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23 October 2015

Department of Planning and Environment  
Employment Land Release  
GPO Box 29  
Sydney NSW 2001

Dear Sir / Madam

**Exhibition of Draft Plans to Rezone Land Near Burley Road and Greenway Place –  
Submission on behalf of Jacfin Pty Ltd**

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

Lot A is presently zoned IN1 General Industrial under the *State Environmental Planning Policy (Western Sydney Employment Area) 2009 (WSEA SEPP)*.

This submission is made on behalf of Jacfin in response to the proposal to rezone 35 hectares of land at Lot A (the **Subject Land**) under the *Penrith Local Environmental Plan 2010 (Penrith LEP)* to allow rural residential development (**Rezoning Proposal**).

The comments below respond to the Rezoning Proposal and the *Draft Planning Report – Lot A Burley Road Horsley Park Interface Area* prepared by the Department of Planning and Environment (**Planning Report**).

**1 Summary of submission**

Jacfin supports the partial rezoning of 35 hectares of Lot A to allow rural residential development.

However, Jacfin does not support the needless restriction of imposing a 2 hectare minimum lot size for the Subject Land.

Our client has commissioned expert analysis of the Rezoning Proposal by JBA Urban Planning Consultants. JBA presents strong planning grounds for applying a 1 hectare minimum lot size for the reasons indicated in the **enclosed** submission.

On that analysis, in comparison to a 1 hectare minimum lot size, inferior planning outcomes would be expected from applying a 2 hectare minimum lot size to the Subject Land.

Specifically, a 2 hectare minimum lot size pattern:

- (a) is materially inconsistent with the minimum lot sizes and character of existing development in surrounding rural residential areas;
- (b) will deliver a poorer outcome in terms of visual amenity for existing residents at Greenway Place and Capitol Hill Drive and no benefit in terms of visual amenity for new residents on the Subject Land, compared with a 1 hectare minimum lot size;

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- (c) has no justification on the basis of noise impacts and potential land use conflicts, given the expert analysis by Wilkinson Murray has demonstrated that 1 hectare lots can be developed without any dwellings on the Subject Land being subject to noise levels above the applicable intrusive noise and sleep disturbance criteria (including taking into consideration future industrial development on Lot A, as well as the adjoining CSR and Oakdale South sites); and
- (d) is not required to reduce traffic impacts given that a recent traffic study found that Horsley Road will be operating at only 54% of its capacity (even after the construction of a new high school at 217-241 Horsley Road).

Jacfin submits that Lot Size Map – Sheet LSZ\_020 and Lot Size Map – Sheet LSZ\_021 in the Penrith LEP should be amended so that the Subject Land is designated 'Y1', with a minimum lot size of 1 hectare.

## 2 Consistency with surrounding development

The Planning Report asserts that a 2 hectare minimum lot size is required to ensure that development within the Subject Land "is of a similar character to surrounding land uses". It contends that the indicative subdivision layout put forward by Jacfin in March 2015 with primarily 1 hectare lots "would be inconsistent with the surrounding rural residential character of the area".

These assertions concerning lot size are completely without foundation and contrary to basic analysis.

An analysis of lot sizes of non-industrial zoned land within 1 km radius of the Subject Land reveals the following:

Location of rural residential land	Number and size of lots	Percentage of total lots
All land within 1km of the Subject Land	59 lots under 1.1 ha	49.5%
	72 lots under 1.3 ha	60.5%
	74 lots under 1.5 ha	62.1%
	75 lots under 1.7 ha	63%
	79 lots under 2.0 ha	66.4%
Land along Greenway Place	10 lots under 1.1 ha	53%
Land along Capitol Hill Drive, Greenview Place and Centennial Court	17 lots under 1.1 ha	58%
	27 lots under 2.0 ha	93%
Land immediately adjoining Lot A	5 lots under 1.1 ha	50%
	6 lots under 1.9 ha	60%

It is evident that around two-thirds of the rural residential lots within 1 km radius of the Subject Land are smaller than 2 hectares, and substantially so, given that almost half the lots within 1 km are smaller than 1.1 hectares in size.

Furthermore, over 50% of existing lots along Greenway Place have an area of less than 1.1 hectares, and over 90% of existing lots around Capitol Hill Drive are less than 2 hectares in size.

Accordingly, the adoption of a 1 hectare minimum lot size for the Subject Land would be entirely consistent with the character of surrounding development.

As indicated by JBA Planning, a 1 hectare minimum lot size is also consistent with the land use and subdivision pattern that is reasonably likely to eventuate in the short to medium term in the area immediately adjacent to the Subject Land. The land directly to the south of Lot A, and the only land adjoining the site within in the Penrith local government area that is currently capable of residential development, is zoned E4 Environmental Living and is subject to a minimum lot size of 1 hectare. The land along Greenway Place is zoned RU4 Primary Production Small Lots and is also subject to a 1 hectare minimum lot size, meaning that it would be open to the owners of those lots that are not already 1 hectare in size to subdivide their land into 1 hectare lots.

The Planning Report does not provide an adequate justification as to why Jacfin should be prevented from developing 1 hectare lots, when this is entirely consistent with the planning controls applicable to immediately surrounding land and the opportunities available to adjoining landowners.

The Planning Report states that the Department's proposed minimum lot size at 2 hectares would allow approximately 14 dwellings on the Subject Land in a similar area to the immediately adjoining 9 lots at Greenway Place. As highlighted by JBA, this is factually incorrect. If a 2 hectare minimum lot size is imposed on the Subject Land, the 14 lots developed would occupy an area more than twice the size of the adjoining 9 lots at Greenway Place (approximately 35 hectares in comparison to 15 hectares at Greenway Place). The 35 hectares of land that is proposed to be rezoned is also more than three times the size of the 11 lot subdivision approved by Penrith City Council at Capitol Hill Drive.

There is no proper basis on which it can be contended that a minimum 2 hectare lot size is required to ensure consistency with surrounding development.

### **3 Visual Amenity for existing residents**

The Planning Report also seeks to justify the imposition of a 2 hectare minimum lot size on the basis that it will provide an appropriate visual outlook for adjoining residents. One of the key objectives of the Rezoning Proposal is to provide a visual buffer between existing residential development along Greenway Place and Capitol Hill Drive, and the proposed future industrial development on Lot A.

As noted by JBA, the imposition of a 2 hectare minimum lot size cuts across this objective by limiting the number of new dwellings in between existing residences and the future industrial development, thereby limiting the ability of the new residential zone (located in the foreground of views from existing residences) to partially screen the industrial development from view. A smaller number of dwellings in the Subject Land will only serve to increase the visibility of the industrial development from Greenway Place and Capitol Hill Drive.

Accordingly, the imposition of a 2 hectare minimum lot size will deliver a worse outcome in terms of visual amenity for existing residents than 1 hectare lots.

### **4 Amenity of future residents**

The Planning Report advocates the imposition of a 2 hectare minimum lot size in order to reduce the number of sensitive receivers close to proposed industrial development and ensure that future land use conflicts are not created. These justifications for a 2 hectare minimum lot size must be rejected given the finding by JBA that there will be no difference in terms of visual and acoustic impacts on new residents between 1 hectare and 2 hectare lots.

The Planning Report does not establish that the adoption of 2 hectare lots is likely to provide any benefits in terms of acoustic impacts for new residents. Quite to the contrary, the Planning Report attaches a noise assessment undertaken by Wilkinson Murray, which demonstrates that basically all of the Subject Land will be subject to noise levels below the most stringent night time noise criterion, taking into consideration proposed industrial development on Lot A as well as the adjoining CSR and Oakdale South sites. Figure 3 in the Wilkinson Murray report indicates that it is possible to locate a dwelling on each of the lots depicted in Jacfin's March 2015 indicative subdivision plan such that each dwelling would be below the relevant intrusive noise criteria and sleep disturbance criterion without noise treatments.

In any event, as the Planning Report acknowledges, specific noise control measures for the industrial development on Lot A should be determined at the project application stage. Imposing a restriction on the density of future residential development on the Subject Land on the basis that there is a possibility of noise impacts from future industrial development, when the detailed noise mitigation measures for that development have not yet been determined, is inappropriate.

In addition, unlike existing residents along Greenway Place and Capitol Hill Drive who purchased and developed their land prior to the creation of the Western Sydney Employment Area, the new residents on the Subject Land will be purchasing with full knowledge of the proposed industrial developments on Lot A and the CSR and Oakdale South sites. The expectations of new residents in terms of visual and acoustic amenity will therefore be very different from existing residents and will be fairly reflected in the price of the new residential lots.

There are therefore no amenity considerations for future residents that would justify the imposition of a 2 hectare minimum lot size.

## 5 Traffic

The Planning Report suggests that the imposition of a 2 hectare minimum lot size is required to reduce local traffic impacts within the Horsley Park Village and on surrounding houses at Greenway Place. As noted by JBA, the level of service provided by the local road network is a matter more appropriately dealt with at the subdivision application stage. It is not a consideration that should influence the selection of a minimum lot size.

In any event, the Planning Report does not include any assessment of local traffic volumes or any justification that the development of 1 hectare lots instead of 2 hectare lots on the Subject Land would cause an unacceptable increase in vehicle movements within the Horsley Park Village. Furthermore as Greenway Place is a cul-de-sac it is difficult to understand any suggestion that the density of development on the Subject Land would affect houses on Greenway Place in terms of differences in traffic generation between 1 hectare and 2 hectare minimum lot size.

A comprehensive traffic study was undertaken by Masson Wilson Twiney in connection with the proposed new high school at 217-241 Horsley Road. That study concluded that Horsley Road will be operating at only 54% capacity even after the significant increase in traffic movements that will be generated by the school. This means that there will be around a 46% surplus in capacity on the Horsley Road when it comes time to develop the Subject Land. It is difficult to see how the additional residential lots on the Subject Land under a 1 hectare minimum lot size scenario could have a significant impact on traffic volumes given this surplus in capacity. No evidence has been exhibited by the Department to support the contention that a 2 hectare minimum lot size is materially superior to a 1 hectare minimum lot size from a local traffic perspective.

The suggestion in the Planning Report that a 2 hectare minimum lot size is required to reduce local traffic impacts is completely unjustified.

## 6 Permitted land uses

Penrith City Council has submitted that a 2 hectare minimum lot size is required for the Subject Land in view of the permitted land uses in the RU4 zone, including dual occupancies. The application of an RU4 zoning to the Subject Land is consistent with the zoning of the adjacent land at Greenway Place. As noted above, that land is subject to a 1 hectare minimum lot size. However, a 2 hectare minimum lot size applies in the RU4 zone under the *Fairfield Local Environmental Plan 2013* where the proposed land use is a dual occupancy.

Jacfin does not have any intention of developing dual occupancies on the Subject Land. In any event, if the Department and Council are concerned to ensure that any dual occupancies on the Subject Land are only developed on 2 hectare blocks, it is open to them to control the minimum lot size of any dual occupancies through the development assessment process.

There is no justification for imposing a blanket 2 hectare minimum lot size across the whole of the Subject Land 'just in case' any of the lots are to be developed as dual occupancies.

## 7 Topography

The Planning Report asserts that 1 hectare lots would result in long, narrow lots which do not allow buildings to respond to the topography of Lot A. It is quite wrong to characterise the lots in the indicative plan as "narrow" – in fact the lot frontages range between 43m to 60m in width. As JBA indicate, this is 3 to 6 times wider than a typical suburban lot width.

The lot layout proposed in Jacfin's March 2015 plan enables the existing topography of the land to be largely retained and dwellings to be located east or south of the ridgeline, so that the existing topography acts to visually and acoustically screen the industrial buildings.

It is also important to note that the various subdivision plans provided by Jacfin to the Department during the rezoning consultation process are indicative only. The formulation of a final subdivision layout will be undertaken by Jacfin when it comes to submit a subdivision application, and it will be a matter for Penrith Council at that time to assess whether the particular layout put forward by Jacfin is appropriate.

The Department's suggestion that the topography of the Subject Land and the likely shape of 1 hectare lots necessitates the imposition of a 2 hectare minimum lot size is unfounded.

## 8 Amendments to Rezoning Package

For the reasons set out above, Jacfin submits that **the proposed State Environmental Planning Policy that will give effect to the Rezoning Proposal should be amended so that a 1 hectare minimum lot size is applied to the Subject Land.**

Specifically, the following maps under the Penrith LEP should be amended so that the interface zone is designated 'Y1' and shaded light purple:

- Lot Size Map – Sheet LSZ\_020; and
- Lot Size Map – Sheet LSZ\_021.

## 9 Conclusion

Jacfin supports the Rezoning Proposal insofar as 35 hectares of Jacfin's Lot A property would be rezoned from IN1 General Industrial under the WSEA SEPP to RU4 Primary Production Small Lots under the Penrith LEP.

However Jacfin submits that no proper basis has been demonstrated on planning grounds to adopt the proposed 2 hectare minimum lot size. No expert town planning opinion has been presented in support of the Planning Report.

Town planning advice from JBA Urban Planning Consultants endorses a 1 hectare minimum lot size as the appropriate standard for the Subject Land. A 1 hectare minimum lot size will support the objective of increasing the availability of land suitable to meet the elevated demand for residential land in this part of Western Sydney.

Yours faithfully

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