

ATTENTION Chris Ritchie
NSW Planning
23-33 Bridge Street
COMPANY Sydney NSW 2000
FROM Bob Meyer
DATE 23th May 2011
SUBJECT Jacfin Horsley Park Project (10_0129 and 10_0130)

Dear Sir,

I refer to your letter of 29th March 2011 regarding the above project. We wish to make a submission on behalf of Pazit Pty Ltd, the owner of Capitol Hill, Mount Vernon, which is a residential estate directly south of, and abutting, the Jacfin site.

This submission objects to two particular elements of the proposal which will have an adverse impact on the adjoining residential area if developed to the layout of the industrial buildings as shown on figure 18 of the Environmental Assessment Report (EAR), March 2011, and the proposed benching of the site through cut and fill as indicated on figure 27 of the same EAR report (Figures appended to this submission).

The 2009 State Environmental Planning Policy for the Western Sydney Employment Area (SEPP) has a number of relevant clauses to support these objections. The General Industrial Zone (IN1) objectives are to “minimise adverse effects of industry on other land uses” and to encourage development that does not prejudice the sustainability of other enterprises (Clause 11). These objectives are obviously not being met from the Environmental Assessment Report presented by Jacfin.

Clause 21 of the SEPP discusses the height of buildings. It states that building heights must not adversely impact on the amenity of adjacent residential areas and that natural topography must be taken into account. The heights proposed by Jacfin exceed those recommended in the Penrith DCP 2010. Jacfin have also suggested extensive cut and fill operations through the site eliminating the natural ridge which separates the proposed future industrial development from Capitol Hill, thereby exacerbating the visual and noise impact from industrial activity on established and future housing.

Jacfin have requested a 24 hour operation, 7 days a week for the industrial estate (EAR. 5.7). The SEPP states that development will not otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting or alike. A 24/7 operation is totally unacceptable. It will considerably undermine the value of the residential development and a 7am – 10pm Weekdays operation limit is recommended as a maximum.

The proposal contravenes many of the requirements of the Penrith DCP, 2010, particularly regarding the impact of adjoining incompatible uses, the retention of natural land forms and landscaping requirements. The relevant clauses from the DCP are appended to this submission.

It should be noted that Pazit does not object to the future use of the Jacfin site, rather, wishes to ensure that Capitol Hill, remains an “executive” housing estate, recognised by government as encouraging decision makers to move to the area and set up business in nearby employment areas. Any adverse impacts from adjacent industrial development will risk the establishment of executive housing estates which would benefit the establishment of employment opportunities in the Western Sydney Employment lands.

Pazit have engaged two consultants who support this submission. Both reports support the view that the Jacfin submission currently does not adequately address the transition between residential and industrial land uses as required by the SEPP and DCP. Please find attached a Visual Impact Assessment (Richard Lamb) as well as an Acoustic Assessment (Sebastian Giglio).

Visual and noise impacts of the proposed development would be substantially reduced if the natural ridge on the Jacfin site, close to their southern boundary, be retained and suitably landscaped. To the west the ridge should be extended to form a landscaped visual and noise barrier.

Given the issues outlined above regarding visual and noise levels, there is a solution which would mitigate both of these problems.

It is suggested that the southern portion of the Jacfin site be subdivided into residential lots fronting a new road, the westward extension of Horsley Road, using the existing reservation.

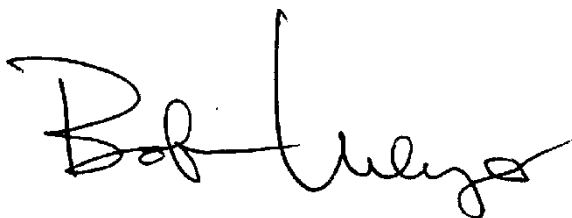
This would be compatible with the existing and proposed rural residential development of Capitol Hill which could front the new road.

This solution would obviate the need to bench the Jacfin site, as proposed for industrial and warehouse buildings, thereby retaining the east-west ridge. This ridge would separate the industrial lands from the residential lands, to minimising the visual impact of future industrial buildings and help block noise from any ongoing activities.

It is suggested that the residential lots fronting the southern boundary of Jacfin's land be sized at 4000m² (see attached plan). These lots could be served by the sewer and water provided for the employment areas. This would provide "executive" housing which fulfils the policy of promoting job creation by having "decision makers" living adjacent to employment lands. The 4000m² lots would form a sensible transition between the employment lands and the one hectare rural residential lots of Capitol Hill. It would also provide lots for those who may feel one hectare is too large for their purposes yet wish to live on a rural lot.

We would be pleased to discuss any aspects of this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Bob Meyer', with a stylized, cursive script.

Bob Meyer

Director of Planning

Cox Richardson Architects and Planners

Key Points from the Penrith DCP 2010

Part D4 Industrial Development

Building Height

Penrith DCP:

- According to the Penrith DCP 2010, in general the maximum height of industrial buildings is **12m** (Sect 4.2 Pg 13).

Horsley Park Industrial Area Report:

- It has been noted that the proposed stage 1 warehouse building has a height of **13.7m**.

Recommendations:

- A visual impact assessment should be undertaken to confirm that any residential development occurring on the Capitol Hill, Mount Vernon Site is not adversely affected.

Note: An assumption has been made that other warehouses on the site (closer to the south) would have similar characteristics of the warehouse proposed in stage 1.

Building Setbacks and Landscape

Penrith DCP:

- The DCP prescribes setbacks to screen undesirable views and thus minimise impact to surrounding development (Sect 4.3 Pg.14)
- The DCP stipulates that the applicant must demonstrate how the development reduces the 'heat effect' and visual impact. (Sect 4.3 pg 17)
-

Horsley Park Industrial Area Report:

- The Horsley Park Industrial Estate has allowed for a **30m** setback from the South-Eastern Boundary to minimise the visual and acoustic impacts on residential properties of Greenway Place. Only a **20m** setback has been proposed on the Southern Boundary of the Industrial Site.

Recommendations:

- An extension of the southern setback to **30m or more** is recommended so as to not adversely impact on the development potential for Capitol Hill, Mount Vernon.
- The proposed industrial land may propose large expanses of paved areas for loading docks. Therefore a statement/ mitigation strategy is required to lessen the 'heat effect'

Building Design (pg 23)

Penrith DCP:

- One of the key objectives of this section is to "ensure new development can integrate into the existing urban fabric to contribute to the creation of a visually cohesive urban environment". (Sect 4.4 pg 23)

Horsley Park Industrial Area Report:

- Suggests that warehouses in the South East corner of the site will have loading docks on the West to minimise impact to the residential developments on Greenway Place. This does not necessarily mitigate adverse impacts to potential residential development to the south, namely Capitol Hill.

Recommendations:

- Consider reorienting the loading docks of the warehouses on the Southern boundary to the north

Part C4 Land Management

Site Stability and Earth Works

Penrith DCP:

- The Penrith DCP suggests that the topography of the land site and surrounding land should play an important role. And thus it seeks to minimise the extent of earthworks when creating a building site. (Sect 4.1 pg 4)
- The DCP states that “Earthworks to create a building platform shall not be undertaken where excavation and filling would exceed **one meter** from the existing natural ground level of the site.” (pg 6)

Horsley Park Industrial Area Report:

- The Horsley Park Industrial precinct seeks approval for earthworks to cut/fill the land to a proposed RL of 75. Whilst the report is for the stage 1 constituent, it is suggested that the entire site is lowered / raised to an **RL of 75**. At the southern end of the site, this can result in a significant RL change of up to **19m**.

Recommendations:

- Council may want to consider the natural topography of the land as it is. There are natural slopes towards the southern boundary which could be used as an acoustic / visual barrier towards the proposed residential land at Capitol Hill.
- Should council approve the ‘Bulk Earthworks’, possibly some consideration should be taken to “shifting” the hill further south, allowing for more developable area as well as providing a buffer between to the incompatible uses.

Part C6 Landscape Design

Penrith DCP:

- A key objective of this section is “to ensure landscape design adequately complements the proposed built form and minimises impacts of scale, mass and bulk of the development in its context” (pg4)
- The DCP reiterates that of Part C4 (Land Management) and states that earthworks should be minimised across the site and should rather accommodate natural landforms. The natural landforms do lend themselves to creating natural buffers to surrounding developments. (pg 9)

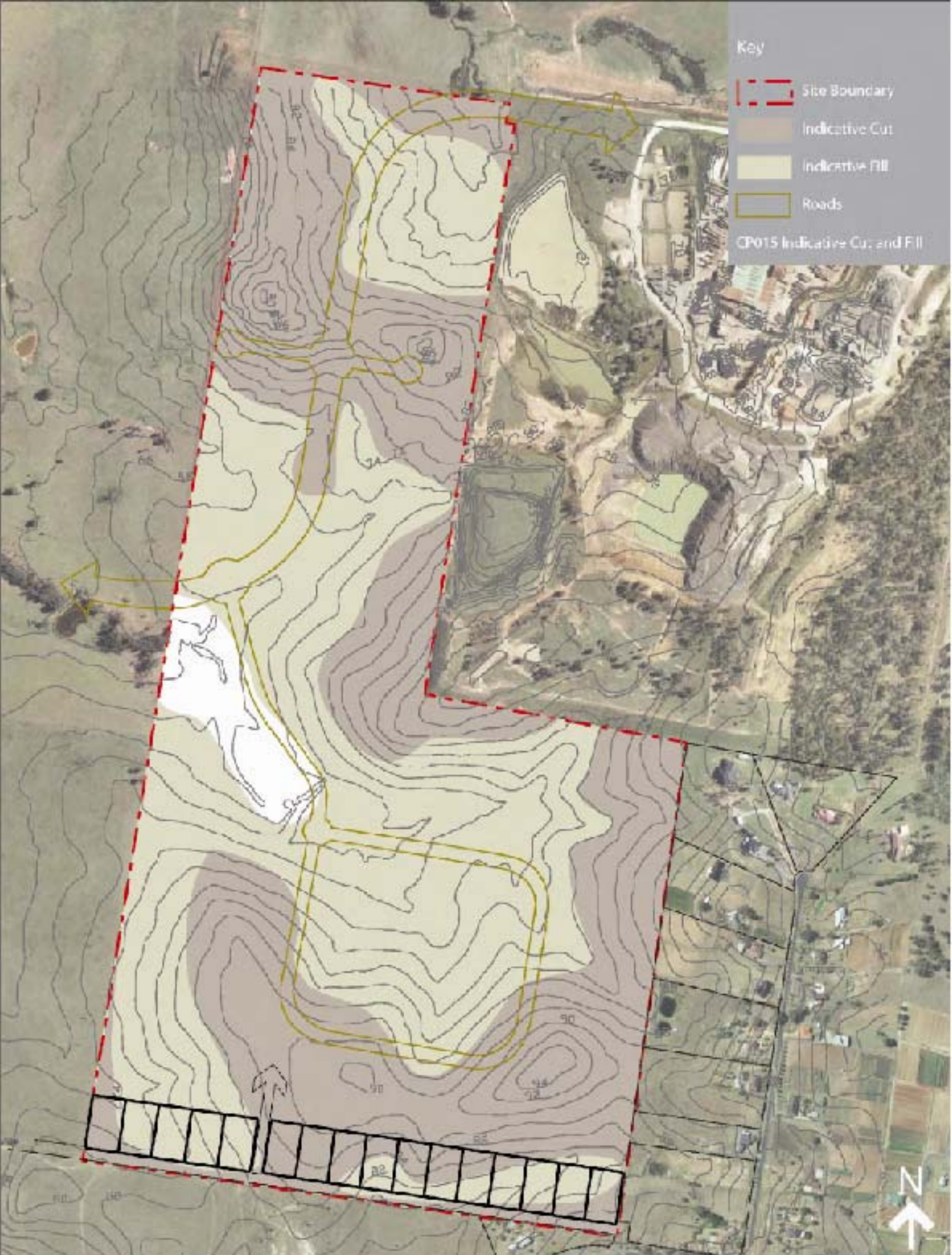
Recommendations:

- Landscape design should be used to soften the impact of buildings and as a visual element between street and the development. A buffer zone on the southern edge of the site with dense landscaping will aid in mitigating negative impacts of the industrial precinct on its surroundings. (pg 16)
- Generally Council have a strong Landscaping DCP and all landscaping elements should adhere to it.

Key

-  Site Boundary
-  Indicative Cut
-  Indicative Fill
-  Roads

CP015 Indicative Cut and Fill



Lot A Burley Road, Horsley Park Employment Precinct - Indicative Cut and Fill

Prepared for JacFin Pty Ltd
23 Nov 2010
1:5000 @ A3

Key Points from SEPP Western Sydney Employment Area 2009

Zone IN1 General Industrial

A key objective of this zone is to “minimise adverse effect of industry on other land uses”.

To encourage a high standard of development that does not prejudice the sustainability of other enterprises or the environment.

Clause 21 Height of Buildings

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

- Building heights will not adversely impact on the amenity of adjacent residential areas
- Site topography has been taken into account.

Clause 23 Development Adjoining Residential Land

This clause applies to any land that is within 250 meters of the land zoned primarily for residential uses.

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

- Noise generation from fixed sources or motor vehicles associated with the development will be effectively insulated or otherwise minimised.
- The elevation of any building facing, or significantly exposed to view from, land on which a dwelling house is situated has been designed to present an attractive appearance.
- The development will not otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting or the like

Horsley Park Industrial Estate Environmental Assessment Report (JBA Planning)

- Suggests building heights that do not conform to those stipulated in the Penrith DCP.
- Suggests extensive cut and fill operations on the site.
- Suggests that warehouses in the South East corner of the site will have loading docks on the West to minimise impact to the residential developments on Greenway Place. This does not necessarily mitigate adverse impacts to potential residential development to the south, namely Capitol Hill.
- Suggests that development will occur in highly visible / open areas, yet has not clearly stated whether the façade of the building will mitigate noise generation or effect views.
- Horsley Park Industrial Park is seeking approval for 24 hour operation, 7 days a week.

Recommendations from Pazit

- A visual impact assessment should be undertaken to confirm that any residential development occurring on the Capitol Hill, Mount Vernon Site is not adversely affected.
- Council may want to consider the natural topography of the land and the efficiency of such extensive cut and fill operations.
- Consider reorienting the loading docks of the warehouses on the Southern boundary to the north
- Consider impeding views from the residential areas using strategically placed landscaping elements. A visual analysis study should also be undertaken prior to approval.
- Council should reconsider the hours of operation to 7am-10pm Weekdays.



Sebastian Giglio

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Page 1 of 6

17 May 2011

Dino Seraglio
Lot 166 Capitol Drive
Mt Vernon NSW 2178

By Facsimile: 9620 2035

Dear Sir,

Burley Road Subdivision – Review of Wilkinson Murray Acoustic Assessment

This letter presents a summary of my review of the Wilkinson Murray Pty Ltd (WMPL) Report:

- *Lot A Burley Road, Horsley Park Employment Precinct Concept & Stage 1 Project Application – Noise & Vibration Impact Assessment*, Report No. 10096, Version F, December 2010

I have also reviewed parts of the Report prepared by JBA Planning Pty Ltd:

- Environmental Assessment Report – Lot A Burley Road, Horsley Park Industrial Estate – Concept Plan & Concurrent Project Application for Employment Lands and Stage 1 Industrial Development, Ref: 10002 March 2011.

These reports were obtained from the NSW Department of Planning Web site:

- http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4126

The WMPL Report presents an assessment of the following items:

- Noise from general construction activities on the site;
- Potential operational noise emission from the site, including assessment of 15-minute average sound levels (typical worst-case) and sleep disturbance.

The WMPL Report is based upon the following concept plan, see Figure 1, which is taken from the *Environmental Assessment Report*.

Building Acoustics: Sound Insulation, BCA Compliance, Offices, Studios, Auditoriums ♦
Noise: Transportation(road, rail, aircraft) ♦ Mechanical Services ♦ Domestic Airconditioning ♦
Environmental ♦ Occupational ♦ Industrial

Figure 1 Concept Plan used for WMPL Acoustic Assessment**Figure 18 – Proposed Concept Plan**

The site is approximately 100 hectares (1,000,000m²), with lot sizes as shown, from approximately 30,000 to 50,000m², with large warehouse or factory-type development on each Lot.

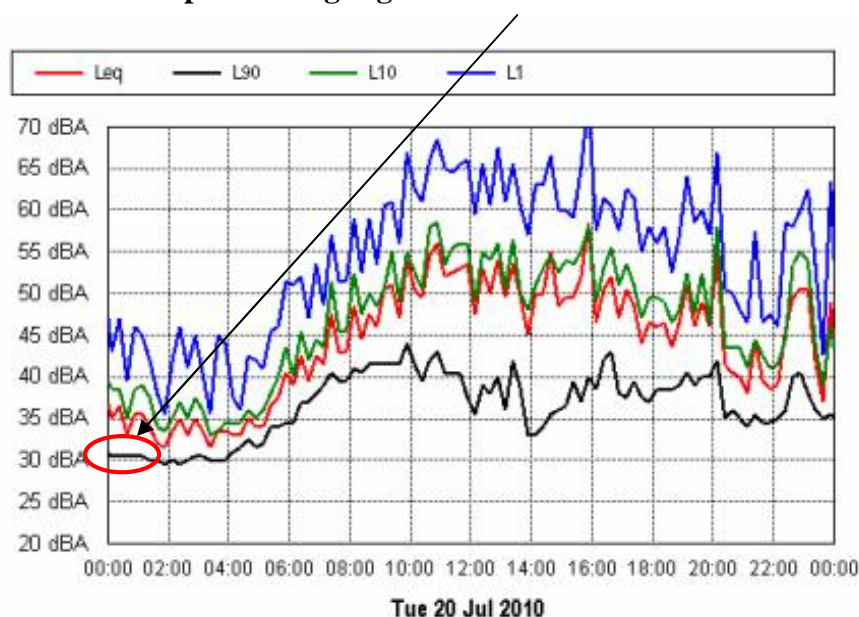
The WMPL Report provides an assessment of noise emission from the whole site, as well as considering noise emission from individual Lots. The fact is that each Lot will require its own Development Application and so must submit its own an acoustic report. According to the WMPL Report, each Lot is required to meet a noise emission goal 5dBA below the overall site noise emission goal.

There were a small number of typographical errors noted in the WMPL Report. For example:

1. The note to Table 4-2 states that “ $110-10\log(10/900)+5 = 95\text{dBA}$ ”. The “minus” sign should be a “plus”.
2. Table 6-1 notes compliance for Location D (Greenway Place) but this is clearly not the case – 50dBA predicted construction noise and 41dBA Construction Noise Objective.
3. On Page 20, the Report recommends “5 n” high noise walls. This should be “5 m”.

Overall, the Report appears to present a reasonably straightforward noise assessment of the noise emission from the proposed site development, given the concept presented. However, I have a few comments, as follow:

- A. There is insufficient information provided to enable the predicted noise emission to be checked in even a cursory way. For example, the height of the warehouse buildings assumed to be noise barriers is not explicitly stated and the presumed locations of loading docks etc, as used in the acoustic predictions described, are not shown in sufficient detail.
- B. The noise goals set for the Horsley Park area (to the south of the development site) are based on noise logger data that appears to show some “flat lining” in the L_{A90} data. See Figure 2. Flat lining indicates that the noise logger is recording the level of noise from an existing mechanical noise source such as a fan or air-conditioner. The true background sound level may have been lower than indicated by the flat-line level. In this case, the potential error is relatively minor – the noise logger does show some periods with very slightly lower noise levels. Also, the RBL was found to be 32dBA, whereas the minimum that the EPA allows is 30dBA, anyway. It is possible that the 32dBA level is correct but it would be preferable if the logger data was unambiguous, otherwise it is possible that the allowable noise emission at night-time could potentially be 2dBA lower than quoted in the WMPL report.

Figure 2 Graph showing region of “flat line”

- C. The WMPL Report recommends construction of 5m tall noise walls in the gaps between the three eastern warehouse facilities. It is not clear why similar noise walls would not be required to protect residences to the south and south-west of the site.
- D. The WMPL Report recommends the 5m noise walls be constructed in the gaps between buildings. However, these buildings are likely to be constructed over a long period of time, months or even years. Therefore, the noise shielding assumed by the buildings and walls will not be in effect until all of these buildings are in place. It would be more useful if continuous 5m noise walls were to be constructed as the first stage of works on the site. These walls would then provide some attenuation of other construction works; which it is noted in Table 6-1 of the WMPL Report, will significantly exceed the Construction Noise Objective at some noise receiver locations.
- E. Table 6-1 of the Report and the subsequent discussion notes that construction noise around Sydney typically exceeds Construction Noise Objectives as a normal occurrence. I agree that this is often the case – it is an unavoidable fact of development and construction in or near already developed areas – however, there is no estimate of the percentage of time that the noise is predicted to exceed the Construction Noise Objective. If it were for 10% of the time and the construction duration was short, then this may be considered reasonable. However, it is likely to be more than 10% of the time during the allowed construction hours and therefore is a potentially significant impost on nearby residences. It is also likely that construction will take place over many months or even years, as the construction of the different Lots will be staggered in time. Therefore, I consider it appropriate that additional construction noise control measures should be considered, in addition to the ones recommended in the WMPL Report. One such measure that could be implemented is already mentioned above –

that is, the construction of a continuous 5m noise barrier around relevant parts of the site, as one of the first items of construction on the development site.

- F. The predicted noise levels in Section 7 of the WMPL Report assume shielding via buildings as indicated in Figure 1-2 of that Report. It will take time for these buildings to be constructed and until they are all in place, the actual noise shielding will be less than assumed in the noise prediction model.
- G. In Section 7.5 and Section 9.1 of the WMPL Report, the large warehouses have been grouped together for noise assessment purposes as a means to limit the total cumulative effect of the different developments. Therefore, each individual “Lot” has a noise goal to be adopted that is 5dBA lower compared to the noise goals outlined in Table 3-3. It is arguable as to how many Lots should be grouped when considering the cumulative total. The WMPL Report has grouped 3 Lots at a time – hence the 5dBA lower noise goal. It could be argued that for some noise receivers, the “noise cumulative group” could be up to 7 Lots – which would mean an 8dBA lower noise goal for each Lot rather than 5dBA.
- H. In order to protect residential amenity, I would recommend that each Development, as well as having its own DA Acoustic Report, should also have its own Compliance Acoustic Report at the completion of the Lot development.
- I. The main issue to be addressed is whether the Concept assumed in the Acoustic Report is adequate. The Environmental Assessment Report – in Section 4.5 of Volume 1, and in Section 2.1 of Appendix L – nominates potential Lot sizes much smaller than those shown in the Concept Plan that was used for the Acoustic Assessment. For example, 1,500m² is nominated as the minimum Lot size in Section 4.5 and 2,000m² is nominated as the minimum Lot size in Appendix L.

The WMPL Noise and Vibration Report was based on Lot sizes of approximately 30,000 to 50,000m². The potential number and location of noise sources was based on only 20 or so of these large Lots, as shown in the Concept Plan. The proponent wants to retain flexibility to adapt the site as market conditions may vary in the future and so has nominated minimum Lot sizes of 1,500 or 2,000m² (it is not clear which).

Small Lot sizes have the potential to significantly alter the potential noise emission from the development. Small Lots mean a potentially much larger number of noise sources, thereby increasing the cumulative total of noise emission. Small Lot sizes would also have implications for the shielding of noise assumed in the WMPL Report, which was based on large (up to 13m tall according to the EA report) warehouse-type buildings.

If small Lots are developed, then it will be much harder for Council to keep track of the cumulative noise emission. For example, instead of there being one group of noise sources on a Lot of say 50,000m², there could be 20 noise source groups covering the same area, on Lots as small as 2,000m².

- J. On a related issue to the last point, the WMPL Report does not state what materials are assumed for the construction of the warehouse buildings. Large warehouse-type buildings are often constructed using tilt-up concrete panels for the walls, but can also be constructed using lightweight cladding materials for the walls. If the internal space of such a building with lightweight cladding is internally damped acoustically, then it can form an effective acoustic barrier. However, if a lightweight building is internally reverberant then it may not be an effective acoustic barrier for either internal or external noise sources. This issue should be addressed in the Acoustic Report. Noise shielding provided by the buildings, both in terms of shielding internal as well as external noise sources, has the potential to be reduced if the construction is lightweight cladding rather than heavy masonry or concrete.

Conclusion

This letter has presented a brief analysis of the Wilkinson Murray Pty Ltd *Noise and Vibration Impact Assessment* report for the proposed Burley Road subdivision. I have noted a few comments regarding the Report as presented – based on the published Concept plan. These issues should be addressed by the provision of additional information and more robust acoustic control measures, in order for an adequately comprehensive treatment of the potential acoustic issues.

The main issue that has been noted is that the WMPL report only presents potential noise emission for a single development scenario, that is, the Concept Plan as presented. The actual development may proceed quite differently from the Concept Plan, with a much higher number of potential noise sources on smaller lot sizes; therefore the noise emission may also be quite different. In order to be able to fully consider the implications of the proposed development, it would be necessary for noise emission scenarios to be considered based on alternative Concepts.

I trust this information is sufficient for your current purposes. Please do not hesitate to contact me to discuss anything further.

Yours sincerely,



Sebastian Giglio

Please note that this correspondence has only addressed the acoustical issues discussed. Other aspects of building design, such as fire-rating, structural and waterproofing considerations must be referred to others.



Figure 18 – Proposed Concept Plan

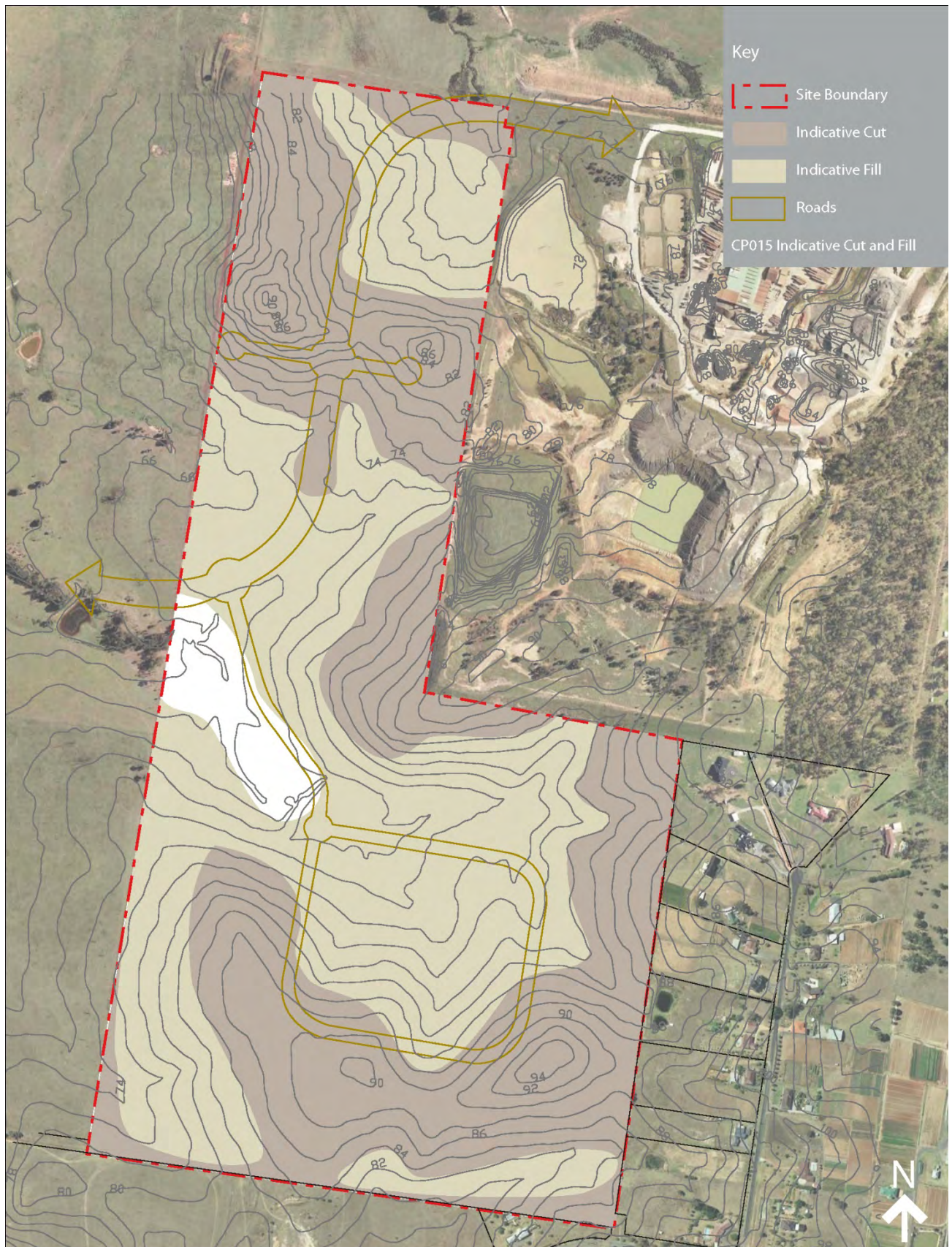


Figure 27 – Areas of Cut and Fill

1.0 Introduction

1.1 Purpose of this Report

Pazit Pty Limited, the owners of Lot 166, Capitol Hill Drive, Mount Vernon, commissioned this report. The report considers the potential for industrial development on the subject land owned by Jacfin, Lot A in DC 392643 Burley Road Horsley Parkland (the subject land) to impact on the amenity and views of adjoining residential land.

An assessment of the subject land was conducted on the basis of field work and observations carried out on 9 and 10 May 2011. I am very familiar with the immediate and the wider locality having carried out a number of consultancies for Penrith Council and for private clients within the vicinity. I have a good general knowledge of the landscapes, localities, settlements and transitional changes that have occurred and are planned to occur within the relevant part of the Penrith and Fairfield LGAs.

1.2 Relevant Experience

I am an expert consultant specialising in visual impacts and landscape heritage matters and I have had extensive experience in assessment and strategic planning with regard to scenic resource management. My company specialises in visual impacts and planning for visual protection and landscape heritage conservation. I have 30 years of experience in landscape planning and heritage conservation and have published extensively in local and international journals on perception, aesthetic assessment and landscape management.

I act as an independent consultant to private clients, property developers, government agencies, local councils, architects, town planners and others, providing services including pre-design and pre-DA advice on visual impact and urban design matters, assistance with development applications, visual and heritage impact assessments, and advocacy services, including expert witness provision. I also specialise in strategic planning services including DCPs and local and regional environmental studies of scenic and heritage resources.

Richard Lamb and Associates (Richard Lamb and Associates) has wide experience in relation to visual assessment and urban design within the development industry and in responding to the requirements of all levels of government authorities, developers and community groups..

I have extensive experience in providing expert evidence to the Land and Environment Court of New South Wales and the Planning and Environment Court of Queensland representing both private and government stakeholders in merits cases and cases regarding visual impact and urban design, landscape assessment and scenic protection planning in more than 150 matters. A comprehensive company profile and curriculum vitae for Dr Lamb can be viewed at www.richardlamb.com.au.

1.3 Documents Consulted

- Preliminary Environmental Assessment prepared by JBA Planning, dated July 2010.
- Environmental Assessment Report (EAR) Vols. 1 and 2, prepared by JBA Planning, dated March, 2011.
- Relevant Appendices to the EAR, being:

- Appendix B (Control Plan: Topography Map)
- Appendix H (Compliance Tables)
- Appendix J (Plans 1 and 2)
- Appendix L (Site Development Guidelines)
- Appendices Q1 and Q2 (Landscape), and:
- Appendix T (Visual Assessment).
- State Environmental Planning Policy (Western Sydney Employment Area) 2009.
- Director General's Requirements (DGRs), dated 5 August 2010.
- Report to Outcomes Committee of Fairfield Council dated 10 May 2011, Item Number 81.

1.4 Background

The subject land is zoned to permit the proposed use and is subject to the provisions of SEPP (Western Sydney Employment Area) 2009 (SEPPWSEA).

The Jacfin land has been determined by the Minister to be a Major Project and is the subject of an application for approval of a Concept Plan (10-0129), to establish an industrial and employment park and associated infrastructure on the subject land. The application includes a Project Application (10-0130) for Stage 1 of the development, which includes subdivision of the site and development of a warehouse building and associated landscape and infrastructure. This part of the application is not considered in detail in this report because it does not have significant potential visual impacts on properties that are relevant under the provisions of SEPPWSEA.

This report considers the remainder of the Concept Plan application with regard to the existing visual context, the relevant planning controls and policy, and the visual resources of the site. The report specifically concerns whether the Application satisfies the Director General's Requirements for assessing the potential environmental impacts of the proposed development with regard to visual impacts and visual amenity of adjacent residential land.

1.5 Statutory Provisions relevant to assessing Visual Impacts of the Application

1.5.1 Provisions of SEPPWSEA

Clause 21

Clauses 21 and 23 of SEPPWSEA are of special relevance to visual impacts.

Clause 21 states that the consent authority must not grant consent to development on land to which SEPPWSEA applies unless it is satisfied that:

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

Summary of Findings in relation to Clause 21 of SEPPWSEA

Clause 21(a)

Building heights will adversely impact on the amenity of adjacent residential areas. Both existing residential properties on Capitol Hill Drive and Greenway Place and land zoned for residential purposes for which there is an existing subdivision plan

and being developed in sequence, owned by Pazit Pty Ltd, will be affected. The impacts of future building heights have not been adequately addressed.

Clause 21(b)

The site topography has not been taken into consideration in the proposed development. The capacity of the existing topography to significantly decrease impacts on residences on the Pazit land and on lots in Capitol Hill Drive, such as No.1, has been ignored.

Clause 23

1.4.2 Clause 23(1) of SEPPWSEA, Development adjoining residential land, applies to the subject land, because it is within 250m of land zoned primarily for residential purposes. Relevant to visual impacts and amenity, Clause 23(2) states that the consent authority must not grant consent to development on land to which this clause applies unless it is satisfied that:

- (a) wherever appropriate, proposed buildings are compatible with the height, scale, siting and character of existing residential buildings in the vicinity, and
- (b) goods, plant, equipment and other material resulting from the development are to be stored within a building or will be suitably screened from views from residential buildings and associated land, and
- (c) the elevation of any building facing, or significantly exposed to view from, land on which a dwelling house is situated has been designed to present an attractive appearance, and
- (e) the development will not otherwise cause nuisance to residents, by way of hours of operation, traffic movement, headlight glare, security lighting or the like, and
- (g) the site of the proposed development will be suitably landscaped, particularly between any building and the street alignment.

Summary of Findings in relation to Clause 23

Pursuant to Clause 23(1), the proposal does not recognise the constraint imposed by the need to consider impacts on residential land within 250m of the subject land. The assessment is inadequate and it considers a small sample of existing residences only.

- (a) the proposed buildings are not compatible with the height, scale, siting and character of existing residential buildings in the vicinity. The same comment will apply when further residences are built on the Pazit land adjacent to the southern boundary of the subject site.
- (b) there is no proof that items capable of causing visual impacts will be suitably screened from views from residential buildings and associated land.
- (c) the montages presented show little consideration of a need for elevations exposed to residential properties being designed to present an attractive appearance, and
- (e) there is no proof that traffic movement, headlight glare, security lighting or the like will not have significant impacts on existing and future residences; the buffers are inadequate and not appropriately landscaped.
- (g) there is no overall landscape plan that shows that the development will mitigate impacts on the streets affected.

1.5.2 Director General's Requirements

The General Requirements of the DGRs call for:

- 1 under the second dot point, for the EAR to include a detailed description of the project, including a consideration of alternatives.
- 2 under the fourth dot point, a detailed assessment of key issues that includes:
a description of the existing environment using sufficient baseline data,
an assessment of the potential impacts of the project, including any cumulative impacts, taking into consideration any relevant guidelines, policies, plans and statutory provisions, and
A suitable assessment (of other issues specified below), outlining the measures that would be implemented to minimise the potential impacts of the project (my parentheses).

Summary of Findings in relation to General Requirements of the DGRs

- 1 there is no consideration of alternatives as regards limiting visual impacts.
- 2 there is inadequate assessment of the relevant key issues, including:
the description of the existing visual environment,
the assessment of the potential impacts of the project is inadequate,
the measures that would be implemented to minimise the potential impacts of the project are unconvincing and inadequate.

DGRs Key Issues : Site Layout and Design

The reference under dot point four of the General Requirements of the DGRs to matters below, to take into account, is to Key Issues. These relevantly include Site Layout and Design, and Visual.

Site Layout and Design, among other things not directly relevant to visual impacts, require:

details of subdivision of the site, including site coverage, lot sizes and positioning of lots;

details of how the proposed layout and development of the project would be undertaken to minimise potential impacts on nearby sensitive receivers;

details of a development control plan that includes (relevant to visual impacts) controls for, but not limited to, building heights and design, setbacks, floor space ratio and landscaping.

Summary of Findings in relation to Key Issue Site Layout and Design of the DGRs

The subdivision of the southern part of the subject site has not been considered so as to minimise impacts on nearby sensitive receivers (ie. residential properties and existing and future residences).

There is no development control plan proposed.

DGRs Key Issues : Visual

Key Issue Visual requires:

- a detailed description (including photomontages) of the measures to be implemented to:
 - ensure the project has a high design quality and is well presented,
 - manage the bulk and scale of the buildings,
 - minimise the visual impacts of the project, particularly from any nearby residential properties, and
- a detailed landscaping, lighting and signage strategy for the whole site.

Summary of Findings in relation to Key Issue Visual of the DGRs

- there is not a detailed description of the measures to be implemented and the montages are not representative of what is proposed and are unsatisfactory:
 - there is little evidence that design quality has been a consideration,
 - the bulk and scale of the buildings have not been managed adequately,
 - the measures proposed to minimise the visual impacts of the project from nearby residential properties are inappropriate, and unrealistic.
- there is, as far as I am aware, no detailed landscaping, lighting and signage strategy for the whole site.

2.0 Visual Assessment

I undertook a more detailed analysis of the visual context and character of the subject land when viewed from the relevant public and some of the private domain locations that are relevant to the visual context of the application. This assessment follows.

2.1 Character of the Subject Site Seen from Residential Land

The southern part of the subject land is the subject of this assessment. The northern part, including the site of the Stage 1 application is not of significant visibility from residential land in Mt Vernon. The land is cleared of any former native vegetation and is grazing land in character.

The land slopes generally to the west from three high points, two of them on the boundaries of the land (see Figure 13 of the EAR at Page 10). A ridge runs to the west and northwest approximately parallel to the southern boundary of the site. The intrinsic scenic quality of the land is moderate. The northern boundary of this part of the land is shared with the nearby quarry, which features a tall, linear, vegetated and steep sided bund wall.

The subject land is predominantly of rural character at present even though it is viewed from most locations to exist within a larger urban or residential context. The existing immediately adjacent residential context is provided by existing development established in Greenway Place and Capitol Hill Drive on the east and southeast edges of the subject land respectively.

There is a significant area of land zoned for residential use abutting the southern boundary belonging to Pazit Pty Ltd, which is sequentially being developed and released for sale. The EAR makes no mention of this potential conflict of land uses along the boundary and does not propose any measures to manage this impact in the future.

2.2 Visual Context

The adjacent residential land in Greenway Place generally enjoys panoramic views over the subject land toward the Ropes Creek valley to the west and the Blue Mountains Plateau beyond. The land adjacent to the southeast corner of the subject land, including the Pazit land, has views to the northwest restricted by the ridge inside the subject land that is parallel to its southern boundary. The ridge provides a scenic backdrop to the view nonetheless. The proposal is to remove the ridge and replace the form removed with very large buildings instead, between which there will be little in the way of access to the view beyond.

2.3 Visual Resources of the Subject Land

The subject land is a significant visual resource to the public in Greenway Place and to private residential land owners. Future development of the subject land is appropriate given the zoning and strategic significance of the locality generally. It can be compatible with retaining critical aspects of that resource, but requires a closer examination of the nature of the resource and constraints on its recognition and management in the future.

We consider that :

- The primary existing visual resource value of the subject land is the undeveloped backdrop/foreground it provides to significant views in the public and private domain. The existing ridge topography provides a natural buffer between future residential and future industrial development for the Pazit land.
- The EAR does not acknowledge the presence of future residential development along the whole southern boundary of the subject land (Pazit land), nor the value of the existing topography or future topography as a means to control the impacts.
- The second primary resource value of the subject land is to maintain a sense of separation between the residential land and the perception of expanding industrial development. The residences on Greenway Place and Capitol Hill Drive will be faced with a totally transformed scenic quality that removes the natural topography in toto. The landscape scenic quality will decrease from a present moderate quality foreground and high quality background, producing a significant and valuable composition, to a low quality industrial view dominated by large buildings, roofs and hard surfaces.
- The visual quality and character of the existing slopes and ridge are considered to be a significant resource to be protected and promoted to achieve each of the above implicit aims, ie. remain an undeveloped backdrop, a separating element between the residential area and industrial development beyond and an interface that is compatible with the competing values across the boundaries of both kinds of land.

2.4 Lack of Sensitivity of the Application to the Scenic Resources

The EAR acknowledges the differential sensitivity of the subject land in relation to adjacent residential users (Figure 39 at page 70). However the proposal is insensitive to this assessment. Rather than acknowledging that this sensitivity demands a solution that is relevant to the different constraints that occur along each

boundary, it takes a gross solution instead, that ignores the topography and proposes extensive cuts and earthworks across the entire site.

A reasonable proposal would consider how to locate development in a way that satisfies the requirements of Clauses 21 and 23 of SEPPWSEA without destroying the amenity and views of virtually every adjacent residential property. The sensitivity that is the highest on the plan at Figure 39 is land that is proposed to be cut in the Areas of Cut and Fill Plan (Figure 27 at Page 33 of the EAR).

It appears, rather than being a matter to be taken into account in providing a sensitive outcome, that the topography of the subject land has been considered no more than a constraint on providing a large area of flat land for industrial units in the application. The fact that the land adjacent to residences is sensitive did not produce an outcome sensitive to the existing landform, scale of the buildings, or landscape character.

The cut and fill diagram shows virtually none of the site will escape from landform modification. However since the original topography is shown at one scale and contour interval (Figure 13) and the cut and fill is shown at another (Figure 27), while there is no final landform plan that shows the internal topography or the cuts and fills that are presumably around the perimeters, it is difficult to ascertain precisely what is proposed.

With regard to adjacent residential properties above the site, the solution to visual impacts is to cut the site and sink the buildings into it. The buildings are of the maximum heights permissible and do not relate to the heights, scales, siting or character of the adjacent existing and future residential land adjacent. Had the proposal been for a lower form of development in the areas identified as sensitive in the EAR, such as a business park or large lot residential development, the application might satisfy the specific requirements of Clause 23(2)(a) of SEPPWSEA. As it is, it does not, in my opinion.

However this is by no means the end of the matter with regard to topography. Leaving aside the issue of whether deep cuts are appropriate at the eastern boundary at all, for the moment, the depth of cut shown on the plans does not appear to accord with the descriptions in the EAR. The EAR claims that building footprints are intended to be up to 13-18m below the levels of dwellings in Greenway Place, whereas interpretation of the contour and cut and fill plans seems to indicate that the nearest buildings may be as little as 3-4m below the levels of some of the dwellings.

Relative to the Pazit land, the landform adjacent to the northern boundary in the subject land appears to be predominantly similar to the existing levels, but with the ridge inside the site removed. When the factories are built, up to 14m in height, they will replace the existing topography that is prominent toward the east of the property and in the centre and western part replace existing and newly created views towards the northwest with a wall of buildings. There is no proposal for any impact mitigation after the first 300m from the eastern corner of the property adjacent to Capitol Hill Road.

2.5 The Visual Assessment

The visual assessment of the entire site depends on observations from a small number of viewing points (Appendix T to the EAR).

As indicated above, the southeast part of the land is of the highest sensitivity recorded in the study area (Figure 12). High to moderate sensitivity applies to the entire boundary with the Pazit land. However, there is no specific response to this sensitivity in the design of the development proposed. On the contrary, there is a

proposal for a high fence and earth banks along about 300m of the boundary from the eastern corner. These devices have not been designed and are said to be for future detail, so the visual impacts cannot be determined. One is expected to take on faith that they will reduce, rather than increase, impacts.

The main measure to reduce visual impacts on views from the east and south east is to sink the buildings into the ground. However, the topography of the site is undulating and has the greatest cross falls adjacent to the east and south east boundaries. This means that this is the area that would inevitably be cut the most to produce flat building platforms and as such the mitigation of visual impacts by lowering the buildings seems to be more of an afterthought than a strategy.

The effect of this on the landscape is shown in Figures 17 and 18, which claims a footprint level for the nearest building to 30-32 Greenway Place and 14-20 Greenway Place that are each 18m below the level of the dwelling. This does not seem possible when the cut and fill plan is inspected. In addition to the cut, there are unspecified earth banks, fences and landscape proposed along, or inside, the boundary. These are again to future detail and presumably there are also significant retaining and drainage structures in the walls that are unspecified.

If one assumes this to be correct however, the montage (Figure 15) that shows the relationship between the view from the road and this building does not seem correct. A viewer should be looking only slightly downward onto the roof of the proposed building and see virtually none of the side elevation. However, in the montage, the side wall of the building is visible, meaning that it is shown to be too far away from the viewer to be correct and therefore it may be too small to be realistic, regardless of its height relative to the viewer's eye.

An alternative strategy would be to have buildings of a smaller footprint, lower height, greater setbacks, greater interest and higher quality, in a wider landscaped setting and making use of the existing topography. A buffer that was composed of a business park, rural residential, large lot residential, or a mixture of these could retain the predominant scenic resources of the land and the views, while providing a land use layout sensitive to the constraints. The large, flat building sites could be more towards the middle of the site instead of along the periphery.

2.6 Photomontages

The Visual Assessment is accompanied by a small number of photomontages. Those in the Appendix to the EAR are not all the same as those in the EAR, the reasons for which are not explained. There are differences in the sizes, shapes, locations and landscaping of the buildings and there appear to be differences in side setbacks in some cases.

In relation to the montages in Volume 2 of the EAR, I have a number of comments, as follows.

Figure 41

The side setbacks on both the south (left) side and the east side (toward the viewer) are greater than is proposed. The natural appearance of the area between the building and the boundary is unlikely to be correct, given that there is proposed to be a very deep cut close to the boundary and demarked by a straight line. There is no landscape plan that shows what the buffer should be like and as such the buffer area is an artist's impression, not a representation of reality of the application. There is proposed to be a fence, earth mound and other features at the top of the cut, which do not appear to be shown.

On the right side of the montage is a hill with trees on it. This hill has a demountable cottage on it in reality. In the plans, this hill is proposed to be cut down to a flat surface on which the building is standing. All of the topography in the montage that is to the right of the building is incorrect. The remainder of the buildings in the southern part of the development site to the right of the view should be dominating the remainder of the view. The impression of a building or two standing in a natural setting is at the best an illusion.

Figure 13 of Appendix T may be slightly more correct, however given the inaccuracies of the other montage that shows the same view place, there is little confidence that can be placed in either. The illusory quality of the right side of the view has been corrected; however the building in the middle of the view is proposed to be in a deep cut according to the sections through this boundary. What appears to be most of the side wall toward the viewer is visible in this view, which questions whether it appears to be the correct height or distance from the viewer. Compared to Figure 41, the side setback on the left appears to have decreased to a more realistic distance from the side boundary with the Pazit land on the left.

Figure 42

The montage shows a view across the Pazit land from Capitol Hill Road (Figure 42 at Page 71 of the EAR). It shows a row of small trees (these are approximately 5m high) that are along the alignment of a paper road inside the boundary of the Pazit land. It also shows that this vegetation has somehow been added to and thickened in density. This appears to be artistic license, because this vegetation does not belong to the applicant. Notwithstanding, it is obvious that the heights of the buildings shown inside the subject land, which are at a setback of only about 30m, are incorrect.

The photomontage also shows two buildings with the same approximate size and proportions toward the front of the site (on the right). In fact, the first should be side on and appear to be about half the width of the second in the view. Curiously, the same view is shown in a montage in Appendix T at Figure 14, but the buildings shown are not the same, either in location or in scale. Again, it does not seem possible to reconcile the shape and locations of the buildings with the plans.

Figure 43

The montage appears to be the same as Figure 15 of Appendix T. It shows buildings that appear to be too far away from the viewer to accord with the sections which show a notional relationship between them and the residence to the right of the photograph, as discussed above. If the building is in a cut 18m below the level of the dwelling, there would be none of the side wall visible in the foreground. The proposed fence, earth bank and landscape are not shown. I do not know where the trees that are shown growing between the building and the viewer are springing from.

2.7 Overall

In my opinion the visual impacts assessment is not adequate for a variety of reasons. I consider that it is not consistent with the statutory provisions of SEPPWSEA and does not satisfy the specific requirements of Clauses 21 and 23. The building heights will adversely impact on the amenity of adjacent residential areas and the consent authority cannot be satisfied that it has been proven otherwise. The site topography has been ignored rather than taken into consideration.

The topography as it exists has a significant capacity to reduce impacts on views from residences in the southern part of Greenway Place, in Capitol Hill Drive and on the future subdivision of the Pazit land. This possibility has not been explored in the application, which has not considered any options other than the plans proposed. As such the application also fails on one of the first DGRs.

The application recognises the proximity of residences inside the 250m distance relevant to the SEPPWSEA, but, it does not attempt to manage the impacts of development inside its own land other than in a cursory way. It would be more appropriate for the development to share some of the responsibility for managing the impacts by proposing specific controls over subdivision, building locations and heights, design, setbacks, FSR and landscaping.

3.0 Conclusion

In my opinion the application cannot be supported at this time. The visual assessment is not adequate and the strategies that are proposed for mitigation of visual impacts on residential land are inconsistent and unconvincing. The layout of the proposed development is in my opinion not consistent with the scenic and landscape resources that are enjoyed by existing residents in Greenwood Place and Capitol Hill Drive and which deserve to be enjoyed by future residents of those areas and also the Pazit land.

The applicant should be required to reconsider the layout of the proposed development so as to make use of the topography, relate the size of buildings on the eastern and southern peripheries of the subject land more appropriately to the scale of adjacent buildings and mitigate the visual impacts of the scale and appearance of the proposed buildings in a way that relates to the sensitivity of the site identified in the EAR.

As a part of that reconsideration, the visual assessment should be carried out in a comprehensive and systematic way with a fully explicit, consistent and justifiable methodology that can effectively answer the statutory framework and the DGRs.