



Independent Planning Commission

7 August 2018

Dr Liz Develin
Acting Secretary
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Dr Develin,

Determination of Modification Request Shoalhaven Starches Ethanol Expansion Project (MP 06_0228 MOD 15)

1. Thank you for your Department's letter, received on 18 July 2018, referring the modification request above to the Independent Planning Commission NSW (the **Commission**) for determination. The Department has referred the modification request to the Commission for determination due to reportable donations having been made.
2. On 1 March 2018, the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) was amended. The project is a transitional Part 3A project under Schedule 2 of the *Environmental Planning and Assessment (Savings and Transitional and Other Provisions) Regulation 2017*.
3. The ability to modify transitional Part 3A projects under section 75W of the EP&A Act is being discontinued, however as the request for this modification was made before 1 March 2018, the provisions of Schedule 2 continue to apply.
4. Professor Mary O'Kane AC, Chair of Commission, nominated Mr. John Hann (Chair) to constitute the Commission to determine the modification request.
5. In January 2009, the then Minister for Planning approved the Shoalhaven Starches Ethanol Expansion Project MP_0228 (**SSEEP**) under the now repealed Part 3A of the EP&A Act. The Minister for Planning (or Delegate) has approved fourteen modifications to the SSEEP approval since 2009.
6. Shoalhaven Starches Proprietary Limited (the **proponent**) seeks approval to modify the SSEEP approval to construct a carbon dioxide (**CO₂**) plant at the adjoining former Dairy Farmers complex, which is currently used as a Meat Packing plant (see *Figure 1*). In its Environmental Assessment (**EA**) it states that the CO₂ plant would capture waste CO₂ emissions from the existing fermenter tanks at the factory, and treat the gas to a food grade standard. The CO₂ plant would be operated by Supagas under a third-party agreement.
7. The modification request includes:
 - a CO₂ pre-treatment plant located near the fermenter tanks;
 - above ground and underground pipework; and
 - the main CO₂ plant comprising of compressors, driers, liquefiers and storage tanks.

8. In addition, the proponent proposes minor modifications to approved structures at the factory, including:
- an internal re-fit of the former fire pump house for use as the ethanol plant control room; and
 - a minor relocation of approved cooling towers within the dried distillers grain (**DDG**) plant area.

Figure 1 – Location of proposed CO₂ Plant, Pre-Treatment Plant and Pipelines



Source: Department of Planning and Environment's Assessment Report

9. The Department received the modification request from the proponent on 27 February 2018 and it was made publicly available on their website from 9 April 2018 to 23 April 2018. The Department received one public submission during the exhibition period, which is discussed in paragraph 14.
10. The Department also received submissions from Shoalhaven City Council, the Environment Protection Authority (**EPA**), Roads and Maritime Services (**RMS**) and the Department of Industry (**DOI**). The Department also received recommendations for conditions from Council, Shoalhaven Water, EPA and DOI.
11. On 29 May 2018, the proponent provided a response to submissions (**RtS**) in relation to the issues raised in submissions from the public, Council and government agencies.
12. As part of its determination, the Commission met with the proponent and undertook a site inspection on 1 August 2018. Notes from this meeting and site inspection are available on the Commission's website.
13. In determining this modification request, the Commission considered:
- the proponent's EA and Annexures 1-9, dated February 2018 and its RtS dated 29 May 2018;
 - the Department's assessment report, dated 16 July 2018, and the proposed Modification Instrument (MP 06_0228 MOD 15);
 - the public submission, dated 22 April 2018;
 - Council's submission, dated 23 April 2018;
 - DOI's submission, dated 20 April 2018;

- EPA's submission, dated 17 April 2018;
- RMS' submission, dated 13 April 2018; and
- section 75W of the EP&A Act, the likely impacts to the environment, social and economic impacts in the Bomaderry locality, and the public interest.

Public and Council comments

14. The Commission notes that the Department received one public submission in relation to this modification request. The submission raised concern that the development would increase truck movements on Cambewarra Road and Meroo Street, Bomaderry, resulting in noise impacts during night-time periods, and the need for an environmental study to determine the potential impact on residences from any use of coal at the plant.
15. In its submission to the Department, Council requested:
 - clarification that proposed truck (**B-double**) turning movements are possible and proposed truck parking does not interfere with turning movements;
 - further details to demonstrate the wastewater treatment system can accommodate the proposed increases in volume; and
 - a flood compliance assessment report detailing flood affectation on individual lots.
16. The Commission notes that Council also provided recommended conditions in relation to the installation of the approved cooling tower, the preparation of an acid sulphate soil (**ASS**) management plan, the preparation of a remedial action plan and requirements from Shoalhaven Water.

Proponent's consideration

17. In its EA, the proponent states that, *"one of the objectives for the Shoalhaven Starches Expansion Project was to close the loop on waste streams from their factory operations"*, and that, *"the proposal will provide a further opportunity to reinforce a 'closed' system of production for its operations and reduce their environmental impact"*.
18. The proponent also states that, *"the proposed CO₂ plant will reduce the environmental impacts of its operations through reducing CO₂ greenhouse gas emissions by 50 tonnes per day initially and increasing to 100 tonnes per day when fully operational"*.
19. The proponent's EA concludes that, *"the proposal is suitable for the site and this locality"*.
20. In its response to the public submission and Council's comments outlined in paragraphs 14 – 16, the proponent states in its RtS that:
 - *"the proposal will have little, if any, impact on the local road network simply as a factor of the very minimal trip generation"*;
 - *"noise emissions from the proposal will be within the noise design goals derived from limits set by the Environment Protection Licence (**EPL**) limits"*;
 - *"the proposal does not involve the use of coal"*;
 - *"truck movements to and from the site will be generally consistent with the same truck access paths as that currently generated by the existing Meat Plant vehicles"*;
 - *"there is sufficient capacity within the existing waste water treatment system"*;
 - *"no objections are raised with the requirement to register cooling towers under the Public Health Act 2010"*;
 - *"no objections are raised with the requirement for the preparation of an Acid Sulphate Soil management plan"*;
 - *"the Coffey recommendation (a Contamination Assessment undertaken by Coffey's on*

behalf of the proponent which was an annexure to the EA) *does not specify the need for a remediation plan*”;

- *“a Flood Compliance Report details how the development will achieve all relevant objectives, performance criteria and/or acceptable solutions of Chapter G9 of the Shoalhaven Development Control Plan 2014”*; and
- there are no objections to the requirements from Shoalhaven Water outlined in Council’s submission.

21. In addition to the information provided in their RtS outlined in paragraph 20, at its meeting with the Commission on 1 August 2018, the proponent stated that:

- there will be an appropriate on-site turning facility for trucks;
- Cambewarra Road and Merroo Street will not be used as truck routes to access the site and export CO₂; and
- there is currently sufficient capacity at the existing Shoalhaven Starches site’s Waste Water Treatment Plant (WWTP).

Department’s consideration

22. The Department states in its assessment report that, *“the modification does not involve any change to key production processes or outputs”*; and considers, *“the request should be assessed and determined under Section 75W of the EP&A Act rather than requiring a new development application”*.

23. The Department notes in its assessment report the concerns raised in the public submission relating to increases in truck movements and noise on Cambewarra Road and Merroo Street. The Department also notes that the modification would generate a small number of additional vehicle trips, including eight truck trips per day to transport CO₂ and four staff vehicle trips per day. The Department concludes that,

“noise from trucks using Cambewarra Road and Merroo Street would not change significantly due to the modification. The existing conditions restrict trucks from using Cambewarra Road and Merroo Street from 8pm until 7am, to avoid night-time noise impacts on residential areas.”

24. In response to Council’s submission relating to truck turning movements, outlined in paragraph 15, the Department notes in its assessment report that the proponent has clarified it would move the existing truck parking areas on-site to avoid any conflict with trucks accessing the CO₂ plant. The Department has subsequently recommended a condition requiring the proponent to delineate truck parking areas on-site to ensure adequate space is provided for trucks accessing the CO₂ plant.

25. The Commission notes that the Department has recommended conditions requiring the proponent to update the unexpected finds protocol required by condition 20B of the SSEEP approval, plant screening vegetation in front of the CO₂ plant and, as per Council’s request, install, register and maintain cooling towers in accordance with the *Public Health Act 2010*.

26. In its assessment report, the Department considers that the modification, *“would have minor environmental impacts”*.

27. The Department concludes that the modification:

- *“is unlikely to increase noise above existing limits”*;
- *“would be unlikely to impact on air quality and odour”*;
- *“would have minimal impact on flooding and would be adequately managed by existing conditions”*; and

- “would have minimal impact on the capacity of the existing WWTP”.

28. The Department states that it is also, “satisfied the existing and modified conditions are adequate for managing any soil contamination encountered during construction of the modification”.

Agencies consideration

29. In its submission to the Department, the EPA noted the modification would be unlikely to impact on air quality or odour as it would reduce overall CO₂ emissions from the factory. The EPA’s submission also recommended conditions to ensure the new CO₂ plant complies with the sound power levels in the proponent’s Noise Impact Assessment (**NIA**). The Department notes that these recommendations are included within the existing conditions.

30. The Commission notes that the DOI’s recommendation to the Department that works within waterfront land be undertaken in accordance with the NSW Office of Water’s *Guidelines for Controlled Activities on Waterfront Land 2012* has been included in the modified conditions.

Commission’s consideration

31. The Commission finds that the modification would not generate a significant level of noise during night-time periods from increased truck movements on Cambewarra Road and Meroo Street, Bomaderry. This is because:

- the modification would generate a small number of vehicle trips, as outlined in paragraph 22,
- Cambewarra Road and Meroo Street will not be used as truck routes to access the site and export CO₂; and
- there is an existing condition in the SSEEP approval that restricts trucks from using Cambewarra Road and Meroo Street from 8pm until 7am, to avoid night-time noise impacts on residential areas.

32. The Commission accepts the proponent’s and Department’s finding that the modification would have minimal environmental effects for the reasons set out in paragraphs 17, 18, 26 and 27. The Commission finds that the proposed changes are within the broad scope of section 75W of the EP&A Act and as a result satisfy the requirements of the section.

33. The Commission is satisfied that the Department’s recommended conditions, as discussed in paragraphs 23 and 24, have adequately addressed the recommendations from Council and DOI in paragraphs 15, 16 and 29.

34. The Commission is satisfied that the findings in paragraphs 31 and 32 demonstrate that the modification application is in the public interest because the conditions adequately address the concerns by the public, it satisfies the requirements of section 75W of the EP&A Act, as outlined in paragraph 22, and is in accordance with the objects of the EP&A Act, as listed under section 1.3 (b), (c) and (e) as it satisfies the requirements of ecologically sustainable development, is an orderly economic use and development of land, and contributes to environmental protection, for reasons set out in paragraphs 17 and 18.

35. Therefore, the Commission has determined to approve the modification request, subject to the attached modification instrument, for the following reasons:

- the modification would not generate significant traffic and noise impacts, as outlined in paragraph 31;
- the modification would have minimal environmental effects and would reduce CO₂

greenhouse gas emissions from existing operations, as outlined in paragraphs 18 and 32; and

- the project is in the public interest, as outlined in paragraph 34.

36. The reasons for the Decision are given in this Statement of Reasons for Decision dated 7 August 2018.



Mr John Hann (Chair)
Member of the Commission

cc. The Hon. Anthony Roberts, MP
 Minister for Planning
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 Sydney NSW 2001