

Late Addendum Report

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

a14 [CNR-CM] Update on the Consultation Paper Regarding Proposed Changes to the Protection of the Environment Operations Legislation

SUBMITTED BY: Waste Management

Validms



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Supporting Community Life
2.3	Provide well serviced neighbourhoods
2.3.4	Provision of high quality, best practice, solid waste disposal with energy recovery, and improving resource recovery practices and infrastructure which meets health and environmental requirements and projected demand

SUMMARY OF REPORT:

This report is presented for Council's consideration and endorsement.

The report details proposed changes to the Protection of the Environment Operations Act and Protection of the Environment Operations (Waste) Regulation that are the subject of a consultation paper that Council officers have provided briefing notes to both local State Members. Geoff Provest and Thomas George, and to the Environment Protection Authority (EPA).

Given that the closing date for the submission is 4pm Thursday 17 November, this report is provided for Council's information.

RECOMMENDATION:

That Council notes the contents of this report and its submission in response to the Environment Protection Authority's Consultation Paper on the proposed amendments to the Protection of the Environment Operations Legislation.

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REPORT:

The NSW Environment Protection Authority (EPA) released a Consultation Paper on 21 October for comment, detailing proposed changes to the Protection of the Environment Operations (POEO) Act and Regulation. Submissions need to be made by COB on 17 November 2016, and this report details the submission made by Council officers to the EPA.

Council has also contacted the local Member for Tweed, Geoff Provest, and the Member for Lismore, Thomas George, to seek their support and make representations on behalf of Tweed Shire Council and Northern Rivers Councils.

Amendments proposed

The EPA has proposed a number of changes to the POEO Act and Regulation which will impact on Tweed Shire Council. These include:

- Extensive amendments that will require Council to inspect, sort, process and test demolition waste and soils,
- Providing Council with the ability to use sorted fines (fill) as an exempt landfill cover,
- Removal of the ability to export waste for disposal and or processing from sites that have an approval for the same activity with capacity to accept that type of waste, and
- Removal of the Proximity Principle which Council rely on to allow us to export waste from site and to recover the levy.

The proposed POEO amendments can be broken down into three main themes:

- Amendments that are administrative in nature to remedy issues identified with the application of the current legislation that was revised in 2014 when the POEO Act was reviewed,
- The removal of the Proximity Principle offence in clause 71 of the Protection of the Environment Operations (Waste) Regulation 2014, and the creation of an offence when a site chooses to export waste for disposal if they have the ability to dispose of that waste on their site, and
- Provisions relating to the inspection of loads, and the need to sort, process and test mixed and sorted material, and to screen fill.

Each of these themes will impact on Council to varying degrees.

The administrative amendments are largely being implemented to address issues identified by both the EPA and organisations, since the introduction of the 2014 POEO Act and Regulation. These amendments are unlikely to impact Council significantly and serve to clarify and simplify operations. Council is supportive of these amendments, and will continue to review these as to scope and application.

Implications of the removal of the Proximity Principle and the impact on landfill operations and the export of waste for processing and or disposal

The proposal to remove the Proximity Principle Offence and the constraints being placed on Councils ability to transport waste for disposal to an alternate facility will impact severely on our operations.

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Tweed Shire Council has been exporting putrescible (wet) waste to Qld for the past four years and non-putrescible (dry) waste for the past two years, as the landfill at Stott's Creek is very close to running out of developed putrescible waste disposal capacity. Tenders for the new contract for transport and disposal have recently closed as the current contract is due to expire on 31 December. Council will not be able to award this new contract until the EPA amendments are finalised and may not be able to continue transporting waste from 1 March 2017 if the proposed amendments are adopted.

Council has applied to the EPA to allow Council to develop the final cell at the Stott's Creek Resource Recovery Centre as a putrescible waste cell, as this was originally approved in the DA as non-putrescible waste cell. There is significant inert waste disposal capacity left at the Stott's Creek Resource Recovery Centre (SCRRC) in the current cells and the final cell would have much greater value as a putrescible waste cell. The EPA has provided in principle support to allow Council to submit an appropriate design for a putrescible waste cell for their approval.

Developing the final cell at SCRRC as a putrescible landfill cell will require an amendment to the current DA at the site as the cell has previously been listed on the DA as a non-putrescible waste cell and the footprint of the final cell is not represented accurately on the current approval. Council has received advice that the amendments can be sought under a Section 96 Council planning amendment provision to modify the current development application.

The Regional Waste Strategy that was developed by North East Waste in 2012 looked at waste disposal options for the region. The plan was submitted to the EPA who had an opportunity to consider and provide feedback on the recommendations. The key recommendation for disposal was that the Northern Rivers Councils progress through a series of preferred stages in the short, medium and long term for disposing of waste.

Stage one involved the export and disposal of waste to alternate facilities licensed to receive the waste for those Councils with limited internal disposal resources. This included Ballina, Tweed, Byron and possibly Richmond Valley, Kyogle and Lismore.

A joint and several contract was tendered by Ballina Shire Council in 2012 for the transport and disposal of waste for six Northern Rivers Councils. Three tenders were received, all of which involved transport and disposal of waste to South East Queensland. There were no submissions received from NSW based landfill operations and no approved facility in the region is of an appropriate scale to be able to accept this waste.

Stage two of the Regional Waste Strategy involved the continued commitment of the North East Waste group to look at developing a joint regional facility. The development of a new regional landfill was investigated with a potential site at Bora Ridge in Richmond Valley Shire identified as a preferred site. Richmond Valley Council has since pulled back on the development of this site and each Council has continued to plan and provide for waste disposal separately.

Tweeds Shire Planning and Approvals

Tweed currently operate all waste disposal, waste transfer and waste processing out of the SCRRC and have two separate Environmental Protection Licenses (EPL). EPL 12181 is an

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approval for Waste Disposal (Application to land) on Lot 1 DP 590220, and EPL 6108 is a license for Waste Processing (non-thermal treatment). The operations and sites are adjacent and integrated as much as possible.

Council has the ability to develop one further landfill cell at the SCRRC under the current DA. The cell is approved for development as a non-putrescible waste landfill cell. Council has in principle support from the EPA to develop a Putrescible Waste Cell. This will require an amendment to the DA to allow this to occur. There are also footprint issues with the current DA having mapping of the final cell which overlaps onto the adjacent property which would need to be fixed as part of the amendment.

Council has received planning advice that the above issues can be modified by way of a Section 96 amendment to the current DA and this is being prepared.

Council has an approval to develop a new landfill in the Quirks Quarry on the adjacent property however this will require the construction of a road which needs to traverse an area requiring pre-loading due to geotechnical instability or differential settlement. Stabilising the road will require the placement of a significant quantity of preload material for up to two years which means Council is not able to complete the access road to the site for at least four to five years. The Quirks site will also need to be planned and developed as a green field site, and the appropriate operational approvals will need to be sought. This would occur during the operation of the final cell at the SCRRC.

Tweed Shire operational impact of removal of the Proximity Principle

Removal of the Proximity Principle Offence and the imposition of a requirement to recommence landfilling at SCRRC would require a significant diversification and intensification of operations. The site has been operating largely as a transfer station for the past four years, with only minimal waste placed into landfill.

If these amendments are adopted as proposed, Council will need to immediately seek approval from the EPA to continue exporting putrescible waste for at least three years as there is very limited capacity to dispose of this material at the SCRRC, and the opportunity to develop new disposal capacity for putrescible waste will require significant work and time.

If the amendments are adopted Council will need to recommence landfilling of inert waste (dry waste and demolition type waste) as significant disposal capacity exists for inert waste at the SCRRC. This will have an impact on the tender for the Management of Stott's Creek Resource Recovery Centre which is currently out to tender and closes on 30 November, with Council unable to finalise and award this contract until the legislative changes are finalised and adopted. Any changes on what was proposed in the tender specification will then need to be revisited and negotiated with all tenderers.

Implications of the proposed amendments relating to the inspection of loads, and the need to sort, process and test mixed material and to screen fill

The changes relating to inspections, sorting, processing and testing of demolition waste including fill, will force Council to modify our operations at the site significantly. Increased screening at entry and when material is unloaded on the ground will require additional staff, modifications to the weighbridge and site, and the purchase of new plant. The Contract for

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management at the site will need to be modified to recognise the changed responsibilities and actions with an increase in operating cost being unavoidable.

Mixed demolition waste will need to be spread and separated into various waste streams and further processed to a resource recovery standard. At the end of this process Council will likely have spent significant money on this processing to produce low quality resources with minimal demand for the processed products. The products produced will need to be validated to ensure contaminants are not present and that they meet the resource recovery standard. Council will then be responsible for stockpiling and managing these products until markets can be found and the products can be removed from site.

The recommendations for the processing of soils include significant screening and processing which will require additional staff, plant and equipment. The area in which the processing is to occur will need to be a constructed hard stand with the appropriate environmental controls in place to prevent risks to the environment and human health.

The amendments have been proposed to commence on 1 March 2017, which is part way through the current budget year. This timeframe will make implementation of the changes on site impossible. Soil and demolition waste processing will require new plant, staff and infrastructure that cannot be procured within the timeframes proposed for the implementation of these proposed amendments.

Council should therefore seek to have the conditions and or the timeframes adjusted if the amendments are adopted to allow Council to comply with the modifications required at the SCRRC.

OPTIONS:

1. Council has the option of noting the contents of this report and supporting the recommendation to pursue the modification of the proposed amendments to the POEO Legislations.
2. Council has the option to disregard the recommendations of this report and to commence preparations to comply with the proposed changes to the POEO Legislation.

CONCLUSION:

The EPA has advertised a Consultation Paper for consideration with responses due by COB 17 November 2016. The consultation paper recommends changes to Protection of the Environment Operations Legislation that will impact significantly on the way in which Council processes and disposes of waste.

Council officers have prepared a response to the consultation paper which looks at the potential impacts on Council and argues the merits of the proposed changes.

This report is presented to Council for information on this review process and to seek Council's endorsement of the submission.

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COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

If the proposed legislative changes are adopted there will be significant budget implications which can only be determined once there is a better understanding of what is adopted. This will require an assessment at that time and a further report to Council.

Whilst Council has reserves that could potentially be used to fund the amended processes, these are currently committed toward the priority projects identified in its forward planning. The current master plan at the site has identified customer service areas that were proposed as the focus of development over the next two years, and this will need to be revisited with the various works programs reprioritised if the EPA proposed amendments are adopted.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Copy of the Council submission to the Consultation Paper
(ECM 4305753)
