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2.1 INTRODUCTION

The Coordinator-General has declared the project to be a ‘significant project’ under the SDPWO Act for which an EIS is required. The Commonwealth Government has declared the project to be a ‘controlled action’ requiring an EIS. The approval of the EIS for the project is required from the Coordinator-General and Minister for the Environment. This chapter provides an overview of the most relevant legislation and State planning documents as well as the approvals which are likely to be required for construction and operation of the Project.

2.2 SUMMARY OF ENVIRONMENTAL LEGISLATIVE REQUIREMENTS

2.2.1 COMMONWEALTH LEGISLATION

The key Commonwealth approvals required under specific legislation are summarised in **Table 1**.

A detailed description of the Commonwealth Legislation that may be relevant to this project follows **Table 1**.

2.2.1.1 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. The preferred option for the project is to utilise an upgraded Alpha Airport for the fly-in / fly-out activities. It is expected that the Barcaldine Regional Council (BRC) will seek the approvals necessary for the upgrade Alpha Airport. The approvals required for this new aviation facility will depend on how it is classified under Commonwealth legislation and standards. Different approvals will be required depending upon whether the facility constitutes a ‘airport’, ‘aircraft landing area’, ‘licensed aerodrome’ or other facility. The scope of the approvals required under these Acts will be determined when the nature and scale of the project for the aviation facility is defined.

2.2.1.2 Environment Protection and Biodiversity Conservation Act 1999

Waratah Coal referred the project to the Commonwealth Minister for the Environment, Heritage and the Arts on 11 February 2009 for a decision as to whether the project constituted a ‘controlled action’ under the EPBC Act (Referral No. 2009/4737).

Table 1. Summary of likely Commonwealth approvals required for the Project

APPROVAL / PERMIT	LEGISLATION	RELEVANT AUTHORITY	APPROVAL TIMING
Use of Chemicals on site	<i>Agricultural and Veterinary Chemicals Code Act 1994</i>	Australian Pesticides and Veterinary Medicines Authority	2012
Assessment of airport and civil aviation operational requirements for the Project.	<i>Airport Act 1996</i> <i>Civil Aviation Act 1988</i> <i>Civil Aviation Safety Regulations 1998</i>	Civil Aviation Safety Authority	2012
Assessment of impact on environmental issues of Commonwealth significance and approval of controlled action.	<i>Environment Protection and Biodiversity Conservation Act 1999</i>	Department of Sustainability, Environment, Water, Population and Communities	2011
Assessment of Native Title implications for the project - Compliance prior to the grant of a licence to enter or operate to the extent that it affects native title	<i>Native Title Act 1993</i> <i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i>	National Native Title Tribunal (NNTT)	2011

On 20 March 2009 the Minister determined that the project constituted a ‘controlled action’ as it has the potential to have a significant impact on MNES. The controlling provisions were determined as:

- sections 12 and 15A (world heritage properties);
- sections 15B and 15C (national heritage places);
- sections 18 and 18A (listed threatened species and communities);
- sections 20 and 20A (listed migratory species); and
- sections 23 and 24A (Commonwealth marine areas).

The Minister further determined that environmental assessment of MNES is to be undertaken in accordance with Part 8 of the EPBC Act to be administered by DSEWPC.

2.2.1.3 Native Title Act 1993

This Act recognises the rights and interests over land and water possessed by Indigenous people in Australia under their traditional laws and customs. This Act established the Native Title Tribunal which outlines processes for the determination of native title rights and interests. It provides recognition and protection of native title, establishes ways in which future dealings affecting native title may proceed, and a mechanism for determining claims to native title.

A review of the National Native Title Tribunal register indicates there are three registered native title claims on the project area (Table 2).

Other potentially relevant Commonwealth legislation includes the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

2.2.2 STATE LEGISLATION AND PLANNING POLICIES

The principal project approvals required under Queensland legislation are summarised in Table 3.

A detailed description of the State legislation and State Planning Policies (SPP) that may be relevant to this project follows Table 3.

Table 2. Native Title Claimants within the Project footprint

CLAIM	STATUS
Wangan and Jagalingu People	Active
Jangga People	Active
Birri People	Active

Table 3. Summary of likely Queensland Government Approvals required for the Project

APPROVAL / PERMIT	LEGISLATION	RELEVANT AUTHORITY	TIMING
Preparation of appropriate Indigenous Cultural Heritage Management Plan (CHMP) and Duty of Care Statement.	<i>Aboriginal Cultural Heritage Act 2003</i>	Department of Environment and Resource Management	2012
Release to waters (as part of the Environmental Authority).	<i>Environmental Protection Act 1994</i>	Department of Environment and Resource Management	2012 and onwards
Level 1 Environmental Authority (mining activities)	<i>Environmental Protection (Water) Policy 2008</i> <i>Environmental Protection Act 1994</i> <i>Mineral Resources Act 1989</i>	Department of Environment and Resource Management	Late 2011/2012
Approval (via Environmental Authority) for the following Environmentally Relevant Activities (ERAs) – See Table 5 below.	<i>Environmental Protection Act 1994</i> <i>Environmental Protection Regulation 2008</i> <i>Sustainable Planning Act 2009</i>	Department of Employment, Economic Development and Innovation (DEEDI) Department of Environment and Resource Management	2012
Soil Disposal Permit	<i>Environmental Protection Act 1994.</i>	Department of Environment and Resource Management	2012
Approval is required for the removal of contaminated soil from any allotments listed on the Contaminated Land Register (CLR) and Environmental Management Register (EMR).	<i>Draft Guidelines for the Assessment and Management of Contaminated Land in QLD 1998.</i>		
Site Management Plan for contaminated land management.	<i>Environmental Protection Act 1994</i> <i>Draft Guidelines for the Assessment and Management of Contaminated Land in QLD 1998</i>	Department of Environment and Resource Management	2012
Development permits to remove, destroy or damage a marine plant	<i>Fisheries Act 1994</i>	Department of Employment, Economic Development and Innovation	2012
Permit to Occupy – unallocated State land, a reserve or a road.	<i>Land Act 1994</i>	Department of Environment and Resource Management	2012 Construction
Mining Lease (required to permit the conduct of specified mining activities within the defined lease location.)	<i>Mineral Resources Act 1989</i>	Department of Employment, Economic Development and Innovation	Late 2011 onward

APPROVAL / PERMIT	LEGISLATION	RELEVANT AUTHORITY	TIMING
<p>Various permits for interfering with cultural or natural resources, or wildlife protected under the Act (approval to take or interfere with cultural or natural resources of a protected area;</p> <p>Approval to take a protected animal;</p> <p>Approval to take a protected plant;</p> <p>Permit to drive a vehicle in a protected area;</p> <p>Permit to conduct a commercial activity in a protected area; and</p> <p>Permit to erect a structure in a protected area).</p>	<p><i>Nature Conservation Act 1992</i></p> <p><i>Nature Conservation (Protected Areas Management) Regulation 2006</i></p> <p><i>Nature Conservation (Wildlife Management) Regulation 2006</i></p> <p><i>Nature Conservation (Wildlife) Regulation 2006</i></p>	<p>Department of Environment and Resource Management</p>	<p>2012</p>
<p>Approval to Develop on a Registered Place (otherwise Exemption Certificate to carry out development on a registered place).</p> <p>Declaration as Significant Project by the Coordinator-General</p>	<p><i>Queensland Heritage Act 1992</i></p> <p><i>Sustainable Planning Act 2009</i></p> <p><i>State Development and Public Works Organisation Act 1971</i></p>	<p>Department of Environment and Resource Management</p> <p>Department of Employment, Economic Development and Innovation / Coordinator-General</p>	<p>Approval to take between 1 and 3 months.</p> <p>Late 2011</p>
<p>Coordinator-General Report</p> <p>For off-mining lease infrastructure, Development Permits may be required for:</p> <ul style="list-style-type: none"> • Material Change of Use; • Operational Works; • Building Works; • Plumbing and Drainage Works; and • Reconfiguring a lot. 	<p><i>State Development and Public Works Organisation Act 1971</i></p> <p><i>Sustainable Planning Act 2009</i></p> <p><i>Regional Council Planning Scheme</i></p> <p><i>Building Act 1975</i></p> <p><i>Building Code of Australia 2008</i></p>	<p>Department of Infrastructure and Planning / Coordinator-General</p> <p>Barcaldine Regional Council</p> <p>Central Highlands Regional Council</p> <p>Isaac Regional Council</p> <p>Whitsundays Regional Council</p>	<p>2011</p> <p>2012</p>
<p>Alteration or improvement to local government roads</p>	<p><i>Sustainable Planning Act 2009</i></p> <p><i>Transport Planning and Coordination Act 1994</i></p> <p><i>Regional Council Local Laws</i></p>	<p>Barcaldine Regional Council</p> <p>Central Highlands Regional Council</p> <p>Isaac Regional Council</p> <p>Whitsundays Regional Council</p>	<p>2012</p>

APPROVAL / PERMIT	LEGISLATION	RELEVANT AUTHORITY	TIMING
Development Permit to clear native vegetation.	<i>Sustainable Planning Act 2009</i> <i>Vegetation Management Act 1999</i>	Department of Environment and Resource Management	2012
Ancillary Works and Encroachment Approval for State Controlled Roads.	<i>Transport Infrastructure Act 1994</i>	Department of Transport and Main Roads.	2012
Rail feasibility investigator's authority.	<i>Transport Infrastructure Act 1994</i>	Department of Transport and Main Roads.	2012
Approval to interfere with a Railway line.	<i>Transport Infrastructure Act 1994</i>	Department of Transport and Main Roads.	2011 and 2012
Approval to transport dangerous goods.	<i>Transport Operations (Road Use Management) Act 1995</i>	Department of Transport and Main Roads	2012
		Barcaldine Regional Council	
		Central Highlands Regional Council	
		Isaac Regional Council	
		Whitsundays Regional Council	
Development Permit (Water Licence) to take or interfere with water, including from a watercourse or overland flow or groundwater.	<i>Water Act 2000</i>	Department of Environment and Resource Management	Pre Construction 2012
Riverine Protection Permit.	<i>Water Act 2000</i>	Department of Environment and Resource Management	Pre Construction 2012
Construction of the proposed infrastructure may require the need to: <ul style="list-style-type: none"> • destroy vegetation in a watercourse • excavate in a watercourse • place fill in a watercourse. These activities are regulated through a Riverine Protection Permit.			
Development Permit for a Referable Dam.	<i>Water Act 2000</i>	Department of Environment and Resource Management	Pre Construction 2012

2.2.2.1 *Aboriginal Cultural Heritage Act 2003*

The *Aboriginal Cultural Heritage Act 2003* (ACH Act) provides for the effective recognition, protection and conservation of Aboriginal cultural heritage. The fundamental principles of the ACH Act include:

- the recognition, protection and conservation of Aboriginal cultural heritage based upon respect for Aboriginal knowledge, cultural and traditional practices;
- recognition of Aboriginal people as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage; and
- the importance of respect, preserving and maintaining knowledge, innovations and practices of Aboriginal communities and promoting understanding of Aboriginal cultural heritage.

Methods to achieve this under the Act include:

- recognition of Aboriginal ownership of Aboriginal human remains wherever held;
- recognition of Aboriginal ownership of Aboriginal cultural heritage of a secret or sacred nature held in State collections;
- establishment of a duty of care for activities that may harm Aboriginal cultural heritage; and
- establishment of processes for the timely and efficient management of activities to avoid or minimise harm to Aboriginal cultural heritage.

As the project requires the preparation of an EIS, Waratah Coal will be required to develop a cultural heritage management plan in conjunction with relevant Aboriginal parties. It is expected that the Aboriginal parties will be the:

- Wangan and Jagalingou People
- Jangga People
- Birri People

Together with this, there are two areas within the project area where public notification will be required to be undertaken to identify the relevant Aboriginal Party.

Desktop research has been completed and site surveys have been or will be completed to identify the existence of cultural heritage (both Indigenous and non-Indigenous). A number of management techniques to minimise the impact to these areas will be considered as part of the development and implementation of the cultural heritage management plan.

2.2.2.2 *Building Act 1975*

The *Building Act 1975* regulates building development approvals, building work, building classification and building certifiers. Building work considered to be 'self-assessable' under the *Building Act 1975* does not require a development application, subject to the works being compliant with section 21(1)(b) of the Act.

A development application for carrying out building works located off the Mining Lease will be lodged by Waratah Coal for all development not otherwise declared to be self-assessable building work or exempt development under Schedule 2 and Schedule 3 of the *Building Regulation 2006*.

2.2.2.3 *Coastal Protection and Management Act 1995*

The *Coastal Protection and Management Act 1995* is administered by the Department of Environment and Resource Management (DERM) and is intended to protect, conserve, rehabilitate and manage coastal biodiversity and its resources through the Queensland State Coastal Management Plan and Regional Coastal Management Plan. Management plans identify key Coastal Management Districts and outline management actions and strategies to protect and manage these areas.

Construction activities within tidal areas are expected to be part of the MCF which will be overseen by NQBP. The MCF Environmental Impact Statement process is well underway, and Federal Government approval is expected in 2011.

2.2.2.4 *Dangerous Goods Safety Management Act 2001 and Dangerous Goods Safety Management Regulation 2001*

The *Dangerous Goods and Safety Management Act 2001* relates to the safe management, storage and handling of hazardous materials, particularly dangerous goods and combustible liquids. Approval may be required under the DGSM Act for temporary storage of chemicals.

An analysis of the chemicals that are to be stored and used (for both construction and operation) would be required to determine Waratah Coal's obligations with regards to the DGSM Act. Dependant on the nature of the chemicals used (if any), alternate licensing may be required under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*.

2.2.2.5 Environmental Protection Act 1994 and Environmental Protection Regulation 2008

The *Environmental Protection Act 1994* and its subordinate legislation are administered by DERM. It provides the framework to managing Queensland's environment within the principles of ecologically sustainable development. The EP Act outlines the responsibility and the duty of care all persons have to the environment and the scope and content for preparing Environmental Protection Policies (EPPs).

Under the EP Act, an approval is required for Environmentally Relevant Activities (ERA) as defined under the EP Act. Environmentally Relevant Activities are activities with the potential to cause environmental harm through the release of contaminants to the environment and are defined as in Schedule 2 of the *Environmental Protection Regulation 2008*. Mining activities are exempt from Schedule 2 of the *Environmental Protection Regulation 2008* (EP Reg), however they are still considered an ERA, and as such are classified as either a Level 1 or Level 2 ERA according to their potential environmental risk.

Environmentally Relevant Activities likely to be carried out during the construction and operational phases of the project are outlined in **Table 4**. Approvals for these ERAs will take the form of development permits granted under the *Sustainable Planning Act 2009* (SP Act) and Registration Certificates under the EP Act. Application of Registrations Certificates for potential construction contractors will be responsible for their planned activities under the EP Act. Waratah will also seek Registration Certificates for operational ERAs from the governing body, DERM.

The project will also seek a project Environmental Authority (Mining Lease) for a level 1 mining project as specified under section 154 of the EP Act.

2.2.2.6 Explosives Act 1999

The *Explosives Act 1999* provides guidance for the handling, use, transport, storage and manufacturing of explosives. The project will involve blasting using explosives and as such, an authority will be sought to undertake work using explosives.

2.2.2.7 Fisheries Act 1994 and Fisheries Regulation 2008

The purpose of the *Fisheries Act 1994* is to promote ecological sustainability through accountability in terms of the use, conservation and enhancement of the community's fisheries resources and fish habitats. Under s 76L, a permit is required for activities which result in the removal, destruction or damage to marine plants; and works or a related activity in a declared Fish Habitat Area (FHA).

The MCF Environmental Impact Statement process is well underway, and Federal Government approval is expected in 2011.

2.2.2.8 Land Protection (Pest and Stock Route Management) Act 2002

The *Land Protection (Pest and Stock Route Management) Act 2002* (LP Act) provides the framework for improved management of weeds, pest animals and the stock route network through:

- establishing management principles for pests, land and stock routes;
- restricting the introduction, keeping or selling and the spread of pests; and
- construction of infrastructure to prevent uncontrolled movement of pests and stock.

A Weed and Pest Management Plan (WPMP) will be developed to manage declared species under this Act. Measures to reduce the introduction and spread of weed and animal pest species within the project area and to adjacent lands will include the use of vehicle washdown facilities and spraying of large, declared weed infestations with non-residual herbicides.

2.2.2.9 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 core objectives of the Act are to encourage and facilitate mining of minerals and encourage environmentally responsible mining, including responsible land care management.

Waratah Coal holds two Exploration Permits over the area to be covered by this Project. This EIS supports an application for the project's mining lease pursuant to Part 7 of the Act.

Table 4. Potential ERAs Relevant to the Project

ERA	TRIGGER DETAILS
6	Manufacturing asphalt - manufacturing in a year (a) less than 1,000 tonne of asphalt (Aggregate Environmental Score – No Score); (b) 1,000 tonne or more of asphalt.
8	Chemicals Storage - (a) storing 50 tonne or more of chemicals of dangerous goods class 1 or class 2, division 2.3 in containers of at least 10 m ³ (Aggregate Environmental Score 51); or (b) storing 50 tonne or more of chemicals of dangerous goods class 6, division 6.1 in containers capable of holding at least 900 kg of the chemicals (Aggregate Environmental Score 51); or (c) storing 10 m ³ or more of chemicals of class C1 or C2 combustible liquids under AS 1940 or dangerous goods class 3 (Aggregate Environmental Score 85); or (d) the following quantities of other chemicals in containers of at least 10m ³ - (i) 200 tonne or more, if they are solids or gases (Aggregate Environmental Score 31); (ii) 200 m ³ or more, if they are liquids.
14	Electricity generation consists of generating electricity by using fuel at a rated capacity of 10 MW electrical or more - generating electricity by using a fuel, other than gas, at a rated capacity of (a) 10 MW electrical to 150 MW electrical (Aggregate Environmental Score 76) (b) more than 150 MW electrical.
15	Fuel burning (including, for example, a standby power generator) consists of using fuel burning equipment that is capable of burning at least 500 kg of fuel in an hour.
16	Extractive and screening activities - dredging a total of 1,000 t or more of material from the bed of naturally occurring surface waters, in a year - dredging, in a year, the following quantity of material (a) 1,000 t to 10,000 t (Aggregate Environmental Score 11); (b) more than 10,000 t to 100,000 t (Aggregate Environmental Score 25); (c) more than 100,000 t to 1,000,000 t (Aggregate Environmental Score 44); (d) more than 1,000,000 t (Aggregate Environmental Score 66).
17	Abrasive blasting
31	Mineral processing consists of processing, in a year, a total of 1,000 t or more of coke (Aggregate Environmental Score 148).
33	Crushing, milling, grinding or screening consists of crushing, grinding, milling or screening more than 5,000 t of material in a year.
38	Surface coating
43	Concrete batching consists of producing 200 t or more of concrete or concrete products in a year, by mixing cement with sand, rock, aggregate or other similar materials (Aggregate Environmental Score 30).
50	Bulk material handling consists of (a) loading or unloading minerals at a rate of 100 t or more a day; or (b) stockpiling 50,000 t or more of minerals within 5 km of the highest astronomical tide or 1 km of a watercourse (Aggregate Environmental Score 73); or (c) loading or unloading bulk materials in connection with operations at a port; and at a rate of 100 t or more a day loading or unloading of bulk materials in a day or stockpiling bulk materials (Aggregate Environmental Score 73); or (d) stockpiling bulk materials in connection with operations at a port.
56	Regulated waste storage
57	Regulated waste transport
63	Operating a sewage treatment plant, other than no-release works having a total daily peak design capacity of (a) 21 or more equivalent persons but less than 100 equivalent persons (Aggregate Environmental Score 27); or (b) 100 or more equivalent persons but less than 1,500 equivalent persons (Aggregate Environmental Score 53).
64	Water treatment consists of carrying out an activity in a way that allows waste, whether treated or untreated, to be released into the environment - (a) desalinating 0.5 ML to 5 ML of water in a day to other than seawater (Aggregate Environmental Score – 8), more than 5 ML (Aggregate Environmental Score – 13) ; (b) treating 10 ML or more of raw water in a day (Aggregate Environmental Score – 26); (c) carrying out advanced treatment of 5 ML or more of water in a day to waters other than seawater (Aggregate Environmental Score – 45).

2.2.2.10 *Nature Conservation Act 1992*

The *Nature Conservation Act 1992* (NC Act) provides a comprehensive strategy for the conservation and management of Queensland's native flora and fauna. The NC Act is administered by DERM and its objective is the conservation of nature through numerous mechanisms including by declaration and management of protected and the protection of wildlife and wildlife habitats. Under this Act, the taking or destruction of listed flora and fauna species and / or protected areas is prohibited without approval.

A flora and fauna assessment was undertaken to identify threatened flora and fauna species and their habitat within the project area. Scheduled flora and fauna species and their habitat may be transected by the project area. A licence permit to remove potential habitat areas for these species will be sought from DERM.

2.2.2.11 *Queensland Heritage Act 1992*

The *Queensland Heritage Act 1992* (QH Act) provides for the conservation and protection of places and items of historical or non-indigenous cultural heritage. The project area does not transect any place registered as of historical or non-indigenous heritage value on the Queensland Heritage Register.

2.2.2.12 *State Development and Public Works Organisation Act 1971*

The *State Development and Public Works Organisation Act 1971* (SDPWO Act) establishes the framework for environmental assessment of major projects in Queensland and is the controlling legislation for the project at the State level. The SDPWO Act provides the Coordinator-General with the power to coordinate the environmental assessment through the declaration of "significant projects" which may require the preparation of an EIS.

The Coordinator-General must prepare a report evaluating the EIS based on a review of the document, consideration of submissions and any other materials the Coordinator-General deems relevant to the project. The Coordinator-General may state conditions or make recommendations to impose on the project or refuse the Project. The Evaluation Report links the approval processes in other legislation such as the EPBC Act and the *Vegetation Management Act 1999* (VM Act). The

Evaluation Report will be submitted to DSEWPC in order for the Commonwealth Minister to consider the action under section 133 of the EPBC Act.

2.2.2.13 *Sustainable Planning Act 2009*

The *Sustainable Planning Act 2009* (SPA) is Queensland's principal planning legislation for regulating development including making a material change of use of premises, reconfiguring a lot and the carrying out of building, operational, plumbing or drainage work.

Approvals which may be required under the SPA for works relating to the project are listed below:

Development approval for building works - The project will require an approval under the SP Act for building works that are assessable under the *Building Act 1975* unless the works are within the Mining Lease (ML).

Development approval for tidal works / development approval for works in a coastal management district - Development approvals required under Schedule 3 of the SP Act for operational works that are tidal works, and for operational works that are located within a coastal management district, are both assessed under the *Coastal Protection and Management Act 1995*.

Development approval for the removal and destruction of marine plants/ development approval for operational works for waterway barrier works - The *Fisheries Act 1994* promotes ecological sustainability through accountability in terms of the use, conservation and enhancement of the community's fisheries resources and fish habitats. The *Fisheries Act 1994* regulates the taking of, causing damage to and disturbance of marine plants, including mangroves, waterway barriers that impede the passage of fish, and development in a fish habitat reserve. Should the project incorporate operational works that involve the above activities, approval for such works will be sought under the SP Act.

Development approval for reconfiguring a Lot - Development approval for reconfiguring a Lot may be required if the project requires the subdivision of any freehold land.

Development approval for a material change of use of premises assessed against a Planning Scheme - Any parts of the project authorised under the *Mineral Resources Act 1989* will be exempt from the need to obtain approval for a material change of use on premises assessed against a planning scheme. However,

assessment against the planning scheme may be required for development outside the Mining Lease (ML).

Development approval for a material change of use of premises for Environmentally Relevant Activities (ERAs) - Development approval for a material change of use of premises for ERAs will be required if any ERAs will be undertaken as part of the project outside the ML.

Development approval for a material change of use on strategic port land and Abbot Point State Development Area - A development approval for a material change of use on strategic port land is required in accordance with the *Port of Abbot Point Land Use Plan* (Ports Corporation of Queensland (PCQ), 2008). Approval will also be required for a material change of use in the Abbot Point State Development Area (APSDA) in accordance with the APSDA Development Scheme (Coordinator-General, 2008)

Development approval to clear native vegetation - The VM Act provides for the management of remnant vegetation, high value regrowth vegetation and essential habitat areas. Under the *Mineral Resources Act 1989*, activities associated with the project within the Mining Lease are exempt from approval under the VM Act.

2.2.2.14 Transport Infrastructure Act 1994

The objective of this *Transport Infrastructure Act 1994* (TI Act) is to permit and promote integrated planning and management of transport infrastructure. The TI Act outlines the various regimes for all modes of transport including air, rail, sea, bus ways and light rail and is administered by Queensland Transport and Main Roads. A permit is required if the project will or is likely to interfere with the State Controlled Road Network (SCRN).

2.2.2.15 Vegetation Management Act 1999

The *Vegetation Management Act 1999* (VM Act) is administered by DERM and manages the clearing of native vegetation including remnant vegetation and vegetation in declared areas. The objective of the VM Act is to prevent land degradation and loss of biodiversity caused by clearing, maintain ecological processes and reduce greenhouse gas emissions.

Construction activities associated with the project and operational activities associated with the mine will involve the clearing of native vegetation listed under the VM Act. A clearing approval will be sought from DERM for the removal of this vegetation.

2.2.2.16 Water Act 2000

The *Water Act 2000* provides the framework to regulate the use of surface waters and groundwater through water planning instruments. Under s 808 of the *Water Act 2000*, a person (including a corporation) must not take, supply or interfere with water unless authorised under the Act. An application for a Riverine Protection Permit (RPP) to divert water from watercourses during construction and mine operational activities will be sought prior to the commencement of construction activities.

Release dams are proposed as part of the mine infrastructure. Under the Act, a permit is required to construct release dams if it is considered a referable dam. A referable dam is a dam that after construction will require a failure impact assessment and as a result the assessment states that the dam has the potential, after its construction, to have a Category 1 or Category 2 failure impact rating. Based on the desktop assessment of the proposed dam, it is considered that the dam will be classified by DERM as a referable dam, requiring a development permit under SPA including a waterway barrier permit under the *Fisheries Act 1994*.

2.2.3 QUEENSLAND PLANNING PROCESSES AND STANDARDS

State Planning Policies (SPP) are statutory planning instruments that relate to matters of Queensland's State interest. The following SPPs are relevant to the project.

2.2.3.1 State Planning Policy 1/92 (Development and the Conservation of Agricultural Land)

Development and the Conservation of Agricultural Land – 1/92 (SPP 1/92) protects Good Quality Agricultural Land (GQAL) from subdivision into uneconomic units and to minimise the potential for land use conflicts between agricultural and non-agricultural land uses. SPP 1/92 provides for the protection of good quality agricultural land (GQAL) from inappropriate development. The policy principles of SPP 1/92 state that:

“Good quality agricultural land has a special importance and should not be built on unless there is an overriding need for the development in terms of public benefit and no other site is suitable for the particular purpose”

Land degradation through soil erosion, salinity and declining fertility are issues facing the agricultural lifestyle in Queensland. SPP 1/92 planning guidelines describes four classes of GQAL with Class A land holding the highest rating.

The Regional Councils within the project footprint have due regard to SPP 1/92 in the process of undertaking their planning functions.

2.2.3.2 State Planning Policy 2/02 (Planning and Managing Development Involving Acid Sulfate Soils)

The outcome of SPP 2/02 is the avoidance of the release of acid and associated metals contamination into the environment by either not disturbing Acid Sulfate Soils (ASS) when excavating or otherwise removing soil, sediment, extracting groundwater or filling land or treating, and if required, undertaking ongoing management of any disturbed ASS and drainage waters.

State Planning Policy 2/02 is applicable when certain development applications are assessed, when planning schemes are made or amended, and when land is designated for community infrastructure. SPP 2/02 applies to all land, soil and sediment at or below 5m Australian Height Datum (AHD) where the natural ground level is less than 20 m AHD. Within the area described above, the SPP 2/02 applies to development involving any of the following activities:

- excavating or otherwise removing 100 m³ or more of soil or sediment; or
- filling of land involving 500 m³ or more of material with an average depth of 0.5 m or greater.

The majority of the project footprint at the port has been mapped as containing ASS by DERM. Site activities including the excavation of soils and removal of vegetation may result in the disturbance or exposure of Potential Acid Sulfate Soils (PASS) leading to Actual Acid Sulfate Soils (AASS).

There is a risk of encountering PASS during construction works.

2.2.3.3 State Planning Policy 1/03 (Mitigating the Adverse Impacts of Flood, Bushfire and Landslide)

State Planning Policy 1/03 - Mitigating the Adverse Impacts of Flood, Bushfire and Landslide establishes the Department of Community Safety's interests with regard

to natural hazards of flood, bushfire and landslide and ensures these matters are adequately addressed when carrying out development assessment.

The detailed design process of the project takes into account the requirements of SPP 1/03 through the appropriate design of infrastructure to withstand risks associated from bushfire and landslip natural hazards.

2.2.3.4 State Planning Policy 1/07 (Housing and Residential Development)

State Planning Policy 1/07 - Housing and Residential Development provides a framework for local Governments to utilise when preparing a new scheme or when amending an existing scheme. The *State Planning Policy 1/07- Housing and Residential Development* seeks to ensure a thorough and detailed analysis of housing needs in communities when local Governments prepare and implement planning schemes.

The proposed development does not restrict the range of housing options available to respond to the community needs in the area.

2.2.3.5 SPP 1/10 – Protecting Wetlands of High Ecological Significance in Great Barrier Reef Catchments (temporary SPP)

State Planning Policy 1/10 and its supporting guidelines seek to ensure that development in or adjacent to wetlands of high ecological significance in Great Barrier Reef catchments is planned, designed, constructed and operated to prevent the loss or degradation of wetlands and their values, or enhances these values; in particular, the hydrological regime and ecological values of those wetlands.

Development that is encompassed by SPP 1/10 includes operational works that are high impact earthworks, material change of use, and reconfiguration of a lot that involves operational works that are high impact earthworks. Examples of high impact earthworks include:

- filling of land, including raising the level of land, by the placing of fill material;
- excavation of land, including excavation to create a canal, channel or water storage;
- construction of a levee, bund wall or diversion bank;
- construction or raising of a dam, weir or other barrier across a waterway; and
- construction of a road, culvert or causeway.

2.2.4 QUEENSLAND ENVIRONMENTAL PROTECTION POLICIES

Environmental Protection Policies (EPPs) have been developed to achieve the objectives of the EP Act and to provide guidance on specific aspects of the environment. Where relevant impacts could occur for this project, impact studies have been undertaken, having regard to the environmental values specified in each EPP.

2.2.4.1 Environmental Protection Policy (Air) 2008

The object of the *Environmental Protection (Air) Policy 2008* (EPP Air) 'is to achieve the object of the EP Act in relation to Queensland's 'air environment'.

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; and
- providing a framework for making consistent, equitable and informed decisions about the air environment.

The air quality values of the project area, potential impacts from the project and management of those impacts are discussed in **Chapter 10, Volumes 2 and 3**.

2.2.4.2 Environmental Protection Policy (Noise) 2008

The object of the *Environmental Protection (Noise) Policy 2008* (EPP Noise) 'is to achieve the object of the EP Act in relation to Queensland's 'acoustic environment'.

The EPP Noise provides a framework for:

- identifying the acoustic (including vibration) values to be enhanced or protected; and
- specifying the project's acoustic quality objective; and
- providing a framework for making consistent, equitable and informed decisions about the acoustic environment.

The acoustic values of the project area, potential impacts from the project and management of those impacts are discussed in **Chapter 11, Volumes 2 and 3**.

2.2.4.3 Environmental Protection Policy (Water) 2009

The *Environmental Protection (Water) Policy 2009* (EPP Water) establishes a process for identifying environmental values to be protected and states standards for water quality in support of those values.

The EPP Water provides a framework for:

- identifying environmental values and management goals for Queensland waters;
- stating water quality guidelines and water quality objectives to enhance or protect the environmental values;
- providing a framework for making consistent, equitable and informed decisions about Queensland waters; and
- monitoring and reporting on the condition of Queensland waters.

The environmental values (concerning water) of the project, potential impacts from the Project, and management of those impacts are discussed in **Chapter 9, Volume 2 and 3**.

2.2.4.4 Environmental Protection Policy (Waste Management) 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 reuse, 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 **Chapter 12, Volume 2 and 3**.

2.2.5 DEVELOPMENT SCHEME FOR THE APSDA

The Abbot Point State Development Area (APSDA) is managed through a specific Development Scheme. The APSDA Development Scheme enables the State to facilitate and effectively manage the planned development and operation of the area and associated infrastructure for industrial purposes of Regional, State and National significance.

The intent of this development scheme is to:

- establish a set of objectives and requirements for the orderly development of the APSDA;
- provide guidance and a framework for the assessment, determination and management of development of the APSDA;
- establish a procedure for determination by the Coordinator-General of the suitability of uses in the APSDA;
- establish procedures for effective referral and public consultation so that other government and semi-government agencies, the Whitsundays Regional Council (WRC) and the community are engaged, where appropriate, in the assessment of applications for development;
- recognise that the Coordinator-General has primary carriage for the development, operation and management of land use in the APSDA; and
- identify a range of land use precincts within the APSDA and specify the intended purpose of each land use precinct.

The project will be located within the Environmental Management / Materials Transportation Precinct and will make use of the Precinct. The location of the project's infrastructure within the APSDA will require approval from the Department of Infrastructure and Planning (DIP) under the provisions of the SDPWO Act and SPA.

2.2.5.1 Port of Abbot Point Land Use Plan

The *Transport Infrastructure Act 1994* (TI Act) provides for and encourages effective integrated planning and efficient management of transportation infrastructure systems. It allows for the establishment of a regime under which Queensland Port Authorities manage their ports, consistent with the principles specified in the TI Act and the *Government Owned Corporations Act 1993*.

North Queensland Bulk Ports Corporation (NQBPC) is the port authority for the Port of Abbot Point under the TI Act. The Corporation has responsibilities for strategic planning for the port and for the provision of transport infrastructure for the port under the TI Act.

Port authorities are required to prepare Land Use Plans for their ports that require Ministerial approval before they come into force. Strategic Port Land is then not subject to the local government planning scheme, but rather to the approved Land Use Plan, which is a control in addition to any development approvals required under the SPA.

The objectives of the existing Land Use Plan are as follows:

- identifying existing facilities and land holdings;
- protecting cargo throughputs for the next 25 years;
- identifying an appropriate Environmental Management Plan (EMP);
- developing a flexible plan which allows for the staged development of the port;
- optimising the use of facilities and land; and
- meeting the legislative requirements for submission and approval of Land Use Plans under the TI Act.

The *Transport Infrastructure Act 1994* requires that a Land Use Plan is submitted at least every eight years. NQBPC's currently approved Land Use Plan for the Port of Abbot Point is dated September 2008.

NQBPC has implemented the "Port of Abbot Point Environmental Management Plan" (PCQ, 2005) to provide an overview of areas of environmental significance within the Port, and the current environmental management practices and controls used to protect and enhance the port environment. This plan is used by NQBPC in determining environmental standards for the ongoing development and operation of the Port. This plan is designed to complement NQBPC's Port of Abbot Point Land Use Plan to ensure that any development in the Port is carried out in an environmentally sustainable manner and is consistent with the planned strategic development of the area.

The Land Use Plan and the Port EMP are used by NQBPC in its roles as development facilitator and development manager and form part of the laws and policies used by NQBPC in its role as Assessment Manager under the SPA.

2.2.5.2 Great Barrier Reef Coast Marine Park

The *Marine Parks Act 2004* provides for the protection and conservation of the marine environment through the creation of zoning plans within the Marine Park. The zoning plans define what activities can occur in which locations, both to protect the marine environment and to separate potentially conflicting activities. Overall the zoning plans ensure the values of the marine park are managed in a strategic, comprehensive and representative manner.

Additional approvals will not be required for this project as no changes to the zoning plan are necessary given the Port of Abbot Point is already an operational port.

2.2.6 LOCAL AUTHORITY PLANNING SCHEMES

When the *Integrated Planning Act 1997* (IPA) commenced, all Local Governments in Queensland were required to prepare new Planning Schemes to manage growth and change in their local government area. Planning schemes must coordinate and integrate the matters they deal with, and also the State and Regional dimensions of those matters expressed through Regional Plans, SPPs and other similar planning instruments.

A planning scheme:

- outlines the desired outcomes sought for the local Government area as a whole and for particular localities;
- allocates land for different uses, including residential growth areas, having regard to a range of considerations;
- coordinates and integrates infrastructure and land use planning, and indicates the location of existing and proposed community infrastructure;
- identifies areas or places that constrain the use of land due to their environmental value, resource value or their adverse effects on development;
- identifies the kind of development that requires approval (assessable development) or that can be carried out without approval if certain requirements are met (self-assessable development); and
- specifies the development standards or criteria for assessing the suitability of a development proposal.

With the amalgamation of Councils in Queensland in 2007, regional Councils were required to prepare new planning schemes that included all the previous Local Councils. The four new regional councils crossed by the project are the:

- Barcaldine Regional Council (BRC);
- Central Highlands Regional Council (CHRC);
- Isaac Regional Council (IRC); and
- Whitsundays Regional Council (WRC).

With the introduction of the SPA in 2009, each regional Council is required to prepare a standardised Planning Scheme. Specific information on the four regional Council Planning Schemes and how they interact with the project is included in **Chapter 5, Volumes 2 to 3**.