

# CHAPTER 9

## ABORIGINAL HERITAGE AND NATIVE TITLE



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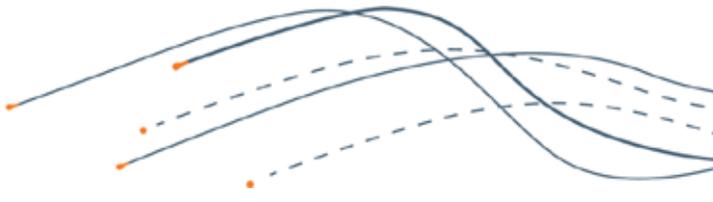
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## 9 Aboriginal Heritage and Native Title

This chapter discusses both Aboriginal heritage and native title rights and interests in relation to the land within the proposed mining lease (the mine site) and the adjacent area. It discusses known Aboriginal sites, objects or remains that have been identified via:

- Searches of the Central Archive and Register of Aboriginal Sites and Objects maintained by the Department of State Development, Aboriginal Affairs and Reconciliation (DSD-AAR)
- Search of the records held by the SA Museum
- Surveys of the mine site
- Consultation with traditional owners

This chapter also sets out how surface and sub-surface disturbance of land during construction, operation and closure activities has the potential to damage, disturb or interfere with Aboriginal sites, objects or remains and how Iron Road, any of its subsidiary companies, or any contractors, will implement appropriate controls to avoid, minimise or eliminate any unacceptable consequences.

In addition, native title rights and interests in the area are discussed together with details about an Indigenous Land Use Agreement (ILUA) recently negotiated with the Barngarla Aboriginal Corporation on behalf of the Barngarla native title claimants.

The impact of the proposed mining lease on non-Aboriginal heritage is addressed in Chapter 10.

### 9.1 Applicable Legislation and Standards

The following operative legislative documents are relevant to an assessment of Aboriginal heritage and native title for the proposed mining lease:

- *Aboriginal Heritage Act 1988* (SA)
- *Native Title (South Australia) Act 1994*
- *Native Title (South Australia) (Validation and Confirmation) Amendment Act 2000*
- *Aboriginal and Torres Strait Islander Heritage Protection Act 1994* (Commonwealth)
- *Native Title Act 1993* (Commonwealth)
- *Native Title Amendment Act 1998* (Commonwealth)

The objective of the *Aboriginal Heritage Act 1988* is to protect and preserve Aboriginal heritage, including sites, objects and remains. The mine site may include sites that are of Aboriginal heritage significance.

The *Native Title Act 1993* provides recognition and protection of native title. The Barngarla people have a registered native title claim (SAD 6011/1998) over the area comprising all elements of the proposed CEIP Infrastructure together with the area comprising the proposed mining lease. That claim was subject to a Federal Court judgement handed down by Justice Mansfield on 22 January 2015 which recognised that the Barngarla people have had the requisite connection to the land since sovereignty, with certain exceptions. A formal determination of relevant land within the native title claim area will be made by the Federal Court later in 2015, allowing the Barngarla to be recognised as native title holders of the land.

The decision of the Federal Court has confirmed that the correct Aboriginal group with whom Iron Road should be engaging, consulting and negotiating with respect to all elements of the CEIP is the Barngarla people.

## 9.2 Assessment Method

To initially identify any known Aboriginal sites, objects or remains within the proposed mining lease and to determine the traditional owners of the land and the holders of, or claimants to, native title, Iron Road:

- Consulted with DSD-AAR and reviewed information obtained from a search of the Central Archive, including the Register of Aboriginal Sites and Objects.
- Collated existing archival and published material, including that available from the SA Museum.
- Developed predictive statements regarding the likely nature and distribution of Aboriginal heritage sites within the mine site based on a review of existing information.
- Searched the National Native Title Tribunal's database to identify all native title determinations or claims.
- Consulted with the Native Title Section within the SA Crown Solicitor's Office.

Based on this initial assessment:

- The Barngarla people were identified as the relevant group with whom to consult regarding both Aboriginal heritage and native title.
- Iron Road initiated an engagement programme with the Barngarla in order to discuss the possibility of negotiating an ILUA to cover all elements of the CEIP.
- Iron Road sought permission from the Barngarla to undertake a heritage survey of the CEIP to determine if there were any Aboriginal sites, objects or remains on the mine site.

Iron Road has established an excellent working relationship with the Barngarla people over a series of meetings held in 2014 and 2015. These meetings have resulted in the successful negotiation of an ILUA between Iron Road and the Barngarla Aboriginal Corporation on behalf of the Barngarla native title group. Other parties to the ILUA are the Attorney-General of South Australia and South Australian Native Title Services Limited (SANTS).

The terms and conditions of the ILUA were subject to an authorisation meeting held in Whyalla on 3 June 2015 and were unanimously accepted by the broader Barngarla community at that time. The ILUA is now in the process of being executed by all parties and will then be submitted to the National Native Title Tribunal for registration under the *Native Title Act 1993* (Commonwealth). More details about the ILUA are set out in Section 9.6.

### 9.2.1 Aboriginal Heritage Survey

As set out in Section 9.6, amongst other items, the ILUA provides a clear mechanism for the protection of Aboriginal sites, objects and remains and a process for the undertaking of a heritage survey. As Iron Road was keen to have each component of the CEIP inspected by relevant traditional owners before the registration of the ILUA, the Barngarla agreed to enter into a separate Heritage Protocol.

The Heritage Protocol – which is also set out within the main body of the ILUA – governs the carrying out of a heritage survey by representatives of the Barngarla and includes:

- The organisation, composition and functions of a survey team
- The appointment of a specialist to advise the Barngarla
- Health, safety, insurances, vehicles and equipment
- Agreed budget
- Survey commencement
- Iron Road's representation and obligations
- The preparation by the specialist of a confidential report upon conclusion of the survey

As per the terms of the Heritage Protocol, the survey team comprised a total of five senior male and female Barngarla people nominated by the Barngarla to be part of the survey due to both their traditional authority and cultural knowledge of the area. In addition, the Barngarla nominated noted anthropologist/archaeologist Dr Scott Cane to be their heritage advisor during the course of the survey and to prepare the confidential report upon its conclusion.

Three Iron Road representatives accompanied the survey team in order to provide relevant project information and logistical support.

The survey participants travelled by vehicle and on foot, visiting the locations of the proposed CEIP Mine and all elements of the proposed CEIP Infrastructure. The outcomes were documented by the Barngarla survey team through Dr Cane in his report "Heritage Assessment of Iron Road Limited's Central Eyre Iron Project" dated 15 February 2015. As noted above, the Heritage Protocol sets out that the survey report prepared by Dr Cane is confidential and can only be released to a third party upon the prior written consent of each of the parties to the ILUA, being the Barngarla Aboriginal Corporation, Iron Road, the Attorney-General and SANTS.

While the survey report is confidential, a summary of the survey results has been set out in Section 9.3.4.



**Plate 9-1 Small Salt Lakes and Dunes within the Proposed Mining Lease**

## 9.3 Existing Environment

This section provides an overview of the existing environment at the proposed mine site and its immediate surrounding area in relation to Aboriginal heritage and native title. More details on the heritage survey, including outcomes, are also discussed together with further information about the ILUA.

### 9.3.1 Existing Information about Aboriginal Heritage

The proposed mining lease lies within an area traditionally utilised by the Barngarla and Nauo-Barngarla people. In the vicinity of the proposed mining lease, a survey was conducted in relation to three borrow pits between 6 km and 22 km west of Kyancutta and due north of the proposed site (Nicholson 1992). Much of the proposed mining lease area itself was surveyed prior to the commencement of exploration activities by the former holder of the overlying Exploration Licence. No sites, objects or remains were recorded in these previous surveys.

A 2014 inspection of the Central Archive, including the Register of Aboriginal Sites and Objects administered by DSD-AAR, has shown that there are no registered sites within or near to areas to be disturbed by the proposed mine. In the wider region, five archaeological sites and two burial sites are recorded (refer to Figure 9-1). The Register shows that only those seven sites are recorded in the greater CEIP area, with the closest to the proposed mine being more than 10 km away, near Kyancutta. Despite this, Iron Road acknowledges that there may be sites, objects or remains of significance in the region that have not been recorded or registered, but which are still protected under the Aboriginal Heritage Act.

A review of the South Australian Museum Archival Collections Index did not indicate the existence of any documents relating to Warrambo, the nearest town to the proposed mine site, nor to any other nearby places and as such, no records of heritage values in the area exist.

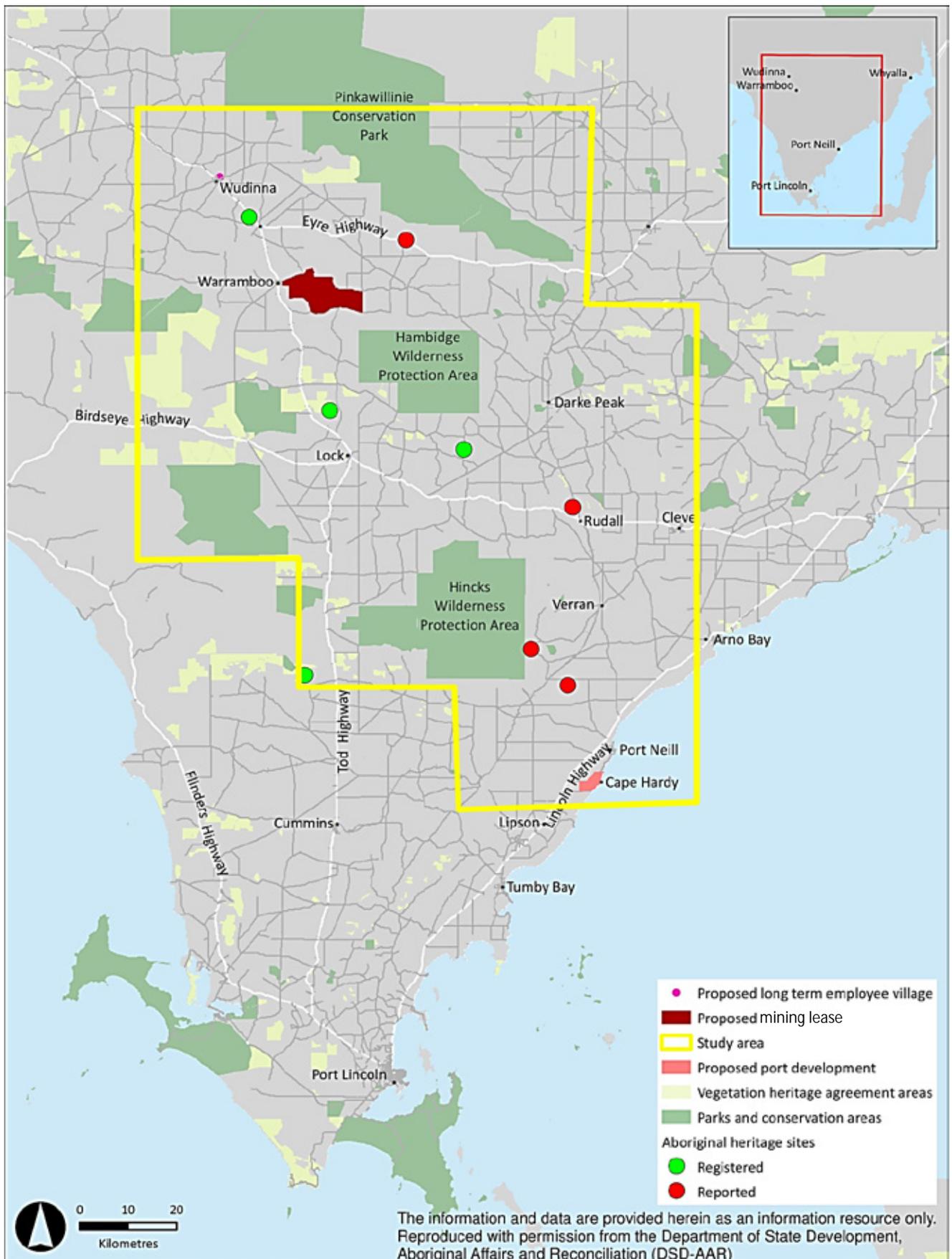


Figure 9-1 Plan Excerpt from DSD-AAR Central Archive

Dr Cane has noted that, given the general aridity of the Warramboos area and lack of major watercourses passing through or near the proposed mining lease, it is considered unlikely that Aboriginal populations camped on a permanent basis either in the vicinity of the mine site or in the immediate surrounding area. A reliable and permanent water source was required by Aboriginal populations as an important resource for survival. In addition, any archaeological material existing in the area is likely to have been disturbed by farming practices. Nonetheless, the broader area does contain a number of habitable locations and was clearly significant to and occupied by Aboriginal People in the past. Their mythology is enshrined in regional place names (Cane 2015) which include:

- Kiepka: 'short distance'
- Kimba: 'fire' or 'bush on fire'
- Koongawa: 'good'
- Kyancutta: 'a hill in the vicinity'
- Waddikee: 'a rocky soakage nearby'
- Wudinna: 'a hill with granite rocks' (Eyre Peninsula NRM 2009)

Although the area comprising the proposed mining lease has been subjected to agricultural activities for approximately 100 years, management and control strategies to protect any sites, objects or remains that may exist on the surface or sub-surface will be implemented as set out in Section 9.6 below.

### 9.3.2 Aboriginal Connection with Land on the Eyre Peninsula

The earliest contact on the Eyre Peninsula between Aboriginal and European people occurred in 1802 when the crew of the English vessel, HMS Investigator, landed in a harbour which the vessel's captain, Matthew Flinders, named Boston Bay. Captain Flinders, from Lincolnshire in England, named the locality in which he landed "Port Lincoln". Substantive European contact and settlement of the region continued from the late 1830s.

At sovereignty, the Barngarla was an Aboriginal society covering a wide area of territory on Eyre Peninsula and was also described in the early anthropological and ethnographic literature by other names including 'Pangarla', 'Parnkalla', 'Pangkala' and 'Bangala'. Tindale (1974) described Barngarla territory as follows: 'East side of Lake Torrens south of Edeowie and west of Hookina and Port Augusta; west of Lake Torrens to Island Lagoon and Yardea; at Woorakimba, Hesson, Yudnapinna, Gawler Rangers; south to Kimba, Darke Peak, Cleve and Franklin Harbor'.

The earliest writings about the Barngarla were by Clamor Schurmann, a Lutheran missionary who lived in Port Lincoln in the 1840s and had substantial contact with the Barngarla. He published a dictionary of the 'Parnkalla' language in 1844 and located them on 'the eastern coast of Eyre Peninsula from Port Lincoln probably as far as the head of (Spencer) Gulf' (Schurmann 1844 and 1846). By 1890, Mathews recorded that the Barngarla were 'the largest nation in South Australia, occupying a territory upwards of 700 miles in length' (Mathews 1900). Edward Eyre, in his exploration of the peninsula that would take his name, had reported that the Aboriginal people with whom he came into contact had a real concept of attachment to and interest in, the land (Eyre 2010).

### 9.3.3 Native Title

The Barngarla people lodged a native title claim over a large portion of the Eyre Peninsula in April 1996 (SAD6011/1998) and almost 20 years later in January 2015, the Federal Court of Australia acknowledged their connection to the land and waters covering the eastern half of the Eyre Peninsula and extending in a broad finger northwest of Kyancutta.

The Federal Court stated that 'there was at sovereignty, a group of people known as the Barngarla People who were bound together by language and by their traditional law and customs, passed on from generation to generation' (Croft on behalf of the Barngarla Native Title Claim Group v State of South Australia (2015) FCA 9).

A formal determination of all relevant land within their native title claim will be made by the Federal Court later in 2015 and will allow the Barngarla to be recognised as native title holders of that land.

As all of the land within the proposed mining lease boundary is either held under freehold tenure or is a public road reserve, native title rights and interests have been extinguished and therefore there is no 'native title land'.

### 9.3.4 Survey Findings

The survey team inspected a 5 km transect through the drainage channels and adjacent to the sand dunes within the proposed mining lease boundary. Likely camping areas and potential areas of erosion, where evidence of past settlement might be exposed, were inspected.

Much of the survey was undertaken from public road reserves where the team could view large swathes of land without entering private properties. However, access to two sections of land within the proposed mining lease boundary was made by the team with the knowledge and consent of the landowners.

No artefacts were seen during the survey, although a natural scatter of weathered magnetite rocks was recognised by the Barngarla men as a source of high quality ochre (see Plate 9-2).



Plate 9-2 Magnetite Rocks Located Within the Proposed Mining Lease

### 9.3.5 Summary of Key Environmental Values

The survey team concluded that there were no Aboriginal sites, objects or remains within the proposed mining lease. Regardless, despite the terrain and 100 years of farming practices on the land, the surrounding area does contain a number of habitable locations and was clearly significant to and occupied by, Aboriginal people in the past. In view of this, Iron Road acknowledges that Aboriginal heritage may exist within the area and will implement control and management strategies to ensure that any sites, objects and remains that may be discovered during the course of construction and operational activities and ultimate rehabilitation of the land, are protected.

Iron Road is aware that Aboriginal artefacts may exist at Lake Warrambo, approximately 1.5 km north of the proposed mine site boundary, although this has not been formally recorded on a statutory register. Regardless, Iron Road has not conducted any activities at or near Lake Warrambo and the proposed mine site is located approximately 1.5 km away.

## 9.4 Context and Views of Affected Parties

Stakeholders relevant to Aboriginal heritage and native title include the Barngarla people, DSD-AAR, the Attorney General of South Australia and SANTS. Stakeholders are seeking the following outcomes in relation to Aboriginal heritage and native title:

- No damage, disturbance or interference to Aboriginal sites, objects or remains during construction, operation or closure of the proposed mine site. (IM\_09\_01).

All issues raised by stakeholders are presented in Chapter 5 and summarised in Table 5-8. Impacts and risks relevant to Aboriginal heritage and native title and potential issues identified by stakeholders are discussed below and summarised in Table 9-3, with all impact events presented in the Impact and Risk Register in Appendix C.

### 9.4.1 Consultation with the Barngarla

As a result of consultation with the Barngarla, conditions were requested in response to the different components of the CEIP. The conditions requested by the Barngarla in relation to the proposed mining lease and Iron Road's response are detailed below.

Table 9-1 Conditions Requested by the Barngarla and Iron Road's Response

| Project Component | Proposed Conditions of the Barngarla  | Iron Road's Response  |
|-------------------|---|---|
| Mine site         | Representatives of the Barngarla to return to site to salvage the exposed red ochre recorded in the survey. | Iron Road will facilitate the salvage work by the Barngarla in consultation with the freehold owners of the land. As the Barngarla have advised that the location is not a site within the terms of the Aboriginal Heritage Act, authorisation from the Minister is not required. |

## 9.5 Potentially Impacting Events

Considering the views and contexts of affected parties and the issues raised during the heritage survey, an assessment of Source, Pathway, Receptor (SPR) has been undertaken, as per the methodology outlined in Chapter 6, to determine which potential impact events are considered applicable.

The potential impact event associated with the construction, operation and closure of the proposed mine that has a confirmed SPR linkage which effects Aboriginal heritage is the surface and sub-surface disturbance that could potentially damage, disturb or interfere with any previously unidentified Aboriginal sites, objects or remains (IM\_09\_01).

There is no potential impact event associated with 'native title land' as land within the proposed mining lease is held under freehold title and within public road reserves, both of which have extinguished native title rights and interests.

The impact and risk register presented in Appendix C provides confirmation of a source pathway and receptor for each of the potential impact event (PIM) considered above and follows it through as actual impact event (IM) with a complete impact and risk assessment.

## 9.6 Control Measures to Protect Environmental Components

This section identifies design measures and management or control strategies which will be implemented to mitigate the level of impact and risk associated with Aboriginal heritage.

### 9.6.1 Design Measures

Although no relocation of infrastructure within the proposed mining lease is required to avoid sites of Aboriginal heritage significance, as no sites, objects or remains have been identified, any design measures which avoid or minimise ground disturbance will assist to reduce impacts and risks to unidentified Aboriginal heritage sites or artefacts.

The following design measures will minimise impacts and risks to potential Aboriginal heritage as a result of activities involved with the construction, operation and closure of the proposed mine:

- The final proposed integrated waste landform design requires significantly less land (approximately 3,000 ha less) than the previous tailings storage and waste rock facility designs considered by Iron Road, resulting in a reduced requirement for ground disturbance.

### 9.6.2 Management Strategies and Commitments

In order to minimise and mitigate impacts on and potential risks to, Aboriginal heritage values during construction, operation and closure activities, the following control and management strategies as outlined in Table 9-2 will be incorporated into the PEPR and implemented for relevant project phases. Iron Road's commitments in accordance with the ILUA are also provided below.

Table 9-2 Control and Management Strategies: Aboriginal Heritage

| Control and Management Strategies   | Project Phase                                 |
|---|---|
| <p>Develop and implement an Aboriginal heritage management protocol in accordance with the ILUA, including:</p> <ul style="list-style-type: none"> <li>Procedures to be followed in the event that Aboriginal heritage sites are uncovered during project construction, operations or closure that comply with the relevant legislation (including stop work and appropriate notification and assessment procedures).</li> </ul> <p>Site inductions and training (in accordance with the ILUA) to include:</p> <ul style="list-style-type: none"> <li>Obligation for machine operators to conduct surface earthworks and surface excavations with due care.</li> <li>Obligations in the event that an Indigenous item / site of significance are discovered.</li> <li>Notification to the Barngarla.</li> <li>Iron Road to avoid area so as to not damage, disturb or interfere with that item / site. Should avoidance not be possible, the Barngarla will support an application by Iron Road to the Minister for Aboriginal Affairs pursuant to either Section 21 or Section 23 of the Aboriginal Heritage Act.</li> </ul> | <p>Construction<br/>Operation<br/>Closure</p> |

## Commitments – ILUA

The ILUA includes measures to ensure compliance with all laws, regulations and commitments in relation to both native title and Aboriginal heritage during construction, operation and closure of all elements of the CEIP, not just the proposed mine. The relevant measures are:

- Inclusion of a Heritage Protocol with provisions relating to:
  - The discovery and protection of objects, sites and remains
  - The conduct of further heritage surveys if required
  - Consultation about any applications made by Iron Road pursuant to the Aboriginal Heritage Act
- The establishment of a Liaison Committee comprising representatives of both the Barnjarla and Iron Road to facilitate regular engagement between the parties on all project-related matters, including heritage management and protection.
- The provision of cross-cultural training to all Iron Road employees and contractors.
- A procedure for the resolution of any dispute.
- Periodic reviews of the ILUA.

## 9.7 Impact and Risk Assessment

This section identifies and assesses impacts and risks associated with Aboriginal heritage values as a result of the construction, operation and closure of the proposed mine site. Impact events (confirmed by presence of a source, pathway and receptor) are those which are predicted to occur as a result of the development, whilst risk events would not be expected as part of the normal operation of the mine but could occur as a result of uncertainty in the impact assessment process. Although the risks may or may not eventuate, the purpose of the risk assessment process is to identify management and mitigation measures required to reduce the identified risks to a level that is as low as reasonably practicable (ALARP). This assessment has been undertaken in accordance with the methodology outlined in Chapter 6.

Impact and risk events were identified through both the undertaking of technical studies and stakeholder consultation. Impact events can include multiple sources, pathways or receptors and, where practical, have been grouped together to minimise duplication of information. Risks are events that would not be expected as part of the normal operation of the mine, but could occur as a result of either uncertainties with the impact assessment, or as a result of faults, failure of mitigation strategies and unplanned events. A summary of impact and risk events relating to Aboriginal heritage is presented in Table 9-3 at the end of this section (with Impact IDs). A complete register of impact and risk events for the whole project by source, pathway and receptor is provided in Appendix C.

Impacts and risks are assessed following the application of the design measures outlined in Section 9.6. Where required, management measures are proposed to reduce risk to a level that is considered to be ALARP.

Through the adoption of design modification or specific mitigation measures, all identified impacts were categorised as negligible with risks categorised as medium or lower. All impacts and risks are considered ALARP. The key environmental risks will be monitored through the environmental management framework.

### 9.7.1 Damage, Disturbance or Interference of Sites, Objects or Remains of Aboriginal Heritage Significance

The terminology used in this section to categorise impact and risk is applied throughout the MLP (as explained in Chapter 6) and is not intended to cause concern or offence. It is acknowledged that any impact on Aboriginal sites, objects or remains is not acceptable but by incorporating appropriate risk

management strategies, Iron Road is confident that it will not damage, disturb or interfere with an Aboriginal site, object or remain.

There are no Aboriginal sites, objects or remains either registered or recorded on the Register of Aboriginal Sites and Objects (the Register) or identified during the heritage survey within the area of the proposed mining lease. The nearest site of Aboriginal heritage significance recorded on the Register is located approximately 10 km north of the proposed mining lease boundary, therefore there will be no impact on any identified sites of Aboriginal heritage significance and the impact is considered negligible (e.g. no detectable change).

Although no artefacts were located within the proposed mining lease during the survey, weathered magnetite rocks were identified as a high quality source of ochre (though the location was not identified as a site within the terms of the Aboriginal Heritage Act). As outlined in Section 9.4.1, representatives of the Barngarla will return to salvage the red ochre as facilitated by Iron Road and in consultation with the freehold landowners. It is anticipated that the construction and operation of the proposed mine site would not impact on the existing sources of ochre found at the site due to the proposed control and management strategies.

There is a risk that previously unidentified Aboriginal heritage artefacts or sites may be disturbed during construction, operation or closure. Should an item of significance be encountered, work would cease in the vicinity and appropriate notification procedures would be implemented. The likelihood of unidentified sites, objects or remains being disturbed is considered unlikely due to the arid and disturbed nature of the area. The appropriate control and management strategies set out in both the ILUA and the Heritage Protocol will protect any that may be discovered as a result of construction, operation or closure.

There is also a risk that construction or mining personnel do not follow procedures if an item of significance is encountered; therefore, work is not stopped and appropriate notification procedures are not implemented. The impact to the site or artefact may be significant (causing a moderate consequence). As the consequence is considered moderate and the likelihood is unlikely, the risk is considered to be medium. Site inductions, including cross-cultural training, will be mandatory for all personnel which will reduce the risk of a breach to the Aboriginal Heritage Act occurring.

### 9.7.2 Summary of Impacts and Risk

With the implementation of design and management measures, the risk of damaging, disturbing or interfering with Aboriginal sites, objects or remains is unlikely but cannot be ruled out. A summary of the identified impact and risk associated with Aboriginal heritage within the area of the proposed mining lease is presented in Table 9-3.

**Table 9-3 Impact and Risk Summary: Aboriginal Heritage**

| Impact ID | Impact Event   | Level of Impact <sup>1</sup> | Level of Risk <sup>2</sup> |
|-----------|--|------------------------------|----------------------------|
| IM_09_01  | Damage, disturbance or interference to Aboriginal sites, objects or remains during construction, operation or closure of the proposed mine site. | No impact - Negligible       | Low-Medium                 |

<sup>1</sup> Impact events are expected to occur are part of the project. Level of impact is assessed post control strategies, as per the impact assessment methodology provided in Chapter 6.

<sup>2</sup> Level of risk reflects the risk that the assessment of impact is incorrect due to uncertainties in the assessment method, the control strategies, or in assumptions used. Risk is assessed post control strategies, as per the risk assessment methodology provided in Chapter 6.

### 9.7.3 Justification and Acceptance of Residual Impact and Risk

As a result of searching all available Registers and records, undertaking an onsite heritage survey with appropriate Barngarla male and female representatives and the proposed implementation of design and operational management measures, the risk of damaging, disturbing or interfering with Aboriginal sites, objects or remains is low.

## 9.8 Proposed Outcome(s) and Criteria

In accordance with the methodology presented in Chapter 6, outcomes have been developed for all impact events with a confirmed linkage between source, pathway and receptor. Each outcome is supported by measurable assessment criteria that will be used to assess compliance against the proposed outcomes during the relevant phases (construction, operation, closure) of the proposed mine. Whilst outcomes may be the same for multiple impact events, separate measurement criteria and leading indicators are proposed to demonstrate compliance. Proposed outcomes and measurement criteria have been developed for each impact event identified with a confirmed linkage and are provided below along with all impact events in Table 9-4. Outcomes for the entire project are presented along with all impact events in Appendix C.

Table 9-4 Outcomes and Assessment Criteria: Aboriginal Heritage

| Proposed Outcome   | Impact ID | Impact Event                              | Draft Outcome Measurement Criteria  | Draft Leading Indicator Criteria |
|--|-----------|---|---|----------------------------------|
| The Tenement Holder must, in construction and operation, ensure that there is no disturbance to Aboriginal heritage sites, objects or remains unless prior approval from the Minister, pursuant to the Aboriginal Heritage Act, is obtained. | IM_09_01  | Disturbance of Aboriginal heritage sites. | Evidence that:<br>- Appropriate authorisation has been obtained under the Aboriginal Heritage Act prior to the commencement of any activities that will disturb known Aboriginal objects and sites.<br>- If new Aboriginal objects or sites are discovered, work that may affect the objects or sites is ceased until appropriate authorisation under the Aboriginal Heritage Act was provided. | None proposed                    |

## 9.9 Findings and Conclusion

A desktop assessment of Aboriginal heritage and native title was conducted based on the Register of Aboriginal Sites and Objects, previous survey reports, material made available through the SA Museum and the National Native Title Tribunal database. In relation to Aboriginal heritage, five archaeological sites and two burial sites were identified over a large area of the Eyre Peninsula searched by Iron Road, with the closest site being located approximately 10 km from the proposed mining lease.

Ongoing consultation has occurred with representatives of the Barngarla Aboriginal Corporation on behalf of the Barngarla people, as native title claimants (and soon to be native title holders) of some of the land within the CEIP. The recent judgement handed down by the Federal Court has confirmed that the Barngarla have demonstrated their connection to land and are therefore the correct Aboriginal group for Iron Road to consult and negotiate with in respect to the proposed development.

Although all CEIP components (proposed infrastructure and mining lease area) fall within this native title claim area, only a small portion of land and waters within the CEIP Infrastructure footprint can be considered 'native title land' (e.g. that land that is not held under freehold title or other tenure that may have extinguished native title rights and interests). There is no land within the proposed mining lease boundary that can be considered 'native title land' due to the existence of freehold land tenure and public road reserves, both of which have extinguished native title rights and interests.

As part of the ILUA negotiations, a heritage protocol was agreed between the Barngarla and Iron Road which enabled the facilitation and undertaking of a heritage survey of all CEIP components at the end of January 2015.

No sites, objects or remains within the area of the proposed mining lease were identified by the Barngarla survey team. However, the ILUA negotiated between Iron Road and the Barngarla sets out clear procedures for the protection of any sites of significance, together with mandatory cross-cultural training, should any be discovered during the construction, operation or closure of the proposed mine site.



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