



**Report No: 1298**

MINISTER FOR THE ENVIRONMENT

**BRICK AND TILE WORKS, MALAGA – PROPOSAL UNDER S46 OF THE EP ACT TO CHANGE CONDITIONS AND COMMITMENTS OF STATEMENTS 003 AND 352 (ASSESSMENT NO. 1740)**

I refer to your letter of 13 March 2008 requesting the Environmental Protection Authority (EPA) to report to you on the proposed changes to the environmental conditions for the Brick and Tile Works, Malaga. The proponent for this project is Austral Bricks (WA) Pty Ltd.

The following is my report to you pursuant to section 46(3) of the *Environmental Protection Act 1986*.

**Introduction**

The proposal for the brick and tile works at Malaga was initially assessed by the EPA in 1987. In 1994 an amendment to the proposal was assessed. This amendment related to the subdivision of part of the brickworks site and did not alter the operation of the brickworks in any way. Since 1987 more has become known about brickwork emissions. As a result the conditions imposed on the proposal in 1987 are out-dated.

Brickworks are prescribed premises and the Department of Environment and Conservation (DEC) licenses emissions under Part V of the EP Act. The Part V processes of works approval and licensing, together with other legislation, such as the *Environmental Protection (Noise) Regulations 1997* and the *Environmental Protection (Unauthorised Discharge) Regulations 2004*, and other regulatory controls under the EP Act, such as Environmental Protection Notices and Prevention Notices, are more appropriate and more flexible methods of managing emissions from brickworks than Ministerial conditions.

## Discussion

### Statements 003 and 352

Statement 003 is the original statement for the project and statement 352 is an amendment to statement 003 under section 46 of the *Environmental Protection Act 1986*. These statements need to be read in conjunction.

Many of the conditions and commitments contained in these statements are or can be managed under Part V licence. Others have been fulfilled and cleared by the Chairman of the Environmental Protection Authority/Department of Environment and Conservation under delegation from the Minister for the Environment.

Table 1 provides a list of all conditions and commitments, reasons why removal, replacement or retention in the statement is recommended and recommended alternative management, where applicable.

### **EPA Recommendation**

#### **Deletions of conditions from Statement 003 and commitments common to Statements 003 and 352**

It is recommended that the following conditions and commitments are *deleted*:

Condition 2, 3, 4, 5, 6, 7, 10, and

Commitments 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12 and 13.

#### **Deletion of condition from Statement 352**

It is recommended that the following condition is *deleted*:

Condition 1A.

#### **Amendment to conditions from Statement 352**

It is recommended that condition 1B is *replaced* by the current standard implementation condition.

It is recommended that condition 8 is *replaced* by the current standard proponent condition.

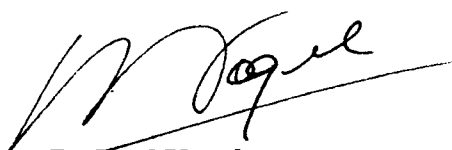
It is recommended that condition 9 is *replaced* by a revised decommissioning condition.

#### **Additional condition recommended**

It is recommended that a condition requiring industrial traffic to use the entry at Beach Road and Bonner Drive is *inserted* as condition 3. This condition will *replace* commitment 5 of Statement 003 and 352.

It is recommended that updated procedural notes and a Schedule 1, describing the project, be *inserted*.

A new recommended statement is attached.



**Dr Paul Vogel**  
CHAIRMAN

4 August 2008

**Table 1 Statements 003 and 352**

Number	Condition	Recommendation
1A (Statement 352)	<p><b>Proponent Commitments</b></p> <p>The proponent has made a number of environmental management commitments in order to protect the environment.</p> <p>In implementing the proposal, including the modification to subdivide Lot 121 Illawarra Crescent, Malaga, as reported on in Environmental Protection Authority Bulletin 731, the proponent shall fulfil commitments made in the Notice of Intent and the Addendum Notice of Intent; provided that the commitments are not inconsistent with the conditions or procedures contained in this statement. (A copy of the commitments is attached.)</p>	Delete as no commitments will be retained.
1B (Statement 352)	<p><b>Implementation</b></p> <p>Changes to the proposal which are not substantial may be carried out with the approval of the Minister for the Environment.</p> <p>Subject to the conditions in this amended statement, the manner of detailed implementation of the proposal shall conform in substance with that set out in any designs, specifications, plans or other technical material submitted by the proponent to the Environmental Protection Authority with the proposal. Where, in the course of that detailed implementation, the proponent seeks to change those designs, specifications, plans or other technical material in any way that the Minister for the Environment determines on the advice of the Environmental Protection Authority, is not substantial, those changes may be effected.</p>	<p>Changes to proposals without significant environmental impact are now regulated under s45c of the <i>Environmental Protection Act (1986)</i>.</p> <p>Replace the implementation condition with the current standard version.</p>
2 (Statement 003)	The fluoride mass emission rate shall never exceed 1 gram per second from the whole plant.	Fluoride emissions rates regulated under the current Part V* licence. Retain the upper limit in the proposal description. Delete condition.
3 (Statement 003)	All gaseous process emissions shall be vented to the atmosphere through a stack with a minimum height of 35 metres.	A 35 metre stack has been built. Manage any changes to stack height under the Part V works approval and licensing process. Delete condition.
4 (Statement 003)	The proponent shall periodically monitor the gaseous emissions from the plant and report to the Environmental Protection Authority on commencement of operations and thereafter upon the request of the Environmental Protection Authority.	Managed under current Part V licence. Continue to manage under Part V licence. Delete condition.
5	The monitoring programme shall include details of	Cleared 14/9/88, deletion

<b>Number</b>	<b>Condition</b>	<b>Recommendation</b>
(Statement 003)	sampling the gaseous emissions before and after scrubbing.	recommended. The monitoring programme contained this information.
6 (Statement 003)	The monitoring programme shall be submitted to the Environmental Protection Authority for approval prior to commencement of operations.	Cleared 14/9/88, deletion recommended. Monitoring of emissions from the project is regulated under Part V licence. Currently monitoring of gaseous emissions before scrubbing is not required. Continue to manage under part V licence.
7 (Statement 003)	If the proponent is unable to meet the above conditions, or the operations of the plant are having a detrimental impact on the surrounding area, the Environmental Protection Authority shall require, as a condition of licence, that the proponent modify its operation so that gaseous emissions are reduced to a level acceptable to the Environmental Protection Authority.	Condition relates to cleared conditions and the impact of emissions regulated under the Part V licence. It is redundant and deletion recommended.
8 (Statement 352)  8-1	<b>Proponent</b> These conditions legally apply to the nominated proponent. No transfer of ownership, control or management of the project which would give rise to a need for the replacement of the proponent shall take place until the Minister for the Environment has advised the proponent that approval has been given for the nomination of a replacement proponent. Any request for the exercise of that power of the Minister shall be accompanied by a copy of this statement endorsed with an undertaking by the proposed replacement proponent to carry out the project in accordance with the conditions and procedures set out in the statement.	Replace with the current proponent condition.
9 (Statement 352)  9-1  9-2	<b>Decommissioning and Rehabilitation</b> The satisfactory decommissioning and rehabilitation of the site is the responsibility of the proponent. At least six months prior to any planned decommissioning of the site, the proponent shall prepare a decommissioning and final rehabilitation programme. The proponent shall implement the programme required by condition 9-1.	Replace with a revised closure condition.
10 (Statement 352)	<b>Compliance Auditing</b> In order to ensure that environmental conditions and commitments are met, an audit system is required. The proponent shall prepare periodic "Progress and	Conditions relating to environmental performance are recommended for

<b>Number</b>	<b>Condition</b>	<b>Recommendation</b>
10-1	Compliance Reports”, to help verify the environmental performance of this project, in consultation with the Environmental Protection Authority.	deleting. Therefore this condition can be deleted. Regulate by Part V licence requirement for an annual audit compliance report on the licence conditions.
	<b>Procedure</b>	
1 (Statement 352)	The Environmental Protection Authority is responsible for verifying compliance with the conditions contained in this statement, with the exception of conditions stating that the proponent shall meet the requirements of either the Minister for the Environment or any other government agency.	This procedure is no longer valid and deletion recommended.
2 (Statement 352)	If the Environmental Protection Authority, other government agency or proponent is in dispute concerning compliance with the conditions contained in this statement, that dispute will be determined by the Minister for the Environment.	This procedure be replaced with the current version.

<b>Number</b>	<b>Commitments (common to both Statements)</b>	<b>Recommendation</b>
1	The roads and stock yard will be sealed and will be washed and vacuumed at regular intervals. They will be washed daily.	Manage generation of dust from the site under Part V provisions**, as necessary. Roads and stock yard are sealed. Delete commitment.
2	Under quality or damaged products will be recycled through the project.	This commitment is part of the proposal (Notice of Intent, undated)*** and need not be retained as a commitment. Delete commitment.
3	The exhaust stack will be fitted with an oxygen meter.	The stack is fitted with an oxygen meter. Manage monitoring under Part V licence, as necessary. Delete commitment.
4	There will be a minimum 10 m buffer area adjoining major roads and land use interfaces.	Due to parts of the original site being sold and subdivided for commercial use this commitment is not being met. The purpose of the buffer is reduce visual, noise and dust impact to neighbouring areas. The site is now surrounded by commercial development. The

Number	Commitments (common to both Statements)	Recommendation
		proponent is required to comply with the <i>Environmental Protection (Noise) Regulations 1997</i> and dust regulated under Part V provisions. Therefore the commitment to a buffer is unnecessary provided noise and dust is managed to satisfactory levels from the site Delete commitment and manage under Part V provisions.
5	All industrial traffic will enter and leave the site via Beach Road.	Redraft as a condition that industrial traffic shall enter and leave the site from Beach Road and Bonner Drive to reflect current access.
6	Discharge from the mould washing process will be directed into a series of settlement tanks and filtered through baffles for recycling.	Mould washing is no longer undertaken on site. Manage any future proposal involving waste water under Part V works approval. Delete commitment.
7	The scrubber will incorporate a LUHR filter as installed at Penta Klinker.	This scrubber is no longer in use. Part V licensing requirements set emission limits which determine the type of scrubber that is suitable. Continue to manage under Part V. Delete commitment.
8	All exhausts will pass through the scrubber.	Regulated under Part V licence which allows for the scrubber to be by-passed for maintenance for short periods. Due to the type of scrubber installed this commitment cannot be met. Continue to regulate under Part V licence. Delete commitment.
9	The kiln exhaust stack will be 35 m above ground level.	The stack has been built to this height. Delete

Number	Commitments (common to both Statements)	Recommendation
		commitment.
10	The average fluoride concentration at 600 m from the plant stack will be less than 0.03 µg/m <sup>3</sup> .	Regulate the ambient concentration of fluoride through Part V licensing as necessary.
11	An electric clay excavator will operate inside the building.	The proponent is required to comply with the <i>Environmental Protection (Noise) Regulations 1997</i> . Delete commitment.
12	The unloading of raw materials will take place within a building. Entry to and exit from this building by the trucks carrying the materials will be through openings protected by permanent curtains of 150 mm wide strips of discarded conveyor belting. Each curtain will consist of a double layer of belting, to give the maximum attenuation of noise from within the building.	This commitment is not being complied with as unloading takes place outside of the building into a below ground crusher. The purpose of the commitment was to reduce noise and dust levels. Manage under the <i>Environmental Protection (Noise) Regulations 1997</i> and Part V provisions. Delete commitment.
13	The crusher will be contained within the building in which the raw materials are off-loaded, and will, therefore, be shielded. In addition the crusher will: <ul style="list-style-type: none"> <li>- be set in a concrete pit, below the tipping level of the trucks;</li> <li>- operate by a slow controlled knife action, rather than by an impact or hammer action.</li> </ul>	This is currently done. The proponent is required to comply with the <i>Environmental Protection (Noise) Regulations 1997</i> . Delete commitment.

\* Part V is Part V of the *Environmental Protection Act (1986)*

\*\* Part V provisions include works approval, licence, environmental harm provisions, notices and regulations under Part V of the *Environmental Protection Act (1986)*

\*\*\* Notice of Intent, undated; *Notice of Intent, Proposed Tile and Refractory Brick Manufacturing Plant, Malaga, Ray Belton, undated*

RECOMMENDED ENVIRONMENTAL CONDITIONS

Statement No.

**STATEMENT TO AMEND CONDITIONS APPLYING TO A PROPOSAL  
(PURSUANT TO THE PROVISIONS OF SECTION 46 OF THE  
*ENVIRONMENTAL PROTECTION ACT 1986*)**

BRICK AND TILE WORKS, MALAGA

**Proposal:** The construction and operation of a brick making facility on Lot 121 on Plan 817803 Bonner Drive, Malaga, as documented in schedule 1 of this statement.

**Proponent:** Austral Bricks (WA) Pty Ltd

**Proponent Address:** Locked Bag 100, MIDLAND Private Boxes WA 6936

**Assessment Number:** 1740

**Previous Assessment Numbers:** 027 & 819

**Previous Statement Numbers:** 003 & 352 (Published on 1 September 1987 and 18 April 1994, respectively)

**Report of the Environmental Protection Authority:** Report 1298

**Previous Reports of the Environmental Protection Authority:** Bulletins 292 & 731

The implementation of the proposal to which the above reports of the Environmental Protection Authority relate is subject to the following conditions and procedures, which replace all previous conditions and procedures:

**1 Proposal Description**

1-1 The proponent shall implement the proposal as assessed by the Environmental Protection Authority and described in schedule 1 of this statement subject to the conditions and procedures of this statement.

Published on



## **2 Proponent Nomination and Contact Details**

- 2-1 The proponent for the time being nominated by the Minister for the Environment under sections 38(6) or 38(7) of the *Environmental Protection Act 1986* is responsible for the implementation of the proposal.
- 2-2 The proponent shall notify the Chief Executive Officer (CEO) of the Department of Environment and Conservation of any change of the name and address of the proponent for the serving of notices or other correspondence within 30 days of such change.

## **3 Site Access**

- 3-1 All industrial traffic shall enter and leave the site from Beach Road and Bonner Drive.

## **4 Decommissioning**

- 4-1 At closure, the proponent shall decommission the site in a manner which ensures that the site is suitable for future land uses.
- 4-2 Within six months of closure, the proponent shall remove or, if appropriate, retain plant and infrastructure as agreed in consultation with relevant stakeholders.
- 4-3 Within six months of closure, the proponent shall identify contaminated areas and provide notification, including proposed management measures, to relevant statutory authorities.
- 4-4 Within twelve months of closure, the proponent shall rehabilitate all disturbed areas to a standard suitable for the agreed new land use(s).
- 4-5 Within three months of completing the decommissioning required by condition 4-1, the proponent shall provide a written report to the CEO of the Department of Environment and Conservation on the implementation of the decommissioning.
- 4-6 The proponent shall undertake any further actions to achieve satisfactory decommissioning as required by the CEO of the Department of Environment and Conservation.

## **Procedures**

1. The Minister for the Environment will determine any dispute between the proponent and the Environmental Protection Authority or the Department of Environment and Conservation over the fulfilment of the requirements of the conditions.
2. The proponent is required to apply for a Works Approval and Licence for this project under the provisions of Part V of the *Environmental Protection Act 1986*.

## Schedule 1

### The Proposal (Assessment No. 1740)

The proposal is to construct and operate a brick and tile works on Lot 121 on Plan 817803 Bonner Drive, Malaga. The proposal is described in the documents *Notice of Intent, Proposed Tile and Refractory Brick Manufacturing Plant, Malaga, Ray Belton, undated; Addendum, Notice of Intent, Proposed Tile, Refractory Brick Manufacturing Plant, Malaga, Dames & Moore 1987*; and a Section 46 application to change conditions to allow for subdivision of the proposal lot.

The brick and tile works consists of a single gas-fired kiln, chamber dryers, clay storage, clay brick preparation facilities, wastewater/stormwater retention ponds, a stock yard and a sales building.

The Key Proposal Characteristics are shown in Table 1.

**Table 1 – Key Proposal Characteristics**

<b>Element</b>	<b>Quantities/Description</b>
Brick and tile making capacity	50 million bricks/tiles per annum
Kiln discharge stack	Not less than 35 metres in height
Scrubber	Appropriate to licence conditions
Discharge of hydrogen fluoride	Maximum from site of 1 gram per second
Clay Stockpiles	Enclosed storage
Truck movements	Approximately 120 per day

### Figures (attached)

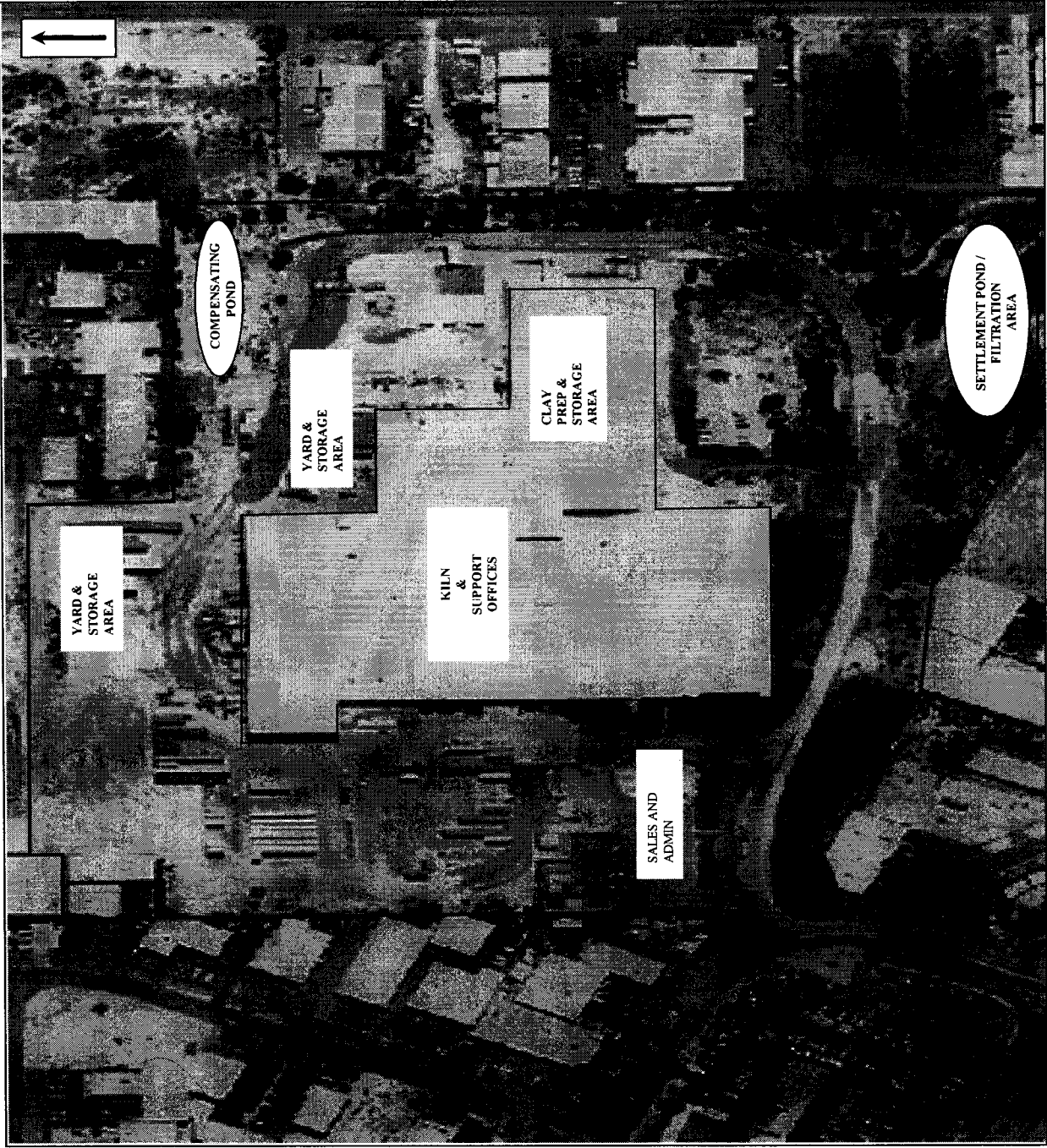
Figure 1 - Site Layout

**LEGEND**

← NORTH

● MAIN ENTRANCE

— PROPERTY BOUNDARY



Date of Issue – July 2008

**Figure 1: Site Layout**