

## ASSESSMENT REPORT

### Section 75W Modification Whytes Gully Landfill Extension Project (MP 11\_0094 MOD 1)

#### 1. INTRODUCTION

This report assesses a modification request by Wollongong City Council (the Proponent) to the Whytes Gully Landfill Extension Project at Kembla Grange. The request has been lodged pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

#### 2. BACKGROUND

The Proponent operates an existing landfill and recycling facility known as the Whytes Gully Waste and Resource Recovery Park (Whytes Gully Landfill) located at 133 Reddalls Road, Kembla Grange in the Wollongong local government area (LGA) (see **Figure 1**).



**Figure 1:** Site Location

The landfill component of the facility consists of two distinct areas, referred to as the "western gully" and the "eastern gully" as shown in **Figure 2**. Landfilling of the western gully commenced in 1982 and ceased in 1993. Landfilling of the eastern gully then commenced in 1993 and was expected to reach capacity in 2013. However, on 3 April 2013 the then Executive Director, Development Assessment Systems & Approvals, granted approval for the Whytes Gully Landfill Extension Project (MP 11\_0094). This involved extending the landfill footprint (shown in green in **Figure 2**), filling of the new landfill cell and then overfilling (piggy-backing) the existing landfill area. This approval provided an additional landfill capacity of up to 6 million m<sup>3</sup> thereby extending the predicted life of the landfill to 2054. Works on this approval have commenced and the liner for sub-stage 2B is currently under construction (see **Figure 3**).





Figure 2: Subject Site (Shown in Red)

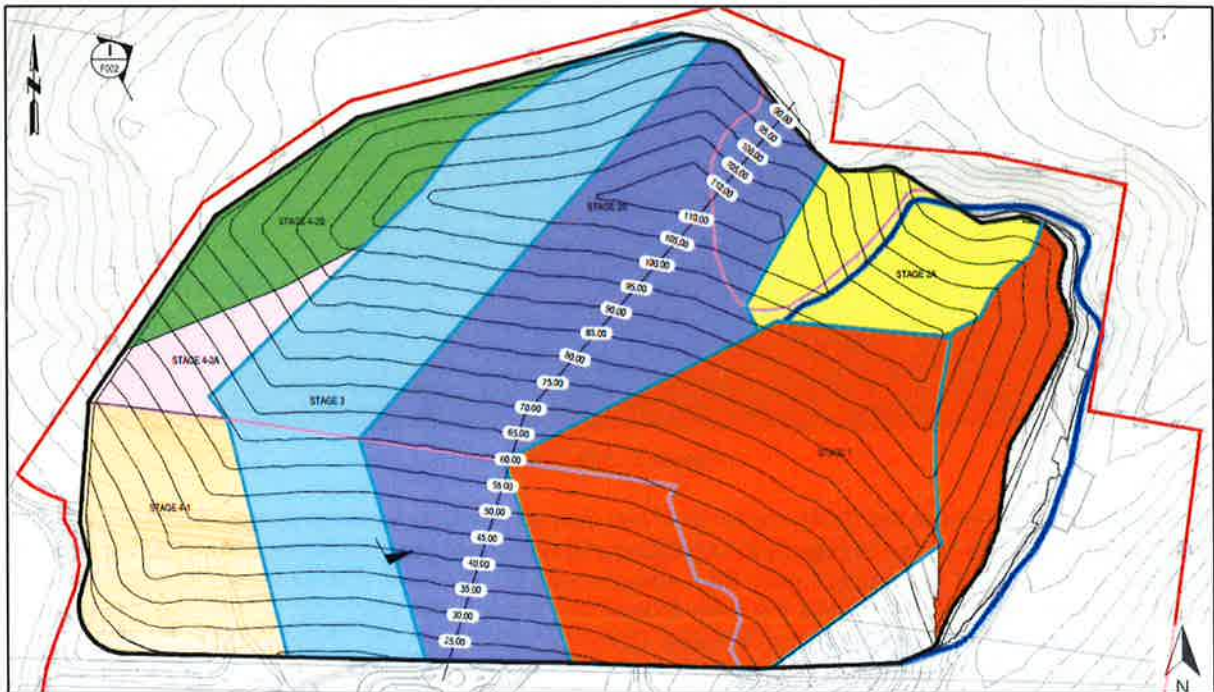


Figure 3: Approved Staging Plan (MP 11\_0094)

The facility currently accepts putrescible and non-putrescible general solid waste (GSW) from domestic waste collection, commercial waste drop-off and private customer drop-off for recycling or landfill. The

existing facility is depicted in **Figure 2** and consists of a materials recycling facility, green waste processing area, small vehicle waste transfer station, recyclables and waste oil drop off and buy-back area, leachate and stormwater treatment ponds, leachate treatment plant, weighbridge and site entrance. Recycling of waste materials occurs on site before residual wastes are sent to landfill.

The site is located approximately 8.8 kilometres (km) south-west of the Wollongong city centre. The site is immediately adjoined to the north and east by vegetated open space (see **Figure 1**). Land to the south and west of the site predominantly consists of hardstand surface utilised for outdoor vehicle storage associated with Prixcar and Patrick Autocare (see **Figure 1**), both being vehicle transport and storage companies. Several other businesses are also located to the south of the Whytes Gully facility including an asphalt production facility operated by Fulton Hogan Industries, organic soil products operated by Soilco and Select Civil contracting services and plant hire.

Immediately to the north-east and north-west of the site are two dwellings on land zoned RU2 Rural Landscape (see **Figure 1** and **Figure 2**). These dwellings are located approximately 115 metres (m) and 50 m from the site respectively. The low density residential suburb of Farmborough Heights is located approximately 467 m to the north-east of the site (see **Figure 1**).

The Proponent is seeking to amend Condition 33 of the project approval to extend the hours of operation to enable construction of the landfill cell and some operational activities to take place between the hours of 7:00 am to 6:00 pm on Monday to Friday as opposed to the approved hours of 7:30 am to 4:30 pm on Monday to Friday. The modification is sought to enable construction and maintenance works outside the facility's hours for accepting waste in order to minimise operational disruptions, reduce the overall construction time and reduce construction costs to the Proponent.

### 3. APPROVAL HISTORY

On 3 April 2013, approval was granted by the then Executive Director, Development Assessment Systems and Approvals, for the Whytes Gully Landfill Extension Project (MP 11\_0094). The approval permits the following works:

- construction of a new landfill cell adjacent to the existing waste footprint
- increasing the landfill footprint from 20 hectares (ha) to 35 ha
- seven-staged filling of the new cell by overfilling (i.e. piggy-backing) the existing landfill operations
- construction of surface water ponds and drains
- construction of leachate ponds and landfill gas extraction system
- progressive rehabilitation and revegetation works.

The approved hours for construction and operation, as shown in **Table 2**, were sought as part of MP 11\_0094 to remain consistent with the historic hours of operation of the existing landfill facility, approved by Council (see **Table 1**).

Schedule 3, Condition 7, of the project approval required all previous approvals (see **Table 1**) relating to the Whytes Gully Landfill site (all of which were Council consents) to be surrendered within 12 months of approval of MP 11\_0094. The Proponent has confirmed an Independent Environmental Audit (IEA) is currently being undertaken in accordance with Schedule 5, Condition 9, which identified that the relevant approvals had not yet been surrendered. Subsequently, the Proponent surrendered the approvals in March 2018 (see **Table 1**).

**Table 1: Whytes Gully Landfill development applications approved by Wollongong City Council**

DA	Site Description	DA Description	Date Surrendered
DA-1982/459	Western Gully (Landfill)	Waste disposal site	13 March 2018
DA-1984/228	Western Gully (Landfill)	Construction and operation of a waste disposal depot	13 March 2018
DA-1992/662	Eastern Gully (Landfill)	Upgrade of existing Western Gully Landfill and extension into the adjacent Eastern Gully	13 March 2018
DA-1996/8256 DA-1996/6256	SWERF	Construction and operation of a SWERF	27 March 2018
DA-1996/256	Landfill Gas and infrastructure	Landfill gas infrastructure	13 March 2018
DA-1999/533	Site access and road realignment	Deviation of Reddalls Road, Kembla Grange	13 March 2018

DA-2002/2240	Leachate and surface water ponds	Construction of new leachate and stormwater treatment ponds	13 March 2018
DA-2003/532	Leachate treatment plant (LTP)	Construction and operation of a LTP	13 March 2018
DA-2006/463	Weighbridge and new site entrance	Weighbridge and new site entrance	13 March 2018
DA-2010/1088	Small vehicle transfer station	Small vehicle waste transfer station	13 March 2018

In February 2014, the Proponent was granted a temporary extension to the approved hours of construction works to enable the construction of the Stage 1A and 1B liner during cooler (evening) periods. The extension allowed construction works to be undertaken up to 8:00 pm on weekdays for a period of 20 weeks, ending on 20 June 2014.

On 15 February 2017, the Proponent was granted another temporary extension to the approved hours of construction works for the installation of the Stage 2B-1 geomembrane during cooler periods to reduce the risk of thermal contraction and subsequent failure of the liner. The temporary extension allows works up to 8:00 pm on weekdays for a period of 26 weeks, ending on 17 August 2018.

The Department notes the temporary extension to the approved hours were outside of the Interim Construction Noise Guidelines (ICNG) (DECC, 2009) recommended standard hours for construction, therefore both requests were accompanied by written agreements from the two nearest residential receivers (see **Figure 2**).

#### 4. PROPOSED MODIFICATION

The Proponent has lodged a modification request under section 75W of the EP&A Act to modify the Whytes Gully Landfill Extension project. The proposal seeks to extend the approved hours of construction for the landfill cell and some operational activities between Monday and Friday. The modification is described in full in the Environmental Assessment (EA) included in **Appendix B** and shown in **Table 2**.

**Table 2: Approved and proposed hours of construction and operation**

Activity	When	Approved	Proposed
Construction	Monday to Friday	7:30 am to 4:30 pm	7:00 am to 6:00 pm
	Saturday	8:00 am to 4:00 pm	No change
	Sunday & Public Holidays	Nil	No change
Operation	Monday to Friday	7:30 am to 4:30 pm (waste acceptance and disposal)	No change
		7:30 am to 4:30 pm (other operational activities*)	7:00 am to 6:00 pm
	Saturday, Sunday & Public Holiday	8:00 am to 4:00 pm	No change

\* "other operational activities" would include repair and/or maintenance of the weighbridge, weighbridge office, internal roads, internal haul routes, internal drainage and ancillary infrastructure works as well as undertaking approved construction works.

The proposed hours are within the definition of "Day" as stipulated by the existing project approval (MP 11\_0094) being 7:00 am to 6:00 pm on Monday to Saturday and 8:00 am to 6:00 pm on Sundays and Public Holidays.

The EA and supporting documentation states that the Proponent is seeking the amendment to facilitate the construction of the landfill cells and to allow certain "operational activities" (construction, maintenance and/or repair works) to take place with minimal impact to the active facility. Currently, operational activities can cause disruptions and restrict site access. By extending the hours for certain activities to take place, the Proponent considers this would create flexibility and efficiency by allowing these works to be undertaken outside of the hours for waste acceptance and disposal. The Proponent has also stated that the proposed amendments would:

- reduce the overall landfill cell construction timeframes by approximately 50 days per sub-stage
- reduce interruptions to the operation of the facility by allowing repair and maintenance work outside of landfill/recycling facility hours of operation
- reduce the overall costs associated with landfill cell construction, incurred by day-hire construction equipment
- reduce difficulties in procuring construction staff due to the shorter hours.



The Proponent has confirmed that there would be no receipt or processing of waste during the extended hours.

## 5. STATUTORY CONTEXT

### 5.1 Approval 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
- a political disclosure statement has not been made
- there are no public submissions in the nature of objections.

### 5.2 Section 75W

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 EP&A (Savings, Transitional and Other Provisions) Regulation 2017. 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 ended on 1 March 2018 – however, the modification request was made prior to 1 March 2018, therefore 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 carrying out of the project under section 75W of the EP&A Act.

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
- any potential environmental impacts would be appropriately managed through the existing or modified conditions of approval.

Therefore, the Department is satisfied the proposed modification is within the scope of 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 section 75W of the EP&A Act rather than requiring a new development application to be lodged.

## 6. CONSULTATION

Under section 75W of the EP&A Act, the Department is not required to notify or exhibit the modification request. However, due to the nature of the proposal the Department did consider that further consultation was necessary. Therefore, the Department sought comments from the two nearest residential receivers (identified in **Figure 1** and **Figure 2**) and the modification request was also referred to the NSW Environment Protection Authority (EPA) and Wollongong City Council (Council).

The EPA and Council did not object to the modification and raised no concerns.

No comments were received from the public.

## 7. ASSESSMENT

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

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

The Department's assessment of issues is in **Table 3**.

**Table 3: Assessment of Issues**

Issue	Assessment	Recommendation
Noise	<ul style="list-style-type: none"> <li>• The proposed amendments have the potential to create additional noise impacts to nearby residential receivers (see <b>Figure 1</b> and <b>Figure 2</b>) as a result of noise generation through additional hours of operation.</li> <li>• The Proponent did not submit a new Noise Impact Assessment (NIA) as the NIA submitted as part of the Major Project approval (MP 11_0094) included an assessment of the noise impacts for the proposed modified hours.</li> <li>• The modification request seeks an extension to the approved hours for construction works and some operational activities only. The Proponent does not seek to change the approved processes or activities that take place on-site. The approved maximum noise limits at Schedule 4, Condition 31, of the project approval would remain applicable.</li> <li>• The Proponent has suggested that by extending the hours of construction works and some operational activities, the construction time would be reduced by up to 50 days per sub-stage, thereby reducing overall construction related impacts to sensitive receivers.</li> <li>• In its assessment of MP 11_0094, the Department concluded that the daytime rural residential amenity criteria of 50L<sub>aeq(day)</sub> would provide an acceptable and appropriate level of protection against noise impacts for nearby residents rather than the intrusiveness criteria. The Department notes that the additional hours of operation proposed fall within the day-time period and works carried out during these periods will be subject to the aforementioned noise criteria.</li> <li>• The Department also notes the proposed hours are in accordance ICNG recommended standard hours for normal construction work (not blasting) being 7:00 am to 6:00 pm on Monday to Friday and 8:00 am to 1:00 pm on Saturdays, with no works on Sundays or Public Holidays.</li> <li>• The Department is satisfied that, subject to compliance with the existing noise criteria stipulated by Schedule 4, Condition 31, of the project approval, the proposed modified hours would create minimal additional impacts.</li> <li>• No noise related concerns were raised by Council or the EPA in their submissions. Furthermore, no submissions were received from the adjoining landowners who were notified of the proposal.</li> <li>• The Department's assessment concludes that the noise impacts associated with the proposed amendments were previously addressed and are considered acceptable. Works during the extended hours are for the purposes of maintenance and construction of the landfill cell only and would not include acceptance or processing of waste. The Department recommends amending Schedule 4, Condition 34, to require the Proponent to update the Noise Management Plan to include consultation with adjoining land owners to ensure they are satisfied with the existing mitigation measures and any new measures proposed to be implemented. The Department also recommends amending Schedule 2 of the approval to include a definition for "operational activities" proposed to be undertaken within the extended hours.</li> </ul>	<p>Require the Proponent to;</p> <ul style="list-style-type: none"> <li>• update the Noise Management Plan.</li> </ul>
Traffic	<ul style="list-style-type: none"> <li>• Increasing the hours of operation has the potential to alter the traffic impacts associated with the development.</li> <li>• The Proponent did not submit an updated Traffic Impact Assessment (TIA) and has referred to the previously approved TIA (MP 11_0094) which assessed traffic impacts taking into consideration the proposed modified hours of construction and some operational activities.</li> <li>• The TIA concluded that the surrounding road network would have adequate capacity to accommodate the development proposed under MP 11_0094 with minimal impacts.</li> <li>• The Proponent has suggested there would be no change to the number of vehicles associated with the development from those</li> </ul>	<ul style="list-style-type: none"> <li>• manage through existing conditions.</li> </ul>

Issue	Assessment	Recommendation
	<p>originally assessed by the TIA. The Proponent has confirmed the proposed amendments relate to the hours for internal site works and repairs only and not the receipt or processing of waste. The Proponent also confirmed no additional staff would be required as a result of the proposed amendment.</p> <ul style="list-style-type: none"> <li>• The Proponent has also suggested the proposed modification would subsequently minimise the traffic impacts of the development by shifting some staff traffic movements to outside of the peak traffic times, thereby reducing road congestion at the busiest times.</li> <li>• The Department's assessment of MP 11_0094 determined that traffic impacts for the project would be acceptable and would have no impact on the safety and efficiency of the surrounding road network, subject to conditions including upgrading the junction of West Dapto Road and the Princes Highway in accordance with RMS's submission. The Proponent has confirmed these works have now been completed.</li> <li>• In its submission on the modification request, Council raised no traffic related concerns.</li> <li>• The Department is satisfied that the proposed modification would not create any additional impacts to the external road network as the extended hours would be related to internal works only and no additional vehicle movements are proposed. Furthermore, the road upgrades required by MP 11_0094 were completed as part of the original project approval.</li> </ul>	

## 8. CONCLUSION

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

- it would reduce the construction time of each landfill sub-stage
- it would result in acceptable impacts to nearby sensitive receivers
- it would contribute to the efficient operation of the waste management facility which serves the Wollongong LGA.

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

## 9. RECOMMENDATION

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

- consider the findings and recommendations of this report
- determine that the request MP 11\_0094 MOD 1 falls within the scope of section 75W of the EP&A Act
- modify the approval MP 11\_0094
- sign the attached modification of approval (Attachment A).

Recommended by:

*Nikki Matthews*

Nikki Matthews 3/4/18.  
Planning Officer  
Industry Assessments

Recommended by:

*Kelly McNicol*  
3/04/18

Kelly McNicol  
Team Leader  
Industry Assessments

## DECISION

The recommendation is Approved by:

*C. Ritchie*

Chris Ritchie 11/4/18.  
Director  
Industry Assessments  
as delegate of the Minister for Planning.

## **APPENDIX A – INSTRUMENT OF MODIFICATION**

The Notice of Modification is on the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8655](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8655)



## **APPENDIX B – ENVIRONMENTAL ASSESSMENT**

The modification application and all supporting information is available on the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8655](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8655)

## APPENDIX C – SUBMISSIONS

All submissions received are available on the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8655](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8655)