

**Submission  
No 173**

## **INQUIRY INTO 'ENERGY FROM WASTE' TECHNOLOGY**

**Organisation:** Jacfin Pty Ltd

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28 May 2017

Planning and Environment Committee  
NSW Legislative Council  
Parliament House  
6 Macquarie Street  
Sydney NSW 2000

Dear Committee

**NSW Parliamentary Inquiry - 'Energy from Waste' Technology  
Submission on behalf of Jacfin Pty Ltd**

We refer to the Terms of Reference of the Committee's inquiry dated 6 April 2017 and make this submission on behalf of our client, Jacfin Pty Ltd (**Jacfin**).

Jacfin's submission primarily relates to Term of Reference (d), namely, the factors which need to be taken into account within regulatory and other processes for approval and operation of 'energy to waste' facilities.

Jacfin is the owner of approximately 100 hectares of land at Eastern Creek in the Western Sydney Employment Area (**WSEA**) and is progressively developing that land for employment purposes consistent with the zoning under *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (**WSEA SEPP**).

A development application has been made to establish a new 'waste to energy' facility immediately adjacent to Jacfin's land (**Next Gen Proposal**).

The assessment process for the Next Gen Proposal has highlighted a number of issues associated with the current regulatory framework:

- First, as an "offensive industry" for the purposes of the *Environment & Planning & Assessment Act (EP&A Act)*, the Next Gen Proposal is prohibited under the IN1 General Industrial Zone applicable to the land. The Next Gen Proposal is also broadly inconsistent with the objectives for the zone under the WSEA SEPP, in that the proposed facility may prejudice the sustainability and viability of other enterprises and development in the WSEA and the environment.

Notwithstanding the prohibition and the inconsistency with zoning objectives, the Next Gen Proposal continues to be subject of assessment by government consent authorities and related approval agencies. That assessment has necessitated the authorities engaging consultant experts to provide independent advice on how to assess the impacts of the Next Gen Proposal.

- Secondly, the quality of the environmental impact statement and other materials supporting the application has left the authorities and community with insufficient information to enable informed consideration of the impacts of the Next Gen Proposal.

These deficiencies are presumably the reason why Government decided it was necessary to engage independent experts to advise on the assessment of the Next Gen Proposal. It also illustrates that

the existing regulatory framework does not adequately identify the impacts and other factors against which such a proposal should be assessed (for example, in regulatory standards, guidelines and policy statements regarding 'energy from waste' technology).

Jacfin has made submissions to the Department of Planning (**Department**) raising concerns about the potential adverse environmental impacts of the Next Gen Proposal and the inappropriateness of such use on the subject land. Copies of those submissions are **attached** (see Attachments A & B) and are supported by independent technical reports relating to air emissions, noise impacts and potential human health risks.

In addition to the impacts of the proposal on the environment and surrounding land uses, Jacfin believes the factors which should be given determinative weight when assessing 'waste to energy' facilities are:

- consistency of the proposal with the mandated or preferred land uses and strategic objectives for the area, as articulated in relevant planning instruments; and
- the impact of the proposal on the long term sustainability and viability of other existing and preferred future 'higher' land uses in the area.

Jacfin recently made a submission to the Greater Sydney Commission (**Commission**) about the proposed *Towards our Greater Sydney 2056*, the Draft West Central District Plan and Draft West District Plan (**attached**; see Attachment C).

Relevantly, the Commission's draft documents advocate the concept of the '30-minute city' and locating housing closer to employment areas like the WSEA. The draft documents also acknowledge the changing nature of development in employment areas and implies zoning in employment areas should support a greater diversity of land uses and preserve 'upzoning' opportunities for the future.

Jacfin is concerned that the location of the Next Gen Proposal at Eastern Creek will compromise the strategic planning objectives of the WSEA under the WSEA SEPP and the Commission's draft documents. This, in turn, has the very real potential to undermine investor confidence to the detriment of Western Sydney.

More generally, the location of 'waste to energy' facilities in areas earmarked for employment purposes, or areas capable of supporting employment or residential uses in the future, could compromise the strategic planning objectives for the Greater Sydney Region and otherwise give rise to land use conflicts. This outcome would not promote the orderly and economic development of land, which is a fundamental tenant of NSW planning legislation.

Jacfin is also concerned to ensure that the environmental benefits claimed by such facilities are properly assessed and verified. Essentially, the Next Gen Proposal is a 'waste incinerator' which generally are the least efficient and environmentally unsound means of deriving energy from waste:

- Waste incinerators produce large amounts of toxic air pollution that impact on the environment and human health. These emissions include carcinogenic persistent organic pollutants such as dioxins and furans (PCDD and PCDF), hexachlorobenzene (HC) and PCBs;
- Waste incinerators generate ash that is contaminated with toxic heavy metals and persistent organic pollutants, typically generating 1 tonne of contaminated ash for every 4 tonne of waste burned;
- Waste burning facilities generally produce more carbon dioxide per unit of energy generated than coal, oil or gas fired power stations.

It follows that 'waste to energy' facilities should not be located in areas zoned, or capable of being zoned, for employment or residential purposes. Further, applications for such facilities are premature and should not be approved pending the preparation of robust assessment guidelines.

Jacfin wishes to thank the Committee for its consideration of this submission and would welcome the opportunity to address any hearing held by the Committee.

Yours sincerely

**Paul Lalich**  
Partner  
Allens

**Atts.**

**Attachment A** – Submission by Jacfin to Department in relation to the Environmental Impact Statement for the proposed Energy from Waste Facility at Eastern Creek (SSD 6236) dated 27 July 2015. Comprising 12 pages.

**Attachment B** - Submission by Jacfin to Department in relation to the Amended Environmental Impact Statement for the proposed Energy from Waste Facility at Eastern Creek (SSD 6236) dated 10 March 2017. 60 pages.

**Attachment C** – Submission by Jacfin by the Commission in relation to *Towards our Greater Sydney 2056*, the Draft West Central District Plan and the Draft West District Plan dated 31 March 2017. Comprising 14 pages.