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SUBMISSION WITH RESPECT TO DRAFT MAMRE ROAD PRECINCT STRUCTURE PLAN UNDER STATE ENVIRONMENTAL PLANNING POLICY (WESTERN SYDNEY EMPLOYMENT AREA) 2009 ON BEHALF OF GAONOR PTY LTD

Dear Katherine

1.0 INTRODUCTION

This Submission is made by Gaonor Pty Ltd (Gaonor) with respect to the Draft Mamre Road Precinct Structure Plan under *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (WSEA SEPP). Gaonor owns the site at 919-929 Mamre Road, Kemps Creek (Lot 35 DP258414). Currently, the site lies wholly within the WSEA SEPP Application Area but has not yet been rezoned under WSEA SEPP (refer to **Figure 1** below). Under the Draft Mamre Road Precinct Structure Plan, the entire site will become formally rezoned as IN1 General Industrial under WSEA SEPP, with a small pocket in the site's south-western corner rezoned to RE1 Public Recreation (refer to **Figure 2** and **Figure 3** below).

Gaonor strongly supports DPIE formalising the site's industrial zoning under WSEA SEPP. This aligns with the objectives of WSEA SEPP and the Greater Sydney Commission's vision of protecting industrial lands in Western Sydney. It would also streamline the provision of employment-generating development at the site.

However, Gaonor is concerned about several matters with respect to the Draft Mamre Road Structure Plan. These matters, if not dealt with adequately, could hinder the momentum of development for the broader locality. In particular, should the newly proposed rezoning under WSEA SEPP not be expedited, Gaonor considers that this will stagnate development of the locality, hindering the realisation of a fully functioning industrial ecosystem within the Mamre Road Precinct to support the Western Sydney Aerotropolis, and preventing the timely delivery of employment-generating development.

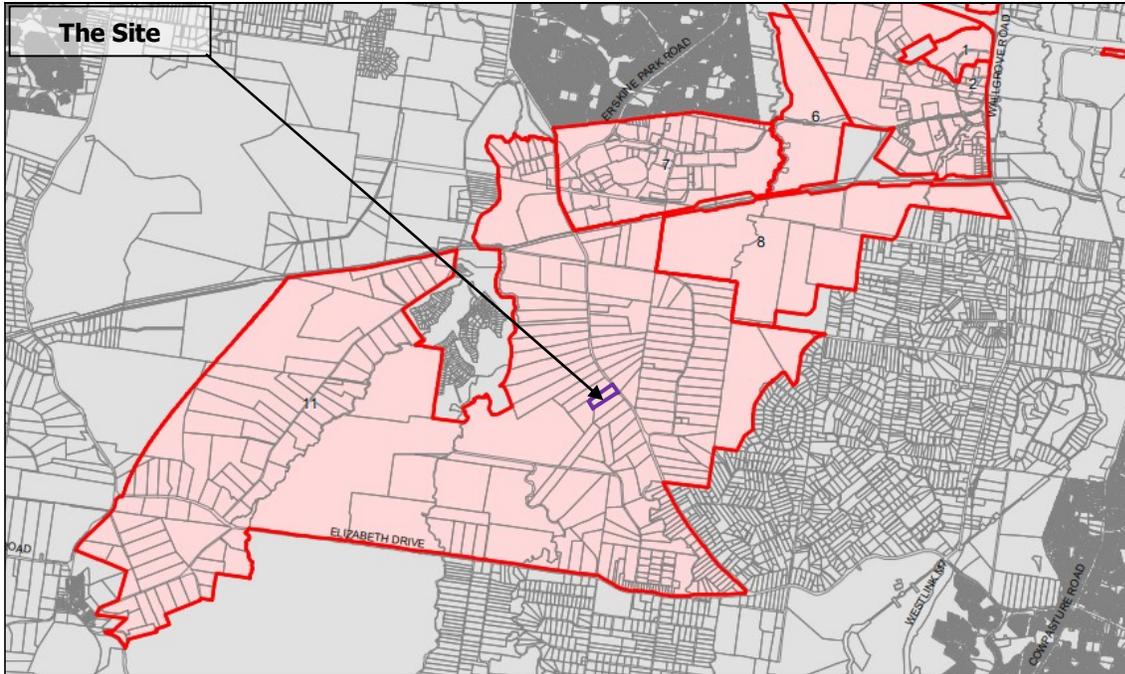


Figure 1 Current WSEA SEPP Land Application Map (NSW Legislation, 2019)

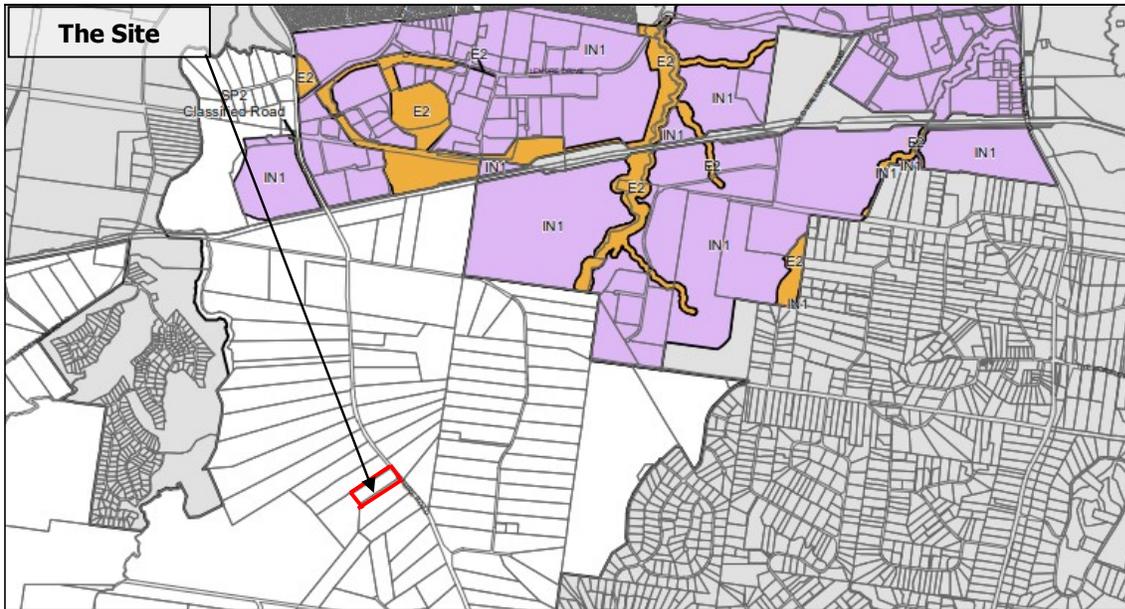


Figure 2 Current WSEA SEPP Land Zoning Map (NSW Legislation, 2019)

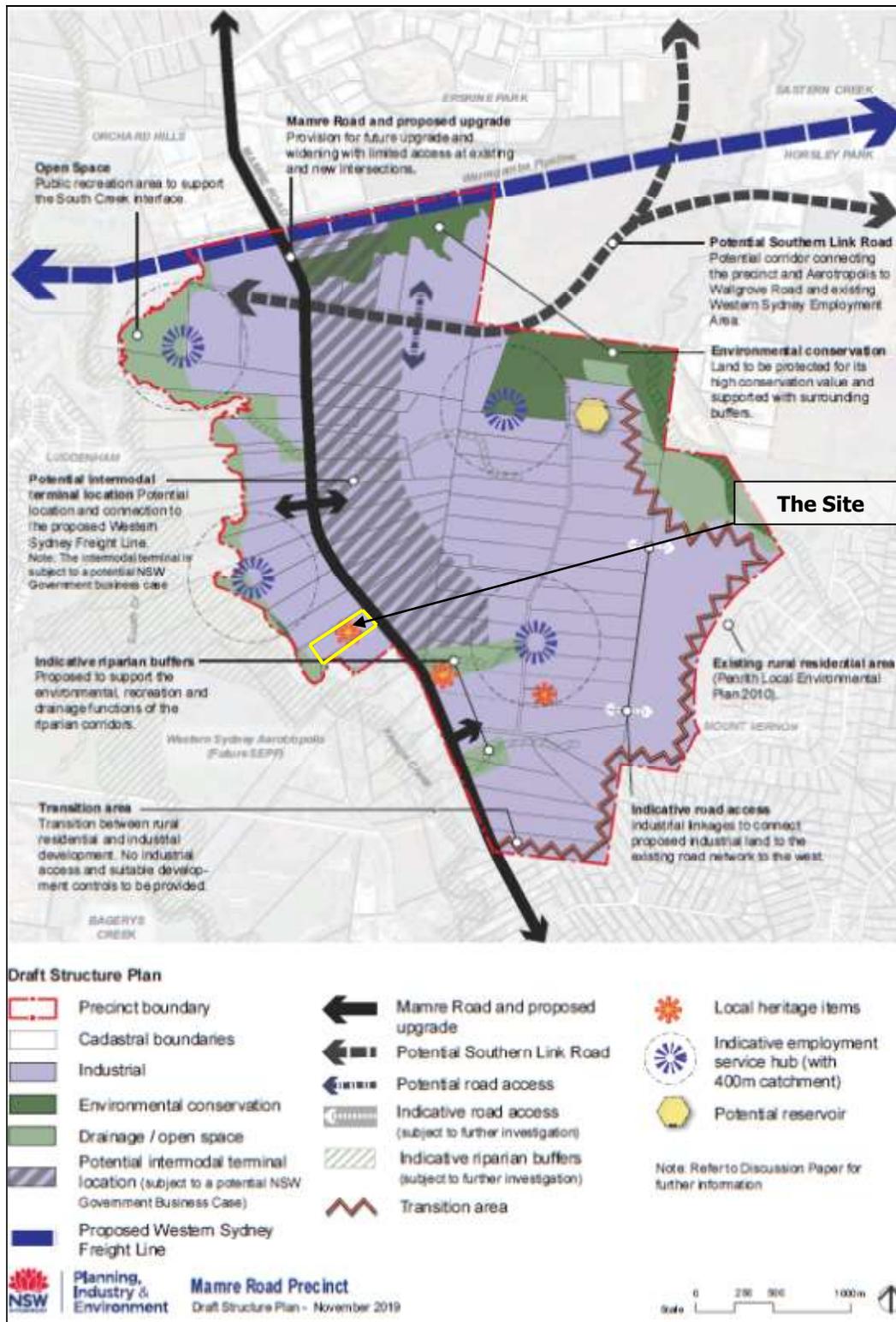


Figure 3 Proposed Draft Mamre Road Precinct Structure Plan (NSW DPIE, 2019)

2.0 THE GAONOR SITE

Gaonor owns 919-929 Mamre Road, Kemps Creek (Lot 35 DP258414), which is shown on **Figure 4** below. The site is located within the Mamre Road Precinct, and:

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- Is readily accessed by the regional road network, including both the M4 and M7 Motorways;
- Is sloping, with a fall of between 5-8m from north-east to south-west;
- Is sparsely vegetated with scattered stands of trees and scrub;
- Contains a dam;
- Has around 122m of frontage onto Mamre Road; and
- Was historically used for agricultural purposes.

The site is bound by the following:

- Industrial land uses to the north;
- Rural land uses to the south and west;
- Mamre Road to the immediate east; and
- Kemps Creek further to the west and to the south.

It is noted that the overall nature of this locality is progressing towards its operation as an industrial precinct.

The site is around 5.4ha in size.



Figure 4 The Site – Aerial View (SIXMaps, 2019)

3.0 GROUNDS FOR SUBMISSION

Whilst Gaonor strongly supports DPIE formalising the site's industrial zoning under WSEA SEPP, it also makes the following submissions to the Draft Mamre Road Precinct Structure Plan:

- The timeline for delivering this rezoning should be expedited, as landholders have waited long enough on Government promises to finalise the zoning of unzoned land within the WSEA;
- Other land use controls have not been specified for the Mamre Road Precinct;
- The opportunity should be taken to repeal the local heritage listing of the dwelling at this site (currently Local Heritage Item 104 under the PLEP 2010 – Bayly Park);
- Road network layouts should allow for suitable heavy vehicle circulation;
- There is uncertainty regarding applicable Section 7.12 Contribution and applicable Special Infrastructure Contribution rates, as the Discussion Paper contains insufficient details;

- There is a missed opportunity to identify and encourage opportunities for Exempt and Complying Development to be undertaken within the Mamre Road Precinct, in order to simplify the planning approvals process; and
- Open space should be provided in a more flexible manner within the Precinct so as to discourage land use conflicts and lessen the burden on the public purse in providing these lands.

3.1 Timeline for Rezoning

Gaonor emphatically urges Government to expedite the planned rezonings under WSEA SEPP. Landholders in the locality have waited several years for promised rezonings under WSEA SEPP to take place. This has put landholders in a legally complex situation, where they are required to rely on Clause 12 of WSEA SEPP in order to lawfully undertake employment-generating development on land within the WSEA, despite the first aim of WSEA SEPP being:

To promote economic development and the creation of employment in the Western Sydney Employment Area by providing for development including major warehousing, distribution, freight transport, industrial, high technology and research facilities.

While Gaonor raises other matters in this submission which it would like to be dealt with or clarified during this rezoning process, it is considered that the full resolution of these other matters need not delay the formal rezoning of this land which is currently unzoned under WSEA SEPP. Indeed, many of these other matters would in fact be dealt with in separate planning documents, such as Development Contributions Plans, Special Infrastructure Contributions Plans, and Development Control Plans. Clause 18 of WSEA SEPP already enables for this level of detail to be provided, where necessary, through the creation of Development Control Plans.

Should this newly proposed rezoning under WSEA SEPP not be expedited, Gaonor considers that this will stagnate development of the locality, hindering the realisation of a fully functioning industrial ecosystem within the Mamre Road Precinct.

3.2 Other Key Planning Controls

Other key planning controls for the Mamre Road Precinct have not been specified, and it has not been clarified whether the basic controls under WSEA SEPP would remain the same with the Mamre Road Structure Plan in place. For example, Clause 21 of WSEA SEPP currently reads as follows:

21 Height of buildings

The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that:

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

Moreover, no Floor Space Ratio or other similar planning controls are contained within WSEA SEPP. Gaonor requests that Government confirm these planning controls will retain their current flexible application to the WSEA. This is required to provide developer certainty regarding the potential end-uses of land and expected investment returns that would result from developing land within the WSEA.

3.3 Heritage Listing of Dwelling

Gaonor submits that the opportunity should be taken to repeal the local heritage listing of the dwelling at this site (currently Local Heritage Item 104 under the PLEP 2010 – Bayly Park). The Statement of Heritage Significance published on the NSW Heritage Register for this item is as follows:

Under construction from the 1810s for Nicholas Bayley, the property is unique in the south-eastern section of Penrith LGA for its historic associations with a settler family and colonial era rural enterprise. While the importance of the house requires investigation, the treed creekside setting with foreground of pastureland provides a historic item and demonstrates nineteenth century pastoral and agricultural estate planning.

However, it is understood that this original dwelling was rebuilt in the 1930's, with additional extensions added in the 1980's. The property therefore does not contain the original dwelling. As such, Gaonor requests Government take this opportunity, during the rezoning process under the Draft Mamre Road Structure Plan, to remove the building from this heritage listing.

3.4 Heavy Vehicle Access

Gaonor requests that Government take into account the need for all types of heavy vehicles to be able to access industrially zoned land within the Mamre Road Precinct, and to be able to easily access the surrounding arterial road network. These matters should be at the forefront of Government planning as these future road networks are subject to further detailed design.

3.5 Developer Contributions

The Discussion Paper should have provided draft Special Infrastructure Contribution rates as per the Growth Infrastructure Compact for the Aerotropolis, and the draft Section 7.11 Contribution rates for industrial development within the Penrith Local Government Area. Without these draft rates, it is not possible for landholders, developers, and other interested parties to make full and informed commentary on the Draft Mamre Road Precinct Structure Plan. Furthermore, it is not known whether the applicable Special Infrastructure Contributions will relate to areas of open space as well as industrial and related development.

Gaonor also makes the following specific comments regarding developer contributions for the Mamre Road Precinct:

- The scope of any new applicable Section 7.12 Contributions Plan should relate to local infrastructure, roads, drainage and open space only; and
- Developers should have the option to provide infrastructure which can offset against applicable Section 7.12 Contributions and Special Infrastructure Contributions.

Overall, the current situation where no formal Section 7.12 Contributions Plan or Special Infrastructure Contribution rate applies leads to developer uncertainty. It moreover does not meet the following Objectives under Section 1.3 of the EP&A Act:

- *(a) To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources; and*
- *(i) To promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.*

3.6 Exempt and Complying Development

There is a missed opportunity to identify and encourage opportunities for Exempt and Complying Development to be undertaken within the Mamre Road Precinct, in order to simplify the planning approvals process. This is especially the case where the standard planning approvals context of this Precinct is convoluted e.g. with misaligned zoning boundaries, TfNSW concurrence requirements, and potentially both local and State development contributions being required in future. Such a scenario could deter developer action in seeking approval for employment-generating development within the Mamre Road Precinct. By identifying and encouraging opportunities for Exempt and Complying Development, DPIE could in turn reduce the timeframes for delivering employment-generating development at the Precinct, as well as reducing the Government burden in assessment proposals that achieve compliance with the relevant development standards.

3.7 General Inconsistencies and Uncertainties in the Discussion Paper

Section 3.11 of the Discussion Paper makes the following statement regarding unzoned land within the WSEA:

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The land proposed to be removed from the WSEA SEPP will revert back to its underlying zoning under the Penrith LEP 2010.

Gaonor agrees that the above statement accurately reflects the applicable planning regime.

However, the Discussion Paper goes on to state the following:

Land not rezoned within the WSEA SEPP means that the zoning under the Penrith LEP 2010 does not apply to the site, and instead development consent is required for a consent authority which must consider appropriateness and compatibility with adjoining land.

It is considered that this statement does not accurately reflect the complexities nor broad planning potential of applying Clause 12 to unzoned land within the WSEA SEPP. Clause 12 of WSEA SEPP is as follows:

12 Unzoned land

(1) Development may be carried out on unzoned land only with consent.

(2) Before granting consent, the consent authority:

(a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and

(b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

Members of the public, upon reading the Discussion Paper, will find it difficult to draw out the meaning of this planning control, as it has not been fully explained within the Discussion Paper. Moreover, the Discussion Paper does not clarify the applicability or not of other PLEP 2010 planning controls besides land zoning which may or may not apply to unzoned land within the WSEA.

The Table in Section 4.3 of the Discussion Paper states the following:

Proposed amendment to include additional acquisition authorities, where relevant, and supporting Land Reservation Acquisition Map to reflect proposed land use zoning amendments to SP2 Infrastructure zone.

However, the proposed Land Reservation Acquisition Map also reflects land which is proposed to be rezoned RE1 Public Recreation. This mapping is not simply limited to SP2 Infrastructure land.

It is also considered an oversight in that the document *Mamre Road Precinct: Frequently Asked Questions* (DPIE, 2019) then goes on to provide additional information which is not revealed in the Discussion Paper, suggesting that the final WSEA SEPP may provide an IN1 General Industrial footprint which is reduced even further. It is considered to be a significant oversight not to extrapolate on these matters further within the Discussion Paper. Indeed, this makes it extremely difficult for interested landholders, developers, investors and other parties to make full and informed comment on the Draft Mamre Road Precinct at present, when these parties are still unable to ascertain which land zonings will apply.

The Discussion Paper moreover mentions the possibility of applying a savings and transition clause to certain development applications affected by these amendments. However, the Discussion Paper does not adequately outline how this might operate. As such, it is not possible to adequately comment on this matter.

4.0 CONCLUSION

The Draft Mamre Road Precinct Structure Plan will rezone Gaonor's entire site as IN1 General Industrial under WSEA SEPP, which is strongly supported by Gaonor. However, Gaonor also makes the following submissions to the Draft Mamre Road Precinct Structure Plan:

- The timeline for delivering this rezoning should be expedited, as landholders have waited long enough on Government promises to finalise the zoning of unzoned land within the WSEA;
- Other land use controls have not been specified for the Mamre Road Precinct;

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- The opportunity should be taken to repeal the local heritage listing of the dwelling at this site (currently Local Heritage Item 104 under the PLEP 2010 – Bayly Park);
- Road network layouts should allow for suitable heavy vehicle circulation;
- There is uncertainty regarding applicable Section 7.12 Contribution and applicable Special Infrastructure Contribution rates, as the Discussion Paper contains insufficient details;
- There is a missed opportunity to identify and encourage opportunities for Exempt and Complying Development to be undertaken within the Mamre Road Precinct, in order to simplify the planning approvals process; and
- Open space should be provided in a more flexible manner within the Precinct so as to discourage land use conflicts and lessen the burden on the public purse in providing these lands.

All of these matters, if not dealt with adequately, could hinder the momentum of development for the broader locality. In particular, should the newly proposed rezoning under WSEA SEPP not be expedited, Gaonor considers that this will stagnate development of the locality, hindering the realisation of a fully functioning industrial ecosystem within the Mamre Road Precinct to support the Western Sydney Aerotropolis, and preventing the timely delivery of employment-generating development.

To discuss further the matters highlighted in this Submission to the Draft Mamre Road Precinct Structure Plan, please contact the undersigned.

Yours faithfully,

Regards,



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