



24 November 2006

Our ref: DHB/RH/05-093

Director General
Department of Planning
23 – 33 Bridge Street,
SYDNEY NSW 2000

Attn: Mr David Kitto, Director Major Development Assessments

Dear Sir,

**re: Concept Plan and Project Application for CSR Erskine Park Eastern Lands:-
Response to Issues Raised in Submissions**

Reference is made to your letter dated 25 October 2006 providing the proponent, CSR Limited, with copies of all submissions received during the public exhibition of the proposed storage and distribution centre at Lenore Lane Erskine Park. In accordance with Section 75H(6) of the EP&A Act we write on behalf of CSR Limited to respond to the issues raised in the submissions. We also respond to the submission from Penrith City Council.

We respond as follows.

1. Submission on Behalf of Jacfin Pty Ltd

1.1 Biodiversity Strategy and Biodiversity Management Plan

Submission:

The Jacfin submission objects to the concept plan application and the project application on the grounds that the Biodiversity Strategy 2005 and the Biodiversity Management Plan were not exhibited.

The Department has requested the proponent to respond in particular to the issues raised in the submissions concerning consideration of the proposed development against the Biodiversity Strategy and details of the proposed measures that will be implemented to offset any proposed vegetation clearing activities from the proposal.

Response:

The Biodiversity Management Plan for the Erskine Park Employment Area was prepared in May 2006 on behalf of the Erskine Park Landowners Group. This group comprises the following landowners:

- CSR;
- The Austral Tile Company (Austral);
- Fitzpatrick Investments Pty Ltd (Fitzpatrick);
- ING Pty Ltd (ING); and
- Trust Company of Australia Ltd.

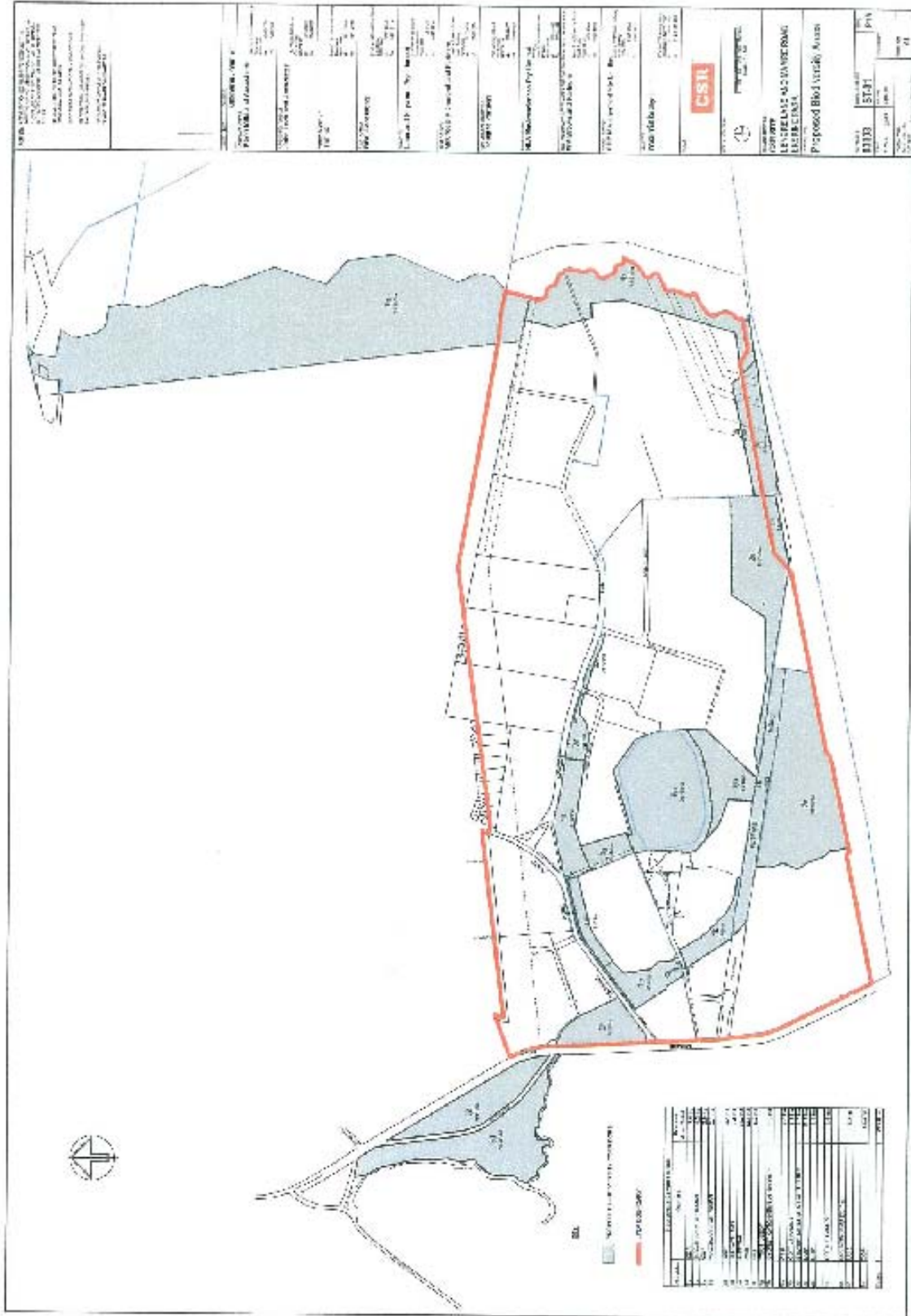
CSR has been the driving force behind a landowners group at Erskine Park that has been working collaboratively with Penrith City Council (PCC) and State government agencies to resolve a number of planning issues in the EPEA. These have included the resolution of a Biodiversity Strategy for the Erskine Park Employment Area (EPEA).

The Landowners, with the assistance of Greening Australia have been working on a Biodiversity Strategy for over 2 years. During this time the Landowners have worked PCC, the NSW Department of Environment and Conservation (DEC), the NSW Department of Planning (DOP) and the Commonwealth Department of Environment and Heritage (DEH) to deliver an ecological outcome that balances a sensitive ecological environment, with the freeing up of already zoned employment lands.

To facilitate this aim, the Landowners group, with the support of the DEC has put forward a proposal to the Department of Planning (DOP) which comprises:

- Establishing and maintaining a Biodiversity Corridor between South Creek and Ropes Creek on approximately 85.3 hectares of land owned by the Landowners Group and 125.7 hectares of land owned by the Minister and other parties;
- Dedication of some lands within the Biodiversity Corridor owned by the Landowners Group to the Minister;
- The encumbrance of other lands within the Biodiversity Corridor with an appropriate covenant for biodiversity conservation;
- A cash payment of \$3.0m to the DOP for the establishment of the Biodiversity Corridor;
- A payment of \$1.0m to the DOP for the ongoing management and maintenance of the Corridor in perpetuity;
- A \$0.5m fee paid to DOP in recognition of the DOP's agreement to allow planting on its land adjoining the Corridor.

The inclusion of the DOP land will deliver a sustainable, contiguous east-west biodiversity link between the existing north-south riparian corridors along Ropes Creek and South Creek. (See **Figure 1 overleaf**).



The Biodiversity Management Plan provides for the development and maintenance of a biodiversity corridor within the EPEA. This concept was developed in the Biodiversity Strategy prepared in 2005 and formalised in the Biodiversity Management Plan. The Biodiversity Strategy 2005 forms part of the Biodiversity Management Plan. Also forming part of the Biodiversity Management Plan is the Biodiversity Restoration Plan (2005) which details the requirements for delivery of the works within the Biodiversity and Conservation Corridor.

The Biodiversity Management Plan was developed in order to provide a strategic framework for the conservation of biodiversity within the EPEA. The Strategy provides for the development of a biodiversity corridor to link the Ropes Creek and South Creek catchments and also provides linkages between the Defence site at Orchard Hills, the South Creek riparian corridor, the ADI site in the north, Ropes Creek riparian corridor and Eastern Creek riparian corridor. The corridor will enable the protection of key ecological features, including:

- the riparian corridor around Ropes Creek and South Creek within and around the EPEA;
- remnant ecological communities of the Cumberland Plain Woodland and Sydney Coastal River-Flat Forest; and
- endemic flora and fauna habitats of the Cumberland Plain.

The Biodiversity Strategy places particular emphasis upon these remnant ecological communities and proposes to include concentrations of viable communities within the corridor.

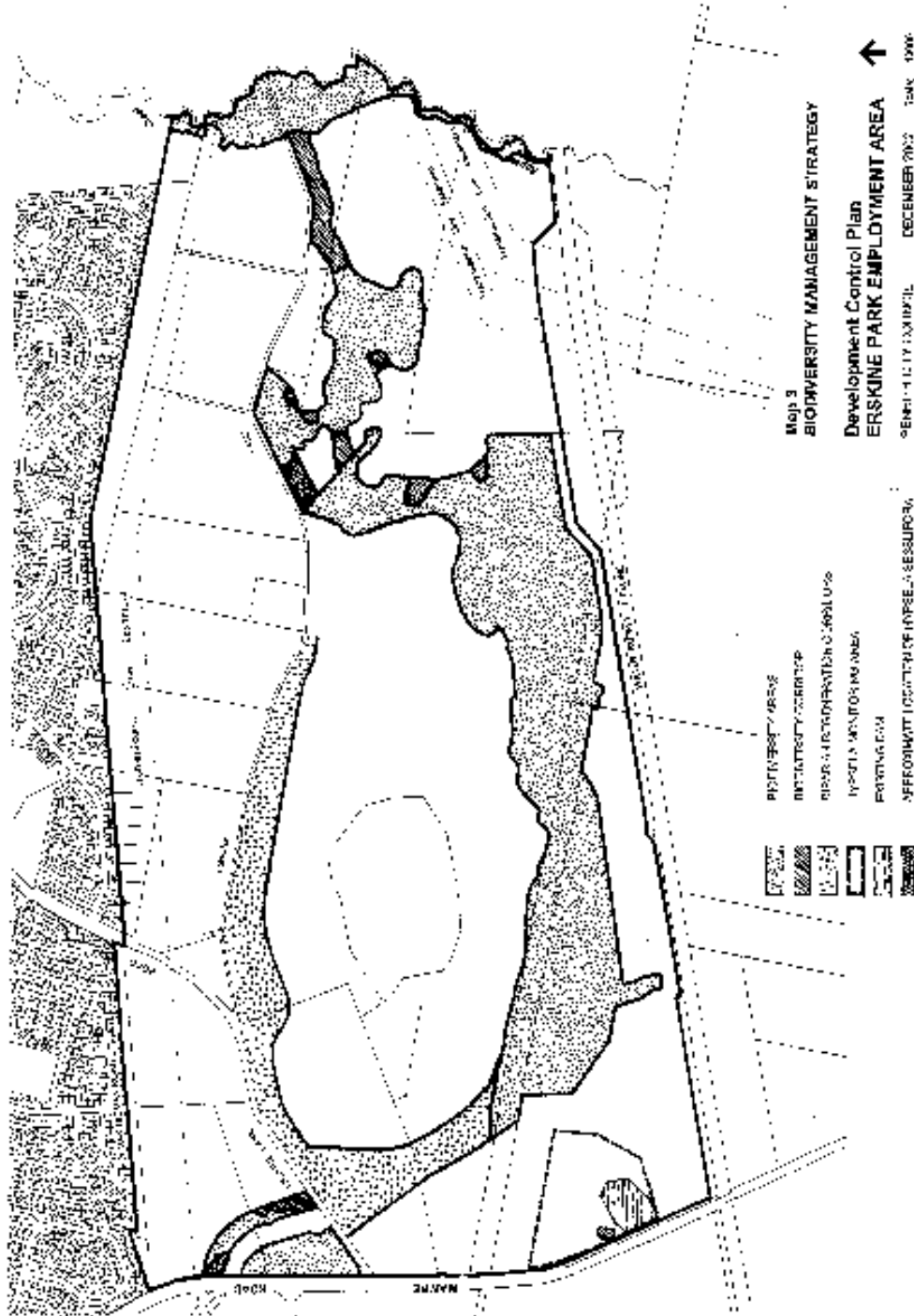
The biodiversity corridor will be developed in two phases. The initial development and revegetation of the corridor will occur over the next five years, and this establishment and restoration activity constitutes Phase One of corridor development. Phase Two involves maintenance and ongoing works such as weed management, pest control, protective fencing and maintenance of access restrictions, and will continue in perpetuity.

This BMP will enable delivery of a revegetated corridor that creates a link between sites of ecological significance in order to mitigate the effects of fragmentation on key ecological features, specifically the Cumberland Plain Woodland and Sydney Coastal River-Flat Forest.

Further to the allocation of land for the biodiversity corridor, revegetation and compensatory habitat form the basis for creating an ecological mosaic integrated with other land uses to allow both development and conservation opportunities achieving greater sustainability outcomes. This provides continuity of biodiversity values rather than the retention of fragmented ecological communities which pose a threat to the integrity of biodiversity values. The inclusion of compensatory habitat allows for revegetation of areas within the corridor to account for losses during construction within the EPEA.

The BMP has been prepared by those Erskine Park landowners who recognised the shortcomings in the Erskine Park Employment Area DCP 2002 relating to the biodiversity areas identified in the DCP. **Figure 2** (overleaf) shows the existing biodiversity corridor in the DCP.

Map 3 – Biodiversity Management Strategy



The DCP is some four years old and in some parts is based on information which is now outdated or superseded. The information supporting the DCP in relation to ecological, biological diversity and biodiversity issues has been superseded by more recent and more detailed field surveys and studies. These more recent studies, together with a more strategic approach to biodiversity conservation and land development, have resulted in the creation of the Biodiversity Strategy and subsequent Biodiversity Management Plan. These documents, supersede some sections and plans in the DCP while retaining consistency with the specific objectives of the DCP itself and the specific objectives of subdivision and biodiversity controls.

Since the preparation of the Biosis Report on which the biodiversity provisions of the DCP was based, several environmental studies and ecological surveys have been undertaken in consultation with Council. These studies, including a report by Kevin Mills and Associates in 2003 have highlighted limitations with the original Biosis Report and consequently the biodiversity strategy within the DCP. These include:

- ground truthing has revealed that *Hypsela* is not present on the Austral land as was previously assumed by the Biosis Report and consequently the DCP;
- the lack of consideration for broader off site conservation opportunities (i.e. the potential to develop the east-west corridor between South Creek and Ropes Creek and link it to the EPEA);
- the ownership, funding and overall management responsibilities of biodiversity conservation within the EPEA; and
- the need for better integration of biodiversity conservation and development in order to protect key ecological features while also facilitating development of the EPEA.

The biodiversity corridor identified in Map 3 of the DCP (**Figure 2**) contains anomalies which are recognised by both Council and the Department of Environment and Conservation.

- The *Hypsela* monitoring area needs to be removed from the plan as it is accepted by both Council and DEC that the plant doesn't occur anywhere on the site.
- DEC has identified that significant changes should be made to the nature and extent of biodiversity on the Austral land. DEC's requirement for biodiversity retention and management on the Austral land is as identified in the BMP.
- The biodiversity area identified on the Fitzpatrick land never existed when the DCP was prepared and doesn't exist now. The BMP proposes to add biodiversity to the Fitzpatrick land as identified in the BMP.

The project is consistent with the more detailed and up to date ecological and biodiversity conservation information that has become available since the preparation of the DCP and remains consistent with the relevant objectives of the DCP. It would not be appropriate for a decision making authority to blindly follow a provision in a DCP when there is more up to date and detailed information available which remains consistent with the objectives the DCP is trying to deliver

The BMP provides for a far more significant recognition of biodiversity outcomes along Ropes Creek and South Creek and the connection between these creeks, than exists in the DCP. In this regard it is noted that:

- The DCP makes no provision for the management and enhancement of biodiversity beyond the preparation of a plan. No mechanism exists for ensuring funding of such management. The BMP makes provision for the dedication and management in perpetuity of the recognised biodiversity corridor.
- The DCP contains no mechanisms for ensuring that the restoration maintenance of the physical and biological integrity of the waterways is secured. The BMP provides the mechanism for such protection.
- The DCP fails to provide regulated edges to the Biodiversity Corridor such as would ensure that subdivision design could facilitate minimum impact on remnant vegetation. The BMP provides that surety that subdivision design will protect remnant vegetation.
- The DCP is silent on mechanisms to ensure conservation of urban bushland. Without mechanisms which provide for public ownership and management of urban bushland, such will not survive. The BMP was prepared to specifically provide for the public ownership and funding of the conservation of urban bushland in perpetuity.
- The DCP seeks the retention of vegetation which doesn't exist. The BMP seeks to retain and increase the extent and quality of urban bushland (remnant vegetation).

The BMP was prepared in collaboration with Penrith Council and the Department of Environment and Conservation. The BMP was prepared in order to secure more effective biodiversity outcomes for the Erskine Park Employment Area, and is a document which has agreed status between relevant landowners, Council, DEC and the Department of Planning.

The BMP provides a basis for review and amendment of aspects of the Development Control Plan (DCP) and other relevant planning instruments and development control documents, as they relate to biodiversity conservation.

The Strategy is based on several key principles as follows:

- that a contiguous biodiversity corridor be established, both within the EPEA and in the surrounding land, providing an east-west link between South Creek and Ropes Creek, comprising sufficient representative biodiversity values;
- access to the biodiversity corridor should be restricted or managed. It is recommended that access be managed to provide access to among others, the owners of the corridor, their agents, the organisation undertaking the restoration and emergency services;
- to ensure consistency and continuity of management, it is proposed that the corridor be held in single ownership;
- to provide certainty with respect to the biodiversity outcome it is recommended that one organisation, such as Greening Australia, be engaged at establishment and in perpetuity to undertake restoration and maintenance works within the corridor; and
- funding of all stages of corridor development and on going biodiversity conservation be guaranteed at the outset of the restoration project.

A copy of the Biodiversity Management Plan is contained in Annexure 1. A copy will also be provided to Jacfin as a matter of courtesy, recognising that there is no legal or procedural obligation for CSR to do so, nor is there a requirement, statutory or otherwise, for the

Biodiversity Management Plan to be publicly exhibited with the concept plan application or the project application.

The proponent is committed to the BMP. To this end, CSR Limited has undertaken to enter into a draft Voluntary Planning Agreement (VPA) with the Minister for Planning, pursuant to section 93F of the *Environmental Planning and Assessment Act 1979*.

The draft VPA with the Minister for Planning will ensure that CSR fulfils its obligations under the BMP. Under the draft VPA, CSR Limited will be the major contributor to the implementation of the BMP, through the payment of substantial funds and the dedication of land for clearly identified biodiversity conservation purposes.

In conclusion the implementation BMP has several important advantages:

- it is a better ecological outcome in that it provides more extensive areas of biodiversity protection extending from Ropes Creek to South Creek;
- it has the broad support of all relevant agencies;
- the relevant landowners have entered into an agreement to fund the establishment and maintenance of the biodiversity area;
- the particular responsibilities of the lead landowner, CSR Limited, have been identified and CSR is prepared to enter into a planning agreement to provide its major contribution to the implementation of the biodiversity corridor and
- it enables more land to be used for the economic development of the region and State.

These benefits cannot be provided with the biodiversity corridor as defined in the DCP.

A copy of the draft VPA is contained in Annexure 2 and the draft Memorandum of Understanding between landowners is contained in Annexure 3.

We note that in accordance with section 93G of the Environmental Planning and Assessment Act 1979 and clause 25D of the Environmental Planning and Assessment Regulations 2000, that the draft VPA must be publicly exhibited at the same time and in the same manner as the Major Project application. Your written confirmation that the Department intends to publicly exhibit the documents together would be appreciated.

1.2 Stormwater and Drainage

Submission:

The EAR and accompanying reports do not adequately assess the environmental and flooding impacts of the proposed creek realignment

Response:

This assertion is rejected. Brown Consulting advise that the flooding and associated impacts of the realignment have been fully addressed in their report contained at Appendices 3 and 4

of the EA. More detailed responses are provided in relation to the key issues identified by Dr Webb below.

Submission:

The proposed riparian corridor is a complete artefact. There is no natural riparian corridor in or adjoining the CSR land included in the Stage 1 Project Application covered in the EAR reports, nor the Jacfin Land.

Response:

The submission on behalf of Jacfin is premised on the assertion that the natural watercourses found on the CSR lands included in the concept plan and project applications, and on Jacfin's property, do not contain any features contained within a natural riparian corridor. This is contrary to the investigations undertaken for the EA and the views of the Department of Natural Resources.

In his geomorphological assessments of the watercourse on the CSR site, Dr Mark Taylor concluded that for the lower section of the creek:

The SEC watercourse has a 'transition type fluvial morphology' consisting of a clearly defined channel along with "grassy swale" channel sections. The channel system is determined to be part of a geomorphic continuum between upstream drainage depressions (Taylor (2005) and the more well defined downstream channel of South Creek. However, it is argued that the balance of evidence indicates that the system is a bona fide river as per the RFIA.

As a result, it is considered that there is a natural watercourse located on the site and that this is proposed to be realigned.

With respect to the definition of whether the watercourses through the property are referable under Part 3A of the Rivers and Foreshores Improvement (RFI) Act, DNR officers asserted that the watercourse was a river in terms of the Act despite the arguments of our experts to the contrary however, following extensive negotiations, a position regarding the status of the watercourse was agreed.

It should be noted that no assessment has been made with respect to the status of the watercourse located within Jacfin's property, as part of this application.

Submission:

The need for a major drainage channel and consequential riparian corridor only arises as a consequence of the filling and recontouring of land which contains no defined drainage channels.

Response:

As stated above, the basis of this submission in relation to drainage and flooding is that the creeks in the area are not defined drainage channels. The EA presents a different view. The project realigns an existing creek to an area identified as part of a biodiversity corridor. As stated above, the expert opinion of Brown Consulting and Dr Mark Taylor is that the site contains a natural watercourse, which is proposed to be realigned. The realignment of this watercourse to a location more suited to longer term management as an effective riparian corridor as part of a biodiversity corridor is seen as the preferred solution.

Submission:

The location of the proposed riparian corridor adjoining the boundary with Jacfin land and in the adjoining unformed road is a consequence only of a desire to maximise the development potential of the CSR land

Response:

This assertion is not supported by the facts. Dr Webb has formed the view that there is no natural riparian corridor in, or adjoining, the CSR land or the Jacfin land. If this were the case the development potential for the CSR land would be maximised further by the implementation of Dr Webb's Option 1 for improved stormwater management which is to pipe the flows and as a consequence have no regard for the biodiversity, stream quality and flow issues by deleting the re-established watercourse. It is clear that the project has not sought to do this. The approach taken, after consideration of the alternatives, including the alternatives suggested by Dr Webb, is to realign the creek to within a re-established riparian corridor partly within the proposed biodiversity corridor to be provided under the Biodiversity Management Plan. The location of the proposed creek was selected to allow for the orderly development of the site and to provide better connectivity with the proposed adjacent biodiversity lands.

Submission:

Accretion and scour in and adjoining the proposed riparian corridor is inevitable without constant and expensive monitoring and maintenance. The proposed maintenance program is only for two years, yet the EAR reports indicate it will take up to ten years for vegetation to establish.

Response:

The Vegetation Management Plan and the Biodiversity Management Plan provide the methods and the funding for monitoring and maintenance.

Submission:

Design of the drainage channel within the proposed riparian corridor, particularly in respect to excessive water energy in the reach adjoining Jacfin land, and in the unformed road, has not

been determined, and has been deferred to the “detailed design”. The EAR report suggests that it may be necessary to “widen the planform geometry” in the reach adjoining Jacfin land. This is where the channel is closest to Jacfin land; where a detention basin is also located; and where a link road to Jacfin land may have to be provided.

Response:

The water energy in this section of the proposed creek has been determined and is described in Sections 5.2.5 and 5.2.6 and in particular Tables 19 to 24 and Tables 25 to 30 of the report contained in Appendix 3 of the EA. The energy regime generally mimics that of the existing watercourse and is under generally acceptable values. It appears that the part of the design that has been referred to being ‘deferred’ is the fine tuning of the low flow channel at the base of the proposed creek corridor. The possible widening of the planform geometry only refers to the low flow channel cited above. The planform of the overall corridor is not proposed or anticipated to change and is agreed by the Department of Natural Resources.

Submission:

No consideration has been given to the additional volume of runoff and water power impacts on downstream flows in the unformed road below where the proposed riparian corridor terminates. Backup of stormwater into Jacfin land is inevitable and has not been addressed.

Response:

The impacts on sections of the existing creek below the proposed works is covered in Sections 5.2.1 and 5.2.3 of the report contained in Appendix 3 of the EA. The results for Reach 2, the section immediately below the works, indicate that there is minimal change in the energy regime of the creek. We are unsure of how the submission has determined that there will be an inevitable backup of stormwater onto Jacfin land. Brown Consulting’s hydraulic modelling indicates that there is minimal change in the flood extents on Jacfin land – if anything the area inundated is marginally reduced.

Submission:

Whilst detention basins are proposed to reduce post-development flows, they are inadequate in size and complexity to control the full range of post development flood peaks, in particular the basin adjoining the Jacfin land. It appears that from the very limited information available in the EAR reports that only a preliminary assessment has been undertaken of the detention basin requirements.

Response:

The sizing and location of the basins has been provided as a guide and framework for the future development of the site. They have been provided to determine the storage and discharge requirements for each of the pads, for a range of storm events. Except for Pad 4 the ultimate use of each of the pads is unknown at this time and the application is for the

formation of these pads. The design of these basins is for the detention of water from the pads in their current form. The future development of the buildings on the site will require additional stormwater detention at that stage of detailed development, however the design of the basins meets the requirements of the Development Control Plan for the area.

This approach has been previously used in other development applications within the site, with the actual configuration of the basins and other stormwater infrastructure being left to the pad specific application. A more specific stormwater concept plan has been provided for the proposed industrial development located on Pad 4.

Submission:

Inadequate consideration has been given to the provision of wetland vegetation or other essential water quality treatment. The proposed treatments will not satisfy the needs of an adequate water quality management system.

Response:

A similar approach for water quality treatment has been undertaken as outlined in our response to the previous submission point. The design of the water treatment system meets the requirements of the Development Control Plan for the area.

Submission:

It appears that the proposed riparian corridor is not included within the proposed biodiversity corridor and in some instances there appears there can be no potential connectivity of the biodiversity corridor through this section of the Erskine Park site unless a large part of the Jacfin land is utilised as a biodiversity corridor (where none currently exists).

Response:

The proposed riparian corridor and the proposed Biodiversity Conservation Corridor have different functions and are not required to be coincidental. In fact in some instances it is not always appropriate for them to be the same. Notwithstanding this, in some instances the two will coincide (in whole or in part) and will complement one another. Inclusion of any of the Jacfin land is not required to achieve connectivity or the aims of the Biodiversity Conservation Corridor, and is not envisaged in the Biodiversity Management Plan.

Submission:

The EAR reports inaccurately map the eastern section of the unformed road on the crown land as an existing riparian corridor. Similarly the EAR reports show a riparian corridor on the CSR land where none exists.

Response:

The view on the status of the streams in the area by Dr Webb differs from the view taken by the proponent's consultants and the DNR. The existing watercourses at these locations

have been determined, by DNR and our experts, as rivers and as such the preferred treatment is the provision suitable riparian corridors.

Submission:

There is a high degree of conflict between the Flora and Fauna report prepared by HLA and the Vegetation Management Plan prepared by GHD. There are significant errors, inconsistencies and inaccuracies between these reports in particular in relation to the existence of threatened species on the site. These conflicts do not enable a proper assessment of ecological issues.

Response: The VMP prepared by GHD is not a flora or fauna assessment of the proposed project and has been prepared for a different purpose. Its focus is on the restoration and revegetation of a relocated ephemeral creek rather than a detailed survey of existing flora and fauna and an assessment of potential impacts associated with the proposed project. Additionally, the flora and fauna assessment undertaken by HLA related to the whole of the subject land rather than just the area of the relocated creek.

Notwithstanding this, the overview of existing vegetation provided in Section 2.6 of GHD's VMP is consistent with HLA's Flora and Fauna Assessment, albeit not at the same level of detail. Contrary to the assertions made, the VMP does not contain an evaluation or full listing of threatened species whereas the HLA report does. The two reports do not conflict or contain conflicting information. A full assessment of ecological values is presented in the Flora and Fauna Assessment prepared by HLA.

Submission:

The poor design and inadequate level of assessment is particularly alarming as the application before the Minister insofar as the drainage and engineering works are concerned is a Project Application. These works are not for Concept Plan approval only. It is essential therefore that they are fully and properly prepared to enable both Jacfin as a directly affected party, and the Minister as the consent authority, to reasonably assess and determine the application.

Response:

The reports and drawings prepared for the major project application are to a level of detail sufficient to allow consideration and determination of the application. The information contained in these reports is consistent with the standard of information prepared for the previous applications in the area. It should be noted that the application is for bulk earthworks to form the pads for future industrial development, except for Pad 4 where there is a proposed building. As a result the stormwater concepts for the other building pads are only concepts that will need to further developed to suit the proposal for each pad.

1.3 Planning Issues

Consideration of Alternatives

Submission:

No alternative layouts or concept designs have been considered, particularly alternative location of the drainage channel, including the maintenance of the creek in its current location as suggested in the Erskine Park Employment Area Development Control Plan 2002.

One of the key requirements for major projects assessed under Part 3A is the consideration of alternatives. Such alternatives may be alternative localities for a development or alternative design concepts or projects. The EAR fails to provide any details on the alternative designs considered, including options to locate the new drainage channel elsewhere within CSR lands.

This is confirmed by the Southern Eastern Creek Realignment report prepared by Brown Consulting which states one of the key design criteria is to “optimise the available operational land.

We note that the location of Templar Road is fixed and that the site boundaries are determined by existing approved developments and subdivision patterns. However, we also note that Lot 5 is a very large site of approximately 95 hectares and that the part of Lot 5 subject to this application is 38 hectares. Given the large size of the site, there are a range of alternative ‘pad’ layouts available. In essence the proposed development seeks to establish a new creek and clear large portions of land to increase the developable area of the site for the economic benefit of the proponent at the expense of sound environmental planning.

The fact that the Part 3A project is essentially the same as the previous DA lodged with Penrith Council suggests no real consideration of alternatives was undertaken. This is evidenced by the ill-conceived ‘tack-on’ right of way proposed at the end of the CSR cul-de-sac as a solution to the removal of legal access to the Jacfin land.

Lot 5 is a very large site and it is required standard planning practice to minimise and internalise the environmental impacts of development. It appears the proposal has opportunistically relocated the creek and biodiversity corridor because the unformed road is in public ownership and was apparently available to the proponent.

The proposed layout is clearly designed to maximise the development potential of the CSR land by externalising the impacts of development to the adjoining land owners. The DGR’s specifically require the EAR to justify the need for the project and alternatives considered. The EAR only includes general justification for the project based on the need to provide employment land across the metropolitan area and that Erskine Park was created and zoned for employment in the 1990’s. However, just because a site is zoned for industrial use, of itself is not sufficient justification for any form of development on land. The EAR does not provide any justification for the project as proposed, or consideration and documentation of alternative layouts for the Concept Plan.

The Stage 1 Works Project Application should not be approved until the alternative Concept Plan options are considered. Such alternative options should be based on sound environmental planning principles which do not externalise the impact of the development onto adjoining landowners. Project Approval is being sought for Site H, which is in a critical location within the proposed subdivision. The development of Site H effectively locks in the location and design of the creek realignment which is the root problem of the project and causes some of its greatest impacts. There is no sound planning reason why, for example Sites C and D could not be reconfigured to provide an alternative location or the storage and distribution facility.

Response:

The alternatives considered are discussed in Section 3.9 of the EA. There are a range of alternatives for the detailed design of buildings to be constructed on the site. These will be resolved in the subsequent applications. The fundamentals of the site in terms of access and boundaries are influenced by past approvals and existing access roads. The creek realignment element of the project has been the subject of detailed discussions with relevant government authorities resulting in a design for the creek relocation and associated works that has met with the approval in principle of these authorities. Early discussion with relevant authorities in order to identify and resolve issues as part of the project design process was encouraged in the preparation of the Part 3A applications and the proponent has undertaken such discussions over the last 2 years..

The alternatives considered included alternatives developed as part of the previous development application to Penrith Council for bulk earthworks. The concept plan application and project application incorporate changes to the development proposed as part of this application including a revised realignment of the creek. The design of the stormwater management system, including the realignment of the creek has been continually evolving to the designs proposed in the applications. The proposals presented in the project application and concept plan application are considered to be the preferred proposals.

Consultation with Affected Landowners

Submission:

There has been no consultation with Jacfin as an affected landowner nor any evidence of consultation with other affected landowners, including those whose land is downstream of the newly diverted channel.

Jacfin, as landowners of Lot 11 in DP 229784 are directly affected by the proposed development, particularly the realignment of the creek and its flow on effects, both physical and economic. The DGRs specifically require that consultations occur with affected landowners and that the consultation process and issues raised during the consultation be described in the EAR.

The EAR does not describe the consultation process, does not document the discussions or issues raised, nor does it provide any detail on the outcomes of such discussions or responses to issues raised. The EAR also claims incorrectly that the proponent or its representatives have discussed the project application with other landowners in the vicinity of the site. Lot 11 shares a common boundary with the CSR site. We have been advised by

Jacfin that it has not been consulted during the preparation of the EAR, nor has there been any attempt to do so.

Response: The consultation process and issues raised is discussed on Section 1.8 of the EA. The outcomes of consultation have been incorporated into the concept plan and project applications and in the EA. Correspondence from the Department of Natural Resources and the Department of Environment and Conservation is included in the EA.

As noted on pages 1 and 2 of the Jacfin submission, Jacfin provided a detailed submission to the exhibition of DA 05/1530 lodged with Penrith Council for earthworks and associated stormwater management works including the relocation of the creek. The issues raised by Jacfin in this submission were considered the preparation of the EA.

CSR has been in regular contact with other landowners in the area through the preparation of the Biodiversity Management Plan.

Erskine Park Employment Area Development Control Plan

Submission:

The DGR's specifically require the EAR to "demonstrate that the proposal is generally consistent with the Erskine Park Employment Area DCP, and justify any inconsistencies between the proposal and the DCP". The fact that the DGR's specifically identified this DCP and singled it out for consideration (without listing any other planning policies or statutory plans) clearly demonstrated its importance to any consideration of this application.

The DCP is aimed at promoting the aims and objectives of Penrith Local Environmental Plan and the objectives of the Environmental Planning and Assessment Act 1979.

*"...(b) **ensure that development takes account of the physical nature of the local environment, particularly Ropes Creek, ridgelines and the natural landscape; ...***
*(i) facilitate **conservation** of urban bushland;*
*(j) **protect, restore and enhance riparian corridors** within the Erskine Park Employment Area." (our emphasis added)*

The DCP also includes specific objectives for the various controls contained in the DCP. The objectives for the drainage controls at section 2 include the following:

*"(d) to **protect, restore and maintain** the **physical and biological integrity** of the waterways ..." (our emphasis added)*

The specific objectives of the subdivision controls contained at section 3 include:

*"(c) to ensure that subdivision design takes into account biodiversity considerations and **facilitates minimum impact development to protect remnant native vegetation** on the site and on adjoining land;*
*(d) to **preserve the natural topography** and physical characteristics of the land;*
*(j) to **protect, restore and enhance riparian corridors.**" (our emphasis added)*

The specific objectives of the biodiversity controls contained at Section 3 include:

- “(a) To promote the **conservation of urban bushland** in accordance with the aims and objectives specified in Clause 2 of Penrith Local Environmental Plan 1994 (Erskine Park Employment Area);*
- (b) **To protect and preserve native vegetation and biological diversity** in the Erskine Park Employment Area in accordance with the **principles of ecologically sustainable development**;*
- (c) **To retain native vegetation in parcels of a size and configuration** which will enable the existing plant and animal communities to **survive in the long term**;*
- (d) Protect and enhance habitat for threatened species and endangered ecological communities; and*
- (e) Maintain and enhance corridors for fauna and flora.” (our emphasis added)*

Furthermore the DCP contains a biodiversity management strategy that maps the biodiversity areas under the DCP. The biodiversity areas represent “the most valuable areas of native vegetation and fauna habitat and the strategy considers that any development within those areas would be likely to have a significant adverse impact on flora and fauna”. The conservation of the biodiversity area and rehabilitation of the biodiversity corridors is to enhance the “continuity of vegetation present in the area” and to enhance the overall biodiversity values of the site and a more “sustainable development outcome”. Map 3 of the DCP designates biodiversity areas and biodiversity corridors that are to be retained. The map clearly indicates that a large portion of the land designated to be cleared in this application is located within the biodiversity area, and/or biodiversity corridors. It is estimated that 50% of the biodiversity area, and/or biodiversity corridors that is located within the CSR site is proposed to be cleared.

The EAR states that the Concept Plan and Project Application are “in keeping” with the objectives of the DCP. The proposed development to realign the creek and clear with the cut and fill earthworks large portions of the biodiversity area are significant non-compliances with the controls contained within the DCP. To justify these inconsistencies the EAR assessment of the biodiversity controls in the DCP refers to “adopted EPEA Biodiversity Strategy 2005 and the subsequent Biodiversity Management Plan”. The EAR states that the “EPEA Biodiversity Strategy 2005” has been “adopted in principle” by Penrith City Council, the Department of Environment and Conservation and the Department of Planning. It further states that “the proposed development is consistent with the agreed management strategies in the Biodiversity Management Plan.” The validity of such claims cannot be properly assessed by JBA or other specialists engaged by Jacfin as these documents are not publicly available to us, despite their apparent availability to the proponents consultants and regardless of numerous attempts by Allens Arthur Robinson for access to these purportedly ‘adopted in-principle’ documents.

The current DCP was developed after careful consultation with all relevant parties and is designed to provide for the orderly and environmentally responsible development of land. The community has an expectation that the DCP controls will be upheld and applied equitably. To contemplate otherwise, as is the current case, would fail to give appropriate weight to this instrument and would fail to meet the community’s reasonable expectations for the development of the site. The proposed development seeks a significant deviation from the DCP to the extent that it amounts to a de facto variation of the plan itself.

Jacfin, other stakeholders, landowners or members of the public have not been afforded the opportunity to contribute to or review the 2005 Biodiversity Strategy referred to in the EAR through any public or invited consultation process. This document is not yet a public document and Jacfin understands the strategy has not been formally adopted by Penrith Council or State Government agencies.

As the EAR uses the Biodiversity Strategy and Biodiversity Management Plan to justify significant inconsistencies with the DCP, this documentation must be publicly available. The status of the document must also be clear and the DCP be amended in accordance with due process, if any weighting is to be given to it. Nor, most appropriately, has the DCP itself been amended or draft amendment exhibited for public comments as required under the EP&A Act.

The above mentioned documents should be made publicly available and the development re-exhibited with all the required relevant information before any determination is made.

Response: The response to this submission is discussed in Section 1.1 of this response.

The BMP does not have any effect on land other than that which is identified in the Plan. The BMP has no effect on the Jacfin land.

The BMP justifies departures from the DCP due to the significant biodiversity outcomes which will emerge from the implementation of the BMP. Those outcomes are far more significant than the outcomes which would emerge from the strict application of the biodiversity provisions of the DCP.

Provision exists for the DCP to be varied where documentation exists which would justify such variation. The BMP is the appropriate documentation to support such variation, accordingly the principles of the DCP are being followed in the concept plan and project applications.

Impact on Jacfin Land

Submission:

The proposed development has a number of implications for the adjacent Jacfin land, including the isolation of the Jacfin land by virtue of the proposed placement of the realigned creek and riparian corridor within the Crown Road reserve.

The unformed road provides the sole public access to the Jacfin land. To remove access to the Jacfin land via the crown land would landlock the Jacfin land, which does not have the benefit of any right of carriageway or other access arrangement to a public road. Allens Arthur Robinson have also advised that at common law, and under the Roads Act 1993 (NSW), Jacfin is entitled to utilise the Crown road reserve to access its land and that this right of passage along this road must be preserved to enable ingress/egress to/from Mamre Road.

Response:

During consultation with the DEC in the preparation of the applications, the DEC has maintained that the Crown Road Reserve, as identified in the biodiversity strategy (Map 3 DCP) must be maintained for biodiversity purposes. The proposed placement of the realigned creek, and improvement thereto, within the Crown Road Reserve is consistent with the DEC requirement and is consistent with the biodiversity strategy in the DCP. Furthermore, drainage of water within a Crown Road Reserve is a legitimate use of such a reserve.

The preparation of the Biodiversity Management Plan was predicated on, amongst other matters, the need to preserve and protect the environmental integrity of the biodiversity within the Crown Road Reserve (and thereby satisfy DEC's requirements).

In order to maintain that integrity, and after consultation with Penrith City Council, CSR has provided the necessary land for more appropriate access to the Jacfin land. This has been registered as a right of access affecting Lot 5 in DP1094504. This right of access is 20 metres wide which is the width of Templar Road. This is described in Section 3.3.5 of the EA.

This action has substantially benefited the Jacfin land by providing access which can actually be constructed, and constructed at a fraction of the cost of a theoretical access along the Crown Road Reserve.

The reality of the access issue (to the Jacfin land) is that access could not be constructed along Crown Road Reserve (DEC's position) for both biodiversity and economic grounds.

The consequence of the concept plan and project application is that the proponent has provided a more effective and realistic means of access to the Jacfin land to enable this land to be developed as part of the Erskine Park Employment Area. Jacfin's land has not been denied access. Access has been improved.

Submission:

The proposed Concept Plan, in recognition of the access impacts on the Jacfin land seeks to provide an inadequate and ill-conceived alternative solution, namely the inclusion on the plan of a right of carriageway over Lot 5 DP 1094504 from the southern end of the proposed cul-de-sac. This right of way proposal is unsatisfactory for the following reasons:

- 1.It fails to provide physical access, namely a bridge over the proposed "riparian corridor" that must be crossed to obtain access between the cul-de-sac and the Jacfin land. This also loads an unacceptable cost impact on Jacfin as the adjoining land owner.*
- 2.It fails to provide direct road access to the Jacfin land. Consequently the Jacfin land would not have a road frontage with visible address/presentation to a public road for future businesses on the land. This itself is an adverse economic impact on the potential value of the Jacfin land*

Response:

There is no effective physical access to the Jacfin land currently with the nearest formed road being some 1.3kms to the west near Mamre Road. The existing creek meanders through the Crown Road Reserve and the construction of access to the Jacfin land will require a number of crossings of this creek or realignment to the creek. The cost of constructing access within the right of access provided to the Jacfin land from Templar Road will be significantly less than the cost of constructing a road within the Crown Road Reserve. Initial investigations of the likely costs establishing a road along the Crown Road Reserve indicate a cost in excess of \$4 million. It is considered that the high cost of providing this access would make the development of the Jacfin land uneconomic.

The access benefit provided by way of the easement delivers an opportunity to access to the Jacfin property at a cost materially lower than this estimate and in a manner that is environmentally sensitive. Initial investigations of the likely costs establishing a road within the proposed right of access from Templar Road is \$957,000. This cost of access makes the development of the Jacfin land economic.

Access from the proposed right of access from Templar Road will provide direct access to the Jacfin land from Lenore Lane and enable the Jacfin land to be incorporated into the development of the EPEA in an orderly and economic manner. This is in the public interest. The provision of more direct access via the 20 metre wide right of access will bring greater economic benefits to the Jacfin land than the present 60 metre frontage to a road reserve some 1.3kms from the nearest formed road.

Consideration has also been given to the implications of the crossing on the integrity of the biodiversity corridor. The bridge crossing would need to be designed to enable continuity of vegetation beneath and such as bridge has been allowed for in the above cost estimates for the access to the Jacfin land. The proposed bridge will directly cross the corridor. Provision can be made for this crossing in the detailed design of the creek realignment and associated landscaping works. Again, we reiterate that the marginal cost of proceeding with this route is minor when compared to the Crown Road route.

Submission:

The width of the proposed “riparian corridor” appears to be variable. The reasons for the variable width are not made clear in the EAR or in the accompanying documentation. On the southern side of the new drainage channel, adjacent to the boundary with the Jacfin land, it appears that the proposed riparian corridor is, in parts, narrower than at other locations. It is important that the proposed development contains all of its impacts, including an adequate riparian corridor and buffer, within the boundaries of the CSR site

Response:

The concept plan application and the project application propose no works on the Jacfin land including planting for riparian corridor.

Submission:

Whilst there has been no case made as to why the new channel should be located where it is, that location in close proximity to the Jacfin boundary may result in the need to provide an additional riparian buffer (or a new Asset Protection Zone for bushfire protection over the longer term) within the Jacfin land. This is a consequence of the proposed development that should not reasonably be borne by the adjacent land owner. Accordingly, the proposed development will adversely impact upon the orderly and economic use of the Jacfin land. This is both unreasonable and unequitable.

Response:

The claim that the relocation of the ephemeral stream will require a new Asset Protection Zone for bushfire protection demonstrates a lack of understanding of bushfire issues. The proposed project includes measures to protect development within the CSR lands from bushfire risk emanating from the south (including the Jacfin land) and it would be anticipated that Jacfin would undertake a similar assessment of risk and, as necessary, incorporate appropriate bushfire protection measures within any development of its land. The bushfire risk profile for the Jacfin land would not be increased as a result of the proposed works. The requirements for asset protection zones or any other means of bushfire protection for the Jacfin land is a matter for consideration in relation to any development application on the Jacfin land.

Submission:

The mitigation measures proposed in the Draft Statement of Commitments do not sufficiently address the impacts of the proposal. In particular the draft Statement of Commitments does not include the following measures:

- 1.A long term commitment to the management and maintenance of the proposed new creek.*
- 2.A long term commitment to the management and maintenance of the proposed riparian corridor.*
- 3.A long term commitment to improved water quality of the creek.*
- 4.Management measures to protect the Jacfin site from flooding impacts which are likely to arise as a result of the location of the new creek.*
- 5.Implementation of appropriate bushfire management measures to ensure the proposed riparian corridor does not result in a bushfire hazard to the Jacfin site.*
- 6.A detailed description of development contributions for the construction and ongoing management of the creek and riparian corridor.*
- 7.A commitment to the extension of Templar Road (Road 1) from Lenore Lane to the Jacfin land (if the existing creek is relocated onto the unformed road on crown land). This commitment should provide for the construction of the road and bridge over the new creek and their dedication as a public road.*

Response:

- In relation to points 1 and 2, the commitment to the establishment, management and initial maintenance of the realigned creek and riparian corridor is outlined in the Vegetation Management Plan contained in Appendix 12 of the EA. The Biodiversity Management Plan provides the mechanism for the on-going maintenance of the

biodiversity areas. The Statement of Commitments will be amended to include reference to this plan.

- In relation to point 3, the project has been designed so that the quality of creek water is not diminished. There is no requirement to improve water quality. The applicant would comply with any reasonable condition of project approval in relation to water quality monitoring.
- In relation to point 4, the analysis in the EA (Appendix 3) indicates that there will be no increase in flooding on the Jacfin land. No commitment to this regard is required;
- In relation to point 5, the proposed works include bushfire management measures aimed at protecting the assets which will be located within the CSR lands. The proposed works would not increase the bushfire risk profile of the Jacfin land and therefore the implementation of appropriate bushfire management measures to protect assets within the Jacfin land would be the responsibility of Jacfin.
- In relation to point 6, this is discussed above in relation to the BMP.
- In relation to point 7, no commitment to provide an extension from Templar Road to the Jacfin Land is required. The proponent has provided the land from Templar Road to the Jacfin land for access purposes. As a consequence of this right of access, the Jacfin land will be some 234 metres from a formed road compared to 1.3 kilometres at the present. The proposed development does not create a need for, or otherwise require, the proponent to construct this access.

1.4 Traffic and Access

Impact on the Regional Road Network for the Western Sydney Employment Hub

Submission:

The proposed development, by undertaking drainage works on the unformed roadway is inappropriate and premature in that it pre-empts a major strategic planning initiative for a new road network to connect Erskine Park, Eastern Creek and Precinct B (land south of the Sydney Water pipeline), with the M7, M4 and lands north of the M4.

The RTA is currently preparing a Concept Plan for a Regional Road Network (including links to Mamre Road and Old Wallgrove Road) to service the growing Western Sydney Employment Hub. Jacfin understands that work on the Concept Plan for the Regional Road network is well advanced and that the proposed Concept Plan will be on exhibition in the near future.

Masson Wilson Twiney have reviewed the traffic impacts of the development (see attached letter) and concluded that any action (such as the realignment of the creek) which precludes the use of the unformed road for road construction could significantly hinder at least one option for the Regional Road Network to service the Western Sydney Employment Hub. The EAR does not consider the impacts of the development on the future development of the Regional Road Network. As the Concept Plan for the Regional Road Network is undecided and there is no consideration of impacts in the EAR, the proposed development in its current form cannot sensibly be approved.

The road network is absolutely fundamental to the operation of the whole of the Western Sydney Employment Hub with far reaching ramifications for all landowners and future users of the Hub and beyond.

Jacfin has made numerous representations to the State Government about the proposed Regional Road Network and commissioned a considerable amount of research into the issues surrounding and impacts of a regional road network or link roads. An original proposal for a link road was that it cross other Jacfin land to the east of Ropes Creek (and north of the pipeline) and connect to the Old Walgrove Road/ Wallgrove Road intersection with the M7. The Jacfin studies undertaken by 3 separate and independent firms of traffic engineers have found this original link road route to be highly problematic in terms of congestion impacts on the Eastern Creek industrial area and the M7 intersection concerned.

An alternative route has been proposed to provide a link road further to the south. That alternative route has a number of significant advantages in terms of reduced congestion, lower cost, greater potential for non-government funding, the introduction of additional employment lands (south of the Sydney Water pipeline) and the ability to facilitate cross regional road connections to Wetherill Park and beyond. The southern alternative route also has the support in principle of both the Blacktown and Fairfield Councils, and is currently being considered by the Department of Planning and the RTA.

The alternative link road supported by Jacfin and others is proposed to utilise the Crown Road Reserve within the Erskine Park industrial area and connect via that Crown Road Reserve to its recently constructed intersection with Mamre Road. The proposed Part 3A application with the realignment of the creek within this same Crown Road Reserve would stop or severely restrict the creation of such a component of the appropriate regional road network. The EAR has incorrectly assumed that the Crown Road Reserve has no economic value, strategic use or public benefit for its reserved purpose – namely as a major road.

The proposed development concept clearly seeks to optimise the development potential of the CSR lands to the detriment of adjoining land owners and the wider Western Sydney Employment Hub. It is therefore essential, from a strategic planning perspective, that there be no works within the Crown Road Reserve, or elsewhere, that preclude the alternative southern link road option, at least until such time as the Concept Plan for the Regional Road Network is exhibited and approved by the State Government.

Response:

The Department of Planning has advised in writing that the Crown Road Reserve will not be required as part of a new road network for the Western Sydney Employment Hub.

A concept for the regional road network upgrade is nearing completion and it is understood that the Crown Road Reserve will not be required for the network.

It is noted that the response from the RTA via SDRAC raised no issue of a major road through the reserve and the Department of Natural Resources raised no objection to the lodgement of the applications.

Proposed Alternate Road Access

Submission:

The Crown Road Reserve (60 metre wide) running east-west immediately to the south of the CSR site, currently serves as a public road which is partly sealed (near Mamre Road) and unformed along the Reserve. This road is used by Jacfin for access to the Jacfin land. The road is also used by neighbouring landowners.

The CSR plans for the alternate road access show a 20 metre wide road reserve leading from the truck turnaround area within Road 1 to the south. This proposed road reserve would only allow for local access and is insufficient for a more major road connection. The proposed truck turnaround area would also be an unsuitable way of connecting Road 1 to a road extension.

As discussed in Section 2.4 a bridge connection over the proposed riparian corridor to the Jacfin site would be required if the creation of a creek in the unformed road were to proceed. This possible bridge connection would need to be expansive to ensure it does not negatively impact on the proposed riparian corridor. This is not considered in the traffic impact assessment accompanying the CSR proposal. The proposed alternative access needs to be properly designed and costed, including appropriate intersections and turning facilities.

Response:

This issue is discussed above in our response to the submissions on the impact of the project on Jacfin Land.

The project application and the concept plan application Stage 1 maintain the existing right of access from Templar Road to the Jacfin land and thus provide for a suitable road connection to the Jacfin land on the alignment of Templar Road. This connection will enable the construction of an access to serve the Jacfin site with potentially the same cross section as that which is already constructed, comprising a 13m carriageway within a 20m reservation. This is an access opportunity that is additional to any that might be constructed via the crown road reservation and provides additional road capacity to that which might reasonably have been expected to be available for the Jacfin site. It also provides improved accessibility from the site to the region via Lenore Lane which may ultimately connect to the M7 Motorway.

The potential need to provide a wider corridor is not accepted. This road will remain a local access road and will not become a higher-order road.

The existing (staged) turnaround area at the southern end of Templar Road may require adjustment in the event that the road is extended to the south to serve the Jacfin site. Numerous options are available within the area provided and if necessary, the central island can be reduced in size. All options can be accommodated within the available reservation.

The crown road reservation terminates at the Jacfin site boundary and it is reasonable to assume that any extension for a local access road or a higher-order road would extend into the Jacfin site. Any intersection formed with Templar Road and this extended road would be a local 'T' intersection that would not require additional road width (above the 13 metres

currently provided in Templar Road). This intersection does not require detailed resolution now and sufficient land is available to provide the required intersection capacity.

The creation of the alternative access to the Jacfin land ensures that Jacfin has retained access and that DEC's requirements for retention of the Crown Road Reserve within the biodiversity corridor is achieved.

2. Submission from Sydney Regional Development Advisory Committee

SRDAC have provided recommendations to the Department of Planning for consideration in its determination of the development application. The response of the proponent to the issues raised in this submission is to advise the Department that the recommendations of the SRDAC are acceptable to the proponent. In relation to contributions towards the link road, the proponent will comply with a condition requiring the payment of a reasonable contribution toward the link road but only determined in accordance with the current S94 Contributions Plan for Erskine Park Employment Area.

3. Submission from John Galea

Submission:

The stormwater concept plans show a distinct lack of forethought. The proponent should utilise the roof run-off for other uses other than sending it down the creek.

Response:

The potential for rainwater harvesting is discussed in section 5.5.1 of the EA where it is stated that

Discussions have been held with Sydney Water Catchment Authority, Sydney Water, DNR and DOP in relation to harvesting rainwater from the site and augmenting Sydney's water supply via the water supply mains to the south of the site. Arrangements with authorities could not be put in place on a catchment wide basis in time for the development of the EPEA and consequently this proposal has not progressed further.

Harvesting of rainwater from roofs of buildings for re-use on individual development sites is proposed however with harvested water used for fire water purposes and other non-potable uses such as toilet flushing, vehicle washing and the like. These measures will be incorporated into individual development proposals.

The proponent is prepared to enter into discussions with the Department of Energy Utilities and Sustainability to determine the potential for, and feasibility of, harvesting rainwater and its transfer via a pipeline within the development to a main located within the Sydney Water

Catchment pipeline corridor for eventual transfer to Prospect Reservoir and for treatment and distribution as part of Sydney's water supply.

Submission:

Concern about the traffic impacts of the development in relation to:

- *existing congestion at the intersection of Erskine Park Road and the M4;*
- *congestion, hazard concerns and the need for signals at the intersection of Mamre Road and Erskine Park Road;*
- *there should be two traffic lanes from Pepper Tree Drive to Mamre Road.*

The traffic impacts of the proposed development are considered in the EA (Appendix 11). Traffic impacts of the proposed development has been considered by SRDAC whose recommendations are acceptable to the proponent. The RTA is responsible for the roads mentioned in the submission.

4. Submission from Penrith City Council

Submission:

1. *Perimeter access should be provided around the building proposed to be constructed to comply with the Building Code of Australia. It is recommended that the NSW Fire Brigade be consulted at DA stage to incorporate their requirements into the approved design.*

Response:

The proponent would accept a condition of approval requiring further consultation with the Fire Brigade.

Submission:

2. *The plans are not sufficiently detailed enough to provide any comment in relation the Building Code of Australia in respect to:*

- a. *Part D – Access and Egress*
- b. *Part D3 – Access for People with Disabilities*
- c. *Part E – Services and Equipment*
- d. *Part F – Sanitary Facilities*

Response:

The proponent would accept a condition of approval to the effect that the building on Pad 4 is to comply with the relevant provisions of the BCA.

Submission:

3. *The proposed off street parking spaces are to be permanently marked in accordance with the submitted plans and having dimensions complying with the relevant provisions of AS2890.1.2004.*

Response:

The proponent would accept a condition of approval to this effect.

Submission:

4. *All internal manoeuvring areas for heavy vehicles up to B-Doubles are to comply with AS2890.2.2002.*

Response:

The proponent would accept a condition of approval to this effect.

Submission:

5. *A separate application should be made to Penrith City Council in respect to the construction of both the light and heavy duty access driveways.*

Response:

The proponent would accept a condition of approval requiring design of access driveways to be referred back to PCC for approval.

Submission:

6. *No details have been provided in respect to any proposed restrictions on use easement. The terms of such covenants or easements should be determined by Penrith City Council.*

Response:

Details can be provided to Council. The right of access is an easement in gross for public access in favour of the Council. Other easements relate to drainage and biodiversity, the terms of which will be agreed with PCC prior to the lodgement of the linen for the proposed subdivision.

Submission:

7. *If any battering extends into adjoining properties, those property owners should be notified.*

Response:

The current proposal does not propose works within adjoining properties, except for the proposed creek works within the Crown Road Reserve.

Submission:

8. *This site contains capping material previously designated to be used on the adjoining landfill operation once it has been completed. The preservation of sufficient capping material for the landfill is essential and should be confirmed by the Department prior to determination.*

Response:

The bulk earthworks design for the site has taken into account the required yield for the provision of the capping material required. As part of the proposed earthworks the capping material will be supplied to the landfill site and stored in an area immediately to the south of the landfill site. This is discussed in Section 2 of Appendix 2 of the EA.

Submission:

9. *The final location of any stockpiles of the capping material should be provided and clarified. The height and coverage of such stockpiles, and suitable measures for the ongoing management of same should be considered by the Department.*

Response:

The proposed stockpiling of the capping material will be undertaken in the areas put aside around the southern side of the landfill.

Submission:

10. *The submitted plans indicate that some 300mm of sandstone capping. Discussions with the applicant suggest this may not be the case. The Department should confirm the status of this aspect as, by Council's calculations, that amount of capping material for the entire site area may constitute "Designated Development" in its own right.*

Response:

A 300mm capping layer of sandstone is not to be provided under this application. In lieu of the sandstone capping layer, a 1000mm capping of rock sourced on site will be provided. This is discussed in Section 2.1 of the Bulk Earthworks Report contained in Appendix 2 of the EA.

Submission:

11. *Transportation of stockpiles across existing public infrastructure (eg Templar and Lockwood Roads) needs to be carefully considered. Details of haulage routes and methods of crossing public roads should be provided to Council prior to the issue of any Construction Certificate for written approval. Relevant bonds may need to be provided.*

Response:

The impacts of hauling on existing public infrastructure will depend on the method of haulage of material. At this stage the only road that may have to have material hauled across is Lockwood Road. The proponent will accept any reasonable condition in this regard.

Submission:

12. *Vehicle access for the purposes of maintenance of the proposed water quality device should be considered and approved by Council's Asset Section.*

Response:

The proponent agrees that a suitable right of way should be provided. The actual location of the right of way is dependant on the future use of the land. As a result the actual creation of the right of way should be in general terms now and created as part of a future consent.

Submission:

13. *There is some confusion over the detention storage rates for OSD report and the Pad 4 proposal. The storage volumes appear to be lower than other development sites. This requires clarification.*

Response:

There is a discrepancy in the flow calculations between the overall stormwater concept plan and the stormwater concept plan for the proposed development of Pad 4. In the SWCP for Pad 4 this proposal has a larger area, than what was initially allowed for in Pad 4 (7.31Ha compared to 8.65Ha). This accounts for the difference in flow calculations in the two reports and the Pad 4 SWCP overrides the results presented in the overall SWCP. With the apparent lower storage volumes proposed for the Pad 4 development, in addition to the detention basin (1300 m³ capacity) the water quality treatment system provides an additional 810 m³ of storage. This additional storage is used for detention as well as water quality. With the volumes combined this brings the amount of storage proposed for Pad 4 in line with the other pads.

Submission:

14. *Section 94 Contributions should be levied in accordance with the applicable Section 94 Contributions Plan.*

Response:

The proponent accepts this proposition.

Submission:

15. *Access to the adjoining property to the south should be dedicated as public road.*

Response:

The proponent has registered on title an easement in gross in favour of the Council which allows public access to the adjoining property.

We trust that this detailed response enables the Department to fully understand CSR's views of the responses received in respect of its application and more so demonstrates the fully considered view of the application. We trust now that a positive determination can be made and the proponent can commence works to deliver a favourable economic outcome for the State of New South Wales. The proponent is keen to ensure that the Department is satisfied with the responses of the proponent to the submissions. Should you require any further information, please contact the undersigned or Darren Searle at CSR Limited on 02 9235 8138.

Yours faithfully,

BBC Consulting Planners



Daniel Brindle
Director



ANNEXURE 1 – BIODIVERSITY MANAGEMENT PLAN



ANNEXURE 2 – DRAFT PLANNING AGREEMENT



ANNEXURE 3 – DRAFT MEMORANDUM OF UNDERSTANDING
