

ASSESSMENT REPORT

Section 75W Modification (DA 205-08-01 MOD 4)
Clyde Waste Transfer Terminal, Auburn
Permanent Waste Acceptance Rate of 500,000 tpa

1. BACKGROUND

Veolia owns and operates the Clyde Waste Transfer Terminal (Clyde Terminal) which is located off Parramatta Road in the Auburn local government area (see Figure 1).



Figure 1: Site Location

The Clyde Terminal was approved by the then Minister for Planning on 29 August 2002.

The decision was subsequently appealed by Auburn Council and two local residents in the Land and Environment Court (LEC). The LEC determined to refuse development consent.

However, given the strategic importance of the Clyde Terminal to the State's overall waste management strategy (i.e. to transfer Sydney's waste for disposal at the Woodlawn Landfill), the Government decided to enact legislation to allow its construction and operation.

As such, the *Clyde Waste Transfer Terminal (Special Provisions) Act 2003* (Clyde Act) was passed and came into force on 8 December 2003. The Clyde Act grants development consent to the proposal, despite the Court's determination.

The Clyde Terminal accepts putrescible waste from the Sydney metropolitan area and transfers it via rail to the Woodlawn Waste Management Facility (WWMF) in the Goulburn Mulwaree local government area. The WWMF was approved by the then Minister for Urban Affairs and Planning in 2000 following a Commission of Inquiry (DA-31-02-99) and includes the Crisps Creek Intermodal Facility (Crisps Creek IMF) and the Woodlawn Landfill.

The Crisps Creek IMF is a dedicated intermodal facility which accepts containerised waste by rail from the Clyde Terminal for transportation to the Woodlawn Landfill by road for landfilling. The Woodlawn Landfill is a major putrescible landfill that principally services the Sydney region and is located within the void of the former Woodlawn Mine.

Up until recently, specific conditions of consent for the Clyde Terminal and WWMF mirrored each other, and were structured such that the allowable annual waste disposal rates ratcheted down progressively so that after the 15th year of operation, only 290,000 tonnes per annum (tpa) would be permitted to be captured at the Clyde Terminal and landfilled at Woodlawn.

These 'caps' were intended to limit the amount of waste landfilled as a means of increasing diversion rates away from landfill and drive investment into Alternative Waste Technologies (AWTs) in NSW. The implementation of these 'caps' pre-dated the *NSW Waste and Environment Levy* which is now the primary mechanism for driving investment in AWTs in NSW.

Under the conditions of consent, the annual waste acceptance rate at the Clyde Terminal should currently be 'capped' at 360,000 tpa. However, Veolia currently have approval to accept additional waste above this rate (see detail below) noting the overall environmental capacity of the facility was assessed at 500,000 tpa. The Clyde Terminal is currently the only transfer station which sends waste to the Woodlawn landfill from Sydney.

Independent Strategic Waste Review

Condition 9 of the Clyde Terminal consent enables the Minister to approve an increase in throughput of up to 500,000 tonnes (at Clyde) should an independent assessment of landfill capacity and demand in the Sydney metropolitan area demonstrate the need for additional waste input.

In 2010, the Department commissioned Mr Tony Wright to undertake an independent strategic review (herein referred to as the Wright Review) of landfill capacity and demand in the Sydney metropolitan area.

The Wright Review concluded that there is significant demand for landfill space in Sydney and not enough AWT facilities available in the short term to deal with the demand. The conclusions of the Wright Review would support a request by Veolia to temporarily and permanently increase waste throughput at Clyde to 500,000 tpa.

On this basis and at the request of Veolia, the 'caps' at Clyde were *temporarily* lifted to 500,000 tpa in 2010, 2011 and 2012 due to shortages in annual landfill capacity across Sydney.

Woodlawn Waste Expansion Project

On 16 March 2012, Veolia was granted approval from the NSW Planning Assessment Commission (PAC) for the Woodlawn Waste Expansion Project (WWEP) which permitted it to:

- increase the volume of waste received at the Woodlawn Landfill from 500,000 tpa to 1.13 million tpa; and

- increase the volume of waste received at the Crisps Creek IMF from 780,000 tonnes per annum to 1.18 million tpa.

A schematic representation of Veolia's approved waste operations, quantities, sources and destinations is illustrated in Figure 2 below.

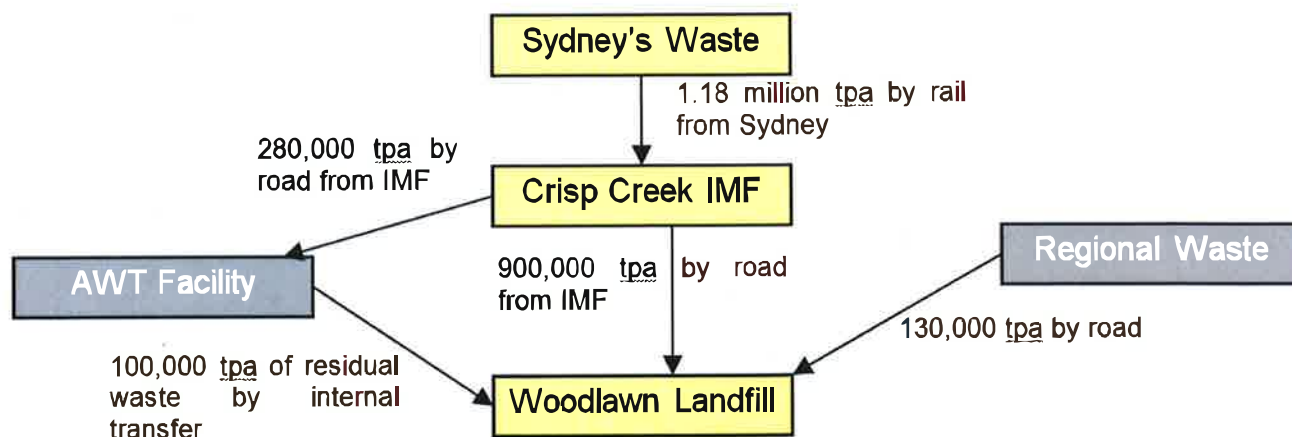


Figure 2: Veolia's Approved Waste Flows

It is important to note that Veolia was also granted approval by the then Minister for Planning in November 2007 for the Woodlawn AWT which although not yet constructed, has been designed to receive up to 280,000 tpa of waste for from Sydney for recovery and processing (see Figure 2).

In its determination of the WWEP, the PAC accepted the Department's assessment that relying on a tonnage 'cap' through the planning process was not the most appropriate mechanism to regulate waste avoidance and resource recovery. Applying a one-off cap does not influence waste demand and cannot be applied consistently or equitably across the industry. Rather, the *NSW Waste and Environment Levy* is a more effective and equitable mechanism which aims to reduce the amount of waste being disposed of and promotes recycling and resource recovery by putting a price on waste disposal.

Subsequently, the PAC approved the increase in the waste input at Woodlawn Landfill. The approval did not include an increase in the volume of waste that could be received at the Clyde Terminal as it was not part of the application and is regulated by a separate approval.

On 3 December 2013, following a request made by Veolia in accordance with Condition 9, the then Minister for Planning and Infrastructure again granted approval for Veolia to accept up to 500,000 tpa of waste at the Clyde Terminal. In this instance, approval was granted for a period of up to 2 years until 31 December 2015.

In making this decision, the Minister noted that the 360,000 tonne throughput limit imposed upon the Clyde Terminal was directly related to the 'cap' restrictions that previously existed at the Woodlawn Landfill, but which have now been lifted as part of the PAC's approval of the Woodlawn Waste Expansion Project (MP 10_0012). The Minister also acknowledged that the Clyde Terminal has an approved environmental capacity of 500,000 tpa of waste and considered that should Veolia wish to permanently operate at this level at the Clyde Terminal, Veolia would need to make a formal modification application to the consent.

2. PROPOSED MODIFICATION

On 20 January 2014, Veolia lodged a modification application with the Department under Section 75W of the *Environmental Planning and Assessment Act 1979* to permanently increase the waste acceptance rate at the Clyde Terminal to 500,000 tpa.

Veolia is also seeking a minor change to Condition 8 of the consent to clarify the relevant rail transport facility at the Woodlawn end, and add that waste received at the Crisps Creek IMF can also be sent to the Woodlawn AWT for treatment consistent with the approved project (MP 06_0039, see Figure 2 and Table 1).

A summary of the proposed changes to the conditions of consent is provided in Table 1 below.

Table 1: Summary of proposed changes to conditions of consent

Condition	Proposed Change	Comment
8	No waste shall be received at the development except waste to be transported by rail from the Clyde Marshalling Yards to the Crisps Creek Intermodal Facility for disposal or treatment at the Woodlawn Bioreactor.	At the time the Clyde Terminal was approved in 2002, the Woodlawn Landfill was the only approved waste facility at Woodlawn. In 2007, the then Minister approved the Woodlawn AWT (MP 06_0039) to <u>treat</u> a portion of Sydney's waste accepted at the Crisps Creek Intermodal Facility. The proposed changes would clarify the relevant rail transport facility at the Woodlawn end, and add that waste received at the Crisps Creek Intermodal Facility can also be sent to the Woodlawn AWT for treatment consistent with the approved project (MP 06_0039).
9	This condition stipulates that should an independent assessment of landfill capacity and demand demonstrate the need for additional input, the Minister may approve additional waste input at the Clyde Terminal up to 500,000 tpa. This condition also imposes caps on the amount of waste that could be processed at the facility with decreasing tonnages so that after the 15th year of operation only 290,000 tpa can be processed. <u>It is proposed to delete the entire condition.</u>	Given the scope of proposed modification, this condition would no longer be needed.
10	The Applicant shall ensure that In any event, no more than 500,000 tonnes of waste per annum shall be accepted is received at the development in any one calendar year.	This condition would set the modified annual waste acceptance limits for the facility.

3. STATUTORY CONTEXT

The *Clyde Waste Transfer Terminal (Special Provisions) Act 2003* permits the modification of the development consent pursuant to the relevant provisions of the *Environmental Planning and Assessment Act 1979*.

Under Clause 8J(8) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Reg), the Minister's consent is taken to be an approval under Part 3A of the EP&A Act and can be modified by the Minister under Section 75W of the EP&A Act, despite the repeal of Part 3A.

The Department's Legal Services Branch has reviewed the modification application and confirmed that the consent may be modified under Section 75W of the EP&A Act, relying on Clause 8J(8) of the EP&A Reg.

Under Section 75W of the EP&A Act, the Minister is obliged to be satisfied that what is proposed is indeed a modification of the original proposal, rather than being a new project in its own right.

The Department notes that:

- the primary function and purpose of the approved project would not change as a result of the proposed modification;
- the modification is of a scale that warrants the use of Section 75W of the EP&A Act;
- the approved environmental envelope and capacity of the project would remain unchanged as a result of the proposed modification; and

- the modification would result in no environmental impacts beyond the approved facility.

Therefore, it is considered that the proposed modification is within the scope of Section 75W of the EP&A Act. Consequently, the Department considers that the application should be assessed and determined under Section 75W of the EP&A Act rather than requiring a new development or project application to be lodged.

Approval Authority

The Minister was the approval authority for the original project, and is consequently the approval authority for this application.

However, as reportable political donations were made by Veolia in respect of the modification application, the application will be determined by the Planning Assessment Commission in accordance with the Minister's Instrument of Delegation, dated 14 September 2011.

4. CONSULTATION

Under Section 75W of the EP&A Act, the Department is not required to notify or exhibit the application. Upon receipt, the application was placed on the Department's website and following a review of the application, the Department did not believe formal public notification of the application was necessary. Notwithstanding, the Department sought comments from Auburn City Council (Council) and the Environment Protection Authority (EPA).

The **EPA** made no objection to the proposed modification. The EPA noted that the original EIS for the approved development assumed an annual waste annual throughput of 500,000 tpa as per the proposed modification. The EPA also noted that the Department may wish to consider conditioning a requirement for Veolia to validate odour and noise emissions after the proposed throughput rate has been established.

Council made no objection to the proposed modification. Council requested that the Department carefully consider the potential impacts of:

- any additional noise or odours on residents at Manchester Road, Auburn; and
- any additional truck movements on the local traffic network.

5. ASSESSMENT

The annual waste acceptance rate at the Clyde Terminal would be 'capped' at 360,000 tpa. However, Veolia currently have approval to accept additional (emergency) waste capacity up to 500,000 tpa at the facility for a period of 2 years until 31 December 2015.

It is noted that the overall environmental capacity of the facility was originally assessed at 500,000 tpa.

In its determination of the WWEP (MP 10_0012), the PAC accepted the Department's position that relying on waste tonnage caps is no longer appropriate (see Section 1 of this report).

Since it began operation, Veolia has implemented appropriate odour, traffic and noise controls at the Clyde Terminal resulting in generally good environmental performance. It is noted that Veolia has reported receiving no community complaints in relation to the operation of the facility for the last two (2) Annual Environmental Management Report (AEMR) reporting periods.

Further, the Clyde Terminal has operated at its environmental capacity of 500,000 tpa over the past 5 years without environmental incident and was originally assessed based on a maximum waste acceptance rate of 500,000 tpa.

The proposed modification does not seek to increase the environmental envelope or capacity of the approved facility and as such, would result in no additional environmental impacts beyond those already assessed.

The Department is also satisfied that the proposed modification is justified and is supported by an independent assessment of landfill capacity and demand in the Sydney metropolitan area (i.e. the Wright Review).

Given the above, the Department is satisfied that the proposed modification is appropriate and should be supported.

Council requested that the Department carefully consider the potential impacts of any additional noise and odour impacts on nearby residents at Manchester Road in Auburn. Council also requested that the Department carefully consider the potential impacts of any additional truck movements on the local traffic network.

Given the facility was originally assessed based on a maximum waste acceptance rate of 500,000 tpa and has operated at this level for at least the past 5 years without environment incident, the Department is satisfied that no additional noise, odour or traffic impacts would be generated beyond the approved facility.

The EPA made no objection to the proposed modification and acknowledged that the original EIS for the approved development assumed an annual waste throughput of 500,000 tpa as per the proposed modification. The EPA noted that the Department may wish to consider conditioning a requirement to validate odour and noise emissions after the proposed throughput rate has been established.

However, in accordance with the existing approved Odour Management Plan for the facility, Veolia undertakes regular 6 monthly odour audits of the facility. Further, under the existing conditions of consent, Veolia is also required to submit combined AEMRs and annual Independent Environmental Audits identifying all non-compliances against existing limits (e.g. for odour, noise etc) and complaints received and remedial actions to address any issues.

The Department therefore considers that these existing auditing requirements would be appropriate for validating odour and noise from the modified facility, once the proposed throughput rate has been established. As a final contingency, in the unlikely event that the facility is found to be exceeding its odour or noise limits, the Department is satisfied that existing auditing conditions would enable additional mitigation measures to be explored and implemented to rectify these impacts.

6. CONCLUSION

The Department has assessed the proposed modification in accordance with the requirements of Clause 8B of the Regulations. This assessment has found that the proposed modification:

- would result in no environmental impacts beyond the approved facility; and
- would alleviate some of Sydney's landfill disposal capacity shortfall.

Consequently, the Department is satisfied that the modification should be approved.

7. RECOMMENDATION

Under delegation, it is RECOMMENDED that the Planning Assessment Commission:

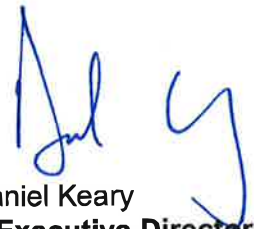
- **determine** that the proposed modification is within the scope of Section 75W of the EP&A Act;
- **approve** the application subject to conditions; and
- **sign** the attached notice of modification (see Tag 'A').

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1/5/14

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7/5/14

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