



26 February 2019

Sue Mischker  
Qube Bulk Pty Ltd  
540-604 Warreg Highway  
NORTH TIVOLI QLD 4305

Email: [sue.mischke@qube.com.au](mailto:sue.mischke@qube.com.au)

Dear Sue,

**DEVELOPMENT APPROVAL PACKAGE FOR MATERIAL CHANGE OF USE FOR ERA 50 BULK HANDLING ON LAND DESCRIBED AS LOT 63 ON SP143358, 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) – Bulk material handling at the Port of Mackay was approved in full subject to conditions on 26 February 2019.

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: 2019.02.26 10:24:57 +10'00'

Julie Keane  
**Principal, Development Advisor**

Telephone: (07) 3011 7912  
Email: [JKeane@nqbp.com.au](mailto:JKeane@nqbp.com.au)  
Doc Reference: E19/05364

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).  
Cc: Department of State Development, Manufacturing, Infrastructure and Planning (1901-9246 SRA)  
Mackay Regional Council

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Queensland 4001

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Level 1, Waterfront Place, Mulherin Drive Mackay Harbour Queensland is the Registered Office of:

**NORTH QUEENSLAND BULK PORTS CORPORATION LIMITED**

ACN 136 880 218 • ABN 36 136 880 218

**PORTS CORPORATION OF QUEENSLAND LIMITED**

ACN 126 302 994 • ABN 49 657 447 879

**MACKAY PORTS LIMITED**

ACN 131 965 707 • ABN 69 131 965 707

**HAY POINT • MACKAY • ABBOT POINT • WEIPA**

## Decision Notice

Planning Act 2016 s.63

### 1. Details of approval

<i>Applicant name:</i>	Qube Bulk Pty Ltd
<i>Approved development:</i>	Material Change of Use for Environmentally Relevant Activity – ERA 50(1)(a) – Bulk material handling
<i>Date of decision</i>	26 February 2019
<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>	Harbour Road, Mackay Harbour QLD 4740
<i>Real property description:</i>	Lot 63 on SP143358
<i>Local government area:</i>	Mackay Regional Council

### 2. Approved drawings and documents

The following document has been approved.

Plan / Document name	Plan / Document number	Date
Safe Work and Environmental Management Plan for Magnetite Discharge by Grabs Port of Mackay	SHWMS-11-SWI-QLD097 Version 2.1	31/01/2019

### 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)

#### **4. Environmental authority**

An Environmental authority (EA0001666) 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 63 SP143358 at the Port of Mackay. At no time should this document be interpreted to imply approval to any other development, operation or land use.

#### **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 is 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
<b>Carry out the approved development</b>			
1. The development must be undertaken generally in accordance with the plans and supporting documentation referenced in the table below which form part of this approval, unless otherwise specified by any condition of this approval.			At all times.
Plan / Document name	Plan / Document number	Date	
Safe Work and Environmental Management Plan for Magnetite Discharge by Grabs Port of Mackay	SHWMS-11-SWI-QLD097 Version 2.1	31/01/2019	
2. Conduct of the Approved Development must be in accordance with Environmental Authority Permit EA0001666.			At all times.
3. Any proposed amendments to the Safe Work and Environmental Management Plan for Magnetite Discharge by Grabs Port of Mackay (SHWMS-11-SWI-QLD097 Version 2.1) are to be submitted for review and approval, via <a href="mailto:approvals@nqbp.com.au">approvals@nqbp.com.au</a> .			At least five (5) days prior to implementation of any change.
<b>Site management</b>			
4. The development or operation must not cause unlawful environmental nuisance or harm.			At all times.

**Attachment 2**

**REFERRAL AGENCY RESPONSE**

Agency	Reference	Date received
Department of State Development, Manufacturing, Infrastructure and Planning	1901-9246 SRA	19 February 2019

Our reference: 1901-9246 SRA  
Your reference: PL/04/02/00011

19 February 2019

The North Queensland Bulk Ports  
GPO Box 409  
Brisbane Qld 4001  
[planning@nqbp.com.au](mailto:planning@nqbp.com.au)

**Attention: Julie Keane**

Dear Ms Keane

**Referral agency response— no requirements**

(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 16 January 2019.

**Applicant details**

Applicant name:	Mrs Susan Mischke (Qube Bulk Pty Ltd)
Applicant contact details:	540-605 Warrego Highway North Tivoli QLD 4305 <a href="mailto:sue.mischke@qube.com.au">sue.mischke@qube.com.au</a>

**Location details**

Street address:	Mulherin Drive, Mackay Harbour QLD 4740
Real property description:	Lot 63 on SP143358
Local government area:	Mackay Regional Council

**Application details**

Development permit	Material Change of Use for Environmentally Relevant Activity (ERA) 50 (1a) - Loading or unloading 100t or more of minerals a day or stockpiling 50,000t or more of minerals – (a) within 5km of the highest astronomical tide or 1km of a watercourse.
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**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)

**No requirements**

Under section 56(1)(a) of the *Planning Act 2016*, the department advises it has no requirements relating to the application.

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

For further information please contact Odette Langham, Principal Planning Officer, on (07) 4898 6816 or via email [MIWSARA@dsmip.qld.gov.au](mailto:MIWSARA@dsmip.qld.gov.au) who will be pleased to assist.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Daniel Wagner', with a long horizontal flourish extending to the right.

Daniel Wagner  
A/Manager (Planning)  
**Mackay Isaac Whitsunday Regional Office**

cc Mrs Susan Mischke, [sue.mischke@qube.com.au](mailto:sue.mischke@qube.com.au)

## Attachment 3

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### APPEAL PROVISIONS

## PLANNING ACT 2016

### 229 APPEALS TO TRIBUNAL OR P&E COURT

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(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.

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
<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"> <li>(a) the refusal of all or part of the development application; or</li> <li>(b) the deemed refusal of the development application; or</li> <li>(c) a provision of the development approval; or</li> <li>(d) if a development permit was applied for—the decision to give a preliminary approval.</li> </ul>			
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"> <li>1 A concurrence agency that is not a co-respondent</li> <li>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</li> <li>3 Any eligible advice agency for the application</li> <li>4 Any eligible submitter for the application</li> </ul>

## Statement of Reasons

*Planning Act 2016 s.56*

### 1. Applicant details

<i>Applicant name:</i>	Qube Bulk Pty Ltd
<i>Applicant contact details:</i>	Sue Mischke  540-605 Warredo Highway NORTH TIVOLI QLD 4350

### 2. Property description of proposed development

<i>Port:</i>	Mackay
<i>Street address:</i>	Harbour Road, Mackay Harbour QLD 4740
<i>Real property description:</i>	Lot 63 on SP143358
<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) – 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>	Qube Bulk Pty Ltd
<i>Approved proposal:</i>	Material Change of Use for Environmentally Relevant Activity – ERA 50(1)(a) – 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>	26 February 2019
<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>	Harbour Road, Mackay Harbour QLD 4740
<i>Real property description:</i>	Lot 63 on SP144358

### 3. Approved drawings and documents

The following document is approved by NQBP as the basis for the works.

<i>Plan / Document name</i>	<i>Plan / Document number</i>	<i>Date</i>
Safe Work and Environmental Management Plan for Magnetite Discharge by Grabs Port of Mackay	SHWMS-11-SWI-QLD097 Version 2.1	31/01/2019

### 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 Work – To be obtained prior to conducting works.	North Queensland Bulk Ports Corporation John Hinschen Email: <a href="mailto:jhinschen@ngbp.com.au">jhinschen@ngbp.com.au</a> Phone (07) 4955 8128

## 5. Conditions of approval

Condition	Timing
Carry out the approved development	
1. The Operations are to be carried out in accordance with the Safe Work and Environmental Management Plan for Magnetite Discharge by Grabs Port of Mackay (SHWMS-11-SWI-QLD097 Version 2.1 31/01/2019) and any modifications as agreed with NQBP.	At all times
2. The Operator must be a Registered Suitable Operator, to conduct of the Environmentally Relevant Activity approved under EA0001666.	Prior to transfer of the EA.
3. The Operator must comply with EA0001666.	At all times.
4. All vehicle manoeuvring, and parking is to be contained within the development area.	At all times.
Site management	
5. 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.
6. 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	
7. The site must be kept clean and tidy (i.e. clear of rubbish, debris, weeds, landscaping areas maintained etc.).	At all times.
8. 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"> <li>• cease an activity</li> <li>• implement appropriate impact control measures</li> <li>• modify work plans or methods.</li> </ul>	At all times.

Condition	Timing
<p>9. Any environmental emergency, incident or potentially harmful event involving the approved development must be reported to NQBP's Environment Group via <a href="mailto:environment@nqbp.com.au">environment@nqbp.com.au</a> or 1300 129 255.</p> <p>A written report must also be provided, detailing the following information:</p> <ul style="list-style-type: none"> <li>• name of the operator</li> <li>• the name and telephone number of a designated contact person</li> <li>• quantity and substance released</li> <li>• person/s involved</li> <li>• location and time of the release/event</li> <li>• likely cause of release/event</li> <li>• effects of the release</li> <li>• sampling performed and conclusions drawn</li> <li>• actions taken to mitigate any environmental harm</li> <li>• proposed actions to prevent a recurrence.</li> </ul>	<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><b>General safety during construction</b></p>
<p>1. 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"> <li>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.</li> <li>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.</li> </ol> <p>A copy of the legislation can be accessed via <a href="https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/W/WorkHSA11.pdf">https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/W/WorkHSA11.pdf</a></p>