

Determination Notice for OEH Proponents – Determination Conditions
issued 29 June 2016

REF No. DOC15/406963 SF14/5141

Project Name: Proposed Ilmenite Sand Stockpile Removal and Site Rehabilitation

Reserve Name: Bundjalung National Park

Proponent: National Parks and Wildlife Service (by contract to Flagship
Commodities Pty Ltd OEH-496-2013)

Region/Area: Northern Rivers Region – Richmond River Area

Based on the Review of Environmental Factors (REF), supporting documents, public submissions, and any additional information obtained, and after having taken into account to the fullest extent possible all matters likely to affect the environment as a result of the proposed activity (in accordance with s.111 of the *Environmental Planning and Assessment Act 1979*), **I hereby determine that:**

Activity to proceed

- Further** information/assessment is not required:
- an Environmental Impact Statement (EIS) is not required (the activity is not likely to significantly affect the environment);
 - a Species Impact Statement (SIS) is not required (the activity is proposed on land that is not part of any critical habitat and is not likely to significantly affect threatened species, populations or ecological communities, or their habitats).
- The activity may proceed subject to any necessary approvals (*if approval required*) being obtained first, including any relevant consent, lease or licence required to be issued by the NPWS under the National Parks and Wildlife Regulation 2009 or the *National Parks and Wildlife Act 1974*

AND

- The activity may proceed **subject to the conditions** specified in the attached Schedule 1, which will minimise the environmental impacts to best practice standards.

AND

- The activity may proceed subject to compliance of the Contractor with the Contract with the NPWS under tender OEH-496-2013 that requires the preparation of this REF. To the extent of any inconsistency with the Contract, the Conditions of this REF Determination shall prevail.

AND

Related matters

Further, it is considered that the proposed activity:

EPBC Act

- is unlikely to** impact significantly on matters of **National Environmental Significance** under the Commonwealth *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*.

Note: the proponent is responsible for determining whether approvals are required under the EPBC Act, and obtaining them if necessary.

Local council matters

- is unlikely to** impact significantly on **local council infrastructure, including roads, water, sewer and stormwater, local heritage items listed by the council, and flood liable land.**

Note: if the proposal is likely to significantly impact on the above features, the State Environmental Planning Policy (Infrastructure) 2007 requires that the council is consulted **before** the activity is determined.

- a record of any required consultation with the appropriate council has been provided.

Certification of building or infrastructure works

- may** require certification to Building Code of Australia or Australian Standards in accordance with the DECCW *Construction Assessment Procedure*.

OEH sign-off

Major projects – Regional Operations Group determination

Regional Operations Group and Heritage Division Assessment

Group: Planning Team, Regional Operations Group, North East Region

Date: 16 November 2015

Senior Manager, OEH Regional Operations Group, North East Region (relevant delegate)

Name: Don Arnold

Signature:



Date: 29 June 2016

NOTE: FOR RESERVES MANAGED BY A TRUST OR BOARD OF MANAGEMENT

As noted in section 4.5 of the *Determination Guidelines* where a reserve has a trust or a board of management, then that entity is the determining authority for certain approvals for the activity. In that situation, the REF, any determination report and a determination recommendation should be presented for final determination by the trust or board.

NEXT STEPS

- Provide determination notice to proponent
- Register determination

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Schedule 1
Conditions of Determination issued 29 June 2016

Activity Application No: DOC15/406963 SF14/5141
Project Name: Proposed Ilmenite sand stockpile removal and site rehabilitation
Reserve Name: Bundjalung National Park
Proponent: NPWS (by contract to Flagship Commodities Pty Ltd
OEH 496-2013)
Region/Area: Northern Rivers Region – Richmond River Area

General information about this Determination

Responsibilities of the applicant

The applicant is responsible for the manner in which the activity detailed in the Review of Environmental Factors (REF) and this determination is performed.

Transfer of REF determination

REF determinations are not transferable, except with the written approval of the Office of Environment and Heritage (OEH) Senior Manager.

Inspection of work covered by this REF determination

The OEH reserves the right to examine work undertaken as part of the activity at any reasonable time.

Entry to land

The applicant is responsible for securing permission to enter land from the registered owner or occupier of the land or lands outside the land area identified in the REF and subject to this determination.

Reference to OEH officers in this determination

The OEH NPWS Area Manager may delegate any functions ascribed to the Area Manager in the determination to another OEH officer.

Explanatory notes to conditions in this determination

Explanatory notes included with this determination do not form part of the conditions.


Submission of information to the OEH

All written requests and information required to be submitted to the OEH, are to be lodged at the following address:

Conditions of Determination

Conditions of this determination issued 29 June 2016 replaces any conditions issued prior to this date.

Attention: NPWS Richmond River Area Manager
Office of Environment and Heritage
7 Northcott Crescent
Wollongbar NSW 2477

 29/6/16

GENERAL COMMENT

Apart from the requirement for this determination to address statutory and work, health and safety matters, the main intent of the conditions is to ensure that the activity can be completed within defined timeframes such that adverse impact on the environment is minimised in the short term with a longer term improvement in ecological health and public amenity apparent.

Since the NSW National Parks and Wildlife Service (NPWS) is the proponent for the activity under Part 5 of the *Environmental Planning and Assessment Act 1979* with Flagship Commodities P/L acting as Contractor to it, the determination conditions with respect to Bundjalung National Park can relate to one or other or both of these parties.

The *National Parks and Wildlife Act 1979* (NPW Act) and Regulation (NPW Regulations) enables the OEHL to manage activities within Bundjalung National Park. The appropriate regulatory authority under the *Protection of the Environment Operations Act 1997* is responsible for a number of potential impacts outside Bundjalung National Park, such as noise, vibration and dust. Further, Richmond Valley Council is responsible for The Gap Road outside Bundjalung National Park and ensuring the Contractor maintains the condition and infrastructure along the road.

The determination conditions require proactive monitoring of the activity during the ilmenite stockpile removal stage (three years) and rehabilitation stage (two years). Specific actions are required and targets met throughout all stages to the satisfaction of the NPWS prior to the next stage commencing.

The determination conditions are also intended to allow for uncertainties inherent in the activity. These include the possible presence of elevated levels of radioactivity in deeper parts of the stockpile that are higher than allowable, confirmation that the stockpile extends below natural ground level, and delays in the progress of successful rehabilitation.

Any actions taken outside the terms of this determination that impact adversely on Bundjalung National Park or on threatened species, endangered populations, ecological communities, or their habitats, could be construed as an offence under the NPW Act and/or the *Threatened Species Conservation Act 1995*.

The conditions are divided into:

- 1 General conditions.
- 2 Pre-commencement conditions for ilmenite stockpile removal.
- 3 Operational conditions during ilmenite stockpile removal.
- 4 Post-ilmenite stockpile removal and restoration conditions.

These conditions relate generally to clarification and extensions of commitments already made in the REF and do not act to exclude the Contractor or the Proponent from compliance with the REF. In particular, the need to maintain effective and regular community consultation in accordance with the REF commitments is emphasised.

1 GENERAL CONDITIONS

Duration and scope of determination

- 1) Flagship Commodities P/L (hereinafter called the "Contractor") must have substantially commenced the activity within three years of the date of this determination and must complete the activity within five years after the commencement date of the activity subject to the written approval or any extension authorised by the Proponent (herein after called the "National Parks and Wildlife Service" (NPWS))¹.
- 2) This determination applies to those parts of the activity that will be undertaken within Bundjalung National Park identified as:
 - The activity footprint in the figure on page 19 of the Review of Environmental Factors Ilmenite Stockpile Removal and Site Rehabilitation July 2014 and Supporting Documents (REF) for the activity.
 - The Gap Road and associated infrastructure as mapped on page 17 of the REF and detailed in Table 1 of the Ilmenite Stockpile Haulage Traffic Safety Plan.
 - Described in the NPWS tender/contract number OEH-496-2013.
- 3) The Contractor must comply with any other approval conditions and/or agreements required by public authorities for any additional works associated with the activity that are required to occur outside Bundjalung National Park. These may include but are not necessarily limited to:
 - Any approvals or conditions required under the *Protection of the Environment Operations Act 1997* by the Appropriate Regulatory Authority under that Act.
 - Any requirements of the Richmond Valley Council and the NSW Roads and Maritime Services.
 - In the event that levels of radioactivity in the stockpile or transport trucks are shown by monitoring to exceed levels posing a risk to public health, any specific mitigation measures detailed in the *Contaminated Land Management Act 1997*, the *Radiation Control Amendment Act 2010* and the *Radiation Control Regulation 2013*.
 - The appropriate road and truck transport rules detailed in the *Road Transport Act 2013* and/or any other associated statute.
 - All relevant statutes pertaining to the State of NSW and the State of Queensland.
 - All relevant Australian customs and export statutes.

²Reasons: *To ensure that the activity is commenced and completed within an appropriate timeframe.*

To ensure that the activity is undertaken in accordance with relevant NSW, Queensland and Australian statutory approvals.

Emergency Works

- 4) Notwithstanding any other conditions of this determination, in the event that emergency works are required to be undertaken by the Contractor, the Contractor must take all reasonable steps to ensure that these occur as expeditiously as possible. Emergency works are generally works of a temporary and reversible nature which are urgently required to arrest an imminent threat to life, safety, public liability, and/or threat to fabric or property.

¹ If the activity is not substantially commenced within this time, the Proponent must seek direction from OEH as to whether a new REF must be submitted for determination before the activity may proceed.

² 'Reasons' are included as a mechanism to explain the rationale of a condition to the Proponent. The reason does not form a part of the condition but can be included in the Determination Notice for clarity.

- 5) In the event that emergency works are undertaken the Contractor must notify the Office of Environment and Heritage (OEH) environment line on 131 555 as soon as practicable and not later than 24 hours from commencement of emergency works. Once notification has been made the Contractor must also contact the NPWS Richmond River Area Manager on telephone 02 6627 0220 to seek direction on any further procedures to be implemented

Reason: *To arrest an imminent threat to life, safety, public liability, and/or threat to fabric or property.*

Undertaking the activity

- 6) The 'activity' detailed in the REF³ titled Ilmenite Stockpile Removal and Site Rehabilitation, July 2014, including its Supporting Documents, as exhibited by OEH between 23 November 2014 to 24 December 2014 and subsequently extended until 30 January 2015 must be undertaken:
- In accordance with the NPWS tender/contract conditions; and
 - At the locations identified in the REF; and
 - In accordance with the description of the activity and environmental safeguards or mitigation measures listed in the REF; and
 - As required or amended by the conditions of this determination.
- 7) In the event of any inconsistency between the REF and/or the tender/contract and the conditions of this determination, the conditions of this determination shall prevail.
- 8) This determination and the conditions of this determination do not relieve the Contractor of any obligation to obtain any other statutory approvals necessary to undertake the activity.
- 9) The Contractor must undertake the activity in accordance with the requirements of the *Work Health and Safety Act 2011*, including codes of practice adopted under the Act, and the *Work Health and Safety Regulation 2011*. Any contractors and/or sub-contractors on the site are to have appropriate insurance, including public liability insurance.
- 10) The Contractor must provide a list of tradespersons, contractors and sub-contractors that will be involved in undertaking the activity for approval of the NPWS Richmond River Area Manager prior to commencement of the activity. The list must include any licence numbers or accreditations and information on the expertise and experience of the listed parties.

Reason: *To ensure that the activity is undertaken in accordance with the REF and tender/contract as amended by the determination conditions.*

Compliance with any direction given by the NPWS

- 11) The Contractor, any sub-contractors and other employees must comply at any time with any reasonable direction provided to them by an authorised officer of the OEH with respect to the conditions imposed under this determination.

Reason: *To ensure the National Parks and Wildlife Service as the proponent retains overall responsibility and control for the activity.*

Availability of REF determination and conditions

- 12) A copy of the REF, this determination and the attached schedule of conditions must be kept at the site to which the REF applies.
- 13) The REF, this determination and the attached schedule of conditions must be produced to any authorised officer of the OEH who asks to see it.
- 14) The REF, this determination and the attached schedule of conditions must be available for inspection by any employee or agent of the Contractor or Sub-contractor working at the site.

Reason: *To ensure that the activity is undertaken in accordance with the REF and in accordance with relevant statutory approvals.*

³ Any addendum or additional documentation that supports the REF is also referenced by this condition.

2 PRE-COMMENCEMENT CONDITIONS FOR ILMENITE STOCKPILE REMOVAL

Approvals and compliance

- 15) Prior to the commencement of the activity the Contractor must obtain any relevant consent, lease or licence required to be issued by the NPWS under the National Parks and Wildlife Regulation 2009 or the *National Parks and Wildlife Act 1974* to undertake the activity.
- 16) Any relevant consent, lease or licence issued by the NPWS under the National Parks and Wildlife Regulation 2009 or the *National Parks and Wildlife Act 1974* for the activity must include the conditions of this determination.
- 17) Prior to the commencement of the activity, the NPWS Richmond River Area Manager must prepare and implement a program to document the site at the pre-commencement phase, during the implementation of the activity, and the post-implementation phase, for future community interpretation of the site.

Reason: *To document the site as an example of past sand mining in the national park and as an example of rehabilitation of such sites*

Establishment of base line noise criteria

- 18) Prior to the commencement of the activity, the Contractor is to commission a noise study by an accredited third party to establish base line noise levels within Bundjalung National Park at suitable receiver locations including The Gap Road and the Black Rocks camping ground prior to works commencing. Relevant data is to be collected such that compliance with the NSW Road Noise Policy 2011, the Industrial Noise Policy 2000 and the EPA Interim Construction Noise Guideline 2009 can be demonstrated within the national park as the activity progresses.
- 19) A copy of the noise study report including methods, results and conclusions is to be submitted to the NPWS Richmond River Area Manager. Copies of the baseline results are to be provided by NPWS to the residents along The Gap Road prior to work commencing.

Reason: *To ensure that adequate baseline noise levels are recorded prior to work commencing so that future levels can be compared for compliance with NSW government noise policies.*

Initial on-site meeting, inspection and demarcation of site

- 20) Prior to the commencement of infrastructure works for the activity, the Contractor (including any employees, contractors, sub-contractors, agents and invitees involved in undertaking the activity) must hold an initial on-site meeting with the NPWS Richmond River Area Manager for the purpose of confirming site specific arrangements.
- 21) Prior to the initial on site meeting, the Contractor is to mark the perimeter of the work site surrounding the stockpile as per the activity footprint in the figure on page 19 of the REF. The marking is to be by stake and wire fence with conspicuous red flagging hung securely on it to the satisfaction of the NPWS Richmond River Area Manager.
- 22) All hollow bearing trees identified in Figure 3 of the Flora and Fauna Assessment accompanying the REF (including trees numbered 003, 004 and 005) are to be clearly marked and excluded from the work site perimeter. The riparian buffer marked in yellow on Figure 3 of the Flora and Fauna Assessment must also be excluded.
- 23) All people present must be informed that, after commencement of work, no work whatsoever is to occur outside the marked boundary, except for haulage along existing roads, without the approval of the NPWS Richmond River Area Manager.

Reason: *To clearly demarcate the work site, inform all workers and to confirm any NPWS site-specific arrangements for the undertaking of the activity that may not be covered in this determination.*

Bushfire Risk Management Plan

- 24) The Contractor must prepare and submit a Bushfire Risk Management Plan to the satisfaction of the NPWS Richmond River Area Manager prior to commencement of the activity. The Bushfire Risk Management Plan is to be consistent with the Bundjalung National Park Bushfire Risk Management Plan and Sections 63 and 64 of the *Rural Fires Act 1997* as they relate to the responsibilities of public authorities and occupiers of land to prevent and control bushfire. The plan should include but not be limited to:
- reference to the provision of suitable fire-fighting machinery and water on site,
 - training of staff,
 - storage of flammable materials,
 - asset protection,
 - communication,
 - chains of command and notification procedures.
- In all cases, the Contractor is to comply with any reasonable direction given to it by either the NPWS, the Rural Fire Service, or the local Rural Fire Brigade.

Reason: *To sufficiently address the management of bushfire on site.*

Provision of water

- 25) The Contractor shall obtain the volumes of water needed over the duration of the activity for the following works from sources outside Bundjalung National Park in accordance with any necessary approvals:
- Wash-down of machinery, vehicles and trucks before entering the national park.
 - Suppression of dust along The Gap Road.
 - Suppression of dust on the activity works site.
 - Emergency fire-fighting storage.
 - Rehabilitation.
 - Staff wash-room facilities.
- 26) Water for the activity is not permitted to be sourced from within Bundjalung National Park boundaries without the written approval of the NPWS Richmond River Area Manager.
- 27) Prior to the commencement of the activity, the Contractor is to provide the NPWS Richmond River Area Manager with details of locations where water will be sourced for the works listed in Condition 25 and copies of any necessary approvals required and/or received.

Reason: *To sufficiently address the potential implications of sourcing water within Bundjalung National Park and identify alternative sources and necessary approvals.*

To reduce the chances of exotic weeds being introduced to the park along the Gap Road from trucks that may have been working elsewhere on other jobs and for watering of the road for dust suppression.

Certification of infrastructure works prior to commencement

- 28) Prior to the commencement of infrastructure works for the activity, the Contractor must ensure that the works where relevant are certified to comply with the Building Code of Australia (BCA) or relevant Australian Standards, if required by the OEH (previously DECCW) *Construction Assessment Procedure*. Any required evidence of compliance with the BCA or Australian Standards must be submitted to the satisfaction of the NPWS Richmond River Area Manager.
- 29) For those works that do not require certification under the OEH *Construction Assessment Procedure*, the Contractor must still ensure that the activity is undertaken in accordance with any relevant requirements of the Building Code of Australia or other Australian Standards, and is safe and fit for the intended purpose.

Reason: *To ensure that any necessary infrastructure works required for the activity will comply with all necessary OEH policy and statutory requirements.*

Explanatory Notes:

- i) *Infrastructure works means any physical activity involved in the erection or alteration of on-park public or private assets and utility services, including demolition. Examples include car parks, roads, tracks, viewing platforms, landscaping, fencing, environment protection works and public utilities.*
- ii) *For the purposes of this determination, it is anticipated that this condition would apply specifically to any buildings built or transported to the site and any maintenance or replacement of infrastructure along The Gap Road within the national park.*
- iii) *The process for obtaining certification is specified in the OEH Construction Assessment Procedure.*

Submission of a layout and staging plan

- 30) Prior to the activity commencing, the Contractor is to provide the NPWS Richmond River Area Manager with a layout plan (nominally 1:1000) of the activity works site showing the precise locations of on-site infrastructure including truck parking bays, site office, staff amenities, fuel and machinery storage facilities, storage of removed and/or mulched vegetation and sand mixing/dilution pits. The layout plan and any subsequent amendments to it must be prepared to the satisfaction of the NPWS Richmond River Area Manager.
- 31) Prior to the activity commencing, the Contractor is to submit a more detailed staging plan showing indicative locations, extraction path and timeframes for the removal of the ilmenite stockpile is to be submitted to the NPWS Richmond River Area Manager for approval along with the layout plan referred to under Condition 30.

Reason: *To assist in the efficient operation of the activity by ensuring sufficient spatial separation between facilities and to provide physical indicators of stockpile removal against which the monitoring of progress can be measured and considered.*

To ensure that ilmenite stockpile removal and subsequent rehabilitation occurs and is completed in an orderly and documented manner.

Signage

- 32) At least one month before the activity commences, the Contractor must erect public signs in prominent positions at the entrance to Bundjalung National Park and in the Black Rocks camping ground that includes:
 - a description of the activity, reasons for undertaking the activity and a works schedule (see operational conditions);
 - the hours of operation (see operational conditions); and
 - the contact telephone number for public inquiries or emergencies to the Contractor site supervisor, the Richmond Valley Council and the NPWS Richmond River Area Manager.
- 33) The location, wording, colour and size of the signs shall be to the satisfaction of the NPWS Richmond River Area Manager and include the NPWS logo.

Reason: *To support the safe undertaking of the activity and provide appropriate information to the public.*

Erosion and sediment controls

- 34) Prior to the commencement of the activity, the Contractor must ensure that initial erosion and sediment control measures are installed as identified in the Environmental Management Plan and the OEH Contract Schedule 3 (OEH-496-2013). The measures must be consistent with the guidelines in *Best Practice Erosion and Sediment Control* (IECA 2008) and *Erosion and Sediment Control – A field guide for construction site managers* (Catchments and Creeks 2012) as quoted in the environmental management plan. The Contractor must comply with the measures identified in the environmental management plan. No work is to commence until the initial installed measures are approved by the NPWS Richmond River Area Manager.

Reason: *To minimise the risk of environmental harm associated with erosion and sedimentation.*

Initial upgrade of The Gap Road

- 35) The Contractor shall ensure that all initial actions recommended in the Ilmenite Stockpile Haulage Traffic Safety Plan along The Gap Road within Bundjalung National Park are implemented prior to ilmenite stockpile removal works commence. These include but are not limited to:
- (i) The placement of appropriate signage and kilometre markings.
 - (ii) Removal of road verge trees and slashing or pruning of overhanging vegetation.
 - (iii) Driver induction.
 - (iv) Replacement or repair of existing culverts where necessary.
 - (v) Confirmation by a specialist bridge engineering analyst of axle load limits on bridges and culverts.
 - (vi) Confirmation from the appropriate authority that all vertical clearances with power lines and telephone lines etc. are sufficient.
- 36) The Contractor shall provide written certification and evidence to the NPWS Richmond River Area Manager to confirm compliance with Condition 35.
- 37) A NPWS Ranger must be on site to inspect, mark and approve the initial removal and pruning of trees along The Gap Road within Bundjalung National Park.

Reason: *To ensure that The Gap Road within Bundjalung National Park is made as safe as practicable prior to works commencing.*

To prevent excessive clearing or damage to vegetation inside the national park.

To document that all initial actions required by the Ilmenite Stockpile Haulage Traffic Safety Plan within the national park have been complied with.

Pre-start survey for threatened fauna

- 38) As a precaution, a half day survey by a suitable qualified, licensed and experienced fauna ecologist shall be conducted one week prior to the commencement of ilmenite stockpile removal to ensure that no previously unidentified threatened fauna are utilising or occur on the site. Particular attention should be paid to Emus, their chicks or eggs.

If no activity has been conducted at the works site for 3 months the activity cannot recommence without first conducting a fauna survey for threatened species.

Should any threatened species be found present, the Contractor is to inform the NPWS Richmond River Area Manager to discuss options for management of these species, the stockpile removal sequence and/or deferral of work until the relevant fauna has been appropriately managed.

Reason: *To ensure that any threatened fauna that may have occupied the site since the Flora and Fauna Assessment was completed are protected.*

Initial notification

- 39) The Contractor must give two weeks' notice to the NPWS Richmond River Area Manager and all residents along The Gap Road of the date and times that earthmoving and other equipment such as mulchers, water tankers and low loaders are intended to be first moved onto the work site or along The Gap Road for the activity.
- 40) The NPWS Richmond River Area Manager is to inspect the condition of The Gap Road upgrade works within Bundjalung National Park, signage, the setup of the work site, the initial erosion and sediment control measures and the location of buildings etc. prior to giving written authority to the Contractor for the ilmenite stockpile removal to commence.

Reason: *To ensure appropriate initial liaison with the local community and NPWS staff.*

To confirm that relevant procedures, the road and the work place are of sufficient standard to allow work on the removal of the ilmenite stockpile to commence.

To ensure that facilities for staff comply with statutory WH&S standards with respect to toilets, lunch rooms, notice boards, shelter, first aid, office facilities etc.

3 OPERATIONAL CONDITIONS DURING ILMENITE STOCKPILE REMOVAL

Environmental Management Plan

- 41) The Contractor must comply with all measures identified in Schedule 3 of the Contract OEH-496-2013 as amended by the additional measures nominated by the Contractor in the exhibited Environmental Management Plan and Work Program Operations Plan. These include the environmental management procedures to be applied during and after the completion of the activity including, but not limited to, the following components:
- (i) measures to protect areas of environmental sensitivity;
 - (ii) measures to control weeds including wash down of trucks and machinery at approved wash down facilities outside Bundjalung National Park;
 - (iii) location of active work and storage areas;
 - (iv) vehicle and pedestrian access arrangements, including parking;
 - (v) environmental safeguards, including water pollution controls, waste management, and management of hazardous substances;
 - (vi) measures to enable weed and pest control in collaboration with the NPWS;
 - (vii) site rehabilitation;
 - (viii) contact protocols outlining procedures and any notifications to be given before works commence, together with contact details for the project manager and relevant OEH officers (e.g. NPWS Ranger and Richmond River Area Manager);
 - (ix) site induction for personnel on environmental protection and familiarisation with and implementation of the determination conditions;
 - (x) site monitoring and reporting; and
 - (xi) protocols for incidents and emergencies.

Reason: *To provide detailed site-specific guidance to minimise environmental risk from the activity.*

Staging of work

- 42) Works are to be staged generally in accordance with the steps detailed in the construction timetable provided on pages 24 -27 of the REF, the Work Program Operations Plan and the detailed staging plan required by Condition 31.
- 43) All work associated with Ilmenite stockpile removal is to be completed within three years of the commencement date as notified under condition 40, unless otherwise agreed in writing by the NPWS Richmond River Area Manager.

Reason: *To ensure that ilmenite stockpile removal and subsequent rehabilitation occurs and is completed in an orderly and documented manner and in accordance with the contract.*

Timing of work

- 44) No work is to occur outside the hours of 7am to 5pm Monday to Friday.
- 45) All work is to occur during daylight hours.
- 46) No work is to occur on weekends, public holidays, scheduled school holidays, any other times of peak visitor use within Bundjalung National Park (for example, special events), or any other times as notified by the NPWS Richmond River Area Manager.
- 47) The entry and exit of haulage trucks to and from the Bundjalung National Park must be planned to the satisfaction of the NPWS Richmond River Area Manager to accord with the Traffic Safety Plan exhibited with the REF.

Reason: *To minimise risks to public safety, school bus commuters, and visitors to the national park.*

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Impact of weather events

- 48) No truck movements are to occur along The Gap Road within Bundjalung National Park during prolonged heavy rain or when visible dust moves beyond the road corridor.⁴ However, loading and extraction work on site may continue at the discretion of the Contractor provided there is no additional risk to the safety of workers and in the case of dust, adequate water suppression is implemented.

Reason: *To limit damage to The Gap Road, reduce risk to public safety and reduce undesirable environmental impact on roadside vegetation from dust and mud.*

Radiation

- 49) Within each identified location shown on the layout plan required by Condition 30 and the staging plan required by Condition 31, no removal of the ilmenite stockpile is to occur from any point below a depth of three metres from the existing surface of the stockpile as at the date of this determination, until additional radiation measurements have been taken by a suitably qualified and experienced person to demonstrate that levels of radioactivity at these previously untested depths remain below levels that could cause a risk to public health and written authorisation is received from the NPWS Richmond River Area Manager that works can continue at those depths.
- 50) A report confirming that these measurements have been taken by a suitably qualified and experienced person and the outcomes of the sampling is to be signed and provided to the NPWS Richmond River Area Manager for consideration in deciding whether or not to issue the authorisation stipulated in Condition 49.
- 51) Cumulative radiation dosage meters or tags are to be worn at all times by truck drivers and excavation staff in accordance with advice from a person with expertise in radiological assessment for an initial period of six months from the commencement of work to confirm that annual dose limits (1mSv) and estimates provided in Table 8 of the Radiological Assessment will not be exceeded.
- 52) The analysis of dosages recorded by the meters or tags is to be conducted by a person with expertise in radiological assessment with the results reported to the Contractor and the NPWS Richmond River Area Manager.
- 53) Should the results show dosages are likely to be in excess of acceptable limits then work must cease until relevant mitigation measures are approved by the NPWS Richmond River Area Manager. Mitigation measures might include reduction of exposure times, dilution of radioactive ilmenite stockpile material or the implementation of other more specialised safeguards in consultation with a person with expertise in radiological assessment.
- 54) Once it is confirmed that the annual dosage for truck drivers and excavation staff will not be exceeded, cumulative meters or tags need not be worn and further monitoring is not required.
- 55) The recommendations listed in Section 14 of the Radiological Report accompanying the REF relating to the wearing of respiratory protection, personal hygiene and ilmenite stockpile dilution or homogenisation are to be implemented.

Reason: *To ensure a precautionary approach is taken to the safety of workers until the radiation estimates provided in the Radiological Report are confirmed on site to be below those considered to be a risk to public health.*

Removal of the ilmenite stockpile from below natural ground level

- 56) No removal of the ilmenite stockpile from below the natural ground surface is to commence until consultation and written authorisation is obtained from the NPWS Richmond River Area Manager.

⁴ OEHL acknowledges the subjectivity inherent in this condition and it is expected that the Contractor will apply a common sense and precautionary approach.

- 57) In issuing this authorisation, the NPWS Richmond River Area Manager must be satisfied and state in writing that the continued removal of the ilmenite stockpile:
- (i) will not expose acid sulphate soils,
 - (ii) will not impact adversely on the water table or Jerusalem Creek,
 - (iii) will not disturb the "coffee rock layer" and,
 - (iv) has sufficient back fill material available to re-establish the suitable ground surface contours.

Reason: *To prevent any adverse impact to the water table below natural ground level.*

Acid sulfate soils

- 58) Identification, sampling and treatment of any Potential Acid Sulfate Soils (PASS) either uncovered or removed is to be done in accordance with the NSW Acid Sulfate Soils Manual (ASSMAC 1998).
- 59) Any acid sulfate soils that are removed shall be transported immediately from Bundjalung National Park to an approved waste facility for treatment.

Reason: *To avoid any risk of any acid leachate or lime treatment being returned to the works site and/or Jerusalem Creek.*

Aboriginal and historic heritage

- 60) If during the course of the activity:
- (i) any Aboriginal objects, as defined under the NSW *National Parks and Wildlife Act 1974*, are uncovered or discovered; and/or
 - (ii) any relics, as defined under the NSW *Heritage Act 1977*, are uncovered or discovered, then the Contractor must cease work immediately and notify the NPWS Richmond River Area Manager, unless the objects and/or relics are subject to a valid Aboriginal Heritage Impact Permit or Heritage Permit. Work must not recommence until advice to do so has been provided by the NPWS Richmond River Area Manager.
- 61) This determination does not authorise the disturbance or movement of any human skeletal remains. If during the course of the activity any human skeletal remains are located the Contractor must:
- (i) immediately cease the activity;
 - (ii) not further harm these remains ;
 - (iii) secure the area so as to avoid further harm to the remains;
 - (iv) notify the local police and the NPWS Richmond River Area Manager as soon as practicable and at that time provide any available details about the nature and location of the remains; and
 - (v) recommence the activity only after receiving confirmation in writing from the local police and the NPWS Richmond River Area Manager that it is appropriate to do so.

Reason: *To protect Aboriginal and historic heritage values from unanticipated impact.*

Site access

- 62) The Contractor must take reasonable steps to limit public access to the ilmenite stockpile work areas during the activity. Where access restrictions are required, such as in areas where works are under way, temporary barriers (e.g. brightly coloured tape and/or moveable barriers) and appropriate signage must be erected by the Contractor around the work area prior to commencement of work.

Reason: *To ensure public and worker safety and comply with public liability insurance requirements.*

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Road safety and maintenance

- 63) The Contractor shall comply with all operational recommendations made in the Ilmenite Stockpile Haulage Traffic Safety Plan. These include but are not limited to:
 - (i) The use of passing bays (Section 3.3).
 - (ii) Upgrades to the road pavement where significant damage has occurred (Section 4.3).
 - (iii) Safety recommendations (Section 7).
- 64) Inspections of infrastructure along The Gap Road within Bundjalung National Park are to be made at least fortnightly for an initial period of two months, monthly for a further six months and then quarterly thereafter, provided that on each occasion no damage is recorded.
- 65) Any damage recorded is to be repaired at the Contractor's cost inside Bundjalung National Park after receiving written authorisation for the repairs from the NPWS Richmond River Area Manager. A record (including photographs) of all significant damage and its subsequent repair is to be kept and provided to the NPWS Richmond River Area Manager upon request.
- 66) All trucks are to be loaded within the axle limits imposed by the specialist engineering bridge analyst under Condition 35, or 20t/axle whichever is the lesser.
- 67) All loaded trucks are to be weighed on site prior to leaving the site. The driver's name, truck registration, date, and axle loads are to be recorded for all transport trucks and a summary report provided to the NPWS Richmond River Area Manager on a monthly basis.
- 68) The Contractor must undertake a trial of truck groupings for the activity in either direction along The Gap Road in Bundjalung National Park using single trucks and groups of two and three trucks for the first three months of the activity. The environmental impacts and operational impacts of these different truck groupings are to be monitored by the Contractor during the trial period and reported at the end of the trial period, along with a recommendation regarding optimal truck groupings for the activity, to the NPWS Richmond River Area Manager for approval.
- 69) A maximum speed limit of 40kph applies for machinery and trucks undertaking the activity within Bundjalung National Park.
- 70) The passing of incoming and outgoing trucks on The Gap Road in Bundjalung National Park shall be avoided wherever possible using mobile telephone and/or UHF radio communication. Where passing must occur, it is to be limited to passing bays in locations approved by the NPWS Richmond River Area Manager.
- 71) Subject to the approval of the NPWS Richmond River Area Manager, a single UHF frequency is to be chosen and used along The Gap Road in Bundjalung National Park.
- 72) A maximum of ten trucks is permitted to be within Bundjalung National Park at any one time and a maximum of five on the stockpile site at any one time. Passing bays approved by the NPWS Richmond River Area Manager can be used for temporary parking or storage of trucks if necessary.
- 73) An indicative truck timetable is to be developed consistent with Conditions 63-72 that allows for the time taken to travel to Brisbane, unload and return in accordance with legal driver duty time limitations in both NSW and Queensland.
- 74) This timetable is to be authorised in writing by the NPWS Richmond River Area Manager and circulated to all residents along The Gap Road.
- 75) Should subsequent driver experience suggest the timetable is unrealistic or could be improved, then it may be amended at the discretion of the NPWS Richmond River Area Manager. Any amendments must be notified and explained to residents along The Gap Road.

Reason: *To reduce risk to public safety on The Gap Road in the national park, ensure load limits on road infrastructure are complied with, document damage to road infrastructure, alleviate traffic congestion on site, and provide notice to local residents of the number and times they may expect trucks to pass.*

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Biodiversity conservation

- 76) If, during the course of undertaking the activity, the Contractor becomes aware of the presence of threatened species, populations, ecological communities, or their habitats, that were not identified and assessed in the REF and which are likely to be affected by the activity, the Contractor must:
- (i) immediately cease all work likely to affect the threatened species, populations, ecological communities, or their habitats;
 - (ii) notify the NPWS Richmond River Area Manager as soon as practicable by telephone, electronically or in writing; and
 - (iii) not recommence work likely to affect the threatened species, populations or endangered ecological communities, or their habitats until receiving written authorisation from the NPWS Richmond River Area Manager to do so.

Reason: *To minimise unanticipated impacts on threatened species, populations and endangered ecological communities.*

- 77) All sightings of the endangered population of Emu must be reported to the NPWS Richmond River Area Manager and include as a minimum the date, time, weather conditions, and location.

Reason: *To increase knowledge about the Emu population and its ecology within the national park.*

Waterway protection

- 78) The Contractor shall not impact in any way on the riparian buffer to Jerusalem Creek as shown in orange hatching on Figure 3 of the Flora and Fauna Assessment, or on the creek itself⁵.

Reason: *To protect the high conservation value of riparian Endangered Ecological Communities and potential threatened species habitat.*

- 79) Except as may be expressly provided in any other condition of this determination, the Contractor must comply with section 120 of the *Protection of the Environment Operations Act 1997*.⁶

Reason: *To emphasise that any activities conducted outside the approvals issued under this REF that result in waterways pollution may be considered an offence under the POEO Act 1997.*

Demolition

- 80) The Contractor must carry out any demolition work in accordance with the provisions of relevant Australian Standards, including AS2601-2001 *Demolition of structures*. Any demolition works involving asbestos materials must also comply with the *Protection of the Environment Operations (Waste) Regulation 2005* with regard to handling and movement of asbestos material⁷.

Reason: *To ensure that any demolition works are carried out in accordance with relevant requirements.*

⁵ OEH acknowledges the existence of heavy Ilmenite stockpile material that has slumped into Jerusalem Creek. However, removal of this material is outside the scope of the current NPWS Contract and will require additional risk/benefit assessment given the existing high conservation value of the buffer and creek. OEH has decided that this work if warranted should be subject to a separate REF at another time.

⁶ Section 120 states that a person who pollutes any water is guilty of an offence. Sections 121 and 122 provide that a person is not guilty of an offence if they are acting in accordance with a regulation or licence applicable to the activity.

⁷ Refer to <http://www.environment.nsw.gov.au/waste/asbestos/index.htm> for more information on management of asbestos material. Certification of demolition work may be also required under the DECCW Construction Assessment Procedures.

Waste management

- 81) Waste generated at the site from works undertaken as part of the activity must be managed in accordance with the Environmental Management Plan and the *Protection of the Environment (Waste) Regulation 2005*.⁸

Reason: *To ensure the appropriate management of waste material.*

Equipment and materials storage

- 82) At all times when the activity is not being undertaken on the site, the Contractor must store any machinery, equipment or materials with the exception of fuel, oils and chemicals in a secure transportable building or fenced compound within the work site.
- 83) All fuels, oils and chemicals are to be stored outside Bundjalung National Park and transported in and out as required.
- 84) Trucks and machinery being utilised to implement the activity may also be stored within the work site inside Bundjalung National Park.
- 85) There must be no release of fuel or oils in Bundjalung National Park. Refuelling and servicing of plant and equipment must be conducted with containment measures established to the satisfaction of the NPWS Richmond River Area Manager.

Reason: *To ensure that machinery, equipment and materials are stored securely at suitable locations.*

Fire Fighting Equipment

- 86) The Contractor must ensure that fire-fighting equipment is provided on site during periods of declared high fire danger.
- 87) Machinery which may result in sparking or ignition must not be operated during total fire bans.

Reason: *To minimise fire risk.*

Notification of environmental harm

- 88) The Contractor or its employees (including any sub-contractors) must notify the NPWS Richmond River Area Manager of any incidents causing or threatening material harm to the environment as soon as practicable after the person becomes aware of the incident.
- 89) Once notification has been made, the Contractor must seek direction and written authorisation from the NPWS Richmond River Area Manager for any further procedures to be implemented.
- 90) The Contractor must provide written details of the notification to the NPWS Richmond River Area Manager within seven (7) days of the date on which the incident occurred.
- 91) In the event of an emergency incident or imminent environmental threat appropriate remedial actions may be undertaken immediately without authorisation from the NPWS Richmond River Area Manager provided notification is provided no later than three hours afterwards.

Reason: *To allow a rapid response to, and minimise the potential for, unexpected incidents to affect Jerusalem Creek and the surrounding environment.*

Topsoil

- 92) The Contractor must ensure that during any excavation associated with the activity, any topsoil (other than Potential Acid Sulfate Soils) that is removed will be stockpiled in an area approved by the NPWS Richmond River Area Manager under Conditions 30 and 42 for later use in restoration.

Reason: *To ensure topsoil is managed appropriately.*

⁸ For further information on managing waste see <http://www.environment.nsw.gov.au/waste/consult.htm>

Communication

- 93) The Contractor and the NPWS Richmond River Area Manager are to maintain effective and regular communication with the local residents along The Gap Road in accordance with the Communications Plan.
- 94) In addition, communication is to include:
- (i) A bi-annual newsletter advising residents of progress on the activity.
 - (ii) Establishment of a formal complaints hotline with the:
 - NPWS office in Alstonville,
 - Contractor on site,
 - OEH Environment Hotline on 131 555 and by email to:
 - info@environment.nsw.gov.au.
 - (iii) Specific communication requirements relating to key actions listed in this determination.
- 95) The NPWS Richmond River Area Manager is to maintain a complaints register and acknowledge all complaints raised by the community within the normal government guarantee of service timeframe (two days). The NPWS Richmond River Area Manager and the Contractor must identify and respond with practical remedial action where possible⁹.

Reason: *To ensure local residents are kept fully informed about all aspects of the activity and to provide an effective and convenient means of registering and addressing complaints.*

Conclusion of ilmenite stockpile removal

- 96) The Contractor is to provide written notice to the NPWS Richmond River Area Manager when removal of the ilmenite stockpile material has been completed.
- 97) Upon written notification from the NPWS Richmond River Area Manager confirming that the ilmenite stockpile removal has been satisfactorily completed, the Contractor is to advise residents along The Gap Road to this effect and then remove all machinery, infrastructure and other facilities and equipment with the exception of that required on site for the restoration phase of the activity.
- 98) Prior to departure of earthmoving machinery from Bundjalung National Park, the Contractor is to ensure that all hard stand areas on the site have had the road base material removed and spread along The Gap Road in preparation for further restoration of the site.

Reason: *To allow certification by NPWS that the removal of the ilmenite stockpile has been completed to its satisfaction and that restoration of the site can continue in areas previously inaccessible due to infrastructure placement. To inform the local community that the ilmenite stockpile removal stage is complete.*

4. POST ILMENITE STOCKPILE REMOVAL AND RESTORATION CONDITIONS

Administrative

- 99) The restoration site supervisor and seed collector (as sub-contracted by the Contractor) shall have demonstrated experience in coastal native vegetation restoration and possess relevant accreditation and/or certificates III and/or IV from the Australian Association of Bush Regenerators and in Conservation and Land Management.
- 100) Prior to the collection of seed, the transplanting of propagules and/or the growth of tube-stock, the relevant persons shall acquire a licence under section 132C of the *National Parks and Wildlife Act 1974*.

Reason: *To ensure the restoration work is undertaken by qualified and appropriately licenced sub-contractors.*

⁹ Note that complaints of a vexatious nature need not be complied with under this condition but a response may be forthcoming in accordance with existing NSW government policy in such instances.

Ecological Restoration Plan

- 101) Restoration work is to occur generally in accordance with the Ecological Restoration Plan with particular emphasis to be placed on re-establishing the original land form and drainage lines and the planting of native species thereon referenced to similar adjacent land forms in Bundjalung National Park.
- 102) The final restored plant communities are to be distributed generally in accordance with the communities mapped in Figure 3 of the Ecological Restoration Plan using the species and numbers of plants listed in Tables 1-4 of Appendix 2 of the Plan.

Reason: *To ensure the restoration work is generally consistent with the objective of the activity to return the site to a more natural condition.*

Staging of restoration

- 103) An initial contour map of the entire site referenced to adjacent contours is to be prepared in consultation with and to the satisfaction of the NPWS Richmond River Area Manager to coordinate the establishment of the final land form and drainage lines as each restoration stage progresses.
- 104) Restoration work can then be progressively commenced in each staged area identified in Condition 42 once ilmenite stockpile removal is complete for that stage. This means restoration work in each stage cannot commence until the lower half of the stockpile has been removed after radiation levels are confirmed to be safe under Condition 49.
- 105) Where final ilmenite stockpile removal has involved work below natural ground level as approved by the NPWS Richmond River Area Manager under Conditions 56 and 57, the depression is to be back filled to the contours thought to exist before the stockpile was established using suitably mixed clean sands, mulch and topsoil prior to replanting commencing.
- 106) Revegetated areas are to be progressively fenced off using temporary stakes, wire and flagging.

Reason: *To allow restoration work to commence as soon as possible on site and to protect work already done.*

Timing and monitoring

- 107) Restoration of the site is to occur progressively over a five year period in accordance with the NPWS Contract.
- 108) At the conclusion of restoration in each stage identified in Condition 104, a stage report is to be forwarded to the NPWS Richmond River Area Manager that provides details of the work completed and of the progressive monitoring results for all earlier completed stages.
- 109) The report is to include, but not be limited to, the species and numbers of stems planted and the approximate number of seeds scattered, the watering regime, the use of fertilisers if needed, the mortality/replacement rates and a discussion of any problems (e.g. herbivores, wind erosion) and recommendations or actions taken to address them. A photographic record of a randomly selected number of tagged plants and landscape photo-monitoring points is to be kept to allow the recording of growth rates and vegetation change, to the satisfaction of the NPWS Richmond River Area Manager.
- 110) Restoration work on subsequent stages is not to commence until the NPWS Richmond River Area Manager has provided written certification that previous work is satisfactory and that any problems encountered have been adequately addressed.
- 111) A bi-annual summary of the restoration reports is to be provided to all residents along The Gap Road by the NPWS Richmond River Area Manager.

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Reason: *To ensure that restoration work proceeds in an orderly manner with all stages approved and documented in order to justify the annual reductions in the restoration bank guarantee.*

To keep the local community advised of progress on the restoration work.

Installation of nest boxes

- 112) At the commencement of restoration, the restoration sub-contractor is to install ten nest boxes in accordance with the Flora and Fauna Assessment in locations identified in consultation with the NPWS Richmond River Area Manager. A monitoring plan for the nest boxes is to be developed and agreed with the NPWS Richmond River Area Manager over the five year duration of the OEH Contract.

Reason: *To provide alternative habitat for any hollow-dependent fauna displaced by the activity.*

Conclusion of restoration

- 113) At the completion of restoration and/or by the end of the five year Contract period, all remaining infrastructure on site and along The Gap Road in Bundjalung National Park is to be removed from the national park unless required to be left on site by the NPWS Richmond River Area Manager¹⁰.
- 114) A report on the restoration project is to be submitted to the NPWS Richmond River Area Manager within four weeks of the conclusion of the Contract. The report must include, but not be limited to, a summary of all staged reports and recommendations, future costings for any further monitoring and/or mitigation or maintenance actions required, and a full chronological set of photographs demonstrating the growth rates of the tagged plants and changes to vegetation.
- 115) The Contractor is to comply with any direction given to it relating to the final completion of work to the satisfaction of the NPWS Richmond River Area Manager prior to signing off on completion of the Contract.

Reason: *To ensure that all work is completed in accordance with the Contract to the satisfaction of NPWS.*

END OF CONDITIONS

¹⁰ It is possible that NPWS may require irrigation equipment and water tanks to be left on site depending on the results of restoration monitoring over the Contract period. Fencing and signage may also be required to be kept in place.