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Our ref LWC:GDH:1006963



LAWYERS

9 November 2010

By email

David Hatfield  
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Sydney

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Dear David,

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

We refer to the Application for Authorisation made by Pozzolanic Enterprises Pty Ltd (**Pozzolanic**) on 26 July 2010 in relation to the Fly Ash Supply Agreement entered into by Tarong Energy Corporation Limited, Pozzolanic Enterprises Pty Ltd and Tarong North Pty Ltd on 15 July 2010 (**Pozzolanic's Application**).

We also refer to the submissions of Sunstate Cement Pty Ltd (**Sunstate**) and Nucrush Pty Ltd (**Nucrush**) lodged in relation to Pozzolanic's Application on 1 and 6 September 2010 respectively, our letter of 30 September 2010 requesting a three month extension to Pozzolanic's Application and your letters of 6 and 7 October 2010.

In your letter of 6 October 2010, you indicated that as the Commission had not yet issued a draft determination in respect of Pozzolanic's Application it was unable to extend the statutory deadline. In your letter of 7 October 2010, you provided our client until 29 October 2010 to respond to the submissions of Sunstate and Nucrush.

Whilst the evidence of the Commission in respect of the ongoing Federal Court Proceedings, including the evidence given by officers of Sunstate and Nucrush, concluded on 21 October 2010, due to the constraints placed on Pozzolanic over this period it was not in a position to adequately respond to the third party submissions in the time frame provided by the Commission.

Accordingly, Pozzolanic hereby formally withdraws its Application made on 26 July 2010 and advises that the agreement which has been the subject of Pozzolanic's Application is to be terminated shortly. The parties to this agreement currently intend to enter a new agreement on similar terms, at which time Pozzolanic will be making an application for authorisation to the Commission.

Yours faithfully  
Gilbert + Tobin

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