

Application for Exclusion of information from Concurrent EIS/DA – Hume Resource Recovery Facility pursuant to section 411 of the *Planning and Development ACT 2007*¹.

Basis of Exclusion Application

A trade secret can be any confidential information of value. Unlike other IP rights, trade secrets are protected by keeping them a secret, and are not registered with IP offices.

Trade secrets are a type of intellectual property that comprise formulas, practices, **processes, designs**, instruments, patterns, or **compilations of information** that have inherent economic value because they are not generally known or readily ascertainable by others, and which the owner takes reasonable measures to keep secret.

It is considered that the disclosure of the information listed in the table below which pertains to certain elements of the proposed Resource Recovery facility, are not generally known or readily ascertainable in the waste industry, as they relate to the design and detailed operation of a bespoke prepackaged resource recovery processing plant (fully imported into Australia). These elements are indeed considered to be trade secrets, because they have originated because of considerable effort² and expense by the proponent. The compilation of such elements for public disclosure would enable

¹ Development approval applicants including *...in relation to the proponent of a development proposal who gives the planning and land authority a revised EIS under s.211 (s. (l)) ...* may apply (s.411(3) **by exclusion application**) to EPSDD to have information excluded from the public register pursuant to section 411 of the *Planning and Development ACT 2007*. For such an application to succeed, EPSDD must be satisfied that publication of the information would disclose **a trade secret** (s. 211(5)a).

² Agreement on Trade Related Aspects of Intellectual Property ('TRIPS', ART 7 39(3)).

another person to obtain economic value from the information. Moreover, it is contended that if such information were disclosed in the Environmental Impact Statement/DA, a competitor would derive independent economic value, actual or potential, from the disclosure or use of the information.

In accordance with Flexibles Intellectual Policy, the company takes the following steps to avoid misappropriation of information.

- *Confidentially, agreement with selected contactors for identified trade secret areas of business.*
- *Employee secrecy agreements*
- *Shredding of documents prior to recycling*
- *Restricting the key information to a few trusted individuals*
- *Vetting of selected documentation prior to release which pertains to trade secrets.*
- *limiting physical and electronic access to confidential information*

Draft EIS information subject to this exclusion application

No	EIS DAFT Response Comments by EPSDD/Entities	Details of response information for exclusion application	Trade Secret Aspect
2	<i>A clear description of all components of the proposal has not been provided. Details of the likely nature, source and quantities of all waste streams is required to determine the level of environmental impact for many of the themes outlined in sections 8 and 9 of the EIS.</i>	Supporting information – process schematic. 8.4.2 Figure 8-2. Prepackaged resource recovery plant layout DA drawing 14(B) and commentary. EIS 4.1.6.4 -8 and 8.4.2.	Process information & design
25	Describe the monitoring parameters, monitoring points, frequency, data interpretation and reporting for the proposal.	Spread sheets which set out the required details relating to waste receivals, resources recovered and the waste processing plant operation and test details, Appendix P.	Process testing information



26	<i>The quality of water for reuse onsite including how it will be tested classified and what testing methodology will be used.</i>	Section 8.6.5.5.1 – Table indicating monitoring and assessment details, Appendix P.	Monitoring /Testing information
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