

## **4 Planning and assessment process**

# 4 Planning and assessment process

This chapter describes the statutory planning process for Sydney Metro West, and identifies other NSW and Commonwealth legislation and approvals which may apply.

## 4.1 Secretary’s Environmental Assessment Requirements

The Secretary’s Environmental Assessment Requirements relating to the planning and assessment process, and where these requirements are addressed in this Environmental Impact Statement, are outlined in Table 4-1.

**Table 4-1: Secretary’s Environmental Assessment Requirements – Planning and assessment process**

Reference	Secretary’s Environmental Assessment Requirements	Where addressed
<b>1. Environmental Impact Assessment Process</b>		
1.1	The Environmental Impact Statement (EIS) must be prepared in accordance with Part 3 of Schedule 2 of the Environmental Planning and Assessment Regulation 2000 (the EP&A Regulation).	Appendix B
1.2	It is the Proponent’s responsibility to determine whether the Proposal needs to be referred to the Commonwealth Department of the Environment and Energy (DoEE) for an approval under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act). If DoEE has determined that an approval is required under the EPBC Act, supplementary environmental assessment requirements may need to be issued to ensure a streamlined assessment under an Accredited Assessment can be achieved.	Section 4.5
<b>2. Environmental Impact Statement</b>		
2.1	The EIS must include, but not necessarily be limited to, the following: h. statutory context of the proposal (as a whole) including: <ul style="list-style-type: none"> <li>• how it meets the provisions of the <i>Environmental Planning and Assessment Act 1979</i> (EP&amp;A Act) and the EP&amp;A Regulation;</li> <li>• a list of any approvals that must be obtained under any other Act or law before the Proposal may lawfully be carried out;</li> <li>• identification of the existing environmental planning instruments and other current government strategic plans and policies relevant to the land subject to the Proposal (including State environmental planning policies, land use and infrastructure strategies and local strategic planning statements).</li> </ul>	Sections 4.2, 4.3, 4.4 and 4.5

## 4.2 NSW environmental planning approvals

The *Environmental Planning and Assessment Act 1979* (EP&A Act) and the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) are the primary pieces of legislation regulating land use planning and development assessment in NSW. This legislation is supported by a range of environmental planning instruments including State environmental planning policies (SEPPs) and local environmental plans.

Clause 79 of the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) provides that development for the purpose of a railway and rail infrastructure facilities may be carried out by or on behalf of a public authority without development consent on any land. Sydney Metro West is characterised as being for the purpose of a railway and rail infrastructure facilities for the purposes of the Infrastructure SEPP, and is to be carried out by Sydney Metro, being a public authority. Accordingly, Sydney Metro West is permissible without obtaining development consent under Part 4 of the EP&A Act.

### 4.2.1 State significant and critical State significant infrastructure

Sections 5.12 and 5.13 of the EP&A Act provide for the declaration of State significant infrastructure and critical State significant infrastructure. Sydney Metro is seeking a specific declaration for Sydney Metro West as State significant infrastructure and critical State significant infrastructure under sections 5.12(4) and 5.13 of the EP&A Act respectively. Schedule 5 of State Environmental Planning Policy (State and Regional Development) 2011 would also be amended to include Sydney Metro West as critical State significant infrastructure.

The requirements of clause 192 of the EP&A Regulation for applications seeking approval of the Minister for Planning and Public Spaces to carry out State significant infrastructure are addressed in Appendix B.

### 4.2.2 Planning approval process under Part 5, Division 5.2 of the EP&A Act

The assessment and approval process for a State significant infrastructure project is established under Part 5, Division 5.2 of the EP&A Act. Staged infrastructure applications can be made under section 5.20 of the EP&A Act. A staged infrastructure application sets out the concept for the proposed infrastructure and can also set out details of Stage 1. The assessment and approval process for staged State significant infrastructure is shown in Figure 4-1.

Sydney Metro submitted a State significant infrastructure application and supporting document to the Secretary of the Department of Planning, Industry and Environment 21 October 2019 (as required by section 5.15 of the EP&A Act). The Secretary’s Environmental Assessment Requirements for the Concept and Stage 1 were issued on 11 December 2019 (as per section 5.16 of the EP&A Act). The Secretary’s Environmental Assessment Requirements are provided in Appendix A.

This Environmental Impact Statement has been prepared in accordance with the Secretary’s Environmental Assessment Requirements and the requirements of Schedule 2, Part 3 of the EP&A Regulation (as per section 2.16(2) of the EP&A Act).

The Department of Planning, Industry and Environment will place the Environmental Impact Statement on public exhibition for a minimum of 28 days (as per Schedule 1, Division 2, clause 12 of the EP&A Act). During the exhibition period, the community, stakeholders and government agencies will be able to review the Environmental Impact Statement and provide a written submission to the Department of Planning, Industry and Environment for consideration in its assessment of the Concept and Stage 1.

At the completion of the public exhibition period, the Department of Planning, Industry and Environment will collate and provide Sydney Metro with a copy of all submissions received during the exhibition period. After reviewing the submissions, Sydney Metro will prepare a submissions report that responds to the relevant issues raised. If changes are required to the Concept or Stage 1 as a result of the issues raised or to minimise environmental impacts, a Preferred Infrastructure Report/Amendment Report may also be required. If this is required, Sydney Metro would prepare the report to address the changes to the design to minimise impacts and submit this for review to the Department of Planning, Industry and Environment. This report would be made available to the public.

Approval from the Minister for Planning and Public Spaces is required before Sydney Metro can proceed with the Stage 1 (as per section 5.14 of the EP&A Act). Further Environmental Impact Statement(s) will be required for subsequent stages of the Concept.



Figure 4-1: The assessment and approval process for State significant infrastructure

### 4.3 NSW environmental planning instruments

The declaration of the Sydney Metro West as critical State significant infrastructure would be made through the provisions of the State Environmental Planning Policy (State and Regional Development) 2011. As discussed in Section 4.2.1 of this chapter, Section 5.22 of the EP&A Act provides that environmental planning instruments (such as local environmental plans and SEPPs) do not, with some exceptions, apply to State significant infrastructure projects. Notwithstanding this, the environmental planning instruments that have been considered for consistency, are detailed below.

#### 4.3.1 State Environmental Planning Policies

##### State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (State and Regional Development) 2011 identifies development that is State significant development, State significant infrastructure and critical State significant infrastructure. Schedule 5 of this SEPP would be amended to include Sydney Metro West as critical State significant infrastructure and State significant infrastructure.

The approvals process for future integrated station and precinct development is separately discussed in Section 4.6 of this Environmental Impact Statement.

##### State Environmental Planning Policy (State Significant Precincts) 2005

The State Environmental Planning Policy (State Significant Precincts) 2005 identifies precincts which are of State importance. This policy aims to (among other things) facilitate the orderly use, development or conservation of State significant precincts for the benefit of the State.

Sydney Olympic Park is identified in the State Environmental Planning Policy (State Significant Precincts) 2005 as one such site. This policy takes precedence over the local environmental plan for this area (i.e. Auburn Local Environmental Plan 2010).

The State Environmental Planning Policy (State Significant Precincts) 2005 therefore provides for master planning, zoning, zone objectives, height and floor space controls, and heritage conservation development standards, amongst others for land within this precinct.

##### Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Some elements of the Concept and Stage 1 are within the defined boundary of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. This plan aims to protect, enhance and maintain the catchment, foreshores, waterways and islands of Sydney Harbour for existing and future generations.

Clause 20 of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 requires public authorities and others to consider the matters listed in Clauses 21 to 27 of the SEPP before they carry out activities to which Part 5 of the EP&A Act applies. Those matters relevant to the Concept and Stage 1 are listed in Table 4-2, along with the sections of the Environmental Impact Statement where the matters have been addressed. Clause 21 to 27 matters not relevant to Sydney Metro West have not been included.

**Table 4-2: Summary of relevant considerations in the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

Summary of relevant considerations	Where addressed
<b>Clause 21: Biodiversity, ecology and environmental protection</b>	
Development should have a neutral or beneficial effect on the quality of water entering the waterways (Clause 21(a))	Section 8.13 (Soils and surface water quality – Concept) and Chapter 19 (Soils and surface water quality – Stage 1).
Development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities) (Clause 21(b))	Section 8.16 (Biodiversity – Concept) and Chapter 22 (Biodiversity – Stage 1).
Development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access (Clause 21(d))	Section 8.16 (Biodiversity – Concept) and Chapter 22 (Biodiversity – Stage 1).
Development should retain, rehabilitate and restore riparian land (Clause 21(f))	Section 8.16 (Biodiversity – Concept) and Chapter 22 (Biodiversity – Stage 1).
Development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetative buffer to protect the wetlands (Clause 21(g))	Section 8.16 (Biodiversity – Concept) and Chapter 22 (Biodiversity – Stage 1).
Consideration of the cumulative environmental impact of development, in relation to biodiversity, ecology and environment protection (Clause 21(h))	Section 8.21 (Cumulative – Concept).
Consideration of whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance (Clause 21(i))	Section 8.14 (Contamination – Concept) and Chapter 20 (Contamination – Stage 1).
<b>Clause 22: Public access to, and use of, foreshores and waterways</b>	
Development should maintain and improve public access to and along the foreshore, without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation (Clause 22(a))	The Concept would not affect public access to the foreshore.
Development should maintain and improve public access to and from the waterways for recreational purposes (such as swimming, fishing and boarding) without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation (Clause 22(b))	The Concept would not affect public access to waterways.
If foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land (Clause 22(c))	Not relevant to the Concept.
The need to minimise disturbance of contaminated sediments (Clause 22(e))	Section 8.14 (Contamination – Concept) and Chapter 20 (Contamination – Stage 1).
<b>Clause 23: Maintenance of a working harbour</b>	
In the case of development on land that adjoins land used for industrial and commercial maritime purposes, development should be compatible with the use of the adjoining land for those purposes (Clause 23(c))	Section 8.8 (Property and land use – Concept) and Chapter 14 (Property and land use – Stage 1). Section 8.19 (Hazards – Concept) and Chapter 25 (Hazards – Stage 1).

Summary of relevant considerations	Where addressed
<b>Clause 24: Interrelationship of waterway and foreshore uses</b>	
Development on foreshore land should minimise any adverse impact on the use of the waterway, including the use of the waterway for commercial and recreational uses (Clause 24(b))	The Concept would not affect the use of waterways for commercial and recreational uses.
Development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore (Clause 24(c))	Section 8.4 (Transport and traffic – Concept) and Chapter 10 (Transport and traffic – Stage 1).
Development should avoid conflict between the various uses in the waterways and along the foreshores (Clause 24(e))	The Concept would not result in conflicts between uses in waterways or along foreshores (such as at The Bays).
<b>Clause 25: Foreshore and waterways scenic quality</b>	
The scale, form, design and siting of any building should be based on an analysis of: the land on which it is to be erected; the adjoining land; and the likely future character of the locality (Clause 25(a))	Section 8.9 (Landscape and visual – Concept) and Chapter 15 (Landscape character and visual amenity – Stage 1).
The development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries (Clause 25(b))	Section 8.9 (Landscape and visual – Concept) and Chapter 15 (Landscape character and visual amenity – Stage 1).
The cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores (Clause 25(c))	The Concept does not include water-based development.
<b>Clause 26: Maintenance, protection and enhancements of views</b>	
Development should maintain, protect and enhance views (including night views) to and from Sydney Harbour (Clause 26(a))	Section 8.9 (Landscape and visual – Concept) and Chapter 15 (Landscape character and visual amenity – Stage 1).
Development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items (Clause 26(b))	Section 8.9 (Landscape and visual – Concept) and Chapter 15 (Landscape character and visual amenity – Stage 1).
The cumulative impact of development on views should be minimised (Clause 26(c))	Section 8.21 (Cumulative – Concept).

**Referral of development proposals not requiring development consent**

Clause 31 of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 requires a public authority to notify the Foreshores and Waterways Planning and Development Advisory Committee, or in certain instances other public authority(s) responsible for the provision of services (including water, sewerage or stormwater systems), prior to carrying out certain development.

While the provisions of Clause 31 of the SEPP do not apply to State significant infrastructure, Sydney Metro would comply with the intent of the policy and would consult with the Foreshores and Waterways Planning and Development Advisory Committee during the development of Sydney Metro West.

**Development on land comprising acid sulfate soils**

Clause 36 of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 relates to approval for works that involve the excavation, dredging, filling or contouring of, or the extraction of soil or other extractive material that has the potential to impact on acid sulfate soils.



While these provisions do not apply to State significant infrastructure, appropriate management of acid sulfate soils would be undertaken for any excavation works proposed to be carried out in those areas with a high probability of encountering acid sulfate soils. Management measures would be consistent with the principles and practices outlined in the Acid Sulfate Soils Assessment Guidelines (NSW Acid Sulfate Soil Management Advisory Committee, 1998).

**Sydney Harbour Foreshores Area Development Control Plan**

The Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 (Sydney Harbour Foreshores and Waterways Area DCP) supports the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 by specifying detailed design guidelines for water-based and land-based developments, as well as developments located at the land/water interface.

Part 5 of the Sydney Harbour Foreshores and Waterways Area DCP specifies design guidelines for land-based developments. While the development control plan does not apply to State significant infrastructure, as the development control plan is part of a deemed State environmental planning policy, the relevant design guidelines would be considered for applicable aboveground elements of the Concept.

**State Environmental Planning Policy No. 55 – Remediation of Land**

The State Environmental Planning Policy No. 55 provides a state-wide approach to the remediation of contaminated land for the purpose of minimising the risk of harm to the health of humans and the environment. In accordance with Clause 7(1), a consent authority must not consent to the carrying out of development on any land unless:

- It has considered whether the land is contaminated
- If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or would be suitable, after remediation) for the purpose for which the development is proposed to be carried out
- If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land would be remediated before the land is used for that purpose.

A contamination assessment has been carried out as part of this Environmental Impact Statement (Section 8.14 (Contamination – Concept), Chapter 20 (Contamination – Stage 1) and Technical Paper 8 – Contamination).

**Sydney Regional Environmental Plan No. 26 – City West**

Sydney Regional Environmental Plan No.26 – City West is relevant to The Bays. The Plan repeals local environmental plans and other planning instruments that would otherwise apply to this land.

The Plan sets land use, urban design and public domain principles. Consistency with these principles would be considered during the future environmental impact assessment(s) for subsequent stages of Sydney Metro West.

**State Environmental Planning Policy (Coastal Management) 2018**

The State Environmental Planning Policy (Coastal Management) 2018 gives effect to the objectives of the *Coastal Management Act 2016* from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the coastal zone. Some elements of the Concept are within the defined boundary of the policy (within land defined as Coastal Environment Area). An assessment of the Concept against the management objectives, as specified in the *Coastal Management Act 2016*, for land defined as Coastal Environment Area is provided in Table 4-3.

**Table 4-3: Consistency with management objectives (as specified in the *Coastal Management Act 2016*) of land identified as a Coastal Environment Area**

Objective	Consistency
<b>To protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons, and enhance natural character, scenic value, biological diversity and ecosystem integrity</b>	Mapped areas of wetland listed under State Environmental Planning Policy (Coastal Management) 2018 are present within 200 metres of the Concept, which includes vegetation along the Parramatta River, Duck River and Mason Park wetlands (refer to Section 22.4.9 (Biodiversity – Stage 1)). Sydney Metro West would require the removal of 0.15 hectares of mangrove habitat, along with new road link crossings of, and realignment of short sections of, A’Becketts Creek and Duck Creek. Any impacts to the coastal environment are expected to be minimal as the aquatic biodiversity of A’Becketts Creek and Duck Creek, and the adjoining Duck River and Parramatta River, are already considerably modified due to habitat degradation. The design of A’Becketts Creek and Duck Creek crossings would provide for fish passage, incorporate suitable scour protection and not worsen existing flow velocities downstream from the crossing locations. Where possible, a vegetated riparian zone would be incorporated within the realigned open channel sections of A’Becketts and Duck Creek.
<b>To reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change</b>	Most of the Concept would be underground in tunnels, thereby minimising impacts to the coastal environment. Climate change predictions, such as sea level rise, have been considered in the design and material selection of the Concept. This is discussed further in Section 8.20 (Sustainability and climate change – Concept) of this Environmental Impact Statement.
<b>To maintain and improve water quality and estuary health</b>	The aquatic habitats of A’Becketts Creek and Duck Creek, and downstream, may experience reduced water quality due to increased turbidity, in-stream works and disturbance of potentially contaminated soils during construction. Where possible, measures would be implemented during construction to ensure sufficient flow and fish passage is maintained similar to current conditions to maintain water quality and estuary health.
<b>To support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons</b>	The Concept supports the social and cultural values by aiming to avoid or minimise impacts on coastal areas. The impacted areas of A’Becketts Creek and Duck Creek are highly modified and located within an existing industrial area. Impacts to coastal wetlands in this area have been minimised where possible.
<b>To maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place</b>	The Concept would not impact on beaches, dunes or natural features of foreshores.
<b>To maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platform</b>	The Concept would maintain current public access to foreshores and other coastal features throughout construction and operation.

Assessment of potential impacts on coastal wetlands mapped by State Environmental Planning Policy (Coastal Management) 2018 near Duck River and Sydney Olympic Park) is provided in Section 8.16 (Biodiversity – Concept) and Chapter 22 (Biodiversity – Stage 1).

### Sydney Regional Environmental Plan No. 24 - Homebush Bay Area

Some elements of the Concept and Stage 1, including the Sydney Olympic Park metro station, would be within the defined boundary of the Sydney Regional Environmental Plan No. 24 - Homebush Bay Area. The main aims of this plan are to:

- Define objectives for the Homebush Bay Area which encourage co-ordinated and environmentally sensitive development of the Homebush Bay Area
- Guide and co-ordinate the development of the Homebush Bay Area
- Replace planning instruments previously applying to the Homebush Bay Area with a simplified planning framework
- Provide flexible development controls by allowing a wide mix of uses in the Homebush Bay Area
- Provide for the preparation of detailed planning controls to complement the flexible controls in this plan
- Facilitate the development and management of Sydney Olympic Park by the Department of Planning, Industry and Environment (previously the responsibility of the former Sydney Olympic Park Authority) based on:
  - Master plans (whether adopted by the Minister under this Plan or approved by the Minister under section 18 of the *Sydney Olympic Park Authority Act 2007*)
  - Other guidelines and management strategies adopted by the Department of Planning, Industry and Environment for the management of Sydney Olympic Park
- Provide for public consultation in the planning and development of the Homebush Bay Area.

The development of Sydney Metro West has taken into consideration the masterplan development for the Homebush Bay Area and Sydney Metro has consulted the former Sydney Olympic Park Authority.

### State Environmental Planning Policy No. 19 - Bushland in Urban Areas

State Environmental Planning Policy 19 - Bushland in Urban Areas applies to bushland within the urban areas identified in Schedule 1 of the SEPP. Local government areas of relevance to the Concept which the policy applies to include City of Parramatta, Strathfield, City of Canada Bay, Inner West and City of Sydney. The aim of the Policy is to protect and preserve bushland for its natural heritage aesthetic, recreational, educational and scientific resource values.

An assessment of the concept against the aims of the policy has been provided at Table 4-4.

**Table 4-4: Aims of State Environmental Planning Policy 19 - Bushland in Urban Areas**

Objective	Consistency
<p><b>To protect and preserve bushland within the urban areas referred to in Schedule 1 because of:</b></p> <p><b>b. its value to the community as part of the natural heritage</b></p> <p><b>c. its aesthetic value, and</b></p> <p><b>d. its value as a recreational, educational and scientific resource</b></p>	<p>Most of the Concept would be underground or in pre-existing built-up areas. Measures would be implemented to avoid impacts to vegetation outside and adjacent to the Concept corridor. Direct impacts to bushland have been avoided and/or minimised where possible. Where disturbance was not able to be avoided, the vegetation is of poor to moderate quality.</p>
<p><b>To protect the remnants of plant communities which were once characteristic of land now within an urban area</b></p>	<p>Two Plant Community Types are present within the Concept corridor; Grey Box - Forest Red Gum grassy woodland on flats of the Cumberland Plain, Sydney Basin Bioregion (PCT 849) and Mangrove Forests in estuaries of the Sydney Basin Bioregion and South East Corner Bioregion (PCT 920).</p> <p>Measures would be implemented to protect retained vegetation during construction, including all vegetation outside and adjacent to the Concept corridor.</p> <p>Potential impacts to these plant communities have been minimised where possible. Impacts would be limited to 0.03 hectares of Grey Box - Forest Red Gum within the Westmead metro station construction site and 0.15 hectares of Mangrove Forests within the Clyde stabling and maintenance facility construction site.</p>

Objective	Consistency
<b>To retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term</b>	Due to the urban setting of the Concept, existing bushland parcels are fragmented and highly isolated. Where possible, impacts to native bushland have been avoided in order to retain existing bushland parcels within the Concept corridor.
<b>To protect rare and endangered flora and fauna species</b>	No rare or endangered flora or fauna species have been identified within the Concept corridor.
<b>To protect habitats for native flora and fauna</b>	Habitats within the Concept corridor are highly disturbed. It is unlikely that the Concept would impact on native flora and fauna habitats.
<b>To protect wildlife corridors and vegetation links with other nearby bushland</b>	The Concept is located within a highly disturbed landscape and habitats that do remain are fragmented and highly isolated. It is unlikely that any existing corridors or vegetation links would be affected.
<b>To protect bushland as a natural stabiliser of the soil surface</b>	The Concept is located in a highly disturbed, urbanised environment. Where possible, impacts to existing bushland have been avoided.
<b>To protect bushland for its scenic values, and to retain the unique visual identity of the landscape</b>	The Concept is located in a highly disturbed, urbanised environment. Where possible, bushland would be protected, and existing visual identity retained.
<b>To protect significant geological features</b>	The Concept would not impact any geological features of significance.
<b>To protect existing landforms, such as natural drainage lines, watercourses and foreshores</b>	<p>Most of the Concept would be underground or in pre-existing built-up areas. Direct impacts to existing landforms, such as natural drainage lines, watercourses and foreshores have been avoided and/or minimised where possible.</p> <p>New waterway crossings would be required at A'Becketts Creek and Duck Creek, along with short sections of realignment. Where possible, these would be designed to retain the existing passage of flow.</p>
<b>To protect archaeological relics</b>	Where possible, heritage items and significant archaeology would be avoided. Where impacts cannot be avoided, management measures would be put in place to minimise or offset impacts.
<b>To protect the recreational potential of bushland</b>	The Concept is located in a highly disturbed, urbanised environment. Where possible, the recreational potential of bushland would be protected.
<b>To protect the educational potential of bushland</b>	The Concept is located in a highly disturbed, urbanised environment. Where possible, the educational potential of bushland would be protected.
<b>To maintain bushland in locations which are readily accessible to the community</b>	The Concept is located in a highly disturbed, urbanised environment. Where possible, existing community access to bushland would be maintained.
<b>To promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conversion</b>	The Concept is located in a highly disturbed, urbanised environment with fragmented and highly isolated bushland parcels. Where possible, impacts to existing bushland have been avoided. Measures would be implemented to protect remaining vegetation outside and adjacent to the Concept corridor.

### 4.3.2 Local environmental plans

The Concept passes through the local government areas of Cumberland, City of Parramatta, Strathfield, City of Canada Bay, Burwood, Inner West and City of Sydney. Development within these local government areas is regulated by the following local environmental plans:

- Holroyd Local Environmental Plan 2011
- Parramatta Local Environmental Plan 2011
- Auburn Local Environmental Plan 2010
- Strathfield Local Environmental Plan 2012
- Burwood Local Environmental Plan 2012
- Canada Bay Local Environmental Plan 2013
- Leichhardt Local Environmental Plan 2013
- Sydney Local Environmental Plan 2012.

As indicated above at Section 4.2 of this Environmental Impact Statement, the EP&A Act provides that environmental planning instruments (including local environmental plans) do not apply to State significant infrastructure projects. Notwithstanding this, relevant environmental planning instruments have been considered during design development and assessment.

## 4.4 Other NSW legislation

### 4.4.1 Approvals that would otherwise apply

In accordance with sections 5.23 and 5.24 of the EP&A Act, some environment and planning legislation does not apply to State significant infrastructure that has been approved or must be applied consistently with an approval for State significant infrastructure.

### 4.4.2 Approvals or authorisations that are not required or cannot be refused

Section 5.23 of the EP&A Act specific approvals that are not required for State significant infrastructure. Those approvals that would otherwise be required for Sydney Metro West should it be declared as State significant infrastructure would be:

- Permits under sections 201, 205 and 219 of the *Fisheries Management Act 1994*
- Approvals under Part 4 or excavation permits under section 139 of the *Heritage Act 1977*
- Aboriginal heritage impact permits under section 90 of the *National Parks and Wildlife Act 1974*
- Approvals under section 90 and activity approvals (other than aquifer interference approvals) under section 91 of the *Water Management Act 2000*.

In addition, Division 8 of Part 6 of the *Heritage Act 1977* does not apply to prevent or interfere with the carrying out of the Stage significant infrastructure.

Similarly, section 5.23 of the EP&A Act specifies directions, orders or notices that cannot be made or given so as to prevent or interfere with the carrying out of approved Critical State significant infrastructure. Those that would otherwise apply if not for Sydney Metro West being State significance infrastructure would be:

- An interim protection order (within the meaning of *National Parks and Wildlife Act 1974*)
- An order under Division 1 (Stop work orders) of Part 6A of the *National Parks and Wildlife Act 1974*, or Division 7 (Stop work orders) of Part 7A of the *Fisheries Management Act 1994*
- A remediation direction under Division 3 (Remediation directions) of Part 6A of the *National Parks and Wildlife Act 1974*
- An order or direction under Part 11 (Regulatory compliance mechanisms) of the *Biodiversity Conservation Act 2016*
- An environment protection notice under Chapter 4 of the *Protection of the Environment Operations Act 1997*
- An order under section 124 of the *Local Government Act 1993*.

Section 5.24 of the EP&A Act identifies approvals or authorisations that cannot be refused if they are necessary for carrying out approved State significant infrastructure and must be substantially consistent with the Part 5, Division 5.2 approval. Statutory approvals or authorisations of potential relevance to Sydney Metro West include:

- An Environment Protection Licence under Chapter 3 of the *Protection of the Environment Operations Act 1997*
- Consent under section 138 of the *Roads Act 1993*.

### 4.4.3 NSW legislation that may still be applicable

Some environmental planning related legislation and regulations may still apply to approved critical State significant infrastructure. Based on the scope of Sydney Metro West those that may be relevant are identified in Table 4-5.

**Table 4-5: NSW legislation and regulations of potential relevance**

Legislation/regulation	Requirement
<b>Aboriginal Land Rights Act 1983</b>	This Act establishes the NSW Aboriginal Land Council and local Aboriginal land councils. The Act requires these bodies to: <ul style="list-style-type: none"> <li>• Take action to protect the culture and heritage of Aboriginal persons in the council's area, subject to any other law</li> <li>• Promote awareness in the community of the culture and heritage of Aboriginal persons in the council's area.</li> </ul> <p>The preamble of the Act states that land was traditionally owned and occupied by Aboriginal people and accepts that as a result of past government decisions, the amount of land set aside for Aboriginal people was reduced without compensation. To redress the loss of land, Aboriginal land councils can claim Crown land which, if granted, is transferred as freehold title.</p> <p>'Claimable Crown lands' includes Crown lands that are not lawfully used or occupied and that are not needed, nor likely to be needed, for an essential public purpose.</p>
<b>Biosecurity Act 2015</b>	Under this Act, all plants are regulated with a general biosecurity duty to prevent, eliminate or minimise any biosecurity risk they may pose. Section 22 requires that any person who deals with any plant, who knows (or ought to know) of any biosecurity risk, has a duty to ensure the risk is prevented, eliminated or minimised, so far as is reasonably practicable.
<b>Contaminated Land Management Act 1997</b>	This Act outlines the circumstances in which notification to the Environment Protection Authority is required in relation to the contamination of land. This may become relevant during construction and / or operation of Stage 1 and subsequent stages. Contamination is assessed and further discussed in Section 8.14 (Contamination – Concept) and Chapter 20 (Contamination) of this Environmental Impact Statement.
<b>Crowns Land Management Act 2016</b>	This Act sets out the requirements for the management of Crown land in NSW, including where councils and other organisations can deal with Crown land. Sydney Metro West passes underneath a number of parcels of Crown land.
<b>Greater Sydney Commission Act 2015</b>	This Act establishes the Greater Sydney Commission which has a principal objective of leading metropolitan planning for the Greater Sydney Region. The core functions of the Greater Sydney Commission are to provide advice to Government and assist local councils' plans or proposals relating to development in the Greater Sydney Region. The Greater Sydney Commission will not have a formal statutory role for Sydney Metro West but will be consulted with respect to its core functions.
<b>Heritage Act 1977 (section 146)</b>	If a relic is discovered or located, the Heritage Council must be notified 'of the location of the relic, unless he or she believes on reasonable grounds that the Heritage Council is aware of the location of the relic'.
<b>Land Acquisition (Just Terms Compensation) Act 1991</b>	This Act would apply to the acquisition of land required for Sydney Metro West.
<b>Marine Pollution Act 2012</b>	This Act includes provisions to protect the sea and waters from pollution by oil and other noxious substances discharged from vessels. Any construction activities requiring the use of a vessel (e.g. a barge) must comply with the requirements of this Act and the Marine Pollution Regulation 2014.



Legislation/regulation	Requirement
<b>Native Title (NSW) Act 1994</b>	This Act provides for native title in relation to land or waters. Sydney Metro West does not affect land subject to a native title claim or determination, or land to which an Indigenous Land Use Agreement applies.
<b>Protection of the Environment Operations Act 1997</b>	An environment protection licence is required for scheduled activities or development work listed by the Act. Schedule 1 lists activities that require a licence and relevantly includes Part 1, clause 33 railway systems activities meaning: (a) the installation, on site repair, onsite maintenance or on site upgrading of track, including the construction or significant alteration of ancillary work, or (b) the operation of rolling stock on track. Section 120 of the Act prohibits the pollution of waters. Air pollution-related sections 124 to 126 (Chapter 5, Part 5.4, Division 1) of the Act require activities to be conducted in a proper and efficient manner, while section 128 (Chapter 5, Part 5.4, Division 1) of the Act requires that all necessary practicable means are used to prevent or minimise air pollution. Pollution of land and waste is covered by Part 5.6 of the Act. It defines offences relating to waste and sets penalties and establishes the ability to set various waste management requirements via the Protection of the Environment Operations (Waste) Regulation 2014.
<b>Protection of the Environment Operations (Waste) Regulation 2014</b>	This regulation provides for exemptions from environment protection licencing for certain resource recovery activities and establishes tracking and reporting requirements for the transport of waste. Any waste generated must be tracked and recorded in accordance with the requirements of the Regulation.
<b>Roads Act 1993</b>	Section 138 of this Act states: A person must not (a) erect a structure or carry out a work in, on or over a public road, or (b) dig up or disturb the surface of a public road, or (c) remove or interfere with a structure, work or tree on a public road, or (d) pump water into a public road from any land adjoining the road, or (e) connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority. Under section 38N of the <i>Transport Administration Act</i> , section 138 of the <i>Roads Act 1993</i> does not apply to Sydney Metro activities in relation to classified roads for which a council is the roads authority. However, consent from Roads and Maritime is still required under section 38N(2) of the <i>Transport Administration Act 1988</i> for those activities described in section 138(1) of the <i>Roads Act 1993</i> , when carried out in relation to a classified road.
<b>Transport Administration Act 1988</b>	This Act applies to compulsory acquisitions for the purpose of Sydney Metro exercising its functions under the Act.
<b>Waste Avoidance and Resource Recovery Act 2001</b>	This Act encourages the most efficient use of resources in order to reduce environmental harm.
<b>Water Management Act 2000 and the Water Act 1912</b>	Temporary dewatering and construction activities that interfere with aquifers are generally identified as aquifer interference activities in accordance with the <i>Water Management Act 2000</i> and the NSW Aquifer Interference Policy (Department of Primary Industries, 2012). However, the aquifer interference approval provisions of the <i>Water Management Act 2000</i> have not commenced, and licensing of these activities is carried out under Part 5 of the <i>Water Act 1912</i> . A licence under Part 5 is required for dewatering activity that would require the extraction of more than three megalitres of groundwater per year.

## 4.5 Commonwealth legislation

### 4.5.1 Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) prescribes the Commonwealth's role in environmental assessment, biodiversity conservation and the management of protected areas.

#### Matters of national environmental significance

Under the EPBC Act, a referral to the Commonwealth Department of Agriculture, Water and the Environment is required for proposed 'actions' that have the potential to significantly impact on any matter of national environmental significance or the environment of Commonwealth land (including leased land).

Current matters of national environmental significance are:

- World heritage properties
- National heritage places
- Wetlands of international importance (often called 'Ramsar' wetlands after the international treaty under which such wetlands are listed)
- Nationally threatened species and ecological communities
- Listed migratory species
- Commonwealth marine areas
- The Great Barrier Reef Marine Park
- Nuclear actions (including uranium mining)
- A water resource, in relation to coal seam gas development and large coal mining development.

Issues with respect to matters of national environmental significance are discussed in Section 8.6 (Non-Aboriginal heritage - Concept) and Chapter 12 (Non-Aboriginal heritage - Stage 1), and Section 8.16 (Biodiversity - Concept) and Chapter 22 (Biodiversity - Stage 1) of this Environmental Impact Statement. No significant impacts in relation to these matters have been identified during the assessment. Accordingly, Sydney Metro West has not been referred to the Department of Agriculture, Water and the Environment.

#### Actions taken on Commonwealth land

Under section 26 of the EPBC Act, approval is required for:

- An action taken by any person on Commonwealth land (including Commonwealth leased land) that has, will have, or is likely to have a significant impact on the environment (subsection 26(1))
- An action taken by any person outside of Commonwealth land (including Commonwealth leased land) that has, will have, or is likely to have a significant impact on the environment on Commonwealth land (subsection 26(2)).

For the purposes of section 26, the EPBC Act defines the 'environment' as:

- Ecosystems and their constituent parts, including people and communities
- Natural and physical resources
- The qualities and characteristics of locations, places and areas
- Heritage values of places
- The social, economic and cultural aspects of a thing mentioned in (a), (b), (c) or (d).

Section 26 of the EPBC Act provides for a broader coverage of environmental and heritage matters relating to activities on Commonwealth land including issues such as noise, pollution, visual amenity or economic impacts.

Based on the nature of the Concept and the type of Commonwealth Land identified within the study area, there are not anticipated to be any significant impacts on the environment on Commonwealth Land. Typically impacts (if they occur) would be limited to Commonwealth leased land such as post offices. Potential land use and property impacts for the project have been identified and assessed in Section 8.8 (Property and land use - Concept) and Chapter 14 (Property and land use - Stage 1) of this Environmental Impact Statement.

### 4.5.2 Native Title Act 1993

An objective of the Commonwealth *Native Title Act 1993* is to recognise and protect native title. Section 8 of the Act states that the *Native Title Act 1993* is not intended to affect the operation of any law of a State or a Territory that is capable of operating concurrently with the Act. Searches of the register maintained by the National Native Title Tribunal indicate there are no native title claims registered with respect to land within the area of the Concept.



### 4.5.3 Disability Discrimination Act 1992

The *Disability Discrimination Act 1992* aims to eliminate as far as possible discrimination against persons on the ground of disability in areas including access to premises and the provision of facilities, services and land. The Concept has been and would continue to be designed to be independently accessible and in compliance with the objectives and requirements of the Act.

### 4.5.4 Disability Standards for Accessible Public Transport 2002

Section 33.1 of the Disability Standards for Accessible Public Transport 2002 requires all new public transport premises, infrastructure and conveyances to be compliant with the requirements of the standard and referenced to the Australian Standards and Design Rules therein, unless unjustifiable hardship is incurred by implementation. The Concept has been and would continue to be designed to be compliant with the requirements of the Disability Standards for Accessible Public Transport 2002.

## 4.6 Planning approvals process for integrated station and precinct development

Sydney Metro West stations would be designed to provide for other requirements associated with possible integrated station and precinct development and ancillary development.

Typical examples of the infrastructure requirements of integrated station and precinct development include structural elements and space provisioning for building foyers and entrances, lift wells, and building services. Elements incorporated into the design for the purposes of making provision for future integrated station and precinct development are identified in Chapter 6 (Concept description).

All future integrated station and precinct developments will be subject to a separate planning approvals process, including community and stakeholder engagement, in accordance with the provisions of the EP&A Act.

There is a possibility that the assessment and approvals process relating to future integrated station and precinct development may result in changes to elements incorporated in the station design for this Concept. Any changes required to the design for the station(s) would be assessed in accordance with statutory requirements.

## 4.7 Summary of approval requirements

In summary:

- Sydney Metro West would be (subject to the requested declaration) critical State significant infrastructure, requiring approval from the Minister for Planning and Public Spaces under Part 5 of the *Environmental Planning and Assessment Act 1979*
- Sydney Metro West is permissible without consent
- An Environment protection licence under the *Protection of the Environment Operations Act 1997* is required for Stage 1. The terms of the licence must be substantially consistent with the project approval
- Approval under section 138 of the *Roads Act 1993* is required for any works to classified roads. The terms of the approval must be substantially consistent with the project approval
- A licence would be sought under Part 5 of the *Water Act 1912* if extraction of more than three megalitres of groundwater per year is required for Stage 1
- No significant impacts in relation to matters of national environmental significance have been identified during the assessment. Accordingly, Sydney Metro West has not been referred to the Department of Agriculture, Water and the Environment under the *Environment Protection and Biodiversity Conservation Act 1999*.