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Date 24 November 2018

From Bill McCredie

To **Kelly McNicol**, Team Leader,
Industry Assessments,
NSW Department of Planning & Environment,
Sydney

Email Kelly.McNicol@planning.nsw.gov.au

Dear Mr McNicol

**Horsley Park – Concept Plan Approval MP 10_0129
Modification Application (MP 10_0129 MOD 1)
Jacfin Response to Submissions**

Attach

Our Ref QNMS:MWZB:120562169

Your Ref MP 10-0130 MOD1

MWZB 144103911v3 120562169 24.11.2018

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24 November 2018

Kelly McNicol
Team Leader, Industry Assessments
NSW Department of Planning & Environment
GPO Box 39
Sydney NSW 2001

By Email

Dear Mr McNicol

**Horsley Park – Concept Plan Approval MP 10_0129
Modification Application (MP 10_0129 MOD 1)
Jacfin Response to Submissions**

We refer to the eleven submissions received in relation to Jacfin's updated modification application for the existing Horsley Park Concept Plan Approval MP 10_0129 from:

- TransGrid, dated 24 August 2018;
- WaterNSW, dated 24 August 2018;
- Office of Environment and Heritage (**OEH**), dated 3 September 2018;
- Transport for NSW (**TfNSW**), dated 3 September 2018;
- Penrith City Council (**Penrith**), dated 4 September 2018;
- Fairfield City Council (**Fairfield**), dated 5 September 2018;
- Dentons, on behalf of the adjoining landowner, CSR (**CSR**), dated 5 September 2018;
- Endeavour Energy (**Endeavour**), dated 6 September 2018;
- Roads and Maritime Services (**RMS**), dated 10 September 2018;
- Blacktown & District Environment Group Inc. (**BDEC**), undated; and
- Department of Industry (**DoI**), dated 21 September 2018.

Jacfin's response to the above submissions, including those received after the end of the exhibition period, follows.

The response includes proposed further amendments to the modifications submitted by Jacfin as part of the modification application (Appendix C). Those amendments are incorporated in a consolidated revised set of proposed modifications **attached** to this response. The modifications are accompanied by updated notes in the adjacent 'rationale / comment' column on that document.

There are also number of amendments proposed to the Site Development Guidelines in response to submissions received. A revised version of the Site Development Guidelines is also **attached**.

Our Ref QNMS:NJSS:120562169
MWZB 144103911v3 120562169 24.11.2018

Your Ref MP 10-0129 MOD 1

We refer throughout to Jacfin's premises at Lot A in DP392643 as the Property. Capitalised terms are used consistently with the Concept Plan Approval conditions, modification application documents and the terms of the above Submissions as indicated.

1 No objection from TransGrid, OEH, RMS nor BDEC

The submissions of TransGrid, OEH and BDEC provided no objection to, nor comment on, the modification application.

RMS also made no objection. RMS did, nonetheless, state that any future development application should be subject to a traffic impact assessment and any mitigation measures required to accommodate proposed developments. Such assessments are incorporated in the revised Site Development Guidelines proposed by Jacfin (in particular section 3) and Condition 2 of Schedule 3 (in particular subclauses (m) and (p) (formerly subclauses (q) and (t)), and are expected to be required under the conditions of approval for future stages.

Jacfin also notes the Heritage Division of the OEH did not make a submission.

2 Response to WaterNSW submission

Jacfin notes that WaterNSW does not object to the modification application.

WaterNSW requests the reference to 'SCA' be replaced with 'WaterNSW' in Condition 8 of Schedule 2. Jacfin agrees and has incorporated this correction in the **attached** revised set of proposed modifications.

WaterNSW's submission also:

- (a) supports the inclusion of requirements for stormwater management, including erosion and sediment controls in the revised Site Development Guidelines as proposed by Jacfin; and
- (b) requests the retention of Jacfin's Statement of Commitment No. 5 requiring post development stormwater flows to be less or the same as pre-development flows.

Jacfin has not proposed any amendment or deletion to this aspect of Statement of Commitment No. 5 as part of the modification application. Accordingly, WaterNSW's request will be satisfied.

3 Response to TfNSW submission

Jacfin notes that TfNSW does not object to the modification application.

TfNSW's submission is limited to 5 requests for minor amendments to the 'Traffic and Parking' section of the revised Site Development Guidelines proposed by Jacfin.

Jacfin is generally willing to adopt the amendments requested by TfNSW.

In relation to items 2 and 3 in the TfNSW submission, Jacfin accepts verbatim the changes proposed.

In relation to items 1, 4 and 5, Jacfin proposes some minor textual adjustments as follows. Jacfin's preferred text for the additional provisions are:

- 1. Point 3 under the header of 'Objective' of section 3.1 Local Road Network:
To incorporate a road layout that provides safe and separated access for the needs of all users including large trucks and pedestrians / cyclists.
- 4. Add new point under the header 'controls' of section 3.4 Pedestrians and Cyclists:
3. Develop travel access guides to assist with increasing the mode share of walking and cycling.

5. Add to Point 2 under the header of 'Controls' of section 3.5 On-site Parking:

Bicycle facilities will be located in secure, convenient, accessible areas within a reasonable distance to the main entries incorporating adequate lighting and passive surveillance and in accordance with Austroads guidelines.

These amendments have been reflected in the **attached** revised Site Development Guidelines.

4 Response to Penrith submission

Jacfin notes that Penrith does not object to the modification application.

Penrith's submission suggests further amendments to Condition 8 of Schedule 2.

We **attach** a response to these proposed amendments by Tooker + Associates, Jacfin's engineering consultant.

Tooker + Associates accepts as reasonable proposed further amendments to require:

- (a) The revised Stormwater and Drainage Strategy to extend to include the Stage 4 area, given the drainage approach for Stage 4 would have to be developed at a concept level to identify the flows to be accommodated in the Stage 3 area; and
- (b) The revised Stormwater and Drainage Strategy to accept flows from areas upstream of Stages 3 and 4 in a 1% AEP storm event.

These amendments have been reflected in the **attached** revised set of proposed modifications.

Tooker + Associates does not accept certain other amendments proposed by Penrith, and has proposed an alternative approach, for the following reasons:

- (a) The revised Stormwater and Drainage Strategy should be developed for Stages 2 to 4. It is not necessary to include Stage 1 in Condition 8 of Schedule 2, as the approach for Stage 1 is already conditioned under the Stage 1 Project Approval (as modified).
- (b) The revised Stormwater and Drainage Strategy should not be required to be submitted and approved by the Secretary prior to the lodgment of any applications for development within Stages 3 *and* 4, as opposed to prior to the lodgment of applications for Stage 3 as proposed in the modification application, because:
 - (i) stormwater and drainage management in Stage 4 does not necessarily rely upon works within, and could be designed independently of, Stage 3 (in contrast, as noted above, the drainage approach for Stage 4 would have to be developed at a concept level only to identify the flows to be accommodated in the Stage 3 area given the topography of the Property); and
 - (ii) as such, making the approval of the revised Strategy for the employment lands in Stages 2 and 3 a pre-condition to the lodgment of applications for Stage 4 may impose unnecessary delays on development in the RU4 zoned land. Development in Stage 4 will be the subject of development assessment by Penrith in any event against relevant standards, including an assessment of adjoining areas and future uses.
- (c) The revised Stormwater and Drainage Strategy should not be required to include details that will be included in future development applications, given the Strategy is a concept level document and not intended to provide all of the details required to make a development application for future stages. Requirements to include such details in the Strategy are considered premature. Notably, the revised Site Development Guidelines proposed by Jacfin in the modification application contemplate that stormwater management and flooding

assessments prepared by suitably qualified engineers will be submitted with each relevant future development application.

Based on the above technical advice, Jacfin does not accept that the other amendments suggested by Penrith are relevant to the Concept Plan as proposed to be modified or reasonable.

5 Response to Fairfield submission

Jacfin notes that Fairfield "generally supports the scope and intention of the current modification" and does not request any amendments to the proposed modified conditions or supporting documents.

Fairfield's submission also reiterates its support for the incorporation of:

the additional property at 1-9 Greenway Plaza [sic] (lot 21 DP1010514) in Horsley Park within the boundaries of the Jacfin Concept Plan, primarily to secure vehicular and pedestrian access from future lots on the RU4 land on the Jacfin site onto Horsley Rd in Fairfield City...

subject to ...

a traffic report will need to be prepared for the future subdivision of the Jacfin Interface Area and demonstrate that the adjoining road network in Horsley Park has capacity to deal with traffic generated by the site and that there will be no detrimental impacts on traffic safety in the area.

Jacfin accepts such a traffic report will be required as part of any relevant development application for Stage 4.

6 Response to CSR submission

CSR's submission takes issue with the characterisation of the rezoned part of the Property as a 'buffer', the alleged 'land use conflict' resulting from the rezoning and the adequacy of landscaped buffers along the boundary of CSR's land.

As a preliminary point, the rural residential rezoning and Jacfin's subsequent modification application directly respond to matters raised by the (then) Planning Assessment Commission (**PAC**) during the assessment and determination of Jacfin's original Concept Plan application which contemplated employment uses over the entire Property.

In this context, it is unreasonable for CSR to claim Jacfin is "the agent of change" seeking to "[create] a land use conflict that poses a threat to the continued existence of important industrial land uses [and undermine] the aims of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*".

Further, much of CSR's submission is irrelevant to Jacfin's modification application, and rather is a reiteration of CSR's previous objection to the residential rezoning in 2015 (which has limited relevance now the rezoning has occurred). The Department and the PAC considered these issues prior to the RU4 rezoning, which was expressly intended to enable the use of this land as envisaged by the PAC.

We **attach** a response to CSR's submission by Ethos Urban, Jacfin's planning consultants. Ethos Urban has been Jacfin's consultant planner for the Horsey Park development since inception and has a detailed understanding of the issues raised by the Greenaway Place residents and PAC which resulted in the original Concept Plan Approval and, subsequently, the partial rezoning of the Property.

In short, Ethos Urban states:

- (a) The premise of CSR's submission that the rezoning shifts a pre-existing land use conflict westward and does not provide a 'buffer' is unreasonable because the rezoned portion of the Property "is not a new residential zone":

Rather, it is a new area of land zoned RU4 Primary Production Small Lots with a minimum lot size of 2 hectares. This land zoning provides a suitable interface with industrial land uses because of its low intensity of development and low density of occupancy, as is in evidence around much of the southern boundary of the Western Sydney Employment Area (WSEA). In this case, the issue is not whether the RU4 zoned land can be a suitable buffer (it is inherently a suitable buffer), but relates to the expectations of future occupants around long-term uses of adjoining land.

...

[In contrast to the existing dwellings on Greenway Place which were built and occupied prior to the establishment of the WSEA] the future uses of the land immediately adjacent the newly zoned RU4 land (being the Jacfin Horsley Park Employment Precinct and the CSR site) are now clearly understood and broadly accepted.

As such, whilst these future residents may be rightly expected to hold their industrial neighbours to account in relation to compliance with development consent conditions, they could not reasonably hold any misconceptions about the long-term use of the adjoining land, in contrast to what may have been the case for Greenway Place residents.

- (b) Any future rural residential occupation of the rezoned area will require a development application for subdivision to be submitted to Penrith, who will assess the proposed subdivision against the relevant provisions of the *Penrith Development Control Plan 2014*, including detailed principles for siting, orientation and landscaping of dwellings aimed at minimising potential land use conflicts. Future development applications for subdivision of the rezoned area will:
 - (i) necessarily require detailed consideration of the potential land use conflicts between the adjoining industrial land, including CSR's site, and future dwelling occupants, at the time that the subdivision layout is designed, and future dwellings are sited and oriented; and
 - (ii) provide the most appropriate process to assess potential land use conflict issues in the buffer land to ensure appropriate design outcomes. It would be pre-emptive to attempt to assess such conflicts before possible future subdivision layouts are determined, and such detail is inconsistent with the nature of the Concept Plan.
- (c) Similarly, the future subdivision development applications will provide the appropriate process to assess potential land use conflict issues in the buffer land, and the proper time to ensure an appropriate design outcome is achieved on the RU4 zoned land to manage these potential conflicts.

It is expected that Penrith will require a detailed assessment of the potential land use conflict, including any boundary interface treatment that might be warranted to address the potential conflict, as part of future subdivision development applications.

As such, it is acknowledged that Jacfin (or the future developer of the RU4 zoned land) will be required to design the future subdivision to minimise land use conflicts, and where necessary incorporate a suitable boundary interface treatment to mitigate the impacts arising from the industrial activities on the CSR site.

Ethos Urban's conclusion reiterates "[the issues raised in CSR's submission] are most appropriately addressed as part of a future development application for subdivision" and do not necessitate any change to the modification application.

7 Response to Endeavour submission

Jacfin notes that Endeavour "has no objection to the Development Application".

Endeavour's submission is, in the main, an outline of "potential matters that may arise should development within closer proximity of the existing and/or proposed electricity infrastructure required to facilitate the proposed development on or in the vicinity of the site occur" for Jacfin's information and do not require a response. We note Endeavour's acknowledgment that:

not all the foregoing issues may be directly relevant or significant to the Development Application ie. the existing overhead power lines traversing the site are likely to become redundant or relocated / undergrounded as part of the future subdivision works.

Notably, Condition 6 of Schedule 2 contemplates consultation between Jacfin and utility providers to inform the detailed Staging Plan required for the site prior to the lodgement of any applications for development within Stages 2 to 4. Further, each future development application is required to include a detailed infrastructure plan for the provision of utilities, including electricity, under Condition 2 of Schedule 3.

Jacfin also expects conditions of approval for future stages will include requirements relevant to utility provision, as was the case with the Stage 1 Project Approval (MP 10_0130).

8 Response to DoI submission

Jacfin notes that DoI "supports the inclusion of a minimum 10m wide landscaped interface between the future industrial Stages 1 to 3 and the residential Stage 4".

DoI's recommendation about the use of the RU4 zoned land at the Property is inconsistent with the permitted uses in this zone under the Penrith LEP and Standard LEP, as well as the rationale for the RU4 rezoning in 2015.

Set backs for future housing in Stage 4 will be most appropriately addressed as part of future development applications to Penrith and do not necessitate any change to the modification application.

Please contact us with any queries regarding the above response to submissions, or if you require any further information regarding the proposed modification.

Yours sincerely



Bill McCredie

Partner

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Attach