Title: Development Application No. 49832/2016, Proposed Alterations & Additions to Existing Industrial Building on Lot 1 DP 816083 & Lot 22 DP 873845 98-112, 98 Wisemans Ferry Road, Somersby

Department: Environment and Planning

Supplementary Report: 2 March 2017

Report Purpose:

To enable the determination of a development application.

Applicant	CSR Hebel
Owner	CSR Panel Systems
Application Number	49832/2016
Description of Land	DP 816083 & DP 873845, 98 Wisemans Ferry Road Somersby
Proposed Development	Alterations & Additions to Existing Industrial Building
Zoning	IN1 General Industrial
Site Area	48100m^2
Existing Use	Industrial building
Value of Works	$28,412,632.00

Summary:

Application Type	Development Application – Local
Application Lodged	10/05/2016
Delegation level **Reason for delegation level**	Joint Regional Planning Panel

Advertised and Notified / Notified Only	Notified only
Submissions	One (1) subsequently withdrawn
Disclosure of Political Donations & Gifts	No

Recommendation:

A JRPP as consent authority grant consent to Development Application No 49832/2016 for Alterations & Additions to Existing Industrial Building on DP 816083 & DP: 873845, 98 Wisemans Ferry Road Somersby subject to the conditions attached.

B In accordance with Section 95(1) of the Environmental Planning & Assessment Act 1979, this consent shall be valid for a period of five (5) years.

C The External Authorities be notified of the JRPP's decision.

Background:

CSR Building Products Ltd (CSR) is seeking to extend the Hebel plant facilities which are currently situated on Lot 1 DP 816083, over and into part of the adjoining lot to the south, being Lot 22 DP 873845. Lot 22 is currently vacant; however a previous court approval exists for earthworks/hardstand which has been physically commenced.

The subject site is currently zoned IN1 General Industrial under the Gosford Local Environmental Plan 2014 (GLEP 2014). CSR Hebel factory has been operating on the site since 1989.

The Proposal

It is proposed to extend the existing Hebel manufacturing plant operating on Lot 1. The proposed development will extend over the adjoining site to the south (Lot 22). The proposal has a similar development footprint as the LEC approved development consent. The current application seeks to gain approval for the manufacturing plant on this hardstand area.

The proposal comprises on Lot 22:

- Construction of a production plant building including facilities for cutting, storage of raw materials and a boiler room
- Hardstand storage areas and vehicle loading facilities
- Two new driveways
- On-site car parking – 50 additional spaces
- An extended administration building
- Staff amenities
- Landscaping

The processes include raw materials, preparation works, mixing, pouring, curing, cooking and packaging.

An additional 24 staff will be required for the proposed expanded facility. It is proposed to continue to manufacture from the site 24hrs per day.

The existing facility is approximately 9,624sqm in size, while the proposed extension is approximately 10,911sqm, meaning the facility (plus extension) will be approximately 20,535sqm in size. The current production rate is 170,000 cubic metres. The proposed maximum capacity is 500,000 cubic metres.

The additional parking area will bring the total number of car spaces (including disabled parking) to 122 spaces.

The application has been assessed pursuant to the heads of consideration specified under Section 79C of the *Environmental Planning & Assessment Act 1979* (EP&A Act 1979), Council policies and adopted Management Plans (refer to JRPP report 23 February 2017 - (see attachment 1).

Reasons for Deferral

The JRPP at its meeting on 23 February 2016, considered the application and was generally in favour of granting consent to the application. The panel raised two matters for further consideration, being:

- Confirmation that the front parking area was inconsistent with a key aspect of a previous court approval (which was partially relied upon in terms of justifying the wider proposal)

- Confirmation whether the proposal was Integrated Development within the terms of the EP&A Act 1979.

Accordingly, the Panel decided to defer the determination of the matter until:

1. A revised layout of the front carpark was received, to maximise the front setback and landscaped area, with a revised landscape plan.

2. Advice on whether the proposal requires an approval under the Water Management Act 2000 and/or the Protection of the Environment Operations Act 2005.

3. If approval is required in terms of 2 above, whether:

   i. The proposal is Integrated Development under Section 91 of the EP&A Act 1979; and
   ii. Required separate approvals under other Acts are able to be subject to Condition(s) of consent, as opposed to the procedure outlined in Section 91A of the EP&A Act 1979.

When this information has been received, the Panel confirmed their intent to determine the matter electronically.

Item 1 - Amendment to Carpark Layout and Landscaped Front Setback

The JRPP requested amended plans to revise the front carpark layout and to maximise the front setback and landscaped area.

The applicant has provided amended plans which has widened the front landscaped area width and has increased the planting density (see **Figure 1)**. The width of the landscaping has also been increased and ranges from 5.3m at its narrowest point in the south to 11.89m at the northern end of the development site.

The setback provides for visual amenity purposes and does not provide a corridor for native species to access the conservation area.

If the 7.5m landscaped setback mentioned in the Court consent was strictly applied, the building location would need to push toward the rear. This would impact on the circulation and storage spaces at the rear of the site. The amended plans retain the current building location and seek to maximise the landscaped buffer within the available space while maintaining functionality of the facility. This approach is supported as the visual landscape objectives have been achieved appropriately.

Items 2 and 3 - Integrated Development

During the meeting, legal interpretation matters were raised regarding Integrated Development provisions of Section 91 of the EP&A Act 1979 and particularly seeking confirmation on whether the application requires approval under the WMA Act 2000 or the POEO Act 1997.

The advice confirms that the proposed development would require approval under the WMA Act 2000; a subsequent and separate advice confirms that the development would also

require an extension of the Environmental Protection Licence under the POEO Act 1997. As such the development would be able to be classified as integrated development.

The advice goes on to confirm however that this does not mean that the determining authority does not have jurisdiction to determine the application. Further, the advice confirms that the integrated development provisions are facilitative and the consent authority can determine a development application even through the provisions of the division have not been followed. The advice confirms that this was established in Maule v Liporoni & Anor [2002] NSW LEC 25.

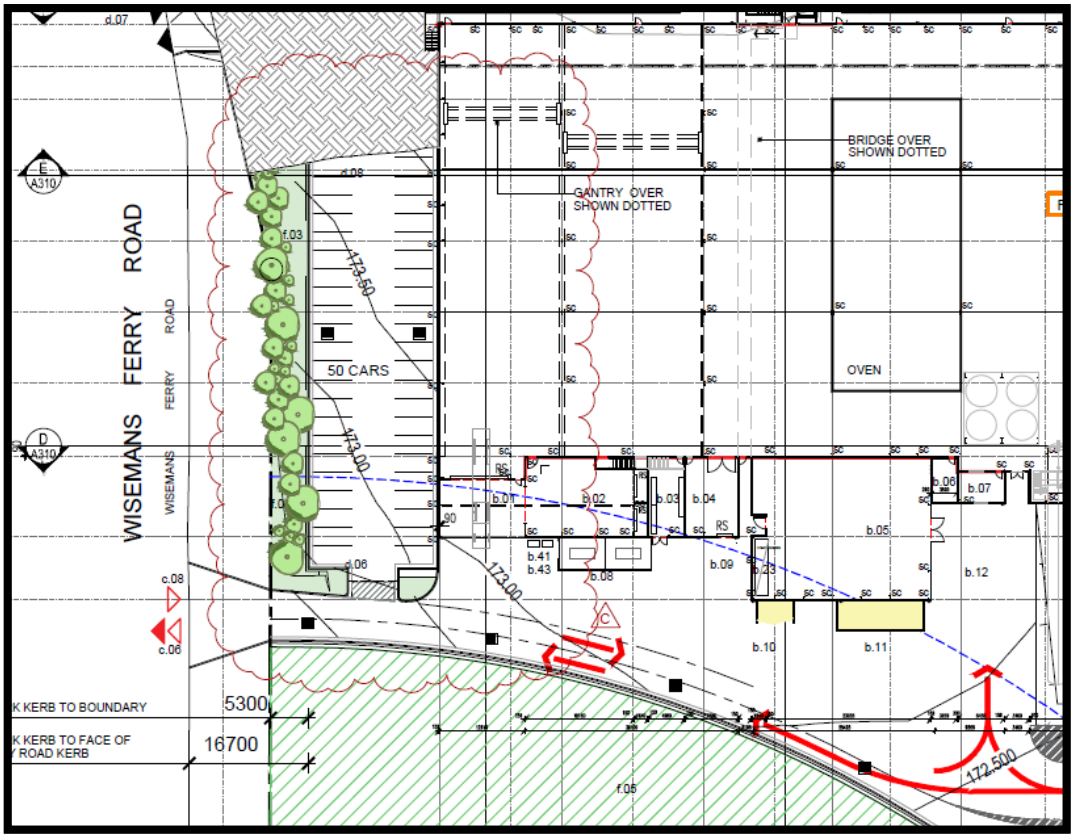
Legal advice has been provided by the applicant (refer Appendix A).

Therefore, it is concluded that the development application can be approved without requiring the application to be referred to either the NSW Office of Water or the NSW Environmental Protection Authority prior to determination.

The applicant is required under the relevant acts to get a Controlled Activity Licence from the Office of Water and also apply for an extension to the current Environmental Protection Licence due to the increase capacity of the proposed factory extension. This requirement has also been confirmed in the recommended conditions of consent.

In this case, the legal advice concludes that JRPP have the jurisdiction and power to determine the development application.

Figure 1: Extended landscape buffer



An amended landscape plan is required and the following condition is recommended: -

> Prior to Construction Certificate provide an amended landscape plan which reflects the amended front setback and carparking layout for Council approval. The amended landscape plan is to show a fully landscaped front setback area, comprising native plantings inclusive of groundcovers, shrubs and canopy trees at an increased density compared to that shown within Plan no. US 604575 LP. 01A drawn by Forum Urban Sanctum Landscape Design. The plan is also to include the provision of street trees at a minimum spacing of 15m.

Conclusion

The application seeks approval for the construction of an extension to an existing Hebel production plant, storage area, office area, loading bays and landscaping. As outlined in the 23 February 2017 assessment report, the application has been assessed under the heads of consideration of section 79C of the EP&A Act 1979 and all relevant instruments and policies. The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development.

Subject to the imposition of appropriate conditions, the proposed development is not expected to have any adverse social or economic impact. It is considered that the proposed development will complement the locality and meet the desired future character of the area.

The plan has been amended to improve and increase the landscaped area adjacent to Wisemans Ferry Road, thereby maximising the screening of the development. It has also been confirmed that while approvals under the WMA Act 2000 and the POEO Act 1997 are required, this can be undertaken as a separate approval with the relevant agencies and that the JRPP has jurisdiction to determine the application.

Accordingly, the application is recommended for approval.

Plans for Stamping:

Original Lodged Plans. ECM Doc No. 23968804 and 24077030

Supporting Documents for Binding with consent:

Document Name:	
Bushfire Report	ECM Doc. No 22633871
Waste Management Plan	ECM Doc. No 22634056
Air Quality Impact Assessment – Todoroski Air Sciences Pty Ltd	ECM Doc. No 23579895
ACOR Consultants - Civil Engineering Report	ECM Doc. No 23579896
Kleinfelder - Conservation Management Plan	ECM Doc. No 23579897
Operational Noise Assessment – Wilkinson Murray	ECM Doc. No 23579888

Appendix A

Applicant's legal advice – dated 23 February 2017

Applicant's legal advice – dated 26 February 2017

APPENDIX A – Applicant's Legal Advice

Maddocks

Maddocks

Lawyers
Angel Place
Level 27, 123 Pitt Street
Sydney NSW 2000
Australia

GPO Box 1692
Sydney New South Wales 2001

Telephone 61 2 9291 6100
Facsimile 61 2 9221 0872

info@maddocks.com.au
www.maddocks.com.au

DX 10284 Sydney Stock Exchange

Contact Patrick Ibbotson
Direct 02 9291 6169
Email patrick.ibbotson@maddocks.com.au
Our Ref PNI:7031358

23 February 2016

Allison Basford
Property Development Manager
CSR Limited
Locked Bag 1345
NORTH RYDE NSW 1345

Dear Allison

Development Application for extension of Somersby Plant

Summary of Advice

1. CSR has made a development application (**Development Application**) for the extension of its plant at Somersby (**Development**). The description of the Development is set out in our advice of 23 December and some further elements of it are described below.

2. The Development Application came before the Hunter and Central Coast JRPP (**JRPP**) on 23 February . The JRPP as asked:

2.1 whether the Development is integrated development by reason of a detention/reuse tank on the eastern boundary of the site. Specifically whether that detention/reuse tank is a controlled activity under the Water Management Act 2000 (**WM Act**); and

2.2 if so whether the JRPP has jurisdiction or power to determine the development application in circumstances where the provisions of Division 5 of Part 4 of the *Environmental Planning and Assessment Act* 1979 (**EP&A Act**) have not been followed.

3. In our opinion:

3.1 The detention/reuse tank is most likely not a controlled activity;

3.2 However, the detention/reuse tank is likely to be a water supply work and will require a water management works approval under s90 of the WM Act;

3.3 As a result, the development would be able to be classified as integrated development;

3.4 However, this does not mean that the JRPP does not have jurisdiction to determine the Development Application. There is long standing authority that the fact that the provisions of Division 5 of Part 4 of the EP&A Act are intended to be facilitative and that a consent authority can determine a development application for integrated development even though the provisions of that Division have not been followed. In *Maule v Liporoni & Anor [2002] NSWLEC 25* Lloyd J says:

"[83] The provisions of Pt 4, Div 5 of the EP&A Act are beneficial and facultative"…

[84] The provisions relating to integrated development are there for the benefit of applicants for development consent and not to hinder them…

[86] There was and is no compulsion on an applicant to make an application for an integrated development approval, if he or she choses not to do so.

[87] There is nothing unlawful in an applicant for development consent so electing. There is nothing unlawful in the making of the development application in the present case, neither is the anything unlawful in the council's failure to process the development application as if it were for integrated development.

[91] I conclude that the legislature could not have intended that a failure to follow those procedures would invalidate the action taken under the statute. Moreover, the decision in this case does not involve a jurisdictional error…"

3.5 The decision in *Maule v Liporoni* is authoritative, has never been overruled and should be followed.

3.6 Accordingly, the JRPP has jurisdiction and power to determine the development application;

3.7 The proposed deferred commencement condition is redundant because if a relevant WM Act approval is required then the relevant works cannot proceed without that approval regardless of what the development consent says.

Further Background

4. In our advice of 23 December we set out some background facts relevant to the question of whether the development is designated development. Including a description of the proposed development from the SEE:

> **"PROPOSED DEVELOPMENT**
>
> The proposed development involves the construction of an extension to the ongoing operation of an autoclave aerated concrete manufacturing facility (Hebel facility). The proposal consists of extending the existing Hebel plant facilities on the site by construction of:

• A production plant building including facilities for cutting, storage of raw materials, and a boiler room;

• Hardstand storage areas and vehicle loading facilities;

• Two new driveways and onsite carparking; and

• An extended administration building, staff amenities and landscaping.

Attached Appendix A shows the detailed design of the proposal.

The existing facility is approximately 9,624 square metres in size, while the proposed extension is approximately 10,911 square metres, meaning the facility (plus extension) will be approximately 20,535 square metres in size. It is understood that an additional 50 car parking spaces will be provided taking the total number of spaces (including disabled parking) to 122 spaces.

As part of the manufacturing process, the ongoing operations that will be carried out on the site will include:

• Loading, storage and preparation of raw materials such as sand, lime, gypsum, and cement;

• Concrete mixing, casting, cutting and curing (autoclave); and

• Storage and loading of products for distribution.

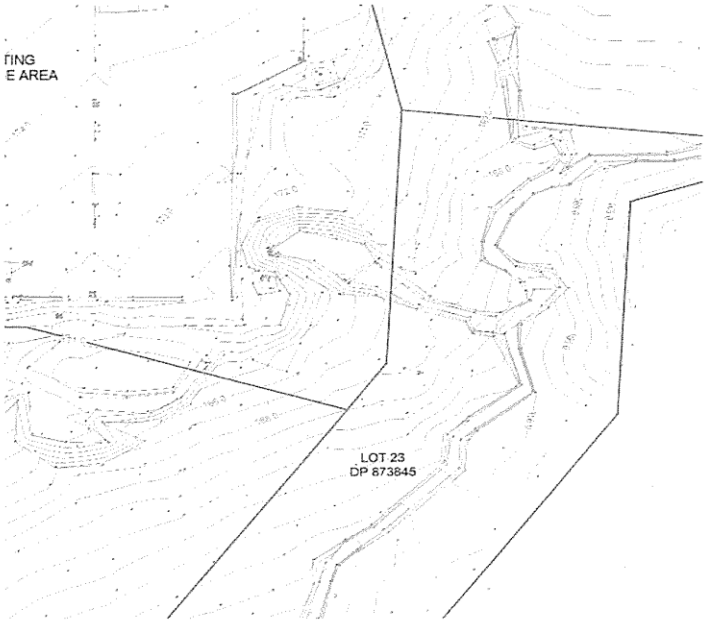
There is no change proposed to the hours of operation that apply to the existing manufacturing plant, that is both the existing plant and extension will operate over a 24 hour period. If the extension is approved, it is anticipated that up to 24 staff will be additionally employed at the facility.

The proposed extension will create approximately 320 vehicle movements per day, which will be about a 7% increase on existing traffic counts. Delivery and supply of materials to the plant will also continue to occur over a 24 hour period.

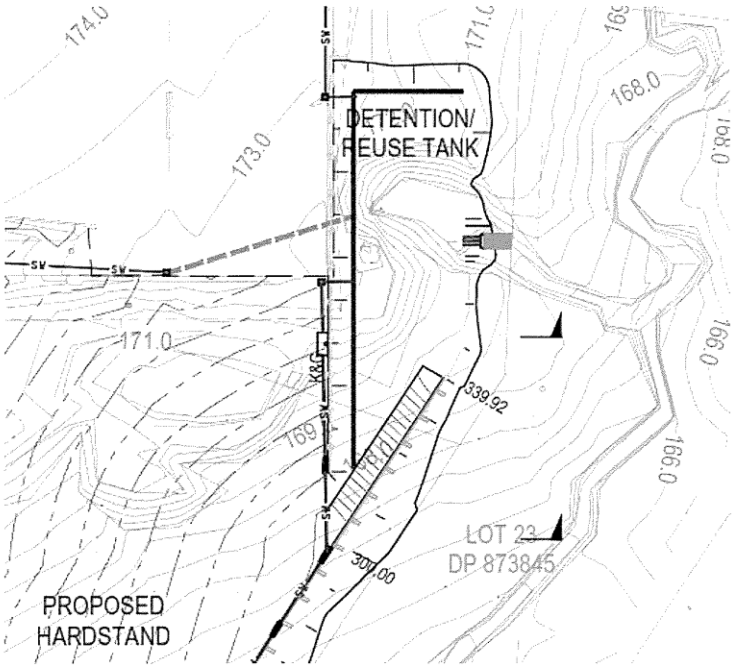
The estimated CIV of the proposal is $12,137,449[1].

[1] The CIV has now been updated to $28,412,632 ref RPS advice 28 November 2016 but nothing turns on this for the purposes of this advice.

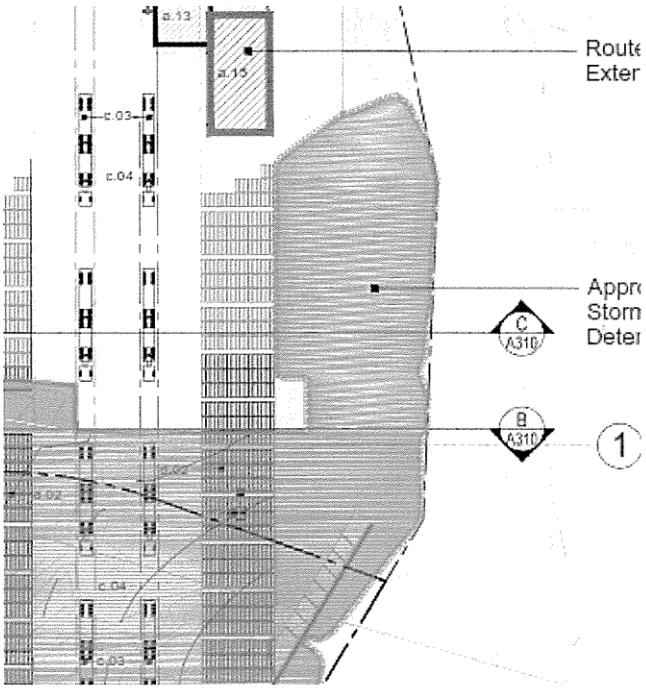
5. The JRPP has a report prepared by ACOR Consultants titled "*CSR Hebel Line 2 Extension, Somersby*" dated 1/11/2016 (the "C**ACOR Report"**). This shows the existing development including the area of the existing detention basin as follows:



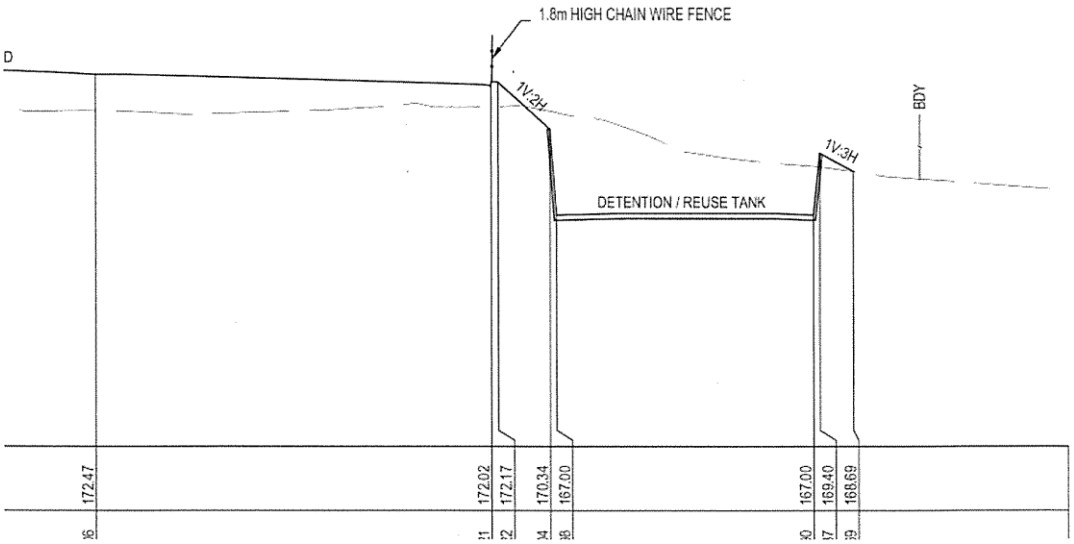
6. The proposed Development is shown, relevantly as follows:



7. There are also revised plans that show the development as follows:



8. The ACOR Report shows a relevant cross section as follows:



9. The ACOR report also describes the purpose of the detention/reuse tank including:

> Where V =stormwater retention volume (m^3), A = Total site area (m^2) and F = fraction impervious (%).
>
> The area of the new development site is 37,290 m^2(including the south western environmentally protected area). The fraction impervious of the site is approximately 73%. From the above information, a stormwater retention volume of 795 m^3 is required for the development. A volume of 800 m^3 has been adopted for retention for the site.
>
> **4.3.2 Stormwater Reuse**
>
> The stormwater retention will be utilised for reuse in the new factory in the manufacturing process in the ball mill and/or the slurry wash. It is estimated that 75 kL of water per day will be reused in the manufacturing process. This volume has been adopted for the modelling. When the required volume is not available in the tank, mains water will be used in the ball mill and slurry wash.

And

> Line 2 development located at 35 Wisemans Ferry Road, Somersby.
>
> Significant site grading is required for the development including large retaining structures around the site boundary as well as between the existing factory and the proposed factory. General grading of the hardstand areas will be in the range of 3 to 5%.
>
> Stormwater runoff from the site will be conveyed via a pit and pipe system to the detention/reuse tank.
>
> Stormwater quantity for the site will be addressed by a tank that will act as both a detention and a reuse tank. Overflows from the tank will be directed to the existing site stormwater outlet to the creek tributary. The peak flows from the site have been reduced to below the current peak flows leaving the site.

10. The location of the detention/reuse tank appears to be within 40m of a creek known as Piles Creek. This is shown in the extracts in the plans above.

Relevant Legislation

11. Division 5 of Part 4 of the EP&A Act applies to integrated development. That is development that that, in order for it to be carried out, requires development consent and one or more of the approvals listed in s 91(1) of the EP&A Act. Those approvals include, relevantly:

Water Management Act 2000	ss 89, 90, 91	water use approval, water management work approval or activity approval under Part 3 of Chapter 3

12. Where development is integrated development the process set out in Division 5 of Part 4 requires that the approval authority be notified and that general terms of approval be obtained. Section 91A(2) provides:

"Before granting development consent to an application for consent to carry out the development, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development. Nothing in this section requires the consent authority to obtain the general terms of any such approval if the consent authority determines to refuse to grant development consent."

13. The WM Act requires approvals for various types of work to take, use, supply water and to perform works and activities in the vicinity of watercourses. So far as is relevant to this advice sections 90 and 91 provide:

90 Water management work approvals

(1) There are three kinds of water management work approvals, namely, water supply work approvals, drainage work approvals and flood work approvals.

(2) A water supply work approval authorises its holder to construct and use a specified water supply work at a specified location.

(3) A drainage work approval confers a right on its holder to construct and use a specified drainage work at a specified location.

(4) A flood work approval confers a right on its holder to construct and use a specified flood work at a specified location.

91 Activity approvals

(1) There are two kinds of activity approvals, namely, controlled activity approvals and aquifer interference approvals.

(2) A controlled activity approval confers a right on its holder to carry out a specified controlled activity at a specified location in, on or under waterfront land.

(3)…

14. A controlled activity is defined in the Dictionary of the WM Act as follows:

controlled activity means*:*

(a) the erection of a building or the carrying out of a work (within the meaning of the Environmental Planning and Assessment Act 1979), or

(b) the removal of material (whether or not extractive material) or vegetation from land, whether by way of excavation or otherwise, or

(c) the deposition of material (whether or not extractive material) on land, whether by way of landfill operations or otherwise, or

(d) the carrying out of any other activity that affects the quantity or flow of water in a water source.

15. Section 91E of the WMAct provides:

"A person:

(a) who carries out a controlled activity in, on or under waterfront land, and

(b) who does not hold a controlled activity approval for that activity,

is guilty of an offence".

16. The term Waterfront Land is defined, relevantly, as follows:

"the bed of any river, together with any land lying between the bed of the river and a line drawn parallel to, and the prescribed distance inland of, the highest bank of the river

…

where the prescribed distance is 40 metres…"

17. The Water Management Regulations can change the prescribed distance but there are no relevant regulations for this purpose.

18. A "river" is defined, relevantly, as follows:

river includes:

(a) any watercourse, whether perennial or intermittent and whether comprising a natural channel or a natural channel artificially improved, and

….."

19. The WM Act also regulates Water Supply Works. These are defined as follows:

water supply work means:

(a) …., or

(b) a work (such as a tank or dam) that is constructed or used for the purpose of capturing or storing water, or

(c) …

(d) …, or

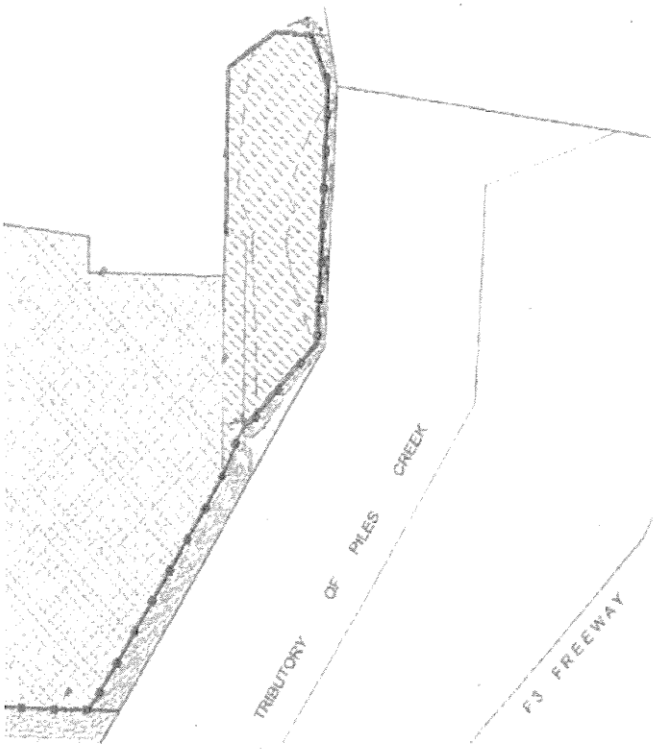
(e) any work (such as a weir) that has, or could have, the effect of impounding water in a water source,

Is the Detention/Reuse Tank a Controlled Activity?

20. The detention/reuse tank could be a controlled activity if: it is within 40 metres of the bank of a watercourse; and it comprises a "work", a "building" or involves the "removal" or "deposition" of material.

21. It is obviously arguable that the detention/reuse tank is a work or even a building but we think that in the context of the WM Act it more accurately meets the definition of a 'water supply work" being a work (such as a tank or dam) that is constructed or used for the purpose of capturing or storing water. If that is so then the approval that would be required would be under s90 not s91[2]. The result would remain that the detention/reuse tank would require approval under s90 of the WM Act and that the development would be integrated development ton that basis.

22. We have noted that the existing development consent was not treated as integrated development despite there being a drainage detention basin in the same location as shown on the following plan from the existing consent:



23. We don't think anything turns on this given that it is proposed to do additional works in the location of the detention basin under the present DA.

[2] We think it would be strange to interpret the WM Act to require both approvals for the one work.

24. For completeness we note that there are a number of exemptions to the requirements to obtain a controlled activity approval or a water management approval under the WM Act, however, we have not identified any exemptions that would apply in this situation.

Effect of not following the integrated development process.

25. Section 91A(2) of the EP&A Act uses language such as "must":

> "Before granting development consent to an application for consent to carry out the development**, the consent authority must**, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development. Nothing in this section requires the consent authority to obtain the general terms of any such approval if the consent authority determines to refuse to grant development consent."

26. One way to read this is that the effect of the word "must" is to mandate that for any integrated development these steps have to be undertaken before there is power to determine the development application – ie the provisions are mandatory.

27. That approach is not consistent with the well-established principles of statutory interpretation that have been set out time and again by the High Court. The correct approach is authoritatively stated by the High Court inProject Blue Sky v Australian Broadcasting Authority (S41-1997) [1998] HCA 28 [at 93]

> "In our opinion, the Court of Appeal of New South Wales was correct in Tasker v Fullwood[73] in criticising the continued use of the "elusive distinction between directory and mandatory requirements"[74] and the division of directory acts into those which have substantially complied with a statutory command and those which have not. They are classifications that have outlived their usefulness because they deflect attention from the real issue which is whether an act done in breach of the legislative provision is invalid. The classification of a statutory provision as mandatory or directory records a result which has been reached on other grounds. The classification is the end of the inquiry, not the beginning[75]. That being so, a court, determining the validity of an act done in breach of a statutory provision, may easily focus on the wrong factors if it asks itself whether compliance with the provision is mandatory or directory and, if directory, whether there has been substantial compliance with the provision. **A better test for determining the issue of validity is to ask whether it was a purpose of the legislation that an act done in breach of the provision should be invalid. This has been the preferred approach of courts in this country in recent years, particularly in New South Wales[76]. In determining the question of purpose, regard must be had to "the language of the relevant provision and the scope and object of the whole statute**"[77]." [*our emphasis added*]

28. The integrated development provisions were added to the EP&A Act to facilitate the determination of development applications and certain other approvals in parallel and in consistent terms. The evil that they were addressing was the situation where development consent was granted and the developer found themselves having to then negotiate with other approval authorities and potentially being unable to proceed with their development or having to modify their development consent.

29. In *Maule v Liporoni & Anor [2002] NSWLEC 25* Lloyd J said:

> 83. The provisions of Pt 4, Div 5 of the EP&A Act are beneficial and facultative. They were enacted to overcome delays and duplications where there is more than one consent or approval body for a particular development so that an applicant for consent would not have to go through the whole process again for each application. ….
>
> 84. If a development application is made for integrated development, the effect of any subsequent development consent is that an approval body, following notification of the development application, and which then fails to inform the consent authority whether or not it will grant the approval or to inform it of the general terms of its approval, cannot subsequently refuse to grant approval to an application for approval in respect of that development and any such approval must not be inconsistent with the development consent (s 91A(5)). The provisions relating to integrated development are there for the benefit of applicants for development consent and not to hinder them.
>
> …
>
> 86. In making the development application Mr Liporoni did not tick the box in the application form to indicate that consent was being sought for an integrated development approval. In so doing he elected to have his development application processed as if it were not an application for integrated development. That was his choice. There was and is no compulsion on an applicant to make an application for an integrated development approval, if he or she choses not to do so.
>
> 87. There is nothing unlawful in an applicant for development consent so electing. There is nothing unlawful in the making of the development application in the present case, neither is the anything unlawful in the council's failure to process the development application as if it were for integrated development.

30. His honour concludes:

> "I conclude that the legislature could not have intended that a failure to follow those procedures would invalidate the action taken under the statute. Moreover, the decision in this case does not involve a jurisdictional error…"

31. This decision has been cited with approval in a number of subsequent cases.

32. Adopting the approach of the Land and Environment Court in *Maule v Liporoni* in the present circumstances it is absolutely clear that:

32.1 despite the fact that an approval may be required under s90 or s91 of the WM Act, the JRPP still has jurisdiction to grant development consent;

32.2 the development consent would not be invalid merely because the integrated development process had not been followed.

Deferred Commencement Condition

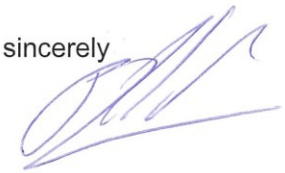
33. It was mentioned to us that there had been discussion about granting the development consent subject to a condition that the operation of the consent is deferred until any necessary approvals under the WM Act have been obtained.

34. It seems to us that such a condition could be imposed but is unnecessary. The purpose of the provision would be to ensure that the approvals for the detention/reuse basin are in place. Of course if the approvals are required then they must be obtained or any works that are carried out would be in breach of the WM Act. As a result we think that such a deferred commencement provision would be redundant.

35. If it is the intention that the issue should be highlighted for a certifier then the condition might be considered as a requirement to be fulfilled before the issue of the construction certificate. Again we would see such a condition as being largely redundant.

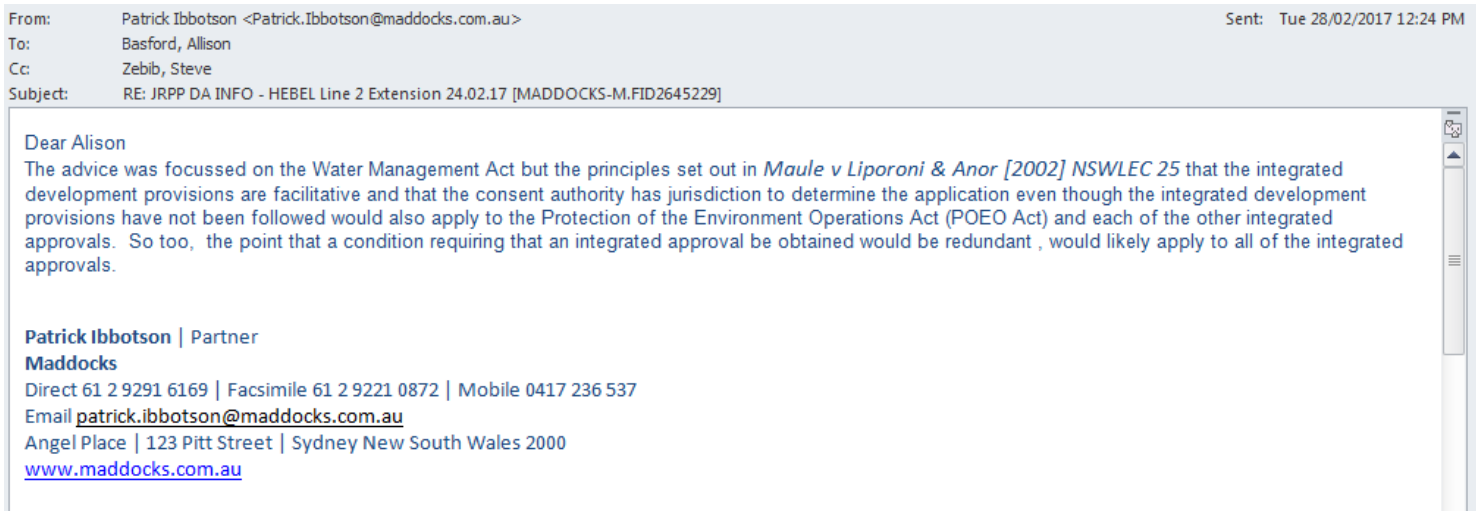
36. In our view the better course, if the JRPP has determined to grant development consent, would be to grant it without conditions relating to eh WM Act approvals on the basis that if those approvals are required they must be in place before the relevant works commence no matter what the development consent says.

Yours sincerely



Patrick Ibbotson
Partner

Applicant's Legal advice – further clarification



From: Patrick Ibbotson <Patrick.Ibbotson@maddocks.com.au> Sent: Tue 28/02/2017 12:24 PM
To: Basford, Allison
Cc: Zebib, Steve
Subject: RE: JRPP DA INFO - HEBEL Line 2 Extension 24.02.17 [MADDOCKS-M.FID2645229]

Dear Alison
The advice was focussed on the Water Management Act but the principles set out in *Maule v Liporoni & Anor [2002] NSWLEC 25* that the integrated development provisions are facilitative and that the consent authority has jurisdiction to determine the application even though the integrated development provisions have not been followed would also apply to the Protection of the Environment Operations Act (POEO Act) and each of the other integrated approvals. So too, the point that a condition requiring that an integrated approval be obtained would be redundant , would likely apply to all of the integrated approvals.

Patrick Ibbotson | Partner
Maddocks
Direct 61 2 9291 6169 | Facsimile 61 2 9221 0872 | Mobile 0417 236 537
Email patrick.ibbotson@maddocks.com.au
Angel Place | 123 Pitt Street | Sydney New South Wales 2000
www.maddocks.com.au