

# CHAPTER 4

## STATUTORY FRAMEWORK



Bird in Hand Mine 1934 Employees

## BIRD IN HAND GOLD PROJECT

### MINING LEASE PROPOSAL



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## 4 STATUTORY FRAMEWORK

This chapter describes the applicable legislative requirements at Commonwealth, State and local level for the proposed Mining Lease (ML) for the Bird in Hand Gold Project (the 'Project' or 'BIHGP'), including all required primary and select key secondary approvals. A review of the proposed ML against the local and State strategic policy framework is also provided.

Please note that no gold concentrate processing infrastructure or tailings storage is required at the BIHGP site, this will occur at the Angus Processing Facility (APF). The information contained within this section relates to the BIHGP only as a result this Mining Lease Proposal (MLP) should be read in conjunction with the submitted Miscellaneous Purposes Licence (MPL) (application 2019/0826) for the APF at the Angus Zinc Mine (AZM).

### 4.1 APPROVALS PROCESS

The proposed ML will be assessed under the *Mining Act 1971 (SA)* (Mining Act). The Mining Act is an "Act to regulate and control mining operations; and for other purposes" in South Australia and is regulated by the Department for Energy and Mining (DEM) on behalf of the Minister for Energy and Mining (Minister). The class of ML which Terramin is applying for is a mineral lease.

Unless specified otherwise, the project components within the boundary of the proposed ML will be assessed under the Mining Act.

#### 4.1.1 STATE LEGISLATIVE REQUIREMENTS

This section provides an overview of State legislation and strategic directions that are of relevance to the proposed ML in addition to the previously discussed Mining Act.

Assessment under the Mining Act is a two-stage process, which includes:

- A ML Application (MLA) on the prescribed form, accompanied by a ML proposal (this document); and
- A Program for Environment Protection and Rehabilitation (PEPR).

Approval under the Mining Act is the primary statutory approval required for the proposed ML. However other approvals (for instance under the *Environmental Protection Act 1993* (EP Act) and the *Work Health and Safety Act 2012* (WHS Act)) will be required prior to construction and operation of the Project.

Part 6 of the Mining Act provides the statutory framework for obtaining a ML. Such an application must be made in a manner and form determined by the Minister and must be accompanied by a MLA. Section 35 of the Mining Act and Regulation 30 of the *Mining Regulations 2011* requires that a ML proposal details:

- A description of the existing environment;
- The nature and method of the proposed mining operations;
- An assessment of the environmental impacts of the proposed mining operations;
- An outline of the measures to manage, limit or remedy those environmental impacts;

- An indication of the environmental outcomes anticipated to occur;
- A draft statement of the criteria to be adopted to measure the expected environmental outcomes; and
- The results of any consultation undertaken in connection with the proposed mining operations.

In accordance with Section 35 of the Mining Act and Regulation 30 of the *Mining Regulations 2011*, a Project specific Ministerial Determination (MD) was gazetted by the South Australian Government on the 5<sup>th</sup> April 2017, titled “*Ministerial Determination for the Bird in Hand Gold Project*” (BIHGP MD). This MLA has been prepared in accordance with the aforementioned determination (BIHGP MD). A checklist against this determination as well as the determination is located in Appendix A1.

Pursuant to Section 35A of the Mining Act, DEM is required to provide written notice of the MLA and provide copies to the relevant District Council, in this case, the Adelaide Hills Council, and to any owners of land to which the application relates. The written notice provides an invitation to those parties to submit written representations on the application to the Minister within a specified time frame. When considering whether to grant or refuse the ML, the Minister is required to have regard to any representation made by the landowners and Council.

In addition, the Minister will publish a notice in the South Australian Government Gazette, in a newspaper circulated generally throughout the State (The Advertiser), in a regional or local newspaper circulated within that part of the State in which the proposed ML is located (such as The Courier) and on the DEM website. That notice must:

- Describe the land to which the application relates;
- Specify a place at which the application may be inspected; and
- Invite members of the public to make written submissions in relation to the application within a specified time frame.

When determining whether to grant or refuse the ML, the Minister must have regard to any representations made in response to the invitation set out in the notice.

As part of the consultation process, DEM will also forward copies of the ML proposal to all relevant State Government agencies and seek comment from those agencies within a specified time frame. When assessing the MLA and considering appropriate terms and conditions, DEM will take into account all of the comments and representations received as a result of the Government consultation process.

Terramin is required to respond in writing to DEM, in a timely manner, on all matters that have been raised as a result of the consultation process (i.e. a formal Response Document). Subject to DEM being satisfied with the responses, an approval is drafted, including all of the conditions relating to the granting of the ML to ensure protection of the environment surrounding the ML. The final decision on whether or not to grant the ML will then be made by the Minister and the approval includes the ML conditions. The company applying for the ML then has 21 days to respond to any conditions, and once accepted by the applicant, the ML is granted.

If the ML is granted, a further stage of DEM assessment is undertaken that requires the preparation of a PEPR. The PEPR will be developed by Terramin and must be approved by the Minister before mining operations (including construction) can commence. The PEPR must set out environmental management procedures for construction, operation and closure of the proposed mine and outline key measurable criteria against which the environmental outcomes for the proposed ML will be evaluated. The PEPR provides the management and measurement criteria required to demonstrate achievement of the outcome and satisfy the conditions set out in the ML.

#### 4.1.1.1 ANGAS PROCESSING FACILITY

The APF is currently licenced for processing ore which is located within ML 6229. In order for ore from BIHGP to be processed at the APF, a Miscellaneous Purposes Licence (MPL) must be approved under Part 8 of the Mining Act.

#### 4.1.2 ENVIRONMENT PROTECTION ACT 1993

The EP Act has been established to promote ecologically sustainable development through the use, development and protection of the environment. Long-and short-term economic, environmental, social and equity aspects are considered when determining matters in relation to environmental protection, restoration and enhancement. Section 25 of the EP Act establishes a general environmental duty, requiring that activities that pollute or might pollute the environment must not be undertaken unless all reasonable and practicable measures to minimise harm are implemented.

Section 35 of the Act outlines the requirements for works approvals, including for Manufacturing and Mineral Processing (Schedule 1, subsection (5)).

Section 36 of the EP Act requires that works to construct a building or structure for use for an activity of environmental significance must not be undertaken without an environmental licence. Activities of environmental significance relevant to the proposed ML are outlined in Table 1.

Please note that information relating to the processing of ore at the AZM under the EP Act is contained within the MPL for the APF.

**TABLE 1 | ACTIVITIES OF ENVIRONMENTAL SIGNIFICANCE – EP ACT**

Activity Type	Proposed Activity	EP Act Reference
Environmental Works Approval	To undertake Mineral Works (mining)	Schedule 1; 2-Manufacturing and Mineral Processing (5)
Petroleum, Storage or Processing Works or Facilities	Fuel storage facilities providing capacity for up to 50 000 L of storage will be established at the proposed project site, providing on average approximately 6300 L of fuel per day.	Schedule 1; 1-Petroleum and Chemical (5)
Concrete batching	A concrete batching plant will be established on site to supply all concrete required for progressively backfilling the proposed mine.	Schedule 1; 2-Manufacturing and Mineral Processing (5)

#### 4.1.2.1 ANGAS PROCESSING FACILITY

The APF is currently licenced by the South Australian Environment Protection Agency (EPA) to carry out an activity of environmental significance for Mineral Works (2(9)), outlined under Schedule 1 of the EP Act. There are no further EPA requirements for the Processing Facility.

#### 4.1.3 NATURAL RESOURCES MANAGEMENT ACT 2004

The *Natural Resources Management Act 2004* (NRM Act) promotes the sustainable and integrated management of the State's natural resources and to make provision for the protection of the State's natural resources.

The NRM Act provides the guiding principles for Natural Resources Management (NRM) in South Australia through an integrated & sustainable framework. It establishes the NRM Council as the state-

wide peak body for administration of the NRM Act, and authorises the eight Regional NRM Boards across South Australia. The majority of the BIHGP is located within the Western Mount Lofty Ranges NRM Board region, with the south-eastern corner encompassing the Eastern Mount Lofty Ranges NRM Board region. These Boards assist the NRM Council to monitor & evaluate the condition of natural resources across the State, promote public awareness & understanding of sustainable, regional NRM, provide grants to researchers, farmers & engineers (among others) to undertake NRM projects, develop a NRM Plan for their region which may include water, weed, pest & animal management, salinity control, biodiversity enhancement, and landholder advice & incentives. NRM Boards also develop, implement and monitor Water Allocation Plans for their respective regions, if located within a Prescribed Water Resource Area (PWRA).

#### 4.1.3.1 WATER

In regards to the mine water management strategy, all water taken for consumptive purposes in South Australia is regulated under the NRM Act. Under the Act, rights in relation to the ability of a person to take and use water include:

- Water licences and water access entitlements;
- Stock and domestic rights (where these uses are not prescribed); and
- Notice of Authorisation under s128 of the Act.

The Minister for Environment and Water may specifically authorise the taking and use of water from a prescribed water resource for a particular purpose via a notice of authorisation issued under section 128 of the Act.

These rights are subject to the conditions of the notice of authorisation and may be ongoing or expire at a specified date.

The Project proposes to have a neutral impact on groundwater outside of existing water allocations. Terramin have obtained binding water agreements to obtain adequate water for the life of the project, as governed by the Western Mount Lofty Ranges Water Allocation Plan, authorised by the NRM Act (or current authorising legislation). These agreements are for the life of the project, and are subject to further extension.

A section 128 authorisation may be applied for, to allow groundwater to be extracted from the Inverbrackie Creek subcatchment, and then reinjected back into the aquifer through approved drain and/or discharge permits authorised under section 127. Terramin may seek s128 authorisation but this MLA is not dependent on this authorisation as Terramin has acquired the necessary rights to water allocation.

Utilising a Managed Aquifer Recharge system provides for protection of existing water users' ability to access water and protects water dependent ecosystems.

NRM Council and the Department for Environment and Water (DEW) administer Water Affecting Activities (WAA), pursuant to Division 2, section 127 of the NRM Act. Terramin will be subject to WAA and require permits for new dams, the drainage line culvert, the construction of and drainage into wells, and any other activities proposed to control erosion within identified watercourses. These will be generally be obtained prior to construction, however, permits to drain or discharge water into a well(s) may only be applied for after the construction of proposed reinjection wells.

More detail on the proposed water management strategy is located in Chapter 10.

#### 4.1.4 OTHER SOUTH AUSTRALIAN LEGISLATION

Terramin is required to comply with other South Australian Acts and Regulations relevant to the proposed ML. In addition, there will be a requirement to obtain secondary approvals including those summarised in Table 1. Note that this list is not exhaustive.

Legislation	Objective	Relevance	Requirements
<i>Aboriginal Heritage Act 1988</i>	To protect and preserve Aboriginal heritage including sites, objects and remains.	The proposed ML may include areas of Aboriginal heritage significance (refer Chapter 20).	If any Aboriginal sites, objects or remains were found, authorisation would be required before damaging, disturbing or interfering with them.
<i>Climate Change and Greenhouse Gas Emissions Reduction Act 2007</i>	To support ecologically sustainable development by addressing climate change through the reduction in greenhouse gases and an increase in renewable energy.	The BIHGP has a medium energy requirement (see Chapter 3). Where practicable, renewable energy sources will be used and energy efficiency measures incorporated.	No approval required
<i>Dangerous Substances Act 1979</i>	To regulate the keeping, handling, transporting, conveyance, use and disposal and the quality, of dangerous substances.	Dangerous substances will be used in a number of instances to support construction and operation of the proposed ML.	A licence may be required to keep or transport prescribed dangerous substances.
<i>Explosives Act 1936</i>	To control the use of explosives.	The proposed ML would require the use of explosives in the preparation of the site for construction and mining.	Approval would be required to purchase, use or dispose of explosives.
<i>Heritage Places Act 1993</i>	To make provision for the identification, recording and conservation of places and objects of non-Aboriginal heritage significance and to establish the South Australian Heritage Council.	One registered heritage place is found in the same locality as the proposed ML.	Obligation to not damage a heritage place, or reduce or destroy the heritage significance of a heritage place.
<i>Local Government Act 1999</i>	To establish a system of local government that ensures services and facilities are provided to the community.	Alterations to Council roads and infrastructure are needed to accommodate the proposed ML (Pfeiffer Road entrance).	Approval would be needed for upgrades of Council roads
<i>Mine and Works Inspection Act 1920</i>	To provide for the regulation and regular inspection of mines and works.	Once operational, the mine would be subject to health and safety inspections.	Once the mine is operational, Terramin will need to facilitate inspections and comply with the directions of inspectors.

Legislation	Objective	Relevance	Requirements
			Terramin will also be required to appoint a registered mine manager.
<i>Native Title (South Australia) Act 1994</i>	To recognise and protect native title.		Not applicable. The proposed ML is comprised of freehold land and public road reserves and native title has therefore been extinguished.
<i>National Parks and Wildlife Act 1972</i>	To manage public reserves, conservation parks and sanctuaries and to conserve wildlife in a natural environment.	A number of conservation parks and reserves are located within the Adelaide Hills.	No requirements as the footprint of the proposed ML is not within the boundaries of a conservation park or reserve.
<i>Native Vegetation Act 1991</i>	To provide incentives and assistance to landowners and proponents in relation to the preservation and enhancement of native vegetation and to control the clearance of native vegetation.	Removal of native vegetation within the boundary of the proposed ML will not be required (see Chapter 19). In addition, a Vegetation Heritage Agreement exists within the proposed ML area.	No additional approval will be required to clear native vegetation within the boundary of the proposed ML. Significant environmental benefit measures will need to be approved.
<i>Public Health Act 2011</i>	To protect, improve and promote public health.	Operation of the mine will produce sewage which will be treated via a sewage treatment plant.	Approval will be required to construct the sewage treatment plant.
<i>Road Traffic Act 1961</i>	To consolidate and amend certain enactments relating to road traffic.	Construction of the proposed ML includes the transportation of over-dimensional loads.	An approval or exemption may be required to transport over-dimensional loads.

## 4.2 COMMONWEALTH LEGISLATIVE REQUIREMENTS

This section provides an overview of Commonwealth legislation and strategic directions of relevance to the proposed ML.

### 4.2.1 ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

The EPBC Act is the primary Commonwealth legislation relevant to the proposed ML. It was established to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places. Actions anticipated to have a significant impact on matters of national environmental significance are required to obtain approval prior to being undertaken. The nine matters of national environmental significance protected by the EPBC Act are:

- World heritage properties;
- National heritage places;
- Wetlands of international importance (listed under the Ramsar Convention);

- Listed threatened species and ecological communities;
- Migratory species (protected under international agreements);
- Commonwealth marine areas;
- Great Barrier Reef Marine Park;
- Nuclear actions (including uranium mines); and
- Water resources (in relation to coal seam gas and large coal mining development)

If an action has the potential to have a significant impact on a matter of national environmental significance, the proposed action is referred to the Department of the Environment and Energy (DoEE) by the proponent to determine the requirement for formal assessment and approval under the EPBC Act. If the action is determined to have a significant impact on a matter of national environmental significance, it is regarded as a controlled action. Controlled actions are assessed using one of the following approaches:

- Accredited assessment (bilateral agreements);
- Assessment on referral information (assessment is undertaken solely on the information provided in the referral);
- Assessment on preliminary documentation (assessment is undertaken on the information in the referral and other relevant material as identified by the Minister);
- Assessment by Environmental Impact Statement or Public Environment Report; and
- Assessment by public enquiry.

A referral of the proposed ML pursuant to Section 68 of the EPBC Act was made to the Commonwealth DoEE on 20<sup>th</sup> October 2017. The proposed ML was declared not to be a controlled action on the 7<sup>th</sup> February by the Commonwealth and there are no further requirements. The EPBC letter from the Commonwealth of Australia is included in Appendix R3.

#### 4.2.2 OTHER COMMONWEALTH LEGISLATION

The Commonwealth legislation which is relevant to the conduct of activities pursuant to the proposed ML is summarised in Table 2.

TABLE 2 | OTHER RELEVANT COMMONWEALTH LEGISLATION

Legislation	Objective	Relevance	Requirements
<i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i>	To preserve and protect areas and objects in Australia and in Australian waters of particular significance to Aboriginals in accordance with Aboriginal tradition.	The proposed mining lease does not contain identified items or places of Aboriginal significance.	General duty to comply with the requirements of the Act; however no approvals are required.
<i>Australian Jobs Act 2013</i>	Ensure Australian entities have full, fair and reasonable opportunity to bid for the supply of key goods and/or services.	Terramin must have a strategy to ensure local Australian suppliers, manufacturers and contractors are provided full, fair and reasonable opportunity to obtain contracts relating to the BIHGP.	Terramin will prepare an Australian Industry Participation Plan which will be approved by the Australian Industry Participation Authority.
<i>National Greenhouse and Energy Reporting Act 2007</i>	To introduce a single national reporting framework for reporting and dissemination of information related to	The greenhouse gas emissions resulting from the BIHGP are not expected to trigger a requirement for reporting greenhouse gas	Terramin will report in accordance with the Act if required.



	greenhouse gas emissions, greenhouse gas projects, energy consumption and energy production of corporations.	emissions, energy production and consumption.	
<i>Native Title Act 1993</i>	<ul style="list-style-type: none"> <li>• Among other things: To provide for the recognition and protection of native title.</li> <li>• To establish ways in which future dealings affecting native title may proceed and to set standards for those dealings.</li> </ul>	There is no native title claim made in relation to the proposed mining lease area so the Native Title Act is not relevant.	There is no requirement in relation to the Native Title Act as the proposed mining lease comprises freehold land and public road reserves, both of which have extinguished native title rights and interests.