



# BaT project

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Appendix C  
Project approvals



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## Appendix C. Project approvals

### C.1 Commonwealth legislation

Relevant Commonwealth legislation includes:

- *Environment Protection and Biodiversity Conservation Act 1999*
- *Native Title Act 1993*
- *Energy Efficiency Opportunities Act 2006*
- *National Greenhouse and Energy Reporting Act 2007*
- *Disability Discrimination Act 1992.*

#### C.1.1 Environment Protection and Biodiversity Conservation Act 1999

A referral was made to the Commonwealth Minister for the Environment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) to determine whether the Project and its associated works are a 'controlled action'. The Delegate of the Commonwealth Minister for the Environment determined on 29 January 2014 that the Project (EBPC 2013/7106) does not constitute a controlled action pursuant to Section 75 of the EPBC Act.

#### C.1.2 Native Title Act 1993

The study area is covered by two registered native title claims under the Commonwealth *Native Title Act 1993* (NT Act). These claims have been made by the Turrbal People and Yugara/Yugarapul People. To the extent that native title exists in relation to any land affected by construction or long term operation of the Project, the mechanisms under Section 24KA and or 24MD of the NT Act would be applied. The requirements under the NT Act are discussed further in **Chapter 5 – Land Use and Tenure**.

#### C.1.3 Energy Efficiency Opportunities Act 2006

The *Energy Efficiency Opportunities Act 2006* (EEO Act) establishes the national framework that encourages large corporations to improve their energy efficiency. It does this by requiring corporations that use more than 0.5 petajoules of energy per year to identify, evaluate and report publicly on cost effective energy saving opportunities. Under the requirements of the EEO Act, it is mandatory for Queensland Rail to participate in Energy Efficiency Opportunities. Once the Project is operational, Queensland Rail would be required to incorporate the additional activities of the Project into its reporting.

#### C.1.4 National Greenhouse and Energy Reporting Act 2007

The *National Greenhouse and Energy Reporting Act 2007* (NGER Act) establishes a national framework for Australian corporations to report greenhouse gas (GHG) emissions, reductions, removals and offsets and energy consumption and production. The purpose of the NGER Act is to provide for a single, national system for the reporting of GHG emissions, abatement and energy consumption and production activities by corporations.

The NGER Act applies to corporation activities from 1 July 2008. Any activities being undertaken within or after 2010-2011 are required to report if they exceed annual production of 50 kilotonnes in CO<sup>2</sup> equivalent of GHG emitted or if they consume or produce 200 terajoules of energy. Under the requirements of the NGER Act, Queensland Rail is currently required to report on the activities it

undertakes. Once the Project is operational, Queensland Rail would be required to incorporate the additional activities of the Project into its annual reporting.

### C.1.5 Disability Discrimination Act 1992

The *Disability Discrimination Act 1992* (DD Act) requires that all publicly accessible buildings be designed and constructed to comply with the *Disability (Access to Premises – Buildings) Standards* and the *Disability Standards for Accessible Public Transport 2002* (DSAPT). The publicly accessible components of the Project, such as the paid and unpaid sections of the railway stations, have been designed to comply with these standards.

## C.2 State legislation

### C.2.1 State Development and Public Works Organisation Act 1971

The Coordinator-General declared the Project to be a Coordinated Project for which an Environmental Impact Statement (EIS) is required under Section 26(1)(a) of the *State Development and Public Works Organisation Act 1971* (SDPWO Act). The declaration was made on 19 November 2013.

The EIS process provides the mechanism for the Project to be publicly notified and for public comments to be received and considered. Public notification during the EIS process satisfies the need for future consultation, should it be required under any post-EIS development approvals.

Under the SDPWO Act, an EIS is required to be evaluated by the Coordinator-General.

### C.2.2 Sustainable Planning Act 2009

The *Sustainable Planning Act 2009* (SP Act) regulates development and provides the definition of what is considered as development. Under the SP Act, development includes;

- carrying out building work
- carrying out plumbing or drainage work
- carrying out operational work
- reconfiguration of a lot
- making a material change of use of premise, for example, Environmentally Relevant Activity.

Schedule 3 of the *Sustainable Planning Regulation 2009* (SP Regulation) outlines development that is assessable under the SP Act. Legislation that is addressed under this Schedule that is relevant to the Project includes:

- *Building Act 1975* (Building Act)
- *Environmental Protection Act 1994* (EP Act)
- *Land Title Act 1994* (LT Act)

*Plumbing and Drainage Act 2002* (PD Act). Development permits triggered through the mechanisms of the SP Act would proceed through the IDAS. The IDAS establishes the framework for development application and assessment.

A list of potential approvals required for the construction and operation of the Project under the SP Act have been outlined in **Chapter 1 – Introduction**.

## Potential Approvals under IDAS

Approval for the construction and operation of the Project would be obtained through various legislative instruments.

The following section outlines the development applications that are triggered under Schedule 3 of the SP Regulation and that may be of relevance to the Project. The requirement for these approvals would be confirmed during the Project's detailed design phase.

### *Building works*

The Project would require the construction of a number of buildings including:

- station buildings
- construction worksite sheds, fences and amenity buildings
- ventilation buildings
- substation facilities.

Building work being undertaken for the Project by or on behalf of the State is self-assessable development under the SP Regulation unless it is exempt development.

### *Operational works*

It is not anticipated that any of the works to be carried out for the Project would trigger the requirement under the SP Act for a Development Approval for Operational Works.

### *Reconfiguration of a Lot*

Reconfiguration of a lot for the rail tunnel is exempt development under the SP Act where it is in relation to the acquisition, including by agreement, under the *Acquisition of Land Act 1967*, of land by a constructing authority for railways and related purposes (Schedule 1, Part 1 of AL Act).

### *Material Change of Use of Premises for a Prescribed Environmentally Relevant Activity*

The EP Act provides for the development approval requirements for specific activities of environmental relevance.

Prescribed Environmentally Relevant Activities (ERA) potentially relevant to the Project include:

- 8: Chemical Storage

ERA 8 is the storage of chemicals and dangerous goods of varying amounts and classes. If chemicals or dangerous goods are proposed to be stored on site, an approval for a material change of use of premises may be required. Due to the highly urbanised nature of the surrounding environment and the proximity of sensitive receptors, the storage of chemicals or dangerous goods in large quantities is not preferred.

- 38: Surface Coating

ERA 38 is the use of 1 tonne or more in a year of surface coating materials for anodising, electroplating, enamelling, galvanising or coating, painting or powder coating. In the event that Project surfaces, such as station buildings or tunnel walls, require painting or the application of protective coatings, ERA 38 may be required.

- 63: Sewage Treatment

ERA 63 is the onsite treatment for release of sewage for a facility with a peak design capacity greater than 21 Equivalent Persons (EP).

- 64: Water Treatment

ERA 64 is the onsite daily treatment of water that would be released into the environment.

Operators apply to the administering authority (Department of State Development, Infrastructure and Planning or local government) to obtain an Environmental Authority. An application for authority must be submitted with the prescribed fee. Authorisation enables the operator to carry out the activities at the places stated in the Environmental Authority.

Environmental Authorities may be issued for multiple activities and sites where it is considered that the activities are part of a 'single integrated operation'. An annual fee for registration applies for all ERAs.

#### *Material Change of Use of Premises on the Environmental Management Register or Contaminated Land Register*

Material change of use of all or part of a premises on the Environmental Management Register (EMR) or Contaminated Land Register (CLR) requires compliance assessment if the premises are not being used for a 'sensitive land use' (as defined by SP Regulation) and the MCU is for a sensitive land use or a commercial purpose involving an accessible underground facility including for example, a basement carpark, workshop or office. Land that is listed on the EMR or CLR that would be impacted by the Project is identified in **Chapter 6 – Soils and topography**.

A strategic-level investigation of the study area has identified a number of sites which contain potentially contaminated soils as a consequence of previous activities, eg service stations, car repair stations, and which could be intercepted by construction. A number of these sites are covered by site management plans that have been prepared in accordance with the EP Act.

Construction of the Project would need to comply with the actions defined within the site management plans for each of the contaminated sites under or through which it passes.

### **Exempt development**

Schedule 4 of the SP Regulation outlines development that cannot be declared development of a particular type under a local government planning instrument and which is exempt from assessment against local government planning instruments.

A recent amendment to the Schedule 4 of the SP Regulation, in effect 28 April 2014, provides the Project with an exemption for all aspects of development against the relevant local government planning instruments. Specifically, Schedule 4, Table 5, Item 10C states:

*All aspects of development for the construction of the underground busway and railway infrastructure project known as BaT to provide busway and rail transport infrastructure along the route shown on the map called 'Draft Reference Design for Consultation Purposes' dated March 2014'.*

#### **C.2.3 Other authorities**

In addition to the legislation that is recognised under the SP Act, other legislation that may be relevant to the Project includes:

- *Aboriginal Cultural Heritage Act 2003 (ACH Act)*
- *Acquisition of Land Act 1967 (AL Act)*



- *Electricity Act 1994* (Electricity Act)
- *Economic Development Act 2012* (ED Act)
- *Explosives Act 1999* (Explosives Act)
- *Fire and Emergency Services Act 1990* (FES Act)
- *Food Act 2006* (Food Act)
- *Forestry Act 1959* (Forestry Act)
- *Land Act 1994*
- *Land Protection (Pest and Stock Route Management) Act 2002* (LP Act)
- *Nature Conservation Act 1992* (NP Act)
- *Plant Protection Act 1989* (PP Act)
- *Queensland Heritage Act 1992* (QH Act).
- *Transport Infrastructure Act 1994* (TI Act)
- *Transport Operations (Road Use Management) Act 1995* (TORUM Act)
- *Transport Operations (Marine Safety) Act 1994* (TOMS Act)
- *Transport Planning and Coordination Act 1994* (TPC Act)
- *Transport (Rail Safety) Act 2010* (Rail Safety Act)
- *Transport Security (Counter Terrorism) Act 2008* (TSCT Act)
- *Work Health and Safety Act 2011* (WHS Act)

An overview of the key approvals, licences, certifications, notification and authorities prescribed under the above legislation is provided below.

### **Land Resumption**

The AL Act sets out the process to be followed when land is proposed to be compulsorily acquired. The TPC Act provides that the Chief Executive of TMR is a constructing authority for the AL Act and may, for the State, acquire land for the purposes of transport and other related purposes identified in the TPC Act. The relevant purposes include the purposes of railways and busways and an incidental purpose for railways and busways.

The AL Act requires that a notice of intention to resume must be issued under the AL Act to all persons with an interest in the land proposed to be resumed. If the resumption proceeds and the land is taken, the AL Act sets out the compensation rights that apply to all affected owners and persons with an interest in the land.

### **Works that interfere with existing transport infrastructure**

The approval of Queensland Rail as the railway manager is required under the TI Act if works are to be undertaken that would interfere with a railway. The Project may also interfere with existing roads and existing busway infrastructure and may require authority under sections 33 and 50 (works affecting State-controlled roads) and sections 298, 299 and 311 of the TI Act (works affecting busway transport infrastructure).

## Delivery of Railway Transport Infrastructure

The TI Act provides the legislative framework for the tenure arrangements for railway corridors.

Land to be used for railway purposes is owned by the State and sub-leased under Section 240 of the TI Act to a railway manager. If the State resumes land for use by a railway manager, then the State is required to lease the land to the railway manager. Further information on tenure is provided in **Chapter 5 – Land use and tenure**.

Under the Rail Safety Act, railway operations (which includes constructing and operating rail infrastructure) can only be carried out by a person who is accredited as a rail transport operator. The accreditation process is managed by the Chief Executive of Transport and Main Roads (TMR). The Rail Safety Act imposes obligations on rail transport operators to implement a safety management system and duties to ensure that rail safety is not affected by the carrying out of railway operations.

## Delivery of Busway Transport Infrastructure

The TI Act provides the legislative framework for the tenure arrangements for the delivery of busway infrastructure.

Section 297 outlines the following functions provided to the chief executive for the delivery of busway infrastructure, including:

- investigation, planning, establishing, maintaining and operating
- providing or arranging for associated services or works necessary or convenient for effective and efficient construction, management and operation
- efficiently integrating with any transport infrastructure, including light rail transport infrastructure
- providing for appropriate levels of safety in construction, management and operation.

The TI Act sets out a process for the declaration of ‘busway land’. If land is declared as ‘busway land’ then the land will be held by the Chief Executive under a perpetual lease for busway purposes and may be subleased to a busway manager. However, it is not necessary to declare the land on which a busway is constructed to be ‘busway land’. A busway can be operated on land that is not declared.

The final tenure arrangements for the busway component of the Project are yet to be finalised. However, the busway component of the Project will be delivered in accordance with the framework set out in the TI Act for investigating, constructing and managing busways.

## Establishment or construction of works

Under section 477G of the TI Act, the Chief Executive may request and approve a Compliance Management Plan to allow the Proponent to address compliance matters relevant to the establishment or construction of transport infrastructure licenced under the Act. A Compliance Management Plan would be prepared prior to the commencement of construction and would provide statutory support during implementation of the Environmental Management Plan (Construction).

## Cultural heritage

Under the ACH Act, a cultural heritage management plan is to be developed and agreed where an EIS is required. Preliminary work for the plan has commenced, including survey of the study corridor to identify areas or items of cultural heritage significance. A plan is intended to be developed between TMR and the relevant Aboriginal Party prior to construction.

Development by the State on an area listed on the Queensland Heritage Register requires a report about the proposed work to be given to the Queensland Heritage Council, which may be publicly notified and submissions invited. An approval or exemption certificate may be required to interfere with the protected area.

### Acid Sulphate Soils

In the event that construction activities would disturb potential acid sulphate soils (PASS) or actual acid sulphate soils (AASS), the preparation of an Acid Sulphate Soil sub-plan would be required. The plan would need to be prepared in accordance with the relevant guideline and manual.

### Contaminated land

It is likely that construction works for the Project would intercept contaminated land in the current railway corridor at Dutton Park, Roma Street and Spring Hill (Normanby Yard). Areas within land proposed for the Woolloongabba Station may also contain relevant material. A disposal permit would be required under the EP Act for the removal of material from land on the EMR or CLR. Further detail on land that is listed on the EMR or CLR that would be impacted by the Project is identified in **Chapter 6 – Soils and topography**.

### Plumbing and drainage

A compliance permit would be required from Brisbane City Council for the installation of any permanent facilities that would be connected to local plumbing and drainage services.

## C.3 Local government requirements

The Brisbane City Plan 2014 and local laws regulate development and activities at the local government level within the Brisbane Local Government Area (LGA).

### C.3.1 Brisbane City Plan 2014

As previously stated, Schedule 4 of the SP Regulation provides a specific exemption for all aspects of development of the Project against a local government planning instrument. As a result, any activities carried out specifically for the BaT would not require assessment against Brisbane City Council's Brisbane City Plan 2014.

### C.3.2 Local laws

Administered under the *City of Brisbane Act 2010*, local laws provide Brisbane City Council with the ability to establish permit or licence regimes for activities they want to regulate, to create offences for unacceptable behaviour and to allow for the issue of compliance or abatement notices.

As a component of the Project may involve the removal of spoil to land within the Ipswich local government area, the Ipswich City Council local laws (under the *Local Government Act 2009*) of relevance to the Project have also been reviewed.

While the State is generally not bound to comply with local laws made under the *City of Brisbane Act 2010* or *Local Government Act 2009*, these would be considered in the management of project impacts. The State would liaise with Brisbane City Council about the local law interests and requirements prior to construction of the Project and ongoing. The EIS has addressed local law interests where relevant to anticipated Project impacts and through the reference design.

Local laws that may be relevant to the Project are outlined in **Table C-1**.

**Table C-1 Local laws**

Local law	Purpose and general effect	Relevance to Project
<b>Brisbane City Council</b>		
Dutton Park Parking Control Area Local Law 2006	To create and regulate parking within the Dutton Park Parking Control Area.	Construction workforce parking for the Dutton Park construction worksite would need to consider the restrictions outlined in the Local Law.
(The) Gabba Traffic Area Local Law 2000	To create and regulate parking within the Gabba Traffic Area.	Construction workforce parking for the Woolloongabba construction worksite would need to consider the restrictions outlined in the Local Law.
Heavy and Long Vehicle Parking Local Law 1999	To provide for the restriction of parking of heavy and long vehicles near residential land.	Delivery of materials or the movement of spoil during construction may need to consider the requirements set out in the local law.
Lang Park Traffic Area Local Law 2002	To create and regulate parking within the Lang Park Traffic Area.	Construction workforce parking for the Roma Street construction worksite would need to consider the restrictions outlined in the Local Law.
Natural Assets Local Law 2003	To protect the biodiversity values of the City including, the habitat and ecological requirements of native flora and fauna; to preserve natural landforms; to facilitate the retention of the landscape character of the City; to facilitate the retention of the historical and cultural values; to control hazardous vegetation; and to control and manage pest vegetation.	Impact to vegetation or places listed as protected under the Natural Assets Local Law would require consultation with BCC.
<b>Ipswich City Council</b>		
Local Law No. 5 (Parking) 2013	To provide for safe, efficient and equitable parking regulation in traffic areas.	The law provides for the management of heavy vehicle parking within Ipswich. Any heavy vehicle parking required for the Project, such as spoil haul trucks, would need to consider the restricted areas within the Ipswich local government area.