

Modification of Minister's Approval

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

As delegate for the Minister for Planning, under the Instrument of Delegation executed on 11 October 2017, I approve the modification of the project approval referred to in Schedule 1, subject to the Conditions outlined in Schedule 2.



Chris Ritchie
Director
Industry Assessments

Sydney 19 DECEMBER 2018

File: OBJ15/13221

SCHEDULE 1

Project Approval (MP 06_0095), granted by the former Minister for Planning on 22 December 2006 for a Chemical Waste Storage and Treatment Facility at Lot 431 DP 854814 known as 40 Christie Street, St Marys in the Penrith local government area.

SCHEDULE 2

This approval is modified as follows:

In Definitions:

1. Insert the following definition in alphabetical order:

AAN plant	Acid Alkaline Neutralisation plant
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Construction	The demolition and removal of buildings or works, the carrying out of works for the purpose of the project, including bulk earthworks, and erection of buildings and other infrastructure permitted by this approval
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Mod 3	Modification application 06_0095 Mod 3 dated 6 May 2016
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2. Delete all references to "Secretary" and replace with "Planning Secretary"
3. Delete all references to "Fire Brigade" and replace with "Fire and Rescue NSW"

In Schedule 2: Administrative Conditions

4. Delete and replace Condition 2 as follows:

2. The Proponent must carry out the project generally in accordance with the:

- a) Project Application 06_0095;
- b) EA titled Environmental Assessment for a Major Project Proposed Resource Recovery Facility 40 Christie Street, St Marys, New South Wales, dated August 2006, and prepared by Peter J Ramsay and Associates;

- c) Final Statement of Commitments in the Submissions Report;
- d) Modification application titled Request of Modification for Chemsals Pty Ltd's Chemical Waste Storage and Treatment Facility, dated 19 April 2007, and prepared by Peter J Ramsay and Associates;
- e) Modification application 06_0095 Mod 2 and accompanying Environmental Assessment titled Environmental Assessment Chemical Immobilisation and Solidification Process dated 2 November 2009 and the revised site layout titled Figure 2.1 Proposed Chemical Immobilisation and Solidification, revision 3 dated 18 January 2010;
- f) Modification application 06_0095 Mod 4 and accompanying Environmental Assessment titled Proposal for the acceptance and treatment of E-waste & Minor Site Works, dated May 2017, prepared by Wild Environment Pty Ltd;
- g) Modification application 06_0095 Mod 3 and accompanying Environmental Assessment titled Environmental Assessment Modification to existing development consent for additional treatment technologies 40 Christie Street, St Marys, New South Wales, dated 9 June 2018, and prepared by PEP Consulting and revised site layout titled Toxfree Site Plan dated 15 August 2018, prepared by G Reynolds and C.K;
- h) Preliminary Hazard Assessment (PHA) Mod 3 titled Report Toxfree PHA Report Christie St, St Marys, dated 28 February 2017 (Rev 3 (Final)); and
- i) conditions of this approval.

In Schedule 3: Specific Environmental Conditions

Waste Management

5. Delete and replace Condition 3 as follows:

- 3. Prior to the commencement of operations of the project as modified by Mod 3, the Proponent must prepare a Waste Management Plan for the project to the satisfaction of the Planning Secretary. The Plan must:
 - a) detail the type and quantity of waste to be generated during construction and operation of the project;
 - b) describe the handling, storage and disposal of all waste streams generated on site, consistent with the Protection of the Environment Operations Act 1997, Protection of the Environment Operations (Waste) Regulation 2014 and Waste Classification Guideline (Department of Environment, Climate Change and Water, 2009);
 - c) include details of storage limits for all incoming wastes;
 - d) include procedures to be followed during unexpected processing machinery shutdown; and
 - e) include details of the waste to be recycled, processed either on or off the site.

6. Insert new Condition 3A as follows:

3A. The Proponent must:

- a) not commence operation of the project as modified by Mod 3 until the Waste Management Plan is approved by the Planning Secretary; and
- b) implement the most recent version of the Waste Management Plan approved by the Planning Secretary.

7. Insert new Condition 3B as follows:

- 3B. From the commencement of operations of the project as modified by Mod 3, the Proponent must implement a Waste Monitoring Program for the project. The program must:
 - a) be prepared by a suitably qualified and experienced person(s);
 - b) include suitable provision to monitor the:
 - (i) quantity, type and source of waste received on site; and
 - (ii) quantity, type and quality of the outputs produced on site.
 - c) ensure that:
 - (i) all waste that is controlled under a tracking system has the appropriate documentation prior to acceptance at the site; and
 - (ii) staff receive adequate training in order to be able to recognise and handle prohibited waste.

8. Delete and insert new Condition 4A as follows:

4A. The Proponent must not store and/or process more than 250 tonnes of non-dangerous goods waste at any one time.

9. Insert new Condition 4B as follows:

4B The Proponent must only store and/or process the maximum quantities of dangerous goods waste outlined in Table 1 at any given time.

Table 1: Maximum amount of waste to be stored and/or processed on site at any given time.

Hazardous Waste classed as a Dangerous Good Classified Under the Australian Dangerous Goods Code			
Dangerous Goods Classification			Maximum Quantity Stored and/or Processed on Site
Class/Division	Packing Group	Description	
2.1	Not applicable	Flammable gases	8.64 tonnes
2.2	Not applicable	Non-flammable, non-toxic gases	18 tonnes
2.3	Not applicable	Toxic gases	100 kg
3	PG I, PG II and PG III	Flammable liquids	92,000 L
4.1	PG II and PG III	Flammable solids, self-reactive substances and solid desensitised explosives	2.5 tonnes
4.2	PG I, PG II and PG III	Substances liable to spontaneous combustion	850 kg
4.3	PG I, PG II and PG III	Substances which in contact with water emit flammable gases	250 kg
5.1	PG II and PG III	Oxidising substances	2.5 tonnes
5.2	PG II	Organic peroxides	1 tonne
6.1	PG II and PG III	Toxic substances	17.5 tonnes
6.2	Not applicable	Infectious substances	500 kg
8 (Acidic materials)	PG I, PG II and PG III	Corrosive substances	35,000 L
8 (Basic materials)	PG I, PG II and PG III		25,000 L
9	PG II and PG III	Miscellaneous dangerous goods	5 tonnes
C2	Not applicable	Combustible liquids	10,000 L

Note: The maximum quantities in Table 1 do not include the mass of packaging.

10. Insert new Condition 4C as follows:

4C. Sewage and food waste must be stored in sealed containers at all times and must not be treated, decanted and/or processed on site.

Air Quality

11. Insert new Condition 6A as follows:

6A. The Proponent must install and operate the AAN plant equipment in line with best practice to ensure the project complies with all load limits, air quality criteria and air quality monitoring requirements as specified in the EPL for the site.

12. Insert new Condition 6B as follows:

6B. The Proponent must ensure that the sampling position(s) for obtaining representative samples of the discharge to atmosphere from the stack, duct or other similar outlet from the AAN plant complies with the requirements of an 'ideal sampling position' of Australian Standard AS4323.1-1995.

13. Insert new Condition 6C as follows:

6C. Within six months of commissioning the AAN plant, the Proponent must submit a post commissioning test report to the satisfaction of the Planning Secretary. The post commissioning report must:

- a) be prepared by a suitably qualified and experienced person(s);
- b) be prepared in consultation with the EPA;
- c) include the analytical results of two rounds of post commissioning sampling for Sulphur Dioxide and Chlorine. The sampling must be conducted in accordance with the Approved Methods for Sampling and Analysis of Air Pollutants in NSW;
- d) include a comparison of the analytical results obtained against the prescribed limits contained in the *Protection of the Environment Operations (Clean Air) Regulation 2010*; and
- e) include a comparison of the analytical results with emission concentrations, emission rates and discharge parameters contained in SLR report - *Toxfree AAN Plant – Air Quality Impact Assessment Additional Information Request*, dated 15 September 2017.

14. Insert new Condition 6D as follows:

6D. If the results of the post commissioning testing identify sampling results higher than the prescribed limits, the Proponent must investigate further air emission controls as directed by the Planning Secretary or the EPA.

Noise

15. Delete and replace Condition 8 as follows:

8. The Proponent must comply with the construction and operation hours in **Table 2**, unless otherwise agreed with the Planning Secretary.

Table 2: Construction and Operation Hours for the Project

Activity	Day	Time
Construction	Monday to Friday	7:00 am to 6:00 pm
	Saturday	8:00 am to 1:00 pm
	Sunday and Public Holidays	Nil
Operation	All days	5:00 am to 10:00 pm

16. Insert new Condition 8A as follows:

8A. Works outside of the hours identified in Condition 8 may be undertaken in the following circumstances:

- a) works that are inaudible at the nearest sensitive receivers;
- b) emergency callouts; and
- c) for the delivery of materials required outside these hours by the NSW Police Force or other authorities for safety reasons; or where it is required in an emergency to avoid the loss of lives, property or to prevent environmental harm.

17. Insert new Condition 8B as follows:

8B The Proponent must ensure there are no heavy vehicle movements to and from the site between the hours of 6 pm and 6 am.

18. Delete Condition 10.

19. Delete and replace Condition 11 as follows:

11. Dangerous goods, as defined by the Australian Dangerous Goods Code, must be stored and handled strictly in accordance with:
 - a) all relevant Australian Standards;
 - b) for liquids, a minimum bund volume requirement of 110 % of the volume of the largest single stored volume within the bund; and
 - c) the Environment Protection Manual for Authorised Officers: *Bunding and Spill Management* – technical bulletin (EPA, 1997).
20. Insert new Condition 11A as follows:

11A. In the event of an inconsistency between the requirements of Condition 11a) to 11b), the most stringent requirement must prevail to the extent of the inconsistency.
21. Delete and replace Condition 16 as follows:

16. Prior to the issue of a Construction Certificate, the Proponent must submit a detailed Stormwater Management Plan (SMP) to the Certifying Authority. The SMP is to:

 - a) be prepared by a suitably qualified and experienced person(s);
 - b) be prepared in consultation with Penrith City Council;
 - c) be designed generally in accordance with:
 - (i) Site Works Plan, prepared by Taylor Thompson and Whitting, Job number 171562 Drawing number C02, Issue P5 dated 27 October 2017; and
 - (ii) Stormwater Report prepared by Taylor Thompson and Whitting, Job number 171562, dated 10 January 2018
 - d) be designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy;
 - e) be designed to ensure that all stormwater from all areas of the site which has the potential to mobilise sediments and other contaminated material, is diverted and controlled through pollution control measures or structures;
 - f) include engineering plans and supporting calculations for the stormwater management system; and
 - g) address maintenance of the stormwater system for the life of the development.

Safety and Risk Management

22. Delete and replace Condition 13a) as follows:

13a) A revised Emergency Plan must be prepared, for any modification, in accordance with the Department's Hazardous Industry Planning Advisory Paper No. 1 – Emergency Planning. The updated plan must include detailed procedures for the safety of all people outside of the development who may be at risk from the development.

Mod 3 Hazard Conditions

23. Insert new Condition 21 as follows:

Pre-construction

21. At least one month prior to the commencement of construction of the project as modified by Mod 3 or within such further period as the Planning Secretary may agree, the Proponent must prepare and submit for the approval of the Planning Secretary the studies set out under subsections 21a) to 21d) below (the pre-construction studies). Construction, other than the preliminary works that are outside the scope of the hazard studies, shall not commence until study recommendations have been considered and, where appropriate, acted upon.
 - a) an updated Fire Safety Study for the project as modified by Mod 3. This study must cover the relevant aspects of the Department of Planning'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 updated study must also be made available to Fire and Rescue NSW.

- b) a Hazard and Operability Study for the AAN process (including gas scrubber), chaired by a qualified person, independent of the project, approved by the Planning Secretary prior to the commencement of the study. The study must be consistent with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 8, '*HAZOP Guidelines*'. The study report must be accompanied by a program for the implementation of all recommendations made in the report. If the Proponent intends to defer the implementation of a recommendation, reasons must be documented.
- c) a Final Hazard Analysis of the project as modified by Mod 3, prepared in accordance with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 6, '*Hazard Analysis*'. The study must provide an update on the final design of the AAN process and assess the risks from the project as modified, taking into account this final design and the implementation of recommendations or additional safeguards arising from the pre-construction studies.
- d) a Construction Safety Study, prepared in accordance with the Department's Hazardous Industry Planning Advisory Paper No. 7 '*Construction Safety*'. The study must identify the hazards and relevant safeguards in relation and not limited to:
 - (i) construction works associated with the AAN process during operation of the whole facility, to ensure that construction works do not result in significant risks from the whole facility; and
 - (ii) commissioning of the AAN process.

24. Insert new Condition 22 as follows:

Pre-commissioning

- 22. Prior to commissioning of the project as modified by Mod 3, the Proponent must update and implement the plans and systems set out under subsections 22a) to 22b). The Proponent must submit to the Planning Secretary documentation describing the updated plans and systems no later than two months prior to the commencement of commissioning of the project as modified by Mod 3, or within such further period as the Planning Secretary may agree.
 - a) an updated Emergency Plan and detailed emergency procedures for the project with the modification. The updated plan must include detailed procedures for the safety of all people outside of the project who may be at risk from the project. The updated plan must be consistent with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 1, '*Emergency Planning*'.
 - b) an updated document setting out a comprehensive Safety Management System, covering all on-site operations and associated transport activities involving hazardous materials. The document must clearly specify all safety related procedures, responsibilities and policies, along with details of mechanisms for ensuring adherence to the procedures. Records must be kept on-site and must be available for inspection by Planning Secretary upon request. The Safety Management System must be developed in accordance with the Department's Hazardous Industry Planning Advisory Paper No. 9, '*Safety Management*'. The updated Safety Management System must include and not be limited to:
 - (i) a system or process to ensure continual compliance with Condition 22, taking into consideration Table 1 of the 2017 Preliminary Hazard Analysis;
 - (ii) detailed procedures to operate the Acid Alkaline Neutralisation process; and
 - (iii) procedures for the storage and handling of dangerous goods class 2.3 (toxic gas cylinders).

25. Insert new Condition 23 as follows:

Pre-Start Up

- 23. One month prior to the commencement of operation of the project as modified by Mod 3, the Proponent must submit to the Planning Secretary, a Pre-Startup Compliance Report detailing compliance with Conditions 21 and 22, including:
 - a) dates of study/plan/system submission, approval, commencement of construction and commissioning;
 - b) actions taken or proposed, to implement recommendations made in the studies/plans/systems; and
 - c) responses to each requirement imposed by the Planning Secretary under Condition 26.

26. Insert new Condition 24 as follows:

Post Start Up

24. Three months after the commencement of operation of project as modified by Mod 3, the Proponent must submit to the Planning Secretary, a report verifying that:
- a) the updated Emergency Plan required under Condition 22a) is effectively in place and that at least one emergency exercise has been conducted; and
 - b) the updated Safety Management System required under Condition 22b) has been fully implemented and that records required by the system are being kept.

27. Insert new Condition 25 as follows:

Ongoing - Hazard Audit

25. Within twelve months of the commencement of operations of the proposed project as modified by Mod 3 and every five years thereafter, or at such intervals as the Planning Secretary may agree, the Proponent must carry out a comprehensive Hazard Audit of the proposed project and within one month of each audit submit a report to the Planning Secretary. The Hazard audits must:
- a) be carried out at the Proponent's expense by a qualified person or team, independent of the project, approved by the Planning Secretary prior to commencement of each audit;
 - b) be carried out in accordance with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 5, 'Hazard Audit Guidelines'; and
 - c) be accompanied by a program for the implementation of all recommendations made in the audit report. If the Proponent intends to defer the implementation of a recommendation, reasons must be documented.

28. Insert new Condition 26 as follows:

Further Requirements

26. The Proponent must comply with all reasonable requirements of the Planning Secretary in respect of the implementation of any measures arising from the reports submitted in respect of Conditions 21 to 25 inclusive, within such time as the Planning Secretary may agree.

In Schedule 4: Environmental Management and Monitoring

29. Delete and replace Condition 1 as follows:

1. The Proponent must prepare and implement an Environmental Management Plan (EMP) for the project to the satisfaction of the Planning Secretary. The EMP must be revised and updated for any modification. The EMP must be submitted to the Planning Secretary prior to construction (including construction related to any modification) commencing and must:
- a) provide the strategic context for environmental management of the project;
 - b) identify the statutory and other obligations that apply to the project;
 - c) outline the environmental management and monitoring practices and procedures that would be implemented during construction and operation;
 - d) describe in general how the environmental performance of the project would be monitored and managed during the project;
 - e) describe the measures to manage air quality including air quality testing, recording and incident response;
 - f) describe the measures to manage operational noise and traffic for the operational hours described in Table 2;
 - g) describe the procedures that would be implemented to:
 - (i) keep the local community and relevant agencies informed about the construction, operation and environmental performance of the project;
 - (ii) receive, handle, respond to, and record complaints in accordance with Conditions 6 and 7 below;
 - (iii) resolve any disputes that may arise during the course of the project;
 - (iv) respond to any non-compliance; and
 - (v) respond to emergencies;
 - h) describe the role, responsibility, authority and accountability of all the key personnel involved in;
 - i) environmental management of the project; and
 - j) incorporate the various studies required under this approval.

Appendix

30. Delete Appendix 1 and replace as follows:

[illegible]NSW Government
Department of Planning and Environment