

19 December 2016

The Secretary  
Department of Planning and Environment  
Level 22, 320 Pitt Street  
Sydney NSW 2000

Dear Secretary

**Ropes Creek Precinct – Development Control Plan  
Submission on behalf of Jacfin Pty Ltd**

We act for Jacfin Pty Ltd (**Jacfin**), the owner of Lot 20 in DP 1206129 (**Eastern Creek Land**) and Lot 54 in DP 1215903 (**Ropes Creek Land**).

This submission is made on behalf of Jacfin in relation to the draft Development Control Plan for the Ropes Creek Precinct (**Draft DCP**), which is currently on exhibition and is proposed to apply to that part of the Ropes Creek Precinct north of Lenore Drive, which is currently owned by the Department of Planning and Environment (**DPE Land**).

We note that Jacfin's Eastern Creek Land immediately adjoins the DPE Land to the east and the Ropes Creek Land adjoins the DPE Land to the south on the other side of Lenore Drive.

In addition to preparing this submission, Jacfin has retained JBA Urban to review the Draft DCP and the technical studies exhibited with the Draft DCP. JBA is still in the process of finalising its assessment, which will be separately provided to the Department subsequent to this submission. Jacfin requests the Department take into consideration the findings of the town planning assessment to be provided by JBA, in considering whether to adopt the Draft DCP.

Jacfin makes the following comments in relation to the Draft DCP.

**1 Intermodal Facility**

The Broader Western Sydney Employment Area Draft Structure Plan (**Draft Structure Plan**), published in June 2013, contemplated a future intermodal facility within the Eastern Creek Precinct of the Western Sydney Employment Area<sup>1</sup>. The indicative location of the intermodal facility shown in the maps and described in the Draft Structure Plan was Jacfin's Eastern Creek Land, immediately adjacent to the DPE Land.

**1.1 Lack of assessment of intermodal facility**

The only document exhibited with the Draft DCP that mentions the intermodal facility at all is the Traffic and Transport Assessment. The Traffic and Transport Assessment mentions the intermodal terminal in passing but does not include any assessment of the appropriateness of developing an intermodal terminal on the Eastern Creek Land or the traffic implications of that proposal in terms of

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<sup>1</sup> Broader Western Sydney Employment Area Draft Structure (June 2013), pp 6, 23, 45.

the proposed development on the DPE Land. In fact, there does not appear to have been any planning assessment undertaken in relation to the location of the proposed intermodal facility, in the course preparing the Draft DCP.

This is a significant failing in circumstances where there has been no assessment of the proposed location of the intermodal facility since the Draft Structure Plan was released in June 2013 (and apparently no proper assessment before that) and Jacfin has previously submitted that the intermodal terminal should be located on the DPE Land, rather than the Eastern Creek Land.

On 26 September 2013, Mr Noel Hemmings QC wrote to the Department on behalf of Jacfin noting Jacfin's strong opposition to the development of an intermodal facility on its Eastern Creek Land and indicating that it would be entirely unreasonable for the Department to acquire part of the Eastern Creek Land for the purpose of constructing an intermodal facility, when it already owns a substantial parcel of land immediately adjacent to the Eastern Creek Land.

Our client continues to oppose any suggestion that the intermodal terminal, if it proceeds, should be located on the Eastern Creek Land.

## 1.2 Location of intermodal facility

Figure 8 of the Draft DCP is an indicative concept plan for the DPE Land. The Draft DCP contemplates that the DPE Land will be used for "transport depots and freight transport facilities, industrial retail outlets, warehouse or distribution centres and other industries". It is evident that the Department has no intention of developing the intermodal facility on the DPE Land. The Traffic and Transport Assessment prepared in support of the Draft DCP notes that the DPE Land is located directly to the west of the proposed future Western Sydney Intermodal Terminal, reaffirming that the Department intends to develop the intermodal facility on Jacfin's Eastern Creek Land<sup>2</sup>.

The DPE Land was compulsorily acquired by the Department for public purposes. Jacfin submits that if the Department proposes to construct an intermodal facility in the Western Sydney Employment Area, that facility should be located on the DPE Land. As noted by Mr Hemmings QC in his letter to the Department in September 2013, it would be inequitable for the Department to acquire further private land to construct an intermodal facility, whilst developing and selling land already acquired by the government for profit.

In doing so, the Department would be acting as a landowner pursuing the objective of realising the full development potential of its own land, whilst compromising the development potential of Jacfin's Eastern Creek Land. This is particularly concerning in circumstances where the Department, by virtue of it now seeking to develop its own land for employment uses, has become a direct competitor to Jacfin in the industrial and warehousing market. It is respectfully submitted that a decision to locate the intermodal facility on Jacfin's land would, in these circumstances, amount to an abuse of the Department's strategic planning and compulsory acquisition powers.

There is existing development on the Eastern Creek Land, as well as a number of development applications currently before Blacktown City Council (**Council**) seeking consent for further developments on that land. In contrast, the DPE Land is currently unconstrained by development and is not subject to any current development applications. The DPE Land shares similar topography with the Eastern Creek Land and is immediately proximate to the Eastern Creek Land. There is therefore no apparent reason why the intermodal terminal, if it proceeds, could not be located on the DPE Land.

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<sup>2</sup> Ropes Creek Precinct Traffic and Transport Assessment (27 May 2016), pp i, 1

### 1.3 Failure to consider relevant matter

If the DPE Land is developed as contemplated by the Draft DCP, this would preclude the construction of the intermodal terminal on that land. Accordingly, it is essential that a proper planning assessment be undertaken prior to the adoption of the Draft DCP, to confirm the appropriate location for the intermodal terminal. A failure to undertake such an assessment would amount to a failure to take into account a key relevant consideration in determining whether to adopt the Draft DCP.

Furthermore, even if the intermodal facility were to be located on the Eastern Creek Land (which Jacfin strongly opposes for the reasons stated), it would be necessary to assess the traffic implications of this proposal on the future local road network on the DPE Land and, in particular, to confirm that the intersection at Access Road 4 is capable of accommodating the traffic volumes that would be generated by traffic accessing an intermodal terminal on adjacent land. The Traffic and Transport Assessment exhibited only considers traffic generated from local industrial land uses and does not take into account the impacts of regional traffic that would be generated by the intermodal facility. This issue must be given proper consideration before the Draft DCP can be adopted.

### 1.4 Submission

Jacfin submits that a proper planning assessment in relation to the location of the proposed intermodal facility should be undertaken prior to the adoption of the Draft DCP and that, if the proposed intermodal terminal is to proceed, the Draft DCP should make provision for the construction of the intermodal facility on the DPE Land.

## 2 Alignment of Archbold Road

The Traffic and Transport Assessment undertaken in support of the Draft DCP notes the proposed extension of Archbold Road to Lenore Drive, and continuing through the Jacfin Ropes Creek Land.

The Ropes Creek Land is subject to a Concept Plan Approval (MP 10\_0127), which provides for the construction of that portion of the Archbold Road extension to be located on the Ropes Creek Land. Jacfin has also been granted a Project Approval (MP 10\_0128), which approves the construction of a half width of the Archbold Road extension as part of the Stage 1 development of the Ropes Creek Land. Jacfin has recently commenced construction of the Stage 1 development.

In obtaining these approvals for the Ropes Creek Land, Jacfin consulted at length with the Department and Roads and Maritime Services (*RMS*) regarding the alignment of Archbold Road and the location of its intersection with Lenore Drive. These elements of the regional road network which are to be located on Jacfin's Ropes Creek Land have now been approved.

Jacfin notes that the Archbold Road extension will pass through the DPE Land and that the intersection with Lenore Drive will also service the DPE Land. Jacfin submits that the alignment of Archbold Road through the DPE Land and the design of the intersection on the northern side of Lenore Drive should be consistent with the alignment and intersection design approved under the Jacfin Concept Plan and Project Approval.

The Traffic and Transport Assessment prepared for the Draft DCP also indicates that the regional road network may be subject to changes as DPE is currently preparing a draft land use and infrastructure strategy for the Western Sydney Priority Growth Area<sup>3</sup>. As noted above, Jacfin has approval for the alignment of Archbold Road through the Ropes Creek Land and the design of the intersection with Lenore Drive. Accordingly, any revisions to the regional road network should be compatible and consistent with the approved alignment on the Ropes Creek Land.

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<sup>3</sup> Ropes Creek Precinct Traffic and Transport Assessment (27 May 2016), p 8.

### 3 Connection to Eastern Creek Drive

The Draft DCP contemplates a potential road connection between Access Road 4 on the DPE Land and Eastern Creek Drive, located on Jacfin's Eastern Creek Land. The connection of Access Road 4 to Eastern Creek Drive is sensible planning and will reduce unnecessary traffic on Lenore Drive and reduce congestion at the intersection of Archbold Road and Lenore Drive.

On 15 August 2016, Jacfin lodged DA 16-04421 with Council for the extension of Eastern Creek Drive further towards the boundary of the DPE Land. Development consent for DA 16-04412 is expected to be granted by Council imminently.

In order to preserve the opportunity for a road connection between the DPE Land and the Eastern Creek Land, the alignment of Access Road 4 on the DPE Land must be consistent with the alignment of Eastern Creek Drive. Jacfin submits that the Draft DCP should be required to take into consideration and be consistent with the soon to be approved alignment for the extension of Eastern Creek Drive.

Further, the Draft DCP currently shows Access Road 4 terminating a significant distance short of the eastern boundary of the DPE Land and the remainder of the road connecting to Eastern Creek Drive as a 'potential road connection' only. The connection of Access Road 4 to Eastern Creek Drive will remain uncertain and is unlikely to be provided unless Access Road 4 is extended to the eastern boundary of the DPE Land. Jacfin submits that the full extent of the connection to Eastern Creek Drive should be shown in the DCP as an actual local road, rather than merely 'potential', with the road reserve of Access Road 4 continuing to the boundary of the DPE Land, to ensure the future dedication of the full extent of land required to achieve a connection to Eastern Creek Drive.

### 4 Drainage

None of the developable area of the DPE Land is included in the catchments subject to Contributions Plan No. 18 – Eastern Creek Stage 3 (**Contributions Plan**), adopted by Council in June this year. No provision for runoff from the DPE Land has been made in the design of the water management infrastructure that is to be funded under the Contributions Plan and no contributions towards that infrastructure are required from the Department under the Contributions Plan.

Accordingly, the development of the DPE Land must not rely on drainage infrastructure that is to be delivered elsewhere in the catchment under the Contributions Plan, particularly the permanent detention basin to be constructed by Jacfin on the Eastern Creek Land. Jacfin submits that the DPE Land must be self-sufficient in terms of arrangements for stormwater detention.

### 5 Other Issues

In addition to the key issues identified above, Jacfin notes that a number of the technical studies exhibited with the Draft DCP include figures<sup>4</sup> showing details of, for example, vegetation and soil salinity, on the northern part of the Ropes Creek Land and western part of the Eastern Creek Land. As this is not relevant to the DPE Land and concerns land owned by a private third party, Jacfin submits that such details in relation to the Ropes Creek Land and Eastern Creek Land should not be included in the technical studies.

Jacfin also notes that there is reference in the Land Capability, Salinity and Contamination Assessment to a telephone conversation with the director of Jacfin, who was a former owner of the DPE Land. Jacfin would prefer that where reference is made to other landowners that they not be personally identified.

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<sup>4</sup> Biodiversity and Riparian Assessment, Figures 3, 4, 7 and 8; Land Capability, Salinity and Contamination Assessment, Figure 6; Asset Protection Zones Assessment, Figure 1.

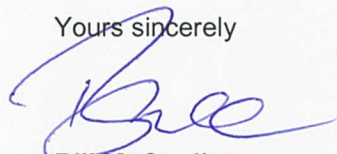
## 6 Submission

While Jacfin generally supports the development of the DPE Land for employment purposes, Jacfin strongly opposes any proposal by the Department to locate an intermodal facility on its Eastern Creek Land and submits that if the proposed intermodal facility is to proceed the Draft DCP should make provision for it to be located on the DPE Land.

Jacfin further submits that:

- (a) **Intermodal facility** – a proper planning assessment of the appropriate location of the proposed intermodal facility and the traffic implications of the proposed facility for the precinct must be undertaken and taken into consideration by the Department in determining whether to adopt the DCP;
- (b) **Archbold Road** – the alignment of Archbold Road and the design of the intersection between Archbold Road and Lenore Drive should be compatible and consistent with the alignment and design approved in the Concept Plan and Project Approval for Jacfin's Ropes Creek Land;
- (c) **Access Road 4** – the alignment of Access Road 4 should be consistent with the existing alignment of Eastern Creek Drive and the soon to be approved extension of Eastern Creek Drive, and the DCP should show the full extent of the connection to Eastern Creek Drive as an actual local road continuing to the boundary of the DPE Land; and
- (d) **Drainage** – adequate drainage infrastructure should be provided on the DPE Land to ensure that it is self-sufficient and not reliant on detention capacity elsewhere in the Ropes Creek or Eastern Creek Precincts.

Yours sincerely



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