

ASSESSMENT REPORT

Section 75W Modification

Woy Woy Alternative Waste Technology and Composting Facility (MP 06_0230 MOD 1)

1. INTRODUCTION

This report assesses a modification request by Central Coast Council (the Proponent) to extend the project approval lapse date for the Woy Woy Alternative Waste Technology (AWT) and Composting Facility (MP 06_0230). The request has been lodge pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The approval involves the development of an AWT and composting facility at an existing waste management facility (WMF) in Woy Woy. The facility would allow the processing of mixed municipal solid waste (MSW), garden waste and sewage biosolids.



Figure 1: Site Location

2. BACKGROUND

The Proponent operates the Woy Woy Waste Management Facility (WMF) at 154 Nagari Road, Woy Woy in the Central Coast local government area (see **Figure 1**). The facility is licensed as a putrescible waste landfill and has been operating since the early 1970s. The WMF is able to accept up to 100,000 tonnes per annum (tpa) of putrescible waste, construction/demolition waste, green waste and mixed inert waste.

3. SUBJECT SITE

The WMF is located on 50 hectares (ha) of land situated off Nagari Road in Woy Woy, approximately 45 kilometres (km) north of Sydney. The AWT and composting facility site are proposed to be located on the southern portion of the WMF site, as depicted in red in **Figure 1**.

The site is bordered to the east, west and south by the Brisbane Water National Park. The nearest residence is approximately 750 metres (m) to the east of the proposed AWT and composting facility, within the suburb of Umina Beach. The Woy Woy Sewage Treatment Plant is located to the immediate north of the site.

The southern part of the site drains to Patonga Creek, some 20 m south of the proposed AWT and composting facility site, via a sedimentation pond. Woy Woy Creek crosses the north-west corner of the site.

4. APPROVAL HISTORY

Recognising the growing population and increasing demand on limited landfill space, Council sought out alternatives for conventional waste management. On 26 May 2008, the then Minister for Planning granted project approval (MP 06_0230) for the development of an AWT and composting facility at the Woy Woy WMF site.

Under the project approval, the AWT, once developed, would have the capacity to process up to 70,000 tpa of municipal solid waste. The project approval also allows the composting facility to process up to 30,000 tpa of green waste and 15,000 tpa of biosolids from the nearby sewage treatment plant. The facility would be located at the southern extent of the site, some 500 m from the existing landfill area. The green waste maturation area for the proposed composting facility would be located at the existing green waste collection area.

At the time of the project approval, Council expressed concern regarding the scope to produce high quality compost. Compost output products that present a health or environmental risk would not be acceptable for land application, would remain classified as waste, and would require safe disposal to an appropriate facility. The quality of the compost output product is highly dependent on the source of the material and the technology used. Given that the composting facility would receive mixed waste, garden waste and biosolids from various sources, it is possible for some waste feedstock loads to be contaminated. Further, Council had not yet selected the class, type or brand of technology to be adopted for either the AWT scheme or the composting scheme.

Notwithstanding, the project was approved, subject to conditions, as it would:

- attract a capital investment of over \$40 million;
- provide jobs for up to 30 people during construction and 10 people during operation;
- contribute to the resource recovery targets that form part of the *NSW Waste Avoidance and Resource Recovery Strategy 2014-21* (WARR Strategy); and
- provide beneficial compost product and recyclable materials.

5. PROPOSED MODIFICATION

The purpose of the modification is to extend the lapsing date for MP 06_0230, Woy Woy AWT and Composting Facility. On 1 October 2011, Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) was repealed. As a transitional arrangement, Clause 11(1) of Schedule 6A of the EP&A Act introduced a lapsing date of 5 years from the repeal of Part 3A unless:

- (a) *the project is physically commenced (within the meaning of section 95) on or before that day on the land to which the approval relates; or*
- (b) *the approval of the project is subject to a condition in force under section 75Y that provides for the approval to lapse on an earlier or later day.*

No physical works associated with the approval have commenced and the approval does not contain a lapse date condition. As such, the lapse date for the project approval is 1 October 2016 as prescribed by Clause 11(1) of Schedule 6A of the EP&A Act.

Clause 11A of Schedule 6A of the EP&A Act allows a Proponent to lodge a modification request to extend the date that a Part 3A approval lapses, provided the request is made prior to the lapse date. The Department notes that Clause 11A(2) extends the lapse date to the date upon which the modification request is determined or withdrawn, or the date that is 12 months after the request was made, whichever occurs first.

The Proponent has lodged a modification request under section 75W of the EP&A Act to modify the project approval to extend the lapse date for an additional five years to 1 October 2021. The modification is described in full in the request included in **Appendix B**.

6. STATUTORY CONTEXT

6.1 Approval Authority

The Minister for Planning is the approval authority for the request. Under the Minister's delegation of 16 February 2015, 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.

6.2 Section 75W

In accordance with Clause 12 of Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

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 processing rates of waste materials would remain unchanged as a result of the proposed modification; and
- any potential environmental impacts would be minimal and 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 application should be assessed and determined under section 75W of the EP&A Act rather than requiring a new development application to be lodged.

7. CONSULTATION

Under 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 was necessary. Notwithstanding, the Department sought comments from the Environment Protection Authority (EPA), the Office of Environment and Heritage (OEH), the Department of Primary Industries (DPI), Roads and Maritime Services (RMS) and Rural Fire Service (RFS).

A total of four submissions were received, none of which were objections.

The **OEH** reviewed the modification request in respect to biodiversity, Aboriginal cultural heritage and flooding matters and raised no objection. The OEH recommends the management plans as part of the original approval are prepared and implemented, including a soil, water and leachate management plan, a vegetation management plan and a habitat offset package.

The **DPI** did not object to the modification request, however requested consultation with DPI Water relating to various management plans required in the consent. DPI also requested consultation with DPI Lands regarding an adjoining Crown road.

The **EPA** had no issues with the modification request.

8. ASSESSMENT

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

- EA and Director-General's assessment report for the Woy Woy AWT and Composting Facility project;
- existing conditions of approval;
- the letter supporting the proposed modification (**Appendix B**);
- submissions from government authorities (**Appendix C**);
- relevant environmental planning instruments, policies and guidelines; and
- requirements of the EP&A Act, including the objects of the EP&A Act.

Given the Woy Woy AWT approval was granted in 2008, strong justification is required for both the delay in the commencement of the project and the extension of the approval lapse date.

Central Coast Council (Council) advises that the former Gosford City Council, in co-operation with the former Wyong Shire Council, called for and received Expressions of Interest for the design, construction and operation of the AWT at the Woy Woy WMF in 2009. At the time, it was determined that the project would need to process at least 100,000 tpa of mixed waste and 15,000 tpa of bio-solid waste to be economically viable. To reach these volumes, waste would have to be received from both the former Gosford and Wyong Shire Councils. In 2010, the former Wyong Shire Council withdrew its support from the project in favour of an AWT at the Buttonderry WMF. As such, tenders were declined and no physical works associated with the approval commenced.

On 12 May 2016, the Minister for Local Government announced the *Local Government (Council Amalgamations) Proclamation 2016*. As a result, the former Gosford and Wyong Shire Councils were amalgamated into the newly formed Central Coast Council. The amalgamation resulted in the transfer of assets, rights and liabilities of the former Councils to the Central Coast Council. This included the ownership and control of the Woy Woy WMF, control of the waste collected and generated within the Central Coast local government area and the rights conferred by the project approval.

Council intends to prepare and adopt a single waste strategy for the now amalgamated local government area. This strategy will include composting and alternate waste treatment activities, which will assist in achieving the objectives and targets of the WARR Strategy by reducing the amount of organic waste going to putrescible landfill. The extension of the approval lapse date to 1 October 2021 will allow for the adoption of a new waste strategy and for physical commencement of the approval, if deemed part of the strategy.

Council also noted that considerable resources have been allocated to the project on studies, which would have limited public benefit should the approval lapse. To secure a new consent under the EP&A Act would require additional expenditure.

The Department considers that Council has provided adequate justification for the delay in the commencement of the project and the need for an additional five years before the approval lapses. At the time of the project approval, Council had not yet selected the technology to be used. Council also had concerns regarding the scope of the project given the need to meet high quality compost standards. The development of a waste management strategy to address technology selection and compost quality control inevitably resulted in delays. Further, Council has advised that a new waste strategy must be prepared as a result of the recent amalgamation. The Department concurs and is in support of a single, local government wide waste strategy that is in line with the objectives of the WARR Strategy. As such, the Department's assessment concludes the extension of the approval lapse date to 1 October 2021 is in the public interest and should be approved.

9. CONCLUSION

The Department has assessed the proposed modification in accordance with the requirements of Clause 8B of the Regulations. The Department considers the proposed modification is appropriate on the basis that the proposed modification will:

- result in minimal environmental impacts beyond the approved facility;
- attract a capital investment of over \$40 million and provide up to 40 jobs;
- contribute to the resource recovery targets in the WARR Strategy; and
- form part of a single, local government wide waste strategy.

The Department is satisfied with the justification for the delay in the commencement of the project and the need for an additional five years before the approval lapses. As such, the modification should be approved.

10. RECOMMENDATION

It is RECOMMENDED the Director, Industry Assessments:

- **consider** the findings and recommendations of this report;
- **approve** the proposed modification under section 75W of the EP&A Act; and
- **sign** the attached notice of modification (refer **Appendix A**).

Bianca Thornton
Industry Assessments


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3/11/16.


Chris Ritchie
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APPENDIX A – NOTICE OF MODIFICATION

APPENDIX B – MODIFICATION REQUEST

APPENDIX C – SUBMISSIONS

APPENDIX D – CONSOLIDATED APPROVAL