

Section 17

PROJECT APPROVALS

## 17. Project Approvals

### 17.1 Australian Government Approvals

#### 17.1.1 *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*

The EPBC Act provides for environmental regulation of development at a Commonwealth level. Any action which has, will have or is likely to have a significant impact on Matters of National Environmental Significance (MNES), or another matter specified under the Act, is declared a “controlled action” and requires approval by the Minister for Environment, Heritage and the Arts before it can proceed.

As mentioned in Sections 1 and 5, a number of endangered ecological communities and commonwealth listed threatened species were known to exist within the study area. As a result the Project was referred to the Minister for a determination as to whether the Project would constitute a controlled action. On 22 February 2008 the Minister determined that the Project was not a ‘controlled action’ under the EPBC Act and accordingly does not require approval under Part 9 of the EPBC Act.

Any further studies or sightings that may indicate an impact on a MNES should be reported to the Department of Environment, Water, Heritage and the Arts.

#### 17.1.2 *Native Title Act 1993*

The *Native Title Act* provides processes for recognising native title over land. Native title is extinguished on freehold title. Details of native title obligations in relation to the study area are outlined in Section 4.5.

### 17.2 Queensland Government Approvals

#### 17.2.1 *State Development and Public Works Organisation Act 1971 (SDPWO Act)*

The SDPWO Act provides for alternative approval processes for certain major projects in Queensland.

As mentioned in Section 1.8, the Project has been declared by the Coordinator General (CG) a ‘significant project’ under the SDPWO Act. This declaration means the environmental assessment process under the SDPWO Act applies to the Project and triggers the requirement for an EIS. The CG must consider the EIS and any submissions or other material the CG deems relevant to the Project and prepare a report evaluating the EIS (s35).

If the proposed Project is recommended for approval, the CG’s report may state conditions or recommendations about how the Project is to proceed. The report may include conditions for approvals or licences to be issued under other legislation including the IP Act, the EP Act, the VM Act and the *Water Act 2000*.

After completing the evaluation report, the CG must publicly notify the report. The issuing of the CG’s report has the effect of replacing the information and referral stage and notification stage of the assessment process under the IP Act. The CG’s report is also recognised as fulfilment of certain criteria for Community Infrastructure Designation under the IP Act as outlined below.

The SDPWO Act also allows the State Government to declare a State Development Area (SDA) if the Governor in Council is satisfied that the public interest or general welfare of persons resident in any part of the State requires it. In considering whether the public interest or general welfare of persons requires the declaration of a SDA, the Governor in Council may have regard to the purposes for taking or acquiring land under Section 82(1) of the Act and any other matter they consider relevant.

Once a SDA has been declared a development scheme for the area must be prepared which must be approved by the Minister and Governor in Council. The development scheme is essentially a land use control instrument which is administered by the CG. It functions generally as a town planning scheme for the SDA and overrides the town planning scheme that would otherwise apply to the area.

Continued existing lawful use of land that is declared part of a SDA is permitted under the Act (s85).

### **17.2.2 Integrated Planning Act 1997 (IP Act)**

The IP Act established the Integrated Development Assessment System (IDAS), in which development assessment and approval of activities is carried out. The SWPWO is linked to the IP Act to enable the Project to meet the requirements of other relevant Acts, including the *Environmental Protection Act 1994*, the *Water Act 2000*, the *Vegetation Management Act 1999* and the *Building Act 1975*. Thus the IP Act establishes an approval process for development that is assessable or self-assessable under Schedule 8 of the IP Act and the provisions of a local government planning scheme in Queensland.

Any development that is assessable or self-assessable under Schedule 8 of the IP Act or under the local government planning scheme requires development approval in accordance with the IP Act process unless there is intervention from the State Government to approve the development.

The general assessment process, known as the Integrated Development Assessment System (IDAS), has the following four stages:

- Application stage;
- Information and referral stage;
- Notification stage; and
- Decision stage.

To avoid duplication of processes, some parts of the IDAS assessment process are varied when they apply to certain types of development.

In the case of a declared significant project under the SDPWO Act, the CG's report replaces the information and referral stage and notification stage for the application. Also, a properly made submission in relation to the EIS is taken to be a properly made submission about the application for the purposes of the IP Act assessment process. Where an EIS has been prepared and recommended for approval by the CG, after an application under the IP Act is made, the assessment manager moves directly to the decision stage.

Development assessment is usually by way of the IDAS process. However there are alternatives such as a designation for community infrastructure in accordance with Chapter 2, Part 6 of the IP Act and an alternate approval mechanism could be offered by the Queensland Government, namely by way of a SDA under the SDPWO Act. Approval for the multi-user corridor is likely to be sought by way of a Community Infrastructure Designation (CID).

Regardless of whether CID or the normal IDAS process is followed, the development must be assessed against Schedule 8 of the IP Act which links various State legislation approval requirements to the Act. Approvals potentially required for the Project under various State legislations are discussed separately below.

### **Community Infrastructure Designation**

Chapter 2, Part 6 and Schedule 5(m) of the IP Act allows land to be designated for community infrastructure including railway lines, stations and associated facilities. An area subject to a CID is exempt from assessment against the relevant local government planning schemes (s2.6.5). However, the relevant development permits from State government agencies are still required and must be applied for separately (e.g. Environmental Protection Agency (EPA) approval for environmentally relevant activities).

Land may be designated for community infrastructure only if the designator is satisfied the community infrastructure will:

- Facilitate the implementation of legislation and policies about environmental protection or ecological sustainability; or
- Facilitate the efficient allocation of resources; or
- Satisfy statutory requirements or budgetary commitments of the State or local government for the supply of community infrastructure; or
- Satisfy the community's expectations for the efficient and timely supply of the infrastructure.

If a CID is applied for, the requirement for "adequate environmental assessment and public consultation" under s2.6.7(1) of the IP Act is fulfilled by the preparation of the CG Report evaluating the EIS. The CG's Report may recommend requirements for inclusion in the designation but these are subject to change by the designator if it is a different government agency.

There are no specified timeframes for the approval of CIDs.

Owners of the land to which the designation applies and the local governments affected by the designation must be given written notice of the designation and at least 15 days in which to make a submission (s2.6.7(4)). This written notice of the designation is provided by way of the EIS process.

In approving the CID the Minister must consider:

- Each relevant State planning policy;
- For land in a designated region – the region's regional plan;
- For land in a relevant area for a State planning regulatory provision – the provision;
- For land in a declared master planned area – any master plans for the area;
- Each relevant planning scheme; and
- Every properly made submission under Section 2.6.7(4) of the IP Act.

Relevant State planning policies, regional plans and planning schemes are outlined in Section 4.5.2. There are no State planning regulatory provisions or master plans in relation to the study area. Any properly made submissions received will be submitted to the Minister for consideration.

CIDs must be noted in the planning schemes of the relevant local governments (s2.6.11).

## **IDAS**

Any CID would cover the area of the multi-user corridor and associated facilities but not any workers camps or telecommunications facilities located away from the multi-user corridor that may be needed for construction and operation of the line. In the absence of an alternate approval mechanism being offered by the Queensland Government, namely by way of a SDA under the SDPWO Act, the normal IP Act approval process would therefore apply to the workers camps. These camps would need to be assessed against the local planning schemes and Schedule 8 of the IP Act.

### **17.2.3 Aboriginal Cultural Heritage Act 2003 (ACH Act)**

The ACH Act recognises, protects and conserves Aboriginal cultural heritage which is defined as:

- A significant Aboriginal area in Queensland; or
- A significant Aboriginal object; or
- Evidence, of archaeological or historic significance, of Aboriginal occupation of an area of Queensland (s8).

To ensure Aboriginal duty of care is implemented during the Project and to minimise, or prevent the any adverse impacts to sites or objects of Aboriginal Cultural Heritage, CHMPs with the Iman #2 and Wulli Wulli have been prepared. These CHMPs have been agreed between both parties based on field investigations and recommendations are currently being assessed by the Consultative Committee which contains members representing the Proponent and Traditional Owners.

An agreement could not be reached with the Gangulu regarding the management of the area's cultural heritage significance and ongoing attempts to consult with representatives of the Gangulu have been unsuccessful. The Proponent will take this matter before the Land Court for a decision.

The indigenous cultural heritage values of the Project area, the potential impact of the Project on those values and the CHMP are described in Section 11 of this EIS.

### **17.2.4 Environmental Protection Act 1994 (EP Act)**

The object of the EP Act is to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains ecological processes on which life depends.

The Proponent must comply with the general environmental duty not to undertake activities that cause or are likely to cause environmental harm unless all reasonable and practical measures are taken to prevent or minimise the harm (s319).

The following environmental protection policies and subordinate legislation have been prepared under the EP Act by the EPA and must be complied with:

- *Environmental Protection Regulation 1998* (EP Regulation);
- *Environmental Protection (Air) Policy 1997*;
- *Environmental Protection (Noise) Policy 1997*;
- *Environmental Protection (Water) Policy 1997*;
- *Environmental Protection (Waste Management) Policy 2000*; and
- *Environmental Protection (Waste Management) Regulation 2000*.

These regulations and policies have been considered in preparing the EMP's set out in Section 18.

The EP Act in coordination with the IP Act provides for licensing and approval of Environmentally Relevant Activities (ERAs). ERAs are activities that require specific regulation because of the likelihood that they will or may cause environmental harm. ERAs are listed in Schedule 1 of the EP Regulation.

A person must hold or be acting under a registration certificate or be a registered operator if they are carrying out an ERA. Unless a code of environmental compliance applies to the activity a development permit under the IP Act must also be obtained in relation to the ERA.

Licences under the EP Act and EP Regulations will be required for the following activities that make up part of the Project:

- ERA 7 Chemical storage;
- ERA 11 Crude oil or petroleum product storing;
- ERA 15 Sewage treatment;
- ERA 20 Extracting rock or other material;
- ERA 22 Screening, etc., materials;
- ERA 24 Boilermaking or engineering;
- ERA 28 Motor vehicle workshop;
- ERA 45 Rock crushing;
- ERA 62 Concrete batching; and
- ERA 72 Operating railway facility for refuelling or repairing rolling stock.

In addition, a disposal permit must be obtained for any removal and disposal of contaminated soil from land recorded on the Environmental Management Register or Contaminated Land Register (s424). There is also a duty to notify the EPA of any 'Notifiable Activities' that are listed under Schedule 2 of the EP Act.

### **17.2.5 Fisheries Act 1994**

The *Fisheries Act* provides for management and protection of fisheries resources, fish habitats and aquaculture. The following activities regulated under the Fisheries Act are operational work for the purposes of Schedule 8, Table 4 of the IP Act and require approval:

- Tidal work or work within a coastal management district;
- Constructing or raising waterway barrier works;
- Works in a declared fish habitat; and
- Removal, destruction or damage of marine plants.

On the current plans there are no Fish Habitat Areas or marine plants disturbed by the development. The Project may require waterway barrier works depending on final design. Any waterway barrier works would require approval under this Act.

The water related environmental values of the Project and potential impact of the Project on waterways is described in Section 6.

### **17.2.6 Forestry Act 1959**

Sale and disposal of forest products and the property of the Crown located on land is regulated by the *Forestry Act*. Approval is required for the removal of forestry products including timber and quarry materials. Part 6 of the Act sets out the requirements in relation to control and disposal of forest products and quarry material.

Despite provisions in relation to quarry materials under the *Forestry Act*, quarry material that is in the part of a watercourse or lake, the beds and banks of which are the property of the State, and all quarry material is under the control of the Chief Executive under the *Water Act 2000*. The Chief Executive under the *Water Act 2000*, upon receiving the appropriate application, can grant allocations of quarry material.

Forestry values, the potential impact of the Project on forestry and details of millable timber within the study area are provided in Section 5.

### **17.2.7 Land Act 1994**

The *Land Act* provides for the allocation of Crown land. A lease can be granted to the State under s17 for transport corridor purposes such as multi-user corridor land. This land is subject to the *Transport Infrastructure Act 1994* and may be subleased to managers who have a duty of care in relation to the land.

Under Section 177 of the *Land Act*, the Chief Executive can issue a permit to occupy unallocated State land, a reserve or a road (including a stock route). The permit to occupy is issued for a specific purpose which does not include any major structural improvements other than boundary fencing.

Temporary or permanent road closures may need to be authorised in accordance with Chapter 3, Part 2 of the *Land Act*. A road licence may need to be obtained under Section 103 for access to a road that has been temporarily closed.

### **17.2.8 Land Protection (Pest and Stock Route Management) Act 2002**

This Act and associated guidelines prepared by the Department of Primary Industries and Fisheries aim to control and manage invasive pests in Queensland. Plants and animals can be declared serious or potentially serious pests under the legislation.

Table 5-4 and Table 5-7 specify pest species found in the study area that are declared to be serious or potentially serious pests under the *Land Protection (Pest and Stock Route Management) Regulation 2003*.

Requirements of the Project pest management plan are contained within the EMP (Section 18). The measures presented are in accordance with the principles of pest management outlined in the legislation and associated guidelines for declared and potential pests.

### **17.2.9 Nature Conservation Act 1994 (NC Act)**

The NC Act protects nature by declaring and managing protected areas and providing for the protection of certain flora and fauna regardless of their location.

Approval from the EPA is required to take any flora or fauna listed under the NC Act, other than that defined and protected under the *Vegetation Management Act 1999*. However, if the taking of the protected species occurs in the course of a lawful activity that was not directed towards the taking and the taking could not have been reasonably avoided, then a permit would not be required.



Section 5 details the nature conservation values and species found within the study area that are listed in the NC Act, the potential impact of the Project on these species and management and mitigation measures proposed. The preferred alignment has been chosen to avoid vegetation with conservation significance wherever possible.

The NC Act also requires permits to be granted in order to move protected animals from one location to another and sets out the principles under which this movement can occur through the *Nature Conservation (Wildlife) Regulation 2006*. The principles for the taking and use of wildlife are outlined in Table 17-1 along with details of the species found in the study area.

**Table 17-1: Principles under the *Nature Conservation (Wildlife) Regulation 2006* for the taking and use of wildlife**

Principles for the taking and use of vulnerable wildlife	Species applicable to the Project
<p>The following are the principles for the taking and use of vulnerable wildlife under a licence, permit or other authority under the Act:</p> <p>a) Taking and use of the wildlife for exhibition purpose may be permitted only:</p> <ul style="list-style-type: none"> <li>- if it is for an approved captive breeding program and conducted under a recovery plan approved by the chief executive; or</li> <li>- under a conservation plan.</li> </ul> <p>b) Taking and use of the wildlife for another purpose may be permitted only if:</p> <ul style="list-style-type: none"> <li>- it is consistent with the management principles for the wildlife; and</li> <li>- it will not reduce the ability of the wildlife's population to expand.</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Geophaps scripta scripta</i></li> <li>• <i>Denisonia maculata</i></li> <li>• <i>Egernia rugosa</i></li> <li>• <i>Furina dunmalli</i></li> <li>• <i>Paradelma orientalis</i></li> <li>• <i>Paradelma orientalis</i></li> <li>• <i>Jalmenus evagoras eubulus</i></li> </ul>
<p>The following are the principles for the taking and use of rare wildlife under a licence, permit or other authority under the Act:</p> <p>a) Taking and use of the wildlife for exhibition purposes may be permitted only if:</p> <ul style="list-style-type: none"> <li>- it is for an approved captive breeding program; and</li> <li>- the taking and use is likely to result in a benefit to the wildlife in the wild.</li> </ul> <p>c) Taking and use of the wildlife for another purpose may be permitted only if:</p> <ul style="list-style-type: none"> <li>- it is consistent with the management principles for the wildlife; and</li> </ul> <p>it will not affect the survival of populations of the wildlife in the wild.</p>	<ul style="list-style-type: none"> <li>• <i>Chalinolobus picatus</i></li> <li>• <i>Acanthophis antarcticus</i></li> <li>• <i>Anomalopus brevicollis</i></li> <li>• <i>Strophurus taenicausa</i></li> <li>• <i>Cyclorana verrucosa</i></li> </ul>



Principles for the taking and use of vulnerable wildlife	Species applicable to the Project
The taking and use of least concern wildlife under a licence, permit or other authority under the Act may be permitted only if it is consistent with the management principles for the wildlife.	All wildlife (bird, invertebrate, mammal, reptile, plant) indigenous to Australia, other than an extinct in the wild, endangered, vulnerable, rare or near threatened wildlife.

### 17.2.10 Queensland Heritage Act 1992

The *Queensland Heritage Act 1992* protects non-indigenous cultural heritage. Identification and assessment of any impacts the development will have on non-indigenous heritage areas and landmarks is required. Section 13 describes the heritage values of the study area. Thirteen places of heritage significance were identified in the Taroom and Banana Shires, but none will be adversely impacted by the Project.

### 17.2.11 Soil Conservation Act 1986

The *Soil Conservation Act* allows for the approval of soil conservation project plans to ensure runoff management to control erosion. Soil related environmental values are described in Section 4.3, along with potential impact of the Project on soil and proposed mitigation measures.

### 17.2.12 Transport Infrastructure Act 1994

The overall objective of the *Transport Infrastructure Act* is to provide a regime that allows for and encourages effective integrated planning and efficient management of a system of transport infrastructure. The objectives of the Act relating to rail and the Project include establishing a regime that contributes to overall transport effectiveness and efficiency, provides for adequate levels of safety and allows railway managers and operators to make decisions on a commercial basis.

Chapter 7 of the Act provides for powers and obligations in relation to rail transport infrastructure. Land becomes future railway land for operation of a rail link if the Chief Executive of Queensland Transport gives written notice to the relevant local government and in the gazette, indicates that the land is intended to be used for a railway (s242). The land ceases to be future railway land when it is subleased to a railway manager.

The Act provides a framework to allow railway managers to manage rail transport infrastructure and provision of safety standards and requirements. A railway manager is accredited under Chapter 7, Part 3 of the Act for a railway or proposed railway. The railway manager for the corridor land is subject to the same controls and exemptions under State and local laws for rail transport infrastructure on the land or to be constructed on the land as if it was an agency of the State with the same interest in the land (provided the corridor land is not leased on a commercial basis by the rail manager) (s243).

For any works carried out on corridor land that relate to rail transport infrastructure, the Chief Executive must perform a function or exercise a power that, under the *Building Act 1975* or the IP Act, would normally be performed or exercised by a local government (s246).

Ancillary works and encroachments on a State-controlled road can be conducted by the chief executive under Section 50 of this Act.

### **17.2.13 Transport Operations (Road Use Management) Act 1995**

The Proponent may have obligations under a road use management strategy prepared under this Act. Road use management strategies must aim to provide an adequate framework for coordinating and integrating road use management policies between different transport modes (s8).

### **17.2.14 Vegetation Management Act 1999 (VM Act)**

The VM Act regulates the conservation, management and clearing of remnant vegetation on freehold land and vegetation on state tenures. The VM Act provides for the protection of regional ecosystems classified as “endangered”, “of concern” or “not of concern”. This Act must be read in conjunction with the IP Act.

A permit will be required for the clearing of vegetation for any of the purposes specified in Schedule 8 of the IP Act. If a permit is required the clearing must constitute a “relevant purpose” under the VM Act (s22A) and clearing must comply with conditions of the relevant clearing code. The Project is a relevant purpose because it has been declared a significant project under the SDPWO Act (s22A).

Approval is not required for clearing for routine corridor management and safety purposes on preferred alignment land not subject to a commercial lease because this is a ‘specified activity’ under Schedule 10 of the IP Act for which a permit is not required under Schedule 8 of the IP Act.

Applications to clear vegetation for the Project will be assessed against the Regional Vegetation Management Code for the Brigalow Belt and New England Tableland Bioregion. Assessment of the application will also consider the State Policy for Vegetation Management and an appropriate offset strategy must be determined. A vegetation management offset (offset) is a legal arrangement or agreement that, over time, guarantees to maintain the extent, structure and function of:

- Regional Ecosystems;
- Essential habitat; and
- Vegetation associated with watercourses, natural wetlands and natural significant wetlands.

A suitable offset strategy will be secured prior to the clearing approval being granted. The policy for Vegetation Management Offsets (DNRW, 2007) sets criteria and provides guidance for what would constitute an acceptable offset under the VM Act applicable code.

If the Chief Executive under the VM Act is the assessment manager for the application to clear vegetation then a property vegetation management plan must be prepared before the application to clear can be approved (s21).

Further detail on the existing vegetation within the study area and issues regarding the management of vegetation are contained within Section 5 of the EIS.

### **17.2.15 Water Act 2000 (Water Act)**

The *Water Act 2000* establishes a regime for the planning, allocation and use of water in Queensland. Under the Water Act, most water-related developments require assessment and approval under the *Integrated Planning Act 1997*, with many of these developments also requiring a Water Licence under the Water Act.

The IPA defines water-related developments as:

- Most works in a water course (pumps, gravity diversions, stream diversions, weirs, barrages and dams);
- Works that interfere with overland flow (in a declared 'Overland Flow' area);
- Artesian bores; and
- Sub artesian bores (in a declared 'groundwater' area).

The Project requires the following approvals from the DNRW under the Water Act:

- Extraction of water from a watercourse, lake, spring or underground water (water allocation, permit to take water for an activity or water licence);
- Interfering with water (e.g. dam or diversion) (water licence or resource operation licence);
- Disturbing or clearing vegetation, placing fill or excavating in a watercourse, lake or spring (permit); and
- Interfering with quarry material from a watercourse or lake (allocation).

There are a number of watercourses that are located along the preferred alignment. Approval will be required for any works in the watercourse including vegetation removal or earthworks. A development permit will also be required for any stream diversion that may be necessary.

Details of water related values, water crossings, the potential impact of the Project on water crossings, management strategies and water requirements are provided in Section 6 of the EIS.

Under the present legislation, water in the SBR project area can be accessed in a number of ways:

- Unallocated State Reserve Groundwater: For state significant projects up to 10,000 ML at any one time is available, through a fixed price process. Users must show that no other means of accessing suitable water supply are available.
- Licence to Take Water (Water Permits): Under the *Water Act 2000*, temporary water permits can be issued for short duration supply needs. Water from existing artesian and sub artesian bores can be accessed with the consent of the licence holder, temporary water bores can be drilled and water can sourced from the ephemeral streams in the project area.
- Water Allocations: Under the Fitzroy Basin ROP water allocation holders along the Dawson River are able to lease temporary transfer and sell their supplemented entitlements. Water can also be purchased through a water broker for a water year.
- Overland Flow: Storages up to 5 ML can be constructed solely for the purpose of capturing overland flow in the SBR project area. Existing storages (e.g. gully dams) can be utilised with permission of the landholder.

Given the water demand requirements and taking into account the water supply options for the project (as described in Section 6 of the EIS), the water supply works will be considered as "assessable development" and will require approved development permits.

Preliminary discussion with the Department of Natural Resources and Water (pers. communications with Ed Power and Lynn Somers – DNRW Toowoomba) indicated that any usage of surface and/or groundwater (allocated or unallocated) will require an water licences and/or permits from the DNRW.

As part of the application process, detailed water supply and hydrogeological studies will need to be undertaken to describe the existing environment and water usage within the study area and to provide a detailed assessment of the proposed water supply options and proposed water usage from allocated and/or unallocated source. The requirements of the assessment will be determined by the DNRW during this approvals process. The DNRW also commented that any future assessment study (either impact assessable or code assessable) will need to take into account the requirements of the following Acts:

- Water Act 2000;
- Water Resources (Fitzroy Basin) Plan 1999; and
- Water Resources (Great Artesian Basin) Plan 2006.

Both the Water Resources (Fitzroy Basin) Plan 1999 (Fitzroy Basin WRP) and the Water Resources (Great Artesian Basin) Plan 2006 (GAB WRP) have been implemented under their respective Resource Operations Plans (ROP).

These ROP provide the means and ways of accessing water in a fair and equitable manner, to enable that all water users and the environment are responsibly managed.

## 17.3 Local Laws

### Local Planning Policies

State Planning Policies are statutory planning instruments that relate matters of State interest. The relevant State Planning Policies are discussed in Section 4.5.2 of this EIS.

### Local Laws

Local laws are developed by local governments under the *Local Government Act 1993*.

The local laws of Banana Shire Council and former Taroom Shire Council (that presently continue to apply within the Dalby Regional Council) will apply to the Project. The only local laws that appear to be relevant to the Project would be Taroom Local Law 21 (Roads) and Banana Shire Council's Local Law 11 (Control of Pests) and Local Law 14 (Control of Nuisances).

The local laws applying to roads give the local council's powers of management and control of the local roads. Banana Shire Council Local Law 11 (Control of Pests) may require an owner of land to take specified action to destroy or control a declared pest, which currently includes Mother of Millions (*Bryophyllum sp.*) and Bellyache Bush (*Jatropha gossypifolia*). Banana Shire Council Local Law 14 gives the Council power to control various environmental nuisances but does not apply to anything authorised under the EP Act.

## 17.4 Approvals Matrix

In accordance with the above legislation, there are various approvals that may be required for the Project. A matrix of likely approvals is outlined in Table 17-2. Not all of these approvals will be required and some approvals that are not listed may need to be obtained depending on specific activities or changes to legislation. This matrix is based on the Project preferred alignment and conditions within the study area known at the time of this EIS. Final, explicit identification of all permits, licences and approvals can be confirmed once the detailed design work for the Project has been completed.

**Table 17-2: Approvals Matrix**

Trigger	Approval Name	Legislation	Agency	Information Required	Comments
Clearing of native vegetation	Permit to remove/disturb vegetation	VM Act/IP Act	DNRW	Applications for vegetation removal including native vegetation on State land and RE's (VM Act). Must have an accurate plan of areas where vegetation is to be removed to submit to DNRW and proposed offsets where necessary.	No clearing for any purposes (specific exceptions include routine maintenance, fire breaks and fences) can occur until permit is granted. Vegetation clearing application can be submitted after declaration of Significant Project, but not before the Coordinator General's report on the EIS is issued. Offsets must be legally secured before application is finalised.
Clearing vegetation within a watercourse/excavating or placing fill within a watercourse	Riverine Protection Permit	<i>Water Act 2000</i> (s.226)	DNRW	Area and extent of disturbance as well as detailed design of structures (culverts and bridges) and cut and fill dimensions is required.	If the owner of the land changes while the application is being processed, the application will need to be resubmitted.
Use of quarry material	Allocation of quarry material	<i>Water Act 2000/IP Act 1997</i>	DNRW	Details of quarry material requirements.	No comment.
Waterway barrier works	Fisheries development approval	<i>Fisheries Act 1994</i>	DPI&F	Construction methodology/programming of relevant works/design/etc.	Not likely to be required if diversion drains are installed

Trigger	Approval Name	Legislation	Agency	Information Required	Comments
Taking flora or fauna listed under the NC Act, other than that defined and protected under the VM Act	Permit to interfere with vulnerable flora species/Permit to move protected fauna	<i>Nature Conservation Act 1992</i>	EPA	Details of species proposed to be disturbed, extent of disturbance and justification.	If the taking of the protected species occurs in the course of a lawful activity that was not directed towards the taking and the taking could not have been reasonably avoided, then a permit would not be required – s88(3).
Construction and operation of temporary workers camps	Development Application	Local Planning Schemes/IP Act	Local Council and relevant agency under Schedule 8 of IP Act	Details of location and design of workers camps.	Planning requirements will depend on location and design of the camps.
Interference with any aspect of aboriginal cultural heritage	Cultural Heritage Management Plan (or other)	<i>Aboriginal Cultural Heritage Act 2003</i>	Relevant Traditional Owner group(s)/DNRW	Timing of clearing and earth disturbances.	Management plan required prior to commencement of work, additional surveys to take place if required through the preferred alignment once clearly marked and permission granted.
Use of unallocated state land, reserve or road (including a stock route)	Permit to occupy	<i>Land Act 1994</i>	Department of Natural Resources and Water (DNRW)	Details of activity required and land needed.	No comment.
State controlled road matters	Ancillary works approval/road closures and associated licences	<i>IP Act, Transport Infrastructure Act 1994 (s.50)/Land Act 1994</i>	Department of Main Roads (DMR)	Details of works required.	Not an environmental issue.
Local Roads	Arrangement with local councils	Local Councils	Local Council	Local road realignments/closures.	Not an environmental issue.

Trigger	Approval Name	Legislation	Agency	Information Required	Comments
Crossing oil or gas pipelines	Owners consent	<i>Petroleum Act 1923/ Australian Standard 2885</i>		Service locations.	Not an environmental issue.
Works near electrical infrastructure	Notification	<i>Electricity Act 1994</i>	Relevant entity	Need consultation with relevant energy group.	Not an environmental issue Several codes apply for works and activities around live electrical wires.
Storage of chemicals (including dangerous goods) in containers having a design storage volume > 10 m <sup>3</sup> and < 1,000 m <sup>3</sup>	ERA 7a Chemical Storage	<i>EPA 1994/ Environmental Protection Regulation 1998/IP Act 1997</i>	EPA	Details of activity.	For storage of more than 10 m <sup>3</sup> .
Chemical, coal and petroleum products: Crude oil or petroleum product storing in tanks or containers having a combined total storage capacity of more than 10,000L	ERA 11 Petroleum Storage	<i>EPA 1994/ Environmental Protection Regulation 1998/IP Act 1997</i>	Local Council/EPA	Details of activity.	No comment.
Operating a standard sewage treatment works or special treatment works having a peak design capacity to treat sewage of 21 or more equivalent persons	ERA 15 Wastewater Treatment Plant	<i>EPA 1994/ Environmental Protection Regulation 1998/IP Act 1997</i>	EPA	Details of activity.	No comment.
Extractive activities – Extracting rock or other material	ERA 20 Extraction of Rock or Other Material	<i>EPA 1994/ Environmental Protection Regulation 1998/IP Act 1997</i>	EPA	Details of activity.	For the extraction of rock, sand, clay gravel or loam from a pit or quarry using plant equipment.



Trigger	Approval Name	Legislation	Agency	Information Required	Comments
Extractive activities – Screening, washing, crushing, grinding, milling, sizing or separating material extracted from the earth (other than under a mining tenement or petroleum authority) or by dredging	ERA 22 Screening of Materials	EPA 1994/ <i>Environmental Protection Regulation 1998/IP Act 1997</i>	EPA	Details of activity.	Screening, washing, crushing, grinding, sizing or separating material extracted from the earth or by dredging using plant equipment with a design capacity of more than 50 tonnes.
Fabricated metal product activities – Boiler making/ engineering	ERA 24 Boilermaking or engineering	EPA 1994/ <i>Environmental Protection Regulation 1998/IP Act 1997</i>	Local Council	Details of activity.	Commercial boiler making, electrical machine manufacturing or building or assembly of agricultural equipment, motor vehicles, trains, trams or heavy machinery.
Fabricated metal product activities – Motor vehicle workshop	ERA 28 motor Vehicle Workshop	EPA 1994/ <i>Environmental Protection Regulation 1998/IP Act 1997</i>	EPA	Details of activity.	No comment.
Miscellaneous activities – crushing, milling or grinding – processing products other than agricultural products and materials mentioned in item 22	ERA 45 Crushing, milling or grinding	EPA 1994/ <i>Environmental Protection Regulation 1998/IP Act 1997</i>	EPA	Details of activity.	Processing products such as uncured rubber and chemicals by crushing, grinding or milling in works having a design production capacity of more than 5,000 tonnes per year.

Trigger	Approval Name	Legislation	Agency	Information Required	Comments
Non-metallic mineral product manufacture – concrete batching. Producing concrete or a concrete product in facilities having a design production of > 100 tonnes/annum	ERA 62 (level1) Concrete Batching	EPA 1994/ <i>Environmental Protection Regulation</i> 1998/IP Act 1997	Local Council	Details of activity.	No comment.
Operating any railway facility for refuelling and maintaining/repairing rolling stock	ERA 72 (level1) Railway Facility	EPA 1994/ <i>Environmental Protection Regulation</i> 1998/IP Act 1997	EPA	Details of activity.	Unlikely to be required.

## 17.5 Land Acquisition Process

### 17.5.1 General

There are a number of options available to acquire the land necessary for the Project. The applicable process of acquisition will depend which legislation is used as the basis for the acquisition and when the acquisition process commences. The various acquisition options are outlined below. In each process there are requirements of public consultation. Precise details of the land required to be resumed for the purposes of the alignment will continue to be finalised in response to public consultation and Project design features. Communication has commenced with all land owners of property that is likely to be directly affected by the alignment.

### 17.5.2 Transport Planning and Coordination Act/Acquisition of Land Act Process

Land can be acquired by the Chief Executive of the Department of Transport (DOT) for transport purposes (including rail) which are for a public purpose and within the responsibility of DOT. Land acquired can also be for the mitigation of negative environmental impacts associated with the transport infrastructure.

The process under the *Acquisition of Land Act 1967* (Qld) (Acquisition Act) is used to acquire the land with the DOT being the “constructing authority”. A notice will be given to the affected landowner, objections can be lodged and then after consideration of the objections the DOT decides whether to proceed with the acquisition. Native title needs to be resolved separately.

The DOT should attempt to acquire the land by agreement before compulsorily acquiring. Compensation can be agreed or determined by the Land Court in accordance with the procedure in the Acquisition Act.

Once the land has been acquired it may be leased or sold to a railway manager or another agreement reached in relation to the land under the *Transport Infrastructure Act 1994* (Qld). The infrastructure can also be managed by the State.

### 17.5.3 IP Act Process for CID

When an area is declared under a CID the acquisition process outlined in Chapter 2, Part 6 of the IP Act applies. This allows a land owner to ask the designator to buy the land in circumstances of hardship unless the process for acquiring a public utility easement has already commenced under the Acquisition Act (s2.6.19).

The designator can grant the request and give a notice to the owner stating they will buy the interest (s2.6.20), exchange the nominated interest for property held by the designator, investigate the removal of the designation from the interest, repeal or remove the designation from the interest (s2.6.21) or refuse the request (s2.6.22).

If a notice is given under s2.6.20 or s2.6.21 and the situation has not been resolved within 40 business days then the designator must give the owner a notice of intention to resume the interest. This notice is taken to be a notice of intention to resume under s7 of the Acquisition Act and s13 and 41 of that Act do not apply.

#### **17.5.4 SDPWO Act Process**

Land can be acquired by the CG on behalf of a third party for an Infrastructure Facility of Significance including a railway. The test for acquisition under this act is more lenient than the public purpose test under the Acquisition Act. Land acquired must be needed for a project of strategic significance to the locality, region or State. Native title needs to be resolved separately. The Proponent must take reasonable steps to acquire the land by agreement including a consultation and negotiation period.

The process for taking the land and payment of compensation outlined in the Acquisition Act applies.

Once the land has been acquired it may be leased or sold or another agreement reached in relation to the land.

#### **17.5.5 State Development Area**

The SDPWO Act gives the Coordinator-General the power to take or otherwise acquire land situated in a SDA for the purpose of providing for the establishment or relocation of population, industry or essential services, the establishment of an infrastructure corridor or for the replacement of open space in the course of the development of any other part of the State (s82).

These powers can be used to acquire land in a SDA even if the State is not in control of the development of the land but is securing development by way of contract with other persons.

The SDPWO Act specifies entitlements to compensation for affected land owners.