

4. Statutory Context

The statutory context of the Amended Project would generally remain consistent with that presented in the EIS. **Appendix 2** presents an amended statutory compliance table for the Amended Project.

4.1 Amendment of Development Applications

This application to amend the Project is made under Section 37(1) of the *Environmental Planning and Assessment Regulation 2021*.

4.2 Power to Grant Approval

Section 4.2.1 of the EIS identifies that as a State Significant Project, the consent authority for the Project is either the Minister for Planning and Public Spaces or the Independent Planning Commission.

The consent authority for the amended Project would remain unchanged.

4.3 Permissibility

Permissibility of the Project remains unchanged from the EIS. Section 4.2.2 of the EIS states the Mine Site is located wholly on land zoned as RU1- Primary Production under the Wentworth Local Environmental Plan 2011. This section of the EIS also states that Anabranck Mail Road would be upgraded, with the intersecting roads zoned as RU1 – primary production, and SP2 – infrastructure, both of which permit roads without consent.

Section 4.2.2 of the EIS states the Rail Facility is located on land zoned as SP2- Infrastructure (Rail Infrastructure facility) and Zone SP1 – Special Activities (Mining) under *the Broken Hill Local Environmental Plan 2013*. Development for the purpose of the Rail Facility is permissible under these zones. The works proposed at the intersection of Patton and Comstock Streets, and Comstock and Eyre Streets are zoned as R1 – General Residential and B4 – Mixed Use, both of which permit roads without consent.

4.4 Other Approvals

4.4.1 Approvals that Cannot be Refused if Consent is Granted

Section 4.2.3.1 of the EIS identifies the approvals that would otherwise be required for the Project but cannot be refused under section 4.42 of the EP&A Act.

- A Mining Lease under the *Mining Act 1992*. Mining Lease Application MLA646 has been submitted to cover the area of proposed mining operations.
- An Environment Protection Licence under Chapter 3 of the *Protection of the Environment Operations Act 1997*.
- A Permit under Section 138 of the *Roads Act 1993*, as well as permits from Transport for NSW, Broken Hill City Council and Wentworth Shire council for works on the associated roads.

4.4.2 Approvals that are Not Required if Consent is Granted

Section 4.2.3.2 of the EIS identifies that the following approvals would not be required for the Project, in accordance with Section 4.41 of the EP&A Act. These are unchanged for the Amended Project.

- A water use approval under section 89, a water management work approval under section 90 or an activity approval (apart from an aquifer interference approval) under section 91 of the *Water Management Act 2000*.
- An Aboriginal Heritage Impact Permit under section 90 of the *National Parks and Wildlife Act 1974*.

4.4.3 Other Approvals

Section 4.2.3.3 of the EIS identifies other approvals required that were not addressed in the above sections. These approval requirements remain unchanged from the EIS.

- *Environment Protection and Biodiversity Conservation Act 1999*
- *Water Management Act 2000*
- Licences to store, handle and transport Monazite Product
- Construction Certificates, Occupation Certificates, etc.

Section 3.1.2 of **Appendix 1** presents the non-NSW approvals that would be required to support those aspects of the Project that would be undertaken outside of NSW.

4.5 Preconditions to Exercising the Power to Grant Approval

Appendix 2 presents the pre-conditions to granting approval for the Project, including references to where these are addressed in the EIS and the Amendment Report.

4.6 Mandatory Matters for Consideration

Appendix 2 presents the mandatory matters for consideration by the consent authority.