

28 October 2013

**NSW Planning Assessment Commission Determination Report
Concept Plan and Stage 1 Project: Jacfin Warehouse and Light Industrial Facilities,
Horsley Park, Penrith LGA**

1. Concept Plan and Stage 1 Project Application

Jacfin Pty Ltd is seeking to develop a 100 hectare site in the Western Sydney Employment Area. The site is within the Penrith local government area (LGA) and adjoins the Fairfield LGA. The site is currently zoned for employment generating, industrial, purposes under the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*. The application is for concept approval of warehouse and light industrial development of the site. The application also includes a stage one project application for subdivision and development of a warehouse on the north eastern corner of the site.

2. Delegation to the Commission

On 20 May 2013 the Commission received the referral for determination of the proposal, under Ministerial delegation of 14 September 2011.

Dr Neil Shepherd AM was nominated to chair the Commission for the proposal, Ms Abigail Goldberg and Mr David Johnson were the other members to constitute the Commission.

3. Department's Assessment Report

The Director-General's Environmental Assessment Report provided an assessment of the following key issues:

- Visual Impacts;
- Noise and Vibration;
- Traffic, Access and Parking; and
- Surface Water, including Flooding and Stormwater Management.

Other issues discussed include biodiversity, heritage, bushfire risk, service centre, construction, construction traffic, parking, infrastructure and local and regional contributions.

The Department of Planning and Infrastructure found that the proposal did not satisfactorily address certain development standards for the site and that there was a risk the proposal could have unacceptable visual impacts on surrounding properties. The Department recommended a series of modifications to the Concept Plan to provide a landscaped bund between existing residential properties and the core components of the industrial estate. The Department found that this would provide a balanced outcome between facilitating industrial development on the site and protecting residential amenity.

The Department concluded that with the amendments, limits and conditions it recommended, the project had significant social and economic benefits for the south western Sydney community, that the benefits of the project outweighed the cost and that it was in the public interest and should be approved.

4. Site Visit

On Tuesday 16 July 2013 the Commission visited Horsley Park and viewed the site, accompanied by representatives of the Department. During the site visit the Commission was invited to view the site from a property on Greenway Place and did so, observing the view from the residential properties extending across the project site and west to the Blue Mountains.

5. Public Meeting

On Wednesday 17 July 2013 the Commission held a public meeting in Horsley Park to hear the Community's views on the project. The meeting was held over two sessions. Issues raised at the meeting included:

Land use conflicts

Land use conflicts with residential properties adjoining an industrial area, noting the bund wall would be built on the boundary and that the industrial buildings would be 50 m from the boundary. Residents indicated a buffer was needed, with some suggesting that a 250 m buffer zone between the existing properties and any industrial area would be appropriate.

View loss

View loss impacts on both foreground and distant views, as views of the adjoining hills and dam would be lost, and only the tips of the Blue Mountains would be visible over the bund wall. One speaker suggested that the views of the dam should be retained, either by moving the dam, or setting the development back. Others requested that the height of the buildings be reduced. A major setback and correct screening was also requested to maintain the existing rural lifestyle.

Bund and earth mound

- Speakers requested that the bund wall be set back from the boundaries of the neighbouring properties due to visual intrusion, some requested that it be reduced in height, or limited to the height of the mound only (without the addition of trees on top).
- Speakers suggested there is uncertainty in the requirements for the construction and maintenance of the mound, and questioned who would be responsible for this and how this would be implemented, managed and enforced.
- Timing of construction of the bund was also raised, with suggestions that it was unclear when construction would occur and at which stage of the concept plan.
- Speakers also raised concerns that the recommended mound was incompatible with the Proponent's plans and that it was unclear how this would be resolved.
- Speakers were generally supportive of the recommendation to retain the existing ridge/hill with additional mounding, but were concerned that the mounding to the north east was too close to the boundary with properties on Greenway Place.

Size of the buffer

Proposed buffer arrangements were said to be unfair, as properties to the south would get a larger setback than those to the east. It was suggested that this larger buffer should be extended to the northeast to provide a wider buffer for the residents of Greenway Place. It was also suggested that the buffer should extend 250 m from the boundary of the existing residential properties.

Impacts of operations

Concerns regarding the impacts of operations in the industrial area, particularly noise and lighting from facilities operating 24 hours a day, seven days a week. Speakers requested that reduced operating hours should be applied.

Noise

Speakers raised concerns about potential noise impacts and also with the validity of the background noise monitoring undertaken for the project.

Development in the interface, or buffer zone

Some speakers suggested that no development should be allowed in the 250 m interface zone (given the proposed broader expansion of the Western Sydney Employment Area),

others suggested operating hours within the interface zone should be restricted to standard business hours (9am – 5pm Monday to Friday).

Speakers raised concerns about the definition of compatible development and the potential impacts of the possible uses in this zone, concerns related to:

- Uncertainty with the range of possible compatible development uses permissible, suggesting that rural residential is a better use of the interface zone;
- the possibility that compatible development could occur without further consultation, as complying development;
- the possibility that the compatible development uses would operate 24 hours a day seven days a week;
- the fact that the recommendation is to allow compatible development on the outer (or residential) side of the bund, i.e. between the residences and any mound and acoustic wall;
- noise associated with the potential uses in the compatible development zone;
- uncertainty regarding the density of development in the compatible development area and requests for a site cover limit;
- possible traffic, access and parking impacts of any compatible development;
- changes and impacts associated with excavation and retaining walls

Speakers were generally supportive of rural residential use of the interface zone.

Earthworks and resulting levels

Speakers raised concerns that there was insufficient detail regarding the earthworks to be undertaken, particularly the detailed design of the mound recommended by the Department and the associated cut and fill, final building pad and ground levels, and resulting building heights.

Traffic impacts

The predicted truck trip generation rates were considered to be low and not representative of the worst case scenario.

A number of speakers invited the Commission to view the site from their properties, suggesting this was an important part of the assessment process. The Commission thanked the residents for the offer, but noted that the detailed assessment had been undertaken by the Department and that it had seen the site from a number of surrounding roads as well as one property on Greenway Place and was satisfied this was sufficient for its purposes.

6. Meeting with Penrith and Fairfield Council

On Wednesday 17 July 2013 the Commission met with representatives for both Penrith and Fairfield Councils. Both Councils raised concerns about the proposed bund wall noting the existing views contained a number of elements, from the dam and hills in the foreground, to the distant mountain views. The Councils were also concerned that parameters such as ground levels had not been established or prescribed and raised concerns about the ongoing maintenance of the bund, as well as stormwater.

7. Other meetings

Further Meetings with the Proponent and the Department

Following the public meeting the Commission met with the Department and the Proponent on a number of occasions.

The Commission noted the concerns raised by the adjoining neighbours and the Council and advised both the Proponent and the Department that it was not satisfied that the Concept

Plan, as originally drafted and recommended by the Department, provided sufficient certainty that the amenity impacts of the proposal would be managed to an acceptable level.

In considering the proposal the Commission noted that the Proponent had previously proposed to rezone a portion of the site – adjoining the neighbouring houses. The Commission considered that this option may have merit, subject to detailed design – including further consideration of the appropriate boundary alignment and ground levels. The Department and Proponent agreed to reconsider this scenario. All parties agreed that this process would take some time (possibly up to 12 months). After some consideration of the implications of this new process, the Proponent sought to proceed with concept approval for stages 1, 2 and 3A of site while the rezoning process occurred.

To support this request the Proponent provided additional information to demonstrate that the impacts of these stages would be acceptable and could be appropriately managed through the requirements in the existing draft conditions recommended by the Department. The Proponent provided updated information, including photomontages (annexed to this report, see appendix 2) to support this position and requested that these stages should be allowed to proceed, while the possible rezoning of parts of stages 3B, 4 and 5 was being considered.

Meeting with neighbours

On Thursday 17 October 2013 the Commission met with those interested neighbouring residents to provide an update on the progress of the application. Representatives from the Department and Fairfield Council also attended. The Commission explained that it had seriously considered the concerns raised at the public meeting, and by the Councils, and that it had worked with the Proponent and the Department to encourage consideration of alternative uses for parts of the site adjoining residential land and dwellings. The Department confirmed that this process is now underway with plans being developed for consultation in the coming months. The Department provided a summary of the process for considering a rezoning of the land and confirmed that public consultation would be undertaken as part of the process.

The updated photomontages provided by the Proponent for stages 1 to 3A were also discussed. Some neighbours were particularly interested to understand the ground levels and heights that had been used to generate these montages. The Commission noted that the photomontages provided a general guide for the future development of stages 1, 2 and 3A of the Concept Plan, with each building to be subject to further detailed design and assessment prior to any construction.

8. Commission's Consideration

The Commission has carefully considered the proposal, the submissions made, the comments made by Council and those made by the community during the public meeting. The Commission notes that the proposal is for development of warehouse and light industrial development adjoining residential land and dwellings. While it is possible to develop mitigation and management measures to allow these two uses to coexist in many areas, there are a number of compounding factors on this site which have made this particularly challenging. These stem from a combination of local physical and historical factors which between them make it difficult to reconcile the existing residential land uses with the proposed light industrial uses on the adjoining employment lands.

First, the local topography along the boundaries with the neighbouring dwellings makes it particularly difficult to mitigate the impacts from an adjoining employment land use. While the construction of the bund proposed by the Department's consultant would have mitigated many of the potential impacts from the employment area, the bund would have created considerable view loss impacts and ongoing management and liability costs of its own. The

location of the bund on the immediate boundary with neighbouring properties was also of concern to residents. Options to move the bund were confined by the topography. Any attempt to move the bund further back from the residential boundaries would be expected to add significant cost, as the bund would be built from a lower point on the slope (requiring a larger bund to reach the same relative height).

In addition to the physical impacts of the proposed bund, there were other concerns as well. The bund would need to be designed, constructed and then landscaped to suitable standards, with provision for maintenance and management over the long term, including sound financial and legal mechanisms to support this. Further, development between the bund and the existing residents was also contemplated in the Department's recommendation. The Commission acknowledged the community's concerns about the lack of certainty surrounding the types of uses which would be allowed in this area; the Commission was also concerned about how this part of the site might be accessed and developed.

The Commission was not satisfied that the recommendation provided sufficient certainty regarding the impacts to neighbouring dwellings, with a real risk of unacceptable impacts or sterilisation of the land (with individual employment uses unable to gain necessary approvals). In light of the local topography, and the difficulties and uncertainties surrounding the bund as recommended, the Commission considered that a better interface to the employment land area may be possible through the realignment of the land use boundaries. The Commission acknowledges that this would result in some reduction to the employment area, albeit a relatively small one when considered in the context of the broader Western Sydney Employment Lands Area.

As explained at the meeting with the neighbouring residents, the Proponent and the Department have now commenced work to Master Plan the south eastern part of the site, comprising parts of stages 3B, 4 and 5. Given that appropriate land use and land use boundaries are under consideration in this area, the Commission considers that it would be inappropriate to determine any concept uses for this portion of the site at this time. Consequently, the Commission has deferred the final determination of stages 3B, 4 and 5.

Along with the rezoning proposal, further work will need to be done, in consultation with the neighbouring residents, to demonstrate that appropriate levels of amenity will be retained, prior to any approval of stages 3B, 4 and 5. With the assistance of the Department, a modification to the Concept Plan has been added to the instrument of approval to specify that stages 3B, 4 and 5 are not approved until written approval has been received from the Department. In considering the requirements that would need to be satisfied prior to this approval, the Commission has specified that plans and technical studies will need to be submitted to demonstrate that a reasonable level of amenity will be maintained for the existing residents. With these requirements in place, the Commission is satisfied that adequate protection will be provided for the existing residents.

As for any new residential development (in the area currently being considered for rezoning) this would be developed with full knowledge that employment uses are permitted nearby, and any dwellings constructed could be designed with this in mind.

Regardless of when each stage is developed, the proposal will still be subject to compliance with the requirements of the Industrial Noise Policy, or its latest version, as well as assessments of visual impacts and provision of landscaping plans.

Some residents raised concerns about the potential operating hours for the warehouse and light industrial uses. With suitable building orientations, noise shielding and/or attenuation it may be possible for the facilities to operate 24 hours a day 7 days a week without exceeding

the relevant noise and sleep disturbance criteria. This will need to be considered in the detailed design for each facility proposed for the site. Consequently the Commission has not prescribed any operating hours in the concept approval.

With regards to stages 1, 2 and 3A of the concept plan, the Department and the Commission have considered the additional information submitted in relation to noise and visual impacts. The Commission is now satisfied these stages are acceptable and can be approved in concept, noting that that further assessment of the detailed designs will be required before any works on stages 2 or 3A of the site can be approved.

The Commission notes that there is a small creek with some riparian vegetation on the stage 3A portion of the site. As noted by the Department, this vegetation will need to be protected and rehabilitated. However this rehabilitated vegetation will in turn represent a bushfire hazard, and so asset protection zones and bushfire access will also be required. The requirements for vegetation management and asset protection zones were originally included in the Department's recommended conditions for the Stage 1 project application. Given the vegetation and the E2 zone are within the portion of the site to be established as stage 3A, the Department agreed to move the vegetation and bushfire management conditions to the Concept Plan. The Commission agrees these requirements do not form part of the stage 1 project.

9. Commission's Determination

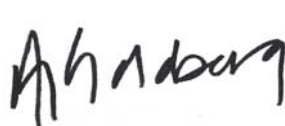
As discussed in section 8 above, the Commission has carefully considered the proposal. The Commission is now satisfied that stages 1, 2 and 3A of the concept plan are acceptable and can be approved in concept. In relation to stages 3B, 4 and 5, these stages have not been approved. Instead the Commission has provided a mechanism in the Concept Plan instrument for the Proponent to seek an approval from the Department of Planning and Infrastructure, once further details are available. As set out in the Concept Plan, in seeking this approval the Proponent will need to demonstrate that a reasonable level of amenity is maintained for existing residents. The Commission is satisfied this will ensure that the impacts of land uses in stages 3B, 4 and 5 are mitigated and managed to an acceptable level.

In relation to the stage 1 project application, the Commission is satisfied the project is consistent with the aims and requirements of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*. The project's location at the northern end of the site means it will have minimal impacts on residents in Horsley Park and the Commission is satisfied these impacts can be managed. Consequently the stage 1 project has been approved, subject to conditions.

The Commission wishes to acknowledge the considerable work undertaken by the Department prior to referral of the Concept Plan and Stage 1 project application to the Commission and for the considerable assistance offered by a number of officers during the process to achieve the revised outcome reflected in the Commission's determination.



Dr Neil Shepherd AM
Member of the Commission



Ms Abigail Goldberg
Member of the Commission



Mr David Johnson
Member of the Commission

Appendix 1

List of Speakers

PLANNING ASSESSMENT COMMISSION MEETING JACFIN HORSLEY PARK, CONCEPT PLAN AND STAGE 1 PROJECT

Afternoon Session

Date: Wednesday 17 July 2013, 2 pm

Place: Mandavilla Events Centre, 1788 Horsley Drive, Horsley Park

Speakers:

1. Mr Tony Micallef
2. Mr Dino Seraglio and John Hancock (SHJ Planning and Design)

Evening Session

Date: Wednesday 17 July 2013, 5.30 pm

Place: Mandavilla Events Centre, 1788 Horsley Drive, Horsley Park

Speakers:

1. Mr Joe Crestani
2. Ms Melissa Borg

Additional late speaker:

1. Theresa McHale

Appendix 2

Photomontages & Sections Submitted by the Proponent - October 2013



Proposed Development - Stages 1, 2 and 3A



Proposed Development - Stages 1, 2 and 3A + landscape



Proposed Development - Stages 1, 2 and 3A



Proposed Development - Stages 1, 2 and 3A + landscape



Proposed Development - Stages 1, 2 and 3A



Proposed Development - Stages 1, 2 and 3A + landscape



Proposed Development - Stages 1,2 and 3A



Proposed Development - Stages 1,2 and 3A + landscape



Proposed Development - Stages 1, 2 and 3A



Proposed Development - Stages 1, 2 and 3A + landscape



LEGEND

PROJECT BOUNDARY

LANDSCAPE SECTIONS

CONCEPT FOR PROPOSED WAREHOUSES

FUTURE HOUSES, ASSUMED LOCATION

Note:
This document is Preliminary unless Validated.

ISSUE	STATUS	DATE	REVIEW	VERIFY	VALIDATE
H	PAC ISSUE	27/09/13	KS	KS	PA
F	ADJUSTED FOR CONSULTATION	04/09/12	-	-	PA
E	ADJUSTED FOR CONSULTATION	13/08/12	-	-	PA
D	FINAL ISSUE	09/07/12	-	-	PA
C	FINAL ISSUE	06/06/12	-	-	PA
B	FINAL ISSUE	11/05/12	-	-	PA
A	FINAL ISSUE	24/04/12	-	-	PA

\$DATES\$ \$TIMES\$ \$FILEL\$

CLIENT
JACFIN PTY LTD

CLOUSTON Associates
LANDSCAPE ARCHITECTS
LEVEL 2, 17 BRIDGE STREET
SYDNEY NSW 2000
EMAIL sydney@clouston.com.au
FACSIMILE (02) 8272 4998
TELEPHONE (02) 8272 4999

CLOUSTON associates

PROJECT **HORSLEY PARK EMPLOYMENT PRECINCT
FOR PACKAGE ISSUE**

DRAWING TITLE

CLIENT
JACFIN

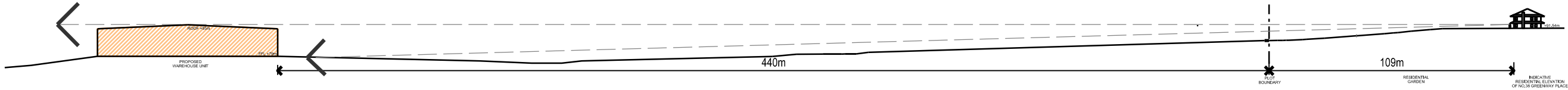
DRAWING NUMBER
S12-0029

DRAWN
KS

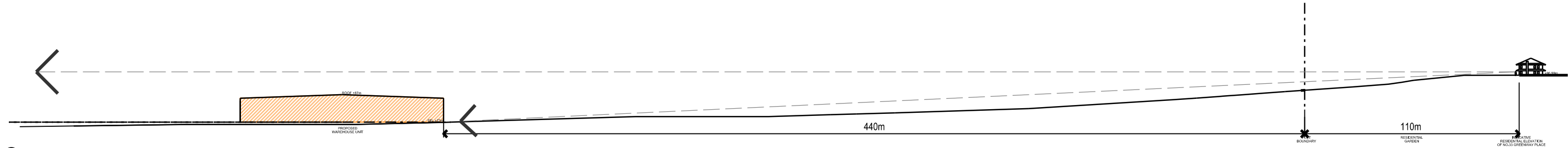
SCALE
1:5000 @ A3

ISSUE
H

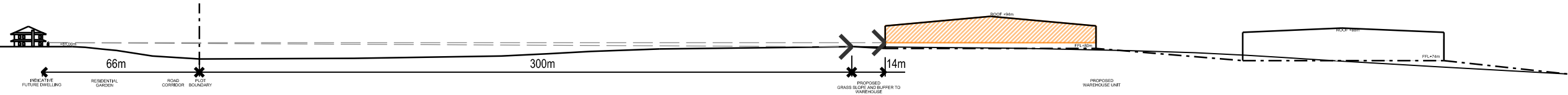




B PROPOSED LANDSCAPE SECTION FOR JACFIN
SCALE 1:500@A1



D PROPOSED LANDSCAPE SECTION FOR JACFIN
SCALE 1:500@A0



M PROPOSED LANDSCAPE SECTION FOR JACFIN
SCALE 1:500@A0

Note:
This document is Preliminary unless Validated.

ISSUE	STATUS	DATE	REVIEW	VERIFY	VALIDATE
H	PAC ISSUE	27/09/13	KS	KS	PA
F	ADJUSTED FOR CONSULTATION	04/09/12	-	-	PA
E	ADJUSTED FOR CONSULTATION	13/08/12	-	-	PA
D	FINAL ISSUE	09/07/12	-	-	PA
C	FINAL ISSUE	06/06/12	-	-	PA
B	FINAL ISSUE	11/05/12	-	-	PA
A	FINAL ISSUE	24/04/12	-	-	PA

\$DATES\$ \$TIMES\$ \$FILEL\$

JACFIN PTY LTD

CLOUSTON Associates
LANDSCAPE ARCHITECTS
LEVEL 2, 17 BRIDGE STREET
SYDNEY NSW 2000
EMAIL: sydney@cloustone.com.au
FACSIMILE (02) 8272 4998
TELEPHONE (02) 8272 4999



CLOUSTON associates

PROJECT HORSLEY PARK EMPLOYMENT PRECINCT
FOR PACKAGE ISSUE
DRAWING TITLE
CONCEPT AND CONTOURS COMBINED SECTIONS

CLIENT
JACFIN
DRAWING NUMBER
S12-0029

DRAWN
KS

SCALE
1:2000 @ A3

ISSUE
H

