

ENFORCEABLE UNDERTAKING

Environment Protection Act 1970 (Vic)

Section 67D

The commitments in this Undertaking are offered to the Environment Protection Authority (EPA) by:

Cargill Processing Limited

1. DEFINITIONS

In addition to terms defined elsewhere in this Undertaking, the following definitions are used:

Auditor means an independent auditor appointed under section 53S of the Act.

the Act means the *Environment Protection Act 1970 (Vic)*

the EPA means the Environment Protection Authority

the Company means Cargill Processing Limited (ACN: 008 456 399)

the Premises means the land at 425 Somerville Road, Tottenham

Undertaking means Enforceable Undertaking made pursuant to section 67D of the Act.

2. BACKGROUND

2.1 EPA's role

The EPA is a statutory body created by the Act, which has primary responsibility for the administration and enforcement of that Act.

2.2 Details of conduct / incident

On or about 9 and 11 May 2010 and 16 and 26 August 2010, the EPA received community reports about offensive odours in the Yarraville area which the EPA traced back to the Premises. EPA Officers visited the Premises in June 2010 and identified a number of concerns it had with respect to potential sources of fugitive odour emissions at the Premises.

In response to the concerns identified by the EPA, the Company engaged The Odour Unit to undertake an audit of the odour-control systems at the Premises and report on the findings of, and make recommendations flowing from, that audit. All of the recommendations of The Odour Unit following that audit have been reflected in the obligations in this Undertaking. In addition, a range of other measures are proposed.

2.3 Alleged Contraventions

The EPA alleges the following:

- On or about 9 and 11 May 2010 and 16 and 26 August 2010, by the discharge of offensive odours beyond the boundaries of the Premises, the Company breached condition 1.3 of its EPA licence EA 375 in contravention of section 27(2) of the Act.
- On or about 9 and 11 May 2010 and 16 and 26 August 2010, by the discharge of offensive odours, the Company polluted the atmosphere so that the condition of the atmosphere was so changed as to make or be reasonably expected to make the atmosphere noxious or poisonous or offensive to the senses of human beings in contravention of section 41(1)(a) of the Act.

3. KEY OBJECTIVES OF THIS UNDERTAKING

This Undertaking is a binding agreement that aims to:

- Deliver benefits beyond compliance;
- Deliver benefits to the environment and to local communities that have been affected by the alleged contravention; and
- Improve the Company's environmental performance by implementing systemic changes that will reduce the likelihood of a similar incident occurring in the future.

4. UNDERTAKINGS

Under section 67D of the Act, the Company has offered, and the EPA has agreed to accept as an alternative to taking Court proceedings, the following undertakings.

- 4.1 By 30 April 2011 the Company undertakes to:
- (a) Replace the 250mm flexible hose from the ventilation duct with a 400mm stainless steel duct section.
 - (b) Reconfigure heat exchanger unit such that it cools only the process airflows and return the second fin-coil unit to service.
 - (c) Return the Solvent Plant biofilter cell to service.
- 4.2 The Company undertakes to engage The Odour Unit to re-test both odour-control systems, including the performance of the bio-filters, once the works outlined in clause 4.1 have been completed and report to the Company on the results of the re-testing by 30 April 2011. The Company will provide to the EPA, within 7 days of receipt, a copy of the report of The Odour Unit which sets out the results of the re-testing.
- 4.3 The Company undertakes to commission and install a new fan in the Preparation building, for the purpose of improving the operation of the point source collection system, by 30 April 2011.

- 4.4 The Company undertakes to remove the existing cyclone and install a wet scrubber on the process air line to the biofilter in the Preparation building by 30 June 2011.
- 4.5 The Company undertakes to install an air-atomised water spray module in the ventilation duct to the biofilter in the Preparation building, consisting of a wall-mounted enclosure containing a solenoid valve, a strainer, a needle valve and gauges, plus external nozzles in the duct by 30 May 2011.
- 4.6 The Company undertakes to engage The Odour Unit to undertake quarterly odour system audits of the Premises and report to the Company on the findings of, and any recommendations flowing from, those audits for a period of no less than three years from the date of this Undertaking. The Company will provide to the EPA, within 7 days of receipt, copies of the reports prepared by The Odour Unit. The first quarterly audit must take place no later than 30 April 2011.
- 4.7 The Company undertakes to install on all external doors in the Preparation building automatic-closing devices by 30 April 2011.
- 4.9 The Company undertakes to construct a new pedestrian entry in the south-east corner of the Preparation building which will incorporate an automatic-closing door by 30 April 2011.
- 4.10 The Company undertakes to engage an appropriate consultant to undertake a smoke test (or another suitable test) to assess the performance of the Preparation building in preventing fugitive odour emissions and report to the Company on the findings of, and any recommendations flowing from, the test. The consultant will provide to the EPA, within 7 days of receipt, copies of the report prepared by the consultant. The test must be undertaken by no later than 1 August 2011.
- 4.11 The Company undertakes to hold an open day with the community twice a year. Each open day is to include an interactive session where a detailed briefing is to be given by the Company on the progress of the works to be carried out under this Undertaking and members of the public will be able to comment on, and ask questions in relation to, the progress of the works and the performance of the odour-control systems at the Premises. Members of the public will be able to inspect the reports prepared in accordance with clause 4.6 of this Undertaking. Members of the public will also be able to inspect the Premises to see first hand the work being conducted to reduce the plant's odour footprint. In order to broaden the learning available from the experience at the Premises, local community groups as well as other industries, local government and the EPA will be invited to attend the open days. The first open day must take place before 30 April 2011.
- 4.12 The Company undertakes to update the community twice a year, via email and newsletters, on the progress of the investments and work being conducted at the Premises to reduce the odour footprint. The first update must be distributed before 30 April 2011.

- 4.13 The Company undertakes to ensure that both it and its consultant, The Odour Unit, prepares and presents a case study paper to the Clean Air Society of Australia & New Zealand on the process and works undertaken at the Premises and the lessons learnt by 31 December 2011. The Company must make the case study paper available to other industries in the Brooklyn area.
- 4.14 The Company undertakes to appoint an Environmental Supervisor at the Premises to be the direct contact at the Premises for members of the community, by 30 April 2011.
- 4.15 The Company undertakes to engage The Odour Unit to conduct a source analysis or other suitable study of the process carried out at the solvent extraction plant to determine if there are any sources of offensive odour from the solvent extraction plant by 30 April 2011. The Company will provide to the EPA, within 7 days of receipt, a copy of the report prepared by The Odour Unit.
- 4.16 The Company undertakes to make a monetary contribution to a local environment project of \$50,000 (excluding GST) by 30 November 2011, the nature of which is to be determined in consultation with community members, the EPA, and the local council.
- 4.17 The Company undertakes that by 30 September 2011, the modifications and other measures required by this Undertaking will be sufficient to ensure emissions from the discharge point for the biofilter in the Preparation building are no greater than 1000 odour units so as to prevent the emission of odours offensive to the senses of human beings beyond the boundary of the Premises.
- 4.18 The Company undertakes to engage, at its own cost, an Auditor. The Auditor will examine the content of this Undertaking and will review the Company's compliance with its terms. The Company must ensure that the Auditor provides written advice to the EPA that the Company has complied with the undertakings in clauses 4.1- 4.17 of Part 4 by no later than 30 June 2014.
- 4.19 The Company undertakes to provide written progress reports to the EPA on or prior to the due date of each of its undertakings in Part 4 of this Undertaking in relation to the implementation of those undertakings. In addition, the Company will supply all documents and information reasonably requested by the EPA from time to time for the purpose of assessing the Company's compliance with the terms of this Undertaking.
- 4.20 The Company undertakes that it will pay the costs of its compliance with this Undertaking. The Company has estimated the cost of compliance with this Undertaking to be in excess of \$600,000.

5. ACKNOWLEDGMENTS

- 5.1 The Company acknowledges that the EPA:

- (a) may issue a media release on execution of this Undertaking referring to its terms and to the concerns of the EPA which led to its execution;
- (b) may from time to time publicly refer to this Undertaking; and
- (c) will make this Undertaking available for public inspection on a register of undertakings, in accordance with section 67G of the Act and that this Undertaking will remain on the register upon completion of all undertakings contained within.

5.2 Further, the Company acknowledges that:

- (a) as provided in section 67D(4) of the Act, the EPA's acceptance of this Undertaking means that proceedings may not be brought by the EPA against the Company for the offences constituted by the contraventions alleged in clause 2.3 of this Undertaking;
- (b) as provided in section 67D(5) of the Act, if the Company withdraws this Undertaking before it has been fulfilled, proceedings may be brought for the offences constituted by the contravention alleged in clause 2.3 of this Undertaking;
- (c) The EPA's acceptance of this Undertaking does not affect the EPA's power to bring proceedings against the Company, to issue penalty infringement notices or instigate any other enforcement action against the Company in relation to any subsequent contravention or alleged contravention of the Act that is not the subject of this Undertaking, whether or not the subsequent contravention or alleged contravention involves a provision of the Act that is referred to in clause 2.3 of this Undertaking;
- (d) this undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this Undertaking or arising from subsequent conduct.

5.3 The Company acknowledges that it has offered an Undertaking in the terms set out above.

5.4 The Company acknowledges that this Undertaking has no operative force until accepted and signed by the EPA, and the Company and the EPA acknowledge that the date of the Undertaking is the date on which it is accepted and signed by the EPA.

6. STATEMENT OF REGRET

6.1 The Company regrets that the community may have been adversely impacted by the emission of offensive odours beyond the boundary of the Premises on or about 9 and 11 May 2010 and 16 and 26 August 2010.

7. ASSURANCE ABOUT FUTURE BEHAVIOUR

7.1 By completing each of the undertakings set out above, the Company is committed to ceasing the alleged conduct referred to in clause 2.3 and not recommencing that conduct. .


8. EFFECT OF NON-COMPLIANCE

8.1 The Company acknowledges that failure to comply with this Undertaking may result in the EPA seeking to enforce the Undertaking in the Magistrates' Court.

9. TERMINATION OF ENFORCEABLE UNDERTAKING

9.1 This Undertaking will terminate 38 months from the date it is accepted and signed by the EPA. All undertakings contained within this Undertaking must be completed by the termination date. Failure to do so may result in the Authority taking action to enforce the Undertaking.

EXECUTED by Cargill Processing Limited)
in accordance with section 127(1) of the)
Corporations Act 2001 (Cwth):

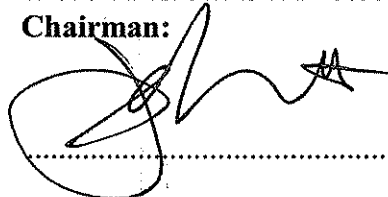

..... Signature of Director

RALPH SELWOOD
..... Name of Director


..... Signature of Company Secretary

GAVIN JOYCE
..... Name of Company Secretary

**Accepted by the Environment Protection Authority under section 67D
of the Environment Protection Act 1970 by its CEO and Deputy
Chairman:**


.....

JOHN MERRITT

CEO and Deputy Chairman of the Environment Protection Authority:

[date] 21.4.11