

2. Planning and statutory requirements

2.1 Statutory context

2.1.1 *Environmental Planning and Assessment Act 1979*

The Minister for Planning has declared, by Order dated 20 December 2007 and published in the NSW Government Gazette (No 4 of 2008), that the Hume Highway bypass of Tarcutta is a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies. The Minister has also declared, by Order dated 4 March 2009 and published in the gazette (No 51 of 2009), that the Hume Highway bypass of Tarcutta is a critical infrastructure project under section 75B of the *Environmental Planning and Assessment Act 1979*. A copy of the Minister's Orders is included at Appendix A.

The project, therefore, requires the Minister's approval.

2.1.2 *Other NSW legislation*

In addition to the *Environmental Planning and Assessment Act 1979*, other NSW legislation contains requirements that are potentially relevant to the project. The application of these is limited by provisions in Part 3A of the *Environmental Planning and Assessment Act 1979*. Requirements that remain potentially relevant include:

- Environmental protection licences under the *Protection of the Environment Operations Act 1997* for road construction and/or for the operation of ancillary facilities.
- Approvals under the *Water Act 1912* for access to groundwater or surface water during construction.

2.1.3 *Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)*

Under the *Environment Protection and Biodiversity Conservation Act 1999*, a referral is required to the Federal Government for proposed 'actions' that have the potential to significantly impact on matters of national environmental significance or the environment of Commonwealth land.

Matters of national environmental significance of potential relevance to the project include nationally threatened species and ecological communities, and migratory species protected under international agreements.

The project has been referred to the Federal Minister for the Environment, Heritage and the Arts to determine whether or not the project constitutes a controlled action. If the project is determined to be a controlled action, approval is required from the Federal Minister.

Section 9.1 provides further discussion on the potential impacts of the project on matters of national environmental significance.

2.2 Environmental planning instruments

2.2.1 *State environmental planning policies (SEPPs)*

SEPPs only apply to critical infrastructure projects where the relevant SEPP expressly provides that it applies to the particular project. To date, there are no SEPPs containing provisions that expressly apply to the project.

Provisions of SEPPs that would have applied to the project but for the application of Part 3A have been reviewed and considered where relevant in Chapters 9 and 10.

2.2.2 *Other environmental planning instruments*

Other environmental planning instruments (ie regional environmental plans and local environmental plans) do not apply to, or in respect of, an approved project.

The Minister for Planning may take into account the provisions of any environmental planning instrument when deciding whether or not approve a project under Part 3A of the *Environmental Planning and Assessment Act 1979*.

Provisions of other environmental planning instruments that would have applied to the project but for the application of Part 3A have been reviewed and considered where relevant in Chapters 9 and 10.

2.3 Planning and approval process

2.3.1 *Assessment and approval under Part 3A of the Environmental Planning and Assessment Act 1979*

The steps in the assessment and approval process under Part 3A of the *Environmental Planning and Assessment Act 1979* are summarised below and illustrated in Figure 2-1. Further information on the process for assessment and approval under Part 3A is provided on the Department of Planning website (www.planning.nsw.gov.au).

Step 1 — Lodgement of application

Prior to preparation of this environmental assessment, the RTA submitted a major project application to the NSW Department of Planning seeking approval for the project. The application was supported by a preliminary environmental assessment (RTA 2008a), which described the route selection and preliminary environmental assessment process, outlined key environmental issues and proposed a scope of works for the environmental assessment.

Step 2 — Director-General's Requirements (DGRs)

In consultation with state and local government agencies, and using information provided in the preliminary environmental assessment, the Director-General of the Department of Planning issued the DGRs for the project. A copy of the DGRs is provided in Appendix B.

Step 3 — Preparation and submission of environmental assessment

The RTA prepared this environmental assessment in accordance with the DGRs. The environmental assessment demonstrates that the RTA has addressed the potential environmental impacts of the project through extensive concept design development, robust assessment, and the development of appropriate mitigation and management measures. The environmental assessment was submitted to the Director-General for acceptance.

Step 4 — Public exhibition

Having received confirmation from the Director-General that the environmental assessment adequately addresses the DGRs, the environmental assessment has been placed on public exhibition for a minimum 30 day period. During this time, any person may make written submissions to the Director-General.

Step 5 — Consideration of public submissions

Submissions made during the exhibition period, or a summary of issues raised, will be provided by the Department of Planning to the RTA and other relevant authorities. The Director-General may require the RTA to submit a response to the submissions. If the RTA proposes any changes to the project in response to issues raised or to minimise environmental impacts, the RTA may be required to prepare a preferred project report. If the preferred project report proposes significant changes to the project, the Director-General may require it to be made available to the public. The Director-General may also require the RTA to submit a revised statement of commitments.

Step 6 — Preparation of Director-General's report

The Director-General of the Department of Planning will prepare a detailed report on the project to assist the Minister for Planning in deciding whether to grant approval to carry out the project.

Step 7 — Determination by the Minister for Planning

The Minister will then decide whether or not to approve the project and the conditions to be attached to any approval. The Minister for Planning will consider any advice from the Minister for Roads and the Director-General's report when making the decision.

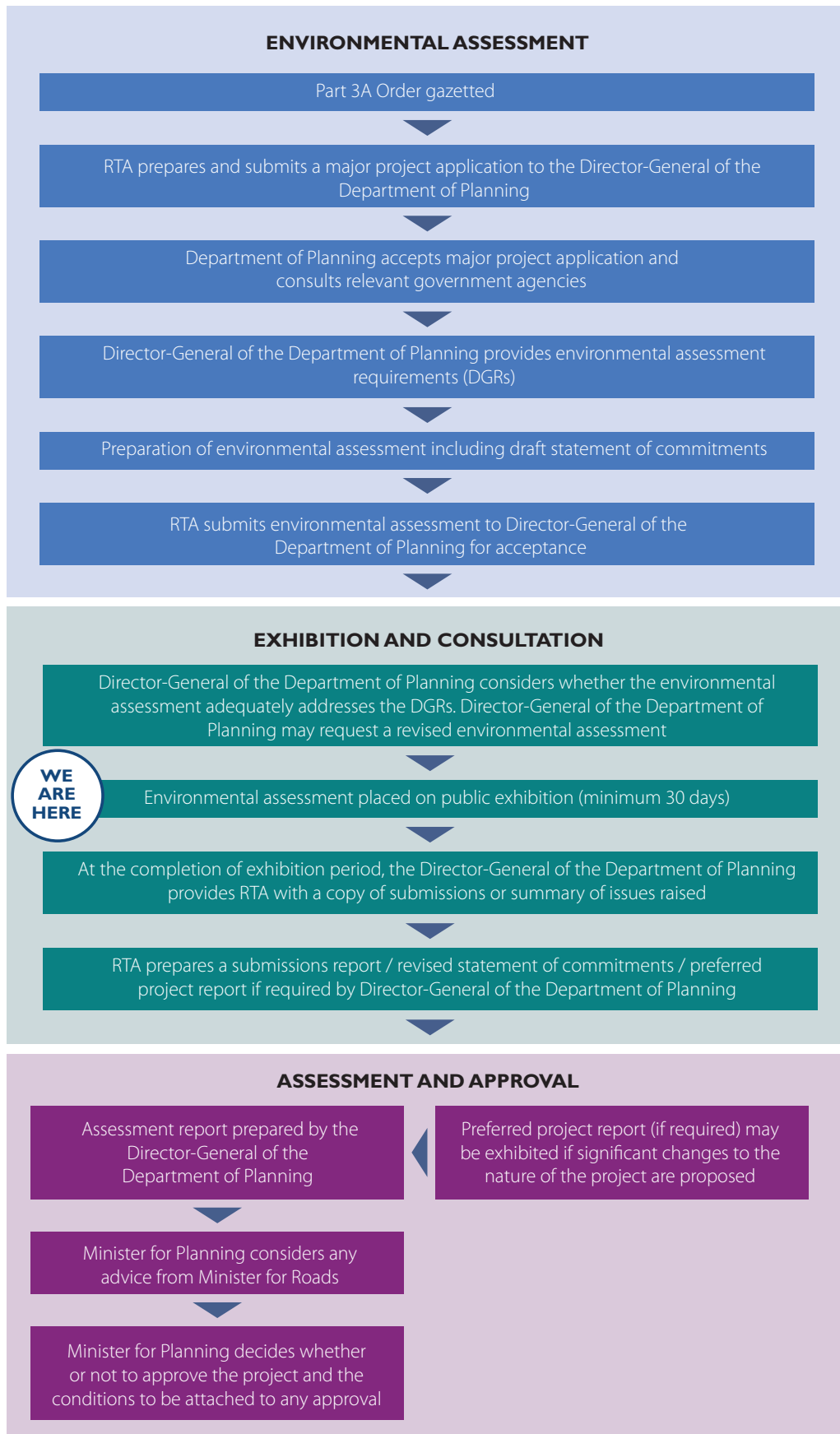


Figure 2-1 Part 3A approval process