

**GUNNEDAH SECOND ROAD
OVER RAIL BRIDGE
DEVELOPMENT AND
ASSESSMENT OF CONCEPT
OPTIONS**

**DRAFT PRELIMINARY
CONCEPT OPTIONS REPORT**

**PRELIMINARY PLANNING &
ZONING ISSUES STATEMENT**

Prepared for:

Roads & Maritime Services

Northern Region Office

31 Victoria Street

GRAFTON NSW 2460

Telephone (02) 6640 1073, Facsimile (02)6640 1006

Prepared by:

Kellogg Brown & Root Pty Ltd

ABN 91 007 660 317

Level 13, 201 Kent Street

SYDNEY NSW 2000

Telephone (02) 8284 2000, Facsimile (02) 8284 2200

16 May 2013

1 Preliminary Planning and Zoning Issues Statement

1.1 STRATEGIC POLICY BACKGROUND

The Gunnedah second road over rail bridge project was 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 directly referenced in this strategy as an action of the *Bridges for the Bush* initiative and has received funding for the year ending 30 June, 2013.

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 do not require 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) applies to the project. Under the Infrastructure SEPP 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 (RMS) (the proponent).

The proposed Gunnedah second road over rail 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, 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 will be assessed under Part 5 of the EP&A Act. The level of the project’s impact on sensitive environmental features will determine the level of environmental assessment required for the proposed project, an REF/EIS and/or 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 is likely to require a Part 5, Review of Environmental Factors (REF) level of assessment. An EIS/SIS would only be required if the detailed technical studies identify the risk or potential for significant level of impact on sensitive 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 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*
- *Rural Fires Act 1994*
- *Soil Conservation Act 1938*
- *Heritage Act 1977*
- *Roads Act 1993*
- *Contaminated Land Management Act 1997.*

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 NSW, 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..
<i>Native Vegetation Act 2003</i>	Local Catchment Management Authority (Namoi CMA) and the Minister for Environment and Heritage (Office for Environment and Heritage)	Permits for clearing of native vegetation. <i>Section 25 exemptions apply to the proposed project</i>
<i>Threatened Species Conservation Act 1995</i>	Minister for the Environment and Heritage (NSW EPA)	7 Part test and license to interfere with threatened species, populations and ecological communities.
<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 licensing 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)	Making of PEPs, and regulation of Scheduled activities under the <i>POEO Regulations 2008</i> . Issuing of EPLs.
<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>Contaminated Land Management Act 1997</i>	Minister for Environment and Heritage (NSW EPA)	Management of listed contaminated sites in NSW. Review NSW EPA Contaminated Lands Register 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.
<i>Heritage Act 1977</i>	Minister for Environment and Heritage (NSW EPA)	To encourage the conservation of the State's heritage eg Megitt's Flour Mill - conservation of precinct. Permits required for any proposed impacts.
<i>Roads Act 1993</i>	Minister for Roads and Ports (for relevant parts) (Roads and Maritime Services (RMS))	Sets out rights and makes provisions for roads authorities and hierarchy of roads, certain exemptions eg. native vegetation clearing.

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 obtain a permit issued by the Minister to undertake any dredging or reclamation. Further, Clause 218 of the FM Act requires that NSW Fisheries 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 fish habitat.

Comment

Subject to further detailed design, the proposed bridge layout and construction methods may require permits under the FM Act if there were any part of the proposed works that would impact upon a waterway by means of a weir or barrier or where any dredging or reclamation was to be carried out.

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 Namoi Catchment Management Authority is the relevant authority for Gunnedah.

Under the NV Act, native vegetation clearing listed under Section 25 of the Act does not require approval as it is authorised or permitted under other legislation. This means that once approval is given under that legislation, or if the clearing is permitted by that legislation, approval would not be required under the NV Act.

Comment

As Section 25 of the NV Act provisions include ‘any clearing that is undertaken as part of an assessment under Part 5 of an ‘activity’ pursuant to the EP&A Act,’ and due to the exemptions from the provisions of the *Roads Act 1993*, the proposed project would be exempt from gaining native vegetation clearing permits under the NV legislation.

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 ‘seven-part test’ 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.

7 Part Test

As part of the consideration of matters as identified above, Section 5A of the EP&A Act stipulates the following ‘7 Part test’ 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’ is only required if there is evidence of a threatened species, population, ecological community or their habitats in the study area. This would be identified through the ecological technical assessment being undertaken for the proposed project. If it is concluded that there would be a significant impact, then a Species Impact Statement (SIS) as part of an EIS process must be prepared, and the proposal would then be subject to approval from the Director-General of the Office of Environment and Heritage.

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; and
 - Places of historic, architectural or scientific significance.

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

Under Section 86(4) of the NPW Act, it is an offence to harm or desecrate a declared Aboriginal Place. Many thousands of other Aboriginal heritage sites also receive protection under this Act. Harm includes destroying, defacing or damaging an Aboriginal place. If development will take place in the vicinity of an Aboriginal Place, the potential impacts of the development on an Aboriginal Place must be assessed.

Comment

There are no National Parks within the study area.

The desktop assessment carried out for the options analysis did not find any previously recorded Aboriginal sites (AHIMS Database records). However, it was identified there is potential for items to be discovered, particularly in/near Blackjack Creek. This was considered a low potential given the previous disturbance in the study area. Details of this will be provided within the 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 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.

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; and
- 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 RMS 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 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 license (EPL).

The proposed project may include the following Schedule 1 activities but these would be confirmed at a later stage in the design of the project works:

19 - Extractive activities

Applies to 'land-based extractive activity', meaning the extraction, processing or storage of extractive materials, either for sale or re-use, by means of excavation, blasting, tunnelling, quarrying or other such land-based methods (activity to which this applies: extraction, processing or storage of more than 30,000 tonnes per year of extractive materials). This would only apply if the works involved more than 30,000 tonnes of extracted material as part of the construction works.

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 project would need to consider these principles when preparing any waste management plans for inclusion in any environmental management planning and reporting at post approvals stage of the project.

1.3.8 Rural Fires Act 1994

Part 4 of the *Rural Fires Act 1994* (RF Act) contains provisions which relate to bushfire prevention and bushfire hazards reduction. Pursuant to Clause 86 of the 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 geological assessment for any option, soil conservation maps would be assessed and any areas of erosion hazard would be identified for the study area.

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 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 heritage investigations as part of the options assessment would identify any proposed impacts to the Mill and any other 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.

As part of the environmental investigations, a search of the Contaminated Lands register will be undertaken to identify any potential contaminated lands.

Comment

Further consideration of the impacts on the project from any contaminated lands identified on the NSW Contaminated Lands register in the vicinity of any proposed development option would be undertaken at a later stage 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).

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).

The EPBC Act Part 3, Division 1 controlling provisions are:

- sections 18 and 18A (Listed threatened species and communities);
- sections 20 and 20A (Listed migratory species).

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.

The potential matters of national environmental significance (MNES) that could apply to the project are:

- listed threatened species and ecological communities
- migratory species protected under international agreements
- Ramsar wetlands of international importance
- World Heritage properties
- National Heritage places.

Comment

Further ecological technical studies may identify koala habitat and/or the presence of significant koala habitat in proximity to the proposed project options. This may require referral and approval under the Commonwealth EPBC Act. This would be determined as part of the more detailed assessment of options at a later stage 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 project 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 extent of public lands and the presence of leasehold lands in the study area, Native title is expected to still exist over parts of the study area. RMS 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)

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,
- Clause 85 Development immediately adjacent to rail corridors;
 - Clause 86 Excavation in, above or adjacent to rail corridors.

State Environmental Planning Policy No.44 Koala Habitat Protection (SEPP No. 44)

The aim of SEPP No.44 is to encourage the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range. The policy applies to 107 local government areas. Local councils cannot approve development in an area affected by the policy without an investigation of core koala habitat. The policy provides the state-wide approach needed to enable appropriate development to continue, while ensuring there is ongoing protection of koalas and their habitat.

SEPP 44 does not apply to the proposed project as it only applies to development requiring consent by the local government. However, the provisions for conservation of koalas would be considered and acknowledged under Section 111 of the EP&A Act as part of the duty to consider the environmental impact of an activity. Further details would be outlined in the ecological technical assessment.

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 policy applies to the Gunnedah Local Government Area.

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 consistent with the policies outlined above and acknowledges the requirement for orderly and economic use of the rural lands associated with the project area.

1.5.2 Local Planning Instruments

Gunnedah Local Environmental Plan 2012

The *Gunnedah Local Environmental Plan 2012* is the relevant planning scheme for the proposed project study area. The land use zoning and relevant local policies are of interest to development principles but the project will not to be determined by Council under the local planning instrument.

Land Use Zoning and Development

The proposed project study area is comprised of the following land use zonings:

B5 - Business Development

SP2 - Infrastructure

IN1 - General Industrial

RE1 - Public Recreation

RU1 - Primary Production

Within all these zones, development for the purpose of 'roads' is 'permitted without consent', except for SP2 - Infrastructure, which requires consent. However, the provisions of the Infrastructure SEPP apply to this project, allowing activities by or on behalf of government bodies/authorities to be determined under Part 5 of the EPA Act and not by Council.

Land Use Zones and their Objectives

B5 - Business Development

- To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.

The proposed project works do not involve the development of a business development. The proposed project would be assessed for any potential impacts on the availability and mix of business and warehouse developments at a detailed design stage of the project. Further details would be identified in the socio-economic study for the project.

SP2 - Infrastructure

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

- To provide for a range of significant transport and physical infrastructure to meet the needs of the community.
- To ensure that the scale and character of infrastructure is compatible with the landscape setting and built form of surrounding development.

The proposed works will provide infrastructure to improve traffic management in the locality and better manage heavy vehicle traffic flows through Gunnedah by providing a more appropriate network of heavy vehicle routes throughout the Gunnedah locality. The proposed works are providing for significant transport infrastructure uses within the locality and are consistent with the objectives of the zone. Further impacts on infrastructure would be identified at a detailed design stage of the proposed project.

INI - General Industrial

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To enable development that is associated with, ancillary to, or supportive of industry or industrial employees.

Details on any impacts on industrial land would be identified at a detailed design stage of the project once a preferred option is finalised.

REI - Public Recreation

- 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.

RUI - Primary Production

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To provide for a range of ecologically sustainable agricultural and rural land uses and development on broad acre rural lands.

- To protect significant agricultural resources (soil, water and vegetation) in recognition of their value to Gunnedah's longer term economic sustainability.
- To conserve and enhance the quality of valuable environmental assets, including waterways, riparian land, wetlands and other surface and groundwater resources, remnant native vegetation and fauna movement corridors as part of all new development and land use.

The potential impacts to existing and future 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 heavy vehicles through Gunnedah, the project would be of general benefit to primary production.

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; and
- 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 Gunnedah second road over rail bridge project would support the NSW 2021 plan transport goals by reducing travel times, improving local and through traffic efficiency and improving road safety throughout the Gunnedah 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 Gunnedah second road over rail bridge project is part of the State Government's *Bridges for the Bush* initiative and is fully funded.

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 an efficient and productive freight industry.

1.7 SUMMARY OF ASSESSMENT PROCESSES

1. Preliminary Concept Options investigations
2. Concept Options Report
3. Announcement of Preferred Option
4. Level of assessment determined by RMS
5. Activity under Part 5 of the EP&A Act
6. Environmental assessment under Part 5, (Review of Environmental Factors (REF) at this stage).
7. Request for requirements from other government approval bodies as outlined in Table 1;
8. Comments received back from other government approval bodies and incorporated into REF;
9. REF submitted to determining authority for approval under s112 of the EP&A Act.
10. Approval by RMS 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).

Referral may be required to Department of Sustainability, Environment, Water, Population and Communities (SEWPAC).

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 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 for example there was evidence of koala or significant koala habitat being impacted by the proposed option.
9. EIS prepared.
10. Prepare Director General's Requirements (DGRs).
11. Director General's Requirements are issued.
12. Exhibition of DGRs.
13. Prepare responses to submissions on DGRs.
14. Assessment (EIS, SIS).
15. Determination by DSEWPAC.
16. As for Step 10 above.