

Modification of Minister's Approval

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

As delegate of the Minister for Planning and Public Spaces under delegation executed on 11 October 2017 I approve the modification of the project application referred to in Schedule 1, subject to the conditions in Schedule 2.

Anthea Sargeant
Executive Director
Compliance, Industry Assessment and Key Sites

Sydney 2 August

2019

File: SF/FA655500

SCHEDULE 1

Development Consent:	DA 10397 of 1995 granted by the Land and Environment Court on 30 August 1996
For the following:	Extensions to an existing aluminium dross recycling plant
Modification:	DA 10397 of 1995 MOD 10 to allow the processing of up to 2,000 tonnes per year of pharmaceutical waste and 5 tonnes per year of illicit drug waste in existing furnaces

SCHEDULE 2

DEFINITIONS

In the definitions table:

1. Delete the definitions for Department, Minister and Secretary.
2. Insert the following definitions in alphabetical order:

DA 10397 of 1995 MOD 10 – to allow the processing of up to 2,000 tonnes per year of pharmaceutical waste and 5 tonnes per year of illicit drug waste in existing rotary furnaces

Department – Department of Planning, Industry and Environment

Minister – Minister for Planning and Public Spaces

Planning Secretary – Planning Secretary under the EP&A Act, or nominee

IN SCHEDULES 2, 3 AND 4

3. Delete all instances of the word Secretary and replace with the word Planning Secretary.

IN SCHEDULE 2

4. Insert the following condition after condition 2j):
 - 2k) Modification request DA 86-04-01 Mod 12 and DA 10397 of 1995 Mod 10 and the enclosed Environmental Assessment, dated 10 July 2017, prepared by AECOM and the Response to Submissions, dated 3 November 2017 as amended by the additional information received on 12

5. Delete Condition 5 and replace with the following:
 - 5 The Applicant shall not process on site more than a combined total of 40,000 tonnes of dross aluminium, SPL and Illicit and pharmaceutical waste and 35,000 tonnes of scrap aluminium metal per year.
6. Insert the following condition 5A after condition 5:
 - 5A The Applicant shall not process on site more than 2,000 tonnes of pharmaceutical waste and 5 tonnes of illicit drug wastes per year.
7. Insert the following conditions 5B and 5C after condition 5:
 - 5B No more than 5 % by mass of pharmaceutical and illicit drug waste is to be co-processed with Aluminium Dross and/or SPL in the furnaces.
 - 5C The Applicant must not process liquid pharmaceutical or illicit drug waste unless approval is granted by the EPA.

IN SCHEDULE 3

Air

8. Delete Conditions 11 and 12 and replace with the following:
 - 11 The Applicant must install and operate equipment in line with best practice to ensure that the development complies with all load limits, air quality criteria/air emission limits and air quality monitoring requirements, as specified in the EPL applicable to the site.
9. In Condition 13 delete DA 10397 of 1995 Mod 5 and replace with DA 10397 of 1995 Mod 10.
10. Delete Condition 13A and replace with the following:
 - 13A Within 12 months of commencement of DA 10397 of 1995 MOD 10, the Applicant must prepare, to the satisfaction of the Planning Secretary, and submit to the EPA, an Air Emissions Verification Report. The Air Emissions Verification Report must include:
 - a) air emission sampling results undertaken for the previous 12 months;
 - b) a comparison of the emission sampling results against the discharge limits specified for point 1 in the EPL for the site; and
 - c) the approach, including timeframe for implementation, to resolve any non-compliances with the EPL and the *Protection of the Environment Operations (Clean Air) Regulation 2010*.

Processing of Pharmaceutical and Illicit Drug Waste

11. Insert the following condition after condition 54D:
 - 54E Should approval be granted by the EPA in accordance with Condition 5C, liquid waste must be charged to the suitably hot furnace:
 - a) after the molten aluminium is tapped out; or
 - b) at the beginning of the next charge prior to the addition of solid aluminium dross.
12. Insert the following condition after condition 54E:
 - 54F For the duration of the DA 10397 of 1995 MOD 10, the Applicant must monitor all processing conditions, the quantity and characteristics of all inputs and processing methods, including the rotary furnace operating profile and the duration of thermal treatment.
13. Insert the following condition after condition 54F:
 - 54G 12 months after the commencement of operation of DA 10397 of 1995 MOD 10, the Applicant must prepare a detailed monitoring report, on the outcomes of operation, to the satisfaction of the Planning Secretary. The report must:
 - a) detail the results of the monitoring required in condition 54F; and
 - b) include a tracking summary of the implementation and monitoring of mitigation measures as listed under Hazards and Risk, Table 15 Summary of Management Measures of the EA prepared by AECOM and dated 10 July 2017 and included in **Appendix B**.

IN SCHEDULE 4

Operational Environmental Management Plan

14. Insert the following row in Condition 56A:

Modification	Plans
DA 10397 of 1995 MOD 10	56 d and e

15. Delete Condition 56B and replace with the following:

56B The Applicant shall update the Safety Management System covering all on-site operations and security protocols for the storage, transport and incineration of pharmaceutical and illicit drug waste.

Post Start up Compliance Report

16. Delete Condition 56C and replace with the following:

56C Six months after the commencement of operation of DA 10397 of 1995 MOD 10, the Applicant shall submit to the Planning Secretary, a report verifying that:

- the updated site Emergency Plan required under condition 56 is effectively in place; and
- the updated Safety Management System required under condition 56 has been fully implemented and that records required by the system are being kept.

IN SCHEDULE 4

17. Delete conditions 57 to 65 and replace with the following:

REPORTING AND AUDITING

Incident Notification, Reporting and Response

57 The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident. Subsequent notification requirements must be given, and reports submitted in accordance with the requirements set out in **Appendix C**.

Non-Compliance Notification

58 The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance.

59 A non-compliance notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

60 A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

Compliance Reporting

61 No later than 1 week after the date notified for the commencement of operation of DA 10397 of 1995 MOD 10, a Compliance Monitoring and Reporting Program prepared in accordance with the Compliance Reporting Post Approval Requirements (Department 2018) must be submitted to the Department.

62 Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Post Approval Requirements (Department 2018).

63 The Applicant must make each Compliance Report publicly available no later than 60 days after submitting it to the Department and notify the Department in writing at least 7 days before this is done.

Independent Audit

- 64 No later than 1 weeks after the date notified for the commencement of operation of DA 10397 of 1995 MOD 10, an Independent Audit Program prepared in accordance with the Independent Audit Post Approval Requirements (Department 2018) must be submitted to the Department.
- 65 Independent Audits of the development must be carried out in accordance with:
- the Independent Audit Program submitted to the Department under condition 64 of this consent; and
 - the requirements for an Independent Audit Methodology and Independent Audit Report in the Independent Audit Post Approval Requirements (Department 2018).
- 66 In accordance with the specific requirements in the Independent Audit Post Approval Requirements (Department 2018), the Applicant must:
- review and respond to each Independent Audit Report prepared under condition 65 of this consent;
 - submit the response to the Department; and
 - make each Independent Audit Report and response to it publicly available no later than 60 days after submission to the Department and notify the Department in writing at least 7 days before this is done.
- 67 Twelve months after the commencement of commencement of DA 10397 of 1995 MOD 10 and every three years thereafter, or at such intervals as the Planning Secretary may agree, the Applicant must carry out a comprehensive Hazard Audit of the development and within one month of each audit submit a report to the satisfaction of the Planning Secretary for approval.
- The audits must be carried out at the Applicant's expense by a qualified person or team, independent of the development, approved by the Planning Secretary prior to commencement of the audit. Hazard Audits must be carried out in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 5, 'Hazard Audit Guidelines'*.
- 68 Within one month of each audit carried out in accordance with Condition B17, the Applicant must submit a report to the satisfaction of the Planning Secretary for approval. The audit report must be accompanied by a program for the implementation of all recommendations made in the audit report. If the Applicant intends to defer the implementation of a recommendation, reasons must be documented. The Applicant must implement the recommendations to the satisfaction of the Planning Secretary.

Monitoring and Environmental Audits

- 69 Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification, compliance reporting and independent auditing.

Note: For the purposes of this condition, as set out in the EP&A Act, "monitoring" is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an "environmental audit" is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.

ACCESS TO INFORMATION

- 70 Within 3 months of the approval of any strategy/plan/program required under this approval (or any subsequent revision of these strategies/plans/programs), or the completion of the audits or compliance reporting required under this approval, the Applicant shall provide a copy of the relevant document/s to:
- the relevant agencies, and
 - any interested party upon request.

APPENDIX B

HAZARD AND RISK MITIGATION MEASURES

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be emailed to the Department at the following address: compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition 0 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - a. identify the development and application number;
 - b. provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - c. identify how the incident was detected;
 - d. identify when the applicant became aware of the incident;
 - e. identify any actual or potential non-compliance with conditions of consent;
 - f. describe what immediate steps were taken in relation to the incident;
 - g. identify further action(s) that will be taken in relation to the incident; and
 - h. identify a project contact for further communication regarding the incident.

INCIDENT REPORT REQUIREMENTS

3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - a. a summary of the incident;
 - b. outcomes of an incident investigation, including identification of the cause of the incident;
 - c. details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - d. details of any communication with other stakeholders regarding the incident.