

Notice of decision – Change to an existing approval

This notice is issued by the Environmental Protection Agency pursuant to Section 3.5.33 of the Integrated Planning Act 1997 to advise of a decision or action.

Rio Tinto Aluminium Limited
PO Box 1479
GLADSTONE DC QLD 4680

Our reference: 221024

Dear Sir/Madam

Re: Application to change or cancel a condition of your development approval

The Environmental Protection Agency (EPA), acting as assessment manager, wishes to advise that your application to change or cancel a condition of your existing development approval, received on 09-AUG-2007, has been assessed, and on 01-OCT-2007 was GRANTED.

1. Your application requested:

Condition (C1-1) of the development approval shall be amended to include the following:

- g) Discharge location W7 – from Northern Laydown Area Sedimentation Pond to an unnamed tributary of Boat Creek to the south of Port Curtis Way.
- h) Discharge location W8 – from Southern Laydown Area Sedimentation Pond to diversion gulley west of RTA 670 pond, to an unnamed tributary of Boat Creek south of Port Curtis Way adjacent the RTA Yarwun Refinery site northern boundary;

Schedule C – Table 1 of the RTA Yarwun existing environmental license be extended to include the following:

¹ Permit includes licences, approvals, permits, authorisations, certificates, sanctions or equivalent/similar as required by legislation administered by the Environmental Protection Agency and the Queensland Parks and Wildlife Service

Monitoring point	Discharge location	Quality characteristics	Release limit	Monitoring frequency
Northern Laydown Area Sedimentation Pond Overflow	W7	Total suspended solids	Within 10% of background location at S: 23°49.237; E:151°08.753	Each flow event
Souther Laydown Area Sedimentation Pond overflow	W8	Total suspended solids	Within 10% of background location at S: 23°49.237; E:151°08.753	Each flow event

The following conditions will be added to your development approval:

(C4-1) The administering authority shall be notified within 24 hours of a flow event commencing.

(C4-2) The holder of this environmental authority shall remove deposited sediment from Northern Laydown Area sedimentation ponds when the active depth is less than two metres.

(C4-3) The holder of this environmental authority shall remove deposited sediment from Souther Laydown Area sedimentation ponds when the active depth is less than two metres.

(C4-4) The holder of this environmental authority shall visually inspect the ponds, embankments, spillway and local receiving environment within 24 hours of a flow event or as directed by the administering authority.

A copy of the changed development approval/concurrence agency response with the amalgamated conditions is attached.

2. The details of the original approval were:

Property/Location: :

Street address - 975 Hanson Road YARWUN QLD 4694

Lot/Plan - Lot 8 Plan SP145437

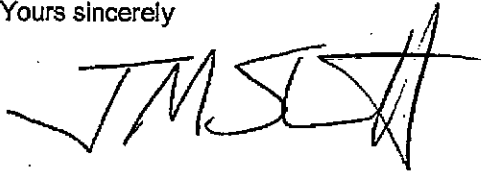
The approved plans

NIL

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.

Should you require any further information please contact Colleen Hanahan the project manager, on the telephone number listed below.

Yours sincerely



John Sherriff

Delegate
Environmental Protection Agency

01-OCT-2007

Enquiries:

Central Coast District (Gladstone)
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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.

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.

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.

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.

