

Environment Protection Authority

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ENVIRONMENT PROTECTION AUTHORITY

5 August 2024

Christopher Hazell
Director
ReProcess Tas Pty Ltd
Level 1, 160 Collins St
HOBART TAS 7000

Email: [REDACTED]

Dear Chris Hazell

ENVIRONMENT PROTECTION NOTICE No. 11880/1 REPROCESS TAS PTY LTD – 20 & 42 SCOTTS RD, RISDON VALE

I refer to the draft Environment Protection Notice (EPN) No. 11880/1 sent to you on 4 July 2024. I note your responses to the draft EPN provided on 18 and 19 July 2024. Please see Attachment 1 which outlines how your feedback on the draft EPN was considered.

I note various environmental risk mitigation measures that you propose to undertake, as outlined in your response to dated 18 July 2024. I encourage your company in lawfully undertaking environmental management and risk mitigation measures so that the environmental impacts, and particularly impacts to nearby residents in Risdon Vale, are reduced as much as possible.

However, I am not prepared to permit concrete crushing or additional vacuum excavation and construction industry waste, based on risk management measures not yet in place. I also encourage you to enquire with council as to whether planning permission is required for any of the proposed infrastructure upgrades before you undertake them and if you haven't already done so, and to ensure specific information about the proposed upgrades is included in the EPA Board assessment process.

Should you be able to provide advice in writing from the Council that you can proceed to construct the proposed mitigation measures infrastructure without needing a permit, I will then be prepared to allow specific campaign style concrete crushing trials to demonstrate that the proposed measures are effective at suppressing dust. Noting clearly that any investment in infrastructure on the site prior to the granting of a permit for the level 2 waste depot is entirely at Reprocess Tas' risk and will not be considered by either the EPA or the Council as justification for the issuing of a permit.

I have not taken this decision lightly and some key points in my consideration are:

- The receipt of waste concrete and thus its crushing on 20 Scotts Road was specifically prohibited by the permit for that land as finalised in 2014.
- Since that time there is no evidence that has been provided that you sought and gained specific approval to commence crushing concrete on 42 Scotts Rd.
- Irrespective of any "implied" approval, the limit of receiving waste material was 100 tonnes per year, and once more that this was being received the site became a level 2 waste depot. You had an obligation to understand the law as it would apply to the expansion of your business.

- The number of complaints the EPA and the Council have received about dust from the site.

Please note that EPN conditions G1 and G9 which among other things, prohibit concrete processing and limit the amount of vacuum excavation and construction industry waste that may be received at the site, also allow you to apply to the Director in future for an amendment to those conditions, once it is clearly demonstrated any proposed risk mitigation measures will have a positive effect on environmental impacts such as dust, noise, and odour.

While I have not accepted most of your proposed changes in the final EPN, I have made some changes to the conditions to prevent environmental harm or nuisance being, or likely to be caused, and to secure compliance with the general environmental duty, taking into account either your feedback or further EPA deliberations.

Please find attached to this correspondence, EPN No. 11880/1 issued to ReProcess Tas Pty Ltd (part of the Spectran Group) in accordance with section 44(1)(a) and section 44(1)(e) of the *Environmental Management and Pollution Control Act 1994* (EMPCA) and in respect of the level 2 activity currently being conducted by your company at 20 & 42 Scotts Road, Risdon Vale. My reasons for issuing the EPN are detailed in the Particulars section of the EPN.

The EPN takes effect on the day on which it is served. You are required to comply with the conditions contained in Schedule 2 of the EPN. I also draw your attention to Schedule 3 of the EPN which contains important additional information.

I reiterate that ReProcess Tas Pty Ltd must comply with environmental conditions and restrictions imposed upon the level 2 activity currently being conducted at 20 & 42 Scotts Road, Risdon Vale, in contravention of section 51C of the EMPCA. Under Section 51C of the EMPCA it is an offence to conduct certain level 2 activities other than under a permit or EPN.

The EPN will allow your company to lawfully conduct the activity at the site until 31 January 2025 and provide for the EPA to regulate during that time. Note that contravention of an EPN is an offence under Section 45 of the EMPCA.

The EPN is intended to provide temporary authorisation for the activity while the planning permit application you have made under the *Land Use Planning and Approvals Act 1993* (LUPAA) and the associated Level 2 assessment process under EMPCA is completed. You should seek to ensure this is achieved by no later than **31 January 2025**. Should the proposed activity be approved by the Board of the EPA and Clarence City Council, and a land use planning permit issued, the EPN will then be revoked.

If the planning permit application and associated information requirements (e.g. Environmental Effects Report) for the environmental and planning assessment of the activity are not actively pursued and progressed by you as a priority within a timeframe I deem reasonable, this EPN may be withdrawn, and/or an EPN may be issued to immediately cease all activities at 20 and 42 Scotts Road, Risdon Vale. You should also note that the EPN does not authorise the activity under the Tasmanian Planning Scheme, and any potential breaches of LUPAA are a matter for the Clarence City Council.

You may appeal to the Tasmanian Civil & Administrative Tribunal (Appeal Tribunal) against the EPN, or against any requirement contained in the EPN, within fourteen days from the date on which the EPN is served. The Appeal Tribunal contact details are:

Registry
Tasmanian Civil & Administrative Tribunal
GPO Box 1311
HOBART TAS 7001
Phone 1800 657 500
Email resourceplanning@tascat.tas.gov.au

Lodgement of an appeal may be subject to the payment of a fee. It is suggested that you contact the Appeal Tribunal to ascertain the requirements for making an appeal.

Under the provisions of the EMPCA and Regulations thereunder, I will require you to pay any reasonable costs and expenses incurred by the EPA in issuing the EPN, making any amendments to the EPN and for ensuring compliance with the EPN. An invoice will be forwarded to you in due course.

If you have any queries regarding this correspondence, please contact me on [REDACTED] or Cindy Ong, Director Environmental Regulation on the details at the head of this correspondence.

Yours sincerely



Wes Ford

DIRECTOR ENVIRONMENT PROTECTION AUTHORITY

Enc: Attachment I

EPN No. I1880/I

cc: Daniel Marr, Head of City Planning, Clarence City Council. dmarr@ccc.tas.gov.au
Brooke Schuhmann, Chief Operating Officer, Spectran, [REDACTED]
Andrew Hazel, Transport and Scott's Road Manager, Spectran,
[REDACTED] EPA Business Services, nelms@epa.tas.gov.au

Attachment I – Consideration of ReProcess Tas Feedback to Draft EPN No. I1880/I

Comment on draft EPN condition by Chris Hazell (CH), ReProcess Tas Pty Ltd		EPA response
1	G1(1)(1.1)(1.1.1) Increase the amount of vacuum excavation and construction industry waste from 350 tonnes per month to 550 tonnes per month, (but is based on a new condition G9(1), added by CH).	<u>Suggested change to draft EPN not accepted.</u> The regulatory limits in this condition were derived from the quantities provided by ReProcess Tas in the EER as part of the EPA assessment before it was withdrawn. Considering that the activity is currently unauthorised, there is no reason to increase the quantities above what was requested for the recently submitted assessment.
2	G1(1)(1.2) Remove the prohibition on crushing or grinding rock and waste concrete.	<u>Suggested change to draft EPN not accepted.</u> The changes proposed in items 2, 4 and 5 in this table are to allow the crushing of concrete, which has never been allowed under council permit and has been explicitly forbidden under a RMPAT ruling A18/09 without a Planning Permit (D24-133102 - RMPAT proceedings Dec 2009). The incorrect claim that concrete crushing was approved under the Planning Permit D-2011/123 is dealt with below.
3	G3(3) Insert ‘reasonably’” regarding a request for information by an Authorized Officer.	<u>Suggested change to draft EPN not accepted.</u> The reasonableness of any request by an Authorised Officer is already included in s92(1) of EMPCA and does not need to be included in the EPN conditions.
4	G9(1)(1.1) Remove the restrictions, to allow concrete, brick, rock or metal waste in construction waste.	<u>Suggested change to draft EPN not accepted.</u> See comment for item 2 above. This suggested change also opens up the receipt of brick, rock and metal waste, which again goes to crushing and the operation of a scrap metal yard, which has never been included in any Planning Permits.
5	G9(2) Include the processing of 2,000 tonnes of waste concrete.	<u>Suggested change to draft EPN not accepted.</u> See comment for item 2 above
6	G9.1 Added condition Requiring a number of process upgrades and monitoring equipment to be installed within specified time frames.	<u>Suggested change to draft EPN not accepted.</u> This newly added suggested condition details the water treatment, emission mitigation structures or equipment and monitoring equipment that ReProcess Tas commits to installing, to continue operations as per current.

Comment on draft EPN condition by Chris Hazell (CH), ReProcess Tas Pty Ltd	EPA response
	The EPN allows the Director to amend conditions if changes are made to reduce environmental harm or nuisance, which do not require other approvals.
7	<p>G9.2 Added condition Jaw crushers and hydraulic rock breakers not permitted to be used for rock or concrete processing.</p> <p><u>Suggested change to draft EPN not accepted.</u></p> <p>This newly added suggested condition prohibits use of crushing equipment that is not used on the site, and therefore serves no purpose.</p>
8	<p>OP1(1) Remove sub condition 1.1 restricting activities associated with receipt, storage and handling of waste to 0800 hours to 1700 hours. This is dealt with further in the letter below.</p> <p><u>Suggested change to draft EPN not accepted.</u></p> <p>The suggested change would allow ReProcess Tas to operate without specified operating hours. Reduced amenity for local residents (especially noise complaints) is directly related to activities being conducted outside of reasonable business hours. Operating hours have been set in the planning permits, except for the transport depot.</p>
9	<p>OP1(1) Modify sub condition 1.2 to remove requirement for barrel trommel to cease operation between 1200 hours and 1400 hours</p> <p><u>Suggested change to draft EPN accepted.</u></p> <p>Considered to be a reasonable request, given the potential implications of stopping and restarting the barrel trommel during the day.</p>