

SPORTSMANS CREEK NEW BRIDGE DEVELOPMENT AND ASSESSMENT OF OPTIONS

Recommended Option Report

Preliminary Planning & Zoning Issues Statement – Appendix E

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1 Preliminary Planning and Zoning Issues Statement

1.1 STRATEGIC POLICY BACKGROUND

The proposed Sportsmans Creek new bridge project is identified in the NSW Government's Strategic Policy document, NSW Long Term Transport Master Plan, which was released by the NSW State Government in December 2012. The proposed Project is part of the "Bridges for the Bush" initiative – a NSW Government commitment to improve road freight productivity by replacing or upgrading bridges.

1.2 PLANNING CONTROLS FRAMEWORK

The *Environmental Planning & Assessment Act 1979* (the EP&A Act) is the prevailing planning legislation that applies to all development and environmental assessment within NSW. Under the EP&A Act, there are two avenues of approval:

- Part 4 – development requiring consent under an environmental planning instrument (typically a local environmental plan but occasionally the Minister for Planning).
- Part 5 – activities that are permissible without development consent under an environmental planning instrument (i.e. that do not fall under Part 4).

In addition, the *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP 2007) applies to the proposed Project. Under the Infrastructure SEPP 2007, development for the purposes of public infrastructure such as roads, is able to be carried out by or on behalf of public authorities without the need for development consent under Part 4 of the EP&A Act.

Part 5 of the EP&A Act permits the environmental assessment and determination of an 'activity' by a 'determining authority'. Under Section 110 of the EP&A Act, a determining authority can be a public authority which includes the NSW Roads and Maritime Services Authority (Roads and Maritime) (the proponent).

The proposed Sportsmans Creek new bridge project is defined as an 'activity' under Section 110, Part 5 of the *Environmental Planning and Assessment Act 1979* (EPA Act).

Under Part 5 of the EP&A Act, Section 111 states that a determining authority has a duty to consider the environmental impacts of an activity and is required to 'examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment' as a result of the activity. Section 111 of the EP&A Act sets out the following matters which a determining authority must consider in relation to

activities for which a review of environmental factors (REF), an environmental impact statement (EIS) or a species impact statement (SIS) may be required:

- ‘...examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity’. Without limiting this statement, these matters also include:
 - “(a) any conservation agreement entered into under the *National Parks and Wildlife Act 1974* and applying to the whole or part of the land to which the activity relates, and
 - (b) any plan of management adopted under that Act for the conservation area to which the agreement relates, and
 - (c) any joint management agreement entered into under the *Threatened Species Conservation Act 1995*, and
 - (d) any biobanking agreement entered into under Part 7A of the *Threatened Species Conservation Act 1995* that applies to the whole or part of the land to which the activity relates.”
- The effect of an activity on any wilderness area (within the meaning of the *Wilderness Act 1987*) in the locality in which the activity is intended to be carried on;
- The effect of an activity on:
 - (a) critical habitat, and
 - (b) in the case of threatened species, populations and ecological communities, and their habitats, whether there is likely to be a significant effect on those species, populations or ecological communities, or those habitats (7 Part test - Assessment of Significance, refer below), and
 - (c) any other protected fauna or protected native plants within the meaning of the *National Parks and Wildlife Act 1974* .”

Therefore, the Proposal would be assessed under Part 5 of the EP&A Act. The level of the project’s impact on the environment will determine the level of environmental assessment required for the proposed Project, an REF and/or EIS/SIS may be required.

The project will require an approval under Section 112 from the determining authority which in this case is also the proponent of the activity.

Comment

Once the preferred option is defined, the proposed Project would require a Part 5 environmental assessment. At this conceptual stage, a Review of Environmental Factors (REF) is anticipated. An EIS/SIS would only be required if the detailed technical studies identify the risk or potential for significant level of impact on environmental, social or cultural features of the Project environs.

1.3 STATE ENVIRONMENTAL LEGISLATIVE FRAMEWORK

As part of the environmental assessment under Part 5 of the EP&A Act, the proposed project may require consideration of, and approvals, permits and licenses under other

State environmental legislation. The relevant legislation that may apply to the proposed Project comprises:

- *Fisheries Management Act 1994*
- *Native Vegetation Act 2003*
- *Threatened Species Conservation Act 1995*
- *National Parks and Wildlife Act 1974*
- *Water Management Act 2000*
- *Protection of the Environment Operations Act 1997*
- *Waste Avoidance and Resource Recovery Act 2001*
- *Noxious Weeds Act 1993*
- *Rural Fires Act 1994*
- *Soil Conservation Act 1938*
- *Heritage Act 1977*
- *Roads Act 1993*
- *Contaminated Land Management Act 1997*
- *Crown Lands Act 1989* .

Table 1 Summary of Relevant State Environmental Legislation

Legislation	Responsible Authority	Aspect of development
<i>Fisheries Management Act 1994</i>	Minister for Primary Industries (Fisheries and Aquaculture), Department of Primary Industries)	Conserve biological diversity of fish and marine vegetation and promote ecologically sustainable development and activities. Permits for dredging or reclamation and any waterway barrier works or weirs. Notification and permit under s 205 of FMA for any harm to marine vegetation in a protected area. Sportsmans Creek is included as Key Fish Habitat (KFH) as defined under the FM Act.
<i>Native Vegetation Act 2003</i>	Local Catchment Management Authority (Northern Rivers CMA) and the Minister for Environment and Heritage (Office for Environment and Heritage)	Exemption from permits for clearing of native vegetation. <i>Section 25 exemptions apply to the proposed project</i>

Legislation	Responsible Authority	Aspect of development
<i>Threatened Species Conservation Act 1995</i>	Minister for the Environment and Heritage (NSW EPA)	If potential threatened species are present or likely, 7 Part Test - Assessment of Significance for threatened species, populations and ecological communities. No licence required if a Part 5 assessment.
<i>National Parks and Wildlife Act 1974</i>	Minister for the Environment and Heritage (NSW EPA)	Conservation of fauna, native plants, threatened species, and Aboriginal cultural heritage and relevant approvals to disturb.
<i>Water Management Act 2000</i>	Minister for Water, (Office of Water, Department of Primary Industries)	To protect, enhance and restore water sources, their associated ecosystems, ecological processes and biological diversity and their water quality.
<i>Protection of the Environment Operations Act 1997</i>	Minister for the Environment and Heritage (NSW EPA)	Regulation of Scheduled activities under the <i>POEO Regulations 2008</i> . Issuing of Environment Protection Licenses (EPLs). No EPLs anticipated at this stage.
<i>Waste Avoidance and Resource Recovery Act 2001</i>	Minister for Environment and Heritage (NSW EPA)	Consideration of resource management in terms of the waste hierarchy, avoidance, resource recovery and disposal.
<i>Noxious Weeds Act 1993</i>	Minister for Environment and Heritage (NSW EPA)	Reduce the negative impact of weeds on the economy, community and environment of the State by establishing weed control mechanisms to prevent the establishment of significant new weeds, and effectively manage widespread significant weeds.
<i>Contaminated Land Management Act 1997</i>	Minister for Environment and Heritage (NSW EPA)	Management of listed contaminated sites in NSW. Review NSW EPA CLR at option identification stage.
<i>Rural Fires Act 1997</i>	Minister for Police and Emergency Services (Ministry for Police and Emergency Services)	The prevention, mitigation and suppression of bush and other fires in local government areas. Notification required to LGA if fires will be required.
<i>Soil Conservation Act 1938</i>	NSW Department of Primary Industries, Catchments and Lands - Soil Conservation Service	Protection and conservation of NSW soils, erosion prone and erosion hazard areas, definition of soil catchments.

Legislation	Responsible Authority	Aspect of development
<i>Heritage Act 1977</i>	Minister for Environment and Heritage (NSW EPA)	To encourage the conservation of the State's heritage (The Lawrence Heritage Conservation Area listed under Schedule 5 of the LEP and associated heritage-listed items within that area on the northern side of the Creek. The existing bridge remains on the NSW Heritage Council's database as a s170 listed item and is shown as such in the LEP. However, we understand approval has been granted for the removal of the bridge as stated in the project brief. Permits required for any proposed impacts to listed heritage.
<i>Roads Act 1993</i>	Minister for Roads and Ports (for relevant parts) (Roads and Maritime Services)	Sets out rights and makes provisions for roads authorities and hierarchy of roads, certain exemptions e.g. native vegetation clearing, definition of road works.
<i>Crown Lands Act 1989</i>	NSW Department of Primary Industries, Catchments and Lands.	Environmental protection principles and public use and enjoyment of Crown Land principles must be observed and managed, and the natural resources of Crown Land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible.

1.3.1 Fisheries Management Act 1994

The object of the Act is to conserve biological diversity of fish and marine vegetation and promote ecologically sustainable development and activities.

Under Section 199 of the *Fisheries Management Act (FM Act) 1994*, a public authority (other than a local government authority) is required to notify the Minister for Primary Industries (DPI) Fisheries and Aquaculture if the proponent is to undertake any dredging or reclamation works. Further, Clause 218 of the FM Act requires that the Minister is notified whenever a weir or barrier to fish movement is to be constructed, altered or modified. The FM Act also enables the Minister for Fisheries to make Habitat Protection Plans for the protection of any key fish habitat areas. In addition, under Section 205 of the FMA, notification and permit to harm any marine vegetation in a protected area may be required for the proposed construction works.

If any FMA listed threatened species, populations, or ecological communities are identified in the study area, a "7 part test - Assessment of Significance" would be required.

Comment

Subject to further detailed design, the proposed bridge layout and construction methods may require notification and permits to harm any marine vegetation under the FM Act and/or notification of any part of the proposed works that would impact upon a waterway by means of a weir or barrier (such as a bridge pylon or abutment protection works in a waterway) or where any dredging or reclamation was to be carried out. In addition, Sportsmans Creek is included in the definition of key fish habitat (KFH) under the FM Act.

1.3.2 Native Vegetation Act 2003

The *Native Vegetation Act 2003* (NV Act) is administered by the relevant local Catchment Management Authority (CMA). The Northern Rivers CMA is the relevant authority for the town of Lawrence and the Clarence River system.

Section 25 of the NV Act states the Act does not apply to:

- “any clearing that is undertaken as part of an assessment under Part 5 of an ‘activity’ pursuant to the EP&A Act,”
- “any clearing that involves the removal or lopping of any tree or other vegetation in accordance with section 88 of the *Roads Act 1993*”

Comment

As the project is being approved by Roads and Maritime under the EP&A Act and undertaken under the Roads Act, section 25 of the NV Act means that approval would not be required under the NV Act.

1.3.3 Threatened Species Conservation Act 1995

The *Threatened Species Conservation Act 1995* (TSC Act) lists threatened species, populations and ecological communities in NSW. If a threatened species, population or ecological community or its habitat is likely to occur in any area which may be affected by a development proposal, then a “7 part test - Assessment of Significance” in accordance with Section 5A of the EP&A Act (as amended by the TSC Act) must be conducted to determine whether the proposal would have a significant impact.

If it is concluded that there would be a significant impact, then a Species Impact Statement (SIS) must be prepared, and the proposal would then be subject to approval from the Director-General of the Office of Environment and Heritage.

7 Part Test – Assessment of Significance

As part of the consideration of matters as identified above, Section 5A of the EP&A Act stipulates the following ‘7 Part test – Assessment of Significance’ and any assessment guidelines that must be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.

“(a) in the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction;

(b) in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction;

(c) in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:

(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or

(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,

(d) in relation to the habitat of a threatened species, population or ecological community:

(i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and

(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and

(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality,

(e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly),

(f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan,

(g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.”

Comment

This ‘7 Part Test - Assessment of Significance’ is only required if there is evidence of a threatened species, population, ecological community or their habitats in the proposed study area. In a previous bat survey of Sportsmans Creek, there was evidence of two threatened bat species, including the roosting southern myotis (*Myotis Macropus*), and the little bent-wing bat (*Miniopterus australis*) foraging under or near the existing timber truss bridge structure (Ecotone Ecological Consultants Pty Ltd, 2007). Individuals of the southern myotis could also use disused swallow or fairy martin nests as day roost sites on any of the bridge structures. In addition, information from Ekert and Brady (2007) on osprey nests in the Clarence catchment in 2006, indicated a tree as a nest support in the vicinity of Lawrence/Doust Park in the Sportsmans Creek sub-catchment.

If it is concluded in the updated ecological assessment undertaken by GeoLink for the Sportsmans Creek new bridge project, there is a significant impact on any identified threatened species or habitat, then a Species Impact Statement (SIS) must be prepared, and the proposal would then be subject to approval from the Director-General of the

Office of Environment and Heritage. It is not anticipated that this is required at this stage of the options assessment process.

1.3.4 National Parks and Wildlife Act 1974

The *National Parks and Wildlife Act 1974* (NPW Act) is administered by the Office of Environment and Heritage. The purpose of the Act is the conservation of:

- Nature, including habitat, ecosystems, biological diversity, landscapes and landforms;
- Objects, places or features of cultural value within the landscape including:
 - places, objects and features of significance to Aboriginal people
 - places of social value to the people of NSW
 - places of historic, architectural or scientific significance.

The NPW Act also sets out the responsibilities for the management of NSW National Parks.

If development is to take place in the vicinity of an Aboriginal Place or identified historic site, the potential impacts of the development must be assessed.

Comment

There are no National Parks within the proposed study area.

The Lawrence Heritage Conservation Area listed under Schedule 5 of the LEP and associated heritage-listed items is located on the northern side of Sportsmans Creek (north of existing bridge incorporating lots on either side of Bridge Street, east of Grafton St and northern end of Rutland Street both east and west sides). The Sportsmans Creek bridge remains on the NSW Heritage Council's database as a Section 170 listed item and is shown as such in the LEP. However, it is understood approval has been granted for the removal of the bridge as stated in the project brief. Evidence of the revocation needs to be appended to any environmental assessment.

The desktop assessment for the proposed new Sportsmans Creek bridge project will identify if there are any or potential for any items in the vicinity of the proposal. There may be potential for items to be discovered, particularly in/near Sportsmans Creek. Details would be provided within the current cultural heritage technical investigations. Any items of Aboriginal significance are protected under the NPW Act. It is unlikely that any proposed works would take place in the vicinity of an Aboriginal Place however, if identified as part of the detailed design, then the potential impacts of the development on an Aboriginal Place must be assessed.

1.3.5 Water Management Act 2000

The *Water Management Act 2000* (WM Act) addresses the management of surface and ground water in NSW. Under the Act, approvals are required for controlled activities. A controlled activity means:

- the erection of a building or the carrying out of a work (within the meaning of the EP&A Act), or

- the removal of material (whether or not extractive material) or vegetation from land, whether by way of excavation or otherwise, or
- the deposition of material (whether or not extractive material) on land, whether by way of landfill operations or otherwise, or
- the carrying out of any other activity that affects the quantity or flow of water in a water source.

Comment

If the proposed Project is determined to be a 'controlled activity', because of any interference with the management of surface or ground waters as part of the proposal, then a water management license would be required under the Water Act.

It is noted that any proposed bridge crossing of Sportsmans Creek would be subject to surface flooding unless the southern road approaches are elevated above the flood level. The 20 year and 100 year ARI flood events, groundwater conditions, water quality and erosion issues would be considered in detail as part of the consideration of alignment options and included in development of the detailed design. An assessment of the need for a water licence would be carried out at the detailed design stage of the Project.

1.3.6 Protection of the Environment Operations Act 1997

The *Protection of the Environment Operations Act 1997* (POEO Act) is administered by the Office of Environment and Heritage (OEH) and is administered by the Environment Minister. It is the main law in NSW regulating water, air and noise pollution. Provisions for waste are also included.

The POEO Act:

- empowers regulatory authorities to issue pollution licenses for scheduled activities, (eg Schedule 1 activities as EPLs)
- creates a range of pollution offences and penalties
- allows regulatory authorities to enforce the POEO Act
- allows the public to take legal action to enforce the POEO Act.

Section 6 of the POEO Act indicates that OEH is the appropriate regulatory authority for development by public authorities which would be Roads and Maritime for the proposed project.

Offence to pollute waters

The POEO Act applies a general prohibition to water pollution, i.e. all water pollution is prohibited unless it is authorised in some way.

Air pollution

Unlike water pollution, there is no general prohibition on causing air pollution. However the POEO Act contains a number of specific offences which regulate certain activities that result in air pollution.

Air pollution is defined as the emission into the air of any impurity, including dust, smoke, cinders, solid particles, gases, fumes, odours and radioactive substances.

Noise pollution

Unlike water pollution, there is no general prohibition on causing noise pollution. However the POEO Act contains a number of specific offences which regulate certain activities that result in noise pollution.

Comment

The proposed new bridge project would be subject to the provisions of the POEO Act for water, air and noise pollution impacts. An assessment of water, air and noise impacts would be carried out at the detailed design stage of the Project.

The OEH has been identified as the appropriate regulatory authority for the activities specified in Schedule 1 of the POEO Act (scheduled activities). These activities require the issue of an environmental protection licences (EPLs). There are no EPLs envisaged for the proposed new bridge project at this stage of the proposal.

1.3.7 Waste Avoidance and Resource Recovery Act 2001

The waste hierarchy, established under the *Waste Avoidance and Resource Recovery Act 2001*, is one that ensures that resource management options are considered against the following priorities:

- **Avoidance** including action to reduce the amount of waste generated by households, industry and all levels of government.
- **Resource recovery** including reuse, recycling, reprocessing and energy recovery, consistent with the most efficient use of the recovered resources.
- **Disposal** including management of all disposal options in the most environmentally responsible manner.

Comment

The proposed new bridge project would need to consider these principles when preparing any waste management plans for inclusion in any environmental management planning and reporting in the construction and operational stages of the Project.

1.3.8 Rural Fires Act 1997

The Rural Fire Service administers the *Rural Fires Act, 1997* (RF Act). Part 4 of the RF Act contains provisions which relate to bushfire prevention and bushfire hazards reduction. Pursuant to Clause 86 of the RF Act, activities that involve lighting of a fire on land require a permit or otherwise there is a need to provide a notice to relevant authorities.

Comment

The principles of this Act need to be applied in any environmental management and reporting documents at a later stage of the project and during construction of the proposed Project.

1.3.9 Soil Conservation Act 1938

The *Soil Conservation Act 1938* (SC Act) has the main objective of environmental protection of areas of erosion hazard.

Comment

As part of the geotechnical assessment for any option, soil conservation maps would be assessed and any areas of erosion hazard would be identified for the study area. The design would need to take any such erosion hazards into account.

1.3.10 Heritage Act 1977

Pursuant to Section 57 of the *Heritage Act 1977* (Heritage Act), a proposed activity in relation to an item, which is subject to an interim heritage order or is listed on the State Heritage Register, requires approval of a relevant approval body (either the Heritage Branch, Department of Planning or Local Council). Under Sections 139 and 140 of the Heritage Act, an excavation permit is required for the disturbance or excavation of any relic. Any deposit, object or material evidence relating to the settlement of NSW, not being Aboriginal settlement, that is over 50 years old is classified as a relic under the Act. An excavation permit is required for any works, excavations or activities, associated with an archaeological site.

Comment

If there is any proposed excavation at or near the historic sites identified for the Project study area, then a permit would be required. The northern part of the study area includes the Lawrence Conservation Area as identified under Schedule 5 of the LEP. The heritage investigations as part of the options assessment would identify and assess impacts to any items of historic significance.

1.3.11 Contaminated Land Management Act 1997

The management of contaminated land is shared by the Environment Protection Authority (EPA), the Department of Planning and Infrastructure and local government authorities.

Under the *Contaminated Land Management Act 1997* (CLM Act), the EPA regulates contaminated sites where the contamination is significant enough to warrant regulation. Contaminated sites that are not regulated by the EPA are managed by local councils through land use planning processes.

Comment

As part of the environmental investigations, a search of the Contaminated Lands Register (CLR) will be undertaken to identify the presence of any potential contaminated lands in the study area.

Further consideration of the impacts on the project from any contaminated lands identified on the NSW CLR in the vicinity of any proposed development option would be undertaken at the environmental assessment phase of the proposed Project.

1.4 COMMONWEALTH LEGISLATIVE FRAMEWORK

Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)

Under the EPBC Act, an action will require approval from the Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) if the action has, will have, or is likely to have, a significant impact on a matter of national environmental significance (MNES).

The nine matters of national environmental significance (MNES) 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 (as of amendments to the EPBC Act on 22 June 2013).

A person who proposes to take an action that will have, or is likely to have, a significant impact on a matter of NES must refer that action to the Minister for a decision on whether assessment and approval is required under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

If the referral results in the project being identified as a controlled action, SEWPAC would advise the assessment process that will apply under the EPBC Act. If an EIS is required, the Project would be assessed by way of an accredited assessment process under section 87 of the EPBC Act. The accredited assessment process for the proposed development is Part 5 of *Environmental Planning and Assessment Act 1979*.

Comment

The updated ecological study to be undertaken for the proposed new bridge may find, in addition to that already found in previous studies, evidence of threatened species including bats and/or Eastern Osprey and their habitats at the existing timber truss bridge and in proximity to the proposed project options. In addition, the Eastern Osprey is listed as a migratory and marine species both under the Commonwealth EPBC Act and internationally. If this or any other species are found to be likely in the study area, then the project may require referral and potential approval under the

EPBC Act. However, a referral is not anticipated to be required from the initial review of the proposed impacts of the project.

Commonwealth Native Title Act 1993

The Commonwealth *Native Title Act 1993* provides recognition for the rights and interests over land and water by Australian Indigenous people under traditional laws and customs. A search of the National Native Title Tribunal registers will identify if there are any current registered claims or any determined claims of native title over the study area.

Native title is normally extinguished over freehold land and may be extinguished or suppressed by the other forms of tenure.

Native title is not normally extinguished on leasehold land unless the purpose of the tenure is inconsistent with the continued existence of native title. Native title may be suppressed by some land uses and may still exist over the properties underlying any leases within the study area. Native title may exist over undeveloped parts of rural roads and over reserves and other State lands.

The Act also provides for native title parties to be notified of 'future acts' which may affect native title rights.

Comment

Given the presence of some public lands and leasehold lands in the study area, native title may still exist over parts of the study area. Roads and Maritime in its role as the determining authority under Part 5 of the EP&A Act would be responsible for undertaking any future act notification or extinguishment action.

1.5 RELEVANT STATE ENVIRONMENTAL PLANNING POLICIES AND LOCAL ENVIRONMENTAL PLANS

1.5.1 State Environmental Planning Policies

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP 2007)

The aim of the Infrastructure SEPP is to provide a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the development assessment process. The SEPP supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency. The following Clauses apply to the proposed project:

- Clause 94 Development permitted without consent-general. Development for the purpose of a road or road infrastructure facilities may be carried out by or on behalf of a public authority without consent on any land.

In this clause a reference to development for the purpose of "road infrastructure facilities" includes a reference to development for any of the following purposes:

- if the development is in connection with a road or road infrastructure facilities:

- (a) construction works (whether or not in a heritage conservation area), including:
 - (i) temporary buildings or facilities for the management of construction, if they are in or adjacent to a road corridor, and
 - (ii) creation of embankments, and
 - (iii) extraction of extractive materials and stockpiling of those materials, if:
 - the extraction and stockpiling are ancillary to road construction
 - or the materials are used solely for road construction and the extraction and stockpiling take place in or adjacent to a road corridor
 - and temporary crushing or concrete batching plants, if they are used solely for road construction and are on or adjacent to a road corridor
 - and temporary roads that are used solely during road construction
 - emergency works, or routine maintenance works.

The demolition of the existing timber truss bridge would also be deemed permissible without development consent due to the following definition under the *Roads Act 1993*:

“roadworks includes any kind of work, building or structure (such as a roadway, footway, bridge, tunnel, road-ferry, rest area, transitway station or service centre or rail infrastructure) that is constructed, installed or relocated on or in the vicinity of a road for the purpose of facilitating the use of the road as a road, the regulation of traffic on the road or the carriage of utility services across the road.”

In addition, the definition of "carry out road work" includes carry out any activity in connection with the construction, erection, installation, maintenance, repair, **removal** or replacement of a road work.

State Environmental Planning Policy Rural Lands 2008 (Rural Lands SEPP)

The aim of the Rural Lands SEPP is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The project would be consistent with the rural planning principles of the SEPP.

Rural Planning Principles

The Rural Planning Principles are as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas
- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development

- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

The proposed Project is providing the future means for upholding the rural planning principles outlined in the SEPP being the orderly and economic use of the rural lands associated with the Project and the immediate rural area.

1.5.2 Local Planning Instruments

Clarence Valley Local Environmental Plan 2011

The Clarence Valley Local Environmental Plan 2011 (the LEP) is the relevant environmental planning instrument for the locality. However, the provisions of the Infrastructure SEPP 2007 state inter alia that development for the purposes of roads can be undertaken by a public authority without consent on any land, therefore the proposed development would not be assessed under the LEP. In any case, the land use zoning and relevant local policies are of interest to the proposed bridge's development but will not to be determined by Council under the local planning instrument. A review of Clarence Valley Council's GIS data for land use zoning is illustrated in Figure 1.

- To ensure that development does not unreasonably increase the demand for public services or public facilities.
- To ensure development is not adversely impacted by environmental hazards.

The potential impacts to existing and future rural land uses would be assessed at a detailed design phase of the project. The proposed project would be considered as consistent with the zone's objectives and by improving the flow of traffic through Lawrence, the Project would be of general benefit to primary production and the town's rural amenity.

• *RE1 – Public Recreation (lime green):*

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

The effects or potential impacts to any recreational land uses in the vicinity of the Project would be assessed at a detailed design stage of the project. The proposed Project would acknowledge the objectives of the zone.

• *R2 – Low Density Residential (pink):*

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The effects or potential impacts to any residential land uses in the vicinity of the Project would be assessed at a detailed design stage of the project. The proposed Project would acknowledge the objectives of the zone.

• *B1 – Neighbourhood Centre (pale blue):*

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To reinforce the neighbourhood centres of Coutts Crossing, Glenreagh, Lawrence and Ulmarra as the locations for commercial premises.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To enable other land uses that are compatible with and do not detract from the viability of retail, business and community uses within the zone.

The proposed Project works do not involve the development of a business or neighbourhood development. The proposed bridge project would be assessed for any potential impacts to the availability and mix of small-scale business, retail and community uses at a detailed design stage of the Project but would aim to uphold the principles of the zone.

Acid Sulfate Soils

In addition, the LEP includes a mapping layer which indicates the potential for acid sulfate soil classes in the vicinity of the existing bridge. In this respect, detailed soil investigations would occur as part of the detailed design to confirm the presence or absence of acid sulfate soils and appropriate mitigation measures would need to be outlined in any environmental management procedures at a later stage of the project.

1.6 NSW REGIONAL INFRASTRUCTURE POLICIES AND DIRECTIVES

1.6.1 NSW 2021: A Plan to Make NSW Number One

NSW 2021: A Plan to Make NSW Number One (NSW Government, 2011) presents the NSW Government's strategy to move the State forward over the next 10 years. It is based on five principal strategies with underlying goals. The five strategies are to:

- “Rebuild the economy – restore economic growth and establish NSW as the first place in Australia to do business.
- Return quality services – provide the best transport, health, education, policing, justice and family services, with a focus on the customer.
- Renovate infrastructure – build the infrastructure that makes a difference to both our economy and people's lives.
- Strengthen our local environment and communities – improve people's lives by protecting natural environments and building a strong sense of community.
- Restore accountability to Government – talk honestly with the community, return planning powers to the community and give people a say on decisions that affect them.”

The NSW 2021 goals relevant to transport under the plan are to reduce travel times, grow patronage on public transport by making it a more attractive choice, improve customer experience with transport services and improve road safety.

The proposed Sportsmans Creek new bridge project would support the NSW 2021 plan transport goals by renovating and renewing important community infrastructure, reducing travel times, improving local and through traffic efficiency and improving road safety for the Lawrence locality.

1.6.2 NSW Long Term Transport Master Plan

The *NSW Long Term Transport Master Plan* was released in December 2012 to address key transport challenges that face the State over the next 20 years and put the customer at the centre of everything NSW does in transport.

The Master Plan is principally focused on six key transport challenges. These six challenges have been identified by looking at the transport system from the perspective of the customer and the multi-modal journeys that are made:

- integrating modes to meet customer needs
- getting Sydney moving again
- sustaining growth in Greater Sydney

- providing essential access to regional NSW
- supporting efficient and productive freight
- statewide actions.

The proposed bridge project is directly referenced by being an initiative of the State Government's "Bridges for the Bush" initiative and has already received government funding.

The relevant principles that are supported by the project are inherent in the proposed Project are the focus on provision of essential access to regional NSW and the support of efficient and productive freight.

1.6.3 Mid North Coast Regional Strategy 2006-2031

The Mid-North Coast Regional Strategy 2006 - 2031 aims to guide local planning in the eight local government areas of Clarence Valley, Coffs Harbour, Bellingen, Nambucca, Kempsey, Port Macquarie-Hastings, Greater Taree and the Great Lakes.

The primary purpose of the document is to ensure that adequate land is available and appropriately located to accommodate the projected housing and employment needs of the Region's population over the next 25 years.

The Strategy incorporates the specific regional infrastructure requirements identified in the State Infrastructure Strategy 2008–09 to 2017–18. Infrastructure planning in the mid north coast would take into account the broad planning framework identified in the Strategy, to ensure that future population growth is supplied by appropriate services and associated infrastructure.

The Strategy includes maps of identified growth areas designated to contain expected land in the region over the next 25 years. Lawrence is identified as one of those growth areas (Growth Areas Map1 – Clarence North).

In addition, the Strategy identifies the region to be served by air, rail, road and bicycle transport networks. Several hundred million trips are made by residents and visitors each year, and approximately 12 million tonnes of freight are moved within and through the Region. The road network is especially important to the Region with approximately 65 per cent of all journeys within the Region being by car.

Therefore, the Sportsmans Creek new bridge project is an important infrastructure project for the Mid-North Coast region in line with anticipated growth.

1.6.4 Clarence River Way Master Plan – Tourism and Investment Infrastructure Plan

The Clarence River Way project was adopted as a priority in the Clarence Valley Economic Development Strategic Plan in 2009. Central to its aim is that the Clarence Valley becomes a 'touring region, not a touring route'. It highlights five core themes that represent the Clarence way of life:

- continuous culture
- productive landscape
- life for the river

- creative community
- history of play.

It is a plan developed to underpin future products, infrastructure, attractions, investment and marketing.

The ‘touring region, not tourist route’ is the idea of having a much smaller area for touring that provides a flexible approach for visitors, and not the existing plethora of touring routes, almost too many to consider. The proposed touring region is focused on the lower reaches of the Clarence River and its associated attractions at townships in the region, capitalizing on the proximity of the Pacific Highway to the river and scenic qualities of Route 22.

One of the strategic intents is to develop the township hubs along the lower reaches of the Clarence River. The opportunities generally outlined for townships include:

- focus on substantially increasing water-based access as a priority
- provide a range of land/water interface access points
- develop a network of river based hubs and pedestrian linkages access to the water.

More specifically for the Lawrence township, the opportunities include emphasizing the ferry crossing, providing bird hide/interpretation of the wetland from adjacent road reserves, and improving public accessibility of waterfront road reserves.

The proposed Sportsmans Creek new bridge project is in line with the strategic intent of this document and its principles with regard to land/water interface and access by improving access to Lawrence and potentially allowing it to develop as a tourism hub off the through road. The aims of this document would be acknowledged in the development of the design of the bridge options.

1.7 SUMMARY OF ASSESSMENT PROCESSES

1. Preliminary Options investigations.
2. Preferred Options Report.
3. Announcement of Preferred Option.
4. Level of assessment determined by Roads and Maritime.
5. Activity under Part 5 of the EP&A Act.
6. Environmental assessment under Part 5, (Review of Environmental Factors (REF) at this stage.).
 - 6a. If significant impact is identified from conducting a “7 part test - Assessment of Significance” (species identified under FMA and TSC Acts), preparation of an SIS and approval by Office of Environment and Heritage (not anticipated at this stage).
 - 6b. If EIS required, go to Step 9 in next section.
7. Request for requirements from other government agencies indicated in Table 1.

8. Comments received back from other government agencies and incorporated into REF.
9. REF submitted to determining authority for approval under s112 of the EP&A Act.
10. Approval by Roads and Maritime as determining authority under s112 of the EP&A Act.

In parallel with this approval process appropriate action will be taken to acquire tenure for the project over lands outside the transport corridor. In addition, action will be undertaken to address Native Title via NT Act (Cth) Section 24 – future act notifications or extinguishment procedures.

If there is likely to be any impact on Aboriginal cultural heritage, an agreement will be reached with the relevant Aboriginal parties to determine how to protect that heritage during the construction of the project.

OR

Potential exists for a higher level EIS if the action has, will have, or is likely to have, a significant impact on a matter of national environmental significance (MNES), however, this is not anticipated at this stage.

1. Same Steps as identified above for 1 – 5.
6. Preparation and submission of a referral under the Commonwealth EPBC Act. If SEWPAC advise the project is ‘not a controlled action’ proceed with steps 6–10 described above.
7. If SEWPAC advise the project is a controlled action and can be decided by an assessment process less than a formal EIS, provide SEWPAC with any further information required. Once a determination is made by SEWPAC, proceed with steps 6–10 above.
8. If SEWPAC advise an EIS is required under the EPBC Act, the proposed Project could be assessed by way of the accredited assessment process under Section 87 of the EPBC Act. The accredited assessment process for the proposed development is Part 5 of *Environmental Planning and Assessment Act 1979*. This would be the case if there was any evidence of significant impact to any matter of NES. (Note: not anticipated at this stage).
9. Preparation of an EIS.
10. Prepare Director General’s Requirements (DGRs).
11. Director General’s Requirements are issued.
12. Exhibition of DGRs.
13. Prepare responses to submissions on DGR’s.
14. Assessment (EIS, SIS).
15. Determination of EIS by relevant determining authority. (Commonwealth Minister for Environment (EPBC)).
16. Same as Step 10 above.