

PLANNING AND ASSESSMENT PROCESS

CHAPTER TWO

2 Planning and assessment process

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

2.1 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 2-1.

Table 2-1 Secretary’s environmental assessment requirements – planning and assessment process

Ref.	Secretary’s environmental assessment requirements	Where addressed
1 Environmental Assessment Process		
1.1.	The Environmental Impact Statement must be prepared in accordance with Part 3 of Schedule 2 of the <i>Environmental Planning and Assessment Regulation 2000</i> (the Regulation).	This Environmental Impact Statement.
1.2.	It is the Proponent’s responsibility to determine whether the project needs to be referred to the Commonwealth Department of the Environment for an approval under the <i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act). The Proponent must contact the Commonwealth Department of the Environment immediately if it is determined that an approval is required under the EPBC Act, as supplementary environmental assessment requirements may need to be issued to ensure a streamlined assessment under the Bilateral agreement can be achieved.	Consideration of the need to refer to the project to the Commonwealth Department of the Environment is provided in Consideration of the need to refer to the project to the Commonwealth Department of the Environment is provided in Section 2.4.1.
1.3.	Where the project requires approval under the EPBC Act and is being assessed under the Bilateral Agreement the EIS should address:	N/A
1.3 (a)	Consideration of any Protected Matters that may be impacted by the development where the Commonwealth Minister has determined that the proposal is a Controlled Action.	As discussed in Section 2.4.1, no significant impacts in relation to Protected Matters have been identified during the course of the assessment. The project has not been referred to the Department of the Environment.
1.3 (b)	Identification and assessment of those Protected Matters that are likely to be significantly impacted.	As discussed in Section 2.4.1, no significant impacts in relation to these matters have been identified during the course of the assessment. Matters of national environmental significance are discussed in detail in Chapter 14 (Non-Aboriginal heritage) and Chapter 20 (Biodiversity).

Ref.	Secretary's environmental assessment requirements	Where addressed
1.3 (c)	Details of how significant impacts to Protected Matters have been avoided, mitigated and, if necessary, offset.	As discussed in Section 2.4.1, no significant impacts in relation to these matters have been identified during the course of the assessment. Matters of national environmental significance are discussed in detail in Chapter 14 (Non Aboriginal heritage) and Chapter 20 (Biodiversity).
1.3 (d)	Consideration of, and reference to, any relevant conservation advices, recovery plans and threat abatement plans.	Biodiversity assessment, including consideration of these requirements, is provided in Chapter 20 (Biodiversity).
1.4	The onus is on the Proponent to ensure legislative requirements relevant to the project are met.	The legislative requirements relevant to the project are outlined in this chapter.

2.2 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 (LEPs).

Section 115V of the EP&A Act provides for the declaration of State significant infrastructure and critical State significant infrastructure (refer to Section 2.2.1), while Part 5.1 of the EP&A Act establishes the assessment and approval regime for State significant infrastructure and critical State significant infrastructure (refer to Section 2.2.2).

2.2.1 Critical State significant infrastructure

Sydney Metro City & Southwest was declared by Ministerial Order on 10 December 2015 to be State significant infrastructure and critical State significant infrastructure under Sections 115U(4) and 115V of the EP&A Act, respectively. The Ministerial Order also amended Schedule 5 of *State Environmental Planning Policy (State and Regional Development) 2011* to include the project as critical State significant infrastructure.

2.2.2 Planning approval process under Part 5.1 of the EP&A Act

The assessment and approval process for a critical State significant infrastructure project is established under Part 5.1 of the EP&A Act and is shown in Figure 2-1.

Transport for NSW submitted a State significant infrastructure application and supporting document to the Secretary of the Department of Planning and Environment on 20 November 2015 (as required by Section 115X of the EP&A Act). The Secretary's environmental assessment requirements for the project were issued on 22 December 2015 (as per Section 115Y 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 115Y(2) of the EP&A Act). A checklist showing where each of the Secretary's environmental assessment requirements has been addressed in this Environmental Impact Statement is also provided in Appendix A.

The Department of Planning and Environment will place this Environmental Impact Statement on public exhibition for a minimum of 30 days (as per Section 115Z of the EP&A Act). During the exhibition period, government agencies, project stakeholders and the community will be able to review the Environmental Impact Statement and will have an opportunity to make a written submission to the Department of Planning and Environment for consideration in its assessment of the project.

At the completion of the public exhibition period, the Department of Planning and Environment will collate and provide Transport for NSW with a copy of all submissions received during the exhibition period. After reviewing the submissions, Transport for NSW will prepare a submissions report that responds to the relevant issues raised. If changes are required to the project as a result of the issues raised or to minimise its environmental impact, a preferred infrastructure report may also be required. If this is required, Transport for NSW would prepare the report to address the changes of the design to minimise impacts and submit this for review to the Department of Planning and Environment. This report would be made available to the public.

Approval from the Minister for Planning is required before Transport for NSW can proceed with the project (as per Section 115ZB of the EP&A Act).

2.2.3 NSW environmental planning instruments

The declaration of the project as critical State significant infrastructure has been made through the provisions of *State Environmental Planning Policy (State and Regional Development) 2011*, as discussed in Section 2.2.1. Section 115ZF of the EP&A Act provides that environmental planning instruments (such as LEPs and SEPPs) do not apply to State significant infrastructure projects. Notwithstanding, the following environmental planning instruments have been considered during the preparation of this Environmental Impact Statement (for the purposes of informing the scope of the environmental assessment):

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *State Environmental Planning Policy No. 55 – Remediation of Land.*

These environmental planning instruments are discussed further in the following sections.



Figure 2-1 The assessment and approval process for critical State significant infrastructure

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.

As outlined in Section 2.2.1, Schedule 5 of this SEPP was amended (by Ministerial Order on 10 December 2015) to include the project as critical State significant infrastructure.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 aims to (amongst other things) protect, enhance and maintain the catchment, foreshores, waterways and islands of Sydney Harbour for existing and future generations.

The metro tunnel crossing of Sydney Harbour, Barangaroo Station (including the entry / exit) and various temporary construction sites (including a proposed temporary site at Blues Point) would be located with the defined boundary of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

The project also lies within the Sydney Opera House Buffer Zone as gazetted on 19 July 2007. Clause 58B of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* requires specific assessment of projects within the Sydney Opera House Buffer Zone in the context of potential impacts on views and vistas between the Opera House and other public places, the World Heritage value of the Opera House and the visual prominence of the Opera House (refer to Section 2.4.1 for further discussion).

Matters to be considered by public authorities

Of relevance to the project, Clause 20 of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* requires public authorities and others to consider the matters listed in Clause 21 to 27 of the SEPP before they carry out activities to which Part 5 of the EP&A Act applies. The potentially applicable matters are summarised in Table 2-2, along with the sections in the Environmental Impact Statement where the issues have been addressed.

Table 2-2 Relevant Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 matters

Summary of relevant considerations	Where addressed
Clause 21: Biodiversity, ecology and environment protection	
Development should have a neutral or beneficial effect on the quality of water entering the waterways (clause 21(a))	Chapter 18 (Soils, contamination and water quality)
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 (clause 21(b))	Chapter 20 (Biodiversity)
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))	
Consideration of the cumulative environmental impact of development, in relation to biodiversity, ecology and environment protection (clause 21(h))	Chapter 26 (Cumulative impacts)
Consideration of whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance (clause 21(i))	Chapter 18 (Soils, contamination and water quality)

Summary of relevant considerations	Where addressed
Clause 24: Interrelationship of waterway and foreshore use	
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))	Chapter 8 (Construction traffic and transport)
Development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore (clause 24(c))	
Development should avoid conflict between the various uses in the waterways and along the foreshores (clause 24(e))	
Clause 25: Foreshore and waterways scenic quality	
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))	Chapter 16 (Landscape character and visual amenity)
The development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries (clause 25(b))	
The cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores (clause 25(c))	Chapter 26 (Cumulative impacts)
Clause 26: Maintenance, protection and enhancement of views	
Development should maintain, protect and enhance views (including night views) to and from Sydney Harbour (clause 26(a))	Chapter 16 (Landscape character and visual amenity)
Development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items (clause 26(b))	
The cumulative impact of development on views should be minimised (clause 25(c))	Chapter 26 (Cumulative impacts)

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.

Whilst the provisions of Clause 31 of the SEPP would not apply to the project as it is State significant infrastructure, Transport for NSW would comply with the intent of the policy and will consult with the Foreshores and Waterways Planning and Development Advisory Committee during the development of the project.

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.

Whilst these provisions do not apply to State significant infrastructure projects (as discussed above), an acid sulfate soils management plan would be developed and implemented for any excavation works proposed to be carried out in those areas with a high probability of encountering acid sulfate soils. Measures documented in this plan would be consistent with the principles and practices outlined in the *Acid Sulfate Soils Assessment Guidelines* (NSW Acid Sulfate Soil Management Advisory Committee, 1998).

Further details on the management of acid sulfate soils during the construction of the project are provided in Chapter 18 (Soils, contamination and water quality).

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 Harbour Catchment SREP 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. Whilst the DCP does not apply to State significant infrastructure, as the DCP is part of a deemed State policy, the relevant design guidelines would be considered in the development of Barangaroo Station and the reinstatement of the park at Blues Point.

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 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) of SEPP 55, 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 Phase 1 contamination investigation has been carried out in accordance with the *Managing Land Contamination Planning Guidelines SEPP 55–Remediation of Land* (Department of Urban Affairs and Planning and Environment Protection Authority, 1998) for the project to inform the design and Environmental Impact Statement. The outcomes of the contamination investigations and recommended environmental mitigation measures are addressed in Chapter 18 (Soils, contamination and water quality).

Local Environmental Plans

The project passes through the local government areas (LGA) of Willoughby, North Sydney, Sydney and Marrickville. Development within these LGAs is regulated by the following Local Environmental Plans (LEP):

- *Willoughby Local Environmental Plan 2012*
- *North Sydney Local Environmental Plan 2013*
- *Sydney Local Environmental Plan 2012 / Sydney Local Environmental Plan 2005*
- *Marrickville Local Environmental Plan 2011.*

As indicated above, the EP&A Act provides that environmental planning instruments (including LEPs) do not apply to State significant infrastructure projects. Notwithstanding, relevant environmental planning instruments have been considered during design development and assessment of the project.

2.3 Other NSW legislation

In accordance with Section 115ZG of the EP&A Act some planning related legislation does not apply to critical State significant infrastructure or must be applied consistently with an approved critical infrastructure project (refer to Section 2.3.1).

2.3.1 Approvals that would otherwise apply that would otherwise apply

Section 115ZG of the EP&A Act specifies approvals that are not required for approved State significant infrastructure under Part 5.1 of the EP&A Act. Those approvals that would otherwise be required for the project if not for it being State significant infrastructure would be:

- Approvals under Part 4, excavation permits under Section 139 and Division 8 of Part 6 of the *Heritage Act 1977*
- Aboriginal heritage impact permits under Section 90 of the *National Parks and Wildlife Act 1974*
- Approval under section 90 of the *Water Management Act 2000*.

Division 8 of Part 6 of the *Heritage Act 1977* does not apply to prevent or interfere with the carrying out of the project.

Similarly, Section 115ZG 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 the project being State significance infrastructure would be:

- 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 115ZH 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 5.1 approval. Those that would otherwise apply if not for the project being State significance infrastructure would be:

- An Environment Protection Licence (EPL) under Chapter 3 of the *Protection of the Environment Operations Act 1997*
- A consent under Section 138 of the *Roads Act 1993*.

2.3.2 NSW legislation that may still be applicable

Planning related legislation that may still be applicable to an approved critical State significant infrastructure project and may be relevant to this project is identified in Table 2-3.

Table 2-3 Planning related legislation of potential relevance to the project

Legislation	Requirement	Where addressed
<i>Water Management Act 2000</i>	The <i>NSW Aquifer Interference Policy</i> (NSW Office of Water, 2012) documents the NSW Government's intention to implement the requirement for approval of 'aquifer interference activities' under the <i>Water Management Act 2000</i> . While the project would intercept groundwater aquifers, the requirement for aquifer interference approvals has not yet commenced and as such, this approval is not currently required.	Chapter 17 (Groundwater and geology)
<i>Contaminated Land Management Act 1997</i>	This Act outlines the circumstances in which notification of the Environment Protection Authority (EPA) is required in relation to the contamination of land. This may become relevant during construction and / or operation of the project.	Chapter 18 (Soils, contamination and water quality)
<i>Crowns Land Act 1989</i>	Ministerial approval is required to grant a 'relevant interest' (ie a lease, licence, permit, easement or right of way) over a Crown Reserve if required. The project would pass underneath a number of parcels of Crown land. In addition, there is the potential for construction compounds to be temporarily located on Crown land. Land would be managed in accordance with the objectives of this Act.	Chapter 12 (Land use and property)
<i>Heritage Act 1977 (Section 146)</i>	The Heritage Council must be notified if a relic is uncovered during construction and if it is reasonable to believe that the Heritage Council is unaware of the location of the relic.	Chapter 14 (Non-Aboriginal heritage)
<i>Fisheries Management Act 1994 (Section 199)</i>	A public authority is required to give the Minister written notice of proposed dredging or reclamation work prior to carrying out or authorising the carrying out of such work. Reclamation or dredging work may be required to support construction of the project, for example as part of the proposed Sydney Harbour ground improvement works. The Minister would be provided with written notice of any construction activities requiring dredging or reclamation work, in accordance with Section 199 of this Act.	Construction activities within Sydney Harbour are described in Chapter 7 (Project description – construction) Biodiversity impacts are assessed in Chapter 20 (Biodiversity)
<i>Marine Pollution Act 2012</i>	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 (eg a barge) must comply with the requirements of this Act and the <i>Marine Pollution Regulation 2014</i> .	Construction activities within Sydney Harbour are described in Chapter 7 (Project description – construction) Water quality impacts are assessed in Chapter 18 (Soils, contamination and water quality)

Legislation	Requirement	Where addressed
<i>Maritime Services Act 1935 and Ports and Maritime Administration Act 1995</i>	A number of authorisations, approvals or permits may be required with respect to the placement of any structures in the water and / or with respect to obstruction to navigation. This would include the proposed Sydney Harbour ground improvement works. Further details are provided in Chapter 7 (Project description – construction).	Construction activities within Sydney Harbour are described in Chapter 7 (Project description – construction) Construction traffic and transport impacts are assessed in Chapter 8 (Construction traffic and transport)
<i>Management of Waters and Waterside Lands Regulations – N.S.W.</i>	The written approval of the Harbour Master is required for any proposed works that would disturb the bed of the Special Port Areas defined under these regulations – which includes Sydney Harbour and any adjoining or adjacent land. Activities that may require approval include the proposed Sydney Harbour ground improvement works.	Chapter 8 (Construction traffic and transport)
<i>Native Title (NSW) Act 1994</i>	This Act provides for native title in relation to land or waters. The project would not affect land subject to native title or to which an Indigenous Land Use Agreement applies.	Property impacts are assessed in Chapter 12 (Land use and property) Aboriginal heritage impacts are assessed in Chapter 15 (Aboriginal heritage)
<i>Aboriginal Land Rights Act 1983</i>	The NSW <i>Aboriginal Land Rights Act 1983</i> applies to Crown lands that are not lawfully needed for an essential public purpose; referred to as claimable Crown land. No claimable Crown lands would be affected by the project.	Property impacts are assessed in Chapter 12 (Land use and property) Aboriginal heritage impacts are assessed in Chapter 15 (Aboriginal heritage)
<i>Land Acquisition (Just Terms Compensation) Act 1991</i>	This Act would apply to the acquisition of land required for the project except for underground stratum acquisition where the <i>Transport Administration Act 1988</i> indicates that compensation is not payable in most circumstances.	Chapter 12 (Land use and property)
<i>Transport Administration Act 1988</i>	The Act states that compensation for land acquired under the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> for the purpose of underground rail facilities is not payable under the Act unless: the surface of the overlying soil is disturbed; the support of that surface is destroyed or injuriously affected by the construction of those facilities; or any mines or underground working in or adjacent to the land are thereby rendered unworkable or are injuriously affected.	Chapter 12 (Land use and property)
<i>Waste Avoidance and Resource Recovery Act 2001</i>	This Act encourages the most efficient use of resources in order to reduce environmental harm.	Chapter 25 (Sustainability)

Legislation	Requirement	Where addressed
<i>Greater Sydney Commission Act 2015</i>	<p>This Act establishes the Greater Sydney Commission which has a principal objective of leading metropolitan planning for the Greater Sydney Region.</p> <p>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.</p> <p>The Greater Sydney Commission would not have a formal statutory role for this project but would be consulted with respect to its core functions.</p>	Chapter 12 (Land use and property)

2.4 Commonwealth legislation

2.4.1 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 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). If the project is determined to be a ‘controlled action’ under the EPBC Act then approval from the Australian Government Minister of Environment would be required.

Current matters of national environmental significance matters 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
- 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.

There is currently an agreement between the Commonwealth and the NSW State government relating to environmental impact assessment under the EPBC Act (assessment bilateral agreement). For critical State significant infrastructure projects, the assessment bilateral agreement provides for a single environmental assessment process conducted by NSW.

There is also a draft approval bilateral agreement that provides for accreditation of NSW processes for approval of proposed actions that would otherwise require approval by the Commonwealth. Submissions on the draft approval bilateral agreement are currently being considered.

Issues with respect to matters of national environmental significance are discussed in detail in Chapter 14 (Non-Aboriginal heritage) and Chapter 20 (Biodiversity). No significant impacts in relation to these matters have been identified during the course of the assessment. Accordingly, the project has not been referred to the Department of the Environment.

World heritage properties

The *Convention Concerning the Protection of World Cultural and National Heritage* (the World Heritage Convention) aims to promote international cooperation to protect heritage that is of such outstanding universal value that its conservation is important for current and future generations. It sets out the criteria that a site must meet to be included on the World Heritage List and the role of State Parties in the protection and preservation of the item.

To be included on the World Heritage List, a site must be of outstanding universal value, and meet at least one of 10 selection criteria.

The Sydney Opera House is included on the World Heritage List. The Sydney Opera House satisfies Criterion (i) (to represent a masterpiece of human creative genius) of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) World Heritage Centre's (2013) *Operational Guidelines for the Implementation of the World Heritage Convention*.

The Sydney Opera House's World Heritage listing states that it is 'a great architectural work of the 20th century. It represents multiple strands of creativity, both in architectural form and structural design, a great urban sculpture carefully set in a remarkable waterscape and a world famous iconic building'.

Project activities associated with the establishment of a temporary site at Blues Point (as described in Chapter 7 (Project description – construction)) would occur within the buffer zone for the Sydney Opera House. While the project would not directly impact on the fabric of the Sydney Opera House, construction activities within the Sydney Opera House Buffer Zone have the potential to temporarily impact on this World Heritage property's setting in a 'remarkable waterscape'.

The potential for impacts is considered in Chapter 14 (Non-Aboriginal heritage) and Chapter 16 (Landscape character and visual amenity).

National Heritage List

Established under the EPBC Act, the National Heritage List is a list of places with outstanding heritage value to Australia, including places overseas. A person cannot take an action that has, will have, or is likely to have a significant impact on the national heritage values of a National Heritage Place without the approval of the Commonwealth Minister for the Environment. The project would not have a significant impact on any National Heritage Place.

Commonwealth Heritage List

The Commonwealth Heritage List is established under the EPBC Act. It is a list of properties owned by the Commonwealth that are assessed as having significant heritage value. If a place is included on the Commonwealth Heritage List its Commonwealth owner is required to prepare a heritage management plan in accordance with the *Environment Protection and Biodiversity Conservation Regulations 2000*, to ensure that activities affecting the place avoid or minimise adverse impacts on the heritage values of the place, and provide ongoing protection of the place in event of sale or transfer. The project would not have a significant impact on any Commonwealth Heritage List property. Further details on non-Aboriginal heritage issues are provided in Chapter 14 (Non-Aboriginal heritage).

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 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 is likely to have a significant impact on the environment on Commonwealth land (subsection 26(2)).

For the purposes of the Section 26, the EPBC Act defines the ‘environment’ as:

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

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.

The project would affect Commonwealth leased land at Crows Nest (the Crows Nest Post Shop) and Pitt Street (the Sydney South Post Shop). The potential land use and property impacts for the project are identified and assessed in Chapter 12 (Land use and property).

2.4.2 Native Title Act 1993

The main objective of the *Commonwealth Native Title Act 1993* is to recognise and protect native title. Section 8 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. While the project would pass underneath a number of parcels of Crown land (as identified in Chapter 12 (Land use and property)), 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 project. The project would not directly affect any Crown land that is currently the subject of a native title claim.

2.4.3 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 project would be designed to be independently accessible and in compliance with the objectives and requirements of the *Disability Discrimination Act 1992*. The *Sydney Metro Chatswood to Sydenham Design Guidelines* (Appendix B) are consistent with objectives of this act.

2.4.4 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 project would be designed, through implementation of the *Sydney Metro Chatswood to Sydenham Design Guidelines* (Appendix B), to be compliant with the requirements of the *Disability Standards for Accessible Public Transport 2002*.

2.5 Planning approvals process for over station development

The project stations would be designed to take into account (and make physical provision for) any design or other requirements associated with possible future over station development.

Typical examples of the infrastructure requirements of over station development includes provision of adequate space for building foyers and entrances, lift wells, and building service requirements. Elements incorporated into the project design for the purposes of making provision for future over station development are identified in Chapter 6 (Project description – operation).

All future over station development will be subject to a separate planning approvals process. Subject to the size, scale and proposed use of the future over station development this could include local development (with the local council as consent authority) or State significant development (with the Minister for Planning or the Planning Assessment Commission as consent authority).

There is a possibility that the assessment and approvals process relating to future over station development may result in changes to elements incorporated in the station design for this project – for example different infrastructure requirements due to refinements to bulk / scale / height, building foyers and entrances, lift wells, building services etc. Any changes required to the design for the project station(s), would be assessed in accordance with statutory requirements.