

## 3 PROJECT APPROVALS

### 3.1 INTRODUCTION

The purpose of the Chapter is to summarise the key approvals for the Project, under Commonwealth, State, and local government legislation. Each relevant legislative instrument is discussed with regard to its overall objective and any implications it has for the Project, particularly with regard to mining leases and development.

Supporting the detail contained in this Chapter 3 is an approvals matrix, contained in Appendix 3-1-V1.4 of the EIS. Note that references to figures and documents ending in V1.4 may be found in Volume 1, Book 4 of the EIS).

This chapter provides a broad list of the likely approvals required for the Project, including details on the approval's applicability, administering authority and other pertinent details. It will be used for managing the procurement of Project approvals.

Chapter 3 of Volumes 2, 3 and 4 of the EIS outline the specific approval requirements for the proposed southern coal seam methane (CSM) water supply pipeline, the proposed western CSM water supply pipeline, and the proposed Glebe Weir raising respectively.

Details regarding the overall EIS approval process for the Project are contained in Chapter 1 Introduction.

### 3.2 COMMONWEALTH LEGISLATION

#### 3.2.1 *ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999*

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) establishes a process for environmental assessment and approval of proposed actions that have, or are likely to have a significant impact on matters of national environmental significance (NES) or on Commonwealth land. Such an action is a '*controlled action*'. It is an offence to undertake a '*controlled action*' without the approval of the Commonwealth Minister responsible for the legislation.

The Department of the Environment, Water, Heritage and the Arts (DEWHA) administers the EPBC Act. Parties proposing to undertake what they consider may be a controlled action, must refer details of the action to the Commonwealth Minister for a decision as it is a controlled action.

Four inter-related referrals to assess the Project's potential impact on matters of NES were referred to the Minister for DEWHA on 23 June 2008 with a nomination that the Project was a controlled action because of its potential impact on five matters of NES (refer to Chapter 17 Ecology and TR 17A-1-V1.5 of Volume 1 of the EIS (Matters of National Environmental Significance) for further discussion of controlling provisions under the EPBC Act and for details on these referrals).

On 21 July 2008, the Commonwealth Minister determined that all four referrals are controlled actions, for which:

- the relevant controlling provisions for all four referrals were Sections 18 and 18A (listed threatened species and ecological communities)
- in relation to the Referral for the Glebe Weir raising only, the additional relevant controlling provisions were sections 20 and 20A relating to listed migratory species.

Therefore the environmental impact of the Project will require assessment through an accredited process, in this instance being an EIS, pursuant to Part 4 of the *State Development and Public Works Organisation Act 1971* (SDPWO Act) and subsequent approval under the EPBC Act (refer to Chapter 1 of the EIS for further details).

The bilateral agreement between the Commonwealth and the State of Queensland recognises the EIS process under the SDPWO Act as an accredited process for the purposes of assessment of environmental impacts for the EPBC Act. This EIS process will be used for the Project.

The Department of Infrastructure and Planning, on behalf of the Coordinator-General (CG), will manage the EIS process for the Project.

After completion of the EIS assessment process, a report evaluating the EIS is prepared by the Coordinator-General and provided to the Commonwealth Minister. The Commonwealth approval process under the EPBC Act then commences and the Commonwealth Minister will make a decision on the controlling provisions for each of the controlled actions.

### 3.2.2 *NATIVE TITLE ACT 1993*

The *Native Title Act 1993* (Cth) recognises native title rights and provides the government with ways in which to validate or legitimise past acts such as granting of leases.

This legislation provides for the determination of native title claims, the treatment of future acts which may impact on native title rights and the requirement for consultation and/or notification to relevant native title claimants, where future acts are involved.

It is noted that the Iman People No. 2 (National Native Title Tribunal No. QC97/55; Federal Court No. QUD 6162/98) are registered as the native title claimants over the Project area.

The WJV has requested that the State initiate the 'right to negotiate' process under section 29 of the *Native Title Act 1993* (Cth) in respect of the mining leases. In relation to the gas supply pipeline route, if it cannot be determined that native title has been extinguished on the basis of tenure over the entirety of the pipeline area, the WJV will follow the relevant future act requirements under the *Native Title Act 1993* (Cth).

### 3.2.3 *ABORIGINAL AND TORRES STRAIT ISLANDER HERITAGE PROTECTION ACT 1984*

The purpose of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth) (ATSHPA), as described under part I, item 4 of the Act, is to provide for the protection of places, precincts and items of particular cultural significance to indigenous people in accordance with their traditions.

The ATSHPA enables traditional owners to make an application to the DEWHA to declare certain areas or objects as protected. The WJV is obligated to ensure that an area or an object declared under part II division 1 or division 2 of the ATSHPA is protected or preserved.

Furthermore, in accordance with part II, division 3, section 20 of the ATSIHPA, where the WJV discovers anything that they have *'reasonable grounds to suspect to be Aboriginal remains'* they will need to report the *'discovery to the Minister, giving particulars of the remains and of their location'*.

#### 3.2.4 AIRPORTS ACT 1996 AND CIVIL AVIATION ACT 1988

The airport and civil aviation operational requirements for the Project are to be identified, and appropriate approvals sought, to ensure that any aviation facilities developed for the Project comply with legislation and standards. At the time of drafting this EIS, one of the operations workforce transport options under consideration by the WJV is the development of a 'greenfield' airport on or adjacent to a proposed mining lease area, or upgrade of the existing Taroom Aerodrome.

The approvals required for the aviation facility will depend on how it is classified under Federal legislation and Standards. Different approvals will be required depending upon whether the facility constitutes an *'airport'*, *'aircraft landing area'*, *'licensed aerodrome'* or other such facility.

The scope of the approvals required under these Acts will be determined when the nature and scale of the Project aviation facility is finalised.

### 3.3 STATE LEGISLATION

#### 3.3.1 STATE DEVELOPMENT AND PUBLIC WORKS ORGANISATION ACT 1971

The SDPWO Act provides for 'state planning and development through a coordinated system of public works organisation, for environmental coordination and for related purposes' to facilitate large projects in Queensland.

On 21 December 2007, the project was declared a significant project for which an EIS is required, pursuant to section 26(1)(a) of the SDPWO Act. On 22 August 2008, the CG publicly notified and invited comments on the draft terms of reference for the EIS. The terms of reference were subsequently finalised by the CG, after having regard to comments received within the comment period.

The EIS has been prepared and publicly notified by the WJV.

The following steps are required to complete the EIS:

- submissions received in relation to the public notification of the EIS will be provided to the WJV
- the CG may request that the WJV provides additional information about the environmental effects or other matters related to the project
- the WJV must prepare a supplementary report which addresses comments received and additional information requested by the CG
- the CG must prepare a report evaluating the EIS and supplementary report.

The CG must provide a copy of the report evaluating the EIS and supplementary report to the WJV and must publicly notify that report by placing it on the Department of Infrastructure and Planning's website.

The CG's report is also given to the Commonwealth Minister for Environment, Heritage and the Arts for approval of the controlled actions under the EPBC Act.

The WJV is required to obtain a number of Queensland statutory approvals for the Project. The CG'S Report may include conditions for:

- the proposed mining lease under the *Mineral Resources Act 1989*
- the draft environmental authority under the *Environmental Protection Act 1994* for the proposed environmental authority (mining activities)
- any Project development applications that would be assessed using the Integrated Development Assessment System under *the Integrated Planning Act 1997*<sup>1</sup>
- the proposed pipeline licence under the Petroleum and Gas (Production and Safety) Act 2004.

Further details on the approvals required under the legislation above are outlined in the following Sections of the EIS.

### 3.3.2 MINERAL RESOURCES ACT 1989

The *Mineral Resources Act 1989* (MR Act) provides for the 'assessment, development and utilisation of mineral resources to the maximum extent practicable consistent with sound economic and land use management'. The principal objectives of the MR Act can be summarised as being to encourage and facilitate mining of minerals and encourage environmentally responsible mining, including responsible land care management.

With particular relevance to the Project, the MR Act also establishes a framework to facilitate mining-related activities, through the granting (by the Department of Mines and Energy) of prospecting and exploration permits, mineral development leases, and mining leases.

The WJV already holds two mineral development licences over the parts of the area to be covered by the MLAs. This EIS supports an application for the Project's three mining leases under part 7 of the MR Act, being MLA 50299, MLA 50230 and MLA 50231.

### 3.3.3 INTEGRATED PLANNING ACT 1997

The purpose of the *Integrated Planning Act 1997* (IPA) is to seek ecological sustainability by:

- coordinating and integrating planning at the local, regional and State levels
- managing the process by which development occurs
- managing the effects of development on the environment (including managing the use of premises)'.

The IPA provides a framework for planning and development assessment in Queensland. It is applicable to the Project where development is 'assessable development' under schedule 8 of the IPA (to the extent it is not otherwise exempt or self-assessable under the Planning Scheme for Taroom Shire, 2006). Such development applications will be assessed

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<sup>1</sup> Note also that section 37 of the SDPWO Act identifies the relationship of the EIS assessment process under the SDPWO Act to that of the Integrated Development Assessment System under the *Integrated Planning Act 1997*.

using the Integrated Development Assessment System (IDAS) process which is set out under chapter 3 of the IPA.<sup>2</sup>

### **IDAS Development Applications**

The requirements for approvals under a number of State Acts have been brought within IDAS, so that the approvals process is undertaken using IDAS while the assessment requirements and criteria are generally taken from the other legislation (e.g. Operational Works (Clearing Vegetation) under the *Vegetation Management Act 1999*).

An aspect of the Project will require an approval under the IPA if it involves 'development' (as defined under section 1.3.2 and section 1.3.5 of the IPA). However, schedule 9, table 5, items 1 and 2 respectively of the IPA exempt from assessment against a planning scheme:

- all aspects of development for mining and petroleum activities authorised under the *Minerals Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004*
- all aspects of development for a mining activity to which an environmental authority (mining activities) under the *Environmental Protection Act 1994* applies.

Accordingly, where a material change of use of premises, reconfiguring a lot, and operational works are proposed on a mining lease, these are deemed to be exempt from assessment against any planning scheme.

With regards to areas off the mining leases, the above exemptions do not apply. Accordingly, development off a mining lease may constitute 'assessable development' (for which a development application is required) under the IPA and this is determined by:

- schedule 8, part 1 of the IPA
- where not specified in schedule 8, part 1 of the IPA, as declared under the Planning Scheme for Taroom Shire 2006.

The WJV will submit (where required) the development applications for any development outside the mining lease area.

#### **3.3.4 BUILDING ACT 1975**

The purpose of the *Building Act 1975* (BA) is, amongst other things, to regulate building development approvals, building work, building classification and building certifiers.

Under section 319 of the MR Act, carrying out building work for development authorised under the MR Act, is regarded as 'self-assessable' for the purposes of the IPA (i.e. a development application is not required), subject to compliance with section 21(1)(b) of the BA.

Where the WJV proposes building works off a mining lease, a development application for carrying out building works will be lodged for all development not otherwise declared to be self-assessable building work or exempt development under schedule 2 and schedule 3 respectively of the Building Regulation 2006.

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<sup>2</sup> Chapter 2, part 6 of the IPA contains provisions for the designation of land for community infrastructure. This process may be warranted for Project components with a 'regional scale' such as pipelines or transmission lines. However, it was considered too premature to identify such Project components at the time of EIS preparation.

### 3.3.5 ENVIRONMENTAL PROTECTION ACT 1994

The *Environmental Protection Act 1994* (EP Act) provides the key legislative framework for environmental management and protection in Queensland.

The EP Act utilises a number of mechanisms to achieve its objectives. Those which are relevant to this Project include:

- the Environmental Protection Regulation 1998 which identifies environmentally relevant activities that require an approval, provides for protection against environmental nuisance and gives effect to the National Pollutant Inventory and National Environmental Protection (Used Packaging Materials) Measure<sup>3</sup>
- Environmental Protection Policies (EPPs) for water, noise, air and waste management
- establishing a general environmental duty.

In reference to the Project, Chapter 5 of the EP Act establishes a process for obtaining an environmental authority (EA) for mining activities. A Level 1 EA (mining activities) is applicable to the Project. In addition, an Environmental Management Plan (EM Plan) is also required under section 201 of the EP Act.

Under the EP Act, the Environmental Protection Agency is the regulatory authority which has responsibility for granting the EA, as well as compliance, auditing and monitoring of the environmental management of the Project mining activities.

It is also noted that section 319 of the EP Act places a general environmental duty on the WJV to ensure that it does not carry out any activity that causes, or is likely to cause, environmental harm unless the WJV takes all reasonable and practicable measures to prevent or minimise the harm.

### 3.3.6 ENVIRONMENTAL PROTECTION REGULATION 1998

Pursuant to the EP Act, activities that will, or will have the potential to, release contaminants into the environment and which may cause environmental harm, are defined as Environmentally Relevant Activities (ERAs).

Schedule 1 of the Environmental Protection Regulation 1998 (EP Regulation) contains the ERAs regulated under the EP Act. Following is a preliminary identification of the ERAs that are expected to occur on a mining lease and off a mining lease for the Project (for which development permits would be required):

ERAs located on the mining lease:<sup>4</sup>

- ERA 7 Chemical storage – storing chemicals (other than crude oil, natural gas and petroleum products), including ozone depleting substances, gases or dangerous goods under the dangerous goods code in containers
- ERA 11 Crude oil or petroleum product storing – storing crude oil or a petroleum product in tanks or containers

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<sup>3</sup> Part 3A of the Environmental Protection Regulation 1998 states reporting obligations for the National Environment Protection (National Pollutant Inventory) Measure. Given that these do not place an 'approvals' obligation on the WJV, they are not dealt with further in this Chapter of the EIS. Refer to Chapter 18 of the EIS for further detail.

<sup>4</sup> The approval for these ERAs will occur as part of the environmental authority for mining activities.

- ERA 17 Fuel burning – any process involving the use of fuel burning equipment (including, for example, a standby power generator) that is capable of burning (whether alone or in total) 500 kg or more of fuel an hour
- ERA 18 Power station – generating power by consuming fuel at a rated capacity of 10MW electrical or more
- ERA 21 construction of a new transmission pipeline under a pipeline licence, or a petroleum activity (whether or not as a Level 1 environmentally relevant activity)
- ERA 59 Asphalt Batching – manufacturing asphalt
- ERA 62 Concrete Batching – producing concrete or a concrete product by mixing cement, sand, rock, aggregate or other similar materials in works (including mobile works) having a design production capacity of more than 100t a year
- ERA 75 Waste disposal – operating a facility for ... disposing of regulated waste (other than limited regulated waste).

ERAs located off the mining lease area:

- ERA 15 Sewage treatment – a standard sewage treatment works
- ERA 21 Construction of a new transmission pipeline under a pipeline licence, or a petroleum activity (whether or not as a Level 1 environmentally relevant activity)
- ERA 62 Concrete Batching – producing concrete or a concrete product by mixing cement, sand, rock, aggregate or other similar materials in works (including mobile works) having a design production capacity of more than 100t a year <sup>5</sup>
- ERA 75 Waste disposal – operating a facility for— ... disposing of regulated waste (or limited regulated waste).

### 3.3.7 ENVIRONMENTAL PROTECTION POLICIES

Under the EP Act, the following EPPs have been developed to achieve the objectives of the EP Act and to provide guidance on specific aspects of the environment, namely air, noise, water and waste management:

- Environmental Protection (Air) Policy 1997
- Environmental Protection (Noise) Policy 1997
- Environmental Protection (Water) Policy 1997
- Environmental Protection (Waste Management) Policy 2000
- Environmental Protection (Waste Management) Regulation 2000.

Where relevant impacts could occur for this Project, impact studies have been undertaken, having due regard to the environmental values specified in each EPP.

#### **Environmental Protection (Air) Policy 1997**

The object of the Environmental Protection (Air) Policy 1997 (EPP Air) 'is to achieve the object of the EP Act in relation to Queensland's air environment' section 5, EPP Air).

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<sup>5</sup> Details of ERAs are paraphrased from page 85 to page 103 of schedule 1 of the Environmental Protection Regulation 1998.

Section 6 of the EPP Air states that, to achieve this object, the EPP Air provides a framework for:

- identifying environmental values to be enhanced or protected
- specifying air quality indicators and goals to protect the environmental values
- providing processes which manage the air environment and involve the community in achieving air quality goals that best protect Queensland's air environment.

The air quality values of the Project area, potential impacts from the Project and management of those impacts are established within Volume 1, Chapter 13 Air Quality.

### **Environmental Protection (Noise) Policy 1997**

The object of the Environmental Protection (Noise) Policy 1997 (EPP Noise) 'is to achieve the object of the EP Act in relation to Queensland's acoustic environment' (section 8, EPP Noise).

The EPP Noise provides a framework for:

- identifying the acoustic (including vibration) values to be enhanced or protected
- specifying the Project's acoustic quality objective
- providing processes to protect Queensland's acoustic environment such as dispute resolution and facilitating the development of noise management programs.

The acoustic values of the project area, potential impacts from the Project and management of those impacts are established within Volume 1, Chapter 15 Noise and Volume 1, Chapter 16 Vibration.

### **Environmental Protection (Water) Policy 1997**

The Environmental Protection (Water) Policy 1997 (EPP Water) establishes a process for identifying environmental values to be protected and states standards for water quality in support of those values (section 6, EPP Water).

The EPP Water provides a framework for:

- identifying environmental values for Queensland waters
- deciding and stating water quality guidelines and objectives to enhance the environmental values
- providing processes that involve the community
- promoting efficient use of resources and best practice environmental management.

The environmental values (concerning water) of the Project, potential impacts from the Project, and management of those impacts are addressed in Volume 1 Chapter 11 Water Supply and Management.

### **Environmental Protection (Waste Management) Policy 2000**

The purpose of the Environmental Protection (Waste Management) Policy 2000 (EPP (Waste Management)) is to provide a strategic framework for managing wastes in Queensland. The EPP (Waste Management) does this by establishing a preferred waste management hierarchy and supporting principles as the basis for waste management. The waste hierarchy moves from the most preferred alternative, waste avoidance, through re-use, recycling, and energy recovery, to waste disposal, being the least preferred.



Waste generated by the Project construction and operation, and the management of that waste is discussed in Volume 1, Chapter 18 of the EIS.

### **Environmental Protection (Waste Management) Regulation 2000**

The Environmental Protection (Waste Management) Regulation 2000 (EPR (Waste Management)) aims to protect the environment through minimising the impact of waste on the environment and establishing an integrated framework for minimising and managing waste under the principles of ecologically sustainable development (section 4, EPR Waste Management).

Of relevance to the Project, Part 2A of the EPR (Waste Management) includes provisions regarding general waste management.

Project activities governed by the EPR (Waste Management) will include the management of waste on site, tracking of wastes, and the disposal of wastes off site.

Waste generated by the Project construction and operation, and the management of that waste are discussed in Volume 1 Chapter 18 Waste Management.

#### **3.3.8 ABORIGINAL CULTURAL HERITAGE ACT 2003**

Chapter 3 of the *Aboriginal Cultural Heritage Act 2003* (ACH Act) contains provisions for identifying and protecting significant Aboriginal cultural heritage from development, including:

- undertaking a duty of care towards Aboriginal cultural heritage (section 23, ACH Act)
- the establishment of an Aboriginal cultural heritage database (section 39, ACH Act)
- the establishment of a register of Aboriginal cultural heritage (section 46, ACH Act).

Section 23(1) of the ACH Act requires that the WJV, when carrying out an activity, takes all reasonable and practicable measures to ensure that the activity does not harm Aboriginal cultural heritage. This is known as the 'cultural heritage duty of care'.

Duty of Care Guidelines in support of the ACH Act were gazetted on 16 April 2004. The guidelines outline reasonable and practicable measures for ensuring activities are managed to avoid or minimise harm to Aboriginal cultural heritage.

Further, section 87 of the ACH Act requires a cultural heritage management plan (CHMP) to be developed and approved under that Act.

A CHMP has been developed for the mining lease application areas in consultation with the traditional owners (the Iman People #2). A CHMP will be developed for the gas supply pipeline area in consultation with the traditional owners. Volume 1, Chapter 20A Indigenous Cultural Heritage discusses further detail concerning cultural heritage, and development of the CHMP.

#### **3.3.9 QUEENSLAND HERITAGE ACT 1992**

The Queensland Heritage Act 1992 (QH Act) '*provides for the conservation of Queensland's cultural heritage*'.

Under section 31 of the QH Act, the Queensland Heritage Register has been established, and this is administered by the EPA. A search of the Register identified that Registered

(Protected) Places are remote from the project area. Thus, there does not appear to be an immediate need to seek either an:

- approval to develop on a registered place or
- exemption certificate to carry out development on a registered place.

In accordance with the requirements of section 89 of the QH Act, where '*an archaeological artefact that is an important source of information about an aspect of Queensland's history*' is uncovered, then the WJV will contact the Environmental Protection Agency for direction.

Further detail of the non-indigenous cultural heritage aspects relating to the Project are contained in Volume 1, Chapter 20B Cultural Heritage.

### 3.3.10 *TRANSPORT INFRASTRUCTURE ACT 1994*

The *Transport Infrastructure Act 1994* (TI Act) was established to allow for and encourage effective integrated planning and efficient transport infrastructure management. The TI Act provides for the planning and management of road, rail, and air infrastructure (amongst others).

Chapter 6, part 5 of the TI Act states that the Department of Main Roads manages the Queensland State-controlled road network. In reference to *The State Road Network of Queensland at 30 June 2007* mapping, the Project will be developed in the vicinity of the following State-controlled Roads:

- Leichhardt Highway (Taroom – Miles) identified as State Strategic Road (26B)
- Jackson – Wandoan Road identified as District Road (4302).

Under section 54 of the TI Act, approval is likely to be required to gain property access or other access onto a State-controlled road.

Similarly, under section 50 of the TI Act, project works to construct, maintain, operate or conduct ancillary works and encroachment on Leichhardt Highway or Jackson – Wandoan Road (e.g. intersection upgrades, water and gas supply pipelines traversing under the road) will require an Ancillary Works and Encroachment Permit under the TI Act.

Chapter 7 of the TI Act deals with rail transport infrastructure. Under section 255 of the TI Act, connection of the Project rail spur to the Surat Basin Rail Line (or other existing railway line) may require the approval of the existing railway's manager.

### 3.3.11 *NATURE CONSERVATION ACT 1992*

The *Nature Conservation Act 1992* (NC Act) provides for the conservation of nature, specifically Queensland's biodiversity.

In support of the purpose and the provisions of the NC Act, the Nature Conservation (Wildlife) Regulation 2006 lists all flora and fauna species which are considered to be 'extinct in the wild', 'endangered', 'vulnerable', 'rare', 'near threatened' and 'least concern' wildlife.

A variety of aspects associated with the conservation of nature are regulated under the NC Act. Accordingly, some or all of the following permits may be required for the Project:

- Protected Animals Movement Permits (section 88 of the NC Act)

- Protected Plants Clearing Permits (section 89 of the NC Act)
- Wildlife Movement Permits (section 97 of the NC Act) [for wildlife not protected under the NC Act but found in certain areas covered by conservation plans created and implemented under the NC Act].

### 3.3.12 VEGETATION MANAGEMENT ACT 1999

The *Vegetation Management Act 1999* (VM Act) regulates the conservation and management of vegetation communities and clearing of vegetation. It provides protection for regional ecosystems classified as 'endangered', 'of concern' or 'not of concern' under the VM Act. The application for approval to clear vegetation is made under the IP Act.

Vegetation clearing for the Project is dependant on initially whether the clearing would occur on or off of a mining lease area. Accordingly, the following is noted:

- where on a mining lease, a development permit is not required for the clearing of vegetation that supports a mining activity (per exemption under schedule 8, table 4, item 1A (j) of the IP Act, whereby the clearing is defined as a specified activity) <sup>6</sup>
- where off a mining lease, applications can be made to clear remnant assessable vegetation for 'relevant purposes' under section 22A(2)(a) of the VM Act. Due to the Project having been declared to be a Significant Project under the SDPWO Act, such applications can be made for the Project and will be accompanied by a Property Vegetation Management Plan.

Refer to Volume 1, Chapter 17 Ecology for further detail of the existing vegetation and the management of vegetation issues.

### 3.3.13 WATER ACT 2000

The *Water Act 2000* (Water Act) establishes a sustainable system for the planning, allocation and use of the majority of Queensland's non-tidal waters.

A number of watercourses have been identified that would be subject to the provisions of the Water Act. Given that project works would occur in the vicinity of these watercourses, the following approvals would be required under the Water Act:

- for the taking or interfering with the flow of water (including from a watercourse or overland flow or groundwater)[section 206, Water Act] <sup>7</sup>
- to selectively clear or disturb vegetation, place fill or excavate in a watercourse, as would be required for potential watercourse diversions (Riverine Protection Permit/s under section 266 of the Water Act).

A number of dams are proposed for the Project, which will contain water and liquids other than hazardous wastes. Any proposed dam which would have the potential to threaten life

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<sup>6</sup> Under schedule 10 of the IP Act a 'Specified Activity' is defined as '(c) a mining activity or a petroleum activity as defined under the Environmental Protection Act 1994'.

<sup>7</sup> The taking of water would be assessed against the requirements of the Water Resource (Fitzroy Basin) Plan 1999 (Resource Plan). Under section 28A of the Resource Plan, the taking of overland flow water for activities authorised under a mining lease will not be regulated until (a) the resource operations plan (ROP) in relation to overland flow water is amended, and (b) unallocated overland flow water is granted under a process stated in the ROP.

if it fails is termed a 'referable dam'. The WJV will obtain the necessary development permit under the IP Act for such dams.

Further, a dam containing, or a proposed dam that after its construction will contain hazardous waste, is not a referable dam, but defined as a hazardous dam.

### **Hazardous Dams**

Responsibility for the assessment of hazardous dams has been devolved from the Department of Natural Resources and Water (NRW) to the EPA. The hazardous dam trigger will apply to the Project where dams used to store liquids meet or exceed certain key parameters (e.g. pH and specified metal concentrations).

For the high hazard dams, the WJV will be required to comply with the Code of Environmental Compliance for High Hazard Dams Containing Hazardous Waste. If the WJV determines that the proposed dam(s) are low hazard dam(s) containing hazardous waste, the requirements relating to hazardous waste dams in the Code of Environmental Compliance for Mining Lease Projects must be met.

If it is determined that a dam will not reasonably contain any hazardous waste, then the dam will be managed in accordance with general provisions of the EP Act and any other conditions the EPA may require in the Project's EA.

Refer to Volume 1, Chapter 11 Water Supply and Management for further details regarding hazardous dams.

### **3.3.14 LAND PROTECTION (PEST AND STOCK ROUTE MANAGEMENT) ACT 2002**

The *Land Protection (Pest and Stock Route Management) Act 2002* (LP Act) provides for the management of pests and the stock route network.

#### **Pest Management**

The LP Act outlines provisions for preventing the spread of declared pest species. The subordinate Land Protection (Pest and Stock Route Management) Regulation 2003 identifies declared plants and animals that are targeted for control because they are pest species.

Section 77 of the LP Act outlines that unless the WJV possesses a Declared Pest Permit, the WJV will have an obligation to undertake reasonable steps to maintain the land comprising the Project area free of class 1 and class 2 pests (as defined in the LP Act) and to stop the spread of declared pests to other areas.

Section 78(1)(b) of the LP Act also states that it is not necessary for the WJV to control class 3 pests (as defined in the LP Act), unless the subject land is in or adjacent to an environmentally significant area. The Project components are not in or adjacent to an environmentally significant area and thus this requirement will not apply.

Field assessments have been undertaken within the proposed mining lease boundaries and associated areas which identified various weed species. For the species identified, they will be included in a weed management plan for the construction and operation of the Project.

Refer to Volume 1, Chapter 17 Ecology for further details.

## Stock Route Management

Under the LP Act, the integrity of stock routes must also be maintained by the Project. Under Chapter 3, part 3 of the LP Act, the former Taroom Shire Council (part of which now forms part of the Dalby Regional Council) has prepared the Stock Route Network (SRN) Management Plan, 2005 to 2009.<sup>8</sup> The Management Plan is intended to *'improve the management of the SRN so that the impacts of stock on the resources of the SRN are minimised. SRN management does not encompass the overall management of the road corridors where the stock routes are located, it is simply the management of impacts from and to stock'* (p.7, *SRN Management Plan, 2005 to 2009*).

The following stock route infrastructure is located within the Project area:

- unnamed stock route located adjacent to the Leichhardt Highway (Stock route number: M423 [inactive minor stock route])
- Jackson – Wandoan Road (Stock route number: U708 [inactive stock route])
- Bundi Road (Stock route number: U734 [inactive stock route])
- Camping and Water Reserve R.15 (Lot 58 on FT1013).

Correspondence from the WJV to DNRW (Stock Route Management Unit) requested views regarding the possible closure and relocation of the existing stock route infrastructure listed above. At the time of EIS preparation, no response has been received from NRW. This will be addressed as part of the future Project design and approvals phases.

### 3.3.15 LAND ACT 1994

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

Under Chapter 4, part 4 of the Land Act, Permits to Occupy are required for the occupation of a reserve, road or unallocated State land. Where electricity, water, or other infrastructure is to be developed on unallocated State land, reserves or roads (including the proposed works to be located on the Leichhardt Highway road and/or reserve), a Permit to Occupy will be required.

Section 99 of the Land Act contains provisions for permanent or temporary road closures of State-controlled roads. To 'enliven' these provisions, the WJV must be either the adjoining land owner for the road (being closed) or generally providing a public utility service (typically on behalf of another entity).

In this regard it is noted that the temporary closure of a section of the Jackson–Wandoan Road (and subsequent re-alignment) will be required for the Project under the Land Act.

### 3.3.16 EXPLOSIVES ACT 1999

The *Explosives Act 1999* assists the Department of Mines and Energy in its role in ensuring that the community is safe from the hazards of explosives.

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<sup>8</sup> Under section 94 of the Local Government Reform Implementation Regulation 2008, the *Stock Route Network Management Plan, 2005 to 2009* will apply to the Project until 15 March 2010 or until Dalby Regional Council prepares a new SRN management Plan (at which time the obligations for the Project would need to be determined).

Accordingly, under the *Explosives Act 1999*, various licences and/or permits are required for the use, storage, transportation, manufacture, and possession of explosives. With relevance to the construction and operation of the Project, a Licence to Use Explosives (section 53 of the *Explosives Act 1999*) will be required.

Under section 29 of the Explosives Regulation 2003, a License to Use Explosives permits the use, possession, storage and transportation of explosives in the manner stated in the licence.

### 3.3.17 *PETROLEUM AND GAS (PRODUCTION AND SAFETY) ACT 2004*

The *Petroleum and Gas (Production and Safety) Act 2004* (Petroleum Act) is an Act primarily about regulating, exploration and production of petroleum and transporting by pipeline, petroleum and fuel gas and ensuring the safe and efficient carrying out of those activities.

If the gas pipeline is required, under the Petroleum Act various approvals will be required, including:

- a pipeline licence (under Chapter 4, Part 2 of the Petroleum Act) to enable the use of the pipeline land for construction and operation of a pipeline
- possibly a survey licence (under section 395 of the Petroleum Act) to enter an area to investigate possible pipeline routes, or otherwise investigate and survey an area's potential and suitability for the construction and operation of a pipeline.

The pipeline licence allows its holder to construct or operate a pipeline on land. However, in order to actually construct the pipeline itself, the licence holder will need access to the land, preferably by way of agreement. In order to do this, the licence holder will need to either:

- get the written consent of the landowner to enter the land or obtain an easement, allowing the construction or operation of the pipeline, or
- failing agreement, the Minister can acquire the land necessary for the pipeline licence.

### 3.3.18 *DANGEROUS GOODS SAFETY MANAGEMENT ACT (2001)*

The *Dangerous Goods Safety Management Act 2001* (DGSMA) is an Act about the '*safe management... of the storage and handling of hazardous materials, particularly dangerous goods and combustible liquids, and the management of major hazard facilities and emergencies involving hazardous materials*'.

Section 3 of the DGSMA indicates that the Act does not apply to a coal mine and in some instances, associated contiguous land areas (per section 9 of the *Coal Mining Safety and Health Act 1999*). This is taken to include the proposed coal mine.

Accordingly, for off mining lease areas that do not fall within the ambit of the above exemption, the following may be required under the DGSMA:

- a development permit for a Major Hazard Facility, where hazardous materials are stored in excess of prescribed quantities

- notification to the chief executive about possible dangerous goods locations, where goods or combustible liquids are stored in excess of prescribed quantities
- approval for storage and handling of flammable and combustible liquids (typically in minor quantities and to which AS 1940 applies).

An analysis of the final Project activities, their location and the associated chemicals to be stored and used (for both construction and operation) would be required to determine the obligations of the WJV under the DGSM Act.

Note also that dependant on the nature of the chemicals used in the Project, alternate licensing may be required under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*.

### 3.3.19 FISHERIES ACT 1994

Section 3 of the *Fisheries Act 1994* ('Fisheries Act') states that the main purpose of the Act is to 'provide for the use, conservation and enhancement of the community's fisheries resources and fish habitats in a way that seeks to:

- (a) apply and balance the principles of ecologically sustainable development
- (b) promote ecologically sustainable development.

In relation to the Fisheries Act generally, waterway barrier works will be required to facilitate the following Project components:

- the diversion of a number of creeks including Woleebee Creek, Frank Creek and Spring Creek, amongst others
- road construction across watercourses, including for general access roads and hauls roads
- construction of conveyors.

Waterway barrier works are defined as operational works under section 1.3.5 of the IPA. Waterway barrier works are assessable development under Schedule 8, part 1, table 4, item 6 of the IPA, for the purposes of part 5, subdivision 3A of the Fisheries Act. A development permit is required to undertake assessable development.

The WJV will obtain development permits for all waterway barrier works (operational works) proposed as part of the Project.

Similarly, should any translocation of fish be required as part of the waterway barrier works, the WJV will obtain the approval required under chapter 5 of the subordinate *Fisheries Regulation 2008*.

### 3.3.20 FORESTRY ACT 1959

The purpose of the *Forestry Act 1959* (Forestry Act) is to provide for 'forest reservations, the management, silvicultural treatment and protection of State forests, and the sale and disposal of forest products and quarry material, the property of the Crown on State forests, timber reserves and on other lands' .

There are two significant State forest areas located to the south west of MLA 50229, the closest being approximately 7.5 km away. In reference to section 39 of the Forestry Act, the Project will not interfere with any forest products within these State forests.

In the unlikely instance that Project construction would require forest products to be interfered with in a state plantation forest or forest entitlement area, the WJV would obtain the appropriate authorisation under section 39 of the Forestry Act.

In reference to section 70 of the Forestry Act, should tree removal on roads be required during Project construction, the need for a permit under this section will be considered, particularly with regard to similar approval requirements for vegetation clearing under the VM Act and Land Act, and obtained as necessary.

### 3.3.21 STATE PLANNING POLICIES

State Planning Policies (SPP) are statutory planning instruments that relate to matters of Queensland State interest. These policies are discussed below.

### 3.3.22 DEVELOPMENT AND THE CONSERVATION OF AGRICULTURAL LAND – 1/92

Development and the Conservation of Agricultural Land – 1/92 (SPP 1/92) protects good quality agricultural land (GOAL) from subdivision into uneconomic units and to minimise the potential for land use conflicts between agricultural and non-agricultural land uses. Dalby Regional Council must have due regard to SPP 1/92 when carrying out their planning functions.

The Planning Scheme for Taroom Shire 2006 Good Quality Agricultural Land mapping (Sheet 1 of 6) indicates that the proposed mining leases and surrounds would be located primarily within land designated as Class A GOAL and partially within Class B GOAL.

The long-term viability and sustainability of the GOAL on which the Project is located, is likely to be impacted upon through project excavation, construction and operation. However, the GOAL likely to be impacted upon represents a minor proportion of the overall regional GOAL stock available for agricultural use and production. See Volume 1, Chapter 8 Land Use for analysis of impacts on GOAL.

Accordingly, the Project is considered to not compromise the overall intent of SPP 1/92.

### 3.3.23 MITIGATING THE ADVERSE IMPACTS OF FLOOD, BUSHFIRE AND LANDSLIDE – 1/03

Mitigating the Adverse Impacts of Flood, Bushfire and Landslide – 1/03 (SPP 1/03) establishes the Department of Emergency Services interests with regard to natural hazards of flood, bushfire and landslide and ensures these matters are adequately addressed when carrying out development assessment.

Annex 2 of SPP 1/03 identifies the former Taroom Shire area as being affected by bushfire and landslip natural hazards.

An assessment of the natural hazards, as they apply to the project area, has been undertaken for bushfire and flooding.

Refer to Volume 1, Chapter 7 Climate for further detail.



The following State planning policies were also considered and determined not to be relevant to the Project:

- Development in the Vicinity of Certain Airports and Aviation Facilities – 1/02
- Planning and Managing Development Involving Acid Sulfate Soils – 2/02
- Housing and Residential Development – 1/07
- Protection of Extractive Resources – 2/07.

## 3.4 LOCAL LEGISLATION

### 3.4.1 PLANNING SCHEME FOR TAROOM SHIRE 2006

The Project is located within the Dalby Regional Council local government area. Prior to local government amalgamations in 15 March 2008, the Project area was formerly within the Taroom Shire local government area. Until a planning scheme is adopted by the Dalby Regional Council that applies to the entire Dalby Regional Council local government area, the *Planning Scheme for Taroom Shire 2006* (Planning Scheme) continues to apply to regulating land use in the former Taroom Shire local government area.

Section 3.3.3 of the EIS establishes the relationship between the MR Act and the IPA for the purposes of making development applications for mine-related infrastructure, after completion of the evaluation of the EIS and supplementary report by the CG.

### 3.4.2 LOCAL LAWS

A local law is a law adopted by a local government that reflects community needs and ensures the good rule and government of the local government area. Local laws are created via the process set out in the *Local Government Act 1993*.

As stated above, prior to local government amalgamations in 15 March 2008, the Project area was formerly within the Taroom Shire local government area. In accordance with part 2, division 3 of the Local Government Reform Implementation Regulation 2008, until local laws are adopted that apply to the entire local government area (or until 31 December 2010, whichever comes first) the local laws in place for the former Taroom local government area continue to apply in that geographical area.

Only former Taroom Shire Local Law No. 21 (Roads) is relevant to the Project, due to the impacts of construction and operational traffic on the local road network. This local law is primarily intended to confer on the Dalby Regional Council certain powers incidental to its responsibilities for roads within its area.

Part 3 of the local law details that a licence is required for the following activities:

- alterations or improvements to a local government road
- use of local government roads for regulated purposes, being the discharge of stormwater or wastes or the deposit of goods or materials.

The local roads which will require alterations or improvements as a result of the Project include:

- Peakes Road
- Paradise Downs Road

- Grosmont Road
- Q Road
- Booral Road
- Kabunga Road
- Ryals Road
- Cecils Road.

Furthermore, the WJV recognises that in accordance with Item 21 (Damages to roads) of the local law, that should they negligently damage local government roads (or structures associated with local government roads) they will be liable to the Council for the damage caused.

### 3.5 LIKELY PROJECT APPROVALS SUMMARY

Appendix 3-1-V1.4 of the EIS contains a broad list of the likely approvals required for the Project, including details on the approval's applicability, administering authority and other pertinent details. It will be used as a tool for managing the procurement of Project approvals.

### 3.6 REFERENCES

Commonwealth Government (1999) Environment Protection and Biodiversity Conservation Act 1999, (Act No. 91 of 1999).

Commonwealth Government (2004) Airports Act 1996, (Act No. 134 of 2003).

Commonwealth Government (2005) Aboriginal and Torres Strait Islander Heritage Protection Act 1984, (Act No. 32 of 2005).

Commonwealth Government (2007) Civil Aviation Act 1988, (Act No. 131 of 2007).

Commonwealth Government (2008) Native Title Act 1993, (Reprint No. 10B).

Department of Housing, Local Government and Planning (1992) State Planning Policy 1/92 (Development and the Conservation of Agricultural Land).

Department of Housing, Local Government and Planning (2002) State Planning Policy 1/02 (Development in the Vicinity of Certain Airports and Aviation Facilities).

Department of Local Government and Planning (2002) State Planning Policy 2/02 (Planning and Managing Development Involving Acid Sulfate Soils).

Department of Local Government and Planning (2003) State Planning Policy 1/03 (Mitigating the Adverse Impacts of Flood, Bushfire and Landslide).

Department of Local Government and Planning (2007) State Planning Policy 2/07 (Protection of Extractive Resources).

Department of Local Government and Planning (2007) State Planning Policy 1/07 (Housing and Residential Development).

Queensland Government (2002) Dangerous Goods Safety Management Regulation 2001, (Reprint No. 1).

Queensland Government (2004) Dangerous Goods Safety Management Act 2001, (Reprint No. 2).

Queensland Government (2006) Aboriginal Cultural Heritage Act 2003, (Reprint No. 1A).

Queensland Government (2006) Chemical Usage (Agricultural and Veterinary) Control Act 1988, (Reprint No. 3).

Queensland Government (2006) Environmental Protection Policy (Air) 1997, (Reprint No. 3).

Queensland Government (2006) Environmental Protection Policy (Waste Management) 2000, (Reprint No. 3).

Queensland Government (2006) Land Protection (Pest and Stock Route Management) Act 2002, (Reprint No. 3).

Queensland Government (2007) Environmental Protection Policy (Noise) 1997, (Reprint No. 3A).

Queensland Government (2007) Environmental Protection Policy (Water) 1997, (Reprint No. 3B).

Queensland Government (2007) Explosives Act 1999, (Reprint No. 3).

Queensland Government (2007) Forestry Act 1959, (Reprint No. 7b).

Queensland Government (2007) Nature Conservation Act 1992, (Reprint No. 5C).

Queensland Government (2007) State Development and Public Works Organisation Act 1971, (Reprint No. 5B).

Queensland Government (2008) Building Act 1975, (Reprint No. 6C).

Queensland Government (2008) Coal Mining Safety and Health Act 1999, (Reprint No. 2D).

Queensland Government (2008) Environmental Protection (Waste Management) Regulation 2000, (Reprint No. 3C).

Queensland Government (2008) Environmental Protection Act 1994, (Reprint No. 8B).

Queensland Government (2008) Environmental Protection Regulation 1998, (Reprint No. 7B).

Queensland Government (2008) Fisheries Act 1994, (Reprint No. 6A).

Queensland Government (2008) Fisheries Regulation 2008, (Reprint No. 1C).

Queensland Government (2008) Forestry Regulation 1998, (Reprint No. 7).

Queensland Government (2008) Integrated Planning Act 1997, (Reprint No. 9C).

Queensland Government (2008) Land Act 1994, (Reprint No. 10B).

Queensland Government (2008) Mineral Resources Act 1989, (Reprint No. 10A).

Queensland Government (2008) Petroleum and Gas (Production and Safety Act) 2004, (Reprint No. 3E).

Queensland Government (2008) Queensland Heritage Act 1992, (Reprint No. 4A).

Queensland Government (2008) Transport Infrastructure Act 1994, (Reprint No. 11D).

Queensland Government (2008) Vegetation Management Act 1999, (Reprint No. 2F).

Queensland Government (2008) Water Act 2000, (Reprint No. 6A).

Queensland Government (2008) Water Supply (Safety and Reliability) Act 2008, (Reprint No. 1A).

Taroom Shire Council (2001) Taroom Shire Local Law No. 21 (Roads).

Taroom Shire Council (2006) Planning Scheme for Taroom Shire, 2006.