

CHAPTER 4

STATUTORY FRAMEWORK



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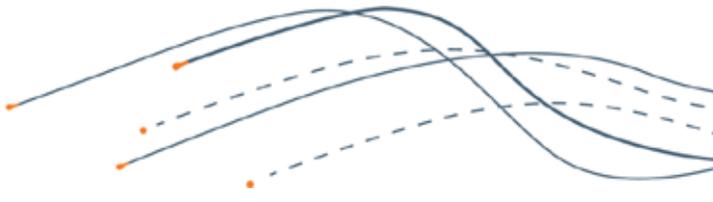
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4 Statutory Framework

This chapter describes the applicable legislative requirements at Commonwealth, State and local level for the proposed mining lease, including all required primary and select key secondary approvals. A review of the proposed mining lease against the local and State strategic policy framework is also provided.

4.1 Approvals Process

The proposed mining lease will be assessed under the *Mining Act 1971* (SA) (Mining Act). The Mining Act is an “Act to regulate and control mining operations; and for other purposes” in South Australia and is regulated by the Department of State Development (DSD) on behalf of the Minister for Mineral Resources and Energy (Minister). The class of mining lease which Iron Road is applying for is a mineral lease.

All project components within the boundary of the proposed mining lease will be assessed under the Mining Act, whilst the proposed CEIP Infrastructure (port site, infrastructure corridor, including borefield and transmission line and the long-term employee village adjacent to the town of Wudinna) will be assessed under the provisions of the *Development Act 1993* (SA) (Development Act).

The two legislative processes are being undertaken concurrently, with the Environmental Impact Statement (EIS) for the CEIP Infrastructure already prepared and submitted to the Department of Planning, Transport and Infrastructure for assessment. As the CEIP Infrastructure is the subject of a separate approvals process, it is not discussed in any detail in this document.

4.2 State Legislative Requirements

This section provides an overview of State legislation and strategic directions that are of relevance to the proposed mining lease in addition to the previously discussed Mining Act.

4.2.1 Mining Act 1971

Assessment under the Mining Act is a two-stage process, which includes:

- A mining lease application on the prescribed form, accompanied by a mining lease proposal (this document)
- A Program for Environment Protection and Rehabilitation (PEPR)

Approval under the Mining Act is the primary statutory approval required for the proposed mining lease. However a range of construction and transport-related secondary approvals will be required prior to construction and development.

Part 6 of the Mining Act provides the statutory framework for obtaining a mining lease. Such an application must be made in a manner and form determined by the Minister and must be accompanied by a mining lease proposal. Section 35 of the Mining Act and Regulation 30 of the *Mining Regulations 2011* requires that a mining lease proposal details:

- A description of the existing environment
- The nature and method of the proposed mining operations
- An assessment of the environmental impacts of the proposed mining operations
- An outline of the measures to manage, limit or remedy those environmental impacts
- An indication of the environmental outcomes anticipated to occur

- A draft statement of the criteria to be adopted to measure the expected environmental outcomes
- The results of any consultation undertaken in connection with the proposed mining operations

Pursuant to Section 35A, DSD is required to provide written notice of the mining lease application and provide copies of both the application and mining lease proposal to the relevant District Council(s) and to any owners of land to which the application relates. The written notice must provide an invitation to those parties to submit written representations on the application to the Minister within a specified time frame. When considering whether to grant or refuse the mining lease, the Minister is required to have regard to any representation made by the landowners and Council.

In addition, the Minister must ensure that a notice is published in the South Australian Government Gazette, in a newspaper circulated generally throughout the State (e.g. The Advertiser), in a regional or local newspaper circulated within that part of the State in which the proposed mining lease is located and on the DSD website. That notice must:

- Describe the land to which the application relates
- Specify a place at which the application may be inspected
- Invite members of the public to make written submissions in relation to the application within a specified time frame

When determining whether to grant or refuse the mining lease, the Minister must have regard to any representations made in response to the invitation set out in the notice.

As part of the consultation process, DSD will also forward copies of the mining lease proposal to all relevant State Government agencies and seek comment from those agencies within a specified time frame. When assessing the mining lease proposal and considering appropriate terms and conditions, DSD will take into account all of the comments and representations received as a result of the Government consultation process.

Iron Road will be required to respond in writing to DSD on all matters that have been raised as a result of the consultation process and a decision on whether or not to grant the mining lease will then be made by the Minister.

If the mining lease is granted, a further stage of DSD assessment is undertaken that requires the preparation of a PEPR. The PEPR will be developed by Iron Road and must be approved by the Minister before mining operations (including construction) can commence. The PEPR must set out environmental management procedures for construction, operation and closure of the proposed mine and outline key measurable criteria against which the environmental outcomes for the proposed mining lease will be evaluated.

4.2.2 Environment Protection Act 1993

The *Environment Protection Act 1993* (EP Act) has been established to promote ecologically sustainable development through the use, development and protection of the environment. Long- and short-term economic, environmental, social and equity aspects are considered when determining matters in relation to environmental protection, restoration and enhancement. Section 25 of the EP Act establishes a general environmental duty, requiring that activities that pollute or might pollute the environment must not be undertaken unless all reasonable and practicable measures to minimise harm are implemented.

Section 36 of the EP Act requires that works to construct a building or structure for use for an activity of environmental significance must not be undertaken without an environmental licence. Activities of environmental significance relevant to the proposed mining lease are outlined in Table 4-1.

Table 4-1 Activities of Environmental Significance

Activity Type	Proposed Activity	EP Act Reference
Petroleum, Storage or Processing Works or Facilities	Fuel storage facilities providing capacity for up to 2 ML (approximately 2,000 m ³) of storage will be established at the proposed mining lease, providing up to 150,000 L of fuel per day.	Schedule 1; 1-Petroleum and Chemical (5)
Concrete batching	A concrete batching plant will be established on site to supply all concrete required for construction of the proposed mine.	Schedule 1; 2-Manufacturing and Mineral Processing (5)
Mineral Works	Proposed mining lease incorporates the conduct of works for processing mineral ores to produce mineral concentrates.	Schedule 1; 2-Manufacturing and Mineral Processing (9)
Waste Depot	An on-site landfill is proposed to be established within the integrated waste landfill and covered by the final landform.	Schedule 1; 3-Waste Treatment and Disposal (3)
Railway Operations	Proposed mining lease includes the construction and operation of a railway line within the proposed mining lease boundary.	Schedule 1; 7-Materials Handling and Transportation (2)

4.2.3 Other State Legislation

Iron Road is required to comply with a range of other South Australian Acts and Regulations relevant to the proposed mining lease. In addition, there will be a requirement to obtain secondary approvals such as those summarised in Table 4-2. Note that this list is not exhaustive.

Table 4-2 Other State Legislation

Legislation	Objective	Relevance	Requirements
<i>Aboriginal Heritage Act 1988</i>	To protect and preserve Aboriginal heritage including sites, objects and remains.	The proposed mining lease may include areas of Aboriginal heritage significance (refer Chapter 9).	If any Aboriginal sites, objects or remains were found, authorisation would be required before damaging, disturbing or interfering with them.
<i>Climate Change and Greenhouse Gas Emissions Reduction Act 2007</i>	To support ecologically sustainable development by addressing climate change through the reduction in greenhouse gases and an increase in renewable energy.	The CEIP has a large energy requirement (see Chapter 3). Where practicable, renewable energy sources will be used and energy efficiency measures incorporated.	No approval is required.
<i>Dangerous Substances Act 1979</i>	To regulate the keeping, handling, transporting, conveyance, use and disposal and the quality, of dangerous substances.	Dangerous substances will be used in a number of instances to support construction and operation of the proposed mining lease.	A licence may be required to keep or transport prescribed dangerous substances.
<i>Explosives Act 1936</i>	To control the use of explosives.	The proposed mining lease would require the use of explosives in the preparation of sites for construction and mining.	Approval would be required to purchase, use or dispose of explosives.

Legislation	Objective	Relevance	Requirements
<i>Heritage Places Act 1993</i>	To make provision for the identification, recording and conservation of places and objects of non-Aboriginal heritage significance and to establish the South Australian Heritage Council.	Heritage places and areas of heritage significance are found in the same locality as the proposed mining lease.	Obligation to not damage a heritage place, or reduce or destroy the heritage significance of a heritage place.
<i>Local Government Act 1999</i>	To establish a system of local government that ensures services and facilities are provided to the community.	Alterations to Council roads and infrastructure are needed to accommodate the proposed mining lease.	Approval would be needed to open/close Council roads.
<i>Mine and Works Inspection Act 1920</i>	To provide for the regulation and regular inspection of mines and works.	Once operational, the mine would be subject to health and safety inspections.	Once the mine is operational, IRD Mining Operations will need to facilitate inspections and comply with the directions of inspectors.
<i>Native Title (South Australia) Act 1994</i>	To recognise and protect native title.	The Federal Court has recognised that the Barngarla Aboriginal group have native title rights over certain land on the Eyre Peninsula.	Not applicable. The proposed mining lease is comprised of freehold land and public road reserves and native title has therefore been extinguished.
<i>National Parks and Wildlife Act 1972</i>	To manage public reserves, conservation parks and sanctuaries and to conserve wildlife in a natural environment.	A number of conservation parks and reserves are located on the Eyre Peninsula.	No requirements as the footprint of the proposed mining lease is not within the boundaries of a conservation park or reserve.
<i>Native Vegetation Act 1991</i>	To provide incentives and assistance to landowners and proponents in relation to the preservation and enhancement of native vegetation and to control the clearance of native vegetation.	Removal of native vegetation within the boundary of the proposed mining lease will be required (see Chapter 12). In addition, a Vegetation Heritage Agreement exists within the proposed mining lease area.	Approval will be required to clear native vegetation within the boundary of the proposed mining lease. Significant environmental benefit measures will need to be approved.
<i>Natural Resources Management Act 2004</i>	To promote sustainable and integrated management of the State's natural resources and to make provision for the protection of the State's natural resources.	The proposed mining lease has the potential to impact on natural resources.	Approval may be required to undertake water-affecting activities or to move or keep specified plants or animals in a control area.
<i>Public Health Act 2011</i>	To protect, improve and promote public health.	Operation of the mine will produce sewage which will be treated via a sewage treatment plant.	Approval may be required to construct the sewage treatment plant.
<i>Radiation Protection and Control Act 1982</i>	To control activities related to radioactive substances and radiation apparatus.	Mining of radioactive ores or the use of ionising or non-ionising radiation apparatus are subject to the requirements of this Act.	No requirements as the geochemical composition of the iron deposit and surrounding rocks is benign and does not include dangerous levels of radioactive material.

Legislation	Objective	Relevance	Requirements
<i>Railways (Operations and Access) Act 1997</i>	To provide for the operation of railways and access to railway services on fair commercial terms.	Part of the proposed mining lease includes construction and operation of a railway line.	Approval is required to install and operate rail traffic control devices.
<i>Rail Safety National Law (South Australia) Act 2012</i>	To protect public safety and promote improvement in rail safety.	Part of the proposed mining lease includes the construction and operation of a railway line.	A Rail Operator must be accredited by the Office of the National Rail Safety Regulator.
<i>Road Traffic Act 1961</i>	To consolidate and amend certain enactments relating to road traffic.	Construction of the proposed mining lease includes the transportation of over-dimensional loads.	An approval or exemption may be required to transport over-dimensional loads.
<i>Roads (Opening and Closing) Act 1991</i>	To provide for the opening and closing of roads.	Development of the proposed mining lease will require the closure or realignment of some roads (see Chapter 8).	Approval will be required to open/close public roads (see Chapter 8).

4.3 Commonwealth Legislative Requirements

This section provides an overview of Commonwealth legislation and strategic directions of relevance to the proposed mining lease.

4.3.1 Environment Protection and Biodiversity Conservation Act 1999

The EPBC Act is the primary Commonwealth legislation relevant to the proposed mining lease. It was established to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places. Actions anticipated to have a significant impact on matters of national environmental significance are required to obtain approval prior to being undertaken. The nine matters of national environmental significance protected by the EPBC Act are:

- World heritage properties
- National heritage places
- Wetlands of international importance (listed under the Ramsar Convention)
- Listed threatened species and ecological communities
- Migratory species (protected under international agreements)
- Commonwealth marine areas
- Great Barrier Reef Marine Park
- Nuclear actions (including uranium mines)
- Water resources (in relation to coal seam gas and large coal mining development)

If an action has the potential to have a significant impact on a matter of national environmental significance, the proposed action is referred to the Department of the Environment by the proponent to determine the requirement for formal assessment and approval under the EPBC Act. If the action is determined to have a significant impact on a matter of national environmental significance, it is regarded as a controlled action. Controlled actions are assessed using one of the following approaches:

- Accredited assessment (bilateral agreements)
- Assessment on referral information (assessment is undertaken solely on the information provided in the referral)

- Assessment on preliminary documentation (assessment is undertaken on the information in the referral and other relevant material as identified by the Minister)
- Assessment by Environmental Impact Statement or Public Environment Report
- Assessment by public enquiry

A referral of the proposed mining lease pursuant to Section 68 of the EPBC Act was made on 30 September 2014. The proposed mining lease was declared to be 'not a controlled action' and therefore approval under the EPBC Act is not required.

4.3.2 Other Legislation

The Commonwealth legislation which is relevant to the conduct of activities pursuant to the proposed mining lease is summarised in Table 4-3.

Table 4-3 Other Commonwealth Legislation

Legislation	Objective	Relevance	Requirements
<i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i>	To preserve and protect areas and objects in Australia and in Australian waters of particular significance to Aboriginals in accordance with Aboriginal tradition.	The proposed mining lease does not contain identified items or places of Aboriginal significance.	General duty to comply with the requirements of the Act; however no approvals are required.
<i>Australian Jobs Act 2013</i>	Ensure Australian entities have full, fair and reasonable opportunity to bid for the supply of key goods and/or services.	Iron Road must have a strategy to ensure Australian suppliers, manufacturers and contractors are provided full, fair and reasonable opportunity to obtain contracts relating to the CEIP.	Iron Road has prepared an Australian Industry Participation Plan which has been approved by the Australian Industry Participation Authority.
<i>National Greenhouse and Energy Reporting Act 2007</i>	To introduce a single national reporting framework for reporting and dissemination of information related to greenhouse gas emissions, greenhouse gas projects, energy consumption and energy production of corporations.	The greenhouse gas emissions resulting from the CEIP (refer to CEIP EIS Chapter 11) will trigger a requirement for reporting greenhouse gas emissions, energy production and consumption.	Iron Road will be required to report in accordance with the Act.
<i>Native Title Act 1993</i>	Among other things: To provide for the recognition and protection of native title. To establish ways in which future dealings affecting native title may proceed and to set standards for those dealings.	There is no native title land within the proposed mining lease area so the Native Title Act is not relevant. However Iron Road has negotiated an Indigenous Land Use Agreement in relation to the CEIP as a whole, which does include the proposed mining lease for the purpose of setting out heritage procedures within the proposed mining lease.	There is no requirement in relation to the Native Title Act as the proposed mining lease comprises freehold land and public road reserves, both of which have extinguished native title rights and interests.