3 Statutory Assessment and Approvals Process
Statutory Assessment and Approvals Process

3.1 Introduction

This section of the EES addresses the requirements in Chapter 2, Section 2.4 of the Scoping Requirements which states that:

‘the Project will require a range of approvals under Victorian and Commonwealth legislation including:

- an approved Work Plan and Authority to commence works from the Department of State Development, Business and Innovation (DSDBI), under the Victorian Mineral Resources (Sustainable Development) Act 1990 (MRSD Act)
- Approved Cultural Heritage Management Plan under the provisions of the Victorian Aboriginal Heritage Act 1995
- Permits for works to any place on the Victorian Heritage Register or consents for the damage or disturbance of any Heritage Inventory sites protected under the Heritage Act 1995
- Authorisation to take and/or disturb flora or wildlife under the Flora and Fauna Guarantee Act 1988 and Wildlife Act 1975 respectively.’

Following referral to the Australian Government Minister for the Environment, Heritage and Water a decision was made that no approval is required under the provisions of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

Additionally, while the Scoping Requirements issued by the Victorian government states that the Project will require landowner consents for mining works within 100m of their dwelling houses, consultation with the government has since established that this is not the case. Where a project is exempt from the need for a planning permit under section 42(7) of the MRSD Act — as is the case for the Project (refer to Section 3.2.3) — exemption from the need for landowner consent is provided by section 45(1A) of the MRSD Act.

This section also addresses Section 2.4 of the Scoping Requirements which states that the EES needs to ‘identify relevant legislation, policies, guidelines and standards and, assess their specific requirements or implications for the Project’.

The assessment has concluded that the proposed Project will conform with and implements relevant agreements, legislation and policies.

3.2 Assessment and Approval Requirements for the Project

Several approvals are required for the Project under the provisions of various Victorian statutes before the proposal can proceed. These approvals are summarised in Figure 3-1 and discussed in more detail in the following sections.
3 Statutory Assessment and Approvals Process

3.2.1 Environment Effects Statement under the Environment Effects Act (1978)

The Victorian Minister for Planning has required the preparation of an EES under the provisions of the Environment Effects Act 1978. The EES is intended to summarise the proposal, outline and examine any feasible alternatives, investigate and evaluate potential environmental impacts (including biophysical, social and economic) and propose any mitigation processes to reduce these impacts.

Where the Minister has required an EES for a proposal, the Minister must provide an Assessment of the environmental effects of the Project. Other decision makers must then consider the Assessment prior to granting any other statutory approvals (refer to Figure 3-1).
3 Statutory Assessment and Approvals Process

While the EES is not itself a statutory approval, provisions set out in section 42(7) of the Mineral Resources (Sustainable Development) Act 1990 mean that approval under the Planning and Environment Act 1987 is not required and this EES therefore effectively replaces the planning permit which would otherwise be required.

The general process for the preparation and assessment of an EES for mining projects is summarised in Figure 3-2.
3 Statutory Assessment and Approvals Process

Making an assessment
Project referred to Minister for Planning

A project is referred by a proponent or decision-maker in accordance with the referral criteria.

Decision
Minister’s decision on the need for an EES

The Minister will make one of three decisions, normally within 20 business days of accepting a referral:

- No, EES is not required ➔ Decision-makers can proceed with their approval process.
- No, EES is not required but conditions must be met ➔ Conditions might relate to the location or dimensions of the project or mitigation measures, or alternately requirements for further studies or consultation.
- Yes, EES is required ➔ Approval decisions are put on hold until the EES process is completed.

Scoping
Scoping requirements for EES studies and report set by Minister

The matters to be investigated and documented in an EES are set out in the ‘scoping requirements’ issued by the Minister. These are different for each project and depend on the associated environmental risks.

Draft scoping requirements are prepared following input from the proponent and other agencies. These are released for public comment for at least 15 business days before the final scoping requirements are published.

Preparing the EES
Proponent prepares the EES

The proponent must prepare a quality EES, as well as a study program and consultation plan consistent with the scoping requirements.

A Technical Reference Group, with members from government agencies, local government and statutory authorities, is appointed to provide advice to the proponent and DTPLI during the preparation of the EES.

Public review
Exhibition of EES and lodgement of submissions

When the Minister is satisfied that the EES is suitable, it is released for public comment for between 20 and 30 business days. During this time, the public can make written submissions.

The Minister may appoint an inquiry to evaluate the effects of the project, having regard to the EES studies and public submissions. The inquiry may take one of three forms, depending on how complex the issues are:

- A desktop review of written submissions.
- A conference of submitters and review of submissions.
- A formal hearing, where the proponent and submitters can speak and present expert witnesses.

Making an assessment
Minister’s Assessment of environmental effects

As the final stage of the EES process, the Minister prepares an Assessment considering all relevant information including the EES documents, public submissions, the proponent’s response and the inquiry report. The Minister’s Assessment is normally provided within 25 business days of the inquiry report being finalised.

The Assessment includes findings on the environmental effects, and may conclude that the project:

- will have an acceptable level of environmental effects; or
- will not have an acceptable level of environmental effects; or
- would need major modifications and/or further investigations to establish that acceptable outcomes would be achieved.

Informing decisions
Decision-makers consider the assessment

Decision-makers must consider the Minister’s Assessment in deciding whether to approve a project under Victorian law or to authorise public works. While the recommendations in the assessment are authoritative, they are not usually binding on decision-makers.

Figure 3-2 EES assessment process
3 Statutory Assessment and Approvals Process

3.2.2 Technical Reference Group (TRG)

The Minister may elect to appoint a Technical Reference Group (TRG) to assist the proponent with technical oversight of the EES process. In the case of this Project, the Minister established a TRG which met regularly during the preparation of the EES in order to advise:

- the Department on matters that should be included in the Scoping Requirements for the EES
- SGM on the need for and adequacy of technical studies in terms of their consistency with good practice standards of methodology and analysis
- the Department on the technical adequacy of the proposed EES, as well as the adequacy of its response to relevant matters.

Membership of the TRG included representatives from the following agencies:

- Department of Transport, Planning & Local Infrastructure
- Department of State Development, Business & Innovation – Earth Resources
- Environment Protection Authority Victoria
- Department of Environment & Primary Industries
- Department of Health
- Northern Grampians Shire Council
- Office of Aboriginal Affairs Victoria
- Heritage Victoria
- Grampians Wimmera Mallee Water.

SGM and the consultants undertaking the range of technical studies also participated, upon request, in the TRG meetings to provide information and discuss relevant issues.

3.2.3 Requirements under the Mineral Resources (Sustainable Development) Act 1990 and Associated Guidelines

The Mineral Resources (Sustainable Development) Act 1990 (MRSD Act) provides for the exploration and mining of minerals through the granting of licences. The primary approvals administered under the MRSD Act are Mining Licences and Work Plans; the former providing exclusive rights to exploit the mineral resources and the latter detailing how the operation will be undertaken.

The Project is proposed to be confined to an area within the existing SGM mining license MIN 5260, which expires on 30 May 2020 and provides SGM the tenure required to mine the mineral resources during the Project.

SGM currently holds the approvals required under the MRSD Act for its existing operations. Some of the infrastructure (particularly the processing plant and TSF) covered by these approvals will be utilised as part of the Project, but are not subject to assessment as part of this EES. Approvals sought as part of this EES cover new activities proposed as part of the Project. The processing plant and TSF are described in more detail in Chapter 4, Section 4.9.1.
3 Statutory Assessment and Approvals Process

Work Plan Variation

The Work Plan is the primary document describing the activities to be undertaken on a mine site. This Project is proposed to be undertaken in accordance with a variation to the existing approved Work Plan under the MRSD Act. The Work Plan Variation will set out how the statutory obligations assessed in this EES and the commitments discussed in this EES will be achieved during the Project.

Schedule 13 of the Minerals Resources Development Regulations 2002 describes the information required to be included in a work plan for a mining licence. A working draft of the Work Plan Variation will be available on the Crocodile Gold website at the time of exhibition of the EES. The table of contents of the working draft of the Work Plan Variation is included as Appendix B to this EES.

Following the assessment of the EES by the Minister for Planning, the draft Work Plan Variation will be revised as necessary and will be submitted to the DSDBI for approval. Work under the mining licence for the Project cannot be commenced until the Work Plan Variation is approved a work authority granted under the MRSD Act.

Landowner consent

Section 45 of the MRSD Act prohibits licensees from undertaking mining activities within 100 metres of a dwelling (including 100 metres vertically) without the written consent of the landowner. However, where a licensee is not required to obtain a planning permit for that work under section 42(7) of the MRSD Act — as is the case for the Project (see Section 3.4.4) — section 45(1A) provides that a licensee may do work that is otherwise prohibited under section 45 of the Act. Therefore, SGM will not be required to obtain landowner consents for mining works within 100m of dwelling houses.

Compensation

Section 85 of the MRSD Act makes provision for licensees to pay compensation to the owners or occupiers of private land for loss or damage that is sustained as a consequence of an approved mining project. SGM is committed to paying compensation to anyone who experiences a realised loss (e.g. reduced property value or damage to property) resulting from the Project.

Commencement of work

Before commencing work under a mining licence SGM must have:

- an approved Work Plan Variation
- entered into a rehabilitation bond
- obtained public liability insurance
- obtained consent or entered compensation arrangements with the owner and occupier of any private land to which entry is required during Project works
- given owners and occupiers of land to which entry is required seven days’ notice beforehand
- obtained all other consents and authorities required by law for the Project.

Note, the requirement to obtain a Work Authority prior to commencing work was removed with the passage of the MRSD Act Amendment Bill (Bill) in February 2014. However, this Bill is not yet operational, and SGM will therefore require a Work Authority until this time.
3 Statutory Assessment and Approvals Process

3.2.4 Requirements under the Aboriginal Heritage Act (2006)
Protection of Aboriginal cultural heritage in Victoria is primarily achieved through the 
Aboriginal Heritage Act 2006. This Act is administered through the Office of Aboriginal Affairs Victoria, 
which is part of the Department of Premier and Cabinet.

Under section 49 of the Aboriginal Heritage Act 2006, a Cultural Heritage Management Plan (CHMP) 
must be prepared for any project for which an EES has been required. Approval of a CHMP is 
required for the Project before statutory authorisation of the mining works can proceed.

In the absence of a Registered Aboriginal Party for the Project area, the Office of Aboriginal Affairs 
Victoria is responsible for evaluating the CHMP. Statutory authorisation for the proposed Project is 
granted on the condition that the Project proposal is consistent with the approved CHMP.

3.2.5 Requirements under the Heritage Act (1995)
Protection of historical cultural heritage in Victoria is primarily achieved through the Heritage Act 1995 
(Heritage Act). The Heritage Act is administered through Heritage Victoria, which is part of the 
Department of Transport, Planning and Local Infrastructure (DTPLI).

All known non-Indigenous archaeological sites in Victoria are listed on the Heritage Inventory. All non- 
Indigenous archaeological sites in Victoria older than 50 years are protected under the Heritage Act, 
whether they are recorded or not. Consent to authorise the disturbance of an historical archaeological 
site must be sought from the Executive Director of Heritage Victoria. Section 132(2) of the Act also 
requires any person who finds an archaeological relic that is not recorded on the Heritage Register to 
report the discovery to the Executive Director.

The Victorian Heritage Register contains places and objects which have been assessed as having 
state-wide heritage significance to Victoria. A permit to alter a place or object listed on the Heritage 
Register must be sought from the Executive Director of Heritage Victoria.

Also, approval of the Executive Director of Heritage Victoria to work within 100 metres of an 
archaeological site listed on the Heritage Inventory of a place or object listed on the Victorian Heritage 
Register as required by section 45 of the MRSD Act.

3.2.6 Requirements under the Flora and Fauna Guarantee Act (1988)
A permit is required under the Flora and Fauna Guarantee Act 1988 (FFG Act) to take and/or disturb 
protected flora and fauna as declared under the Act. As the development site contains protected flora, 
a permit to remove these protected flora is required under the FFG Act.

A permit under the FFG Act was obtained for the purposes of all field surveys conducted as part of the 
flora and fauna assessment.

3.2.7 Requirements under the Wildlife Act (1975)
The Wildlife Act 1975 (Wildlife Act) requires people engaged in wildlife research (e.g. fauna surveys, 
salvage and translocation activities) to obtain a permit to ensure that these activities are undertaken in 
a manner consistent with the appropriate controls.
3 Statutory Assessment and Approvals Process

Where works are likely to require the salvage and translocation or general handling of protected terrestrial fauna species, any fauna handlers will require management authorisation under the Wildlife Act.

A permit under the Wildlife Act was obtained for the purposes of all field surveys conducted as part of the flora and fauna assessment.

3.3 Commonwealth Legislation, Policies and Strategies

Relevant Commonwealth legislation has been reviewed as part of the EES for the Project. The Project has been assessed in terms of conformity with, implementation of and commitment to this legislation.

3.3.1 Environment Protection and Biodiversity Conservation Act (1999)

Under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), any action that could have a significant impact on a matter of national environmental significance (controlled action) must not be undertaken without approval from the Australian Government Minister for the Environment, Heritage and Water (the Minister). The Project was referred to the Minister on 1 May 2013, who subsequently determined that the Project was not considered to be a controlled action. The Project therefore does not require further assessment under this legislation.

3.3.2 National Greenhouse and Energy Reporting Act (2007)

The National Greenhouse and Energy Reporting Act 2007 (NGER Act) establishes a national framework for reporting greenhouse gas emissions, greenhouse gas emission abatement actions and energy consumption and production by Australian corporations.

The National Greenhouse and Energy Reporting Regulations 2008 (NGER Regulations) provide the necessary details that allow compliance with, and administration of, the NGER Act.

To estimate greenhouse gas (GHG) emissions for compliance with the NGER Regulations and the NGER Act, the National Greenhouse and Energy Reporting (Measurement) Determination 2008 (NGER (Determination)) sets out methods, and criteria for methods, for the estimation of greenhouse gas emissions. It also sets out methods for estimating or calculating the production and consumption of energy. Facilities are required to report under the NGER Act if they exceed the GHG emission threshold of 25 kt CO$_2$-e/year (kilotonnes of carbon dioxide-equivalent per year) or the energy threshold (produced or consumed) of 100 TJ/year (tetro joules per year). SGM reports against the NGER requirements annually and would continue to do so should the Project proceed.

3.4 State Legislation, Policies and Strategies

Relevant State Government legislation and policies have been reviewed as part of the EES for the Project. The Project has been assessed in terms of conformity with, implementation of and commitment to the relevant legislation, policies and strategies.
3 Statutory Assessment and Approvals Process

3.4.1 Catchment and Land Protection Act (1994)

The Catchment and Land Protection Act 1994 (CaLP Act) provides for the management and protection of water catchments and encourages the community to participate in the management of land and water resources.

All reasonable steps must be taken by the facility operator and/or owner not to cause or contribute to land degradation which may cause or actually causes damage to land. All reasonable steps must also be taken to conserve soil, eradicate regionally prohibited weeds and prevent the spread of, and as far as possible, eradicate established pest animals. The Regional Management Authorities (in this case the Wimmera Regional Catchment Management Authority) must be consulted to identify what are prohibited weeds and established pest animals. However, flora surveys undertaken as part of this EES process did not find any declared noxious weeds nor any weeds of national significance (Ecology and Heritage Partners, 2013a).

The need to protect land and water resources has been a significant component of the EES investigation process (refer to Chapter 8, Sections 8.10, 8.11 and 8.12). As outlined in Chapter 8, Sections 8.11 and 8.12, it is contended that the Project will not have adverse impacts on surface water or groundwater and complies with the CaLP Act.

The CaLP Act provides for the establishment of Regional Catchment Management Authorities, which must prepare a Regional Catchment Strategy for the region. The relevant regional Catchment Strategy is outlined below.

Wimmera Regional Catchment Strategy

The Wimmera Regional Catchment Strategy developed by the Wimmera Regional Catchment Management Authority outlines the priorities and issues of concern for the region by identifying the key strategies and approaches for the period 2013-2019. The Strategy provides a strategic framework for future investment in natural resource management across the Wimmera Catchment.

The provisions of the strategy have been taken into consideration in the development of the proposal.

3.4.2 Environment Protection Act (1970)

The Environment Protection Act 1970 (EP Act) is the principal Victorian statute dealing with the prevention of pollution and environmental damage. The EP Act:

- provides a framework for developing, implementing and enforcing State Environment Protection Policies (SEPPs)
- establishes penalties for unauthorised polluting activities
- provides a system for licensing discharges from certain scheduled premises
- controls the transportation of dangerous wastes.

In general, a person must not pollute any waters, atmosphere (including noise pollution) or land so that the condition of that environmental aspect is changed to make it:

- noxious or poisonous
- harmful or potentially harmful to the health, welfare, safety or property of human beings
- poisonous, harmful or potentially harmful to animals, birds, wildlife, fish or other aquatic life
3 Statutory Assessment and Approvals Process

- poisonous, harmful or potentially harmful to plants or other vegetation
- detrimental to any beneficial use made of that environment.

The ‘beneficial use’ of the environment means a use of the environment or any element or segment of the environment which is of public benefit and requires protection from the effects of waste discharges, emissions or deposits or of the emission of noise.

The Project does not require a works approval under the EP Act as it is not likely to cause any of the following, as set out in the EPA Works approval guidelines, Publication number 1307:

- ‘an increase in the waste discharged at the premises;
- an alteration in the waste handled at the premises;
- a change in method of waste treatment;
- significant increase in the emission of noise; or
- a state of potential danger to the quality of the environment.’

The Project will utilise existing licenced SGM processing plant and tailings storage facility and will result in no offsite water discharge and will therefore not result in any changes to current operations which may warrant a works approval application.

The proposed Project will be designed, constructed and operated to meet the requirements of this Act, principally through adherence to the relevant SEPPs.

State Environment Protection Policies

State Environment Protection Policies (SEPPs) are developed by the Victorian EPA and approved by Government as subordinate legislation under the EP Act, giving them the force of law. SEPPs provide specific policy guidance for particular segments of the environment. The key SEPPs of relevance to the Project are:

- **SEPP (Groundwaters of Victoria) (1997)** – The goal of the policy is to maintain and where necessary improve groundwater quality sufficient to protect existing and potential beneficial uses of groundwater throughout Victoria as defined in the SEPP. The policy recognises that the protection of groundwater and aquifers is fundamental to the protection of the environmental quality of surface waters and that the resource can be threatened by human activity should appropriate controls and protection measures not be adopted.

- **SEPP (Waters of Victoria) (1988)** – the goal of the policy is to protect Victoria’s fresh and marine water environments for a range of different uses and values of water (i.e. beneficial uses) including drinking, industrial use and aquatic ecosystems. The SEPP outlines agreed environmental outcomes and strategic directions for protecting Victoria’s water and provides guidance on how to achieve those outcomes.
3 Statutory Assessment and Approvals Process

- **SEPP (Prevention and Management of Contamination of Land) (2002)** – The goal of the policy is to maintain and where appropriate and practicable improve the condition of the land environment sufficient to protect current and future beneficial uses of the land from the detrimental effects of contamination. This is achieved by preventing the contamination of land; and where pollution has occurred, adopting management practices that will ensure unacceptable risks to human health and the environment are prevented; and pollution is cleaned-up or otherwise managed to protect beneficial uses.

- **SEPP (Ambient Air Quality) (1999)** – The SEPP AAQ has adopted the requirements of the National Environment Protection Measure (NEPM) for Ambient Air Quality 2003 (as amended). This includes the monitoring, sampling methodologies, reporting and adoption of the air quality objectives for the following six key criteria pollutants; carbon monoxide, nitrogen dioxide, photochemical oxidants (as ozone), sulphur dioxide, lead and particles (as PM10). The SEPP AQM air quality objectives are not applicable to emissions from specific industrial facilities but to regional air quality. They are relevant at air monitoring sites that are considered to be representative of exposure of the general population in Victoria.

- **SEPP (Air Quality Management) (2001)** – The SEPP AQM sets out the legislative requirements for managing and assessing air emissions in Victoria. The aims of the SEPP AQM are to ensure that the air quality objectives prescribed in the SEPP AAQ are met, to drive for continuous improvement in air quality whilst having regard to the social and economic development in Victoria and to support the State’s other environmental goals.

- **SEPP (Control of Noise from Commerce, Industry and Trade) (1989)** – The goal of this policy is to protect people from commercial, industrial or trade noise that may affect the beneficial uses made of the noise sensitive areas. It applies to various noise sources including noise from firearms, noise from construction or demolition activities on building sites, noise from aircraft (Except for ground maintenance activities). The EPA has developed assessment criteria to determine the potential impact following the application of ‘best practice’ or ‘Maximum Extent Achievable’ principles. While this SEPP applies to the Melbourne metropolitan area only and therefore carries no statutory weight in the case of the Project, the methodology used to develop noise criteria should be considered in the assessment of noise emissions.

All relevant SEPPs have been considered in the design of the proposed facility and compliance with the relevant SEPP has been assessed for each segment of the environment. Detailed assessment of the Project against each specific SEPP is found in the relevant impact assessment sections (refer to Chapter 8) of this EES.

*Noise from Industry in Regional Victoria 2011*

Noise from industrial operations in regional Victoria is governed by the EPA publications 1411-1413 Noise from Industry in Regional Victoria (2011) (NIRV). The guidelines are non-statutory and provide recommended maximum noise levels for industry, and guidance in applying levels to proposed or existing applications, in particular, noise from location-constrained extractive industries.
3 Statutory Assessment and Approvals Process

NIRV was introduced in October 2011, and replaces Information Bulletin N3/89 Interim guidelines for control of noise from industry in country Victoria. NIRV is a non-statutory guideline. This approach is applied in regional Victoria because the unique characteristics of rural areas, such as generally low ambient noise levels and large location-constrained, resource-based industries, mean that noise limits cannot always be achieved.

NIRV part 3.2 provides recommended maximum noise levels for earth resources, such as mines and quarries, and ancillary equipment such as tailings dams located within the site’s approved working area. Noise limits are determined according to the land-use zoning.

NIRV also provides guidance on applying the recommended noise levels to existing industrial uses where there are proposed changes to the site activities or equipment, such as in this case. As outlined in Chapter 8, Section 8.5, the Project design follows the NIRV method for the assessment of noise and application of best practice.

Protocol for Environmental Management: Mining and Extractive Industries

Pursuant to the SEPP (AQM), the Protocol for Environmental Management: Mining and Extractive Industries, 2007 (PEM 2007) was developed to assess and manage emissions from mining and extractive operations.

Based on these criteria a level one air quality impact assessment is required for the Project. As outlined in Chapter 8, Section 8.7, the Project design minimises dust generation. Additionally, air monitoring and the Environmental Management Plan (EMP) will ensure that action is taken where necessary to achieve compliance with PEM.

Environment Protection (Industrial Waste Resource) Regulations

The Environment Protection (Industrial Waste Resource) Regulations were established in 2009 to improve resource efficiency and reduce Prescribed Industrial Wastes (PIWs) disposal to landfill. The regulations require that all industrial wastes will be subject to hazard categorisation, with the exception of a short list of industrial wastes. Wastes are categorised on the basis of their chemical composition or physical attributes, and those that are identified as Category A, B or C wastes, will be regulated as PIWs. Less hazardous wastes, that fall below the Category C threshold, will be managed as industrial wastes. Wastes generated as part of the Project will therefore have to be assessed and categorised as either Category A, B or C PIW or industrial waste and treated and/or disposed of accordingly. The Project will be not result in a change to the type or quantity of wastes that are currently handled or treated by SGM.

3.4.3 Mineral Resources (Sustainable Development) Act 1990 – Associated Guidelines

Ground vibration and airblast limits for blasting in mines and quarries

The Ground vibration and airblast limits for blasting in mines and quarries regulations provides limits for sensitive sites such as residences and schools, which are outlined in Table 3-1.
3 Statutory Assessment and Approvals Process

Table 3-1  Ground vibration and airblast limits for blasting in mines and quarries

<table>
<thead>
<tr>
<th>Environmental impact</th>
<th>Guideline limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground Vibration</td>
<td>≤ 5 mm/s for 95% of blasts in a 12 month period</td>
</tr>
<tr>
<td></td>
<td>≤ 10 mm/s for all blasts</td>
</tr>
<tr>
<td>Airblast</td>
<td>≤ 115 dBL for 95% of blasts in a 12 month period</td>
</tr>
<tr>
<td></td>
<td>≤ 120 dBL for all blasts.</td>
</tr>
</tbody>
</table>

As outlined in Chapter 8, Section 8.6, the Project design minimises and manages ground vibrations and airblast limits such that it is compliant with the Department of Environment and Primary Industries (DEPI) guidelines.

Management of water in mines and quarries

The DEPI publication, *Environmental Guidelines: Management of Water in Mines and Quarries* (Guidelines) provides high level advice on water management. This guideline provides basic information for operators on how to manage discharges of wastewater from a mine site to ensure compliance with Victorian legislation. It includes protection of ground and surface water quality for downstream users and provides the framework for SGM for managing water on the site. As outlined in Chapter 8, Section 8.11, the Project manages all mine water within the site and is compliant with the DEPI guidelines.

Rehabilitation plans and other environmental aspects of work plans

The purpose of these Guidelines is to provide assistance to mining licensees, under the MRSD Act. The Guidelines are an advisory document. They provide guidance on matters that the DEPI generally looks at in assessing plans. They do not set requirements for plans, beyond those statutory requirements, which are already in place. Nor are they intended to be a text on environmental management and rehabilitation techniques. Most of the matters covered in the Guidelines are also covered in this EES for the Project.

3.4.4  Planning and Environment Act (1987)

The *Planning and Environment Act 1987* (P&E Act) establishes a framework for planning the use, development and protection of land in Victoria. It provides for the making of the *Victorian Planning Provisions*, the planning scheme provisions on which the planning schemes of each municipality are based.

The relevant planning scheme to the Project is the Northern Grampians Planning Scheme (Planning Scheme).

As noted in the Scoping Requirements for the Project, planning permits are not required for the Project because section 42(7) of the MRSD Act provides an exemption that will apply to the Project. This exemption is also reflected in the Planning Scheme. These issues are discussed further below.

The clauses of the Planning Scheme relevant to the Project are discussed in the subsequent section.
Northern Grampians Planning Scheme

State Planning Policy Framework

The purpose of the State Planning Policy Framework (SPPF) in planning schemes is to inform planning authorities (authorities which adopt Planning Scheme Amendments) and responsible authorities (authorities which administer planning schemes) of those aspects of State-level planning policy which they are to take into account and give effect to in planning and administering their respective areas. Planning and responsible authorities must integrate the range of policies and balance conflicting objectives in favour of net community benefit and sustainable development.

Planning policies are directed to land use and development, as defined by the P&E Act, a primary objective of which is to provide for the fair, orderly, economic and sustainable use and development of land.

The SPPF seeks to ensure that the objectives of planning in Victoria are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development. The relevant sections of the Municipal Strategic Statement (MSS) in the Northern Grampians Planning Scheme are:

Clause 11.05-4 Regional planning strategies and principles

The objective of this clause is:

‘To develop regions and settlements which have a strong identity, are prosperous and are environmentally sustainable’

The relevant strategy to achieve this objective is to:

‘Maintain and provide for the enhancement of environmental health and productivity of rural and hinterland landscapes by … Avoiding development impacts on land that contains high biodiversity values, landscape amenity, water conservation values, food production and energy production capacity, extractable resources and minerals, cultural heritage and recreation values, assets and recognised uses’.

Clause 12.01-01 Protection of habitat

The objective of this clause is:

‘To assist the protection and conservation of biodiversity, including native vegetation retention and provision of habitats for native plants and animals and control of pest plants and animals’

The strategy to achieve this objective that is relevant to the Project is to:

‘Assist the conservation of the habitats of threatened and endangered species and communities as identified under the Flora and Fauna Guarantee Act 1988, including communities under-represented in conservation reserves such as native grasslands, grassy woodlands and wetlands’.
3 Statutory Assessment and Approvals Process

Clause 12.01-2 Native vegetation management

The objective of this clause is:

*To achieve a net gain in the extent and quality of native vegetation.*

Strategies relevant to the Project are as follows:

- **Apply the three step process as set out by Victoria’s Native Vegetation Management – a Framework for Action. These are:**
  - **Step 1:** As a priority, avoid adverse impacts on native vegetation, particularly through clearance.
  - **If the removal of native vegetation cannot be avoided:**
    - **Step 2:** Minimise impacts through appropriate consideration in the planning process and expert input to project design or management; and
    - **Step 3:** Identify appropriate offset options.

Clause 12.04-2 Landscapes

The objective of this clause is:

*To protect landscapes and significant open spaces that contribute to character, identity and sustainable environments.*

Strategies relevant to the Project are as follows:

- **Recognise the natural landscape for its aesthetic value and as a fully functioning system.**
- **Ensure natural key features are protected and enhanced.**

Clause 13.04-1 Noise abatement

The objective of this clause is:

‘To assist the control of noise effects on sensitive land uses’

The strategy to achieve this objective that is relevant to the Project is to:

‘Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area’.

Clause 13.04-2 Air quality

The objective of this clause is:

‘To assist the protection and improvement of air quality’

The strategy to achieve this objective that is relevant to the Project is to:

‘Ensure, wherever possible, that there is suitable separation between land uses that reduce amenity and sensitive land uses’. 
3 Statutory Assessment and Approvals Process

Clause 13.05-1 Bushfire planning strategies and principles
The objective of this clause is:
‘To assist to strengthen community resilience to bushfire’
The strategy to achieve this objective that is relevant to the Project is:
‘In areas identified in the planning scheme as being affected by the bushfire hazard, require a site-based assessment to be undertaken to identify appropriate bushfire protection measures for development that has the potential to put people, property or community infrastructure at risk from bushfire’.

Clause 14.02-1 Catchment planning and management
The objective of this clause is:
‘To assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment’.
The strategy to achieve this objective that is relevant to the Project is to:
‘Require the use of appropriate measures to restrict sediment discharges from construction sites’.

Clause 15.03-1 Heritage conservation
The objective of this clause is:
‘To ensure the conservation of places of heritage significance’
The strategy to achieve this objective that is relevant to the Project is to:
‘Provide for the protection of natural heritage sites and man-made resources and the maintenance of ecological processes and biological diversity. Provide for the conservation and enhancement of those places which are of, aesthetic, archaeological, architectural, cultural, scientific, or social significance, or otherwise of special cultural value’.

Clause 15.03-2 Aboriginal cultural heritage
The objective of this clause is:
‘To ensure the protection and conservation of places of Aboriginal cultural heritage significance’
The strategy to achieve this objective that is relevant to the Project is to:
‘Provide for the protection and conservation of pre- and post-contact Aboriginal cultural heritage places’ and to ‘Ensure that permit approvals align with recommendations of a Cultural Heritage Management Plan approved under the Aboriginal Heritage Act 2006’.

Clause 17.02-1 Industrial land development
The objective of this clause is:
‘To ensure availability of land for industry’
The strategy to achieve this objective that is relevant to the Project is to:
‘Identify land for industrial development in urban growth areas where … Appropriate buffer areas can be provided between the proposed industrial land and nearby sensitive land uses’.
3 Statutory Assessment and Approvals Process

Clause 19.03-5 Waste and resource recovery

The objective of this clause is:

‘To avoid, minimise and generate less waste to reduce damage to the environment caused by waste, pollution, land degradation and unsustainable waste practices’

The strategy to achieve this objective that is relevant to the Project is to:

‘Establish new sites and facilities to safely and sustainably manage all waste and maximise opportunities for resource recovery’.

Local Planning Policy Framework

The Local Planning Policy Framework (LPPF) within a planning scheme identifies long-term directions for land use and development within a municipality and provides the rational for the zone and overlay requirements and particular provisions of a Planning Scheme. The MSS is a strategic statement which outlines the key strategic planning, land use and development objectives specific to a municipality, and provides strategies and actions for achieving these objectives, including the strategic basis for the application of zones, overlays and particular provisions in the planning scheme and decision making by the Responsible Authority. The relevant sections of the MSS in the Northern Grampians Planning Scheme are:

Clause 21.05 Settlement

Objective 3 is:

‘Minimise the potential for future land use conflicts.’

The relevant strategy to achieve the above objective is as follows:

‘Limit the location of sensitive land uses in the vicinity of industries or other activities with significant off site effects including noise, traffic and residual air emissions so as to minimise the potential for future land use conflicts. Limit the establishment of industry in locations where residential amenity may be negatively impacted.’

Clause 21.09 Industry

Objective 2 is:

‘To promote and facilitate mining and extractive industry in the Shire in a responsible manner.’

The relevant strategies to achieve the above objective are as follows:

‘Encourage mining and extractive industry activities provided that the proposals adequately address environmental, amenity and rehabilitation issues to ensure the long term impacts of mining and extractive industry on the surrounding environment and community are minimised.’

‘Provide adequate separation and buffer areas between sensitive land uses and mining and extractive industry to ensure that adverse environmental effects, nuisance or exposure to hazards does not affect existing and future residents.’

‘Monitor and enforce land rehabilitation conditions on all mining and extractive industry permits.’
3 Statutory Assessment and Approvals Process

Clause 21.10 Environment

Objective 4 is:

‘To protect flora and fauna’

The relevant strategy to achieve the above objective is as follows:

‘Encourage the retention and regeneration of native flora.’

Objective 7 is:

‘To ensure that land use and development does not increase the level of fire risk and includes adequate fire protection measures.’

The relevant strategy to achieve the above objective is as follows:

‘To apply appropriate fire management conditions to development in areas subject to wildfire risk’

Clause 21.11 Heritage

Objective 1 is:

‘Conserve and protect sites and precincts of natural, archaeological, architectural, cultural and historic significance.’

The relevant strategy to achieve the above objective is as follows:

‘Ensure that development on or neighbouring a site or precinct which is considered to have natural, archaeological, architectural, cultural or historic significance will give due consideration to the significance of the site.’

All of these strategic directions from the LPPF of the Northern Grampians Planning Scheme have been considered in the design of the Project. As outlined in Chapter 9 Hazard and Risk of this EES, the Project complies with the specific statutes covering such issues as air quality, industrial noise, water quality, heritage, landscape and the like. As such, the proposal is consistent with the abovementioned provisions of the LPPF of the Northern Grampians Planning Scheme.

Zones and overlays

The Project area is zoned primarily Public Park and Recreation (PPRZ), with small areas zoned Special Use (SUZ1), Public Use (PUZ1) and Residential (R1Z). Sections of the haul road are also located in a Special Use Zone (Figure 3-3).

The Bushfire Management Overlay is the only overlay which applies to the Project area and covers the entire site. Notably, a Significant Landscape Overlay has not been applied to the Project area.

The purpose of each zone and overlay applicable to the site is set out below, and the application of the Planning Scheme to the Project is discussed subsequently:
3 Statutory Assessment and Approvals Process

**Public Park and Recreation Zone (PPRZ)**

Most of the Project area is located within a PPRZ.

The purpose of this zone is:

- To recognise areas for public recreation and open space.
- To protect and conserve areas of significance where appropriate.
- To provide for commercial uses where appropriate.

**Residential 1 Zone (R1Z)**

A very small portion of the North Pit occurs in Residential zoned land.

The purpose of this zone is:

- To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.
- To encourage residential development that respects the neighbourhood character.
- In appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.

**Special Use Zone – Schedule 1 (SUZ1) (Stawell Gold Mine)**

Two sections of the Project area are zoned SUZ1. One section south of the intersection between Scenic and Reefs Roads and another to the east of Scenic Road covers the former Davis Pit. There is also a large area zoned SUZ1 south-east of the pit area, which is the location of the existing SGM operations. The proposed haulage road, but no mining operations would be located in this area.

The purpose of this zone is:

- To recognise or provide for the use and development of land for gold mining.
- To encourage use of the land compatible with the use and development of nearby land.
- To encourage land management practice and rehabilitation that minimises adverse impact on the use and development of nearby land.

**Public Use Zone – Schedule 1 (PUZ1) (Service and Utility)**

An area zoned PUZ1 is located in the north-east corner of the Project area and is also a significant portion of the land on which the TWRS is to be located.

The purpose of this zone is:

- To recognise public land use for public utility and community services and facilities.
- To provide for associated uses that are consistent with the intent of the public land reservation or purpose.
Figure 3-3  Zone map of land surrounding the Big Hill Enhanced Development Project
3 Statutory Assessment and Approvals Process

Particular Provisions
The Particular Provisions of the Northern Grampians Planning Scheme set out the requirements for a range of specific uses and developments. Particular Provisions relevant to the proposed Project are set out in clauses 52.08 Earth and Energy Resources Industry, 52.47 – Bushfire Protection: Planning Requirements, 57.17 Native vegetation and 52.29 Telecommunications facility.

Clause 52.08 – Earth and Energy Resources Industry

The Project is characterised as Mineral extraction, which is defined under clause 74 of the Planning Scheme as:

*Land used for extraction of minerals in accordance with the Mineral Resources (Sustainable Development) Act 1990.*

Mineral extraction is a sub-category of Earth and Energy Resources Industry, which is defined as:

*Land used for the exploration, removal or processing of natural earth or energy resources. It includes any activity incidental to this purpose including the construction and use of temporary accommodation.*

Clause 52.08 of the Planning Scheme relates specifically to Earth and Energy Resources Industry.

The purpose of this Clause is:

*To encourage land to be used and developed for exploration and extraction of earth and energy resources in accordance with acceptable environmental standards.*

*To ensure that mineral extraction, geothermal energy extraction, greenhouse gas sequestration and petroleum extraction are not prohibited land uses.*

Clause 52.08-1 provides that a permit is required to use and develop land for Earth and Energy Resources Industry unless the table to the Clause specifically states that a permit is not required. Importantly, the table of exemptions provides that no permit is required to use or develop land for Earth and Energy Resources Industry if the following conditions are met:

<table>
<thead>
<tr>
<th>Mineral extraction</th>
<th>Complies with section 42(7) or section 42A Mineral Resources (Sustainable Development) Act 1990; or</th>
</tr>
</thead>
</table>

The Project will satisfy the condition relating to compliance with section 42(7) of the MRSD Act, as discussed further below.

Clause 52.17 – Native Vegetation

The purpose of this Clause is:

*To protect and conserve native vegetation to reduce the impact of land and water degradation and provide habitat for plants and animals to achieve the following objectives:*

— Avoid the removal of native vegetation.
— If the removal of native vegetation cannot be avoided, to minimise the removal of native vegetation through appropriate planning and design.
— Appropriately offset the loss of native vegetation.
3 Statutory Assessment and Approvals Process

To provide for the management and removal of native vegetation in accordance with a property vegetation plan.

To manage vegetation near buildings to reduce the threat to life and property from bushfire.

A permit is required to remove, destroy or lop native vegetation unless certain exemptions apply. Relevantly, the table of exemptions in clause 52.17-6 provides an exemption in respect of Mineral extraction:

- to enable the carrying out of Mineral extraction in accordance with a work plan approved under the Mineral Resources (Sustainable Development) Act 1990 and authorised by a work authority granted under that Act.

Clause 52.29 – Telecommunications facility

The purpose of this Clause is:

- To ensure that telecommunications infrastructure and services are provided in an efficient and cost effective manner to meet community needs.
- To ensure the application of consistent provisions for telecommunications facilities.
- To encourage an effective statewide telecommunications network in a manner consistent with the economic, environmental and social objectives of planning in Victoria as set out in Section 4 of the Planning and Environment Act 1987.
- To encourage the provision of telecommunications facilities with minimal impact on the amenity of the area.

A permit is generally required to construct a building or carrying out works associated with the use of land for a Telecommunications facility, unless certain exemptions apply.

Clause 52.47 – Bushfire Protection: Planning Requirements

The purpose of this Clause is:

- To ensure that development is only permitted if the risk to life, property and community infrastructure can be reduced to an acceptable level.
- To specify requirements for buildings, works and subdivision on land to which the Bushfire Management Overlay applies.

This clause is relevant for consideration of the Project because the proposed site is located in a Bushfire Management Overlay.

General provisions

Clause 62 – Uses, buildings, works, subdivisions and demolition not requiring a permit

Clause 62 of the Planning Scheme sets out exemptions from any permit requirement elsewhere in the Planning Scheme. Importantly, clause 62.01 and 62.02-1 provide exemptions for the use of land for Earth and Energy Resources Industry and for any works associated with the use of land for earth and energy resources industry if the conditions of clause 52.08 (Earth and energy resources industry) are met.
3 Statutory Assessment and Approvals Process

Exemption from planning permit requirements under MRSD Act

Section 42(7) of the MRSD Act provides that if a planning permit is required to carry out ‘mining,’ the licensee is not required to obtain a permit ‘for that work’ if the conditions in section 42(7) are satisfied. ‘Mining’ is defined in the MRSD Act to mean:

extracting minerals from land for the purpose of producing them commercially, and includes processing and treating ore.

All of the Project works associated with the extraction, processing and treatment of minerals and ore, including preliminary works necessary for the Project, are considered in this EES to be ancillary to ‘mining’ works because they are inextricably linked to the extraction and processing of ore. Consequently, section 42(7) of the MRSD Act will operate to exempt all project activities from the need for a planning permit once the conditions of section 42(7) are satisfied.

Exemption from planning permit requirements under the Planning Scheme

Although the Planning Scheme uses different terminology of ‘Mineral extraction’ and ‘Earth and energy resources industry’, the Planning Scheme reiterates the exemption from planning permit requirements where the conditions of section 42(7) of the MRSD Act are satisfied. All project use, building and works, including for preliminary or ancillary works will be exempt from the need for a permit because of the breadth of the definition of ‘mining’ in the MRSD Act and the inclusion in the definition of Earth and energy resources industry of ‘any activity incidental to’ the purpose of exploration, removal or processing of natural earth or energy resources.

Permitted clearing of native vegetation – Biodiversity assessment guidelines

The Permitted clearing of native vegetation – Biodiversity assessment guidelines (Guidelines) are incorporated into the Victoria Planning Provisions and all planning schemes in Victoria. These Guidelines replace the Victoria’s Native Vegetation Management – A Framework for Action.

These Guidelines provide background information and explain the tools that are used to prepare and assess an application for a permit to remove native vegetation in relation to biodiversity considerations. While the Project is exempt from the permit requirements of the Northern Grampians Planning Scheme, vegetation removal will require offsets under the Guidelines. Required offsets are outlined in Chapter 8, Section 8.2.

3.4.5 Water Act (1989)

The Victorian Water Act 1989 (Water Act) provides the framework for allocating surface water and groundwater throughout Victoria. The Water Act details the Crown’s entitlements to water and private entitlements to water from all rivers, streams and groundwater systems in Victoria.

Grampians Wimmera Mallee Water (GWMWater) has the responsibility for licensing of surface water and groundwater allocations in the Stawell area. The area is located within a fractured rock hydrogeological province and is not located within a declared Water Supply Protection Area or Groundwater Management Area (i.e. in an area where groundwater has been intensively developed or is considered to have the potential for considerable additional development). As outlined in Chapter 8, Sections 8.11 and 8.12, the proposed mining operation complies with all relevant regulatory requirements in relation to protection and management of surface water and groundwater.
3 Statutory Assessment and Approvals Process

3.4.6 Wildlife Act (1975)

The *Wildlife Act 1975* is the primary legislation in Victoria providing for protection and management of wildlife. The Act requires people engaged in wildlife research (e.g. fauna surveys) and salvage and translocation activities to obtain a permit to ensure that these activities are undertaken in a manner consistent with the appropriate controls.