

1 September 2010

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

By email: adjudication@accc.gov.au

Dear Sir/Madam

Pozzolanic Enterprises Pty Limited application for authorisation A91245 – interested party consultation

We act for Vecor Australia Pty Limited.

We refer to the above application for authorisation and enclose a confidential submission by our client.

We request that the confidential submission be excluded from the ACCC's Public Register. This submission contains information that is commercially sensitive to our client as well as to third parties. The disclosure of this information would unreasonably and adversely affect our client and third parties in respect of their lawful business, commercial and financial affairs.

We also enclose a public version of the submission (with confidential information removed) for publication on the ACCC's Public Register.

Should the ACCC have any questions concerning the submission or wish to discuss the matter with Vecor Australia, please do not hesitate to contact me.

Yours faithfully



SBA Lawyers
Stephen Blanks



Submission in relation to

**Application for Authorisation submitted by Pozzolanic Enterprises
Pty Ltd A91245**

by

Vecor Australia Pty Limited

1 September 2010

Contents

1. Introduction	3
2. Executive Summary	3
3. Vecor Overview	3
4. Vecor's dealings with Tarong Energy Corporation Limited (TEC) and Tarong North Pty Limited and Vecor's plans	4
5. Observations concerning and arising from Request for Expressions of Interest No. TE1973	4
6. Observations about Pozzolan's submission	5
7. Vecor's Interests	6
8. Public Benefit and conclusions	6

1. Introduction

This submission is made by Vecor Australia Pty Limited (ACN 130 066 492) (**Vecor Australia**) in relation to the application by Pozzolanic Enterprises Pty Limited for authorisation A91245.

2. Executive Summary

Vecor is a new entrant to the fly ash market. Vecor's business is commercialising newly developed fly ash utilisation technologies. Vecor's core technology is licensed from the University of New South Wales, and Vecor is conducting ongoing research and development programs with University of New South Wales, University of Newcastle and others.

In early August 2010, in response to Tarong Energy's Request for Expressions of Interest No. 1973, Vecor submitted three expressions of interest for utilising fly ash from Tarong and Tarong North power stations, commencing in 2012/2013.

At the time of making this submission, it is not clear to Vecor what, if any, impact the agreement which is the subject of the authorisation application will have on its proposals. Vecor is seeking to clarify this through direct discussions with Tarong Energy Corporation and Pozzolanic. Vecor anticipates that Tarong Energy Corporation and Pozzolanic will support arrangements that ensure supply of fly ash to Vecor to satisfy Vecor's requirements consistent with the agreement that is the subject of the authorisation application. Accordingly, Vecor anticipates that it will ultimately support the application. However, at this stage, pending the formal outcome of those discussions, Vecor adopts a neutral stance in relation to the application. Vecor expects that it will form its definitive position in relation to the authorisation application by the time of the public consultation in relation to the draft determination in October/November 2010.

3. Vecor Overview

Vecor Australia was formed in March 2008, and is part of an international group of Vecor companies formed to commercialise newly developed fly ash utilisation technologies worldwide.

Vecor Australia and its related entities have an exclusive, long term licence to commercially exploit patented intellectual property owned by the University of New South Wales, Australia (UNSW) for the production of aggregates and manufactured articles such as ceramic tiles, bricks, blocks and pavers.

Vecor's technologies enable the recycling of fly ash through an energy efficient process into high quality "green" building materials and other products. Vecor's technologies offer environmental and financial benefits in multiple market segments by utilising fly ash waste in preference to using virgin non-renewable materials such as clay and riverbed sand.

Vecor has operated a pilot plant in China since February 2008 which has successfully produced prototype tiles, pavers, bricks and aggregates.

Vecor's ceramic tiles have been independently analysed by global engineering firm ARUP, who reported a highly favourable environmental impact with significantly reduced embedded energy and CO₂ emissions compared to clay tiles.

In March 2009, Vecor Australia obtained an Australian Federal Government Climate Ready Grant of \$890,809 to assist with research and development.

Vecor Australia is undertaking ongoing collaborative research projects with the University of New South Wales, the University of Newcastle and others.

Vecor is currently conducting full industrial scale production tests for the production of ceramic tiles with a view to commencing full industrial scale continuous production of ceramic tiles by April 2011.

Vecor's business plan involves establishing production lines near to power plants, and expand fly ash useage until all available fly ash is utilised in an environmentally sustainable way. Vecor Australia's ambition is to be the pre-eminent commercialiser of fly ash technologies in Australia.

Vecor Australia is a private company currently owned by its founders, the University of New South Wales, and investors.

4. Vecor's dealings with Tarong Energy Corporation Limited (TEC) and Tarong North Pty Limited and Vecor's plans

In December 2009, Tarong Energy Corporation informed Vecor that it proposed to issue a Request for Expressions of Interest in relation to fly ash utilisation, and that this would provide all interested parties an equal opportunity to have access to fly ash.

On 19 June 2010, Tarong Energy Corporation issued Request for Expressions of Interest No. TE1973. A copy is attached.

On 9 August 2010, Vecor submitted three expressions of interest for utilising fly ash from Tarong and Tarong North power stations, commencing in 2012/2013.

The EOIs envisage economic benefits to Tarong Energy Corporation from the supply of fly ash to Vecor, as well as environmental benefits derived from a significant reduction of quantities of fly ash disposed of.

5. Observations concerning and arising from Request for Expressions of Interest No. TE1973

Vecor notes that the agreement between Tarong Energy Corporation and Pozzolanica is dated 15 July 2010, which is after the issue of the Request for EOIs, and before the date on which EOIs were due to be submitted.

The prospect of such an agreement is not noted in the Request for EOIs.

Tarong Energy Corporation did not issue any information concerning the agreement in connection with the Request for EOIs prior to the closing date of 9 August 2010.

Pozzolan's application for authorisation was made on 28 July 2010. Vecor became aware of the application on 4 August 2010 through the ACCC website.

Vecor notes the Notice for Interested Parties issued by Tarong Energy Corporation dated 30 August 2010.

The Request for EOLs contains some information which would appear to be relevant to consideration of the authorisation application, and not contained in the authorisation application submission. For example, statements as to the total amount of fly ash produced by the Tarong and Tarong North power stations and the amounts sold are contained in the Request for EOLs but not in the authorisation application submission.

According to the Request for EOLs, Tarong Power Station produces approximately 1.1 million tonnes of ash per annum, of which 300,000 to 400,000 tonnes of "concrete grade" fly ash is sold each year. Using the information provided in section 5.2 of the Pozzolan's authorisation application submission, it may be inferred that the amount of fly ash available in each zone is as follows:

	Percentage	Grade	Quantity (tonnes)
Zone 1	60%	Coarse	660,000
Zone 2	24%	Fine	264,000
Zone 3	10%	Fine	110,000
Zone 4	4%	Not stated	44,000
Zone 5	Not stated (approx 1.6%)	Not stated	(approx 17,600)
Zone 6	Not stated (approx 0.4%)	Not stated	(approx 4,400)

Pozzolan's states that in the 2009 year, it took 268,777 tonnes of fly ash from the Tarong power station (it is unclear whether this includes fly ash from the Tarong North power station). This represents approximately 72% of the fly ash produced at zones 2 and 3. However, we note the statement at 5.2 of Pozzolan's submission that:

"In the past, Pozzolan's has tended to collect **all** of the fly ash from the hoppers at zones 2 and 3 and obtain additional fly ash it may need from the hoppers at zone 1"

According to the Request for EOLs, Tarong North Power Station produces approximately 400,000 tonnes of ash per annum, of which approximately 160,000 is sold each year.

It can be inferred from the Request for EOLs that the total amount of fly ash that was sold to parties other than Pozzolan's in 2009 was approximately 190,000 to 290,000 tonnes.

Further, according to the Request for EOLs, the total amount of fly ash which is deposited in ash storage areas (Meandu Mine Void or the TPS Ash Dam) is approximately 940,000 to 1,040,000 tonnes per annum.

6. Observations about Pozzolan's submission

Under the agreement between Pozzolan's and Tarong Energy Corporation:

- it would appear that there is no obligation to take a minimum quantity of fly ash, but the payment structure is based on an expected minimum off-take of 300,000 tonnes per annum;
- approximately 70% of available fly ash produced by Tarong power station and all of the fly ash from Tarong North power station, being a total of 1,170,000 tonnes, is allocated to Pozzolan's.

Pozzolanic is undoubtedly correct in stating that there are environmental, economic and other benefits from the use of fly ash as a cementitious substitute.

However, there appears to be no attempt to quantify the benefits said to flow from the agreement and compare the quantum of such benefits to the existing arrangements or any alternative.

The agreement appears to allocate approximately 78% of the fly ash produced to Pozzolanic.

It is unclear whether the agreement will, by reason of its terms, lead to an actual increased utilisation of fly ash produced by the Tarong and Tarong North power stations.

Further, it is unclear how the existing arrangements for supply of fly ash from the Tarong and Tarong North power stations to Pozzolanic are unsatisfactory or inhibit the derivation of the environmental, economic or other benefits which are derived from the utilisation of fly ash.

7. Vecor's Interests

Vecor's interests are served by ensuring availability of fly ash from Tarong and Tarong North power stations in the quantities envisaged by its EOLs. Vecor's proposals require access to fly ash from Zone 1 of Tarong power station. To a significant extent, Vecor's interests are complementary to Pozzolanic's as Vecor's proposals do not require access to fine grade fly ash.

To the extent that the agreement between Tarong Energy Corporation and Pozzolanic does not allow for initial diversion of fly ash, at least from Zone 1 of Tarong power station and from Tarong North power station, Vecor's interests arising from one of its EOL's could potentially be adversely affected by the agreement. However, Vecor anticipates that its discussions with Tarong Energy and Pozzolanic will lead to a resolution of this matter and result in suitable arrangements for the supply of fly ash to Vecor.

Accordingly, Vecor anticipates that the agreement between Tarong Energy Corporation and Pozzolanic will allow Vecor's interests to be adequately served when Vecor formalises its position with Tarong Energy Corporation and Pozzolanic.

8. Public Benefit and conclusions

Public benefit is enhanced by:

- (a) increasing the amount of fly ash that is commercially utilised and correspondingly reducing the amount of fly ash that is disposed of as waste; and
- (b) supporting the commercialisation of technologies developed and owned by Australian corporations;

Implementation of Vecor's technologies would plainly have public benefits in these senses.

As set out above, Vecor anticipates that its discussions with Tarong Energy Corporation and Pozzolanic will ensure a supply of fly ash to Vecor in accordance with its requirements.

However, at this stage, pending the formal outcome of those discussions, Vecor adopts a neutral stance in relation to the application. Vecor expects that it will form its definitive position in relation to the authorisation application by the time of the public consultation in relation to the draft determination in October/November 2010.



**REQUEST FOR EXPRESSIONS OF
INTEREST
NO. TE1973**

for

**SUPPLY OF COAL COMBUSTION
PRODUCTS FROM TARONG AND
TARONG NORTH POWER STATIONS**

TARONG ENERGY CORPORATION LIMITED
REQUEST FOR EXPRESSIONS OF INTEREST
SUPPLY OF COAL COMBUSTION PRODUCTS FROM
TARONG AND TARONG NORTH POWER STATIONS

Table of Contents

PART 1 – EXPRESSION OF INTEREST CONDITIONS

1.	REQUEST FOR EXPRESSIONS OF INTEREST	2
2.	THE PROCUREMENT PROCESS	2
3.	INTERESTED PARTIES BOUND	3
4.	REPRESENTATIONS BY TARONG ENERGY	3
5.	SUBMISSION OF EXPRESSIONS OF INTEREST	3
6.	LODGEMENT OF EXPRESSIONS OF INTEREST	3
7.	CLOSING TIME	5
8.	OPENING OF EXPRESSIONS OF INTEREST	5
9.	INFORMATION REQUIRED AFTER OPENING OF EXPRESSIONS OF INTEREST	5
10.	SITE INSPECTION	5
11.	EVALUATION OF EXPRESSIONS OF INTEREST	5
12.	NOTIFICATION OF SELECTED INTERESTED PARTY	6
13.	CONFIDENTIALITY	6
14.	INTELLECTUAL PROPERTY	6
15.	COST OF SUBMITTING EXPRESSIONS OF INTEREST	7
16.	RESERVATION	7
17.	COMMUNICATION	7

PART 2 – REQUIREMENTS

1.	BACKGROUND	8
2.	SCOPE OF WORK	9
3.	EXPRESSION OF INTEREST REQUIREMENTS	9

TARONG ENERGY CORPORATION LIMITED
REQUEST FOR EXPRESSIONS OF INTEREST
SUPPLY OF COAL COMBUSTION PRODUCTS FROM
TARONG AND TARONG NORTH POWER STATIONS

PART 1 – EXPRESSION OF INTEREST CONDITIONS

1. REQUEST FOR EXPRESSIONS OF INTEREST

Tarong Energy Corporation Limited ABN 52 078 848 736 (**Tarong Energy**) invites Expressions of Interest from interested parties (**Interested Parties**) For:

- The removal and or utilisation of Coal Combustion Products from Tarong Power Station and Tarong North Power Station, more generally described in Part 2 (the **Requirements**).

And / or

- The details of associated plant proposed to be built on or adjacent to Tarong Energy Property, for the expressed purpose of converting / manufacturing products from Coal Combustion Products into Marketable Products.

2. THE PROCUREMENT PROCESS

This Request for Expressions of Interest comprises the first stage of a multi-stage process to enable Tarong Energy to evaluate Interested Parties' capabilities to make offers for the Requirements without necessarily requiring all Interested Parties to incur the additional cost involved with preparation of a fully detailed Tender.

The proposed multi-stage process (**Process**) and the indicative timing of each activity are as follows:

Activity	Date
Issue of Request for Expressions of Interest	19 June 2010
Register Interest for a Site Inspection	2 July 2010
Lodgement of Expressions of Interest by Interested Parties	9 August 2010
Presentations by Interested Parties (if requested by Tarong Energy)	TBA
Evaluation of Expressions of Interest	August - November 2010
Notification of Selected Interested Parties	TBA
Issue Invitation to Tender to Selected Interested Parties	TBA

Tarong Energy reserves the right to award a contract to more than one Selected Interested Party.

This Request for Expressions of Interest has been prepared to assist potential Interested Parties to determine whether or not they should submit an Expression of Interest.

Only those Interested Parties who are successful in becoming Selected Interested Parties following evaluation of the Expressions of Interest will be invited to submit detailed Tenders for the Requirements, unless a Selected Interested Party withdraws or becomes disqualified, in which case Tarong Energy reserves the right to register one or more further Interested Parties as Selected Interested Parties.

TARONG ENERGY CORPORATION LIMITED
REQUEST FOR EXPRESSIONS OF INTEREST
SUPPLY OF COAL COMBUSTION PRODUCTS FROM
TARONG AND TARONG NORTH POWER STATIONS

Information contained within this Request for Expressions of Interest and in any resultant Expression of Interest must not form part of any Invitation to Tender nor part of any Contract or other agreement for the Requirements.

Tarong Energy reserves the right to enter into contract directly with a Selected Interested Party, without necessarily going through an additional Tender Process.

Tarong Energy encourages Interested Parties to place multiple bids for different types of Product or Plant.

Tarong Energy may at any time:

- change any details in this Request for Expressions of Interest; or
- change, omit or add to any aspect of the Process, or suspend or terminate the Process.

3. INTERESTED PARTIES BOUND

By lodging an Expression of Interest, the Interested Party acknowledges and agrees that it is bound by the conditions set out in this Request for Expressions of Interest.

4. REPRESENTATIONS BY TARONG ENERGY

Tarong Energy may change any details in this Request for Expressions of Interest at any time prior to the closing time for lodgement of Expressions of Interest.

Tarong Energy does not warrant the accuracy of the content of this Request for Expressions of Interest and Tarong Energy shall not be liable for any omission from or inaccuracy therein.

No representation made by or on behalf of Tarong Energy either in relation to this Request for Expressions of Interest or in response to any subsequent Expression of Interest (or its subject matter) shall be binding on Tarong Energy unless that representation is in writing and expressed to be binding on Tarong Energy.

5. SUBMISSION OF EXPRESSIONS OF INTEREST

Interested Parties who can demonstrate their ability to competently offer for the Requirements are invited to submit an Expression of Interest for consideration by Tarong Energy.

Expressions of Interest must be made in accordance with Part 2 Requirements – Expression of Interest Requirements Item 3, and include all schedules identified.

6. LODGEMENT OF EXPRESSIONS OF INTEREST

If you wish to submit an Expression of Interest, you must complete and return each of the Expression of Interest Schedules in either electronic or hardcopy format in the manner specified below.

Electronic lodgement of Expressions of Interest:

Expressions of Interest may be lodged electronically prior to the Closing Time (specified in Part 1 Clause 7 of this Request for Expressions of Interest) via the Queensland Government eTendering website at <https://secure.publicworks.qld.gov.au/etender/index.do>

To electronically lodge an Expression of Interest, please:

- click on the "Tarong Energy Corporation Limited" link in the Agencies section of the Queensland Government eTendering website;

TARONG ENERGY CORPORATION LIMITED
REQUEST FOR EXPRESSIONS OF INTEREST
SUPPLY OF COAL COMBUSTION PRODUCTS FROM
TARONG AND TARONG NORTH POWER STATIONS

- select "Expression of Interest TE1973 – Supply of Coal Combustion Products from Tarong and Tarong North Power Stations";
- click the text "Click here to submit an electronic response" located under "Responses";
- upload the Expression of Interest on the "Submit Electronic Response" page (if a file is greater than 10 MB, split the file in parts);
- click the "Submit Response" button;
- if the Tender uploaded without error, the "Electronic Response Confirmation" screen (including response receipt) will be displayed. You will also be sent an email with these details to your registered email address; and
- repeat the process if you wish to submit multiple Expressions of Interest.

Please note:

- the Queensland Government e Tendering website is a service maintained by the Queensland Government Chief Procurement Office. Tarong Energy accepts no responsibility for the operation of the Queensland Government eTendering website or its use by any Interested Party;
- access to the Queensland Government eTendering website may not be continuous, uninterrupted or secure at all times and access may be subject to factors or circumstances outside the control of the Queensland Government Chief Procurement Office; and
- It is the responsibility of the Interested Party to Lodge Expressions of interest prior to the Closing Time. Tarong Energy is not responsible for any loss of Expression of Interest responses and/or the information in transit when utilising the Queensland Government eTendering website or a failure to lodge a Tender by the Closing Time as a result of the use of the Queensland Government eTendering website.

Hardcopy lodgement of Expressions of Interest:

Expressions of Interest may be lodged in hardcopy prior to the Closing Time by:

- collating one original and two copies of your Expression of Interest (together with one electronic copy on a CD ROM or USB Flash Drive in Microsoft Office and/or AutoCAD format) in a sealed envelope endorsed:

"Expression of Interest – Supply of Coal Combustion Products from Tarong and Tarong North Power Stations

[Insert Name of Interested Party]"; and

- either
 - hand delivering the Expression of Interest to the Tender box at Tarong Energy Corporation Limited, Level 13, 42 Albert Street, Brisbane Qld 4000; or
 - forwarding the Expression of Interest by post or carrier to Tarong Energy Corporation Limited, GPO Box 800, Brisbane Qld 4001.

Expressions of Interest sent or transmitted to Tarong Energy by an electronic means other than the Queensland Government eTender Website, will not be considered by Tarong Energy.

TARONG ENERGY CORPORATION LIMITED
REQUEST FOR EXPRESSIONS OF INTEREST
SUPPLY OF COAL COMBUSTION PRODUCTS FROM
TARONG AND TARONG NORTH POWER STATIONS

The Expression of Interest, complete with all supporting documents, upon its delivery shall become and remain the property of Tarong Energy.

7. CLOSING TIME

The Closing Time for lodgement of Expressions of Interest shall be 2:00 PM AEST on 9 August 2010. The closing time may be extended by Tarong Energy by written notice to Interested Parties.

Tarong Energy in its discretion may accept or reject an Expression of Interest delivered after the closing time.

8. OPENING OF EXPRESSIONS OF INTEREST

Interested Parties or their representatives shall not be entitled to be present at the opening of the Tender box or at the Opening of Expressions of Interest.

9. INFORMATION REQUIRED AFTER OPENING OF EXPRESSIONS OF INTEREST

The Interested Parties shall provide, after the opening of Expressions of Interest, all additional information as may be requested by Tarong Energy for evaluation of the Expression of Interest.

Such information will normally be requested via issue of an Information Request form to the Interested Party. The form may contain space for Tarong Energy's request, reply by the Interested Party, record of subsequent discussion at a meeting (if applicable), final resolution and signature by the Interested Party and Tarong Energy.

Where Tarong Energy requests a meeting with the Interested Party, the Interested Party must be represented by members of its staff who are conversant with all details of the Expression of Interest and who are authorised to make, at the meeting, any decision on behalf of the Interested Party.

10. SITE INSPECTION

There is no onsite inspection proposed at this stage. Should Interested Parties require a site inspection they must register their interest via email to Bree.Pitcher@tarongenergy.com.au by **2:00pm AEST 2 July 2010** and complete Schedule H – Site Inspection Requirements with their request.

Arrangements for Site Inspections will be notified to Interested Parties at least one week prior to the Site Briefing date.

Tarong Energy reserves the right to decline or limit the number of Interested Parties attending any or all Site Inspections.

11. EVALUATION OF EXPRESSIONS OF INTEREST

Expressions of Interest are proposed to be evaluated having regard to Tarong Energy's requirements stated in Part 2 of this Request for Expressions of Interest and the information submitted by the Interested Parties in accordance with Clause 5 of this Request for Expressions of Interest.

Tarong Energy reserves the right (but is not obliged) to take into account other information which it might have or obtain about Interested Parties and their capability.

Upon completion of the evaluation of the Expressions of Interest, Tarong Energy proposes to register a shortlist of those Interested Parties who are considered to best meet Tarong Energy's overall requirements (Selected Interested Parties). It is proposed that the Selected Interested Parties will be invited to submit fully detailed Tenders. Tarong Energy is not obliged to register all or any Interested Parties as Selected Interested Parties.

TARONG ENERGY CORPORATION LIMITED
REQUEST FOR EXPRESSIONS OF INTEREST
SUPPLY OF COAL COMBUSTION PRODUCTS FROM
TARONG AND TARONG NORTH POWER STATIONS

12. NOTIFICATION OF SELECTED INTERESTED PARTY

After Expressions of Interest have been evaluated, all Interested Parties will be advised of the outcome and whether they have been shortlisted as a Selected Interested Party.

13. CONFIDENTIALITY

Subject to this clause, all Expressions of Interest will be held in confidence by Tarong Energy except so far as the law otherwise requires.

The Interested Party agrees that Tarong Energy may disclose information contained in any Expression of Interest to Tarong Energy's Affiliates, Shareholding Ministers, Board, management, consultants, insurers and advisers as may be necessary to evaluate and obtain approval in connection with any Expression of Interest received. The Interested Party further agrees that the names of Selected Interested Parties may be notified in writing to unsuccessful Interested Parties after the Expression of Interest process.

It is a condition of this Request for Expressions of Interest that the above information may be disclosed by Tarong Energy.

Interested Parties are advised that information other than the above may also be subject to disclosure resulting from applications by others under the Freedom of Information Act 1992 (the FOI Act). Where any information is provided by an Interested Party on a confidential basis or relates to the Interested Party's trade secrets and/or business, professional, commercial or financial affairs, the Interested Party should endorse the information accordingly and Tarong Energy will take this into account when deciding if the information should be disclosed. Notwithstanding any such endorsement by the Interested Party, Tarong Energy does not guarantee that information will not be disclosed in response to applications received under the FOI Act. However, where Tarong Energy considers that the FOI Act requires disclosure of an Interested Party's information, that information will not be disclosed until the Interested Party's views regarding disclosure have been obtained and their application, if any, for review of any decision to disclose has been finalised in accordance with the FOI Act.

In dealing with Tarong Energy, Interested Parties may receive information of a business, technical or scientific nature or information about the trade or business secrets of Tarong Energy which is commercially valuable and is confidential to Tarong Energy. Interested Parties must keep all information received about the trade or business of Tarong Energy secret and confidential and must not disclose or use any of the information, or allow any employee, agent or other person/s to disclose or use any of the information, except as required by law or the applicable rules of a stock exchange.

This clause continues to operate after the Expressions of Interest Process has ended.

For the purposes of this clause 13, "Affiliate" means any person who Tarong Energy has the ability to control (as defined in section 50AA of the Corporations Act 2001 (Cth)).

14. INTELLECTUAL PROPERTY

The Interested Party licenses Tarong Energy to reproduce the whole or any portion of the Expression of Interest for the purposes of evaluation, notwithstanding any copyright, moral right or other intellectual property right that may subsist in the Expression of Interest.

All rights of intellectual property, including copyright, in the Expressions of Interest and other documents supplied to the Interested Party by or on behalf of Tarong Energy in connection with the Request for Expressions of Interest are the property of Tarong Energy and shall not be used or reproduced by the Interested Party for purposes other than the preparation of an Expression of Interest, except with the prior written approval of Tarong Energy.

All Expressions of Interest shall at all times remain the property of Tarong Energy.

TARONG ENERGY CORPORATION LIMITED
REQUEST FOR EXPRESSIONS OF INTEREST
SUPPLY OF COAL COMBUSTION PRODUCTS FROM
TARONG AND TARONG NORTH POWER STATIONS

15. COST OF SUBMITTING EXPRESSIONS OF INTEREST

Tarong Energy will neither be responsible for, nor pay for, any expense or loss which may be incurred by Interested Parties in the preparation of their Expression of Interest. Interested Parties shall fully inform themselves in relation to all matters arising from the Request for Expressions of Interest. Interested Parties in lodging an Expression of Interest acknowledge, agree and warrant that Tarong Energy is not liable for any expenses or loss incurred by the Interested Party in preparing or lodging an Expression of Interest.

16. RESERVATION

Tarong Energy does not bind itself to register any Interested Party and the Interested Party acknowledges, agrees and warrants that the Interested Party does not bind Tarong Energy to register any Interested Party's a Selected Interested Party. Tarong Energy may, at its discretion, reject any or all Expressions of Interest.

Tarong Energy is not committed contractually in any way to those Interested Parties who submit Expressions of Interest or who become Selected Interested Parties. Neither the issue of this Request for Expressions of Interest nor the conduct of any aspect of the Process commits or otherwise obliges Tarong Energy to proceed with any part of the Process.

Tarong Energy deals regularly with persons who currently purchase Coal Combustion Products from Tarong Energy, and may continue to do so throughout the Process. Some of those persons may be Interested Parties. Tarong Energy may supply Ash to those or other persons during the Process.

17. COMMUNICATION

Interested Parties are required to direct all communications in connection with this Request for Expressions of Interest or any subsequent Expressions of Interest through:

Bree Pitcher

Procurement Officer

Telephone: 07 3228 4327

Email: Bree.Pitcher@tarongenergy.com.au

Unauthorised communication with other staff of Tarong Energy may lead to disqualification of an Interested Party and the rejection of their Expression of Interest

TARONG ENERGY CORPORATION LIMITED
REQUEST FOR EXPRESSIONS OF INTEREST
SUPPLY OF COAL COMBUSTION PRODUCTS FROM
TARONG AND TARONG NORTH POWER STATIONS

PART 2 – REQUIREMENTS

1. BACKGROUND

Tarong Energy is a Queensland Government Owned Corporation and is an active competitor in the National Electricity Market, generating approximately one quarter of Queensland's electricity supply. Tarong Energy was established in July 1997 and is the owner of the Tarong Power Station (TPS), Tarong North Power Station (TNPS), Wivenhoe Power Station, and Meandu Mine.

Tarong Energy has a consistent supply of Coal Combustion Products (CCP's) from two of its sites, Tarong Power Station and Tarong North Power Station.

Tarong Power Station

TPS is a 1400 Megawatt 4 Unit coal fired power station, located 180 kilometres west of Brisbane near Kingaroy. Tarong Power Station (TPS) is owned by Tarong Energy.

TPS is serviced by electrostatic precipitators and produces approximately 1.1 million tonnes of ash per annum. Approximately 300,000-400,000 tonnes of concrete grade fly ash from TPS is currently sold each year. All remaining ash from TPS is deposited in the Ash Storage areas. [Meandu Mine Void or the TPS Ash Dam].

In relation to TPS, Interested Parties should note the following which may impact on quantity and quality of CCP's that TPS produces:

- low NOx emission equipment has been fitted to Units 1, 2 & 4. Currently unit 3 is being fully installed and will be completed by the end of 2010.
- Tarong is considering converting TPS from electrostatic precipitators to bag filter technology

Tarong North Power Station

Tarong North Power Station (TNPS) is a 445 Megawatt single Unit coal fired power station situated adjacent to TPS. TNPS is fully owned by Tarong Energy.

TNPS is serviced by bag filters (together with an ash silo) and on a yearly basis produces approximately 400,000 tonnes of undifferentiated fly ash;

Approximately 160,000 tonnes of fly ash from TNPS is currently sold each year. All remaining ash from TNPS is deposited in the Ash Storage areas. [Meandu Mine Void or the TPS Ash Dam].

Current Coal Combustion Products Storage Areas

Meandu Mine Void – Currently both TPS and TNPS are disposing CCP's to the Meandu Mine in a dense phase form. [not available for reuse at this stage]

TPS Ash Dam – The TPS Ash Dam has a current storage capacity of approximately 36 Mt of product consisting of approximately 90% Fly Ash and 10% Bottom Ash and mill rejects.

TARONG ENERGY CORPORATION LIMITED
REQUEST FOR EXPRESSIONS OF INTEREST
SUPPLY OF COAL COMBUSTION PRODUCTS FROM
TARONG AND TARONG NORTH POWER STATIONS

Current Arrangements for the Removal of CCP's

Currently, Tarong Energy has contracts for the removal and sale of quantities of CCP's from both TPS and TNPS with a number of parties.

Supplies of CCP's as a outcome of this Expression of Interest process will be made in conjunction with the Terms and Conditions of these existing contracts.

Fuel Supply

TPS and TNPS are currently supplied with coal predominantly from Meandu Mine.

2. SCOPE OF WORK

Tarong Energy is committed to the Beneficial Re-use of CCP's and is seeking Expressions of Interest from Interested Parties to:

- remove CCP's and /or
- establish industries on the Tarong Power Station (TPS) or adjacent land that will utilise the CCP's of Tarong Energy.

CCP's for the purpose of this Request for Expression of Interest includes:

- Fly Ash / Bottom Ash - Solid ash material extracted from the flue gases of coal-fired boilers at TPS and Tarong North Power Station (TNPS);
- Pond Ash - All solid reject ash material from TPS and TNPS stored in the TPS Ash Dam; and
- Cenospheres – All Floating Cenosphere material contained in the Ash Dam, or Cenosphere material skimmed from the Ash Thickening Plant

Industry for the purpose of this Request for Expression of Interest, includes

- Manufacturing Process / Factory
- The conversion of CCP's into other products suitable for sale.
- Products may include but not limited to Aggregate, Blocks, Pavers, Geopolymer Cement and other Building / Civil applications.

3. EXPRESSION OF INTEREST REQUIREMENTS

Expressions of Interest must be in writing and Interested Parties must include the following information as part of an Expression of Interest:

- Expression of Interest Form
- Schedule A – Coal Combustion Product Interest
- Schedule B – Offtake Estimate
- Schedule C – Indicative Pricing Methodology
- Schedule D – Proposed Methods of Removal and or Utilisation of Coal Combustion Products
- Schedule E – Experience and Track Record

TARONG ENERGY CORPORATION LIMITED
REQUEST FOR EXPRESSIONS OF INTEREST
SUPPLY OF COAL COMBUSTION PRODUCTS FROM
TARONG AND TARONG NORTH POWER STATIONS

- Schedule F – Interested Parties Site Requirements
- Schedule G – Testing Requirements
- Schedule H – Site Inspection Requirements

Tarong Energy will consider Expressions of Interest for the removal and or utilisation of all or any part of the CCP's materials listed above.

ANNEXURE 1 – CONFIDENTIALITY AGREEMENT



Confidentiality Agreement

Tarong Energy Corporation Limited
ACN 078 848 736

[Redacted]

[Redacted]

ABN

Confidentiality Agreement

Date

Parties

Name	Tarong Energy Corporation Limited
ACN	078 848 736
Short form name	Tarong Energy
Notice details	Level 13, 42 Albert Street, Brisbane QLD 4000 07 3228 4327 Attention: Company Secretary, copy to Corporate Counsel
Name	!
ACN	ABN
Short form name	
Notice details	

Attention:

Recitals

- A. Tarong Energy and . have agreed to enter into the Discussions.
- B. Tarong Energy will make available certain information to ., and . will make available certain information to Tarong Energy, for the purposes of the Discussions.
- C. The information made available as referred to in Recital B is commercially sensitive and valuable.
- D. The Parties have agreed to enter into this Agreement to protect the confidentiality of the information referred to in Recitals B and C.

Agreed Terms

In consideration of, amongst other things, the Parties agreeing to enter into the Discussions, the Parties each agreeing to provide information to the other in connection with the Discussions and the mutual promises in this Agreement, the Parties agree as follows:

1. Defined terms and interpretation

1.1 Defined terms

In this Agreement:

Authorised Personnel means in respect of a party:

- (a) the officers and employees of that party,
- (b) its Related Bodies Corporate, and their respective employees and officers, and
- (c) its financial, legal or other advisers.

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Brisbane, Queensland, Australia.

Confidential Information means:

- (a) the fact that the Discussions are occurring;
- (b) all information (including without limitation commercially sensitive information and technical know-how and information of a Related Body Corporate) in connection with the Discussions directly or indirectly disclosed or made available by or on behalf of a Disclosing Party to the Recipient;
- (c) information treated by the Disclosing Party as confidential or which the Recipient ought reasonably to know is confidential (whether disclosed or discovered before or after this Agreement is executed) and) provided or made available by a Disclosing Party to a Recipient;
- (d) all notes and other records based on, derived from or containing, information referred to in paragraphs (a), (b) and (c); and
- (e) copies of information and those parts of notes and other records referred to in paragraphs (a), (b), (c) and (d).

Disclosing Party means a party that has disclosed Confidential Information under this Agreement.

'Discussions' means discussions between the Parties in relation to ash and ash products, including without limitation:

- (a) current and possible future uses of ash and silica fume;
- (b) potential development of ash products and silica fume products; and
- (c) the nature and chemical composition of ash and silica fume sourced from Tarong Power Station.

Intellectual Property Rights means all intellectual property rights at any time recognised by law, including:

- (a) patents, copyright, circuit layout rights, registered designs, trade marks, business names, moral rights and any right to have Confidential Information kept confidential; and
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a).

Recipient means a party which has received (directly or indirectly) Confidential Information from a Disclosing Party under this Agreement.

Shareholding Ministers has the meaning given to that term in the *Government Owned Corporations Act 1993 (Qld)* (and includes the departmental officers and advisers of those persons).

1.2 Interpretation

In this Agreement, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa;

- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause or paragraph is to a clause or paragraph of this Agreement;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to time is to Brisbane, Queensland, Australia time;
- (f) a reference to a party is to a party to this Agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (g) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (i) a word or expression defined in the *Corporations Act 2001* (Cth) has the meaning given to it in that Act; and
- (j) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

2. Term

This Agreement commences on the date on which it is executed by all parties and shall continue for a period of 3 years.

3. Use of Confidential Information

A Recipient:

- (a) may only use the Confidential Information for the purposes of the Discussions;
- (b) must keep the Confidential Information confidential; and
- (c) must not disclose the Confidential Information except in accordance with this Agreement.

4. Permitted disclosure to Authorised Personnel

A Recipient:

- (a) may only disclose Confidential Information to its Authorised Personnel who:
 - (i) need to know (but only to that extent necessary for the purposes of the Discussions); and
 - (ii) know the Confidential Information must be kept secret and are aware of the confidentiality obligations under this Agreement;

- (b) must ensure that its Authorised Personnel comply with the terms of this Agreement as if they were a party to it and the Recipient is responsible for any failure to comply.

5. Permitted disclosure to Shareholding Ministers

As a Recipient, Tarong Energy may disclose Confidential Information to its Shareholding Ministers.

6. Excluded information

6.1 Agreement does not apply

This Agreement does not apply to information that (whether before or after this Agreement is executed):

- (a) is rightfully known to or in the possession or control of the Recipient and not subject to a confidentiality obligation on the Recipient (for the avoidance of doubt, Confidential Information already known by or in the possession or control of the Recipient at the date of this Agreement, is subject to the confidentiality obligations set out in this Agreement);
- (b) is public knowledge (except because of a breach of confidentiality by the Recipient or its Authorised Personnel); or
- (c) the Recipient or its Authorised Personnel must disclose by law (including the rules of any relevant stock exchange), provided the Recipient complies with its obligations under clause 6.2.

6.2 If the Recipient must disclose by law

If the Recipient must disclose Confidential Information of the Disclosing Party by law under clause 6.1(c), the Recipient must first:

- (a) give the Disclosing Party notice of the disclosure;
- (b) give the Disclosing Party a reasonable opportunity to take any steps it considers necessary to protect the confidentiality of the information;
- (c) give any assistance reasonably required by the Disclosing Party to protect the confidentiality of the information; and
- (d) inform anyone to whom the disclosure must be made that the information is confidential information of the Disclosing Party.

7. Security and control

7.1 Security

The Recipient must:

- (a) establish and maintain effective security measures to safeguard the Confidential Information from access or use not authorised under this Agreement; and
- (b) keep the Confidential Information under its control.

7.2 Unauthorised use, copying or disclosure

The Recipient must:

- (a) immediately give the Disclosing Party notice of any suspected or actual unauthorised use, copying or disclosure of the Confidential Information;
- (b) immediately take steps to prevent or stop the unauthorised use, copying or disclosure of Confidential Information;
- (c) comply with the Disclosing Party's directions in relation to the unauthorised use, copying or disclosure of Confidential Information; and
- (d) give any assistance reasonably requested by the Disclosing Party in relation to any proceedings the Disclosing Party may take against any person for unauthorised use, copying or disclosure of the Confidential Information.

7.3 Breach of confidentiality

The Recipient must:

- (a) immediately give the Disclosing Party notice of any suspected or actual breach of this Agreement;
- (b) immediately take steps to prevent or stop the breach;
- (c) comply with the Disclosing Party's directions regarding the enforcement of this Agreement (including, starting, conducting and settling enforcement proceedings); and
- (d) give any assistance reasonably requested by the Disclosing Party in relation to any enforcement proceedings.

7.4 Consequence of breach

Each Recipient acknowledges for itself and for each of its Authorised Personnel that the Disclosing Party will suffer damage because of a breach of this Agreement or confidentiality obligation under this Agreement, for which damages may not be an adequate remedy.

7.5 Injunctive relief

The Disclosing Party may seek specific performance or injunctive relief in addition to any other remedies available at law or in equity if there is a suspected or actual breach of this Agreement or obligation of confidentiality under this Agreement.

8. Cost of compliance

Each Recipient and any of its Authorised Personnel receiving Confidential Information are responsible for any cost of complying with their obligations in connection with this Agreement.

9. Accuracy and completeness of Confidential Information

9.1 No warranty

Each Disclosing Party and its Authorised Personnel do not warrant or represent that the Confidential Information, or any information disclosed by it, is accurate or complete, or that reasonable care has been taken in its preparation.

9.2 Limitation of liability

Except where to do so would be contrary to law, no Disclosing Party or its Authorised Personnel are liable for any claim, expense, loss, damage or cost the Recipient or any of its Authorised Personnel may incur because any information (including Confidential Information) is inaccurate or incomplete in any way for any reason.

10. Return and destruction of Confidential Information

10.1 Return of Confidential Information

A Disclosing Party may at any time request a Recipient of its Confidential Information to return all or a specified part of the Confidential Information and the Recipient must promptly comply with such a request.

10.2 Return and destruction on termination

At the Disclosing Party's request, the Recipient must immediately:

- (a) return to the Disclosing Party; or
- (b) destroy (and, if requested, permit the Disclosing Party's representative to witness the destruction of),

Confidential Information of the Disclosing Party in the possession or control of the Recipient or its Authorised Personnel, except that the Recipient may retain such copies of the Confidential Information as are required to comply with its corporate governance and document retention obligations (and any documents so retained shall be remain subject to the terms of this Agreement).

11. Public statement

Subject to this Agreement, a Recipient must not make a public announcement in connection with the Confidential Information provided by a Disclosing Party, or this Agreement or any transaction contemplated by it, unless it is first approved by the Disclosing Party.

12. Intellectual Property Rights

The parties acknowledge that this Agreement does not convey any interest of a proprietary nature, and in particular but without limitation, does not transfer any interest in any intellectual property.

13. Indemnity and Liability

13.1 Indemnity

Each Recipient indemnifies the Disclosing Party and its Authorised Personnel against any loss, damage, expense and legal costs (on a solicitor and own client basis and whether incurred by or awarded against a party) that any of them may incur, directly or indirectly, because of a breach by the Recipient of this Agreement.

13.2 Limitation of liability

Despite any other provision of this Agreement, a Recipient's total liability for loss or damage caused by, or resulting from, or in relation to this Agreement, whether arising from

breach of contract, negligence or any other tort, in equity or otherwise, is limited (to the extent permitted by law) to an amount equal to \$2,000,000.

14. Notices

14.1 Service of notices

A notice, demand, consent, approval or communication under this Agreement (**Notice**) must be:

- (a) in writing, legible and in English directed to the recipient's address for notices specified in the Parties section, as varied by any Notice; and
- (b) hand delivered or sent by prepaid post or facsimile to that address.

14.2 Effective on receipt

A Notice given in accordance with clause 14.1 takes effect when received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, two Business Days after the date of posting (or seven Business Days after the date of posting if posted to or from a location outside Australia);
- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight Business Hours after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the Business Day after that delivery, receipt or transmission.

15. Miscellaneous

15.1 Entire agreement

This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

15.2 Alterations

This Agreement may be altered only in writing signed by each party.

15.3 Approvals and consents

Except where this Agreement expressly states otherwise, Tarong Energy may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this Agreement.

15.4 Assignment

- (a) [REDACTED] may only assign this Agreement or a right under this Agreement with the prior written consent of Tarong Energy.
- (b) Tarong Energy may assign this Agreement or a right under this Agreement to any person on written notice to [REDACTED].

15.5 Costs

Each party must pay its own costs of negotiating, preparing and executing this Agreement.

15.6 Survival

The confidentiality obligations and Intellectual Property Rights provisions under this Agreement are independent and survive termination of this Agreement. Any indemnity and any other term which by its nature is intended to survive termination of this Agreement survive termination of this Agreement.

15.7 Counterparts

This Agreement may be executed in counterparts. All executed counterparts constitute one document.

15.8 No merger

The rights and obligations of the parties under this Agreement do not merge on completion of any transaction contemplated by this Agreement.

15.9 Further action

Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this Agreement and any transaction contemplated by it.

15.10 Severability

A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the terms of this Agreement continue in force.

15.11 Waiver

A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

15.12 Relationship

Except where this Agreement expressly states otherwise, it does not create a relationship of employment, trust, agency or partnership between the parties.

15.13 Governing law and jurisdiction

This Agreement is governed by the law of Queensland, Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland, Australia.

Signing page

EXECUTED as an Agreement.

SIGNED for **Tarong Energy Corporation Limited**, by its duly authorised officer, in the presence of:

Signature of officer

Signature of witness

Name

Name

SIGNED for
ABN by its duly authorised
officer, in the presence of:

Signature of officer

Signature of witness

Name

Name

ANNEXURE 2 – PERSONAL PROTECTIVE EQUIPMENT REQUIREMENTS

Visiting Tarong and Wivenhoe Power Stations

As a visitor to Tarong or Wivenhoe Power Stations, you need to be aware of the mandatory dress requirements in place.

Please make sure you wear the following clothing for your visit:

- Long pants
- A long sleeved shirt (sleeves rolled down)
- Steel capped safety boots (other enclosed footwear is permitted in the administration areas).

High visibility dust coats and vests will be available at the security office and must be worn on site at all times.

It is imperative that you comply with these requirements to ensure your safety and that of others.

Please do not hesitate to contact your host if you have any questions.

Thank you for your cooperation.