

In reply please quote: 09/05306
Your Ref: SSD 5248

Contact: Andrew Mooney on 9725 0214

27 May 2014

Development Assessment Systems and Approvals
Department of Planning & Environment
GPO Box 39
Sydney NSW 2001



Dear Sir/Madam

GAZCORP INDUSTRIAL ESTATE – 813-819 WALLGROVE ROAD, HORSLEY PARK (SSD 5248)

Council at its meeting of the 27 May 2014 resolved to lodge an objection to the abovementioned State Significant development proposal under the EP&A Act.

Specifically, Council adopted the following recommendations in relation to the Department's consideration of the proposal;

That Council:

1. *Endorse the contents of the report as a basis for a submission to the Department of Planning and Environment with respect to the Gazcorp Industrial Estate State Significant Development at 813-819 Wallgrove Road, Horsley Park specifically objecting to the proposal on the following grounds:*

Department of Planning
Received
30 MAY 2014
Scanning Room

- 1.1 *The proposal is inconsistent with the requirements of Clauses 21 and 23 of the State Environment Planning Policy (SEPP) – Western Sydney Employment Area (WSEA) as the impacts on the acoustic and visual amenity of adjoining residential properties are unacceptable.*
 - 1.2 *The Applicant's contention that Section 94A (Indirect Development Contributions) should not be paid is opposed by Fairfield City Council.*
2. *Request that a community meeting be arranged between residents, representatives of Council, Gazcorp and Department of Planning and Infrastructure to resolve the issues and concerns raised by residents in relation to the proposal.*
3. *Write to residents in Horsley Park who made a submission to the proposal advising them of Council's resolution on this matter.*
4. *Write to the NSW Office of Environment and Heritage highlighting the significant reduction (approximately 7 hectares) of Critically Endangered Cumberland Plain Woodland on the site listed with high conservation significance without any record of an approval being issued by Fairfield City Council for this tree removal*

As part of its consideration of the proposal, Council sent letters to surrounding land owners (in the same area notified by the Department) inviting them to forward a copy of their submission to Council so that their issues could be included under Council's consideration of a submission to the proposal.

As a result of this step, Council received;

- 30 submissions (including a number of standard/pro-forma letters) from individual property owners in proximity to the proposal;
- A petition (containing 17 signatures) objecting to the proposal.

The concerns and objections raised in the above were subsequently reported to Council and formed an important basis of Council's consideration of the proposal and the issues/objections outlined in this submission as follows;

1. General Issues:

Many of the residents indicated that due to the technical complexity of the supporting documentation submitted with the proposal, they had challenges in understanding the scope of the proposal and how it impacts on their land. Residents have requested preparation of a scale model so that they can obtain a better understanding of the scale and layout of the proposal.

In addition, concerns were raised that aerial photos included with the documents are out of date and do not show the location of recently constructed houses in proximity to the Gazcorp site.

Comments from Fairfield City Council – Request for public meeting

As detailed further in this submission, given the scope of objections to the proposal, Council requests that a community meeting be convened between surrounding residents, representatives of Gazcorp and Department with the aim of resolving the objections raised by surrounding landowners and Fairfield City Council.

This meeting would provide an opportunity to provide further clarification and focussed discussion with adjoining landowners regarding key aspects of the proposal and measures aimed at mitigating impacts on surrounding landowner.

To assist understanding of the proposal it is requested that enlarged photo-montages and larger scaled plans be prepared by the applicant so that these can be put on display at the community meeting and discussed with residents.

It is noted that the Department supported similar community meetings in relation to the Jacfin (Part 3A Major Project) proposal in Penrith City in helping to resolve issues raised by adjoining land owners in Horsley Park. In this regard, a precedent for a community meeting has been established for dealing with issues of this nature for development in the WSEA adjoining rural residential lands in Fairfield City.

2. Acoustic Amenity

The acoustic assessment prepared for the proposal indicates that, construction and operation of the proposal is capable of complying with relevant State Government Guidelines for this form of development, subject to the a range of measures and management practices, such as monitoring noise levels during construction and providing a process where adjoining residents can notify Gazcorp of concerns regarding construction noise so that *“all practical and cost effective techniques to limit noise emissions”*, can be provided.

Notwithstanding the above, Council supports the objections of adjoining residential properties and fully supports their request that additional investigations and measures be included in the development (including provision of a mound and masonry wall rather than a colourbond fence) to maximise measures to safeguard the acoustic amenity of residents.

At this stage, Council does not propose to nominate a specific height for a masonry wall, as this needs to take into account the overall height of the proposed mound, which requires further investigations and consultation with residents. Potential designs for the mounding and noise barrier would be one the key issues that needs to be explored at the community meeting involving the applicant, local residents and officers from the Department.

The above approach is considered reasonable given:

- Acoustic measurements for the Proposal are based on average background noise levels and do not necessarily deal with ‘extreme’ noise events.
- The existing background noise levels in the area are heavily impacted by existing noise levels from Wallgrove Road and the M7 that, according to residents, have increased in recent years, particularly in the morning and evening peak hour periods. Further safeguards should be required in the development to mitigate against ongoing cumulative noise impacts on residents adjoining the Gazcorp proposal.
- The acoustic assessment and proposed mitigation measures in the development are based on a number of guidelines and assumptions regarding the nature and range of uses associated with this form of development (warehouse, logistics buildings).

At this stage the final make up of uses and specific operational aspects of the Gazcorp proposal are generally unknown. In this regard the provision of optimal mitigation measures should be investigated and implemented to safeguard the acoustic amenity of residential properties at an early stage. It may be difficult to employ these measures (particularly in regard to increased setback areas to construct a landscaped mound) and retrofit the development at a later stage.

The measures employed to protect acoustic amenity should be of a standard that maintains the equivalent level of amenity that has been available to residents to this point, without the noise impacts from an industrial estate.

In addition to the above the recent application for development of an industrial estate on the Jacfin site in Penrith City included both a landscaped mound and acoustic fence to mitigate acoustic and visual impacts on residents in Greenway Place in Horsley Park. As such there is a precedent and need for a consistent approach in providing an enhanced buffer (mounding) for industrial developments in the WSEA adjoining residential development by requiring similar measures in the Gazcorp proposal.

It is noted the approval issued by the NSW Planning and Assessment Commission for the Jacfin development has required further investigations regarding provision of a rural/residential buffer (potentially 150 – 250m wide) on the Jacfin site between the proposed industrial estate and adjoining rural residential properties in Greenway Place.

Although the Jacfin buffer would help mitigate acoustic impacts on residents, a critical reason for provision of this buffer is to mitigate impacts of the Jacfin development on the vistas and outlooks the residents of Greenway Place have toward the Blue Mountains and Hawkesbury/Nepean Valley.

Properties directly adjoining the Gazcorp proposal do not have access to the same regional views as residents in Greenway Place. In this regard, the provision of a substantial setback or buffer area (up to 250m) is not as readily justified within the context of the Gazcorp proposal.

Notwithstanding, it will be necessary to investigate increased setbacks and buffer areas to industrial uses on the Gazcorp site to that currently proposed (ranging from 10-40m) to provide a suitable landscape mound and mitigate acoustic, visual and lighting impacts on adjoining rural residential properties in Fairfield City.

It is understood that existing developments in the WSEA operate on a 24 hour 7 day a week basis. In light of the concerns of adjoining owners regarding noise impacts, the Department should restrict the hours of operation of the Gazcorp proposal so that it does not operate from the evening to early morning hours.

It is noted that Clause 23 of the SEPP (WSEA) requires industrial development adjoining land zoned for residential purposes to minimise impacts on the amenity of adjoining residential buildings by minimising the impacts from industrial activities, motor vehicles and hours of operation.

Given the number of residential buildings adjoining the Gazcorp site, it is considered that further mitigation measures are required to ensure the Proposal meets with the objectives of the SEPP in relation to these issues.

3. Visual Impacts

It is noted that Clause 21 of the SEPP(WSEA) states as follows:

The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that:

- (a) building heights will not adversely impact on the amenity of adjacent residential areas, and*
- (b) site topography has been taken into consideration.*

Given the issues raised by adjoining property owners and high visibility of the industrial buildings from adjoining the properties at this stage, it is not considered that the proposal meets the above provisions of the SEPP.

In this regard, the measures requested by the residents (including provision of a landscaped mound and masonry wall) are supported as this will help to mitigate the visual impacts on the proposal on surrounding rural residential development, particularly at the eastern and western ends of the development and are required to ensure the proposal complies with the above requirements of the SEPP (WSEA).

4. Lighting Impacts

Council is concerned that a report/assessment for the proposal has not been submitted with the Proposal detailing the potential impacts of light spill on the adjoining residential properties.

This issue needs to be considered further by the Department in regard to the visual impacts of the proposal. In particular the applicant should be required to submit a lux diagram clarifying the potential impacts of light spill on adjoining properties and measures required to mitigate these impacts.

5. Section 94A – Indirect Contributions

Council objects to the request for an exemption to Section 94A contributions based on the following points:

- On-site improvements and infrastructure being provided by Gazcorp are necessary to ensure orderly development of the site and to mitigate the impacts from industrial development on the site on the surrounding environment.
- The improvements and works to facilitate the proposal would be required in any other similar industrial development outside the WSEA and would also need to pay Section 94A contributions.
- The provisions relating to Section 94A do not require a 'nexus' argument. These forms of contributions can be applied to development regardless of whether or not a nexus exists for a contribution.
- Future industrial development in the WSEA (outside the Gazcorp site) in Fairfield City would in the majority of cases attract Section 94A contributions.

- Notwithstanding that a nexus is not required, there is clearly scope for development on the Gazcorp site to generate impacts on the local community of Horsley Park, particularly as a result of additional traffic through the area and from employees of the Gazcorp site utilising local infrastructure (e.g. open space, car parking, community facilities).
- The Voluntary Planning Agreement (VPA) covers the provision of regional rather than local infrastructure

6. Provision of office space

Stage 1 of the Proposal includes approximately 3,000m² of ancillary office floor space (equivalent to 7% of the total gross floor area of Stage 1) with the overall development including a total of 12,000m² in ancillary office floor space, equivalent to 6% of total gross floor space within the development.

The Applicant has subsequently provided the following advice to Council in regard to this component of the development:

Under our application the masterplan shows the office space component of each industrial building as an integral part of that structure. This is our intent and our understanding is that that is consistent with the zoning. This is not dissimilar with the existing industrial areas within Fairfield Council

It is clearly not intended to build any separate office building in isolation to a warehouse building. It is our understanding that an office use in isolation is not permissible within the zoning and therefore it does not form any part of this application.

The masterplan application is for a generic industrial estate. Each individual building within the estate will necessitate an individual development application

A review of recent development proposals in the WSEA reveals some degree of variation in the extent of the floor space component included in similar proposals as detailed below. However, the provision of office floor space similar to the Gazcorp Proposal has been approved as follows:

- Oakdale Precinct (Old Wallgrove Road, Horsley Park),
 - Stage 1 = approx 620m² (2% of gross floor area) in ancillary office space
 - Stage 2 = approx 2,000m² (6% of gross floor area) in ancillary office space
- Jacfin Estate (Penrith City Council)
 - Stage 1 = approx 2,000m² (7% of gross floor area)

In this regard, it would appear that the Gazcorp Proposal is generally within range of the degree of ancillary office floor space provided in recent similar proposals in the WSEA.

Notwithstanding, Council requests a condition be applied to the Proposal that any office floor space be provided for ancillary purposes to service the administrative needs of the associated warehouse/logistics development so that it cannot become 'stand alone' office floor space capable of separate non-integrated use or occupation.

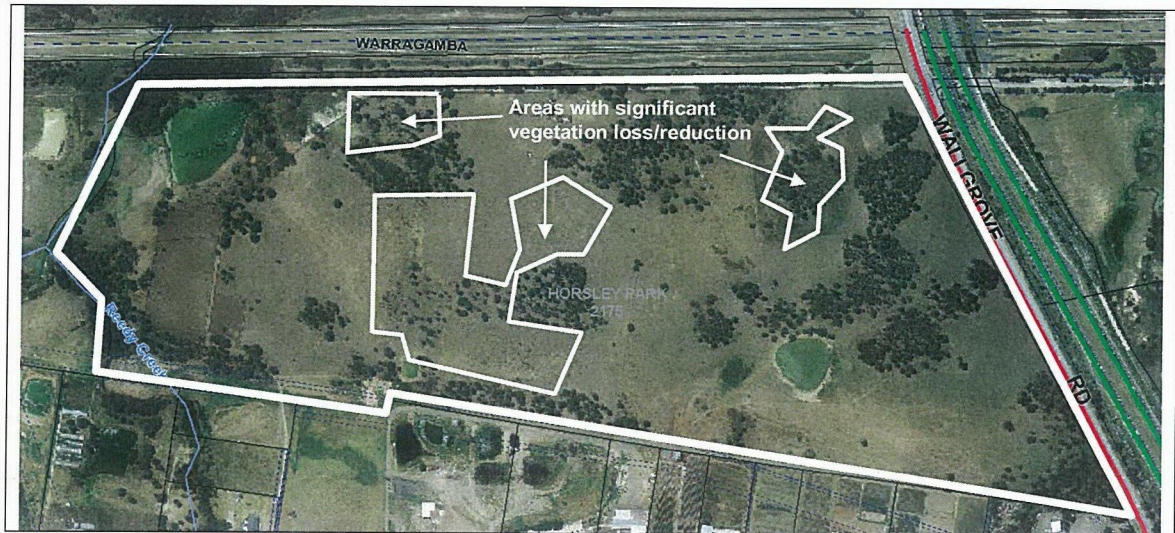
7. Threatened Species Issues

A review of aerial photographs (below) for the site reveals that, since Council prepared its Biodiversity Strategy, there has been a significant reduction/loss of Cumberland Plain Woodland from the site amounting to approximately 7Ha (70,000m²).

Under Council's Biodiversity Strategy this vegetation had been identified with high conservation significance. At this stage, Council has not been able to identify any approvals for the removal of vegetation from the site.



Aerial photo of site 2005



Aerial photo – 2014 showing areas where vegetation loss/reduction has occurred

The above loss of vegetation has not been accounted for in the environmental impact statement prepared for the Proposal or factored into the biodiversity offset proposal submitted for the development to compensate for the removal of remaining Cumberland Plain Vegetation on the site.

The applicant's Ecology Impact Assessment concludes that the vegetation on the subject site is identified as endangered ecological community of a 'highly modified and degraded' (low quality) condition, thus:

- Removing the requirement to refer the project to the Federal government under the Environmental Protection and Biodiversity Conservation Act 1999
- Justifying halving the number of ecosystem offset credits to be purchased from 259 to approximately 130 credits

Council has major concerns regarding the above and requests that the Department require Gazcorp to clarify and account for the reduction in the Cumberland Plain Woodland (with high conservation significance) from the site since 2005 and incorporate this into the ecosystem offset strategy prepared for the proposal. A further component of the offset strategy should be to require significant compensatory planting on the site.

Council also intends to bring the above issue to the attention of the NSW Office of Environment and Heritage.

In addition to the above, based on details included in Appendix F – Ecological Impact Assessment (figure 2.2 Survey Locations) it would appear the southeast corner of Cumberland Plain Vegetation near Wallgrove Road (below) has not been included in the ecology impact assessment for the Proposal.



In this regard a revised ecology assessment needs to be prepared for the Proposal that addresses threatened species assessment for this area.

The Departments notification letter to Council dated 8 April 2014 requested advice from Council on recommended conditions of consent. Council is currently in the process of finalising the recommended draft conditions and these will be forwarded in due course.

Please contact the undersigned if you have any further enquiries regarding the above on 9725 0214.

Yours faithfully

Andrew Mooney
Coordinator Strategic Planning