



Jafcin Horsley Park Project (Stage 1)

Part 3A Modification
Assessment
(MP 10_0130 MOD 1)



October 2018

© Crown Copyright, State of NSW through its Department of Planning and Environment 2018

Cover photo: Jacfin Horsley Park Stage 1 (MNIA Architects)

Disclaimer

While every reasonable effort has been made to ensure this document is correct at time of printing, the State of NSW, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance or upon the whole or any part of this document.

Copyright notice

In keeping with the NSW Government's commitment to encourage the availability of information, you are welcome to reproduce the material that appears in Jacfin Horsley Park Project (Stage 1) Part 3A Modification Assessment (MP 10_0130 MOD 1). This material is licensed under the Creative Commons Attribution 4.0 International (CC BY 4.0). You are required to comply with the terms of CC BY 4.0 and the requirements of the Department of Planning and Environment. More information can be found at: <http://www.planning.nsw.gov.au/Copyright-and-Disclaimer>.



Glossary

| Abbreviation | Definition |
|-------------------------|---|
| CIV | Capital Investment Value |
| Department | Department of Planning and Environment |
| EP&A Act | <i>Environmental Planning and Assessment Act 1979</i> |
| EP&A Regulation | <i>Environmental Planning and Assessment Regulation 2000</i> |
| EP&A (ST&OP) Regulation | <i>Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</i> |
| EPI | Environmental Planning Instrument |
| LEP | Local Environmental Plan |
| Planning Minister | Minister for Planning |
| RMS | Roads and Maritime Services |
| RtS | Response to Submissions |
| Planning Secretary | Secretary of the Department of Planning and Environment |
| SEPP | State Environmental Planning Policy |
| SRD SEPP | <i>State Environmental Planning Policy (State and Regional Development) 2011</i> |
| SSD | State Significant Development |
| WSEA SEPP | <i>State Environmental Planning Policy (Western Sydney Employment Area) 2009</i> |



Contents

| | |
|---|------------|
| Glossary | iii |
| Executive Summary | iv |
| 1. Introduction | 1 |
| 1.1 Background | 1 |
| 1.2 Approval History | 4 |
| 2. Proposed Modification | 5 |
| 3. Strategic Context | 8 |
| 4. Statutory Context | 9 |
| 4.1 Scope of Modifications | 9 |
| 4.2 Consent Authority | 9 |
| 5. Engagement | 10 |
| 5.1 Department's Engagement | 10 |
| 5.2 Summary of Submissions | 10 |
| 5.3 Key Issues – Government Agencies | 10 |
| 5.4 Key Issues – Council/Community/Special Interest Groups | 10 |
| 5.5 Response to Submissions | 10 |
| 6. Assessment | 12 |
| 6.1 Issues | 12 |
| 7. Evaluation | 14 |
| 8. Recommendation | 15 |
| 9. Determination | 16 |
| Appendices | 17 |
| Appendix A – List of Documents | 17 |
| Appendix B – Statement of Environmental Effects/ Environmental Assessment | 18 |
| Appendix C – Submissions | 19 |
| Appendix D – Submissions Report | 20 |
| Appendix E – Community views for Draft Notice of Decision | 20 |
| Appendix F – Consolidated Project Approval | 20 |
| Appendix G – Project Approval | 21 |



1. Introduction

This report assesses a modification request by Jacfin Pty Ltd (the Proponent) to modify the Jacfin Horsley Park Project – Stage 1: Warehouse and Subdivision (project approval) in the Penrith local government area (LGA). The request has been lodged pursuant to former section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The project was originally approved under Part 3A of the EP&A Act. The project is a transitional Part 3A project under Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (EP&A (ST&OP) Regulation). The power to modify transitional Part 3A projects under section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 is being wound up – but as the request for this modification was made before the ‘cut-off date’ of 1 March 2018, the provisions of Schedule 2 (clause 3) continue to apply. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or delegate) may approve or disapprove the modification of the project under section 75W of the EP&A Act.

1.1 Background

The Jacfin Horsley Park site (the site) is located in the suburb of Kemps Creek, in the Penrith LGA and bordering the western boundary of the Fairfield LGA (see **Figure 1**). The site is legally described as Lot A in DP 392642 and comprises 100 hectares (ha) of mainly cleared grazing land, aside from an area of intact riparian vegetation along Ropes Creek.

The local area is characterised by ongoing industrial development and rural residential properties. The site is immediately adjoined by Oakdale Central Industrial Estate to the north, CSR Bricks and Roofing (CSR) to the east, the rural-residential suburb of Mount Vernon to the south and Oakdale South Industrial Estate to the west.

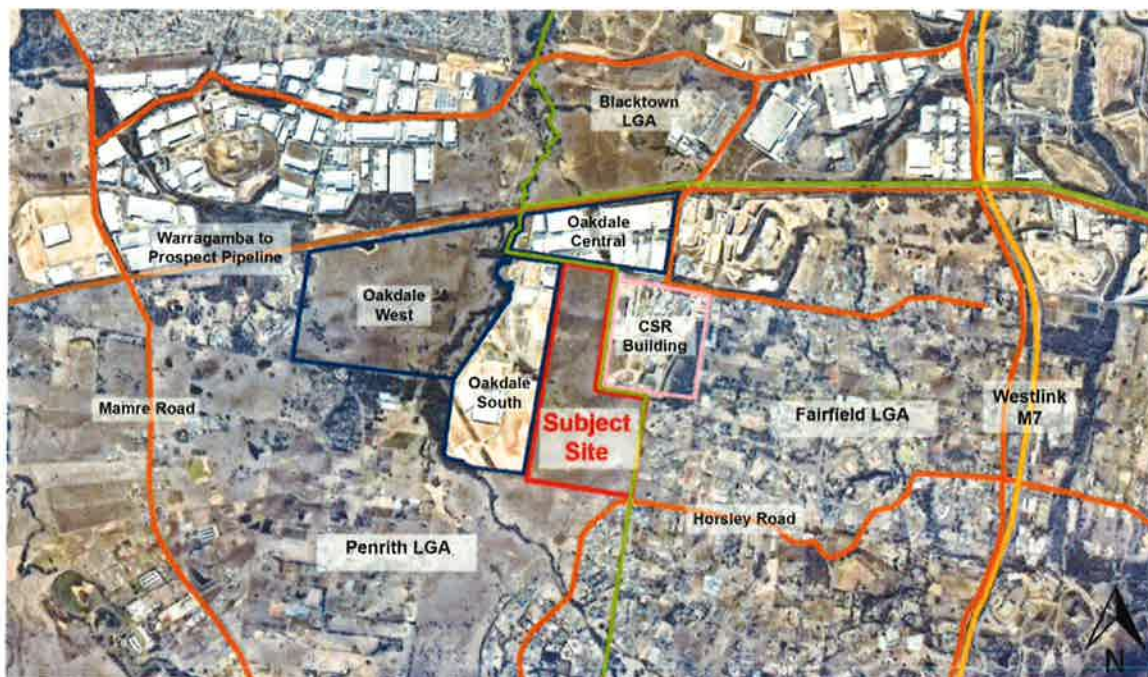


Figure 1 | Site Location (Red)

The site is also located in precinct 8 of the Western Sydney Employment Area (WSEA) which is strategically identified industrial employment land pursuant to *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (WSEA SEPP) (see **Figure 2**). Since the project approval was issued, the WSEA SEPP has been amended to extend the area of the WSEA however, these changes have not directly impacted the site.

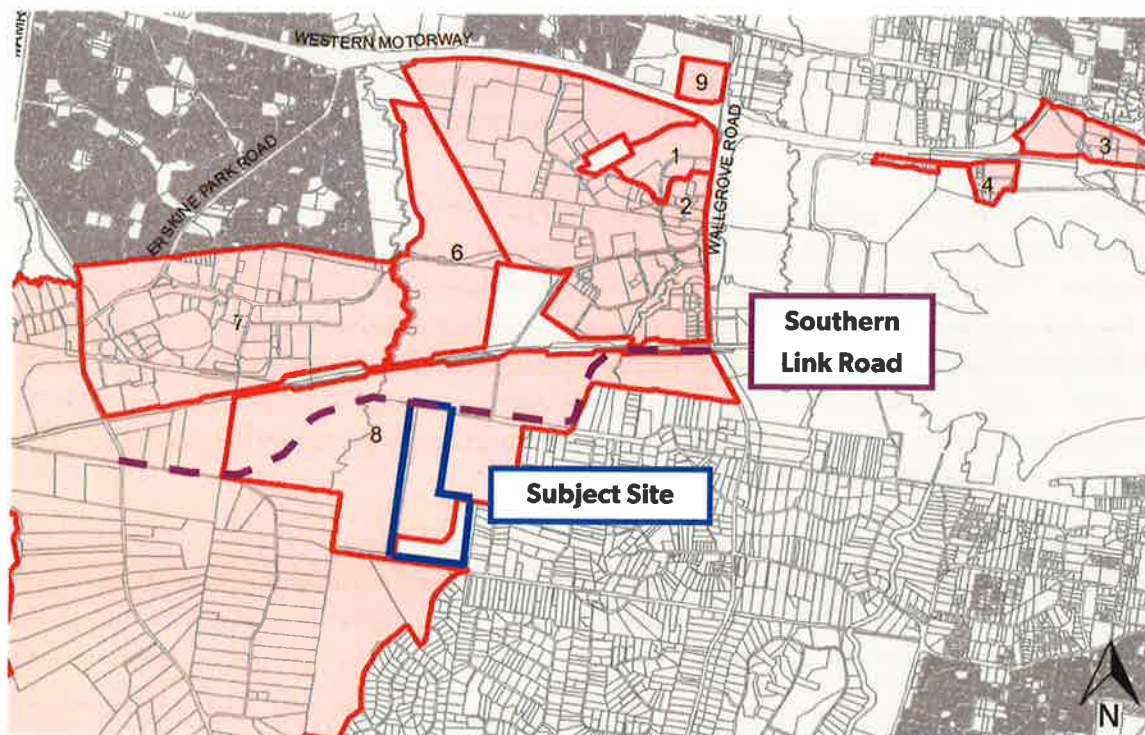


Figure 2 | Site Location (Blue) within the Western Sydney Employment Area (Red)

1.1.1 Regional Road Network

The WSEA SEPP, gazetted in 2009, identified the conceptual regional road alignment for the Erskine Park Link Road (EPLR) and the Southern Link Road (SLR). The SLR (see **Figure 2**) is proposed to join the EPLR (via north-south links), completing the network access to the industrial areas located west of the M7 and south of the Water NSW (previously Sydney Catchment Authority) Warragamba Pipeline (see **Figure 1**).

The Department and Roads and Maritime Services (RMS) commissioned a strategic assessment report known as the *AECOM Western Sydney Employment Area Southern Link Road Network Strategic Transport Assessment 2011* (WSEA SLR report) which was exhibited by the Department from 6 July to 17 August 2011 and identified a preferred alignment option for the SLR.

The WSEA SLR presented the preferred alignment of the Southern Link Road Network (SLRN) (east-west link) running along the northern boundary of the Proponent's site. As such, the Proponent sought Concept approval to connect to the SLRN (east-west link) via Regional Road 1 and project approval to construct part of Regional Road 1 as shown in **Figure 3**.

Based on the preferred alignment in the WSEA SLR report, RMS is presently carrying out a feasibility and design review analysis of the SLR corridor to inform the preparation of detailed design plans for the construction of the road. This is expected to take approximately 2 years with construction of the SLR not commencing until some time after. In the absence of detailed design plans to inform the construction of portions of the SLR fronting development sites and to avoid delays in constructing approved developments, developers like Jacfin are

proposing the construction of interim local roads within the SLR to provide access prior to the regional road being constructed.

1.1.2 Site Access

The project approval permitted construction of:

- part of the SLR, referred to as Regional Road 1 (between the southern end of Old Wallgrove Road, Burley Road and the entrance of the site)
- part of Local Road 1 (from a connection point off Regional Road 1 to a point just south of the Warehouse Building 1 driveway), to provide site access.

Site works have not yet commenced. Current site access is via an unformed road within the Burley Road reserve, to the north of the CSR site (see **Figure 4**). CSR is currently constructing the section of Burley Road between the intersection of Old Wallgrove Road and the approved internal road for the CSR site (see **Figure 6**). A 16 metre (m) wide drainage channel has also been constructed in the Burley Road reserve to drain to the CSR site.



Figure 3 | Approved Concept Plan Layout

1.2 Approval History

On 28 October 2013, approval was granted by the then Planning Assessment Commission (the Commission) as delegate of the then Minister for Planning and Infrastructure for the Jacfin Horsley Park Project Stage 1 development (MP 10_0130). The approval permits the following works:

- subdivision to create Stage 1 lot
- bulk earthworks
- installation of site services
- construction of Stage 1 internal access road (Local Road 1)
- construction of Regional Road 1, connecting the site to Old Wallgrove Road
- construction of Stage 1 development including:
 - a total Gross Floor Area (GFA) of approximately 27,330m² (25,300m² of warehouse and 2,030m² office)
 - loading dock
 - a total of 135 employee car parking spaces
 - landscaping.

The Commission also concurrently approved the Jacfin Horsley Park Concept Plan (MP 10_0129), permitting the following:

- site layout for an industrial park including developable areas for warehouses and light industry
- staged development
- internal road layout with connection to the SLR
- site infrastructure
- environmental management guidelines for future development applications on the site.



2. Proposed Modification

The Proponent has lodged a modification request under section 75W of the EP&A Act to amend the site access arrangements. The modification is described in full in the Environmental Assessment included in **Appendix B**.

The main site access, including construction access, was approved to come off the portion of the SLR to be constructed by the Proponent at the north of the site (see **Figure 3**). As such, the commencement of construction was dependent on the delivery of the entire SLRN. However, due to the likely delivery timeframe for the future SLRN and the Proponent's need to commence Stage 1 works, the Proponent has submitted a modification request seeking to amend the Stage 1 approval to permit access for construction works as follows:

- temporary access via Horsley Road, located at the south of the site (see **Figures 4 and 5**), for the purpose of commencing bulk earthworks in the approved Stage 1 area of the site
- construction access via Burley Road for construction works, following the approval of a Traffic Control Plan.

The Proponent now proposes to construct an access road, to the road design standards of Penrith City Council and Fairfield City Council. The Proponent has stated that pursuant to the Voluntary Planning Agreement (VPA) applicable to the development, construction of this portion of road will not entitle the Proponent to regional infrastructure contribution credits where the road is not constructed to the SLR standard. The Proponent has acknowledged that constructing the access road to Council standards would be undertaken at full cost to the Proponent and may need to be sacrificed once the SLR is constructed through this alignment.

The Proponent has stated that initial bulk earthworks would require the following vehicle movements:

- one 15 tonne rigid truck for the one-off delivery and one-off removal of earthworks machinery
- up to two light vehicles per day for a period of up to 10 days.

The Proponent has suggested a Traffic Control Plan should be implemented prior to the use of the Burley Road reserve by heavy vehicles.

In addition, the Proponent is also seeking to amend the project approval to permit post-approval management plans to be submitted on a progressive basis. The Department notes existing Condition 10 of Schedule 2 of the project approval provides such flexibility, with written approval of the Planning Secretary. As such, it is the Department's position that the project approval does not need to be amended in this regard and will be dealt with outside of the section 75W modification as intended by the condition.

The Proponent is seeking the amendments to facilitate the commencement of works to commence prior to the project approval lapsing on 28 October 2018 in accordance with Condition 6 of Schedule 2 of the project approval and clause 4.53 of the EP&A Act.

The Proponent has stated it is not expected there would be any significant additional impacts as a result of the amendments.

2.1 Changes to the Proposed Modification

The Department notes, initially the modification request sought access for construction via the temporary access road located along the Burley Road reserve, between the intersection of Old Wallgrove Road and Burley Road, and the site. However, the Proponent later amended the modification application to request initial Site access via

Horsley Road to commence earthworks to avoid potential delays caused by the ongoing construction works along Wallgrove and Burley Roads (see **Figure 6**).

2.2 Administrative Amendments

The Department has also proposed several administrative amendments to the project Approval to reflect amendments to the EP&A Act and to correct minor mis-descriptions.

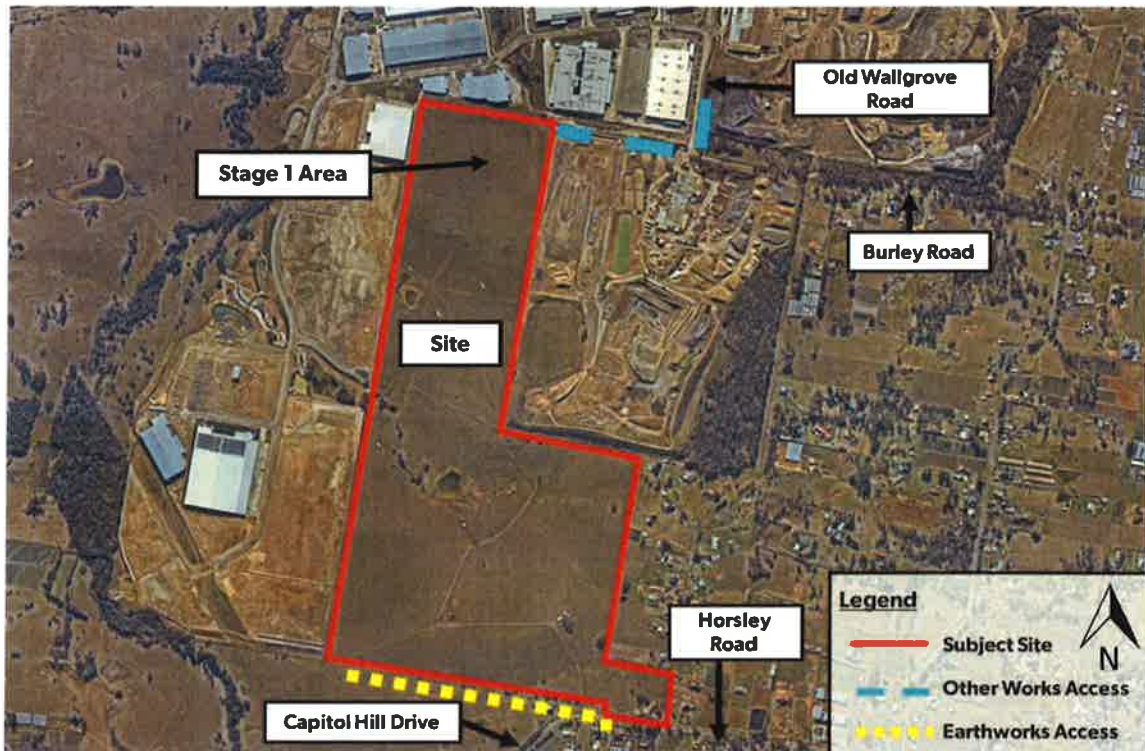


Figure 4 | Site Access for Construction



Figure 5 | Proposed Site Access for Commencement of Bulk Earthworks

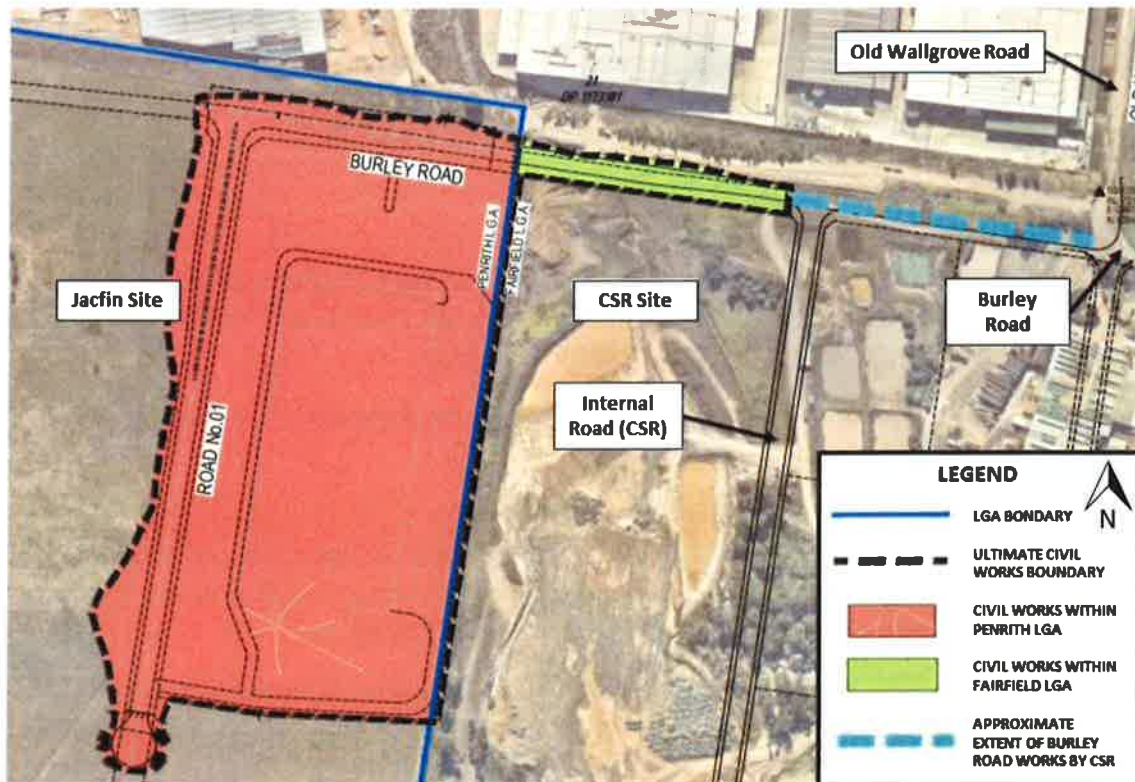


Figure 6 | Civil Road Works

The Proponent has also lodged a concurrent modification request for the Jacfin Horsley Park Concept Plan (MP 10_0129) which seeks approval for:

- indicative warehouse layout for the development of the IN1 General Industrial zoned land which was deferred under the original project approval, including reconfiguration of the approved building layout
- updated staging plan
- conceptual use of the RU4 Primary Production Small Lots zoned land for residential purposes
- inclusion of Lot 21 DP 1010514 in the Concept Plan
- provision of a landscape buffer between the rural residential and employment development
- updated site development guidelines.



3. Strategic Context

3.1 Strategic Plans and Strategies

The key strategic documents “NSW 2021” and “Draft Metropolitan Strategy for Sydney to 2031” were considered in the assessment of MP 10_0130. Both plans have since been replaced by the Premier’s Priorities and the current Sydney metropolitan plan “A Metropolis of Three Cities”, respectively.

Notwithstanding, the proposed amendments would not prevent the development from complying with the current relevant strategic directions.

3.2 WSEA SEPP

The WSEA SEPP governs land use in the WSEA. The WSEA SEPP broadly aims to promote economic development and the creation of employment in the WSEA by providing for development including major warehousing, distribution, freight transport, industrial, high technology and research facilities.

In the WSEA SEPP there are specific clauses to deal with the interface area of the broader WSEA and adjoining residential areas. The intent of these clauses is to manage potential land use conflicts including visual, bulk and scale impacts associated with industrial development on residences in interface areas. Key clauses include:

- Clause 21 which aims to ensure building heights do not adversely impact on the amenity of adjacent residential areas
- Clause 23 which aims to ensure buildings are compatible with the height, scale, siting and character of existing residential buildings in the vicinity.

There are no modifications proposed to the Warehouse building therefore the Department is satisfied that the proposed amendments do not alter the development’s compliance with the above provisions.



4. Statutory Context

4.1 Scope of Modifications

Under Schedule 2 of the EP&A (ST&OP) Regulation, the power to modify transitional Part 3A projects under former section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 is being wound up – but as the request for this modification was made before the ‘cut-off date’ of 1 March 2018, the provisions of Schedule 2 (clause 3) continue to apply.

The Department notes that:

- the primary function and purpose of the approved project would not change as a result of the proposed modification
- the modification is of a scale that warrants the use of former section 75W of the EP&A Act
- any potential environmental impacts would be appropriately managed through the existing or modified conditions of approval.

Therefore, the Department is satisfied the proposed modification is within the scope of former section 75W of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the request should be assessed and determined under former section 75W of the EP&A Act rather than requiring a new development application to be lodged.

4.2 Consent Authority

The Minister for Planning is the approval authority for the request. Under the Minister’s delegation of 11 October 2017, the Director, Industry Assessments, may determine the request under delegation as:

- the relevant local council has not made an objection and
- a political disclosure statement has not been made and
- there are no public submissions in the nature of objections.

4.3 Environmental Planning Instruments

MP 10_0130 was assessed against the provisions of:

- *State Environmental Planning Policy (Major Development) 2005* (Major Development SEPP)
- *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP)
- *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (WSEA SEPP)
- *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55)
- *State Environmental Planning Policy No. 64 – Advertising and Signage* (SEPP 64)
- *Penrith Local Environmental Plan 2010* (Penrith LEP).

The Department is satisfied the proposal generally complies with the relevant provisions of these EPI’s.



5. Engagement

Under former section 75W of the EP&A Act, the Department is not required to notify or exhibit the modification request. Upon receipt, the request was placed on the Department's website and following a review of the documentation, the Department did not consider that further consultation was necessary. Notwithstanding, the Department sought comments from Fairfield City Council (FCC), Penrith City Council (PCC), NSW Roads and Maritime Services (RMS) and landowners in the vicinity of the site between 1 August 2018 and 15 August 2018.

5.1 Key Issues – Government Authorities

FCC did not object to the proposed modification however advised the Proponent is required to liaise with the adjoining property owner (CSR) to ensure the temporary site access is not impeded by the ongoing construction work. FCC also recommended conditions relating to the preparation of a dilapidation report, including a geotechnical investigation.

PCC did not object to the proposed modification however advised that the suitable treatment of stormwater from the development and legal rights of drainage are critical in the consideration of any road dedication.

RMS did not object to the modification request and indicated they had no specific comments applicable to the proposed modification.

5.2 Key Issues – Community

CSR Building Products Pty Ltd (CSR) did not object to the proposed modification however raised concerns regarding the stability of the temporary access road for heavy vehicles and the potential conflict between the timing of CSR completing their section of road, and the Proponent commencing Local Road 2 construction.

Since CSR's initial submission, the proposed modification has been amended such that initial site access for the commencement of earthworks would be via the existing road reserve near off Horsley Road which runs parallel to the southern site boundary (see **Figures 4 and 5**). This road reserve has historically been used for site access for agricultural purposes on the site and has an existing access point, shown in **Figure 5**. Vehicle movements associated with bulk earthworks are limited to the one-off delivery and removal of earthworks machinery and up to two light vehicles per day, for a period of up to 10 days, for staff. The Proponent has proposed this alternative to enable works to commence prior to the implementation of a Traffic Control Plan to manage use and construction of the access road.

5.3 Response to Submissions

On 24 August 2018, the Proponent provided a Response to Submissions (RTS) on the issues raised during notification of the proposed modification (see **Appendix D**).

The RTS was made publicly available on the Department's website and provided to Fairfield City Council, Penrith City Council, RMS and CSR. The Department received the following comments:

FCC recommended that should the access road be utilised by heavy vehicles, an investigation of the stability of that road should be undertaken. FCC also provided further recommendations regarding the requirement for a dilapidation report, including requirements for the use of the Horsley Road access point.

RMS did not provide any further comments however highlighted that the site within the SLRN area.

CSR provided further comments regarding the proposed use of the access road. Further to this, CSR agreed a Traffic Control Plan should be implemented and supported alternative access arrangements.

PCC did not provide a further submission.

The Department has considered the issues raised in submissions and the RTS in its assessment of the proposed modification.



6. Assessment

The Department has assessed the merits of the proposed modification. During this assessment, the Department has considered the:

- EA and assessment report for the original applications
- existing conditions of approval
- the EA supporting the proposed modification (**Appendix B**)
- submissions from the public, State government authorities and Council (**Appendix C**)
- the Proponent's response to issues raised in submissions
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department's assessment of the key issues is provided in **Table 1**.

6.1 Issues

Table 1 | Key issues

| Issue | Findings | Recommended Condition |
|----------------------|--|--|
| Construction Traffic | <ul style="list-style-type: none">• The Proponent has proposed site access for construction works (excluding the commencement of bulk earthworks) via the Burley Road Reserve. The proposed site access arrangements have the potential to conflict with the ongoing construction works along the Burley Road reserve.• The section of Burley Road between the intersection of Burley Road and Old Wallgrove Road, and the CSR internal road is currently under construction by CSR. From the CSR internal road to the site, this is an unformed road.• The Proponent has amended the modification request to seek construction access via Horsley Road for the commencement of bulk earthworks only, for a period of up to 10 days.. The site access for all other approved Stage 1 works will be via Burley Road.• In it's submission, FCC did not object to the Proponent's use of the access road for earthworks however raised concerns with the stability of the access road and the ongoing road works within the road reserve. FCC subsequently recommended conditions requiring the preparation of a dilapidation report, including a geotechnical assessment.• The Department notes that the Proponent's amended proposal addresses concerns raised in early submissions from FCC and CSR regarding the timing for Burley Road works. In their further submission, CSR agreed with the Proponent's proposal to implement a Traffic Control Plan to manage impacts resulting from the Proponent's use of the access road. | <ul style="list-style-type: none">• Prepare a Traffic Control Plan prior to the use of the access road by heavy vehicles, to be approved by the Secretary.• Preparation of a dilapidation report. |

- The Department is satisfied the access road conflicts could be managed through the implementation of a Traffic Control Plan and that the access road could be utilised by the Proponent for Stage 1 works, subject to the Proponent undertaking geotechnical investigations and preparing a dilapidation report.

Residential Amenity

- The proposed amendments would redirect construction related traffic required for the initial earthworks from Old Wallgrove Road to Horsley Road. This has the potential to create traffic and noise impacts not previously anticipated for Horsley Road.
- The Proponent has not undertaken additional traffic or noise modelling. However, the Proponent has confirmed the vehicles required for bulk earthworks would be one 15 tonne rigid truck for delivery of the earthworks machinery and two light vehicles per day, for a period of up to 10 days, for staff.
- The relevant government authorities did not raise any concerns regarding noise or traffic impacts.
- Although the use of the existing farm access off Horsley Road for a limited number of earthworks related traffic is not expected to impact the residential amenity of the locality, the Department considers it important for the Proponent to notify nearby landowners of the works schedule.
- The Department is satisfied the potential impacts are minor and temporary in nature. It is the Department's view that these impacts can be adequately managed through the existing project approval conditions and the inclusion of a restriction on site access via Horsley Road. The Department has also recommended a condition which would require the Proponent to notify neighboring properties prior to use of Horsley Road.
- Restricted site access via Horsley Road for the delivery and removal of earthworks machinery and essential staff only.
- Requirement to notify nearby landowners prior to accessing the site via Horsley Road.
- Compliance with the noise criteria specified in existing project approval Condition 20 of Schedule 3.



7. Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed modification is appropriate on the basis that:

- the proposed modification falls within the scope of section 75W of the EP&A Act
- satisfactory mitigation measures would be put in place to manage potential impacts
- it would enable works to commence without being inhibited by the delivery of the SLRN and ongoing construction works at Burley Road.

The Department is satisfied that the modification should be approved, subject to conditions.



8. Recommendation

It is recommended that the Director, Industry Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application Modification to Jacfin Horsley Park Project (Stage 1) MP 10_0130 falls within the scope of section 75W of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant approval to the application
- **modify** the approval MP 10_0130
- **signs** the attached approval of the modification (**Attachment E**).

Recommended by:

Nikki Matthews

Nikki Matthews 9/10/18.

Planning Officer

Industry Assessments

Recommended by:

Kelly McNicol

Kelly McNicol 9/10/18.

Team Leader

Industry Assessments



9. Determination

The recommendation is: **Adopted by:**

C. Ritchie 11/10/18.

Chris Ritchie

Director

Industry Assessments



Appendices

Appendix A – List of Documents

- A Metropolis of Three Cities – Greater Sydney Region Plan 2018 (NSW Government)
- Western Sydney Employment Area Southern Link Road Strategic Transport Assessment 2011 (AECOM)

Appendix B –Environmental Assessment

A copy of the Environmental Assessment can be found on the Department's website, at the following link:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9174

Appendix C – Submissions

A copy of the Submissions received by the Department can be found on the Department's website, at the following link:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9174

Appendix D – Response to Submissions Report

A copy of the Proponent's Response to Submissions Report can be found on the Department's website, at the following link:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9174

Appendix E – Project Approval

A copy of the Project Approval for MP 10_1030 MOD 1 can be found on the Department's website, at the following link:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9174

