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Ricardo Ref: 31269  
DELWP Ref: PA2201775

Senior Planner  
Development Approvals and Design  
Department of Environment, Land, Water and Planning

November 21, 2022

Dear [REDACTED]

## ADVERTISED PLAN

**APPLICATION FOR A PLANNING PERMIT NO. PA2201775  
ANAKIE WASTE TO ENERGY FACILITY  
RESPONSE TO REQUEST FOR FURTHER INFORMATION**

### 1. INTRODUCTION

We write in response to your letter dated 14 September 2022 requesting further information pursuant to Section 54 of the *Planning and Environment Act 1987* in regard to the application for a planning permit (ref no. PA2201775) for land at 445 Carrs Rd, Anakie.

### 2. FURTHER INFORMATION

The further information required by the Department of Environment, Land, Water and Planning is:

**1. A request to amend the application under section 50 of the Act to remove the request for the use and development of a dwelling (caretakers house) and utility installation.**

The application has been updated to remove the use and development of land for a dwelling (caretakers house). We note that Ricardo has outlined the risk of Council assessing an application for a caretakers dwelling, without assessing the facility that the supervisor is required for.

The application has been amended to apply for “the use and development of the land for a waste to energy facility” as the manufacturing component has been deemed ancillary to the waste to energy facility, and there is no need to apply for a utility installation as the definition of energy generation facility into which waste energy facility is nested includes “any building or other structure or thing used in, or in connection with, the generation of energy”. There is nothing proposed through the application which falls outside of this definition.

**2. Amended planning assessment to include:**

**a. A detailed description/assessment that demonstrates the following:**

- i. The real and dominant/substantive use of the site**
- ii. The proportion of electricity generated from the facility to be used for the existing domestic and/or rural use of the land and that to be exported to the electricity grid**
- iii. Whether any proposed use is ancillary to the other taking into consideration the operation of clause 64.01**
- iv. What portion of the project relates to the use and development of the land for a utility installation considering the operation of clause 62.02-1 and reference to a minor utility installation**

In addition to this response, a memorandum of advice has been provided by Graeme Peake (Owen Dixon Chambers) regarding this issue and is attached.

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Section 4 of the planning assessment has been updated to further detail the land use terms proposed and how these should be assessed against the Greater Geelong Planning Scheme.

In summary, Clause 64.01 deems that if land is used for more than one use and one is not ancillary to the other, each use must comply with this scheme.

The test for characterising whether a use is ancillary was identified in *Lizzio v Ryde Municipal Council* where the High Court approved the statement of Glass JA in *Foodbarn Pty Ltd v Solicitor-General* that:

*“where a part of land is used for the purpose which is subordinate to the purpose for which another part is used, the whole of the land is regarded as being used for the dominant purpose. The subordinate purpose is merely incidental or ancillary to the dominant purpose.”*

The purpose of the waste-to-energy facility is to generate electricity to export to the grid and use onsite. The waste product from the process is treated by processing it as fertiliser, which is therefore considered ancillary to the dominant use of the land to generate electricity.

It should be noted that the screw presses in the facility are required for the fertiliser manufacturing process and are also critical to extracting the water to re-cycle back through the Anaerobic Digester. In addition to this, the waste to energy facility produces electricity and the equivalent amount of heat. This heat will power the dryer used to manufacture the fertiliser and must be co-located so that the heat can be used in the fertiliser manufacturing process.

Finally, the capital cost and outputs of each component of the various elements of the proposal should be considered:

- The capital cost of the fertilizer manufacturing component is approximately 5.3% of the total capital cost.
- The quantity of electricity produced in 21 million megawatt hours per annum as compared to the quantity of fertilizer produced which is 6,200 tonnes.

The attached memorandum of advice states:

*The vast majority of the capital cost of the project is related to the “waste to energy facility” it seems improbable that such a capital cost would be incurred to process biogas as a by product of a fertiliser production facility. This reinforces the view that the real and substantial purpose of the use is a “waste to energy facility” and that the treatment of the output of that facility to produce fertilizer is ancillary to the primary use. The utility installation similarly supports the purpose of the waste-to-energy facility generating electricity and is therefore considered ancillary.*

A minor utility installation is defined as land used for a utility installation comprising any of the following:

- h) power lines designed to operate at less than 220,000 volts but excluding any power lines directly associated with an Energy generation facility or Geothermal energy extraction;
- i) an electrical sub-station designed to operate at no more than 66,000 volts but excluding any sub-station directly associated with an Energy Generation facility or Geothermal energy extraction.

As the power lines and electrical sub-station included in the proposal are directly associated with an energy generation facility, they do not meet the definition of a minor utility installation.

As outlined in the letter provided to DELWP dated 8 September 2022, the facility will produce approximately 20,967,600kWh per annum of electricity through the combustion of biogas. This will power the parasitic load of the facility and the surrounding Pavilion Farms' operations with the remaining electricity being exported to the grid. The expected demand of the facility itself and the surrounding six Pavilion Farms chicken broiler farms is 3,166,371kWh and 4,000,000kWh per annum, respectively. Therefore, an estimated 13,801,229kWh will be exported to the grid each year.

A load calculation was also attached to this letter which showed the instantaneous loads rather than annual totals, demonstrating an estimated grid export of 1.075MW under normal operation conditions. This produces a conservative (high) estimate of energy used on the site so grid export could be up to 2.4MW, depending on the grid limitations and the pending agreement with the network operator.

### 3. Amended Development Plans to include:

#### a. An amended site plan that:

##### i. Details the existing use of all buildings on the site

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- ii. **Show lot boundaries and title details (including easements) of the lots comprising the subject site**
- iii. **Provides setbacks to each part of the development from at least two property boundaries**

The plans have been updated to show the existing use of all buildings on the site, lot boundaries and easements, and setbacks between the waste to energy facility and caretakers house from the property boundaries on two sides.

**b. Amended/additional elevation plans for:**

- i. **Heights of each component of the waste to energy facility**
- ii. **The materials proposed to be used, including any proposed security fencing and any acoustic barriers**
- iii. **Notation identifying the location/provision of acoustic enclosures for the gas mixers as recommended by *Assessment of Noise Emissions prepared by Watson Moss Growcott (Ref: 12865-1.1ng 26 July 2022)***

The elevations plans have been amended to include the heights of each component of the waste to energy facility, the materials proposed to be used, and a notation identifying the provision of acoustic enclosures for the gas mixers.

### 3. CLOSURE

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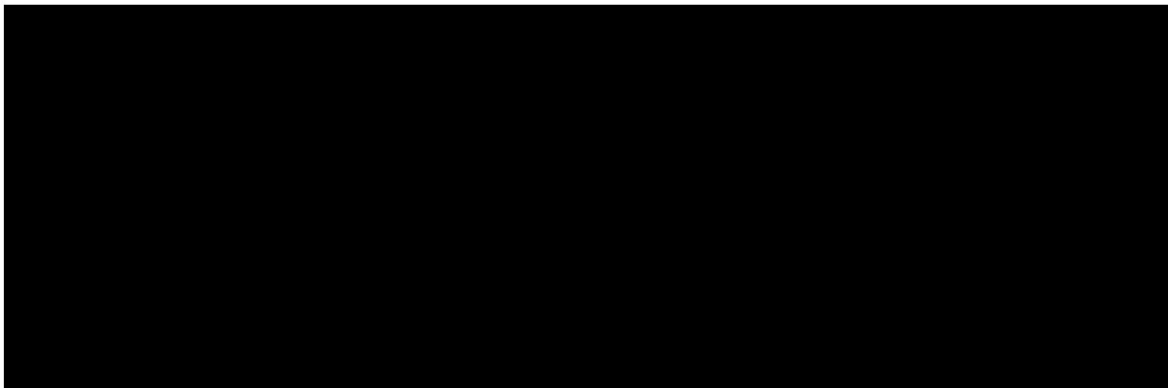
We thank you for the opportunity to respond to the further information and concerns raised by the relevant authorities and trust that the information provided appropriately addresses these matters.

Please do not hesitate to contact [REDACTED] with any queries.

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Yours sincerely,

**Ricardo Energy Environment & Planning Pty Ltd**



*Attached: Anakie Fertilizer Manufacturing Facility Response to DELWP Request for Further Information Dated 14 September 2022*

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