

## 4. Legislative requirements and planning approval process

### 4.1 Introduction

The *Transport Infrastructure Act 1994* (Queensland) establishes a regime which allows the Queensland Government to investigate, plan and construct busway transport infrastructure in Queensland.

Development of the South East Busway extension from Rochedale to Springwood could require a number of approvals under the *Integrated Planning Act 1997* (Queensland), other state legislation and possibly Commonwealth legislation. This chapter identifies the key legislation under which planning and preservation of the corridor for the busway extension would occur and likely permits, licences or approvals that may be required for the future construction and operation of the busway.

### 4.2 Transport Infrastructure Act 1994 and busways

The Department of Transport and Main Roads is charged with investigating, planning, establishing, maintaining, managing and operating busways.

The South East Busway extension to Springwood is referred to in statutory planning documents made under the *Transport Planning and Coordination Act 1994* (Queensland), including the Integrated Regional Transport Plan for South East Queensland and the Transport Coordination Plan.

Busways and busway transport infrastructure are regulated by the Transport Infrastructure Act. Under this Act, the Department of Transport and Main Roads may enter into contracts, compulsorily acquire and dispose of property, appoint agents etc, in order to establish the busway.

The provisions of the Transport Infrastructure Act and the Transport Planning and Coordination Act do not exempt the busway development from the provisions of the Integrated Planning Act and other relevant legislation. Identified below are the various statutory approvals that may be required to establish the busway.

### 4.3 Development approvals under the Integrated Planning Act 1997

In Queensland, the Integrated Planning Act is the principal legislation regulating development and the effects of development. Under this Act the concept of 'development' includes one or more of the following:

- carrying out building work
- carrying out plumbing and drainage work
- carrying out operational work
- reconfiguring a lot
- making a material change of use of premises.

Development of the South East Busway extension from Rochedale to Springwood is likely to involve all facets of 'development' as defined by the Integrated Planning Act. Therefore, some development approvals would be required.

### 4.3.1 Integrated Planning Act 1997 — Integrated Development Assessment System

Chapter 3 of the Integrated Planning Act describes the Integrated Development Assessment System as a process that integrates state and local government assessment and approval processes for development. The Integrated Planning Act sets up the concept of exempt and assessable development. Under the Act, all development is assumed to be non-assessable (i.e. exempt) unless it is declared to be self-assessable or assessable through one or both of the following:

- a local government planning scheme
- schedule 8 of the Integrated Planning Act.

Development can also be specified as exempt in one of the following:

- a local government planning scheme
- schedule 9 of the Integrated Planning Act.

It should be noted that development that is exempt from regulation under a planning scheme may still be assessable against other non-planning scheme related provisions within schedule 8 of the Integrated Planning Act. Generally, schedule 8 identifies development that requires assessment by state government agencies under other legislation that has been integrated with the Integrated Planning Act.

The busway extension would likely trigger the requirement for several development approvals under schedule 8 of the Integrated Planning Act. These approvals will be considered further in the impact management planning phase of the busway extension.

#### Local government planning schemes

A local government may use their planning scheme to exempt specific types of development from assessment under the provisions of that planning scheme. Development associated with the construction, maintenance and operation of public transport infrastructure (including busways and busway associated activities) has not been made exempt within the Logan City Planning Scheme.

The busway extension would impact on properties subject to the following zones under the Logan City Planning Scheme 2006:

- Residential 600 Zone — this provides for low-density residential uses with lot sizes of approximately 450 to 600 square metres, adjacent to the Pacific Motorway
- Residential 250 Zone — this zone allows for multi-unit development encouraged at a density of one dwelling per 250 square metres
- Town Centre Frame zoning — this zoning allows for offices, some retail (though not supermarket or convenience goods related) and mixed use development. In addition the Town Core Area is intended for shopping centre, offices, mixed use and transit-oriented developments.

Under the above mentioned zones, the busway extension would require impact assessable development applications as a busway corridor does not fall under any of these uses.

#### Integrated Development Assessment System

The Integrated Development Assessment System is the framework under which applications for approvals required under the Integrated Planning Act are made and assessed. It is designed to streamline the approvals process by providing a single assessment manager to coordinate assessment of an application.

However, the corridor nature of the busway extension means that the Integrated Development Assessment System would apply section by section as zoning, tenure and infrastructure type change resulting in multiple development applications and making the approvals process complex and time consuming for the proponent, referral managers and referral agencies.

The Integrated Development Assessment System does not provide a framework for corridor or project approval.

Under the Integrated Development Assessment System a development is assessed for compliance with the local planning scheme, applicable state planning policies, and any other laws or standards that can reasonably be applied to it. More information regarding the Integrated Development Assessment System process can be found at the Department of Infrastructure and Planning's website <<http://www.ipa.qld.gov.au/idas/idasNotes.asp>>.

### **Building work**

Building work carried out by or on behalf of the state is self-assessable development under the Integrated Planning Act. A development permit is not required for self-assessable development; however, self-assessable development must comply with applicable codes.

All building work to be carried out for the South East Busway extension from Rochedale to Springwood, for example the demolition of buildings, the construction of bridge structures and the bus station, must comply with the Standard Building Regulation 1993 and the Building Code of Australia. The bus station at Springwood is likely to be designed as a class 10 building in accordance with the Building Code of Australia.

There may also be applicable codes for building work in the Logan City Planning Scheme 2006.

### **Plumbing and drainage work**

A development permit under the Integrated Planning Act would not be required for any plumbing and/or drainage work carried out for the busway extension. However, any plans for such work and the work itself would be subject to a compliance assessment under the *Plumbing and Drainage Act 2002* (Queensland) to ensure that the work complies with the Standard Plumbing and Drainage Regulation 2003.

### **Operational work**

The construction of the busway extension may require development approvals for the following types of operational work identified as assessable development under schedule 8 of the Integrated Planning Act:

#### ***Clearing of native vegetation***

If relevant, the clearing of native vegetation for the busway extension would be assessed by the Department of Environment and Resource Management against the *Vegetation Management Act 1999* (Queensland) and the relevant regional vegetation management code.

#### ***Taking or interfering with water***

If relevant, the Department of Environment and Resource Management would be responsible for assessing any works to be carried out in non-tidal watercourses. A water entitlement under the *Water Act 2000* (Queensland) may be required before obtaining a development approval under the Integrated Planning Act. Any taking or interfering with overland flow water would also be assessable by the Department of Environment and Resource Management.

### **Reconfiguring a lot**

Reconfiguring a lot for the acquisition of land for busway infrastructure is not assessable development under schedule 8 of the Integrated Planning Act.

The busway extension is not expected to require the long-term lease of land for buildings; however, if such leases are required, development approval for the reconfiguration of a lot may be required.

### **Schedules 8 and 9 of the Integrated Planning Act**

Schedule 8, table 2, item 9 of the Integrated Planning Act specifies that making a material change of use of premises for passenger public transport is assessable development. Schedule 9 does not provide any specific exemption for passenger public transport projects.

## **4.4 Project assessment processes**

### **4.4.1 Integrated Planning Act 1997 — Community infrastructure designation**

Chapter 2, part 6 of the Integrated Planning Act establishes the designation process as a specific mechanism for dealing with community infrastructure. The purpose of identifying land for community infrastructure is to ensure that suitable land is available for the development of community infrastructure when it is required. This will be considered further in the impact management planning phase of the project.

#### **Qualifying for designation**

There are two tests a development must satisfy before it can be considered for designation as community infrastructure.

#### ***The definition of community infrastructure***

The first test examines whether the development is defined as community infrastructure under schedule 5 of the Integrated Planning Act. The South East Busway extension from Rochedale to Springwood satisfies the following definition of community infrastructure:

Schedule 5 (o) Transport Infrastructure, mentioned in schedule 10, definition development infrastructure; where schedule 10 of the Integrated Planning Act defines 'development infrastructure' as:

- a) Land or works, or both land and works, for:
  - ii. Transport infrastructure (including roads, vehicle lay-bys, traffic control devices, dedicated public transport corridors, public parking facilities predominately servicing a local area, cycle ways, pathways, ferry terminals and the local function, but not any other function, of State-controlled roads)

Therefore the busway extension would be defined as community infrastructure.

### **Public benefit**

The second test is whether the community infrastructure will perform one or more functions under section 2.6.2 of the Integrated Planning Act. This test is primarily a test of public benefit. Section 2.6.2 of the Integrated Planning Act states that land may be designated for community infrastructure only if the designator is satisfied the community infrastructure will:

- a) facilitate the implementation of legislation and policies about environmental protection or ecological sustainability; or
- b) facilitate the efficient allocation of resources; or
- c) satisfy statutory requirements or budgetary commitments of the state or local government for the supply of community infrastructure; or
- d) satisfy the community's expectations for the efficient and timely supply of the infrastructure.

It is likely that the busway extension would satisfy the test of public benefit, particularly in regard to item (d). Several planning documents have been reviewed including the Logan Planning Scheme, the South East Queensland Regional Plan 2009–2031, the South East Queensland Infrastructure Plan and Program 2009–2026, the Integrated Regional Transport Plan, TransLink Network Plan, and the Local Growth Management Strategy 2007. These documents are discussed in more detail in Chapter 12.

### **The community infrastructure designation process**

Adequate environmental assessment and public consultation must be carried out in accordance with section 2.6.7 (1) of the Integrated Planning Act before the Minister can designate land for community infrastructure. This requirement can be satisfied in one of two principal ways:

- by following the Community Infrastructure Designation guidelines made by the Chief Executive under section 5.9.9 of the Integrated Planning Act. The current Community Infrastructure Designation guidelines (*Guidelines about Environmental Assessment and Public Consultation Procedures for Designating Land for Community Infrastructure*) can be found at the Department of Infrastructure and Planning's website:  
<[http://www.dip.qld.gov.au/docs/ipa/Forms/CommunityInfrastructure/Guidelines/061130\\_Guidelines.pdf](http://www.dip.qld.gov.au/docs/ipa/Forms/CommunityInfrastructure/Guidelines/061130_Guidelines.pdf)>.
- by following a suitable statutory process as outlined in section 2.6.7 (3) of the Integrated Planning Act. The Act identifies the following statutory processes that constitute adequate environmental assessment and public consultation for the purpose of designation:
  - a) the assessment and consultation has been carried out as required by guidelines made by the chief executive under section 5.9.9 for assessing the impacts of the development, or
  - b) the process under chapter 3, part 4 and part 5, division 2, has been completed for a development application for the community infrastructure to which the designation relates
  - c) the process under chapter 5, part 8, division 2, has been completed for an Environmental Impact Statement for development for the community infrastructure
  - d) the process under schedule 1, section 12, has been carried out for a planning scheme, or an amendment of a planning scheme, that includes the community infrastructure, or
  - e) the process has been carried out under schedule 1A, section 8, for a structure plan for a declared master planned area that includes the community infrastructure, or

- f) the Coordinator-General has, under the *State Development and Public Works Organisation Act 1971* (Queensland) section 35, prepared a report evaluating an Environmental Impact Statement for, or including, development for the community infrastructure, or
- g) the process under the *Environmental Protection Act 1994*, chapter 3, part 1 has been completed for an Environmental Impact Statement for development for the community infrastructure.

It is important to note that the guidelines and the statutory processes identified above are not exclusive, and the Minister may choose to be satisfied that adequate environmental assessment and public consultation has been undertaken in some other way.

Schedule 9 of the Integrated Planning Act identifies development that is exempt from assessment against a planning scheme, including 'Community infrastructure activities' (table 5, item 5):

All aspects of development for community infrastructure prescribed under a regulation.

Therefore, authorised works carried out by the Coordinator-General in accordance with a regulation are exempt under schedule 9 of Integrated Planning Act from assessment under the planning scheme.

An approval under section 108 of the State Development and Public Works Organisation Act gives the Coordinator-General (or the Coordinator-General's delegate) a number of broad powers, including compulsory acquisition rights.

The Minister must also consider each relevant planning scheme and each relevant state planning policy, as per the requirements under section 2.6.7 (2) of the Integrated Planning Act.

There is also provision for the Minister to give a notice about the proposed designation to the land owner and each relevant local government if the environmental assessment and public consultation process undertaken (and including the processes identified above) has not provided for such written notification and give those entities at least 15 business days to make a submission (section 2.6.7(4) and 2.6.7(5) of the Integrated Planning Act). Section 2.6.7(2) of the Integrated Planning Act requires the Minister to consider each properly made submission before making a decision.

Upon considering all the evidence presented, the Minister makes a decision whether to designate the land as community infrastructure.

A community infrastructure designation lasts for a period of 6 years. Therefore this should be considered closer to delivery of the busway.

#### **4.4.2 State Development and Public Works Organisation Act 1971 — Significant project**

Under part 4, section 26 of the State Development and Public Works Organisation Act, the Coordinator-General may declare a proposal to be a significant project.

The Coordinator-General may declare a project to be a 'significant project' based on one or more of the following criteria:

- the project will involve complex approval requirements, including local, state and Australian Government involvement
- the project will require a high level of investment in the state
- the project will have potential effects on infrastructure and/or the environment
- the project will include the provision of substantial employment opportunities
- the project will be of strategic significance to a locality, region or the state.

A significant project declaration triggers the need for an environmental impact statement to be prepared under the provisions of sections 29 to 35 of the State Development and Public Works Organisation Act.

Upon completion of the environmental impact statement, the proponent can either make a development application under the Integrated Development Assessment System or seek designation of the land for community infrastructure with the Coordinator-General.

Under the Integrated Development Assessment System process, if the environmental impact statement is undertaken before lodgement of the Integrated Development Assessment System application with the assessment manager, the referral and notification stages of the Integrated Development Assessment System do not apply to the application. There are deemed to be no referral agencies for the application, therefore allowing the process to be streamlined. If the environmental impact statement is to be undertaken after lodgement of the Integrated Development Assessment System application with the assessment manager, the Integrated Development Assessment System process is suspended until the environmental impact statement has been completed. The application then proceeds directly to the decision stage.

Under the Integrated Development Assessment System, the report prepared by the Coordinator-General has the same effect as if it were a concurrence agency. That is, the Coordinator-General may direct that certain conditions be attached to the approval including that the approval must be for only part of the development; that preliminary approval only may be given; or, that the application be refused.

If community infrastructure designation is sought the designation is fast tracked as environmental assessment and consultation has already been completed.

The Coordinator-General has historically declined to designate busway projects as significant and it is considered unlikely that the busway extension would become an exception to this.

#### **4.4.3 State Development and Public Works Organisation Act 1971 — Certain works (Authorised works)**

Sections 100 and 109 of the State Development and Public Works Organisation Act make provision for the Coordinator-General, or a 'local body' to undertake 'certain works'. The Coordinator-General can recommend to the Minister that particular works be undertaken by the Coordinator-General or a local body (such as a government-owned corporation e.g. Queensland Rail). If the Minister currently administering the State Development and Public Works Organisation Act approves the recommendation then it is submitted to the Governor in Council for approval.

The State Development and Public Works Organisation Act defines a local body as:

- (a) a government owned corporation, or
- (b) a statutory body as defined under the Statutory Bodies Financial Arrangements Act 1982, or
- (c) another body established under an Act, or
- (d) a corporation whose shares are wholly owned by
  - (i) the State, or
  - (ii) the State and 1 or more local governments, or
  - (iii) 1 or more local governments, or
- (e) a corporation whose shares are wholly owned by
  - (i) a corporation of the type mentioned in paragraph (d), and
  - (ii) 1 or more local governments.

The State Development and Public Works Organisation Act does not prescribe a mandatory environmental assessment process to be undertaken in relation to the authorised works. However, it is recommended that a preliminary assessment of environmental effects be undertaken for the purposes of recommending to the Governor in Council that the regulation authorising the works be made. The assessment of environmental effects is also required to fulfil the obligation of the Coordinator-General to ensure that proper account has been taken of the environmental effects of the project in accordance with the general environmental duties under the State Development and Public Works Organisation Act and the *Environmental Protection Act 1994* (Queensland). The assessment of environmental effects may also include consultation with the public and other interest groups.

Once the Governor in Council's approval has been formalised in a regulation the Coordinator-General (or the person approved on behalf of the Coordinator-General under the regulation) must take all steps necessary to undertake the works to which the approval relates, as soon as practicable (section 110).

Schedule 9 of the Integrated Planning Act identifies development that is exempt from assessment against a planning scheme, including 'Community infrastructure activities' (table 5, item 5):

All aspects of development for community infrastructure are prescribed under a regulation.

Therefore, authorised works carried out by the Coordinator-General in accordance with a regulation are exempt under schedule 9 of Integrated Planning Act from assessment under the planning scheme. An approval under section 108 of the State Development and Public Works Organisation Act gives the Coordinator-General (or the delegate of the Coordinator-General) a number of broad powers, including compulsory acquisition rights.

## 4.5 Busway planning framework

### 4.5.1 Transport planning and property acquisition

The Transport Planning and Coordination Act allows for planning of busway infrastructure and provides requirements for acquisition of property. The Transport Infrastructure Act also contains strategies for the acquisition of land for transport requirements.

### **General powers regarding property**

1. The chief executive may, for the State, acquire, hold, dispose of or otherwise deal with property for the purposes of transport, for an incidental purpose, for the purpose of a transport associated development or for a combination of these purposes.

Note:

See subsections (2) and (2A) if land is to be acquired by resumption.

2. The power conferred by subsection (1) includes power to acquire land by resumption in accordance with this part if the land is, in the chief executive's opinion, required for the purposes of transport, for an incidental purpose, for the purpose of a transport associated development or for a combination of these purposes.

2A. If land is acquired by resumption for the purpose of a transport associated development as mentioned in subsection (1) or (2), at the time of acquisition the land must also be acquired for the purposes of transport or for an incidental purpose.

3. Without limiting subsection (1) or (2), the chief executive may, for the State, acquire property for any of the following purposes:
  - a) the facilitation of transport infrastructure;
  - b) the supply or improvement of facilities for users of transport infrastructure;
  - c) the amelioration of negative environmental effects associated with transport infrastructure;
  - d) the construction or relocation of ancillary works and encroachments and public utility plant within the meaning of the *Transport Infrastructure Act 1994*, chapter 6.

### **4.5.2 Corridor protection**

Once planning of the busway infrastructure is complete, preservation of the corridor occurs under the Transport Infrastructure Act. This triggers the Integrated Planning Act referrals process and the Department of Transport and Main Roads becomes a concurrence agency.

Chapter 9 of the Transport Infrastructure Act contains relevant sections that deal with busways and busway transport infrastructure. Part 3, chapter 9, defines the process required for the establishment of busways which is best suited for the type of development relating to a busway corridor. The Transport Infrastructure Act requires approvals to be sought if other state infrastructure is disturbed.

Chapter 9, part 3 of the Transport Infrastructure Act deals with the establishment of busway corridors and in particular the declaration of land as busway land. The section deals with the process by which land is identified and gazetted by the Minister for busway transport infrastructure.

### **4.5.3 Summary**

There are five major approvals processes outlined in this section, a summary of which is provided in Table 4-1. The Integrated Development Assessment System process, while likely to be used for some ancillary approvals, is unlikely to be suitable for gaining approval for the length of the busway extension between Underwood Road and Fitzgerald Avenue due to its fractured, activity-specific focus. There are potentially a high number of development applications likely to be required under this process.

Determination of a preferred approvals pathway has not been undertaken at this stage due to the potential for changes to occur to the defined approval pathways between now and when approval for the project is sought. This may be as a result of changes to planning legislation or local government planning schemes. An assessment of the preferred approvals pathway will need to be undertaken prior to approvals for the project being sought.

Preliminary environmental assessment investigations (e.g. social, economic, ecology, air quality, etc) have been undertaken as part of the Concept Design Study and are included under their respective headings in this report. These aim to inform the eventual approval pathway(s) selected.

**Table 4-1: Summary of potential approvals processes**

Strategy	Legislation	Outcome	Actions	Responsible authority	Risks/Notes
Integrated Development Assessment System	<i>Integrated Planning Act 1997</i> , chapter 3	Approval of development	Lodgement of impact assessable development application with local council  Referrals, information requests, public notification involved	Local government	<ul style="list-style-type: none"> <li>▪ No land acquisition procedures</li> <li>▪ Statutory timeframes apply</li> <li>▪ Local government undertakes entire approvals process</li> </ul>
Designation of land for community infrastructure	<i>Integrated Planning Act 1997</i> , chapter 2, part 6	Approval of development	Adequate environmental assessment and consultation must be undertaken under section 2.6.7, which includes: <ul style="list-style-type: none"> <li>▪ The guidelines, under section 5.9.9; or,</li> <li>▪ an environmental impact statement under chapter 5; or,</li> <li>▪ notification and decision stages under Integrated Development Assessment System; or,</li> <li>▪ an environmental impact statement under the Environmental Protection Act; or,</li> <li>▪ assessment under section 35 of State Development and Public Works Organisation Act</li> </ul>	State Minister	<ul style="list-style-type: none"> <li>▪ Development is exempt against local government planning schemes</li> <li>▪ Triggers hardship acquisition provisions of <i>Integrated Planning Act 1997</i> (Queensland)</li> </ul>
Declaration of a significant project	<i>State Development and Public Works Organisation Act 1971</i> , section 26	Provides entry point for Integrated Development Assessment System or community infrastructure designation	Preparation of environmental impact statement under State Development and Public Works Organisation Act  Development application can be submitted under Integrated Development Assessment System, or community infrastructure designation can be sought	Coordinator-General	<ul style="list-style-type: none"> <li>▪ Is in bilateral agreement with Environment Protection and Biodiversity Conservation Act</li> <li>▪ Follow up Integrated Development Assessment System or designation process can be fast tracked</li> </ul>

Strategy	Legislation	Outcome	Actions	Responsible authority	Risks/Notes
Authorised works	<i>State Development and Public Works Organisation Act 1971, section 108</i> <i>Integrated Planning Act 1997</i>	Approval of development and acquisition	No environmental impact statement required, but an assessment of environmental effects required under State Development and Public Works Organisation Act	Coordinator-General	<ul style="list-style-type: none"> <li>▪ Development is exempt from local government planning schemes</li> <li>▪ Works can be undertaken by the Coordinator-General or another person on behalf of the Coordinator-General</li> </ul>
Transport infrastructure	<i>Transport Infrastructure Act 1994 (and the Transport Planning and Coordination Act 1994)</i>	Acquisition	Chief executive able to acquire land for rail alignment	Chief Executive of the Department of Transport and Main Roads	<ul style="list-style-type: none"> <li>▪ Chapter 9, section 3 deals with the process for declaration of land as busway land</li> </ul>

## 4.6 Other legislative requirements

As well as the requirements under the Integrated Planning Act, the busway extension will need to comply with a number of other legislative requirements. This section provides a brief description of other legislation, standards and guidelines that are considered to be relevant to the design and construction of the South East Busway extension from Rochedale to Springwood.

### 4.6.1 State law

#### **Environmental Protection Act 1994**

The purpose of the *Environmental Protection Act 1994* (Queensland) 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 the ecological processes on which life depends.

The Act utilises a number of mechanisms to achieve its objectives, including creating a general environmental duty, licensing environmentally relevant activities and issuing environmental protection policies and regulations including the Environmental Noise Protection Policy 1997, Environmental Air Protection Policy 1997 and Environmental Waste Management Protection Policy 2000.

The Act also deals with the assessment and management of contaminated land, including administration of the Environmental Management Register and Contaminated Land Register. Chapter 7 of this report presents details of the soil topography and geotechnical aspects of the subject lands under investigation.

#### **Native Title (Queensland) Act 1993**

The *Native Title (Queensland) Act 1993* (Queensland) was enacted to ensure Queensland's laws are consistent with the Commonwealth *Native Title Act 1993* for dealings affecting native title. The Native Title Act seeks to formally recognise that native title rights did, and in some cases still do, exist for the descendants of Aboriginal and Torres Strait Islander people, and that descent groups can lodge native title claims. Native title in land can be extinguished by valid government acts that are inconsistent with the continued existence of native title rights and interests, such as the grant of freehold estates.

#### **Aboriginal Cultural Heritage Act 2003**

The *Aboriginal Cultural Heritage Act 2003* (Queensland) is intended to provide effective recognition, protection and conservation of Aboriginal cultural heritage within the state. Under this Act it is an offence to knowingly destroy or interfere with places, artefacts and landscapes of Aboriginal heritage or spiritual culture. Individuals or corporations undertaking development in Queensland are obliged to observe the Aboriginal Cultural Heritage Duty of Care Guidelines. For the busway extension it will be necessary to develop a cultural heritage management plan in accordance with part 7 of the Aboriginal Cultural Heritage Act.

#### **Queensland Heritage Act 1992**

The *Queensland Heritage Act 1992* (Queensland) aims to provide for the conservation of Queensland's cultural heritage, including for example, the regulation of the excavation of sites that contain, or may contain, objects of significance to Queensland's heritage. The Heritage Register is the principal mechanism through which the Queensland Heritage Act operates.

### **Nature Conservation Act 1992**

The *Nature Conservation Act 1992* (Queensland) seeks to achieve the conservation of nature through an integrated and comprehensive strategy for the whole of Queensland. The Act provides for the conservation of nature by the declaration and management of protected areas, and also the protection of native wildlife not found in a protected area. Chapter 11 (Ecology) of this report outlines the environmental considerations for the proposed alignments of the busway.

### **Vegetation Management Act 1999**

The *Vegetation Management Act 1999* (Queensland) seeks to regulate the clearing of native vegetation to preserve remnant endangered and 'of concern' and 'endangered' regional ecosystems, vegetation in areas of high nature conservation values and areas vulnerable to land degradation. Chapter 11 (Ecology) of this report outlines the environmental considerations for the South East Busway extension from Rochedale to Springwood.

### **Dangerous Goods Safety Management Act 2001**

The *Dangerous Goods Safety Management Act 2001* (Queensland) covers the storage and handling of dangerous goods and combustible liquids as well as the operation of major hazard facilities. It is not likely that this Act will be required for assessment in the project during construction or in the operational phase of the development.

### **Land Act 1994**

The *Land Act 1994* (Queensland) provides a framework for the allocation of state land either as leasehold, freehold or other tenure. Permits may be acquired under this Act from the Department of Environment and Resource Management for the occupation of a reserve, road or unallocated state land.

### **Acquisition of Land Act 1967**

The *Acquisition of Land Act 1967* (Queensland) enables the state to acquire freehold land for public works or other public purposes. The state may acquire land:

- by agreement — if an agreement can be reached on compensation to be paid, land can be purchased as soon the necessary transfer documents have been executed. Alternatively, the acquisition could proceed by way of an agreement pursuant to section 15 of the Acquisition of Land Act. This leads to the issue of a gazette notice published in the Government Gazette, thereby passing ownership to the constructing authority
- compulsorily — resumptions are made under various pieces of legislation, subject to the provisions of the Acquisition of Land Act. A 'Notice of intention to resume' showing the location and area of the land required is forwarded to the landholder (and mortgagee etc). This specifies a date (not less than 30 days later) by which the landholder may lodge an objection, in writing, to the resumption of the land.

Compulsory acquisition and notice of realignment matters are likely to be addressed over the life of this project. For more information see:

<[http://www.nrw.qld.gov.au/property/resuming\\_land.html](http://www.nrw.qld.gov.au/property/resuming_land.html)>.

## **4.6.2 State planning policies**

This section discusses the state planning policies that will need to be considered for the proposed South East Busway extension from Rochedale to Springwood. State planning policies are statutory planning instruments under Integrated Planning Act that relate to matters of Queensland state interest. These policies must be considered as part of the assessment process for development of land.

### **State Planning Policy 1/92: Development and conservation of agricultural land**

This state planning policy addresses the conservation of good quality agricultural land and provides guidance to local authorities and state government on how good quality agricultural land needs to be considered when carrying out their range of planning duties. There are a range of land classes, which are based on an assessment of the suitability of the land for specified agricultural uses, that involve rating the ability of the land to maintain a sustainable level of productivity using soil type and topographic and climatic factors that determine sustainable productivity.

State Planning Policy 1/92 also recognises that in some instances it may be necessary to build on good quality agricultural land if there is an overriding need for the development in terms of public benefit. There is no trigger for this development in regard to State Planning Policy 1/92.

### **State Planning Policy 1/02: Development in the vicinity of certain airports and aviation facilities**

This state planning policy sets out broad principles concerning development in the vicinity of airports and aviation facilities considered significant for the state's transport infrastructure or national defence system. The state planning policy applies to development that could adversely affect the safety and efficiency of operational airspace by obstructions resulting from the erection of permanent or temporary physical structures either natural or man-made. It also applies to development that has the potential to create adverse effects on the functioning of aviation facilities caused by the penetration of the facility's sensitive area.

The subject site is not within an airport/aviation facility to trigger this state planning policy.

### **State Planning Policy 2/02: Planning and managing development involving acid sulfate soils**

The purpose of this state planning policy is to ensure that development involving acid sulfate soils is planned and managed to avoid the release of potentially harmful contaminants into the environment. This state planning policy applies to certain areas of Queensland where the natural ground level is less than 20 metres Australian Height Datum and soil below 5 metres Australian Height Datum is disturbed by the proposed works. Not likely to be an issue of concern.

According to the overlay mapping in the Logan Planning Scheme there are no acid sulfate soils identified in the subject area. The subject site does not trigger this state planning policy.

### **State Planning Policy 1/03: Mitigating the adverse impacts of flood, bushfire and landslide**

The purpose of this state planning policy is to set out the state government's interests with regard to natural hazards of flood, bushfire and landslide and ensure these matters are adequately addressed when carrying out development assessment. Various parts of the preferred locations are likely to be subject to flood, bushfire and landslide, therefore this state planning policy will require consideration for any development application. According to the overlay mapping in the Logan Planning Scheme these impacts are not triggered.

### **State Planning Policy 1/07: Housing and residential development**

The overall outcome sought by State Planning Policy 1/07 is to identify the community's existing and future housing needs and ensure that planning schemes provide opportunities for a suitable range of housing options to respond to these needs. The state planning policy applies to a number of local government areas with urbanised populations, of which Logan is included, and has effect when a local government prepares a new planning scheme or amends an existing planning scheme. State Planning Policy 1/07 has no effect when development applications are assessed or when designating land for community infrastructure.

## **The Nature Conservation (Koala) Conservation Plan 2006 and Management Program 2006–2016**

The Nature Conservation (Koala) Conservation Plan 2006 and Management Program 2006–2016 (Environmental Protection Agency 2006) came into effect on 2 October 2006. The Koala Plan addresses the key threats facing koalas and sets out strategies to stop the decline of koala numbers and help the recovery of the species.

Issues addressed in the Koala Plan include habitat protection and vegetation clearing; development; state government infrastructure; vehicle mortality; dog attacks; translocation; research; zoos; public education; and the rehabilitation of sick, injured and orphaned koalas. Comments regarding koala conservation are found in Chapter 11 of this report.

### **4.6.3 State regional plans**

#### **South East Queensland Regional Plan 2009–2031**

The South East Queensland Regional Plan 2009–2031 aims to ensure the infrastructure needs of the region's growing population are met while protecting its open spaces, natural environments and agricultural land. This plan is the pre-eminent plan for the south-east Queensland region and takes precedence over all other planning instruments. The regulatory provisions of the South East Queensland Regional Plan are required to be taken into account in planning and development decision-making processes, including:

- Queensland Government plans and policies
- local government planning schemes and other plans and policies
- planning and development process under the Integrated Planning Act
- development applications made under the Integrated Development Assessment System of the Integrated Planning Act 1997.

Regional policies set out the desired regional outcomes, principles and policies to address growth management in south-east Queensland. These policies are structured in the following headings:

- sustainability
- natural environment
- regional landscape
- natural resources
- rural futures
- strong communities
- engaging Aboriginal and Torres Strait Islander peoples
- urban development
- economic development
- infrastructure
- water management
- integrated transport.

#### ***Relevance to project***

The plan applies to the areas covered by the Logan City Planning Scheme. The proposed development is required to respond to and satisfy with all regulatory provisions within in the South East Queensland Regional Plan.

## **South East Queensland Infrastructure Plan and Program 2009–2026**

The South East Queensland Infrastructure Plan and Program 2009–2026 outlines the government's infrastructure priorities for the south-east Queensland region to support the South East Queensland Regional Plan. It represents a long-term commitment to infrastructure delivery and capital works in south-east Queensland.

The South East Queensland Infrastructure Plan and Program applies to all projects covering transport, water, energy, health, education, vocational education and training, regional sport and recreation, infrastructure for rural development, justice services, activity centres and transit-oriented development, community safety, and industry development.

### ***Relevance to project***

The South East Queensland Infrastructure Plan and Program applies to the areas previously covered by the Logan City Planning Scheme. Therefore it is applicable to the proposed development.

## **4.6.4 Commonwealth law**

### **Environment Protection and Biodiversity Conservation Act 1999**

The *Environment Protection and Biodiversity Conservation Act 1999* provides for Commonwealth assessment on a range of actions or activities that are likely to have a significant impact on a matter of national environmental significance including, for example, World Heritage properties, nationally threatened species, RAMSAR wetlands, and migratory species. Where a project/action is believed to potentially cause a significant impact on a matter of national environmental significance it is to be referred to the Department of the Environment, Water Heritage and the Arts for assessment as to whether Commonwealth approval is required for the proposed action. Where an action requires Commonwealth approval a formal assessment process is undertaken.

Commonwealth law is not required for this project, however consultation with relevant government agencies may be needed in the future.

### **Native Title Act 1993**

Broadly, the *Native Title Act 1993* does three things:

- validates past acts of governments that affected native title
- provides statutory recognition of native title and a system for registering native title rights
- establishes a future Acts regime to allow native title to be incorporated into government decision making.

There are currently two native title claims that exist in the study area. Refer to Chapter 15 (Cultural heritage) for further detail.

## **4.6.5 Possible approvals matrix — approvals, permits and licences**

A number of approvals, permits and licences will be required to undertake work on the busway extension. Depending on the approvals process followed, these may come at various stages of the project, or there may be exemptions from some approvals. The following matrix (Table 4-2) is intended to offer a general indication of the approvals, permits and licences that may be triggered during the project. Further revision of the approvals matrix will be required as the project progresses towards the construction phase.

**Table 4-2: Approvals, permits and licences that may be associated with the preferred corridor**

Permit/approval/licence required	Description	Responsible authority
<b><i>Environmental Protection Act 1994</i></b>		
Licence required if conducting an 'environmentally relevant activity'.	<p>Schedule 1 of Environmental Protection Regulation 1998 lists all environmentally relevant activities, their levels and thresholds. The construction of the preferred corridor may include the following environmentally relevant activities:</p> <ul style="list-style-type: none"> <li>▪ Environmentally relevant activity 20: Extracting rock or other material</li> <li>▪ Environmentally relevant activity 22: Screening etc. materials.</li> </ul> <p>(Integrated Development Assessment System Form 1 Part G.)</p>	Department of Environment and Resource Management (could devolve to Local Government)
Permit to work in areas listed on the Environmental Management Register or the Contaminated Land Register.	<p>Land identified on the Environmental Management Register or the Contaminated Land Register will require approval from the Department of Environment and Resource Management. Includes disposing of contaminated soil.</p> <p>(Integrated Development Assessment System Form 1 Part N.)</p>	Department of Environment and Resource Management
<b><i>Aboriginal Cultural Heritage Act 2003</i></b>		
Exploring/surveying proposed project area for the purposes of drafting a Indigenous cultural heritage management plan	<p>Obligation to observe 'duty of care guidelines'.</p> <p>Preparation of a Cultural Heritage Management Plan (if required)</p> <p><i>Aboriginal Cultural Heritage Act 2003/ Integrated Planning Act 1997</i></p>	Department of Environment and Resource Management
<b><i>Native Title (Queensland) Act 1993; Native Title 1993</i></b>		
<p>Legislation provides Native Title claimants an opportunity to comment on construction over waterways and Trustee Reserves.</p> <p>Native Title — Aboriginal and Torres Strait Islander owned land and identified interests (including areas in respect of which a claim under the Native Title Act has been registered by the National Native Title Tribunal)</p> <p>Generally, Native Title is extinguished over freehold land.</p>	<p><i>Native Title (Queensland) Act 1993, section 26/ Native Title Act (Commonwealth) Aboriginal Land Act 1991/ Torres Strait Islander Land Act 1991/ Community Services (Torres Strait Islander) Act 1984</i></p>	<p>National Native Title Tribunal/Department of Premier and Cabinet</p> <p>Department of Natural Resources and Mines/Department of Communities</p>

Permit/approval/licence required	Description	Responsible authority
<b>Nature Conservation Act 1992</b>		
Permit required if relevant	<p>A permit is required to take, use, keep or interfere with:</p> <ul style="list-style-type: none"> <li>▪ Native wildlife in an area identified under a conservation plan</li> <li>▪ Cultural or natural resources of a protected area</li> <li>▪ Threatened, rare or common animals</li> <li>▪ Rare or threatened plants.</li> </ul> <p>The Nature Conservation (Protected Areas) Regulation 1994 schedules 1 to 6 lists protected areas.</p>	Department of Environment and Resource Management
<b>Dangerous Goods Safety Management Act 2000</b>		
Approval for a major hazard facility.	<p>Development involving a material change of use of premises, if the premises are for a Major Hazard Facility or Possible Major Hazard Facility is assessable development.</p> <p>(Integrated Development Assessment System Form 1 Part L)</p>	Department of Emergency Services
<b>Integrated Planning Act 1997 (if required for certain activities that are not directly related to the construction of the busway)</b>		
Approval for material change of use	<p>Development which is not exempt development may require a development permit for material change of use.</p> <p>(Integrated Development Assessment System Form Part D.)</p>	Local Government (Logan City Council)
Approval for reconfiguring a lot	<p>Lots may be required to be reconfigured, requiring a development permit.</p> <p>(Integrated Development Assessment System Form 1 Part F.)</p>	Local Government (Logan City Council)
Approval for operational works	<p>A development permit may be required for operational works</p> <p>(Integrated Development Assessment System Form 1, Part E.)</p>	Local Government (Logan City Council)
<b>Building Act 1975</b>		
	<p>Demolition and removals.</p> <p>(Integrated Development Assessment System Form Part B.)</p>	
<b>Queensland Heritage Act 1992</b>		
Development of a heritage-listed place	<p>Approval is necessary for works on a place identified under the Queensland Heritage Register.</p> <p>(Integrated Development Assessment System Form Part C.)</p>	<p>Queensland Heritage Council</p> <p>Department of Environment and Resource Management</p>

Permit/approval/licence required	Description	Responsible authority
<b>Vegetation Management Act 1999</b>		
Clearing of native vegetation	Any work involving the clearing of remnant and non-remnant native vegetation on trust land, leasehold land, state land and road reserves.  (Integrated Development Assessment System Form Part J).	Department of Environment and Resource Management
<b>Land Act 1994</b>		
Approval for temporary road closure.	Approval for temporary closure of a state controlled road.	Department of Environment and Resource Management
Permit to occupy.	Permission to occupy reserve, road or unallocated state land.	Department of Environment and Resource Management
<b>Electricity Act 1994</b>		
Notice of work affecting electricity entity's property	A notice of work will be required if the development impacts on an electricity entity's property.	Department of Mines and Energy
<b>Petroleum and Gas (Production and Safety) Act 2004</b>		
Pipeline licence holder consent required	Refer to sections 807 and 808 of the <i>Petroleum and Gas (Production and Safety) Act 2004</i> (restriction on building or changing the surface of pipeline land for a pipeline licence).	Department of Mines and Energy
<b>Logan Council Local Laws</b>		
Permits required.	A range of Logan Council local laws may be applicable to the proposed development. No representation of the potential local laws affected are made at this time by this development due to the lengthy timeframe of any construction program and the likelihood of local law and planning scheme changes due to the local government changes at the March 2008 Local government elections.	Local Government (Logan City Council)

## 4.7 Conclusion

The regime for planning and preservation of the South East Busway extension from Rochedale to Springwood is governed principally by the *Transport Infrastructure Act 1994* (Queensland). A range of approvals would be required for preservation of the corridor, and future construction activities and operation under the Integrated Planning Act, other state legislation and possibly Commonwealth legislation. These will need to be assessed based upon legislative requirements at the time of construction.