

Hera Resources Pty Ltd

# **Federation Project**

## **Environmental Impact Statement**

Chapter 6

Statutory Context

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## 6. Statutory Context

### 6.1 Overview

This section describes the statutory context of the Project. The planning pathway for the Project is outlined, as well as licencing and approval requirements. This section also includes pre-conditions and mandatory statutory considerations, which are required to be considered by the consent authority when determining this development application.

### 6.2 Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) form the statutory framework for planning approvals and environmental assessment in NSW. Implementation of the EP&A Act is the responsibility of the Minister for Planning and Public Spaces, State government authorities and local government authorities. The requirement for development consent is set out in environmental planning instruments (EPs), including State Environmental Planning Policies (SEPPs) and local environmental plans (LEPs).

#### 6.2.1 State Significant Development

##### 6.2.1.1 SSD Provisions

Part 4, Division 4.7 of the EP&A Act specifically relates to the assessment of SSD. Under Section 4.36 of the EP&A Act, a development is SSD if it is declared to be as such by any SEPP. The relevant SEPP for the declaration of the Project is the *State and Regional Development - State Environmental Planning Policy (SRD SEPP) 2011*. In particular, clause 8(1) of the SRD SEPP states that development may be declared an SSD if it is specified in Schedule 1 or 2. Clause 5(1) of the SRD SEPP includes mining developments with a capital investment of more than \$30 million.

The Project is a development for the purpose of mining that has a capital investment value of more than \$30 million, and accordingly, the Project is classified as SSD and is subject to the provisions of Division 4.7 of Part 4 of the EP&A Act.

As detailed in **Chapter 3**, Hera Resources currently holds PA 10\_0191 for Hera Mine. As part of the Project it is intended to rescind / surrender PA 10\_0191 with activities at Hera Mine incorporated into the SSD approval.

##### 6.2.1.2 Consent Authority

The Minister for Planning and Public Spaces will be the consent authority for the Project in accordance with Section 4.5 of the EP&A Act.

However, pursuant to Clause 8A(1) of the SRD SEPP, the Independent Planning Commission (IPC) is the consent authority for the following types of SSD:

- (a) development in respect of which the council of the area in which the development is to be carried out has duly made a submission by way of objection under the mandatory requirements for community participation in Schedule 1 to the Act,

- (b) development in respect of which at least 50 persons (other than a council) have duly made submissions by way of objection under the mandatory requirements for community participation in Schedule 1 to the Act; and
- (c) development the subject of a development application made by a person who has disclosed a reportable political donation under section 10.4 to the Act in connection with the development application.

The requirement for the IPC to be the determining authority will be confirmed following the completion of the EIS public exhibition.

#### 6.2.1.3 Development Application

In accordance with Section 4.12 of the EP&A Act, a development application (DA) for SSD must be accompanied by an EIS. The EIS must be prepared in accordance with Schedule 2 of the EP&A Regulation. Schedule 2 of the EP&A Regulation provides the framework by which an application is made to obtain assessment requirements to inform the development of an EIS and the requirement for consultation with relevant public authorities. Schedule 2 also provides form and content which must be included within an EIS.

To inform the content of the EIS, a request for SEARs from the Secretary of DPIE is required. The SEARs specify the issues that must be addressed in the EIS.

The SEARs for the Project were issued by DPIE on 17 August 2021. The SEARs and where they have been addressed in this EIS are provided in **Appendix A**.

### **6.2.2 Permissibility**

The Project is located on land zoned as RU 1 – Primary Production under the *Cobar Local Environment Plan 2012* (“Cobar LEP”) as shown in **Figure 2-1**. Development for the purpose of mining is permissible with development consent in the RU1 Primary Production zoning; with one of the objectives of the zone being:

*(3) To permit the development of mines, extractive, offensive and hazardous industries, but only in an environmentally sustainable manner.*

Furthermore, underground mining is permissible on all land in accordance with Clause 7(1)(a) of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

### **6.3 Matters for Consideration**

Prior to the granting of development consent, the relevant approval body is required to take into consideration a number of conditions, which are contained within State legislation and planning instruments. **Table 6-1** provides those mandatory matters which must be satisfied prior to the issuing of consent. These are referred to as pre-condition considerations. **Table 6-2** and **Table 6-3** provide details of those mandatory matters which must be considered by the consent authority under the EP&A Act and relevant EPIs. **Table 6-4** provides a summary of other legislation relevant to the Project. References are provided to where these legislative requirements have been further addressed within this EIS where applicable.

Table 6-1 Pre-Conditions Statutory Considerations

Statutory Reference	Pre-condition	Relevance and Comment	Section in the EIS
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (Mining SEPP)	Non-discretionary development standards for mining	Clause 12AB of the Mining SEPP sets out a number of non-discretionary development standards that are to be considered in accordance with sections 4.15 (2) and (3) of the EP&A Act for mining developments. These standards relate to cumulative air quality levels and noise levels, airblast overpressure, ground vibration and aquifer interference.	Section 8.5 Section 8.9 Section 8.10
<i>Part 3 of the Mining SEPP sets out the matters that a consent authority must consider prior to consenting to a mining development:</i>	Compatibility of proposed mine, petroleum production or extractive industry with other land uses	The EIS has considered the surrounding land uses and the Project's interaction and potential impacts. The EIS also provides for a Rehabilitation Strategy which outlines the final land use and its compatibility with surrounding land uses.	Section 2.3.2 Chapter 5 Appendix D
	Consideration of voluntary land acquisition and mitigation policy	In accordance with Clause 12A of the Mining SEPP, the consent authority is to consider the applicable provisions of the voluntary land acquisition and mitigation policy (VLAMP). The VLAMP details what is to be considered in terms of dust and noise impacts associated with SSD projects.  Noise and air quality impact assessments have been prepared for the EIS. There are no significant impacts predicted which may trigger the requirement for voluntary land acquisition and mitigation.	Section 8.9 Section 8.10

Statutory Reference	Pre-condition	Relevance and Comment	Section in the EIS
	Compatibility of proposed development with mining, petroleum production or extractive industry which is: <ul style="list-style-type: none"> <li>Located in the vicinity of an existing and approved mine, petroleum production facility or extractive industry; or</li> <li>Located on location of State or regionally significant mineral resources.</li> </ul>	The Project will incorporate the current Hera Mine which is expected to cease operations at the end of 2023. The Project will utilise existing infrastructure located at Hera Mine. The Project will not impact any remaining resources at Hera Mine, as the Project will utilise surface infrastructure at Hera Mine and Project underground mining activities will occur approximately 10 km south Hera mine underground mine. The Nymagee mine, located approximately 5km to the north of Hera Mine, is non-operational and any remaining resources will not be impacted by the Project. There are no other known resource activities in the vicinity of the Project, other than exploration activities conducted by Aurelia.	<b>Chapter 3</b> <b>Section 4.15</b>
	Natural resource management and environmental management: <ul style="list-style-type: none"> <li>Water Resources;</li> <li>Threatened Species; and</li> <li>Greenhouse Gas.</li> </ul>	A water balance has been prepared for the Project. Opportunities for water re-use have been identified. Water will be primarily sourced from the underground workings and supplemented by groundwater production bores. Measures have been identified to optimise water use where possible. A biodiversity development assessment report (BDAR) has been prepared in accordance with the <i>Biodiversity Conservation Act 2017</i> , which includes a comprehensive assessment of threatened species. A Greenhouse Gas Assessment has been prepared for the Project	<b>Section 8.4</b> <b>Section 8.5</b> <b>Section 8.6</b> <b>Section 8.11</b>
	Resource Recovery	The proposed mining method described in <b>Chapter 4</b> has been developed with the aim of optimising the production of ore from the Federation deposit whilst minimising potential environmental impacts. The Mineral Resource Estimate (MRE) for the Project is described in <b>Section 4.5.1</b> .	<b>Section 4.5.1</b>
	Transport	A Traffic Impact Assessment has been prepared in accordance with the SEARS. The assessment concluded that the road network would not be adversely impacted as a result of the Project	<b>Section 8.13</b>

Statutory Reference	Pre-condition	Relevance and Comment	Section in the EIS
	Rehabilitation <ul style="list-style-type: none"> <li>• End use landform;</li> <li>• Waste generation and management;</li> <li>• Remediation of contaminated soil; and</li> <li>• Public Safety,</li> </ul>	A Rehabilitation Strategy has been developed for the Project in accordance with the SEARs requirements.	<b>Chapter 5 Appendix D</b>
State Environmental Planning Policy No 55—Remediation of Land (SEPP 55) clause 7(1)	A consent authority must not consent to the carrying out of any development on land unless—  (a) it has considered whether the land is contaminated,	The Project involves land disturbance and sub-surface excavation. Consequently, a review of appropriate land records has been undertaken to identify the likelihood of any contamination present.	<b>Section 8.1.4.2</b>
State Environmental Planning Policy No33 -Hazardous and Offensive Development  <i>Part 3 of the SEPP 33 the consent authority must consider:</i>	(a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and	A Preliminary Hazard Analysis (PHA) has been prepared in accordance with current circulars or guidelines. The PHA has been prepared in accordance with <i>Hazardous and Offensive Development Application Guidelines Applying SEPP 33</i> (Department of Planning , 2011)	<b>Section 8.15 Appendix Q</b>
	(b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and	Consultation has been undertaken with various stakeholders during the preparation of the EIS and has been documented. No concerns about land use safety have been raised in this consultation	<b>Chapter 7</b>
	(c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and	The Project will store dangerous goods at the process plant and explosives at the magazine areas. A PHA has been prepared for the EIS in accordance with the SEARs.	<b>Section 8.15 Appendix Q</b>

Statutory Reference	Pre-condition	Relevance and Comment	Section in the EIS
	(d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and	Feasible Project alternatives have been considered and documented in the EIS.	<b>Section 2.6</b>
	(e) any likely future use of the land surrounding the development.	Surrounding land uses have been identified. Given the remote location of the Project future development of the surrounding land is unlikely.	<b>Section 2.3.2</b>

Table 6-2 Mandatory Statutory Considerations EP&amp;A Act

Statutory Reference	Mandatory Consideration	Comment	Section in EIS
EP& A Act Section 1.3 <i>Objectives of the Act:</i>	To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	This EIS has provided for a comprehensive assessment of the potential impacts to the environment (including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats) and has documented management and mitigation measures which will be implemented to minimise any such impacts.	<b>Chapter 8</b> <b>Chapter 9</b>
	To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The Project will provide for the transition of similar workforce numbers at Hera Mine to the Federation Project. Through the continuation of employment opportunities, it will produce flow-on economic benefits to the wider community.  Social and economic impact assessment studies have been prepared for the Project  Where possible the Project disturbance area has been minimised, and where feasible the use of existing infrastructure has been adopted.	<b>Section 8.16</b> <b>Section 8.17</b>

Statutory Reference	Mandatory Consideration	Comment	Section in EIS
	To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	The Project has been developed with full consideration of the principles of ecological sustainable development (ESD). Community engagement has been undertaken at all stages of the development to date and will continue throughout the Project lifecycle. Social and economic impact assessment studies have been prepared for the Project.	<b>Chapter 9</b>
	To promote the orderly and economic use and development of land	The Project is permissible with consent. The environmental impact assessment process provides the vehicle for the orderly and economic development of the land.	<b>Section 1.7</b> <b>Section 6.2.2</b>
	To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	A cultural heritage impact assessment has been prepared for Project in consultation with the Registered Aboriginal Parties.	<b>Section 8.7</b>
	To provide increased opportunity for community participation in environmental planning and assessment	Community engagement has been undertaken at all stages in the planning process to date. Furthermore, a comprehensive social impact assessment has been developed which involved extensive consultation and the opportunity for the community to provide input into the assessment process.	<b>Chapter 6</b> <b>Section 8.17</b> <b>Appendix F</b>
EP&A Act Section 4.15  Matters for consideration: general. In determining a development application, a consent authority is to take into consideration	Relevant environmental planning instruments	The following environmental planning instruments are relevant to the Project: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (refer <b>Table 6-1</b>)</li> <li>State and Regional Development State Environmental Planning Policy (SRD SEPP) 2011 ( <b>Table 6-3</b>)</li> <li>State Environmental Planning Policy No33 -Hazardous and Offensive Development (<b>Table 6-1 and Table 6-3</b>)</li> </ul>	<b>Noted</b>



Statutory Reference	Mandatory Consideration	Comment	Section in EIS
		<ul style="list-style-type: none"> <li>State Environmental Planning Policy No 55—Remediation of Land (SEPP 55) clause 7(1) (<b>Table 6-1 and Table 6-3</b>)</li> <li>Cobar LEP 2011 (refer below).</li> </ul>	
	Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority	There are no proposed instruments which are relevant to the Project.	<b>Noted</b>
	Any development control plan	<p>Clause 11 of the SRD SEPP excludes the application of development control plans to SSD projects.</p> <p>Clause 11 is given effect by the combined operation of Sections 4.40 and 4.43 of the EP&amp;A Act which state:</p> <ul style="list-style-type: none"> <li>4.40 - Section 4.15 applies, subject to this Division, to the determination of the application.</li> <li>4.43 - The provisions of this Division, the regulations of this Division and any other provisions of or made under this Act with respect to SSD prevail to the extent of any inconsistency with any other provisions of or made under this Act relating to development to which this Part applies.</li> </ul>	<b>Noted</b>
	Any Planning Agreement which has been entered into	Voluntary Planning Agreements (VPAs) for Hera Mine have been entered into between Hera Resources and CSC and Bogan Shire Council. It is expected that similar VPAs will be entered into for the Project.	<b>Section 2.5</b>
	The Regulations	The requirements of the EP&A Regulation have been outlined in Section <b>6.2.1.3</b> . This EIS has been prepared within the statutory framework and provides the necessary content as required by the EP&A Regulation.	<b>Section 6.2.1.3</b>

Statutory Reference	Mandatory Consideration	Comment	Section in EIS
	The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	<p>This EIS has been prepared to address the requirements of the issued SEARS and in accordance with the Schedule 2 of the EP&amp;A Regulation.</p> <p>This EIS has been prepared to thoroughly identify and assess the potential impacts on the natural and built environment as well as the social and economic impacts though subject specific impact assessments. The EIS also documents the management and mitigation measures which will be implemented by Hera Resources to either minimise or avoid potential s impacts.</p>	<b>Section 1.7</b> <b>Chapter 8</b> <b>Appendix G</b> <b>Appendix S</b>
	The suitability of the site for the development	<p>The Project has been designed to utilise existing infrastructure where feasible at the Hera Mine Site and for the Exploration Decline Program. This includes utilisation of the existing TSF, mine accommodation, process plant footprint, associated processing infrastructure, and surface infrastructure.</p> <p>Development at the Federation Site will result in the economic recovery of the resource on land for which mining is permissible.</p>	<b>Chapter 4</b>
	Any submissions made in accordance with this Act or the regulations	This EIS will be placed on public exhibition by DPIE for a minimum of 28 days. Any submission which are received by DPIE relating to the EIS and Project will be reviewed by Hera Resources. A comprehensive response to each submission will be provided to DPIE.	<b>Section 1.7</b>
	The public interest	Hera Resources are committed to developing a sustainable Project through the consideration of its potential impacts to the natural and built environment as well as social and economic impacts. A thorough consideration of the Project in the context of ESD principles has also been undertaken.	<b>Chapter 9</b>

Table 6-3 Mandatory Considerations under Environmental Planning Instruments

Statutory Reference	Mandatory Consideration	Comment	Section in EIS
SRD SEPP 2011 clause 5(1)	Department Guidelines <ul style="list-style-type: none"> <li>State Significant Development Guidelines July 2021.</li> </ul>	This EIS has been prepared with reference to <i>State significant development guidelines – preparing an environmental impact statement. Appendix B to the state significant development guidelines (July 2021)</i>	<b>Noted</b>
Mining SEPP Section 12 AB	Refer <b>Table 6-1</b> Non-discretionary development standards for mining: <ul style="list-style-type: none"> <li>Cumulative Noise</li> <li>Cumulative Air</li> <li>Airblast overpressure</li> <li>Ground vibration</li> <li>Aquifer Interface.</li> </ul>	Impact assessments which include cumulative impacts, where relevant, have been prepared in accordance with the SEARS requirements and relevant guidelines.	<b>Chapter 8</b>
SEPP 33 – Clause 8	Department Guidelines <ul style="list-style-type: none"> <li>Hazardous and Offensive Development Application Guidelines - Applying SEPP 33</li> <li>Hazardous Industry Planning Advisory Paper No. 6 – Guidelines for Hazard Analysis</li> <li>Multi-level Risk Assessment (DPI, 2011).</li> </ul>	The PHA has been prepared in accordance with the relevant guidelines as identified in Clause 8 of SEPP 33.	<b>Section 8.15</b>
SEPP 55	Contaminated land planning guidelines.	Consideration of the potential for contamination has been documented in the EIS.	<b>Section 8.1.4.2</b>
Cobar LEP 2012	Objectives and land use for RU1 Rural <ul style="list-style-type: none"> <li>6.1 Earthworks</li> <li>6.4 Terrestrial biodiversity</li> </ul>	Earthworks undertaken for the Project will be undertaken with appropriate controls so to minimise the potential impact to the environment. Similarly, the disturbance area has been minimised where possible to reduce clearing of vegetation and minimising impacts to terrestrial biodiversity.	<b>Section 8.1.7</b> <b>Section 8.4.6</b> <b>Section 8.6.7</b>

Table 6-4 Other Relevant NSW Legislation

Legislation	Relevance	Where addressed in EIS
<i>Biodiversity Conservation Act 2016</i> (BC Act)	<p>The likely impact of the proposed development on biodiversity values has been assessed in the BDAR. The Minister for Planning may (but is not required to) further consider under that Act the likely impact of the proposed development on biodiversity values.</p> <p>Section 7.9 of the BC Act requires that an SSD application be accompanied by a BDAR unless the proposed development is not likely to have any significant impact of biodiversity values.</p> <p>The Biodiversity Offsets Scheme may apply to the Project, with offset requirements included as a condition of any consent issued.</p>	<b>Section 8.6</b> <b>Appendix K</b>
<i>Protection of the Environment Operations 1997</i> (POEO Act)	<p>Schedule 1 of the POEO Act lists the ‘scheduled activities’ which are required to be regulated by an environment protection licence (EPL).</p> <p>The following scheduled activities are relevant to the Project and require an EPL: clause 16 ‘Crushing, grinding or separating’, clause 27 ‘Mineral processing’, and clause 29 ‘Mining for minerals.’</p> <p>CI 4.42 (1) of the EP&amp;A Act details that an approval of an EPL under chapter 3 of the POEO Act cannot be refused if it is necessary for the carrying out of an SSD development consent and it is substantially consistent with the consent.</p>	<b>Section 6.4</b>
Mining Act	<p>The Mining Act regulates mining in NSW and provides for the granting of mining authorities.</p> <p>A mining lease may only be granted once development consent has been granted. Hera Resources will lodge an application for one or more mining leases for the Project to DPIE-RR.</p> <p>CI 4.42 (1) of the EP&amp;A Act details that an approval of a mining lease under the <i>Mining Act 1992</i> cannot be refused if it is necessary for the carrying out of an SSD development consent and it is substantially consistent with the consent.</p>	<b>Section 6.4</b>
<i>National Parks and Wildlife Act 1974</i> (NPW Act)	<p>All Aboriginal objects and places are protected, irrespective of their level of significance or land tenure. A person must not harm or desecrate an Aboriginal object or place without an Aboriginal heritage impact assessment under section 90 of the NPW Act.</p> <p>However, Clause 4.41 of EP&amp;A Act details that an Aboriginal heritage impact permit (AHIP) under Section 90 of the NP&amp;W Act is not required where an SSD approval is given.</p>	<b>Section 7.5.3</b> <b>Section 7.6.2</b> <b>Section 7.7</b>
<i>Water Management Act 2000</i> (WM Act)	<p>CI 4.41 of EP&amp;A Act details that a water use approval under Section 89, a water management work approval under Section 90 or an activity approval (other than an aquifer interference approval) under Section 91 of the WM Act is not required where an SSD approval is given.</p>	<b>Section 8.4</b> <b>Section 8.5</b>

Legislation	Relevance	Where addressed in EIS
	<p>A water management work approval includes a water supply works approval, drainage work approval and flood work approval.</p> <p>An activity approval includes a controlled activity approval and an aquifer interference approval.</p> <p>Water access licences (WALs) are issued in accordance with Part 2 Division 2 of the WM Act. Aurelia currently holds a WAL which is detailed in Chapter 3. Additional WAL are not predicted to be required for the Project; however if an additional WAL was required, application would be made in accordance with Section 61 of the WM Act.</p>	
<i>Roads Act 1993</i> (Roads Act)	<p>Section 138 of the Roads Act requires the consent of the appropriate road authority with respect to works proposed on a public road. Section 138 (1) requires:</p> <p>(1) A person must not—</p> <ol style="list-style-type: none"> <li>erect a structure or carry out a work in, on or over a public road, or</li> <li>dig up or disturb the surface of a public road, or</li> <li>remove or interfere with a structure, work or tree on a public road, or</li> <li>pump water into a public road from any land adjoining the road, or</li> <li>connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.</li> </ol> <p>Upgrade of Burthong Road will require approval under section 138 of the Roads Act from CSC.</p> <p>Cl 4.42 (1) of the EP&amp;A Act details that a consent under section 138 of the Roads Act cannot be refused if it is necessary for the carrying out of an SSD development consent and it is substantially consistent with the consent.</p>	<b>Section 8.13</b>
<i>Crown Lands Management Act 2016</i> (CLM Act)	<p>The CLM Act provides for the administration and management of Crown land in NSW. Crown land may not be occupied, used, sold, leased, licenced, dedicated, reserved, or otherwise dealt with unless authorised by the CLM Act. A large portion of the Western Lands in NSW is Crown Land which is leased.</p> <p>The Minister may grant a 'relevant interest' such as a lease, licence, or permit, over Crown land for the purpose of infrastructure, activity or other purpose that the Minister thinks fit. As part of meeting these requirements, additional steps may need to be taken by the proponent if the land is determined to have environmental, social or cultural value (including Aboriginal heritage value).</p>	<b>Section 2.4.3</b>

Legislation	Relevance	Where addressed in EIS
	Aurelia currently hold Western Lands Lease 2455 which was originally issued under the former <i>Western Lands Act 1901</i> , subsequently replaced by the CLM Act in July 2018.	
<i>Work Health and Safety Regulation 2017</i> (WH&S Regulation)	The WH&S Regulation provides a framework for the regulation and management of dangerous goods and hazardous chemicals. Schedule 11 of the WH&S Regulation provides a manifest of hazardous chemicals with corresponding storage thresholds. If these thresholds are exceeded, notification to Safework NSW is required. Hera Resources will establish such a manifest to determine whether notification is required.	<b>Section 8.15</b>
<i>Explosives Act 2003</i>	The <i>Explosives Act 2003</i> is administered by SafeWork NSW and requires those who handle explosives to be licenced in accordance with Part 2 Section 6 of the Act. Hera Resources will require all personnel handling explosives to be appropriately licensed in accordance with the Act.	<b>Section 8.15</b>
<i>Environmentally Hazardous Chemicals Act 1985</i>	Under this Act a licence is required for any storage, transport, or use of prescribed chemicals. Should such a licence be required under this Act during the life of the Project a licence will be obtained prior to the storage, transport or use of the prescribed chemicals.	<b>Section 8.15</b>

## 6.4 Project Approvals

### 6.4.1 Overview

This section provides an overview of other approvals required to carry out the Project. Approvals required for the Project are identified in **Table 6-5**.

*Table 6-5 Federation Project Approvals*

Legislation	Permit / Approval	Approval
EP&A Act	Development Approval	DPIE
POEO Act	Environmental Protection Licence	Environment Protection Authority (EPA)
Water Act	Licensing of bores, unless otherwise exempt	Water NSW
Roads Act	Section 138 Approval	CSC
Mining Act	Mining Lease(s)	DPIE - RR

As per the *SSD Guidelines - Preparing an Environmental Impact Statement*, **Table 6-6** provides a summary of approvals which are not required for the Project in accordance with Section 4.41 of the EP&A Act.

Table 6-6 Approvals not required for SSD Projects

Act	Approval Not Required
<i>Fisheries Management Act 1994</i>	A permit under section 201, 205 or 219 of the Act.
<i>Heritage Act 1977</i>	An approval under Part 4, or an excavation permit under section 139, of the Act to disturb items of heritage.
<i>Rural Fires Act 1997</i>	A bush fire safety authority under section 100B of the Act is not required.
<i>National Parks and Wildlife Act 1974</i>	An Aboriginal heritage impact permit under section 90 of the Act.
<i>Water Management Act 2000</i>	A water use approval under section 89, a water management work approval under section 90 or an activity approval (other than an aquifer interference approval) under section 91 of the Act.
<i>Heritage Act 1977</i>	Division 8 of Part 6 does not apply to prevent or interfere with the carrying out of State significant development that is authorised by a development consent granted after the commencement of this Division

## 6.5 Commonwealth Legislation

### 6.5.1 Environmental Protection and Biodiversity Conservation Act 1999

Under the EPBC Act the approval of the Commonwealth Minister for the Environment is required for any action that is likely to have a significant impact on a matter of national environmental significance (MNES), deemed a 'controlled action'. The MNES defined under the EPBC Act include:

- World Heritage;
- National Heritage;
- Wetlands of international importance;
- Listed threatened species and communities;
- Listed migratory species;
- Protection of the environment from nuclear actions;
- Marine environment;
- Great Barrier Reef Marine Park; and
- Protection of water resources from coal seam gas development and large coal mining development.

A referral for the Project was submitted to DAWE on 19 November 2021 (EPBC 2021/9100), supported by information providing evidence that the Project was not likely to have a significant impact on MNES and therefore should not be a 'controlled action'. On 7 January 2022 the delegate of the Minister for the Environment decided that the Project (the proposed action) was not a controlled action (refer **Appendix V**).

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### **6.5.2 Native Title Act 1993**

The *Native Title Act 1993* (NT Act) provides a framework for the determination of native title claims within Australia, and for negotiations and decision making regarding the use and management of native title lands and waters. Exclusive rights to land are only available on certain unallocated or vacant Crown lands.

Applications for compensation for extinguishment or impairment of native title rights can also be made. All native title claims are subjected to a registration test and will only be registered if claimants satisfy several conditions. A register of native title claims is maintained by the National Native Title Tribunal.

The NT Act is relevant to the grant of mining leases under the Mining Act where there is potentially land in respect of which native title has not been extinguished within the mining lease application area. Hera Resources have identified that native title has been extinguished on the subject lands of the Project.