

# South of the Embley project:

## Coordinator-General's change report no. 2— general conditions

November 2013

Amended June 2014

© State of Queensland, Department State Development, Infrastructure and Planning, **November 2013**, 100 George Street, Brisbane Qld 4000. (Australia)



**Licence:** This work is licensed under the Creative Commons CC BY 3.0 Australia licence. To view a copy of this licence, visit [www.creativecommons.org/licenses/by/3.0/au/deed.en](http://www.creativecommons.org/licenses/by/3.0/au/deed.en). Enquiries about this licence or any copyright issues can be directed to the Senior Advisor, Governance on telephone (07) 3224 2085 or in writing to PO Box 15009, City East, Queensland 4002

**Attribution:** The State of Queensland, Department of State Development, Infrastructure and Planning.

The Queensland Government supports and encourages the dissemination and exchange of information. However, copyright protects this publication. The State of Queensland has no objection to this material being reproduced, made available online or electronically but only if it is recognised as the owner of the copyright and this material remains unaltered.



The Queensland Government is committed to providing accessible services to Queenslanders of all cultural and linguistic backgrounds. If you have difficulty understanding this publication and need a translator, please call the Translating and Interpreting Service (TIS National) on telephone 131 450 and ask them to telephone the Queensland Department of State Development, Infrastructure and Planning on telephone (07) 3227 8548.

**Disclaimer:** This report contains factual data, analysis, opinion and references to legislation. The Coordinator-General and the State of Queensland make no representations and give no warranties regarding the accuracy, completeness or suitability for any particular purpose of such data, analysis, opinion or references. You should make your own enquiries and take appropriate advice on such matters. Neither the Coordinator-General nor the State of Queensland will be responsible for any loss or damage (including consequential loss) you may suffer from using or relying upon the content of this report. By using or relying on such information you agree to indemnify the Coordinator-General and the State of Queensland against any loss arising out of or in relation to your use or reliance.

An electronic copy of this report is available on the Department of State Development, Infrastructure and Planning's website at [www.dsdip.qld.gov.au](http://www.dsdip.qld.gov.au)

---

# Contents

1.	Introduction .....	2
1.1.	Prior application for project change.....	2
1.2.	Legislative provision for change report.....	2
2.	Public notification .....	2
3.	The proposed change .....	3
3.1.	Proponent’s reasons for change .....	3
4.	Evaluation of the change request.....	3
5.	Conclusion .....	4
5.1.	Revised conditions.....	4
5.2.	Distribution of change report.....	4
Appendix 1.	Amended conditions.....	5

# 1. Introduction

The *South of the Embley project – Coordinator-General's evaluation report for an environmental impact statement* (Coordinator-General's report) was released in May 2012, pursuant to section 35 of the *State Development and Public Works Organisation Act 1971* (Qld) (SDPWO Act).

The proponent for the South of the Embley project is Rio Tinto Weipa Pty Ltd (RTA), a subsidiary of Rio Tinto Aluminium within the Rio Tinto Alcan Group. On 30 August 2013, RTA applied to the Coordinator-General to propose changes to Appendix 1, conditions 1–14 (excluding conditions 5 and 6) and Appendix 3, Part B, Schedule 1, Condition 4(d) of the Coordinator-General's report.

## 1.1. Prior application for project change

RTA has since been issued with Coordinator-General's change report No. 1 – Social conditions on 1 October 2013, which amended Appendix 1, conditions 7–14 of the Coordinator-General's report.

This Coordinator-General's change report only relates to Appendix 1, conditions 1–4 and Appendix 3, Part B, Schedule 1, Condition 4(d) of the Coordinator-General's report.

## 1.2. Legislative provision for change report

On 30 August 2013, the proponent applied to the Coordinator-General to assess a proposed change to a project under Division 3A, section 35B of the SDPWO Act. In accordance with section 35C of the SDPWO Act, I have evaluated the environmental effects of the proposed change, its effects on the project and any other related matters, and prepared this Coordinator-General's change report.

In evaluating the proponent's application for project change, I sought comment from the Department of Agriculture, Fisheries and Forestry (DAFF) and the Department of Energy and Water Supply (DEWS).

# 2. Public notification

In accordance with section 35G of the SDPWO Act, I must decide whether or not the proponent is required to publicly notify the proposed change application and any effects on the project.

The changes applied for relate to imposed conditions and do not materially affect the proponent's obligations contained in the relevant conditions. They are of an administrative nature. Accordingly, I decided that the proposed changes did not warrant public consideration and the application for project change was not publicly notified prior to evaluating the proposed change. However, targeted consultation was carried out with DAFF and DEWS.

## 3. The proposed change

The proposed change requests that Appendix 1, conditions 1–4 and Appendix 3, Part B, Schedule 1, Condition 4(d) in the Coordinator-General’s report, which relate to imposed conditions, be amended. The proposed changes are of an administrative nature and are consistent with state government policy.

### 3.1. Proponent’s reasons for change

The proposed changes align the current conditions with new state government policy and are of an administrative nature. RTA’s change request states:

We wish only minor changes to the conditions as detailed in the Coordinator-General report of 23 May 2012:

- Some minor administrative amendments to certain conditions to improve alignment with the SIA guidelines and reporting requirements;
- Some minor amendments will assist in streamlining the governance arrangements for monitoring social impact, recognising the suite of existing local collaborative forums that meet the intent of the SIMP/SIA guideline.

## 4. Evaluation of the change request

In evaluating this application for project change, I have considered the following:

- the proponent’s application for project change, dated 30 August 2013
- advisory agency comments, as part of a targeted consultation process.

DEWS was consulted on Appendix 1, Condition 3 of the Coordinator-General’s report and it supported removing Appendix 1, Condition 3(c). The amendment of Appendix 1, Condition 3 is supported on the basis that the key requirements for a failure impact assessment for any existing or proposed dam are given in the referable dam provisions (chapter 4) of the *Water Supply (Safety and Reliability) Act 2008*. This is also reflected in parts of Appendix 1, Condition 3(a) and (b).

DAFF was consulted in regards to Appendix 1, Condition 4 of the Coordinator-General’s report and it rejected all proposed changes to Appendix 1, Condition 4 on the basis that:

- a suitable design has not yet been developed and Fisheries Queensland does not want to limit the suitable design
- the proposed subclause (b)(i) is unlikely to provide adequate fish passage
- an independent review is required and necessary to ensure the fishway will be functional and reliable.

For the matters stated above, I will not be amending Appendix 1, Condition 4 of the Coordinator-General's report. I consider the amendments to Appendix 1, conditions 1–3 and Appendix 3, Part B, Schedule 1, Condition 4(d) are warranted as they are consistent with state government policy and are of an administrative nature. I support the approach to align the imposed conditions with the current Social Impact Assessment (SIA) guideline.

## 5. Conclusion

Pursuant to section 35I of the SDPWO Act, the evaluation of the RTA application for project change, dated 30 August 2013, concludes the following:

- the project changes requested by RTA will not affect the implementation of the South of the Embley project
- Appendix 1, conditions 1–3 of the Coordinator-General's report for the South of the Embley project should be amended
- Appendix 3, Part B, Schedule 1, Condition 4(d) of the Coordinator-General's report for the South of the Embley project should be amended.

Pursuant to section 35L of the SDPWO Act, the evaluation of the RTA application for project change, dated 30 August 2013, lapses on the same date as the Coordinator-General's report (under section 35A).

### 5.1. Revised conditions

Conditions made in this report are made pursuant to section 35I(2) of the SDPWO Act. Revised conditions are in Appendix 1 of this change report.

### 5.2. Distribution of change report

Pursuant to section 35J of the SDPWO Act, a copy of this report will be given to the proponent, and a copy will be made available at: [www.dsdip.qld.gov.au/soe](http://www.dsdip.qld.gov.au/soe)

As per section 35K of the SDPWO Act, the Coordinator-General's report on the EIS for the project, and the Coordinator-General's change reports, both have effect for the project. However, if the reports conflict, the Coordinator-General's change report prevails to the extent of any perceived inconsistency.



Barry Broe  
Coordinator-General  
21 November 2013

## Appendix 1. Amended conditions

Former condition (as stated in the Coordinator-General's evaluation report of May 2012)	New condition
<p><b>Appendix 1, Condition 1(a)</b></p> <p>The project must be carried out in accordance with the South of the Embley Project Environmental Impact Statement (EIS) (July 2011), the Supplementary Report (SEIS) for the project (January 2012), commitments given by the proponent (refer to Appendix 6) and this Coordinator-General's evaluation report.</p>	<p><b>Appendix 1, Condition 1(a)</b></p> <p>The project must be carried out generally in accordance with the South of the Embley Project Environmental Impact Statement (EIS) (July 2011), the Supplementary Report (SEIS) for the project (January 2012), commitments given by the proponent (refer to Appendix 6) and this Coordinator-General's evaluation report.</p>
<p><b>Appendix 1, Condition 1(c)</b></p> <p>The proponent must, when first becoming aware of any non-compliance of Coordinator-General imposed condition:</p> <ul style="list-style-type: none"><li>(i) authorise and undertake action to bring the matter into compliance within an effective timeframe</li><li>(ii) Report the non-compliance and remedial action to the Coordinator-General within 14 days of becoming aware of the non-compliance matter and seek the Coordinator-General's approval for the action and timeframe in (i) above.</li></ul>	<p><b>Appendix 1, Condition 1(c)</b></p> <p>The proponent must, when first becoming aware of any non-compliance with a Coordinator-General imposed condition:</p> <ul style="list-style-type: none"><li>(i) Report the non-compliance and the proposed remedial action to bring the matter into compliance within an effective timeframe to the Coordinator-General within 14 days of becoming aware of the non-compliance matter and seek the Coordinator-General's approval for the action and timeframe.</li></ul>

**Former condition (as stated in the Coordinator-General's evaluation report of May 2012)**

**New condition**

**Appendix 1, Condition 2**

DSDIP is to have jurisdiction for this condition.

- a) Compliance with the Coordinator-General's imposed conditions of this report must be audited by an appropriately qualified and experienced third party auditor or auditors relevant to the matters being audited, nominated by the proponent and accepted by the Coordinator-General. Condition 7(e) contains specific requirements relating to auditing conditions of the SIMP.
- b) The first audit report shall be lodged within 12 months of RTAW taking a final investment decision to proceed with the project. Subsequent reports shall be submitted annually thereafter until the Coordinator-General is satisfied that all imposed conditions have been implemented.
- c) The audit report must identify the conditions that were activated during the period, and include a compliance/non-compliance table. Evidence to support the compliance table must be provided. The third party auditor must certify the findings of the audit report.
- d) The financial cost of the third party audit is borne by the proponent.
- e) RTAW must immediately act upon any recommendations arising from the audit report and:
  - (i) investigate any non-compliance issues identified
  - (ii) as soon as practicable, implement measures or take necessary action to ensure compliance.

**Appendix 1, Condition 2**

DSDIP is to have jurisdiction for this condition.

In order to verify the proponent's compliance with the Coordinator-General's imposed conditions 2, 3, 4, 5 and 6, the following third party auditing requirements will apply to the project:

- a) Audits are to be undertaken on an annual basis during the audit period generally in accordance with AS/NZS ISO 19011:2003 *Guideline for quality and/or environmental management systems* by an appropriately qualified person, engaged by and at the expense of the proponent; and
- b) The approved audit report is to be provided to the Coordinator-General within 30 days after the end of the relevant 12-month period.
- c) The audit period will:
  - (i) commence from the date that the proponent notifies the Coordinator-General under Appendix 1, Condition 1(b) that FID has been taken; and
  - (ii) end once all imposed conditions have been complied with to the satisfaction of the Coordinator-General.

**Clerical error amendment:**  
Audit period commencement date amended to be consistent with original condition - 12 months after proponent notification that FID has been taken, not 12 months after proponent receiving Coordinator-General's Evaluation Report



Former condition (as stated in the Coordinator-General's evaluation report of May 2012)	New condition
<p><b>Appendix 1, Condition 3</b></p> <p>DNRM is to have jurisdiction for this condition.</p> <p>a) RTAW is to complete a failure impact assessment of Dam C in accordance with the Guidelines for Failure Impact Assessment for Water Dams within three months of FID.</p> <p>b) A statement containing details of the assessment, completed and signed by a registered professional engineer is to be submitted to DERM prior to construction.</p> <p>c) The assessment should contain sufficient material to demonstrate compliance with relevant dam failure aspects of Schedule 1, Clause 31 of the <i>Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957</i> (Comalco Agreement Act).</p>	<p><b>Appendix 1, Condition 3</b></p> <p>DEWS is to have jurisdiction for this condition.</p> <p>a) RTAW is to complete a failure impact assessment of Dam C in accordance with the <i>Guidelines for Failure Impact Assessment for Water Dams</i><sup>21</sup> within three months of FID.</p> <p>b) A statement containing details of the assessment, completed and signed by a registered professional engineer is to be submitted to DEWS prior to construction.</p>
<p><b>Appendix 3, Part B, Schedule 1, Condition 4(d)</b></p> <p>RTAW must, following a request from the Western Cape Communities Coordinating Committee (WCCCC), liaise with traditional owners and the Committee on opportunities for alternative post-mining land uses and may propose amendment to the rehabilitation management plan to reflect such opportunities (this does not preclude other stakeholders from proposing changes to the plan, all of which must be approved by DEHP).</p>	<p><b>Delete Condition Appendix 3, Part B, Schedule 1, Condition 4(d)</b></p>
<p><b>New Condition</b></p>	<p><b>Appendix 1, Condition 16(a)</b></p> <p>RTAW must, following a request from the Western Cape Communities Coordinating Committee (WCCCC), liaise with traditional owners and the committee on opportunities for alternative post-mining land uses and may propose amendment to the rehabilitation management plan to reflect such opportunities (this does not preclude other stakeholders from proposing changes to the plan, all of which must be approved by DEHP).</p>

<sup>21</sup> Department of Energy and Water Supply 2012, *Guidelines for Failure Impact Assessment for Water Dams*, Department of Energy and Water Supply, Brisbane, viewed 14 November 2013, <[http://www.dews.qld.gov.au/\\_\\_data/assets/pdf\\_file/0005/78836/guidelines-failure-impact-assessment.pdf](http://www.dews.qld.gov.au/__data/assets/pdf_file/0005/78836/guidelines-failure-impact-assessment.pdf)>

**The Coordinator-General**  
PO Box 15517, City East Qld 4002  
**tel** 13 QGOV (13 74 68)  
**fax** +61 7 3225 8282  
**info@dsdip.qld.gov.au**

**[www.dsdip.qld.gov.au](http://www.dsdip.qld.gov.au)**

---