

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development
Application number and project name	SSD-6666 Hydro Aluminium Kurri Kurri Smelter Remediation
Applicant	Hydro Aluminium Kurri Kurri Pty Ltd
Consent Authority	Minister for Planning and Public Spaces

Decision

The Executive Director, Energy, Industry and Compliance, under delegation from the Minister for Planning and Public Spaces has, under section 4.38 of the *Environmental Planning and Assessment Act 1979 (the Act)* granted consent to the development application subject to the recommended conditions.

A copy of the development consent is available [here](#).

A copy of the Department of Planning, Industry and Environment's Assessment Report is available [here](#).

Date of decision

23 December 2020

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- the considerations under s 7.14(2) and 7.16(3) of the *Biodiversity Conservation Act 2016* (NSW);
- applicable NSW Government policies and guidelines;
- all information submitted to the Department during the assessment of the development application;
- advice from relevant NSW Government authorities, Cessnock City Council and Maitland City Council; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- the development would remove a long-term source of contamination caused by the operation of the Hydro Kurri Kurri Aluminium Smelter and enable the site to be redeveloped for employment generating uses;
- the development is permissible with development consent under *Cessnock Local Environmental Plan 2011*;
- the development is consistent with NSW Government policies, including the Hunter Regional Plan 2036 and the Greater Newcastle Metropolitan Plan 2036;
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent; and
- weighing all relevant considerations, the development is in the public interest, subject to strict conditions of consent.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement for the project from 11 August 2016 until 12 September 2016 (33 days) and received 7 community submissions, including three objections.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report include the remediation approach and potential impacts of the remediation works, long-term management of the containment cell and human health.

<i>Issue</i>	<i>Consideration</i>
<p>Remediation approach and the potential impacts of the remediation works</p>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Remedial Action Plan (RAP) has been reviewed by the EPA accredited Site Auditor, the EPA and Senversa, an independent expert, who are all satisfied the remediation approach is appropriate. • The treatment of contaminated material from the Capped Waste Stockpile prior to placement in the containment cell would further reduce the risk of impacts from contaminants in the long term. • The Department considers the containment cell has been robustly designed, with an engineered capping layer and liner, and is satisfied multiple checks are in place during and after the remediation works to manage the potential impacts. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • Remediation works to be undertaken in accordance with the RAP and verified in a Remediation Validation Report and by the independent Site Auditor.
<p>Long-term management of the containment cell</p>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant will manage the containment cell in accordance with a robust Long-Term Environmental Management Plan (LTEMP) for a period of 5 years after completion of the remediation works. • Under a Voluntary Planning Agreement (VPA), after 5 years ownership of the land will be transferred to a NSW government agency, Waste Management Asset Corporation (WAMC), which will manage the containment cell in perpetuity. • The VPA requires the Applicant to provide a range of bank guarantees, development contributions, insurances and warranties to ensure WAMC has adequate funds to implement the LTEMP and manage the containment cell in perpetuity. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • Prepare a final LTEMP before completion of filling of the containment cell and implement the LTEMP in perpetuity • Enter into a VPA on the terms negotiated with the Minister to provide a strong management and financial framework for perpetual management of the containment cell.
<p>Human Health</p>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Human Health Risk Assessment concluded the remediation works would be of low risk to off-site receivers. • The Applicant would implement stringent safety measures in a Health and Safety Plan (HSP) to adequately manage the health risks to on-site workers. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • To safeguard human health, implement a HSP incorporating the proposed safety measures during the remediation works.