

ASSESSMENT REPORT

Jacfin Ropes Creek Project Section 75W Modification – Transgrid Land Exclusion MP 10_0127 MOD 1 and MP 10_0128 MOD 1

1. BACKGROUND

Jacfin Pty Ltd (Jacfin) owns a 105 hectare (ha) site located at Ropes Creek in the Western Sydney Employment Area (WSEA), in the Blacktown local government area (see Figure 1).

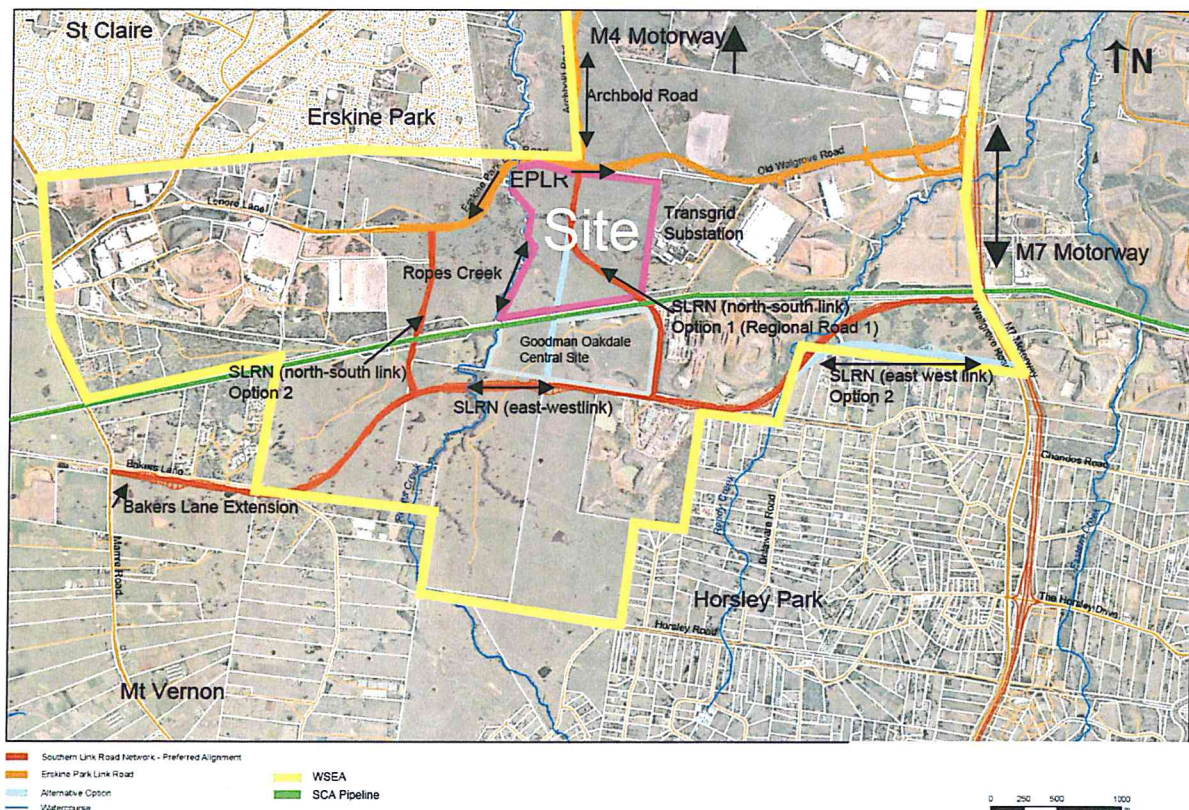


Figure 1: Regional context of the site within the WSEA

The site is characterised by cleared grazing land that gently slopes to the west towards Ropes Creek. Ropes Creek runs along the western boundary of the site with tributaries running through the site to the north-east and south-west (see Figures 1 & 2). The site is currently accessed via a dirt road off Old Wallgrove Road, which enters the site at the north-eastern corner.

The site forms part of land that is rezoned for industrial use under *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (WSEA SEPP). The land uses surrounding the site are shown Figures 1 and 2 and include:

- the Erskine Park Industrial Estate to the west;

- the Sydney Catchment Authority (SCA) Warragamba Pipeline, which runs along the southern boundary of the site, with the approved Goodman Oakdale Central site beyond;
- cleared grazing land immediately north of the site, which is owned by Planning and Infrastructure (the agency) and is generally clear of vegetation; and
- the Transgrid substation to the east of the site.

The nearest residential properties are located approximately 300m north-west of the site at Erskine Park (see Figure 2).



Figure 2: Local context of the site and land acquired by Transgrid

On 24 October 2011, the then Minister for Planning approved the Jacfin Ropes Creek Project on this site, which included:

- concept plan approval (10_0127) for the staged development of an industrial park for warehousing and distribution centres, light industry and associated infrastructure, including regional road connections (see Figure 3); and
- a project application approval (10_0128) to develop Stage 1 of the concept plan, which included subdivision of the site into 4 Lots (51 to 54), the establishment of 2 warehouses on lots 51 and 52, external and internal access roads and associated infrastructure (see Figure 3).

In June 2012, Transgrid commenced the process of compulsorily acquiring 11 hectares (ha) of land that forms part of the Jacfin site for the provision of electricity transmission infrastructure (see Figure 2). This land is located within Stage 1 of the approved concept plan at the location of Warehouse Building 1 (see Figure 3).

2. PROPOSED MODIFICATION

On 7 December 2012, Jacfin lodged a modification application with the agency under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify both the concept approval (10_0127) and Stage 1 project approval (10_0128).

Jacfin proposes to:

- excise the land that has been acquired by Transgrid from the concept plan and Stage 1 project approval;
- remove Warehouse Building 1 and associated infrastructure from the Stage 1 project approval because it was to be located on the land that has now been acquired by Transgrid; and
- update the real property description and site layout plans for the concept plan and Stage 1 project approval to accommodate the above changes.

The modification is illustrated described in full in the Environmental Assessment in Appendix E. The proposed modifications are also summarised in Table 1 and Figures 3 to 7 below.

Table 1: Summary of Proposed Modifications

| Relevant Approval | Figure | Proposed Modifications |
|---------------------|-------------|--|
| Concept and Stage 1 | 3, 4 & 9 | <ul style="list-style-type: none"> • Amend land description to reflect recent subdivision. Both approvals now relate to Lot 121 in DP 1175762 and Lot 15 in DP 1157491. |
| | 5 & 6 | <ul style="list-style-type: none"> • Removal of Local Road 1 as it is no longer required to access the south-eastern part of the site where Warehouse Building 1 was to be located. |
| | 5 & 6 | <ul style="list-style-type: none"> • Truncation (shortening) of Local Road 2 (west of the E2 Environmental Conservation Zone) as it is no longer required to connect to Local Road 1. |
| Concept | 5 & 6 | <ul style="list-style-type: none"> • Extension of Local Road 3 to provide access to the residual land in the south-eastern part of the site. |
| | 3, 4, 7 & 8 | <ul style="list-style-type: none"> • Amend the Site Layout and Staging Plans (see Figures 3 & 4 and 7 & 8). |
| Stage 1 | 3 & 4 | <ul style="list-style-type: none"> • Removal of Warehouse Building 1. |
| | 4 | <ul style="list-style-type: none"> • Renaming of Warehouse Building 2 (in the north-eastern corner of the site) to the Stage 1 Building. |
| | N/A | <ul style="list-style-type: none"> • Removal of detention basin no. 1 (to be relocated and included as part of the project application for Stage 4). |
| | 5 & 6 | <ul style="list-style-type: none"> • Modify internal access arrangements to connect the Stage 1 Building to the truncated Local Road 2. |
| | N/A | <ul style="list-style-type: none"> • Amend the Voluntary Planning Agreement (VPA) to reflect the reduced developable area (i.e. minus ~11 hectares). |
| | 3,4 & 9 | <ul style="list-style-type: none"> • Amend the Site Layout and Subdivision Plans. Stage 1 Project Approval now relates to Lot 121 in DP 1175762 and Lot 15 in DP 1157491 to create Lots 51 to 53 (E2 Zone). |



Figure 3: Approved Concept Plan



Figure 4: Modified Concept Plan

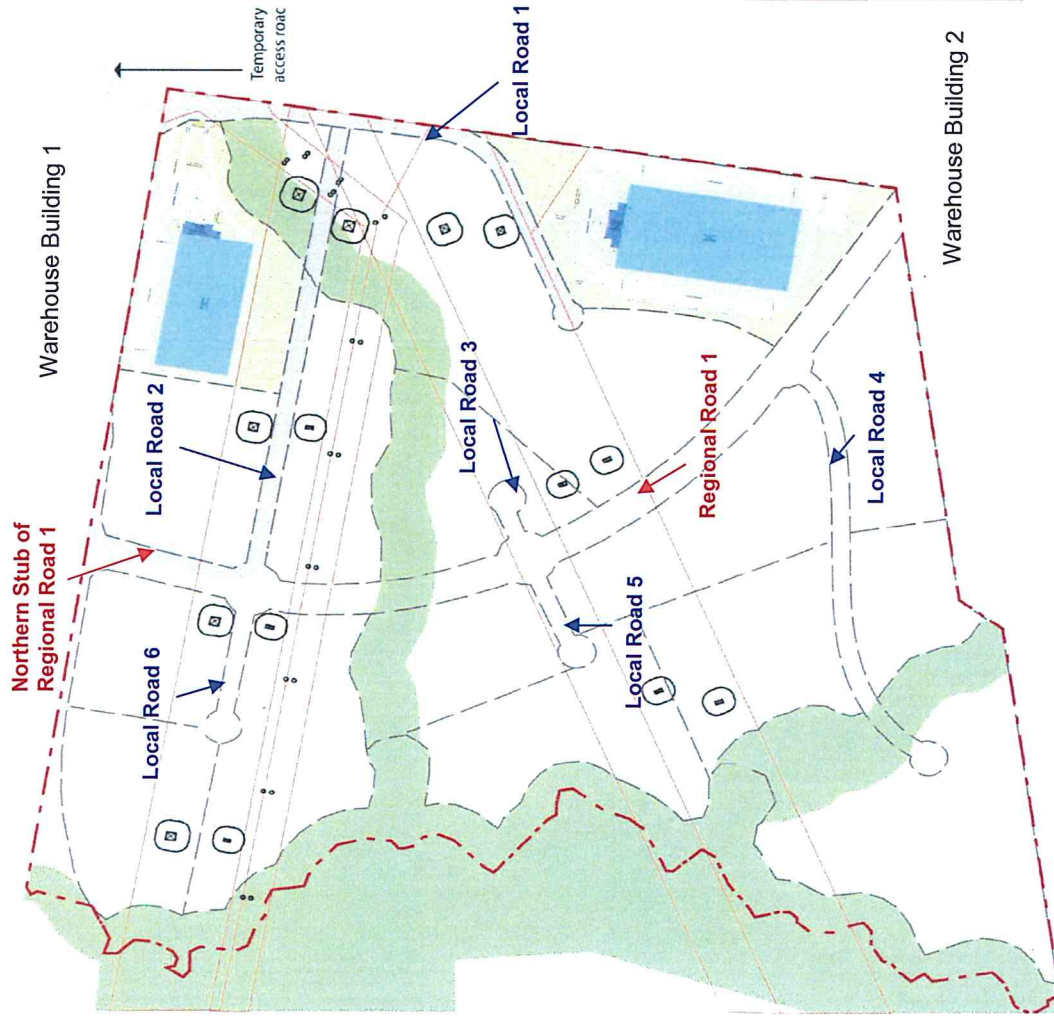


Figure 5: Approved Project Stage 1



Figure 6: Modified Project Stage 1

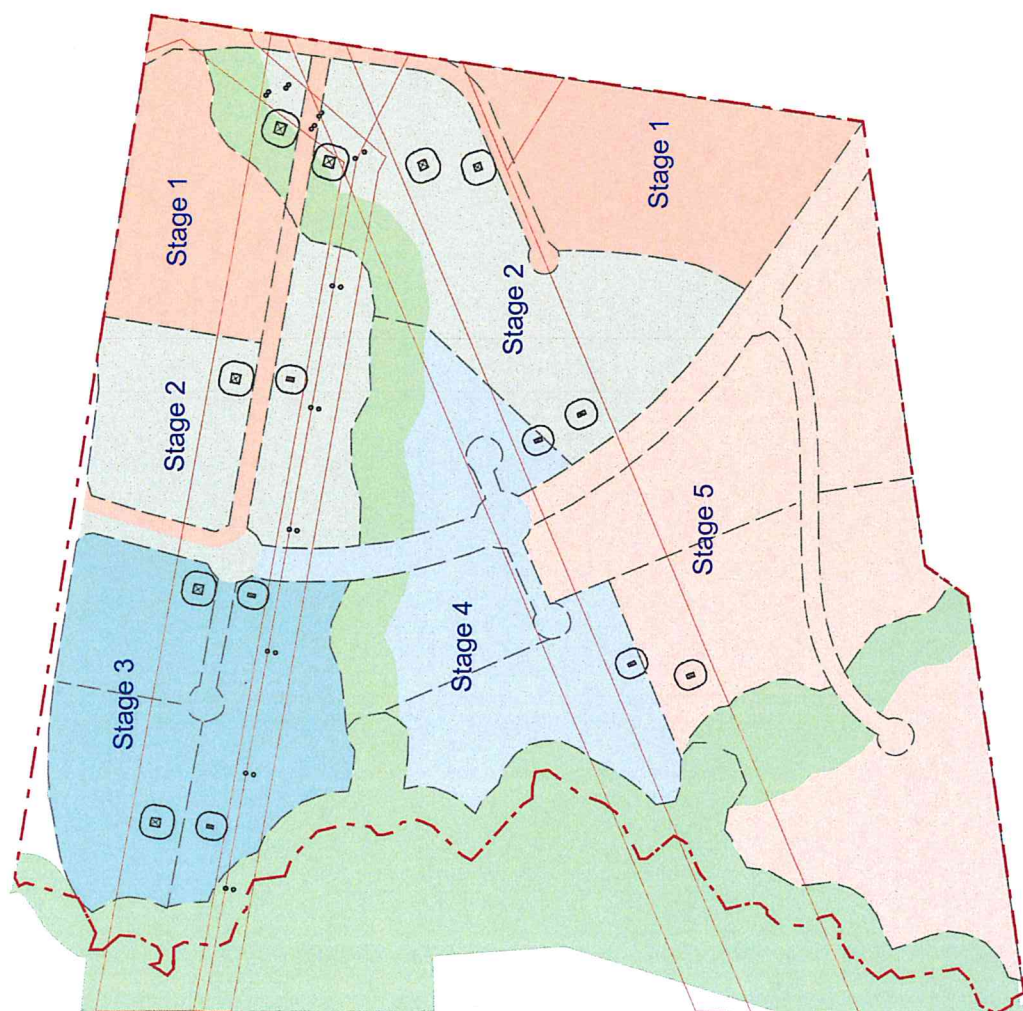


Figure 7: Approved Concept Staging Plan

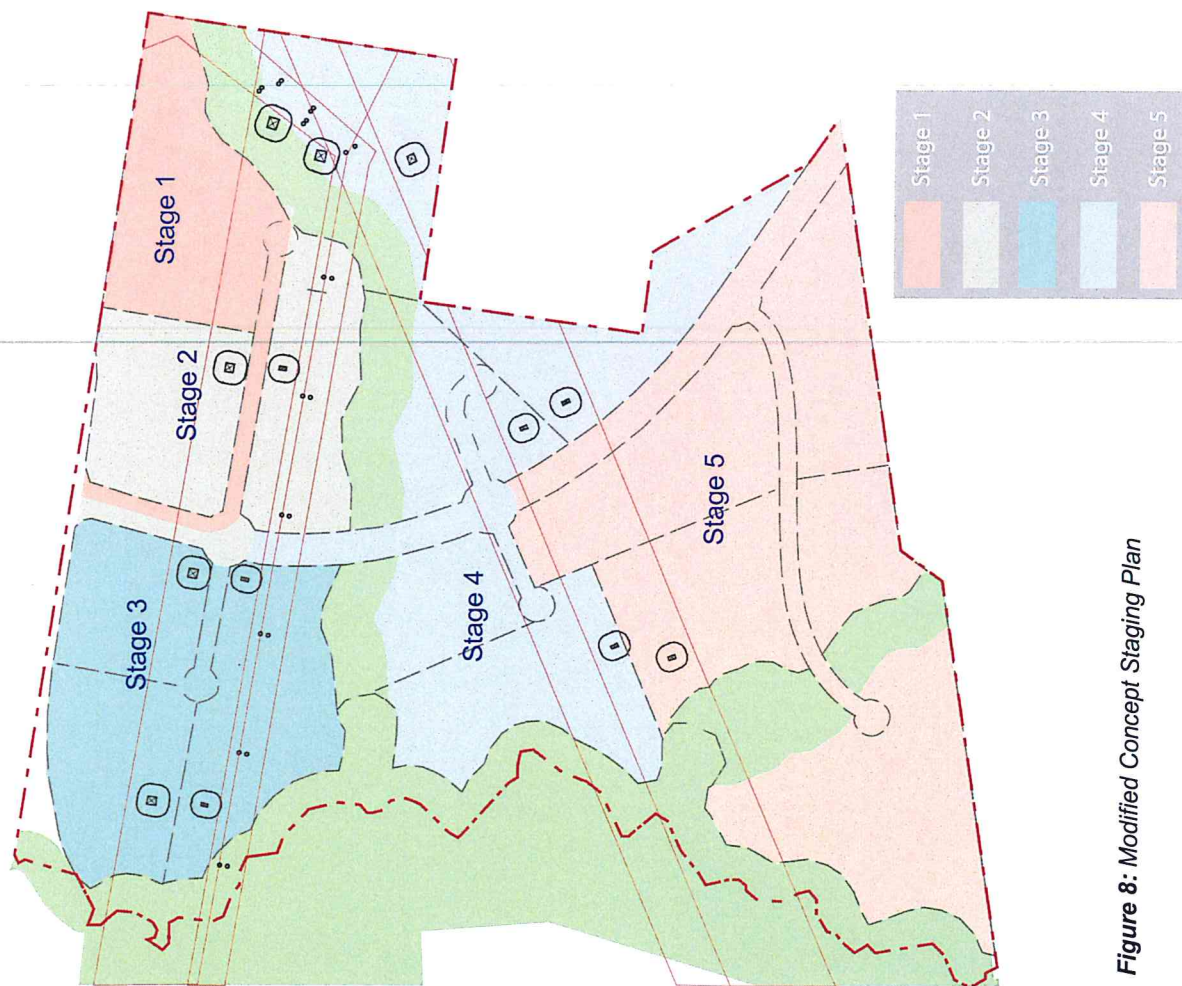


Figure 8: Modified Concept Staging Plan

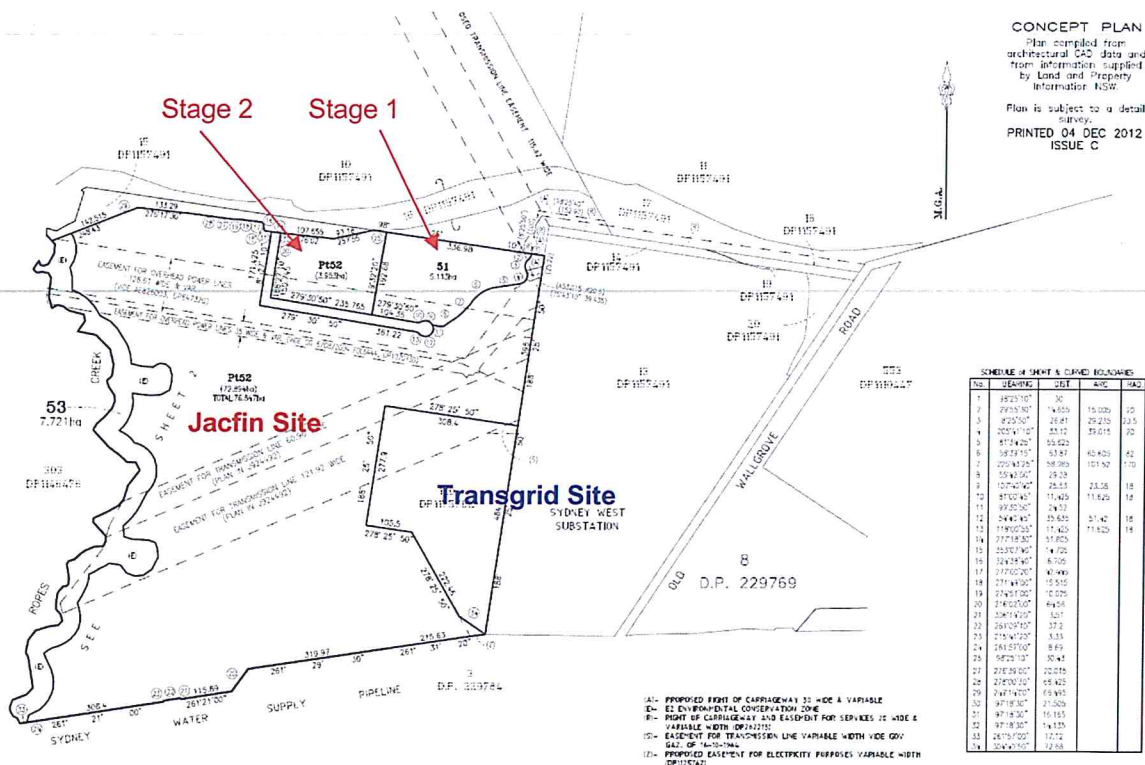


Figure 9: Revised Plan of Subdivision

3. STATUTORY CONTEXT

Approval Authority

The Minister was the approval authority for the original project approval, and is consequently the approval authority for this application.

The Director, Industry, Key Sites and Social Projects may determine this application on behalf of the Minister in accordance with the Minister's delegation dated 14 September 2011, subject to the following:

- the relevant local Council has not made an objection;
- a political donations disclosure statement has not been made; and
- there are less than 10 public submissions in the nature of objections.

The agency is satisfied that the application meets the terms of the delegation and that the Director may determine the application under delegated authority.

Section 75W

Section 75W of the EP&A Act confers on the Minister an implicit obligation to be satisfied that the modification request falls within this section of the EP&A Act.

The agency notes that:

- the primary function and purpose of the approved projects would not change as a result of the proposed modification; and
- any potential impacts would be minimal and appropriately managed through the existing or modified conditions of consent.

Therefore, it is considered that the proposed modification is within the scope of section 75W of the EP&A Act. Consequently, the agency considers that the application should be assessed and determined under Section 75W of the EP&A Act rather than requiring a new development or project application to be lodged.

4. CONSULTATION

Under Section 75W of the EP&A Act, the Minister is required to make the application publicly available on the agency's website. Upon receipt, the application was placed on the agency's website and following a review of the application, the agency did not believe formal public notification of the application was necessary. Notwithstanding, the agency sought comments from Blacktown City Council (Council) and the Roads and Maritime Services (RMS).

Consultation with any other parties was considered unnecessary, as the overall scale and environmental impacts of the proposal would reduce compared to the approved concept and project.

Council did not object to the proposed modification but raised concerns regarding the need for:

- flood modelling for the E2 zone on site and setting of floor levels for Stage 1 to be based on specific flood parameters and this information to be provided to Council, prior to the issue of a construction certificate;
- the E2 zone on the site to be restored, managed and maintained in accordance with a formal management plan;
- the indicative building footprints on the irregular shaped parcel of land that would be created by the Transgrid acquisition (see Figure 4) to be removed from the concept plan because it could be misleading in terms of its actual developable viability;
- the Site Development Guidelines for the concept area to:
 - incorporate all comments from relevant authorities and controls from other documents (e.g. the Stage 1 project approval); and
 - be updated as part of the modified concept plan to guide future stages of the development.
- Transgrid to be informed of the findings of any Aboriginal Heritage Assessment (AHA) carried out for the site by Jacfin and for Transgrid to carry out its own AHA for the acquired land; and
- all future DAs within the concept area to be accompanied by AHAs.

RMS did not object to the proposed modification and did not raise any issues of concern.

No public submissions were received on the proposal.

In its review of the application, the agency requested additional information regarding changes to land area for each stage of the concept plan. This information was requested for the purposes of calculating changes to the bank guarantee associated with the draft Voluntary Planning Agreement (VPA, see Table 2).

On 22 March 2013, Jacfin provided a response to the issues raised by the Council (see Appendix B).

Jacfin has also consulted extensively with the agency throughout the assessment process and in accordance with Jacfin's letter of offer dated 6 February 2014, both parties have now reached an agreement regarding the appropriate amendments needed to the draft VPA. Issues associated with the draft VPA are discussed in detail in Table 2 below.

The contribution was originally offered as a monetary contribution. It was agreed at the outset of the negotiations that the contribution would be a monetary contribution with the option of the developer being able to elect to build the Regional Road (Regional Road 1) as works in kind with the agreement of the Minister.

Under Clause 29 of *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (WSEA SEPP), a consent authority must not grant consent to development in the

WSEA unless the Director-General has certified in writing that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services in the WSEA.

With appropriate VPA arrangements in place, the agency is satisfied that satisfactory arrangements will be made to contribution to the provision of regional infrastructure and services in the WSEA.

Consequently, on 18 March 2014, the agency was able to issue a Satisfactory Arrangements Certificate (SAC) for the project (see Appendix B) and can now proceed with the determination of the modification application.

5. CONSIDERATION

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

- environmental assessment and Director-General's assessment report of the original concept and project applications;
- existing conditions of approval;
- EA supporting the proposed modification;
- submissions from government authorities;
- response to submissions for the modification;
- relevant environmental planning instruments, policies and guidelines; and
- requirements of the EP&A Act, including the objects of the Act.

The agency has assessed the merits of the proposed modification in Table 2 below.

Table 2: Assessment of all issues

| Issue | Assessment | Recommendation |
|------------------------------|---|--|
| Infrastructure Contributions | <ul style="list-style-type: none"> • Under WSEA SEPP, a development contribution rate of \$180,000 per net developable hectare must be paid by developers to ensure adequate provision of infrastructure and services in the WSEA. • In a draft letter of offer dated 6 October 2011, Jacfin committed to enter into a Voluntary Planning Agreement (VPA) with the Minister to pay approximately \$14.6 million towards the provision of regional infrastructure consistent with the WSEA SEPP. • This was based on a net developable area of 81.3 hectares (ha) within the concept plan area. • Contributions would be staged in line with each project application (Stages 1 to 5) within the concept plan area. • The Stage 1 project approval (Condition 14) requires Jacfin to enter into a VPA with the Minister. • However, execution of the VPA has been delayed due to negotiations on the provision of adequate security (bank guarantees), and due to the acquisition of land by Transgrid affecting the net developable area of the Stage 1 project. • The modification would result in 11 ha of land being excluded from the Stage 1 project area, thereby reducing the net developable area from 81.3 ha to 70.3 ha. • As such, the draft VPA and requirement associated with the bank guarantee for Stage 1 was modified to address the reduction in net developable area. • To rectify these issues, Jacfin and the agency have consulted extensively and agreed to enter into a new VPA in accordance with Jacfin's revised letter of offer dated 6 February 2014. • With appropriate VPA arrangements in place, the agency is satisfied that satisfactory arrangements will be made to contribution to the provision of regional infrastructure and services in the WSEA. • The agency has incorporated this requirement into the modified conditions and on 18 March 2014, a SAC was issued for the proposed development by the Executive Director, Infrastructure and State Strategy who is the delegate of the Director-General (see Appendix B). | <p>Manage through existing Environmental Assessment Requirements in the concept approval which require all future DAs in the concept area to include an infrastructure plan.</p> <p>Modified conditions are recommended for the Stage 1 project approval which require Jacfin to:</p> <ul style="list-style-type: none"> • enter into a VPA in accordance with the letter of offer dated 6 February 2014 within one month of the approval of MP 10_0128 MOD 1 or the day being the last day that the VPA is notified or as otherwise agreed by the Director-General in writing. |

| Issue | Assessment | Recommendation |
|-----------------------|--|---|
| Transport and Access | <ul style="list-style-type: none"> The key changes to the internal road network as a result of the modification are: <ul style="list-style-type: none"> the removal of Local Road 1; the truncation (shortening) of Local Road 2; the extension of Local Road 3; and modification of internal access arrangements to connect the Stage 1 Building to the truncated Local Road 2. The original Stage 1 project approval included the construction of a temporary access road to provide access to the two approved warehouse buildings (1 & 2), until such time as the Erskine Park Link Road (EPLR) is completed. As the EPLR is now complete, access to the Stage 1 Building will now be directly via the EPLR, the northern stub of Regional Road 1 and then Local Road 2 (Figure 6). This will require modification to the internal access arrangements to the Stage 1 Building, requiring a driveway from the building's loading docks and car parking area across Transgrid's transmission line easement to connect with Local Road 2 (see Figure 6). Jacfin does not propose any changes to the detailed design of the Stage 1 Building and proposes to submit designs for the internal driveway to the agency for approval prior to the issue of a construction certificate. This is generally consistent with existing Condition 18 in the Stage 1 project approval, which requires detailed plans for Local Road 2 prior to the issue of the first construction certificate for any development on site. The agency has recommended a minor modification to this condition to ensure the detailed plans of Local Road 2 include a driveway connecting to the Stage 1 Building. At the request of Jacfin, the agency has also recommended new conditions to allow the construction of the Stage 1 Building and the final site access (i.e. Local Road 2 and the northern stub of Regional Road 1) to be undertaken concurrently. These conditions would ensure: <ul style="list-style-type: none"> Jacfin would have suitable temporary vehicle access arrangements in place to allow for the construction of Stage 1; and the construction of the final site access is completed prior to the issue of an occupation certificate for the Stage 1 Building. The agency is satisfied that the modified conditions would ensure that suitable construction and permanent vehicular access arrangements are in place for Stage 1 of the project (see recommendation). The agency raised concern that a small triangular parcel of land adjoining the north-east corner of the site (see Figure 4) would become land-locked based on Jacfin's modified internal road layout. The agency considers that it would not be a good planning outcome to land-lock valuable employment generating land in the WSEA. The matter has been discussed in detail with Jacfin who has verbally committed to enter into formal negotiations with the agency to resolve this issue following the determination of the modification. The agency has formalised this commitment into the modified conditions (see recommendation). No change is proposed to Regional Road 1 or Local Roads 4, 5 and 6 (see Figures 5 & 6). Operational traffic generated by Stage 1 would reduce by more than half with the removal of Warehouse Building 1 (see Figures 3 & 4). Parking requirements for Stage 1 would also reduce as a result of the removal of Warehouse Building 1. Council and RMS did not raise any issues in relation to traffic or parking. Overall, the agency considers that the proposed modification would result in reduced traffic impacts from the removal of Warehouse Building 1 from Stage 1. | <p>Modified conditions are recommended for the concept plan and Stage 1 project approval which require Jacfin to:</p> <ul style="list-style-type: none"> submit detailed plans and drawings prepared in consultation with RMS, Council and Transgrid, prior to the commencement of construction of the Stage 1 Building, for: <ul style="list-style-type: none"> the connection to the Archbold Road Intersection and the northern stub of Regional Road One; and Local Road Two (including the driveway connecting to the Stage 1 Building). <p>Additional modified conditions are also recommended for the Stage 1 project approval which require Jacfin to:</p> <ul style="list-style-type: none"> provide parking at a reduced rate that caters for the Stage 1 Building only; complete the construction of Local Road 2 and the connection to the Archbold Road Intersection and the northern stub of Regional Road 1, prior to the issue of an occupation certificate for the Stage 1 Building; submit plans of the construction vehicle access arrangements for Stage 1 while the abovementioned roads are being completed, prior to the commencement of construction of any development on site; and consult with the Department concerning options to allow vehicular access to agency owned land adjoining the north-east corner of the site within 3 months of the approval of MP 10_0128 MOD 1. |
| Stormwater Management | <ul style="list-style-type: none"> To accommodate the modified site layout, Jacfin proposes to remove stormwater detention basin No. 1 from the Stage 1 project approval. Basin No. 1 was designed to accommodate the Stage 1 development | <p>Manage through existing modification to the concept plan which requires:</p> |

| Issue | Assessment | Recommendation |
|---------------------|---|--|
| | <p>of two (2) warehouses to the south of the E2 riparian zone.</p> <ul style="list-style-type: none"> As Warehouse Building No. 1 would no longer be constructed, and 11ha of land has been removed from the Stage 1 project, the amount of impervious areas and subsequent stormwater detention requirements would reduce to the extent that stormwater detention basins would no longer be required until Stage 4. Basin No. 1 would be relocated to accommodate the proposed extension of Local Road 3 and would now be designed and constructed as part of Stage 4. | <ul style="list-style-type: none"> the preparation of a revised Stormwater Management Strategy in consultation with Council and Sydney Catchment Authority, prior to the issue of the first construction certificate for any development on the site. |
| | <ul style="list-style-type: none"> The Stage 1 project approval (Condition 17) requires Jacfin to prepare a Stormwater and Drainage Management Plan (SDMP – see recommendation). The Plan must be approved by the Director-General prior to construction of the stormwater management system (i.e. now Stage 4). The agency considers that stormwater can be adequately managed for Stage 1 via the above SDMP condition but has modified the condition timing to require the SDMP to be submitted for approval prior to the commencement of construction of Stage 1 and strengthened it to ensure that stormwater discharge off-site is restricted to pre-development rates or less (see recommendation). Future DAs within the concept area would be required to include an infrastructure plan with provision for stormwater management and monitoring controls, consistent with the revised Stormwater Management Strategy for the concept area (see recommendation). Council raised some concerns regarding flooding and setting of floors levels for Stage 1 (see detail in Section 4 of this report). However, Jacfin noted that the flood modelling and floor levels for Stage 1 have already been considered and set as part of the approved project. The flood assessment in the original environmental assessment for the approved project recommended setting floor levels 500mm above the 1 in 100 Year Annual Recurrence Interval (ARI) storm event. The agency generally concurs with Jacfin in this instance and is satisfied that the floor levels for Stage 1 and the remainder of the concept plan would be appropriate. Further, the agency is satisfied that existing Environmental Assessment Requirements in the concept approval would ensure all future DAs in the concept area adequately consider flooding impacts (see recommendation). | <p>Manage through existing Environmental Assessment Requirements in the concept approval which require all future DAs in the concept area to include an infrastructure plan and flood assessment.</p> <p>Modified conditions are recommended for the Stage 1 project approval which require Jacfin to:</p> <ul style="list-style-type: none"> prepare and implement a SDMP restricting off-site stormwater discharge to pre-development rates or less, prior to construction. |
| Ecology | <ul style="list-style-type: none"> The proposed truncation of Local Road 2 would remove the need for a road and culvert crossing of the E2 Environmental Conservation Zone, thereby reducing impacts on the riparian zone. The agency is satisfied that the proposed modification would result in reduced impacts on ecology when compared to the approved project. Council raised a number of concerns in relation to the need to rezone part of the site to E2 to preserve its ecological value and the need to manage, maintain and restore the riparian areas and E2 zone on site in accordance with a formal management plan (see detail in Section 4 of this report). The agency considers that Council's request to rezone part of the site E2 is unreasonable given the minor scope of the modification (i.e. to exclude land from the site acquired by Transgrid). Further, the agency is satisfied that existing conditions in the Stage 1 project approval (i.e. the requirement for a Landscape Management Plan for the project) would ensure that the riparian areas and E2 zone on site are effectively managed for the life of the project (see recommendation). | <p>Manage through existing Environmental Assessment Requirements in the concept approval which require all future DAs in the concept area to include an assessment of Biodiversity impacts.</p> <p>Manage through existing conditions for the Stage 1 project approval which require Jacfin to prepare and implement a Landscape Management Plan including:</p> <ul style="list-style-type: none"> a landscape strategy for the site including measures to conserve, re-establish, enhance and maintain vegetation on site for the life of the project. |
| Design and Land Use | <ul style="list-style-type: none"> Council raised some concerns about the actual developable viability of some irregular shaped land created by the Transgrid acquisition (see Figure 4) and considered the Site Development Guidelines (SDGs) for the concept area need to be approved as part of the modified concept plan to guide future stages of the development (see detail in Section 4 of this report). In the RTS, Jacfin noted that the building footprints on the approved concept plan are indicative only and that Stage 4 would be subject to | <p>Modified Environmental Assessment Requirements are recommended in the concept approval which require all future DAs in the concept area to ensure buildings are designed (e.g. height, bulk, scale and parking) in</p> |

| Issue | Assessment | Recommendation |
|---------------------|---|--|
| | <p>its own individual development application (DA). At this point, the individual merits of this future DA would be assessed by the relevant consent authority.</p> <ul style="list-style-type: none"> Jacfin also noted that the SDGs already form part of the approved concept plan to guide future stages of the development and as such, there is no need to modify them as part of this proposal. The agency generally concurs with Jacfin on the above but has recommended slightly modified conditions in both the concept and Stage 1 project approvals to clarify the need for all development within the concept area to be carried out generally in accordance with the SDGs. | <p>accordance with the SDGs.</p> <p>Modified conditions are recommended for the Stage 1 project approval which require Jacfin to:</p> <ul style="list-style-type: none"> carry out the project in generally in accordance with the SDGs. |
| Aboriginal Heritage | <ul style="list-style-type: none"> The proposed modification would reduce the area of the site to be disturbed during Stage 1 because Warehouse Building No. 1 would no longer be constructed. As such, the potential heritage impacts of the modified project would be reduced when compared to original approval. Council requested that Transgrid be informed of the findings of any Aboriginal Heritage Assessment (AHA) carried out for the site by Jacfin and for Transgrid carry out its own AHA for the acquired land. Jacfin considered that as they no longer own the land acquired by Transgrid, the request is not relevant to the modification. Jacfin noted that Council should contact Transgrid directly regarding this issue. Council also reminded Jacfin that future DAs within the concept area would need to be accompanied by AHAs. This requirement has been acknowledged by Jacfin. The agency satisfied that the heritage impacts of the modified project would be reduced when compared to original approval. The agency is also satisfied that Aboriginal heritage impacts would be adequately considered as part of all future DAs within the concept area. | <p>Manage through existing Environmental Assessment Requirements in the concept approval which require all future DAs in the concept area to include an Aboriginal Heritage Impact Assessment.</p> <p>Existing conditions for the Stage 1 project approval include the requirement for Jacfin to:</p> <ul style="list-style-type: none"> prepare and implement an Aboriginal Heritage Management Plan, prior to construction. |

6. CONCLUSION

The agency has assessed the proposed modification in accordance with the requirements of Clause 8B of the Regulations. This assessment has found that the proposed modification would:

- reduce the environmental impacts of the Stage 1 project, in particular for traffic, heritage and ecology; and
- allow the description, site layout plans and relevant conditions in the concept plan and Stage 1 project approval to be updated to accommodate the acquisition of part of the site by Transgrid.

Consequently, the agency is satisfied that the modification should be approved.

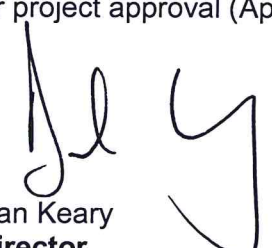
7. RECOMMENDATION

It is RECOMMENDED that the Director, Industry, Key Sites and Social Projects:

- approve** the proposed modifications under Section 75W of the EP&A Act;
- sign** the attached notice of modification for concept approval (Appendix A); and
- sign** the attached notice of modification for project approval (Appendix A).


Chris Ritchie
Manager - Industry
Industry, Key Sites and Social Projects

15/4/14


Dan Keary
Director
Industry, Key Sites and Social Projects
Development Assessment Systems & Approvals

15/4/14

APPENDIX A – NOTICES OF MODIFICATION

APPENDIX B – SATISFACTORY ARRANGEMENTS CERTIFICATE



Director-General's Certificate

Satisfactory Arrangements for the provision of regional transport infrastructure and services

Modification to Project Approval MP10_0128 MOD1, Jacfin Ropes Creek project (Stage 1), Western Sydney Employment Area

In accordance with the provisions of Clause 29 of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*, I, Andrew Jackson, as delegate of the Director-General of Planning and Infrastructure, certify that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services in relation to development of land described in the modification to Project Approval MP10_0128 MOD1.

This certificate applies to land identified on the plan attached to the Planning Agreement for the Ropes Creek – Stage 1 Development between the Minister and Jacfin Pty Ltd and marked as **Annexure A** being Lot 121 DP 1175762.



Andrew Jackson
Executive Director
Infrastructure and State Strategy
(as delegate of the Director-General)

Date: 18/3/14