

Cloncurry Shire Council

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Our ref: 225907 - TP04/18

1 May 2018

Chinova Resources Osborne Pty Ltd
Attention: Margaret Whitehead
PO Box 1534
MILTON QLD 4064
Email: Margaret.Whitehead@chinovaresources.com

Dear Margaret

**DECISION NOTICE – MINOR CHANGE TO DEVELOPMENT APPROVAL TP 17/13— LOT 109
DUCHESS-CHATSWORTH ROAD, CLONCURRY - APPROVAL (WITH CONDITIONS)**
(Given under section 63 of the *Planning Act 2016*)

The development application described below was properly made to the Cloncurry Shire Council on 23 March 2018.

Applicant details

Applicant name: Chinova Resources Osborne Pty Ltd
Applicant contact details: Margaret Whitehead

Application details

Application number: TP04/18
Approval sought: Minor change to a development approval (TP17/13)
Nature of development proposed: Material Change of Use – Extractive Industry
Details of proposed development: Deletion of Condition 1c) from Material Change of Use -
Development Permit conditions – TP17/13.
Category of assessment: Code Assessment

Location details

Street address: Trekelano Mine, Duchess - Chatsworth Road
Real property description: Lot 109 on SP213577
Local government area: Cloncurry Shire Council

Decision

Date of decision: 1 May 2018
Decision details: Approved in full with conditions. These conditions are set out in Attachment 1.

Details of the approval

Development permit:

Minor Change to an existing development approval TP17/13

Conditions

This approval is subject to the conditions in Attachment 1.

Further development permits

Not applicable

Properly made submissions

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

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.

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*, which is 6 years after this approval starts to take effect.

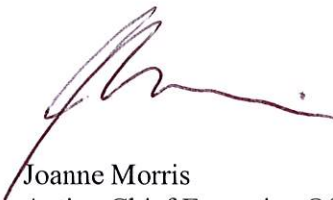
Approved plans and specifications

A copy of the following plan is enclosed.

Drawing Name	Drawing No.	Plan Date
Trekelano Mining Lease on Cadastre	CA_Trekelano_003	25 July 2013

Should you have any questions or concerns in respect of this matter please contact Council's Acting Senior Planner, Damian Pearson, at this office.

Yours faithfully



Joanne Morris
Acting Chief Executive Officer

Encl: Attachment 1—Assessment manager conditions
Attachment 2 – Statement of Reasons
Attachment 3 - Appeal provisions
Attachment 4 - Approved plans and specifications

ATTACHMENT 1 – CONDITIONS OF APPROVAL

1. Basis of Approval

- a) This approval is subject to the following conditions, the commitments set out in the application and associated technical reports and all relevant provisions of the Cloncurry Shire Planning Scheme 2016; except as otherwise specified herein.
- b) The development must comply fully with all of the conditions of the development permit at all times at no cost to Council.
- e) ~~In accordance with section 346(1)(a) of the Sustainable Planning Act 2009, the land use the subject of this development approval must cease before 28 February 2017.~~

2. Site Layout

- a) The development must generally comply with the Site Plan and Location Plan as referenced in the table below, which forms part of this application, except as otherwise specified by any condition of this approval

Drawing Name	Drawing No.	Plan Date
Trekkelano Mining Lease on Cadastre	CA_Trekkelano_003	25 July 2013

- b) The development must be confined to the area located within the boundaries of the operating area delineated and denoted as “waste material for crushing and screening” on the approval plan referred to in condition 2 a).
- c) One full set of the approved plans must be held on site, and available for inspection, for the duration of the development.

3. Access and haulage

- a) Vehicular access to the development site is to be obtained from the current legal point of access as approved by Council.
- b) Vehicular access shall be maintained to an all-weather durable standard with the dimensions and grades providing safe use by haulage vehicles.
- c) The road haulage route for extracted materials pursuant to this development approval is restricted to the Cloncurry-Dajarra Road, unless otherwise approved by the Chief Executive Officer.

4. Waste Disposal

- a) Management and disposal of solid and liquid waste is to be undertaken in accordance with the Osborne Environmental Management Plan and the Osborne Waste Management Plan current at the time of development.
- b) Where outside the scope of conditions 4 a) Waste generated on the site is to be appropriately transported and disposed of at a suitable waste facility. There is to be no burying or burning of waste products on the subject site.

5. Hours of Operation

- a) Unless otherwise determined in writing by the assessment manager, hours of operation must not exceed 6:00am to 6:00pm Monday to Sunday unless otherwise approved by the Chief Executive Officer in writing.

6. Soil Erosion Minimisation, Sediment Control and Dust Control

- a) Sediment and erosion control devices must be installed and maintained for the duration of the development, in accordance with the recommended drainage, erosion and sediment control measures contained in the "*Soil Erosion and Sediment Control: Engineering Guidelines for Queensland Construction Sites, Institute of Engineers, Australia 1996*".
- b) Dust generated by the development and vehicle movements must be reasonably suppressed so as not to cause a nuisance to neighbouring properties or public places.
- c) There must be no release of soil, sand, mud or other contaminants to roads as a result of the transportation of materials from the site to which this development approval relates. All material transported from the site must be covered to prevent dust and spillage during transport.

7. Vehicle Parking

- a) A designated parking area is to be provided on the site prior to the commencement of the development. The location of the parking area should facilitate the safe and efficient movement of plant, equipment and people around the site.

8. Dangerous Materials

- a) All oils and fuel (maximum 5,000L) must be stored in accordance with all relevant Australian Standards.

9. Concurrence Agency Conditions

- a) Development must be undertaken in accordance with the Concurrence Agency Response and conditions issued by the former Department of State Development Infrastructure and Planning and dated 11 December 2013.
- b) Development must be undertaken in accordance with the Concurrence Agency Response and conditions issued by the former Department of Environment and Heritage Protection and dated 11 December 2013.

ADVICE – Please note that these are not conditions

- 1. The Applicant is responsible for securing all necessary approvals, permits and tenure, providing statutory notifications and complying with all relevant laws. Nothing in this development approval alleviates the need for the Applicant to comply with all relevant local, State and Commonwealth laws and to ensure appropriate tenure arrangements have been made where the use of /reliance upon land other than that owned by the Applicant is involved. Without limiting this obligation, the Applicant is responsible for:

- a) Obtaining all other/further necessary approvals, licences, permits, resource entitlements etc., by whatever name called (this may include further development approvals under the *Planning Act 2016* and the planning scheme) required by law before the development the subject of this approval can be lawfully commenced and to carry out the activity for its duration; and

- b) Providing any notification required by law (by way of example only, to notify the administering authority pursuant to the *Environmental Protection Act 1994* of environmental harm being caused/threatened by the activity, and upon becoming aware the premises is being used for 'notifiable activity'); and
- c) Securing tenure/permission from the relevant owner to use private or public land not owned by the Applicant (including for access required by conditions of approval); and
- d) Ensuring the correct siting of structures on the land. An identification survey demonstrating correct siting and setbacks of structures may be requested of the Applicant to ensure compliance with the decision notice and applicable codes.

2. Indigenous Cultural Heritage Legislation and Duty of Care Requirement

The "*Aboriginal Cultural Heritage Act*" (ACHA) establishes a duty of care to take **all** reasonable and practicable measures to ensure any activity does not harm Aboriginal cultural heritage. This duty of care:

- (a) Is not negated by the issuing of this development approval;
- (b) Applies on all land and water, including freehold land;
- (c) Lies with the person or entity conducting an activity; and
- (d) If breached, is subject to criminal offence penalties.

Those proposing an activity involving surface disturbance beyond that which has already occurred at the proposed site must observe this duty of care. Details of how to fulfil this duty of care are outlined in the duty of care guidelines gazetted with the ACHA. The Applicant should contact NRW's Cultural Heritage Coordination Unit on (07) 3238 3838 for further information on the responsibilities of developers under the ACHA.

3. Limitation of Approval

The Council and its officers make no representations and provide no warranties as to the accuracy of the information contained in the development application including its supporting material provided to it by the applicant.

The Council and its officers rely upon the applicant concerning the accuracy and completeness of the application and its supporting material and accepts the application and supporting material as consisting a representation by the applicant as to its accuracy and completeness.

ATTACHMENT 2 – STATEMENT OF REASONS

NOTICE ABOUT DECISION - STATEMENT OF REASONS

The following information is provided in accordance with section 63(5) of *the Planning Act 2016*

The proposed development is for a Material Change of Use (Code) - for TP17/13 -- General industry (Extractive Industry), (Environmental Relevant Activity 16 - Extractive and Screening Activities) and Operational works (filling and excavation).

On the 1 May 2018, the above development application was:

approved in full with conditions

1. Reason for the decision

The reasons for the decision are:

The application has been assessed against the applicable benchmarks in the Rural zone and extractive industry use codes and is generally compliant with these relevant codes. The proposal is consistent with the overall purpose of the rural zone and will assist in improving road maintenance in the locality. The extractive operation is confined to a small area within the mining lease and will not result in adverse environmental impacts. The subject site is located approximately 3.5 km from the nearest sensitive residential receptor. There will not be any adverse amenity impacts from allowing the remaining stockpiled material to be removed. Operation of the extractive industry is mainly dependent on demand for quarry materials from DTMR and its contractors.

Accordingly, the proposal for a minor change to Development Application TP17/13 is supported, subject to reasonable and relevant conditions.

ATTACHMENT 4 - APPROVED PLANS AND SPECIFICATIONS

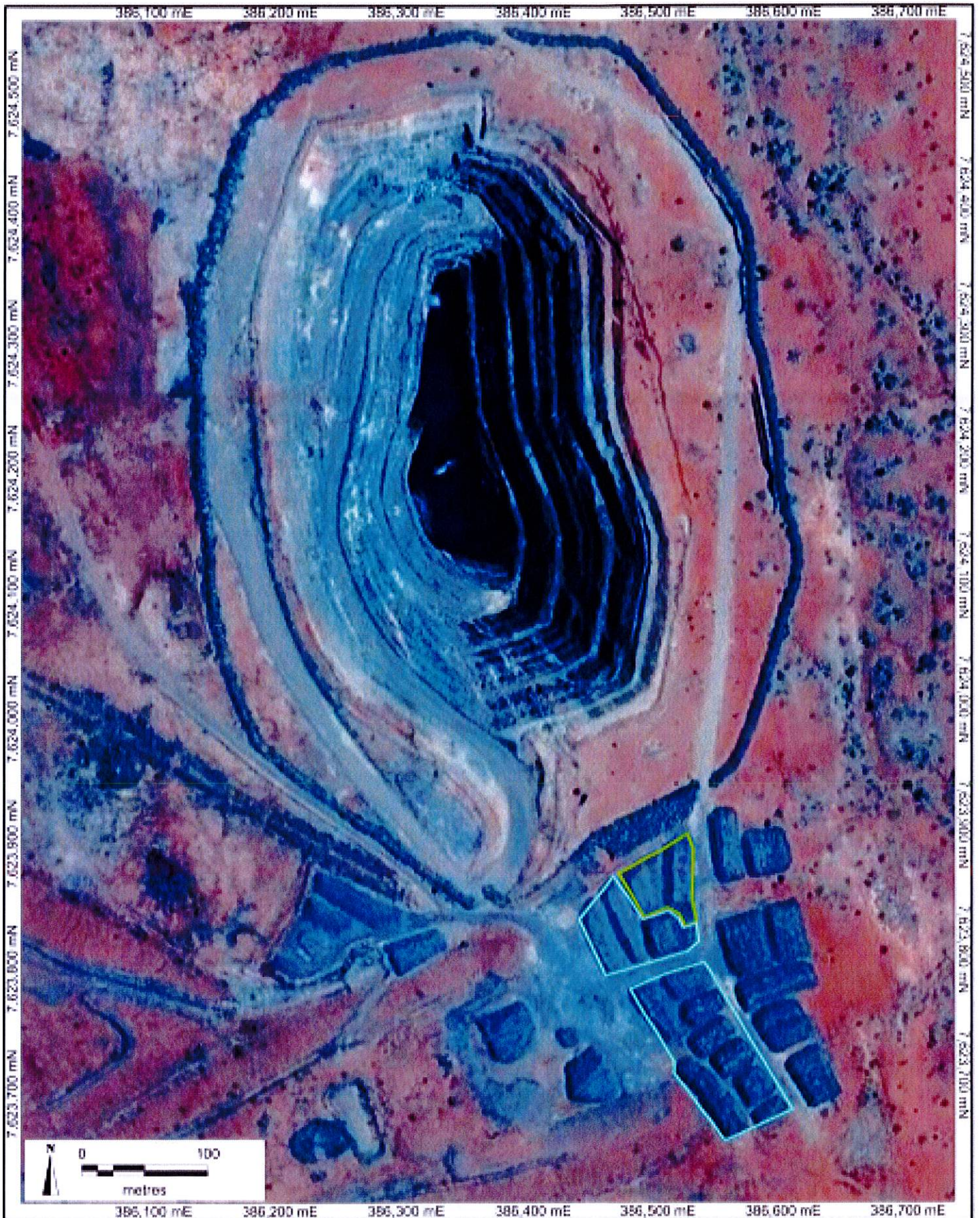


- Prospect / Mine
- Waste material for crushing and screening
- Mining Lease - Ivanhoe (Osborne) Pty Ltd

Cloncurry Shire Council
 Town Planning
 Approved with Conditions
 Approved Date: **1 MAY 2018**
TP 04 / 18

PROJECT	TREK	TENDENCY	ML 90125
TITLE	TREKELANO MINING LEASE ON CADASTRE		
DESIGNED BY	JM / SO		
DATE	25/07/2013		
DRAWING NO	MLCA254		
SCALE / PAGE SIZE	1:20,000 A4		
REV			

inova
 resources
GEOSPATIAL SERVICES
 GENERAL MANAGER
 Tel: +61 7 4966 0472 (09492)
 DRAWING NO
 CA_Trekkelano_003



- Area of removed stockpiles as at 23/03/18
- Area of partially removed stockpiles as at 23/03/18

Cloncurry Shire Council
 Town Planning
 Approved with Conditions

chinova resources		TREKELANO PROJECT	
		Trekelano Stockpiles	
Page: A4		Satellite Imagery - 2/11/2015	
Scale: 1:4,000			
Grid: MGA 54			
		Date: 23/03/18	

Trekelano-ML50125-Road Materials Stockpiles-Ver2.wor

Approved Date: 01 MAR 2018

TP 04 / 18

Chapter 6 Dispute resolution

Part 1 Appeal rights

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 applicant 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.
- Note—*
See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
 - (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.
non-appealable, for a decision or matter, means the decision or matter—
 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.