

Noel Hemmings QC

Mobile: 0412 204 526 Email: NAHQC@hotmail.com
ABN 258 252 73

15 December 2015

Department of Planning and Environment
23-33 Bridge Street
Sydney NSW 2000
Attention: Kate MacDonald

Dear Ms MacDonald

**Exhibition of Environmental Impact Statement for Oakdale South Industrial Estate –
Submission on behalf of Jacfin Pty Ltd**

I act for Jacfin Pty Ltd (**Jacfin**), the owner of Lot A in Deposited Plan 392643, Burley Road, Horsley Park (**Lot A**).

This submission is made on behalf of Jacfin in relation to the Environmental Impact Statement (**EIS**) for the Oakdale South Industrial Estate (**OSE**), State Significant Development No. 6917, which is currently on exhibition.

Jacfin objects to the OSE development as currently proposed.

Jacfin has commissioned expert analysis of the Oakdale South EIS by JBA Urban Planning Consultants. JBA has assessed the deficiencies of the proposed development, which are set out in detail in sections 3 to 6 of the **enclosed** submission. It is clear that those deficiencies are so fundamental that the development cannot be properly assessed or reasonably approved as submitted.

In the circumstances, there is no alternative to the refusal of the application, or the deferral of the application if the applicant wishes to take the opportunity to submit revised plans and the essential information and assessments that are required. Of course, any such revised plans or further information would need to be formally exhibited for public comment.

Yours sincerely



Noel Hemmings QC

Encl.

Oakdale South SSD Application Ref 6917



Horsley Park

Submission on Oakdale South SSD Application

To the NSW Department of Planning and Environment
On behalf of Jacfin Pty Ltd

December 2015 ■ 10002

Reproduction of this document or any part thereof is not permitted without prior written permission of JBA Urban Planning Consultants Pty Ltd.

JBA operates under a Quality Management System that has been certified as complying with ISO 9001:2008. This report has been prepared and reviewed in accordance with that system. If the report is not signed below, it is a preliminary draft.

This report has been prepared by Julie Bindon, and reviewed externally by legal team at Allens Linklater:

A handwritten signature in blue ink, reading "Julie Bindon". The signature is written in a cursive, flowing style.

Julie Bindon

11/12/2015

Contents

1.0	Introduction	1
2.0	Context / Adjoining Land Uses	2
3.0	Failure to provide regional & local road connections	6
3.1	Connection to SLR	6
3.2	Connection to Jacfin local road	8
3.3	Traffic impacts	8
4.0	Failure to assess and mitigate interface impacts	10
5.0	Failure to adequately consider planning instruments	12
5.1	Aims of the Policy	12
5.2	Objectives of the IN1 Zone	12
5.3	Principal development standards	13
6.0	Failure to Consult	16
7.0	Flooding & Servicing Proposals	17
7.1	Flooding	17
7.2	Drainage	17
7.3	Power Supply	17
7.4	Sewer	17

Figures

1	Location Plan	1
2	Proposed Land Use Zones for Jacfin Land	2
3	Jacfin Horsley Park Concept Plan – approved stages only	4
4	Jacfin Horsley Park Concept Plan Staging Plan	5

Attachments

A	Draft BWSEA Figure 32	18
B	Jacfin Project Application Approval (P.20) General Layout Plan	19

1.0 Introduction

This submission has been prepared by JBA on behalf of Jacfin Pty Ltd (Jacfin). Jacfin is the owner of a 100 hectare (approximately) parcel of land immediately to the east of the land referred to as the Oakdale South Estate. Jacfin is therefore an important affected party and stakeholder in the delivery of the Western Sydney Employment Area.

This submission relates to the State Development application, reference 6917, for “the Oakdale South Estate” (OSE) that was exhibited by the Department of Planning and Environment (the DP&E) in late November / early December 2015. The EIS nominates Goodman Property Services Pty Ltd (Goodman) as the Applicant.

Jacfin objects to the OSE development as currently proposed for a number of reasons. Whilst there are many flaws and deficiencies in the SSD application documentation, this submission focuses on the fundamental failings of the development proposal, as set out in sections 3.0 to 6.0 below.

Those deficiencies and failings are considered so fundamental that the development can not properly be assessed, nor reasonably approved as submitted. Jacfin therefore request that the application be either refused, or deferred pending the receipt of revised plans and additional information. Any revised plans or additional information needs to be formally exhibited for public comment and Jacfin would welcome the opportunity of being involved in that process in the usual manner.

The land owned by Jacfin that will be impacted by the proposed OSE development, is part of Lot A DP 392643, Burley Road, Horsley Park, (the Jacfin land). It is located in the south-eastern corner of the Western Sydney Employment Area, as shown in **Figure 1**. As can be seen from **Figure 1** the Jacfin land shares a 1650 metre (approximately) long common boundary with the OSE.

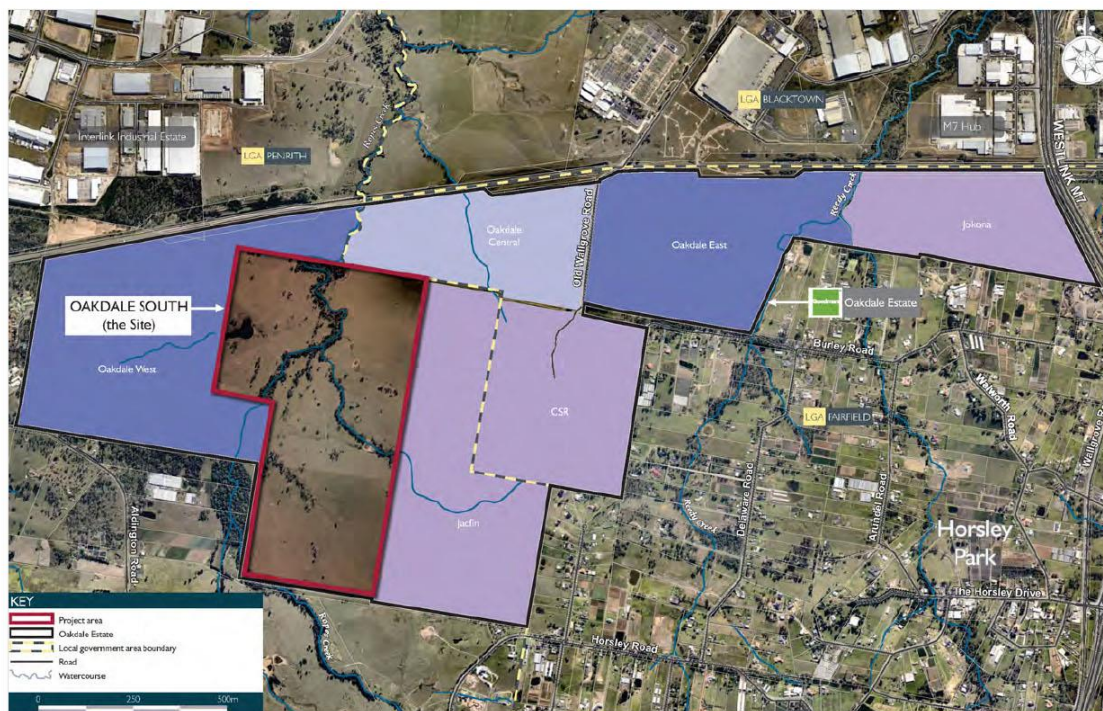


Figure 1 – Location Plan

Source: Urban Advisory Services, EIS's Figure 2 plan

2.0 Context / Adjoining Land Uses

Historically, the surrounding area was predominantly rural in character, however more recently the land to the south (off Capitol Hill Drive) and east (beyond the Jacfin site) has become characterised by a predominance of rural-residential uses.

Since the introduction of the WSEA SEPP in 2009 the Jacfin land, the OSE and land adjoining to the north and west were rezoned for industrial development. The future character of these former rural areas will therefore irreversibly change, to one characterised by large scale industrial development, as approved for the Jacfin Horsley Park and Goodman's Oakdale Central precincts. Nevertheless both the Jacfin and OSE properties have a direct boundary interface with small lot rural residential lands adjoining to the south and, in the case of the Jacfin site, to the east. The CSR site to the north-east of the Jacfin land also has a direct boundary interface with rural-residential areas.

In redeveloping their properties both Jacfin and CSR have been engaging with those adjoining communities to ensure that they are consulted and impacts are suitably mitigated.

Between 22 September and 2 November 2015, and before the SSD application was lodged, the DP&E exhibited changes to the *SEPP (Western Sydney Employment Area)* (the WSEA SEPP) and to the Penrith Local Environmental Plan 2013 (LEP 2013) to rezone a portion of the Jacfin land (as identified in **Figure 2**) from IN1 Industrial to a rural zone, RU4. Goodman was aware of the proposed rezoning, as it lodged a submission to the exhibited plans.

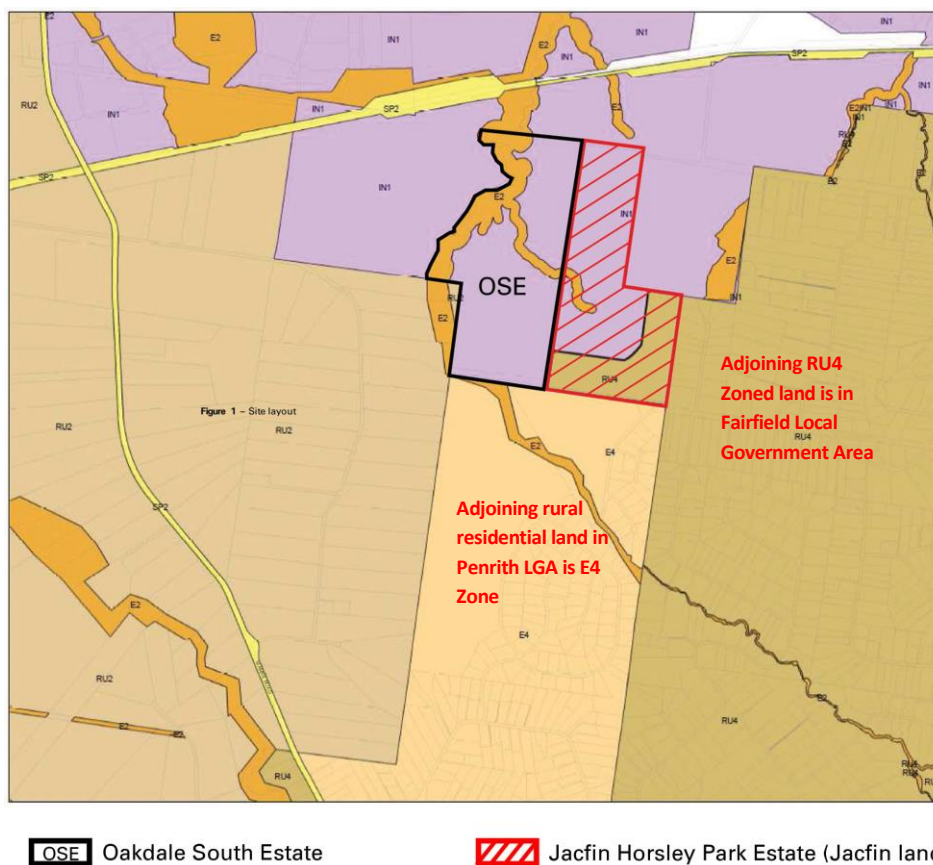


Figure 2 – Proposed Land Use Zones for Jacfin Land
Source: Base of Figure 6 from DP&E Planning Report

The proposed rezoning of this portion of the Jacfin land arose out of the consideration of Jacfin's industrial redevelopment proposal, known as the Horsley Park Concept Plan. Stages 1, 2 and 3A of the Jacfin Concept Plan were approved by the Planning Assessment Commission (PAC) in October 2013, with approval of the remaining stages, located closest to the rural residential zones, deferred.

The PAC considered that an option of rezoning a portion of the Jacfin land (i.e. the land adjoining the neighbouring rural residential areas) may have merit – subject to design and further consideration of the appropriate boundary alignment.

On the basis that Jacfin and the DP&E agreed to consider an alternative rural residential land use option for this land, the PAC decided to defer the approval of Stages 3B, 4 and 5 of the Jacfin Horsley Park Concept Plan until this option was fully explored. We note that the EIS is incorrect and misleading in stating that Jacfin's approved Concept Plan is that shown in Figure 14 (page 37 of the EIS). The approved Concept Plans are, in fact, those shown in **Figures 3 & 4** below.



Figure 3: Jacfin Horsley Park Concept Plan – approved stages only



NSW Government
Department of Planning and Infrastructure

8

Figure 4: Jacfin Horsley Park Concept Plan Staging Plan – Attachment 1 to the Concept Plan PAC determination 28 October 2015

The Horsley Park Concept Plan approval includes a mechanism for the DP&E to approve the remainder of the industrial component of the Concept Plan (i.e. that part of the Horsley Park Employment Precinct that is within the deferred Stages 3B, 4 and 5 area but that is not ultimately rezoned) once any future rezoning has been finalised.

Interface or boundary treatment to be located within the Jacfin Horsley Park employment precinct was to be addressed as part of the future submission to the Department for approval of the residual deferred lands that are not rezoned.

The fundamental reason for the proposed rezoning of the Jacfin land was to protect the amenity of the adjacent rural residential areas along Greenway Place and Capitol Hill Drive. This arose from the Department's independent visual impact assessment (by O'Hanlon Design Pty Ltd), which raised doubts about the efficacy of the mounding and landscaping mitigation solution proposed in the Horsley Park Concept Plan.

3.0 Failure to provide regional & local road connections

3.1 Connection to SLR

Jacfin objects in the strongest possible terms to the failure of the Oakdale South development to connect directly to the regional road network at the Southern Link Road (SLR) on the northern boundary of the OSE site. This has long been the planned connection point, and indeed is clearly provided for in the WSEA SEPP map.

Perversely the Oakdale South proposal has gone to extreme lengths to avoid this logical and long planned-for connection. It proposes instead that the principal access point to the OSE is via the Milner Avenue roundabout, with the SLR passing over this intersection in a major bridge with large embankment buttresses on either side. From the Milner Avenue roundabout the Oakdale Central traffic will then flow through the adjoining Oakdale Central development to connect to Old Wallgrove Road.

The only alternative access point to the entire estate, and one that will lead directly to the SLR, is via the Jacfin Land (at Estate Road 03).

This effectively means that:

- Upon completion of the regional road network, particularly the Chandos Parkway component, a large proportion of the Oakdale South traffic will use the Jacfin land road network to connect to the SLR, and beyond to the M7 or M5, as this will become the easiest (and fastest) available route.
- The Jacfin Horsley Park industrial estate will experience a higher level of congestion at its main access point to the SLR, which has been planned and designed to carry lighter loads. The impact on this intersection, that is critical to the Jacfin development, **has not been considered in any traffic studies**.
- The large Oakdale Central and Oakdale South precincts combined are effectively united as a single 'enclave estate' serviced only by local roads. The only alternative to the Milner Avenue access for this very large area, for emergency or other purposes, is via the Jacfin Horsley Park estate. If the proposed access is approved Goodman will avoid building the portion of the SLR located between Oakdale Central and Oakdale South, potentially delaying its delivery.
- Instead the government and the other developers of the WSEA, through the State Infrastructure Contribution (SIC) levy, will bear the cost of constructing an expensive and unnecessary major bridge over the Goodman Estates' internal access road system. Goodman even proposes that the land on which the SLR will ultimately be built will be acquired by authorities, rather than dedicated by the land owner in the usual manner.¹ It is therefore clearly not in the public interest.

There is no acceptable justification for avoiding the direct connection of the OSE to the SLR. The principal explanation, found at page 16 of the EIS, is that construction of the SLR and connecting to it as planned by the NSW government authorities (including the Department of Planning), would have an adverse economic impact on the applicant, and is contrary to its private interests. To summarise the claims in the EIS:

- It would *"sterilise a significant portion of the OSE for future development"*.

¹ EIS, page 60: "Frontage to the planned, future SLR on the northern site boundary. This future regional road would be elevated and grade-separated from the OSE network. A 35m wide strip of land along the northern boundary of the OSE has been set aside for future excision **to allow for the acquisition of the land for the construction of this road.**" (Our emphasis).

- This “would lead to an inefficient development outcome, significantly reducing the potential yield on the site”; and
- “The sterilised land ... would have no useful purpose”.

Secondary justifications (also at page 16 of the EIS) are that the SLR alignment proposed by the government agencies has “further issues” of

- “Inconsistency and conflict with the approved Concept Plan and development on adjoining land to the east known as the Jacfin Estate”; and
- “Inconsistency and **potential** conflict with the location and alignment of the Milner Road roundabout..” (our emphasis)

Jacfin refutes the first of these claims and questions the second.

The Jacfin Horsley Park Concept Plan approval and associated Stage 1 Project Approval on the adjoining estate involve the construction or partial construction of the SLR along its northern boundary as provided for in the WSEA SEPP. The alignment of the continuation of the SLR to the west (at the northern end of the Oakdale South development) slightly deviates southwards in a manner entirely consistent with the WSEA SEPP regional road Map. This slight deviation of the alignment is unambiguously marked on the Project approval Annexure A plan, prepared by Browns, which was approved by the PAC in October 2013. A copy of this plan showing the alignment of the SLR as approved by the PAC is enclosed as **Attachment A**. The ‘straightened’ SLR alignment proposed by Goodman in the OSE is, therefore, the alignment that is ‘inconsistent and in conflict with’ the Jacfin approval.

Regarding the second point, there is no apparent engineering or planning reason why the Milner Avenue roundabout can’t be either reconfigured to connect as part of a 4-way intersection to the SLR, or Milner Avenue is truncated to form a cul-de-sac.

Furthermore we note that, despite there apparently having been years of discussion between the Department and Goodman, the alignment and grade separation of the SLR proposed by Goodman has not been accepted by the authorities.

Tellingly the report by Goodman’s Civil Engineers (AT&L) included as Appendix J to the EIS states (at page 18):

“5.4 Southern Link Road Location

*The southern Link Road (SLR) has been located to provide the overall **best outcome for the development** and in doing so we have undertaken a review of the concerns raised within the SEARS response letters. These are summarised as follows;*

5.4.1 Proposed Roundabout Location

The proposed Roundabout does not form part of this application and has been previously approved as part of the SSD 6078.

Additional to that approval we are seeking to construct the 3rd leg of the roundabout to facilitate the OSE development.

*Over the past two years a series of meetings have been held with DoP to work through the various route options for the SLR. Whilst a number of options were developed, **no final design was agreed**.*

*We have reviewed the **constructability** of the SLR in relation to the roundabout under. A plan and typical section has been prepared to demonstrate the bridge option, refer Appendix G. It is proposed three sections of ‘Super T’ girders will be required to span the roundabout. A central headstock and columns will be located within the centre*

island of the roundabout with appropriate clearances as required by the Austroad guidelines.

*We have also adjusted the location of the SLR to ensure there is no impact to the existing Jacfin Concept and Stage 1 Project Approval. It would **appear** the existing Aecom option would have some impact on these approvals. **We have no direct communications with Jacfin and have based this on the available information on the Departments Web Page.**" (Our emphasis)*

In response to this Jacfin raises a number of obvious concerns or questions:

Regarding consultation and engagement:

- Why was Jacfin not consulted, particularly as it has been engaged in the design of the SLR immediately adjoining the Oakdale South site and the proposed alignment is inconsistent and in conflict with that of the Jacfin Project Approval?
- What were the nature of the discussions over the past 2 years and why could no agreement be reached between Goodman and the Department on this 'option'? Why wasn't Jacfin, as an affected stakeholder, not involved in these discussions?

Regarding the purported constraints of the Oakdale Central approvals:

- Why does the previous approval of the local network Milner Avenue roundabout constrain the design and construction of the regional network SLR at grade? Approved roadways can, and often are, changed in subsequent development proposals.

Regarding the testing of 'options':

- Was the financial feasibility of the grade separated 'option' tested, as well as it's "constructability"? If not, why not? Particularly as this will be a major public expense?

3.2 Connection to Jacfin local road

The SBA Masterplan drawings (at Appendix D of the EIS) all show the OSE Estate Road 03 as a cul-de-sac terminating short of the Jacfin boundary. A small number of these drawings (reference OAK MP 03(F), 09(E) and 13(C)) all include a dotted line prolongation of Estate Road 03 into the Jacfin land, but the majority do not. These drawings do not, however show whether this alignment connects to the approved Jacfin road alignment in the approved Concept Plan. The Jacfin Concept Plan was carefully designed and approved to allow for a future link to the OSE to provide for a secondary access, considered particularly important for emergency egress purposes.

It is imperative that the development of the OSE roadways not be approved unless they:

- a) Coincide with the alignment of the already approved Jacfin road network; and
- b) The public road dedication extends, for the full width of Estate Road 03 to the Jacfin boundary. Without this direct and full legal road access, Goodman as the owner of the strip of land between the boundary and the Estate Road 03 cul-de-sac will be potentially able to deny access or charge for purchase of this land.

3.3 Traffic impacts

Jacfin has not engaged traffic engineers to undertake a full technical review of the traffic impacts of the proposed development. Nevertheless the traffic studies included with the EIS raise some concerns about the traffic impacts, and the potential for significant traffic congestion at critical intersections. As referred to above, one example is the lack of assessment for the intersection of the SLR with the Jacfin Horsley Park 'Spine Road'.

Another apparent shortcoming relates to the assessment of the Old Wallgrove Road / Erskine Park Link Road intersection. Whilst the traffic assessment includes some cumulative impact assessment, by including the approved development for both the CSR and Jacfin Horsley Park

sites, it does not appear to have included the traffic generated by the approved Jacfin Ropes Creek site that will be using the EPLR to access the M7 Motorway and therefore pass through this intersection.

We request, therefore that the DP&E when assessing the traffic impacts of the OSE ensure that this, and any other relevant development (for example in Erskine Park and north of the EPLR) is also properly taken into account.

4.0 Failure to assess and mitigate interface impacts

The amendments to the Penrith LEP referred to in section 2 of this submission and set out in the exhibited draft planning instruments, provide for an RU4 rural zone covering a 250 metre wide strip of the Jacfin land located along the entire southern boundary, and that portion of the eastern boundary south of the CSR site. This constitutes an area of approximately 35 hectares.

The exhibited planning controls propose a minimum lot size of 2 hectares, on which dwelling houses are a permissible use. Upon gazettal of these planning instruments, residential uses will inevitably be located in proximity of the Oakdale South site. The finalisation of these instruments is considered reasonably certain and is expected to occur within the next 6 months.

Land immediately to the south of both the Jacfin land and the Oakdale South sites, off Capitol Hill Drive, is currently zoned under the Fairfield LEP 2013 as E4 Environmental Living. This area of E4 zoned land has been partly developed for 1 hectare rural residential lots. The remaining stages of the Capitol Hill Drive estate, immediately adjoining the OSE are also capable of this form and density of residential land use.

The EIS is severely deficient in terms of assessing the environmental impacts on these adjoining lands, and appears in breach of fundamental statutory requirements, namely

- In the case of the proposed RU4 area on the Jacfin land, the express reference to this in the SEARs (in the General Requirements), which state that the EIS “*must include ..likely interactions between the development and existing, approved and proposed operations in the vicinity of the site, including any proposed rezoning of Jacfin’s land to the east.*” (Our emphasis).
- In the case of the E4 land adjoining to the south, the express requirements of the WSEA SEPP clauses 21 and 23.
- For both areas, the statutory requirements imposed by section 79C of the Environmental Planning and Assessment Act (the Act).

The proposed development makes no attempt to mitigate impacts of the industrial buildings on the adjoining land and most critically on the non-industrial areas, either those proposed (for the Jacfin site) or as currently zoned, on the Capitol Hill Drive estate.

On the contrary, the proposed Stage 1 industrial buildings in Precincts 5A and 4C (and future Precinct 6 buildings, as shown in the Masterplan, Stage 1 architectural drawings and landscape plans are particularly unsuitable in terms of their visual and acoustic impacts, in that;

- The very large (**over 8 hectare building footprint**) Warehouse 5A is located adjacent to the boundary of the Capitol Hill estate zoned E4 and the Jacfin land proposed to be zoned RU4.
- Between these sensitive boundaries and the proposed Building 5A there is a roadway (at 10 metres wide) which will carry trucks around the perimeter of the warehouse to access the loading docks on both sides.
- External truck loading areas are located along the northern and southern sides of Warehouse 5A where they will impact adversely (both in terms of acoustic and visual impacts) on both the Capitol Hill Drive estate and the Jacfin land. The Warehouse 5A external docks, hard stands and truck manoeuvring areas on the south side of the building will have particularly significant adverse impacts on the adjoining E4 zoned Capitol Hill Estate.
- The siting and orientation of Warehouse 5A, the location of the loading areas and the fact that they are open areas, all indicate that this building in particular is highly likely to

generate unacceptable noise impacts at the boundary of the adjoining non-industrial zoned land. Yet there is no assessment of this impact in the Noise Report at Appendix U of the EIS, nor any mitigation measures incorporated into the landscape or building design, and no assessment of the effectiveness of any potential mitigation measures.

- The scale and mass of the buildings will be very large, (Building 5A in particular is huge), in terms of both footprint and height (at 15 metres). They will undoubtedly impact adversely on the visual amenity of surrounding sensitive areas.

The landscape plans (Appendix G of the EIS – Landscape Plans for Precinct 5) unfortunately do not show the full extent of the site in the south-east corner. This, of itself, is a flaw in the documentation and makes it impossible to accurately assess the impacts. For those boundary interface areas that are shown, the landscape treatment for the 10 metre wide strip is for **grass only**. It is apparent therefore that the proponent has not even attempted to screen these massive buildings or attempt to mitigate the visual impacts on these sensitive areas.

Furthermore there is no visual impact assessment to speak of in the EIS; another major deficiency of the application. Tables 32 and 33 of the EIS (pages 116 – 117) suggest that the visual impact of the development is ‘low risk’ and “does not require a specific design response.” Table 33 also states that the visual impact is addressed in the Appendix H – the Design & Public Domain Report prepared by SBA Architects (the SBA design report).

The SBA design report, however, is severely deficient in that it fails to adequately address the visual impacts generally, and specifically:

- Fails to mention the Jacfin land in the Site Analysis section 02.2 “Adjoining sites”.
- Fails to address the visual impact on the proposed RU4 zone area on the Jacfin land, **which runs for the full length of the Warehouse 5A’s northern elevation**.
- Fails to address the visual impact on the adjoining rural residential E4 zoned area to the south.

The SBA design report has purportedly ‘assessed’ the impact from only 3 vantage points, all very distant from the site, and then in a very cursory manner. The entire visual impact assessment is contained on page 9 of the Appendix H SBA design report, which simply states:

An assessment of the visual impact of the proposed development has been undertaken, considering the likely vantage points from the surrounding areas. Figs. 13-15 show key views to the property from near-by locations. Only from Bowood Road, (Fig 15), will some warehouses be visible. This impact will be minor in nature due to Ropes Creek vegetation and new landscaping will also assist in diminishing any visual impact.

Views from V1 and V2 locations, (Figs. 13 & 14), are obstructed by existing topography.

The proposed warehouse façade treatment will be of high quality in natural tones which will help reduce any visual impact.

The area is zoned for industrial development and this proposal reflects the desired future character of the area over time. Given the above illustrated minor visual impact from surrounding areas, the proposed development is deemed to be supportable.

The Figures 13 – 15 referred to are very small photographs of the existing environment and do not identify the development site boundaries or any future buildings. There are no photomontages from sensitive areas, as was required for the Jacfin project, despite the close proximity of the development to the Capital Hill Drive E4 zone and the future Jacfin R4 zoned area.

5.0 Failure to adequately consider planning instruments

The SSD application (at page 104 of the EIS) correctly identifies the WSEA SEPP as the principal planning instrument governing the site. The EIS does not, however, adequately address, nor does the development sufficiently satisfy, the following key clauses of that instrument.

5.1 Aims of the Policy

The WSEA SEPP has the following aims, as set out in Clause 3 of the instrument:

3 Aims of Policy

- (1) *This Policy aims to protect and enhance the land to which this Policy applies (the Western Sydney Employment Area) for employment purposes.*
- (2) *The particular aims of this Policy are as follows:*
 - (a) *to promote economic development and the creation of employment in the Western Sydney Employment Area by providing for development including major warehousing, distribution, freight transport, industrial, high technology and research facilities,*
 - (b) *to provide for the **co-ordinated planning and development of land** in the Western Sydney Employment Area,*
 - (c) *to rezone land for employment or environmental conservation purposes,*
 - (d) *to improve certainty and regulatory efficiency by providing a **consistent planning regime** for future **development and infrastructure provision** in the Western Sydney Employment Area,*
 - (e) *to ensure that development occurs in a logical, environmentally sensitive and cost-effective manner and only after a development control plan (including specific development controls) has been prepared for the land concerned,*
 - (f) *to conserve and rehabilitate areas that have a high biodiversity or heritage or cultural value, in particular areas of remnant vegetation.*

(Our emphasis).

The proposed OSE development fails to demonstrate co-ordinated planning and development of the land, and the consistent provision of the regional road infrastructure for the reasons set out in section 3 of this submission. This is contrary to the public interest.

5.2 Objectives of the IN1 Zone

Clause 11 of the WSEA SEPP sets out the following zone objectives:

Zone IN1 General Industrial

1 Objectives of zone

- *To facilitate a wide range of employment-generating development including industrial, manufacturing, warehousing, storage and research uses and ancillary office space.*
- *To encourage employment opportunities along motorway corridors, including the M7 and M4.*
- *To **minimise any adverse effect of industry on other land uses.***

- *To facilitate road network links to the M7 and M4 Motorways.*
- *To encourage a high standard of development that does not prejudice the sustainability of other enterprises or the environment.*
- *To provide for small-scale local services such as commercial, retail and community facilities (including child care facilities) that service or support the needs of employment-generating uses in the zone.” (Our emphasis).*

The proposed OSE development, however:

- Fails to minimise its adverse effects on the adjoining land uses, especially the future development that is likely to be used for rural residential purposes to the south and east. The importance of this objective is reinforced in the SEPP WSEA by the inclusion of “Principal development standards” Clauses 21 and 23, which are discussed below.
- Fails to facilitate the regional road network links to the Motorways by not linking to or building the relevant section of the SLR. It also will add to the congestion of the Jacfin land’s connection to the SLR restricting and not facilitate access to the Motorways from this land.

5.3 Principal development standards

Part 5 of the WSEA SEPP includes all the “principal development standards” for development in the WSEA. Of these standards, those set out in Clauses 21 and 23 have not been adequately addressed. This is in stark contrast to the detailed assessment undertaken by the Jacfin consultant team as part of the preparation of the Jacfin Horsley Park Concept Plan. In that analogous situation the DP&E engaged independent experts to assess these critical issues and thereby ensure the consent authority did not err when granting consent.

Clause 21 provides:

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:

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

As noted in Section 4.0 of this submission the SSD application does not include any serious assessment on the visual or other amenity impacts on the adjoining E4 Environmental Living and proposed RU4zoned land, even though the building heights and scale will inevitably impact on these adjacent areas.

Nor is there any demonstration in the master planning of the site that the site topography has been taken into consideration. On the contrary the development, if approved, will result in over 1 million cubic metres of fill being imported to the site, with significant flow on effects, including the 180 truck movements per day for 8 months.

Clause 23 provides:

23 Development adjoining residential land

- (1) This clause applies to any land to which this Policy applies that is within 250 metres of land zoned primarily for residential purposes.*

- (2) *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 view 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*
 - (d) *noise generation from fixed sources or motor vehicles associated with the development will be effectively insulated or otherwise minimised, and*
 - (e) *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, and*
 - (f) *the development will provide adequate off-street parking, relative to the demand for parking likely to be generated, and*
 - (g) *the site of the proposed development will be suitably landscaped, particularly between any building and the street alignment.*

This clause is only addressed in Table 30 (at pages 105 and 106 of the EIS). It states that the site adjoins “some rural land to the south and south-west that allows for residential development”.

The EIS response (in Table 30) to how the proposed development satisfies these critical “development standards” that must be satisfied before consent can be granted continues, as follows:

- *The OSE Concept Proposal considers the potential for impact upon these lands in accordance with Clause 23. The changing context of the OSE and surrounding WSEA is noted in this regard as discussed in Section 3.2.4.*
- *A Noise Impact Assessment (NIA) has been prepared as part of the SSDA and concludes that the potential acoustic impacts of the development of the OSE as proposed would be manageable through proven mitigation measures to ensure that an acceptable level of amenity is retained for existing and future residents.*
- *Other potential impacts of the proposal are discussed in Section 6.0 of the EIS.*

Despite thoroughly reading Section 6.0 of the EIS and relevant Appendices, such as the Architectural plans, landscape plans and SBA design study we can find no evidence that, for development within 250 metres of the E4 zone,;

- *proposed buildings are compatible with the height, scale, siting and character of existing residential buildings in the vicinity;*
- *goods, plant, equipment and other material resulting from the development .. will be suitably screened from view from residential buildings and associated land;*
- *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;*

- *noise generation from fixed sources or motor vehicles associated with the development will be effectively insulated or otherwise minimised. 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; and*
- *the site of the proposed development will be suitably landscaped.* (See comments in Section 4.0 above).

With respect to the “*changing context of the OSE and surrounding WSEA*” which is purportedly discussed in Section 3.2.4 of the EI, we note the EIS suggests that the zoning of the E4 land adjoining to the south can be effectively dismissed because it will inevitably change as a result of the Draft Broader WSEA Structure Plan (BWSP). It states, in section 3.2.4 at page 38:

“In line with the Draft BWSP, these lands (to the south of the OSE) would be transitioned to employment use, subject to further planning and environmental assessment.”

This is misleading at best. In fact, it is very clear in the Draft BWSP that:

- all of the land immediately to the south of the OSE boundary (including the Capitol Hill Estate) has the “Future Land Uses” classification of “Non-Employment” (refer Figure 23 Structure Plan, at page 39 of that document); and
- that same “Non Employment” area is identified ***as land to be excluded from the Broader WSEA*** (refer Figure 32 Map², at page 48 of that document). The text on page 48 also clearly states :

“Boundary Adjustments

A boundary adjustment is proposed for Broader WSEA so that it includes only the identified Employment Areas in the Structure Plan see Figure 23.

Excluded land areas will continue to be subject to existing planning controls.” (Our emphasis)

The EIS, therefore, can not be relied upon in terms of its assessment against the statutory requirements of Clause 23 of the WSEA SEPP. Nor is it considered a sufficiently comprehensive and thorough assessment under S79C of the EP&A Act in that it fails to address external impacts.

² Page 48 of the Draft BWSP is attached – see **Attachment B**

6.0 Failure to Consult

The covering letter to the Secretary's Environmental Assessment Requirements (SEARs) signed by David Mooney and dated 22 April 2015 specifically drew to the attention of Erin Saunders at UAS (the author of the EIS) the following:

*"I wish to emphasise the importance of effective and genuine community consultation and the need for proposals to proactively respond to the community's concerns. Accordingly you must undertake a comprehensive, detailed and genuine community consultation and engagement process **during the preparation of the EIS**. This process must ensure that the community is informed of the development and engaged with the issues of concern to them..." (Our emphasis)*

Section 2.5 of the EIS sets out the 'consultation' undertaken in preparing the EIS. In that section UAS claim that *"An extensive and on-going dialogue has been established between Goodman and key relevant **State and local agencies and authorities** with regard to the development of its lands in the WSEA, as further discussed in Explanatory Note 1."* (Our emphasis).

Despite the Department's express direction that the proponent *"**must undertake a comprehensive, detailed and genuine community consultation and engagement process during the preparation of the EIS**"* (our emphasis), this has not occurred, as least as far as Jacfin is concerned.

Jacfin is a major affected party and stakeholder in this process. The Oakdale South site and how it is developed is integral to the design and functioning of the development already approved by the PAC on Jacfin land, particularly with respect to roadways, traffic impacts and the proposed RU4 area. Jacfin's concerns about achieving sensible integration of development on both sites is well known to the Department in its various discussions on this subject over the years and we understand it is also an issue that Goodman is aware of. Despite this, there has apparently been no attempt to contact or liaise with Jacfin in the process of preparing this EIS.

Table 6 at page 28 of the EIS, under the heading "Adjoining Landowners" UAS claims that the 'consultation' undertaken was to send letters in advance of lodgement of the application, notifying the adjoining owners of its intention to lodge the application. We have been advised by Jacfin that it has not received this 'notification letter'. Nor, we are advised, were there any other attempts to contact Jacfin to discuss the project.

Explanatory Note 1 (referred to above) states (at page 28 of the EIS):

"... where consultation has not been undertaken during the EIS with certain stakeholders, this is due to the fact that extensive consultation has been undertaken previously and/or consultation has occurred with these stakeholders indirectly through inter-agency feedback at various points in the design and planning process for the broader Oakdale Estate lands, therefore key issues and requirements are well understood."

Jacfin rejects this blithe dismissal of the SEARs clear and express community consultation requirements. Without a full, well documented and transparent consultation *and engagement* process Jacfin, and other members of the affected community, can not reasonably consider the proposal in context, particularly as it has not been party to any discussions and/or undertakings that may have been made with or between the parties, including government agencies.

Furthermore the EIS can not be considered acceptable in terms of satisfying the SEAR's and should be rejected on this basis alone.

7.0 Flooding & Servicing Proposals

National Project Consultants have reviewed the flooding related issues and servicing proposals for the OSE as outlined in the EIS, and provided the following comments.

7.1 Flooding

The E2 zoned tributary extends from Ropes Creek towards the east across the OSE and then across the adjacent Jacfin land. Over 1,000,000m³ of fill will be placed onto the OSE site to form the building platforms. This fill will remove significant quantities of flood affected areas. This has the potential to adversely impact the flooding on the Jacfin site.

There is no detailed assessment to quantify the flood storage lost by this filling. There is also no mention of compensatory cut on the site to offset the loss of flood storage. Further there is no detailed discussion or quantities given as to how the flood modelling has dealt with this loss of flood storage.

Notwithstanding the flood modelling results, it is imperative that compensatory cut be incorporated into the development to achieve a no net loss of flood storage. This is the only way to ensure no adverse impacts on flooding or cumulative impacts on flooding.

7.2 Drainage

Along the eastern boundary of the OSE (common boundary with Jacfin), Goodman propose a drainage swale to collect runoff from the Jacfin property. The swale will convey the runoff along the boundary mainly to the E2 zoned tributary in the middle of the boundary and partly to the north and south.

There are no detailed calculations to confirm the dimensions and grade of the swale and its ability to accommodate flows up to the Probable Maximum Flood (PMF) without adverse impacts on the Jacfin property. These impacts could be flooding, ponding, erosion or a reduction in the development potential of the Jacfin land. These issues need to be addressed in the EIS, along with calculations to verify the claims.

7.3 Power Supply

Power for the OSE development is to be initially supplied from the Eastern Creek Zone Substation (the Eastern Creek ZS) until a new zone substation is constructed on the Oakdale South site.

The Eastern Creek ZS was established to service the Eastern Creek development. Endeavour Energy need to confirm in writing that the temporary provision of power to the Oakdale South development will not adversely affect or delay development in the Eastern Creek area. If this can not be confirmed, then power will have to be sourced from another location.

7.4 Sewer

The OSE development will be sewered via the extension of the Sydney Water sewer pipeline up Ropes Creek and the E2 tributary. The Ropes Creek and E2 tributary will be embellished as riparian corridors and as biodiversity areas. This embellishment will make it difficult in the future to extend this sewer along the E2 tributary to the Jacfin western boundary. Therefore, it is important that any development consent conditions for the OSE development require the sewer pipeline to be extended along the E2 tributary to the eastern boundary of the site. This will avoid future impacts on the E2 riparian corridor and parts of the biodiversity areas in extending the sewer.

Attachment A - Draft BWSEA Figure 32

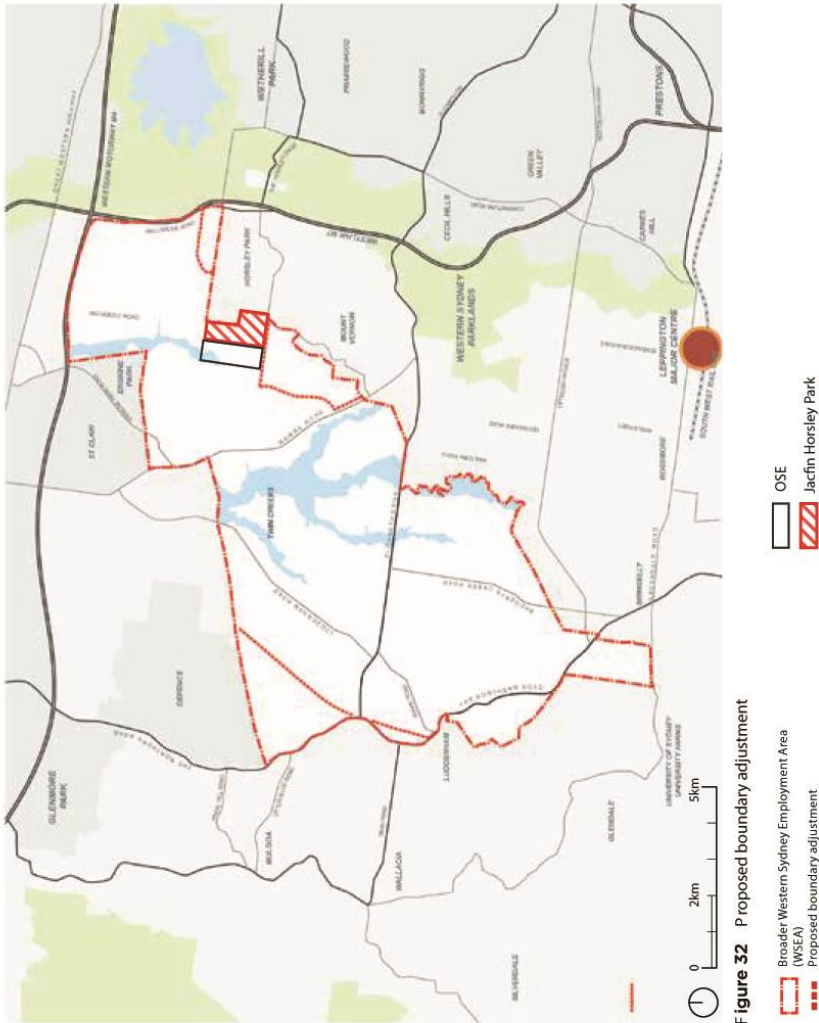
Structure Plan

Draft Broader Western Sydney Employment Area

Boundary Adjustments

A boundary adjustment is proposed for Broader WSEA so that it includes only the identified Employment Areas in the Structure Plan see Figure 32

Excluded land areas will continue to be subject to existing planning controls.



Draft Broader Western Sydney Employment Area Structure Plan

Attachment B – Jacfin Project Application Approval (P.20) General Layout Plan

