

APPENDIX A
MODIFYING INSTRUMENT
DA 26-02-01 MOD 2

Modification of Minister's Approval

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

As delegate for the Minister for Planning under delegation executed on 14 September 2011, the Planning Assessment Commission of New South Wales (the Commission) modifies the development consent referred to in Schedule 1, subject to the conditions outlined in Schedule 2.

Member of the Commission

Sydney

2016

SCHEDULE 1

Development consent:	DA 26-02-01 granted by the Minister for Planning on 1 August 2001
For the following:	Waste Gas Cleaning Plant
On land comprising:	Lot 1 DP 606434, BHP Steelworks, Port Kembla
Modification Number:	DA 26-02-01 MOD 2
Modification:	The modification relates to the deletion of conditions and amendment of reporting conditions

SCHEDULE 2

This development consent is modified as follows:

In the definitions table:

1. Delete the definitions for As, Cd, Cr, Cr6+, Cu, Cold Commissioning, The Department, Dioxin/Furans, The Director-General, EPL, g/m³, Hot Commissioning, HCl, HF, Hg, LBL, mg/L, Mn, Ni, Noisy Construction Activities, NOx, pg/L, PCI, POEO, Pb, SO₂, SO_x, Se, SS, VOC and Zn and inserting the following definitions in alphabetical order:

Department Department of Planning and Environment or its successors in title

EPL Environment Protection Licence 6092 issued under the *Protection of the Environment Operations Act 1997*

Incident	A set of circumstances that: <ul style="list-style-type: none"> • causes or threatens to cause material harm to the environment; and/or • breaches or exceeds the limits or performance measures/criteria in this consent
MOD 1	Modification application MOD-50-4-2005-i, accompanied by 'Proposed Sulphur Rich Gas Treatment Modification Utilising Gypsum Manufacture – Supplementary Statement of Environmental Effects, dated July 2004, and prepared by the Applicant
MOD 2	Modification request DA 26-02-01 MOD 2, accompanied by the letter dated 27 June 2014 from David Bell, Manager Cokemaking and IronMaking and detailing the proposed amendments to conditions of consent and the amendment of environmental reporting requirements
NSW DPI	NSW Department of Primary Industries
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Secretary	Secretary of the Department or nominee
SRG	Sulfur Rich Gas

In Schedule 2: General conditions:

2. Replace all references to the word "Director-General" with "Secretary", wherever occurring.
3. Delete condition 1.2 (f) and replace with the following clauses (f) and (g):
 - (f) MOD 1; and
 - (g) MOD 2.
4. Delete the words "from condition 1.2(a) to 1.2(f) inclusive" wherever occurring in condition 1.2A and replace with the words "in condition 1.2".
5. After condition 1.9, insert the following heading and condition 1.10:

Statutory Requirements

- 1.10 The Applicant must ensure that all necessary licences, permits and approvals are obtained and kept up-to-date as required throughout the life of the development. No condition of this approval removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals.
6. After condition 2.4, insert new condition 2.5:
 - 2.5 The Applicant shall comply with any reasonable requirement(s) of the Secretary arising from the Department's assessment of:
 - a) any reports, plans or correspondence that are submitted in accordance with this consent; and
 - b) the implementation of any actions or measures contained within these documents.

7. Delete conditions 3.1, and 3.2A and the heading "Construction Management Plan".
8. Delete conditions 4.2 to 4.6 inclusive and the headings "Hours of Construction", "Noise - Construction Phase" and "Noise – Operation Phase" and replace with the following condition 4.2 and heading:

Noise – Operation Phase

4.2 The Applicant shall install and operate equipment in line with best practice to ensure that the development complies with the noise limits specified in condition 4.6. The Applicant shall undertake noise monitoring as required by the EPA in the EPL for the site.
9. Delete conditions 4.8 and 4.9 and the heading "Air Quality – Construction".
10. Delete conditions 4.13, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.23, 4.24, 4.25, 4.26 and 4.27 under the heading Air Quality – Operation.

Note: The heading "Sulfur Rich Gas Management" is to remain
11. Insert new condition 4.20 as follows:

4.20 The Applicant is not permitted to use SRG for fertiliser production without the prior approval of the EPA. In seeking the approval of the EPA, the Applicant shall prepare a detailed proposal that includes its consultation with NSW DPI and NSW Health.
12. Insert new condition 4.13 as follows:

4.13 The Applicant shall install and operate equipment in line with best practice to ensure that the development complies with all load limits, air quality criteria and air quality monitoring requirements as specified in the EPL for the site.
13. Delete conditions 4.28 and 4.29 and the headings "Wastewater Treatment Plant" and "Blowdown Water Reuse Strategy".
14. Delete condition 4.31 and replace with the following condition 4.31:

4.31 The Applicant shall ensure that all licensed surface water discharges from the site comply with the discharge limits (volume and quality) set for the development in any EPL or the relevant provisions of the POEO Act.
15. Delete condition 4.32 and the heading "Erosion and Sediment Control".
16. Delete conditions 4.35 and 4.36 and the heading "Soil Remediation".
17. Delete condition 4.41 and replace with the following:

4.41 All liquid and/or non-liquid waste generated on the site shall be assessed and classified in accordance with *Waste Classification Guidelines* (Department of Environment, Climate Change and Water, 2009), or any superseding document.
18. Delete conditions 4.43 and 4.44.

19. Delete condition 5.5.

20. Delete condition 5.9 and replace with the following:

5.9 Within 24 hours of the occurrence of an incident that causes (or may cause) harm to the environment, the Applicant shall notify the Secretary and any other relevant agencies of the incident.

Within seven (7) days of the detection of the incident, the Applicant shall provide the Secretary and any relevant agencies with a detailed report on the incident.

21. Delete condition 5.10 and replace with the following:

5.10 In June 2019, the Applicant shall carry out a comprehensive Hazard Audit of the Waste Gas Cleaning Plant, and within one month of the Audit submit a report to the Secretary for approval. The Audit shall be carried out at the Applicant's expense by a duly qualified independent person or team, approved by the Secretary prior to the commencement of the Audit. Further Hazard Audits shall be undertaken every three years, or as may be required by the Secretary. Hazard Audits shall be carried out in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 5 - Hazard Audit Guidelines*.

22. Delete Chapter 6 including all headings and conditions therein.

23. Delete conditions 7.1 to 7.3, inclusive.

24. Delete condition 7.4 and replace with the following condition 7.4:

Environmental Management Report

7.4 By 31 October 2017 and every three years thereafter, unless otherwise agreed by the Secretary, the Applicant shall review and report on the environmental performance of the development to the satisfaction of the Secretary. This review must:

- (a) describe the development that was carried out during the reporting period and the development that is proposed to be carried out over the next three years;
- (b) include a comprehensive review of the monitoring results and complaints records of the development during reporting period, which includes a comparison of these results against the:
 - (i) the relevant statutory requirements, limits or performance measures/criteria;
 - (ii) requirements of any plan or program required under this consent;
 - (iii) the monitoring results of previous years; and
 - (iv) the relevant predictions in the SEE;
- (c) identify any non-compliance during the reporting period, and describe what actions were (or are being) taken to ensure compliance;
- (d) identify any trends in the monitoring data over the life of the development;
- (e) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and
- (f) describe what measures will be implemented over the next three years to improve the environmental performance of the development.

25. Delete condition 7.5 and replace with the following:

7.5 After reviewing the report submitted under condition 7.4, the Secretary may require the Proponent to address certain matters identified in the report. The Proponent must comply with any reasonable requirements of the Secretary.
