

COUNCIL ASSESSMENT REPORT

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSHCC-121 DA/1940/2013/B
PROPOSAL	Modification to the existing Mobile Aerated Floor composting area into an open windrow composting pad that utilises a windrow turner at the Lake Macquarie Organics Resource Recovery Facility
ADDRESS	367 Wilton Road, Awaba Lot 372 DP 723259 413 Wilton Road, Awaba Lot 100 DP 1290754
APPLICANT	GHD Pty Ltd on behalf of REMONDIS Australia Pty Ltd
OWNER	Lake Macquarie City Council
DA LODGEMENT DATE	21 February 2022
APPLICATION TYPE	S4.55(2) modification
REGIONALLY SIGNIFICANT CRITERIA	Clause 275 (2) of <i>Environmental Planning and Assessment Regulation 2021</i> . Modification of an application specified in the <i>Instruction on Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels—Applications to Modify Development Consents</i> (Schedule 1, 1(a) – Council owned land).
CIV	\$664,571 (excluding GST)
KEY SEPP/LEP	State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Resilience & Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	Council has received six unique submissions. All submissions received have ongoing concerns with odour emissions from the facility.
DOCUMENTS SUBMITTED FOR CONSIDERATION	Plans Acoustic and odour reports
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	YES

SCHEDULED MEETING DATE	28 June 2023
PLAN VERSION	27 March 2023 Version No 9
PREPARED BY	Geoffrey Keech, Senior Development Planner
DATE OF REPORT	20 May 2023

EXECUTIVE SUMMARY

The application proposes to modify DA/1940/2013 (as previously modified) for a waste management facility (composting facility). The proposal is to change the composting technology from the existing aerated static piles (ASP) and mobile aerated floor (MAF) system to an open windrow system utilising a windrow turner for aeration, partial enclosure and addition of exhaust fans to the receival hall.

The proposed windrow composting technology was approved for use at this site under the original consent and was modified to the ASP technology under modification A.

The site is located adjacent the Awaba Waste Management Facility (AWMF) in Wilton Road, Awaba. The site is generally surrounded by bushland, which is largely in either state or Council ownership. Residential settlements are located from 1.3km northwest (Awaba), 1.6km northeast (Toronto) and 2.2km east (Rathmines) from the site. The Toronto Adventist school and Leisure Life Village sit approximately 1km east of the site. In addition, the following recreational facilities are within 1km of the site include a golf course, shooting range and automobile club.

The s4.55(2) application was lodged on 21 February 2022. The application was notified from 2 March 2022 to 6 April 2022 with 5 submissions received during the notification period and a further supplementary submission after the closing date. Following receipt of additional information, the proposal was renotified from 3 April 2023 to 27 April 2023 with two additional submissions received. Each submission raised odour as a concern, particularly citing historical experience with adverse odour events.

The application is referred to the Hunter and Central Coast Regional Planning Panel ('the Panel') as a s4.55(2) modification to a consent which was determined by the Panel. Council is the landowner and therefore is not permitted to determine the application in accordance with the Instruction on functions exercisable by Council on behalf of Sydney district or Regional Planning Panels – applications to modify development consents.

The application was formally lodged with Council in February 2022. Since lodgement the following briefings have been conducted with the Panel:

- 7 April 2022 – kick-off meeting
- 12 May 2022 – site visit
- 23 June 2022 – first briefing
- 15 September 2022 – odour assessment update

The following key items have been raised through assessment and with direction of the Panel:

1. *Odour emissions* – this issue was raised by submitters and in the application itself. The odour assessment was reviewed by the EPA and peer reviewed by a third party expert engaged by Council. The odour assessment was revised in response to the

peer review recommendations and reviewed by the EPA again. Outside of the application process, the applicant and EPA have been working to address some matters of compliance with the existing Environmental Protection Licence which are believed to have had a significant impact on the odour emissions from the site.

The revised odour assessment makes recommendations for measures to address odour emissions. These were accepted by the EPA and Council as appropriate, and additional conditions of consent were recommended for validation of the odour modelling, ongoing monitoring and maintenance, and complaints handling.

2. *Noise* – noise produced by the development was assessed as remaining compliant with the existing conditions of consent.

The application was referred to integrated approval bodies consistent with the original application, including NSW Rural Fire Service (NSW RFS), Subsidence Advisory NSW (SA NSW), and the Environmental Protection Authority (EPA).

NSW Rural Fire Service – provided updated General Terms of Approval, which reflect the changes to *Planning for Bush Fire Protection* from 2006 to the 2019 publication. These conditions are reflected in the recommended conditions of consent in Appendix A.

Subsidence Advisory NSW – the application was referred to Subsidence Advisory NSW due to the proposed amendment to the receival hall building. Subsidence Advisory issued General Terms of Approval, which have been included in the conditions of consent.

The Environmental Protection Agency – reviewed the odour assessment. While their General Terms of Approval remained as currently approved, they recommended additional conditions of consent, which have been included in the recommended conditions of consent in Appendix A.

The application was also referred to Ausgrid, Transport for NSW (TfNSW) and Hunter Water. TfNSW noted no objection to the modification, while Ausgrid and Hunter Water did not provide responses.

The application as modified is considered to be in the public interest. The development is expected to enable ease of management of the composting process leading to improved compliance with odour emissions. Conditions of consent will further secure the public interest. The facility continues to provide services to the public by reducing waste to landfill and producing compost as a resource for beneficial use.

The modification application is recommended for approval, subject to amended conditions of consent as outlined in Attachment A. The development is consistent with Council's LEP and DCP, and has received approvals or support as required from integrated approval agencies. The development is considered to be in the public interest and is expected to address public concerns as raised in the submissions.

The development has been assessed against the provisions of s4.55(2) of the Act and

- (a) is considered to be substantially the same development as originally approved.
- (b) consultation with approval bodies has been undertaken and conditions of consent updated accordingly. No approval bodies objected to the modification.
- (c) the application has been notified in accordance with the s106 of the Regulations and Schedule 1 of the Act.

(d) submissions made concerning the proposed modification have been considered. The requirements of s4.15(1) of the Act as relevant to the application have been considered. Details of the relevant matters are discussed in the body of the report.

1. THE SITE AND LOCALITY

1.1 The Site

The Lake Macquarie Organics Resource Recovery Facility (LMORRF) is located within the AWMF. The facility itself is a 5.99 Ha lot located immediately east of and adjacent Council's landfill. The site is accessed via the landfill site off Wilton Road, Awaba.

Remondis is under contract with Council to build, own and operate LMORRF for processing food and green organic (FOGO) waste delivered by Council and its contractors. The facility is currently approved to process 44,000 tonnes of FOGO per annum (DA/1940/2013/A).

The site and surrounding land uses are shown in Figures 1 & 2.

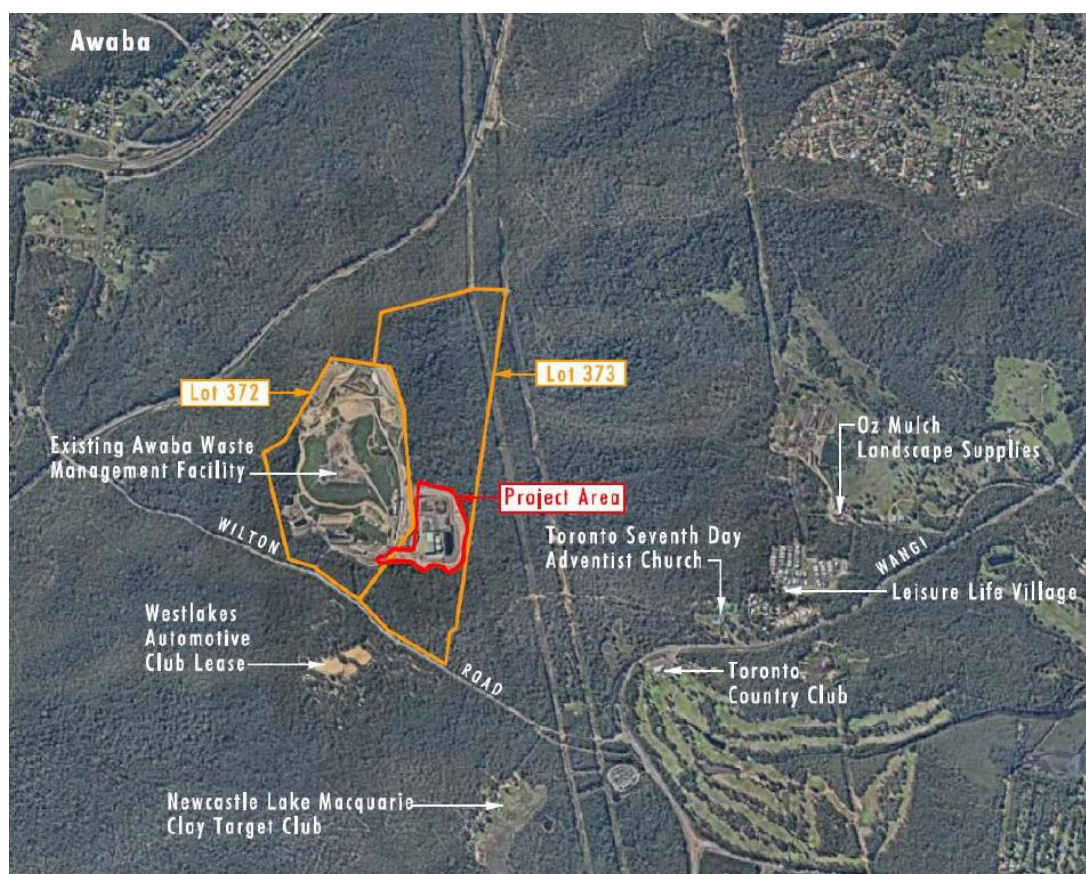


Figure 1: Map of site and surrounding locality

1.2 The Locality

The site is owned by Council, and surrounded by state owned land.

Nearby private uses include

- Seventh Day Adventist community 1.2 km east
- Awaba village 1.8 km northwest
- Rathmines industrial area 1.5 km southeast

- Toronto residential area 2.0 km northeast
- Rathmines residential area 2.8 km east-southeast



Figure 2: Map of site and surrounding locality showing Council-owned land (dark green) and state-owned land (light green)

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The modification seeks consent to change the process and technology used during the external composting operations to allow for more efficient management of the stockpiles, which is expected to reduce the risk of odour production. The existing MAF and ASP systems restrict operations to using a front-end loader to turn the piles, creating a bottleneck in the system and a risk of piles becoming deoxygenated and releasing odours.

Instead of the MAF/ASP technology demonstrated in Figure 4 (which will be removed from the site), an open windrow composting pad system is proposed. The current six large static piles will be elongated into 15 narrow triangle shaped rows (as demonstrated in Figure 5). The piles will provide access for a windrow turner, allowing for more frequent aeration.

The remainder of the site infrastructure will remain as-is. No additional site footprint is required, and the volume of compost processed will remain as currently approved.

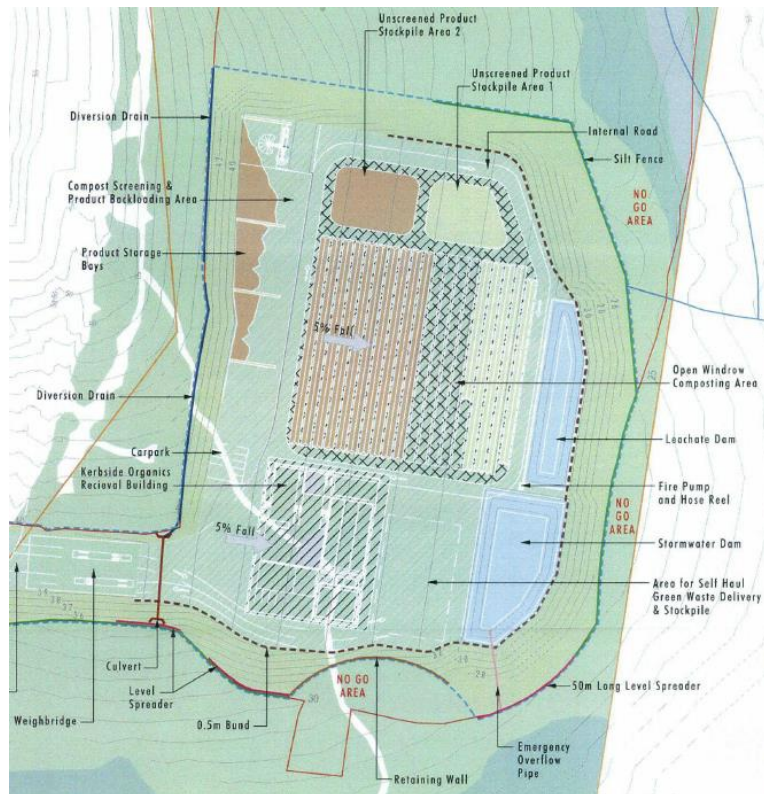


Figure 3: Approved site plan from DA/1940/2013



Figure 4: Approved modified site plan from DA/1940/2013/A



Figure 5: Proposed site plan detailing windrow layout similar to the original consent

2.2 Background

Original consent

DA/1940/2013 was approved by the Hunter and Central Coast Joint Regional Planning Panel on 9 October 2014.

The application was approved with open windrow composting technology (Figure 3)

Modification A

The first modification to the consent was determined by the Hunter and Central Coast Joint Regional Planning Panel on 11 September 2017.

The application sought to change from open windrow composting to a combination of ASP and static pile (SP) composting technology. The modification also approved an increase in processing volume by 47% over the original consent.

The modification application occurred prior to commencement of operations at the facility, and therefore the open windrow composting has not previously been utilised in practice.

Modification B

The s4.55(2) modification application was lodged on 21 February 2022.

A chronology of the application since lodgement is outlined in Table 1.

Table 1: Chronology of the DA

Date	Event
21 February 2022	DA lodged
28 February 2022	DA referred to external agencies
2 March 2022 – 18 April 2022	Exhibition of the application
7 April 2022	Kick-off briefing with Panel
7 April 2022	First response received from EPA
11 May 2022	Second response received from EPA
12 May 2022	Site visit with Panel
23 May 2022	Request for information from Council to Applicant
9 June 2022	Response to RFI received
23 June 2022	Panel briefing
24 June 2022	Revised information referred to EPA
19 July 2022	Third response received from EPA
1 August 2022	EMM engaged for peer review of odour assessment
6 September 2022	Peer review received from EMM
15 September 2022	Panel briefing to discuss peer review of odour assessment
26 September 2022	Request for information from Council to Applicant
10 October 2022	Response to RFI received (amended air quality modelling)

Date	Event
21 March 2023	Fourth response received from EPA
22 March 2023	Response to RFI received (amended plans)
3 April 2023 – 27 April 2023	Second exhibition of the application
12 May 2023	Fifth response received from EPA (technical air team review)
17 May 2023	Request for information from Council to Applicant
16 June 2023	Response to RFI received (Revised Noise Impact Assessment)

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is considered to be (which are considered further in this report):

- Integrated Development (s4.46)

The development is integrated development under:

- Coal Mine Subsidence Compensation Act 2017
- Protection of the Environment Operations Act 1997
- Rural Fires Act 1997

Subsidence Advisory NSW (SA NSW) issued General Terms of Approval for the original application and have provided new General Terms of Approval specific to the current modification. These have been included in the draft conditions (Appendix A)

The Environmental Protection Authority (EPA) issued General Terms of Approval requiring the development obtain an Environmental Protection Licence (EPL) issued under the Protection of the Environment Operations Act 1997 and operate in accordance with it at all times. The EPA provided advice on this application the existing General Terms of Approval are suitable without modification.

NSW Rural Fire Service (NSW RFS) issued General Terms of Approval for the original application and have provided new General Terms of Approval which update the approval to match changes to Planning for Bushfire Protection 2019 which have occurred since the original application. The modified General Terms of Approval have been included in the draft conditions (Appendix A)

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Lake Macquarie Local Environmental Plan 2014;*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 2** and considered in more detail below.

Table 2: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
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<p>State Environmental Planning Policy (State and Regional Development) 2011</p> <p>Environmental Planning and Assessment Regulation 2021</p> <p>Instruction on functions exercisable by Council on behalf of Sydney district or Regional Planning Panels – applications to modify development consents</p>	<p>Part 4 Regional development</p> <p>The original application was Regional Development under the SEPP, as it constituted Council-related development over \$5 Million, and was also a waste management facility which met the criteria for designated development.</p> <p>S275 Functions exercisable by council on behalf of Sydney district or regional planning panel</p> <p>A s4.55(2) modification application must be determined by the Regional Planning Panel where Council is the land owner.</p>	Yes
<p>State Environmental Planning Policy (Resilience & Hazards) 2021</p>	<p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> Section 4.6 - Contamination and remediation has been considered in the original assessment and the proposal is considered to have no impact to the previous assessment. 	Yes
<p>State Environmental Planning Policy (Transport and Infrastructure) 2021</p>	<p>Chapter 2: Infrastructure</p> <ul style="list-style-type: none"> Section 2.153 Development permitted with consent The development is permitted with consent in the SP2 zone. Section 2.121(4) - Traffic-generating development <p>Schedule 3: Traffic generating development</p> <p>The modified proposal has no impact on existing traffic volumes. TfNSW were notified of the application and responded with no objections.</p>	Yes
<p>Proposed Instruments</p>	<p>No compliance issues identified.</p>	Yes
<p>Lake Macquarie LEP 2014</p>	<ul style="list-style-type: none"> Clause 2.3 – Permissibility and zone objectives <p>The development is permitted with consent in the SP2 zone as a purpose shown on the Land Zoning Map</p>	Yes
<p>Lake Macquarie DCP 2014</p>	<ul style="list-style-type: none"> Clause 2.17 Social impact <p>The development has generated community opposition due to adverse odour emissions.</p> <ul style="list-style-type: none"> Clause 4.6 Air quality <p>Odours have had an unreasonable impact on the amenity of properties up to several kilometres from the site.</p> <p>The odours generated by the development have been addressed through compliance actions under the EPL, and current modelling predicts levels to be within an acceptable range with implementation of the proposed modifications.</p>	Yes

Consideration of the relevant SEPPs is outlined below

State Environmental Planning Policy (State and Regional Development) 2011
State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')
Environmental Planning and Assessment Regulation 2021
Instruction on functions exercisable by Council on behalf of Sydney district or Regional Planning Panels – applications to modify development consents

The proposal is a s4.55(2) modification to an application which was Regionally Significant Development under Part 4 Regional Development of SEPP (State and Regional Development) 2011, and Schedule 4A of the Environmental Planning and Assessment Act 1979 (the Act), as in force at the time of lodgement.

Under S275 of the Environmental Planning and Assessment Regulation 2021 council must not determine an application to modify a consent under s4.55(2) of the Act if the application is of a kind specified in the Instruction on Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels—Applications to Modify Development Consents (the Instructions). The Instructions specify conflict of interest (Council is the landowner) as a reason Council may not determine an application on behalf of the Panel.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021 ('the Resilience and Hazards SEPP')* have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The proposal will not alter the existing land use and it remains suitable for the intended use.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Section 2.153 Development permitted with consent

A waste or resource management facility is development permitted with consent in a prescribed zone. The land is zoned SP2 Infrastructure, which is a prescribed zone.

The development is therefore permissible and the provisions relating to existing uses are not applicable.

Lake Macquarie Local Environmental Plan 2014

The relevant local environmental plan applying to the site is the *Lake Macquarie Local Environmental Plan 2014* ('the LEP'). The aims of the LEP include

- (c) to promote the efficient and equitable provision of public services, infrastructure and amenities,
- (e) to apply the principles of ecologically sustainable development,
- (f) to encourage development that enhances the sustainability of Lake Macquarie City, including the ability to adapt to and mitigate against climate change.

The proposal is consistent with these aims as the proposal seeks to:

- improve the efficiency of managing the provision of composting services on behalf of the public.
- continue to divert organic wastes away from landfill and process them into a reusable product.
- manage the facility in a manner which avoids adverse odour impacts to nearby properties.

Zoning and Permissibility (Part 2)

The site is located within the SP2 Infrastructure Zone pursuant to Clause 2.2 of the LEP, with a stated purpose being for a Waste or resource management facility (refer Figure 6).

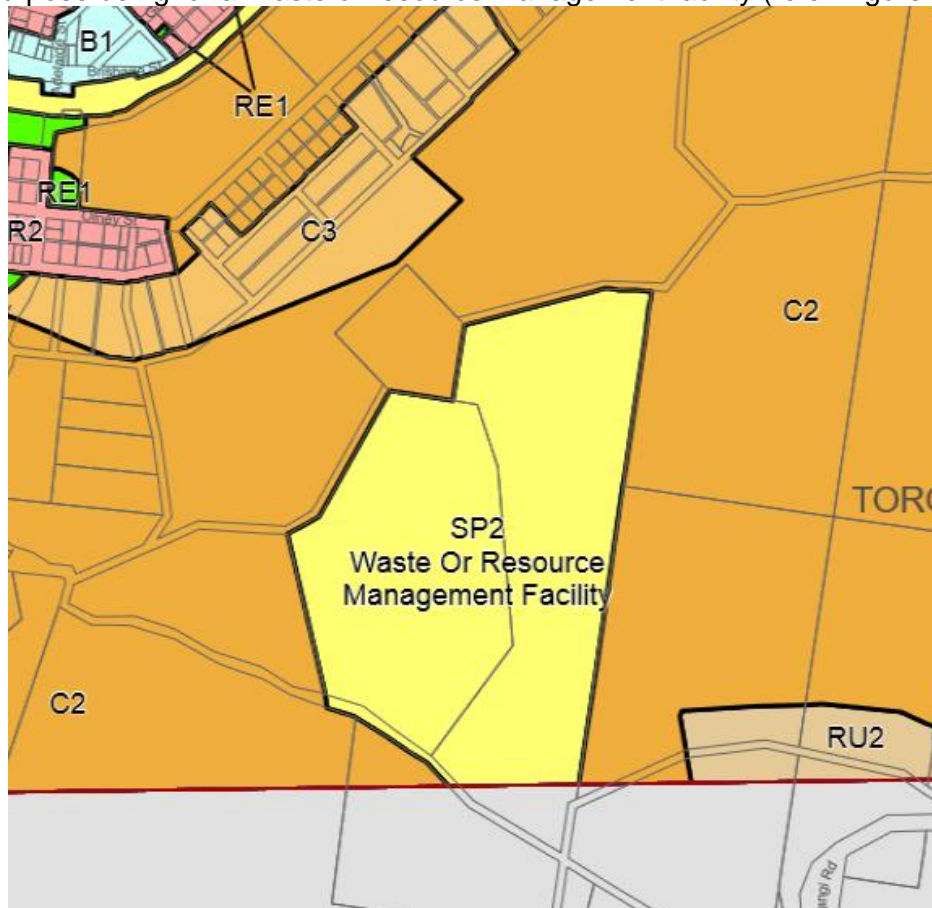


Figure 6: the land is zoned SP2 Infrastructure for the purpose of a waste or resource management facility

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of waste or resource management facility which is a permissible use with consent in the Land Use Table in Clause 2.3.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To provide land required for the development or expansion of major health, education and community facilities.

The proposal is considered to be consistent with these zone objectives because the development provides for waste management infrastructure.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 3** below. The proposal does not alter compliance with any provision of the LEP.

Table 3: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Heritage (CI 5.10)	The consent authority must (before granting consent*) consider the effect of the development on the heritage significance of the place or any known Aboriginal object.	The proposal will remain within the already disturbed area of the site and have no additional impact on any Aboriginal heritage or sensitive Aboriginal landscape.	Yes
Development on sensitive Aboriginal landscape areas (CI 7.7)	The consent authority may require an Aboriginal heritage Impact Statement before granting consent.		

* the modification of a consent is not taken to be the granting of development consent (s4.55(4))

The proposal is considered to be generally consistent with the LEP.

(g) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no proposed instruments which are relevant to the proposal.

(h) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- *Lake Macquarie Development Control Plan 2014* ('the DCP')

The development is considered to be consistent with the DCP. Discussion of issues and resolutions are included in the Likely Impacts and Key Issues sections of this report.

(i) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(j) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are not relevant to the proposal.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Noise and vibration – construction noise will be minimal and short in duration. Existing conditions of consent cover construction noise and are remain applicable to any future works proposed under the modification.

An acoustic impact assessment prepared by GHD was submitted with the application, and with updated assessment provided to assess any change arising from the introduction of exhaust fans in the amended plans.

Operational acoustic emissions will change as a result of the development. The development will reduce noise sources by removing the front-end loaders, fans associated with the aerated static piles, and partially enclosing the receival hall. The proposal will introduce new noise sources in the windrow turner and exhaust fans on the receival hall.

The acoustic assessment identified one site at which the noise exceeded the threshold. The exceedance was 1 dB, and this was considered acceptable as the site is a motorsport park, which is infrequently in use and generates noise of its own. The 1 dB exceedance is considered a 'just perceivable' change.

The acoustic emissions from the site are recommended to be approved. The existing conditions of consent are considered appropriate.

- Odour emissions

An air quality (odour) assessment prepared by The Odour Unit, dated 16 December 2021, was submitted with the application. The report was reviewed by the EPA, who raised several concerns. A peer review was prepared by EMM, dated 6 September 2022, which resulted in 15 recommendations. A revised odour report was prepared by The Odour Unit, dated 11 January 2023 responding to the peer review recommendations. The revised modelling found an improvement to the current operations for odour impacts to nearby receivers.

Odour emissions are predicted to be restricted to less than 2 odour units at sensitive receivers.

The EPA reviewed the revised odour report and recommended further modelling was not likely to alter the overall assessment. Post implementation monitoring and validation was recommended, as well as updated odour management strategy and community engagement plans. The EPA did not object to the proposal and noted ongoing obligations exist under the Environmental Protection Licence.

Council's air quality officer reviewed the amended odour report and recommended conditions of consent in relation to enclosure of the receival hall, odour surveying, record keeping for complaints, and odour validation.

- Social impact –Submissions indicated adverse social outcomes (such as not inviting guests over or not being able to utilise outdoor space during adverse odour events) have been occurring as a result of odour emitted from the site. Odour impacts also extend to public and private outdoor recreation facilities.

The proposed modification will lower the potential for adverse odour emissions from the site, and should therefore allow for normal outdoor social interactions in public and private locations.

- Site design and internal design – the existing site design is appropriate for the proposed modification and does not require alterations.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

3.3 Section 4.15(1)(c) - Suitability of the site

The site is already in use under the existing consent.

Public submissions question the suitability of the site due to odour concerns. The risk of odour emissions is considered addressed.

3.4 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

3.5 Section 4.15(1)(e) - Public interest

The modification application is considered to be in the public interest.

The risk of further adverse odour emissions has been addressed and the development remains required to meet the conditions of the EPL, which does not permit the emission of offensive odours.

The development will permit more efficient processing of organic waste at the facility, which reduces the risk of anoxic conditions developing and releasing offensive odours.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 4.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 4: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
N/A			
Referral/Consultation Agencies			
Ausgrid	Agency commented on original application	No response provided	Yes
Transport for NSW	Agency commented on original application	No objections raised	Yes
Hunter Water	Agency commented on original application	No response provided	Yes
Integrated Development (S 4.46 of the EP&A Act)			
Environmental Protection Authority	Review of the application as the key matter of the application (odour emissions) is a matter regulated by the EPA via an EPL under the Protection of the Environment Operations Act (POEO Act).	<p>The existing General Terms of Approval remain suitable.</p> <p>The applicant has ongoing obligations under the EPL and POEO Act irrespective of the modification.</p> <p>The EPA does not object to the proposed modification.</p>	Yes
Subsidence Advisory NSW	Review application as the proposal differs in a substantive way from the original approval granted (changed to the built form)	New General Terms of Approval have been issued specifically addressing the modified building.	Yes
NSW Rural Fire Service	Review application as General Terms of Approval were issued for the original application.	Modified General Terms of Approval have been issued which update standards, terminology and consistency with current bushfire planning requirements.	Yes

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 5**.

Table 5: Consideration of Council Referrals

Officer	Comments	Resolved
Development contributions	Contributions were not applied to the original consent and cannot be added to the modification	Yes
Engineering	Council's Engineering officer reviewed the application with respect to stormwater management and considered that there were no variations from the approved plans.	Yes
Traffic	Council's Traffic Engineering officer reviewed the proposal and noted the proposal is not expected to increase the volume of traffic generated by the site.	Yes
Environmental Management	Council's Environmental Compliance officer reviewed the application with respect to the acoustic operations. The application noted a predicted increase in actual operational noise levels, however ongoing compliance will be maintained with the noise targets established through the original approval process. Existing conditions of consent remain appropriate.	Yes
Air Quality	<p>Council's Environmental Systems officer noted the operation is subject to an EPL and the Environmental Protection Authority is the regulatory authority for air quality.</p> <p>The officer reviewed the amended odour assessment report noting the revised assessment has responded to the recommendations arising from the peer review of the original odour assessment report lodged in support of the modification application. The predicted odour impact was below the odour impact assessment criteria.</p> <p>The officer recommended advice from the EPA or peer reviewer with respect to the adequacy of justification for the selection of meteorological data and odour emission rates. Advice has been received from the EPA technical air team who recommended the application is suitable for determination subject to recommended conditions of consent.</p>	Yes (conditions)
Waste	<p>Council's Waste Services officer requested further information regarding dust suppression under the revised operations. The applicant noted the windrow turners are equipped with water sprayers to manage dust during the turning process.</p> <p>Any redundant equipment removed from the site is recommended for reuse or recycling.</p>	Yes
Heritage	Council's Heritage officer reviewed the application and noted the proposed modification falls within the existing footprint of the development and will not have any additional impact on Aboriginal heritage.	Yes

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 2 March 2022 until 18 April 2022, and subsequently between 3 April 2023 and 27 April 2023. The notification included the following:

- Notification letters sent to affected properties (approximately 575 letters sent);
- Notification on the Council's website.

The Council received a total of 8 submissions from 6 submitters. The submissions were phrased as objections to the modification, however related almost uniquely to the existing odour problems the site has been experiencing. The submissions are taken as being concerns the odour problem will be exacerbated. The issues raised in these submissions are considered in **Table 6**

Table 6: Community Submissions

Issue	No of submissions	Council Comments
Odour Submissions raised concern whether the development will further adversely impact odour within the locality, which has been the subject of numerous complaints in respect of the existing operation.	8	<p>The application has provided modelling demonstrating odour impacts at residences near to the facility are predicted to meet the most stringent impact assessment criteria (2 odour units) set by the EPA's "Approved Methods for the modelling and Assessment of Air Pollutants in New South Wales".</p> <p>Outside of the application process, the proponent has made changes to the existing operation to bring it in line with requirements under the existing EPL. This has reportedly resulted in compliance with the existing consent and EPL, and no odour complaints have been received since implementation.</p> <p>The EPA have indicated further modelling is not recommended and odour impacts can be managed by way of conditions of consent and the EPL conditions.</p> <p>The mental and physical health of residents, and the ability to utilise private space for social activities is addressed by the amended design and reduction in predicted odour levels meeting or exceeding EPA standards for odour at residences.</p>

		<p>The legal implications, including compensation, arising from a failure to achieve the predicted odour levels, comply with conditions of consent or the EPL are not planning matters.</p> <p>Outcome: This issue has been satisfactorily addressed subject to the imposition of relevant recommended conditions of consent (Schedule 1) and ongoing compliance with the EPL.</p>
Increase in approved throughput	3	The application has not applied for an increase in throughput and therefore these comments are not applicable to the application under consideration.
Housing market	1	The impact to the local housing market is not a planning matter.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Odour

Composting of organic material creates odours. The level of odour created is impacted by factors including the feedstock, moisture content, aeration, and stockpile management. Emissions are further affected by the prevailing weather conditions with respect to dispersion or movement of the odour offsite to sensitive receivers. Open stockpile composting is impacted by rainfall input to moisture levels and the ability to effectively aerate the compost. Odour emissions are regulated under the Protection of the Environment Operations Act via an EPL issued and monitored by the EPA.

The existing operation has resulted in adverse odour events generating numerous complaints from neighbours up to several kilometres away from the site, and all the submissions made during the notification period raised odour as a point of concern. The adverse events were considered to be in breach of the EPL and actions have been taken outside of the development application process to address the existing issue.

An odour modelling report prepared by The Odour Unit, dated 16 December 2021, was submitted with the application (first odour report). The application was referred to the EPA, with several concerns raised with respect to the accuracy of assumptions and odour reductions predicted. Following the referral advice, Council procured a peer review of the odour report. The peer review was prepared by EMM, dated 6 September 2022. The peer review made six recommendations for amendments in the following categories:

- Meteorological monitoring
- Assessment criterion
- Receptors
- Odour emissions inventory
- Dispersion meteorology
- Dispersion modelling

A revised odour report prepared by The Odour Unit, dated 11 January 2023, was submitted (revised report). The revised report addressed the recommendations raised in the peer review. Modification to the receival hall was recommended to enclose it on two sides, and install fans in the roof to discharge odours from this source vertically. The revised report concluded the proposal could reduce predicted odour concentrations at nearby receptors between 52% and 82% compared to the current operations.

Council's Environmental Strategy Coordinator reviewed the revised report and recommended the EPA or peer reviewer also undertake a review. Subject to satisfactory EPA/peer review, conditions of consent were recommended.

The revised report was reviewed by the EPA. While further uncertainties and limitations in the reporting were identified, the EPA concluded that further odour modelling was not recommended, but rather the residual uncertainties could be managed by way of conditions of consent. The recommended conditions of consent include ongoing monitoring and maintenance of the biofilter, and an update to the odour management strategy and community engagement management plan following implementation of the proposed modifications. Overall, the EPA noted the proposed modifications could facilitate an improved odour outcome at the site, however this would be subject to diligent management practices. Alternative measures were also suggested should the management practices fail to deliver satisfactory outcomes alone, including engineering controls or feedstock changes. Correspondence from the EPA throughout the assessment consistently raised no objections to the proposal and noted odour outcomes remain regulated via the EPL.

An odour validation assessment was proposed to occur within six months of completion of the modification, which was supported by the EPA and Council in recommended conditions.

Resolution: The issue has been resolved through recommended conditions of consent – refer draft condition 7A.

5.2 Noise and vibration Assessment

The proposed amendments to processing technology come with a change in equipment used to undertake the work. The existing facility utilises two front-end loaders and 16 ASP fans. The modified proposal will remove these and replace with a windrow turner. Amendments to the application during the assessment also added exhaust fans to the receival hall and partial enclosure.

The application was accompanied by a Noise Impact Assessment Modification prepared by GHD, dated 10 January 2022 ('Noise Report') and a technical memorandum, dated 16 June 2023, updating acoustic information based on changes which occurred to the design during the assessment period ("Supplementary Noise Report"). These reports considered the changes to the acoustic emissions from the existing approval.

The Noise Report and Supplementary Noise Report considered the noise impacts arising from the proposed change in plant operating at the site. The report concluded that noise levels at nearby receivers are unlikely to exceed the noise management levels, except at the motorsport facility where impacts may exceed noise goals by 1dB(A). This was considered a suitable outcome because the receiver is a generator of its own noise and is intermittently used.

The report concluded that despite a 5dBA increase over existing conditions, the proposal would meet operational noise criteria, with one acceptable exception. Council has considered this report and concluded the report was satisfactory. Existing conditions of consent were considered suitable for the amended outcome.

Resolution: The issue was found to be consistent with the existing conditions of consent as outlined in **Attachment A**.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The proposal intends a return to the composting technology approved under the original consent. Odour and noise were key issues in the modified assessment. Odour was addressed through proposed modifications to the receival hall, refurbishment of the biofilter, and the overall management of the composting proposed by the application. Noise was impacted due to the change in plant used to manage the site, however this remained within the thresholds approved under the existing consent. The site is considered to remain suitable, and the modifications are predicted to improve odour outcomes to acceptable limits for receivers in the locality.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

That the Modification Application [DA/1940/2013/B] for Waste Management Facility - Composting Facility at Awaba Waste Management Facility, 367 and 413 Wilton Road, Awaba NSW 2283 be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Architectural Plans
- Attachment C: Revised odour assessment report and peer review
- Attachment D: Acoustic assessment report and supplementary report
- Attachment E: EPA correspondence