

DECISION NOTIFICATION FORM

Section 126(1) of the *Planning, Development and Infrastructure Act 2016*

TO THE APPLICANT:

Name:	Nyrstar Port Pirie Pty Ltd
Postal address:	Ellen Street, Port Pirie SA 5540
Email:	robert.hosking@nyrstar.com

IN REGARD TO:

Development application no.: 354/P001/18	Lodged on: 13 May 2022
Nature of proposed development: Variation to an approved Major Development – Port Pirie Smelter Upgrade – Pre-Treatment Plant and Product Recycling Facility	

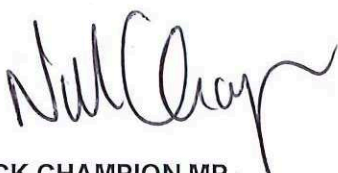
LOCATION OF PROPOSED DEVELOPMENT:

Street address: Ellen Street, Port Pirie			
Lot no. 50, DP12528	Hundred Pirie	Volume 6167	Folio 721

DECISION:

Decision type	Decision	Decision date	No. of conditions	Entity responsible for decision
Provisional development authorisation	GRANTED	20/12/22	17	Minister for Planning
Pre-treatment plant - Building consent	STILL REQUIRED	-	-	TO BE DETERMINED
Product recycling facility - Building consent	STILL REQUIRED	-	-	TO BE DETERMINED
Pre-treatment plant - Development Authorisation	STILL REQUIRED	-	-	TO BE DETERMINED
Product recycling facility - Development Authorisation	STILL REQUIRED	-	-	TO BE DETERMINED

FROM THE RELEVANT AUTHORITY: Minister for Planning



NICK CHAMPION MP
MINISTER FOR PLANNING

20/12/22

PREAMBLE:

- a. On 23 December 2013 notice of the Governor's decision to grant a development authorisation under section 48 of the *Development Act 1993*, in respect of an upgrade to the Port Pirie Smelter by Nyrstar Port Pirie Pty Ltd, was published in the *South Australian Government Gazette* at p 5268.
- b. Simultaneously, the Governor delegated his power to grant a variation to the Port Pirie Smelter upgrade development authorisation to the Minister for Planning pursuant to section 48 (8) of the *Development Act 1993*.
- c. Variations to the authorisation were notified in the *South Australian Government Gazette* on 2 April 2015 at p 1351 (related to the relocation of the new oxygen plant); 6 August 2015 at p 3715 (related to modifications to the design of the TSL furnace building); and 28 March 2019 at p 956 (related to a new Paragoethite and Lead Sulphate Leach Concentrate Storage Pad).
- d. By letter dated 4 February 2022, Nyrstar Port Pirie Pty Ltd, being the beneficiary of the development authorisation, sought a variation to the authorisation so as to permit the construction of a new Briquetting Plant.
- e. On 18 February 2022, the delegate of the Minister for Planning and Local Government, having regard to appropriateness of the Public Environmental Report (as previously approved) in considering the proposed variation, and all other relevant matters under Section 115 of the *Planning, Development and Infrastructure Act 2016*, approved a variation to the development authorisation, subject to conditions.
- f. By email dated 13 May 2022, Nyrstar Port Pirie Pty Ltd, being the beneficiary of the development authorisation, lodged an Amendment to the PER, which sought a variation to their development authorisation so as to permit the establishment of a Pre-Treatment Plant and Product Recycling Facility.
- g. On 30 June 2022, the Amendment to the PER was publicly notified, and formally referred to the Port Pirie Regional Council and to relevant Government agencies. No public submissions were received.
- h. By email dated 16 August 2022, Nyrstar Port Pirie Pty Ltd submitted a Response Document (addressing the comments of the Council and state agencies) to the Minister for Planning (and forming a part of their Amendment to the Assessment Report).
- i. On 15 December 2022, the State Planning Commission endorsed an Amendment to the Assessment Report, recommending the variation to the current development authorisation be approved, subject to appropriate conditions. At this meeting, the SPC heard from representatives of the Environment Protection Authority (EPA) and Nyrstar, and also considered formal advice from the EPA.
- j. As the Minister for Planning, and having considered the report and advice of the State Planning Commission, I have decided to grant a varied development authorisation to the proposed amendment pursuant to s.115(8) of the *Planning, Development and Infrastructure Act 2016*. This includes a change to condition 1 to reference documents associated with the current amendment, and the inclusion of addition conditions (no. 16 to 24) associated with the design, construction, operation and decommissioning of the pre-treatment plant.
- k. For ease of reference, previous conditions attached to the approval and subsequent variations to the Port Pirie Smelter Upgrade development authorisation are reprinted hereunder. Please note, previous Conditions 6-7,10,12-15, have been satisfied or are not longer relevant to the establishment or operation of the approved development.

RESERVED MATTERS:

NIL

CONDITIONS OF PLANNING CONSENT:

1. Except where minor amendments may be required by other legislation or by conditions imposed herein, the approved development shall be undertaken in strict accordance with the following documents, except to the extent that they are varied by a subsequent document listed below:

Current Authorisation

- Development Application, prepared by Parsons Brinkerhoff Australia Pty Ltd on behalf of Nyrstar, dated March 2013.
- Public Environmental Report, prepared by COOE Pty Ltd (and Associates) on behalf of Nyrstar Port Pirie, dated August 2013.

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- Response Document prepared by COOE Pty Ltd (and Associates) on behalf of Nyrstar Port Pirie Pty Ltd, dated October 2013.
- The drawing contained in the letter from Nyrstar dated 24 November 2014.
- The plan and drawing contained in the letter from Nyrstar dated 8 April 2015.
- The plans and drawings contained in the letter from Nyrstar titled 'Application for Development Authorisation Variation – Lined pad for storing Paragoethite and Lead Sulphate Leach Concentrate', dated 16 November 2018.

Varied Authorisation – Briquetting Plant – February 2022

- Letter (and attached plans, drawings and documentation) from Nyrstar Port Pirie Pty Ltd dated 4 February 2022.

Varied Authorisation – Pre-Treatment Plant – December 2022

- Variation Request – Correspondence from Nyrstar to AGD-PLUS titled 'Amendment to the Public Environmental Report for the Nyrstar Port Pirie Smelter Transformation Proposal - Pre-Treatment Plant' dated 13 May 2022.
- Amendment to the Public Environmental Report for the Nyrstar Port Pirie Smelter Transformation Proposal - Pre-Treatment Plant dated May 2022.
- Response Document prepared by Nyrstar dated 16 August 2022.
- Correspondence from Nyrstar to DTI-PLUS titled 'Nyrstar Pre-Treatment Plant PER Amendment' and dated 31 August 2022.

2. The proponent shall prepare final engineering designs for the cooling water intake structure (and associated infrastructure) and the cooling water discharge pipeline and diffuser structure (and associated infrastructure) for approval by the Minister for Planning, prior to construction commencing. These designs shall demonstrate predicted dilution to meet EPA temperature criteria and shall be prepared in consultation with the Department for Environment and Water and to the satisfaction of the Environment Protection Authority.
3. Once the cooling water discharge diffuser structure has been constructed and is operating, the achieved discharge dilution rate shall be field validated to test achievement of modelled predictions, including under worst case scenarios (such as a summer dodge tide with no wind).
4. The proponent shall undertake further air quality modelling and monitoring to validate modelled predictions, to the satisfaction of the Environment Protection Authority (EPA), as follows (unless modified by the EPA through future EPA licence conditions):
 - (a) Additions to the current air quality monitoring network (together with the existing network) shall collect data for a minimum period of 12 months before start-up of new equipment, during commissioning of new equipment and for 12 months after new equipment is fully operational, including:
 - (i) Continuing to operate High Volume Air Samplers in the sector of dominant wind (i.e. to the north-west of the smelter);
 - (ii) Establishment of a sulphur dioxide (SO₂) monitor on the western side of Port Pirie (such as a location at the Pirie West Primary School); and
 - (iii) Establishment of one continuous (i.e. 'real-time'), mobile lead monitor, together with relevant meteorological monitoring, to be used on a campaign basis at locations determined in consultation with the EPA, to aid in event recognition, source reconciliation and for process management (i.e. for site performance improvement).
 - (b) The proponent shall quantify the reduction in PM₁₀ levels by developing and implementing a monitoring plan for PM₁₀ before, during and after construction.
5. The proponent shall prepare final detailed plans for the development (drawings, cross-sections and elevations), to the satisfaction of the EPA, for approval by the Minister for Planning, prior to construction commencing.
6. ~~For the purposes of Section 48 (11) (b) of the *Development Act 1993*, the proponent shall commence the development by substantial work on the site of the development by 23 December 2015, which represents two years from the date of the original authorisation.~~
7. ~~The proponent shall have completed the development by 23 December 2018 which represents five years from the date of the original authorisation, failing which this authorisation may be cancelled.~~

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8. No building work shall be undertaken unless the work has been certified by an accredited professional or by some person determined by the Minister for Planning, as complying with the provisions of the Building Rules (or the Building Rules as modified according to criteria prescribed by Regulation). For the purposes of this condition 'building work' does not include plant and equipment or temporary buildings that are not permanently attached to the land.
9. Final engineering designs structures and equipment not covered by the provisions of the Building Rules shall be prepared and independently certified by a registered engineer, to the satisfaction of the Department of Trade and Investment– Planning and Land Use Services (DTI-PLUS). A certificate as to the structural soundness of the proposed structures shall be submitted to DTI-PLUS, prior to the commencement of construction.
10. ~~The oxygen plant must be designed and constructed to ensure that the predicted noise from all plant, equipment and processes does not exceed:~~
 - ~~(a) 35dB(A) L_{eq} between 10pm and 7am; and~~
 - ~~(b) 60dB(A) L_{max} between 10pm and 7am at the nearest noise sensitive receivers in the Residential Zone when measured and adjusted (where relevant) in accordance with the Environment Protection (Noise) Policy 2007.~~
11. The proponent shall prepare a Construction Environmental Management Plan 'CEMP', to the satisfaction of the Environment Protection Authority and in consultation with an EPA accredited Site Contamination Auditor, Department of Planning, Transport and Infrastructure (Transport Services) and the Port Pirie Regional Council, for approval by the Minister for Planning prior to the commencement of any construction or demolition works. The CEMP must include an Earth Moving Plan (including dust suppression), a Demolition Plan, a Dredging Management Plan, a Soil Erosion and Drainage Management Plan 'SEDMP', a Material Handling Procedures, a Waste Management and Recycling Plan, a Groundwater Management and Monitoring Plan and a Traffic Management Plan. The matters to be addressed in the CEMP shall generally include, but shall not be limited to, the management, mitigation, and monitoring of, and corrective actions/contingency plans in relation to the following matters:
 - dust and sediment control;
 - odour emissions;
 - surface and ground water management;
 - site contamination;
 - waste management (for all waste streams) and overall site clean-up (including litter);
 - use and storage of chemicals, oil, construction-related hazardous substances and of other materials that have the potential to contaminate stormwater, groundwater or the marine environment (including emergency responses);
 - noise emissions (including ongoing noise assessment and monitoring to ascertain the effectiveness of noise control measures);
 - Aboriginal heritage requirements in accordance with the Aboriginal Heritage Act 1988;
 - vegetation clearance;
 - introduced plants and animals (including marine species);
 - impacts on seagrass and marine flora;
 - impacts on the marine environment (especially noise, erosion and turbidity);
 - traffic management strategies;
 - effect on existing infrastructure;
 - impacts on adjacent land users;
 - site security, fencing and safety and management of impacts on local amenity for residents, traffic and adjacent land users;
 - periods and hours of construction and operation in accordance with the requirements of the Environment Protection (Noise) Policy 2007; and
 - community complaints register regarding the above matters.
12. ~~The proponent shall prepare an Operations Environmental Management Plan 'OEMP' for the operational phase of the development, to the satisfaction of the Environment Protection Authority and in consultation with the Department of Planning, Transport and Infrastructure (Transport Services) and the Port Pirie Regional Council, for approval by the Minister for Planning prior to the operation of new plant. The OEMP must include an Air Quality Management Strategy, a Community Health Management Strategy, a Community Amenity Management Strategy, a Natural Resources Management Strategy, an Odour Management Strategy, a Sub-surface Quality Management Strategy, a Surface Water Quality Management Strategy, a Groundwater Management Strategy, a Visual Amenity Management Strategy and a Traffic Management Plan. The matters to be addressed in the consolidated OEMP shall generally include the management, mitigation, and monitoring of, and corrective actions/contingency plans in relation to impacts related to the operation of the upgraded smelter facility.~~

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13. ~~All works and site activities shall be undertaken in accordance with the approved Construction Environmental Management Plan 'CEMP' and Operations Environmental Management Plan 'OEMP'.~~
14. ~~The Operations Environmental Management Plan (OEMP) must be amended, or a new OEMP prepared, to include the operation of the Paragoethite and/or Lead Sulphate Leach Concentrate lined storage pad.~~
15. ~~Paragoethite and/or Lead Sulphate Leach Concentrate must not be stored or stockpiled on the lined storage pad until an 'As Constructed Report' has been prepared to the reasonable satisfaction of the EPA.~~

Pre-Treatment Plant (incorporating repositioning of Products Recycling Facility)

16. The proponent shall provide an analytical report (based on operational data from the Pre-Treatment trial when the Pre-Treatment Plant is on versus off) which outlines the impacts to ground level concentrations of sulphur dioxide emissions within the community from the Pre-Treatment Plant process. The Report should also verify the design and operational controls to manage any identified offsite impacts, and be prepared to the reasonable satisfaction of the EPA, for approval by the Minister for Planning, prior to commissioning.
17. The proponent shall prepare plans for the final configuration and detailed design of the pre-treatment plant (including feed hoppers), and Products Recycling Facility along with details of pollution control equipment and predicted effectiveness, to the reasonable satisfaction of the EPA, for approval by the Minister for Planning, prior to construction commencing.
18. The proponent must ensure that all outdoor conveyors are covered in the final configuration and design.
19. The proponent shall provide confirmation of the final construction and commissioning of pre-treatment plant (in consultation with the EPA) to the reasonable satisfaction of the Minister for Planning. An 'as constructed' report shall be provided to demonstrate construction has been completed in accordance with the final approved design.
20. A Construction Environment Management Plan (CEMP) must be prepared and implemented (or existing CEMP updated) to cover construction and demolition activity associated with the proposed Pre-Treatment facility and Products Recycling Facility, to the reasonable satisfaction of the EPA, for approval by the Minister for Planning, prior to construction or demolition commencing.
21. The pre-treatment plant shall reach final commissioning within 12 months of Development Approval.
22. The pre-treatment plant shall cease operations and be decommissioned within seven (7) years of the date of this development authorisation, or upon depletion of the outdoor feed stockpiles (whichever occurs first).
23. A decommissioning and remediation plan for the pre-treatment plant and stockpile area must be prepared to the reasonable satisfaction of the EPA, for approval by the Minister for Planning, Six (6) months prior to the Pre-treatment plant decommissioning date.
24. A stockpile utilisation plan shall be prepared to the reasonable satisfaction of the EPA, for approval by the Minister for Planning, within six (6) months of Pre-treatment Plant final commissioning. The Plan should include current outdoor stockpile volumes/types/locations, predicted depletion timeframes, and monitoring/reporting against predictions.

CONDITIONS OF BUILDING CERTIFICATION:

To be determined.

ADVISORY NOTES:

- In respect of Condition (2), the cooling water intake structure should be designed to have an intake velocity as close as possible to 0.2 metres/second, but no greater than 0.6 metres/second in order to minimise entrainment and entrapment of marine organisms as far as practicable. Where 0.2 metres/second cannot be achieved, the proponent should provide the rationale for the engineering designs.
- The proponent shall obtain Building certification for any building work to be undertaken from an accredited professional and forward to the Minister for Planning all relevant certification documents for final approval.

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- An accredited professional undertaking Building Rules assessments must ensure that the assessment and certification are consistent with this development authorisation (including any relevant Conditions or Notes).
- The proponent is reminded of its obligations under the *Environment Protection Act 1993* to seek to vary the current EPA licence that applies to the smelter facility to take into account any relevant changes resulting from the approved development. The EPA has the responsibility of imposing licensing conditions, including the setting of air quality standards that must be met and it may impose more stringent requirements than are detailed in this authorisation.
- The proponent is reminded of the need to comply with condition S-8 in its current EPA licence (No. 775) at all times. Compliance with such a condition would include the need to update approved management plans (especially the Dust Management Plan) to reflect the operation of the Briquetting Plant.
- The proponent/owner/operator are reminded of its general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.
- ~~In respect of Condition (10), the proponent is advised to seek advice from an acoustic engineer about how to design and operate the oxygen plant to achieve the condition. An acoustic engineer is defined as a person eligible for full Member status of both the Institution of Engineers and the Australian Acoustical Society.~~
- The proponent is reminded that dust from excavation and construction activities will need to be controlled and minimised through implementation of effective dust suppression measures, including watering and screening, where required.
- More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: www.epa.sa.gov.au.
- Any mechanical and electrical equipment vulnerable to water ingress from coastal flooding, or stored material vulnerable to coastal flooding and potential contamination of adjacent coastal waters, should be raised to a minimum level of 3.4m AHD or otherwise be protected from water ingress and/or flooding. This minimum recommended level will mitigate coastal flooding risk to year 2050, taking into account storm surge and sea level rise of 0.3 metres.

[Disclaimer: Based upon current knowledge and information the development and development site is at some risk of coastal erosion and inundation due to extreme tides notwithstanding any recommendations or advice herein, or may be at future risk. Neither erosion nor the effect of sea level change on this can be predicted with certainty. Also, mean sea level may rise by more than the 0.3 metres assumed in assessing this application. Accordingly neither the South Australian Coast Protection Board nor any of its servants, agents or officers accept any responsibility for any loss of life and property that may occur as a result of such circumstances].

- The proponent is reminded of its obligations under the *Native Vegetation Regulations 2003* whereby any native vegetation clearance must be undertaken in accordance with a management plan that has been approved by the Native Vegetation Council that results in a significant environmental benefit on the property where the development is being undertaken, or a payment is made into the Native Vegetation Fund of an amount considered by the Native Vegetation Council to be sufficient to achieve a significant environmental benefit in the manner contemplated by section 21 (6) of the *Native Vegetation Act 1991*, prior to any clearance occurring. It should be noted the Act also includes within the definition of native vegetation, native plants growing 'in or under waters of the sea' where the 'waters of the sea' includes 'any water that is subject to the ebb and flow of the tide'.
- The proponent is reminded of its obligations under the *Aboriginal Heritage Act 1988* whereby any 'clearance' work, which may require permission to disturb damage or destroy Aboriginal Sites, must be undertaken with the full authorisation of the Minister for Aboriginal Affairs and Reconciliation, according to section 23 of the *Aboriginal Heritage Act 1988*.
- The proponent, and all agents, employees and contractors, such as construction crews, must be conversant with the provisions of the *Aboriginal Heritage Act 1988*, particularly the requirement to immediately contact the Department of the Premier and Cabinet (Aboriginal Affairs and Reconciliation) in the event that archaeological items (especially skeletal material) are uncovered during earthmoving.
- The proponent is reminded of its obligations under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, not to undertake any activity that could have a significant impact on any matter of National Environmental Significance, without first referring it to Commonwealth Minister for the Environment for consideration.

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- As foreign vessels are allowed to berth at the wharf, the proponent would need to consult with the Department of Planning, Transport and Infrastructure (Marine Safety) to address any requirements of the Australian Quarantine Inspection Service and the Australian Customs Service.

Pre-Treatment Plant

- The proponent is reminded of the need to comply with conditions in its current EPA licence, which may require updates to approved management plans (DMP and TARPS) to reflect the operation of the Pre-Treatment Plant. Any reviewed and updated management plans must be submitted to the EPA.

CONTACT DETAILS OF CONSENT AUTHORITIES:

Name: Minister for Planning	Type of consent: Development authorisation
Postal Address: c/- DTI-PLUS, GPO 1815, ADELAIDE SA 5001	
Telephone: 08 7109 7060	Email: spcapplications@sa.gov.au

