



Visual Impact Assessment

Proposed industrial Development

State Significant Development Application_6917

by Goodman Property Services (Aust) Pty Ltd

Oakdale South Estate

Prepared by: Dr Richard Lamb

Prepared for: :Pazit Pty Ltd

December, 2015



1.0 Introduction

1.1 Purpose of this Report

Dino Seraglio, Director of Pazit Pty Ltd (Pazit), owners of Lot 166, Capitol Hill Drive, Mt Vernon, commissioned this report from Richard Lamb and Associates (RLA). The report considers the potential for State Significant Development Application 6917(the SSDA) by Goodman Property Services (Aust) Pty Ltd (Goodman), Oakdale South Estate (OSE), to impact on the amenity and views of the adjoining land owned by Pazit, at Mount Vernon.

Goodman seeks staged development consent for the OSE, including all estate works and Stage 1 Precinct Development for Precincts 1, 4 and 5. Precinct 5 abuts the boundary of Pazit land. The subject OSE land is zoned IN1 General Industry and E2 environmental protection and is part of the Western Sydney Employment Area (WSEA). The adjoining Pazit land is zoned E4 Environmental Living in the Penrith LEP 2010.

1.2 Relevant Experience

Richard Lamb and Associates (Richard Lamb and Associates) have 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.

Richard Lamb is the principal of RLA, author of this report and a consultant specialising in visual impacts and landscape heritage matters and has had extensive experience in landscape assessment and strategic planning with regard to scenic resource management. 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, government agencies, local councils, architects, town planners and others, providing services from pre-design on development applications to planning proposals for urban developments, industrial estates and resource and infrastructure developments. I also specialise in strategic planning services including planning proposals, SSD applications, EAs and EISs.

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 200 matters. A comprehensive company profile and curriculum vitae for can be viewed at www.richardlamb.com.au.

1.3 Documents Consulted

- Environmental Impact Statement (EIS), Oakdale South Estate SSD Application, prepared by Urban Advisory Services Pty Ltd , dated November, 2015.
- Appendix D to the EIS, Master Plan Drawings, prepared by SBA Architects, dated 4 September, 2015.



- Appendix F to the EIS, Stage 1 Development, Architectural Drawings, prepared by SBA Architects, dated 4 September, 2015.
- Appendix G_6 to the EIS, Landscape Architectural Drawings, prepared by Site Image Landscape Architects, dated 4 September, 2015.
- Appendix H to the EIS, Design and Public Domain report, prepared by SBA Architects, Issue A, dated September, 2015.
- Penrith Local Environmental Plan 2010.
- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Western Sydney Employment Area) 2009 (SEPP WSEA).
- Secretary's Environment Assessment Requirements Oakvale South Industrial Estate (SSD 15_6917)

2.0 The application

The subject land is zoned to permit the proposed use and is subject to the provisions of SEPP WSEA.

The majority of the proposed development is not of concern to Pazit. However, the proposal specifically includes building 5A in Precinct 5, the building with the largest footprint in the stages subject of the application, which closely approaches the boundary with Pazit land.

Building 5A has the biggest floor plate in the estate (80,000 m²) with 10 covered, external loading bays adjacent to northern building façade and 13 covered, external loading bays adjacent to the southern building façade. Adjacent to the covered bays on the southern side are 14 recessed docks.

Facing the Pazit land is the active face manoeuvring area to service the total of 27 loading docks. Between the docks and the boundary, there is no proposed mitigation for visual impacts by way of landscape, landform or structures.

Building 5A has been excavated to a floor level of RL69.5 on the eastern corner of the site. However the majority and active side of the building, with a height of 14m, is totally exposed to the Pazit land, with existing ground level that varies between RL65 and RL82m. To further compound the impacts is potential reflection from the roof when seen from the Pazit land.

Light spill from vehicles and security and safety lighting directly across the boundary from the manoeuvring areas is not mitigated by landscape or structures.

Building 5A is directly adjacent to the boundary with land known as the Jacfin site to east.

The application also includes an unspecified Future Precinct 6, which also borders Pazit land

Below it will be shown that the general principles for development and controls proposed for Precinct 5 below are inadequate and unacceptable, It is therefore of considerable concern to Pazit that Precinct 6 may be implemented or proposed to be implemented along the same lines as Precinct 5.

3.0 Issues

Adjacent to the subject site in Stage 5 to the east, the Jacfin site is subject to a Concept Plan and Stage 1 Concept Approval issued by the Planning Assessment Commission (PAC). The Concept Approval requires a 250m deep 'interface zone' between buildings on the site and the boundaries with both the Pazit land and land in Greenway Place.

The reason for the interface zone is to ensure compliance with the provisions of Clauses 21 and 23 of SEPP WSEA, as the PAC considered that the original proposal by Jacfin did not comply with the relevant provisions of the SEPP. In that regard, both Fairfield City Council and the Department of Planning and Infrastructure made submissions in support of enforcement of SEPP WSEA. As a means of providing an appropriate interface zone, Jacfin has applied for rezoning of the land in the interface zone for large lot residential use with a minimum 2ha lot size.

In relation to the Pazit land, the Concept Approval issued by the PAC for the Jacfin land complies with the 250m buffer zone required in the SEPP WSEA between industrial development and adjacent land with a residential purpose.

The relationship between the subject land in the SSDA and the Pazit land is the same as that which exists between the Jacfin land and the Pazit land. That is, the subject land is zoned IN1 General Industrial and the Pazit land is zoned E4, Environmental Living. The conditions imposed on future development of the Jacfin land in the Concept Approval are to mitigate the same impacts on the Pazit land that will occur as a result of the construction and occupation of the OSP by the building proposed in Stage 5A. Clearly a similar approach to mitigation of the impacts of the proposed development on the Pazit land should be adopted in the SSDA.

In the SSDA however, there is no acknowledgement of the presence of land of residential purposes immediately south of the subject site. Indeed, in a number of places in the EIS it is stated that the land is rural. This is incorrect. The land is zoned E4, Environmental Living, the objectives of which (set out below) clearly show that the zone is primarily a residential, not a rural zone.

In this regard, I note the following in the EIS, Section 4.2.4, Concept Proposal – Context and Interfaces, at Page 60;

External site boundaries with adjoining lands including the eastern site boundary with Jacfin industrial estate (Precincts 1, 2, 4 and 5) and the southern boundary with adjacent rural lands (Precincts 5 and 6). Treatment of these boundaries is through site layout and design responses, setbacks and landscape treatments and provision for access and utility connections. Further details of treatment of the proposed responses and treatments of these boundaries are provided in Section 4.4 and Appendix F and G of the EIS.

The land to the south is not rural, it is residential and zoned E4 for that purpose. In addition and also contrary to the statement above, there are no site layout, design response, setback or landscape treatments that acknowledge the presence of residential land adjacent to Building 5A as a constraint. The appendices to which the statement above refer, F and G, do not contain any specific responses to or treatments of the boundaries which would have



either the intention to or the effect of mitigating visual and associated amenity impacts on the adjacent Pazit land.

In relation to proposed development controls in the EIS is Section 4.2. and Pages 67-68 is Table 13; Principal OSE Development Controls, which include:

Setbacks: Rear boundary 5m, side boundary 0m.

Landscaping “to provide appropriate transition between public and private domain”.

Minimum landscaped setbacks: Side boundary no minimum requirement, rear boundary 2.5m.

The development control principles have been applied to the boundary with the Pazit land, as though it was no different to a boundary between future industrial lots. There is a minimal setback and no landscape treatment. There is no transition between the public and private domain. In my opinion this is totally inappropriate with regard to the requirements of clause 23 of SEPP WSEA. This clause is of special relevance to the application as it was to the Concept Approval for the adjacent Jacfin site to the east of Precinct 5. It appears that the EIS is ignoring the analogous situation that exists between the OSE land and Pazit land, proposing no interface, no buffer and no landscape to soften the interface with residential land.

In relation to landscaping in the EIS, (Section 4.2.12) Concept Proposal – Landscaping, at Page 70 it is stated:

‘Landscaping for the OSE responds to the key interfaces of the estate with the public domain, adjoining properties and environmentally sensitive lands such as riparian corridors and biodiversity offset areas’.

Later in the EIS Section 4.3.9 Landscaping, at Page 85 there is no mention of treatment to the adjacent residential land boundary. In Appendix G (Landscape Plans) there are no details of any landscape treatment to the boundary to which the statement above refers.

In relation to adjacent development, the EIS contains Table 30, Provisions of the WSEA SEPP at Pages 104-105. It also cross-refers back to Section 3.2.4, where it is claimed, in an attempt to minimise the issue of an appropriate treatment of the interface with residential land, that the future for the Pazit land is as industrial support, not rural land, as it is incorrectly characterised.

In the discussion relative to clause 23 - Development Adjoining Residential Land, notwithstanding the Pazit land is primarily for residential uses, it is characterised in the EIS as “rural land that allows for residential development”. It seems the EIS is trying to minimise the significance of the E4 zoning as a justification for ignoring the necessity to provide an appropriate interface, such as occurs on the immediately adjacent Jacfin land.

The EIS then refers the reader to Section 6.0 in which other impacts are discussed. However, visual impacts are not discussed in Section 6.0 other than in cursory fashion. For example, visual impacts are rated as low or minimal constraints and the reader is referred to Appendix H for support for this assessment. However, Appendix H is the landscape plans, which have no mitigation measure in them for visual impacts.

The EIS Section 6.6 contains a section on Other Issues, including Table 37 Urban Design and Visual. It is claimed that a visual impact assessment has been carried out, as follows:

“An assessment of the visual impact of the proposed development has been undertaken, considering the likely vantage points from surrounding areas”.

This seems to relate to Appendix H, Urban Design and Public Domain report, prepared by SBA Architects. In appendix H (Section 02.11 Visual Context), only three vantage points were assessed, from two of which there is no view because of intervening topography. There are no views assessed from the private domain. It is stated that;

“– View analysis indicates that views of the OSE from sensitive receivers and/or public domain are generally limited by topography and vegetation”

In my opinion, this conclusion is unfounded. There were no sensitive receivers assessed and the vantage points assessed are not only minimal in number but largely irrelevant, as two of the three have no views of the proposal.

Finally, the EIS in Section 7.0, Summary of Mitigation Measures (Table 40) states that mitigation is achieved by the proposed concurrent DCP. However, the DCP contains no controls intended to mitigate visual impacts across the boundaries.

A critical issue in my opinion is that the EIS has set out to ignore the need to provide an appropriate interface with the Pazit land to its south, by incorrectly characterising the land as rural, so as to minimise or set aside the need to comply with clause 23 of SEPP WSEA. However, clause 23 of SEPP WSEA is relevant and the application must comply with it.

Commissioner Morris recently considered the need for compliance with the SEPP WSEA, in a judgment in the Land and Environment Court of New South Wales in *CSR Building Products Ltd v Fairfield City Council*, [2015] NSWLEC 1284 (CSR).

The judgement concerned an application for subdivision of land partly adjacent to the Jacfin land to its north. This land is also part of the WSEA. Commissioner Morris inter alia consented to the removal and reconstruction of an existing bund as a lower and steeper structure closer to the boundary with adjacent residences.

The commissioner noted in Paragraph 66 in relation to the views from residences in Greenway Place as follows:

I agree that the provisions of clause 23 of SEPP (WSEA) do not apply to the application. That is because the site is not within 250 metres of land zoned primarily for residential purposes. The land in Greenway Place is zoned for Primary Production Small Lots with objectives that relate to rural rather than residential purposes. Whilst dwellings are permissible with consent in the zone, residential use is not the intent of the RU4 zone.

Morris C stated that it was not necessary for mitigation of visual impacts to ensure that industrial development is not visible from residences in Greenway Place and that a reduced buffer distance and a steeper and closer bund were also acceptable.

Further, at Paragraph 67 it is stated:



Similarly, the greater setback requirements under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP 2008) would not apply and buildings up to 15m in height could be constructed to the rear boundary of the site and to within 10m of the environmentally sensitive area provided at least 3m of that area is landscaped area. This fact highlights the importance of providing an appropriate buffer.

In the subject application, both clause 23 of SEPP (WSEA) and the greater setbacks required under SEPP Exempt and Complying Development Codes (2008) (SEPP 2008) apply. This is because the Pazit land which adjoins the subject site is zoned E4, not RU4, as is the case for the land in Greenway Place to which the judgment refers.

The objectives of the E4 zone are as follows:

Zone E4 Environmental Living

1 Objectives of zone

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure land uses are compatible with the available infrastructure, services and facilities and with the environmental capabilities of the land.
- To preserve and improve natural resources through appropriate land management practices.

It is clear that the Pazit land is land of a residential purpose, contrary to the various assertions in the EIS to the contrary. In addition and in relation to the judgment in *CSR* above in Paragraph 67, there is no appropriate buffer proposed (see clause

3.1 Statutory Provisions relevant to assessing Visual Impacts of the Application

3.1.1 Provisions of SEPP WSEA Clauses 21 and 23

Clause 21

Clauses 21 and 23 of SEPP WSEA 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:

- (a) building heights will not adversely impact on the amenity of adjacent residential areas, and
- (b) 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 as Building 5A which is up to approximately 14m high is immediately adjacent to the Pazit land boundary. 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 negatively affected. The impacts of future building heights have not been adequately addressed, as the building is too close to the boundary for any meaningful mitigation of the impacts of the height of the building on views.

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 is minimal and therefore a topographic solution is required, such as a combination of cut, as proposed, and earthworks in the form of a bund or berm. For this to operate there needs to be a significant setback from the boundary, where the earth can be formed up and landscaped to mitigate impacts appropriately. The existing proposal is not satisfactory in this regard.

3.1.2 Clause 23

Clause 23(1) of SEPP WSEA, 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);

- (a) the proposed buildings are not compatible with the height, scale, siting and character of existing residential buildings in the vicinity. Because of their height and scale they require significant screening and mitigation of the residual impacts. There is no acknowledgement of this in the EIS.
- (b) no attempt has been made to ensure that items capable of causing visual impacts, in particular vehicles, will be suitably screened from views from residential buildings and associated land.
- (e) the development has the potential to cause nuisance to residents by the use of loading docks and manoeuvring area day and night, the visual impacts of which have not be addressed and no mitigation measures are proposed.
- (g) there are no landscape or visual buffers proposed. The setbacks are inadequate and the landscape plans, while satisfactory for the interior of the site, are of no benefit in mitigating impacts of Precinct 5.

4.0 Conclusion

In my opinion, the application is unacceptable as regards the relationship between Precinct 5 and the Pazit land. The proposed future Precinct 6 will be equally unacceptable if subject to the same development controls as proposed for Precinct 5.

Clauses 21 and 23 of SEPP (WSEA) and the greater setbacks required under SEPP Exempt and Complying Development Codes (2008) (SEPP 2008) apply, as the development is within 250m of land with a residential purpose. The application does not comply with the requirements.

The adjacent Jacfin site has the same relationship to the Pazit land as Precinct 5 and 6 of the OSE SSDA. The same approach to mitigation of the visual and associated amenity impacts should be applied to Precinct 5 and 6 as is embodied in the Concept Approval for the Jacfin land.

In this regard, the building is far too close to the boundary with Pazit land, with virtually no setback from the boundary. The area between the building and the boundary is absent any landform, structures or landscape that could mitigate the visual impacts caused by the building itself and the operations of the loading dock along the southern side.

The characterisation of the Pazit land as rural in the EIS is incorrect and seems to be calculated to justify ignoring the SEPPs that apply and the requirements for satisfactory mitigation of impacts across the boundaries.

In my opinion the Department of Planning and Environment would be justified in rejecting the application for Precincts 5 and 6 in its present form.

A handwritten signature in black ink, appearing to read 'Richard Lamb'.

Richard Lamb and Associates

11 December, 2015