

Our Ref: 218058
Department Ref: 10_0129 MOD 1

12 November 2018

Bill McCredie
Partner
Allens
GPO Box 50
SYDNEY NSW 2001

Dear Mr McCredie,

**Horsely Park Employment Precinct, Lot A DP 392643, Concept Plan Approval (MP10_0129)
S75W Modification Application – Response to Issues Raised in Submissions**

We refer to the letter from the Department of Planning and Environment (DPE), which provides a copy of submissions received in relation to the proposed modification to the Concept Plan Approval for the Jacfin Horsley Park Employment Precinct, and requests a response to the issues raised in these submissions. As requested, we have provided a response to the matters raised in the objection letter submitted by Dentons Australia Pty Ltd on behalf of CSR Building Products Pty Ltd (the CSR Submission).

1.0 RU4 Land as Buffer

1.1 Issue Raised

The CSR Submission claims that the proposed Concept Plan Modification will not result in a buffer that comprises a transitional use, but will simply result in the zone interface being shifted to the west. The CSR Submission claims that the future rural residential occupants of the buffer land will not willingly accept the surrounding industrial uses even if they purchase the land in the full knowledge of the surrounding industrial land. The CSR Submission indicates that specific design guidelines should be prepared that set out how future residential dwellings would be located, designed and constructed to minimise sound transmission.

1.2 Response

There are a number of factors that differentiate the current situation from the premise of the CSR Submission. Firstly, it is important to emphasise that the RU4 zoned land 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 this context, the existing residential dwellings on Greenway Place were built and occupied prior to the establishment of the WSEA, and particularly the rezoning of the land south of the Warragamba Dam – Prospect Reservoir Pipeline to IN1 General Industry. The Jacfin Horsley Park Employment Precinct (as well as the CSR site) was zoned IN1 General Industry in 2009. The importance of the WSEA has been subsequently reinforced in numerous strategic plans prepared by NSW Government agencies and the Greater Sydney Commission. Further, 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.

In relation to the need for site specific design guidelines for future rural residential development, it is important to note that any future rural residential occupation of the site will require a development application for subdivision to be submitted to Penrith City Council (Council). Council will assess the proposed subdivision against the relevant provisions of the Penrith Development Control Plan 2014 (the DCP), which includes detailed principles for siting, orientation and landscaping of dwellings, including that potential land use conflicts are minimised. The DCP also specifies that the siting of the future dwelling should be provided as part of the application for subdivision. In this way, the future development application for subdivision will necessarily require detailed consideration of the interface between the adjoining industrial land and the future dwelling occupants, at the time that the subdivision layout is designed, and future dwellings sited and oriented. The future development application for subdivision is therefore the appropriate process to assess interface issues in the buffer land, and the proper time to ensure an appropriate design outcome is achieved on the RU4 zoned land in relation to managing potential conflicts. Preparing site specific design guidelines for future rural residential development is therefore pre-emptive of the possible future subdivision layout, inconsistent with the level of detail appropriate for this Concept Plan and not considered necessary at this time.

2.0 Land Use Conflict

2.1 Issue Raised

The CSR Submission states that the new rural residential land will cause future land use conflicts and therefore that Jacfin (or the future owners of the RU4 land) should assume the burden of mitigating that conflict. In order to understand what will be required by way of mitigation, the CSR Submission requests that Jacfin carry out an assessment of the potential conflict between the CSR site and the new rural residential land, and should propose measures to mitigate that conflict as part of this modification application.

2.2 Response

As specified above, the future development application for subdivision is 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 in relation to managing these potential conflicts. It is highlighted that issues relating to the management of the interface between the IN1 zoned land and the RU4-zoned land were considered by the Minister for Planning at the time of the rezoning, and were principally resolved by the selection of the RU4 zone for the buffer land. Further, the intent of the proposed Concept Plan modification is to simply bring the approved Concept Plan into alignment with the RU4 zone boundary adopted by the Minister.

It is expected as part of that future development application for subdivision that Council will require a detailed assessment of the potential land use conflict, including how the subdivision layout responds to the potential land use conflicts. Indeed, this is a normal and fundamental part of the subdivision process, and is provided for explicitly in the DCP. This assessment would be expected to take into account any existing or approved industrial development, as well as any expected future uses that can be anticipated based on land use zoning.

Specifically, the distance between a future residential dwelling and the CSR site will depend on the future proposed subdivision layout. The degree of affectation on any new residential dwelling arising from the industrial activities on the CSR site will also be a function of the siting, orientation and landscaping. All of these are factors can be considered to some degree during the assessment of the future development application for subdivision. To do so in advance of that development application pre-empts the possible future subdivision layout.

As such, with consideration of the above, it is acknowledged that the burden of mitigating the potential land use conflict between any new residential dwelling and the approved industrial activities on the CSR site will predominantly be the responsibility of the owner / developer of the RU4 zoned land. However, to expect that these

future residents will never impose constraints on approved operations of neighbouring industrial activities, including on the CSR site, is unreasonable. These future residents may rightly be expected to hold their industrial neighbours to account in relation to compliance with development consent conditions, especially in relation to any restrictions imposed on operating hours, noise emissions etc.

3.0 Landscaped Buffer

3.1 Issue Raised

The CSR Submission highlights that the 20m wide vegetated bund does not extend to the interface between the CSR site and the new RU4 zoned land, but that the interface will be limited to a 10m wide vegetated buffer with no bund. The CSR Submission also identifies that the building pad levels approved for the future development of the CSR site are approximately 6-8 metres above the adjoining RU4 zoned land, and this should be taken into account in designing an appropriate boundary treatment.

3.2 Response

As specified above, the future development application for subdivision is 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 in relation to managing these potential conflicts.

It is expected as part of that future development application for subdivision that Council 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. Indeed, this is a normal and fundamental part of the subdivision process, and is provided for explicitly in the DCP. This assessment would be expected to take into account any existing or approved industrial development, as well as any expected future uses that can be anticipated based on land use zoning.

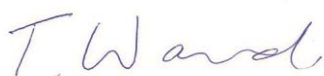
As such, with consideration of the above, it is acknowledged that Jacfin (or the future developer of the RU4 zoned land) will be required to design the future subdivision to minimise land use conflicts, and where necessary incorporate a suitable boundary interface treatment to mitigate the impacts arising from the industrial activities on the CSR site. However, to expect that these future residents will never impose constraint on the future operations of the industrial activities on the CSR site is unreasonable. These future residents may be rightly expected to hold their industrial neighbours to account in relation to compliance with development consent conditions, especially in relation to any restrictions imposed on operating hours, noise emissions etc.

4.0 Conclusion

We trust that the information above is sufficient in relation to responding to the issues raised in the CSR Submission. In summary, we acknowledge the issues raised in the CSR Submission, but reiterate that these issues are most appropriately addressed as part of a future development application for subdivision.

Please do not hesitate to contact the under-signed if you have any further queries in relation to the above.

Yours sincerely,



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