

## **ENFORCEABLE UNDERTAKING**

*Environment Protection Act 1970 (Vic)*

Section 67D

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

*SITA Australia Pty Ltd (ACN 002 902 650)*

### **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 *Environment Protection Act 1970 (Vic)*

**EPA** means the Environment Protection Authority

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

**Company** means SITA Australia Pty Ltd (ACN 002 902 650)

**Licence** means EPA Licence number ES33144

**Local affected community** means the residents of Cranbourne North, Cranbourne, Narre Warren, Lyndale, Lynbrook, Hampton Park, Hallam, Narre Warren South and Lyndhurst.

**Premises** means the landfill located at 274 Hallam Road, HAMPTON PARK

**Undertaking** means Enforceable Undertaking made pursuant to section 67D of the *Environment Protection Act 1970 (Vic)*

### **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**

During the period April to August 2011 the EPA received a number of community reports about offensive odours in the residential areas surrounding the Premises. EPA officers visited the Premises and identified their concerns regarding the source of fugitive odour emissions from the Premises.

### 2.3 Alleged Contraventions

The EPA alleges the following:

By the discharge beyond the boundaries of the Premises of odours offensive to the senses of human beings on the following dates: 14 April 2011, 6, 9 17 and 29 May 2011, 28 June 2011 and 22 August 2011, the Company breached condition 1.13 of its Licence in contravention of section 27(2) 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;
- 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 The Company undertakes to operate the Odour Curtain System (or any similar system as may be proposed by SITA and approved by EPA) around the boundaries of operating cells downwind of prevailing winds for the purpose of reducing odours.
- 4.2 The Company undertakes to operate in accordance with the cell volume and lifespan spreadsheet attached as Appendix A, as validated through the approval of each cell by EPA. The Company undertakes to notify EPA of any significant change to the Company's business model which could affect cell volume and lifespan. At the conclusion of this Undertaking, Appendix A will form part of the licence.
- 4.3 The Company undertakes to agree to a licence amendment to include conditions which address the matters listed in Appendix B to the agreement.
- 4.4 The Company undertakes to carry out a six monthly aerial infra red monitoring program to detect hotspots on the landfill cap which would indicate gas emissions. The results of such monitoring programs shall be reported to EPA within 7 days of the results being known.
- 4.5 The Company undertakes to update the local community on a quarterly basis, via a Community Update Fact Sheet, on the actions being pursued in this Undertaking. The updates will be distributed via email to the local affected community, including the Hallam Road Community Reference Group (**CRG**), and shall be posted on SITA's Website. A copy of each such Community Update Fact Sheet shall be provided to the EPA.
- 4.6 The Company undertakes to operate the SITA Environmental Report Hotline (or any similar reporting service as may be proposed by SITA and approved by EPA) for use by the local affected community. The SITA Environmental Hotline is a Freecall number

available for use by the community on a 24h/7 days per week basis, should they wish to report any concerns or make any enquiry regarding the Premises.

- 4.7 The Company undertakes to use all reasonable endeavours to obtain local council approval to display a poster in key local affected community hub locations such as shopping centres, community notice boards, childcare centres, community halls and council offices. The Community Contact Poster will provide details of SITA's Environmental Report Hotline and SITA's contact details. No less than 20 posters must have been put on display by 30 November 2012.
- 4.8 The Company undertakes to facilitate the Hallam Road CRG including by holding meetings of no less frequency than once every 3 months. Members of the CRG shall be informed of this Undertaking no later than one month after it has been signed by both the Company and the EPA. The Company shall report on progress with the Undertakings as a standing agenda item at each CRG meeting until the completion of the Undertaking.
- 4.9 The Company undertakes to offer to CRG members a guided site tour of the Premises, following a safety induction, twice per year; the first such tour to take place no later than 30 November 2012. Each tour shall include a briefing by the Company on the progress of the works to be carried out pursuant to this Undertaking and CRG members 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.
- 4.10 The Company undertakes to offer to host one meeting per year of the Waste Management Association of Australia - Victorian Landfills division, to include a site tour of the Premises and a presentation of the actions taken pursuant to this Undertaking. The presentation will particularly focus on the lessons learnt from the alleged contravention and the actions taken to address this through this Undertaking. SITA will initiate the invitation for the first meeting to be held by 28 February 2013.
- 4.11 The Company undertakes to make a monetary contribution of \$100,000 (excluding GST) to a local environment project for the restoration or enhancement of the environment in a public place or for the public benefit, within 60 days of the date of this Undertaking. The nature of the project will be determined in consultation with the local affected community, the EPA and the local council.
- 4.12 The Company undertakes to provide the Solicitor to the EPA with proof of the payment of the project [s] listed in clause 4.11 within 7 days of the payment of \$100,000.
- 4.13 The Company undertakes not to refer to the payment referred to clause 4.11 without reference to this Undertaking.
- 4.14 The Company undertakes to address concerns raised by the community about potential health impacts from the Premises by funding an independent research study into the effects of odour and landfill gas from the Premises as identified in Appendix C to this agreement or otherwise agreed by EPA. Such a study will incorporate the results from air analysis undertaken by EPA Victoria in 2012. The study will be completed by 31 March 2013 and will be presented to the CRG and be made available on EPA's website.

- 4.15 The Company undertakes to implement by 31 March 2013 a landscaping plan to screen the Premises along the South Gippsland Highway boundary, such screening to be comprised of multiple rows of plantings.
- 4.16 The Company undertakes to engage, at its own cost, an EPA appointed 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 4.1-4.15 of Part 4 of this Undertaking by no later than 31 December 2013.
- 4.17 The Company undertakes to 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.
- 4.18 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 no less than \$800,000.

## **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 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, EPA's acceptance of this Undertaking means that proceedings may not be brought by 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) EPA's acceptance of this Undertaking does not affect 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 EPA, and the Company and EPA acknowledge that the date of the Undertaking is the date on which it is accepted and signed by 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 the period from April 2011 to August 2011.

## 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.

8.2 Consistent with section 67D of the Act EPA may consent to a variation of this undertaking.

## 9. TERMINATION OF ENFORCEABLE UNDERTAKING

9.1 This Undertaking will terminate 3 years from the date the Undertaking is signed. All undertakings contained within this Undertaking must be completed by the termination date.

Executed in accordance with section 127(1) )  
of the *Corporations Act 2001 (Cth)* by SITA )  
Australia Pty Ltd :

  
..... Director

  
..... Director/Company Secretary

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

*M. Vincent*

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MATTHEW VINCENT

Acting CEO of the Environment Protection Authority:

[date] *21/9/12*

**APPENDIX A**

**Hallam Road Landfill, Cell Volume & Lifespan**

Cell Number	Total Cell Volume	Time to Fill Cell	Time to Fill Cell	Cumulative Time	Projected Filling Period for each Cell	
Fill Sequence	(m <sup>3</sup> )	Months	Years	Years	Start Month	End Month
8						June 2012
9A	676,000	14.3	1.2	1.2	June 2012	Aug 2013
9B	359,185	8.0	0.7	1.9	Aug 2013	Apr 2014
14A	232,601	5.2	0.4	2.3	Apr 2014	Oct 2014
10A	416,613	9.3	0.8	3.1	Oct 2014	Jun 2015
10B	422,144	9.4	0.8	3.9	Jun 2015	April 2016
11A	302,079	6.8	0.6	4.5	April 2016	Oct 2016

**Assumptions**

monthly airspace consumption (m<sup>3</sup>) incl. daily cover  
 monthly tonnage received (t)  
 daily cover airspace consumption (monthly)  
 compaction density (t/m<sup>3</sup>)  
 daily cover as a % of waste volume received (%)

44,680
37,234
7,447
0.75
0.15

## APPENDIX B

### **The matters to be addressed in conditions of an amended licence include:**

1. The Company will operate in accordance with a site Landfill Gas Management Plan, as approved by EPA.
2. The Company will limit the tipping face of each cell to 600m<sup>2</sup> and must only operate one tipping face at any one time.
3. The Company will progressively cover all deposited waste other than the operational tipping face with a minimum of 300mm of clay soil, such that only the operational tipping face is exposed at any one time.
4. The Company will effectively strip back cover soils prior to the next lift of waste to prevent perched leachate levels.
5. The Company will store cover soils around the operational cell for immediate use when required.



## APPENDIX C

### **SITA Australia P/L - Health Study Proposal**

The Restorative Justice Conference held on 2 August 2012 gave an opportunity for discussion about impacts from the Hallam Rd Landfill. Some participants expressed concern at the level of odour experienced in the community, and questioned whether there were health risks associated with this.

In response to such concerns, SITA Australia will provide funding for the following projects:

#### **Independent Literature Review**

Involving current scientific knowledge on air quality and related potential health impacts of air emissions from putrescible landfills including:

- (a) Characterise the compounds typically emitted from putrescible landfills into air and where possible at what levels measured.
- (b) Review studies and summarise the health impacts of living near putrescible landfills (i.e. from population studies etc)
- (c) Review effects/health impacts including well-being from malodour generated from putrescible landfills.

This work has been scoped by EPA and the Department of Health and will be conducted by RMIT  
The cost for the literature review is to be no more \$20,000.

#### **Air Sampling**

Continuation of air sampling and analysis, in areas adjacent to the Hallam Rd Landfill with particular focus on compounds that contain sulphur which are typically odorous and are known to be emitted from landfills

The cost of air sampling is to be no more than \$15,000.

#### **Independent Review**

In order to link these separate pieces of work together, an independent review of the literature review and the air sampling will be conducted by CSIRO air experts.

The cost of the independent expert review is to be no more than \$5000