



Section 4

Statutory Context

PREAMBLE

This section identifies the relevant legislation and planning instruments that have guided the approach to the design of the Project and the environmental assessments and identifies the relevant statutory requirements that must be considered by the consent authority before the development application may be determined.



4.1 Introduction

This section identifies the relevant statutory requirements that must be considered by the consent authority before the development application may be determined. The relevant statutory requirements are described in terms of power to grant approval, permissibility, and other required approvals. The section concludes with the statutory compliance matters that must be considered by the consent authority.

4.2 Statutory Requirements for the Project

4.2.1 Power to Grant Approval

As a mining mineral mining operation, the Project is classified as “State Significant Development” under Clause 5(1)(a) of Schedule 1 of the *State Environmental Planning Policy (SEPP) (Planning Systems) 2021*. The Development Application will therefore require assessment under Division 4.7 of Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

In accordance with Section 4.5(a) of the *Environmental Planning and Assessment Act 1979*, the consent authority for the Project will be the Independent Planning Commission should one of the following criteria, identified in Section 2.7 of the Planning Systems SEPP, be met.

- Wentworth Shire Council provides a submission objecting to the Project.
- There are more than 50 submissions objecting to the Project.
- The Applicant has made a reportable political donation.

If these thresholds are not met, the determining authority would be the Minister for Planning. In practice, it is understood that the Minister has delegated their authority to determine such applications to a senior officer of the Department of Planning and Environment.

4.2.2 Permissibility

4.2.2.1 Wentworth LGA

Mine Site and Site Access Road

The Mine Site is located wholly on land zoned under the *Wentworth Local Environmental Plan 2011* (Wentworth LEP) as RU1 – Primary Production (**Figure 4.1**). Open Cut mining is permissible with consent in this zone.

Relevant objectives of this zone are as follows.

- “To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.



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- To encourage diversity and promote employment opportunities related to primary industry enterprises, including those that require smaller holdings or are more intensive in nature.”

These objectives have been considered during the design and planning process of the Project, and are addressed throughout this EIS.

Anabranh Mail Road and Associated Intersections

Anabranh Mail Road is an existing local road that would be realigned and upgraded as a result of the Project. The road between the intersection of the Site Access Road and the Silver City Highway occurs on land zoned as follows (**Figure 4.1**).

- RU1 – Primary Production.
- SP2 – Infrastructure

Roads are permitted without consent within Zone RU1 – Primary Production and Zone SP2 - Infrastructure.

4.2.2.2 Broken Hill LGA

The Rail Facility is located wholly within the Broken Hill Local Government Area (LGA). Under the *Broken Hill Local Environmental Plan 2013* (Broken Hill LEP), the land on which the Rail Facility is located is designated as:

- Zone SP2 – Infrastructure (Rail Infrastructure Facility); and
- Zone SP1 – Special Activities (Mining) (**Figure 4.2**).

Relevant objectives of the SP2 zone are as follows.

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.”

Relevant objectives of the SP1 zone are as follows.

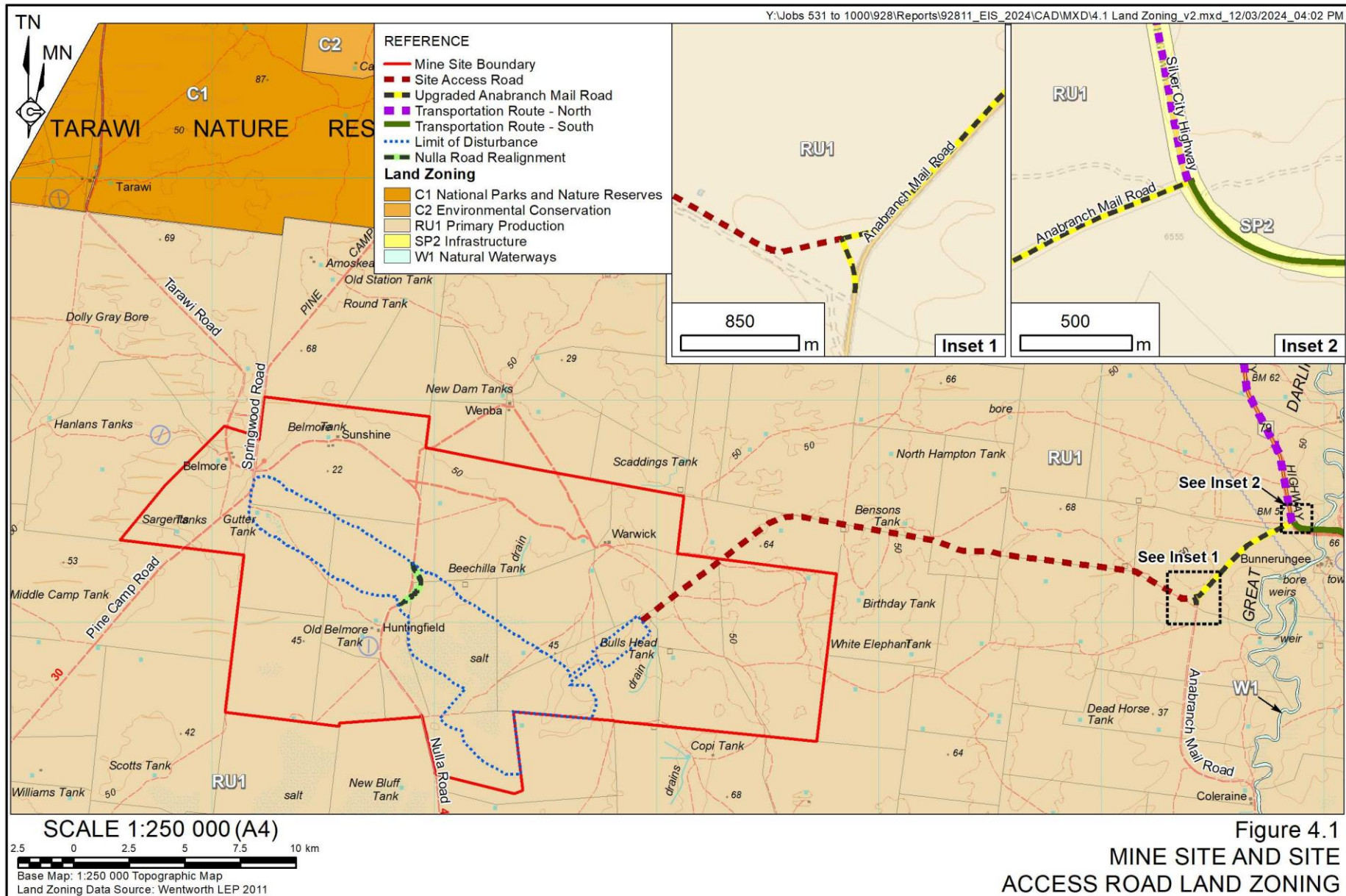
- “To provide for special land uses that are not provided for in other zones.
- To provide for sites with special natural characteristics that are not provided for in other zones.
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.”

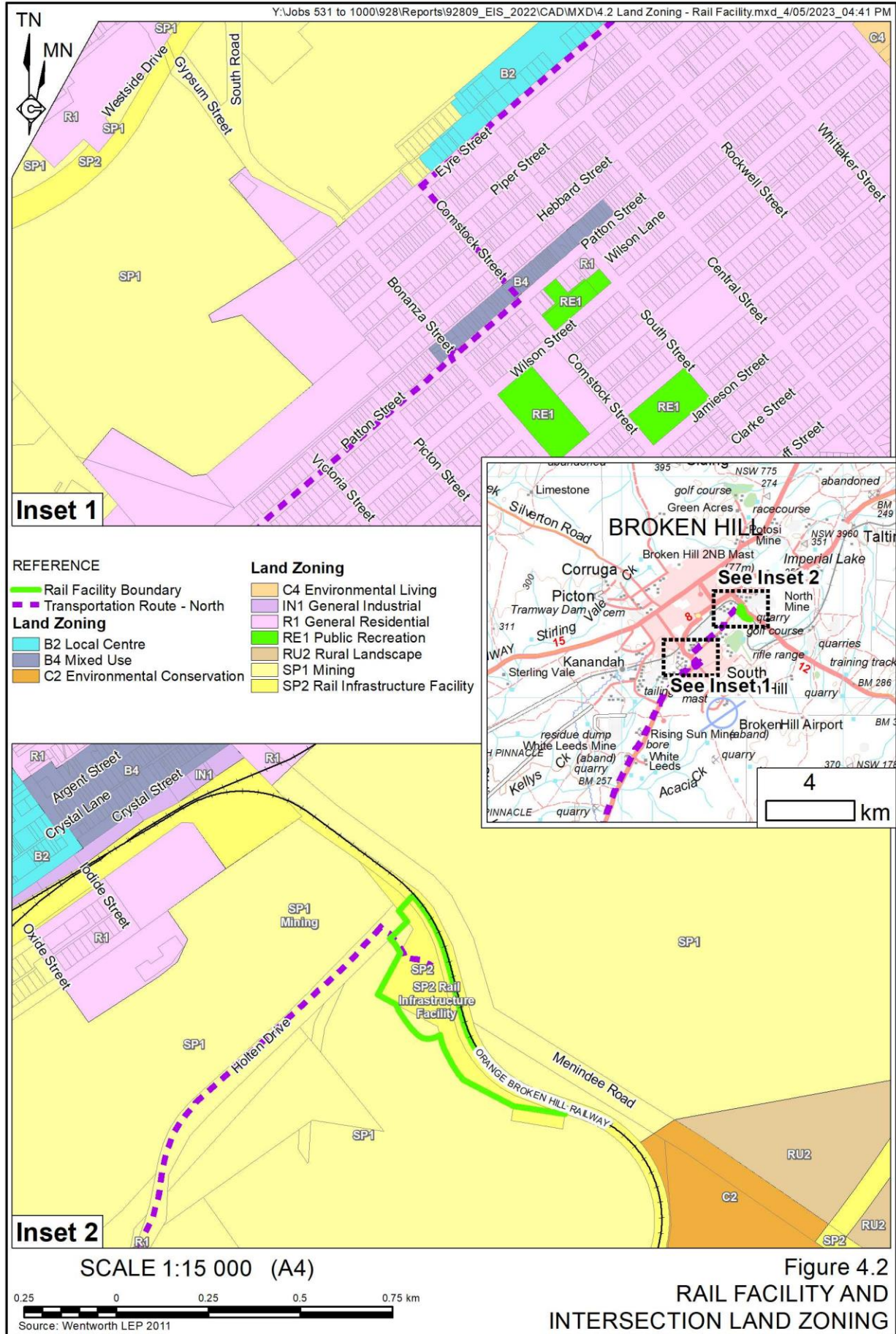
Development for the purpose of a Rail Facility is permissible under each of these zones.

The proposed works to be undertaken at the intersections of Patton and Comstock Streets and Comstock and Eyre Streets are on land zoned:

- R1 – General Residential; and
- B4 – Mixed Use (**Figure 4.2**).

Roads are permitted without consent in both these zones.







4.2.3 Other Approvals

4.2.3.1 Approvals that Cannot be Refused if Consent is Granted

The following presents 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*.
The Applicant would require a new Mining Lease, to permit mining of minerals. A Mining Lease Application (MLA629) has been submitted for an area approximately coincident with the section of the Mine Site east of Pine Camp and Springwood Roads and west of Nulla Road (**Figure 1.1**).
A second Mining Lease Application will be submitted for that section of the Mine Site east of Nulla Road (**Figure 1.1**).
- An Environment Protection Licence under Chapter 3 of the *Protection of the Environment Operations Act 1997*.
The Project would disturb more than 4ha for the purposes of mining of minerals. As a result, the Applicant would apply for an Environmental Protection License (EPL) for Project.
- A Permit under Section 138 of the *Roads Act 1993*.
Permits (and an associated Works Authority Deed where relevant) will be required from:
 - Transport for NSW for works within the Silver City Highway road reserve;
 - Broken Hill City Council for works within the Holten Drive, Eyre Street, Comstock Street and Patton Street road reserves;
 - Wentworth Shire Council for works within the Anabranth Mail Road road reserve and for the closure, removal and reinstatement of Nulla Road.

4.2.3.2 Approvals that are Not Required if Consent is Granted

The following presents the approvals would otherwise be required but are not required for the Project under Section 4.41(1) of the EP&A Act.

- 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*.



4.2.3.3 Other Approvals

The following presents other approvals that are required to carry out the Project that have not been addressed above.

- *Environment Protection and Biodiversity Conservation Act 1999*

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) details the general obligations regarding the management of biodiversity and conservation under Commonwealth legislation.

Biodiversity assessments indicate that no significant adverse impacts on Matters of National Environmental Significance are considered likely to occur as a result of the Project (see Section 6.3.6.6). Consequently, the Applicant does not propose to submit a referral under the EPBC Act and no approval under that Act is required.

- *Water Management Act 2000*

Water Management Act 2000 (WM Act) approvals required for the Project that are not otherwise exempted under Section 4.41 of the EP&A Act, include Water Access Licences (WALs) issued under the Water Sharing Plan for the NSW Murray Darling Basin (MDB) Porous Rock Groundwater Sources Order 2020 to account for groundwater extracted from the production bores and evaporative losses from the dredge pond.

Under the NSW Harvestable Rights Policy, as the Project is located within the Western Division, no WALs are required for harvesting, storage or use of incident rainfall within the Mine Site.

- Licences to store, handle and transport Monazite Product

The Monazite Product is expected to be classified as a Class 7 (Radioactive Material) under the *Australian Dangerous Goods Code*. Up to 7,500tpa of Monazite Product would be produced.

A licence under Section 6 of the *Protection from Harmful Radiation Act 1990* will be required for the storage of Monazite Product.

Licences under Paragraph 59(1)(c) of the Commonwealth *Australian Radiation Protection and Nuclear Safety Regulations 2018* will be required for transportation of Monazite Product from the Mine Site. The required approval would be issued by the Australian Radiation Protection and Nuclear Safety Agency.

- Construction Certificates, Occupation Certificates, etc.

All necessary approvals under Division 6.3 of the EP&A Act would be obtained from Wentworth Shire Council for construction, erection and/or placement of buildings, structures and appropriate water treatment systems for the Project.

4.3 Preconditions to Exercising the Power to Grant Approval

Table 4.1 presents the pre-conditions to granting approval for the Project.



Table 4.1
Pre-Conditions to Granting Approval

Statutory Reference	Pre-condition	Relevance	Section in EIS
Biodiversity Conservation Act 2016 (BC Act)			
Section 7.9	An SSD application is to be accompanied by a biodiversity development assessment report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values	A BDAR has been prepared and accompanies this application.	Appendix 6
Section 7.16	If the Minister for Planning is of the opinion that a proposed SSD is likely to have serious or irreversible impacts on biodiversity values, the Minister: a) is required to take those impacts into consideration, and b) is required to determine whether there are any additional and appropriate measures that will minimise those impacts if consent or approval is granted.	The Project would result in removal of native vegetation and, as a result, a BDAR has been prepared to assess the anticipated Project-related impacts.	6.3
Wentworth Local Environmental Plan 2011 (Wentworth LEP)			
Clause 2.3(2) (Zoning)	The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	Open cut mining is permissible on land zoned as RU1. Roads are permitted without consent on land zoned as C1.	4.2.2, 7.3.3
Clause 7.1(3) (Earthworks)	Before granting development consent for earthworks, the consent authority must consider the following matters: a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development, b) the effect of the proposed development on the likely future use or redevelopment of the land, c) the quality of the fill or the soil to be excavated, or both, d) the effect of the proposed development on the existing and likely amenity of adjoining properties, e) the source of any fill material and the destination of any excavated material, f) the likelihood of disturbing relics, g) the proximity to, and potential for adverse impacts on, any watercourse, drinking water catchment or environmentally sensitive area,	The Project would result in disturbance of land.	3.4, 3.8, 3.12, 6.4, 6.5, 6.7, 6.8, 6.9, 6.13



Table 4.1 (Cont'd)
Pre-Conditions to Granting Approval

Statutory Reference	Pre-condition	Relevance	Section in EIS
Wentworth Local Environmental Plan 2011 (Wentworth LEP) (Cont'd)			
Clause 7.4(3) (Terrestrial Biodiversity)	Before determining a development application for development on land to which this clause applies, the consent authority must consider whether or not the development— <ul style="list-style-type: none"> a) is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and b) is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and c) has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and d) is likely to have any adverse impact on the habitat elements providing connectivity on the land. 	Review of Wentworth LEP Map Sheet NRB_002 identifies that the Project would result in removal of native vegetation on land to which this clause applies and, as a result, a BDAR has been prepared to assess the anticipated Project-related impacts.	6.3, Appendix 6
Clause 7.4(4) (Terrestrial Biodiversity)	Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that— <ul style="list-style-type: none"> a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or c) if that impact cannot be minimised—the development will be managed to mitigate that impact. 	Review of Wentworth LEP Map Sheet NRB_002 identifies that the Project would result in removal of native vegetation on land to which this clause applies and, as a result, a BDAR has been prepared to assess the anticipated Project-related impacts.	6.3 Appendix 6
Clause 7.5(3) (Wetlands)	When assessing a development application for development on land to which this clause applies, the consent authority must consider potential adverse impacts from the proposed development on— <ul style="list-style-type: none"> a) the growth and survival of native flora and fauna, b) the condition and significance of the native flora on the land and whether it should be substantially retained, and c) the provision and quality of habitats for indigenous and migratory species, and d) the surface and groundwater characteristics of the site, including water quality, natural water flows and salinity, and e) any wetland in the vicinity of the proposed development and any proposed measures to minimise or mitigate those impacts 	Review of Wentworth LEP Map Sheet NRW_002 identifies that the Project would result in the disturbance of land to which this clause applies and, as a result a BDAR has been prepared to assess potential impacts to native flora and fauna. An assessment of the potential impacts to the surface water and groundwater environment has been undertaken and presented in this EIS.	6.3, 6.7, Appendix 6, Appendix 10



Table 4.1 (Cont'd)
Pre-Conditions to Granting Approval

Statutory Reference	Pre-condition	Relevance	Section in EIS
Wentworth Local Environmental Plan 2011 (Wentworth LEP) (Cont'd)			
Clause 7.5(4) (Wetlands)	Before granting consent to development to which this clause applies the consent authority must be satisfied that— a) the development is sited, designed and managed to avoid potential adverse environmental impacts, or b) where an impact cannot be avoided, and having taken into consideration feasible alternatives, the proposed design, construction and operational management of the development will mitigate and minimise those impacts	Review of Wentworth LEP Map Sheet NRW_002 identifies that the Project would result in the disturbance of land to which this clause applies.	6.3, 6.7, Appendix 6, Appendix 10
Broken Hill Local Environmental Plan 2013 (Broken Hill LEP)			
Clause 2.3(2) (Zoning)	The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	Rail facilities are permitted without consent on land zoned SP1 and SP2. Roads are permitted without consent on land zoned R1 and B4.	7.3.4
State Environmental Planning Policy (Resources and Energy) 2021			
Section 2.16	Consent authority must be satisfied that consideration is given to development standards on particular matters related to mining that, if complied with, prevents the consent authority from requiring more onerous standards for those matters.	Each of the non-discretionary standards, with the exception of vibration, which is not relevant, is addressed in the EIS.	This Document
Section 2.17	Before determining an application for consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must — <ul style="list-style-type: none">• consider the existing and approved land uses in the vicinity of the development, whether or not the development is likely to have a significant impact on the preferred land uses, and any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses• Evaluate the respective public benefits of the development and the land uses• Evaluate measures proposed by the Applicant to avoid or minimise any incompatibility	Existing land uses include low intensity agriculture, transportation and, at substantial distances from the Mine Site, mining for mineral sands and other minerals.	2.2.2, 2.5, 3.11, 7.5, 7.9
Section 2.18	Consent authority must be satisfied that proper consideration is given to any applicable provisions of the voluntary land acquisition and mitigation policy	The Voluntary Land Acquisition and Mitigation Policy does not apply because the relevant assessment criteria are not expected to be exceeded.	6.8.3.4, 6.8.6.3, 6.9.4.3



Table 4.1 (Cont'd)
Pre-Conditions to Granting Approval

Statutory Reference	Pre-condition	Relevance	Section in EIS
State Environmental Planning Policy (Resources and Energy) 2021 (Cont'd)			
Section 2.19(2)	Consent authority must be satisfied that proper consideration is given to; <ul style="list-style-type: none"> • the existing uses and approved uses of land in the vicinity of the development, and • whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and • any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery and, • evaluation of the respective public benefits of the development and the uses, extraction and recovery • evaluation of any measures proposed by the Applicant to avoid, minimise any incompatibility 	The Project would not be incompatible with surrounding land uses and would result in substantial additional public benefit when compared with the existing and potential future public benefit that may be obtained from the existing uses.	2.2, 3.11, 6, 7.5, 7.9
Section 2.20	The consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an environmentally responsible manner, including conditions to ensure the following— <ol style="list-style-type: none"> a) that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable, (b) that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable, (c) that greenhouse gas emissions are minimised to the greatest extent practicable. 	An assessment of water resources, threatened species and biodiversity, and greenhouse gas emissions has been provided.	6.2, 6.3, 6.7, 6.9
Section 2.21	Consent authority must consider whether the Project will be carried out in such a way as to optimise the efficiency of recovery of minerals and to minimise the creation of waste in association with the extraction, recovery or processing of minerals.	An assessment of the efficiency of the recovery of the resource and reuse of materials has been included.	1.5, 3.4, 3.5
Section 2.22	Consent authority consider whether the Proposal is subject to any conditions that; require all or some of the transport of materials to not be by public road, limit or preclude truck movements that occur on roads in residential areas or near schools, and/or require the preparation of a code of conduct for the transport of materials on public roads.	The Applicant would transport heavy mineral products to the Railway Facility off Holten Drive in Broken Hill, thereby limiting transportation on the public road network. All product transport would be undertaken on existing approved road train roads.	3.6, 6.6



Table 4.1 (Cont'd)
Pre-Conditions to Granting Approval

Statutory Reference	Pre-condition	Relevance	Section in EIS
State Environmental Planning Policy (Resources and Energy) 2021 (Cont'd)			
Section 2.23	<p>The consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development</p> <p>In particular, the consent authority must consider whether conditions of the consent should—</p> <ul style="list-style-type: none"> a) require the preparation of a plan that identifies the proposed end use and landform of the land once rehabilitated, or b) require waste generated by the development or the rehabilitation to be dealt with appropriately, or c) require any soil contaminated as a result of the development to be remediated in accordance with relevant guidelines, or d) require steps to be taken to ensure that the state of the land, while being rehabilitated and at the completion of the rehabilitation, does not jeopardize public safety. 	<p>The Applicant would backfill the Extraction Area and remove all infrastructure and plant not required for the final land use. The original surface topography would be re-established.</p> <p>Matters related to waste and contaminated soil management and public safety are addressed within the EIS.</p>	3.9, 3.12, 6.4, 6.11
State Environmental Planning Policy (Resilience and Hazards) 2021			
Section 3.12	<p>In determining an application to carry out development to which this Part applies, the consent authority must consider (in addition to any other matters specified in the Act or in an environmental planning instrument applying to the development):</p> <ul style="list-style-type: none"> a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and 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 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 e) any likely future use of the land surrounding the development. 	<p>Key risks associated with the Project pertain to noise, air quality, visual amenity, biodiversity, surface water and social impacts.</p> <p>An assessment of additional hazardous substances is included in the EIS.</p>	2.5, 3.12 6.11, Appendix 2



**Table 4.1 (Cont'd)
Pre-Conditions to Granting Approval**

Statutory Reference	Pre-condition	Relevance	Section in EIS
State Environmental Planning Policy (Resilience and Hazards) 2021 (Cont'd)			
Section 4.6(1)	A consent authority must not consent to the carrying out of any development on land unless: <ol style="list-style-type: none"> a) it has considered whether the land is contaminated, and b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose. 	The Project would not be situated on contaminated land and contamination levels within the Mine Site will be compatible with the final land uses of agriculture and nature conservation.	6.1.4
State Environmental Planning Policy (Biodiversity and Conservation) 2021			
Section 3.6 to Section 3.8	<ol style="list-style-type: none"> 1) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat. 2) The council may be satisfied as to whether or not land is a potential koala habitat only on information obtained by it, or by the applicant, from a person who is qualified and experienced in tree identification. 3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application. 4) If the council is satisfied that the development is likely to have a higher level of impact on koalas or koala habitat, the council must, in deciding whether to grant consent to the development application, take into account a koala assessment report for the development. 	EnviroKey (2024) have identified that there is no suitable habitat for Koala within the Mine Site.	EnviroKey (2024) presented as Appendix 6
State Environmental Planning Policy (Transport and Infrastructure) 2021			
Section 2.48(2)	Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must— <ol style="list-style-type: none"> a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and b) take into consideration any response to the notice that is received within 21 days after the notice is given. 	The Project would result in a connection to the 220kV Buronga to Broken Hill Transmission Line.	3.3



Table 4.1 (Cont'd)
Pre-Conditions to Granting Approval

Statutory Reference	Pre-condition	Relevance	Section in EIS
State Environmental Planning Policy (Transport and Infrastructure) 2021 (Cont'd)			
Section 2.119 (2)	<p>The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—</p> <ul style="list-style-type: none"> a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of— <ul style="list-style-type: none"> i) the design of the vehicular access to the land, or ii) the emission of smoke or dust from the development, or iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land. 	The EIS includes an assessment of Project-related impacts to the local transport network.	3.6, 6.6
Section 2.122 (4)	<p>Before determining a development application for development to which this clause applies, the consent authority must—</p> <ul style="list-style-type: none"> a) give written notice of the application to TfNSW within 7 days after the application is made, and b) take into consideration— <ul style="list-style-type: none"> i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and ii) the accessibility of the site concerned, including— (a) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and (b) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and iii) any potential traffic safety, road congestion or parking implications of the development. 	This is a matter for the consent authority.	3.6, 6.6



4.4 Mandatory Matters for Consideration

Table 4.2 presents the mandatory matters for consideration by the consent authority.

Table 4.2
Mandatory Matters for Consideration by the Consent Authority

Page 1 of 4

Statutory Reference	Mandatory Consideration	Section in EIS
Considerations under the <i>Environmental Planning & Assessment Act 1979 (EP&A Act)</i>		
Section 1.3	Relevant objects of the Act <ul style="list-style-type: none"> • 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, • to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment, • to promote the orderly and economic use and development of land, • to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats, • to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage), • to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State, • to provide increased opportunity for community participation in environmental planning and assessment. 	7.3.2
Section 4.15 (1)	(a)(i) Relevant environmental planning instruments <ul style="list-style-type: none"> • SEPP (Resources and Energy) 2021 • SEPP (Resilience and Hazards) 2021 • SEPP (Biodiversity and Conservation) 2021 • SEPP (Transport and Infrastructure) 2021 • Wentworth Local Environmental Plan 2011 • Broken Hill Local Environmental Plan 2013 • Biodiversity Conservation Act 2016 (BC Act) 	Table 4.1 Section 7
	(a)(iii) Development Control Plan <ul style="list-style-type: none"> • Wentworth Development Control Plan 2011 • Broken Hill Local Environmental Plan 2013 	Table 2.1 2.1.3
	(a)(iii)a) Planning Agreement	2.4
	(a)(iv) The EP&A Regulation	7.3.2
	(b) The likely impact of the development	6 generally
	(c) The suitability of the site for the development	3, 6 generally
	(d) Any submissions made	Submissions Report
	(e) The public Interest	7.2, 7.9
Note: NA = Not Applicable		



Table 4.2 (Cont'd)
Mandatory Matters for Consideration by the Consent Authority

Statutory Reference	Mandatory Consideration	Section in EIS
Considerations under other Acts		
<p>Mining Act 1992</p> <p>The Mining Act 1992 (Mining Act) is administered by the Division of Mining, Exploration and Geoscience (MEG) within the DPE. The Mining Act provides the framework for exploration, development, operation and closure of mines, and provides for the management of exploration licences and mining leases to allow access to mineral resources. The Project would require a mining lease under the Mining Act prior to the commencement of operations. The Applicant would make the mining lease application to the Minister for Regional New South Wales, Industry and Trade in accordance with the Mining Act.</p> <p>Protection of the Environment Operations Act 1997</p> <p>The <i>Protection of the Environment Act 1997</i> (POEO Act) is administered by the Environment Protection Authority (EPA) within the DPIE, which issues environment protection licences (EPLs) for wide-ranging scheduled activities, including mining.</p> <p>The POEO Act also requires immediate reporting of pollution incidents, which cause or threaten to cause material harm to the environment. All holders of EPLs are required to prepare, implement and regularly test pollution incident response management plans.</p> <p>The Project would require an EPL under the POEO Act to carry out 'mining for minerals'. The EPL would apply to the entire Project Site.</p> <p>Any discharge of water from the Mine Site would need to be in accordance with the conditions of the EPL for the Project, which would specify the maximum permissible concentrations of relevant water quality parameters. The EPL would also specify noise and dust limits for the Project.</p>		3.1.2
<p>Water Management Act 2000</p> <p>The <i>Water Management Act 2000</i> (WM Act) is administered by the Division of Water within the DPIE. The WM Act provides arrangements for controlling land based activities that affect the quality and quantity of the State's water resources.</p> <p>Given the Project is State Significant Development, it would require approval for an aquifer interference activity, which authorises the holder to carry out specified activities that affect an aquifer such as activities that intersect groundwater or take water from an aquifer in the course of carrying out mining below the regional groundwater table. An aquifer interference activity approval would be required when the relevant provisions of the WM Act commence.</p> <p><u>Water Access Licences</u></p> <p>The WM Act requires that all extraction of surface water or groundwater must be accounted for under the rules of any relevant water sharing plans. In the case of the Project, the relevant Water Sharing Plan is the <i>NSW Murray Darling Basin (MDB) Porous Rock Groundwater Sources Order 2020</i>.</p> <p>Water Sharing Plans specify the rules and limitations on water use in the region that is the subject of the plan and provide for equitable distribution of water in accordance with the limits of the setting, taking into account environmental requirements. The use (or 'take') of water under a Water Sharing Plan must be approved and the volume (or 'share') of that use limited through a water access licence. The licence requirements for the Project are assessed in Section 6.2. In summary, however, the Applicant anticipates obtaining Water Access Licences sufficient for the Project.</p> <p>It is noted that water capture, storage and use of surface water is permitted provided it is in accordance with the harvestable rights provisions allowed under Section 53 of the WM Act, which is directly related to the location and size of the land. These provisions permit capture of 100% of the rainfall that falls on land with the Western Division, including the Mine Site. Furthermore, the construction of bunds to prevent ingress of clean water to the disturbance area are considered "excluded works" under Section 39 of the <i>Water Management (General) Regulation 2018</i>.</p>		3.1.2



Table 4.2 (Cont'd)
Mandatory Matters for Consideration by the Consent Authority

Statutory Reference	Mandatory Consideration	Section in EIS
Considerations under other Acts (Cont'd)		
	<p><u>Aquifer Interference Policy</u></p> <p>The NSW Government's Aquifer Interference Policy has been established under the WM Act to manage the water licensing and assessment processes for aquifer interference activities. The WM Act defines an aquifer interference activity as that which involves the:</p> <ul style="list-style-type: none"> • penetration of an aquifer; • interference with water in an aquifer; • obstruction of the flow of water in an aquifer; • taking of water from an aquifer in the course of carrying out mining or any other activity prescribed by the regulations; or • disposal of water taken from an aquifer in the course of carrying out mining or any other activity prescribed by the regulations. <p>The Project would involve aquifer interference activities through the development of the Extraction Area and take of water from the Loxton-Parilla Sands aquifer through dewatering activities and groundwater inflows into the open cuts.</p> <p>The Policy defines an agreed set of 'minimal impact' considerations that have been taken into account when assessing the Project and the potential for harm to occur to an aquifer and its dependent ecosystems, culturally significant sites, connected surface water sources and to existing water users. The Policy requires that the aquifer impact assessment consider potential impacts on water table levels, water pressure, and water quality in different types of groundwater systems. The Project has been assessed against the Aquifer Interference Policy in Section 6.2.</p>	6.2
	<p>Roads Act 1993</p> <p>The <i>Roads Act 1993</i> (Roads Act) applies to public roads in NSW, and depending upon the type of road, is administered by the Transport for NSW or local council. Consent is required under Section 138 of the Roads Act for works or structures that disturb the surface of a public road, connect a road to a classified road or any other activity in a road reserve managed by the Transport for NSW or Council.</p> <p>A permit (and an associated Works Authority Deed) would be required from Transport for NSW, Wentworth Shire and Broken Hill City Councils for works within the road reserves of Nulla and Springwood Roads, Silver City Highway, Wentworth Road, Patton, Comstock and Eyre Streets and Holten Drive.</p>	3.1.2, 3.6, 6.6
	<p>Biodiversity Conservation Act 2016</p> <p>The Biodiversity Conservation Act 2016 (BC Act) establishes a framework for assessing and offsetting biodiversity impacts from proposed development in NSW. The Act establishes through the Biodiversity Assessment Method a systematic methodology for determining the biodiversity values in the vicinity of a proposed development and the nature and scale of potential impacts.</p> <p>The Act also establishes a scheme to offset residual biodiversity impacts through establishment of Stewardship Sites to be managed in perpetuity for biodiversity purposes. Such Stewardship Sites generate biodiversity credits which may be purchased and / or retired by developers, such as the Applicant, of offset residual biodiversity impacts associated with projects. Alternatively, developers may pay into the Biodiversity Conservation Trust to offset anticipated biodiversity impacts.</p> <p>The biodiversity aspects of the Project are assessed in Section 6.3.</p>	6.3



Table 4.2 (Cont'd)
Mandatory Matters for Consideration by the Consent Authority

Statutory Reference	Mandatory Consideration	Section in EIS
Considerations under the <i>Environmental Planning & Assessment Regulation (EP&A Reg.) 2021</i>		
Section 192	An environmental impact statement must also include each of the following- (a) a summary of the environmental impact statement, (b) a statement of the objectives of the development, activity or infrastructure, (c) an analysis of any feasible alternatives to the carrying out of the development, activity or infrastructure, having regard to its objectives, including the consequences of not carrying out the development, activity or infrastructure, (d) an analysis of the development, activity or infrastructure, including— (i) a full description of the development, activity or infrastructure, and (ii) a general description of the environment likely to be affected by the development, activity or infrastructure, together with a detailed description of those aspects of the environment that are likely to be significantly affected, and (iii) the likely impact on the environment of the development, activity or infrastructure, and (iv) a full description of the measures proposed to mitigate any adverse effects of the development, activity or infrastructure on the environment, and (v) a list of any approvals that must be obtained under any other Act or law before the development, activity or infrastructure may lawfully be carried out, (e) a compilation (in a single section of the environmental impact statement) of the measures referred to in item (d)(iv), (f) the reasons justifying the carrying out of the development, activity or infrastructure in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development set out in subclause (4).	Executive Summary 1.4 2.5 3 generally 6 generally 6 generally 6 generally 3.1.2, 4.2.3 Appendix 3 7.5, 7.8