

**NOTICE OF A MODIFICATION TO A DEVELOPMENT CONSENT
GRANTED UNDER SECTION 101 OF THE
UNAMENDED ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 UNDER
SECTION 96(2) OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.**

Under Section 96(2) of the *Environmental Planning and Assessment Act 1979*, I, the Minister for Urban Affairs and Planning, modify the development consent referred to in Schedule 1, as set out in Schedule 2.

Andrew Refshauge MP
Minister for Urban Affairs and Planning

Sydney,

23 August 2001

File No. N91/00088/7

SCHEDULE 1

The development consent granted by the Minister for Planning on 11 January 1991 for expansion of the Tomago Aluminium Smelter, as modified by the Minister for Planning on 14 February 1995.

**SCHEDULE 2
CONDITIONS OF THE MODIFICATION**

DEFINITIONS

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| Director | Director-General of the Department of Urban Affairs and Planning, or her delegate |
| Department | Department of Urban Affairs & Planning |
| Applicant | Tomago Aluminium Company Pty Ltd |
| EPA | Environment Protection Authority |
| NPWS | National Parks and Wildlife Service |
| SEE | Statement of Environmental Effects |

1. Replace Condition 2. with:
2. The Applicant shall carry out the expansion of Tomago Aluminium Smelter generally in accordance with the Environment Impact Statement (EIS) and Appendices, dated July 1990, prepared by Crooks Mitchell Peacock Stewart Pty Limited and certified by James J. Varjavandi on 27 July 1990, as modified by the Statement of Environmental Effects (SEE) titled Modification of Development Consent for the Proposed Production Capacity Increase at Tomago Aluminium Smelter, dated April 2001, prepared by HLA-Envirosciences and certified by Gary Freeland on 3 April 2001, and as may be modified by the following conditions.

2. Replace Condition 8 with:

8. By 31 December 2007, the Applicant shall adopt a system for the treatment of spent pot linings into non-hazardous waste or a useable product. If however, new treatment technologies are slow to emerge, or these technologies are considered to be unfeasible on economic, environmental, or industrial reliability criteria, then the Applicant may apply to the Director and the EPA for an extension to the above deadline. This application must outline the available treatment technologies, justify why these technologies cannot be - or have not been - adopted, identify the best available management practice of the day, and describe what measures will be implemented to treat, handle, store, or dispose of the spent pot linings at the smelter. After reviewing this application, the Director and the EPA may approve an extension to the above deadline, and may require the Applicant to carry out further investigations or works into the treatment of spent pot linings into non-hazardous waste or a useable product.

Conditions Relating to Modification (DA 4908/90 M1)

2. After Condition 55, insert:

56. Until the proposed modification is fully implemented, the Applicant shall include an Annual Progress Report on the proposed expansion program in the Annual Report (see Condition 52). The Annual Progress Report must:
 - (a) Describe the status of the implementation of the expansion program;
 - (b) Assess the environmental impacts of the expansion program against the goals identified in the SEE for the proposed expansion; and
 - (c) Outline the proposed program for the implementation of the remainder of the expansion.
57. The Applicant shall:
 - (a) Install continuous real time monitoring of gaseous fluoride emissions from the roof vents in each potline; and
 - (b) Maintain and operate an ambient air quality monitoring network, including sulphur dioxide monitoring in the vicinity of the smelter to the satisfaction of the EPA.
58. Within 90 days of commissioning the modifications to the anode furnace, the Applicant shall conduct emission monitoring of the anode plant stacks to assess the emissions. The results of this monitoring must be submitted to the EPA's Regional Manager Hunter within 28 days of the testing being completed. Pollutants that must be monitored include:
 - (a) Oxides of nitrogen;
 - (b) Sulphur dioxide;
 - (c) Solid particles;
 - (d) Solid particles PM10;
 - (e) Polycyclic Aromatic Hydrocarbons; and
 - (f) Hazardous substances.

59. Before proceeding with the proposed expansion, the Applicant shall carry out a comprehensive noise assessment of the development in accordance with the provisions of the *NSW Industrial Noise Policy*, and submit this assessment to the Director and the EPA. After reviewing the comprehensive noise assessment, the Director may require the Applicant to address certain matters arising from the assessment, and the Applicant shall comply with any reasonable requirements of the Director.
60. Within 90 days of commissioning the additional transformers, rectifiers and cooling fans, the Applicant shall conduct a noise compliance assessment of the upgraded plant using the procedures described in the *NSW Industrial Noise Policy*. The compliance report shall be forwarded to the EPA within 28 days of completing the monitoring.
61. In consultation with the NPWS, the Applicant shall assist in the development of, and participate in, a periodic monitoring program targeting specific areas/species within Kooragang Island Nature Reserve.
62. The Applicant shall obtain a Section 50 certificate under the *Hunter Water Act 1991* for any increases in potable water demand associated with the proposed expansion.
63. At least 1 month before commencing the construction of any component of the modification, or within such further period as the Director may agree, the Applicant shall submit the following studies to the Director for approval:
- a) A Fire Safety Study covering all aspects detailed in the Department's *Hazardous Industry Planning Advisory Paper No. 2 - Fire Safety Study Guidelines* and the New South Wales Government's *Best Practice Guidelines for Contaminated Water Retention and Treatment Systems*. The Study shall focus on the alterations to the existing development, which are the subject of this modification. The Applicant shall also submit the Study for the approval of the NSW Fire Brigades.
 - b) A Construction Safety Study prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 7 - Construction Safety Study Guidelines*. The Study shall detail specific measures to address hazards associated with construction activities on an operating development. The Applicant may seek the Director's approval to stage submission of the Study, consistent with staging of construction.
- Construction shall not commence until the Director has approved both studies, and the Commissioner of the NSW Fire Brigades has approved the Fire Safety Study.
64. Within 12 months of commencing the construction of any component of the modification, or within such further period as the Director may agree, the Applicant shall submit the following studies to the Director for approval:
- a) An Updated Emergency Plan and detailed emergency procedures for the site, prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 1 - Industry Emergency Planning Guidelines*. The Plan shall be an update of the existing emergency plan for the site.

- b) A Safety Management System, covering all operations on-site and associated transport activities involving hazardous materials. The System shall clearly specify all safety related procedures, responsibilities and policies, along with details of mechanisms for adherence to procedures and managing change. Records shall be kept on site and shall be available for inspection by the Director-General upon request. The Safety Management System shall be an update of the existing system for the site and be prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 9 - Safety Management*.
65. Within 24 hours of any incident with actual or potential significant off-site impacts on people or the biophysical environment, a report shall be supplied to the Director outlining the basic facts. A further detailed report shall be prepared and submitted following investigations into the causes and identification of additional preventative measures. That report must be submitted to the Director no later than 14 days after the incident. The Applicant shall maintain a register of accidents, incidents and potential incidents. The register shall be made available for inspection at any time by the Director.
66. Within 6 months of the date of this modification, or within such period otherwise agreed by the Director, the Applicant shall prepare and submit for the approval of the Director a 1995/ 2000 Hazard Audit Implementation Program. The Program shall include, but not necessarily be limited to:
- a) Details of all recommendations made in the Hazard Audits undertaken for the development in 1995 and 2000;
 - b) Comment on the implementation status of the recommendations referred to under a) above (ie complete, incomplete, in progress, on-going etc); and
 - c) A schedule for the full implementation of all recommendations referred to under a) above, including completion date and dates for the completion of key milestones, where relevant.