

Project Approval

Section 75J of the *Environmental Planning and Assessment Act 1979*

Under the Minister for Planning's delegation of 4 March 2009, I approve the project referred to in Schedule 1, subject to the conditions in Schedules 1 to 4.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.

SHaddad

Sam Haddad
Director-General
as delegate of the Minister for Planning

Sydney *7th August* 2009

SCHEDULE 1

Application Number:	06_0050
Proponent:	Regain Services Pty Ltd
Approval Authority:	Minister for Planning
Land:	Lots 15 and 16 in DP 258020, Tomago Road, Tomago
Project:	Spent Potlining Recycling Facility

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DEFINITIONS

BCA	Building Code of Australia
Council	Port Stephens Council
DECC	Department of Environment and Climate Change
Department	Department of Planning
Director-General	Director-General of Department of Planning, or delegate
EA	Environmental Assessment titled " <i>Construction and Operation of a Spent Potliner Processing Facility, Tomago</i> ", dated 1 May 2009 and prepared by ENSR Australia Pty Ltd
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence
Hydro Aluminium Smelter	Hydro Aluminium Kurri Kurri Pty Ltd, Hart Road, Loxford, NSW
Minister	Minister for Planning, or delegate
Project	The development as described in the EA
Proponent	Regain Services Pty Ltd
Reasonable and Feasible	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements. Feasible relates to engineering considerations and what is practical to build.
Recycling Facility	The SPL Recycling Facility at the Tomago Aluminium Smelter
Site	The land referred to in Schedule 1
SPL	Spent Potlining
Statement of Commitments	The Proponent's commitments contained within in the EA
TAC	Tomago Aluminium Company Pty Ltd
Thermal Treatment Plant	The thermal process plant whereby cyanide and flammable gas would be neutralised. Valuable materials such as carbon and fluorides would be retained. The Thermal Treatment Plant is not within a covered building.

**SCHEDULE 2
ADMINISTRATIVE CONDITIONS**

Obligation to Minimise Harm to the Environment

1. The Proponent shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the construction and/or operation of the project.

Terms of Approval

2. The Proponent shall carry out the project generally in accordance with the:
 - a) EA;
 - b) site plan in Appendix A;
 - c) statement of commitments; and
 - d) conditions of this approval.
3. If there is any inconsistency between the above, the conditions of this approval shall prevail to the extent of any inconsistency.
4. The Proponent shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - any reports, plans, strategies, programs or correspondence that are submitted in accordance with this approval; and
 - the implementation of any actions or measures contained in these reports, plans, strategies, programs or correspondence.

Limits on Approval

5. The Proponent shall not process more than a total of 20,000 tonnes per annum (tpa) of SPL waste classified as hazardous or restricted solid waste from the Tomago Aluminium Smelter and the Hydro Aluminium Smelter collectively.
6. The SPL Recycling Facility shall recycle SPL into non-hazardous waste or a useable product.

Management Plans

7. With the approval of the Director-General, the Proponent may submit any management plan required by this approval on a progressive basis.

Structural Adequacy

8. The Proponent shall ensure that all new buildings and structures on the site are constructed in accordance with the relevant requirements of the BCA.

Notes:

- *Under Part 4A of the EP&A Act, the Proponent is required to obtain construction and occupation certificates for the proposed building works.*
- *Part 8 of the EP&A Regulation sets out the requirements for the certification of the project.*

9. Prior to the construction of any utility works, the Proponent shall obtain the relevant approvals from service providers, including Hunter Water.

Operation of Plant and Equipment

10. The Proponent shall ensure that all plant and equipment used on the site is:
 - maintained in a proper and efficient condition; and
 - operated in a proper and efficient manner.

**SCHEDULE 3
SPECIFIC ENVIRONMENTAL CONDITIONS**

SOIL AND WATER

Discharges

11. The Proponent shall comply with Section 120 of the *Protection of the Environment Operations Act 1997*.
12. All SPL waste must be stored and processed under cover or within the thermal treatment plant.

Bunding

13. All chemicals, fuels and oils shall be stored in appropriately banded areas, with impervious flooring and sufficient capacity to contain 110% of the largest container stored within the bund. The bund(s) shall be designed and installed in accordance with:
 - the requirements of all relevant Australian Standards; and
 - the DECC's *Storing and Handling Liquids: Environmental Protection, Participants Manual*.

Erosion and Sediment Control

14. Erosion and sediment control at the site during construction shall be consistent with the requirements of *Landcom's (2004) Managing Urban Stormwater: Soils and Construction manual*.

Stormwater Management Plan

15. The Proponent shall prepare and implement a Stormwater Management Plan for the project to the satisfaction of the Director-General. This plan must:
 - (a) be submitted to the Director-General for approval prior to construction;
 - (b) be prepared by a suitably qualified and experienced person in consultation with Council; and:
 - include details of erosion and sediment control during construction;
 - include detailed plans of the stormwater management system for the project;
 - ensure the SPL facility is constructed so that the truck loading areas are banded to prevent potential contamination of nearby stormwater drains;
 - describe the storage areas for SPL including details of how SPL will be kept dry and secure (to ensure protection of the groundwater); and
 - describe the procedures for the installation, inspection and maintenance of the stormwater system;
 - describe the monitoring that occurs at the site which would detect any discharges that may affect water quality.

HAZARDS

16. Prior to commissioning of the new SPL facility, the Proponent shall develop and implement a comprehensive Safety Management System (SMS) for the project to the satisfaction of the Director-General. The SMS shall incorporate the recommendations in section 10.4 of the EA. The SMS shall be consistent with the Department of Planning's *Hazardous Industry Planning Advisory Paper No. 9, 'Safety Management'*.

AIR

Air Quality Monitoring and Criteria

17. The Proponent shall carry out all reasonable and feasible measures to minimise dust generated by the project.
18. The Applicant shall undertake air emission monitoring as required by the EPL, and shall ensure that the project meets the air quality impact assessment criteria outlined in the EPL.
19. Within nine months of the commencement of operations, the Proponent shall prepare and submit an Air Quality Verification Report to the satisfaction of the Director-General and the DECC. The Air Quality Verification Report shall include:
 - i) monitoring data required by the EPL;
 - ii) copies of all analytical test reports for all substances sampled and tested;
 - iii) comparison of monitoring results with the predictions outlined in the EA and with any limits or conditions in the EPL; and

- iv) if necessary, additional measures that would be implemented to comply with the requirements of the EPL.

NOISE

Construction

20. The Proponent shall comply with the restrictions in Table 1, unless otherwise agreed by the Director-General.

Table 1: Construction and Operation Hours for the Project

Activity	Day	Time
Construction	Monday – Friday	7:00am to 6:00pm
	Saturday	8:00am to 1:00pm
	Sunday and Public Holidays	Nil
Operation	All days	Any time

Note: Construction activities may be conducted outside the hours in Table 1 provided that the activities are not audible at any residence beyond the boundary of the site.

Noise Limits

21. The Proponent shall ensure that the noise from the operation of the project does not exceed the noise limits presented in Table 2.

Table 2: Project Noise Limits (dB(A))

Location	Day/Evening/Night	Night
	dBA L _{A1} (1 minute)	
Residences on Tomago Road	35 dBA L _{Aeq} (15 minute)	45
Industrial receivers	70 dBA L _{Aeq}	70

Notes:

- a) The noise emission limits identified in the above table apply under meteorological conditions of:
- o wind speeds of up to 3 m/s at 10 metres above ground level; and
 - o temperature inversion conditions of up to 3°C/100m, and wind speeds of up to 2 m/s at 10 metres above ground level.

TRANSPORT

22. At all times the Proponent shall ensure that:
- all trucks entering or leaving the site with loads have their loads covered;
 - trucks associated with the project do not track dirt onto the public road network; and
 - the public roads used by these trucks are kept clean of any Regain products or materials.
23. The Proponent shall ensure that:
- all parking generated by the project is accommodated on site, and that no vehicles associated with the project shall park on the public road system at any stage;
 - that the project does not result in any vehicles queuing on the public road network;
 - vehicles associated with the project are operated at low speed or power within the TAC site and are turned off when not being used; and
 - vehicles are not to be left idling for prolonged periods.

WASTE

24. The Proponent shall ensure that waste would be reused, recycled, and if necessary, appropriately treated and disposed of in accordance with the DECC's *Waste Classification Guidelines*.

VISUAL

Lighting

25. The Proponent shall ensure that the lighting associated with the project:
 - a) complies with the latest version of Australian Standard AS 4282(*INT*)-*Control of Obtrusive Effects of Outdoor Lighting*; and
 - b) is mounted, screened and directed in such a manner that it does not create a nuisance to surrounding properties or the public road network.

**SCHEDULE 4
ENVIRONMENTAL MANAGEMENT REPORTING AND AUDITING**

ENVIRONMENTAL MANAGEMENT STRATEGY

26. The Proponent shall prepare and implement an Environmental Management Strategy for the project to the satisfaction of the Director-General. This strategy must be submitted to the Director-General prior to carrying out any development on site, and:
- a) provide the strategic context for environmental management of the project;
 - b) identify the statutory requirements that apply to the project;
 - c) describe in general how the environmental performance of the project would be monitored and managed;
 - d) describe the procedures that would be implemented to:
 - keep the local community and relevant agencies informed about the operation and environmental performance of the project;
 - receive, handle, respond to, and record complaints;
 - resolve any disputes that may arise during the course of the project;
 - respond to any non-compliance;
 - manage cumulative impacts; and
 - respond to emergencies; and
 - e) describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the project.

ENVIRONMENTAL REPORTING

Incidents

27. Within 24 hours of detecting an exceedance of the limits/performance criteria in this approval or the occurrence of an incident that causes (or may cause) harm to the environment, the Proponent shall notify the Department and other relevant agencies of the exceedance/incident.
28. Within 6 days of notifying the Department and other relevant agencies of an exceedance/incident, the Proponent shall provide the Department and these agencies with a written report that:
- describes the date, time, and nature of the exceedance/incident;
 - identifies the cause (or likely cause) of the exceedance/incident;
 - describes what action has been taken to date; and
 - describes the proposed measures to address the exceedance/incident.

Independent Environmental Audit

29. Within 2 years of this approval, and every 3 years thereafter, unless the Director-General directs otherwise, the Proponent shall commission and pay the full cost of an Independent Environmental Audit of the project. This audit must:
- (a) be conducted by a suitably qualified, experienced, and independent team of experts whose appointment has been endorsed by the Director-General;
 - (b) assess the environmental performance of the project, and its effects on the surrounding environment;
 - (c) assess whether the project is complying with the relevant standards, performance measures, and statutory requirements;
 - (d) review the adequacy of any strategy/plan/program required under this approval; and, if necessary,
 - (e) recommend measures or actions to improve the environmental performance of the project, and/or any strategy/plan/program required under this approval.
30. Within 3 months of submitting the audit report to the Director-General, the Proponent shall review and if necessary revise the strategies/plans/programs required under this approval, to the satisfaction of the Director-General.