PEMBROKE

Olive Downs Coking Coal Project

Draft Environmental Impact Statement

Attachment 3

Regulatory Framework

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A3 REGULATORY FRAMEWORK

A3.1 INTRODUCTION

This attachment describes the regulatory framework relevant to the Olive Downs Coking Coal Project (the Project). It discusses the Environmental Impact Assessment process (Section A3.2), Commonwealth legislation (Section A3.3), State legislation (Section A3.4), and local planning provisions (Section A3.5) that are considered to be relevant to the Project.

Relevantly, Pembroke Olive Downs Pty Ltd (Pembroke) will obtain all regulatory approvals required for all components of the Project other than the electricity transmission line (ETL). In respect of the ETL, the Project proponent will obtain the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) approval for this component of the Project, but all other approvals and tenure requirements will be obtained by Energy Queensland. This is the context in which this attachment has been prepared.

References to Sections 1 to 7 in this Attachment are references to the Sections in the Main Report of the Environmental Impact Statement (EIS). Internal references within this Attachment are prefixed with "A3". References to Appendices A to P in this Attachment are references to the Appendices of the EIS.

A3.2 OVERVIEW OF PROJECT APPROVAL PROCESSES

This EIS has been prepared to fulfil the requirements of an EIS in accordance with the provisions of the Queensland *State Development and Public Works Organisation Act 1971* (SDPWO Act) and the EPBC Act.

The SDPWO Act provides for project proposals to be assessed through a public EIS process. The Coordinator-General coordinates a whole of government environmental assessment of a project under Part 4 of the SDPWO Act.

At the completion of the EIS process, the Coordinator-General evaluates the EIS and other material and produces an Evaluation Report under section 34D of the SDPWO Act. The Evaluation Report may make recommendations about the Project and state conditions to be included in approvals required under the Queensland *Environmental Protection Act 1994* (EP Act), the Queensland *Mineral Resources Act 1989* (MR Act) and other State approval processes.

The key steps involved in obtaining approval for the Project (including EIS preparation) are outlined below.

Declaration as a Coordinated Project

Pembroke submitted an application to the Coordinator-General for declaration of the Project as a Coordinated Project under Part 4 of the SDPWO Act on 20 January 2017. The application was supported by an Initial Advice Statement (IAS) which provided an overview of the Project to inform the preparation of Terms of Reference (ToR) for an EIS.

On 17 February 2017 the Coordinator-General declared the Project to be a Coordinated Project for which an EIS is required under Part 4, section 26(1)(a) of the SDPWO Act.

Assessment of Significance under the EPBC Act

Under the EPBC Act, a project requires approval if it has been determined to be a 'Controlled Action' which will have, or be likely to have, a significant impact on a matter of national environmental significance.

The four key Project components were referred to the Commonwealth Department of Environment and Energy (DEE) under the EPBC Act via separate referrals on 24 January 2017, namely:

- EPBC 2017/7867 for the mine site and access road;
- EPBC 2017/7868 for the water pipeline;
- EPBC 2017/7869 for the electricity transmission line (ETL); and
- EPBC 2017/7870 for the rail spur.

On 3 March 2017 the four key Project components referred to the DEE were determined to be 'Controlled Actions' requiring assessment and approval under the EPBC Act.

The proposed actions will be assessed under the assessment bilateral agreement between the Commonwealth government and the State of Queensland (Bilateral Agreement). Under the Bilateral Agreement the SDPWO Act has been has been accredited as an assessment process to meet the requirements of the EPBC Act.

EIS Terms of Reference

Draft ToR for the EIS were prepared by the Coordinator-General and placed on public exhibition from 8 April 2017 until 12 May 2017.

Fifteen submissions from advisory agencies were received on the draft ToR and considered by the Coordinator-General. No submissions from the public were received.

The Coordinator-General published the Final ToR on 28 June 2017 under section 30 of the SDPWO Act.

Preparation of the EIS

Pembroke has prepared this EIS in accordance with the requirements of the Final ToR (Attachment 1). Technical assessment reports were prepared by relevant specialists to assist in determining the environmental impact of the Project (technical assessments available in Appendices A to M).

Peer reviews of key technical assessments, specifically the Groundwater Assessment, Surface Water and Flooding Assessments and Economic Assessment have been conducted (Attachment 5).

Public Consultation

This EIS is to be placed on public exhibition for a period of at least 28 days. Notices will be placed in the *Daily Mercury* (a newspaper circulating in the locality of the operational land), the *Courier Mail* and *The Australian*.

During this period, the public may review the EIS and make submissions to the Coordinator-General. All submissions made on the EIS will be given to Pembroke to provide an opportunity to respond and provide the Coordinator-General with any additional information to the EIS.

EIS Evaluation Report

Under section 34D of the SDPWO Act, the Coordinator-General will produce an EIS Evaluation Report considering all submissions made on the EIS during the public consultation period. The Evaluation Report will assess the adequacy of the EIS in addressing the Final ToR. The Coordinator-General may also make recommendations about the Project and state conditions which should form part of the approvals required for the Project, including for the EA and Mining Leases.

A3.3 COMMONWEALTH LEGISLATION

A3.3.1 Environment Protection and Biodiversity Conservation Act 1999

The EPBC Act provides for the protection of matters of national environmental significance (MNES). An action that is determined to have a significant impact on any MNES is a 'Controlled Action' and is subject to approval under the EPBC Act.

The MNES identified in the EPBC Act are:

- World Heritage properties;
- National Heritage places;
- Wetlands of International Importance (including Ramsar Wetlands);
- listed threatened species and ecological communities;
- listed migratory species;
- Commonwealth marine areas;
- Commonwealth Land;
- Great Barrier Reef Marine Park;
- a water resource, in relation to coal seam gas development and large coal mining development; and
- nuclear actions (including uranium mining).

Actions must also be referred for assessment under the EPBC Act if actions are proposed on, or will affect, Commonwealth Land.

DEE is the administering authority for the EPBC Act.

The four key components of the Project were referred to the DEE for a decision on whether they are Controlled Actions requiring approval under the EPBC Act, namely:

- the mine site and access road (EPBC 2017/7867);
- the water pipeline (EPBC 2017/7868);
- the electricity transmission line (EPBC 2017/7869); and
- the rail spur (EPBC 2017/7870).

On 3 March 2017, DEE determined that the four key components of the Project were Controlled Actions, requiring assessment and approval under the EPBC Act. The controlling provisions for all four key components are sections 18 and 18A (listed threatened species and communities). The mine site and access road also included the following controlling provisions, being sections 24D and 24E (water resources) and sections 20 and 20A (listed migratory species).

In December 2017, Pembroke lodged an application to vary the Action to incorporate the latest Project layout designs for the Olive Downs Project Mine Site and Access Road (EPBC 2017/7867) and the Olive Downs Project Water Pipeline (EPBC 2017/7868). These variations were accepted by the DEE on 17 April 2018.

The potential impacts of the Project on MNES will be assessed under the Coordinator-General's Environmental Impact Assessment process under the SDPWO Act. As that process is accredited under the bilateral agreement (section 45 of the EPBC Act), an assessment under Part 8 of the EPBC Act is not required for the Project.

Following receipt of the Coordinator-General's Evaluation Report, the Commonwealth Minister will consider that report when making the decision whether to grant approval under the EPBC Act.

An EPBC Act Controlling Provisions Assessment is provided in Attachment 4.

A3.3.2 Other Commonwealth Legislation

Native Title Act

Native Title refers to the rights of indigenous people to their traditional land and waters as recognised by the common law.

The Commonwealth *Native Title Act 1993* (NT Act) provides for the recognition and protection of native title rights and interests in Australia and procedures governing the right to be consulted on, or participate in, decisions about future acts.

The main objectives of the NT Act, as defined in section 3 of the Act, are:

(a) to provide for the recognition and protection of native title; and

(b) to establish ways in which future dealings affecting native title may proceed and to set standards for those dealings; and

(c) to establish a mechanism for determining claims to native title; and

(d) to provide for, or permit, past acts, and intermediate period acts, invalidated because of the existence of native title.

The provisions of the NT Act are administered by the Attorney-General's Department.

The NT Act establishes a National Native Title Tribunal (NNTT), which is an independent body established to make decisions regarding whether 'future acts' can proceed and mediates negotiations relating to native title. The NNTT works closely with the Federal Court of Australia.

Pembroke has formed an Indigenous Land Use Agreement (ILUA) with the determined Native Title holders (the Barada Barna People) for consents in relation to the various grants that may affect Native Title and which are required for the development of the Project.

National Greenhouse and Energy Reporting Act 2007

The Commonwealth *National Greenhouse and Energy Reporting Act 2007* (NGER Act) introduced a single national reporting framework for the reporting and dissemination of corporations' greenhouse gas emissions and energy use. The NGER Act makes registration and reporting mandatory for corporations whose energy production, energy use or greenhouse gas emissions meet specified thresholds, outlined in section 13 of the Act.

Pembroke may, during the life of the Project, trigger the threshold value relevant to greenhouse gas emissions (50 kilotonnes per annum) (section 13(1] of the NGER Act). If this is the case, Pembroke will be required to be registered by the National Greenhouse and Energy Register, kept by the Clean Energy Regulator. Pembroke will also be also subject to annual reporting obligations in relation to its:

- GHG emissions;
- energy production;
- energy consumption; and
- any other information specified under the NGER legislation.

A3.4 STATE LEGISLATION

A3.4.1 State Development and Public Works Act 1971

The objective of the SDPWO Act is to facilitate timely, coordinated and environmentally responsible infrastructure planning and development to support Queensland's economic and social progress.

The SDPWO Act gives the Coordinator-General power to declare a project to be a 'Coordinated Project' and coordinate the Environmental Impact Assessment process for the Project. As described in Section 2, the Project has been declared a Coordinated Project under Part 4 of the SDPWO Act.

Under the SDPWO Act, a coordinated project can also be declared a 'Prescribed Project' if it is, amongst other things, a project which the Minister considers is of economic significance to the State or the region in which the project is to be undertaken or if it affects an environmental interest of the State or a region. This declaration empowers the Coordinator-General, if necessary, to intervene in the approvals process to ensure timely decision-making for the Prescribed Project.

A3.4.2 Environmental Protection Act 1994

The objective of the EP Act, as set out in section 3 of the 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 the ecological processes on which life depends (ecologically sustainable development).*

Environmental Authority

The EP Act regulates prescribed environmentally relevant activities (ERAs) and resource activities (which includes a mining activity) through the issuing of EAs and the enforcement of the conditions of granted authorities.

The *Environmental Protection Regulation 2008* (EP Regulation) prescribes ERAs (other than mining activities) that would, or have the potential to, release contaminants into the environment which may cause environmental harm.

The ERAs listed in Schedule 2 of the EP Regulation proposed to be undertaken as part of the Project are identified in Table A3-1, with corresponding aggregate environmental scores (AES) (these activities are ancillary activities proposed to be carried out as part of the resource activity of mining black coal).

The EA for the Project would seek to authorise mining activities including the ERAs listed in Table A3-1.

Pembroke will lodge an EA application in accordance with section 125 of the EP Act, together with its application for the mining leases required for the Project. The information contained within this EIS addresses the requirements for an EA application listed in section 125 of the EP Act.

The Department of Environment and Science (DES) will make a decision on issuing a draft EA for the Project. The draft EA must include any stated conditions included in the Coordinator-General's Evaluation Report.

Notice of a decision by DES to approve the draft EA must be provided to the applicant and submitters.

Any person who makes a properly made submission during public notification of the EIS may request its submission be taken to be an objection to the EA application. If a submitter gives an objection notice to the administering authority (DES), the grant of the EA application must be referred to the Land Court for consideration. After the Land Court hears any objection, the Court will make its recommendation to DES, and will give a copy of its decision to the Mining Minister and the State Development Minister. DES will consider the recommendation of the Land Court (and any advice from the Mining Minister and the State Development Minister), before a final decision is made on the grant of an EA.

Plan of Operations

Section 287 of the EP Act states that activities cannot be carried out under an EA for a mining lease unless the proponent has provided the DES with a current Plan of Operations.

The purpose of the Plan of Operations is to:

- describe all mining activities that would be undertaken on the project site during the period of the plan;
- propose an action plan for complying with the EA conditions;
- propose a rehabilitation program for significantly disturbed land during the period of the plan;

- propose an amount of financial assurance; and
- describe compliance with EA conditions.

Pembroke would prepare a Plan of Operations to be submitted to DES at least 20 business days prior to commencement of any mining activities.

Notifiable Activities

Activities that have been determined as having the potential to cause land contamination, otherwise known as 'notifiable activities', are listed in Schedule 3 of the EP Act. Under section 371 of the EP Act, DES may record particulars of land in the Environmental Management Register at any time if it is satisfied that a notifiable activity has been or is being carried out on the land.

Table A3-2 identifies the notifiable activities that are likely to be undertaken as part of the Project.

Mineral and Energy Resources (Financial Provisioning) Bill 2018

On 15 February 2018, the Queensland government introduced the *Mineral and Energy Resources (Financial Provisioning) Bill 2018* to Parliament (Bill).

The Bill proposes to reform the environmental bond (financial assurance) and rehabilitation of mining regulation in Queensland.

If passed:

- the current environmental bond (i.e. financial assurance system) will be replaced with a financial provisioning scheme, including a Financial Provision Fund; and
- mining operators will be required to have a 'progressive rehabilitation and closure plan' (PRC Plan) that will include a 'PRCP Schedule' which will specify binding and enforceable milestones for mine rehabilitation.

At the time of this EIS being prepared the Economics and Governance Parliamentary Committee had recommended that the Bill be passed, but it had not yet been passed by Government.

If the Bill is passed, the Project will comply with the requirements of amended EP Act, as it applies to the Project.

Table A3-1
Environmentally Relevant Activities to be conducted for the Project

ERA		Aggregate Environmental Score (AES)
Schedule 2A		
• ERA 13 – Mining Black Coal		128
Schedule 2		
• ERA 8 – Chemical Storage	8[1][c] 500m^3 or more of chemicals of class C1 or C2 combustible liquids under AS 1940 or dangerous goods class 3	85
• ERA 31 – Mineral Processing	CHPP	148
• ERA 63 – Sewage Treatment	63[1][b][i] operating sewage treatment work, other than no-release works, with a total daily peak design capacity of more than 100 but not more than 1,500EP	27

Notes: m^3 = cubic metres
AS = Australian Standard
EP = equivalent persons

Table A3-2
Notifiable Activities to be conducted at the Project

Notifiable Activity	Location
7 Chemical storage (other than petroleum products or oil under item 29)	Chemical storage areas and workshops
15 Explosives production or storage	Explosive magazine
24 Mine Wastes	Waste rock emplacements, tailings storage facility
29 Petroleum product or oil storage	Fuel facility and workshops
37 Waste storage, treatment or disposal	Sewage treatment facility

A3.4.3 Mineral Resources Act 1989

The objects of the MR Act are to:

- encourage and facilitate prospecting and exploring for and mining of minerals;
- enhance knowledge of the mineral resources of the State;
- minimise land use conflict with respect to prospecting, exploring and mining;
- encourage environmental responsibility in prospecting, exploring and mining;
- ensure an appropriate financial return to the State from mining;
- provide an administering framework to expedite and regulate prospecting and exploring for and mining of minerals; and
- encourage responsible land care management in prospecting, exploring and mining.

The MR Act provides for the granting, conditioning and management of mining tenements, being prospecting permits, exploration permits, MDL, ML and mining claims. DNRME is the administering authority for the MR Act.

Under Part 3, section 4A of the MR Act, development authorised under the MR Act is not subject to the provisions of the Queensland *Planning Act 2016* (Planning Act), with the exception of building work under the *Building Act 1975* and development on heritage land under the *Queensland Heritage Act 1992.*

Mining Leases and Specific Purpose Mining Leases would be required under the MR Act for the operational land within MDL 3012, MDL 3013, MDL 3014, MDL 3025, EPC 676, EPC 649, EPC 1949 and EPC 1951. Parts of the Specific Purpose MLs would also cross land where mining tenements are not currently held by Pembroke.

After the Mining Lease and Specific Purpose Mining Lease applications have been publicly notified, any person may object to the application for the grant of the mining leases prior to the last objection day.

All properly made objections must be referred to the Land Court. The Land Court will then hear the matter before deciding whether to recommend the grant or refusal of the Mining Lease or Specific Purpose Mining Lease applications. The Land Court will normally hear objections to the grant of the mining lease together with any objections under the EP Act relating to the associated application.

The Minister must consider the Land Court's recommendation and matters under section 269(4) of the MR Act before deciding the application.

Pembroke will be liable to compensate landowners within the Mining Lease area. If compensation cannot be agreed, the Land Court will determine the amount of compensation to be paid to those landowners.

A3.4.4 Mineral and Energy Resources (Common Provisions) Act 2014

The Queensland *Mineral and Energy Resources (Common Provisions) Act 2014* (MERCP Act) includes a new statutory regime regulating overlapping coal tenures and petroleum tenures. As the proposed Mining Leases for the Project will be overlapped by existing petroleum exploration tenures and an existing Petroleum Lease Application (PLA 488) held by companies related to Arrow Energy Pty Ltd and its co-holders (the Petroleum Party), Pembroke must comply with the MERCP Act.

Broadly, Pembroke must:

- notify the Petroleum Party of its mining commencement dates in accordance with the statutory timeframes;
- agree a joint development plan with the Petroleum Party, in respect of the petroleum lease application;
- offer the Petroleum Party any incidental coal seam gas to be extracted from coal seams in the overlapping tenements area;
- attend meetings (at least once per year) with the Petroleum Party to discuss matters relating to their overlapping coal and petroleum projects (including safety considerations) and exchange information to optimise the development and use of coal and coal seam gas resources in the overlapping area.

Pembroke has engaged with Arrow Energy Pty Ltd regarding the terms of a Joint Development Plan in accordance with the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERCP Act). The Joint Development Plan will be formed as part of the mining lease application process for the Project and will describes the activities proposed to be carried out in the overlapping tenure area by the mining and petroleum lease holders. It is expected that the parties will formally enter into the Joint Development Plan in or around early June 2018.

A3.4.5 Planning Act 2016

The Planning Act establishes a framework for planning and development in Queensland. In addition to the Planning Act, the Queensland *Planning Regulation 2017,* the Broadsound Planning Scheme adopted on 21 September 2005 and the Belyando Planning Scheme adopted on 20 January 2009 may regulate development activities.

Where activities and infrastructure are proposed outside the area of a Mining Lease or Specific Purpose Mining Lease, the Planning Act, associated regulations, planning schemes and policies need to be considered and where required, development approvals obtained.

Project components located outside a Mining Lease or Specific Purpose Mining Lease include the western part of the pipeline (from where it exits MLA 700035 to where it joins the existing Eungella Pipeline Network), the ETL and the intersection between the Fitzroy Development Road and the Willunga Domain access road.

Under the Broadsound Planning Scheme, the land use of the development of the pipeline is considered to be 'utility (local)'. Development of land for a 'utility (local)' use in a 'Rural preferred use' area (within which the pipeline would be located) is exempt development, meaning that a development approval is not required for a material change in use.

Under the Belyando Planning Scheme, development involving water cycle management infrastructure, including infrastructure for water supply, is exempt development. Accordingly, the western part of the water pipeline, where it is located within the Belyando Planning Scheme, would not require a development approval.

A development approval will be required for any clearing of native vegetation required for the pipeline (from where it exits MLA 700035 to where it joins the existing Eungella Pipeline Network). This EIS assesses clearing of native vegetation associated with this part of the pipeline. Pembroke is seeking development approval for this using the assessment contained in this EIS.

Any approvals under the Planning Act for the ETL would be obtained by Energy Queensland and are not sought through this EIS.

A development application for the new vehicular access to the Fitzroy Development Road (a State Controlled Road) would be made prior to commencement of construction of the Willunga Domain (anticipated to be in 2027). This application would be taken to be an application for vehicular access to a State Controlled Road under section 62 of the Queensland *Transport Infrastructure Act 1994* (TI Act) (Section A3.4.6). Approval for this Project component is not being sought through this EIS.

A3.4.6 Other State Legislation

Water Act 2000

The Queensland *Water Act 2000* (Water Act) provides for the sustainable management of water and other resources and the establishment and operation of water authorities. The DNRME is the administering authority for much of the Water Act.

Under section 808 of the Water Act, a person must not take, supply or interfere with water unless authorised.

The Project is located within the Fitzroy River Catchment and is therefore subject to the Water Plan (Fitzroy Basin) 2011. Section 110 of the Water Plan (Fitzroy Basin) 2011 regulates the taking of overland flow water from within the Fitzroy Basin, by virtue of section 101 of the Water Act, however, in accordance with section 100 of the Water Act, an authorisation granted under section 97 of the Water Act is not limited or altered by the Water Plan (Fitzroy Basin) 2011.

Section 97(1) of the Water Act provides a general statutory authorisation for a person to take overland flow water that is not more than the volume necessary to satisfy the requirements of an environmental authority if:

1. the impacts of the take or interference were assessed as part of a grant of an EA; and
2. the EA was granted with a condition about the take of interference with water.

The Surface Water Assessment prepared for this EIS (Appendix E and summarised in Section 4.3) has assessed the impacts of the take of overland flow water for use within the site water management system as required for the Project operations. This includes the take and interference of overland flow water entering the water storage dams and up-catchment diversions. Pembroke will seek an EA with a condition permitting the take or interference with this water.

Therefore, Pembroke will be authorised to take the volume of overland flow water that is required for their operations as approved under the EA.

Provided the underground water management framework under is complied with, section 334ZP of the MR Act gives resource operators the right to take 'associated water' as a necessary activity in the process of extracting the resource. The volume of any 'associated water' taken must be measured and reported, with the Chief Executive of the DNRME notified within three months of the initial taking.

Pembroke has applied for two licences for the take of 65 ML of unallocated general reserve water from the Isaac River. If successful in obtaining these licences, it is anticipated that this water would be used for construction activities and to supplement the operational water supply, if required. DNRME's decision on whether the licences will be granted is expected in late 2018.

Nature Conservation Act 1992

The Queensland *Nature Conservation Act 1992* (NC Act) and its associated Regulations set up a framework for the management and conservation of threatened species in Queensland and for the management of protected areas (such as National Parks). DES is the administering authority for much of the NC Act.

Permits and licences may be required to authorise impacts to or the handling of native flora and fauna, unless an exemption applies. Matters regulated under the NC Act may also be addressed in the conditions of an EA granted for the Project.

A 'near threatened' plant species is located along the ETL corridor, and the ETL corridor is located within a 'high risk' area on the flora survey trigger map. A Protected Plant Clearing Permit may be required if impacts to this species are required as part of the ETL construction. If required (to be determined following detailed design of the ETL), Energy Queensland would apply for this permit.

No other endangered, vulnerable or near threatened plant species (under the NC Act) are located within the Project disturbance area.

Pembroke would prepare a Species Management Program (under section 332 of the *Nature Conservation [Wildlife Management] Regulation 2006*) for approval by DES prior to disturbing animal breeding places.

Vegetation Management Act 1999

The Queensland *Vegetation Management Act 1999* (VM Act) is administered by the DNRME and in conjunction with the Planning Act, regulates the clearing of native vegetation in Queensland. Under the VM Act, clearing of remnant vegetation will require approval under the Planning Act unless an exemption applies, such as where clearing is carried out for a mining activity on a Mining Lease or Specific Purpose Mining Lease.

The VM Act does not apply to mining activities undertaken on Mining Leases as the consideration of impacts on native vegetation is addressed in the EIS process and regulated by the conditions of the EA. However, obligations associated with clearing native vegetation under the VM Act will be relevant to any activities undertaken outside the area of a Mining Lease or Specific Purpose Mining Lease.

A development approval will be required for any clearing of native vegetation required for the pipeline (from where it exits MLA 700035 to where it joins the existing Eungella Pipeline Network).

Aboriginal Cultural Heritage Act

The main purpose of the Queensland *Aboriginal Cultural Heritage Act 2003* (ACH Act) is to provide for the effective recognition, protection and conservation of Aboriginal and Torres Strait Islander cultural heritage.

Under section 23(1), the ACH Act places 'duty of are' obligations on all persons to take all reasonable and practicable measures to ensure that their activities do not harm Aboriginal cultural heritage. A proponent will be taken to have complied with their duty of care if they are acting under an approved Cultural Heritage Management Plan (CHMP) or a native title agreement (such as an ILUA) or other agreement with an Aboriginal party.

As an EIS is required for the project, under section 87 of the ACH Act, it is mandatory that a CHMP be developed and be approved (by the chief executive of the Department of Aboriginal and Torres Strait Islander Partnerships), unless cultural heritage matters are dealt with under an ILUA or other form of native title agreement.

Pembroke has formed a CHMP with the Barada Barna Aboriginal Corporation. The CHMP was entered into in mid-June 2018 and has been submitted for approval pursuant to section 107 of the ACH Act by the Department of Aboriginal and Torres Strait Islander Partnerships.

Transport Infrastructure Act 1994

The overall objective of the TI Act is to provide a regime that allows for, and encourages, effective integrated planning and efficient management of a system of transport infrastructure.

Approval from Department of Transport and Main Roads (DTMR) is required under the TI Act if a project interferes with a State Controlled Road. The Project would require construction of an intersection on the Fitzroy Development Road (a State Controlled Road) to access the Willunga Domain (Section 2.4.1). This intersection would be constructed prior to commencement of construction of the Willunga domain (anticipated to be in 2027).

Pembroke would apply to the DTMR under section 33 of the TI Act for approval of works to construct an intersection with the Fitzroy Development Road. Pembroke is not seeking this approval as part of this EIS process, rather it would be applied for closer to the construction date,

Pembroke would review and update as required the pavement impact assessment conducted as part of the Road Transport Assessment presented in this EIS (Appendix J) prior to construction of the Fitzroy Development Road intersection.

Building Act 1975

The Queensland *Building Act 1975* regulates building work, classifications and approvals in Queensland. It is used to determine when a development requires a building approval to proceed. It is administered by the Department of Housing and Public Works.

Building work that is authorised under MR Act is considered an 'accepted development' if it complies with the relevant provisions of the Building Code of Australia published by the Australian Building Codes Board and the Queensland Development Code published by the Department of Housing and Public Works and stated in Schedule 1 of the *Building Act 1975*. Building work performed on a Mining Lease can be performed without obtaining a development approval if the work is consistent with these Codes.

Land Act 1994

The Queensland *Land Act 1994* (Land Act) provides a framework for the allocation of State land as leasehold, freehold or other tenure and provides for its management.

The Land Act also regulates the grant, lease and permitting of Unallocated State Land and reserves and roads.

Pembroke will submit an application to temporarily or permanently close a road under the Land Act, associated with the development of the water pipeline.

DNRME is generally responsible for administering the Land Act.

Waste Reduction and Recycling Act 2011

The Queensland *Waste Reduction and Recycling Act 2011* (WRR Act) sets out a Waste and Resource Management Hierarchy framework for prioritising waste management practices in a structured order.

Specifically, Chapter 8 and Chapter 8A contain provisions relating to the 'end of waste' framework that allows for certain wastes to be 'reused' as a resource. A resource that has been approved under the Beneficial Use of Waste Approval is not considered waste under the EP Act.

DES is responsible for administering the WRR Act.

Regional Planning Interests Act 2014

The Queensland *Regional Planning Interests Act 2014* (RPI Act) manages development on areas of regional interest in Queensland. These include priority agricultural areas, priority living areas, strategic cropping areas (formerly Strategic Cropping Land) and strategic environmental areas.

The Project is not located within an area of regional interest and accordingly a development approval under the RPI Act is not required.

Queensland Heritage Act 1992

The *Queensland Heritage Act 1992* governs the conservation of Queensland's non-aboriginal cultural heritage and establishes the Queensland Heritage Council as an independent statutory authority.

The Queensland Heritage Council provides advice on strategic and high priority matters relating to Queensland's Heritage and administers the Queensland Heritage Register, which records sites of heritage significance in Queensland.

Approvals under the *Queensland Heritage Act 1992* are only required if a heritage site will be disturbed by mining activities in the course of the Project. There are no sites within the Project area that have been identified as having heritage significance under the *Queensland Heritage Act 1992* (Appendix N).

Fisheries Act 1994

The *Fisheries Act 1994* governs the use, conservation and enhancement of Queensland's fisheries, resources and fish habitats. Development approvals under the Planning Act may be triggered under the *Fisheries Act 1994* for aspects of the Project that involve, either:

- disturbance of protected marine plants; or
- construction of temporary or permanent waterway barriers.

'Waterway barrier works' are defined in the *Fisheries Act 1994* to mean a dam, weir or other barrier across a waterway if the barrier limits fish stock access and movement along a waterway. Whether development approvals are required will depend upon the detailed design of the barrier works, whether they comply with the *Accepted development requirements for operational work that is constructing or raising waterway barrier works*, (Department of Agriculture and Fisheries [DAF], 2017), and whether the works are on-lease or off-lease.

The only Project components located off-lease are the ETL and the western part of the pipeline. Any waterway barrier works required for these components would be designed in accordance with the DAF's requirements, and would be subject to separate approval (not being sought through this EIS process).

DAF is responsible for administering the *Fisheries Act 1994*.

Offsets Framework

The following material governs the Queensland Environmental Offsets Framework:

- the Queensland *Environmental Offset Act 2014* (EO Act);
- the Queensland *Environmental Offsets Regulation 2014* (EO Regulation); and
- the *Queensland Environmental Offsets Policy 2017* (Version 1.4).

The DES is the administering authority for the EO Act.

The EO Act provides for environmental offsets to counterbalance significant residual impacts of particular activities on particular matters of national, State or local environmental significance and to establish a framework in relation to environmental offsets. Under section 10, prescribed environmental matters are defined to include:

- a matter of national environmental significance;
- a matter of State environmental significance; and
- a matter of local environmental significance.

However, section 15 of the EO Act states that an administering agency may impose an offset condition on an authority only if the same or substantially the same impact has not already been assessed under the relevant Commonwealth legislation.

The offset strategy for the Project is described in Section 3.1 of the EIS main text.

A3.4.7 Policies and Provisions

State and Regional Planning Policies

State and regional planning instruments are also prepared and identify critical planning matters for the State. Local governments are required to consider these in the preparation of their planning schemes.

The State Planning Policy (SPP) is a key component of Queensland's land use planning system. The SPP expresses the state's interests in land use planning and development to be given effect through local government planning schemes. The relevant local government planning schemes that apply to the Project are described in Section A3.4.5.

The State Development Assessment Provisions (SDAP) provide assessment benchmarks for the assessment of development applications under the Planning Act. As described in Section A3.4.5, where activities and infrastructure are proposed outside the area of a Mining Lease or Specific Purpose Mining Lease, the Planning Act, associated regulations, planning schemes and policies need to be considered and where required, development approvals obtained.

Project components located outside a Mining Lease or Specific Purpose Mining Lease include the western part of the pipeline (from where it exits MLA 700035 to where it joins the existing Eungella Pipeline Network), the ETL and the intersection between the Fitzroy Development Road and the Willunga Domain access road.

The assessment of native vegetation clearing required for construction of the water pipeline, where it is located outside a mining tenement (and hence requires a development approval) has considered the performance outcomes and acceptable outcomes of the *State Code 16: Native vegetation clearing*.

A development approval will be required for the intersection between the Fitzroy Development Road and the Willunga Domain access road. The application for this approval (to be made separately, prior to construction) will consider the performance outcomes and acceptable outcomes of the SDAP *State Code 1: Development in a state-controlled road environment*.

In addition to the SPP and the SDAP, the regional plan for the Project area is the Mackay, Isaac and Whitsunday Regional Plan. Consideration of the Mackay, Isaac and Whitsunday Regional Plan is given in Section 3.10 of the Main Report of the EIS.

Environmental Protection Policies

In Queensland there are three environmental policies that are developed under the EP Act. These are in relation to air, noise and water. Each of these policies provide a framework to manage development in an ecologically sustainable manner.

Activities with environmental impacts associated with the Project will be conducted with regard to these policies.

A3.5 LOCAL PLANNING

The Project is located within the Isaac Regional Council. Currently this region is governed by three different planning schemes being the Belyando Planning Scheme 2009, the Nebo Planning Scheme 2008 and the Broadsound Planning Scheme 2005. However, a new planning scheme is being prepared to provide one local planning framework for this region. The new Isaac Regional Planning Scheme is expected to be complete in 2018.

The Project will also comply with Isaac Regional Council's Local Laws and Subordinates, which include Local Laws regulating the carrying out of works on a road or interfering with its operation.