

27 October 2010

RIALTO TOWERS 525 COLLINS STREET MELBOURNE
GPO BOX 769G MELBOURNE VIC 3001 AUSTRALIA
DX 204 MELBOURNE www.minterellison.com
TELEPHONE +61 3 8608 2000 FACSIMILE +61 3 8608 1000

Mr David Hatfield and Mr Tim Holland
Adjudication Branch
Australian Competition & Consumer Commission
Level 35, The Tower
360 Elizabeth Street
MELBOURNE VIC 3000

Dear Mr Hatfield and Mr Holland

**Pozzolanic Enterprises Pty Ltd application for authorisation A91245 (Application)
Response to request for further information**

We confirm that we act for Sunstate Cement Ltd (**Sunstate**).

We refer to your letter dated 7 October 2010 in response to the submission lodged by our client in respect of the above Application (**Sunstate Submission**) and your request for further information from our client (**ACCC Request**).

Please find enclosed our client's response to the ACCC Request, comprising a **confidential** response (which contains commercially sensitive information and over which confidentiality is sought) and a non-confidential, redacted version of the response.

Parts of our client's response to the ACCC Request contain information which is commercially sensitive and confidential to our client.

Accordingly, pursuant to section 89(5) of the *Trade Practices Act 1974* (Cth), our client requests that the Commission exercise its power under section 89(5A) to exclude this information from the register kept by the Commission pursuant to section 89(3). Our client requests that the Commission treat that information as strictly confidential.

Information in respect of which restriction of publication is claimed is clearly indicated in square brackets in the non confidential, redacted version of the response, which is enclosed for placing on the public register. Our client requests that the Commission place only this letter and the non-confidential versions of the response on the public register.

Please contact us if you have any queries.

Yours faithfully
MINTER ELLISON

Geoff Carter
Partner

Contact: Geoff Carter Direct phone: +61 3 8608 2090 Direct fax: +61 3 8608 1096
Email: geoff.carter@minterellison.com
Partner responsible: Geoff Carter
Our reference: GRC 30-6647745
Your reference: C2010/709

[Restriction of part of publication claimed]

REDACTED VERSION OF RESPONSE TO REQUEST FOR FURTHER INFORMATION

1. ***Can/does Sunstate acquire fly ash from power stations other than Tarong Power Station? If so, please provide the details of the other power stations and the conditions of supply.***
 - 1.1 As noted in the Sunstate Submission, Sunstate currently has an agreement with Tarong North Power Station, not Tarong Power station, for the supply of flyash.
 - 1.2 Please refer to paragraph 2.2 of the Sunstate Submission which lists potential suppliers of flyash to Sunstate, including Tarong North Power Station and a number of other power stations.
 - 1.3 Over time, Sunstate has sourced flyash from power stations other than Tarong North Power Station. [restriction of publication claimed]
2. ***Sunstate has claimed that the cost of transporting fly ash from sources outside of Queensland makes it uneconomic to do so. Please explain the basis on which this claim is made.***
 - 2.1 The cartage cost involved in transporting fly ash over long distances can, in some circumstances, make it uneconomical to do so.
3. ***What is the current market price for: (i) run of station fly ash, and (ii) fine grade fly ash from Tarong Power Station and Tarong North Power Station?***

[restriction of publication claimed]
4. ***What is the current market price for (i) run of station fly ash and (ii) fine grade fly ash from Pozzolanic?***

[restriction of publication claimed]
5. ***At what price does Sunstate currently sell its (i) run of station fly ash and (ii) fine grade fly ash products? is this likely to change when Pozzolamic increases the price it charges Sunstate?***

[restriction of publication claimed]
6. ***At page 9 of Sunstate's submission, Sunstate notes that relevant collection facilities at Tarong North Power Station are owned by Tarong North and available for use by Sunstate. Please describe the nature of these collection facilities and how they differ from any collection facilities owned by Pozzolanic at Tarong North Power Station.***
 - 6.1 As noted in the Sunstate Submission, there is a general use silo facility at Tarong North Power Station which is owned by the power station and available for use by third parties to facilitate access to fly ash.
 - 6.2 To collect flyash at Tarong Power Station, third parties must utilise the collection facilities owned by Pozzolanic.
7. ***Has Sunstate approached Pozzolanic about using its collection facilities to access fly ash at Tarong Power Station? If so, what was the result? What fee does Pozzolanic charge for use of its collection facilities?***

7.1 No.

8. *Is Sunstate able to access the costs of establishing a collection facility at Tarong and/or Tarong North Power Station? Is it practically feasible to construct and operate more than one collection facility at either of the power stations? If so, please expand on those costs.*

8.1 [restriction of publication claimed]