

2 Assessment process

This chapter describes the planning approval process for the project as well as other relevant environmental planning and statutory approval requirements.

2.1 Approval framework

2.1.1 Environmental Planning and Assessment Act 1979

RMS is seeking approval for the proposed Windsor Bridge replacement project under Part 5.1 of the EP&A Act.

Clause 94 of the *State Environmental Planning Policy (Infrastructure) 2007* (the Infrastructure SEPP) applies to development for the purpose of a road or road infrastructure facilities and provides that these types of works are development which is permissible without consent. The project is appropriately classified as "road works" under the Infrastructure SEPP.

Clause 14 of the *State Environmental Planning Policy (State and Regional Development) 2011* declares development as State significant infrastructure if it is permissible without consent and specified in Schedule 3.

Clause 1 of Schedule 3 of the *State Environmental Planning Policy (State and Regional Development) 2011* specifies infrastructure or other development that would be an activity for which the proponent is also the determining authority and would, in the opinion of the proponent, require an environmental impact statement to be obtained under Part 5 of the Planning Act.

RMS formed the opinion that the project is likely to significantly affect the environment and would require an environmental impact statement to be obtained and consequently the project is State significant infrastructure under Part 5.1.

The approval process under Part 5.1 of the EP&A Act is illustrated in **Figure 2-1**. Further information on the assessment process is available on the Department of Planning and Infrastructure website (www.planning.nsw.gov.au).

2.1.2 Environmental planning instruments

Environmental planning instruments do not apply to or in respect of State significant infrastructure, except where they apply to the declaration of infrastructure as State significant infrastructure (EP&A Act s.115ZF(2)). The project is declared to be State significant infrastructure through Clause 14 and Schedule 3 (Part 1(1)) of the State Environmental Planning Policy (State and Regional Development) 2011. Therefore the following state environmental planning policies (SEPPs) and local environmental plans (LEPs) which may have otherwise applied, do not apply to the project:

- Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) (a deemed SEPP).
- SEPP No. 55 – Remediation of Land.
- SEPP (Infrastructure) 2007.
- Hawkesbury LEP 2012.

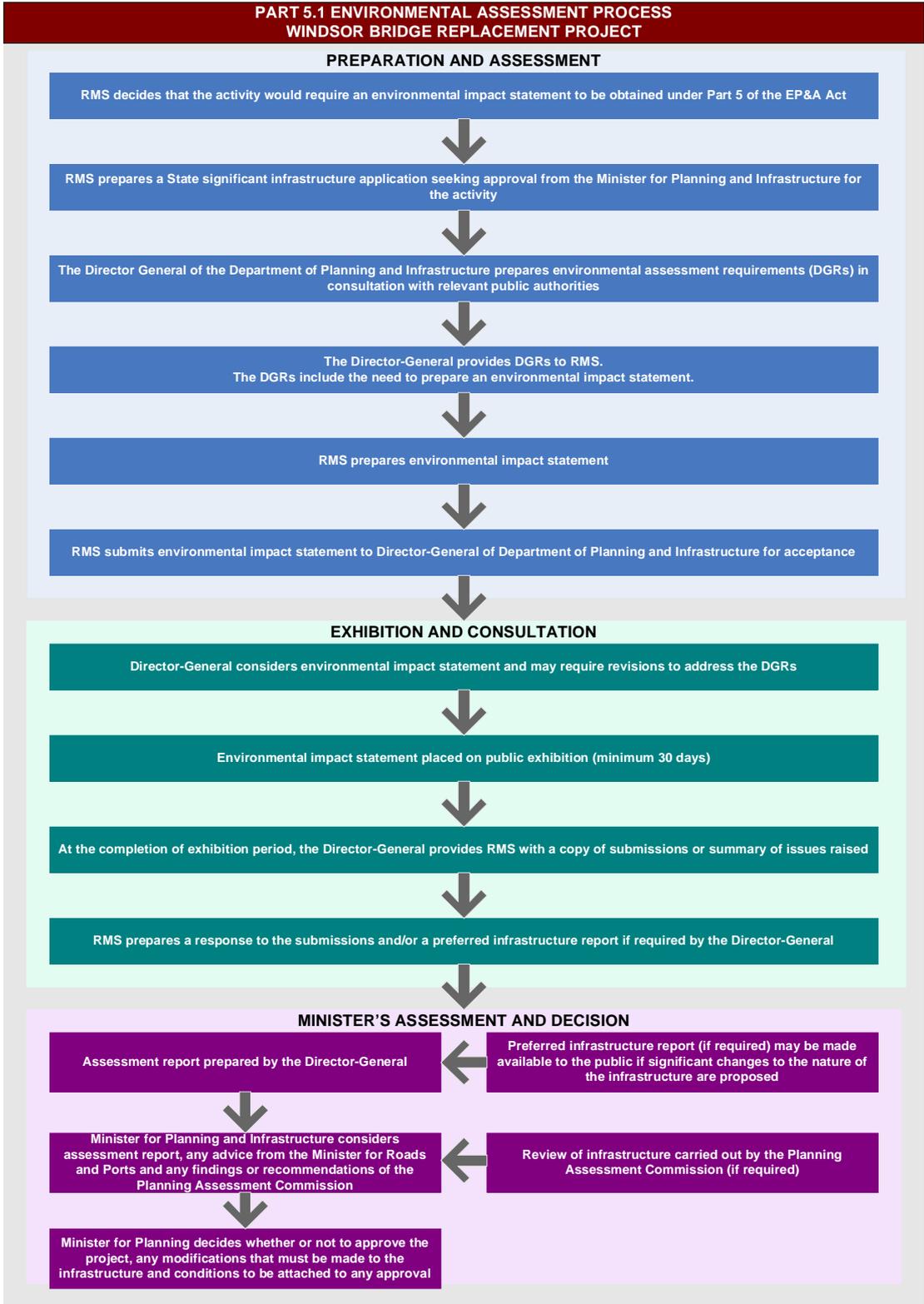


Figure 2-1 State significant infrastructure assessment and approval process

2.2 Other legislation

2.2.1 NSW legislation

A number of approvals that generally apply under other NSW legislation are not required for a project approved under Part 5.1 of the EP&A Act (EP&A Act s.115ZG). Exemptions potentially relevant to the project include:

- Permits under sections 201, 205 and 219 of the *Fisheries Management Act 1994*.
- Approvals under Part 4 and excavation permits under section 139 of the *Heritage Act 1977*.
- Aboriginal heritage impact permits under section 90 of the *National Parks and Wildlife Act 1974*.
- Authorisations under the *Native Vegetation Act 2003* to clear native vegetation or State protected land.
- Various approvals under the *Water Management Act 2000*, including water use approvals under section 89, water management work approvals under section 90, and activity approvals (other than aquifer interference approvals) under section 91.

Approvals under other NSW legislation that may apply to the project include:

- An aquifer interference approval under the *Water Management Act 2000* if construction requires intersection of a groundwater source. This is further discussed in **Section 7.6**.

Other legislation that may apply to the project includes:

- *Land Acquisition (Just Terms Compensation) Act 1991* – applies to the compulsory acquisition of any land required for the project. Acquisition is further discussed in **Section 7.8**.
- *Crown Lands Act 1989* - applies to the acquisition of land reserved under this Act. A land status search undertaken in June 2012 confirmed there will be Crown land where at least partial acquisition would be required for the project. Crown land impacted by the project is further discussed in **Section 7.8**.
- *Aboriginal Land Rights Act 1983* – there is an area of Crown land on the southern side of the project that is the subject of an Aboriginal Land Claim made under this Act. This claim is currently being investigated by the Crown Lands Division of the Department of Primary Industries. Crown land impacted by the project is further discussed in **Section 7.8**.
- *Protection of the Environment Operations Act 1997* – applies to the prevention of pollution, appropriate disposal of waste and the need to notify the Environment Protection Authority (EPA) in the event of any incidents that cause or have the potential to cause environmental harm. This is further discussed in **Section 7.6**.
- *Contaminated Land Management Act 1997* – requires notification to the EPA in the event of discovering or causing contamination. Contamination is further discussed in **Section 7.6**.

Under clause 115ZH of the EP&A Act, certain approvals cannot be refused if they are necessary for carrying out approved State significant infrastructure and are required to be substantially consistent with the approval under Part 5.1. Such an approval that may apply to the project would be an environment protection licence under Chapter 3 of the *Protection of the Environment Operations Act 1997*.

2.2.2 Commonwealth legislation

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) proposed 'actions' that have the potential to significantly impact on matters of national environmental significance, the environment of Commonwealth land or that are being carried out by a Commonwealth agency must be referred to the Commonwealth Government. If the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities determines that a referred project is a 'controlled action' under the EPBC Act, the approval of that minister would be required for the project in addition to the NSW Minister for Planning and Infrastructure's approval.

Based on the results of the environmental investigations carried out for this EIS, it is considered that no matters of national environmental significance or areas of Commonwealth land are likely to be impacted by the project. Accordingly RMS has decided that no referral is required at this stage. RMS notes that the project would impact on the Thompson Square Precinct (hereafter referred to as the Thompson Square Conservation Area), which includes parts of the project area. The Thompson Square Conservation Area has been nominated for inclusion on the National Heritage List. The listing is currently under consideration by the Minister. Further information on the Thompson Square Conservation Area, including the impacts of the project, is provided in **Section 7.1**.