

3. Statutory and planning

3.1 Part 3A and the concept approval process

3.2 Overview

The NSW Minister for Transport and the voting shareholders of TIDC have granted consent under Section 18(1) of the *Transport Administration Act 1988* for TIDC to undertake preparatory work required for the Metropolitan Rail Expansion Program (MREP), which includes the SWRL.

Part 3A of the *Environmental Planning and Assessment Act 1979* establishes an assessment and approval regime for major infrastructure projects. It applies to development that is declared to be a Part 3A project by either a state environmental planning policy or a Ministerial Order published in the Government Gazette (under Section 75B of the Act).

The SWRL was declared to be a project to which Part 3A applies by an order made by the Minister on 9 April 2006 pursuant to Section 75B. The following kind of development may be declared to be a project to which this Part applies (s75B(2)):

- (a) major infrastructure or other development that, in the opinion of the Minister, is of State or regional environmental planning significance,
- (b) major infrastructure or other development that is an activity for which the proponent is also the determining authority (within the meaning of Part 5) and that, in the opinion of the proponent, would (but for this Part) require an environmental impact statement to be obtained under that Part.

The environmental assessment and approval process under Part 3A is summarised in Figure 3-1.

The SWRL, as described and assessed in this document, comprises two stages. Stage A involves:

- commencement of early works (Stages 1 to 4) at Glenfield North Junction and Glenfield South Junction (this excludes the direct interface with the Glenfield Station upgrade works which are part of Stage B)
- establishment and use of construction work sites (including the establishment of access tracks) at Glenfield and the James Meehan Estate.

Stage A is at fairly well advanced design stage; although some further environmental assessment is required to clarify the impacts of these works.

Stage B comprises the construction and operation of the remaining portions of the SWRL:

- the proposed rail lines and associated infrastructure within a defined 40 metre wide corridor between stations and 60 metres wide at the stations
- Leppington Station, Edmondson Station and the train stabling facility west of Leppington Station
- the Glenfield Station upgrade works.
- construction sites and ancillary facilities, including power supply, sectioning huts, signalling structures, access roads, and other infrastructure required for the operation and maintenance of rail services and infrastructure.

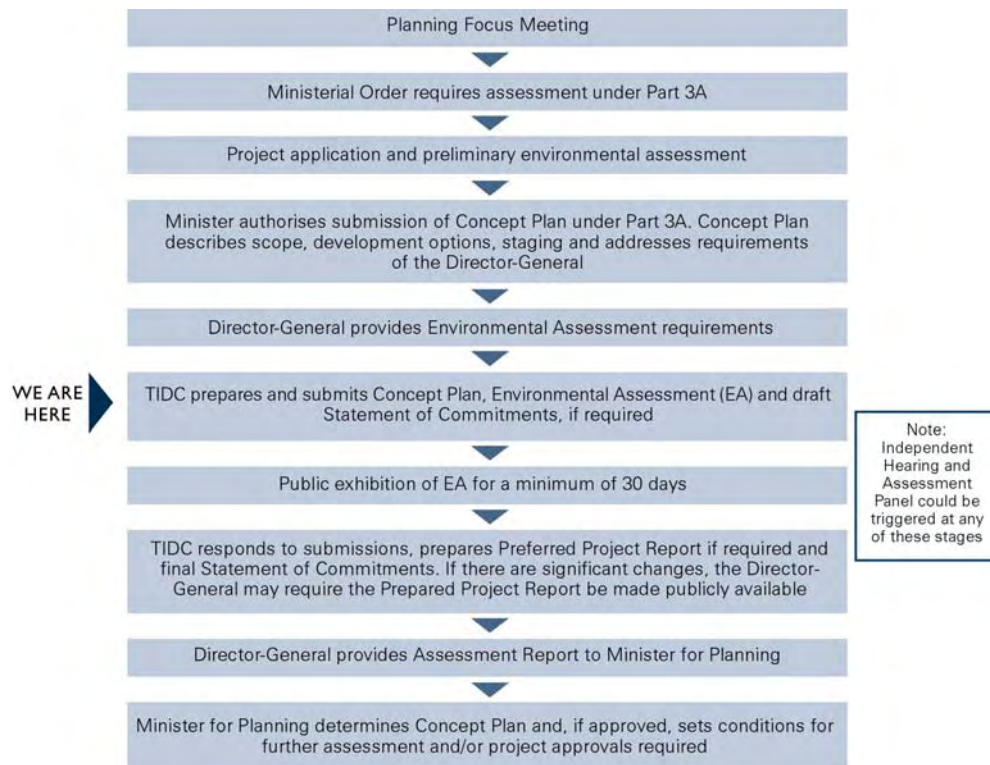


Figure 3-1 Part 3A planning and decision-making process

Stage B of the SWRL is at a less advanced design stage and further environmental assessment of aspects of this stage is needed.

A detailed description of Stage A and Stage B and the proposed further environmental assessment required is provided in Chapter 20.

As set out in Section 1.5.4, TIDC is seeking approval for the Concept Plan for the SWRL under s75O (1) of Part 3A. The relevant provisions of Part 3A relating to concept plans are discussed in more detail in the following Sections 3.1.2 and 3.1.3.

3.2.1 The SWRL Concept Plan and approval

Division 3 of Part 3A provides a process for the environmental assessment and approval of Concept Plans for Part 3A projects where the NSW Minister for Planning has authorised or required a proponent to submit a Concept Plan under Section 75M of the *Environmental Planning and Assessment Act 1979*. Relevantly, on 3 July 2006, the Minister authorised TIDC to submit a Concept Plan for the SWRL.

The SWRL is a large-scale, long-term and complex infrastructure proposal for which conceptual strategic planning work has already been undertaken. The establishment of a rail corridor through a Concept Plan and approval process would ensure better integration of land use and transport planning in the local government areas affected by the SWRL.

Submission of a Concept Plan will also enable further community involvement in the detailed planning phase and in the refinement of elements of the SWRL. In addition, it will provide the proponent with a greater level of certainty to commence the necessary property acquisitions, while retaining flexibility for the refinement of design.

Under Section 75M of Part 3A, a Concept Plan must:

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

A detailed description of the project is not required.

Under Section 75N, the environmental assessment process prescribed under Division 3 of Part 3A 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. This process involves the following key steps, which are also shown on Figure 3-1:

- The Director-General prepares the Environmental Assessment requirements for the Concept Plan for the SWRL in consultation with other relevant authorities (under Section 75F). These requirements were notified to TIDC on 12 July 2006 and are provided in Appendix A. The requirements include a requirement for TIDC to include in this document a draft Statement of Commitments regarding the proposed environmental management and mitigation measures for the project (under Section 75F(6)).
- The Minister may constitute an Independent Hearing and Assessment Panel to assess any aspect of the Concept Plan for the project (Section 75G). As of the time of writing of this report, no such panel had been called, but it could be triggered at any stage of the assessment and approval process.
- TIDC is required to prepare an Environmental Assessment in accordance with the Director-General's requirements (Sections 75F(5) and 75H(1)). The SWRL Environmental Assessment is included within this report.
- Once complete, the SWRL Concept Plan and Environmental Assessment (this report) must be publicly exhibited for at least 30 days (Section 75H(3)). The Director-General must provide copies of any written submissions received, or a report of the issues raised by the submissions, to TIDC and other relevant authorities (Section 75H(5)).
- The Director-General may then require TIDC to provide a response to the issues raised in the submissions (in the form of a Submissions Report), a Preferred Project Report outlining any changes to the project to minimise its environmental impact, and a revised Statement of Commitments (Section 75H(6)).
- The Director-General then prepares a report to the Minister on the Concept Plan and Environmental Assessment for the purpose of the Minister's determination of whether to grant approval to the SWRL Concept Plan (Section 75I).

Under s75O(1), the Minister may give approval for the Concept Plan for the SWRL if TIDC submits a Concept Plan for the project, and the Environmental Assessment requirements with respect to the giving of approval for the Concept Plan have been complied with.

As previously stated, the purpose of this document is:

- to seek the Minister's approval for the Concept Plan for the SWRL; and
- for that purpose, to demonstrate that the Director-General's requirements have been satisfied.

In the event that the Minister determines to give approval for the Concept Plan for the SWRL, Section 75P(1) provides that, when giving such approval, the Minister may make any (or a combination of) the following determinations:

- the further environmental assessment requirements for approval to carry out the SWRL or a particular stage of the project under Part 3A of the *Environmental Planning and Assessment Act 1979* (s75P(1)(a))
- that approval to carry out the SWRL or a particular stage of it is subject to Part 4 or Part 5 of the *Environmental Planning and Assessment Act 1979* (s75P(1)(b))
- that no further environmental assessment is required for the SWRL, or any particular stage of it (in which case the Minister may approve or disapprove of the carrying out of the project under Part 3A without further application, environmental assessment or report under Part 3A) (s75P(1)(c)).

Under Section 75R, if approval to carry out the SWRL (or a part of it) is granted, environmental planning instruments (other than state environmental planning policies) are excluded.

Concept Plan objectives

The SWRL Concept Plan is described in detail in Chapter 20.

The purpose of the SWRL Concept Plan is to fix the SWRL corridor alignment:

- for the purpose of corridor (property) acquisition and facilitation of ongoing land use planning within the South West Growth Centre
- to allow necessary ongoing design and environmental investigations, including preparatory works, such as geotechnical investigations and ground survey
- to enable commencement of early works at Glenfield Junction to provide benefits to rail operations.

The scope of the concept approval application was determined through assessment of what elements of the SWRL need to be confirmed now to enable the proposal for the SWRL to progress to the next stage of development (i.e. the general form, corridor location and other investigations to enable ongoing development of the SWRL project and facilitate ongoing planning for the South West Growth Centre). As detailed in Section 3.1.1, the SWRL comprises two stages. The design of Stage A (i.e. early works for Glenfield North and South Junction and establishment and use of construction work sites at Glenfield and the James Meehan Estate) is well defined; although some further environmental assessment is required to confirm the impacts of these works.

The Glenfield North Junction works in particular are urgently needed. Both Junctions are complicated and lengthy to construct, and sufficient design development has been undertaken to confirm their potential environmental impacts.

3.2.2 The Environmental Assessment

Environmental Assessment requirements for the SWRL were prepared by the Director General of the Department of Planning. These requirements were prepared following submission by TIDC to the Department of Planning of the SWRL Project Application and Preliminary Environmental Assessment (PB 2006b).

The Director General's Environmental Assessment requirements, dated 12 July 2006 establish the environmental assessment requirements for the SWRL under Part 3A of the *Environmental Planning and Assessment Act 1979*. A copy of the Director General's Environmental Assessment requirements is set out in Appendix A.

The Director General's Environmental Assessment requirements specify environmental assessment requirements for the following 10 key issues:

- interrelationship with land use and infrastructure planning
- corridor acquisition and land use
- traffic transport, parking and access
- noise and vibration
- flooding and surface water
- flora and fauna
- Indigenous and non-Indigenous heritage
- visual and urban design
- social impacts
- economic impacts.

The environmental risk assessment in this document has been undertaken in accordance with the Director General's Environmental Assessment requirements. The environmental risk assessment has also had regard to input from various government agencies and other stakeholder's during the consultation process. In addition to the ten 'key issues' prescribed by the Director General's Environmental Assessment requirements, TIDC has also identified and assessed, in this document, a number of other environmental issues. For the purposes of this document, the assessment of the first two 'key issues' listed above has been combined and is documented as an assessment of 'Land use, property and infrastructure planning'.

3.3 Strategic planning context

The regional land use planning context for the SWRL is identified in Figure 3-2, incorporating key initiatives of the Sydney Metropolitan Strategy, the South West Growth Centre Structure Plan and the Draft Campbelltown Centres Structure Plan. These and other strategic planning documents are described further below.

3.3.1 The Sydney Metropolitan Strategy

As described in Sections 1.4 and 2.1, the Department of Planning's (2005b) *Metropolitan Strategy, City of Cities – A Plan for Sydney's Future* is a broad framework for managing Sydney's urban growth over the next 25 years. The Metropolitan Strategy includes separate components relating to housing, employment and economy, environment, transport, centres and corridors, and parks and public places. The key elements of the vision include:

- continued growth of Sydney and North Sydney with an increased role for Parramatta, Penrith and Liverpool as regional centres

- a ‘global economic corridor’ of concentrated jobs and activities from North Sydney to Macquarie Park and from the City to the Airport and Port Botany
- growth of jobs in regional centres and specialised centres in Western Sydney, specifically concentrated around the M7/M4 corridors
- containment of the urban footprint
- strengthening of major centres, including Campbelltown and Leppington in the South West Growth Centre, which will be the focus for regional shopping, health and tertiary education and some medium and high density housing
- improved access to existing and planned centres through investment in rail and strategic bus corridors
- linking housing growth with improved communication and transport connections
- highlighting potential major centres at Prairiewood, Fairfield and Cabramatta.

The Metropolitan Strategy proposes a number of major urban and land use initiatives for the South West region of Sydney, including:

- defining Liverpool as a regional city
- defining Campbelltown as a major centre
- proposing Leppington as a planned major centre.
- The South West Growth Centre and Structure Plan

In December 2004, while the Metropolitan Strategy was in draft form, the NSW Government announced a new land release plan for the South West and North West Growth Centres, to respond to Sydney’s growing population. In June 2005, the NSW Government exhibited a Draft Structure Plan for the South West Growth Centre (Department of Planning 2005). This was revised in response to public exhibition of the draft versions. The revised plan shows centres, major road and public transport routes, and future employment areas to accommodate the future population. In total, the plans indicate that the South West Growth Centre could potentially be developed to provide 90,000 to 110,000 dwellings and accommodate 250,000 to 300,000 people.

The South West Growth Centre Structure Plan identifies the Leppington area as an area of particular strategic importance, because of its location at the intersection of two corridors of urban development in the South West Growth Centre, and its proximity to several arterial roads, including Cowpasture Road, Camden Valley Way, Bringelly Road and Edmondson Avenue, as well as the proposed SWRL. Leppington Town Centre is identified as the major centre in the South West Growth Centre, as it provides the best opportunity to provide significant retail and services employment. Additionally, up to 26,000 residential dwellings are proposed within the town centre.

The previous southern alignment of the SWRL is shown on the Structure Plan. If the SWRL concept is approved, the Structure Plan is likely to be amended to reflect the current preferred SWRL alignment. The process by which the preferred alignment was selected is discussed in more detail in Part B.

A future Leppington would be similar in size and nature to Blacktown, Bankstown, Burwood, Campbelltown or Castle Hill. The South West Growth Centre Structure Plan identifies Leppington as a regional centre supported by a number of smaller town and village centres at Oran Park, Austral, Rossmore, North Rossmore, Bringelly, North Bringelly, Marylands, Catherine Fields and Catherine Fields North. A number of other smaller neighbourhood centres and mixed use employment corridors were also identified as part of the overall planning (see Figure 3-2).

Edmondson Park is one of the first precincts in the South West Growth Centre to be released. The Edmondson Park release area is located in both the Campbelltown and Liverpool LGAs. The area was rezoned in the Campbelltown (Urban Area) Local Environmental Plan 2002 (Amendment No. 12) and Liverpool Local Environmental Plan 1997 (Amendment no. 83), which were gazetted in March 2006 (see Figure 3-3). The application of these instruments to the SWRL is discussed further in Section 3.3.1. The release area is planned to accommodate approximately 7,500 to 8,500 dwellings, with a projected population of 23,000 people on approximately 800 hectares of land. The town centre for the new suburb would be based around a planned transport interchange, linking rail facilities with regional bus transitways and local bus operations.

The Edmondson Park town centre will provide a diversity of housing options and urban form capable of accommodating growth. The planned higher density development of the town centre is consistent with the principles of transit oriented development and the objectives of the Metropolitan Strategy.

In July 2006 State Environmental Planning Policy (Sydney Growth Centres) 2006 was gazetted. This Policy, which is discussed further in Section 3.3.2, was framed around the Structure Plan and addresses the development of the South West Growth Centre. Integrated with the Policy were the identification of precincts, development control guidelines and other zoning details.

3.3.2 Draft Campbelltown Centres Structure Plan

The Draft Campbelltown Centres Structure Plan, released by Campbelltown City Council in July 2006, identifies the Campbelltown CBD, Macarthur and Ingleburn Centres as key activity nodes within Campbelltown. Glenfield, Macquarie Fields, Minto, and Leumeah are envisaged to perform a more local function. The Draft Structure Plan is illustrated in Figure 3-4.

3.3.3 Western Sydney Parklands Management Vision and Structure Plan

The Western Sydney Parklands cover 5,500 hectares of low ridge hills that run north–south in the floodplain of Eastern Creek in the vicinity of the M7, from Prospect Hill in the north to Leppington in the south. The Western Sydney Parklands Management Vision (Department of Infrastructure, Planning and Natural Resources 2004) states that the vision of the Parklands is to ‘form a unique component of the Sydney metropolitan open space system, linked to surrounding areas and providing a diverse range of recreation and cultural learning experiences integrated with the natural and cultural values of the land.’ The Department of Planning is currently preparing an access plan for the Parklands, to facilitate pedestrian and cycle access along the Parklands corridor.

The Structure Plan for Precinct 9 of the Parklands is illustrated in Figure 3-5. The proposed SWRL would pass through the southernmost precinct of the Parklands (Precinct 9).

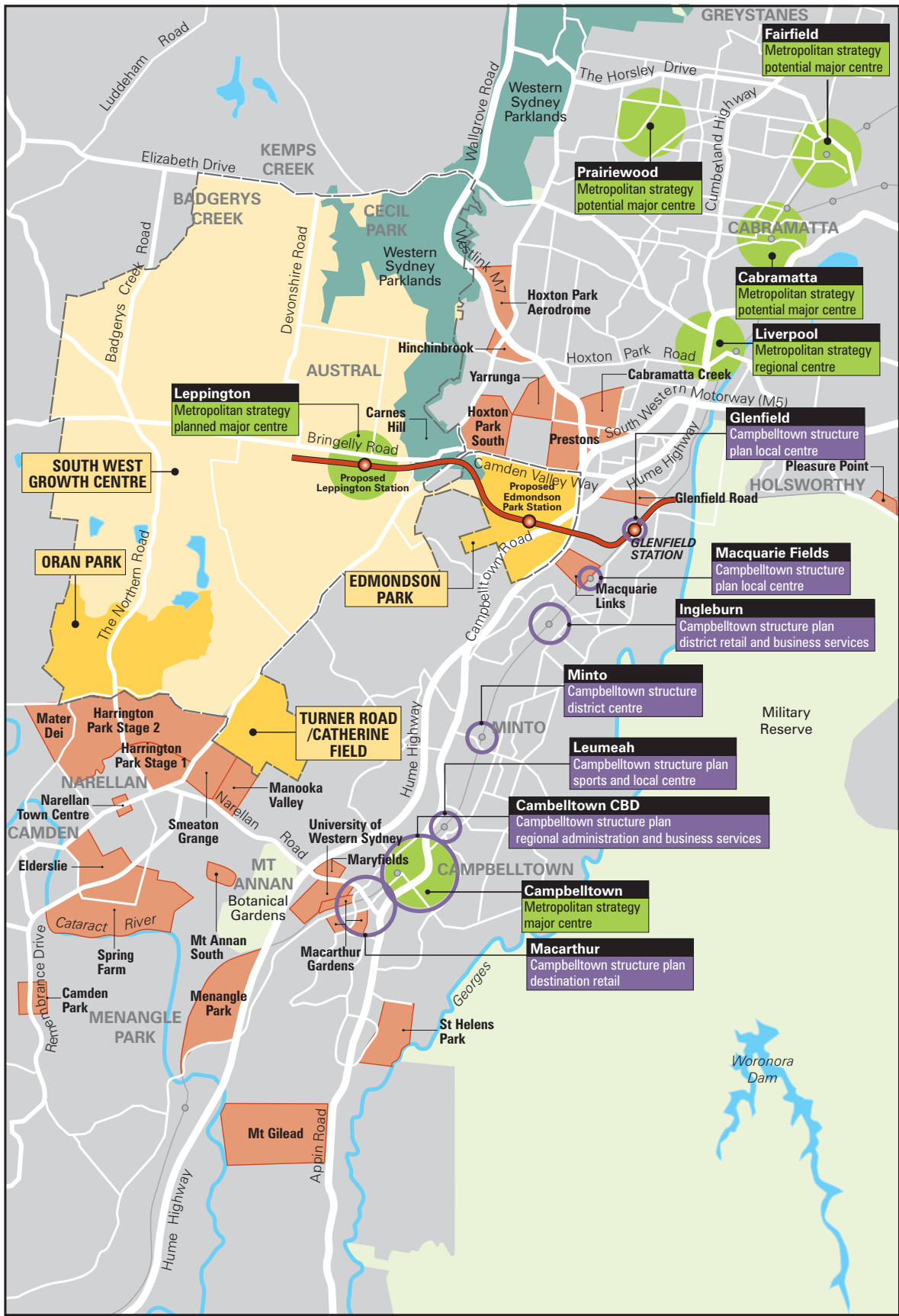
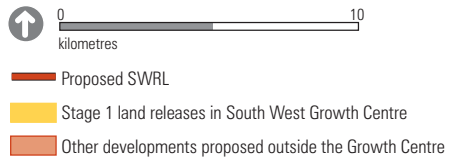


Figure 3-2 Regional land use planning framework



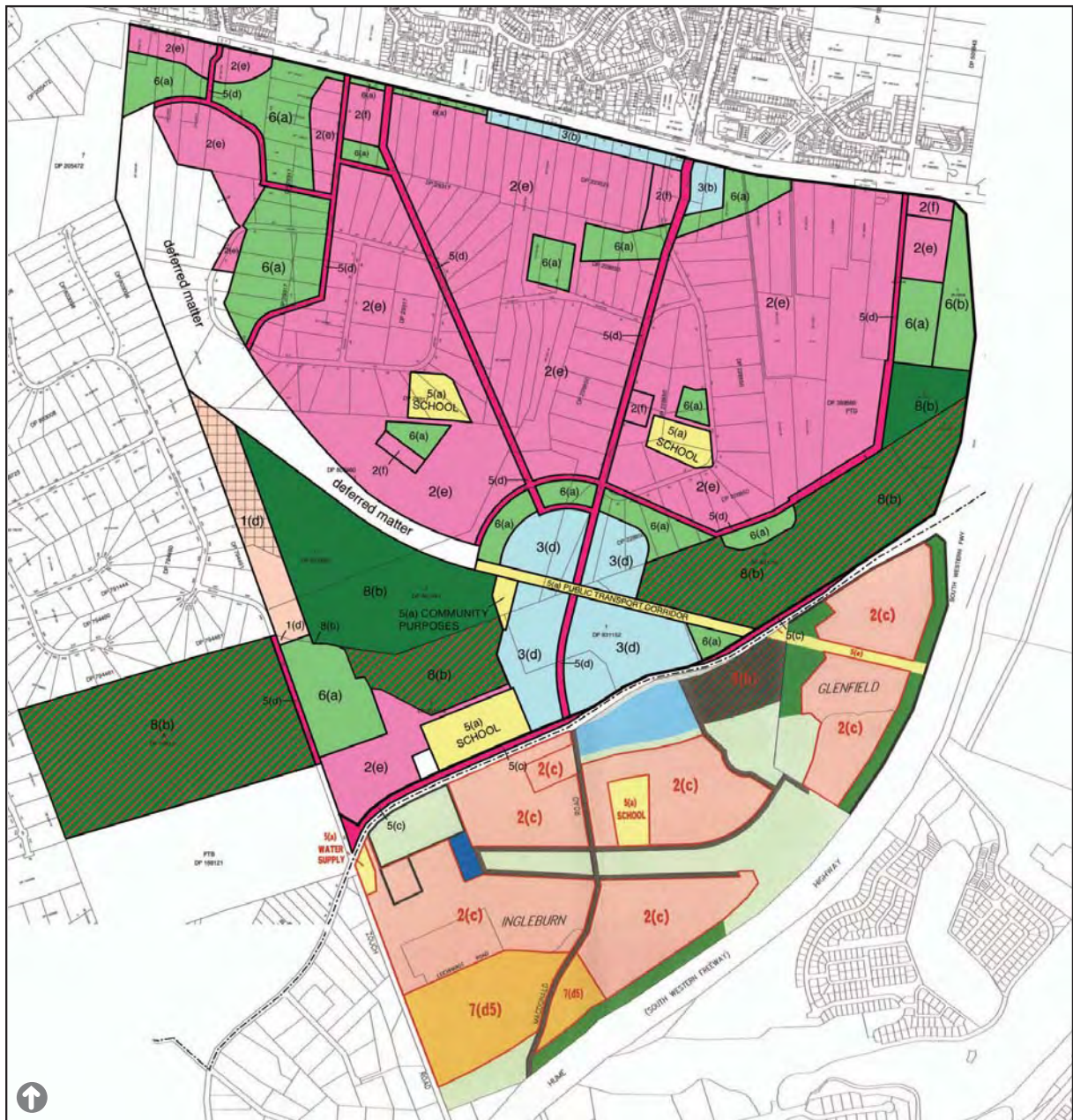


Figure 3-3 Zoning of Edmondson Park release area

LIVERPOOL LGA

- RURAL
- 1(d) 1(d) Rural - Residential
- RESIDENTIAL
- 2(e) 2(e) Residential - Development Communities
- 2(f) 2(f) Residential - Mixed Development
- BUSINESS
- 3(b) 3(b) Business - Highway Retail
- 3(d) 3(d) Business - Town Centre
- SPECIAL USES
- 5(a) 5(a) Special Uses (Community/Transport/School)
- 5(c) 5(c) Special Uses - Arterial Roads
- 5(d) 5(d) Special Uses - Local Roads
- RECREATION
- 6(a) 6(a) Recreation - Public
- 6(b) 6(b) Recreation - Private
- NATIONAL PARKS
- 8(b) 8(b) National Parks and Nature Reserves (Proposed)
- GENERAL
- Zone boundary
- Access denied (C1.19)

LIVERPOOL LGA (Contd.)

- GENERAL
- / / / / Heritage item (C1.6)
- / / / / Environmentally significant land (C1.16)
- / / / / Delayed rezoning of land at Edmondson Park

CAMPBELLTOWN LGA

- 2(c) 2(c) Higher Density Residential
- 3(a) 3(a) General business
- 3(c) 3(c) Neighbourhood Business
- 5(a) 5(a) Special Uses A
- 5(b) 5(b) Special Uses Arterial Roads
- 5(d) 5(d) Special Uses Local Roads
- 5(e) 5(e) Special Uses Public Purposes Corridor
- 6(a) 6(a) Local Open Space
- 6(c) 6(c) Private Open Space
- 7(d5) 7(d5) Environmental Protection 1Ha
- 8(b) 8(b) National Parks/Nature Reserve
- / / / / Heritage Item
- / / / / Land referred to in Clause 64(2)

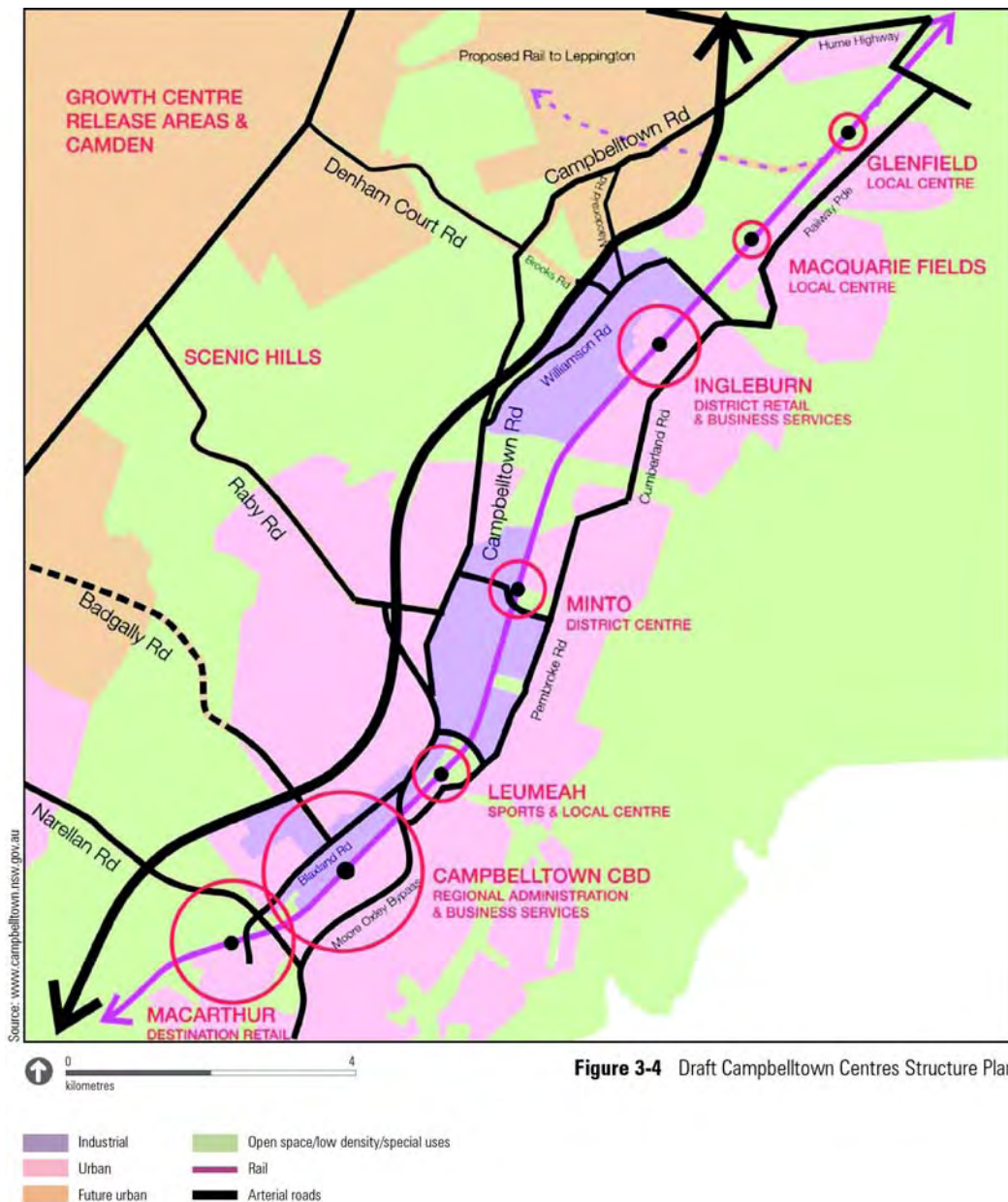


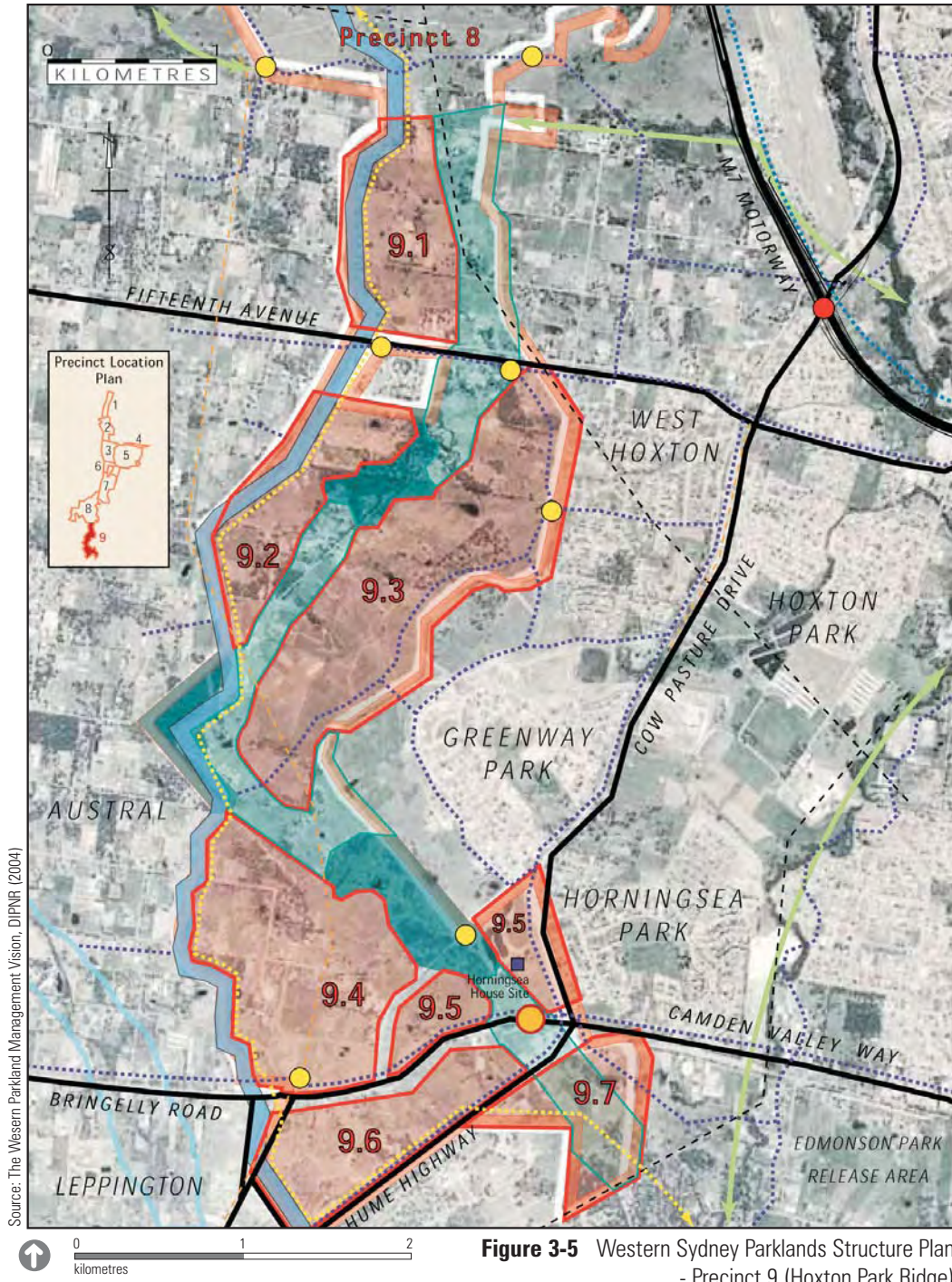
Figure 3-4 Draft Campbelltown Centres Structure Plan

The Western Sydney Parklands Management Vision Plan describes the desired future character of the area traversed by the SWRL (Precinct 9) as follows:

- The Ridge will form a natural backdrop to existing and proposed residential areas in Cecil Hills, Green Valley and Bringelly.
- The precinct is an important north south link in the multi-purpose trail system.
- Regional sports facilities are proposed on flatter land in the southern portion of the Precinct (9.5/9.6/9.7).

The proposed land uses within these precincts are discussed in Section 10.2.3, and include community facilities, active and passive recreation facilities and tourist facilities. In addition, a habitat corridor is proposed to run diagonally across sub-precinct 9.7.

The management objectives for the Parklands (as set out in the Management Vision) of relevance to the SWRL are summarised in Table 3-1, along with the Section of this Environmental Assessment that addresses the relevant environmental issue and other comments as relevant.



- Core habitat
- Habitat corridors
- 9.1** Park sub-precinct and boundary
- SREP 31 boundary
- Major roads
- Proposed primary pathway
- Park entrance major
- Part entrance minor

Table 3-1 Western Sydney Parklands management objectives relevant to SWRL

No.	Management objective	Section of Environmental Assessment
<i>Ecological sustainability</i>		
A1	Protect and restore biodiversity values ... including within ... Habitat Corridors and Park Precincts, including revegetation, weed management and feral animal control.	Chapter 14
A2	Protect and re-establish Habitat Corridors to connect and support identified Core Habitat Nodes.	Chapter 14
A3	Manage and restore remnant vegetation within riparian zones and along drainage lines.	Section 14.5
A4	Ensure that land use and development within the Parklands maintain and enhance water quality of run-off.	Section 18.5
<i>Social sustainability</i>		
B5	Create pedestrian/cycle path connections to adjoining communities and throughout the Parklands, including a continuous north-south connection.	Chapter 11
B6	Protect and interpret cultural heritage values both indigenous and non-indigenous.	Chapter 15
B7	Retain key views from major hilltops and ridgelines and manage land use to protect and improve visual quality in the Parkland.	Chapter 16
<i>Social equity</i>		
D1	Provide the appropriate level of public and community access, including maximising access for people with disabilities, to all areas and facilities within the Parklands	Chapters 10, 11 and 17
<i>Environmental quality</i>		
G6	Minimise the impact of infrastructure development and operations in the Parklands.	Chapter 10
G10	Encourage access via public transport and a network of paths for pedestrian/cycle movement.	Chapter 11
G11	Avoid land uses that create air pollution and any other detrimental environmental impacts.	Chapter 19

The SWRL would have some impacts on the issues identified in the various Parklands management objectives above, as detailed in the Chapters listed in Table 3-1. However, it is unlikely that the impacts of the SWRL would have a significant impact on the achievement of these management objectives.

3.3.4 Subregional planning

The Department of Planning is currently preparing a Subregional Planning Strategy for the South West region of Sydney. The subregional planning includes:

- the role of Liverpool as a regional city
- employment lands
- the remainder of the release areas (e.g. Mater Dei, Harrington Park Stage 1 & 2 (areas in Camden))
- infill development (urban consolidation and meeting housing targets).

The Strategy will build on and develop in more detail the principles of the overall Metropolitan Strategy. It will also define the role of the various centres, identify key directions for the South West region (at a subregional level) and identify a hierarchy of centres.

3.3.5 Precinct and locality planning

The recently gazetted State Environmental Planning Policy (Sydney Region Growth Centres) 2006 sets out the statutory plans and processes that now apply in the South West and North West Growth Centres and defines the precincts that will guide the future precinct planning (see Figure 3-6). The SWRL would pass through parts of the Edmondson Park, Western Sydney Parklands, Leppington North, Leppington and Rossmore precincts, as shown on Figure 3-6. The application of this SEPP to the SWRL is discussed in more detail in section 3.3.2. Now that the Policy is gazetted, the Growth Centres Commission will take over the planning process for the Growth Centres. A Development Code will be published by the Commission in the coming months. This will set out the planning rules to guide development from the initial staging for release, to the design of a precinct, to how a neighbourhood will look on the ground. The Code will guide and inform the precinct planning and development control plans in the Growth Centre.

The process of developing precinct plans will determine the land use zoning and detailed development controls that will apply to each precinct. Precinct plans will be coordinated by the Growth Centres Commission, and can be prepared by a local council or a land owner on behalf of the Commission. They will require further investigations into appropriate land use options, physical environmental and infrastructure constraints, building on the Structure Plan for the wider Growth Centre. The Growth Centres Commission will also be preparing an Infrastructure Plan, detailing the proposed infrastructure projects in the Growth Centre.

Edmondson Park is within the Growth Centre and early release planning is well advanced. More detailed locality planning is being progressively undertaken by Liverpool and Campbelltown Councils (and Landcom) for the developing area of Edmondson Park and beyond.

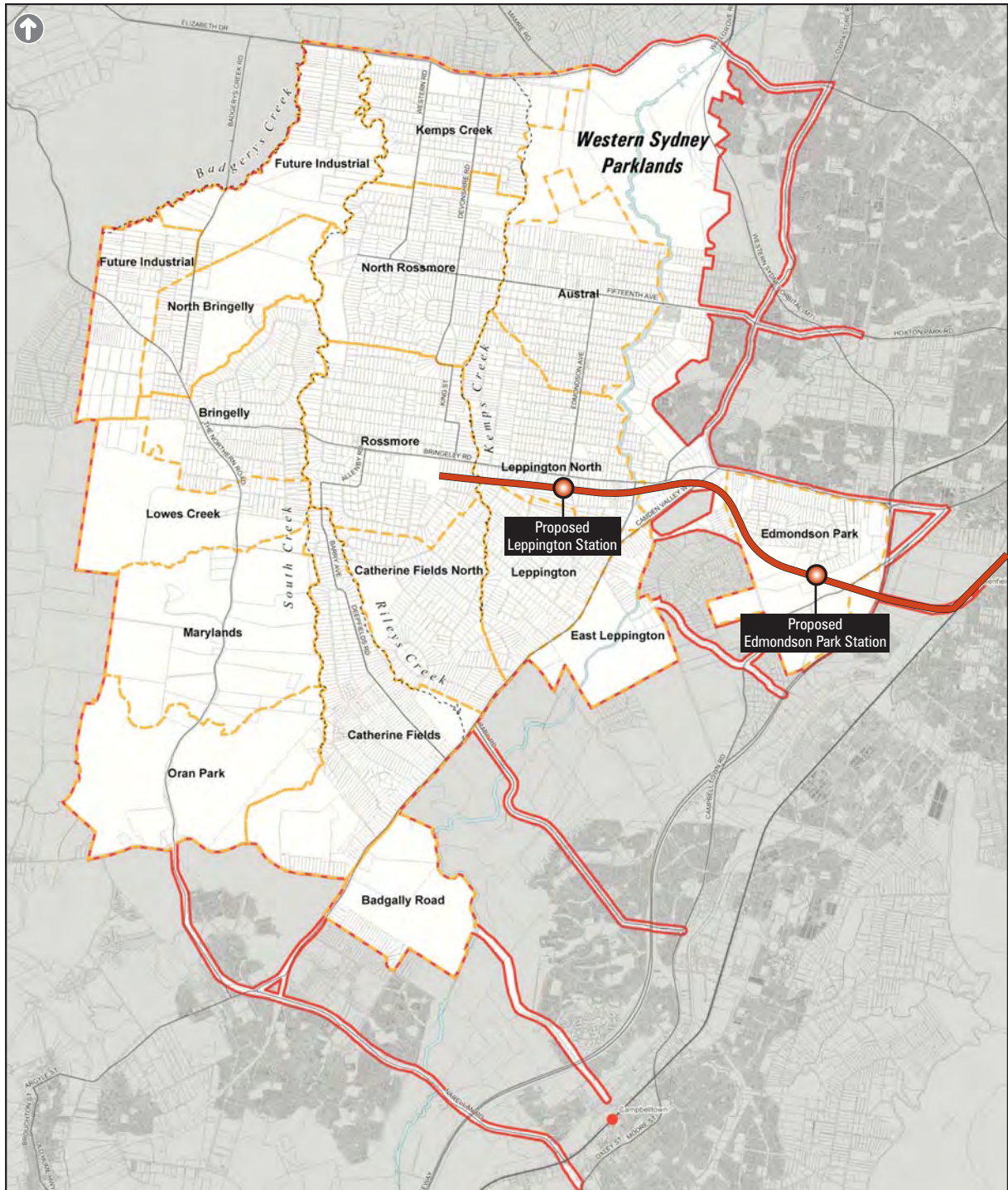
3.3.6 Metropolitan parking policy

One of the objectives of the Metropolitan Strategy (Objective D3.2) is the development and implementation of a metropolitan parking policy within the greater objective (D3) of influencing travel choices to encourage more sustainable travel. The aim of the metropolitan parking strategy will be to promote the use of public transport to centres and to ensure a consistent approach to the provision of parking is adopted across each the metropolitan area. This policy will ultimately guide decision making on the provision of commuter car parking at each of the new stations and at the upgraded Glenfield Station.

3.4 Statutory planning instruments

As discussed in Section 3.1, the SWRL is a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* 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 part of it) is given, then only SEPPs will apply to the carrying out of the project (or that part of it).

In addition, approval cannot be granted under Part 3A for a project that would (but for Part 3A) be wholly prohibited under an environmental planning instrument.



- South West Growth Centre boundary
- Precinct boundary
- Proposed SWRL

Figure 3-6 South West Growth Centre precinct boundaries

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

3.4.1 Local environmental planning instruments

The SWRL would be located within the three LGAs of Liverpool, Campbelltown and Camden. Within each LGA, the relevant local environmental planning instruments (LEPs) have been considered in order to determine whether the SWRL would be permissible within each of the land use zonings it would cross. Table 3-2 summarises the permissibility of the SWRL. (The alignment also passes through the Western Sydney Parklands, which are covered under a regional environmental plan — see Section 3.3.2.)

Table 3-2 Overview of the permissibility of the SWRL under applicable LEPs

Zone	Permissible	Prohibited
<i>Liverpool Local Environmental Plan 1997</i>		
1(a) Rural	With consent	No
1(b) Rural – Future Urban	With consent	No
5 (a) Special uses – Public transport	With consent	No
5 (b) Special uses – Arterial Road	With consent	No
Deferred matter	Subject to endorsement by the Department of Planning	Subject to endorsement by the Department of Planning
<i>Campbelltown (Urban Area) Local Environmental Plan 2002</i>		
5(a) Special uses ‘A’	Without consent	No
<i>Campbelltown Local Environmental Plan No. 112 – Macquarie Field House</i>		
No zoning identified	With consent	No
<i>Camden Local Environmental Plan No. 48</i>		
1(b) Rural ‘B’	With consent	No

The table demonstrates that the SWRL is not prohibited in any land use zonings within which it is proposed and that parts of the SWRL would be permissible with consent and other parts permissible without consent.

The Campbelltown (Urban Area) LEP 2002 (Amendment No 12) and the Liverpool LEP 1997 (Amendment No. 83) were gazetted on 31 March 2006. These amendments give effect to planning controls for the Edmondson Park urban release area, in the case of Campbelltown (Urban Area) LEP 2002; and the Edmondson Park Smart Growth Precinct, in the case of Liverpool LEP 1997. The amendments to these instruments were prepared so as to accommodate the proposed SWRL corridor.

Specifically, Clause 2(c) of Liverpool LEP 1997 (Amendment No. 83) provides that an aim of the amendments contained in that Plan is:

to identify areas of land that are affected by the proposed northern and southern rail alignments of the proposed south west rail link, with consideration of the future zoning of these areas being deferred until such time as a preferred rail alignment has been identified and endorsed by the Department.

The proposed SWRL corridor alignment would traverse an area that is identified as 'deferred' under the Liverpool LEP 1997 (see Figure 3-3). The zoning of this area was deferred to provide flexibility for resolution of the alignment.

Campbelltown (Urban Area) LEP 2002 (Amendment No 12) establishes the Edmondson Park Urban Release Area Precinct and rezones land within that precinct. The planning controls that have been established for the precinct aim to facilitate the provision of physical and social infrastructure.

Clause 2(e) of the Campbelltown (Urban Area) LEP 2002 (Amendment No 12) provides that one of the aims of the amendments was to:

...establish a framework for the preparation of locality development control plans for the Edmondson Park Urban Release Area Precinct that are consistent with and complement the provisions of this plan, and facilitate the timely provision of physical and social infrastructure, the orderly phasing of the development of land, the management of water courses and stormwater, and the appropriate management of development...

Other than that part of the proposed SWRL corridor alignment that would traverse the 'deferred' area, the SWRL corridor is zoned 5(a) Special uses (Community/Transport/School) under the Liverpool LEP 1997. The corridor is zoned 5(e) Special Uses Public Purposes Corridor under the Campbelltown (Urban Area) LEP 2002 (Amendment No 12).

The Liverpool LEP 1997 and the Campbelltown (Urban Area) LEP 2002 (Amendment No 12) contain land acquisition clauses. For the purposes of the SWRL, the Corporation Sole (Minister administering the *Environmental Planning and Assessment Act 1979*) has been identified as the acquisition authority for the rail corridor (i.e. the Department of Planning, Land Management Branch). Land required for the SWRL corridor would be acquired in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*. No acquisition clauses apply to the deferred land.

As part of planning reforms undertaken in 2005, a standard LEP template was introduced. All councils are now required to prepare LEPs that are consistent with this template. Liverpool Council is currently preparing a new LEP in accordance with this template, with finalisation and gazettal of the new LEP currently projected to occur in 2007.

3.4.2 Regional and state planning instruments

A number of state environmental planning policies (SEPPs) and Sydney regional environmental planning policies (SREPs) are relevant to the proposal, as identified in this Section.

SEPP (Sydney Region Growth Centres) 2006

SEPP (Sydney Region Growth Centres) 2006, was gazetted in July 2006. The SEPP sets out the statutory plans and processes that will apply in the North West and South West Growth Centres. Central to the SEPP is the coordination of sustainable land release for urban development within each growth centre.

The SEPP has four maps associated with it that relate to the South West Growth Centre:

- a precinct boundaries map (see Figure 3-6)
- a zoning map that identifies land that is earmarked for conservation in public ownership and proposed to be zoned Public Recreation – Regional

- a development control map that shows flood-prone land and riparian corridors along major creeks and ‘transitional areas’ that are subject to additional planning provisions that aim to protect the existing environmental characteristics of the land (These areas are environmentally sensitive land that is to be retained in private ownership.)
- the South West Growth Centre Structure Plan (see Figure 2-2 and discussion in Section 3.2.1).

The proposed SWRL corridor crosses the Edmondson Park, Leppington North, Leppington and Rossmore precincts shown on the precinct boundaries map.

The proposed corridor does not cross any areas proposed to be zoned ‘Public Recreation – Regional’ under the SEPP, nor does it cross any ‘transitional land’ identified on the Development Control Map, or any ‘Conservation/open space’ or ‘Heritage curtilage’ areas shown on the South West Growth Centre Structure Plan.

It does, however, cross some areas of ‘Flood Prone and Major Creeks Land’ identified on the Development Control Map, applying to Kemps Creek and its tributaries. Part 5 of the SEPP sets out certain development controls for development requiring consent that is carried out on Flood Prone and Major Creeks Land. Clause 20 provides that consent is not to be granted to the carrying out of development to which this Part 5 applies, unless the consent authority has taken the following into consideration:

- (a) whether or not the development will adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties,
- (b) whether or not the development will alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain,
- (c) whether the development will enable safe occupation of the flood prone and major creeks land,
- (d) 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,
- (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,
- (f) whether or not the development is compatible with the flow conveyance function of the floodway,
- (g) whether or not the development is compatible with the flood hazard,
- (h) in the case of development consisting of the excavation or filling of land, whether or not the development:
 - (i) will detrimentally affect the existing drainage patterns and soil stability in the locality, and
 - (ii) will significantly impact on the likely future use or redevelopment of the land, and
 - (iii) will adversely impact on the existing and likely amenity of adjoining properties, and
 - (iv) will minimise the disturbance of relics, and
 - (v) will adversely impact on any watercourse, drinking water catchment or environmentally sensitive area.

It is not yet known whether the SEPP will provide that consent is required for the section of the SWRL which would be carried out on flood prone and major creeks land. This will be set out in Schedule 1 of the SEPP upon the completion of the precinct planning process (which has not yet occurred). Therefore, there is presently no requirement for consent for the SWRL under this SEPP. If the SEPP is amended to include a consent requirement for the SWRL, then clause 20 of Part 5 of the SEPP will come into effect.

Clause 20 would also apply to other development around Kemps Creek and its tributaries for which consent is required under Schedule 1. The impacts of the SWRL itself on flood behaviour are addressed in Chapter 13 and Technical Paper 2. Impacts on relics are discussed in Chapter 15 and other environmental issues are covered in Chapter 19.

SEPP 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 to SEPP 19 and relevantly include the Camden, Campbelltown and Liverpool LGAs. The SEPP aims to protect urban bushland because of the value of such land to the community as part of the natural heritage, its aesthetic value and its value as a recreational, educational and scientific resource.

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. The proposed SWRL corridor would be on or adjacent to bushland zoned for the above purposes within the Western Sydney Parklands. The Western Sydney Parklands are governed by SREP 31 (as discussed below). Clause 4 of SREP 31 states that SEPP 19 does not apply to lands to which SREP 31 applies. Clause 3(2)(c) of SEPP 19 has the same effect. Consequently, the requirements of SEPP 19 do not apply to the SWRL.

SEPP No. 44 – Koala Habitat Protection

SEPP No. 44 – Koala Habitat Protection (SEPP 44) aims to encourage the proper conservation and management of natural vegetation areas that provide habitat for koalas. The SEPP applies to 107 local government areas, including the Campbelltown and Liverpool LGAs, within which the SWRL falls, but not the Camden LGA, within which the SWRL also falls.

SEPP 44 details development controls that apply to land in the relevant LGAs for which a development application has been made, and which is more than one hectare in size. Development applications in relation to such land cannot be approved prior to certain investigations of koala habitat to determine whether the land constitutes ‘potential’ or ‘core’ koala habitat. A council may only grant development consent in relation to land considered ‘core koala habitat’ if a plan of management has been developed under the SEPP. In addition, the development consent must be consistent with that plan of management.

‘Core koala habitat’ is defined as an area with a resident population of koalas, evidenced by the presence of breeding females, recent sightings of, and historical records of, a population. ‘Potential koala habitat’ is identified as areas of native vegetation where specific types of native feed trees (as detailed in Schedule 2 of the plan) are found.

As detailed in Technical Paper 3 (Biodiversity), the dominant species of tree associated with vegetation communities along the proposed SWRL corridor are *Eucalyptus moluccana*, *E. tereticornis*, *E. crebra*, *E. eugenoides*, *E. amplifolia*, *E. botryoides*, *E. elata*, *Corymbia maculata* and *Angophora subvelutina*. Of these species, only *E. tereticornis* is listed as Koala feed tree species in Schedule 2 of SEPP 44. Feed trees species were recorded in densities greater than 15 per cent in areas of remnant woodland and, therefore, these areas qualify as 'potential Koala habitat'. However, no evidence of Koala activity was recorded during the field surveys and there are no records of this species within the locality of the proposed corridor of the SWRL (Department of Environment and Conservation 2006b). The absence of recent Koala activity indicates that the site represents either a little used part of an individual Koala's home range area, or is an area of otherwise suitable habitat that is not presently supporting a stable Koala population (Phillips & Callaghan 1995). Therefore, 'core Koala habitat', as defined by SEPP 44, is unlikely to occur at the site and no further assessment for this species is required.

SEPP No. 55 – Remediation of Land

The objective of SEPP No. 55 - Remediation of Land (SEPP 55) is to provide for a State-wide planning approach to the remediation of contaminated land. In particular, the SEPP aims to promote the remediation of contaminated land to reduce the risk of harm to human health or to any other aspect of the environment. The SEPP specifies where consent is and is not required for remediation work and requires that remediation works meets certain standards and notification requirements. SEPP 55 applies to the entire state of NSW.

The SWRL corridor is known to be contaminated in some areas, particularly through the former Ingleburn Army Camp (see Chapter 19). Clause 8(2) of SEPP 55 provides that a person must not carry out a 'category 1 remediation work' except with the consent of the consent authority, which in this case would be the relevant local council (clause 10). These are works which fall within any of a number of specified categories under clause 9. A category 1 remediation work must be treated as such even if it is ancillary to development that may be carried out without consent (clause 15(2)). As a result of s75R(2), SEPP 55 will apply to the carrying out of the SWRL. Any remediation works would need to be carried out in accordance with this SEPP prior to the main SWRL construction.

SEPP No. 63 – Major Transport Projects

SEPP No. 63 aims to facilitate a number of specified major transport projects (which currently exclude the SWRL), as well as:

- (b) to co-ordinate the orderly and economic development of land by providing for the assessment of those projects under Part 5 of the Act or, if applicable, Part 3A of the Act,
- (c) to require development applications involving excavation, or other penetration of the ground, that may affect any of those projects to be referred for comment to the proponent of the project,
- (d) to suspend the operation of certain laws for the purpose of enabling the carrying out of those projects,
- (e) to ensure that development does not impede the construction and operation of rail expansion projects, and in particular:
 - (i) to remove the requirement for development consent to preliminary geotechnical investigations and surveys for railway purposes, and
 - (ii) to require the concurrence of RailCorp to development applications that may affect land within specified rail corridors for those projects.

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 concurrence of RailCorp is provided. SEPP 63 does not currently apply to the SWRL Project.

Draft SEPP (Infrastructure) 2006

On 19 October 2006, draft SEPP (Infrastructure) 2006 was placed on public exhibition. The draft SEPP would streamline the process for development and delivery of public infrastructure. If gazetted, it would replace 19 SEPPs, including SEPP No. 63.

In relation to railways, the draft SEPP provides for an integrated approach to the development of new railway lines, as well as augmentation of existing railway infrastructure, to 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.

SEPP (Major Projects) 2005

SEPP (Major Projects) 2005 describes certain categories of development under its Schedules 1, 2, 3 and 5. If the Minister for Planning forms the opinion that certain development is of a kind that is described under the Schedules, then that development is declared to be a Part 3A project (clause 6(1)).

Item 23 of Schedule 1 of the SEPP contains a description of the following development:

- (1) Development that has a capital investment value of more than \$30 million for the purpose of:
 - (a) heavy railway lines associated with mining, extractive industries or other industry, or
 - (b) railway freight facilities or inter-modal terminals.
- (2) Development within a railway corridor or associated with railway infrastructure that has a capital investment value of more than \$30 million and that the Minister determines is of strategic State or regional planning significance, and is for the purpose of:
 - (a) commercial, residential or retail development, or
 - (b) container packing, storage or examination facility, or
 - (c) bus interchange development.

The SWRL, does not fall within the descriptions of development under item 23 of Schedule 1. In any event, as set out above, the SWRL has been declared to be a Part 3A project by virtue of a Ministerial Order signed on 7 April 2006.

SREP No. 31 – Regional Parklands

SREP No. 31 – Regional Parklands (SREP 31) provides for the management of the Western Sydney Parklands as a single open space area, thereby assisting in managing the competing demands placed on it. The SREP promotes recreation, biodiversity and heritage conservation and landscape protection as the primary roles of the Parklands and seeks to minimise impacts on these values.

The SREP prescribes planning controls for proposed development within the Regional Parklands area and designates the relevant local Council as the consent authority for such development, subject to other provisions of the *Environmental Planning and Assessment Act 1979*. These 'other provisions' of the Act apply in the case of the SWRL project, as the project is subject to Part3A of the Act. Under the SREP, development for the purposes of public utility undertakings (including new railways) are permissible with consent from the relevant local council.

The key aims of the SREP are:

- to promote the consistent planning and management of the Regional Parklands
- to enhance the ability of the Regional Parklands to meet the needs of the residents of Sydney for:
 - high quality open space
 - a range of recreational opportunities
 - a visual and physical break between areas of urban development
- to maintain, enhance and rehabilitate the natural systems of the Regional Parklands, particularly those that include threatened species, populations or ecological communities, or their habitats
- to preserve, care for and manage the cultural assets of the Regional Parklands
- to protect the quality of water in Prospect Reservoir, its Upper Canal and other bulk water supply infrastructure.

SREP 31 is currently supported by a Development Control Plan (DCP No. 1 – Interim Regional Parklands Management), which establishes a number of management units. It is proposed that longer-term management will be guided by detailed precinct-specific DCPs. Since this DCP was prepared, more detailed principles have been developed and are detailed in the *Western Parklands Management Vision* document (DIPNR 2004), discussed in Section 3.2.3.

The SWRL passes directly through the southern management unit/precinct of the Parklands. Land use/property, noise and visual amenity, ecological, heritage and social impacts associated with the SWRL are discussed in later Chapters of this document. Impacts on the Sydney Water Supply Upper Canal are discussed in Chapter 15 (in regard to heritage) and Chapter 19, in regard to water quality issues. The achievement of the key aims of the SREP should not be significantly affected with the implementation of the commitments proposed in this report.

SREP No. 20 – Hawkesbury-Nepean River (No. 2- 1997)

The aim of SREP 20 (Clause 3) 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'.

This SREP applies to land within the Camden, Campbelltown and Liverpool LGAs and integrates planning with catchment management to protect the river system. The SREP covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture, and urban and rural-residential development. It controls development that has the potential to impact on the river environment.

Pursuant to Clause 4.1(b), public authorities or state-owned corporations proposing to carry out development that does not require development consent must consider the general planning considerations set out in Clause 5, and the specific planning policies and related recommended strategies set out in Clause 6 that are applicable to the proposed development.

The general planning considerations set out in Clause 5 are:

- (a) 'the aim of this plan, and
- (b) the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, and
- (c) whether there are any feasible alternatives to the development or other proposal concerned, and
- (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 SWRL project would not be expected to affect the achievement of the aims of the plan or the strategies list in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, based on the findings of this Environmental Assessment (see Chapter 19) and can be effectively managed through the Statement of Commitments in Chapter 21 and standard environmental management measures. Alternatives to the project have been considered and are described in Part B of this document. The relationship between the different impacts of the SWRL or other proposals is discussed in Section 19.8. The issue of cumulative impacts requires further assessment, as proposed in the draft Statement of Commitments in Chapter 21.

The policies and strategies identified under Clause 6 of SREP20 address issues including total catchment management, environmentally sensitive areas, water quality and quantity, cultural heritage, flora and fauna, riverine scenic quality, agriculture/aquaculture and fishing, rural-residential development, urban development, recreation and tourism and the Metropolitan Strategy.

The policies and strategies identified under Clause 6 of SREP 20 have been considered during the preparation of this document. Cultural heritage, flora and fauna and scenic quality (visual impacts) are identified as key issues in the Environmental Assessment requirements and have been addressed in detail. The other issues listed above are considered to comprise non-key issues based on the environmental risk analysis undertaken for this Environmental Assessment. Accordingly, any impacts on these issues are considered to be able to be effectively managed in accordance with the Statement of Commitments in Chapter 21 and standard environmental management measures.

3.5 Applicable legislation

3.5.1 State legislation

Table 3-3 identifies the licences, permits and approvals that may be required for the construction and operation of the SWRL under NSW legislation.

Table 3-3 Summary of potential approval requirements under NSW legislation

Provision	Approval requirements	Required action	Agency
<i>Protection of the Environment Operations Act 1997</i>			
Section 48 and Schedule 1	Environment Protection Licence for construction (installation of track and other railway systems activities listed in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i>). Operational phase would form a variation to RailCorp's existing Environment Protection Licence No. 12208.	Apply for an Environment Protection Licence	Department of Environment & Conservation
<i>Roads Act 1993</i>			
Section 138	Consent to erect a structure or carry out a work in, on or over a public road	Apply for consent	Roads and Traffic Authority
<i>Environmental Planning and Assessment Act 1979</i>			
SEPP 55	Consent for category 1 remediation works (under <i>Environmental Planning and Assessment Act 1979</i>)	Consent is likely to be required for category 1 remediation works under this SEPP	Relevant Council

Section 75U of the *Environmental Planning and Assessment Act 1979* specifies certain authorisations which are not required for an 'approved project' under Part 3A. 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, if the Minister grants approval to carry out the SWRL (or a part of it) under s75J(1) of Part 3A, the following authorisations would not be required:

- a permit under Section 201, 205 or 219 of the *Fisheries Management Act 1994*
- an approval under Part 4, or an excavation permit under Section 139, of the *Heritage Act 1977*
- a permit under section 87 or a consent under Section 90 of the *National Parks and Wildlife Act 1974*
- a permit under Part 3A of the Rivers and Foreshores Improvement Act 1948
- 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*.
- 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*
 - a consent under s138 of the *Roads Act 1993*.

No authorisation under Section 12 of the *Native Vegetation Act 2003* would be required as this Act does not cover 'Urban areas' listed in Part 3 of Schedule 1 of the Act, which includes south-western Sydney. Furthermore, a bush fire safety authority would not be required under Section 100B of the *Rural Fires Act 1997*, as the SWRL does not meet the definition of development requiring an authorisation under that Act.

3.5.2 Commonwealth legislation

Part 3 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* requires the approval of the Commonwealth Environment Minister for the taking of an action:

- that has, will have, or is likely to have a significant impact on a specified matter of national environmental significance
- that is carried out on Commonwealth land and has, will have, or is likely to have a significant impact on the environment, or
- that is carried out outside Commonwealth land and has, will have or is likely to have a significant impact on the environment of Commonwealth land.

Items of national environmental significance comprise world heritage properties, national heritage places, wetlands of international importance, Commonwealth listed threatened species and ecological communities, Commonwealth listed migratory species, nuclear actions, Commonwealth marine areas, and Commonwealth land.

The potential impacts of the SWRL that may trigger assessment under the Act relate to the potential impacts on threatened species/ecological communities (see Chapter 14), impacts on the former Ingleburn Military Camp, a Commonwealth listed heritage item (see Chapter 15), and impacts on Commonwealth land (also the former Ingleburn Military Camp).

Neither the lodgement of the SWRL Concept Plan nor the granting of a concept approval by the Minister would (of themselves) constitute 'actions' under the Act that would require referral under the *Environment Protection and Biodiversity Conservation Act 1999*.

The SWRL will be referred to the Commonwealth Minister under the *Environment Protection and Biodiversity Conservation Act 1999* if required.