

ecoaccess

environmental licences and permits

Item Id EJ 3171200
opp) 3171214
lot/ 0012208

DESPATCHED
14 SEP 2009
558886399010

Item Id 2104069
NOR/ 044913

Registration certificate

Environmental Protection Act 1994

Certificate of Registration

No: ENRE00974709

EPPR00471013

This registration certificate is issued by the administering authority and takes effect from: 14-SEP-2009

The anniversary day for the purposes of the Annual Return is: 14-SEP.

This registration certificate is a requirement of section 73D of the *Environmental Protection Act 1994* and authorises the registered operator to undertake the activity listed below at the following place; subject to the conditions set out in a development approval attached to the premises, or the relevant code of environmental compliance.

Registered Operator:-

Birla Mt Gordon Pty Ltd

'Septimus Roe Building'

Level 3, 256 Adelaide Terrace, PERTH WA 6000

Place:-

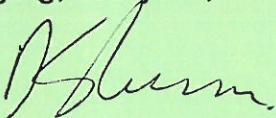
Lot 5 Plan CP865892

Located at:-

Mt Isa - Mt Oxide Road, MOUNT ISA QLD 4825

Registered Activity: -

ERA 16 Extractive and screening activities Threshold 2(c) - extracting, other than by dredging, in a year, more than 100 000t to 1 000 000t of material



Dean Sharpe

Delegate

Administering authority

Environmental Protection Act 1994

14-SEP-2009

Carleton Hill



ecoaccess

environmental licences and permits

DESPATCHED

10 SEP 2009

55888 639 0017

55888 639 1014

Item Id 2104080

emailed

NOR/ 044913

Mt. Isa City Council.

Notice

Birla.

Decision – Development Approval

This notice is issued by the Department of Environment and Resource Management pursuant to Section 3.5.15 of the Integrated Planning Act 1997 to advise of a decision or action.

Birla Mt Gordon Pty Ltd
PO Box 2543
MOUNT ISA QLD 4825

CC: Mt Isa City Council
PO Box 815
Mt Isa QLD 4825

Item Id (e) 3171236

(pp) 3171241

101/ 0012268

Our reference: 311585

Dear Sir/Madam

Re: Application for Development Approval

The Department of Environment and Resource Management, acting as assessment manager, wishes to advise that your application for development approval, received on 02-SEP-2009, has been assessed, and on 08-SEP-2009 it was approved with conditions.

1. Property/Location:

Street address - Mt Isa - Mt Oxide Road MOUNT ISA QLD 4825

Lot/Plan - Lot 5 Plan CP865892

Coordinates - Latitude 54333273 Longitude 7811711

2. Details of the decision

Aspect of Development

- Development Approval for a MCU involving an ERA

- ERA 16 Extractive and screening activities Threshold 2(c) - extracting, other than by dredging, in a year, more than 100000t to 1000000t of material

Decision

- Approved with conditions

EPA Ref Number

- IPDE01604709



3. Effectiveness and currency periods

This development approval takes effect -

- From the time the decision notice is given, if there is no submitter and the applicant does not appeal the decision to the court; or
- When the submitter's appeal period ends, if there is a submitter and the applicant does not appeal the decision to the court; or
- Subject to the decision of the court, when the appeal is finally decided, if an appeal is made to the court.

refer to sections 3.5.19 and 3.5.20 of the Integrated Planning Act 1997 for further details.

This approval will lapse unless substantially started within the standard currency periods stated in section 3.5.21 of the Integrated Planning Act 1997 applying to each aspect of development in this approval.

4. The approved plans

Plan/Document No.	Plan/Document Name	Date
32-13969-C002 Rev 1	Birla Mt Gordon Upper Esperanza Diversion General Arrangement	02-12-08

5. Other necessary development permits

This approval pursuant to the Integrated Planning Act 1997 does not remove the need to obtain any further approval for this development, required by this or other State and/or Commonwealth legislation. Applicants are advised to check with all relevant statutory authorities for such approvals as may be required. Applicants should also comply with all relevant legislation.

6. Codes for self-assessable development

Any self-assessable development for an environmentally relevant activity conducted in conjunction with this approval, must comply with the relevant code of environmental compliance.

7. IDAS referral agencies

The IDAS referral agencies and their response to each approval type required for this application are:

Concurrence Agencies: Nil

Advice Agencies: Nil

Notice of Decision – Development Approval

8. Submissions

This application did not trigger Public Notification.

9. Appeal rights

An attached extract from the Integrated Planning Act 1997 details your appeal rights regarding this decision. You should seek independent advice to confirm all your available avenues.

If you require more information, please contact Teale McFarlane, the Project Manager, on the telephone number listed below.

Yours sincerely



Robin Little
Delegate

Environmental Protection Agency
08-SEP-2009

Enquiries:

ES - Reg Serv - Cairns - William McCormack
PO Box 2066
CAIRNS QLD 4870
Phone: (07) 4046 6773
Fax: (07) 4046 6606

Attachment – Appeal Rights (extract from the *Integrated Planning Act 1997*)

APPEAL RIGHTS - Extract from the *Integrated Planning Act 1997***Division 8—Appeals to court relating to development applications****4.1.27 Appeals by applicants**

- (1) An applicant for a development application may appeal to the court against any of the following -
 - (a) the refusal, or the refusal in part, of a development application;
 - (b) a matter stated in a development approval, including any condition applying to the development, and the identification of a code under section 3.1.6;
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a currency period;
 - (e) a deemed refusal.
- (2) An appeal under subsection (1)(a) to (d) must be started within 20 business days (the “**applicant’s appeal period**”) after the day the decision notice or negotiated decision notice is given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

4.1.28 Appeals by submitters

- (1) A submitter for a development application may appeal to the court only against -
 - (a) the part of the approval relating to the assessment manager’s decision under section 3.5.14 or 3.5.14A; or
 - (b) for an application processed under section 6.1.28(2) – the part of the approval about the aspects of the development that would have required public notification under the repealed Act.
- (2) To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following-
 - (a) the giving of a development approval;
 - (b) any provision of the approval including-
 - (i) a condition of, or lack of condition for, the approval; or
 - (ii) the length of a currency period for the approval.
- (3) However, a submitter may not appeal if the submitter-
 - (a) withdraws the submission before the application is decided; or
 - (b) has given the assessment manager a notice under section 3.5.19(1)(b)(ii).
- (4) The appeal must be started within 20 business days (the “**submitter’s appeal period**”) after the decision notice or negotiated decision notice is given to the submitter.

4.1.29 Appeals by advice agency submitters

- (1) Subsection (1A) applies if an advice agency, in its response for an application, told the assessment manager to treat the response as a properly made submission.
- (1A) The advice agency may, within the limits of its jurisdiction, appeal to the court about any part of the approval relating to the assessment manager’s decision under section 3.5.14 or 3.5.14A.
- (3) The appeal must be started within 20 business days after the day the decision notice or negotiated notice is given to the advice agency as a submitter.
- (4) However, if the advice agency has given the assessment manager a notice under section 3.5.19(1)(b)(ii), the advice agency may not appeal the decision.

4.1.30 Appeals for matters arising after approval given (co-respondents)

- (1) For a development approval given for a development application, a person to whom any of the following notices have been given may appeal to the court against the decision in the notice -
 - (a) a notice giving a decision on a request for an extension of the currency period for an approval;
 - (b) a notice giving a decision on a request to make a minor change to an approval.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.
- (3) Subsection (1)(a) does not apply if the approval resulted from a development application (superseded planning scheme) that was assessed as if it were an application made under a superseded planning scheme.

Notice of Decision – Development Approval

Division 9 - Appeals to court about other matters

4.1.31 Appeals for matters arising after approval given (no co-respondents)

- (1) A person to whom any of the following notices have been given may appeal to the court against the decision in the notice -
 - (a) a notice giving a decision on a request to change or cancel a condition of a development approval;
 - (b) a notice under section 3.5.33A(9)(b) or 6.1.44 giving a decision to change or cancel a condition of a development approval.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

4.1.32 Appeals against enforcement notices

- (1) A person who is given an enforcement notice may appeal to the court against the giving of the notice.
- (2) The appeal must be started within 20 business days after the day notice is given to the person.

4.1.33 Stay of operation of enforcement notice

- (1) The lodging of a notice of appeal about an enforcement notice stays the operation of the enforcement notice until -
 - (a) the court, on the application of the entity issuing the notice, decides otherwise; or
 - (b) the appeal is withdrawn; or
 - (c) the appeal is dismissed.
- (2) However, subsection (1) does not apply if the enforcement notice is about -
 - (a) a work, if the enforcement notice states the entity believes the work is a danger to persons or a risk to public health; or
 - (b) carrying out development that is the demolition of a work.

4.1.34 Appeals against decisions on compensation claims

- (1) A person who is dissatisfied with a decision under section 5.4.8 or 5.5.3 for the payment of compensation may appeal to the court against -
 - (a) the decision; or
 - (b) a deemed refusal of the claim.
- (2) An appeal under subsection (1)(a) must be started with 20 business days after the day notice of the decision is given to the person.
- (3) An appeal under subsection (1)(b) may be started at any time after the last day a decision on the matter should have been made.

4.1.35 Appeals against decisions on requests to acquire designated land under hardship

- (1) A person who is dissatisfied with a designator's decision to refuse a request made by the person under section 2.6.19, may appeal to the court against -
 - (a) the decision; or
 - (b) a deemed refusal of the request.
- (2) An appeal under subsection (1)(a) must be started within 20 business days after the day notice of the decision is given to the person.
- (3) An appeal under subsection (1)(b) may be started at any time after the last day a decision on the matter should have been made.

4.1.37 Appeals from tribunals

- (1) A party to a proceeding decided by a tribunal may appeal to the court against the tribunal's decision, but only on the ground -
 - (a) of error or mistake in law on the part of the tribunal; or
 - (b) that the tribunal had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.
- (2) An appeal against a tribunal's decision must be started within 20 business days after the day notice of the tribunal's decision is given to the party.

4.1.38 Court may remit matter to tribunal

If an appeal includes a matter within the jurisdiction of a tribunal and the court is satisfied the matter should be dealt with by a tribunal, the court must remit the matter to the tribunal for decision.

Notice of Decision – Development Approval

Division 10 - Making an appeal to court**4.1.39 How appeals to the court are started**

- (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
- (2) The notice of appeal must state the grounds of the appeal.
- (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
- (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

4.1.41 Notice of appeal to other parties (div 8)

- (1) An appellant under division 8 must give written notice of the appeal to-
 - (a) if the appellant is an applicant-
 - (i) the chief executive; and
 - (ii) the assessment manager; and
 - (iii) any concurrence agency; and
 - (iv) any principal submitter whose submission has not been withdrawn; and
 - (v) any advice agency treated as a submitter whose submission has not been withdrawn; or
 - (b) if the appellant is a submitter or an advice agency whose response to the development application is treated as a submission for an appeal-
 - (i) the chief executive; and
 - (ii) the assessment manager; and
 - (iii) any referral agency; and
 - (iv) the applicant; or
 - (c) if the appellant is a person to whom a notice mentioned in section 4.1.30 has been given-
 - (i) the chief executive; and
 - (ii) the deciding entity; and
 - (iii) any entity that was a concurrence agency or building referral agency for the development application to which the notice relates.
- (2) The notice must be given within-
 - (a) if paragraph (b) does not apply-10 business days after the appeal is started; or
 - (b) if the appellant is a submitter or advice agency whose response to the development application is treated as a submission for an appeal-2 business days after the appeal is started.
- (3) The notice must state-
 - (a) the grounds of the appeal; and
 - (b) if the person given the notice is not the respondent or a co-respondent under section 4.1.43 -
 - (c) that the person may, within 10 business days after the day the notice is given, elect to become a co-respondent to the appeal by filing in the court a notice of election in the approved form.

4.1.42 Notice of appeal to other parties (div 9)

- (1) An appellant under division 9 must, within 10 business days after the day the appeal is started give written notice of the appeal to -
 - (a) if the appellant is a person to whom a notice mentioned in section 4.1.31⁷³ has been given - the entity that gave the notice; or
 - (b) if the appellant is a person to whom an enforcement notice is given - the entity that gave the notice and if the entity is not the local government, the local government; or
 - (c) if the appellant is a person dissatisfied with a decision about compensation - the local government that decided the claim; or
 - (d) if the appellant is a person dissatisfied with a decision about acquiring designated land - the designator; or
 - (e) if the appellant is a person who is disqualified as a private certifier - the entity disqualifying the person and if the entity disqualifying the person is not the accrediting body, the accrediting body; or
 - (f) if the appellant is a party to a proceeding decided by a tribunal - the other party to the proceeding.
- (2) The notice must state the grounds of the appeal.

Notice of Decision – Development Approval

4.1.43 Respondent and co-respondents for appeals under div 8

- (1) Subsections (2) to (8) apply for appeals under section 4.1.27 to 4.1.29.
- (2) The assessment manager is the respondent for the appeal.
- (3) If the appeal is started by a submitter, the applicant is a co-respondent for the appeal.
- (4) Any submitter may elect to become a co-respondent to the appeal.
- (5) If the appeal is about a concurrence agency response, the concurrence agency is a co-respondent for the appeal.
- (6) If the appeal is only about a concurrence agency response, the assessment manager may apply to the court to withdraw from the appeal.
- (7) The respondent and any co-respondents for an appeal are entitled to be heard in the appeal as a party to the appeal.
- (8) A person to whom a notice of appeal is required to be given under section 4.1.41 and who is not the respondent or a co-respondent for the appeal may elect to be a co-respondent.
- (9) For an appeal under section 4.1.30-
 - (a) the assessment manager is the respondent; and
 - (b) any entity that was a concurrence agency or a building referral agency for the development application to which a notice under section 3.6.3 relates may elect to become a co-respondent.

4.1.44 Respondent and co-respondents for appeals under div 9

- (1) This section applies if an entity is required under section 4.1.42 to be given a notice of an appeal.
- (2) The entity given written notice is the respondent for the appeal.
- (3) However, if under a provision of the section more than 1 entity is required to be given notice, only the first entity mentioned in the provision is the respondent.
- (4) The second entity mentioned in the provision may elect to be a co-respondent.

4.1.45 How an entity may elect to be a co-respondent

An entity that is entitled to elect to be a co-respondent to the appeal may do so, within 10 business days after notice of the appeal is given to the entity, by following the rules of court for the election.

4.1.46 Minister entitled to be represented in an appeal involving a State interest

If the Minister is satisfied that an appeal involves a State interest, the Minister is entitled to be represented in the appeal.

4.1.47 Lodging appeal stops certain actions

- (1) If an appeal (other than an appeal under section 4.1.30) is started under division 8, the development must not be started until the appeal is decided or withdrawn.
- (2) Despite subsection (1), if the court is satisfied the outcome of the appeal would not be affected if the development or part of the development is started before the appeal is decided, the court may allow the development or part of the development to start before the appeal is decided.
- (1)

Section 3.5.15 Integrated Planning Act 1997

DERM Permit¹ number: IPDE01604709

DERM Permit ¹ number:	IPDE01604709
Assessment Manager reference:	as above
Date application received by DERM:	02-SEP-2009
Permit ¹ Type:	Development Approval for a MCU involving an ERA
Date of Decision:	08-AUG-2009
Decision:	Approved with Conditions
Relevant Laws and Policies:	<i>Environmental Protection Act 1994</i> and any subordinate legislation

Development Description

Property	Lot/Plan	Aspect of Development
Mt Isa - Mt Oxide Road, MOUNT ISA QLD 4825	Lot 5 Plan CP865892	ERA 16 Extractive and screening activities Threshold 2(c) - extracting, other than by dredging, in a year, more than 100 000t to 1 000 000t of material

Additional comments or advice about the application

This Development Approval does not constitute approval under other relevant legislation for activities or works connected to, or required as part of the development activity. This includes, but is not limited to the *Vegetation Management Act 1999*.

Additional information for applicants

The standard currency periods stated in section 3.5.21 of the Integrated Planning Act 1997 or the nominated currency period, apply to each aspect of development in this permit¹. For information on when this permit¹ takes effect and the relevant currency periods, please see point 3 in the Notice of Decision.

Contaminated Land

It is a requirement of the *Environmental Protection Act 1994* that if an owner or occupier of land becomes aware

¹ Permit includes licences, approvals, permits, authorisations, certificates, sanctions or equivalent/similar as required by legislation administered by the Department of Environment and Resource Management

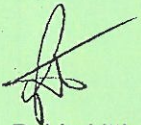
a Notifiable Activity (as defined by Schedule 3 of the *Environmental Protection Act 1994*) is being carried out on the land or that the land has been affected by a hazardous contaminant, they must, within 22 days after becoming so aware, give notice to the Department of Environment and Resource Management.

Environmentally Relevant Activities

The aforementioned description of any environmentally relevant activity (ERA) for which this permit is issued is simply a restatement of the ERA as prescribed in the legislation at the time of issuing this permit. Where there is any conflict between the abovementioned description of the ERA for which this permit is issued and the conditions specified herein as to the scale, intensity or manner of carrying out of the ERA, then such conditions prevail to the extent of the inconsistency.

This permit authorises the ERA. It does not authorise environmental harm unless a condition within this permit explicitly authorises that harm. Where there is no such condition, or the permit is silent on a matter, the lack of a condition or silence shall not be construed as authorising harm.

In addition to this permit, the person to carry out the ERA must be a registered operator under the Environmental Protection Act 1994. For the person to become a registered operator, they must apply for a registration certificate under section 73F of the Environmental Protection Act 1994.



Robin Little
Delegate
Department of Environment and Resource Management
08-SEP-2009

CONDITIONS OF APPROVAL

Conditions for: ERA 16 Extractive and screening activities Threshold 2(c) - extracting, other than by dredging, in a year, more than 100000t to 1000000t of material

Agency Interest: General

- A1G1 Prevent and/or minimise likelihood of environmental harm.
- In carrying out an ERA to which this approval relates, all reasonable and practicable measures must be taken to prevent and / or to minimise the likelihood of environmental harm being caused.
- A1G2 Maintenance Of Measures, Plant and Equipment.
- The operator of an ERA to which this approval relates must:
- (a) install all measures, plant and equipment necessary to ensure compliance with the conditions of this approval; and
 - (b) maintain such measures, plant and equipment in a proper and efficient condition; and
 - (c) operate such measures, plant and equipment in a proper and efficient manner.
- A1G3 Records.
- Record, compile and keep all monitoring results required by this approval and present this information to the administering authority when requested.
- A1G4 All records required by this approval must be kept for 5 years.
- A1G5 Third Party Environmental Auditing.
- Compliance with the conditions of this approval must be audited following completion of the activity.
- A1G6 The audit detailed in condition A1G5 must be conducted by a suitably qualified third party auditor, nominated by the approval holder and accepted by the administering authority.
- A1G7 In relation to the audit required by condition A1G5, the auditor must submit a final version of the auditor's report to the administering authority within 28 days of completing the audit.
- A1G8 The total financial cost of the audit(s) will be the responsibility of the holder of this approval.
- A1G9 Notification.
- Telephone the DERM Pollution Hotline or local office as soon as practicable after becoming aware of any release of contaminants not in accordance with the conditions of this approval.
- A1G10 A written notice detailing the following information must be provided to the administering authority within 14 days of any advice provided in accordance with condition A1G9:

- a) the name of the operator, including their approval/registration number;
- b) the name and telephone number of a designated contact person;
- c) quantity and substance released;
- d) vehicle and registration details;
- e) person/s involved (driver and any others);
- f) the location and time of the release;
- g) the suspected cause of the release;
- h) a description of the effects of the release;
- i) the results of any sampling performed in relation to the release;
- j) actions taken to mitigate any environmental harm caused by the release; and
- k) proposed actions to prevent a recurrence of the release.

A1G11 The extraction area covered by this approval is limited to the diversion channel location as depicted in Figure 1.

A1G12 A competent person(s) must conduct any monitoring required by this approval.

A1G13 All instruments, equipment and measuring devices used for measuring or monitoring in accordance with any condition of this approval must be calibrated, and appropriately operated and maintained.

Agency Interest: Air

A1A1 Dust Nuisance.

The release of dust and/or particulate matter resulting from the ERA must not cause an environmental nuisance at any nuisance sensitive or commercial place.

A1A2 Dust and particulate matter must not exceed a dust deposition of 120 milligrams per square metre per day, when monitored in accordance with Australian Standard AS 3580.10.1 of 2003 (or more recent editions), when measured at any nuisance sensitive or commercial place.

A1A3 When requested by the administering authority, dust and particulate monitoring must be undertaken to investigate any complaint of environmental nuisance caused by dust and/or particulate matter, and the results notified within 14 days to the administering authority following completion of monitoring. Monitoring must be carried out at a place(s) relevant to the potentially affected dust sensitive place and at upwind control sites and must include:

- a) for a complaint alleging dust nuisance, dust deposition; and
- b) for a complaint alleging adverse health effects caused by dust, the concentration per cubic metre of particulate matter with an aerodynamic diameter of less than 10 micrometre (μm) (PM10) suspended in the atmosphere over a 24hr averaging time.

A1A4 Nuisance.

The release of noxious or offensive odours or any other noxious or offensive airborne contaminants resulting from the activity must not cause a nuisance at any nuisance sensitive or commercial place.

Agency Interest: Land

A1L1 Land Rehabilitation.

The site, other than the diversion channel proper, (including all disturbed areas such as slopes, borrow pits, stockpile and screening areas) must be rehabilitated in a manner such that:

- (a) suitable native species of vegetation are planted and established;
- (b) potential for erosion of the site is minimised;
- (c) the quality of stormwater, other water and seepage released from the site is such that releases of contaminants such as suspended solids, turbidity, total dissolved salts, pH, total iron, total aluminium, and total manganese are not likely to cause environmental harm;
- (d) the likelihood of environmental nuisance being caused by release of dust is minimised;
- (e) the water quality of any residual water body meets relevant criteria for subsequent uses and does not have potential to cause environmental harm; and
- (f) the final landform is stable and not subject to slumping.

A1L2 Rehabilitation of disturbed areas other than the diversion channel proper must take place progressively as works are staged and new areas of extraction are commenced.

A1L3 The maintenance of any plant and equipment must be carried out in such a manner so as to ensure contaminants cannot enter stormwater or enter the soil.

Agency Interest: Noise

A1N1 Noise Nuisance.

Noise from the ERA must not cause an environmental nuisance at any nuisance sensitive place or commercial place

A1N2 Noise Monitoring.

When requested by the administering authority, noise monitoring must be undertaken to investigate any complaint of noise nuisance, and the results notified within 14 days to the administering authority. Monitoring must include:

- air blast overpressure (dB (Lin) Peak);
- LA 10, adj, 10 mins;
- LA 1, adj, 10 mins;
- the level and frequency of occurrence of impulsive or tonal noise;
- atmospheric conditions including wind speed and direction;
- effects due to extraneous factors such as traffic noise; and
- location, date and time of recording.

A1N3 The method of measurement and reporting of noise levels must comply with the latest edition of the Environmental Protection Agency's Noise Measurement Manual.

A1N4 All blasting activities must be carried out in a proper manner by a competent person in accordance with best practice environmental management to minimise the likelihood of adverse effects being caused by the impact of air blast overpressure and ground-borne vibration in noise-sensitive places and people living in or using the surrounding area.

A1N5 Vibration Nuisance.

Vibration emitted from the ERA must not cause an environmental nuisance at any nuisance sensitive place or commercial place.

A1N6 Noise Criteria.

Blasting activities must be carried out in such a manner that if blasting noise should propagate to a noise-sensitive place, then:

- a) the air blast overpressure must be not more than 115dB(linear) peak for nine out of any 10 consecutive blasts initiated, regardless of the interval between blasts; and
- b) the air blast overpressure must not exceed 120dB(linear) peak for any blast.

A1N7 Vibration Criteria.

Blasting operations must be carried out in such a manner that if ground vibration should propagate to a noise-sensitive place:

- a) the ground-borne vibration must not exceed a peak particle velocity of 5mm per second for nine out of any 10 consecutive blasts initiated, regardless of the interval between blasts; and
- b) the ground-borne vibration must not exceed a peak particle velocity of 10mm per second for any blast.

A1N8 Vibration Monitoring.

When requested by the administering authority, vibration monitoring and recording must be undertaken to investigate any complaint of vibration nuisance, and the results notified within 14 days to the administering authority. Monitoring must include:

- a) peak particle velocity (mm/s);
- b) location of the blast/s within the site (including which bench level);
- c) atmospheric conditions including temperature, relative humidity and wind speed and direction;
- d) the level and frequency of occurrence of impulsive or tonal noise;
- e) atmospheric conditions including wind speed and direction;
- f) effects due to extraneous factors; and
- g) location, date and time of recording.

Agency Interest: Social

A1S1 Complaint Response.

The operator of the ERA must record the following details for all complaints received and provide this information to the administering authority on request:

- a) Time, date, name and contact details of the complainant;
- b) reasons for the complaint;
- c) any investigations undertaken;
- d) conclusions formed; and
- e) any actions taken.

Agency Interest: Waste

A1W1 All waste is to be removed from site.

Agency Interest: Water

A1WA1 Erosion Protection Measures And Sediment Controls.

Erosion protection measures and sediment control measures must be implemented and maintained to minimise erosion and the release of sediment.

A1WA2 Works and downstream creek areas must be consolidated and armoured and all reasonable and practicable measures must be implemented and maintained to minimise long-term erosion and release of sediment.

A1WA3 Monitoring of the downstream environment must be conducted at least following every wet season to ensure bank stability of Gunpowder creek has not been compromised as a result of the dam diversion.

Agency Interest: Dams

All Dams

A1D1 The hazard category of the Esperanza Diversion Dam must be determined by a suitably qualified and experienced person, prior to its construction and at least once every two years thereafter.

A1D2 Construction of any dam determined to be in the significant or high hazard category (ie. a regulated dam) must not be commenced unless the location, basic details, and hydraulic performance of that dam are specifically referenced in this development approval.

A1D3 On cessation of operation of any dam, that dam must be maintained so as to avoid environmental harm until that dam is decommissioned.

A1D4 Prior to the cessation of the environmentally relevant activity, the dam must be decommissioned such that it either:

- a) becomes a stable landform, that no longer contains flowable substances, or
- b) is approved or authorised under relevant legislation for a beneficial use, or
- c) is a void authorised by the administering authority to remain after decommissioning;

and, is compliant with the rehabilitation requirements of this development approval.

Regulated Dams – Location

A1D5 The wall and channel must be located as depicted within Figure 1.

A1D6 The following regulated dams must be consistent with the basic details in Table 1.

Table 1 Basic Details of Regulated Dams

Name of Regulated dam	Hazard Category	Maximum surface area of dam (ha)	Maximum volume of dam (m ³)	Maximum depth of dam (m)	Use of dam
Esperanza Diversion Dam	Significant	5	200ML	21.75m	Stormwater diversion

A1D7 The following regulated dams must meet the hydraulic performance criteria specified in Schedule H - Table 2.

Table 2 Hydraulic Performance of Regulated Dams

Name of Regulated dam	Spillway Capacity or Diversion Capacity (Levees) AEP	Design Storage Allowance (Dams other than levees) AEP	Mandatory Reporting Level (Dams other than levees) AEP
Esperanza Diversion Dam	1:1000	Not Applicable	Not Applicable

Regulated Dams – Certification and Operation

- A1D8 Every regulated dam must be constructed in accordance with a certified design plan that has been submitted to the administering authority, and such that the resulting dam will deliver the performance stated in that submitted design plan and that dam is compliant in all respects with this development approval.
- A1D9 Construction of a regulated dam must not be commenced unless:
- the licensee has submitted to the administering authority two copies of a final design plan, together with the certification of a suitably qualified and experienced person that the design of the regulated dam will deliver the performance stated in that submitted design plan and that dam is compliant in all respects with this development approval, and
 - at least 20 business days has passed since the receipt of those documents, or the administering authority notifies the licensee that a design plan and certification has been submitted for that dam.
- A1D10 When construction of any regulated dam is complete and prior to commencing operation of that dam, the licensee must submit to the administering authority two copies of a set of 'as constructed' drawings, together with the certification of a suitably qualified and experienced person that the dam 'as constructed' will deliver the performance stated in that submitted design plan and that dam is compliant in all respects with this development approval.
- A1D11 An operational plan must be kept current for each regulated dam.
- A1D12 Where an operational plan covers decommissioning and rehabilitation, those operations are to be consistent with the design plan for the dam and the rehabilitation requirements of this development approval.

Regulated Dams – Annual Inspection and Report

- A1D13 Each regulated dam must be inspected annually by a suitably qualified and experienced person.

- A1D14 At each annual inspection, the condition and adequacy of each regulated dam must be assessed for dam safety and against the necessary structural, geotechnical and hydraulic performance criteria.
- A1D15 A final assessment of adequacy of available storage in each regulated dam must be based on a dam level observed within the month of October and result in an estimate of the level in that dam as at 1 November.
- A1D16 For each annual inspection, two copies of a report on the condition and adequacy of each regulated dam, certified by the suitably qualified and experienced person and including any recommended actions to be taken to ensure the integrity of each regulated dam; must be provided to the administering authority by 1 December.
- A1D17 The licensee must, within one week of receipt of the annual inspection report, consider the report and its recommendations; and as soon as possible, but within one month of receipt of the annual inspection report, formulate and implement actions to ensure that each regulated dam safely performs its intended functions.

Figure 1



DEFINITIONS

Words and phrases used throughout this permit¹ are defined below. Where a definition for a term used in this permit¹ is sought and the term is not defined within this permit¹ the definitions provided in the relevant legislation shall be used.

"acceptance criteria" means the measures by which actions implemented are deemed to be complete. The acceptance criteria indicate the success of the decommissioning and rehabilitation outcomes or remediation of areas which have been significantly disturbed by the environmentally relevant activities. Acceptance criteria may include information regarding:

- stability of final land forms in terms of settlement, erosion, weathering, pondage and drainage;
- control of geochemical and contaminant transport processes;
- quality of runoff waters and potential impact on receiving environment;
- vegetation establishment, survival and succession;
- vegetation productivity, sustained growth and structure development;
- fauna colonisation and habitat development;
- ecosystem processes such as soil development and nutrient cycling, and the recolonisation of specific fauna groups such as collembola, mites and termites which are involved in these processes;
- microbiological studies including recolonisation by mycorrhizal fungi, microbial biomass and respiration;
- effects of various establishment treatments such as deep ripping, topsoil handling, seeding and fertiliser application on vegetation growth and development;
- resilience of vegetation to disease, insect attack, drought and fire;
- vegetation water use and effects on ground water levels and catchment yields.

"AEP" means the Annual Exceedance Probability, which is the probability that at least one event in excess of a particular magnitude will occur in any given year. In the current context, this refers to rainfall events. An AEP together with a contributing catchment (area) and duration will determine a rainfall depth.

"administering authority" means the Department of Environment and Resource Management or its successor.

"annual return" means the return required by the annual notice (under section 316 of the *Environment Protection Act 1994*) for the section 73F registration certificate that applies to the development approval.

"approval" means 'notice of development application decision' or 'notice of concurrence agency response' under the *Integrated Planning Act 1997*.

"approved plans" means the plans and documents listed in the approved plans section in the notice attached to this development approval.

"artificial waterway" means an artificial channel, lake or other body of water. Artificial waterway includes –

- an artificial channel that is formed because the land has been reclaimed from tidal water and is intended to allow boating access to allotments on subdivided land;
- other artificial channels subject to the ebb and flow of the tide; and
- any additions or alterations to an artificial waterway.

"assessed" or **"assess"** by a suitably qualified and experienced person means that a statutory declaration has been made by that person and, when taken together with any attached or appended documents referenced in that declaration, all of the following aspects are addressed and are sufficient to allow an independent audit at any time:

- exactly what has been assessed and the precise nature of that assessment;
- the relevant legislative, regulatory and technical criteria on which the assessment has been based;
- the relevant data and facts on which the assessment has been based, the source of that material, and the efforts made to obtain all relevant data and facts; and
- the reasoning on which the assessment has been based using the relevant data and facts, and the relevant criteria.

"authorised place" means the place authorised under this development approval for the carrying out of the specified environmentally relevant activities.

"certification" or **"certified"** by a suitably qualified and experienced person means that a statutory declaration has been made by that person and, when taken together with any attached or appended documents referenced in that declaration, all of the following aspects are addressed and are sufficient to allow an independent audit at any time:

- exactly what is being certified and the precise nature of that certification.
- the relevant legislative, regulatory and technical criteria on which the certification has been based;
- the relevant data and facts on which the certification has been based, the source of that material, and the efforts made to obtain all relevant data and facts; and
- the reasoning on which the certification has been based using the relevant data and facts, and the relevant criteria.

"commercial place" means a place used as an office or for business or commercial purposes.

"construction" includes building a new dam and modifying or lifting an existing dam.

"dam" means a land-based structure or a void that is designed to contain, divert or control flowable substances - including any substances that are thereby contained, diverted or controlled by that land-based structure or void; but does *not* mean a fabricated or manufactured tank or container designed to a recognised standard. In case there is any doubt, a levee dyke or bund is a dam.

"design plan" is the documentation required to describe the physical dimensions of the dam, the materials and standards to be used for construction of the dam, and the criteria to be used for operating the dam. The documents must include design and investigation reports, specifications and certifications, together with the planned decommissioning and rehabilitation works and outcomes. A design plan may include 'as constructed' drawings.

"design storage allowance" or **"DSA"** means the minimum storage required in a dam at the first of November each year in order to meet the hydraulic performance requirements.

"dredge spoil" means material taken from the bed or banks of waters by using dredging equipment or other equipment designed for use in extraction of earthen material.

"dwelling" means any of the following structures or vehicles that is principally used as a residence –

- a house, unit, motel, nursing home or other building or part of a building;
- a caravan, mobile home or other vehicle or structure on land;
- a water craft in a marina.

"Department of Environment and Resource Management" means the department or agency (whatever called) administering the *Coastal Protection and Management Act 1995* or the *Environmental Protection Act 1994*.

"flowable substance" means matter or a mixture of materials which can flow under any conditions possible in a given situation. A flowable substance can include water, other liquids fluids or solids, or a mixture that includes water and any other liquids fluids or solids either in solution or suspension.

"foreseeable future" is the period used for assessing the total risk of an event occurring. Permanent structures and ecological sustainability should be expected to still exist at the end of a 150 year foreseeable future with an acceptable risk of failure before that time.

"hazard" in relation to a dam as defined in this authority, means the potential for environmental harm resulting from the collapse or failure of the dam to perform its primary purpose of containing, diverting or controlling flowable substances.

"hazard category" means a category, either low significant or high, into which a dam is assessed as a result of the application of tables and other criteria in the Site Water Management Technical Guideline for Environmental Management of Exploration and Mining in Queensland (DME 1995).

"hydraulic performance" means the capacity of a regulated dam to contain or safely pass flowable substances based on a probability (AEP) of performance failure specified for the relevant hazard category in the Site Water Management Technical Guideline for Environmental Management of Exploration and Mining in Queensland (DME 1995).

"infrastructure" means water storage dams, roads and tracks, buildings and other structures built for the purpose of mining activities but does not include other facilities required for the long term management of mining impacts or the protection of potential resources. Such other facilities include dams other than water storage dams, waste rock dumps, voids, or ore stockpiles and assets whose ownership can be transferred and which have a residual beneficial use for the next owner of the rights, or the land owner.

"intrusive noise" means noise that, because of its frequency, duration, level, tonal characteristics, impulsiveness or vibration –

- is clearly audible to, or can be felt by, an individual; and
- annoys the individual.

In determining whether a noise annoys an individual and is unreasonably intrusive, regard must be given to Australian Standard 1055.2 – 1997 Acoustics – Description and Measurement of Environmental Noise Part 2 – Application to Specific Situations.

" $L_{A\ 10, \text{adj}, 10 \text{ mins}}$ " means the A-weighted sound pressure level, (adjusted for tonal character and impulsiveness of the sound) exceeded for 10% of any 10 minute measurement period, using Fast response.

" $L_{A\ 1, \text{adj}, 10 \text{ mins}}$ " means the A-weighted sound pressure level, (adjusted for tonal character and impulsiveness of the sound) exceeded for 1% of any 10 minute measurement period, using Fast response.

" $L_{A, \text{max adj}, T}$ " means the average maximum A-weighted sound pressure level, adjusted for noise character and measured over any 10 minute period, using Fast response.

"land" in the "land schedule" of this document means land excluding waters and the atmosphere.

"licensee" means:

- (a) where this document is an environmental authority, any person who is the holder of, or is acting under, that environmental authority; or
- (b) where this document is a development approval, any person who is acting under that development approval.

"mandatory reporting level" or **"MRL"** means a warning and reporting level determined in accordance with the Site Water Management Technical Guideline for Environmental Management of Exploration and Mining in Queensland (DME 1995).

"noxious" means harmful or injurious to health or physical well being.

"nuisance sensitive place" includes –

- a dwelling, residential allotment, mobile home or caravan park, residential marina or other residential premises; or
- a motel, hotel or hostel; or
- a kindergarten, school, university or other educational institution; or
- a medical centre or hospital; or

- a protected area under the *Nature Conservation Act 1992*, the *Marine Parks Act 1992* or a World Heritage Area; or
- a public thoroughfare, park or gardens; or
- a place used as a workplace, an office or for business or commercial purposes and includes a place within the curtilage of such a place reasonably used by persons at that place.

"offensive" means causing offence or displeasure; is disagreeable to the sense; disgusting, nauseous or repulsive.

"operational plan" means a document that amongst other things sets out procedures and criteria to be used for operating a dam during a particular time period. The operational plan as defined herein may form part of a plan of operations or plan otherwise required in legislation.

"protected area" means –

- a protected area under the *Nature Conservation Act 1992*; or
- a marine park under the *Marine Parks Act 1992*; or
- a World Heritage Area.

"quarry material" means material on State coastal land, other than a mineral within the meaning of any Act relating to mining. Material includes for example stone, gravel, sand, rock, clay, mud, silt and soil, unless it is removed from a culvert, stormwater drain or other drainage infrastructure as waste material.

"regulated dam" means any dam in the significant or high hazard category as assessed using the Site Water Management Technical Guideline for Environmental Management of Exploration and Mining in Queensland (DME 1995).

"regulated waste" means non-domestic waste mentioned in Schedule 7 of the *Environmental Protection Regulation 1998* (whether or not it has been treated or immobilised), and includes –

- for an element – any chemical compound containing the element; and
- anything that has contained the waste.

"site" means land or tidal waters on or in which it is proposed to carry out the development approved under this development approval.

"spillway" means a weir, channel, conduit, tunnel, gate or other structure designed to permit discharges from the dam, normally under flood conditions or in anticipation of flood conditions.

"stable" in relation to land, means land form dimensions are or will be stable within tolerable limits now and in the foreseeable future. Stability includes consideration of geotechnical stability, settlement and consolidation allowances, bearing capacity (trafficability), erosion resistance and geochemical stability with respect to seepage, leachate and related contaminant generation.

"suitably qualified and experienced person" means one who is a Registered Professional Engineer of Queensland (RPEQ) under the provisions of the Professional Engineers Act 1988, OR registered as a National Professional Engineer (NPER) with the Institution of Engineers Australia, OR holds equivalent professional qualifications to the satisfaction of the administering authority for the Act; AND the administering authority for the Act is satisfied that person has knowledge, suitable experience and demonstrated expertise in relevant fields, as set out below:

- (a) knowledge of engineering principles related to the structures, geomechanics, hydrology, hydraulics, chemistry and environmental impact of dams; and
- (b) at least a total of five years of suitable experience and demonstrated expertise in at least four of the following areas:
 - investigation, design or construction of dams;
 - operation and maintenance of dams;
 - geomechanics with particular emphasis stability, geology and geochemistry;
 - hydrology with particular reference to flooding, estimation of extreme storms, water management or meteorology;

- hydraulics with particular reference to sediment transport and deposition, erosion control, beach processes; and
- hydrogeology with particular reference to seepage, groundwater,
- solute transport processes and monitoring thereof; and
- dam safety

"tolerable limits" means a range of values used as acceptance criteria and regarded as being sufficient to meet the objective of protecting relevant environmental values. For example, a range of settlement for a tailing capping, rather than a single value, could still meet the objective of draining the cap quickly, preventing pondage and limiting infiltration and percolation.

"void" means any man-made, open excavation in the ground.

"watercourse" means a river, creek or stream in which water flows permanently or intermittently-

- in a natural channel, whether artificially improved or not; or
- in an artificial channel that has changed the course of the watercourse.

"waters" includes river, stream, lake, lagoon, pond, swamp, wetland, unconfined surface water, unconfined water natural or artificial watercourse, bed and bank of any waters, dams, non-tidal or tidal waters (including the sea), stormwater channel, stormwater drain, roadside gutter, stormwater run-off, and groundwater and any part thereof.

"works" or "operation" means the development approved under this development approval.

"you" means the holder of this development approval or owner / occupier of the land which is the subject of this development approval.

"50th percentile" means not more than three (3) of the measured values of the quality characteristic are to exceed the stated release limit for any six (6) consecutive samples for a release/monitoring point at any time during the environmental activity(ies) works.

"80th percentile" means not more than one (1) of the measured values of the quality characteristic is to exceed the stated release limit for any five (5) consecutive samples for a sampling point at any time during the environmental activity(ies) works

END OF CONDITIONS

