

3 Planning and assessment process

This section provides an overview of the planning and assessment process for the Project.

3.1 NSW environmental planning approvals

The EP&A Act and *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) provide the legislative framework for environmental planning in NSW. The Act and associated regulation include provisions to ensure that all development proposals that have the potential to have an impact on the environment are subject to an appropriate level of assessment, while also providing opportunity for community involvement. They are supported by a range of environmental planning instruments including State environmental planning policies (SEPPs) and local environmental plans (LEPs).

The Project is declared as SSI pursuant to Section 5.12(2) of the EP&A Act. It is a class of development defined by an environmental policy which may be carried out without consent by or on behalf of a public authority. It is subject to the assessment and approval provisions of Division 5.2 of the EP&A Act as discussed below.

3.1.1 Permissibility of the Project

Clause 79 of *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) provides that development for the purpose of a railway or rail infrastructure facilities may be carried out by or on behalf of a public authority without consent on any land. The Project is characterised as development for the purpose of a railway or rail infrastructure facilities and would be carried out by or on behalf of TfNSW, a public authority. Accordingly, development consent under Part 4 of the EP&A Act is not required for the Project.

TfNSW has considered the likely nature and extent of potential environmental impacts of the Project and has formed the opinion that the Project is likely to significantly affect the environment, requiring the preparation of an EIS.

Given the Project represents infrastructure for which TfNSW would be the determining authority, and the activity is likely to significantly affect the environment, thus requiring an EIS, the Project is classified as SSI under the provisions of Schedule 3 (Clause 1(1)) of *State Environmental Planning Policy (State and Regional Development) 2011*. Approval for the Project would be sought from the Minister for Planning and Public Spaces, under Division 5.2 of the EP&A Act.

3.1.2 Planning and approval process under Division 5.2 of the EP&A Act

As required by Section 5.15 of the EP&A Act, TfNSW submitted a SSI application and supporting Scoping Report to the Secretary of the DPIE on 05 November 2019. The SEARs for the Project were issued (pursuant to Section 5.16 of the EP&A Act) on 20 December 2019. The SEARs are provided in full in **Appendix A** of this EIS.

The DPIE will place this EIS on public exhibition for a minimum of 28 days (as per Clause 12 of Schedule 1 of the EP&A Act). During the exhibition period, interested parties can review the EIS and make a written submission to the DPIE for consideration during the assessment process.

At the completion of the public exhibition period, the DPIE will collate and provide TfNSW a copy of all submissions received. After reviewing the submissions, TfNSW will prepare a submissions report that responds to relevant issues raised. If changes are required to the Project to respond to the issues raised or to further minimise environmental impacts, a preferred infrastructure report or an amendment report may also be required. These reports would be made available to the public.

Approval from the Minister for Planning and Public Spaces is required before TfNSW can proceed with the Project (as per Section 5.14 of the EP&A Act).

The planning approval process, and including where TfNSW are up to in the process, is shown on **Figure 3-1**.

STAGE 1 EARLY CONSULTATION

Early project consultation undertaken prior to the commencement of the formal assessment process.

Project refined on the basis of the early project consultation.

Initial scoping of EIS investigations undertaken on the basis of early project consultation.

STAGE 2 ENVIRONMENTAL IMPACT STATEMENT

Transport for NSW prepares and submits a State significant infrastructure application to the Secretary of the NSW Department of Planning, Industry and Environment (DPIE), which includes a supporting document outlining the project and its likely impacts.

Consultation undertaken with key government stakeholders and the community.

DPIE issues Secretary's environmental assessment requirements (SEARs) for EIS with focus on key issues.

EIS prepared addressing the matters outlined in the SEARs.

STAGE 3 EXHIBITION CONSULTATION AND REVIEW

DPIE exhibits the EIS for 28 days and invites public submissions.

Secretary may require proponent to respond to submissions and submit a preferred infrastructure report outlining proposed changes to minimise environmental impacts or address any other issues raised during assessment of the application.

STAGE 4 ASSESSMENT AND DETERMINATION

Assessment by DPIE, draft Secretary's environmental assessment report prepared with recommended conditions or refusal. Agencies and councils consulted by DPIE.

Secretary's environmental assessment report finalised with recommendations and submitted to Minister for Planning.

Determination by the Minister, including if approved, any conditions of approval.

Post approval implementation and compliance (if project approved).

Figure 3-1: The assessment and approval process for State Significant Infrastructure

3.1.3 State Environmental Planning Policies

Section 5.22 of the EP&A Act provides that environmental planning instruments do not apply to SSI projects (with some exceptions, including how they apply to the declaration of SSI). The environmental planning instruments that have been considered for consistency or are relevant to the Project are summarised in **Table 3-1**.

Table 3-1 Environmental planning instruments relevant to the Project

Environmental planning instrument	Relationship to the Project
<i>State Environmental Planning Policy (State and Regional Development) 2011</i>	This SEPP identifies development that is SSD, SSI and critical SSI. The Project is declared SSI by reason of clause 14(1) and clause 1 of Schedule 3 of this SEPP. Clause 1 of Schedule 3 is engaged through clause 79 of ISEPP and a determination that the proposed Project which is characterised as development for the purpose of " <i>railway or rail infrastructure facilities</i> ", is likely to significantly affect the environment.
<i>State Environmental Planning Policy (Infrastructure) 2007</i>	Clause 79 of the ISEPP provides that development for the purpose of a railway or rail infrastructure facilities may be carried out by or on behalf of a public authority without consent on any land. The Project is characterised as development for the purpose of a railway or rail infrastructure facilities and would be carried out by or on behalf of TfNSW, a public authority. Accordingly, development consent under Part 4 of the EP&A Act is not required for the Project.
<i>State Environmental Planning Policy (State Significant Precincts) 2005</i>	<p>The Project is located within the Redfern-Waterloo Authority Sites listed in the State Significant Precincts SEPP. The SEPP identifies land zoning for the area and items of local heritage significance. The Project area covers the following zones within this precinct:</p> <ul style="list-style-type: none"> • Zone D – Business Zone – Mixed Use • Zone E – Business Zone – Commercial Core • Zone G: Special Purpose Zone – Infrastructure • Zone H – Recreation Zone – Public Recreation <p>Within Zones D, E and G, development may only be carried out with development consent. Within Zone H, development is prohibited unless it is car parks; environmental facilities; environmental protection works; kiosks; passenger transport facilities; recreation areas; recreation facilities (outdoor), at which time it can be carried out with consent. This provision is inconsistent with clause 79 of the ISEPP, which states that development for the purpose of "<i>railway or rail infrastructure facilities</i>", does not require consent. In the event of an inconsistency between the State Significant Precincts SEPP and the ISEPP, the State Significant Precincts SEPP prevails (clause 8(2)(b) of the ISEPP). However, clause 24A of Appendix 4 of the State Significant Precincts SEPP states that Appendix 4 does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent under the ISEPP.</p> <p>The Project therefore does not require consent under the State Significant Precincts SEPP.</p>

Environmental planning instrument	Relationship to the Project
<i>State Environmental Planning Policy (Urban Renewal) 2010</i>	<p>Redfern Station is located within the Redfern-Waterloo precinct outlined within this SEPP. The SEPP applies to a development application to carry out development on land that comprises all or part of a potential precinct if the proposed development is or involves subdivision or has a capital investment value of more than \$5 million (clause 10). Development consent must not be granted unless the development is consistent with the objective of developing the potential precinct for the purposes of urban renewal. This includes ensuring the development does not restrict or prevent the following:</p> <ul style="list-style-type: none"> a. <i>development of the potential precinct for higher density housing or commercial or mixed development,</i> b. <i>the future amalgamation of sites for the purpose of any such development within the potential precinct,</i> c. <i>access to, or development of, infrastructure, other facilities and public domain areas associated with existing and future public transport in the potential precinct.</i> <p>The Project supports the future development of the precinct for urban renewal through providing improved access to public transport and public spaces within the Redfern-Waterloo precinct. This SEPP only applies to development that requires development consent and does not apply to the Project by reason of the ISEPP and the SRD SEPP.</p>

3.2 Other NSW legislation and approvals

3.2.1 Approvals or other authorisations that are not required

Section 5.23 of the EP&A Act specifies authorisations that are not required for approved SSI including:

- a permit under Sections 201, 205 or 219 of the *Fisheries Management Act 1994*
- an approval under Part 4 or an excavation permit under Section 139 of the *Heritage Act 1977*
- an Aboriginal heritage impact permit under Section 90 of the *National Parks and Wildlife Act 1974*
- a bush fire safety authority under section 100B of the *Rural Fires Act 1997*
- various approvals under the *Water Management Act 2000*, including a water use approval under Section 89, a water management work approval under Section 90 or activity approvals (other than aquifer interference approvals) under Section 91.

3.2.2 Approvals that must be applied consistently

Section 5.24 of the EP&A Act identifies approvals or authorisations that cannot be refused if they are necessary for carrying out an approved SSI, and must be substantially consistent with an approval issued under Division 5.2 of the Act, which include (as relevant to the Project):

- an environment protection licence under Chapter 3 of the Protection of the Environment Operations Act 1997
- a consent under section 138 of the Roads Act 1993.

Related legislation and regulations of relevance to the Project are listed in **Table 3-2**.

Table 3-2 Legislation and regulations that are applicable

Legislation	Requirement	Relevance to the Project
<i>Biodiversity Conservation Act 2016</i>	<p>The <i>Biodiversity Conservation Act 2016</i> aims to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future.</p> <p>The <i>Biodiversity Conservation Act 2016</i> also contains listed threatened species, populations and communities which need to be considered.</p> <p>Under section 7.9 of the <i>Biodiversity Conservation Act 2016</i>, an application for SSI must be accompanied by a biodiversity development assessment report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values.</p>	<p>A BDAR waiver was granted for the Project on 19 November 2019 (refer Appendix I). As such, a BDAR is not required to be prepared for the Project.</p> <p>The biodiversity impacts associated with the Project, including potential impacts on listed threatened species, populations and communities are assessed in Chapter 15 of this EIS.</p>
<i>National Parks and Wildlife Act 1974</i>	<p>The <i>National Parks and Wildlife Act 1974</i> aims to promote both the conservation of nature and the conservation of objects, places and features of cultural value within the landscape.</p> <p>The act defines both Aboriginal places and objects. Under section 86, it is prohibited to harm or desecrate an Aboriginal place or object.</p>	<p>The potential for Aboriginal places or objects to be present within the Project area and the potential for impact to any of these places or objects is assessed in Chapter 15 of this EIS.</p>
<i>Protection of the Environment Operations Act 1997</i>	<p>The <i>Protection of the Environment Operations Act 1997</i> aims to protect, restore and enhance the quality of the environment, having regard to the need to maintain ecologically sustainable development. Chapter 3 of the <i>Protection of the Environment Operations Act 1997</i> requires that an environment protection licence be obtained for works classified as 'scheduled activities' under Schedule 1.</p> <p>The Act requires that noise emitted from the operation of a project is not considered 'offensive'.</p> <p>Section 148 of the Act requires immediate notification of pollution incidents causing or threatening material harm to the environment to the relevant authority.</p>	<p>The Project does not meet any of the corresponding definitions for a 'scheduled activity' under Schedule 1, and therefore an environment protection licence is not required. Operational noise emissions from the Project area are considered in Chapter 13 of this EIS.</p> <p>The construction environmental management plan (CEMP) would include measures for managing potential pollution incidents.</p>
<i>Biosecurity Act 2015</i>	<p>The <i>Biosecurity Act 2015</i> provides a framework for the prevention, elimination and minimisation of biosecurity risks posed by a biosecurity matter.</p> <p>Under Part 3 of the <i>Biosecurity Act 2015</i>, all persons are required to minimise biosecurity risks including through the control of noxious weeds on their land.</p>	<p>The approach to managing weeds during construction is provided in Chapter 16 of this EIS.</p>

Legislation	Requirement	Relevance to the Project
<i>Contaminated Land Management Act 1997</i>	<p>The <i>Contaminated Land Management Act 1997</i> establishes the process for investigating and remediating land that the EPA considers to be contaminated significantly.</p> <p>Section 60 of the <i>Contaminated Land Management Act 1997</i> outlines the circumstances in which the NSW Environment Protection Authority (EPA) should be notified in relation to the contamination of land.</p>	<p>The EPA would be notified in writing of any contamination identified within the Project area, in accordance with the requirements of Section 60 of the Act.</p>
<i>Heritage Act 1977</i>	<p>The <i>Heritage Act 1977</i> aims to promote understanding and encourage conservation of the State's heritage. It provides for the identification, registration and protection of items of State heritage significance while encouraging their adaptive reuse.</p> <p>Section 32 of the <i>Heritage Act 1977</i> protects places, buildings, works, relics, movable objects or precincts of heritage significance by means of either Interim Heritage Orders (IHO) or by listing on the NSW State Heritage Register (SHR).</p> <p>Under section 170 of the <i>Heritage Act 1977</i>, NSW Government agencies are required to maintain a register ('section 170 register') of their heritage assets.</p> <p>Section 170A(1)(c) of the Act requires that the owner of a heritage item listed on the relevant section 170 register must provide the Heritage Council with written notice prior to demolition of any place, building or work entered in its register.</p> <p>In accordance with Section 146 of the <i>Heritage Act 1977</i>, the Heritage Council must be notified of the location of a relic, which is uncovered during construction if it is reasonable to believe that the Heritage Council is unaware of the location of the relic.</p>	<p>An assessment of heritage items potentially affected by the Project is provided in Chapter 14 of this EIS. Several items listed in RailCorp's section 170 register are found within the Project area.</p> <p>The Heritage Council will be notified by TfNSW/Sydney Trains prior to works involving demolition of components of any contributory components of the Redfern Railway Station Group.</p> <p>The Heritage Council would be notified in writing of any relic uncovered during construction, in accordance with the requirements of Section 146 of the <i>Heritage Act 1977</i>. This requirement would be included in the CEMP for the Project.</p>

Legislation	Requirement	Relevance to the Project
<i>Roads Act 1993</i>	<p>The <i>Roads Act 1993</i> sets out the rights of persons on or adjacent to public roads. It establishes procedures for the opening and closing of public roads, regulates the carrying out of activities on public roads, provides for the classification of roads and confers certain functions to the relevant roads authorities.</p> <p>Section 138 requires approval from the relevant roads authority to impact, or carry out work on or over, a public road.</p> <p>Clause 5(1) of Schedule 2 to the <i>Roads Act 1993</i> exempts public authorities from this requirement, in respect of unclassified roads.</p>	<p>The Project would impact on local roads including Little Eveleigh Street, Marian Street, Rosehill Street, Cornwallis Street, Ivy Street and Lawson Street. Gibbons Street is a State Road managed by TfNSW (former Roads and Maritime Services). As TfNSW is a public authority, approval under Section 138 from the relevant roads authority (City of Sydney Council) is not required, however ongoing consultation would occur.</p> <p>Relevant Road Occupancy Licences (ROLs) or local Council equivalent would be obtained however for any road closures required.</p>
<i>Water Management Act 2000</i>	<p>The <i>Water Management Act 2000</i> aims to provide sustainable and integrated management of the water sources of the State for the benefit of both present and future generations.</p> <p>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 <i>NSW Aquifer Interference Policy</i> (NSW Office of Water, 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.</p> <p>No other approvals under this Act would be required, as outlined in Section 3.2.1.</p>	<p>Excavation (including piling) would be undertaken to construct the Project. Although groundwater may be intercepted, it is anticipated that any dewatering required would be below three megalitres and therefore would not require a water licence.</p>
<i>Waste Avoidance and Resource Recovery Act 2001</i>	<p>The <i>Waste Avoidance and Resource Recovery Act 2001</i>, encourages the most efficient use of resources in order to reduce environmental harm.</p>	<p>Waste resulting from the Project would be managed in accordance with the requirements of this Act. Further details of waste management are provided in Chapter 21 of this EIS.</p>

3.3 Local government planning instruments

Redfern Station is located in the suburbs of Redfern and Eveleigh within the City of Sydney LGA to which the *Sydney Local Environmental Plan 2012* (Sydney LEP 2012) applies. However, as outlined in **Table 3-1**, the Project is located within the Redfern-Waterloo Authority Sites (State Significant Precincts SEPP) which identifies the land use zoning for the Project area.

Under Section 5.22 of the EP&A Act, environmental planning instruments (including LEPs) do not apply to SSI. However, the City of Sydney would be consulted about the wider aims of the LEP including to support the City of Sydney, recognising the area around Redfern Station as an important location for business, educational and cultural activities and tourism.

3.4 Commonwealth legislation

3.4.1 Environment Protection and Biodiversity Conservation Act 1999

Under Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), approval from the Australian Minister for the Environment would be required for an action that:

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

Matters of national environmental significance comprise:

- World Heritage properties
- National Heritage places
- Wetlands of International Importance
- Commonwealth-listed threatened species and ecological communities
- Commonwealth-listed migratory species
- Commonwealth marine areas
- the Great Barrier Reef Marine Park
- nuclear actions (including uranium mines)
- a water resource, in relation to coal seam gas development and large coal mining development.

The biodiversity assessment undertaken for the EIS (refer **Chapter 14**) included a search of the EPBC Act Protected Matters Search Tool, which found that five listed threatened ecological communities, 10 threatened flora species, 20 threatened fauna species and 18 migratory species listed under the EPBC Act have the potential to occur within one kilometre of the Project area.

The biodiversity assessment concluded that while there were records of several EPBC Act listed species in the vicinity of the Project area, there is a general lack of suitable habitat for native fauna within the Project area owing to the highly urbanised nature of the environment. A site inspection also confirmed that no threatened flora or vegetation was present.

As the Project would not significantly impact biodiversity matters listed under the EPBC Act or any other matters of national environmental significance as confirmed by the EPBC Act Protected Matters Search Tool, an application for approval under the EPBC Act is not required.

3.4.2 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 has been, and would continue to be, designed to be independently accessible and comply with the objectives and requirements of the Act.

3.4.3 Disability Standards for Accessible Public Transport 2002

Section 33.1 of the *DSAPT 2002* requires all new public transport premises, infrastructure, and conveyances (i.e. transfers of property title) to comply with the requirements of the standards, unless unjustifiable hardship is incurred by implementation. The Project would continue to be designed to comply with these standards.