With development consent	Utility installations are permitted with development consent.
	Open Space C (Private Recreation)	With development consent	Utility installations are permitted with development consent.
	Special Uses A (Community Purposes)	With development consent	Utility installations are permitted with development consent.
	Special Uses B (Transport Corridor)	Without development consent	Utility installations are permitted without development consent.

LEP	Zone	Permissibility	Notes
Baulkham Hills Local Environmental Plan 2005	Residential 2 (a1)	With development consent	Development allowed with consent includes 'Any other development not included in item 2 or 4'. Utility installations and public utility undertakings are not included in item 2 or 4. The project meets the definition of those terms (defined in clause 5 – see section 2.2.2 below). Therefore, the project would be permissible with consent in the Residential 2(a1) zone.
	Residential 2 (a2)	With development consent	As per Zone 2 (a1)
	Residential 2 (b)	With development consent	As per Zone 2 (a1)
	Residential 2 (d) (Protected)	Utility installations - with development consent Public utility undertakings - prohibited.	Utility installations are permitted with development consent. Public utility undertakings are prohibited.
	Business 3 (a) (Retail)	With development consent	As per Zone 2 (a1)
	Business 3 (b) (Commercial)	With development consent	As per Zone 2 (a1)
	Light Industry 4 (b)	With development consent	As per Zone 2 (a1)
	Special Uses 5 (a)	With development consent	For land set aside for use for railways (as indicated by the word 'Railways' on the map), the following is allowed with consent : open space; railways; renewable energy facilities; roads; utility installations
	Special Uses 5 (b)	With development consent	Utility installations and public utility undertakings are permitted with development consent.
	Open space 6 (a) Existing and Proposed Public Recreation	With development consent	Utility installations and public utility undertakings are permitted with development consent.
	Employment Area 10 (a) Business Park	With development consent	As per Zone 2(a1).
Blacktown LEP 1998	1(a) General Rural	With development consent	Development for any purpose other than a purpose specified in item 2 or 4 is permissible with consent. The project does not meet the definitions of any development specified under items 2 or 4. Therefore, the project would be permissible with consent under Blacktown LEP 1998.

The relevant clauses under the applicable LEPs are set out in the following section.

2.2.2 Relevant clauses of applicable LEPs

Hornsby Shire LEP 1994

In each of the relevant zones under Hornsby Shire LEP 1994, development for the purpose of 'utility installations' is either permissible with consent or without consent, as specified in Table 1.1 above (clause 7).

Clause 23 (Dictionary) provides the following definition of the term 'utility installation':

'utility installation' means a building, work or undertaking carried out under the authority of any Government authority (including the Council), or in pursuance of any Commonwealth or State Act, for the purpose of:

- (a) railways or roads, or
- (b) railway, road, water or air transport, or wharf or river undertakings, or
- (c) the provision of sewerage or drainage services, or
- (d) the supply of water, hydraulic power, electricity or gas, or
- (e) telecommunications facilities, or
- (f) collecting recyclable materials, where that undertaking does not occupy an area of more than 100m².

Having regard to this definition, the project is properly characterised as a 'utility installation' for the purpose of Hornsby Shire LEP 1994. Therefore, depending on the relevant zone, the project would be permissible with consent or without consent under Hornsby Shire LEP 1994.

Baulkham Hills LEP 2005

Clause 13 of Baulkham Hills LEP 2005 sets out the development control table which specifies whether development in a particular zone is permissible with or without consent, or prohibited. The application of the development controls to each of the zones on which the project would be located is set out above in Table 1.1.

Clause 5 contains the following definitions:

'public utility undertaking' means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any government department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings, or
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, county council, government department, corporation, firm or authority carrying on the undertaking.'

'utility installation' means a building or work used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.'

Clause 59 provides that consent must not be granted to the carrying out of development on land within 60 metres of the North West Rail Corridor unless the consent authority is satisfied that the

proposed development incorporates noise and vibration minimisation measures and would be designed and constructed so as accommodate the project. The North West Rail Corridor is defined to mean the alignment shown on the map marked 'Baulkham Hills Local Environmental Plan 2005 (Amendment No. 5).'

2.2.3 Application of Part 3A of the Environmental Planning and Assessment Act 1979

Part 3A of the EP&A Act establishes an assessment and approval regime for development that is declared to be a Part 3A project by either a State Environmental Planning Policy or Ministerial Order (section 75B).

Section 75B states:

- (1) General*
This Part applies to the carrying out of development that is declared under this section to be a project to which this Part applies:
- (a) by a State environmental planning policy, or*
 - (b) by order of the Minister published in the Gazette.'*

The project was declared to be a project to which Part 3A applies by an order made by the Minister on 7 April 2006.

Additionally, section 75B(3) states:

'If part of any development is a project to which this Part applies, the other parts of the development are (subject to subsection (4)) taken to be a project to which this Part applies.'

2.2.4 Approval for a concept plan under Part 3A of the EP&A Act

Division 3 of Part 3A provides a process for the environmental assessment and approval of concept plans for projects where the Minister has authorised or required a proponent to submit a concept plan under section 75M of the EP&A Act. Relevantly, on 3 July 2006 the Minister authorised TIDC to prepare a concept plan for the project.

Under s75M(2), a concept plan is to:

- (a) outline the scope of the project and any development options, and*
- (b) set out any proposal for the staged implementation of the project, and*
- (c) contain any other matter required by the Director-General.*

As a result of s75N, the environmental assessment process prescribed under Division 2 of Part 3A (i.e. under sections 75F, 75G, 75H and 75I) applies with respect to approval for a concept plan in the same way as it applies with respect to approval to carry out a project. The environmental assessment process is discussed in more detail in section 2.3 below.

Under section 75O(1), the Minister may give approval for a concept plan for a Part 3A project if:

- (a) the proponent submits a concept plan for a project, and*

- (b) *the environmental assessment requirements with respect to giving approval for the concept plan have been complied with.*

The purpose of this document is:

- » To seek the Minister's approval for the concept plan for the project under s75O(1); and
- » For that purpose, to demonstrate that the environmental assessment requirements with respect to giving approval for the concept plan have been satisfied.

The concept plan assessment and approval process enables a proponent to obtain approval for the key parameters of a major, complex project whilst allowing necessary flexibility to undertake more detailed design and assessment of the specific components of the project. This would enable matters such as the suitability of a site/route and environmental issues to be resolved early in the project planning process.

The concept plan approval process is particularly relevant to large scale, long-term and complex infrastructure projects (such as the project) for which conceptual strategic planning work has already been undertaken. A concept plan approval would ensure better integration of land use and transport planning in the local government areas affected by the project. Importantly, submission of a concept plan would also enable further community involvement in the strategic planning phase and in the refinement of the project.

2.3 The environmental assessment and approval process

2.3.1 Director-General's requirements

Section 75N of the EP&A Act has the effect that the environmental assessment process prescribed under Division 2 of Part 3A (i.e. under sections 75F, 75G, 75H and 75I) applies with respect to approval for a concept plan in the same way as it applies with respect to approval to carry out a project.

Under clause 75F of the EP&A Act, the Director-General is required to prepare and notify the proponent of environmental assessment requirements for the project.

Relevantly, the Director-General notified TIDC of environmental assessment requirements with respect to the concept plan for the project on 12 July 2006. These requirements were prepared following submission by TIDC to the Department of Planning of the Project Application and Preliminary Environmental Assessment (SKM, 2006). A copy of the Director-General's requirements is included in Appendix A.

The Director-General's requirements specify environmental assessment requirements for 10 key issues (refer Table 2.2).

The environmental assessment set out in this document has been undertaken in accordance with the Director-General's requirements. In addition to the 10 key issues prescribed by the Director-General's requirements, TIDC has also identified and assessed a number of other environmental issues. The assessment of these other issues is set out in Chapter 10.

The Director-General's requirements also require the inclusion of a draft Statement of Commitments the proponent is prepared to make for the for environmental management and mitigation measures. The draft statement of commitments is set out in chapter 12.

Table 2.2 shows the section of this report that addresses each of the Director-General's environmental assessment requirements.

Table 2.2 Director-General's requirements

Issue category	Requirement	Document reference
General requirements	Executive summary	Executive summary
	A description of the concept plan for which approval will be sought including:	Part B and Chapter 7
	The objectives of the project	Section 5.1
	Staging of the project and components which may be subject to subsequent approvals	Section 6.6
	The proposed alignment and corridor width (including any tunnel sections)	Section 7.2
	General construction and operation requirements	Sections 7.5 to 7.7
	Patronage forecasts and mode shift assumptions	Section 5.3
	The alternatives considered including alignments, location of stabling facilities and construction compounds and justification of the options chosen	Chapter 6
	An environmental risk analysis	Chapter 8
	An assessment of the key issues specified below	Chapter 9
	Draft statement of commitments	Chapter 12
	Conclusion justifying the project	Chapter 13
Key issues	Interrelationship with land use and infrastructure planning	Section 9.1
	Corridor acquisition and land use	Section 9.1
	Traffic, transport, parking and access	Section 9.2 and Appendix B
	Noise and vibration	Section 9.3 and Appendix C
	Surface and groundwater	Sections 9.8, 9.9 and Appendices E and F
	Flora and fauna	Section 9.4 and Appendix D
	Indigenous and non-Indigenous heritage	Sections 9.6, 9.7 and Appendices G and H
	Visual and urban design	Section 9.10 and Appendix I
	Spoil handling	Section 9.5 and Appendix J
	Social and economic impacts	Sections 9.11 and 9.12 and Appendix K
Consultation	Undertake consultation with relevant parties during	Chapter 4

Issue category	Requirement	Document reference
requirements	preparation of the environmental assessment including local, State or Government authorities and service providers and the public	

2.3.2 Exhibition

Under s75H(1), the proponent is required to submit to the Director-General the environmental assessment required under the Director-General's requirements.

If the environmental assessment, the Director-General must place it on public exhibition for at least 30 days (s75H(3)). During the exhibition period, submissions will be invited from relevant agencies and members of the public (s75H(4)).

The Director-General will provide the proponent (and other relevant public authorities) with copies of submissions or a report of the issues raised in the submissions (s75H(5)). The Director-General may require the proponent to submit a response to the issues raised in the public submissions, a preferred project report that outlines any proposed changes to the project to minimise impacts on the environment and a revised statement of commitments (s75H(6)).

The Director-General may require the proponent to make any preferred project report available to the public (s75H(7)).

The Director-General may constitute an independent hearing and assessment panel comprising experts or public officers to assess any aspect of the project (s75G).

2.3.3 Assessment and determination

Following the exhibition period, the Director-General is to give a report on the project to the Minister for the purposes of the Minister's consideration of the application for concept approval (s75H(1)(1) and s75N).

The Director-General's report to the Minister is to include a copy of the environmental assessment, any preferred project report, any advice by public authorities, a copy of any report of an independent hearing and assessment panel constituted under s75G, a copy of or reference to provisions of relevant environmental planning instruments and any environmental assessment undertaken by the Director-General or other matter the Director-General considers appropriate (s75I(2)).

In addition to the concept plan and the environmental assessment, the following documents relating to the project are required to be made publicly available (s75X(2) and clause 8G(4) of the EP&A Regulation):

- » The Director-General's assessment report to the Minister;
- » Any approval of the concept plan;
- » If reasons for the approval or disapproval of the concept plan are given, those reasons;
- » Any response to submissions (such as in the form of a Submissions Report) or any preferred project report; and
- » Any report of an independent hearing and assessment panel constituted under s75G.

2.4 Environmental planning instruments

The project has been declared to be a project to which Part 3A of the EP&A Act applies.

As a result of s75R, if concept approval for a Part 3A project is given, environmental planning instruments continue to apply to the project. If approval to carry out a Part 3A project (or a particular stage of it) is given, then only State environmental planning policies will apply to the carrying out of the project (or that stage of it). In addition, approval cannot be granted under Part 3A of the EP&A Act for a project that would (but for Part 3A) be wholly prohibited under an environmental planning instrument.

Consequently, an analysis of the applicable environmental planning instruments is set out below.

2.4.1 Regional environmental plans

The following regional environmental plans apply to the land on which the project would be located:

Sydney Regional Environmental Plan No 19 – Rouse Hill Development Area

Sydney Regional Environmental Plan No 19 (SREP 19) applies to the Rouse Hill Development Area as shown on the 'Rouse Hill Development Area - Structure Plan' deposited in the office of the Department of Planning. The general aims of SREP 19 include the provision of physical services and facilities within the Rouse Hill Development Area to enable an efficient public and private transport system (clause 2(d)).

SREP 19 empowers the Minister for Planning to declare land in the Rouse Hill Development Area to be a release area if the Minister is of the opinion that the land is required for urban development (clause 6(1)). The Minister must provide relevant public authorities which would provide services to such land with an opportunity to comment on the proposed declaration (clause 6(2)).

SREP 19 also specifies various matters to be included in the provisions of a draft local environmental plans which applies to land declared to be a release area under the SREP. Such provisions must promote certain specified objectives which include ensuring that the areas are well-served by public transport (clause 7). In addition, in preparing a local environmental plan which applies to the Rouse Hill Development Area, a council shall have regard to public transport routes shown on the relevant map and facilitate the provision of an efficient public and private transport system.

Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)

The aim of SREP 20 is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. It applies to LGAs listed by clause 2. Baulkham Hills, Blacktown and Hornsby LGAs are identified in clause 2.

SREP 20 provides general planning considerations, specific planning policies, recommended strategies and development controls.

Clause 4(1) states that

'The general planning considerations set out in clause 5, and the specific planning policies and related recommended strategies set out in clause 6 which are applicable to the proposed development, must be taken into consideration:

- (a) by a consent authority determining an application for consent to the carrying out of development on land to which this plan applies, and
- (b) by a person, company, public authority or a company State owned corporation proposing to carry out development which does not require development consent.'

These planning considerations, planning policies and recommended strategies are summarised in Table 2.3. Table 2.3 also identifies those sections of the environmental assessment which address the considerations.

Table 2.3 SREP 20 – Matters for consideration

Consideration	Document reference/ comment
5 General planning considerations	
(a) the aim of this plan : 'to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.'	The environmental assessment considers the potential impacts of the project.
(b) the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy	See below. Note policies 1-12 are the same as those in SREP 20.
(c) whether there are any feasible alternatives to the development or other proposal concerned	Chapter 6
(d) the relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored.	The environmental assessment as a whole considers the potential impacts of the project and recommends measures to mitigate the impacts identified.
6 Specific planning policies and recommended strategies	
(1) Total catchment management Policy: Total catchment management is to be integrated with environmental planning for the catchment.	The environmental assessment as a whole considers the potential impacts of the project.

Consideration	Document reference/ comment
<p>2) Environmentally sensitive areas</p> <p>Policy: The environmental quality of environmentally sensitive areas must be protected and enhanced through careful control of future land use changes and through management and (where necessary) remediation of existing uses.</p>	<p>The project would not impact on riverine corridors or land reserved or dedicated under the <i>National Parks and Wildlife Act 1974</i> or the <i>Forestry Act 1916</i>.</p> <p>Potential ecological impacts are considered in section 9.4.</p> <p>Soil issues are considered in section 9.8 and chapter 10.</p>
<p>(3) Water quality</p> <p>Policy: Future development must not prejudice the achievement of the goals of use of the river for primary contact recreation (being recreational activities involving direct water contact, such as swimming) and aquatic ecosystem protection in the river system. If the quality of the receiving waters does not currently allow these uses, the current water quality must be maintained, or improved, so as not to jeopardise the achievement of the goals in the future. When water quality goals are set by the Government these are to be the goals to be achieved under this policy.</p>	Section 9.9
<p>(4) Water quantity</p> <p>Policy: Aquatic ecosystems must not be adversely affected by development which changes the flow characteristics of surface or groundwater in the catchment.</p>	Not applicable
<p>(5) Cultural heritage</p> <p>Policy: The importance of the river in contributing to the significance of items and places of cultural heritage significance should be recognised, and these items and places should be protected and sensitively managed and, if appropriate, enhanced.</p>	Sections 9.6 and 9.7
<p>(6) Flora and fauna</p> <p>Policy: Manage flora and fauna communities so that the diversity of species and genetics within the catchment is conserved and enhanced.</p>	Section 9.4
<p>(7) Riverine scenic quality</p> <p>Policy: The scenic quality of the riverine corridor must be protected.</p>	Not applicable
<p>(8) Agriculture/aquaculture and fishing</p> <p>Policy: Agriculture must be planned and managed to minimise adverse environmental impacts and be protected from adverse impacts of other forms of development.</p>	Not applicable
<p>(9) Rural residential development</p> <p>Policy: Rural residential development should not reduce agricultural sustainability, contribute to urban sprawl, or have adverse environmental impacts (particularly on the water cycle or on flora or fauna).</p>	Not applicable
<p>(10) Urban development</p> <p>Policy: All potential adverse environmental impacts of urban development must be assessed and controlled.</p>	Not applicable
<p>(11) Recreation and tourism</p> <p>Policy: The value of the riverine corridor as a significant recreational and tourist asset must be protected.</p>	Not applicable

Consideration	Document reference/ comment
(12) Metropolitan strategy Policy: Development should complement the vision, goal, key principles and action plan of the Metropolitan Strategy.	Section 2.1
The Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy 1997	
Community involvement (13) Opportunities should be provided to increase awareness, understanding and involvement in planning for the Hawkesbury-Nepean.	Chapter 4
Best management practices (14) Best management practices (BMPs) should be used to ensure that adverse environmental impacts of both existing and future developments and activities are minimised.	Chapters 9 and 10
Implementation and monitoring (15) Regional and local environmental plans, development control plans and management plans should be consistent with the policies of the Strategy. (16) Monitoring should be conducted to determine the relationship between the impact of a proposal and the ecosystem, and include assessment and review.	Not applicable Information on environmental monitoring would be provided as part of further assessment and design development
(17) The issues, policies, strategies and actions in this Action Plan must be monitored and adjusted in response to changing conditions or influences.	Not applicable

2.4.2 State environmental planning policies

State Environmental Planning Policy No. 11 - Traffic Generating Developments

The objectives of State Environmental Planning Policy No. 11 (SEPP 11) are to ensure that the Roads and Traffic Authority (RTA) is made aware of the implications of developments likely to generate significant traffic impacts, and to provide the RTA with an opportunity to make representations in respect of such developments.

Developments to which SEPP 11 applies are listed in Schedules 1 and 2 of SEPP 11. The project does not meet the descriptions in these schedules. As a result, SEPP 11 does not apply to the project. However, the RTA was consulted during the environmental assessment process.

State Environmental Planning Policy No. 19 – Bushland in Urban Areas

SEPP No.19 – Bushland in Urban Areas (SEPP 19) generally aims to protect and preserve bushland within the areas to which it applies. These areas are identified (in Schedule 1), and include the Baulkham Hills, Hornsby and Blacktown LGAs.

Clause 6(1) of SEPP 19 provides that a person shall not disturb bushland zoned or reserved for public open space purposes without the consent of the council. A reference to bushland zoned

or reserved for public open space purposes is a reference to bushland within an area or zone identified by an environmental planning instrument as open space.

While the proposed alignment is in the vicinity of lands zoned for public open space the proposed rail corridor itself does not pass through or disturb such land and therefore SEPP 19 is not likely to apply. However, associated structures such as air shafts and discharge/runoff outlets have not been considered in this current report as locations of these structures had not been finalised at the time of writing. An additional consideration would be the work site associated with the quadruplication between Epping and Beecroft that may encroach into the Beecroft Village Green. The extent of possible encroachment would be clarified during future design work.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44) aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for Koalas in order to ensure a permanent free-living population over their present range and reverse the current trend of Koala population decline.

SEPP 44 applies to local government areas (LGAs) listed in Schedule 1. Hornsby LGA is included in Schedule 1, so consideration of the application of SEPP 44 is required within the Hornsby LGA. Feed trees listed on Schedule 2 of State Environmental Planning Policy 44 – Koala Habitat Protection identified along the route include *E. tereticornis* and *E. punctata*. Clause 7(1) has the effect that before a council may grant consent to a development application for consent to carry out development on land greater than 1 hectare, it must satisfy itself whether or not the land is a 'potential koala habitat'. For an area to be considered potential koala habitat, appropriate tree species must represent at least 15 % of the total number of trees in the upper or lower strata of the tree component (clause 4). This was not the case in any of the areas assessed. Therefore, no further consideration was given to SEPP 44.

State Environmental Planning Policy No. 55 – Remediation of Land

The aims and objectives of State Environmental Planning Policy No. 55 (SEPP 55) are to provide a state-wide planning approach to contaminated land remediation. It also promotes the remediation of contaminated land to reduce the risk of harm.

Under SEPP 55, a person must not carry out a 'category 1 remediation work' except with the consent of the consent authority (clause 8(2)). These are works which fall within any of a number of specified categories under clause 9. As a result of s75R(2) of the EP&A Act, SEPP 55 will apply to the carrying out of the project.

A category 2 remediation work may be carried out without consent (clause 8(2)). Category 2 remediation works are defined in clause 10.

If remediation works are carried out under SEPP 55, then certain notification requirements set out in clauses 16, 17 and 18 must be complied with.

Site contamination issues are considered in Chapter 10.

State Environmental Planning Policy No. 63 – Major Transport Projects

State Environmental Planning Policy No. 63 (SEPP 63) allows certain major transport projects and their ancillary activities to be undertaken without development consent. Projects to which SEPP 63 applies are listed in Schedule 1 of the policy.

Under clause 11(2) consent may not be granted for development affecting land within the Metropolitan Rail Expansion corridor (the Redfern to Chatswood Rail Line – City of Sydney section, Maps 1 & 2) unless the concurrence of RailCorp is provided. SEPP 63 does not currently apply to the project, however, it is likely that amendments to SEPP 63 to incorporate the project would be made. SEPP 63 would be replaced by the proposed (draft) State Environmental Planning Policy (Infrastructure) SEPP.

Draft State Environmental Planning Policy (Infrastructure) 2006

On 19 October 2006 the draft State Environmental Planning Policy (Infrastructure) was placed on public exhibition. The Infrastructure SEPP would streamline the process for development and delivery of public infrastructure. If gazetted, it would replace 19 SEPPs, including SEPP 63.

In relation to railways, the draft Infrastructure SEPP provides for an integrated approach to the development of new railway lines, as well as augmentation of existing railway infrastructure. It indicates that this would be development without consent. This includes railway stations (other than buildings or works associated with residential, retail or commercial purposes unrelated to railway purposes), and associated station access facilities, car parks, bus interchanges and public amenities. The provisions also apply to construction activities as well as routine maintenance or emergency works.

State Environmental Planning Policy (Sydney Region Growth Centres) 2006

State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (the Growth Centres SEPP) aims to co-ordinate the release of land for residential, employment and other urban development in the North West and South West Growth Centres, and to provide planning controls for development in these growth centres.

The Growth Centres SEPP applies to land in a 'growth centre', which is defined to include the North West Growth Centre (as shown on the relevant map deposited at the Department of Planning). The project would traverse part of the precinct in the North West Growth Centre known as Area 20. Area 20 is part of the first release phase of North West Growth precincts.

Schedule 1 of the SEPP (which is given effect by clause 7) will, upon completion of the planning process for precincts released for urban development under the *Environmental Planning and Assessment Regulation 1990*, include land use and development controls which will apply to the carrying out of development in such precincts. However, as at September 2006 this Schedule was blank.

The matters for consideration are outlined in Table 2.4 together with the section of this report that addresses the matter.

Table 2.4 Growth Centres SEPP - matters for consideration

Issue category	Requirement	Document reference/ comment
Clause 16 - matters for consideration until finalisation of precinct planning for land	Whether the proposed development will preclude the future urban and employment development land uses identified in the relevant growth centre structure plan.	Land uses surrounding and compatible to the stabling facility would need to be considered in consultation with the Growth Centres Commission.
	Whether the extent of the investment in, and the operational and economic life of, the proposed development will result in the effective alienation of the land from those future land uses.	Section 9.1
	Whether the proposed development will result in further fragmentation of land holdings	Section 9.1
	Whether the proposed development is incompatible with desired land uses in any draft environmental planning instrument that proposes to include provisions in Schedule 1 with respect to the land	N/A – Schedule 1 is blank
	Whether the proposed development is consistent with the precinct planning strategies and principles set out in any publicly exhibited document that is relevant to the development	N/A – No precinct planning strategies and principles currently publicly exhibited
	Whether the proposed development will hinder the orderly and co-ordinated provision of infrastructure that is planned for the growth centre	The project forms part of the infrastructure provision for the growth centre
	In the case of transitional land—whether (in addition) the proposed development will protect areas of aboriginal heritage, ecological diversity or biological diversity as well as protecting the scenic amenity of the land	N/A – project does not involve the use of transitional land.
Part 5 Clause 20 - provisions to development requiring consent that is carried out on flood prone and major creeks land	Whether or not the development will adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties	Section 9.9 and Appendix E
	Whether or not the development will alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain	Section 9.9 and Appendix E
	Whether the development will enable safe occupation of the flood prone and major creeks land	Section 9.9 and Appendix E
	Whether or not the development will detrimentally affect the floodplain environment or cause avoidable erosion, siltation, salinity, destruction of riparian vegetation or a reduction in the stability of the riverbank/watercourse	Section 9.4 and Appendix D, Section 9.9 and Appendix E
	Whether or not the development will be likely to result in unsustainable social and economic costs to the flood affected community or general community, as a consequence of flooding	Section 9.9 and Appendix E
	Whether or not the development is compatible with the flow conveyance function of the floodway	Section 9.9 and Appendix E

Issue category	Requirement	Document reference/ comment
	Whether or not the development is compatible with the flood hazard	Section 9.9 and Appendix E
	<p>In the case of development consisting of the excavation or filling of land, whether or not the development:</p> <p>(i) will detrimentally affect the existing drainage patterns and soil stability in the locality, and</p> <p>(ii) will significantly impact on the likely future use or redevelopment of the land, and</p> <p>(iii) will adversely impact on the existing and likely amenity of adjoining properties, and</p> <p>(iv) will minimise the disturbance of relics, and</p> <p>(v) will adversely impact on any watercourse, drinking water catchment or environmentally sensitive area.</p>	Chapter 9
Part 6 Clause 23 (2) - matters that need to be considered prior to development consent for clearing of Native Vegetation	There is no reasonable alternative available to the disturbance of the bushland	Alternatives are considered in Chapter 6
	As little bushland as possible will be disturbed	Section 9.4 and Appendix D
	The disturbance of the bushland will not increase salinity	Section 10.2
	Bushland disturbed for the purposes of construction will be re-instated where possible on completion of construction	Section 9.4 and Appendix D
	The loss of remnant bushland caused by the disturbance will be compensated by revegetation on or near the land to avoid any net loss of remnant bushland	Section 9.4 and Appendix D
	No more than 0.5 hectare of bushland will be cleared unless the clearing is essential for a previously permitted use of the land	Section 9.4 and Appendix D
Part 7 - Development on land in cultural heritage landscape area—additional heads of consideration	<p>Whether or not the development will adversely impact on the cultural heritage values of the Rouse Hill House Estate and its setting, having regard, in particular, to the following matters:</p> <p>(i) any proposed subdivision design and layout,</p> <p>(ii) the siting, height, bulk and scale of any proposed buildings or works (including any buildings or works likely to result from any proposed subdivision),</p> <p>(iii) the materials and colours to be used in any proposed buildings, fences or other structures,</p> <p>(iv) the extent, location and form of any proposed landscaping and its ability to reduce the visual impact of the development,</p> <p>(v) the impact of the development on any archaeological relics</p>	Section 9.7 and Appendix H

Issue category	Requirement	Document reference/ comment
	A site analysis of the cultural heritage landscape area that assesses development that is responsive to the topography of the area and to other development in the vicinity.	Section 9.7 and Appendix H
	A visual analysis that assesses the impact of the development on views to and from the Rouse Hill House Estate.	Section 9.7 and Appendix H
	Measures to minimise any adverse impact of the development on the cultural heritage values of Rouse Hill House Estate and its setting.	Section 9.7 and Appendix H

2.5 Other relevant legislation

2.5.1 NSW legislation

Protection of the Environment Operations Act 1997

Activities required to obtain a licence under the Protection of the Environment Operations Act 1997 (POEO Act) are detailed in Schedule 1 of the Act. Schedule 1 includes railway systems activities, defined as follows:

- ‘(1) A railway systems activity is any one or more of the following:
- (a) installation of track,
 - (b) on-site repair of track,
 - (c) on-site maintenance of track,
 - (d) on-site upgrading of track,
 - (e) construction or significant alteration of any of the following, but only if it is connected with an activity listed in paragraphs (a)–(d):
 - (i) over track structures,
 - (ii) cuttings,
 - (iii) drainage works,
 - (iv) track support,
 - (v) earthworks,
 - (vi) fencing,
 - (vii) tunnels,
 - (viii) bridges,
 - (ix) level crossings,
 - (f) operation of rolling stock on track.’

The project satisfies this definition, and as a result, an environmental protection licence under the POEO Act would be required for construction. Section 75V(1) has the effect that a POEO Act licence cannot be refused if it is necessary for the carrying out of an ‘approved project’ and its terms must be substantially consistent with any approval to carry out the project granted under Part 3A of the EP&A Act. The term ‘approved project’ is defined by s 75A as ‘a project to the extent that it is approved by the Minister under this Part, but does not include a project for which only approval for a concept plan has been given.’

Other approvals

Section 75U of the EP&A Act specifies that:

- ‘(1) The following authorisations are not required for an approved project (and accordingly the provisions of any Act that prohibit an activity without such an authority do not apply):
- (a) the concurrence under Part 3 of the Coastal Protection Act 1979 of the Minister administering that Part of the Act,
 - (b) a permit under section 201, 205 or 219 of the Fisheries Management Act 1994,
 - (c) an approval under Part 4, or an excavation permit under section 139, of the Heritage Act 1977,
 - (d) a permit under section 87 or a consent under section 90 of the National Parks and Wildlife Act 1974,
 - (e) an authorisation referred to in section 12 of the Native Vegetation Act 2003 (or under any Act to be repealed by that Act) to clear native vegetation,
 - (f) a permit under Part 3A of the Rivers and Foreshores Improvement Act 1948,
 - (g) a bush fire safety authority under section 100B of the Rural Fires Act 1997,
 - (h) a water use approval under section 89, a water management work approval under section 90 or an activity approval under section 91 of the Water Management Act 2000.’

As mentioned above, section 75A defines ‘approved project’ as ‘a project to the extent that it is approved by the Minister under this Part, but does not include a project for which only approval for a concept plan has been given’. Consequently, these approvals would not be required if the Minister grants approval to carry out the project under Part 3A.

In addition, under s75V(1), the following authorisations cannot be refused if necessary for the carrying out of an ‘approved project’ and are to be substantially consistent with an approval to carry out the project given under Part 3A:

- » An environment protection licence under Chapter 3 of the Protection of the Environment Operations Act 1997; and
- » A consent under s138 of the Roads Act 1993.

2.5.2 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The primary objective of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is to ‘provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance.’

Environmental approvals under the EPBC Act may be required for a ‘action’ likely to have a significant impact on:

- (a) matters of national environmental significance (known as ‘NES matters’), or
- (b) the environment on Commonwealth land (whether or not the action is occurring on Commonwealth land).

Approval for such an action may be required from the Commonwealth Minister for Environment and Heritage. Actions with the potential to have significant impacts must be referred to the

Department of Environment and Heritage (DEH) to determine whether a Commonwealth approval would be required.

An 'action' is considered to include a project, development, undertaking, activity or series of activities. NES matters include:

- » World Heritage Areas;
- » National Heritage Places;
- » Ramsar wetlands of international importance;
- » Nationally listed threatened species and ecological communities;
- » Listed migratory species;
- » Nuclear actions;
- » Commonwealth marine areas; and
- » Commonwealth heritage places.

There is no Commonwealth land affected by the project.

The ecological assessment (refer section 9.4 and Appendix D) included a consideration of the potential impacts of the project on matters of national environmental significance. The need for a referral to DEH would be considered as an outcome of the further investigations recommended by the ecological assessment. The project will be referred to the Commonwealth Minister for the Environment under the EPBC Act if required.