



VARIATION TO CONDITIONS ATTACHED TO APPROVAL

Proposed technical ammonium nitrate production facility <EPBC 2008/4546>

This decision to vary a condition of approval is made under section 143 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Approved action

Person to whom the approval is granted Yara Pilbara Nitrates Pty Ltd
(previously named Burrup Nitrates Pty Ltd)

ACN 127 391 422

Approved action The construction of an ammonium nitrate production facility within the King Bay/Hearson Cove Industrial Precinct, Burrup Peninsula, WA [See EPBC Act referral 2008/4546]

Variation

Variation of conditions of approval The variation is:
Delete condition 8(d), 10 and 11 attached to the approval dated 14 September 2011 and substitute condition 10 and 11 specified below.

Also, delete the definitions for **DEC-managed Monitoring Program** and **Pro-rata amount** attached to the approval dated 14 September 2011 and substitute with definitions for **DER-managed Monitoring Program** and **Pro-rata amount** specified below.

Note: For ease of reference, all relevant definitions for conditions 10 and 11 are included below.

Date of effect This variation has effect on the date the instrument is signed

Person authorised to make decision

name and position Shane Gaddes
Assistant Secretary
Compliance and Enforcement Branch

Signature

S. Gaddes

Date of decision

18 December 2013

10. To protect the values of the **Dampier Archipelago (including Burrup Peninsula) National Heritage Place**, particularly the **rock art sites**, the person taking the action must participate in monitoring of rock art by:
- a) Contributing a **pro-rata amount** annually (in line with that currently utilised by the WA DER, but not exceeding \$15,000/year) for a period of not less than two (2) years from the beginning of **construction** to DER for the DER-managed colour contrast and spectral mineralogy Monitoring Program (**DER-managed Monitoring Program**), which is an independent scientific program of monitoring, to detect any changes in patination, including any discolouration, of the surface of the rock art or the surrounding rock surface;
 - b) If the **DER-managed Monitoring Program** continues after the completion of the two year period referenced in condition 10(a) above, the person taking the action must continue to provide the agreed annual contribution referenced in condition 10(a), for an additional period of five (5) years maximum or until the **DER-managed Monitoring Program** is concluded (which ever is reached first).
 - c) In addition to the above condition 10(a) and 10(b) requirements, the person taking the action must provide for additional monitoring of rock art sites in a manner that is consistent with the **DER-managed Monitoring Program**. The monitoring of additional rock art sites must meet the following requirements:
 - i. Engage a **heritage monitor** or other **suitably qualified person (Heritage)** to survey **rock art sites** within a two (2) kilometre radius of the project site, to provide advice on any changes to the appearance, or cultural value, of **rock art sites** within the examined area.
 - ii. The monitoring must be undertaken in a manner that is consistent with and complementary to the monitoring of rock art sites undertaken through the **DER-managed Monitoring Program**. If agreed by DER the monitoring of additional rock art sites may be integrated with the **DER managed Monitoring Program**, with the person taking the action providing full contribution to the DER for the additional site monitoring.
 - iii. Prior to undertaking condition 10(c) monitoring, provide the **department** with written endorsement from a **heritage monitor** or other **suitably qualified person (Heritage)** on the suitability of the rock art monitoring proposed under condition 10(c).
 - iv. Undertake the condition 10(c) rock art monitoring at least once annually, beginning from the time **construction** commences
 - v. The monitoring must continue for at least five (5) years of the plant's **operations** and until the person taking that action has demonstrated in writing, to the satisfaction of the **Minister**, that **operation** is not having unacceptable impacts on the **rock art sites**.
 - vi. At least once annually, engage with the Murujuga Aboriginal Corporation in the planning and reporting associated with the annual survey of **rock art sites** required under condition 10(c).
 - d) Within two (2) months of the results of the **DER-managed Monitoring Program** and monitoring undertaken under condition 10(c) being completed, the person taking the action must provide the results, including a report on the condition 10(c) monitoring to the **Department** and to the Murujuga Aboriginal Corporation. The person taking the action must also publish the monitoring report on their website at the same time as submitting it to the department.
11. If the results of the **DER-managed Monitoring Program** (colour contrast and spectral mineralogy monitoring) or additional monitoring required under condition 10(c) show there is evidence of changes in patination, including but not limited to discolouration of the surface of the rock art motif or the surrounding rock surface, including patina, the person taking the action must:
- a) Upon being notified that evidence of changes in patination of monitored rock art surfaces have been identified, notify the **Department** within 72 hours in writing of this reported change in the surface of the rock art;

- b) From the date that changes in patination of the rock art surface/s is reported (the **event**), continue to provide funds annually in the amount specified in condition 10(b) to the **DER-managed Monitoring Program** for a period of a further five (5) years (maximum) from the **event date**;
- c) Within two (2) months of the date that changes in patination of the rock art surface is reported, provide a management plan to the **Minister** for approval regarding the reported changes. This management plan must include:
- i. a summary of the results of the **DER-managed Monitoring Program** and the air quality monitoring program required under condition 9 to that date;
 - ii. a detailed description of the changes detected in the surface of the rock art motif (the event);
 - iii. if identifiable, an analysis of the cause or causes of the detected change in the rock art surface. This analysis must be provided by a suitably qualified person from the **DER-managed Monitoring Program**;
 - iv. details of consultation with a suitably qualified person to determine **appropriate mitigation** to further protect those rock art sites surrounding the project site from **degradation**; and
 - v. a detailed plan for the continuation, for a further period of five (5) years from the date of the reported event, of the **DER-managed Monitoring Program** and the air quality monitoring program required under condition 9.

If the **Minister** approves the management plan(s) required under condition 11(c), then the approved plan(s) must be implemented.

Varied definitions:

DER-managed Monitoring Program is the existing Burrup Rock Art Monitoring Program which is administered by the Western Australia Department of Environment Regulation (WA DER) and financially supported by various Burrup industries.

Pro-rata amount is defined as the person taking the action contributing 1/6th of the funds for the **DER-managed Monitoring Program**, with Woodside (2/6th), Rio Tinto (2/6th) and BFPL (1/6th) the other current contributors. As additional industries come on board in the area, the pro-rata amount may change at the discretion of the WA DER and in discussions with all relevant contributing parties.

Definitions (unchanged) relevant to conditions 10 and 11:

Appropriate mitigation refers to measures that are agreed between the proponent and a suitably qualified person, and with the Department, and will result in a reduction of the impact of emissions upon the rock art sites.

Dampier Archipelago (including Burrup Peninsula) National Heritage place is a national heritage listed area in the Dampier Archipelago whose location has been defined and values described in the Commonwealth Government's special gazette (No.S127) dated 3 July 2007.

Degradation is where changes in rock art patination, including discolouration of the surface of the rock art or the surrounding rock surface, including patina, has rendered the rock art site more difficult to interpret.

Department is the Australian Government Department administering the *Environment Protection and Biodiversity Conservation Act 1999*.

Event means any changes in patination, including any discolouration, of the rock art motif, including patina, as well as an increase in NH₃ NO_x, SO_x and TSP, including dust, baseline levels established during previous monitoring.

Heritage Monitor means a suitably qualified expert with at least five (5) years experience in Indigenous heritage or archaeology.

Minister is the Minister responsible for the *Environment Protection and Biodiversity Conservation Act 1999* and includes a delegate of the Minister.

Operation means the full and normal functioning of the facility, following commissioning.

Rock art sites means manmade structures of a type mentioned in the National Heritage Place *Gazette* notice S127 and/or engravings, etchings, peckings and/or standing stones and/or archaeological material associated with any of the aforementioned items.

Suitably qualified person (Heritage) is a person with at least a bachelor's degree with Honours in archaeology or five (5) years experience in Indigenous heritage or archaeology recognised by a relevant body such as the Australian Association of Consulting Archaeologists.