

F2006/00713 (D02426036)

27 July 2015

Department of Planning & Environment
22-32 Bridge Street
SYDNEY NSW 2000

**Attention: David Mooney
Acting Team Leader
Industry Assessment**

Dear Sir,

Section 75W Modification of MP 05_0120 - Orora (formerly Amcor) Paper Mill Project

Thank you for inviting Council to provide comments on the submission report prepared by Jacobs and dated 29 May 2015. The Jacobs' submission report considers Council's previous submission to the Department of Planning & Environment (DoPE) on the Section 75W Modification dated 13 April 2015.

This further submission by Council only seeks to comment on the Jacobs' submission report. Council has seen nothing to date that changes the key elements of its original submission of April 2015. Council therefore requests that the DoPE consider both the original submission by Council, (including the recommended conditions), together with this further report prior to determining the Section 75W Modification.

1) General Comments

Council has received advice that the DoPE can impose conditions on Orora as part of the assessment of this modification notwithstanding Orora have indicated that this Section 75W Modification only proposes minor changes.

The CDC for Lot 2014 DP 1195903, issued by Blackett Maguire Goldsmith, should not have been issued without being referred to Council for Council's terms, conditions and approval of works on public land, as required under Section 138 of the Roads Act. Reference to the CDC in this Section 75W Modification appears to be an attempt to address errors made in the original CDC approval.

2) Flooding and Stormwater

Flooding (Section 2.1. of the Jacobs' submission report)

Jacobs state that Orora is committed to resolving the issue of overland flow management – however in a process outside this modification application. They also state that Version H of the Overland Flow Management Report is the culmination of over three years of options assessment and consultation with RCC. The Version H report produces increases in the flood level within McCauley Street for a range of storm events and makes recommendations for altering levels within a number of properties on the western side of McCauley Street to protect them from stormwater inundation during major storm events. The Version H report is

therefore unsatisfactory to Council, increases flood levels in areas outside the development site and is not in accordance with many of the accepted principles of flood / floodplain management. The failure by Orora to look at a site wide stormwater management strategy as part of the original development proposal makes resolution of this issue difficult. Provision for overland flow within Lot 2015 DP 1195903 should have been considered as part of the original development proposal. Approval of the Plan of Subdivision to create Lot 2014 DP 195903 by the DoPE endorses elements of a failed strategy. Whether the 12m wide easement for overland flow is of suitable capacity is irrelevant.

The issuing of a CDC for Lot 2014 DP1195903 potentially eliminates some options for rectification of the issue and/or reducing the impacts downstream, (notwithstanding there may be further major works required downstream). Orora has known about the overland flow management issue from an early stage in the development proposal and has failed to look at a strategic solution. The Version H report demonstrates that the problem will be forced onto public infrastructure and Jacobs acknowledges that other private developments will be adversely impacted.

As noted in Council's original submission on this Section 75W Modification, part of the modification application is for a minor alteration to the subdivision plan that applies to Lot 2014 DP 1195903. The alteration is to a plan of subdivision that has been endorsed by the Department of Planning and Environment and contains a number of easements, (in particular reference is made to easements for overland flow). The type of easements and the implications of the easements are such that the proposed plan of subdivision should have been referred to Council for comment prior to its registration. This application is therefore seeking a minor modification to a plan of subdivision that in Council's opinion has easements/terms of easements that are unsatisfactory.

Stormwater (Section 2.2 of the Jacobs' submission report)

The comments made by Jacobs in this part of the submission report are directly linked to the failure to develop a suitable overland flow management strategy. The CDC has been approved with easements for overland flow that form part of a failed stormwater management strategy. Jacobs and Orora have never provided detailed information as to investigations into alternate overland flow paths (through Lot 2014 DP 1195903 or other parts of the site) or the use of onsite detention either within Lot 2014 DP 1195903 or other Orora owned land. Council has insufficient information to determine if the registration of the plan of subdivision, (with its adopted easements for overland flow), or the issued CDC have potentially eliminated options for improving the flow path regime and flood levels downstream of the site.

Lot 2014 DP 1195903 contains easements for overland flow. Whilst these easements do not take stormwater directly from the development the subject of the CDC, they do form part of the site's stormwater system. If they were not there the approved development would suffer stormwater inundation during major storm events. Note: the final approved stormwater drainage plans for the development on Lot 2014 DP 1195903 do not appear to have been submitted to Council with the CDC.

3) Relocation of Access

Objection to Relocated Access (Section 3.1 of the Jacobs' submission report)

The subdivision to create Lot 2014 DP 1195903 should have been referred to Council for comment prior to being endorsed by the DoPE and the CDC for the development of Lot 2014 DP 1195903 should not have been issued without a formal referral by the Certifier to Council for comment and approval of works within the McCauley Street road reserve.

Following on from the registration of a plan of subdivision in October 2014 a Complying Development Certificate (CDC) was issued 3 February 2015 for development on Lot 2014 DP 1195903 (Lot 2014). The CDC was issued by Blackett Maguire Goldsmith Pty Ltd without the required written consent of Council as the relevant Roads Authority under Section 138 of the Roads Act 1993. The CDC documentation contains a checklist which states that no referral to Council was required however Council contests this omission and believes that referral was a prerequisite to the issuing of a CDC. The proposed modification to the site access directly relates to the subject CDC and, in effect, is seeking to remedy a potentially invalid consent. The design of the vehicular access and the entire traffic report submitted with the modification relates to the development approved under the CDC. Council's preference is for vehicular access for Lot 2014 DP1195903 to be provided via the internal road network within Lot 2015 DP1195903 with the creation of appropriate rights of carriageway.

The CDC was approved with no formal referral to Council by the Certifier (Blackett Maguire Goldsmith). Council has consistently maintained that the stormwater overland flow management issue must be resolved prior to any further development of the Orora site (including Lot 2014 DP 1195903). Council has also consistently maintained that Orora's main McCauley Street access should be used to access Lot 2014 DP 1195903.

Upgrade of McCauley Street (Section 3.2 of the Jacobs' submission report)

Jacobs states that Council has not specified which section of the road is to be upgraded. Council's recommended condition of consent specifically says *"Prior to the commencement of any construction works within Lot 2014 DP 1195903 (Lot 2014) the applicant must submit to Council for approval, and have approved, detailed design plans for the reconstruction of McCauley Street along the full site frontage of Lot 2014 DP 1195903"*. The works are required in McCauley Street along the full site frontage of Lot 2014 DP 1195903.

The recently completed upgrade of McCauley Street has been limited to the section of McCauley Street between Botany Road and Raymond Avenue. Part of the reason the works were not extended towards Australia Avenue was because the access road was the logical accessway for Lot 2014 DP 1195903. Orora have shown a reluctance to prepare a Masterplan for the entire Orora site – this has contributed to the issues with stormwater management and to the need for a new vehicular entry/exit point to serve Lot 2014 DP 1195903.

Apart from construction of a new concrete footpath no civil works have been carried out in front of Lot 2014 DP 1195903. Council, in its submission of April 2015, conditioned significant civil works in McCauley Street. Jacobs has stated that Orora won't do these works and provided a number of reasons. The submission report then goes on to say that some of the civil works conditioned by Council will be paid for by the developer of Lot 2014 DP 1195903. Council believes that the scope of works for civil works previously conditioned is appropriate. Council does not have an issue if the works are paid for by the developer of Lot 2014 DP 1195903 or Orora.

As part of the general upgrade of McCauley Street the applicant should be required to undertake suitable street tree planting along the McCauley Street site frontage of Lot 2014 DP 1195903.

Services (Section 3.3 of the Jacobs' submission report)

Council policy requires the applicant to meet the full cost for the overhead power lines and telecommunication cables located along the McCauley Street frontage of Lot 2014 DP 1195903 to be relocated underground.

Parking (Section 3.4 of the Jacobs' submission report)

Council's previous submission to the DoPE on the Section 75W Modification dated 13 April 2015 is relevant with respect to the potential loss of on-street parking associated with the Section 75 W Modification. Vehicular access via the internal road network within Lot 2015 DP1195903 would minimize the loss of on-street parking.

Other Traffic Conditions (Section 3.5 of the Jacobs' submission report)

The Traffic Conditions recommended in Council's previous submission to the DoPE on the Section 75W Modification, dated 13 April 2015, are all readily achievable.

4) Noise

Refer to Sections 4.1, 4.2, 4.3, 4.4 and 4.5 of the Jacobs' submission report.

Reference is made to additional submission report prepared by Jacobs in relation to Orora Paper Mill Project. One of the primary concerns in regards to amenity is noise and is dealt with in Section 4 of Jacob's report.

It is accepted that the demolition of building B7 will alter topographical built environment that has for a number of years provided noise mitigation for residents from Orora (previously Amcor) and Port noise.

The removal of the building will increase noise emanating from the Port and Orora activities. As such noise walls both interim and permanent are proposed. It is understood and generally accepted that building/demolition will cause some degree of high intensity noise, however given there is a finite end point to this the majority of sensitive receivers are able to accept the noise generated provided communication and availability to reschedule activities with respite can minimise any potential concerns that may be raised. So the exceedences detailed to occur during demolition/construction whilst unfortunate will not result in ongoing noise impacts to the residential receivers. Therefore the interim measures proposed supplemented with a requirement for a demolition management plan addressing amenity is recommended.

Of primary concern is ongoing operational noise impacts and it is therefore critical that current Orora operations be demonstrated to be able to comply with required EPA noise limits and where possible should not adversely add to general Port operations in terms of noise. The existing level of Port Operational noise should be established and would reasonably be considered to dominate the area. Where feasible and reasonable no other entity (premises) including Orora, should be permitted to exceed an established noise level for the subject area. Otherwise this would continually add to the existing dominant noise of the area, that being the operation of the Port and create an environment that continually allowed "background creep" that would add on an ongoing basis to the negative noise impact to sensitive receivers.

Therefore clearly stipulated noise goals/criteria are required to be established for Orora and any other part of the site that may be subject to future development. In the case of Orora, confirmed noise criteria for the established operation.

In relation to the proposed noise walls in principle these attenuation measures are maximised when they are situated close to the source of the noise or close to the receiver locations this should be factored into the decision making process of the location of the wall to maximise effectiveness. Given the circumstances of the area and the impact of Port Noise, situating the wall as close to residential receivers maybe the preferred option.

The INP seeks to limit industrial noise and all reasonable and feasible measures should be considered including but not limited to construction of noise walls.

It is recommended validation reports be required post demolition and annually over a three year period to ensure compliance with noise criteria once established.

Should you require any further information or wish to discuss these matter please contact me on 9399 0965.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Frank Ko', is written over the printed name.

Frank Ko

Acting Manager Development Assessment