

<b>Allens</b>	
Deutsche Bank Place Corner Hunter and Phillip Streets Sydney NSW 2000 Australia	GPO Box 50 Sydney NSW 2001 Australia
<b>T</b> +61 2 9230 4000	
<b>F</b> +61 2 9230 5333	
www.allens.com.au	ABN 47 702 595 758

Allens > < Linklaters

12 July 2018

Independent Planning Commission NSW  
Level 3, 201 Elizabeth Street  
Sydney, NSW 2000

By email: [ipcn@ipcn.nsw.gov.au](mailto:ipcn@ipcn.nsw.gov.au)

Dear Commissioners

**Energy from Waste Facility (SSD 6236)  
Submission on behalf of Jacfin Pty Ltd – Response to Further Information**

We act for Jacfin Pty Ltd (**Jacfin**), the owner of Lot 522 in DP 1238718 (previously described as Lot 20 in DP 1206129).

**1 Further Information**

It has recently come to Jacfin's attention that The Next Generation NSW Pty Ltd (**Proponent**) has provided further new information to the Independent Planning Commission (**Commission**) in support of its development application (SSD 6236) for a proposed Energy from Waste Facility at Eastern Creek (**Proposed EfW Facility**).

In particular, Jacfin refers to the following documents uploaded to the Commission's website:

- (a) a letter dated 7 June 2018 from Urbis (on behalf of the Proponent) to the Commission providing further information concerning catastrophic events, emergency shutdown procedures and potential risk scenarios (**Urbis Letter**); and
- (b) a report by Hitachi Zosen Inova (the proposed operator for the Proposed EfW Facility) dated June 2015, which provides a detailed 'outline of the operation' of the facility (**HZI Report**), (together, the **Further Information**).

**2 Right to Respond**

As you are aware, Jacfin has made a number of previous submissions strongly objecting to the Proposed EfW Facility and has invested significant time and resources in having those submissions prepared.

Jacfin's land immediately adjoins the site of the Proposed EfW Facility to the south and south-east. As a directly impacted neighbour, Jacfin has a significant interest in whether the Proposed EfW Facility is approved. As outlined in Jacfin's previous submissions, the development of Jacfin's land is likely to be significantly affected by the Proposed EfW Facility, which is incompatible with existing and proposed future employment uses on that land.

In the circumstances, Jacfin considers it has a legitimate expectation that it would be afforded an opportunity to respond to the Further Information provided by the Proponent. This information has

**Our Ref** QNMS:NJSS:120533997  
cuys A0143263166v4 120533997 12.7.2018

clearly been provided by the Proponent in an effort to alleviate concerns that the Commission may have as a result of issues raised in the large number of public submissions made in relation to the proposal, including submissions made by Jacfin, as well as at the public meeting held on 14 May 2018.

Jacfin has commissioned respected experts in the areas of hazards risk, air quality and odour impacts, and the engineering aspects of power generation to consider the Urbis Letter and HZI Report. These experts have confirmed that the further information provided by the Proponent does not alleviate the concerns that they have previously raised in multiple, detailed expert reports in relation to the Proposed EfW Facility. GHD has also identified additional concerns arising from the Further Information, including:

- (a) a failure to consider all relevant shutdown scenarios;
- (b) inaccuracies in the information contained in the Urbis Letter regarding the sources and mixing of waste;
- (c) concerns regarding the effectiveness of the CCTV monitoring referred to in the Urbis Letter; and
- (d) concerns regarding odour impacts during shutdown scenarios that have not been adequately addressed by the Proponent.

We **attach** a letter report from GHD outlining the outcome of its review of the Further Information. We also confirm that hazards experts, Systra Scott Lysta, (**SSL**) have reviewed the Further Information and have confirmed that the Further Information does not change the conclusions of their previous risk assessments, which have been provided to the Commission as part of previous submissions on behalf of Jacfin.

Jacfin submits that the attached letter report from GHD, and the confirmation by SSL that the Further Information does not alleviate their concerns with respect to the Proposed EfW Facility, are relevant matters that ought to be taken into account by the Commission in determining this application.

Further, Jacfin submits that it should have an opportunity to respond to the Further Information given that this information was not available at the time that it made its previous submissions to the Commission and the Department of Planning and Environment (**Department**) and that the Further Information raises new issues and contains a number of inaccuracies, which need to be corrected.

We therefore request confirmation that this letter and the attached letter report by GHD will be taken into account by the Commission in its consideration of the Proposed EfW Facility and determination of the Proponent's application.

### 3 Failure of Further Information to address concerns

The Supplementary Information does not include any information that should materially change the conclusion already reached by the Department, and the conclusion that we submit should be reached by the Commission, that the Proposed EfW Facility should not be approved.

The HZI Report merely provides an overview of circumstances in which the Proposed EfW Facility will be shutdown to prevent more catastrophic outcomes. It does not address the air quality, human health and odour impacts that will arise from periods of shutdown, as previously raised by expert consultants GHD and Katestone retained by Jacfin.

As noted above, Jacfin has commissioned hazards experts, SSL, to review both the Urbis Letter and HZI Report. SSL has confirmed that the Further Information does not alter any of the conclusions previously expressed by them and that the risk issues previously raised remain valid despite this information. In particular, SSL has identified that the Proponent has failed to address the following hazard risks associated with the Proposed EfW Facility:

- (a) Failure to address the fire risk associated with the long-term use of hard stand areas, which traditionally have been used to store and sort solid waste by other comparable waste to energy facilities;
- (b) Failure to undertake a detailed fire risk analysis to address the significant risks associated with fires in large stockpiles of waste, the waste bunker, interim storage areas, and the trucks transporting waste, including the failure to model solid waste fires and downwind effects;
- (a) Failure to prepare a Level 3 Quantitative Risk Assessment study for the Proposed EfW Facility, despite the location, nature and risks of the proposal clearly justifying such an assessment; and
- (b) Failure to quantitatively assess individual and societal risk; and
- (c) Failure to address SSL's previous submissions that the Proposed EfW Facility is a hazardous industry and is prohibited in the applicable IN1 General Industrial zone.

Jacfin refers the Commission to the detailed analysis of hazard risks by SSL in Jacfin's submissions to the Department dated 27 July 2015, 10 March 2017 and 2 March 2018, submissions to the Parliamentary Inquiry on Energy from Waste Technology dated 28 May and 7 August 2017, and submissions to the Commission dated 7 June 2018 and 21 May 2018, which each attached detailed reports by SSL.

Jacfin submits that the conclusions expressed by SSL following its review of the Further Information (as outlined above) should be of significant concern to the Commission, in circumstances where the very purpose of the Further Information is expressed to be to address public concerns regarding emergency and risk scenarios. Jacfin submits that if information existed that could demonstrate that the Proposed EfW Facility was capable of being safely operated and managed, even in the event of an emergency or catastrophic event such as fire, then this information would have been provided by the Proponent by this stage of the assessment.

The failure of the Proponent to provide such information, notwithstanding the protracted assessment to develop and lodge the Further Information, highlights that the Proposed EfW Facility presents a significant risk to the public and adjoining land users and should therefore be refused.

#### **4 Inaccuracies in Further Information**

The Urbis Letter states that the Further Information is intended to respond to key issues raised at the public meeting held by the Commission on 14 May 2018 which had not previously been raised in relation to the proposal.

Concerns regarding fire risk, including fires in the waste bunker, catastrophic events and impacts during shutdown scenarios were raised in a number of previous submissions on behalf of Jacfin, in particular in expert reports prepared by hazards experts, SSL, and air quality experts, GHD. It is therefore inaccurate for the Proponent to assert that these issues are somehow new or were raised for the first time at the public meeting.

The independent expert consultants retained by Jacfin have identified a number of additional statements and assertions in the Urbis Letter which are inaccurate and have the potential to mislead if not corrected. The attached letter report from GHD identifies the following significant inaccuracies in the Urbis Letter:

- (a) The statement that "all waste fuel will have been pre-processed at the existing Genesis MPC Facility" is incorrect as the amended Environmental Impact Statement and latest Response to Submissions Report indicate that the Proposed EfW Facility will also receive waste from sources other than Genesis MPC. This is significant as the Proponent relies heavily on the

pre-processing of waste at Genesis MPC to assert that no dangerous waste items will be permitted to enter the waste stream.

- (b) The statement that waste will be "continually" mixed in the bunker is not consistent with previous information provided by the Proponent which indicates that mixing will occur one or two times. Again, this is significant as the mixing of waste is heavily relied upon by the Proponent to attempt to demonstrate that the waste stream being incinerated at various points in time will be reasonably homogenous and the proportion of dangerous substances such as chlorine in the waste stream will not exceed safe levels.

Jacfin submits that these inaccuracies in the Further Information should be of significant concern to the Commission and demonstrate that the Proponent has not put forward a reliable proposal that is capable of approval.

## 5 Deficiencies in Further Information

GHD's review of the Further Information included a review of the shutdown scenarios identified by the Proponent against the various shutdown scenarios that are typically planned for in relation to a facility of this nature. GHD identified four typical shutdown scenarios which have not been addressed or considered by the Proponent, being:

- (a) the need for grates to be replaced every eight years, which would result in a shutdown period of approximately six weeks;
- (b) the need for a major overhaul of the steam turbine or generator every eight to ten years, which would result in a shutdown period of approximately eight weeks;
- (c) the need for an overhaul of the fans every six years, which would result in a shutdown period of approximately three weeks; and
- (d) plant availability and forced outages, estimated to result in the plant being in shutdown at least 12% to 14% of the year, based on a plant availability in the order of 91 to 92% and forced outage rate of 4 to 5%.

GHD noted that the scenario at subparagraph (d) above is based on its professional experience in the sector with similar equipment, and that this would result in the Proposed EfW Facility being shut down for a total of 43 days per year including both planned maintenance and forced outages. This has not been addressed by the Proponent in either the Urbis Letter, the HZI Report or any of the Proponent's earlier assessments.

GHD has also identified the following additional shortcomings in the information provided in the Urbis Letter and HZI Report:

- (a) The Urbis Letter states that all loads will be inspected using the installed CCTV system or visual observation of the crane operator. The reference to CCTV appears to be a new proposal. The Urbis Letter does not identify who will be monitoring the CCTV. It is GHD's opinion that CCTV is likely to be less effective than inspection by a crane operator, which GHD and a number of other experts have already noted is likely to be of limited effectiveness.
- (b) There is a lack of specificity regarding reduced waste loads that would keep noxious emissions below the prescribed limits, and lack of detail on the nature of continuous monitoring of emissions and what parameters will be monitored.

## 6 New issues arising from Further Information

In its review of the Further Information, GHD has identified new issues regarding the Proponent's odour management processes during various shutdown scenarios at the Proposed EfW Facility. These are summarised as follows:

- (a) Lack of information on whether during an extended shutdown period, there would be a trigger point at which waste in the bunker would be transported off-site, including to the Genesis facility or elsewhere depending on the type of waste;
- (b) Lack of assessment of how transport of waste off-site would influence potential odour levels experienced off-site; and
- (c) Lack of information on how the plant start-up process following each of the contemplated shutdown scenarios would not result in elevated odour emissions from the Proposed EfW Facility if the waste was retained in the bunker during the shutdown period.

Jacfin submits that the failure of the Proponent to adequately address odour issues, even in this latest round of information, is of significant concern, particularly for immediately adjoining landowners, and is a further reason that the Commission should refuse development consent for the Proposed EfW Facility.

## 7 Conclusion

Far from addressing the concerns raised by the public, the Further Information provided by the Proponent raises new issues, and is inaccurate and deficient in a number of respects. Jacfin submits that the concerns raised by it and its expert consultants in relation to the Further Information are relevant matters that ought to be taken into consideration by the Commission in determining the Proponent's application.

As a directly neighbouring landowner, Jacfin has a legitimate expectation that it would be afforded an opportunity to respond to the Further Information and seeks confirmation from the Commission that the further issues and concerns raised in this letter and the attached report by GHD will be taken into consideration by the Commission in its assessment.

Jacfin submits that the additional issues outlined in this letter support the conclusion that the Proponent has not been able to explain or overcome the unacceptable impacts of the Proposed EfW Facility. This should provide additional justification for the Commission to refuse the application.

Yours sincerely



**Bill McCredie**  
Partner  
Allens  
Bill.McCredie@allens.com.au  
T +61 7 3334 3049

**Naomi Bergman**  
Managing Associate  
Allens  
Naomi.Bergman@allens.com.au  
T +61 2 9230 5646

Attach – Report by GHD (Air quality, waste, hazard risk, power generation and odour impacts)