

From: Apostol Alex [Alex.Apostol@ehp.qld.gov.au]

Sent: Monday, 9 December 2013 4:10 PM

To: Fegan Warwick

Subject: Ostoic TEP Amendment

Attachments: 131206_Ostoic TEP Amendment Certificate of Approval.docx; 131206_Ostoic TEP Amendment No 2 Assessment Report Draft.docx; 131206_Ostoic TEP Amendment Decision Notice Draft (1).docx

Hi Warwick,

Please find attached the draft documentation for Ostoic TEP Amendment Application.

Rgrds,

Alex

Alex Apostol

Senior Environmental Officer

Mining and Heavy Industry, Northern Region

Environmental Services and Regulation

Department of Environment and Heritage Protection

5b Sheridan Street PO Box 7230

Cairns QLD 4870

Telephone: 07 4222 5359

Facsimile: 07 4222 5070

Email: alex.apostol@ehp.qld.gov.au

Website: www.ehp.qld.gov.au

RTI DL RELEASE - EHP

Notice

Environmental Protection Act 1994

Transitional environmental program certificate of approval number MAN14060

This certificate of approval is issued by the administering authority pursuant to sections 339 and 344 of the Environmental Protection Act 1994. A transitional environmental program is a specific program that, when approved, achieves compliance with the Environmental Protection Act 1994 for the matters dealt with by the program by reducing environmental harm, or detailing the transition to an environmental standard.

Under the provisions of the *Environmental Protection Act 1994*, this amended certificate of approval is hereby granted to:

Ostojic Group Pty Ltd
PO Box 38915
WINNELLIE NT 0821

Approving the amendment to the draft transitional environmental program; titled "Ostojic Group Pty Ltd Bulk Handling Facility, Sir Hudson Fysh Drive Cloncurry Transitional Environmental Program".

The approved amendment to the draft transitional environmental program extends the delivery dates for the following actions listed in the program:

Action	Original Delivery Date	Revised Delivery Date
3 Extension of existing shed in accordance with concept drawing number 1A and 1B attached at Appendix D.	31 May 2014	17 May 2017
3(b) Obtain necessary statutory approvals for site works to commence (including but not limited to Material Change of Use and Operational Works permits).	30 June 2013	30 June 2016
3(c) Commission construction company to construct buildings and structures.	31 May 2013	31 May 2016
3(d) Carry out capital works	31 May 2014	17 May 2017
3(e) Implement and maintain appropriate practices and procedures on site.	31 May 2014	17 May 2017
3(f) Update Site Based Management Plan (SBMP) to incorporate any new capital works and improvements.	30 June 2014	17 May 2017

Notice

Transitional environmental program certificate of approval

The amended transitional environmental program is approved subject to the following additional conditions:

1. The approved Transitional Environmental Program (TEP) applies to conditions A1 and A5 of Development Approval SPDE01054010.
2. All conditions of this approval and all conditions of Development Approval SPDE01054010 (apart from condition A1 and A5) apply during the period of this TEP.
3. A receiving environment dust monitoring program must be developed and implemented by 31 October 2012. The receiving environment dust monitoring program must:
 - (a) be developed by an appropriately qualified person;
 - (b) be implemented and maintained for the period of the TEP;
 - (c) include a sufficient number of monitoring locations representative receiving environment, including sensitive places and an appropriate monitoring frequency of those locations to allow for a scientifically justifiable assessment of emissions from the activity against the ambient air quality limits listed in Table 1 of this approval;
 - (d) be undertaken in accordance with the relevant Australian Standards;
 - (e) at a minimum, monitor for:
 - i. Particulate Matter with an aerodynamic diameter of less than 10 micrometres (PM₁₀); and
 - ii. Total Suspended Particles.

4. Dust emissions from the activity must not cause the ambient air quality limits listed in Table 1 of this approval to be exceeded when measured at a sensitive place in accordance with the receiving environment dust monitoring program.

Table 1 – Ambient Air Quality Limits

Air Quality Characteristic	Limit	Averaging Period
PM ₁₀ (particulate matter with an aerodynamic diameter of less than 10 micrometres)	50 µg/m ³	24 hours
Total Suspended Particles	90 µg/m ³	Annual
Dust Deposition (Total Insoluble Matter)	120 mg/m ² /day	Monthly

5. A report on the dust monitoring program including results of the program must be provided to the administering authority on a six monthly basis during the period of the TEP.
6. The progress of the TEP will be monitored by Ostojic and documented in 6-monthly reports to EHP. The report will be submitted to EHP by the following dates:
 - 5 January 2014
 - 30 June 2014
 - 5 January 2015
 - 30 June 2015
 - 5 January 2016
 - 30 June 2016
 - 5 January 2017

Notice

Transitional environmental program certificate of approval

7. A final (close out) report will be prepared and submitted to EHP by 17 May 2017.
8. The final date for completion of the TEP is **17 May 2017**.

Definitions

“appropriately qualified person” means a person who has professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods or literature.

“sensitive place” means

- (a) a dwelling, residential allotment, mobile home or caravan park, residential marina or other residential premises; or
 - (b) an educational institution; or
 - (c) a medical centre or hospital; or
 - (d) a protected area under the Nature Conservation Act 1992, the Marine Parks Act 1992 or a World Heritage Area; or
 - (e) a public park or garden,
- but does not include employee accommodation or public roads.

The transitional environmental program remains in force until **17 May 2017**.

In any case where conditions are imposed upon a certificate of approval, you may apply to the administering authority for a review of the decision. You may also appeal against the decision to the Planning and Environment Court.

Information relating to a review of decisions or appeals under the Environmental Protection Act is included with this notice. This information is intended as a guide only. You may have other legal rights and obligations.

Should you have any queries in relation to this notice, Alex Apostol of the Department of Environment and Heritage Protection on phone number (07) 4222 5359 would be happy to assist you.

Signature

Rebecca McAuley
Delegate of the Administering Authority
Environmental Protection Act 1994

Date

Enquiries:
PO Box 7230
CAIRNS QLD 4870
Phone: (07) 4222 5334
Fax: (07) 4222 5070

Notice

Transitional environmental programs

Decision to grant amendment of an approval of a transitional environmental program

This statutory notice is issued by the administering authority pursuant to sections 340 and 344 of the Environmental Protection Act 1994, to advise you of a decision or action.

Your reference : MAN14060
Our reference : SPDE01054010

Ostojic Group Pty Ltd
PO Box 38915
WINNELLIE NT 0821

Attention: Simon Ostojic,

Application for amendment of an approval for a transitional environmental program (TEP) for dust nuisance and mineral concentrate management at Ostojic Group Pty Ltd Bulk Handling Facility.

Thank you for your application for the amendment of an approval for a transitional environmental program (TEP) – certificate of approval number MAN14060

Your application, which was received by this office on 15 November 2013, has been approved.

A copy of the amended certificate of approval, which includes the schedule of conditions, is attached.

Fees apply for the assessment of a draft transitional environmental program and any subsequent annual returns. The fees are outlined in the attached operational policy Transitional Environmental Program Fees (EM335).

A total fee of \$206.00 has been determined as appropriate for the assessment of your draft transitional environmental program in line with the above mentioned operational policy.

A fee of \$206.00 is payable and an invoice will follow shortly.

As your TEP is valid for over 12 months an annual return and fee will be applicable and due by the anniversary date each year. A blank annual return for transitional environmental program form is attached.

Review and appeal details—use where refusing or approving with conditions and include the information sheet Internal Review and Appeal to Court.

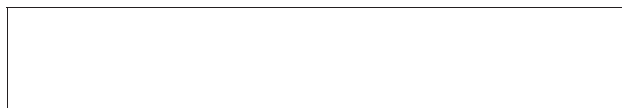
You may apply to the chief executive for a review of this decision within 10 business days of receiving this notice. You may also appeal against this decision to the Planning and Environment Court.

The information sheet—Internal review and appeal to Planning and Environment Court (EM1866) outlining the

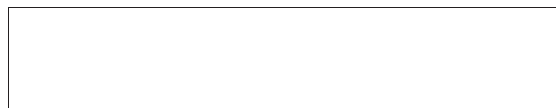
Decision notice regarding a transitional environmental program

review and appeal processes under the *Environmental Protection Act 1994* is attached. This information is intended as a guide only. You may have other legal rights and obligations.

Should you have any queries in relation to this notice, Alex Apostol on telephone (07) 4222 5359 would be happy to assist you.



Signature



Date

Rebecca McAuley
Delegate of the Administering Authority
Environmental Protection Act 1994

Enquiries:

PO Box 7230
CAIRNS QLD 4870
Phone: (07) 4222 5334
Fax: (07) 4222 5070

Attachments

Amended certificate of approval

Information sheet—Internal review and appeal to Planning and Environment Court (EM1866)

Form—Annual return for transitional environmental program

RTI DL RELEASE - EPR

Assessment Report

Environmental Protection Act 1994
Transitional environmental program (TEP)

Considering and making a decision about an Amendment to a TEP

This document is for internal use to assist users in critically evaluating the content of a draft TEP and making a decision to either approve (with or without conditions) or refuse a proposed amendment to a TEP.

Identifying details	
Compliance activity number	CA23909
Ecotrack number	MAN14060
Permit number	DA SPDE01054010
File number	NOR/08676
Applicant name	Ostojic Group Pty Ltd
Registered office or place of business	PO Box 38915 Winnellie Northern Territory 0821
Date draft TEP received.	Application for Amendment of TEP received 15 November 2013 <i>Decision date is 13 December 2013.</i>

Considering and making a decision about an amendment to a TEP

The legislative provisions in regard to transitional environmental programs (TEPs) are found in Chapter 7, Part 3 of the *Environmental Protection Act 1994* (the Act).

The holder of a TEP may submit an amendment to the TEP to the Department for consideration, voluntarily under s344 of the Act. Once an application for an amendment of a TEP is received, the Department must consider it and decide whether or not to approve it within 20 business days after the application date. Detailed below are the matters that the Department must consider when making a decision about an amendment to a TEP.

TEP Part 2 – Considering and making a decision about an amendment to TEP

1. Brief history of the matter

Briefly outline any historical information relevant to this decision.

- (a) On 18 May 2012, EHP approved the TEP (MAN14060) for Ostoic Group Pty Ltd to transition to compliance with conditions A1 and A5 of Development Approval (DA) SPDE01054010 of Ostoic Bulk Handling Facility at Lot 138 (Plan RP905659), Sir Hudson Fysh Drive, Cloncurry, Qld. The TEP requires Ostoic Group Pty Ltd to:

- take all necessary actions to achieve compliance with Condition A1 of DA SPDE01054010, and;
- take all necessary actions to achieve compliance with Condition A5 of DA SPDE01054010.

During the implementation of the actions, Ostoic has indicated that a number of items required extension of time frame due to third party delays.

- (b) On 15 November 2013 Ostoic Group Pty Ltd submitted a request to amend TEP MAN14060 following a meeting with EHP on 1 October 2013. The request to amend TEP MAN14060 involves extension of milestone dates of Action 3, 3(b), 3(c), 3(d), 3(e) and 3(f) and consequently extending the term of the TEP to 17 May 2017. The actions in TEP MAN14060 proposed to be extended include:

- Action 3 – Extension of existing shed in accordance with concept drawing numbers 1A and 1B attached at Appendix D (of the draft TEP) by 31 May 2014;
- Action 3(b) – Obtain necessary statutory approvals for site works to commence (including but not limited to, Material change of Use and Operational Works Permits) by 31 June 2013;
- Action 3(c) – Commission construction company to construct buildings and structures by 31 May 2013;
- Action 3(d) – Carry out capital works by 31 May 2014;
- Action 3(e) – Implement and maintain appropriate practices and procedures on site by 31 May 2014;
- Action 3(f) – Update Site Based Management Plan to incorporate any new capital works and improvements by 30 June 2014.

- (c) Ostoic Group Pty Ltd have requested that milestone dates in TEP MAN14060 be extended due to allow Ostoic sufficient time to complete design drawings and specifications, obtain Development Permits for Building Works and Operational Works from the Cloncurry Shire Council and to reconsider funding and execution of site works resulting from the suspension of magnetite delivery service and storage by Ernest Henry Mine. The proposed changes to the TEP milestone dates are:

- Action 3 – completed by 17 May 2017;
- Action 3(b) – completed by 30 June 2016;
- Action 3(c) – completed by 31 May 2016;
- Action 3(d) – completed by 17 May 2017;
- Action 3(e) – completed by 17 May 2017;
- Action 3(f) – completed by 17 May 2017

TEP Part 2 – Considering and making a decision about an amendment to TEP

2. Matters that must be considered when making an amendment decision about a TEP

The amended draft TEP submitted by Ostoic Group Pty Ltd on 15 November 2013 proposes changes to the milestone dates for the following actions:

Action	Item	Milestone	Original Delivery Date	Revised Delivery Date
3	Extension of existing shed in accordance with concept drawing number 1A and 1B attached at Appendix D.	Sheds have been extended in accordance with Appendix D.	31 May 2014	17 May 2017
3(b)	Obtain necessary statutory approvals for site works to commence (including but not limited to Material Change of Use and Operational Works permits).	Development Permits obtained	30 June 2013	30 June 2016
3(c)	Commission construction company to construct buildings and structures.	Construction contractor commissioned.	31 May 2013	31 May 2016
3(d)	Carry out capital works	Capital works in place	31 May 2014	17 May 2017
3(e)	Implement and maintain appropriate practices and procedures on site.	Implementation and maintenance of appropriate practices and procedures on site.	31 May 2014	17 May 2017
3(f)	Update Site Based Management Plan (SBMP) to incorporate any new capital works and improvements.	SBMP updated	30 June 2014	17 May 2017

Section 344 – Considerations for Amendment of TEP**(a) S344(2) Does the amendment extend the program beyond 5 years?**

☒ No

The term of the TEP will not extend beyond 5 years from the date the TEP commenced.

☐ Yes – public notification required

(b) s344(3) Does the amendment increase environmental harm being caused by the activity?

☐ Yes – application must be refused

TEP Part 2 – Considering and making a decision about an amendment to TEP

☒ No – provide justification:

Ostojic Bulk Handling Facility has been operating at significantly reduced volumes of 8,000 to 10,000 tonnes per month as a result of suspension of magnetite delivery from Ernest Henry Mine in early September 2013. The final load of magnetite concentrate left the facility on 28 August 2013.

Handling of significantly reduced volumes of copper concentrate, and no magnetite, at the facility will result to a reduction in dust generated by truck movements and the loading and unloading of materials onto the train.

The TEP has indicated how each proposed action will prevent or minimise any environmental harm. The amended TEP has also indicated that interim measures have been undertaken and are in place as required by EPO STAT657. These interim measures include covering of all mineral concentrate stockpiles not stored in fully enclosed sheds regular cleaning and removal of mineral concentrate spillage from the area and air quality monitoring program will continue throughout the extended term of the TEP. The interim measures will be continuously implemented throughout the duration of the TEP. If circumstances allow, Ostojic Group Pty Ltd are committed to implementing the remaining actions of the TEP prior to the proposed extended dates.

EHP is satisfied that the amendment request will not pose an increase in environmental harm being caused by carrying out of the activity under the amended approval than the environmental harm that would be caused by carrying out the activity if the approval were not granted.

(c) S344(4)(a – c) Period under original approval and changes to period.

The TEP indicates how SPDE01054010 Conditions A1 and A5 requirements will be achieved by the following proposed actions:

Proposed Action	DA SPDE01054010 Condition Addressed
Provision of dust control measures and monitoring devices	A1, A5(a)
Installation and operation of dust suppression measures such as watering systems	A1
Provision of an extended enclosed building to store the concentrates in an enclosed building.	A5(b), A5(c), A5(d), A5(f)
Use of dust control measures such as watering and truck wash down facilities	A1, A5(g)
Implementation of housekeeping checklist/procedures	A5(b), A5(e), A5(g)
Development and implementation air quality monitoring programs	A1, A5(a), A5(g)

The original Certificate of Approval for the Ostojic TEP was issued on 18 May 2012 and ends on 31 May 2014. Most of the required actions under the TEP MAN14060 Objective - "Achieve compliance with development condition A1 of Development Approval (DA) SPDE01054010" have been completed by Ostojic Group Pty Ltd. On-going action under this objective includes implementation of the monthly air quality monitoring program. The monthly air quality monitoring will continue throughout the duration of the TEP extension period. The TEP also indicates that the progress of the TEP will be monitored by Ostojic Group

TEP Part 2 – Considering and making a decision about an amendment to TEP

Pty Ltd, with 6-monthly reports provided to EHP, documenting any monitoring results and data to demonstrate the TEP progress.

The remaining actions under TEP MAN14060 refer to the objective - "Achieve compliance with development condition A5 of Development Approval (DA) SPDE01054010." Most of the actions involving the implementation of enclosed storage shed for mineral concentrates will require period extension.

Additionally, the draft TEP will be amended to indicate that at the end of the TEP period (17 May 2017), a final (close out) report will be prepared and submitted to EHP documenting how compliance with the TEP has been achieved, and how all requirements of conditions A1 and A5 of DA SPDE01054010 and general environmental duty have been met. This close out report will be based on the development and implementation of an ambient air quality and dust deposition program, and will be submitted to EHP by 17 May 2017.

As the term of TEP will be extended to 17 May 2017, the progress of the TEP will be monitored by Ostojic and documented in 6-monthly reports to EHP. The report will identify each TEP action and its status, advice program performance and meeting of performance indicators and delivery dates, provide if necessary, contingency or corrective actions required to ensure TEP compliance and will include monthly air quality monitoring results. The report will be submitted to EHP by the following dates: 5 January 2014, 30 June 2014, 5 January 2015, 30 June 2015, 5 January 2016, 30 June 2016, 5 January 2017.

(d) s344(4)(d) Nature of the environmental harm being caused by the activity

The TEP has indicated how each proposed action will prevent or minimise any environmental harm. The amended TEP has also indicated that interim measures have been undertaken and are in place as required by EPO STAT657. These interim measures include covering of all mineral concentrate stockpiles not stored in fully enclosed sheds, repair of all damaged claddings on the existing storage shed and regular cleaning and removal of mineral concentrate spillage from the area. The interim measures will be continuously implemented throughout the duration of the TEP.

The changes to the internal timeframes and the term of TEP are not expected to increase environmental harm caused by the activity, and the continual implementation of the measures required under the TEP will reduce overall environmental harm caused by the project.

Standard criteria

☒ The Department has considered all relevant matters in the standard criteria.

Provide brief details in the table below of each relevant standard criterion and how it relates to the Department's consideration of the draft TEP. If a particular criterion is not applicable, write 'N/A'.

Standard criterion	Details
Ecologically sustainable development	The proposed amendments allow for continued operation without increasing environmental risk.
Environmental protection policies (EPPs)	The EPP for Air has been considered during the assessment of the draft TEP, specifically Part 4 of the EPP (Air) 2009 referring to management hierarchy, i.e., avoiding, recycling, minimising, or managing air emissions, for an activity involving air emissions. Fugitive dust emission is generated during loading and unloading of mineral

TEP Part 2 – Considering and making a decision about an amendment to TEP

	concentrate. Reduction in copper concentrate and no magnetite handling at the facility will result to a reduction in dust generated by truck movements and the loading and unloading of materials onto the train. It is considered that a negatively pressured shed would significantly reduce fugitive air emissions coming from the site.
Plans, standards or agreements	N/A
Environmental impact study, assessment or report	N/A
Receiving environment	The risk to the receiving environment is expected not to increase due to significantly reduced volume of copper concentrate and no magnetite concentrate to be handled at Ostoic facility. Monthly air quality monitoring will be continuously undertaken until the completion of the TEP.
Submissions made by the applicant and submitters	N/A
Best practice environmental management	<p>The best practice environmental management is to fully enclose the facility with provisions for dust control measures in order to prevent the contaminants from becoming air borne. The fully enclosed shed will also reduce the risk that stormwater can be contaminated by mineral concentrate spill during loading and unloading.</p> <p>The amended draft TEP requires Ostoic Group Pty Ltd to incorporate best practice environmental management techniques where appropriate in carrying out this program. Fully enclosed negatively pressured sheds have been the minimal requirements for other similar facilities constructed in North Region. These include MMG Karumba (storage of lead and zinc concentrate), Rocklands (copper concentrate) and the Townsville port facility.</p> <p>The Site Based Management Plan proposes to be updated as part of this TEP will contain the best practice environmental management to be implemented at Ostoic Bulk Handling Facility.</p>
Financial implications	The financial implications of the amendment are considered minor. The extended term of the TEP will allow Ostoic Group Pty Ltd to reassess its financial capacity and obtain additional funding to construct the fully enclosed negatively pressured sheds.
Public interest	It is considered that it is in the public interest to transition the operation into compliance with contemporary environmental standards, as such, the amendments to the TEP are administrative in nature, and the major work required under

TEP Part 2 – Considering and making a decision about an amendment to TEP

	the TEP has not changed.
Site management plan	There is current site management in place, which is not affected by the proposed amendments. The current site management plan can still be implemented during the term of the TEP and will be updated as soon as the actions in the TEP are completed.
Environmental management systems (IEMS)	N/A

Additional information

☐ The Department has considered additional information (if any) given in relation to the TEP amendment.

OR

☒ No additional information has been provided.

Views expressed at a conference

☒ If a conference has been held in relation to the amendment to the TEP, the Department has considered the views expressed at the conference.

A meeting was held on 1 October 2013 between EHP, Ostoic Group Pty Ltd and GHD Pty Ltd. The meeting resulted in:

- Ostoic to submit application to amend internal timeframes for the TEP actions 3, 3(b), 3(c), 3(d), 3(e) and 3(f) and the term of TEP. Ostoic has indicated that the Cloncurry facility has been handling significantly reduced volume of mineral concentrate as a result of stoppage of magnetite hauling from Ernest Henry Mine. The only mineral concentrate being handled at the facility is copper concentrate at a reduced volume of 8,000 to 10,000 tonnes per month. Ostoic is committed to building a fully enclosed negatively pressurised sheds for the copper concentrate. However, Ostoic will require additional time to secure additional funding for carrying out the capital works.
- Interim measures including covering of all mineral concentrate stockpiles not stored in fully enclosed sheds, regular cleaning and removal of mineral concentrate spillage from the area and air quality monitoring program will continue throughout the extended term of the TEP.
- EHP will assess the Ostoic TEP amendment application whether or not the amendment will result in increased environmental harm caused by the activity.

OR

☐ No conference has been held.

Consistency with development conditions of a development approval

☒ If the draft TEP has been prepared because of a development condition of a development approval, the draft TEP is consistent with other conditions of the development approval.

The TEP is consistent with the remaining conditions of the development approval.

OR

☐ The draft TEP has not been prepared because of a development condition of a development approval.

TEP Part 2 – Considering and making a decision about an amendment to TEP

Public notice of submission of amended TEP and substantial compliance with the Act

☐ If public notice is required to be given at the submission of the draft TEP, the Department is satisfied that the public notice has been properly given.

OR

☐ The Department is not satisfied that the required public notice has been properly given, but is satisfied that there has been substantial compliance with the Act and will accept this as compliance.

[]

OR

☒ Public notice is not required.

Is the Department satisfied with the proposed amended TEP?

For the amended draft TEP to be approved, at least one box should be checked next to each of the above matters for consideration. If any of the matters remain unchecked, then the draft TEP can not be approved.

☒ If a box has been checked next to each requirement - Proceed to section 3.

☐ If a box has not been checked next to each requirement - Proceed to section 4.

3. Request for further information and/or amendments to a draft TEP

If the draft TEP substantially addresses all of the relevant matters listed under s331 of the Act, but cannot be approved unless further information is provided or some amendments are made, the Department may request that the person or public authority provide further information or an amended TEP. Note that if there are significant problems with the draft TEP and it will require major changes or re-writing before it can be approved, the Department should refuse to approve it.

If it is appropriate that further information or a request for amendments be made, officers should consider the following alternatives—

☐ Further information is required.

☐ Minor amendments are required.

☐ More substantial amendments are required.

[]

4. Approval of the amended TEP

Prior to making a recommendation to issue a notice of decision approving the amended TEP (with or without conditions), it is important to take into account that the Act stipulates that a TEP is a program that achieves compliance with the Act for the activity to which it relates.

If the draft TEP does **not** meet the requirements of the Act it must be refused. Whilst the Act does make provision for the approval to be subject to conditions, the conditions should address relatively minor issues only. Conditions stated in a notice of decision must not be used to rectify significant issues with an amended TEP.

A notice of decision must be issued within 8 business days of making the decision to approve the amended TEP. If the approval is subject to conditions, the notice of decision must be an information notice.

TEP Part 2 – Considering and making a decision about an amendment to TEP

- ☒ The notice of decision identifies the documents forming the approved TEP, including any amendments under section 339(1)(a)(ii).
- ☒ The notice of decision sets out any conditions imposed on the approval by the Department.
- ☒ The notice of decision states the day the approval ends.
- ☒ If conditions have been imposed on the approval, the notice of decision is in the form of an information notice.

If the notice is in the form of an information notice, it must include:

- ☒ the decision and
- ☒ the reasons for the decision and
- ☒ any available rights of internal and external review.

5. Refusal to approve a draft TEP

The draft TEP cannot be approved unless at least one checkbox has been checked beside each of the matters required to be addressed by the draft TEP. If the draft TEP does not meet all of the requirements, and any deficiencies will not be addressed by a request for further information and/or amendments to the draft TEP, then the Department should refuse to approve the draft TEP.

If the Department refuses to approve the TEP, the notice of decision must be an information notice. Consequently, the notice of decision must include:

- ☐ the decision and
- ☐ the reasons for the decision and
- ☐ any available rights of internal and external review.

6. Provide for natural justice

In order to provide natural justice, the Department must advise the person that submitted the amended TEP if it intends to do one of the following things—

- request further information about the amended TEP and/or
- request amendments to the amended TEP or
- refuse to approve the amended TEP.

The Department must also provide the person with the opportunity to make submissions in response to the Department's intentions.

- ☒ The person has been provided with the opportunity to put their side of the story forward.
- ☒ All information provided has been considered.
- ☒ The Department has considered the information.
- ☒ The decision-maker and environmental officer are free from bias or the perception of bias.

The department has undertaken extensive negotiations with the client, and has considered their representations in deciding the application.

TEP Part 2 – Considering and making a decision about an amendment to TEP

7. Fees

The fee for assessing an application to amend a TEP is \$206.00 (includes GST).

8. Recommendation

The assessing officer is required to make a recommendation in relation to the draft TEP.

Recommendation:

It is recommended that approval for the amended draft TEP submitted by Ostoic Group Pty Ltd be granted with conditions under Section 344 of the *Environmental Protection Act 1994*.

It is recommended that the amended TEP Certificate of Approval MAN14060 be issued to Ostoic Group Pty Ltd.

It is recommended that a notice of the decision to grant the amendment to the TEP be issued to Ostoic Group Pty Ltd under section 340 of the *Environmental Protection Act 1994*.

It is recommended that a total fee of \$206.00 be requested from Ostoic Group Pty Ltd.

9. Approval

Environmental Officer	Supervisor
Print name: Alex Apostol	Print name: Warwick Fegan
Date:	Date:

Delegated decision-maker	Approve / Reject recommendation (circle one)
Reasons for decision. 	
Print name:	
Date:	

From: Fegan Warwick
Sent: Tuesday, 10 December 2013 9:55 AM
To: Apostol Alex
Subject: RE: Ostojoic TEP Amendment

Hi Alex.

I am ok with these to finalise and print

Warwick Fegan

Principal Environmental Officer, Mining and Heavy Industry
Environmental Services and Regulation
Department of Environment and Heritage Protection
Level 3 | 5B Sheridan Street | Cairns
Tel 07 4222 5324 |
www.ehp.qld.gov.au



From: Apostol Alex
Sent: Monday, 9 December 2013 4:11 PM
To: Fegan Warwick
Subject: Ostojoic TEP Amendment

Hi Warwick,

Please find attached the draft documentation for Ostojoic TEP Amendment Application.

Rgrds,
Alex

Alex Apostol
Senior Environmental Officer
Mining and Heavy Industry, Northern Region
Environmental Services and Regulation
Department of Environment and Heritage Protection
5b Sheridan Street PO Box 7230
Cairns QLD 4870
Telephone: 07 4222 5359
Facsimile: 07 4222 5070
Email: alex.apostol@ehp.qld.gov.au
Website: www.ehp.qld.gov.au

RTI DL RELEASE - EHP

From: Collins Tanya [Tanya.Collins@ehp.qld.gov.au]

Sent: Friday, 13 December 2013 2:11 PM

To: Apostol Alex

CC: Fegan Warwick

Subject: MAN14060 - Ostojic Group Pty Ltd

Attachments: MAN14060 Decision Notice.pdf; MAN14060 Certificate of Approval.pdf; EM1866 Planning & Environment Court.pdf; op-bi-transitional-environmental-program-fees-em335.pdf; fm-bi-annual-notice-return-tep-em667.doc; TEP - Ostojic Group.pdf

Hi Alex,

Attached are all TEP documents to be emailed to Ostojic Group.

Thanks,

Tanya

Tanya Collins

Environmental Support Officer

Environmental Standards and Compliance

Telephone: 07 4222 5352 **Facsimile:** 07 4222 5070

Email: tanya.collins@ehp.qld.gov.au

Department of Environment and Heritage Protection
5b Sheridan Street 'William McCormack Place' Cairns
PO Box 7230 Cairns QLD 4870

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RTI DL RELEASE - EHP

Permit

Environmental Protection Act 1994

Certificate of approval – transitional environmental program

This certificate of approval for a transitional environmental program (TEP) is issued by the administering authority pursuant to sections 340 and 344 of the Environmental Protection Act 1994 (the Act).

Ostojic Group Pty Ltd
PO Box 38915
WINNELLIE NT 0821

Our reference: MAN14060

13 December 2013

Certificate of approval number: MAN14060

Dear Sir / Madam,

Take notice: that under the provisions of the *Environmental Protection Act 1994* (the Act) this certificate of approval for a transitional environmental program (TEP) is served on you by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Heritage Protection (the department).

The TEP remains in force until **17 May 2017**.

An annual return and the payment of the assessment fee is due within **22 business days** after the anniversary day, each year.

The anniversary day is **17 May**.

A. Certificate of approval issued to:

Name	Registered address
Ostojic Group Pty Ltd	115 Tivendale Rd Berrimah, Northern Territory 0828

Permit

B. Transitional environmental program details

Location(s)
Lot 138 on Plan RP905659 Sir Hudson Fysh Drive Cloncurry, Queensland 4824

The approved TEP consists of the following:

- the submitted application documents including any amendments made at the request of, or with the agreement of, the department (**attached**);
- a copy of this certificate of approval.

C. Conditions

The draft transitional environmental program is approved subject to the conditions set out in Schedule 1.

D. Additional information

Contaminated land

It is a requirement of the Act that if an owner or occupier of land becomes aware a notifiable activity (as defined in schedule 3 and schedule 4 of the Act) is being carried out on the land, or that the land has been, or is being, contaminated by a hazardous contaminant, the owner or occupier must, within 22 business days after becoming so aware, give written notice to the department in the approved form.

Obligations under the Act

In addition to the requirements found in the conditions of this certificate of approval, the holder must also meet their obligations under the Act, and the regulations made under the Act. For example:

- the holder must comply with the following provisions of the Act:
 - general environmental duty (section 319); and
 - duty to notify environmental harm (sections 320 - 320G);
- the holder must also ensure that they do not commit offences of:
 - causing serious or material environmental harm (sections 437 - 439);
 - causing environmental nuisance (section 440);
 - depositing prescribed water contaminants in waters and related matters (section 440ZG); and
 - placing contaminant where environmental harm or nuisance may be caused (section 443).

es in relation to the notice please contact Alex Apostol on telephone number 07 4222 5359.

sch4p4(6) Personal information

13

Rebecca McAuley

Team Leader – Mining and Heavy Industry

Delegate of the Chief Executive

Department of Environment and Heritage Protection

Environmental Protection Act 1986

Enquiries:

Environmental Protection and Inspection

PO Box 772

CAIR

PO Box 1000

Department of Environment and Heritage Protection

Attachments

Approved T3

RTI DL RELEASE - EHP

Certificate of approval – transitional environmental program

Schedule 1—Conditions of transitional environmental program

The amended transitional environmental program is approved subject to the following additional conditions:

1. The approved Transitional Environmental Program (TEP) applies to conditions A1 and A5 of Development Approval SPDE01054010.
2. All conditions of this approval and all conditions of Development Approval SPDE01054010 (apart from condition A1 and A5) apply during the period of this TEP.
3. A receiving environment dust monitoring program must be developed and implemented by 31 October 2012. The receiving environment dust monitoring program must:
 - (a) be developed by an appropriately qualified person;
 - (b) be implemented and maintained for the period of the TEP;
 - (c) include a sufficient number of monitoring locations representative receiving environment, including sensitive places and an appropriate monitoring frequency of those locations to allow for a scientifically justifiable assessment of emissions from the activity against the ambient air quality limits listed in Table 1 of this approval;
 - (d) be undertaken in accordance with the relevant Australian Standards;
 - (e) at a minimum, monitor for:
 - i. Particulate Matter with an aerodynamic diameter of less than 10 micrometres (PM₁₀); and
 - ii. Total Suspended Particles.

4. Dust emissions from the activity must not cause the ambient air quality limits listed in Table 1 of this approval to be exceeded when measured at a sensitive place in accordance with the receiving environment dust monitoring program.

Table 1 – Ambient Air Quality Limits

Air Quality Characteristic	Limit	Averaging Period
PM ₁₀ (particulate matter with an aerodynamic diameter of less than 10 micrometres)	50 µg/m ³	24 hours
Total Suspended Particles	90 µg/m ³	Annual
Dust Deposition (Total Insoluble Matter)	120 mg/m ² /day	Monthly

5. A report on the dust monitoring program including results of the program must be provided to the administering authority on a six monthly basis during the period of the TEP.
6. The progress of the TEP will be monitored by Ostojic and documented in 6-monthly reports to EHP. The report will be submitted to EHP by the following dates:
 - 5 January 2014
 - 30 June 2014
 - 5 January 2015



Certificate of approval – transitional environmental program

- 30 June 2015
 - 5 January 2016
 - 30 June 2016
 - 5 January 2017
7. A final (close out) report will be prepared and submitted to EHP by 17 May 2017.
8. The final date for completion of the TEP is **17 May 2017**.

Definitions

“appropriately qualified person” means a person who has professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods or literature.

“sensitive place” means

- (a) a dwelling, residential allotment, mobile home or caravan park, residential marina or other residential premises; or
 - (b) an educational institution; or
 - (c) a medical centre or hospital; or
 - (d) a protected area under the Nature Conservation Act 1992, the Marine Parks Act 1992 or a World Heritage Area; or
 - (e) a public park or garden,
- but does not include employee accommodation or public roads.

END OF CERTIFICATE



Notice

Environmental Protection Act 1994

Decision to approve an amendment to a transitional environmental program

This notice is issued by the administering authority pursuant to sections 340 and 344 of the Environmental Protection Act 1994 (the Act) to advise of a decision made on a proposed amendment to a transitional environmental program.

Ostojic Group Pty Ltd
PO Box 38915
WINNELLIE NT 0821

Your reference: SPDE01054010

Our reference: MAN14060

13 December 2013

Dear Sir / Madam,

Take notice: that under the provisions of the *Environmental Protection Act 1994* (the Act) this notice advising of the decision to approve an amendment to a transitional environmental program is issued to Ostojic Group Pty Ltd (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Heritage Protection (the department).

This notice is issued in respect to the activities of Ostojic Group Pty Ltd at the Cloncurry Rail Loading Facility on land described as Lot 138 on RP905659 situated Sir Hudson Fysh Drive, Cloncurry (the premises).

A. Application details

Your application for the approval of a proposed amendment to a draft transitional environmental program (TEP) was received by the department on 15 November 2013.

Certificate of Approval MAN14060.

This draft program relates to works required to transition into compliance with environmental authority SPDE01054010.

B. Decision

The administering authority has decided to approve your application with conditions.

The approved TEP consists of the following:

Decision regarding a draft transitional environmental program

- the submitted application documents including any amendments made at the request of, or with the agreement of, the department; and
- a copy of the amended certificate of approval, including conditions (**attached**).

The TEP will remain in force until **17 May 2017**.

C. Grounds

- The decision to approve the amendment considered that the risk of further environmental harm occurring was low.
- Conditions were imposed to clarify the new reporting requirements as a result of changes to the timeframes specified in the transitional environmental program.

D. Reviews and appeals

The provisions regarding review of decisions and appeals may be found in sections 519 to 539 of the Act.

A person who is dissatisfied with certain decisions of the department, may be able to apply to have the department review that original decision.

Generally, a request to have a decision reviewed must be made:

- within 10 business days of the decision being notified to the person;
- be supported by enough information to enable the department to decide the application for review; and
- be made using the application for review of an original decision form (EM709).¹

Where an application has been made for a decision to be reviewed, the applicant may also apply to the relevant court for a stay of the decision to secure the effectiveness of the review.

Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

A person whose interests are or would be adversely affected by a decision of the department may also be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

For further information about reviews and appeals see the information sheet - internal review and appeal to the Planning and Environment Court (EM1866).

You may have other legal rights or obligations and should seek your own legal advice.

¹ This is the publication number. The publication number can be used as a search term to find the latest version of a publication at www.ehp.qld.gov.au.

Notice

E. Fee and annual return

Fees apply to the assessment of an application for a TEP and any subsequent annual returns lodged. The applicable fees are outlined in the attached operational policy - transitional environmental program fees (EM008).

A fee of \$206.00 has been determined as appropriate for the assessment of the application and in accordance with the operational policy. This fee is payable and an invoice will follow shortly.

As your TEP is valid for 12 months or more, an annual return and assessment fees apply while the TEP is in effect. These must be submitted to the administering authority no later than 30 business days after each anniversary of the day the TEP was approved. A blank annual return for a TEP has been attached.

Should you have any queries in relation to the notice, please contact Alex Zepher, the department on telephone number 17 4222 6569.

sch4p4(6) Personal information

Signature

Date

Rebecca

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Enquiries

Environmental Services and Regulation

Box 1000

St Johns of Plac

Plac

Environmental Services and Regulation

Attachments

Certificate of approval (Form 17-00-000)

Information about internal review and appeal to Planning and Environment Court (EP 008)

Operational Policy - Transitional Environmental Program Fees (EM008)

Operational policy

Fees

Transitional environmental program fees

Operational policies provide a framework for consistent application and interpretation of legislation by the Department of Environment and Heritage Protection. Operational policies will not be applied inflexibly to all circumstances. Individual circumstances may require an alternative application of policy. This policy concerns s. 140 of the Environmental Protection Regulation 2008.

Policy issue

What are the administering authority¹ fees for considering a transitional environmental program (TEP)?

Background

Section 334 of the *Environmental Protection Act 1994* (EP Act) provides for the administering authority to charge a person or public authority for submitting a draft TEP for approval.

Section 140(1) of the Environmental Protection Regulation 2008 (EP Reg) prescribes that the fees for consideration of a draft TEP or an amendment of an approval for a TEP is the amount that:

- the authority considers to be reasonable
- is not more than the reasonable cost of deciding the application for approval of the program or the amendment of the approval.

Section 140(3) of the EP Reg prescribes that the fees for assessing the holder's annual returns and monitoring compliance with the program is the amount that:

- the authority considers to be reasonable
- is not more than the reasonable cost of the assessment and monitoring.

Determination

Fees for the assessment of a draft TEP are a minimum of \$402.10 (includes GST), plus an additional \$200.70 per hour (includes GST) or part thereof, charged after the first two hours.

Fees for assessment of a TEP annual return and monitoring of a compliance program of a draft TEP are a minimum of \$402.10 (includes GST), plus an additional \$200.70 per hour (includes GST), or part thereof, charged after the first two hours plus any reasonable costs for analysis and travel.

The reasonable cost of analysis cost will be the actual cost of the analysis to the department, plus GST.

¹ The Department of Environment and Heritage Protection (EHP) is the administering authority under the *Environmental Protection Act 1994*.

The reasonable cost of travel will be the cost of travel², plus GST.

The fee for assessing an application to amend a TEP is \$206 (includes GST).

Other issues to consider

The person having a draft TEP considered should be advised at the time of approval of the TEP that the administering authority will require payment of a fee for assessment of the annual return and monitoring compliance of the TEP.

Further information

The latest version of this publication can be found at www.ehp.qld.gov.au using the publication number EM335 as a search term.

Disclaimer:

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment and Heritage Protection should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

Approved by:

Omar Ameer
Director, Environmental Regulatory Practice and Support
Department of Environment and Heritage Protection
Date: 5 July 2013

Enquiries:

Permit and Licence Management
Ph: 13 QGOV (13 74 68)
Fax: (07) 3330 5875
Email: palm@ehp.qld.gov.au

² The reasonable cost of travel will be calculated as outlined in s. 4 (employees who choose to use their own vehicles) of the schedule in the Queensland Government *Directive No. 14/10 Motor Vehicle Allowances September 2010*, issued by the Attorney-General and Minister for Industrial Relations. For a motor vehicle this is set at 37.5 cents per kilometre.



15 November 2013

Hamish Butler
Team Leader – Mining and Heavy Industry
Environmental Services and Regulation – Northern Region
Department of Environment and Heritage Protection
PO Box 937
CAIRNS QLD 4870

Our ref: 41/23951
452871
Your ref: MAN14060

Dear Hamish

**Ostojic Group Transitional Environmental Program (MAN14060)
Request for Extension of Milestone Dates and Term of TEP**

I refer to the Ostojic Group's (Ostojic) Transitional Environmental Program (Certificate of Approval Number MAN14060 dated 18 May 2012 and approved amendment dated 12 March 2013) for their bulk handling facility at Sir Hudson Fysh Drive, Cloncurry. Pursuant to s344 of the *Environmental Protection Act 1994* Ostojic Group request an extension of the term of the TEP and milestone dates for actions 3, 3(b), 3(c), 3(d), 3(e) and 3(f). This request is submitted following notice from Ostojic of the required extensions in correspondence dated 13 September 2013 and subsequent meeting held between DEHP, Ostojic Group and GHD on the 1 October 2013.

1 Recent Operational Changes

On 26 July 2013, Ostojic were notified by Xstrata's Ernest Henry Mine of their intention to suspend the magnetite delivery service and storage at Ostojic's facility from early September 2013. Such a suspension was on the basis of operational needs and/or due to a material change in the economic circumstances affecting Ernest Henry Mine. This notification was issued to Ostojic without prior warning from Xstrata.

The final load of magnetite left the facility on 28 August 2013 and since then, the facility has been operating at significantly reduced volumes of 8,000 to 10,000 tonnes per month of copper concentrate only. This situation has created an uncertain future for the facility and Ostojic has put on hold some activities to allow them to reassess their position, investigate other client opportunities and the ongoing viability of the facility.

Ostojic wish to advise EHP that while they intend to comply with all of the actions of TEP MAN14060 as soon as practicable, the stalling of various activities for a period of time will not cause an increase in potential or actual environmental harm generated by the facility. Ostojic however will require an extension of the milestone dates for actions 3, 3(b), 3(c), 3(d), 3(e) and 3(f) and to the term of the TEP beyond May 2014 to allow time to reconsider funding and execution of site works. This is discussed further below.

2 Requested Amendments

2.1 Extension of the Term

The current term of the TEP is 24 months with a completion date of 31 May 2014. The remaining actions of the TEP to be implemented will require significant capital expenditure from Ostoic. Due to the current uncertainty of the future of the facility, Ostoic seeks to extend the term of the TEP to a total of 60 months with a completion date of 31 May 2017. This requested extension is within the allowable 5 year timeframe for a program to be carried out in accordance with s344(2) of the *Environmental Protection Act 1994*.

2.2 Extension of Actions

Table 1 provides the proposed extensions to the milestone dates of actions 3, 3(b), 3(c), 3(d), 3(e) and 3(f).

Table 1 Proposed Extension of Milestone Delivery Dates

Action	Milestone	Original Delivery Date	Revised Delivery Date	
3	Extension of existing shed in accordance with concept drawing numbers 1A and 1B attached at Appendix D.	Sheds have been extended in accordance with Appendix D.	31 May 2014	31 May 2017
3(b)	Obtain necessary statutory approvals for site works to commence (including but not limited to, Material Change of Use and Operational Works permits).	Development Permits obtained.	30 June 2013	30 June 2016
3(c)	Commission construction company to construct buildings and structures.	Construction contractor commissioned.	31 May 2013	31 May 2016
3(d)	Carry out capital works.	Capital works in place.	31 May 2014	31 May 2017
3(e)	Implement and maintain appropriate practices and procedures on site.	Implementation and maintenance of appropriate practices and procedures on site.	31 May 2014	31 May 2017
3(f)	Update Site Based Management Plan to incorporate any new capital works and improvements.	SBMP updated.	30 June 2014	30 June 2017

Extension of Actions 3, 3(c), 3(d), 3(e) and 3(f)

In line with the extension of the term of the TEP, the milestone dates for actions 3, 3(d), 3(e) and 3(f) will also need to be extended to 31 May 2017 and 3(c) to 31 May 2016. If circumstances allow, it is intended that these actions be completed prior to these dates, however this timeframe will allow Ostoic sufficient time to reassess their position and reconsider funding and execution of site works.

It is important to note however, that the handling of significantly reduced volumes of copper concentrate (and no magnetite) at the facility will mean a reduction in dust generated by truck movements in the yard and the loading and unloading of materials onto the train. Management measures currently in place on site to address dust issues, in addition to the ongoing air quality monitoring program, will continue to be maintained by Ostoic during the extended period.

Extension of Action 3(b)

Action 3(b) of the TEP requires Ostoic to obtain Development Permits for Material Change of Use (Special Industry – Magnetite Concentrate Handling) Building Works (assessable under the Cloncurry Shire Planning Scheme) and Operational Works (filling and excavation). The majority of site works cannot be legally constructed unless the relevant approvals are obtained from Cloncurry Shire Council (CSC).

Ostoic submitted a development application seeking a Development Permit for Material Change of Use for Special Industry – Magnetite Concentrate Handling and for Environmentally Relevant Activity 8 – Chemical Storage in October 2011 to CSC. This development application was refused by CSC at a special meeting held on 20 July 2012. In response, Ostoic lodged an appeal with the Planning and Environment Court, Brisbane on 22 August 2012. Following notification to suspend the handling of magnetite by Xstrata on 26 July 2013, this Development Permit is no longer required and as a result, Ostoic has discontinued the appeal in the Planning and Environment Court.

Development Permits for Building Works (assessable under the Cloncurry Shire Planning Scheme) and Operational Works (filling and excavation) will still need to be obtained from CSC for remaining actions of the TEP including the proposed shed extension and associated civil works. Lodgement of these applications to CSC is currently pending completion of the required design drawings and specifications. The delivery of the design drawings and specifications has been put on hold until Ostoic have determined their strategy for moving forward.

Ostoic therefore seeks to extend the milestone date of action 3(b) to 30 June 2016 to allow sufficient time to complete the design drawings and specifications and obtain approval from CSC. In the interim, Ostoic will commit to liaising with CSC in relation to the aspects of the works and required documentation to support the applications.

3 Assessment of Section 344 of Environmental Protection Act 1994

In making this request, Ostoic submits that pursuant to s344 of the *Environmental Protection Act 1994*, if actions are undertaken in accordance with the requested amendments:

- The period over which the TEP is to be carried out is within the allowable 5 year period;

- The Department can be assured that due to the significantly reduced operational activities of the Facility, the requested amendments will not cause an increase in environmental harm, than the environmental harm that would have been caused by carrying out the activity if the approval were not granted;
- The air quality monitoring program will continue throughout the extended term of the TEF and maintenance measures currently in place to manage dust levels will be maintained or modified by Ostojic as required; and
- If circumstances allow, Ostojic are committed to implementing the recommended actions of the TEF prior to the proposed extended dates.

4. Conclusion

The Ostojic is intention to continue to comply with the TEF for Bulk Handling Facility. Should EHP require further clarification in relation to any issues caused in the future, please contact the undersigned or an Ostojic representative.

Sincerely,

[Signature]

sch4p4(6) Personal information

Respectfully,
[Signature]

(07) 3316 3673