

ATTACHMENT A – EPBC Act Requirements



PROJECT ASSESSMENT NOTES

Parramatta Light Rail Stage 2, NSW (EPBC 2022/09300, SSI-10035)

This assessment is being undertaken in accordance with the bilateral assessment agreement between the Australian and NSW governments (*Amending Agreement No. 1*, 2020). This document is not legally binding and does not replace the requirements of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the assessment requirements, the bilateral agreement or the administrative arrangements. This document is intended to complement the assessment requirements and assist NSW Department of Planning and Environment (NSW DPE) to manage the environmental impact assessment process. Details about the engagement steps pursuant to the EPBC Act process are at **Attachment A**.

Project details

The proposed action is the construction of a 10 km long dual-track light rail line with 15 stops to connect to the existing Stage 1 of the Parramatta Light Rail (PLR) network to Sydney Olympic Park.

Matters of National Environmental Significance

There are likely to be significant impacts on the following controlling provisions:

- Listed threatened species and communities (sections 18 and 18A)

All matters of national environmental significance (MNES) protected under the triggered controlling provisions are potentially relevant, however the Department of Climate Change, Energy, the Environment and Water considers that there is likely to be a significant impact on the following:

- Green and Golden Bell Frog (*Litoria aurea*) – vulnerable

Note that this may not be a complete list and it is the responsibility of the proponent to ensure any protected matters under this controlling provision are assessed for the Commonwealth decision-maker's consideration.

Based on the information available in the referral documentation, the Department considers the proposed engagement described in **Attachment A** will be adequate. NSW DPE is welcome to contact the project officer at any time if there are specific questions or alternately contact Martin Paull, Director in Southern NSW Assessment Section in DCCEEW.

Specific risks

Key risks associated with the proposed action from the Commonwealth perspective include:

Listed threatened species and communities (sections 18 and 18A)

For each of the EPBC Act listed species predicted to occur within and surrounding the proposed action area, likely to be significantly impacted, the EIS must provide:

1. Survey results, including details of the scope, timing and methodology for studies or surveys used and how they are consistent with (or justification for divergence from) published Commonwealth guidelines and policy statements and/or the relevant NSW offsetting method.
2. A description and quantification of habitat in the study area (including suitable breeding habitat, suitable foraging habitat, important populations and habitat critical for survival), with consideration of, and reference to, any relevant Commonwealth guidelines and policy statements including listing advices, conservation advices, recovery plans, and threat abatement plans.
3. Maps displaying the above information (specific to each EPBC protected matter) overlaid with the proposed action. It is acceptable, where possible, to use the mapping and assessment of Plant Community Types (PCTs) and the species surveys prescribed by the BAM as the basis for identifying EPBC Act-listed species and communities. The EIS must clearly identify which PCTs are considered to align with habitat for the relevant EPBC Act listed species or community and provide individual maps for each species or community.
4. Description of the nature, geographic extent, magnitude, timing and duration of any likely direct, indirect and consequential impacts on any relevant EPBC Act listed species and communities. It must clearly identify the location and quantify the extent of all impact areas to each relevant EPBC Act listed species or community.
5. For each of the EPBC Act listed species and communities likely to be impacted by the development, the EIS/assessment must provide information on proposed avoidance and mitigation measures to deal with the impacts of the action, and a description of the predicted effectiveness and outcomes that the avoidance and mitigation measures will achieve.
6. Quantification of the offset liability for each species and community significantly impacted, and information on the proposed offset strategy, including discussion of the conservation benefit for each species and community, how offsets will be secured, and the timing of protection. All suitable habitat for MNES significantly impacted must be offset. It is a requirement that offsets directly contribute to the ongoing viability of the specific protected matter impacted by a proposed action i.e. 'like-for-like'.

Like-for-like includes protection of native vegetation that is the same ecological community or habitat being impacted, or funding to provide a direct benefit to the matter being impacted i.e. threat abatement, breeding and propagation programs or other relevant conservation measures.

Relevant References and Guidelines

The Bilateral Agreement (clause 7.3) requires that NSW ensure that the Assessment Report addresses whether granting (or not granting) approval is not inconsistent with Australia's obligations under international conventions, or management plans or principles of relevance to the action's controlling provisions. The international conventions,

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management plans and principles that must be considered in relation to this proposal include:

- Listed threatened species and communities
 - Australia's obligations under the:
 - : Convention on Biological Diversity
 - : the Convention on Conservation of Nature in the South Pacific (Apia Convention)
 - : the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
 - Any relevant recovery plans or threat abatement plans.

The Bilateral Agreement (clause 7.4) requires that NSW consider guidance material and relevant policies and plans when assessing an action and developing a recommendation to the Commonwealth Minister. The policies and plans that must be considered in relation to this proposal include:

- Relevant conservation advice/s: <http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl>
- Relevant strategic assessment reports

Commonwealth Listing Advice, Survey Guidelines and Referral Guidelines contain information on threatened species and ecological communities which may provide further support to proponents and NSW DPE in considering and evaluating the significance of residual impacts on the action's controlling provisions. These documents may be found in the Department of Climate Change, Energy, the Environment and Water's Species Profile and Threats Database: <http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl>

Stakeholder consultation

The department notes that under the NSW legislation, Indigenous stakeholders need to be consulted by the proponent during the assessment process. The National Indigenous Australians Agency (NIAA) provided comments on the referral and recommends that:

- The NIAA notes there are no Native Title claims or determinations over the project area. Native Title may still be present over the non-freehold land tenure. It is unclear from the referral which groups and organisations have been consulted in the process for engaging with the Registered Aboriginal Parties (RAPs) for the project. If it has not already done so, the proponent should contact the Deerubbin Local Aboriginal Land Council.
- The NIAA recommends the proponent ensure all relevant Traditional Owners be provided the opportunity for input on the project at its earliest stages and continue to work with the Traditional Owners throughout the life of the project.

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- The NIAA recommends that the completed Aboriginal Cultural Heritage Assessment Report (ACHAR) be formalised as part of a Cultural Heritage Management Plan (CHMP). The proponent is also encouraged to consider entering into an Indigenous Land Use Agreement (ILUA) with the Traditional Owners which could incorporate the CHMP.
- The NIAA recommends the proponent develop cultural heritage awareness training to be delivered to all staff and contractors, in collaboration with the Traditional Owners and other First Nations stakeholders.
- NIAA encourages the engagement of Indigenous employees and businesses, and the proponent should consider engaging with Supply Nation and local Workforce Australia providers and other providers to connect to First Nations jobseekers as part of this project. They note the Indigenous Employment and Supplier-use Infrastructure Framework may apply to this project and that First Nations employment and procurement targets will likely be developed.

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A: Anticipated engagement

Contacts

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Project (EPBC 2022/09270, SSD-26254212)

2015 Bilateral Agreement - anticipated engagement between Department of Climate Change, Energy, the Environment and Water, and Department of Planning and Environment

Key Points	Engagement anticipated ¹	EPBC Cost Recovery
Draft assessment requirements	Minimal – provide project assessment notes	Stage 1 does not apply
Draft assessment documentation	Minimal	Stage 2 applies
Draft Assessment Report and recommendation including conditions and offset requirements	Engagement anticipated	Stage 3 applies

Associated tasks

Project management Ad hoc meetings as required

NOTE: The level of anticipated engagement under the assessment bilateral is specific to each proposal. This has been determined by the Department of Climate Change, Energy, the Environment and Water at the time of signature and may be subject to change.

EPBC Act Approval Process (Department of Climate Change, Energy, the Environment and Water)

Indicative steps	Timeline	Cost recovery
Start EPBC Act (Statutory) decision clock	Day 1 - on receipt of final Assessment Report	Stage 4 - applies
Provide proposed EPBC Act decision to proponent and relevant Commonwealth Ministers	Within 20 business days (indicative) of Day 1	
Invite comment on conditions from proponent and relevant Commonwealth Ministers	Duration of 10 business days (Statutory)	
Make Final EPBC decision and notification	Within 30 business days (Statutory) of Day 1	