

14 November 2018

Paul Coomer
North Queensland Bulk Ports Corporation
GPO Box 409
BRISBANE QLD 4001

Dear Paul,

DEVELOPMENT APPROVAL PACKAGE FOR MATERIAL CHANGE OF USE FOR ERA 50 BULK HANDLING ON LAND DESCRIBED AS LOT 58 ON SP123751, AT THE PORT OF MACKAY

NQBP Reference: PL/04/02/00008

North Queensland Bulk Ports Corporation Ltd (NQBP) wish to advise that your development application seeking approval for Material Change of Use for Environmentally Relevant Activity – ERA 50(1)(a) and 50(2) – Bulk material handling at the Port of Mackay was approved in full subject to conditions on 14 November 2018.

Approvals has been given with respect to Schedule 10, Part 5, Division 2 of the *Planning Act 2016* and Port Development Approval under the Port of Mackay Land Use Plan (November 2009).

You are strongly advised to read and familiarise yourself with each of the enclosures applicable to this approvals package.

If you have any queries regarding the approvals package, please contact the undersigned.

Yours sincerely



Digitally signed by
juliek@nqbp.com.au
DN: cn=juliek@nqbp.com.au
Date: 2018.11.14 16:21:17
+10'00'

Julie Keane
Principal, Development Advisor

Telephone: (07) 3011 7912
Email: JKeane@nqbp.com.au
Doc Reference: E18/30970

Enc: Decision notice issued under to s 63 of the *Planning Act 2016*
Port development approval issued under the Port of Mackay Land Use Plan (November 2009).
Approved drawings

Cc: Department of State Development, Manufacturing, Infrastructure and Planning (1807-6268 SRA)
Mackay Regional Council

Decision Notice

Planning Act 2016 s.63

1. Details of approval

<i>Applicant name:</i>	North Queensland Bulk Ports Corporation
<i>Approved development:</i>	Material Change of Use for Environmentally Relevant Activity – ERA 50(1)(a) and 50(2) – Bulk material handling
<i>Date of decision</i>	14 November 2018
<i>Aspect of development:</i>	<input checked="" type="checkbox"/> Material change of use <input type="checkbox"/> Reconfiguring a lot <input type="checkbox"/> Operational work <input type="checkbox"/> Building work
<i>Decision:</i>	<input type="checkbox"/> Preliminary approval only (with conditions) <input type="checkbox"/> Part approval only (with conditions) <input type="checkbox"/> Part approval only (without conditions) <input checked="" type="checkbox"/> Approval (with conditions)

1. Property description of proposed development

<i>Port:</i>	MACKAY
<i>Street address:</i>	George Bell Drive, Mackay Harbour QLD 4740
<i>Real property description:</i>	Lot 58 on SP123751
<i>Local government area:</i>	Mackay Regional Council

2. Approved drawings and documents

The following drawing has been approved. Copies of approved drawings are provided in an enclosure.

<i>Drawing or document</i>	<i>Number</i>	<i>Date / revision</i>
Port of Mackay – ERA Development Area (as amended in red)	Houghton Environmental Management Pty Ltd (Figure 2)	20/03/2018

3. Referral agency response

The development application was referred to the Department of State Development, Manufacturing, Industry and Planning under the following provision of the Planning Regulation 2017:

- 10.5.4.2.1 Environmentally relevant activities (only if ERA has not been devolved to a local government)
- 10.9.4.2.4.1 State transport corridors and future State transport corridors

4. Environmental authority

Environmental authority (EA0001500) has also been given under the *Environmental Protection Act 1994*]

5. Properly made submissions

Not applicable—no part of the application required public notification.

6. Additional development permits

This development permit is limited to the conduct of bulk handling in accordance with EA0001500 on lot 58 SP123751 at the Port of Mackay. At no time should this document be interpreted to imply approval to any other development, operation or land use.

Please be advised that the following development permits may be required to be obtained before the development can be carried out. It is the applicant's responsibility to ensure that all other necessary development permits are in place prior to work commencing.

<i>Permit / licence requirements</i>	<i>Relevant agency</i>
Building work – Development permit	Building certifier, as per the <i>Building Act 1975</i>

7. Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*.

8. Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provisions are attached.

Further information may be obtained from the Planning and Environment Court website:

<http://www.courts.qld.gov.au/courts/planning-and-environment-court>

Attachment 1

ASSESSMENT MANAGER CONDITIONS

Condition			Timing
Carry out the approved development			
1. The development must be undertaken generally in accordance with the plans and supporting documentation reference in the table below and attached which forms part of this approval, unless otherwise specified by any condition of this approval.			At all times.
Plan / Document name	Plan / Document number	Date	
Port of Mackay – ERA Development Area (as Amended)	Houghton Environmental Management (Figure 2)	20/03/2018	
2. Conduct of the Approved Development must no result in unauthorised environmental harm.			At all times.
3. A Stormwater Management Plan is to be developed detailing containment methods, management and certification by an RPEQ. The draft plan is to be submitted for review and approval, via approvals@nqbp.com.au .			At least four (4) weeks prior to commencement of works.
4. A site-specific Construction and Operation Environmental Management Plan detailing environmental risks and management measures relevant to the proposed bulk material to be stored on-site, is to be submitted for review and approval, via approvals@nqbp.com.au . The Management Plan must demonstrate compliance with EA00001500. The EMP must specifically detail management of: <ul style="list-style-type: none"> • Runoff/leachate containment and dust containment • Treatment of stormwater, management of swales etc. • Containment of dust • Material handling and stockpile management 			At least four (4) weeks prior to commencement of works.
Site management			
5. The development or operation must not cause unlawful environmental nuisance or harm.			At all times.
6. As the site is on the Environmental Management Register, no soil is to be removed off the site and to another Lot without the prior written consent from NQBP.			At all times.

Attachment 2

REFERRAL AGENCY RESPONSE

Agency	Reference	Date received
Department of State Development, Manufacturing, Infrastructure and Planning	1807-6268 SRA	10 October 2018



Department of
**State Development,
 Manufacturing,
 Infrastructure and Planning**

Our reference: 1807-6268 SRA
 Your reference: PL/04/02/00008

10 October 2018

The Chief Executive Officer
 The North Queensland Bulk Ports
 GPO Box 409
 BRISBANE QLD 4001
 planning@nqbp.com.au

Attention: Ms Julie Keane

Dear Ms Keane

Referral agency response—with conditions

(Given under section 56 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 24 July 2018.

Applicant details

Applicant name: North Queensland Bulk Ports Corporation Limited
 Applicant contact details: GPO Box 409
 BRISBANE QLD 4001
 pcoomer@nqbp.com.au

Location details

Street address: George Bell Drive, Mackay Harbour QLD 4740
 Real property description: Lot 58 on SP123751
 Local government area: Mackay Regional Council

Application details

Development permit Material Change of Use for Environmentally Relevant Activity –
 ERA 50(1)(a) and 50(2) – Bulk material handling

Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.5.4.2.1 Environmentally relevant activities (only if ERA has not been devolved to a local government)
- 10.9.4.2.4.1 State transport corridors and future State transport corridors

Conditions

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Environmental authority

A copy of Environmental Authority (EA0001500) given under the *Environmental Protection Act 1994* will accompany this referral agency response.

Referral agency plans and specifications

The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/ issue
Aspect of development: Material Change of Use				
Port of Mackay – ERA Development Area (as amended in red)	Houghton Environmental Management Pty Ltd	20/3/2018	Figure 2	-

A copy of this response has been sent to the applicant for their information.

For further information please contact Jackie Hunter, Planning Officer, on (07) 4898 6815 or via email MIWSARA@dsmip.qld.gov.au who will be pleased to assist.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kylie Drysdale', with a large loop at the end.

Kylie Drysdale
A/Manager (Planning)
Mackay Isaac Whitsunday Regional Office

cc North Queensland Bulk Ports Corporation Limited, pcoomer@nqbp.com.au

enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Referral agency plans and specifications
Environmental Authority (EA0001500)

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Material Change of Use for Environmentally Relevant Activity – ERA 50(1)(a) and 50(2) – Bulk material handling		
10.5.4.2.1—Environmentally relevant activities—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Environment and Science to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition:		
1.	Development authorised under this referral agency response for Environmentally Relevant Activities 50(1)(a) and 50(2) is limited to the 2.6 hectare area shown on Port of Mackay – ERA Development Area prepared by Houghton Environmental Management Pty Ltd dated 20/3/2018 and reference Figure 2, as amended in red.	At all times.

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the development is carried out in the location and to the extent specified on the plans of development submitted with the application.

Attachment 3

APPEAL PROVISIONS

PLANNING ACT 2016

229 APPEALS TO TRIBUNAL OR P&E COURT

(1) *Schedule 1* states—

(a) matters that may be appealed to—

- (i) either a tribunal or the P&E Court; or
- (ii) only a tribunal; or
- (iii) only the P&E Court; and

(b) the person—

- (i) who may appeal a matter (the "**appellant**"); and
- (ii) who is a respondent in an appeal of the matter; and
- (iii) who is a co-respondent in an appeal of the matter; and
- (iv) who may elect to be a co-respondent in an appeal of the matter.

(2) An **appellant** may start an appeal within the **appeal period**.

(3) The "**appeal period**" is—

- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
- (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
- (c) for an appeal against a decision of the Minister, under *Chapter 7, part 4*, to register premises or to renew the registration of premises—20 business days after a notice is published under *section 269 (3)(a) or (4)*; or
- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the **appellant** gives the deemed approval notice to the assessment manager; or
- (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Example: See the P&E Court Act for the court's power to extend the **appeal period**.

SCHEDULE 1 APPEALS

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
- (a) the P&E court; or
 - (b) a tribunal.

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
<p>1. Development applications</p> <p>For a development application other than an excluded application, an appeal may be made against—</p> <ul style="list-style-type: none"> (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval. 			
Column 1	Column 2	Column 3	Column 4
Appellant	Respondent	Co-respondent (if any)	Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	<ul style="list-style-type: none"> 1 A concurrence agency that is not a co-respondent 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application

Statement of Reasons

Planning Act 2016 s.56

1. Applicant details

<i>Applicant name:</i>	North Queensland Bulk Ports Corporation
<i>Applicant contact details:</i>	Paul Coomer GPO Box 409 BRISBANE QLD 4001

2. Property description of proposed development

<i>Port:</i>	Mackay
<i>Street address:</i>	George Bell Drive, Mackay Harbour QLD 4740
<i>Real property description:</i>	Lot 58 on SP123751
<i>Local government area:</i>	Mackay Regional Council

3. Development details

<i>Approved development:</i>	Material Change of Use for Environmentally Relevant Activity – ERA 50(1)(a) and 50(2) – Bulk material handling
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4. Assessment matters

The application has been assessed against:

- Port of Mackay Land Use Plan (November 2009).
- Mackay, Isaac and Whitsunday Regional Plan, 2012
- State Development Assessment Provisions, version 2.1
- Port authority functions under the *Transport Infrastructure Act 1994*, chapter 8, part 3.

5. Reasons for the decision

The reasons for the decision are that the proposal:

- Complies with and contributes toward the achievement of the desired environmental outcomes of the Port of Mackay Land Use Plan (November 2009). and the applicable regional policies
- Complies with the State Development Assessment Provisions
- Is consistent with the functions of the Port as specified in the *Transport Infrastructure Act 1994*, chapter 8, part 3

6. Relevant material

Evidence or other material on which the findings were based:

- Material provided in the development application.

Port Development Approval

Port of Mackay Land Use Plan (November 2009)

1. Details of approval

<i>Applicant:</i>	North Queensland Bulk Ports Corporation
<i>Approved proposal:</i>	Material Change of Use for Environmentally Relevant Activity – ERA 50(1)(a) and 50(2) – Bulk material handling
<i>Currency of approval</i>	This approval will lapse if development is not substantially commenced within six (6) years of the date of decision.
<i>Date of decision</i>	14 November 2018
<i>Decision:</i>	<input type="checkbox"/> Approved <input checked="" type="checkbox"/> Approved subject to conditions

2. Property description of proposed development

<i>Port:</i>	Mackay
<i>Street address:</i>	George Bell Drive, Mackay Harbour QLD 4740
<i>Real property description:</i>	Lot 58 on SP123751

3. Approved drawings and documents

The following drawings and documents are approved by NQBP as the basis for the works. Copies of these approved drawings are provided as an enclosure.

<i>Drawing name</i>	<i>Drawing number</i>	<i>Revision and date</i>
Port of Mackay – ERA Development Area (as amended in red)	Houghton Environmental Management Pty Ltd (Figure 2)	20/03/2018

4. Additional approvals required

This Port Development Approval is limited to proposal described above. At no time should this document be interpreted to imply approval to any other development, operation or land use.

This Port Development Approval does not remove the requirement for any other legislative approval (including approvals under the *Planning Act 2016*).

It is the Operator responsibility to ensure all necessary approvals, permits and licences are obtained to undertake the proposed use / works. In particular, the applicant should note the requirement to obtain approvals for, but not limited to:

<i>Permit / licence requirements</i>	<i>Relevant agency</i>
Permit to Dig – To be obtained prior to any ground disturbance activities occurring.	North Queensland Bulk Ports Corporation Drew Martin Email: dmartin@nqbp.com.au Phone (07) 4955 8128

5. Conditions of approval

Condition	Timing
Carry out the approved development	
1. The Operator must enter into and maintain an agreement with NQBP regarding occupation of the land subject of Approved Development.	Prior to commencement of works and for the duration of operations.
2. The Operator is to provide, for assessment and approval, via approvals@nqbp.com.au , a site specific Environmental Management Plan detailing the environmental risks and management measures associated with the proposed bulk material to be stored on-site.	At least four (4) weeks prior to commencement of works.
3. The Operator must be a Registered Suitable Operator, to conduct of the Environmentally Relevant Activity approved under EA0001500.	Prior to transfer of the EA.
4. The Operator must comply with EA0001500.	At all times.
5. The Operator (at their cost) must rehabilitate the site to a standard acceptable to NQBP.	Within two (2) months of cessation of operations.
6. The Operator (at their cost) must transfer the EA0001500 to NQBP.	Within two (2) months of cessation of Environmentally Relevant activity.
7. All vehicle manoeuvring, and parking is to be contained within the development area.	At all times.
8. All approved structures must be suitable for the intended use, structurally sound, certified by a Registered Professional Engineer of Queensland (or equivalent) and, if necessary, incorporate cyclone tie-down infrastructure for the particular site location and characteristics.	At all times.
9. As constructed and RPEQ certification required for stormwater drainage and any other infrastructure associated with the project.	Within four (4) weeks of commencement of operations.

Condition	Timing
Site management	
10. The Operator, or party acting on behalf of the operator, is not permitted to adversely impact the effective and efficient operation of the Port.	At all times.
11. The Operator will ensure that infrastructure, services, property assets or utilities are not damaged during the construction or operation of the approved development. If any damage results, the proponent will be required to meet all costs of the remediation / repair to the satisfaction of NQBP and / or the relevant service provider.	At all times.
General environmental management	
12. The site must be kept clean and tidy (i.e. clear of rubbish, debris, weeds, landscaping areas maintained etc.).	At all times.
13. Where potential or actual environmental harm may be caused by the approved development, NQBP may at any time direct the Applicant, or persons acting on behalf of the Applicant, to: <ul style="list-style-type: none"> • cease an activity • implement appropriate impact control measures • modify work plans or methods. 	At all times.
14. Any environmental emergency, incident or potentially harmful event involving the approved development must be reported to NQBP's Environment Group via environment@nqbp.com.au or 1300 129 255. A written report must also be provided, detailing the following information: <ul style="list-style-type: none"> • name of the operator • the name and telephone number of a designated contact person • quantity and substance released • person/s involved • location and time of the release/event • likely cause of release/event • effects of the release • sampling performed and conclusions drawn • actions taken to mitigate any environmental harm • proposed actions to prevent a recurrence. 	Initial report: within 24 hours of the emergency, incident or event occurring. Written report: within 14 days of the emergency, incident or event occurring.

Condition	Timing
Community	
<p>15. Any community complaints, received by the Applicant, or party acting on behalf of the applicant, must be reported to NQBP's Planning Group via approvals@nqbp.com.au or 07 3011 7900.</p> <p>A written report must also be provided, detailing the following information:</p> <ul style="list-style-type: none"> • incident subject of the complaint • investigations undertaken into the complaint • proposed action to be undertaken to prevent further complaints. 	<p>Initial report: within 24 hours of the emergency, incident or event occurring.</p> <p>Written report: within 14 days of the emergency, incident or event occurring.</p>

6. Advisory information

Please note that the information contained in this section under the heading Advisory information has been provided as advice only and does not form part of the development approval conditions. This information has been provided to advise of other obligations under state legislation or local laws that may require action to be undertaken prior to commencing the activity approved by this development approval.

NOTES
<p>Cultural heritage duty of care</p>
<p>1. Section 23 of the <i>Aboriginal Cultural Heritage Act 2003</i> establishes a duty of care for all persons carrying out an activity to take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage. It is the person undertaking the activity responsibility to ensure compliance with the duty of care.</p> <p>A copy of the legislation can be accessed via https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/A/AborCultHA03.pdf</p>
<p>General safety during construction</p>
<p>2. The <i>Work Health and Safety Act 2011</i> establishes a number of obligations relevant to the project, in particular:</p> <ol style="list-style-type: none"> a. Under section 19(2), a person conducting a business or undertaking must ensure the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking. b. Under section 20(2), the person in control of the workplace is obliged to ensure that the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person. <p>A copy of the legislation can be accessed via https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/W/WorkHSA11.pdf</p>

Approved drawings

<i>Drawing name</i>	<i>Drawing number</i>	<i>Revision and date</i>
Port of Mackay – ERA Development Area (as amended in red)	Houghton Environmental Management Pty Ltd (Figure 2)	20/3/2018

Port of Mackay

ERA Development Area

2.6 hectare development area specified in Condition 1

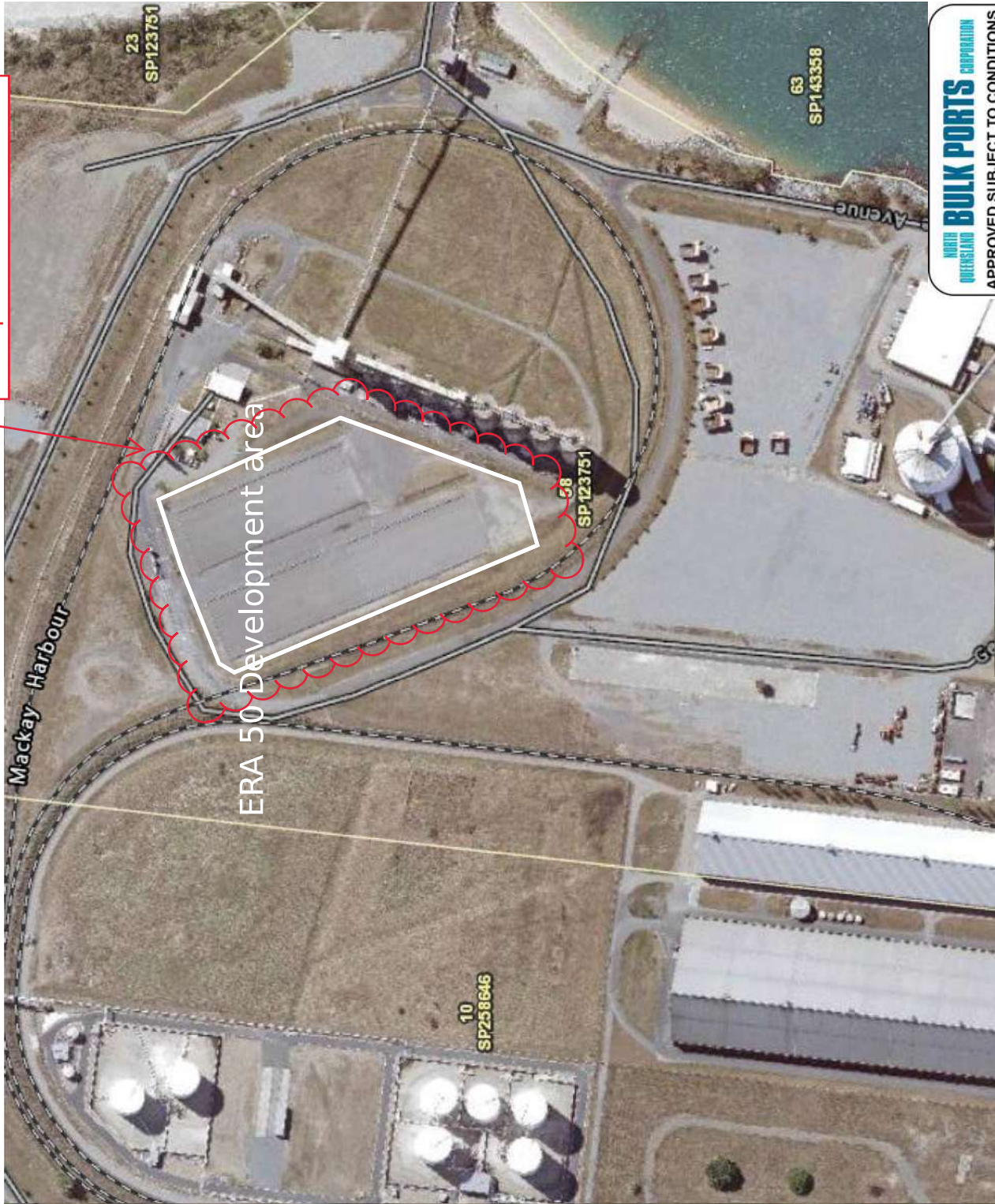


FIGURE 2 SITE BOUNDARIES -ERA DEVELOPMENT AREA

A product of
Queensland Globe



100 metres

Paper Size: A4

Print Date: 20/3/2018

Amended in red by SARA on
10 October 2018

Imagery

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PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE
SARA ref: 1807-6266 SRA
Date: 10 October 2018



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that the map is suitable for your
purposes.

The State of Queensland makes
no representation or warranties in
relation to the map contents and
disclaims all liability.

PORT BULK PORTS CORPORATION
APPROVED SUBJECT TO CONDITIONS
NGBP ref: BU/04/02/00008
Signed: **JAK**
Date: 14 November 2018