



Orange Waste Project Modification 2

*Former Section 75W
Modification Assessment
(MP 09_0025MOD 2)*



December 2018

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Ophir Road Resource Recovery Centre (Source: Central Western Daily)

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Glossary

Abbreviation	Definition
AFB	American Foulbrood Disease
AHD	Australian Height Datum
ARMP	Apiary Risk Management Plan
CIV	Capital Investment Value
CMP	Conservation Management Plan
Council	Cabonne Council
Department	Department of Planning and Environment
DPI	Department of Primary Industries
EA	Environmental Assessment
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
EPL	Environment Protection Licence
ERRRC	Euchareena Road Resource Recovery Centre
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
LEP	Local Environmental Plan
Minister	Minister for Planning
OEH	Office of Environment and Heritage
ORRRC	Ophir Road Resource Recovery Centre
Proponent	Orange City Council
RMS	Roads and Maritime Services
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development



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1. Introduction

This report assesses a modification request by Orange City Council (the Proponent) to modify the project approval conditions and the Statement of Commitments of the Orange Waste Project at the Ophir Road Resource Recovery Centre (ORRRC) and the Euchareena Road Resource Recovery Centre (ERRRC) to eliminate inconsistencies between the approved management plans and commitments of the project approval. The request has been previously lodged pursuant to former section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The project was originally approved under Part 3A of the EP&A Act. The project is a transitional Part 3A project under Schedule 2 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (EP&A (STOP) Regulation). The power to modify transitional Part 3A projects under section 75W of the Act as in force immediately before its repeal on 1 October 2011 is being wound up – but as the request for this modification was made before the ‘cut-off date’ of 1 March 2018, the provisions of Schedule 2 (clause 3) continue to apply. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the modification of the project under section 75W of the EP&A Act.



Figure 1 | Regional Location

1.1 Background

The Proponent operates at two sites being the Ophir Road Resource Recovery Centre (ORRRC) at Lot 112 DP 1170567 Ophir Road, Orange in the Orange City Council local government area (LGA) (see **Figure 2**) and the Euchareena Road Resource Recovery Centre (ERRRC) at Lot 101 & 102 DP 183238 Euchareena Road, Molong in the Cabonne Council LGA (see **Figure 3**).

The ERRRC site is located approximately 4.5 kilometres (km) north-east of Molong and 37 km north-west of Orange. The nearest residences to the ERRRC operations are the properties “The Shades” which is located approximately 800 metres (m) to the east and “Hylands” 1,430 m to the South. The ORRRC is located approximately 5 km north-east of the Orange Central Business District with the nearest residence to the ORRRC operations is located approximately 400 m to the south of the site (see **Figure 3**).



Figure 2 | Ophir Road Resource Recovery Centre Location

Resource recovery operations are undertaken at the Ophir Road site with the residual waste of the recycling process disposed of at the ERRRC site as landfill after being baled and wrapped in plastic. Additional food and garden waste collected separately is also processed at the ERRRC site to be used as compost.

A condition imposed on the project approval required the Proponent to produce and implement an Apiculture Risk Management Plan (ARMP), Conservation Management Plan (CMP) and Transport Code of Conduct to the satisfaction of the Director-General. Subsequent to the inaugural independent environmental audit of the project being undertaken in 2014 and the Proponent’s review of the approved management plans, the findings and conclusions drawn from the approved plans of management and licenses were identified as presenting discrepancies with the project conditions and Statement of Commitments. Consequently, on 28 February 2018, the Proponent lodged a modification application with the Department under section 75W of the EP&A Act to amend and remove project conditions and Statement of Commitments which conflict with the detailed environmental management plans.



Figure 3 | Euchareena Road Resource Recovery Centre Location

1.2 Approval History

In April 2005, the Proponent sought approval from the then Minister for Planning for a new waste facility at Euchareena Road (DA 95-4-2005) including the following works:

- landfill with a capacity of 1.5 million metres cubed (m³)
- a resource processing facility
- associated infrastructure, including soil stockpiles, leachate ponds and visual bunds.

The proposal was approved by the then Minister for Planning in January 2007 subject to conditions. A special interest group 'The Hub Action Group' subsequently appealed the Minister's decision to the Land and Environment Court pursuant to the former section 98 (now s8.8) of the EP&A Act.

In March 2008, the Chief Judge Brian Preston upheld the appeal and refused the development application.

The Proponent commissioned a detailed review of the waste strategy and site suitability for the landfill as per the findings of the court case. The Proponent subsequently lodged a project application for the Orange Waste Project (MP_0025) on 13 February 2009 under Part 3A of the EP&A Act.

On 28 April 2010, following a review by the Planning Assessment Commission, the then Minister for Planning granted approval for the development of the Orange Waste Project (MP 09_0025). The approval permitted the following works:

- an expansion of the existing ORRRC in Orange; and
- the construction and operation of the ERRRC including composting and landfilling operations in Molong.

The project approval has been modified on one occasion. On 7 August 2012, the then Executive Director as delegate of the Minister for Planning and Infrastructure approved a section 75W modification (MP 09_0025 MOD 1) for:

- modification of the design of the buildings and infrastructure at both the ERRRC and the ORRRC sites
- modification of the site layout at both the ERRRC and the ORRRC sites
- relocate the approved education building from the ERRRC to the ORRRC site
- modification of the internal road layout at both sites.

The following environmental management plans required by the conditions of the project approval have been approved by the Department in consultation with the Department of Primary Industries (DPI) and the Road and Maritime Service (RMS):

- Apiary Risk Management Plan (ARMP), approved 28 September 2011
- Transport Code of Conduct (TCOC), approved 28 May 2013
- Conservation Management Plan (CMP), approved 1 May 2013

The ORRRC and ERRRC facilities of the Orange Waste Project commenced operations on 5 August 2013.



2. Modification Request

The Proponent has lodged a modification request under former section 75W of the EP&A Act to modify the Orange Waste project. The modification request is described in full in the Environmental Assessment (EA) included in **Appendix B**.

The modification request is in relation to the project approval conditions and Statement of Commitments with no physical or constructions works proposed or alterations to site layout. The intent of the modification request is to rectify inconsistencies established between the approved environmental management plans of the project and the project conditions/ Statement of Commitments. The modification request is described in **Table 1**.

Table 1 | Modification Summary

Project Condition/ Commitment Number	Condition/ Commitment	Modification Request
Schedule 5, Condition 7(f)	Unless the Director-General agrees otherwise, the Proponent shall: (f) cover the active landfill area with at least 0.15 metres of soil (or a suitable alternative material) at the end of daily waste disposal and compaction activities.	• Reword condition to cover active landfill area in accordance with the EPL.
Schedule 5, Condition 8(a)	Unless the Director-General agrees otherwise, the Proponent shall ensure that the: (a) biosolids and food and organic waste received on site is either loaded directly into the composting tunnels upon arrival, or covered at all times until it is loaded into the tunnels.	• Delete Schedule 5, Condition 8(a).
Schedule 5, Conditions 17(e)	The Proponent shall prepare and implement an Apiculture Risk Management Plan for the project to the satisfaction of the Director-General. This plan must: (e) include a program to monitor: • the effectiveness of these management measures; • the leachate from the landfill and composting operations on site for AFB spores and any other commonly occurring chemicals that may be harmful to bees; and • the infection of hives in the surrounding area that could have been caused by the project.	• Delete Schedule 5, Condition 17(e).
Appendix 1 – Flora & Fauna	• Diverse native flowering flora would be planted in other regions to increase the biodiversity and availability of nectar for foraging bees.	• Delete Commitment from Appendix 1.
Appendix 1 – Apiary Industry	• No apiary-related equipment or pesticide/chemical containers would be accepted at the Euchareena Road RRC or the Ophir Road RRC. • Council officers supervising the delivery of wastes to the respective transfer stations would be trained to recognise apiary equipment and pesticide/chemical containers. • The Proponent would work closely with the Department of Primary Industries (Agriculture) to inform all registered apiarists in the Orange City regional areas regarding the appropriate manner in which to dispose of apiary equipment and pesticide/chemical containers.	• Delete the terms 'pesticide' and 'chemicals containers' from the Commitments in Appendix 1.

Appendix 1 – Air Quality & Odour

Appendix 1 – Traffic & Transport

- The Proponent would continue to further promote recycling through education programs facilitated through NetWaste in order to continue to maximise the diversion of glass and plastic honey containers from the waste stream.
- All operators responsible for the receipt, compaction and covering of waste delivered to the Euchareena Road Site would be fully trained firstly to recognise any apiary equipment and pesticide/chemical containers and secondly to identify the presence of any bees on site. Similar training would also be provided for operational staff within each of the transfer stations operated by Orange City and where participating, the regional councils.
- Detailed operational procedures would be prepared and implemented at the Euchareena Road Site and transfer stations in the event that any apiary equipment or pesticide/chemical containers are delivered to the receival areas at either the Euchareena Road Site or transfer stations.
- Delivery of bales would be between 9 am and 5 pm (excluding school bus times) and wrapped bales will be placed in the landfill and covered. Wrapping would not occur when bees are not active, however bales would be secured with straps all year round.
- Bee-friendly native vegetation would be planted and maintained around the Euchareena Road Site within the various perimeter tree screens to provide a more appropriate alternative nectar source away from the landfilling operation. The species of trees and shrubs would be selected in consultation with the Department of Primary Industries (Agriculture) and local apiarists.
- A variety of flowering plants would also be planted to increase food source diversity.
- The Proponent would make arrangement for independent testing of nearby hives in the ownership of local apiarists. Failing that, the Proponent would establish a control, by placing hives at 500 m from the landfill and test for propolis and AFB during periods that the local hives are active.
- The Proponent would implement the following mitigation measures for both sites:
 - The active landfill area would be covered following the completion of waste placement at the end of each day with approximately 150 mm of daily cover material or a landfill tarpaulin.
- The Proponent would implement the following mitigation measures:
 - Trucks transferring baled waste or bulky / non-baleable waste from Ophir Road RRC to the Euchareena Road RRC would be scheduled to avoid the school bus pickup and drop-off times on Euchareena Road. That is, they would be scheduled so that they would arrive in Molong no earlier than 9 am and no later than 2.30 pm or after 4.30 pm, if necessary. There would be no deliveries of waste to the Euchareena Road RRC on weekends, except in emergencies.
- Delete Commitments from Appendix 1.
- Delete Commitment from Appendix 1.
- Reword commitment to remove reference of transfer delivery times in accordance with the Transport Code of Conduct.



3. Strategic Context

3.1 Waste Avoidance and Resource Recovery Strategy

Reducing waste and keeping materials circulating within the economy are priorities for the NSW Government. To meet this important challenge, the Government has prepared a state-wide Waste Avoidance and Resource Recovery Strategy. The strategy for 2014-2021 sets a waste recovery targets for commercial and industrial waste (C&I) and municipal solid waste (MSW). The targets are as follows:

By 2021-2022, increase:

- recycling rates for MSW to 70%
- recycling rates for C&I to 70%
- waste diverted from landfill to 75%

The modification request is not considered to compromise the recovery performance of the existing ERRRC and ORRRC sites of the Orange Waste Project to help achieve the targets of the Government's Waste Avoidance and Resource Recovery Strategy.



4. Statutory Context

4.1 Section 75W

Under Schedule 2 of the *EP&A (STOP) Regulation*, the power to modify transitional Part 3A projects under former section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 is being wound up – but as the request for this modification was made before the ‘cut-off date’ of 1 March 2018, the provisions of Schedule 2 (clause 3) continue to apply.

The Department notes that:

- the primary function and purpose of the approved project would not change as a result of the modification request
- the modification is of a scale that warrants the use of former section 75W of the EP&A Act
- the approved production rates of recycling and landfill would remain unchanged as a result of the modification request
- any potential environmental impacts would be appropriately managed through the existing or modified conditions of approval.

Therefore, the Department is satisfied the modification request is within the scope of former section 75W of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the request should be assessed and determined under former section 75W of the EP&A Act rather than requiring a new development application to be lodged.

4.2 Consent Authority

The Minister for Planning is the approval authority for the request. Under the Minister’s delegation of 11 October 2017, the Director, Industry Assessments, may determine the request under delegation as:

- the relevant local council has not made an objection and
- a political disclosure statement has not been made and
- there are no public submissions in the nature of objections



5. Engagement

5.1 Department's Engagement

Under former section 75W of the EP&A Act, the Department is not required to notify or exhibit the modification request. Upon receipt, the request was placed on the Department's website and following a review of the documentation, the Department did not consider that further consultation via exhibition was necessary. Notwithstanding, the Department notified the relevant government authorities including Cabonne Council (Council), the Environment Protection Authority (EPA), Roads and Maritime Services (RMS), Department of Industries (DPI) and the NSW Office of Water.

5.2 Summary of Submissions

During the notification period, a total of seven (7) submissions were received, including six (6) from public authorities and one (1) from a community group. Of the submissions received, none objected to the request, however two (2) raised concerns to be addressed by the proponent. Concerns raised in the submissions included:

Council did not object to the modification request however it raised concerns to be addressed by the Proponent as follows:

- the commitment for native flora to be planted should be retained
- the requested variation to the Transport Code of Conduct is considered to increase the hours of operation and subsequent traffic and noise impacts.

EPA raised no concerns with the modification request and did not consider a variation to the sites environment protection licence (EPL) would be necessary.

OEH did not object to, or raise concerns with the modification request and noted that the modification request will not reduce the biodiversity related compensatory measures implemented under the project approval.

RMS did not object to, or raise concerns with the modification request and noted that the correct school bus drop off/pick up times along Euchareena Road have been provided.

DPI did not object to the modification request however it provided comment that some Statement of Commitments relating to apiculture should be retained. The comments provided by the DPI are as follows:

- commitments relating to alternate bee food sources are to be retained as it deals with any risks to local apiculture and the concerns raised in the original assessment
- the commitment for hive testing is to be retained as it is fundamental to monitoring any risks of disease
- risk management monitoring and reporting processes are to be retained to ensure any potential risks can be identified and mitigated.

Hub Action Group did not object to the modification request however it raised concerns to be addressed by the Proponent as follows:

- the proposal allows for the licence conditions of the project Approval to be 'watered down' with no input from the community or suitable agribusiness experts;
- traffic noise generated at 7:00am will have a negative impact on adjacent properties;
- weekend traffic movement would pose risks to weekend cyclists;
- and community concern regarding the Proponents failure to comply with conditions of approval.

5.3 Response to Submissions

The Proponent provided a Response to Submissions (RTS) on the 11 July 2018 addressing the issues and concerns raised in the submissions (see **Appendix D**). The Proponent reinforced that the project is to comply with the conditions of the project approval and that the intention of the modification request is to eliminate discrepancies between the approved management plans imposed by conditions of the project approval and the Statement of Commitments. In particular, the Proponent noted that there would be no increase in traffic movements however, the frequency of vehicle movements to the ERRRC site would be spread across a longer time frame. The Proponent elaborated that Condition 3 of Schedule 3 of the project approval states that the conditions of the approval shall prevail to the extent of any inconsistencies.

Furthermore, the RTS elaborated that the ARMP did not require native vegetation to be implemented as an alternative food source for bees or the requirement for hive testing to be conducted on bee keeping operations within 5 km of the ERRRC site. Additionally, the Orange Waste Project cooperates with an Apiculture Committee consisting of two local apiary representatives and expert apiary representatives from the DPI to advise the Proponent of apiary matters including biosecurity threats and changes to biosecurity legislation. The Proponent advised that the Apiculture Committee which was formed pursuant to Condition 17(f) of Schedule 5 was consulted with during the preparation of the ARMP.

The RTS was subsequently forwarded to Council, DPI and the Hub Action Group for review and comment. **Council** and the **Hub Action Group** were satisfied with the Proponent's response regarding concerns raised about potential traffic and noise impacts however, remained concerned with the deletion of apiary risk commitments in favour of the approved management plans. **DPI** reinforced that the commitments for hive monitoring and testing should remain as part of the Statement of Commitments for the project approval.

On 20 August 2018, the Proponent provided a second RTS addressing the additional comments raised by Council, DPI and the Hub Action Group. The Proponent reiterated the recommendations provided in the ARMP which did not require the provision of native vegetation planting as an alternative food source for bees and bee hive monitoring and testing.

After internal discussion were undertaken between two sections of DPI (DPI Biosecurity and Food Safety and DPI Agriculture), the authority subsequently withdrew their previous submission and concerns regarding independent hive monitoring and testing and the provision of alternative food sources for bees.



6. Assessment

The Department has assessed the merits of the modification request. During this assessment, the Department has considered the:

- EA and assessment report for the original application
- existing conditions of approval (as modified)
- the EA supporting the modification request (**Appendix B**)
- submissions from State government authorities and Council (**Appendix C**)
- the Proponent's response to issues raised in submissions
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department considers the key assessment issues are:

- Apiculture Impact
- Traffic Impact

The Department's assessment of other issues is provided in **Table 2**.

6.1 Apiculture Impact

The modification request has the potential to reduce the environmental management of risks to apiculture within the locality of the ERRRC. The modification request includes the deletion of Schedule 5, Condition 17(e) of the project approval and nine (9) commitments listed in the Statement of Commitments in Appendix 1 of the project approval regarding the apiary industry. The deletion of the condition and apiary industry commitments could compromise the projects mitigation and management of potential impacts upon apiculture and the apiary industry.

The Proponent outlines in the submitted EA that the proposed deletion of Schedule 5, Condition 17(e) and apiary commitments from the Statement of Commitments is to remove discrepancies between the approved ARMP required by Schedule 5, Condition 17 of the project approval. The ARMP was approved by the Department in 2011 and found that the project posed a negligible risk to apiculture and that there was insubstantial evidence to determine that the project would cause an adverse impact on the biosecurity of apiculture. Therefore, the Proponent argues within the EA that the Statement of Commitments and Schedule 5, Condition 17(e) should be deleted to eliminate discrepancies between the approved ARMP implemented by the Proponent and the project approval.

Schedule 5, Condition 17(e) of the project approval requires the Proponent to include a program in the ARMP that monitors the effectiveness of management measures, the leachate from the landfill for AFB spores and chemicals that may be harmful to bees, and the infection of hives in the surrounding area that could be caused by the project. The ARMP included as an appendix, a review of the project commitments and a risk assessment of AFB transmission at the ERRRC site which was conducted by apiary expert Dr Mark Goodwin (Appendix 1 of the ARMP). The review informed the ARMP that the monitoring program of Schedule 5, Condition 17(e) was not required due to Schedule 5, Condition 6 of the project approval which specifies the requirements of leachate management, as it would prevent bees access to any leachate on the ERRRC site. Furthermore, the EA iterates

the ARMP found that there is no substantial evidence to determine the source of an infected hive and unreasonable to assume that the infection was because of the ERRRC site.

The EA similarly argues against the commitment in the project approval for the Proponent to arrange for independent testing of nearby hives or alternatively placing hives 500 m from the landfill to test for AFB. The projects requirement to comply with Schedule 5, Condition 3 and Condition 6 of the project approval would prevent bees access to waste that is contaminated by AFB. In addition, the EA refers to the expert apiary advice provided in Appendix 1 of the approved ARMP which stipulates that AFB is commonly spread through infected bee colonies dying off from infection and contaminating the residual honey of the colony. The contaminated honey is then salvaged by foraging bees of other hives, subsequently spreading the infection of AFB. Therefore, it is unreasonable to assume that the spread of AFB and Propolis is resulting from the ERRRC site.

The EA further argues that all waste, including pesticide and chemical containers, are baled and wrapped in plastic in accordance with Schedule 5, Condition 3 of the project approval. Therefore, pesticides and chemical containers would not be exposed to bees and therefore pose a negligible risk to apiculture biosecurity. This is further supported in the ARMP which notes that pesticides and chemical containers would pose no risk to bees if the ERRRC operated in accordance with the project approval.

The EA notes that Appendix 1 of ARMP identified the provision of planting native vegetation as an alternative food source would only be effective if the food source was more attractive to foraging bees than other neighbouring food sources. Furthermore, Appendix 1 of the ARMP elaborated that the bees will forage relatively close to the hive, bees would only travel to the planted trees if food sources within proximity to the hive were depleted. The provision of tree planting could therefore potentially increase the probability of bees travelling to the ERRRC site to forage which is undesirable.

Submissions made by Council and the Hub Action Group raised concerns that the deletion of commitments to the apiary industry increased the potential for environmental impacts to occur upon the surrounding apiary industry within the locality via reducing the powers of the project approval and deferring conditions upon plans of management and the EPL. In particular, submissions argued that the commitments relating to the planting of additional bee food sources and independent hive testing and reporting should be retained to mitigate potential risks to apiculture effectively.

The Proponent subsequently provided a response to the concerns raised in the submissions on 6 June 2018. The Proponent reinforced that the intent of the modification is to remove inconsistencies between the Statement of Commitments and the conditions of the approval in accordance with Schedule 3, Conditions 2 and 3. The Proponent additionally reiterated that Schedule 5, Condition 3 of the project approval requiring all general solid waste and mixed residual waste to be baled and wrapped in plastic will be complied with to mitigate potential impacts on apiary activity. This was agreed to in Dr Mark Goodwin's review of the project commitments and AFB risk assessment.

The Proponent also noted that the Orange Waste project cooperates with an Apiculture Committee consisting of two local apiary representatives and expert apiary representatives from the DPI to advise the Proponent of apiary matters including biosecurity threats and changes to biosecurity legislation.

The Proponent reiterated that the planting of native flowering trees was not required by the approved ARMP however, the Proponent noted that the project will provide the planting of native vegetation on the boundary of the ERRRC site to comply with the requirements of the approved CMP. The Proponent further argues that the removal of the requirement for the planting of native flowering trees would have a negligible impact on apiary activity as there are no apiarists registered within a 5 km radius of the ERRRC based on the advice obtained from

consultation with Dr Chris Anderson, Manager Plant Biosecurity Prevention & Preparedness at NSW DPI (see **Figure 4**).

The Hub Action Group provided additional comment in response to the Proponent's statement that there is no registered apiarist within a 5 km radius of the ERRRC site. The Hub Action Group identified two (2) separate registered apiarists with bee hives located within 5 km of the ERRRC including photographic evidence of the presence of bee hives (see **Figures 5 & 6**).



Figure 4 | Registered beekeepers in proximity to ERRRC site (Source: Proponent RTS)



Figure 5 & 6 | Beehives identified within 5 km of the ERRRC site (Left: Copper Hill, Right: Belgravia Road Molong, Source: Christine McIntosh)

The Proponent reiterated that their knowledge of the location of registered apiarists was based on the information provided by Dr Chris Anderson of the DPI and that the undertaking of apiary activity within the 5 km radius of the ERRRC is an admission of the apiarists of no perceived biosecurity threat generated from the operations of the ERRRC site. The Proponent additionally reiterated that the ARMP was produced and subsequently approved by the Department in consultation with the DPI and with consideration of registered apiarists adjoining to the ERRRC site.

The requirement of a monitoring program within the ARMP pursuant to Schedule 5, Condition 17(e) is considered in the Department's assessment to be inconsistent with the approved ARMP. The project approval is considered to consist of sufficient conditions to effectively mitigate and manage risks to apiculture. As previously mentioned, the projects compliance with Schedule 5, Condition 3 and 6 would prevent waste contaminated by pesticides and AFB spores from being exposed to foraging bees and therefore not require monitoring.

The ARMP did not require the monitoring and testing of bee hives for infection as apiary expertise advised it would not determine that the spread of infection was derived from the operations of the ERRRC site. The DPI further supported the deletion of Condition 17(e) of Schedule 5 from the project as it provides no value in apiary risk management of the ERRRC site. The Department has considered the ARMP and the advice of the DPI in its assessment and supports the deletion of Schedule 5, Condition 17(e) as it is onerous on the Proponent to assume that the ERRRC site is the direct cause of any potential hive infections.

The Department has taken into consideration the EA, approved ARMP and the submissions in its assessment of the deletion of the Proponent's commitment for native planting as an alternative bee food source. The ARMP established the planting of vegetation was not a necessary commitment for the project approval as the benefits of the mitigation measure were uncertain and could counter the intent of managing risks to apiculture. The DPI supported the deletion of the commitment and advised the Department that the alternative food source would not detract bees from foraging at the ERRRC site as bees will be attracted to exposed sources of honey instead. As the project approval does not permit the ERRRC to accept any waste containing honey or apiary equipment in conjunction with the wrapping and baling of waste, the Department considers that appropriate safe guards are in place and that the commitment is unnecessary and supports the deletion of the commitment from the project approval.

The Department considers the deletion of terms 'pesticide' and 'chemical containers' from the Statement of Commitments is acceptable as the approved leachate management system and the baling and wrapping of waste in accordance with the project approval would prevent bees access to any contaminated waste. In addition, the deletion of the commitment pertaining to the wrapping and baling of waste between specified timeframes is considered to contradict Schedule 5, Condition 3 of the project approval and therefore is supported.

The Department has considered the concerns raised in submissions that the modification request would compromise the legitimacy of the conditions of the project approval. Schedule 3, Condition 3 of the project approval stipulates that if there are any inconsistency between the Statement of Commitments and the conditions of the project approval, the conditions of the project approval shall prevail to the extent of the inconsistency. As the ARMP is required by Schedule 5, Condition 17 of the project approval, the conditions of the project approval should prevail over the Statement of Commitments in accordance with Schedule 3, Condition 3 of the project approval.

The Department's assessment concludes that deletion of Schedule 5, Condition 17(e) and the Statement of Commitments relating to apiculture risk are appropriate in eliminating inconsistencies with the approved ARMP imposed by Schedule 5, Condition 17 of the project approval.

Therefore, Schedule 5, Condition 17(e) is to be deleted from the project approval in addition with the commitments for vegetation planting as alternative food sources for bees and the commitment for hive testing of local apiarists. The terms 'pesticide' and 'chemical containers' are to be deleted from the Statement of Commitments of the project approval. The commitment regarding the baling and wrapping of waste and delivery times of bales is also to be deleted from the Statement of Commitments of the project approval.

6.2 Traffic Impact

The modification request has the potential to increase traffic impacts along Euchareena Road between the ORRRC and ERRRC sites. The modification request seeks to delete a project commitment from Appendix 1 of the project approval pertinent to vehicle delivery movements between the ORRRC and ERRRC sites which poses inconsistencies with Schedule 6, Conditions 10 & 11 of the project approval. The commitment effectively restricts the movements of delivery trucks along Euchareena Road during the same time as school bus movements.

The deletion of the commitment may have an impact on the mitigation of potential traffic impacts on the direct locality of the ERRRC and prevent the project from satisfying conditions 10 & 11 of Schedule 6 of the project approval. Schedule 6, Condition 10(b) states that '*no heavy vehicles associated with the project use Euchareena Road during the regular school bus operations on that road*'. Schedule 6, Condition 11(b) states that '*the Proponent shall prepare and implement a Transport Code of Conduct for the project to the satisfaction of the Director-General. This protocol must: describe the measures to be implemented to: ensure no heavy vehicles associated with the Project use Euchareena Rd during regular school bus operations along Euchareena Rd*'.

The Proponent has consulted with Cabonne Bus Lines to define school bus times along Euchareena Road for the preparation of a Transport Code of Conduct in accordance with Schedule 6, Condition 11 of the project approval. Cabonne Bus Lines identified that school buses travelled along Euchareena Road at the following times Monday - Friday:

- 7:00 am – 7:15 am;
- 8:28 am – 8:37 am;
- 3:28 pm – 3:40 pm; and
- 4:40 pm – 5:00 pm.

The Proponent notes in the Environmental Assessment (EA) that the school bus times defined by Cabonne Bus Line contradict with the specified times of the Proponent's commitment. The commitment stipulates that truck deliveries are to be made between 9:00am and 2:30pm, and after 4:30pm, however the identified bus times for school buses travelling along Euchareena Road specifies the time of between 4:40pm and 5:00pm. The Proponent has subsequently implemented the bus schedule along Euchareena Road into the projects Transport Code of Conduct pursuant to Schedule 6, Condition 11. Therefore, the Proponent deems that the commitment can be deleted to remove inconsistencies with the traffic restrictions now imposed by the Traffic Code of Conduct.

The RMS provided a review of the submitted EA and raised no objection to the correction of the school bus travel periods along Euchareena Road. Council provided submission on the modification which raised concern that the deletion of the commitment would subsequently increase delivery hours of operation and generate greater traffic and traffic noise impacts. The Hub Action Group provided a submission raising concern that the deletion of the commitment will then permit the delivery of waste to ERRRC on weekends. The Hub Action Group additionally noted that the commitment does not conflict with the approved Transport Code of Conduct and therefore its deletion is unnecessary.

The Proponent noted in its response that the modification request does not involve any amendments to the approved hours of operation specified in Schedule 5, Condition 27. Furthermore, the specified travel hours of the Transport Code of Conduct would spread vehicle movements out during the day to alleviate congestion and reduce the concentration of noise impacts associated with delivery vehicle movements.

The Department considers that although the delivery hours of the project would be increased overall, the project is still restricted to a maximum of 40 heavy vehicle movements on any one day, and not more than 30 heavy

vehicle movements a day averaged over a seven (7) day period as imposed by Schedule 5, Condition 34. Therefore, the modification would not result in an increase of overall vehicle movements and subsequent additional traffic and noise impacts.

The Department notes that the Transport Code of Conduct has already been approved by the Planning Secretary and that the deletion of the commitment would allow the development to execute operations in accordance with the Transport Code of Conduct pursuant to Schedule 6, Condition 11 and ensure deliveries are avoided during school bus hours.

The Department's assessment concludes that the deletion of the commitment from Appendix 1 of the project approval would enable the development to operate in accordance with the approved Transport Code of Conduct pursuant to Schedule 6, Condition 11. Furthermore, the expanded delivery hours of the Transport Code of Conduct do not result in an increase of traffic movements and the generation of increased traffic and noise impacts as heavy vehicle movements for the delivery of waste is restricted by Schedule 5, Condition 34. Therefore Appendix 1 of the project approval is to be amended to delete the commitment regarding vehicle deliver movements.

6.3 Other Issues

The Department's assessment of other issues is provided in **Table 2**.

Table 2 | Assessment of other issues

Issue	Findings	Recommended Condition
Composting Operations	- The modification request includes the deletion of Schedule 5, Condition 8(a) which requires the immediate loading of biosolids and organic waste into the composting tunnels or alternatively the covering of all stockpiles, unless the Director-General agrees otherwise. - The condition of approval was originally imposed as there was an uncertainty regarding the potential impact of waste stockpiling on apiculture. - During the studies and investigations required to prepare the ARMP, the Proponent found that the stockpiling of waste posed a negligible risk to apiculture and the condition was not required. - The Department and DPI concurred with the Proponent and approved the ARMP which did not include the management practices inherent in Condition 8(a). Subsequently, the Department issued the Proponent a letter providing the agreeance of the Director-General to forgo the covering of waste stockpiles in accordance with the condition and the definition of 'enclosed tunnels' and 'receival and transfer area'. - No objections or concerns were raised regarding the deletion of the subject condition during the notification period. - The Department's assessment concludes that the deletion of Schedule 5, Condition 8(a) is appropriate in providing consistency with the approved ARMP and the letter previously issued to the Proponent by the Department.	- Schedule 5, Condition 8(a) is to be deleted from the project approval. - Reword Schedule 5, Condition 8 to include the requirements of an enclosed tunnel and receival and transfer area.

Air Quality & Odour

- The modification request includes the deletion of a commitment from Appendix 1 of the project approval and the rewording of Schedule 5, Condition 7(f) to reflect the conditions of the EPL in relation to landfill covering.
- The commitment stipulates that landfill waste was to be covered daily, however the Proponent identifies that the conditions of the EPL only require cover material to be applied within seven days of waste application and only on the same day if the baled waste is broken or the waste causes a strong offensive odour. The modification seeks to delete the commitment and reword Schedule 5, Condition 7(f) to impose the methodology of the EPL for landfill coverage.
- No objections or concerns were raised regarding the commitment deletion and condition rewording by the EPA.
- The Department notes that all putrescible waste is to be baled and wrapped in plastic in accordance with Schedule 5, Condition 3.
- The Department notes that a letter endorsing the alternate landfill cover undertaking was provided by the Department on the 5 May 2016 (Appendix 7 of the EA) in consultation with the EPA.
- The Department's assessment concludes that the deletion of the Statement of Commitment from Appendix 1 of the project approval and the rewording of Schedule 5, Condition 7(f) are considered to ensure the current waste covering practices stipulated in the EPL are not inconsistent with the project approval.
- Commitment statement under *Air quality and odour* is to be deleted from appendix 1 of the project approval.
- Schedule 5, Condition 7(f) is to be reworded to have the landfill cover to be conducted in accordance with the EPL.



7. *Evaluation*

The Department has assessed the modification request in accordance with the relevant requirements of the EP&A Act. The Department considers the modification request is appropriate on the basis that:

- The modification eliminates inconsistencies within the project approval
- The modification clarifies the Proponents environmental obligations
- The modification does not result in an increase of environmental impacts

The Department is satisfied that the modification should be approved, subject to conditions.



8. Recommendation

It is recommended that the Director, Industry Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **Determines** that the request to modify MP 09_0025 falls within the scope of former section 75W of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant approval to the application
- **modify** the approval MP 09_0025 MOD 2
- **signs** the attached approval of the modification (Attachment E).

Recommended by:

Shaun Williams

Planning Officer

Industry Assessments



9. Determination

The recommendation is: **Adopted by:**

Chris Ritchie

Director

Industry Assessments

20/12/18.



Appendices

Appendix A – List of Documents

- Apiculture Risk Management Plan for the Orange Waste Project, prepared by AsureQuality Ltd, dated 19 September 2011
- Review of the Proponents Statement of Commitment and the Risk Assessment for the transmission of American Foulbrood Disease for the Euchareena Road Resource Recovery Centre, prepared by AsureQuality Ltd, dated August 2011
- Transport Code of Conduct, prepared by JR Richards & Sons, dated 27 May 2013.

Appendix B – Environmental Assessment

A copy of the Environmental Assessment can be found on the Department's website, at the following link:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9168

Appendix C – Submissions

A copy of the Submissions received by the Department can be found on the Department's website, at the following link:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9168

Appendix D – Response to Submissions Report

A copy of the Proponent's Response to Submissions Report can be found on the Department's website, at the following link:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9168

Appendix E – Notice of Modification

A copy of the project approval for MP 09_0025 MOD 2 can be found on the Department's website, at the following link:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9168