

# Chapter 4

## Planning and statutory requirements





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## 4. Planning and statutory requirements

Chapter 4 provides a summary of the planning and statutory requirements for the Moorebank Intermodal Terminal (IMT) Project (the Project).

As noted in section 1.6 of Chapter 1 – *Introduction* of this Environmental Impact Statement (EIS), the Project is a ‘controlled action’ under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and requires approval from the Commonwealth Minister for the Environment (Commonwealth Minister) (EPBC number 2011/6086). This is discussed further in section 4.1. The Moorebank Intermodal Company (MIC) is also seeking a staged development approval for the Project as State significant development (SSD) under the NSW *Environmental Planning and Assessment Act 1979* (EP&A Act) (SSD-5066). This is discussed further in section 4.2. Other approvals applicable to the Project under other NSW legislation are discussed in sections 4.4 and 4.5.

This EIS is intended to satisfy both Australian and NSW Government requirements in respect of the EIS for the Project. The applicable planning approval process has previously been summarised in Figure 1.4 (in Chapter 1 – *Introduction*).

### 4.1 Approval under the EPBC Act

The EPBC Act provides a legal framework to protect and manage nationally and internationally important environmental matters (including species, ecological communities and heritage and other places). These environmental matters are defined in the EPBC Act as matters of national environmental significance. The eight matters of national environmental significance that are protected under the EPBC Act are:

- world heritage properties;
- national heritage places;
- wetlands of international importance;
- listed threatened species and ecological communities;
- listed migratory species;
- Commonwealth marine areas;
- the Great Barrier Reef National Marine Park; and
- nuclear actions (including uranium mines).

Development or action that will have or is likely to have a significant impact on a matter of national environmental significance requires approval from the Commonwealth Minister.

In addition to approval in respect of matters of national environmental significance, approval is also required under the EPBC Act for actions taken by the Commonwealth or by anyone on Commonwealth land that will have or are likely to have significant impact on the environment.

A person proposing to undertake an action which will have, or is likely to have, a significant impact on any matter of national environmental significance on Commonwealth land must refer the action to the Commonwealth Minister, who determines whether the action constitutes a 'controlled action' requiring approval under the EPBC Act. The Commonwealth must also refer any actions it proposes to take that will have, or are likely to have, a significant impact on the environment. If the action is determined to be a 'controlled action' (refer section 4.1.1), the Commonwealth Minister must also choose the assessment approach by which the relevant impacts of the action are to be assessed under the EPBC Act.

#### 4.1.1 Controlled action

The Commonwealth Department of Finance (DoF) referred the Project (as detailed in *Referral of proposed action: Moorebank Intermodal Terminal (IMT) Project – Concept* (Parsons Brinckerhoff 2011a)) to the Commonwealth Minister on 23 August 2011 (EPBC Ref 2011/6086). This is generally termed the 'Project referral'.

The Project referral provided a preliminary analysis of the potential environmental impacts of the Project, and included the *Moorebank Intermodal Freight Terminal – Existing Ecological Values* report (Parsons Brinckerhoff 2011b) and an extensive desktop analysis which included:

- a literature review
- analysis of past reports
- the results of an EPBC Protected Matters Search for the Project Site conducted by the Commonwealth Department of the Environment (DoE) on 24 March 2011 (DoE 2011).

The referral was exhibited on the DoE website for a public consultation period from 3 November 2011 to 15 December 2011.

Having considered the referral, the Assistant Secretary of the Environment Assessment Branch of DoE (as delegate for the Commonwealth Minister) issued a determination on 20 September 2011 that the Project is a 'controlled action' because:

- it is an action by the Commonwealth which will have a significant impact on the environment; and
- it is likely to have a significant impact on listed threatened species and communities.

The delegate for the Commonwealth Minister also decided that the impacts of the action are to be assessed by the preparation of an EIS. Furthermore, the delegate determined that other matters of national environmental significance were not controlling provisions under the EPBC Act. However, as the Project site is on Commonwealth land, an action by the Commonwealth that is determined to have a significant impact on the environment requires the assessment documentation, in this case an EIS, to address the whole of the environment.

In May 2014 MIC formally requested an amendment to the Project referral, pursuant to section 156A(1)(B) of the EPBC Act. The variation sought to:

- amend the referral proponent for the Project from the DoF to MIC;
- reduce the scope of the action as described in the Project referral by removing some site preparation activities, which are now to be undertaken before construction of the Project. These activities will be carried out as part of the overall site rehabilitation, and are the subject of a separate referral, as described in section 4.1.3; and



- amend the action as described in the Project referral by modifying some activities which are now to be included as part of the Moorebank IMT Project. In particular, the amendment sought to include provisions for the construction and operation of the central and southern rail access options, which were not provided for under the original referral.

On 1 July 2014 DoE made the decision to accept the Project referral variation.

#### 4.1.2 Commonwealth EIS Guidelines

Where an EIS is selected as the relevant assessment approach, the EPBC Act requires the Commonwealth Minister to issue guidelines setting out the required content of the EIS (EPBC Act, Part 8, Division 6).

Draft guidelines for the required level of environmental assessment were prepared by DoE and publicly exhibited for a public consultation period of 30 business days, ending on 15 December 2011. The final *Guidelines for the content of a draft Environmental Impact Statement: Moorebank Intermodal Terminal Project, Sydney, NSW* (the Commonwealth EIS Guidelines) were issued by DoE on 30 March 2012. Since then, the DoE EIS Guidelines have been revised to reflect a number of changing circumstances of the Project. On 1 July 2014 DoE issued the revised guidelines, at the same time as approving the Project referral variation (as discussed above). The final revised Commonwealth EIS Guidelines are attached in Appendix B.

The Commonwealth EIS Guidelines provide requirements for the content and format of this EIS. These Guidelines are in addition to the specific requirements to be addressed in an EIS as set out in Schedule 4 of the Commonwealth Environment Protection and Biodiversity Conservation Regulation 2000 (EPBC Regulation) and, among other matters, require this EIS to address the objects and principles of the EPBC Act.

#### 4.1.3 Remediation and rehabilitation works referral

In March 2014 the MIC provided a referral to the Commonwealth Minister, separate from the Project referral outlined above. This second referral (2014/7152) detailed activities related to the IMT site decontamination, demolition of buildings and site stabilisation that are proposed to be completed before development of the Project, as part of the Commonwealth's existing obligations for environmental stewardship of the land. This referral sought to undertake these remediation and rehabilitation works before any future redevelopment of the Project site. The action specified under referral 2014/7152 is as follows:

- decontamination and demolition of eight buildings identified with asbestos containing material;
- remediation of contamination hotspots including underground storage tanks;
- site stabilisation and establishment of the proposed conservation area, on the site of the plant and equipment operation training area on the western side of the Project site;
- construction of secure perimeter fencing; and
- ancillary operations including establishment of construction facilities and amenities on existing areas of hardstand, including staff parking, site offices, hygiene units and kitchen facilities, plant laydown areas and wheel wash.

On 9 May 2014 the proposed action was declared, under delegation from the Minister for the Environment, not to be a controlled action. The proposed action therefore does not require further assessment under the EPBC Act. Accordingly, this EIS excludes consideration of the site rehabilitation works. In May 2014 MIC requested a variation to the Project referral to remove these activities, which will now not be included as part of the overall scope of the Project referral. DoE has accepted the variation to the referral. This variation was sought at the same time as the variation outlined in section 4.1.1 above.

## 4.2 Approval under the EP&A Act

In addition to approval under the EPBC Act, the Project is being assessed as SSD under Part 4, Division 4.1 of the EP&A Act (application number SSD-5066). Section 4.2.1 provides discussion on what constitutes a SDD and the associated approval process.

The NSW environmental planning and assessment framework is established by the EP&A Act, which sets out approval requirements and provides for the making of environmental planning instruments and Ministerial orders, which in turn determine the relevant planning approval pathway for development in NSW. Environmental planning instruments, which include state environmental planning policies (SEPPs), and local environmental plans (LEPs) and Ministerial orders, specify the types of development to be assessed under particular approval pathways.

The NSW Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) plays an important role in implementing the planning provisions of the EP&A Act. An assessment of the Project against the information requirements for development applications under Schedule 1, Parts 1 and 2 of the EP&A Regulation, is provided in Volume 2, Appendix J of this EIS.

The MIC will be submitting a staged development application for the Project under the EP&A Act.

### 4.2.1 State Significant Development (SSD)

Division 4.1 of Part 4 of the EP&A Act provides the planning approval pathway for development classified as SSD. Development may be classified as state significant by declaration in a SEPP, or by a Ministerial order published in the Gazette (s 89C).

The NSW *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP) declares certain development to be SSD. Relevantly, development is declared state significant if it satisfies both the following criteria set out in clause 8(1) of the SRD SEPP:

- the development on the land concerned is by the operation of an environmental planning instrument, not permissible without development approval under Part 4 of the EP&A Act (paragraph (a)); and
- the development is specified in Schedule 1 or 2 of the SRD SEPP (paragraph (b)).

In respect of paragraph (a) of clause 8(1) of the SRD SEPP, the Project site is located within the Liverpool local government area (LGA) and the following land use zones under the *Liverpool Local Environmental Plan 2008* (Liverpool LEP 2008) apply to land on the IMT site (refer to Figure 4.1):

- SP2 Infrastructure (Defence);
- IN1 General Industrial;
- W1 Waterways; and



- SP2 Infrastructure (Railway).

In addition, construction of the northern and southern rail access options would affect land zoned RE1 Public Recreation. Construction of the central rail access option would affect an area of land zoned SP2 Infrastructure (Defence land located to the west of Georges River, referred to as the 'hourglass land').

NSW *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP) outlines the assessment requirements for various types of infrastructure development. The Infrastructure SEPP generally prevails to the extent of any inconsistency between it and another environmental planning instrument.

Clause 81 of the Infrastructure SEPP provides that:

- Development for any of the following purposes, being development that is not development of a kind referred to in clause 79, may be carried out by any person with consent on land in a prescribed zone:

'(a) rail freight terminals, rail freight sidings or rail freight intermodal facilities,'

The Project is not development of a kind referred to in clause 79 as it is not being carried out by a public authority; i.e. neither MIC nor the Commonwealth is a public authority within the definition of that term in section 4 of the EP&A Act. A 'prescribed zone' is defined in clause 78 as:

'any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) IN1 General Industrial,
- (b) IN2 Light Industrial,
- (c) IN3 Heavy Industrial,
- (d) SP1 Special Activities,
- (e) SP2 Infrastructure.'

The Project is for the purpose of a rail freight intermodal facility and is to be carried out on land within two of the specified prescribed zones, namely IN1 General Industrial and SP2 Infrastructure. It is therefore permissible with consent by the operation of an environmental planning instrument in satisfaction of the criteria in paragraph (a) of clause 8(1) of the SRD SEPP.

In respect of paragraph (b) of clause 8(1) of the SRD SEPP, Schedule 1 (clause 19) of the SRD SEPP specifies the following categories of development as state significant:

- Development that has a capital investment value of more than \$30 million for any of the following purposes:

- '(a) heavy railway lines associated with mining, extractive industries or other industry,
- (b) railway freight terminals, sidings and inter-modal facilities.'

and

- Development within a rail corridor or associated with railway infrastructure that has a capital investment value of more than \$30 million for any of the following purposes:

- '(a) commercial premises or residential accommodation,
- (b) container packing, storage or examination facilities,
- (c) public transport interchanges.'

The capital cost of the Project is estimated to be approximately \$930 million. The breakup of this cost in the various Project phases is as shown below.

Table 4.1 Estimated capital cost for the Project per development phase

Project Phase	Estimated cost
Early Works	\$20 million
Phase A	\$450 million
Phase B	\$200 million
Phase C	\$260 million
<b>Total</b>	<b>\$930 million</b>

Therefore, the Project is considered to be a development specified in Schedule 1 (clause 19), as it has a capital investment value of more than \$30 million, is for the purpose of an intermodal facility associated with railway infrastructure, and is for the purpose of commercial premises and container packing, storage or examination facilities. The Project therefore satisfies the criteria in paragraph (b) of clause 8(1).

The declaration of the Project as SSD extends to all parts of the Project, even those that are to be carried out on land that is not within a prescribed zone as a result of clause 8(2) of the SRD SEPP.

#### 4.2.2 Staged development application

This application for the Project is being lodged with the NSW Department of Planning and Environment (NSW DP&E) for assessment as a staged development application (Stage 1 SSD development approval for the proposal concept), under section 83B of the EP&A Act. As defined in section 83B(1), a staged development application is one that sets out a concept proposal (referred to as a Stage 1 SSD development approval) for the development of a site, and for which detailed proposals for separate parts of the site are to be the subject of subsequent development applications (referred to as Stage 2 SSD development approvals). However, the Stage 1 SSD development approval may set out detailed proposals for the first stage of development.

A staged development approval does not authorise the carrying out of development on the Project site, except in one of the following two circumstances, as described in section 83B(3):

- a) consent is granted to the first stage of the Project, in which case that stage may be developed in accordance with the conditions of consent; and
- b) a subsequent development application for development on the site is granted consent, in which case that development may be developed in accordance with the conditions of consent.

This EIS provides a concept proposal for the Project (see Chapter 7 – *Project built form and operations* and Chapter 8 – *Project development phasing and construction*). Subject to approval of this concept proposal, the Project will be subject to further development approval under the EP&A Act (Stage 2 SSD development approvals). The exception is the Early Works development phase, for which MIC is seeking approval to commence works in accordance with section 83B(3)(b) of the EP&A Act, as part of this EIS and the associated Stage 1 SSD development approval application. That is, this approval (if received) would allow for the commencement of the Early Works in accordance with the conditions of approval (with no further approval requirement). These Early Works include initial site preparation activities, including some site remediation, building demolition, service disconnection and establishment of construction access and services. Section 8.3 in Chapter 8 – *Project development phasing and construction* provides further details of the Early Works.

Depending on the size and scope of future development on the Project site, the subsequent Stage 2 SSD approval process may be a single development approval (and supporting EIS or similar) for the entire development, or, more likely, multiple development for various components of the development. As such, other than the Early Works, approval is not sought in this application to carry out development of any part of the Project site.

#### 4.2.3 NSW environmental assessment requirements

The EP&A Act and EP&A Regulations require the Secretary of NSW DP&E to issue Environmental Assessment Requirements (NSW SEARs) for SSD (EP&A Act, cl 78A(8A), EP&A Regulation, Schedule 2, clause 3).

To assist the Secretary to prepare the NSW SEARs for this Project, the DoFD submitted the Preliminary Project Environmental Overview (prepared by Parsons Brinckerhoff and dated 7 December 2011) and the (then) draft Commonwealth EIS Guidelines. The Secretary issued draft NSW SEARs to government agencies and stakeholders for comment prior to finalisation.

The Secretary (formerly the Director-General) issued NSW Director-General's environmental assessment requirements (DGRs, now known as SEARs) for the Project on 27 February 2012. Subsequently, revised NSW SEARs were issued for the Project on 2 September 2014 to address changes to the Project and any updated environmental assessment and planning guidelines since the original NSW DGRs were drafted. The revised final SEARs are included in Appendix B in Volume 2 of this EIS.

The NSW SEARs provide requirements for the assessment of key environmental issues in relation to the Project and are valid for two years. The NSW SEARs are in addition to the form and content requirements for an EIS stipulated in Schedule 2 of the EP&A Regulation. Pursuant to clause 3(7) of Schedule 2 of the EP&A Regulation, if the development application to which the EIS relates is not made within two years after notice is given, the responsible person must consult with the Secretary further in relation to the preparation of the EIS.

#### 4.2.4 Liverpool Local Environmental Plan 2008

The Project site is located wholly within the Liverpool local government area (LGA) and is subject to the provisions of the Liverpool Local Environmental Plan 2008 (Liverpool LEP).

Under the LLEP, land within the main IMT site is generally located within the *SP2 Infrastructure (Defence)* zone, with the exception of the Northern Commonwealth Land and Northern Council Land, which is zoned *IN1 General Industrial*. The Georges River to the west of the main IMT site is included in the *W1 Natural Waterways* zone. There are no planning controls currently applicable to the site, with the exception of the Northern Council Land and the Northern Commonwealth Land, where a 21 m height restriction applies.

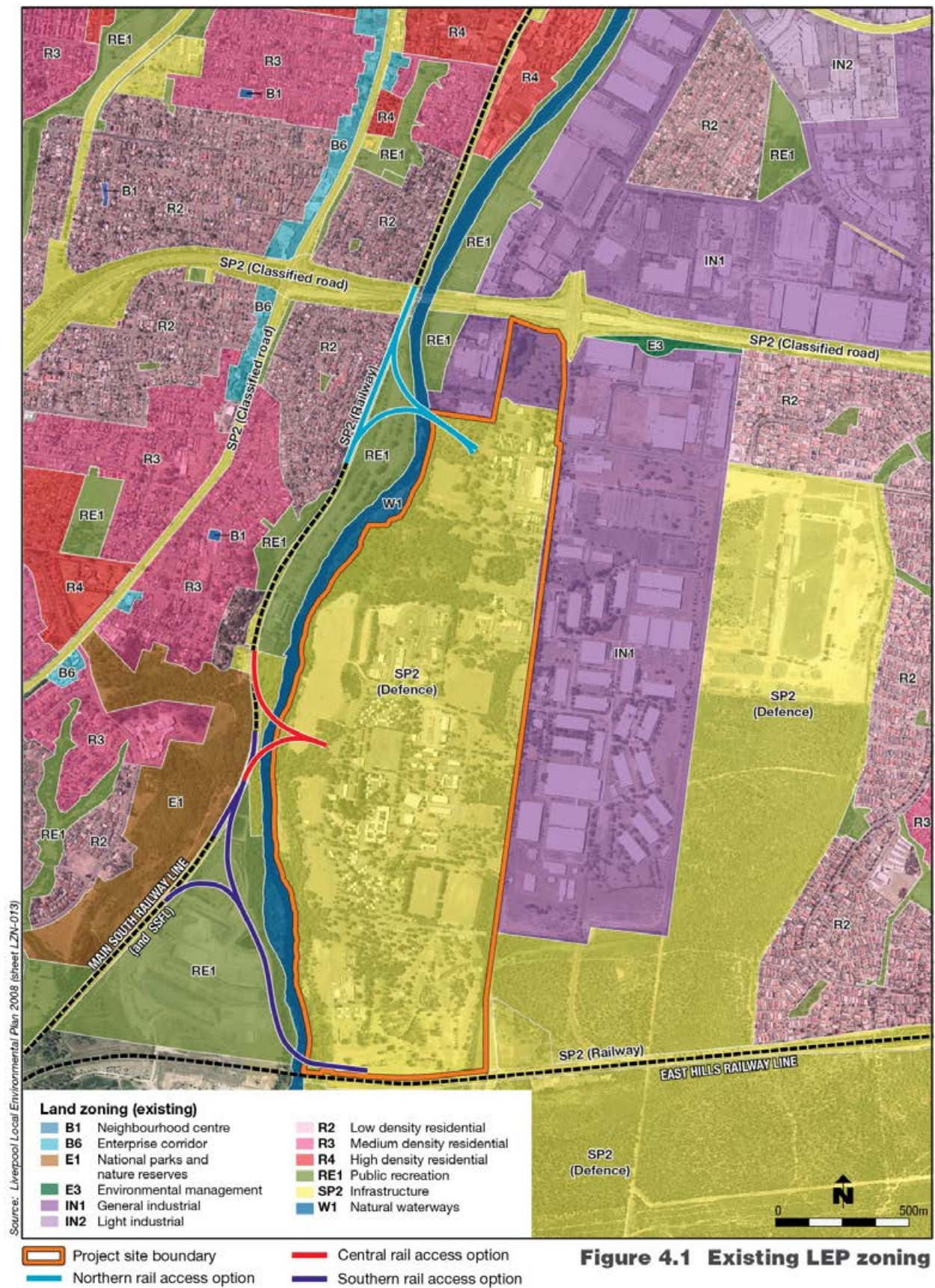
In terms of the rail access, construction of the northern access option would affect land zoned *RE1 Public Recreation* and *SP2 Infrastructure (Classified Road)*. The central rail access option would affect an area of land zoned *SP2 Infrastructure (Defence)* (the 'hourglass land') as well as land to the north and south of the hourglass land which is zoned *RE1 Public Recreation*. The southern rail access option would affect land zoned *RE1 Public Recreation* as well as the southern part of the hourglass land, which is zoned *SP2 Infrastructure (Defence)*. All rail access options would impact on land within the existing SSFL, which is zoned *SP2 Infrastructure (Railway)*.

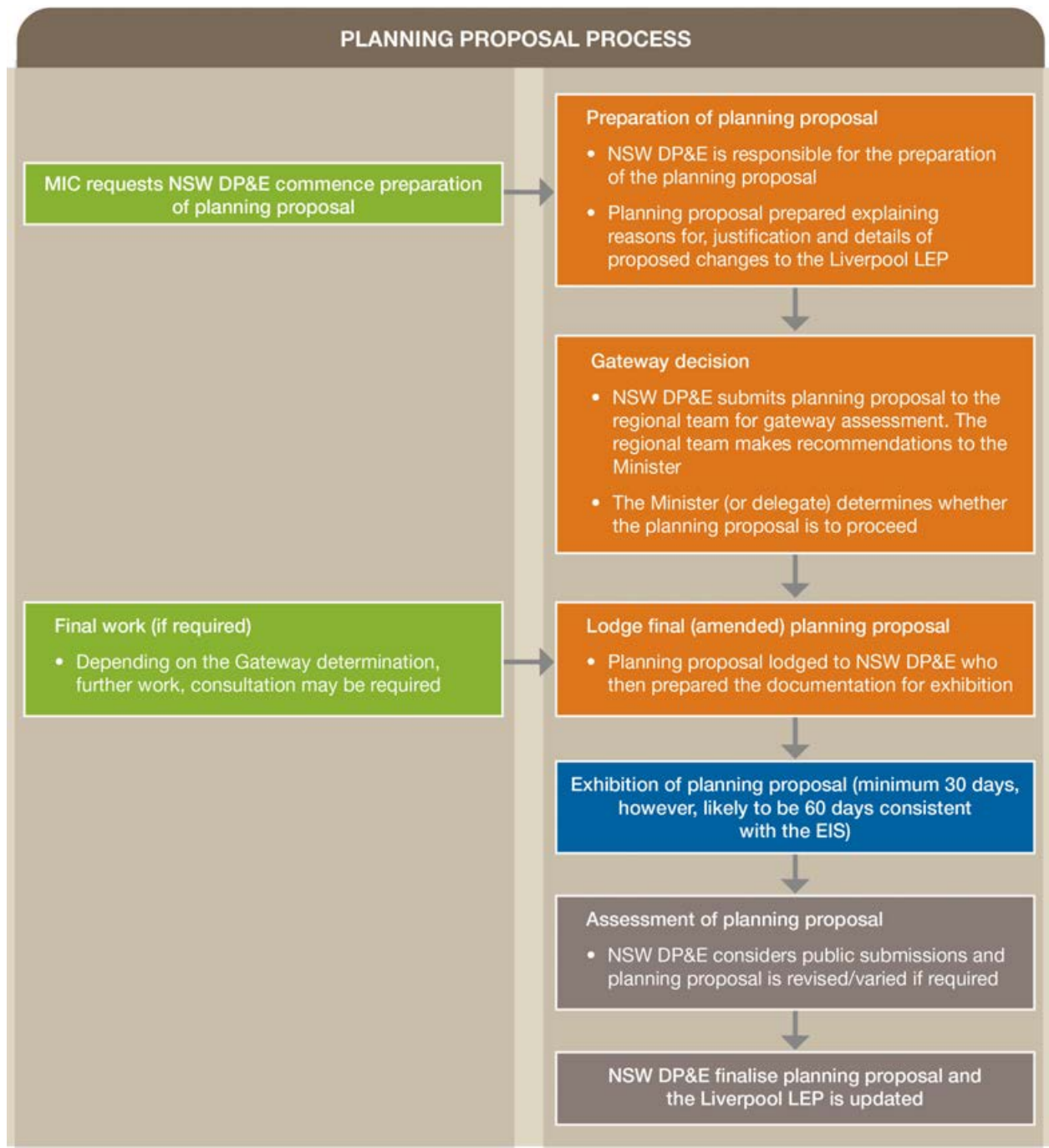
In order to facilitate future development of the Project site in accordance with this EIS, MIC is currently seeking to rezone the Project site under Part 3 of the EP&A Act to partly IN1 General Industrial (for the IMT) and partly E3 Environmental Management (for the conservation area along the Georges River). For this purpose, MIC has lodged a planning proposal with NSW DP&E to amend the Liverpool LEP. The proposed zoning is detailed in Chapter 23 – *Property and infrastructure* of this EIS. In addition, the planning proposal seeks to introduce planning controls including height and floor area ratio restrictions to the main IMT site, which are consistent with development controls for the IN1 General Industrial zone. Further details on the proposed planning controls are provided in section 7.4 of Chapter 7 – *Project built form and operations*. Amendments to Part 7 (additional local provisions) of the Liverpool LEP 2008 are also proposed to permit the construction and operation of the rail access options through land to the west of the Georges River.

The process of undertaking an amendment to an LEP is set out in Division 4 of Part 3 of the EP&A Act. In summary, this process involves preparation of a planning proposal; a 'gateway' decision by the Minister to determine whether or not to proceed with the planning proposal; lodgement of the planning proposal; exhibition of the planning proposal; assessment of the planning proposal and variation, if required; and giving effect to the planning proposal through amendments to the LEP. Figure 4.2 illustrates this process.

In terms of the relationship to the SSD process, this planning proposal is being exhibited concurrently with the EIS, so that the rezoning of the Project site can be properly considered in conjunction with the Moorebank IMT proposal. It is likely that the decision on the EIS and the planning proposal would be released at similar times.







**Figure 4.2 Planning proposal process**



## 4.3 Relevant state environmental planning policies (SEPPs)

A number of SEPPs apply to construction and operation of the Project. These SEPPs and their relevance to the Project are summarised below.

### 4.3.1 State and Regional Development (SRD) SEPP

The SRD SEPP identifies classes of development that are of state significance and therefore require assessment under Part 4, Division 4.1 or Part 5.1 of the EP&A Act. As discussed in section 4.2.1 above, the Project is declared SSD under the SRD SEPP and will therefore be assessed under Part 4, Division 4.1 of the EP&A Act.

### 4.3.2 Infrastructure SEPP

As discussed in section 4.2.1, the Infrastructure SEPP confirms the Project is permissible with development approval in the IN1 General Industrial and SP2 Infrastructure zones.

### 4.3.3 SEPP 19 – Bushland in Urban Areas

NSW *State Environmental Planning Policy No. 19 – Bushland in Urban Areas* (SEPP 19) provides for the protection of bushland zoned for public open spaces. Clause 6 of SEPP 19 requires development consent for development that would disturb bushland zoned or reserved for public open space purposes, including bushland within zone RE1 Public Recreation. In the case of the northern and southern rail access options, removal of bushland in a section of land zoned RE1 Public Recreation would be required to provide for construction of the rail connection to the IMT site (refer to section 13.3 in Chapter 13 *Biodiversity* for details of vegetation clearing). SEPP 19 requires the NSW Minister for DP&E to:

- assess the need to protect and preserve the bushland having regard to the aims of SEPP 19;
- be satisfied that the disturbance of the bushland is essential for a purpose in the public interest and no reasonable alternative is available to the disturbance of that bushland; and
- be satisfied that the amount of bushland proposed to be disturbed is as little as possible and, where bushland is disturbed to allow construction work to be carried out, the bushland will be reinstated upon completion of that work as far as is possible.

As discussed in Chapter 3 – *Context and need for the Project*, improving NSW freight infrastructure and performance is a key objective for the Australian and NSW Governments. The construction of the Project is considered essential to accommodate growth in container volumes in Sydney and to manage capacity constraints at Port Botany. Vegetation clearance in land zoned RE1 Public Recreation would be limited to land required for construction of the northern or southern rail access options and associated maintenance corridor (i.e. the proposed easement would include the rail infrastructure and proposed maintenance access to it). As discussed in Chapter 13 – *Biodiversity*, vegetation would be reinstated where possible across the Project site following construction.

An assessment of the impacts of the Project on vegetation, including analysis of the potential for the spread of weeds and exotic plants, is contained in Chapter 13 – *Biodiversity*. An assessment of soil impacts is provided in Chapter 15 – *Contamination and soils*. A detailed assessment of hydrology impacts is included in Chapter 16 – *Hydrology, groundwater and water quality*.

In summary, the Project is considered consistent with SEPP 19.

#### 4.3.4 SEPP 33 – Hazardous and Offensive Development

NSW *State Environmental Planning Policy No. 33 – Hazardous and Offensive Development* (SEPP 33) aims to minimise the adverse impacts of industry and provides for the assessment of hazards and risks from potentially hazardous and potentially offensive industry during the planning approvals process. The Project is considered both 'potentially hazardous' and 'potentially offensive' and requires preparation of a preliminary hazard analysis (PHA) in accordance with clause 12 of SEPP 33.

A PHA was prepared for the Project in accordance with the requirements of SEPP 33 and Hazardous Industry Planning Advisory Papers *No 6: Hazard Analysis* and *No 10: Land Use Safety Planning*. The PHA assessed risks such as reticulation of natural gas to the Project site, and the storage and transport of liquefied natural gas (LNG) and liquefied petroleum gas (LPG). Dangerous goods would not be accepted as freight at the IMT. The PHA is included in Volume 4 of this EIS (Technical Paper 4 – *Preliminary Risk Assessment*) and is summarised in Chapter 14 – *Hazards and risks*. All risks are considered manageable with implementation of the proposed mitigation measures.

#### 4.3.5 SEPP 44 – Koala Habitat Protection

NSW *State Environmental Planning Policy No. 44 – Koala Habitat Protection* (SEPP 44) aims to protect areas of natural vegetation that provide habitat for koalas. It requires councils to implement management plans for land identified as core koala habitat before granting development consent for a project. SEPP 44 applies to the entire Liverpool LGA, and therefore applies to the Project site.

The biodiversity assessment for the Project is summarised in Chapter 13 – *Biodiversity*. This indicates that the Project site is a potential koala habitat. If present on the Project site, koala populations would likely be limited to the banks of the Georges River, given disturbance and habitat fragmentation elsewhere on the Project site. A comprehensive assessment of potential impacts on koala habitat, and proposed mitigation strategies, is provided in Chapter 13 – *Biodiversity*, and in Technical Paper 3 – *Ecological Impact Assessment* in Volume 4 of this EIS.

#### 4.3.6 SEPP 55 – Remediation of Land

NSW *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55) provides a planning approval framework for the remediation of contaminated land. Clause 9 of SEPP 55 requires development consent for remediation work in an area classified for conservation or heritage conservation, environment protection or floodway, and therefore applies to the Project site.

As identified in Chapter 7 – *Project built form and operations*, the Project would include remediation works to ensure safe use of the Project site for commercial and industrial purposes. All remediation work as part of the Project would be carried out in accordance with the requirements of SEPP 55, including compliance with the contaminated land planning guidelines, any guidelines in force under the NSW *Contaminated Land Management Act 1997*, the National Environmental Protection Measures and a plan of remediation prepared in accordance with the contaminated land planning guidelines (clause 17(1) of SEPP 55). Relevant guidelines are detailed in Chapter 15 – *Contamination and soils* (section 15.1.1). A notice of completion of remediation work would be issued to Council within 30 days of completion of the work (clauses 17(2)–(3) of SEPP 55). Further details on the remediation works required are presented in Chapter 15 – *Contamination and soils*.

The provisions of SEPP 55 are also relevant to the consideration of the rezoning proposal.

#### 4.3.7 Greater Metropolitan REP 2 – Georges River Catchment

The *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment* (Georges River Catchment REP) provides general and specific planning principles to be applied to the preparation of LEPs and assessment of development applications in the Georges River catchment area. These principles aim to ascertain likely impacts on downstream LGAs and cumulative impacts of developments on the Georges River and its tributaries. The Georges River Catchment REP is a deemed SEPP (EP&A Act, Schedule 6, clause 119). All of the REP principles have been considered and addressed as part of this EIS. The principles are listed in Volume 2, Appendix C of this EIS, along with a discussion of how each principle has been considered as part of this EIS.

A comprehensive assessment of the hydrological and water quality impacts of the Project has been provided in Chapter 16 – *Hydrology, groundwater and water quality*. The findings of this assessment are incorporated into the assessment in Volume 2, Appendix C.

### 4.4 Other relevant NSW legislation

A number of other approvals may be required before construction, to construct and/or operate the Project in accordance with NSW environment and planning legislation. These approvals are discussed in Table 4.1.

Table 4.2 Other relevant legislation

Legislation	Agency	Relevant requirements
NSW <i>Dangerous Goods (Road and Rail Transport) Act 2008</i>	NSW Office of Environment and Heritage (OEH) and WorkCover NSW	This Act aims to minimise the risks of transporting dangerous goods by public roads and rail and provides a licensing system for vehicles and drivers. Dangerous goods have been explicitly excluded from the types of freight that the Project would handle (i.e. they would not be accepted), so would be excluded from the Project's freight container storage and transit areas. Therefore, the Project would not be subject to this Act.
NSW <i>Work Health and Safety Act 2011</i> and NSW Work Health and Safety Regulation 2011	WorkCover NSW	This legislation aims to protect the health and safety of workers and workplaces by, in part, requiring a series of licences and prior notifications for high risk activities and development. The Project would not provide for the storage, transfer or handling of dangerous goods.  A comprehensive review of required licences and notifications would be conducted during preparation of the construction environmental management plan and operational environmental management plan for the Project.
NSW <i>Protection of the Environment Operations Act 1997</i>	NSW Environment Protection Authority (EPA)	This Act provides for the protection, restoration and enhancement of the environment in NSW through a number of regulatory controls administered by the EPA.  A preliminary assessment of the Project against the activities listed in Schedule 1 of the <i>NSW Protection of the Environment Operations Act 1997</i> has determined that the Project is not a scheduled activity and therefore no Environment Protection Licence is required for the Project. However, once the design and operation of the Project has been further developed, licensing requirements (for example a licence for chemical storage) for the Project would be reassessed to confirm if additional approvals are necessary.

Legislation	Agency	Relevant requirements
NSW <i>Roads Act 1993</i>	LCC	<p>This Act provides a system of approvals for works involving public roads. Under section 138 of the NSW <i>Roads Act 1993</i>, consent is required from the appropriate roads authority for road work, including upgrades of existing roads. The Project requires the use of two local roads, Moorebank Avenue (north of Anzac Road) and Bapaume Road, which are under the jurisdiction of LCC. Moorebank Avenue would require upgrading as part of the Project. Additionally, Bapaume Road would also be realigned, with the current road resumed as part of the Project site (refer to Chapter 7 – <i>Project built form</i> for description of proposed works and Chapter 11 – <i>Traffic, transport and access</i> for assessment of impacts on traffic and transport). These works would therefore require consent from LCC under section 138 of the NSW <i>Roads Act 1993</i>.</p> <p>If the Project receives development approval, any approval required under the NSW <i>Roads Act 1993</i> must be substantially consistent with the conditions of that development approval in accordance with section 89K(1)(f) of the EP&amp;A Act.</p>

## 4.5 Other legislation not applicable to SSD projects

The SSD planning approval pathway is intended to provide a streamlined, consolidated assessment regime for large-scale development. Section 89J of the EP&A Act effectively ‘switches off’ a number of controls under other NSW legislation. Should MIC receive development approval for the Project as SSD, the legislative controls (licences, approvals, permits and authorisations) presented in Table 4.2 would not be required for the Project, nor for any investigative or other activity required for the purpose of complying with environmental assessment requirements for the Project.

Table 4.3 Legislative controls not applicable to approved SSD

Act	Legislative control not applicable to approved SSD	EP&A Act provision that provides exemption from legislative control
NSW <i>Heritage Act 1977</i>	Part 4 controlled activities approval	Section 89J(1)(c)
	Section 139 excavation permit	
	Division 8, Part 6	Section 89J(2)
NSW <i>National Parks and Wildlife Act 1974</i>	Section 90 Aboriginal heritage impact permit	Section 89J(1)(d)
NSW <i>Water Management Act 2000</i>	Section 89 water use approval	Section 89J(1)(g)
	Section 90 water management work approval	
	Section 91 activity approval (other than an aquifer interference approval)	

In addition, section 79B(2A) of the EP&A Act states that consultation and concurrence from a person or authority is not required for SSD, unless an environmental planning instrument specifies that consultation and concurrence applies. In this instance, there is no environment planning instrument (i.e. SEPP or LEP) relevant to the Project that requires consultation and concurrence.