

# 3.0 Approvals process

## 3.1 Introduction

This chapter outlines the key Commonwealth, State and local legislative requirements that are applicable to the Ensham Life of Mine Extension Project (the proposed project, hereafter referred to as ‘the Project’). The Project is expected to comply with applicable Commonwealth and State legislation and guidelines. This chapter describes supporting information associated with each approval including:

- legislation triggers
- administering authorities
- assessment timeframes
- application information requirements
- project-specific requirements.

The key approval requirements relevant to the Project are summarised in the following section.

### 3.1.1 Key approval requirements

The Project will be subject to a range of complex approval requirements under both Commonwealth and State legislation. Approval requirements already commenced for the Project include:

- A referral under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) was submitted to the Commonwealth Department of Agriculture, Water and the Environment on 6 May 2020 (EPBC 2020/8669). Idemitsu Australia Resources Pty Ltd, Bligh Coal Limited and Bowen Investment (Australia) Pty Ltd are the proponents for the Project. Notification (dated 29 June 2020) was received from the Commonwealth that the Project will be assessed under the Bilateral agreement and a controlled action relating to:
  - Listed threatened species and communities (sections 18 & 18A)
  - A water resource, in relation to coal seam gas development and large coal mining development (section 24D & 24E).
- An application to voluntarily prepare an Environmental Impact Statement was submitted 6 May 2020 and approval of the application was signed 9 June 2020.
- Assessment under the *Mineral Resources Act 1989* (Qld) (MR Act) for the grant of a mining lease (ML) within part of Mineral Development Licence (MDL) 217 (Zone 1) that is included in the Project Site. A ML application has been submitted to the former Department of Natural Resources, Mines and Energy (DNRME; now Department of Resources (DoR)) (lodgement date 25/03/2020, reference ML 700061).

It is anticipated that the Project will also require:

- an Environmental Authority (EA) amendment under the *Environment Protection Act 1994* (Qld) (EP Act)
- compliance with the right to negotiate process under the *Native Title Act 1993* (Cth) (NT Act) due to a registered claim by the Western Kangoulu People over the Project Site (Tribunal No. QC2013/002).

Assessment of impacts on underground water caused by the exercise of underground water rights would be undertaken through the ML application process. The management of impacts on underground water will be undertaken in accordance with the *Water Act 2000* (Qld) (Water Act).

## 3.2 Commonwealth

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

The EPBC Act provides the legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places. These are defined under the EPBC Act as matters of national environmental significance (MNES). Under the provisions of the EPBC Act, an action that is likely to have a significant impact on a MNES requires the approval of the Minister at the Department of Agriculture, Water and the Environment.

The Project has been declared a controlled action under the EPBC Act. The controlling provisions for the Project with regard to its potential impacts on MNES are:

- listed threatened species and communities (sections 18 and 18A)
- a water resource, in relation to coal seam gas development and large coal mining development (sections 24D and 24E).

The State's environmental impact statement (EIS) process has been accredited under a Bilateral Agreement for the purposes of the Commonwealth's assessment of the Project under Part 8 of the EPBC Act.

The EIS assesses the relevant impacts on matters covered by the controlling provisions and ensures that sufficient information about the Project and its relevant impacts are provided. This subsequently allows the Commonwealth Minister for the Environment to make an informed decision whether to approve the Project under the EPBC Act. The matters to be addressed in this EIS are set out in Schedule 4 of the Commonwealth's Environment Protection and Biodiversity Conservation Regulations 2000 which mirrors Section 6 and Schedule 1 of the Environmental Protection Regulation 2008.

The required evaluation of the Project's potential impacts on MNES is provided in **Chapter 25** (Matters of national environmental significance).

### 3.2.2 *Native Title Act 1993*

Native title is defined under the NT Act. Native title rights and interests are rights and interests in relation to land or waters held by Aboriginal peoples or Torres Strait Islanders under their traditional laws and customs and recognised by the common law of Australia. Native title rights may exist regardless of whether there is a native title claim or determination in relation to the relevant land or waters, and may be exclusive or non-exclusive rights. Non-exclusive rights may co-exist with the rights of others, such as a pastoral leaseholder.

Any acts or dealings in relation to land and waters that affect native title must comply with the NT Act in order to be validly done. A registered native title claim gives a native title party certain procedural rights with applicants regarding the grant of mining authorities for the areas covered by the claim.

The Western Kangoulu People have one registered claim over the Project Site (Tribunal No. QC2013/002).

During the process of obtaining lawful tenure to occupy and undertake the Project, native title will be addressed as required under the NT Act. It is anticipated that a section 31 deed and ancillary agreement will be executed with the native title party as part of the 'right to negotiate' process under the NT Act.

## 3.3 State

### 3.3.1 *Aboriginal Cultural Heritage Act 2003*

The *Aboriginal Cultural Heritage Act 2003* is the main piece of Queensland legislation relevant to the governance of Aboriginal cultural heritage. The Act aims provide recognition, protection and conservation of Aboriginal cultural heritage. Within this objective the act places a "duty of care" on activities that may harm

Aboriginal cultural heritage. Section 23 part 1 states that “duty of care” provisions ensure that “a person who carries out an activity must take all reasonable and practical measures to ensure that the activity does not harm Aboriginal cultural heritage”.

The Act also provides framework for assessment significant Aboriginal areas and their level of significance based on its history of place, presence of artifacts or its significance based on anthropological, biogeographical, historical or archaeological information. While any person may sponsor a cultural heritage study, Aboriginal parties are responsible for the assessment of the level of significance within a site.

The major elements of the Act are:

- the protection of areas and artifacts of traditional archaeological or customary significance
- recognition of Aboriginal parties as a the primary role in cultural heritage protection and management
- the establishment of a Cultural Heritage Register and Cultural Heritage Database
- provision of general duty of care where the responsibilities fall on developers to manage their duty of care
- compulsory preparation of a Cultural Heritage Management Plan should an EIS be required under another Act for any Project.

Both individuals and corporations may be prosecuted if duty of care is not fulfilled or if they are responsible for damaging Aboriginal cultural heritage.

There are currently two approved CHMPs (CLH000419) registered with DATSIP for the Ensham Mine (Ensham Resources Pty Ltd, 2007). The CHMPs were developed with the relevant Aboriginal Parties at the time:

- Garingbal and Kara Kara People (referred to by DATSIP as the ‘Public notice endorsed parties’) – for areas of the mine south of the Nogoa River, including Zone 2 and Zone 3 of the Project Site
- Western Kangoulu (as part of the Kangoulu People QUD6195/1998) – for areas of the mine north of the Nogoa River, including Zone 2 of the Project Site. Western Kangoulu (QUD17/2019) is now the current Aboriginal Party for the Project Site.

### **3.3.2 Biosecurity Act 2014**

The *Biosecurity Act 2014* aims to manage diseases and pests that may cause harm to human, animal or plant health or the environment. The Act details the minimisation of biosecurity risks, management of present and emerging risks to reduce their impacts on economic, environmental, agricultural, tourism and societal values. The Biosecurity Act provides the following:

- provision of a framework for a biosecurity management system across Queensland
- standards and management of the safety and quality of animal feed, fertilisers and agricultural inputs
- management of emerging or endemic pests and diseases, their potential for animal to human transfer and potential biological, chemical or physical contaminants within carriers
- ensure responses to biosecurity risks are compatible with national and international obligations.

Part 1 section 23 of the Act defines a ‘general biosecurity obligation’ for any person who deals with bio security matters, interacts with carriers or carries out an activity likely to pose a biosecurity risk. General biosecurity obligations are:

- take all reasonable and practical measures to prevent or minimise biosecurity risk
- minimise adverse effects on a biodiversity consideration
- minimise a likelihood of causing a biosecurity event
- the reporting of all biosecurity events or potential events that may exacerbate a biosecurity matter.



The act also states that a person with control over a ‘restricted matter’ must meet select requirements for the following categories of restricted matters:

Category 1 and 2

- declaration to the restricted matter to an appropriate authorised officer
- no actions to exacerbate the restricted matter and must take any action reasonably likely to minimise the biosecurity risk.

Category 3

- restricted matter must not be distributed or disposed of unless authorised or prescribed by regulation.

Category 4

- restricted matter must not be moved, or allowed to be moved.

Category 5

- restricted matter must be kept under the persons control or in the persons possession.

Category 6

- restricted matter must not be fed.

Category 7

- restricted matter under possession or control must be killed as soon as practicable unless a permit is held or the matter is in the lawful possession of a person.

As part of their general environmental duty, Ensham JV has conducted field assessments within the Project Site to identify weed species. Additional species and areas will be managed through the existing environmental operating procedure (EOP) EOP.06.00.03 Weed and Feral Animal Management Plan.

### **3.3.3 Coal Mining Safety and Health Act 1999**

The *Coal Mining and Safety Act 1999* (CMSH Act) aims to protect the health and safety of individuals at coal mines and individuals who may be affected by coal mines. It requires that the risk of injury or illness to these individuals as a result of coal mining is at an acceptable level by providing a way of monitoring provisions for health and safety.

The Coal Mining and Safety Regulation 2017 (CMSH Regulation) acts in support of the CMSH Act. This regulation requires the implementation of hazard management systems that involve the following:

- risk identification and assessment
- hazard analysis
- management and control.

To ensure the safety of workers and the appropriate management of hazards Ensham JV is required to comply with the obligations of the CMSH Act and CMSH Regulations.

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

The EP Act is Queensland’s primary piece of environmental legislation. The object of the EP Act is to ‘protect Queensland’s environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends’ (section 3). ‘Environment’ is defined under the Act as (section 8):

- ecosystems and their constituent parts, including people and communities
- all natural and physical resources



- the qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community
- the social, economic, aesthetic and cultural conditions that affect, or are affected by, things mentioned in paragraphs (a) to (c).

To ensure the protection of local ecosystems and resources Ensham JV is required to ensure they meet the requirements of the Act and its subordinate legislations.

#### **3.3.4.1 General environmental duty**

General environmental duty under the EP Act is defined as 'A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm' (section 319) unless Ensham JV takes all reasonable and practicable measures to prevent or minimise the harm. To ensure Ensham JV complies with their general environmental duty the following points from section 319.2 must be considered:

- the nature of the harm or potential harm
- the sensitivity of the receiving environment
- the current state of technical knowledge for the activity
- the likelihood of successful application of the different measures that might be taken
- the financial implications of the different measures as they would relate to the type of activity.

In completing this EIS, Ensham JV compliance has been demonstrated. Furthermore, under section 320D of the EP Act. Ensham JV is required to provide written notification to the administering authority of any events that cause serious or material environmental harm while carrying out a primary activity within 24 hours of said activity. This notice must include the events nature and circumstances. Ensham JV will comply if any event occurs.

#### **3.3.4.2 Environmental impact statement**

On 9 June 2020, the Queensland Department of Environment and Science approved an application for the Ensham JV to voluntarily prepare an EIS under the EP Act. Under section 139 of the EP Act, the EIS will form the application documents for the requirements of chapter 3 of the EP Act.

As described in **Chapter 5** (The environmental impact assessment process), the Project was determined to be a controlled action (EPBC 2020/8669) under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The controlling provisions are 24D and 24E (A water resource, in relation to coal seam gas development and large coal mining development). The EIS for the Project will be jointly assessed under the EP Act and the Commonwealth's EPBC Act using the EIS process under the EP Act in accordance with the assessment bilateral agreement between the Australian Government and the State of Queensland.

Documents prepared in relation to the EIS are discussed in (**Chapter 5.2** (EIS process)) alongside likely impact of each relevant activity on the environmental values (**Chapter 5.1** (Assessment methodology)) and the regulatory requirements of an EIS under the EP Act (**Chapter 5.6.2** (Assessment under the EP Act and EPBC Act)).

#### **3.3.4.3 Environmentally sensitive areas**

Under the EP Act section 389, Environmentally Sensitive Areas (ESAs) are described as 'an area prescribed by regulation as an environmentally sensitive area'. ESAs in the EP Regulation are defined under category A or category B while the Code of Environmental Compliance for Exploration and Mineral Development Projects 2001 defines category C areas. All activities that fall within ESA's in the Project area will be regulated by the requirements of the EP Act.



The EP Act establishes an assessment regime for the consideration and approval of environmentally relevant activities (ERAs) and establishes a process for obtaining an EA for mining activities.

### 3.3.4.4 Water Pollution and the Great Barrier Reef

Amendments to the EP Act from the Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Bill 2019 regulates water pollution flowing into the Great Barrier Reef from land based sources. These regulations are currently in effect and include:

- minimum practice standards will apply to all sugarcane, grazing, banana, grains and horticulture production Reef regions, with commencement staged over three years (Fully commenced by 1 June 2021)
- producers will need to keep records of soil tests and fertiliser and agricultural chemicals applied
- advisers will need to keep records of advice provided
- new and expanded cropping or horticulture in all six Reef regions will require an environmental authority subject to conditions to minimise impacts to water quality
- new, expanded or intensified industrial development must not increase nutrient and sediment pollutant loads.

### 3.3.4.5 Subordinate legislation

The EP Act has four subordinate legislations that act in support of the Act. These include:

- Environmental Protection Regulation 2019
- Environmental Protection (Air) Policy 2019
- Environmental Protection (Noise) Policy 2019
- Environmental Protection (Water and Wetland Biodiversity) Policy 2019
- Environmental Protection (Regulated Waste) Amendment Regulation 2018.

#### ***Environmental Protection Regulation 2019***

The EP Regulation assists the EP Act through revising and clarifying expired legislation. The EP regulation provides greater detail on the following processes outlined in the EP Act:

- ERA identification, fees and other matters such as environmental impact statements, temporary emissions licenses and contaminated land extracts
- Decision making to reduce environmental harm and provide for sustainable development
- Standards and conditions for ERAs with lower risk of causing environmental harm
- Devolution of particular matters to local governments for administration and enforcement
- Listing regulated wastes and prescribed water contaminants
- Formalised methods for measuring noise standards
- Detailing the administrative process of EIS
- Gives effect to, and enforces compliance with, the National Environment Protection (National Pollutant Inventory) Measure 1998.

The EP Regulation defines ERAs as activities with the potential to impact negatively on the environment. To carry out one or more ERAs an application of an Environmental Authority (EA) is required. An EA acts as a license to operate relevant ERAs and can involve more than one resource tenure licensed as a single integrated operation. The current EA (EPML00732813) authorises the carrying out of ERAs which will continue for the Project.

The Project will require an EA amendment application for EPML00732813 (dated 24 July 2020). Under s.228 of the EP Act, the proposed EA amendment would require a major amendment due to the Project footprint

adding an additional ML to EPML00732813 (i.e. Zone 1: a portion of MDL 217). As discussed in Chapter 5 (The environmental impact assessment process), the EA amendment application to authorise the Project will be finalised once the EIS Assessment Report is complete. DES will prepare a draft EA based on the information provided in the EIS. A copy of the draft EA will be provided by DES to any person who made a submission on the EIS. Submitters will decide if the EIS and the draft EA adequately addresses their issues or concerns. If required, objections to the draft EA will be heard in Land Court.

Once approved, the EA will authorise the ERAs listed in EPML00732813 (dated 24 July 2020) over the MLA 700061.

Upon completion of the Project, Ensham JV is required to submit an EA surrender application. Ensham JV is required to prepare and submit a progressive or final rehabilitation report to DES for assessment. The relevant criteria (section 318ZI or section 268) must be considered when deciding whether to certify progressive rehabilitation or whether to approve a surrender application. Rehabilitation requirements must satisfy DES before a progressive rehabilitation can be certified or the surrender of an EA is accepted for the whole Project.

The EIS assessment process is discussed in further detail in Chapter 5 (The environmental impact assessment process).

#### ***Environmental Protection (Air) Policy 2019***

The EPP (Air) prescribes ambient air quality goals. The policy aims to achieve the objects of the EP act by identifying environmental values to be enhanced or protected, stating indicators and air quality objectives and providing a framework for making consistent, equitable and informed decisions about the air environment. Environmental values to be enhanced or protected under section 6 of the EPP (Air) are:

- protecting the health and biodiversity of ecosystems
- human health and wellbeing
- protecting the aesthetics of the environment, including the appearance of buildings, structures and other property
- protecting agricultural use of the environment.

#### ***Environmental Protection (Noise) Policy 2019***

The EPP noise aims to achieve objectives of the EP act through the identification of environmental values to be enhanced or protected by stating acoustic quality objectives and providing a framework making consistent, equitable and informed decisions about the acoustic environment. Environmental values to be enhanced or protected under section 6 of the EPP (Noise) are:

- protecting the health and biodiversity of ecosystems
- human health and wellbeing, including by ensuring a suitable acoustic environment for individuals to do any of the following:
  - sleep
  - study or learn
  - be involved in recreation, including relaxation and conversation
- protecting the amenity of the community.

#### ***Environmental Protection (Water and Wetland Biodiversity) Policy 2019***

The EPP (Water and Wetland Biodiversity) aims to achieve the EP Act through the identification of environmental values for waters and wetlands, construction of management goals for waters through monitoring and reporting conditions, statement of water quality guidelines and a provision of a framework to assist in making consistent, equitable and informed decisions about waters.

### ***Environmental Protection (Regulated Waste) Amendment Regulation 2018***

Under the Environmental Protection (Regulated Waste) Amendment Regulation 2018 (schedule 19) ‘general waste’ is defined as waste other than regulated waste. While regulated waste (Chapter 5, Part 1, Division 1) is a commercial and industrial waste and includes:

- for an element, any chemical compound containing the element
- anything that contains residues of the waste.

A risk based waste classification framework was introduced in 2019 under the Environmental Protection (Regulated Waste) Amendment Regulation 2018 which now classifies waste as:

- Category 1 regulated waste (highest risk)
- Category 2 regulated waste (moderate risk)
- not-regulated waste / general waste (lowest risk).

### ***3.3.5 Mineral Resources Act 1989***

The MR Act provides for the assessment, development and utilisation of mineral resources. The MR Act establishes a framework to facilitate mining-related activities through the leasing of prospecting, exploration, mineral development and mining tenure.

Approval is required to mine minerals specified in the lease and for all purposes necessary to effectually carry on the mining as well as purposes other mining specified in the ML and associated with, arising from or promoting the activity of mining. Coal mining and production and associated activities including processing and rehabilitation must be conducted within a ML.

Granting of a new ML is required prior commencing mining activities within that part of the Project Site within a portion of MDL 217. The Ensham JV submitted a ML application with the DoR for Zone 1 of the Project Site on 25 March 2020 (mining lease application (MLA) 700061).

It is expected that the MLA will be approved by the Department of Natural Resources, Mines and Energy following the granting of the amended EA for the Project by the Department of Environment and Science. The final stages of the MLA and granting process will occur after the approval of this EIS.

### ***3.3.6 National Greenhouse and Energy Reporting Act 2007***

The *National Greenhouse and Energy Reporting Act 2007* (NGER Act) aims to construct a national reporting framework for the reporting and dissemination of information related to greenhouse gas emissions and energy consumption. Reporting is applicable if the controlling corporation meets or exceeds a threshold for a financial year as outlined in part 2, section 13 of the Act. The NGER Act is supported by the National Greenhouse and Energy Reporting Regulations 2008 (NGER Regulation) and the National Greenhouse and Energy Reporting Determination 2008 (NGER Determination). The Clean Energy Regulator is an independent authority in charge of administering the NGER Act.

Assessment and reporting requirements under the NGER Act will be met through the existing mechanisms developed by Idemitsu Australia Resources Pty Ltd and will provide GHG emissions, energy production and energy consumption data to the greenhouse and Energy Data officer if thresholds are exceeded.

### ***3.3.7 Nature Conservation Act 1992***

The objective of *The Nature Conservation Act 1992* is the ‘conservation of nature while allowing for the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom’ (section 4). The act achieves this through the following practices:

- gathering of relevant information and community education
- dedication and declaration of protected areas and critical habitat



- management of protected areas
- protection of native wildlife and its habitat
- use of protected wildlife and areas to be ecologically sustainable
- recognition of interest of Aborigines and Torres Strait Islanders in nature and their cooperative involvement in its conservation
- cooperative involvement of landholders.

As supporting legislation to the NC Act, The Nature Conservation (Wildlife) Regulation 2006 provides categorisation for native wildlife. The categories used by this regulation are: extinct in the wild, endangered, vulnerable, near threatened and least concern. When applied to flora, a permit is required for the clearing of endangered, vulnerable, near threatened protected plant species. Surveys and ecological assessment are required for State listed flora and fauna species.

Under the NC Act, areas identified as breeding grounds for protected animals within the disturbance area require a Species Management Program. Furthermore, taking or handling of protected animals requires approval prior to construction commencement.

Ecological surveys completed for the Project in 2019 and 2020 identified no EVNT flora species on the Project Site. The Project Site is not located within a high risk area as per the NC Act flora survey trigger map. When works are proposed in an area other than a high risk area, a clearing permit is only required where a person is, or becomes, aware that endangered, vulnerable or near threatened (EVNT) plant species are present. Based on ecological assessments undertaken to date, there is a low likelihood that protected animals will be encountered in the establishment of the Project owing to new minor surface disturbance and non-material surface construction. Minor vegetation clearing may be required as part of the Project. Should vegetation clearing be required, relevant permits will be sought and following approval, a suitably qualified spotter catcher will be present during vegetation clearing activities to minimise risk of injury to native fauna. All spotter catchers will hold appropriate permits under the NC Act.

Several matters identified under the NC Act are also listed as MSES (Schedule 2, Environmental Offsets Regulation). These include:

- areas shown as a high-risk area on the flora survey trigger map and contains plants that are endangered wildlife or vulnerable wildlife
- areas not shown as a high-risk area on the flora survey trigger map, to the extent the area contains plants that are endangered wildlife or vulnerable wildlife
- Koala habitat areas
- habitat for an animal that is endangered, vulnerable or special least concern
- protected areas.

Based on ecology assessments, no environmental offsets are proposed as part of the Project in accordance with the requirements of the *Environmental Offsets Act 2014* and *Environmental Offsets Regulation 2014*.

### **3.3.8 Planning Act 2016**

The *Planning Act 2016* aims to establish an integrated system of land use planning, development assessment and related matters that facilitate the achievement of ecological sustainability. The *Planning Act* does not apply to development authorised under the *MR Act* (section 4A). Furthermore building work controlled under the *Building Act 1975* is self-assessable within the ML. As the Project does not require any development in relation to these Acts and Regulations, no approvals are necessary. Should development occur outside the ML approvals may be required subject to the provisions of the *Planning Act, Planning Regulation 2017*.

### 3.3.9 Queensland Heritage Act 1992

The *Queensland Heritage Act 1992* establishes a legislative framework for the registration and protection of non-indigenous places with local or state-wide significance. The act provides protections for cultural heritage (archaeological artifacts and protected areas) and regulates certain developments that may affect the cultural heritage significance of registered places.

The objectives of the QH Act is achieved by:

- establishment of the Queensland Heritage Council
- creation of the Queensland Heritage Register
- requirement of reporting the discovery of archaeological artefacts
- provision for the identification and management of places of local cultural heritage significance by local governments
- regulation of development affecting the cultural heritage significance of Queensland heritage places
- provision for heritage agreements to encourage appropriate management of Queensland heritage places
- providing enforcement powers to help protect Queensland's cultural heritage.

To ensure artifacts and buildings of significance are preserved Ensham JV is required to assess the Queensland Heritage Register for sites of significance and have provisions should an artifact of significance be uncovered during works.

#### 3.3.9.1 Queensland Heritage Register

The Queensland Heritage Register is a list of places that have cultural heritage significance to the people of Queensland. To be entered into the register places must meet the reflect the pattern of Queensland's history and regional development. They relate to key economic, political, social and cultural endeavours that have shaped society. Places that meet the requirements of the register fall into the following categories:

- State Heritage Place – places that are significant as they contribute to the understanding of the wider pattern and evolution of Queensland's cultural heritage
- Protected Areas - areas with strong heritage values that are vulnerable and under threat. To conduct work in these areas a permit is required.

Strategic and high priority matters of Queensland's heritage are seen by The Queensland Heritage Council, an independent statutory authority, which provides advice to Queensland Government. The council provides advice on the development of State owned places of heritage and decides on which places are added or removed from the Queensland Cultural Heritage Register.

The criteria and application of cultural heritage significance is set out in Schedule 4 of the QH Act where the thresholds for determining State and Local level features of significance are identified. Further information on interpreting this information can be found in *Assessing Cultural Heritage Significance: Using the Cultural Heritage Criteria* (EHP, 2013).

There are no State Heritage Register listed places within, or adjacent to, the Project Site. However, if an archaeological artefact that is an important source of information about an aspect of Queensland's history is uncovered, Ensham JV must contact DES for direction.

### 3.3.10 Regional Planning Intersects Act 2014

The *Regional Planning Intersects Act 2014* aims to protect areas of regional interest from inappropriate development and to assist in the resolution of land conflicts. The Act replaced the *Strategic Cropping Land Act 2011* in 2014. Under the Act approvals are required when resource or regulated activities are proposed in an area of regional interest. Areas of regional interest are:



- priority living areas (PLAs)
- priority agricultural areas (PAAs)
- strategic cropping areas (SCAs)
- strategic environmental areas (SEAs).

Regional interest areas that intersect the Project site were assessed to ensure appropriate development. The Project Site intercepts PAA and SCA land. A RIDA application will be required and the relevant PAA and SCA assessment criteria must be satisfied.

### **3.3.11 Stock Route Management Act 2002**

The *Stock Route Management Act 2002* creates provisions for stock route network management through the establishment of planning, responsibilities, construction and maintenance of stock facilities as well as the monitoring, surveying and controlling of stock movement. The Act makes provisions for the changing or interruption to stock routes and facilities, there is no planned surface disturbance that will impact routes within the Project area.

### **3.3.12 Strong and Sustainable Resource Communities Act 2017**

The *Strong and Sustainable Resource Communities Act 2017* ensures that residents of communities in close proximity to large resource projects benefit from the construction and operation of these projects. The Act defines large resource projects as projects that require an EIS or hold a site specific EA and have 100 or more workers.

The Act prohibits 100% fly in, fly out workers (FIFO), requires the preparation of a social impact assessment and promotes the employment of people from nearby regional communities through anti-discrimination provisions. A social impact assessment is mandatory for environmental impact statements for large resource projects and must be prepared in accordance with social impact assessment guidelines.

A SIA was conducted between June and November 2020 to inform EVs of the Project. Furthermore, Ensham JV has committed to engage with local schools and colleges to encourage employment from the local community (**Chapter 2 (Future engagement)**).

### **3.3.13 Transport Operations (Road Use Management) Act 1995**

The *Transport Operations (Road Use Management) Act 1995* establishes a framework to provide effective management of road use within the state and establishes a scheme to establish, manage and control road users, access and behaviour. The following regulations are relevant under this Act:

- Transport Operations (Road Use Management—Mass, Dimensions and Loading) Regulation 2005 in accordance with Section 51, requires approvals for over-mass or over-dimension loads prior to transport. Transportation of these loads during the construction phase of the project will require approvals from DTMR before the activity takes place.

The Transport Operations (Road Use Management – Fatigue Management) Regulation 2008 requires the safe management of the fatigue of drivers of fatigue regulated heavy vehicles while they are driving on roads. The purpose of the *Vegetation Management Act 1999* is to regulate the clearing of vegetation in a way that conserves remnant vegetation and vegetation in cleared area, prevent land degradation and biodiversity loss, maintain ecological processes, manage environmental effects, reduce greenhouse gas emissions and allow for sustainable land use. Within the Mine Lease, the Project is exempt from provisions of vegetation clearing under the VM Act as addressed in the Planning Regulation 2017 7 (Schedule 21 Part 1, item 1 [(6) a resource activity as defined under the EP Act, section 107]). The Project does not require clearing of native vegetation. If clearing of native vegetation was required, mining is exempt development and the VM Act provides useful guidelines on management.

Under the VM Act some matters listed are also identified under MSES Environmental Offset Regulation. This includes regional ecosystems:



- classified as endangered or of concern
- intersect with an area shown as a wetland on the vegetation management wetlands map
- have been identified as essential habitat on the essential habitat map for endangered or vulnerable species
- located within a defined distance from the banks of a watercourse or drainage feature.

Based on ecology assessments, no environmental offsets are proposed as part of the Project in accordance with the requirements of the *Environmental Offsets Act 2014* and *Environmental Offsets Regulation 2014*.

### **3.3.14 Waste Reduction and Recycling Act 2011**

The *Waste Reduction and Recycling Act 2011* (WRR Act) aims to promote waste avoidance and reduction by encouraging waste avoidance and recovery. It ensures a shared responsibility between government, business, industry and the community in waste management and resource recovery. The WRR Act uses a waste and resource management hierarchy, a framework that outlines options of waste use. Waste avoidance sits at the top of the hierarchy and utilizes reuse, recycling and energy recovery methods, while waste disposal is the least preferred option.

Under the WRR Act the law of polluter pays is established, alongside the user pays principle, the proximity principle and the product stewardship principle. These principles act as provisions to ensure sustainable waste management. Waste generated by the Project will be managed in accordance with the Act and Ensham Mine's environmental operating procedures.

### **3.3.15 Water Act 2000**

The legislative framework of the *Water Act 2000* aims to manage Queensland's water resources and quarry material sustainably, provide a secure and sustainable water supply for the south-east Queensland region and other designated regions, manage impacts on underground water caused by the resource sector and effectively operate water authorities.

Under the Water Act authorisation is generally required for the taking of water for the following activities:

- Taking water from
  - overland flow
  - groundwater
  - watercourse
  - lakes
  - springs
- Destroying vegetation
- Excavation or placing fill into a watercourse, lake or spring
- Removal of quarry material from a watercourse, lake or spring.

Exemptions for the taking or interfering with water are available for resource activities with a mineral development license or mining lease if activities take place during the course of or results from undertaking

Frameworks for the management of impacts on groundwater due to the use of underground water rights by resource tenure holders is provided under Chapter 3 of the Act and require:

- assessment and monitoring of impacts of groundwater extraction on water bore holes and springs
- preparation of Underground Water Impact Reports (UWIRs) to monitor and manage impacts
- management of cumulative impacts
- requirement to enter into make-good agreements with owners of impacted bores due to the exercise of underground water rights.



The Water Act develops water resource plans (WPRs) and associated Resource Operation Plans for each catchment within Queensland. The WRP for the Project area is the Fitzroy Basin Water Plan and the Fitzroy Basin Resource Operations Plan.

Ensham JV has taken all appropriate steps to ensure the Water Act provisions are followed including monitoring, management, the development of and UWIR and make-good agreements.

### **3.3.15.1 Underground Water Impact Report**

An Underground Water Impact Report (UWIR) is needed prior to exercising rights to access groundwater associated with mining operations. The *Water Reform and Other Legislation Amendment (WROLA) Act 2014* requires additional matters to be addressed as part of the EA process. The UWIR for the Project has addressed the relevant requirements of the Water Act for completing a UWIR (chapter 3, division 4, section 376). The UWIR for the Project includes:

- area information
  - quantity of water produced
  - estimate of water to be produced or taken for a 3-year period
- aquifer information
  - description of the aquifer
  - analysis of the movement of underground water to and from the aquifer
  - analysis of the trends in water level change for the aquifer
- aquifer maps
  - map showing the area of the aquifer where the water level is predicted to decline
  - maps of affected areas
  - methods and techniques used in the construction of the hydrologic model and associated water level maps and predictions
  - water bores within Immediately Affected Areas
  - annual reviews of produced maps
- impacts on Environmental Values (EVs)
  - identification and description of EVs
  - nature and extent of impacts on EVs
  - impacts to the formations integrity and relevant surface subsidence
- water monitoring strategy
  - timetable for the water monitoring strategy
  - reporting program
  - rational behind choices made in the strategy
- spring impact management strategy
  - spring inventory and relevant values
  - connectivity report on the spring and aquifer
  - management of impacts
  - timetable for strategy and its reporting program.

The UWIR will be submitted prior to the exercising of groundwater rights (Section 370(2)). Sections 381 and 382 of the *Water Act* will be addressed and Ensham JV will follow the mandatory consultation and submission period as described by these sections. The UWIR will be submitted to the DES, accompanied by a submission summary as described in section 383 of the *Water Act*. On the third anniversary of the first UWIR a new UWIR will be prepared and submitted to DES within ten days.



### 3.3.15.2 Interfering with a watercourse

Placing fill or excavation occurring in a watercourse as required construction for roads, bridges or culverts may require a Riverine Protection Permit (RPP) (Section 266). A general exemption has been granted to resource holders where works are authorised by an EA and comply with DoRs ‘Riverine protection permit exemption requirements’(WSS/2013/726) (DNRME, 2019b). While the Nogoa river intersects the Project site, no works are planned to interfere with the waterway.

### 3.3.16 Other permits

The following permits may be required from the Central Highlands Regional Council:

- application to carry out works in a road reserve
- application for road closure
- trade waste application for discharge permit

Should works occur outside the ML the need for these permits should be reviewed.

### 3.3.17 Likely Project Approvals Summary

All of the approvals likely to be required for the Project are summarised in **Table 3-1**.

**Table 3-1. Summary of associated approvals**

Legislation	Administering authority	Approval trigger	Relevance to the Project	Chapter reference
<b>Aboriginal Cultural Heritage Act 2003 (Qld)</b>	Department of Aboriginal and Torres Strait Islander Partnerships	Any activity undertaken by any person that may harm Aboriginal cultural heritage.	<p>There are currently two approved CHMPs (CLH000419) registered with DATSIP for the Ensham Mine (Ensham Resources Pty Ltd, 2007). The CHMPs were developed with the relevant Aboriginal Parties at the time:</p> <ul style="list-style-type: none"> <li>• Garingbal and Kara Kara People (referred to by DATSIP as the ‘Public notice endorsed parties’) – for areas of the mine south of the Nogoa River, including Zone 2 and Zone 3 of the Project Site</li> <li>• Western Kangoulu (as part of the Kangoulu People QUD6195/1998) – for areas of the mine north of the Nogoa River, including Zone 2 of the Project Site. Western Kangoulu (QUD17/2019) is now the current Aboriginal Party for the Project Site.</li> </ul> <p>In relation to Zone 1, a CHMA exists between Ensham and the Western Kangoulu People for activities under MDL 217 and MDL 218 (Ensham and Western Kangoulu People, 2018).</p> <p>The ACH Act provides that a CHMP is required for projects for which an EIS is required under another Act (ACH Act Part 7, Division 2, s.87). This requirement does not apply if cultural heritage is addressed in a native title agreement, as defined under the ACH Act (ACH Act Part 7, Division 2, s.86).</p> <p>The requirements of the ACH Act will be met for the Project by compliance with the existing CHMPs for Zones 2 and 3 and a native title agreement for Zone 1.</p>	<b>Chapter 20</b> (Cultural heritage)
<b>Biosecurity Act 2014 (Qld)</b>	Department of Agriculture and Fisheries	Any activity undertaken by any person that may spread biosecurity pests, diseases and contaminants.	<p>The <i>Biosecurity Act 2014</i> provides biosecurity measures to safeguard the Queensland economy, agricultural and tourism industries, and way of life from pests (e.g. wild dogs and weeds), diseases (e.g. foot-and-mouth disease) and contaminants (e.g. lead on grazing land). Under the <i>Biosecurity Act 2014</i>, individuals and organisations have a ‘general biosecurity obligation’ to take all reasonable and practical steps to minimise biosecurity risks.</p> <p>Field assessments have been undertaken within the Project Site to identify weed species. Additional species and areas will be managed through the existing environmental operating procedure (EOP) EOP .06.00.03 Weed and Feral Animal Management Plan.</p>	<b>Chapter 13</b> (Terrestrial ecology)

Legislation	Administering authority	Approval trigger	Relevance to the Project	Chapter reference
<b>Coal Mining Safety and Health Act 1999 (Qld)</b>	Department of Natural Resources, Mines and Energy	All personnel must ensure that the risk of injury or illness to any person resulting from coal mining operations be at an acceptable level.	The <i>Coal Mining Safety and Health Act 1999</i> and subordinate Coal Mining Safety and Health Regulation 2003 deal with the protection and health and safety of all persons involved in the operation, design, and construction of coal mines.  The Project operations will be governed by the <i>Coal Mining Safety and Health Act 1999</i> .	<b>Chapter 19</b> (Hazards and safety)
<b>National Greenhouse and Energy Report Act 2007 (Cth) (NGER Act)</b>	The Clean Energy Regulator	Assessment and reporting required for controlling corporations registered under section 12 of the NGER Act.	The NGER Act is a framework for the reporting and dissemination of information about greenhouse gas emissions, energy consumption and energy production.  Assessment and reporting requirements under the NGER Act will be met through the existing mechanisms developed by Idemitsu Australia Resources Pty Ltd.	<b>Chapter 16</b> (Greenhouse gas)
<b>Nature Conservation Act 1992 (Qld) (NC Act)</b>	DES	Activities that affect protected plants are regulated under the subordinate Nature Conservation (Wildlife) Regulation 2006 (Qld) (NC Regulation). This regulation requires that a flora survey be carried out where areas of clearing are to occur within 'high risk areas' that are shown on the 'Flora Survey Trigger Map'.	<p>The 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 NC Regulation lists all flora and fauna species considered to be 'extinct in the wild', 'endangered', 'vulnerable', 'rare', 'near threatened' and 'least concern' wildlife. In Queensland, all plants that are native to Australia are protected plants under the NC Act. A limited number of species prescribed under the NC Act are indicated to occur with the Project Site. Authority to take these species will be required prior to disturbance.</p> <p><b>Protected plants clearing permit</b></p> <p>The Project Site is not located within a high risk area as per the NC Act flora survey trigger map. When works are proposed in an area other than a high risk area, a clearing permit is only required where a person is, or becomes, aware that endangered, vulnerable or near threatened (EVNT) plant species are present.</p> <p>Ecological surveys completed for the Project in 2019 and 2020 identified no EVNT flora species on the Project Site.</p> <p><b>Species Management</b></p> <p>The Project proposes minor temporary surface disturbance (exploration activities across zones 1, 2 and 3, and, may require non material surface infrastructure in Zone 2 outside of strategic cropping area. Where possible, the Project will avoid the removal or tampering of a breeding place. Removal or tampering of a breeding place is not permitted unless a 'damage mitigation permit' for the animal is obtained and the permit authorises the removal or tampering.</p>	<b>Chapter 13</b> (Terrestrial ecology)

Legislation	Administering authority	Approval trigger	Relevance to the Project	Chapter reference
<b>Planning Act 2016 (Qld)</b>	Queensland Treasury	Applies when assessable development is proposed.	<p>Ecological surveys completed by AECOM in 2019 and 2020 identified animal breeding places within the Project Site including a Gilgai and non-remnant wetlands. If the Project requires interference with breeding habitat, a High Risk Species Management Program must be prepared and approved to manage impacts to breeding habitat of these species.</p> <p><b>Approval to take native wildlife (removal of wildlife)</b></p> <p>A person must not take a protected animal unless the person is an authorised person or the taking is authorised under the NC Act. Based on ecological assessments undertaken to date, there is a low likelihood protected animals will be encountered in the establishment of the Project owing to new minor surface disturbance and no material surface infrastructure. Minor vegetation clearing may be required as part of the Project. Should vegetation clearing be required, relevant permits will be sought and following approval, a suitably qualified spotter catcher will be present during vegetation clearing activities to minimise risk of injury to native fauna. All spotter catchers will hold appropriate permits under the NC Act</p>	<b>Chapter 7</b> (Land use and tenure)
<b>Queensland Heritage Act 1992 (Qld)</b>	DES	Requires a person to notify the DES chief executive of an archaeological artefact that is an important source of information about an aspect of Queensland's	The <i>Planning Act 2016</i> seeks to achieve effective ecological sustainability through the managing the process by which development takes place, including ensuring the process is accountable, effective and efficient and delivers sustainable outcomes. Additionally, the <i>Planning Act 2016</i> aims to manage the effects of development on the environment, including managing the use of the premises, and the continued coordination and integration of planning at local, regional and State level. Mining the subject of an EA (pursuant to the EP Act) is not assessable development under the <i>Planning Act 2016</i> . An EIS under the EP Act cannot be used for making a decision under the <i>Planning Act 2016</i> , other than a decision in relation to a mining activity (s.37 (2), EP Act). Activities within the bounds of the ML are largely exempt from the requirements of the <i>Planning Act 2016</i> through the provisions within the MR Act. Activities off-lease, such as roads, powerlines and pipelines are not exempt development and will require assessment against applicable local and State government legislation, policies and guidelines.	<b>Chapter 20</b> (Cultural heritage)

Legislation	Administering authority	Approval trigger	Relevance to the Project	Chapter reference
		history. It is an offence to interfere with an archaeological artefact once notice has been given of the artefact to the chief executive.	registered place; or exemption certificate to carry out development on a registered place. There are no State Heritage Register listed places within, or adjacent to, the Project Site. However, if an archaeological artefact that is an important source of information about an aspect of Queensland's history is uncovered, Ensham must contact DES for direction.	
<b>Regional Planning Interests Act 2014 (Qld)</b>	Queensland Treasury	Required when a resource or regulated activity is proposed in an area of regional interest.	<p>The Project Site is mapped within a PAA and partly within the SCA. The <i>RPI Act</i> includes certain exemptions from the requirement to obtain a RIDA. The most relevant exemption is where:</p> <ul style="list-style-type: none"> <li>• the holder of the tenure is not the owner of the land on which resource activities are to be undertaken</li> <li>• there is a conduct and compensation agreement or other voluntary agreement with the land owner</li> <li>• the resource activity is not likely to have a significant impact on the PAA or SCA</li> <li>• the resource activity is not likely to have an impact on land owned by a person other than the land owner:                     <ul style="list-style-type: none"> <li>– for land in a PAA - the suitability of the land to be used for a priority agricultural land use for the area</li> <li>– for land in a SCA - the land's soil, climate and landscape features that make that area highly suitable, or likely to be highly suitable, for cropping.</li> </ul> </li> </ul> <p>A RIDA application will be required and the relevant PAA and SCA assessment criteria must be satisfied.</p>	<b>Chapter 8</b> (Land resources)
<b>Stock Route Management Act 2002 (Qld)</b>	Department of Natural Resources, Mines and stock routes. Energy and Central Highlands Regional Council	Applies when altering or using Resources, Mines and stock routes.	<p><i>The Stock Route Management Act 2002</i> creates provisions for stock route network management through the establishment of planning, responsibilities, construction and maintenance of stock facilities as well as the monitoring, surveying and controlling of stock movement.</p> <p>The Project is an extension of the current underground mine operations and is not anticipated to impact the integrity of stock routes. There is no planned public road and stock route closures during the Project timeline that would usually be caused by new surface infrastructure. If closures occur, approvals are required under the <i>Stock Route Management Act 2002</i>.</p>	<b>Chapter 7</b> (Land use)

Legislation	Administering authority	Approval trigger	Relevance to the Project	Chapter reference
			Therefore, no approvals are required under the <i>Stock Route Management Act 2002</i> .	
<b>Strong and Sustainable Resource Communities Act 2017 (Qld)</b>	Coordinator-General and Anti-Discrimination Commission Queensland	Applies when large resource projects require an environmental impact statement or hold a site specific environmental authority and have 100 or more workers	<p>The <i>Strong and Sustainable Resource Communities Act 2017</i> ensures that residents of communities in close proximity to large resource projects benefit from the construction and operation of these projects.</p> <p>The Act prohibits 100% fly in, fly out workers (FIFO), requires the preparation of a social impact assessment and promotes the employment of people from nearby regional communities through anti-discrimination provisions.</p> <p>Social impact assessment is mandatory for environmental impact statements for large resource projects and must be prepared in accordance with social impact assessment guidelines.</p>	<b>Chapter 2</b> (Consultation)
<b>Transport Infrastructure Act 1994 (Qld) (TI Act)</b>	Department of Transport and Main Roads (TMR)	Applies when works require alteration of access and traffic routes.	<p>The TI Act is the primary legislation relating to transport in Queensland. The overall objective of the TI Act is to encourage effective integrated planning and efficient management of transport infrastructure.</p> <p><b>Road corridor and traffic control permits</b></p> <p>TMR Road Corridor Permits and Traffic Control Permits will be required under the TI Act for any road infrastructure work or altered access requirements associated with the Project. The Project does not propose any change or alteration of the traffic route or altered access requirements.</p>	<b>Chapter 23</b> (Transport)
<b>Transport Operations (Road Use Management) Act 1995 (Qld)</b>	DTMR	Applies when transporting oversized or over dimension loads	<p>Transport Operations (Road Use Management—Mass, Dimensions and Loading) Regulation 2005 in accordance with section 51, requires approvals to be granted to over-mass or over-dimension loads prior to transport.</p> <p>No changes to material transport infrastructure is proposed as part of the Project and therefore no approvals are anticipated under the <i>Transport Operations (Road Use Management) Act 1995 (Qld)</i>.</p>	<b>Chapter 23</b> (Transport)
<b>Vegetation Management Act 1999 (Qld) (VM Act)</b>	Department of Natural Resources, Mines and Energy	Applies to clearing or interference with native vegetation.	The VM Act (in conjunction with the <i>Planning Act 2016</i> ) regulates the conservation and management of vegetation communities and clearing of vegetation. It provides protection for regional ecosystems (REs) classified as 'endangered', 'of concern', or 'not of concern' under the VM Act. Mining is exempt development for the purposes of the <i>Planning Act 2016</i> . Aspects of mining developments relating to the clearing of REs and high-value regrowth vegetation are assessed through the EIS process under the EP Act. The Project does not require clearing of native vegetation. If clearing of native vegetation was required, mining is exempt development and the VM Act provides useful guidelines on management.	<b>Chapter 13</b> (Terrestrial ecology)

Legislation	Administering authority	Approval trigger	Relevance to the Project	Chapter reference
<b>Waste Reduction and Recycling Act 2011 (Qld)</b>	DES	Manages planned waste generated by the Project.	<p>The primary objective of the <i>Waste Reduction and Recycling Act 2011 (Qld)</i> and the subordinate <i>Waste Reduction and Recycling Regulation 2011</i> is to create new legislation in respect to waste management and resource recovery in Queensland. The main objectives of the Act in relation to waste management are to: promote waste avoidance and reduction; reduce the overall impact of waste generation; promote resource recovery and efficiency actions; promote the sustainable use of natural resources; encourage the use of recovered resources; and ensure a shared responsibility between government, business and industry and the community.</p> <p>Waste generated by the Project will be managed in accordance with the Act and Ensham's environmental operating procedures.</p>	<b>Chapter 18</b> (Waste management)
<b>Water Act 2000 (Qld) (Water Act)</b>	Department of Natural Resources, Mines and Energy	Management of impacts on underground water caused by the exercise of underground water rights by resource tenure holders.	<p>Ensham has an obligation to comply with the underground water management framework under the <i>Water Act</i>.</p> <p>The <i>Water Act</i> underground water management framework:</p> <ul style="list-style-type: none"> <li>• requires resource tenure holders to undertake baseline assessments of water bores</li> <li>• requires resource tenure holders to prepare baseline assessment plans</li> <li>• requires resource tenure holders to prepare underground water impact reports</li> <li>• provides for the chief executive to declare cumulative management areas</li> <li>• establishes make good obligations for resource tenure holders - including the requirement to undertake bore assessments and enter into make good agreements</li> <li>• establishes the Office of Groundwater Impact Assessment to oversee the groundwater impacts of the resource industry.</li> </ul> <p>Provided the underground water management framework under the <i>Water Act</i> is complied with, Section 334ZP of the <i>MR Act</i> gives resource operators the right to take 'associated water' as a necessary activity in the process of extracting the resource. The volume of any 'associated water' taken must be measured and reported, with the Chief Executive of the Department of Natural Resources, Mines and Energy notified within three months of the initial taking.</p>	<b>Chapter 12</b> (Groundwater)