



# **Millennium Expansion Project**

## **Environmental Impact Statement**

### **CHAPTER 2:**

## **REGULATORY APPROVALS**

---

## TABLE OF CONTENTS

<b>2.0</b>	<b>REGULATORY APPROVALS .....</b>	<b>2-1</b>
<b>2.1</b>	<b>ENVIRONMENTAL IMPACT STATEMENT (EIS) PROCESS .....</b>	<b>2-1</b>
2.1.1	Methodology.....	2-1
2.1.2	Objectives.....	2-1
2.1.3	Submissions.....	2-1
<b>2.2</b>	<b>RELEVANT LEGISLATION AND POLICY REQUIREMENTS .....</b>	<b>2-2</b>
2.2.1	Commonwealth.....	2-2
2.2.2	State .....	2-2
2.2.3	Energy Efficiency Opportunities Act 2006.....	2-3
2.2.4	Environment Protection and Biodiversity Conservation Act 1999.....	2-3
2.2.5	National Greenhouse and Energy Reporting Act 2007 .....	2-4
2.2.6	Native Title Act 1993.....	2-4
2.2.7	Aboriginal Cultural Heritage Act 2003.....	2-4
2.2.8	Coal Mining Safety and Health Act 1999 .....	2-4
2.2.9	Environmental Protection Act 1994.....	2-5
2.2.10	Environmental Protection Regulations 2008.....	2-5
2.2.11	Environmental Protection Policies .....	2-6
2.2.12	Explosives Act 1999.....	2-7
2.2.13	Sustainable Planning Act 2009.....	2-7
2.2.14	Land Protection (Pest and Stock Route Management) Act 2002 .....	2-8
2.2.15	Mineral Resources Act 1989 .....	2-8
2.2.16	Mineral Resources Regulation 2003 .....	2-8
2.2.17	Nature Conservation Act 1992 .....	2-9
2.2.18	Nature Conservation (Wildlife) Regulation 2006 .....	2-9
2.2.19	Petroleum and Gas (Production and Safety) Act 2004 .....	2-9
2.2.20	Queensland Heritage Act 1992 .....	2-9
2.2.21	Transport Infrastructure Act 1994 .....	2-9
2.2.22	Transport Operation (Road Use Management) Act 1995 .....	2-10
2.2.23	Transport Planning and Coordination Act 1994 .....	2-10
2.2.24	Vegetation Management Act 1999 .....	2-10
2.2.25	Water Act 2000 .....	2-10
2.2.26	Summary of Legislation Requirements .....	2-11
<b>2.3</b>	<b>PROJECT APPROVALS .....</b>	<b>2-13</b>
2.3.1	Approval Timeframe .....	2-13
<b>2.4</b>	<b>PLANNING PROCESS AND STANDARDS .....</b>	<b>2-13</b>
2.4.1	Mackay Region ACC Strategic Regional Plan (2007-2010) .....	2-13
2.4.2	Isaac Regional Council Transition Plan 2008.....	2-14

---

2.4.3	Transport Operations (Road Use Management – Road Rules) Regulation 1995 (Queensland Road Rules) .....	2-14
2.4.4	Water Resources (Fitzroy Basin) Plan 1999 .....	2-14
<b>2.5</b>	<b>STATE PLANNING POLICIES .....</b>	<b>2-14</b>
2.5.1	SPP 1/92–Development and the Conservation of Agricultural Land .....	2-14
2.5.2	SPP 1/03–Mitigating the Adverse Impacts of Flood, Bushfire and Landslide .....	2-15
2.5.3	SPP2/07 Protection of Extractive Resources and Guideline.....	2-15
2.5.4	SPP 1/07 Housing and Residential Development Including Guideline 1.0 .....	2-15
<b>2.6</b>	<b>ACCREDITED PROCESS FOR CONTROLLED ACTIONS UNDER COMMONWEALTH LEGISLATION .....</b>	<b>2-16</b>

## TABLES

Table 2-1	Summary Table of Legislative Requirements.....	2-11
-----------	--	------

---

## **2.0 REGULATORY APPROVALS**

### **2.1 ENVIRONMENTAL IMPACT STATEMENT (EIS) PROCESS**

#### **2.1.1 Methodology**

The MEP EIS process has been carried out under the *Environmental Protection Act 1994 (EP Act)*, administered by the Queensland Department of Environment and Resource Management (DERM).

In accordance with Chapter 3, Part 2 of the *EP Act*, Peabody Energy Australia Pty Limited (Peabody) voluntarily applied to DERM to prepare an EIS for the proposed MEP. The MEP EIS seeks to obtain a Level 1 Environmental Authority (EA) to authorise a number of Environmentally Relevant Activities (ERAs) within the MEP area.

On 19 September 2008, Peabody received approval from DERM to commence a voluntary EIS process for the proposed MEP.

An EIS under the *EP Act* includes:

- an Initial Advice Statement (IAS) to support an application to undertake an EIS;
- preparation and public notification of a Terms of Reference (TOR);
- preparation and public notification of an EIS; and
- an Assessment Report on the EIS prepared by DERM.

Peabody has prepared an EIS (this document) in accordance with the Final TOR. This EIS will undergo a public notification and community comment period before being assessed by DERM, in consultation with relevant advisory agencies, who will prepare the Assessment Report for the MEP.

#### **2.1.2 Objectives**

This EIS is the key environmental document providing advice to the relevant decision makers considering approval of the MEP. This EIS ensures that all potential positive and negative environmental, economic and social impacts of the MEP are identified, assessed and appropriately mitigated.

The format of this EIS is compliant with the format of the final TOR, to enable ease of assessment by DERM and advisory agencies.

This EIS includes an Environmental Management Plan (EM Plan) for the activities proposed on the MEP. After completion of the EIS process, the environmental protection commitments of the EM Plan will be considered by DERM when drafting the conditions of the EA.

#### **2.1.3 Submissions**

All formal submissions regarding the MEP EIS must be made in writing to DERM during the public submission period. DERM will consider properly made submissions to determine if additional information about the EIS or the MEP is required and also when preparing an Assessment Report for the MEP.

Properly made submissions must:

- be made in writing to DERM (either electronically or in hard copy);
- be received within the submission period;

- be signed by each person making the submission;
- state the name and address of each person making the submission; and
- state the grounds of the submission, and the facts and circumstances relied on in support of these grounds.

Submissions should not be made directly to Peabody or the Millennium Mine.

Address your submission to:

Chief Executive

Department of Environment and Resource Management

Attention: EIS Coordinator – Millennium Expansion Project

Floor 3, 400 George Street, BRISBANE, QLD, 4000

GPO Box 2454, BRISBANE, QLD, 4001

Email: [eis@derm.qld.gov.au](mailto:eis@derm.qld.gov.au)

## **2.2 RELEVANT LEGISLATION AND POLICY REQUIREMENTS**

The following Commonwealth and State legislation pertaining to the environment and community associated with the MEP have been considered as part of this EIS and are discussed in further detail below.

### **2.2.1 Commonwealth**

- *Energy Efficiency Opportunities Act 2006;*
- *Environment Protection and Biodiversity Conservation Act 1999;*
- *National Greenhouse and Energy Reporting Act 2007; and*
- *Native Title Act 1993.*

### **2.2.2 State**

- *Aboriginal and Cultural Heritage Act 2003;*
- *Coal Mining Safety and Health Act 1999;*
- *Environmental Protection Act 1994;*
- *Environmental Protection Regulations 2008;*
- *Environmental Protection Policies;*
- *Explosives Act 1999;*
- *Sustainable Planning Act 2009;*
- *Land Protection (Pest and Stock Route Management) Act 2002;*
- *Nature Conservation Act 1992;*
- *Nature Conservation (Wildlife) Regulation 1994;*
- *Mineral Resources Act 1989;*
- *Mineral Resources Regulation 2003;*
- *Petroleum and Gas (Production and Safety) Act 2004;*
- *Queensland Heritage Act 1992;*
- *Transport Infrastructure Act 1994;*
- *Transport Operation (Road Use Management) Act 1995;*
- *Transport Planning and Coordination Act 1994;*
- *Vegetation Management Act 1999; and*
- *Water Act 2000.*

A summary of the purpose of the legislation outlined above, and its relevance to the MEP, is provided in the following sections.

### **2.2.3 Energy Efficiency Opportunities Act 2006**

The *Energy Efficiency Opportunities Act (EEO Act)* aims to improve the identification and evaluation of energy efficiency opportunities by large energy using businesses and, as a result, to encourage implementation of cost effective energy efficiency opportunities.

In order to achieve its aim, the *EEO Act* requires large energy using businesses to:

- undertake an assessment of their energy efficiency opportunities to a minimum standard in order to improve the way in which opportunities are identified and evaluated; and
- report publicly on the outcomes of that assessment in order to demonstrate to the community that those businesses are effectively managing their energy.

The *EEO Act* outlines the broad requirements for large energy using businesses, and allows for Regulations to provide detailed requirements for assessment, reporting, verification and other elements of the program.

The MEP will operate in compliance with requirements of the *EEO Act*.

### **2.2.4 Environment Protection and Biodiversity Conservation Act 1999**

Under the assessment and approval provisions of the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*, actions that have, or have the potential to significantly impact on a Matter of National Environmental Significance (MNES), are referred to as 'controlled actions' and require approval under the *EPBC Act*.

The MNES identified as triggers in the *EPBC Act* for the Commonwealth assessment and approval regime are:

- World Heritage properties;
- National Heritage places;
- Ramsar Wetlands;
- Nationally threatened species and ecological communities;
- Migratory species;
- Commonwealth marine areas; and
- Nuclear actions (including uranium mining).

The MEP was referred to the Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) to allow determination of the appropriate assessment process under the *EPBC Act*. Whilst the occurrence of endangered flora and fauna across the MEP has been assessed, approximately 2.9 hectares (ha) of mapped Regional Ecosystem (RE) will be impacted or require clearing. Any clearing conducted of actual RE shall be conducted in accordance with required conditions.

The MEP was determined to be a 'controlled action' by SEWPAC following the MEP's referral as the MEP was likely to have a significant impact on Commonwealth listed threatened species and communities. The impacts and mitigation, including offset requirements to comply with Commonwealth and bilateral agreements, are detailed in **Chapter 13-Nature Conservation**.

### 2.2.5 National Greenhouse and Energy Reporting Act 2007

The *National Greenhouse and Energy Reporting Act 2007 (NGER Act)* introduces a single national reporting framework for the reporting and dissemination of information about greenhouse gas emissions, greenhouse gas projects and energy use and production of corporations.

The *NGER Act* will:

- underpin the introduction of an emissions trading scheme in the future;
- inform government policy formulation and the Australian public;
- help meet Australia's international reporting obligations; and
- *assist Commonwealth, State and Territory government programs and activities to avoid the duplication of similar reporting requirements in the States and Territories.*

Corporations that meet an *NGER Act* threshold must report their:

- greenhouse gas emissions;
- energy production;
- energy consumption; and
- other information specified under *NGER* legislation.

Once operational, the MEP will be assessed against the *NGER Act* thresholds, and if triggered, will comply with all requirements of the *NGER Act*.

### 2.2.6 Native Title Act 1993

The *Native Title Act 1993 (NT Act)* aims to provide for the recognition and protection of native title and contains the relevant processes for native title claims.

A search of the National Native Title Tribunal (NNTT) database identified the presence of one active claim over the MEP area by the traditional owners, the Barada Barna People. Negotiations with the Barada Barna people have been ongoing throughout the EIS process.

### 2.2.7 Aboriginal Cultural Heritage Act 2003

The main purpose of the *Aboriginal Cultural Heritage Act 2003 (ACH Act)* is to provide effective recognition, protection and conservation of Aboriginal cultural heritage.

The *ACH Act* establishes a duty of care for activities that may harm Aboriginal cultural heritage and requires the development of an approved Cultural Heritage Management Plan (CHMP). A signed Cultural Heritage Management Agreement (CHMA) is currently in place for Millennium and much of the MEP is covered by clearance letters, however a formal CHMP approved under the *ACH Act* is currently being negotiated with the Traditional Owners. Matters in relation to Aboriginal cultural heritage are discussed further in **Chapter 14– Cultural Heritage**.

### 2.2.8 Coal Mining Safety and Health Act 1999

The intent of the *Coal Mining Safety and Health Act 1999 (CMSH Act)* is to protect the safety and health of persons at coal mines and persons who may be affected by coal mining operations. The *CMSH Act* also requires that the risk of injury or illness to any person resulting from coal mining operations be at an acceptable level.



This is achieved by imposing safety and health obligations on persons who operate, design, construct, or work (including as contractors) at coal mines. The CSMH Act sets regulations and recognised standards for the coal mining industry to require and promote risk management and control through the development of safety and health management systems to manage risks effectively.

**Chapter 16–Health and Safety** addresses Peabody’s ongoing safety and health commitments and obligations which are documented in the Health and Safety Management Plan (HSMP) and Hazard Management system.

### **2.2.9 Environmental Protection Act 1994**

Environmental management and regulation of the mining industry in Queensland is administered by DERM through provisions of the *Environmental Protection Act 1994 (EP Act)*. The *EP Act* provides for the assessment, decision-making and the issuing of environmental authorities (EAs) for mining activities and enforcement of the conditions of the authority.

Under the *EP Act* a proponent is either required to, or can voluntarily apply, to prepare an EIS. The application is approved if DERM or the Minister decides an EIS is appropriate for the mining project, based on criteria in DERM guideline; *Guideline 4: Deciding the level of impact assessment*. Peabody are responsible for drafting the terms of reference (TOR) and advertising the draft TOR, as well as making any amendments following receipt of submissions on the draft TOR prior to DERM setting the final TOR. Peabody are also responsible for the development and advertising of the draft EIS and making any amendments following the receipt of submissions on the draft EIS, prior to DERM issuing the EIS assessment report.

The overriding objective of the *EP Act* is to establish the general environmental duty and provide for the protection of the environment within the scope of ecologically sustainable development (ESD). The *EP Act* utilises a number of reporting and enforcement tools to achieve the objectives including:

- Subordinate legislation such as Environmental Protection Policies (EPP);
- Environmental Authorities (EA);
- Environmental Management Plans (EMP);
- Plan of Operations (PoO); and
- Environmental Protection Orders (EPO).

The *EP Act* allows for the amendment of an existing environmental authority for a major change or expansion to an existing operation. An amendment of the existing environmental authority covering MLs 70344 and 70313, Mining Lease Application (MLA) 70401 and Mineral Development Lease (MDL) 136 is required to authorise the proposed additional mining activities for the MEP.

### **2.2.10 Environmental Protection Regulations 2008**

One of the main functions of the *Environmental Protection Regulation 2008 (EP Regs)* is to list all the environmentally relevant activities (ERAs), their aggregate environmental score and to calculate the annual fee. Schedule 2 of the *EP Regs* lists 85 ERAs. Other functions of the *EP Regs* are:

- outlining matters relating to regulatory requirements that the administering authority must consider when making environmental management decisions;
- supporting the EIS process outlined in section 37(1) (e) of the *EP Act*;



- outlining matters relating to environmental management and environmental offences; and
- providing the statutory basis for implementing the National Environment Protection Measure (NEPM) for the National Pollutant Inventory (NPI).

The MEP will not result in any additional ERAs on-site. However, there is potential for an increase in the extent of currently approved ERAs at the site.

### **2.2.11 Environmental Protection Policies**

*Environment Protection Policies (EPPs)* are subordinate legislation that help to explain and apply the *EP Act* and the *EP Regs*. The following policies provide information relating to particular areas of environment protection.

#### ***Environmental Protection (Air) Policy 2008***

The *Environmental Protection (Air) Policy 2008 (EPP Air)* has the purpose of achieving the objectives of the *EP Act* in relation to Queensland's air environment. To achieve the objectives, the policy:

- *identifies environmental values to be enhanced or protected;*
- *states air quality indicators and air quality objectives for enhancing or protecting the environmental values; and*
- *provides a framework for making consistent, equitable and informed decisions about the air environment.*

An air quality impact assessment has been undertaken and is presented in **Chapter 11–Air**. This section discusses the potential impacts of the MEP on air quality in the context of this Policy.

#### ***Environmental Protection (Noise) Policy 2008***

The *Environmental Protection (Noise) Policy (EPP Noise)* has the purpose of achieving the object of the *EP Act* in relation to Queensland's acoustic environment. To achieve the object, the policy:

- identifies environmental values to be enhanced or protected;
- sets acoustic quality objectives for enhancing or protecting environmental values; and
- provides a framework for making consistent, equitable and informed decisions about the acoustic environment.

A noise impact assessment has been undertaken and is presented in **Chapter 12–Noise and Vibration**. This section discusses the potential impacts of the MEP on the surrounding noise environment in the context of this Policy.

#### ***Environmental Protection (Waste Management) Policy and Regulation 2000***

The *Environmental Protection (Waste Management) Policy 2000 (EPP Waste)* and the *Environmental Protection (Waste Management) Regulation 2000 (EPP Waste Regs)* co-ordinate and clarify waste management practices in Queensland and provide improved environmental safeguards.

The *EPP Waste* provides a strategic framework for managing wastes in Queensland. It does this by:

- establishing a preferred waste management hierarchy and various principles as the basis for waste management;
- providing the framework for minimising waste generation, maximising the usage of waste, efficient use of resources and maintaining ecologically sustainable principles;

- identifying the environmental values i.e. life, health and wellbeing, diversity of ecological processes and ecosystems, land use to be enhanced and protected; and
- providing the framework for waste management programs.

The regulation aims to protect the environment by utilising the principles of ecologically sustainable development and by minimising the impact of waste on the environment.

The MEP proposes to comply with the objectives of the *EPP Waste* and *EPP Waste Regs.* **Chapter 9-Waste** discusses the existing and proposed waste management strategies as part of the MEP.

### ***Environmental Protection (Water) Policy 2009***

The *Environmental Protection (Water) Policy 2009 (EPP Water)* has the purpose of achieving the object of the *EP Act* in relation to Queensland waters. The purpose is to be achieved by providing a framework for:

- identifying environmental values for Queensland waters;
- deciding and stating water quality guidelines and objectives to enhance the environmental values;
- making consistent and equitable decisions about Queensland waters that promote efficient use of resources and best practice environmental management; and
- involving the community through consultation and education, and promoting community responsibility.

Further discussion of the existing and proposed surface water management system is provided in **Chapter 10-Water Resources**.

### **2.2.12 Explosives Act 1999**

*The Explosives Act 1999 (Explosives Act)* sets guidelines and penalties to ensure the safe handling of explosive materials, including those utilised for blasting at mine sites. Conditions set out in the Explosives Act include transport, storage and use of materials classified as explosive.

Millennium Coal Mine currently has a compliant explosives magazine and compound area. This will be utilised by the MEP for any use or storage of explosives. The MEP will comply with all requirements of the Explosives Act.

### **2.2.13 Sustainable Planning Act 2009**

The *Sustainable Planning Act 2009 (SP Act)* is the main planning legislation in Queensland. The objective of the *SP Act* is to achieve ecologically sustainable development. This is achieved by:

- co-ordinating and integrating planning at local, regional and State levels;
- managing the process by which development occurs; and
- managing the effects of development on the environment (including managing the use of premises).

Schedule 4 - Table 5 of the *Sustainable Planning Regulation 2009* states that mining is exempt from assessment under the *SP Act*. The *Mineral Resources Act 1989* provides an exemption from the provisions of the *SP Act* on four activities that it authorises and therefore no activity authorised on the MLs requires approval under the *SP Act*. While not being directly applicable to mining

operations, Peabody has voluntarily taken into account local planning documents implemented under the *SP Act* including:

- Regional Planning Policies (RPPs);
- Regional Coastal and State Coastal Management Plans (RCMPs and SCMPs); and
- State Planning Policies (SPPs).

Where relevant the local *SPA* planning policies and recommendations have been noted and considered in the applicable Section.

#### **2.2.14 Land Protection (Pest and Stock Route Management) Act 2002**

The *Land Protection (Pest and Stock Route Management) Act 2002* provides a framework for improved management of weeds, pest animals and the stock route network. This is achieved by:

- establishing management principles for pests, land and stock routes;
- restricting the introduction, keeping or selling and the spread of pests; and
- construction of infrastructure to prevent uncontrolled movement of pests and stock.

Peabody already utilises control measures at the existing Millennium Coal Mine to control pests on-site. These control measures will also be utilised at the MEP and are further discussed in **Chapter 13–Nature Conservation**.

The MEP will not impact upon any stock routes.

#### **2.2.15 Mineral Resources Act 1989**

The principal objectives of the *Mineral Resources Act 1989 (MR Act)* are to:

- encourage and facilitate prospecting and exploring for and mining of minerals;
- enhance knowledge of the mineral resources of the State;
- minimise land use conflict with respect to prospecting, exploring and mining;
- encourage environmental responsibility in prospecting, exploring and mining;
- ensure an appropriate financial return to the State from mining;
- provide an administrative framework to expedite and regulate prospecting and exploring for and mining of minerals; and
- encourage responsible land care management in prospecting, exploring and mining.

The *MR Act* facilitates the above activities through the granting, conditioning and management of mining leases and other tenement types. The *MR Act* also facilitates the surrender and amendment of existing mining leases. The MEP requires leases to be approved for MLA 70401 and MDL 136 which are applicable to the MEP.

#### **2.2.16 Mineral Resources Regulation 2003**

This regulation prescribes royalty payments, describes exploration permit requirements and outlines the various mining districts. The approval of the MEP will result in an increase in the existing royalty payments made to the State.

## **2.2.17 Nature Conservation Act 1992**

The *Nature Conservation Act 1992 (NC Act)* was developed to ensure the protection and conservation of native flora and fauna. This is achieved through a variety of mechanisms and includes the collection of information (via research, monitoring etc.), declaration and management of protected areas and protection of native flora and fauna.

Further discussion of species protected under the *NC Act* is provided in **Chapter 13–Nature Conservation**.

## **2.2.18 Nature Conservation (Wildlife) Regulation 2006**

The purpose of the Nature Conservation (Wildlife) Regulation is to prohibit the taking or destruction, without authorisation, of listed plants and animals.

**Chapter 13–Nature Conservation** discusses the potential impacts and mitigation measures for wildlife classified under this regulation.

## **2.2.19 Petroleum and Gas (Production and Safety) Act 2004**

In Queensland, a mining lease for coal does not bestow upon the holder of the lease general rights to produce coal seam gas (CSG) which may be within the mining lease area.<sup>1</sup> CSG production is now primarily regulated under the *Petroleum and Gas (Production and Safety) Act 2004 (P and G Act)*, and a petroleum lease issued under that Act is required in order to commercially produce CSG.

The MEP has previously had CSG extracted by the holders of the relevant petroleum lease. Peabody does not propose to commercially extract any additional coal seam gas from the MEP. If required in future, appropriate approvals for the commercial extraction of CSG will be obtained.

## **2.2.20 Queensland Heritage Act 1992**

The *Queensland Heritage Act 1992 (QH Act)* provides for the conservation and protection of places and items of historical and/or non-indigenous cultural heritage. There are no places on the register of historical or non-indigenous heritage within the footprint of the MEP and therefore no disturbance of such features is proposed. Further discussion of non-indigenous heritage is provided in **Chapter 14–Cultural Heritage**.

## **2.2.21 Transport Infrastructure Act 1994**

The objectives of the *Transport Infrastructure Act 1994 (TI Act)* are to permit and promote integrated planning and management of transport infrastructure. It outlines the various regimes for all modes of transport including air, rail, sea, bus ways and light rail. It is the primary legislation administered by the Department of Transport and Main Roads (DTMR) in that it sets out the powers DTMR has for managing the State Controlled Road (SCR) network. A permit is required under the *TI Act* if there is interference with a SCR.

An assessment of the potential to impact on transport infrastructure is discussed in **Chapter 8–Transport**. Minor amounts of additional traffic will be generated by the MEP during operations and no interference is proposed to the SCR network.

---

<sup>1</sup> There are restricted rights to extract ‘incidental’ CSG during mining, being CSG which is necessarily extracted in association with safe coal mining practices.

### **2.2.22 Transport Operation (Road Use Management) Act 1995**

The overall objectives of the *Transport Operation (Road Use Management) Act 1995 (TO Act)* are to provide for the effective and efficient management of road use in Queensland and to provide a scheme for managing the use of these roads that will promote the effective and efficient movement of people, goods and services. The *TO Act* seeks to contribute to the strategic management of road infrastructure in ways consistent with the *TI Act*. It also provides mechanisms to improve road safety and the environmental impact of road use in ways that contribute to overall transport effectiveness and efficiency.

The potential impacts of the minor increases in traffic on the SCR network as a consequence of the MEP are discussed further in **Chapter 8-Transport**.

### **2.2.23 Transport Planning and Coordination Act 1994**

The objective of the *Transport Planning and Coordination Act 1994 (TPC Act)* is to improve the economic, trade and regional development performance of Queensland, and the quality of life of people living in Queensland by achieving overall transport effectiveness and efficiency through strategic planning and management of transport resources.

The MEP will achieve the objectives of the *TPC Act* through effective and efficient transport management, although little impact on traffic and transport networks is anticipated. Further discussion of the potential impacts on the traffic and transport networks is provided in **Chapter 8-Transport**.

### **2.2.24 Vegetation Management Act 1999**

The *Vegetation Management Act 1999 (VM Act)* aims to:

- regulate vegetation clearing to ensure the conservation of endangered and remnant regional ecosystems;
- prevent land degradation;
- prevent loss of biodiversity; and
- ensure ecological processes continue.

Clearing of remnant vegetation on freehold land requires approval under the *VM Act* and is administered through the *SP Act* via an application for operational works for clearing of native vegetation. Mining activities are exempt from obtaining approval for the clearing of vegetation under the *VM Act* due to the provisions of the *Mineral Resources Act* and Schedule 4 – Table 5 of the *SP Act*, however any vegetation offsets off the mine lease will be subject to this legislation. Further discussion of vegetation clearance associated with the MEP is provided in **Chapter 13-Nature Conservation**.

### **2.2.25 Water Act 2000**

The *Water Act 2000 (Water Act)* provides a structure to regulate the use of surface waters and groundwaters through Water Resource Plans. *Under Section 808 of the Act*, "A person must not take, supply or interfere with water under the *Water Act* unless authorised under the Act". Authorisation under the *Water Act* is in the form of a licence for the removal of water.

Water for the MEP will be sourced from the Burdekin Pipeline as part of an existing water supply agreement with SunWater. The potential interconnection of other Peabody operations in the region would ensure adequate supply and reuse options to maximise water security and flood mitigation strategies.

A drain to divert clean water run-off around the northern section of the mine into the upper reach of New Chum Creek is proposed as part of the MEP, along with two additional crossings of New Chum Creek. Further discussion of the drain diversion and crossings is provided in **Chapter 10–Water Resources**.

## 2.2.26 Summary of Legislation Requirements

Planning and environmental licences, permits and approvals that may be applicable for the operational MEP are summarised below in **Table 2-1**.

**Table 2-1 Summary Table of Legislative Requirements**

Legislation	Responsible Authority	Activity	Legislative Requirement
<i>Aboriginal Cultural Heritage Act 2003</i>	Department of Environment and Resource Management (DERM)	Protection of Aboriginal Cultural Heritage from surface disturbance works	Approved CHMP required
<i>Coal Mining Safety and Health Act 1999</i>	Department of Employment, Economic Development and Innovation (DEEDI)	Safety and Health	Meet Obligations under the Act
<i>Energy Efficiency Opportunities Act 2006</i> (Commonwealth)	Department of Resources, Energy and Tourism (DRET).	Assess energy reduction opportunities, minimise energy use and publicly report	Aim to minimise energy consumption and publicly report outcomes
<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Commonwealth)	Department of Sustainability, Environment, Water, Population and Communities (SEWPAC)	Submission of a referral for activities that have the potential to impact on matters of national environmental significance	Referral made and the MEP has been determined to be a 'controlled action'. Potential impacts on matters of NES are addressed in this EIS
<i>Environmental Protection Act 1994</i>	Department of Environment and Resource Management (DERM)	Where 'serious and material environmental harm' is caused or threatened	Duty to Notify DERM
		Contamination of land or identification of land that is likely to be contaminated	Duty to Notify DERM
		Conduct of environmentally relevant mining or non-mining activities	Managed in accordance with Environmental Authority and Plan of Operations
		Abatement of nuisance noise or dust	Complaint resolution in response to complaints
		Requirement to undertake an EIS for activities that have the potential for environmental harm	Approval of this EIS and amendment of Environmental Authority
<i>Explosives Act 1999 and AS2187 'Explosives-Storage, transport and</i>	Department of Employment, Economic Development	Storage, transport and use	Permit (existing)



Legislation	Responsible Authority	Activity	Legislative Requirement
use'.	and Innovation (DEEDI)		
<i>Sustainable Planning Act 2009</i> . (Queensland)	Isaac Regional Council	Development assessment under the planning scheme	All 'mining activities' are classified as exempt development. Responsible companies will consider regional plans
<i>Mineral Resources Act 1989</i>	Department of Environment and Resource Management (DERM)	Clearing of vegetation - operational works approval is required for clearing of remnant vegetation, except where the clearing is for a 'mining activity'	Not required due to exemptions in <i>MRA</i> and for a 'specified activity' under <i>SP Act</i> . Mining activities are included in the definition of a specified activity (see definitions in <i>SP Act</i> )
	Department of Environment and Resource Management (DERM)	Groundwater extraction - taking of artesian water or sub-artesian water in a declared sub-artesian area	N/A for the MEP
<i>National Greenhouse and Energy Reporting Act 2007</i> (Commonwealth)	Department of Climate Change and Energy Efficiency (DCCEE)	Provide a national framework for reporting and dissemination of greenhouse gas emission information	Assess if trigger <i>NGER Act</i> thresholds and undertake monitoring and reporting as required
<i>Native Title Act 1992</i> (Commonwealth)	The Attorney-General's Department and Minister for Families, Housing, Community Services and Indigenous Affairs	Activities on lands where native title has not been extinguished.  Provides a register of approved native title claimant groups for the purpose of the CHMP.	The relevant Aboriginal parties to the MEP project area have been determined based on the listed Native Title claimants under the <i>Native Title Act 1992</i> and consulted with regarding a CHMP under the <i>Aboriginal Cultural Heritage Act 2003</i>
<i>Nature Conservation Act 1992</i>	Department of Environment and Resource Management (DERM)	Interference with species listed under the <i>Nature Conservation (Wildlife) Regulation 1994</i>	No permit required as there will be no disturbance or interference with species or areas protected under the <i>NC Act</i>
<i>Queensland Heritage Act 1992</i>	Queensland Heritage Council	Impacts to Heritage listed sites	N/A as there will be no disturbance to the existing heritage within the MEP
<i>Vegetation Management Act 1999</i>	Department of Environment and Resource Management (DERM)	Vegetation clearing	N/A due to exemptions for mining activities under <i>SP Act</i> . However there are potential impacts for vegetation offsets outside mining areas
<i>Water Act 2000</i>	Department of Environment and Resource Management (DERM)	Taking or interfering with relevant water, dams and licencing of bores	The upper reaches of New Chum Creek will be diverted and will have two additional creek crossings. All proposals for this work will be designed and approved in accordance with the <i>Water Act 2000</i> .



## 2.3 PROJECT APPROVALS

The MEP will require a number of approvals and licences for the various components of the proposed development. The development and assessment of the proposal must also consider a number of regulations and policy documents relevant to the MEP. In Queensland, mining activities typically require an Environmental Authority (EA) (mining activity) under the *EP Act* and a mining lease issued under the *Mineral Resources Act 1989*.

The MEP will primarily require the following:

- an amended EA to include additional open-cut mining and associated activities as well as an increase in production to 5.5 Mtpa Run of Mine (ROM) coal;
- a Cultural Heritage Management Plan (CHMP);
- approval of the controlled action and EIS under the *EPBC Act* bilateral agreement;
- an amended Environmental Management Plan (EM Plan); and
- EIS approval.

### 2.3.1 Approval Timeframe

The anticipated approval timeframes for the MEP are based on the statutory timeframes identified in the *EP Act* and the *EPBC Act*. The EIS was submitted to DERM in October 2010, with the public comment period anticipated to commence in December 2010 and continuing through January 2011. If required, Peabody will compile a response to all submissions through the supplementary EIS in early 2011, with DERM's assessment report expected to be provided to Peabody in June 2011 and a Commonwealth decision provided by July 2011. It is therefore anticipated the environmental authority for the proposed EEP will be issued in August 2011.

Further details of associated project approvals are contained in **Appendix B – Approvals**.

## 2.4 PLANNING PROCESS AND STANDARDS

This section identifies the regulations and policies that have been considered in the development criteria and the assessment of impacts for the MEP in this EIS

### 2.4.1 Mackay Region ACC Strategic Regional Plan (2007-2010)

The national network of Area Consultative Committees (ACCs) operates as a link between the Australian Government and rural and metropolitan Australia. ACCs are volunteer community-based organisations which respond to issues in their regions and provide a conduit to government on local, social and economic conditions. In Queensland, the ACCs work in partnership with the Departments of Transport and Regional Services to identify opportunities, priorities and development strategies for their regions.

The 2007-2010 ACC Strategic Regional Plan for the Mackay region has the primary objective of linking government, business and community to address strategic issues such as skills shortages, insufficient housing in mining areas, tourism development etc and to identify opportunities, priorities and strategies for the region. These issues are discussed in **Chapter 15 - Social** and **Chapter 17 – Economics**.

#### **2.4.2 Isaac Regional Council Transition Plan 2008**

The MEP is located in the Isaac Local Government Area (LGA).

The Isaac Regional Council (IRC) is an amalgamation of the previous Belyando, Broadsound and Nebo Shire Councils. The new IRC developed a Transition Plan to manage planning decisions during this transitional period. Developments in this part of the Isaac Region (former Belyando Shire) are typically still assessed under the Belyando Shire Planning Scheme in accordance with the IRC Transition Plan 2008 requirements. However, under the *MR Act* and Schedule 4 – Table 5 of the *Sustainable Planning Regulation 2009*, mining activities are exempt from the assessable development provisions of a local government planning scheme.

Notwithstanding the exemption afforded under the *SP Act*, Peabody recognises the importance of the scheme to local planning and, to the extent practicable, has endeavoured to plan the MEP in a manner which satisfies the objectives of the scheme. To achieve this Peabody held regular meetings with IRC representatives regarding the MEP throughout the EIS process to ensure all relevant local planning provisions were considered.

#### **2.4.3 Transport Operations (Road Use Management – Road Rules) Regulation 1995 (Queensland Road Rules)**

The *Transport Operations (Road Use Management – Road Rules) Regulation 1995* provides broad powers for signage (traffic control devices) that may be placed on roads. The MEP will not significantly increase traffic levels along the SCR network and therefore is not anticipated to require additional traffic control devices.

#### **2.4.4 Water Resources (Fitzroy Basin) Plan 1999**

The purpose of the *Water Resources (Fitzroy Basin) Plan 1999 (Fitzroy Basin Plan)* is to sustainably manage water resources within the Fitzroy Basin and provide frameworks and regulations to manage water use. The objectives of the *Fitzroy Basin Plan* include security for water users and to allow future water-related development within the basin. The *Fitzroy Basin Plan* is currently under review.

The MEP is located in the northern part of the basin and, following implementation of the proposed mitigation measures, is expected to have little impact on the objectives of the *Fitzroy Basin Plan*.

### **2.5 STATE PLANNING POLICIES**

This section provides an overview of the current relevant *State Planning Policies (SPPs)* and Management Plans which have been considered as part of the MEP assessment. The following *SPPs* are current.

- *SPP 1/92 - Development and the Conservation of Agricultural Land;*
- *SPP 1/03 - Mitigating the Adverse Impacts of Flood, Bushfire and Landslide;*
- *SPP 2/07 - Protection of Extractive Resources and Guideline;* and
- *SPP1/07 - Housing and Residential Development including Guideline 1.0.*

#### **2.5.1 SPP 1/92–Development and the Conservation of Agricultural Land**

The purpose of *SPP 1/92* is to provide local government with guidance on the conservation of good quality agricultural land and how this matter is to be

addressed when carrying out assessments of development proposals. In brief, *SPP 1/92* is primarily focussed on:

- protecting Good Quality Agricultural Land (GOAL);
- preventing alienation of GOAL by incompatible uses; and
- accepting loss of GOAL only if there is an overriding community need for the development and where the particular development has specific locational requirements.

There will be no loss of GOAL as a result of the MEP, as further discussed in **Chapter 7-Land**.

#### **2.5.2 SPP 1/03–Mitigating the Adverse Impacts of Flood, Bushfire and Landslide**

*SPP 1/03* addresses development issues associated with minimising the adverse impacts of floods, bushfires and landslides and provides guidelines to mitigate their adverse effects. To decrease the risk of the natural disaster, the development should:

- minimise the potential damage from flooding to property;
- ensure that public safety and the environment are not adversely affected by the detrimental impacts of floodwater on hazardous materials stored in bulk;
- ensure the essential services infrastructure (e.g. on-site electricity, gas, water supply, sewerage and telecommunications) maintain their function during a Defined Flood Event (DFE);
- maintain the safety of people and property by including firebreaks that provide adequate setbacks between building/structures and hazardous vegetation, and access for fire-fighting or other emergency vehicles;
- provide an adequate and accessible water supply for fire-fighting purposes; and
- provide adequate road access for fire-fighting/other emergency vehicles and safe evacuation.

The MEP will meet the objectives of this policy as discussed further in **Chapter 6-Climate**.

#### **2.5.3 SPP2/07 Protection of Extractive Resources and Guideline**

The objective of *SPP 2/07* is to prevent incompatible land developments in the vicinity of State significant extractive resources. It aims to influence planning decisions so as to ensure extractive resources are protected and reduce the effects of the extraction on the surrounding communities.

No state significant extractive resources occur on or adjacent to the MEP site. Therefore, *SPP 2/07* is not applicable.

#### **2.5.4 SPP 1/07 Housing and Residential Development Including Guideline 1.0**

The aim of *SPP 1/07* is to ensure that planning schemes make provision for a wide range of housing options on the basis of identified existing and future housing need and increase opportunities for the delivery of housing diversity.

*SPP 1/07* is considered indirectly applicable to this project due to the increased pressure on the IRC to provide additional areas for housing to meet current and future demand in the area. A detailed assessment of potential impacts on

social infrastructure and the economic condition of the region is provided in **Chapter 15–Social** and **Chapter 17–Economics** respectively.

## **2.6 ACCREDITED PROCESS FOR CONTROLLED ACTIONS UNDER COMMONWEALTH LEGISLATION**

Due to the potential for the MEP to impact on MNES, it was referred to SEWPAC as explained in **Section 2.2.4**. The Commonwealth Minister for Environment determined that the MEP would constitute a ‘controlled action’ pursuant to Section 75 of the *EPBC Act*, thus triggering the impact assessment provisions of the *EPBC Act* in addition to the state impact assessment requirements.

However, under a bilateral agreement, the Commonwealth Minister has accredited the Queensland State EIS process. This accreditation deems the impact assessment procedure acceptable for evaluation of potential project impacts and remedial measures under both jurisdictions. As part of the bilateral agreement, SEWPAC comment and approval from the Commonwealth Minister for Environment will be sought by DERM prior to finalisation of the approval process.

As is required, this determination was made and accreditation finalised with the state prior to the state EIS Terms of Reference being finalised.