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6 June 2018

Attn: Bill McCredie

Jacfin
c/o Allens
Deutsche Bank Place
Corner of Hunter & Phillip Streets
Sydney NSW 2000

Email: [REDACTED]

Re: Eastern Creek Energy from Waste Proposal – Supplementary Submission to Independent Planning Commission regarding Next Gen Response to DPE

Dear Mr McCredie,

In a report dated 21 May 2018, Urbis Pty Ltd (Urbis), on behalf of The Next Generation NSW Pty Ltd (TNG), responded to the Department of Planning and Environment's (DPE) Assessment Report for the Eastern Creek Energy from Waste Facility (SSD 6236) (Response to DPE Report). Allens, on behalf of Jacfin, has requested Katestone to review the Response to DPE Report and advise whether there are any statements in the submission that are incorrect, or which misconstrue or misrepresent the conclusions in the Department's Assessment Report.

Katestone was previously engaged by Jacfin to review the original development application, the Amended Environmental Impact Statement (EIS), TNG's Response to Submissions Report (RtS Report) and the Department's Assessment Report. Katestone understands that the proposal has now been referred to the IPC for determination and that, in addition to Jacfin's submission to the IPC, it is willing to accept supplementary comments from Jacfin in response to the Response to DPE Report.

Katestone has been engaged to undertake a review of the Response to DPE Report and advise whether any statements are incorrect, or misconstrue or misrepresent the conclusions in the Department's Assessment Report. Katestone has only been provided with five working days, excluding the due date for comments by Jacfin, to provide comments in respect of this review.

The DPE's key conclusions that are relevant to Katestone's areas of expertise, namely: air quality, odour, ozone and human health risk assessment, are as follows:

- The proposal is inconsistent with the NSW Energy from Waste Policy Statement (EPA, 2015), which presents uncertainty around the performance of the facility and the long-term risks to the environment and the health of the local community;
- The Applicant has not identified a suitable reference facility and therefore the expected air emissions from the proposed design fuel are unknown;
- Given the uncertainties described above, the location of the proposal in close proximity to densely populated residential areas, schools, childcare centres and employment areas in Western Sydney, is not suitable;

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- The proposed design fuel contains a significant portion of potentially hazardous waste streams which may result in harmful compounds, such as dioxins and furans, in the emissions; and
- The development is not in the public interest as the public benefit of the proposed development does not outweigh the potential unacceptable impacts the proposed development may have on the surrounding local community now and into the future.

I have reviewed the Response to DPE Report and I note the following in relation to Katestone's areas of expertise:

- Section 4.1.3 of the Response to DPE Report discusses the issue of floc waste. It indicates that floc waste includes 58.2% fines. Citing the RtS Report, it states that fines were found to be "inert consisting largely of dirt".
- Section 4.1.4 of the Response to DPE Report discusses temperature requirements of the facility. The Response to DPE Report maintains the position that levels of chlorine will not exceed 1% due to the nature of the wastes and the mixing and homogenisation processes that will be used at the EfW Facility. The Response to DPE Report does not appear to provide any new information in this regard. As previously stated in its review of the RtS Report, Katestone is of the view that "...The processes that the EfW Facility relies upon to ensure homogeneity of the fuel stream and avoid ineligible wastes are unlikely to be completely effective."
- Section 4.2.1 refers to the review of the DPE Assessment Report that was conducted by TNG's air quality expert (Appendix D). It states that a number of example reference facilities are currently operating (and have operated for many years) within the IED limits. However, this is inconsistent with other information contained in the Response to DPE Report, including Appendix D.
- Appendix D of the Response to DPE Report is a letter from ERM (formerly Pacific Environment Limited, the firm that conducted the air quality assessment of the EfW Facility). Appendix D is a supporting document to the Response to DPE Report. The following issues that are raised in Appendix D are relevant:
 - At page 3, ERM describes its review of information in the public domain relating to air emission performance of a number of facilities in Germany, the United Kingdom (Riverside and Ferrybridge) and Spain. ERM (referencing Ramboll, 2017) states that these facilities handle a wide range of fuel types and variation of feed stock. ERM's intention in this regard appears to be to show that a number of facilities operating on a wide range of waste fuel types achieve compliance with the IED limits. ERM states: "...We were not able to identify any instance where the above facilities have operated outside of the IED emission limits. This is despite these facilities having been operation for many years (three for in excess of a decade)." However, in a footnote on Page 3, ERM notes two exceptions where the IED limit for carbon monoxide was exceeded on two occasions in 2016 by the Riverside Facility. ERM seemingly dismisses these exceedances on the basis that carbon monoxide is a measure of good combustion rather than a key pollutant of concern. This dismissal misrepresents the intent of regulating and monitoring carbon monoxide and the significance of the exceedances. Carbon monoxide is monitored in part to ensure good combustion efficiency and to ensure that toxic air pollutants (such as VOCs, benzene and PAHs) and soot are minimised.
 - It is noted that, elsewhere in the Response to DPE Report (Appendix B), two Annual Performance Reports for the Ferrybridge MFE have been provided (2015 and 2016). The Annual Reports indicate that in both years exceedances of the permit limits for carbon monoxide occurred. In 2015, one exceedance of the 30-minute limit occurred. In 2016, four exceedances of the 30-minute limit occurred and one exceedance of the daily limit occurred. Additionally in 2016, three odour complaints were received. Two of the odour complaints were likely caused by the tipping hall door remaining open between deliveries.
 - At page 4, ERM cites its earlier iterations of air quality modelling with the plant operating at greater waste tonnages as additional assurance that adverse impacts will not occur. However, Katestone's previous reviews of the EIS and Amended EIS noted significant deficiencies in the earlier modelling, which have not been addressed.

- o At page 6, ERM appears to suggest that floc waste ("uncommon waste stream") has been removed from the proposal. The third paragraph of page 6 states: "...The peer reviewer's reference to 'uncommon waste streams' is unspecified, but may relate to the proposed use of floc waste (the residue from the shredding of car and metal recyclables) as a fuel source." The fourth paragraph of page 6 goes on to state: "...I note that, given recent regulatory feedback, the proponent has voluntarily agreed to remove this 'uncommon waste stream'. In turn, this should remove the peer reviewer's perception that emissions are in some way uncertain as a result." The Response to DPE Report, RtS and the DPE Assessment Report do not make reference to floc waste being removed from the proposal. If it is the case that floc waste has been removed from the proposal, the proponent should clearly indicate this.

The issue of upset conditions leading to exceedance of the Clean Air Regulation limits has not been raised in the Response to DPE Report. As detailed in Katestone's letter dated 18 May 2018, Katestone's review of the relevant documents including TNG's RtS Report indicates that the EfW Facility is likely to exceed the Clean Air Regulation limits for up to 60 hours per year. It is an offence under the *Protection of the Environment Operations Act 1997* (NSW) to exceed the limits specified in the Clean Air Regulation. The Clean Air Regulation does not provide any exemption for upset conditions. Consequently, the RtS indicates that the EfW Facility is likely to be in breach of the Clean Air Regulation for eight regulated pollutants for up to 60 hours per year. This issue has not been resolved through the RtS or the Response to DPE Report and it is a relevant factor that should be considered by the IPC, in addition to the numerous other factors identified by the Department and EPA, as a reason for refusal.

Please call me if you would like to discuss.

Regards,



Simon Welchman - Director

