

## 3 Planning and approvals

### 3.1 Part 3A and the project approval process

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On 5 December 2006, the NSW Minister for Planning declared the proposed Tintenbar to Ewingsdale upgrade to be a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) applies. By a separate order made on the same day, the Minister for Planning declared the proposed upgrade to be a critical infrastructure project, on the basis that it was essential to the State for economic or social reasons. (The orders were published in the Government Gazette on 8 December 2006).

The proposed upgrade will, therefore, be assessed under Part 3A as a major project and follow the Part 3A project approval process.

The Part 3A approval process is illustrated in **Figure 3.1**. More information is available from the Department of Planning ([www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)).

If the proposed upgrade is approved under the Part 3A process, the decision on whether or not to proceed with construction rests with the Chief Executive of the RTA.

### 3.2 Other approvals and licences

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#### 3.2.1 NSW Government approvals and licences

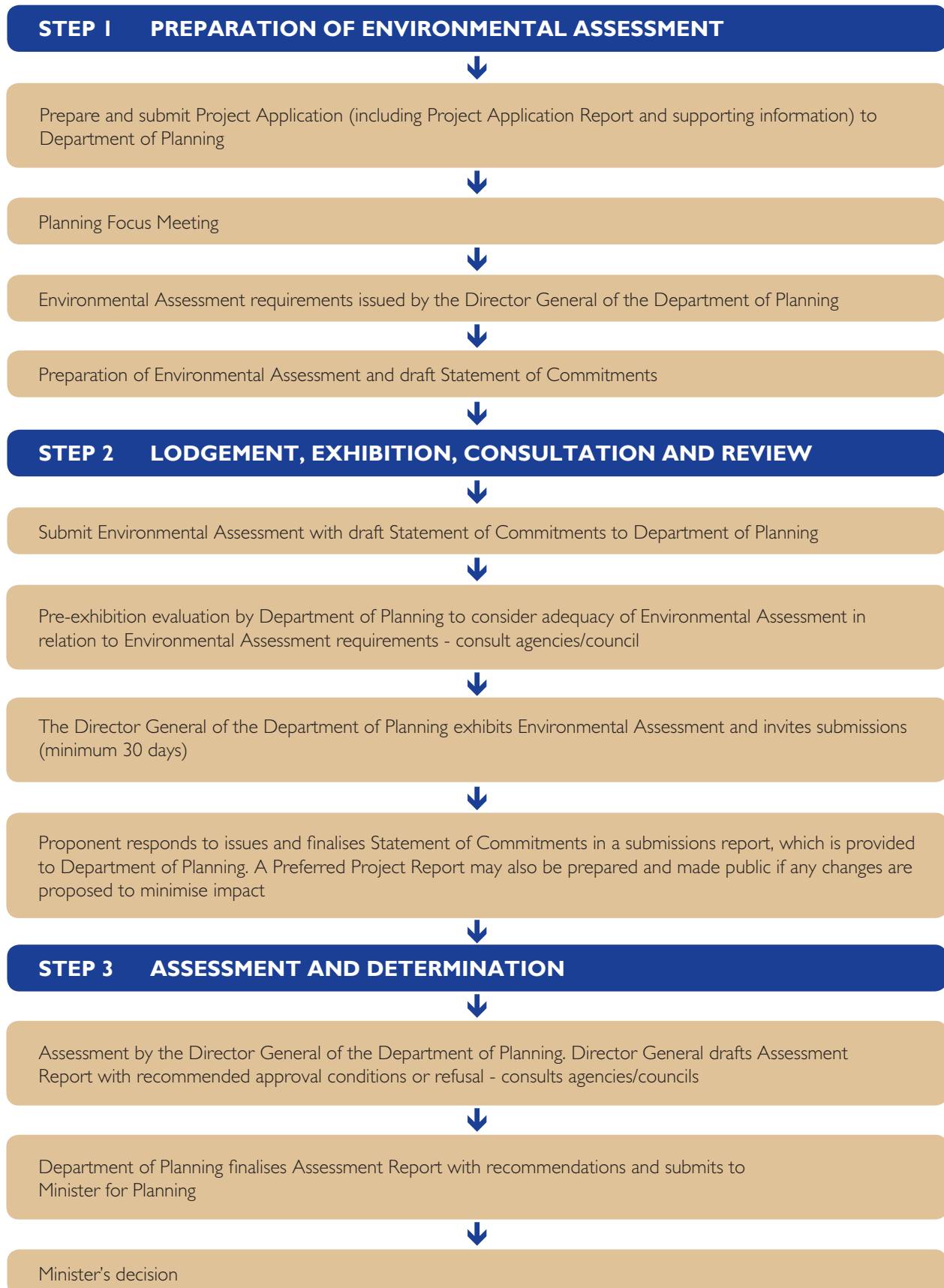
As the proposed upgrade is a scheduled activity, being a freeway or tollway construction outside the metropolitan area and greater than 5 km in length. An environmental protection licence would be required for construction under part 3 of the *Protection of the Environment Operations Act 1997*. Under section 75V of the EP&A Act such a licence cannot be refused if it is necessary for the carrying out of an approved project, and as such authorisations are to be substantially consistent with the Part 3A approval.

Prior to approval, any additional aboriginal archaeological studies that require subsurface investigations would require a permit under section 87 of the *National Parks and Wildlife Act 1974*.

#### 3.2.2 Commonwealth approvals

Based on the results of the ecological assessment (described in **Chapter 12 – Ecology**), it was decided that the proposed upgrade was unlikely to have a significant impact on any of the identified Commonwealth listed threatened and migratory species. Accordingly, the proposed upgrade has not been referred to the Commonwealth Minister for the Environment, Water, Heritage and the Arts for approval under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Figure 3.1 - Part 3A approval process



### 3.3 Other relevant planning instruments

**Table 3.1** summarises other relevant environmental planning instruments relevant to the proposed upgrade. As the proposed upgrade is a Part 3A project these state environmental planning policies, regional environmental plans and local environmental plans do not necessarily apply, however their objectives were considered in the development and assessment of the proposed upgrade.

Table 3.1 - Environmental Planning Instruments

Environmental Planning Instrument	Aim/Purpose	Application/Consistency
<i>State Environmental Planning Policy (Infrastructure)</i>	The policy is to assist in the effective delivery of public infrastructure throughout the State.	> Clause 94 of the Infrastructure SEPP would apply to the development of a road, identifying that such development may be carried out without consent.
<i>State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP44)</i>	SEPP 44 aims to encourage the proper conservation and management of natural koala habitat	> SEPP 44 does not apply to the proposed upgrade. However, the RTA has adopted a similar approach to assessing koala habitat as described under SEPP 44. This assessment in relation to core koala habitat is discussed in <b>Working Paper 4 – Terrestrial flora and fauna assessment.</b>
<i>North Coast Regional Environmental Plan 1988</i>	<p>The North Coast Regional Environmental Plan (NCREP) establishes a regional framework for the development of the NSW North Coast Region.</p> <p>Part 5 of the NCREP identifies the strategic importance of improving regional infrastructure along the NSW North Coast. It recognises the need to safeguard the role and efficiency of the major arterial road system and the need to facilitate maintenance and improvement of transport across the region.</p>	> The proposed upgrade accords with the NCREP in meeting the need to facilitate transport across the region. It is an essential component of the strategic planning for the North Coast region envisaged under the plan.

Table 3.1 (cont)

Environmental Planning Instrument	Aim/Purpose	Application/Consistency
<i>Ballina Local Environmental Plan 1987</i>	The Ballina Local Environmental Plan (LEP) establishes the framework for the range of land use activities that may occur within the Shire. The LEP sets standards and objectives that must be met to obtain development approval.	<ul style="list-style-type: none"> <li>&gt; The southern part of the proposed upgrade is within Ballina local government area (LGA). The proposed upgrade would pass through the following zones under the Ballina Local Environmental Plan:               <ul style="list-style-type: none"> <li>- 1(a1) Rural (Plateau Lands Agriculture)</li> <li>- 1(b) Rural (Secondary Agricultural Land)</li> <li>- 1(d) Rural (Urban Investigations)</li> <li>- 7(c) Environmental Protection (Water Catchment)</li> </ul> </li> <li>&gt; Roads are not prohibited in any of these zones.</li> </ul>
<i>Byron Local Environmental Plan 1988</i>	The Byron LEP is a performance based planning instrument which requires development proposals to demonstrate consistency with its overall aims and objectives as well as specific zone objectives.	<ul style="list-style-type: none"> <li>&gt; The northern part of the proposed upgrade is within Byron LGA. The proposed upgrade would pass through the following zones under the Byron LEP:               <ul style="list-style-type: none"> <li>- 1(a) General Rural Zone,</li> <li>- 1(b) and 1(b2) Agriculture Protection Zones.</li> <li>- 7(d) Scenic Escarpment Zone.</li> <li>- 9(a) Proposed Road Reserve Zone</li> </ul> </li> <li>&gt; Roads are not prohibited in any of these zones.</li> </ul>
<i>New Ballina Local Environmental Plan</i>	Ballina Shire Council has commenced actions for the preparation of a new LEP. It will consider elements of the current LEP as well as reflect the current needs and visions of the Shire including any new ideas or new issues and pressures which may need to be addressed as part of the Shire's future development.	<ul style="list-style-type: none"> <li>&gt; It is understood that a new LEP is unlikely to be adopted before the end of 2009. Consultation with Ballina Council was undertaken regarding the development of the new LEP and the proposed upgrade, with specific regard to remnant land management and building entitlements along the proposed upgrade alignment.</li> </ul>