

SUBMISSION (26 JULY 2004)

**DRAFT DETERMINATION ON APPLICATIONS FOR
AUTHORISATION LODGED BY NSROC AND THE WESTERN
SYDNEY COUNCILS**

**Authorisation Nos: A30231 and A90886
Public Register Nos: C2003/1363 and C2004/31**

1 INTRODUCTION

Total Environment Centre (TEC) strongly advocates for the establishment of ecologically sustainable development and increased resource recovery requirements in the authorisation by the ACCC of joint tenders for the provision of waste transfer, processing and disposal services for local government areas.

TEC considers that the draft determination does not sufficiently take consideration of the public and environmental benefits to be gained from the use of high value alternative waste technologies (AWT) validated by the NSW Waste Avoidance and Resource Recovery Strategy (2003). If approved, the tendering processes may result in public and environmental detriment through the lock-in of inferior waste disposal destinations, in particular, to landfill.

TEC considers the lack of prescription in the tendering processes to be in direct conflict with NSW Government policies which, through painstaking community consultation processes over a number of years, have articulated the strong public desire for specific targets for the diversion of waste away from landfill and towards increased levels of resource recovery.

Under section 90 of the Trade Practices Act, the ACCC may only grant authorisation where the public benefit test is satisfied. It is therefore critical that the ACCC ensures that the authorisation to undertake joint tendering is of maximum benefit to the public and that this benefit would outweigh the detriment to the public constituted by any lessening of competition.

TEC is of the strong view that the applicants have not demonstrated a clear and specific commitment to higher value AWT, as required by the NSW Strategy.

To date the council submissions and ACCC determinations have been at a general level, which do not appropriately reflect the NSW Waste Avoidance and Resource Recovery Strategy (2003). We note that the NSROC application makes no mention of the Strategy and its targets, while the 5 Camden et al councils at least acknowledge it.

It is essential that ACCC determination converge with the Strategy targets, rather than let them 'fall between the cracks'. The ACCC determination should adopt the target for municipal waste and recognise the staggered timing involved in achieving it when granting the councils the right to call for long term contracts.

The target for improved municipal waste recovery has been set at a 66% diversion from landfill and (instead) increased resource recovery by 2014, in recognition of the limits to landfill capacity and the significant environmental and economic benefits from resource recovery to the community and economy. The tonnages per annum set for the municipal sector are – 738,000. ¹

This is a target for diversion from landfill and does not equate to the general term 'alternative waste technology' as apparently used by the ACCC and various council submissions. Waste to energy via landfill or use of low grade compost as day cover in landfills, is not in accord with the target. Day cover is simply a dumping of the waste in another form. Nor does waste to energy, such as by a bioreactor in a landfill, comply.

The projections of waste diverted from landfill used by the NSW Government and its expert advisors, assume a certain waste flow to landfill. This is found in the landfill capacity reports by Wright (2001, 2002).

The development consent for Woodlawn provides for receipt of up to 400,000 tpa of Sydney waste, with the requirement of a reduced input each five years. While the organic waste segment may contribute to a bioreactor, **it is not part of the diversion target.** The requirement of a reducing input to Woodlawn recognises there will be staggered development of higher value resource recovery, with increasingly less reliance on landfill. **Nor would use of low grade compost as day cover for landfill (as may occur at Waste Services site at Eastern Creek), help meet the target.**

Wright proposed a 12 year timeframe, with two 6-year intervals, to reach the NSW target (ie 2014). As noted in the NSW Strategy:

It is also important to understand that recovering additional tonnages for reprocessing is not going to happen in a regular, linear fashion, with recovered tonnages building up evenly between now and 2014. A more accurate picture will see stepwise progress with periods of time where we largely maintain current recovery levels as we lay the groundwork for the next surge forward. For example, installations of new plants are dependant on investment decisions, satisfying planning and community consultation requirements and sourcing feedstock. Experience to date suggests this can take up to 5 years.²

The adoption of the Wright Aggressive Scenario, Scheme 7, is a strong signal to those considering new infrastructure, that appropriate technology and practices should be adopted so that the targets can be met. Clearly, the infrastructure that we will have in 2014 will largely be that which is decided upon in the next few years."

¹ See Wright, T 'Independent Public Assessment – Landfill Capacity and Demand (2000); and 'Shaping the Vision and Strategy for Sustainable Waste Management in NSW' (2002) - dry materials recycling 150,000t; Garden waste processing 150,000t; Food waste processing 150,000t; Residual waste processing 280,000t

² Resource NSW, Waste Avoidance and Resource Recovery Strategy, 2003, p. 38.

Wright (2002) notes that with the take-up pace (6 year intervals), potential landfill capacity shortfall should be avoided with Woodlawn taking waste or Eastern Creek developed further.

The determinations made by the ACCC in response to the various council applications can either support or undermine the NSW target. The integration of the specific target and its staggered achievement, in the determination will support implementation of the target and achievement of significant public benefits.

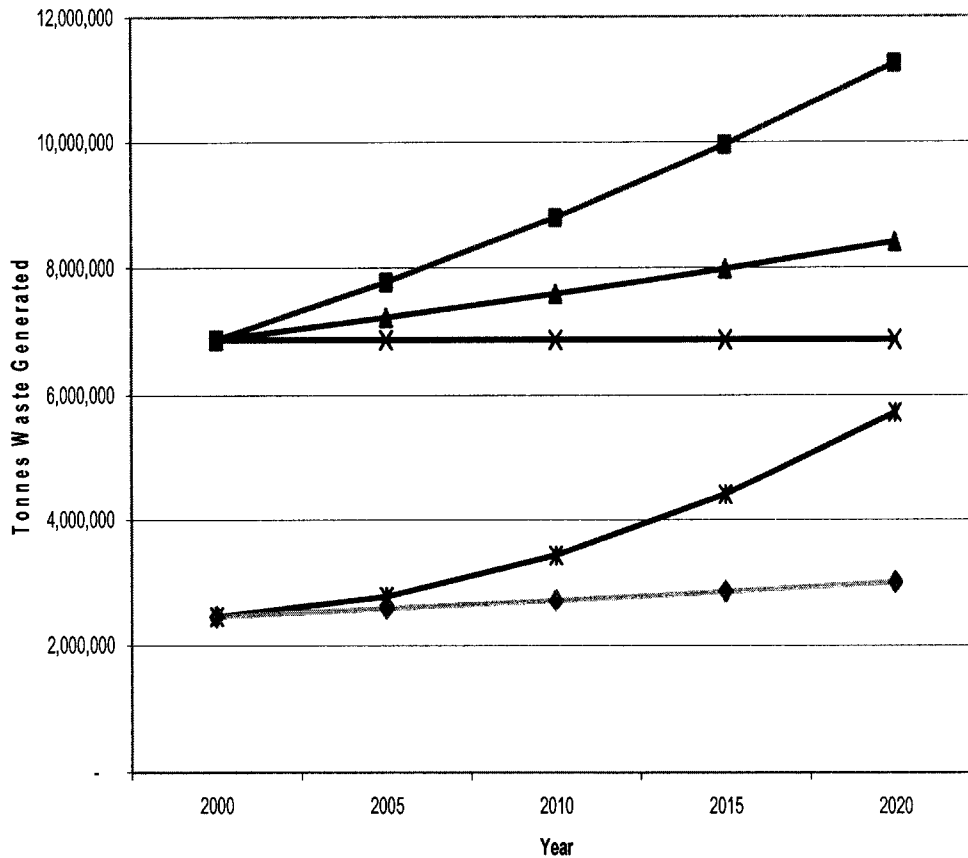
Thus the ACCC should specify that in council tenders calling for long term waste contracts (10 or up to 15 years) there is a reduction in the nominated waste flows in accordance with the NSW target of 66%, either met in one step or two steps. Each council grouping is sufficiently large to capture the broad characteristics of municipal waste and there should not be a difficulty in applying the percentage cut to each council grouping.³

³ It may be appropriate for the councils to negotiate local reductions in each sub-category with the Department of Environment and Conservation, but the ACCC should set the groundwork for this to occur. In response to the draft Strategy councils such as Ryde and North Sydney called for clear milestones so that no momentum is lost and targets are met by 2014.

2. BACKGROUND

The collection and management waste in NSW has, for the last decade, been in crisis as landfills have reached capacity with many leaving a legacy of high environmental impact. Widespread community opposition to new landfills and incinerators has led to the development of new strategies to improve resource recovery rates and relieve pressure on landfills. The most recent of such strategies is the NSW Waste Avoidance and Resource Recovery Strategy (the Strategy). In a recent paper (The Waste Crisis, 2003) TEC showed the trends:

Predicted Waste Generation Trends for the Sydney Metropolitan Area



- Waste Generated with No additional Waste Avoidance (kg waste per \$100 GSP constant) - growth per capita and population growth
- ▲ Waste Generated where Waste Avoidance counters Economic Growth (constant per capita)
- ✕ Waste Generated where Waste Avoidance counters Economic Growth and Population Growth (constant vol. of waste generated-Resource NSW target)
- ✱ Resources Recovered at Volume Rates set out in Resource NSW Strategy to 2015 (following trend to 2020)
- ◆ Resources Recovered at Current Rates (constant per capita)

This graph shows likely waste generation trends according to a number of scenarios that are specified in the graph legend. The starting point is the Year 2000, where Sydneysiders disposed of approximately 4,500,000 tonnes of waste to landfill, at the same time recovering 2,450,000 which is just over 35% of the total waste generated – nearly 7,000,000 tonnes.

3. NSW WASTE AVOIDANCE AND RESOURCE RECOVERY STRATEGY

The NSW Waste Avoidance and Resource Recovery Strategy was developed in 2003 as a requirement of section (12) of the Waste Avoidance and Resource Recovery Act 2001 (WARR Act). Based on broad consultation with industry, community groups, environment groups, individuals and state and local governments, it gained wide support. The Strategy directs policies and practices on waste management and resource recovery.

3.1 STRATEGY TARGETS

The targets developed by the Strategy used extensive consultation processes, as well as research from the report, *Independent Public Assessment – Landfill Capacity and Demand*⁴ and the *Report of the Alternative Waste Management Technologies and Practices Inquiry*.⁵

The targets in the Strategy have been endorsed by the NSW Government, and include:

- by 2014 increase recovery and utilisation of materials from municipal sector from 25% to 66%;
- by 2014 increase recovery and utilisation of materials from the commercial and industrial sector from 28% to 63%;
- by 2014 increase recovery and utilisation of materials from the construction and demolition sector from 65% to 76%.⁶

These targets represent a significant improvement in resource recovery rates, requiring major changes in waste management practices. Their application would result in the recovery of more than 2 million additional tonnes per year in the Sydney metropolitan area alone, and the recovery of an extra 738,000 tonnes from the municipal sector.⁷ A lock-in of councils for most of their waste to be destined for landfill will be in direct contravention of these targets.

3.2 THE STRATEGY'S APPROACH TO ALTERNATIVE WASTE TECHNOLOGIES

The Strategy reported that current decision making models are being driven by narrow individual technology components without clear evidence of performance.⁸ The Strategy also reported that there is little consideration of economic, environmental and social costs and benefits for local communities or how to optimize system-wide operation and performance in decisions on waste management and resource recovery technologies. The Strategy stated:

More rigour and a greater strategic context must be integrated into the evaluation process. It must include economic, environmental and social costs and benefits for local communities but this must be considered within a broader context and the whole materials flow system of which an individual technology is just a very small part.

⁴ Tony Wright, *Independent Public Assessment – Landfill Capacity and Demand*, September 2000.

⁵ NSW Government, *Report of the Alternative Waste Management Technologies and Practices Inquiry*, April 2000.

⁶ Resource NSW, *Waste Avoidance and Resource Recovery Strategy*, 2003, p. 3.

⁷ Resource NSW, *Waste Avoidance and Resource Recovery Strategy*, 2003, p. 34.

⁸ *Ibid.*

*The lack of an overall strategic plan for processing and aggregation facilities means that there is potential for ad hoc decisions based on poor information or relying on inappropriately sized collection areas. The cumulative effect of ad hoc decisions will result in a dysfunctional system.*⁹

To address these system-wide defects, the Strategy reports on the potential for new technologies to positively impact on resource recovery outcomes. It points to the achievement of improved diversion rates by increasing the range and capacity of resource recovery technologies and practices to recycle and re-use more materials.¹⁰ In particular, the Strategy noted:

*The adoption of the Wright Aggressive scenario, scheme 7, is a strong signal to those considering new infrastructure, that appropriate technology and practices should be adopted so that the targets can be met. Clearly, the infrastructure that we will have in 2014 will largely be that which is decided upon in the next few years.*¹¹

Without embedding economic, environmental and social goals in tenders for waste management and resource recovery services, councils are likely to lock-in the cheapest arrangements, excluding the possibility for improved outcomes and to the detriment of the public interest.

3.3. PUBLIC RESPONSE TO THE STRATEGY

The draft Strategy received over 75 submissions. An independent report on the community's response to the draft Strategy concluded that overall reaction was positive.¹² In particular, the report found that most individuals considered that the issues covered within the draft Strategy were of 'extreme importance'.¹³ In this context, the inclusion of sustainability criteria within tenders for waste service provision is a critical factor in addressing the public's desire for improved outcomes in this area.

Also in response to the draft Strategy councils such as Ryde and North Sydney called for clear milestones so that no momentum is lost and targets are met by 2014. The ACCC application appears to omit this desire.

⁹ Ibid.

¹⁰ Resource NSW, Waste Avoidance and Resource Recovery Strategy, 2003, p. 38.

¹¹ Ibid.

¹² Woolcott Research, *An Assessment of Community Reaction to the Draft Waste Avoidance and Resource Recovery Strategy*, October 2002, p. 9, 19.

¹³ Ibid.

5. CONFUSION OVER ALTERNATIVE WASTE TECHNOLOGIES (AWT)

The role of AWT in achieving more sustainable outcomes has been well documented, particularly in the *Report of the Alternative Waste Management Technologies and Practices Inquiry*. There is confusion, however, over definitions of AWT with the resulting impression that all AWT delivers diversion of waste from landfill and recovery of resources. This is certainly not the case.

The NSW Waste Avoidance and Resource Recovery target for diversion from landfill does not equate to the general term 'alternative waste technology' as used by the ACCC and various council submissions. The AWT term is not accurate when considering the detailed implications.

Waste to energy via landfill or use of low grade compost as day cover in landfills, is not in accord with the target. Day cover is simply a dumping of the waste in another form. Nor does waste to energy, such as by a bioreactor in a landfill, comply. Both avoid higher value uses and should not be used for the bulk of waste management.

6 THE ECONOMICS OF AWT

While higher value AWT technologies may appear to cost more for individual councils attempting to achieve the greatest public benefit through greater sustainability, the aggregation of contracts enabled by the group tendering process would eventually reduce costs through economies of scale. As the proliferation of AWT grows and the technologies are mainstreamed, reduced costs and increased competition would push down prices further. This will ultimately result in ecologically sustainable resource recovery and waste management practices to become more broadly available and more cost-effective.

Community support for more sustainable practices (despite increased costs) has been well documented. The latest *Who Cares About the Environment in 2003*, for example, shows that 59% agreed (and only 25% disagreed) that they would pay increased taxes if the extra money was used to fix environmental problems.¹⁴

7 JOINT TENDERS SHOULD REQUIRE PROVIDERS TO MEET NSW WASTE AVOIDANCE AND RESOURCE RECOVERY TARGETS

To ensure the public benefit, environmental benefit and ongoing competition in the waste management and resource recovery sector, the ACCC should require the following in joint tenders for waste disposal services:

- Joint tenders should seek specification whether the method of disposal is landfill, bioreactor landfill or higher value AWT;
- Joint tenders should be required to ensure that at least 66% of waste collected is to be diverted from landfill;
- Joint tenders for landfill services (as opposed to AWT) should be short term, so that a guaranteed waste flow to high value resource recovery AWT is able to be provided and high value AWT can be ramped up.

¹⁴ Department of Environment and Conservation, *Who Cares About the Environment in 2003?*, February 2004, p. 48.

ABOUT TOTAL ENVIRONMENT CENTRE

Total Environment Centre is a non-for-profit environmental advocacy group with a long history of engagement and input into NSW's waste issues, policies and strategies. In addition, TEC Executive Director, Jeff Angel, was a Board Member of Resource NSW when the current Waste Avoidance and Resource Recovery Strategy was developed. This involved taking into account a large range of public submissions to the Draft Strategy. Submissions were from community groups, environmental advocacy groups, local councils and industry. These submissions formed the basis for the Waste Avoidance and Resource Recovery Strategy.