

Katherine Van Lauren  
Acting Executive Director, Western and Central Sydney  
NSW Department of Planning, Industry and Environment  
320 Pitt Street, Sydney  
NSW 2000

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

Dear Katherine

**1.0 INTRODUCTION**

This Submission is made by Willowtree Planning Pty Ltd (Willowtree) on behalf of Mamre Road Holdings Pty Ltd (Mamre Road Holdings) and Vapovi Pty Ltd (Vapovi) with respect to the Draft Mamre Road Precinct Structure Plan under *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (WSEA SEPP). Vapovi and Mamre Road Holdings own 771-781 and 783-797 Mamre Road, Kemps Creek respectively (Lots 23 and 24 DP258414). It is supported by the Appended Engineering Memo prepared by Sparks + Partners Consulting Engineers (refer to **Appendix 1**).

The site is currently used for rural residential and related agricultural purposes. Currently, the site lies wholly within the WSEA SEPP Application Area but has not yet been rezoned under WSEA SEPP, therefore remaining subject to some planning controls under the *Penrith Local Environmental Plan 2010* (PLEP 2010) (refer to **Figure 1** and **Figure 2** below). Under the Draft Mamre Road Precinct Structure Plan, the westernmost portion of the site will cease to be within the WSEA SEPP Application Area (refer to **Figure 3** below). In contrast, the majority of the site towards the east will remain within the WSEA, becoming formally zoned under WSEA SEPP as IN1 General Industrial, RE1 Public Recreation, E2 Conservation and SP2 Infrastructure. The Draft Mamre Road Precinct Structure Plan will therefore repeal the application of the WSEA SEPP from the westernmost portion of the site whilst strengthening its application in the east.

To date, employment generating development at the site has been considered permissible by invoking Clause 12 of WSEA SEPP. As such, the site currently benefits from certain land uses being made permissible due to its innominate zoning status under the WSEA SEPP, which provides the entire site with a quasi-industrial land zoning that can be employed to override the RU2 Rural Landscape zoning under the PLEP 2010. The Draft Mamre Road Precinct Structure Plan would leave the western portion of the site to be rezoned under the pending *State Environmental Planning Policy (Western Sydney Aerotropolis)* as being for Environment and Recreation purposes. The Draft Mamre Road Precinct Structure Plan would also introduce an extensive RE1 Public Recreation zone, as well as new pockets of E2 Environmental Conservation. This would essentially 'downzone' the site, when compared to its current planning controls.

The overall effect of the Draft Mamre Road Precinct Structure Plan would be to designate more than 50% of the 38.4 hectare site owned by Vapovi and Mamre Road Holdings as being unsuitable for urban development. As a result, it is estimated that over 500 potential jobs could be lost on the site alone (based on standardised rates of industrial land use). Vapovi and Mamre Road Holdings therefore submit that the

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

WSEA SEPP's boundaries should be amended to align with actual property boundaries in this location, so as to avoid planning law confusions and to prevent an effective 'downzoning' of a site where industrial land uses are currently permitted, in direct contradiction with the Greater Sydney Commission's vision for the Aerotropolis.

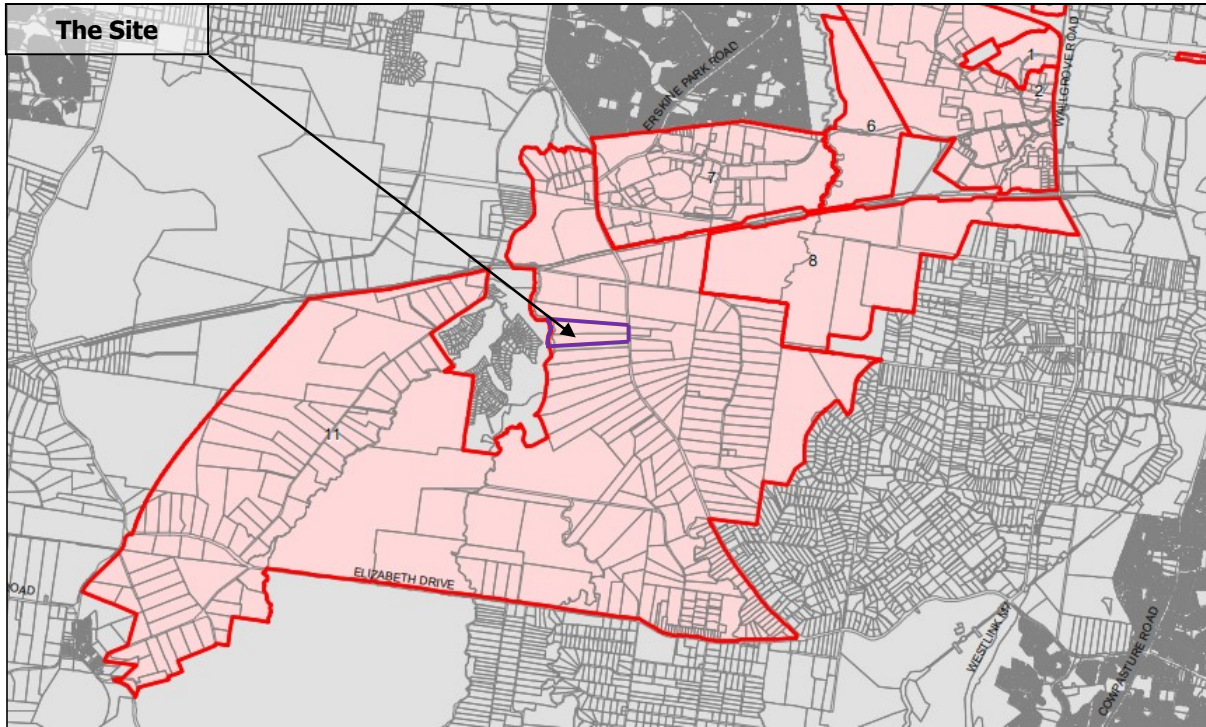


Figure 1 Current WSEA SEPP Land Application Map (NSW Legislation, 2019)

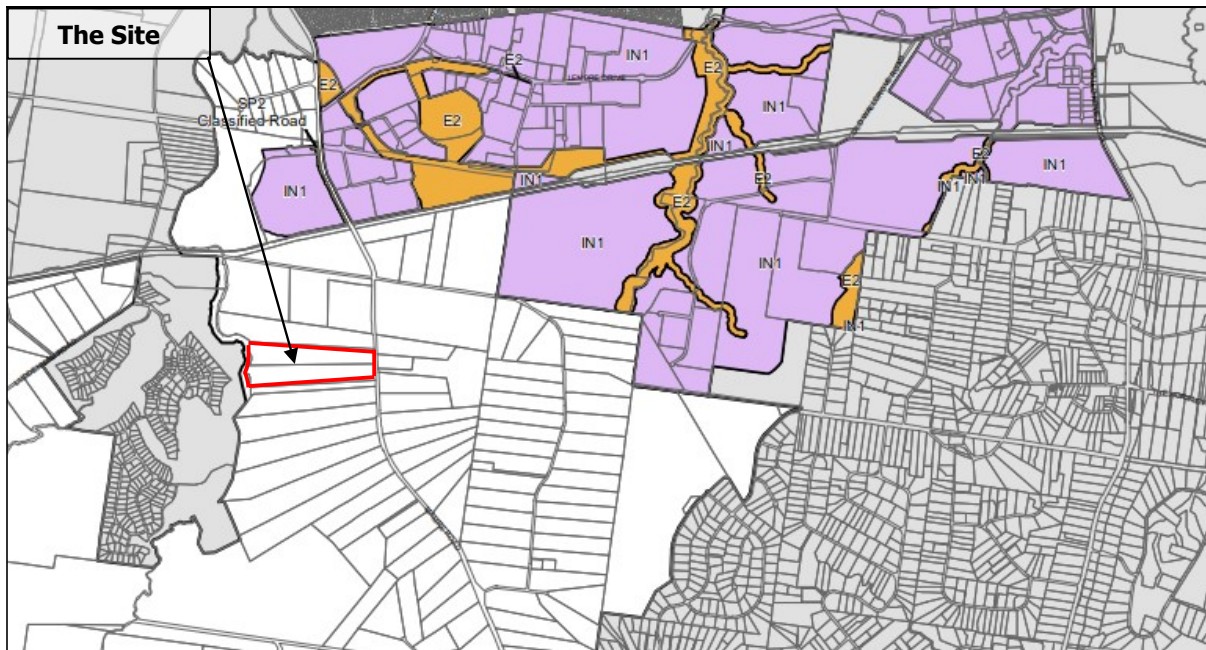


Figure 2 Current WSEA SEPP Land Zoning Map (NSW Legislation, 2019)

Vapovi's and Mamre Road Holdings' other grounds of submission relate to the following:

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

- Grave zoning inefficiencies and resulting inability to undertake key employment-generating land uses within both Lots;
- Likely inclusion of RE1 Public Recreation and E2 Environmental Conservation lands in the east of the site into the future Western Sydney Intermodal site, effectively sterilising these lands;
- Fragmentation of existing properties leading to contradictions with NSW Planning Policies established by the Land and Environment Court;
- The location of the proposed E2 Environmental Conservation zone to preserve the existing tributary of South Creek as it traverses the site not making best use of the land. This tributary could be more efficiently realigned to the south;
- DPIE failing to take the opportunity to align the WSEA SEPP boundaries and land zonings so as to apply them to defined parcels of land;
- Applying overly stringent flood planning controls which directly contradict NSW Government and Penrith City Council planning policies, as well as standard industry knowledge and practice;
- Uncertainty regarding applicable Section 7.11 Contribution and applicable Special Infrastructure Contribution rates;
- Insufficient details on process for, as well as costs and timing of, land reservation acquisition; and
- The RE1 Public Recreation zone be applied to the Precinct, it should permit a broader range of compatible land uses and the RE2 Private Recreation zone should also be considered for possible application.

With regards to land that is to be mapped for Land Reservation Acquisition, Vapovi and Mamre Road Holdings moreover submit that any land which is rezoned to RE1 Public Recreation should be acquired according to its highest and best industrial land use, which is currently around the \$750/m<sup>2</sup> price range. This reflects the current planning law scenario where much of the land under WSEA SEPP can be used for permissible WSEA SEPP land uses even where it is not zoned under WSEA SEPP, by invoking Clause 12 of the same.

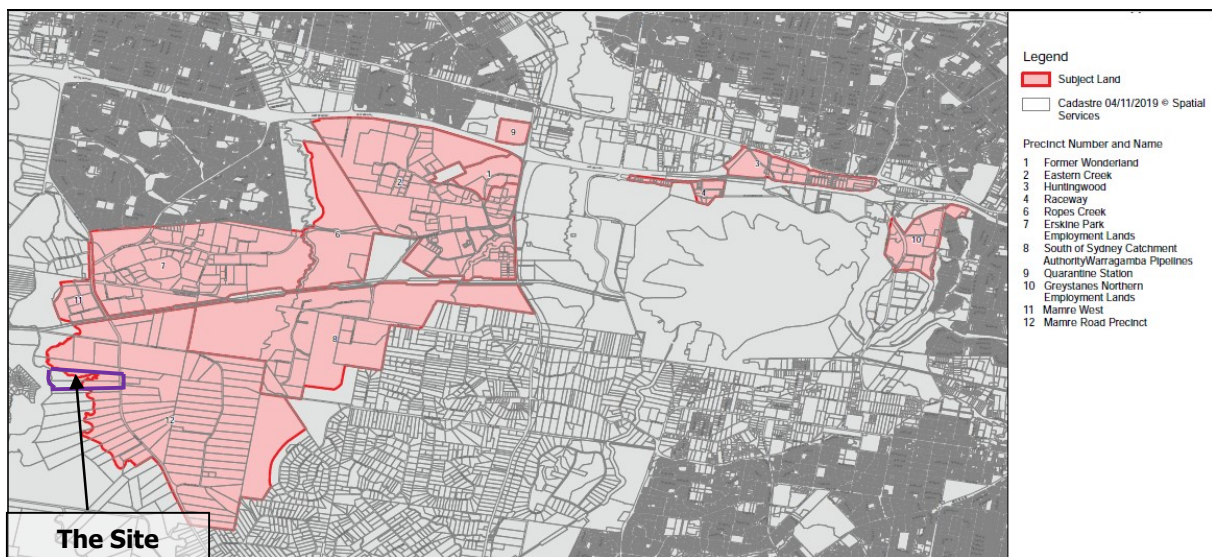


Figure 3 Draft Land Application Map (DPIE, 2019)

In general, it is also considered that the *Western Sydney Employment Area Mamre Road Precinct Rezoning Exhibition Discussion Paper* (DPIE, November 2019) (Discussion Paper) contains several inconsistencies, as well as employing language which is generally vague or poorly worded. In its current form, the Discussion Paper is therefore not fit to guide the current period of public exhibition and invitation to submit.

Vapovi's and Mamre Road Holdings' further points of submission in relation to the Draft Mamre Road Precinct Structure Plan are outlined in **Section 4.0** below. It is recommended that these matters be addressed before the Draft Mamre Road Precinct Structure Plan proceeds towards being finalised and the corresponding amendments to WSEA SEPP are gazetted.

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

### 2.0 THE SITE

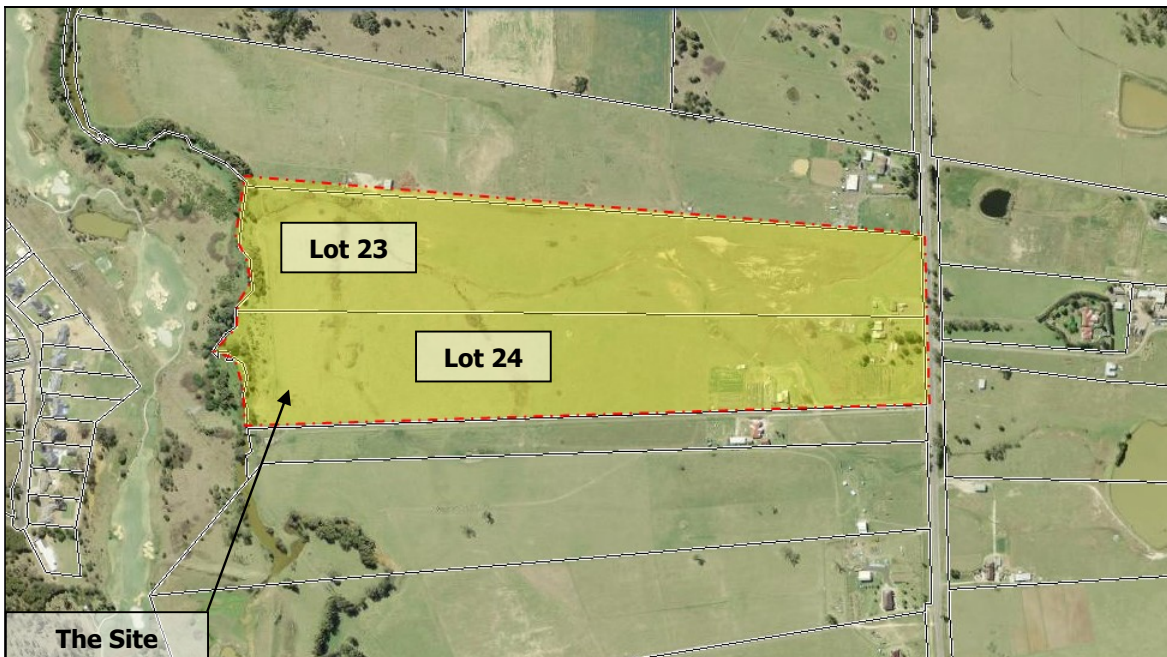
Vapovi and Mamre Road Holdings own 771-781 and 783-797 Mamre Road, Kemps Creek respectively (Lots 23 and 24 DP258414), which is shown on **Figure 4** below. The site is located largely within the Draft Mamre Road Precinct, as shown on **Figure 3** in **Section 1.0** above. It:

- Is readily accessed by the regional road network, including both the M4 and M7 Motorways;
- Is relatively flat, with a gradual slope in gradient from east to west;
- Is sparsely vegetated with scattered stands of trees and scrub;
- Contains rural residential premises and associated agricultural infrastructure;
- Is traversed by a tributary of South Creek, joining South Creek to the west; and
- Is flood affected along its western boundary.

The site is bound by the following:

- The site controlled by Frasers Property Industrial (Frasers Property) and Altis Property Partners (Altis) to the immediate north, for which approval is pending from the NSW Department of Planning, Industry and Environment (DPIE) under State Significant Development (SSD) 9522 for a proposed State-of-the-Art Six-Star-Green-Star Warehouse, Industrial and Logistics Facilities Hub;
- South Creek to the west;
- Mamre road to the east; and
- Rural and residential land holdings to the south and east, including some educational precincts (Trinity Primary School and Emmaus Catholic College).

Further to the north of the Frasers Property and Altis site the Warragamba Pipeline is situated. Erskine Business Park lies beyond that, which operates 24/seven including tenants such as CEVA Logistics, CSR, Woolworths and Alvaro Transport. The overall nature of this locality is therefore industrial and/or is progressing towards operating as an industrial precinct.



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

DA07/0569 was approved for the site on 22 October 2007 for the erection of a glasshouse building and storage dam at Lot 23. The site continues to be used for rural residential and related purposes.

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

The site has direct frontage to Mamre Road of around 290m and a total site area of approximately 38.4 hectares. Under the current WSEA SEPP mapping, it is located wholly within the Land Application Area - Precinct 11.

### 3.0 CURRENT AND PROPOSED CONTROLS

The site already lies within the WSEA SEPP Application Area. However, it has not been rezoned under WSEA SEPP (refer to **Figure 2** in **Section 1.0** above). Under the PLEP 2010, the site is primarily zoned RU2 Rural Landscape, with the westernmost portion zoned E2 Environmental Conservation, and a strip of land fronting Mamre Road zoned SP2 Infrastructure.

To date, employment generating development at the site has been considered permissible by invoking Clause 12 of WSEA SEPP. As such, the site currently benefits from certain land uses being made permissible due to its innominate zoning status under the WSEA SEPP, which provides the entire site with a quasi-industrial land zoning that can be employed to override the RU2 Rural Landscape zoning under the PLEP 2010.

The Draft Mamre Road Precinct Structure Plan would rezone the site under WSEA SEPP to include the following land use zones (refer to **Figure 5** below):

- IN1 General Industrial;
- RE1 Public Recreation; and
- E2 Environmental Conservation.

Portions of the site to the west would remain zoned RU2 Rural Landscape and E2 Environmental Conservation under the PLEP 2010, thereby removing their quasi industrial zoning which may be invoked using Clause 12 of WSEA SEPP. It appears that the eastern boundary of the site would retain its existing SP2 Infrastructure zoning, although it is not clear whether the extent of this zoning would increase as a result.

Introducing the extensive RE1 Public Recreation zone as is proposed under the Draft Mamre Road Precinct Structure Plan (refer to **Figure 5** below) would essentially 'downzone' the site, when compared to its current planning controls. Based on the mapping provided in the Draft Mamre Road Precinct Structure Plan, it can be concluded that the site would not be subject to the Transport Infrastructure Investigation Area overlay under WSEA SEPP (refer to area hatched black on **Figure 5** below).

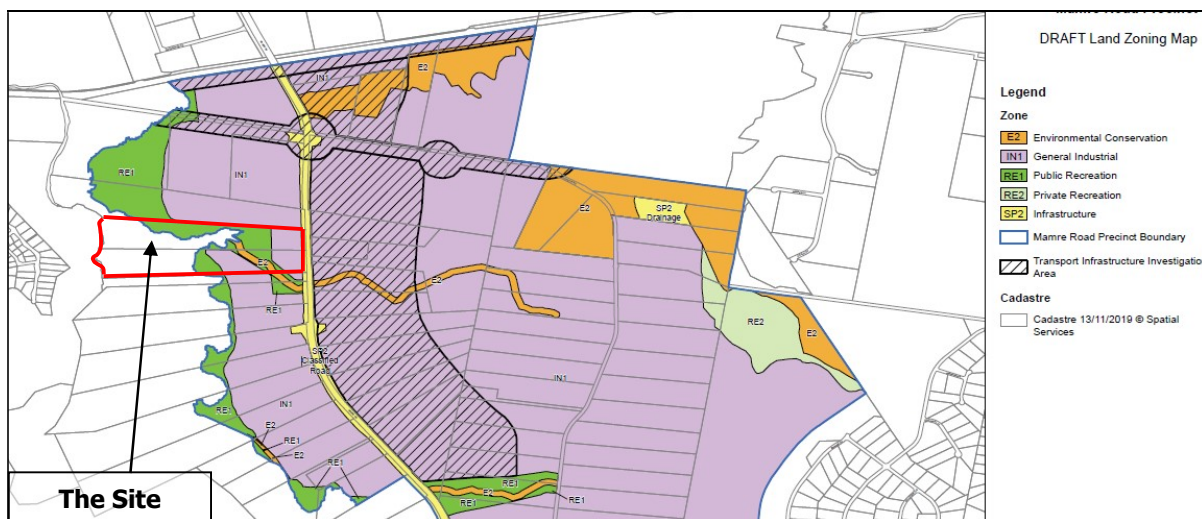


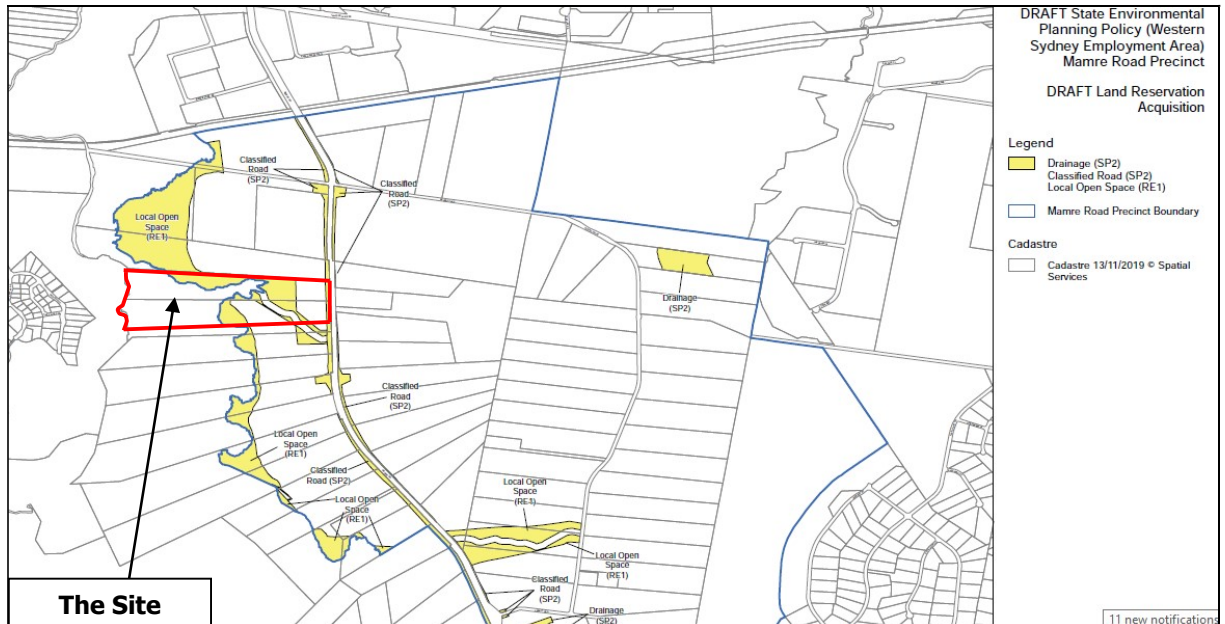
Figure 5 Proposed WSEA SEPP Zoning (DPIE, 2019)

A small portion of the site's eastern frontage along Mamre Road is currently subject to Land Reservation Acquisition Provisions for road reserve purposes under the PLEP 2010. However, the Draft Mamre Road

**Submission to Draft Mamre Road Precinct Structure Plan**

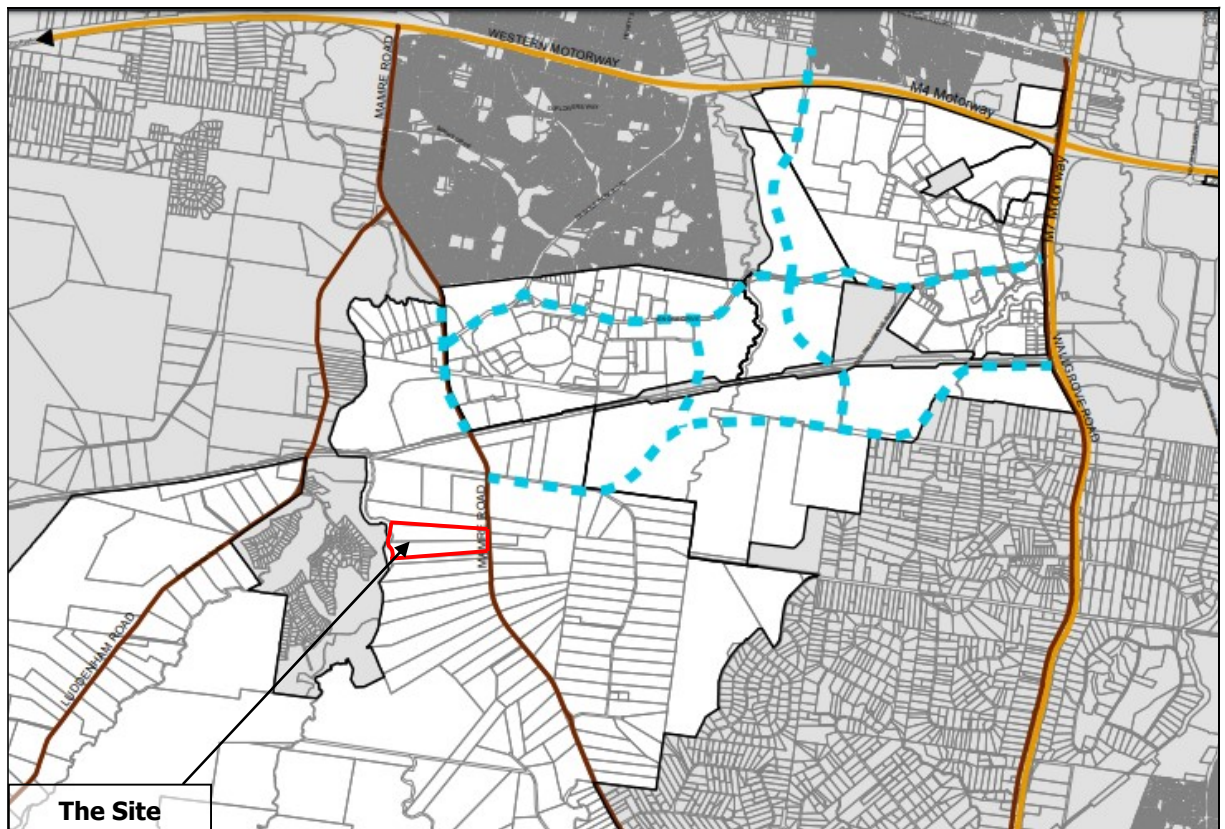
On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

Precinct Structure Plan would apply further Land Reservation Acquisition Provisions across the site, as shown on **Figure 6** below.



**Figure 6 Proposed WSEA SEPP Land Reservation Acquisition (DPIE, 2019)**

The current Transport and Arterial Road Infrastructure Plan Map under WSEA SEPP shows the location of proposed roads as blue dotted lines on **Figure 7** below.



**Figure 7 Current Transport Arterial and Road Infrastructure Plan Map (NSW Legislation, 2019)**

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

The proposed Transport and Arterial Road Infrastructure Plan Map for the Draft Mamre Road Precinct under WSEA SEPP is shown on **Figure 8** below. This shows the Mamre Road reserve as it continues to run along the site's eastern boundary. It appears that the site itself would not be traversed by any new road reserves.



**Figure 8 Proposed Transport Arterial and Road Infrastructure Plan Map (DPIE, 2019)**

### 4.0 GROUNDS OF SUBMISSION

Vapovi's and Mamre Road Holdings' grounds of submission to the Draft Mamre Road Precinct Structure Plan relate to the following matters:

- That rezoning around a quarter of the site as RE1 Public Recreation or E2 Environmental Conservation, whilst leaving another half of the site outside of the WSEA Application Area, would result in grave inefficiencies in the site's developable footprint, with irregular shaped and relatively small pockets of IN1 General Industrial land created. This would effectively prohibit several permissible IN1 General Industrial land uses from being undertaken on both Lots;
- The implications of significant RE1 Public Recreation and E2 Environmental Conservation zoning in the east, meaning that this land would likely be subsumed into the adjoining future Western Sydney Intermodal site. Indeed, the proposed locations of RE1 and E2 land running east-west from Lots 23 and 24 through the proposed Intermodal site would result in a vast tract of land being sterilised. This would negatively impact on the future operation of the Western Sydney Intermodal, whilst also preventing employment-generating land uses being undertaken at the site;
- The location of the proposed E2 Environmental Conservation zone to preserve the existing tributary of South Creek as it traverses the site not making best use of the land. This tributary could be more efficiently realigned along the southern boundary of Lot 24, or to Lot 2001 DP1036837 to support more efficient development outcomes;
- DPIE failing to take the opportunity to align the WSEA SEPP boundaries and land zonings so as to apply them to defined parcels of land, creating planning system uncertainties and sterilising the use of land which may otherwise be most efficiently used for industrial purposes;
- The Precinct's zoning and boundaries have been drawn based on overly stringent flood planning controls (i.e. built form development not considered suitable within the 1:100 Average Recurrence Interval), which directly contradict NSW Government and Penrith City Council planning policies, as well as standard industry knowledge and practice. This results in an unnecessary sterilisation of land. These flood affected areas, when adjusted to the prevailing topography, would not result in any net loss of flood storage, nor any changes to the existing flood hazard/overall flooding characteristics of the locality;
- Uncertainty regarding applicable Section 7.11 Contribution and applicable Special Infrastructure Contribution rates, as the Discussion Paper contains insufficient details;
- Insufficient details on process for, as well as costs and timing of, land reservation acquisition;

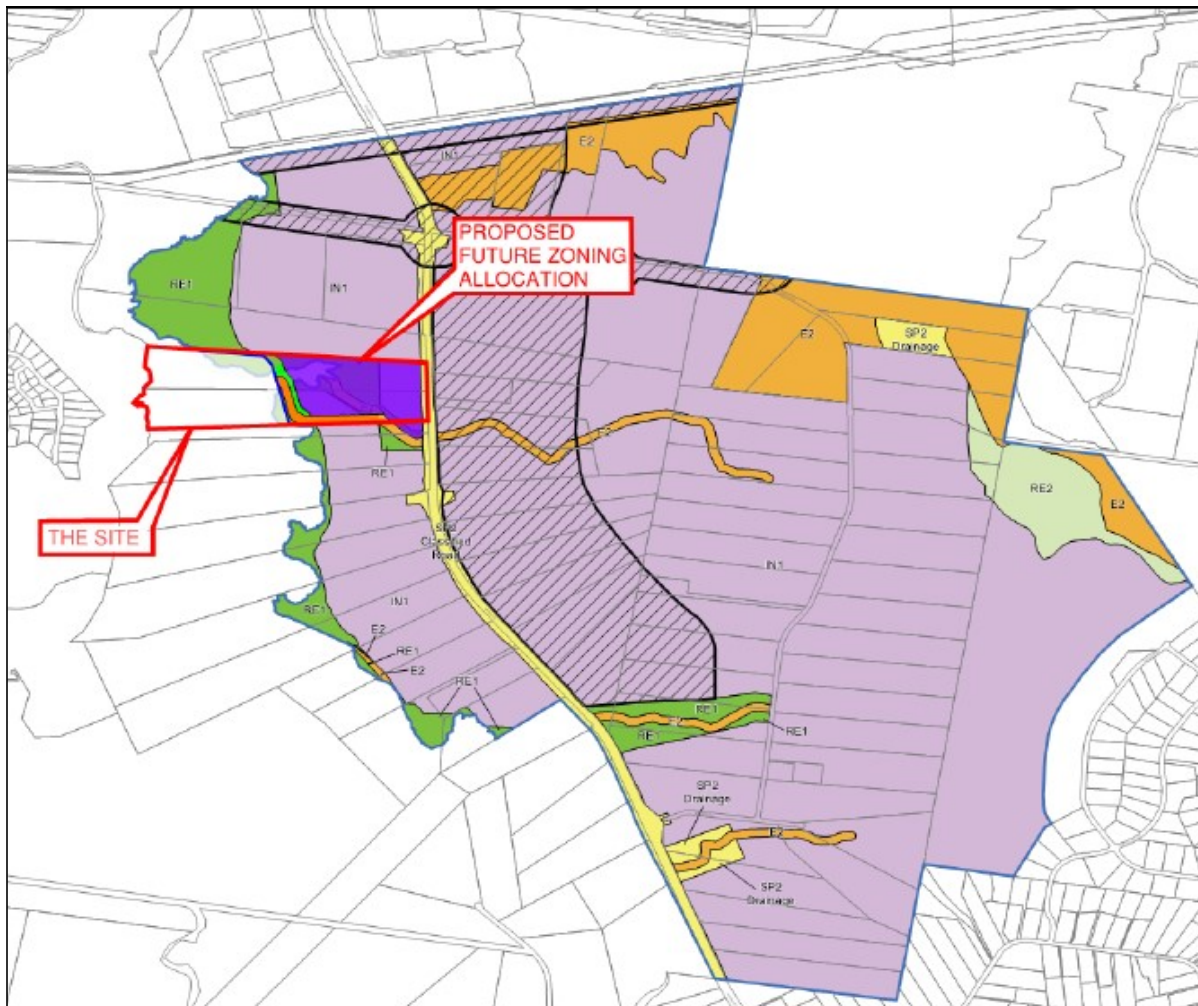
## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

- There is already adequate open space provided for in the locality. Nevertheless, should the RE1 Public Recreation zone be applied to the Precinct, it should permit a broader range of compatible land uses and the RE2 Private Recreation zone should also be considered for possible application; and
- 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.

Each of these submission matters are set out in more detail in **Sections 4.1** to **4.12** below.

Overall, Vapovi and Mamre Road Holdings suggest that, should Government proceed with only half of its site within the WSEA, the IN1 General Industrial zone should apply to the entirety of the site's eastern half, as indicated on **Figure 9** below.



**Figure 9 Proposed Rezoning Map (Sparks + Partners Consulting Engineers, 2019)**

In general, it is also considered that the Discussion Paper contains several inconsistencies, as well as employing language which is generally vague or poorly worded (refer to **Section 4.11**). In its current form, the Discussion Paper is therefore not fit to guide the current period of public exhibition and invitation to submit.



## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

---

### 4.1 Balance of Significant Open Space and Environmental Zonings

The effect of the Draft Mamre Road Precinct Structure Plan would be to rezone around a quarter of the site as RE1 Public Recreation and E2 Environmental Conservation, cutting through the site's middle from north-west to south-east. This would result in Grave inefficiencies in the site's developable footprint, with two irregular shaped and relatively small pockets of IN1 General Industrial land created to the east and south.

In Willowtree's experience, such misaligned zoning boundaries are usually later amended by proponent-led Planning Proposals. In this case, such an outcome is almost guaranteed, given that most of the permissible land uses within the IN1 General Industrial zone cannot be practically undertaken within such small, irregular IN1 General Industrial pockets, especially when industrial and warehousing developments require geometric shaped parcels of land. Such permissible land uses that would be practically impossible to undertake within these IN1 General Industrial pockets include:

- Depots;
- Freight transport facilities;
- Industries;
- Transport depots;
- Truck depots; and
- Warehouse or distribution centres.

As set out in the Engineering Memo prepared by Sparks + Partners Consulting Engineers (refer to **Appendix 1**), this proposed RE1 Public Recreation zoning would create significant issues for the site. Most significantly, the two resulting IN1 General Industrial zoned portions of land would not be connected to other IN1 zoned land to the north and south (where road networks are most likely to be located in future). Rather, any future local road would most likely dissect these proposed zones, and would be required to convey traffic to and from the two main precinct traffic intersections proposed for Mamre Road. This would also result in a significant divide between the northern and southern IN1 General Industrial pockets of land, fragmenting the land and contradicting the Vision of the Mamre Road Precinct to "contribute to the employment options for Western Sydney and build upon the opportunities presented by the Western Sydney Aerotropolis."

Submission comments from Penrith City Council and RSM relating to the nearby SSD 9522 indicate there will be, in future, a north-south collector road through this IN1 General Industrial zone, conveying traffic from the Southern Link Road to run along the Precinct's north to another intersection with Mamre Road in the Precinct's centre. Due to the proposed location of the Precinct's boundary spur within Lot 23 and the RE1 and E2 zones, such a future north-south collector road would traverse these zones, conflicting with the primary objectives of these zones (refer to **Appendix 1**).

The alternative alignment of the RE1 Public Recreation zone as suggested by Vapovi and Mamre Road Holdings (refer to **Figure 9** in **Section 4.0** above) consists of geometric lines rather than an arbitrary one that would better reflect the intention and purpose of both the RE1 Public Recreation and IN1 General Industrial zones under WSEA SEPP. This would also allow for easier implementation and compliance during the development approvals and construction processes. **Figure 9** demonstrates how an appropriate open space offset could be provided. This alternative open space/conservation alignment would allow for a more streamlined approvals and construction process. It would also involve realigning the tributary to the southern boundary of Lot 24, before heading north along the proposed Mamre Road Precinct boundary located in the west of Lots 23 and 24 (refer to **Appendix 1**). The Draft Mamre Road Structure Plan zoning width of 40m indicates this tributary should be classified as a First Order Stream. Based on the *Guideline for Riparian Corridors on Waterfront Land* (Office of Water, July 2012), First Order streams are able to be realigned if required. Such a realignment would create less land fragmentation and prevent the creation of irregular-shaped land parcels. Ultimately, this would result in a better realization of:

- The overall Vision of the Mamre Road Precinct to "contribute to the employment options for Western Sydney and build upon the opportunities presented by the Western Sydney Aerotropolis;"
- Objective (c) of the *Environmental Planning and Assessment Act 1979* which is "to promote the orderly and economic use and development of land;"

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

---

- The primary objectives of the RE1, E2 and IN1 zones under WSEA SEPP; and
- Environmental requirements to suitably convey overland flows from the upstream catchment located in the east (refer to **Appendix 1**).

Furthermore, the irregular shape of the proposed RE1 boundary along with its arbitrary location would make the legal and permissible development of the remainder of this Lot difficult to achieve. A surveyor, for instance, would need to set out this zoned boundary on site, which would not be an easy task. There is therefore real potential that errors could be made with the zoning boundary on the ground, resulting either in unlawful development within the RE1 zone (noting that boundary flexibility clauses generally do not apply to the RE1 zone), and/or under-development of the IN1 General Industrial zone to prevent such errors (refer to **Appendix 1**). This directly contradicts Objective (c) of the *Environmental Planning and Assessment Act 1979* which is "to promote the orderly and economic use and development of land."

The shape of the proposed RE1 zoning in the site's east also does not allow for effective activation of the area, as it is disconnected from Mamre Road and surrounded by IN1 General Industrial zoned land to the north and south. Indeed, access to this area would be restricted, as direct access from Mamre Road would not be permitted by RMS due to the nature of warehousing and industrial developments within the locality. As such, any future activation of this open space would most likely take place along the boundary of the zone, resulting in public access and recreation benefits not being fully realised (refer to **Appendix 1**).

With respect to the proposed E2 Environmental Conservation alignment, which follows an existing tributary through the site, it is considered that the likelihood of this alignment remaining in its current form is low. Indeed, this tributary is the result of a minor catchment located to the site's east, conveying overflows from rural dams. Historical aerial photography shows how this tributary experiences intermittent flows, including periods of little or no flow, therefore not providing suitable fish habitat (refer to **Appendix 1**).

As mentioned above, future development at the site would most likely be accompanied by a request to Government to realign this E2 Environmental Conservation zone, to allow for a better realisation of the land in accordance with Objective (c) of the *Environmental Planning and Assessment Act 1979* which is "to promote the orderly and economic use and development of land." Such a realignment of the E2 Environmental Conservation zone would also most likely occur on the eastern side of Mamre Road within the proposed Western Sydney Intermodal site (refer to **Appendix 1**). From an engineering perspective, intermodal facilities require a geometrically square layout with a flat finished surface. It is considered that the alignment of the proposed E2 Environmental Conservation zone along the eastern side of Mamre Road would conflict with these requirements for a properly functioning intermodal site. Once again, this is most likely to result in a further rezoning submission to Government so as to enable geometrically shaped intermodal infrastructure, such as a railway siding, hardstand pavements, and warehouse buildings (refer to **Appendix 1**).

It would therefore be greatly more efficient to deal with these inefficient zoning boundaries now, rather than jeopardise the timing of development delivery, the payment of developer contributions, the embellishment of open space land, and the provision of employment, within the Mamre Road Precinct. This acknowledges the fact that developers will wait for optimum land zoning conditions to be approved prior to committing to employment-generating development, which generally involves significant capital investment.

This is particularly the case as there is already significant open space provided for within the locality, for example, as a result of the adjoining SSD 9522 application for a State-of-the-Art Six-Star-Green-Star Warehouse and Logistics Hub to the north. Nevertheless, additional open space/public recreation land uses could be achieved within the Mamre Road Precinct through the provision of DCP controls requiring industrial private open space for staff, contractors and visitors to use in the case of employment-generating developments. This would allow people who are likely to use the site to enjoy such amenities. Indeed, given the preponderance of industrial zoning within the WSEA, it is not likely that a significant portion of this proposed RE1 Public Recreation land would be utilised by vast members of the general public.

**Section 4.9** below further discusses some alternative options for enabling open space and recreational activation of these areas.

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

---

### 4.2 Open Space Zoning Subsumed Into Intermodal

The Draft Mamre Road Precinct Structure Plan seeks to provide a significant balance of RE1 Public Recreation and E2 Environmental Conservation zoning in the site's east (refer to **Figure 5** in **Section 3.0** above). From a practical standpoint, it is considered likely that this land would therefore be subsumed into the adjoining future Western Sydney Intermodal site (refer to **Figure 5** in **Section 3.0** above). Indeed, the proposed locations of RE1 and E2 land running east-west from Lots 23 and 24 through the proposed Intermodal site would result in a vast tract of land being sterilised. This would negatively impact on the future operation of the Western Sydney Intermodal.

Overall, Vapovi and Mamre Road Holdings reject this proposed rezoning, as it would effectively sterilise employment-generating land uses from being undertaken on both Lots 23 and 24.

### 4.3 Fragmentation of Lands

Vapovi and Mamre Road Holdings submit that the proposed zoning map would fragment existing properties, including their own landholding. Indeed, it is generally not considered to be good planning practice to fragment existing, developable lands in this manner, thereby restricting their development potential. This could lead to a result whereby half of Vapovi's and Mamre Road Holdings' lands within the WSEA would be adversely impacted by a State Government planning decision which only relates to half of this landholding. Should the Draft Mamre Road Precinct Structure Plan be gazetted in its current form, this could lead to contraventions of the following NSW Planning Policies established by the Land and Environment Court:

- *Davies v Penrith City Council* [2013] NSWLEC 1141 at 116-121 – General impact;
- *Seaside Property v Wyong Shire Council* [2004] NSWLEC 600 at 30 – Location of communal open space;
- *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 at 17-19 – Lot isolation;
- *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 at 22-31 – Compatibility of proposal with surrounding development; and
- *Seaside Property Developments Pty Ltd v Wyong Shire Council* [2004] NSWLEC 117 at 25 – Development at zone interface.

Vapovi and Mamre Road Holdings therefore submit that the Mamre Road Precinct Structure Plan consider landholdings cumulatively, rather than with the intent of fragmenting them arbitrarily.

### 4.4 South Creek Corridor Location and Zoning

Vapovi and Mamre Road Holdings submit that the proposed location of the E2 Environmental Conservation zone to preserve the existing tributary of South Creek as it traverses the site does not make best use of the land. This tributary could be more efficiently realigned along the southern boundary of Lot 24, or to Lot 2001 DP1036837 to support more efficient development outcomes. Indeed, the land has been used for rural purposes for some time, with many dams located in the area which has changed the direction and alignment of natural overland flows. In terms of precedent, nearby developments within the Penrith Local Government Area have successfully negotiated planning outcomes to realign streams within the South Creek catchment, including such nearby locations as Orchard Hills and Sydney Science Park.

### 4.5 WSEA SEPP and Zone Boundaries

The effect of the Draft Mamre Road Precinct Structure Plan would be to designate more than 50% of the 38.4 hectare site owned by Vapovi and Mamre Road Holdings as being unsuitable for urban development. As a result, it is estimated that over 500 jobs could be lost on the site alone (based on standardised rates of industrial land use). The resulting losses to capital investment, potential employment generating development, and resulting job creation are considered unacceptable in this current economic climate, particularly given the growing scarcity of developable industrial lands throughout Greater Sydney. Indeed, the Greater Sydney Commission's Strategy 16.1 within *A Metropolis of Three Cities* recognises the need to retain industrial lands from the encroachment of non-compatible land uses. This curious decision by DPIE to remove the western portion of the site from WSEA SEPP appears to be based on the arbitrary adoption of

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

---

the 1:100 Average Recurrence Interval (ARI) flooding extent as being not suitable for 'urban development.' **Section 4.6** below further details how this approach directly contradicts official NSW Government Policy and current Penrith City Council standards.

To date, the site has been entirely within the WSEA SEPP Application Area, albeit remaining unzoned under the WSEA SEPP. Whilst on the surface, the PLEP 2010 currently governs the permissibility of land uses at the site as it is not currently zoned under WSEA SEPP, employment generating development at the site is nevertheless permitted by invoking Clause 12 of WSEA SEPP. As such, the site currently benefits from certain land uses being made permissible due to its innominate zoning status under the WSEA SEPP, which provides the entire site with a quasi-industrial land zoning. This can be employed to override the RU2 Rural Landscape zoning under the PLEP 2010.

However, such an approach is considered inadequate, most importantly due to the fact that the full extent of the operation of Clause 12 of WSEA SEPP is also not obvious on a surface reading. It is therefore imperative that steps are taken to clarify and coordinate the zoning approach for this land. One obvious step would be the drafting and gazettal of a complete, coherent planning instrument to remove any such confusion, the opportunity for which is now occurring.

Indeed, Vapovi and Mamre Road Holdings acknowledge that this approach is not sustainable in the long term, and should be rectified in order to restore certainty to the site's overriding planning controls. In addition, there has been a long running understanding on the part of landholders within the Mamre Road Precinct that the site's quasi-industrial zoning would be formalised under WSEA SEPP.

Unfortunately, the Draft Mamre Road Precinct Structure Plan fails to take this opportunity to streamline the site's zoning, aligning zone boundaries and property boundaries alike. Most importantly, it is not preferred to alter the boundary of the WSEA SEPP so that it runs through the middle of both Lots 23 and 24 as is currently proposed under the Draft Mamre Road Precinct Structure Plan (refer to **Figure 5** in **Section 3.0** above). As such, the Draft Mamre Road Precinct Structure Plan would leave the western portion of the site to be rezoned under the pending *State Environmental Planning Policy (Western Sydney Aerotropolis)* as being for Environment and Recreation purposes. The Draft Mamre Road Precinct Structure Plan would also introduce an extensive RE1 Public Recreation zone, as well as new pockets of E2 Environmental Conservation. This would essentially 'downzone' the site, when compared to its current planning controls. This will result in a convoluted outcome whereby the westernmost portions of this site are subject to the environmental and recreational zonings whereas the eastern portions of the same site are rezoned to IN1 General Industrial and RE1 Public Recreation, as well as becoming subject to planning controls under WSEA SEPP (whilst also retaining a portion of SP2 Infrastructure zoning).

In terms of broader industrial land supply, the Greater Sydney Commission's *A Metropolis of Three Cities* states the following:

*With the development of the Western Sydney Airport and Badgerys Creek Aerotropolis it will be critical, from the outset, to secure the access requirements for the airport and off-site industrial land for its 24/7 operation. It will also be critical to plan and protect from encroachment the freight corridors that serve the airport and industrial lands.*

.....

*While the Western Parkland City will benefit from the Western Sydney Employment Area, there may be a need to provide additional industrial and urban services areas across the extensive footprint of the Western City to accommodate significant population growth beyond 2036.*

.....

*All existing industrial and urban services land should be safeguarded from competing pressures, especially residential and mixed-use zones. This approach retains this land for economic activities required for Greater Sydney's operation, such as urban services... There will be a need, from time to time, to review the list of appropriate activities within any precinct in consideration of evolving*

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

---

*business practices and how they can be supported through permitted uses in local environmental plans. Any review should take into consideration findings of industrial, commercial and centre strategies for the local government area and/or the district. The retain and manage approach applies across the Eastern Harbour City, the North West Growth Area and industrial land in the established urban areas of the Western Parkland City, including the existing Western Sydney Employment Area.*

In contrast, it is considered that this decision to excise significant portions of land from the WSEA SEPP under the Draft Mamre Road Precinct Structure Plan has been largely based on an arbitrary application of flood management principles (refer to **Section 4.6** below), rather than with regard to the Greater Sydney Commission's requirements for retaining and managing industrial and urban services land as quoted above.

Rather, it should be the intent of DPIE, in amending WSEA SEPP, to avoid a convoluted planning outcome such as this, whereby WSEA SEPP and the PLEP 2010 apply to halves of the same site. This could lead to:

- Planning law complications regarding future development permissibility;
- Confusion surrounding the potential application of future planning controls such as Floor Space Ratio calculations (based on the premise that only land on which development is permitted is to be included in such calculations);
- Significant loss of industrial land that is capable of being serviced and supporting employment-generating development; and
- Significant losses to land values for the precinct.

Vapovi and Mamre Road Holdings submit that it is most ideal for their lots to be rezoned under WSEA SEPP in their entirety, and that their lots should be rezoned as IN1 General Industrial to the fullest extent that it is reasonable and feasible to do so. In particular, the application of this IN1 General Industrial zoning should be extended in a westerly direction. Moreover, as identified in **Section 4.9** below, there is already more than adequate provision of open space within the Precinct. However, should Government proceed with only half of the site within the WSEA, Vapovi and Mamre Road Holdings submit that the IN1 General Industrial zone should apply to the entirety of the site's eastern half, as indicated on **Figure 9** in **Section 4.0** above.

As per **Figure 9** in **Section 4.0** above, Vapovi and Mamre Road Holdings consider that the spur protruding into Lot 23 can be removed through cut and fill earthworks, with cut from the western Precinct boundary line mapped as being RE1 Public Recreation (refer to **Appendix 1**). This approach would most likely result in a zero to positive flood storage offset with no detrimental effects to the flooding regime. The *Draft Exhibition South Creek Floodplain Risk Management Study* (Penrith City Council, 2019) shows this spur as being within the flood fringe/flood storage area. From an engineering perspective, flood storage and fringe areas can be developed, as they are not in the main floodway, as long as adequate assessment is undertaken (refer to **Appendix 1**). The *Draft Exhibition South Creek Floodplain Risk Management Study* (Penrith City Council, 2019) has assessed various flood risk/mitigation scenarios, including the impacts of cutting and filling within the floodplain. Vapovi and Mamre Road Holdings therefore submit that DPIE undertake further assessment in conjunction with Penrith City Council to understand the impacts of cutting and filling within this spur. Should the results be favourable, the precinct boundary as shown in **Figure 9** above could be considered for implementation. Such an outcome would better reflect the requirements of the Mamre Road Precinct whilst also managing the requirements of the South Creek Catchment and floodplain. Such a realigned Precinct boundary would also have a positive effect on any future local collector road alignment. By realigning the Precinct boundary, a collector road is able to be easily provided with any future road reserve linking the north and south areas of the western side of the Mamre Rd precinct (refer to **Appendix 1**).

Overall, the site, comprising one consolidated landholding within the WSEA, should be given the benefit of functioning under one consolidated set of planning controls within the WSEA SEPP. Indeed, such a planning outcome would best reflect Objective (c) of the *Environmental Planning and Assessment Act 1979* which is "to promote the orderly and economic use and development of land." It would also best reflect the following Aims of WSEA SEPP:

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

- (2)(b) to provide for the co-ordinated planning and development of land in the Western Sydney Employment Area; and
- (2)(d) to improve certainty and regulatory efficiency by providing a consistent planning regime for future development and infrastructure provision in the Western Sydney Employment.

Vapovi and Mamre Road Holdings consider that this site should be given the benefit of operating under a concise, modern set of planning controls which have been specifically designed for this industrial locality, as opposed to residual planning controls which remain from when the locality was primarily comprised of rural landholdings. Indeed, given that WSEA SEPP has been operational for some 10 years, it is imperative that the opportunity not be missed to adequately amend this Environmental Planning Instrument so as to ensure that it remains fit for purpose.

### 4.6 Flooding Controls

South Creek, Kemps Creek and Ropes Creek traverse the Draft Mamre Road Precinct, and the Precinct is affected by the 1:100 ARI and the Probable Maximum Flood (PMF) along these creek corridors. The Discussion Paper identifies how the Precinct's boundary has been aligned with the 1:100 ARI flood zone. **Figure 10** shows the Draft Mamre Road Precinct flood affectation as published within the Discussion Paper. The Discussion Paper goes on to state:

*Development within the 1 in 100 chance per year flood level data from Penrith City Council land will be limited to open space, drainage or similar. This data has been used to define areas of E2 Environmental Conservation, RE2 Private Recreation and SP2 Infrastructure (Drainage) in the proposed SEPP amendment, as appropriate. Areas located below the 1 in 100 chance per year flood level are proposed for compatible land uses and activities, according to their vulnerabilities to flooding within the floodplain. This means that no urban land uses will be permitted on land classified as flood prone.*

*Schedule 4 of the WSEA SEPP requires a comprehensive flood analysis to be undertaken as part of the preparation of a Development Control Plan for a site. A DCP is required to be consistent with the provisions of the NSW Government's Floodplain Development Manual: the management of flood liable land and any relevant local and regional policies. Development interfaces within the floodplain will be encouraged on land above the 1 in 100 chance per year flood extent plus 0.5m freeboard, to activate land and increase access to waterways. Alterations to flood storage capacity and flood behaviour through filling and excavation or other earthworks will not be encouraged.*

*A clause is proposed to introduce additional heads of consideration for development on flood prone land including land below the PMF. This will be require consent authorities to take cumulative impact of development on the flood plain into account and protect the floodway to avoid worsening flood events on other land in the catchment.*

*A government inter-agency working group has been established to assess the impact of earthworks, potential development scenarios and the blue/green grid on flooding in the South Creek catchment. A consultant has been engaged and preliminary results of this work are due in mid-2020. This will inform the extent of development that can be achieved on land in between the 1 in 100 chance per year flood extent and the PMF.*

.....

*A new clause is proposed to require consent authorities to consider the cumulative and local impact of development on the whole flood plain within the PMF and 1 in 100 chance per year flood level.*

*Mamre Road Precinct: Frequently Asked Questions (DPIE, 2019) then goes on to provide additional information which is not revealed in the Discussion Paper:*

*Studies in progress will provide more information about the controls that will apply in the area between 1 chance in 100 per year and the PMF levels. This may mean the extent of land identified*

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

---

*as zoned industrial is reduced before the plan is finalised. Alternatively, it may involve additional DCP controls to guide what land uses and building forms are possible in this area. Filling in this area to the PMF may need to be limited and large structures that could impede the flood conveyance may be unsuitable. At grade uses such as car parking and storage of (non-hazardous) plant and equipment may be suitable.*

It is 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 Structure Plan at present, when these parties are still unable to ascertain which land zonings will apply.

Nevertheless, Vapovi and Mamre Road Holdings reject this approach by DPIE to effectively prohibit urban land uses on land within the 1:100 ARI. In essence, the Draft Mamre Road Precinct Structure Plan in its current form proposes to use the PMF as the flood planning level in lieu of the 1:100 ARI. This ignores standard industry practice throughout the realms of town planning, civil engineering, urban design and environmental legislation whereby the PMF is instead used for emergency response planning to address public safety. This standardised approach is referenced in Clause 38 of Schedule to the *Environmental Planning and Assessment Regulation 2000*, which defaults the flood planning level across NSW for the purposes of applying Designated Development provisions to mean "those areas inundated as a result of a 1 in 100 ARI event" where no other level is nominated in the prevailing Local Environmental Plan. Moreover, Clause 7.2 of the PLEP 2010 nominates 1:100 ARI plus 0.5m freeboard as the applicable flood planning level applying throughout the Penrith Local Government Area. Indeed, 1:100 ARI has been confirmed as the South Creek Floodplain flood planning level, and Council's Draft Exhibition South Creek Floodplain Risk Management Study makes the following comment:

*The adoption of the PMF as the planning flood is not realistic or practical as it would sterilise a large area of land, thereby forcing development to areas of higher ground which may not historically be serviced or which could introduce unrealistically high infrastructure costs.*

Vapovi and Mamre Road Holdings note that extensive floodplain assessments have been undertaken for the adjoining SSD 9522 site directly to the north. It is reported that SSD 9522 would not impact or extend within any areas affected by 1:100 ARI flood event from South Creek. However, SSD 9522 would encroach the PMF flood extent. Indeed, it is reported that the influence of SSD 9522 on the PMF event would be limited to the development area, and that the flooding safety of existing residents in the area would not be adversely impacted. Furthermore, the occupants of the new development would be clear of PMF affected areas. Whilst being clear of the 1:100 ARI, SSD 9522 would also not affect the existing 1:100 ARI flooding conditions or be affected by the 1:100 ARI flooding event. Overall, SSD 9522 meets all of the criteria in the NSW Floodplain Manual, the PDCP 2014 and the *Draft Exhibition South Creek Floodplain Risk Management Study* (2019).

The curious decision by DPIE to remove the western portion of the site from WSEA SEPP appears to be based on the arbitrary adoption of the 1:100 ARI flooding extent as being not suitable for 'urban development.' Not only is this a standard that has never been used to date, it is in direct contradiction of official NSW Government Policy, namely the *NSW Floodplain Management Manual 2005*, and current Penrith City Council standards. Indeed, the Draft Mamre Road Precinct Structure Plan fails to recognise widespread industry practice and current engineering standards, which all adopt the 1:100 ARI and build to this line. The 1:100 ARI has in fact been used, and continues to be used, as the buildable flooding standard throughout NSW for well over 50 years. The resulting losses to capital investment, potential employment generating development, and resulting job creation are considered unacceptable in this current economic climate, particularly given the growing scarcity of developable industrial lands throughout Greater Sydney. Indeed, the Greater Sydney Commission's Strategy 16.1 within *A Metropolis of Three Cities* recognises the need to retain industrial lands from the encroachment of non-compatible land uses.

In any event, industrial, residential and commercial developments are generally considered suitable for the 1:100 ARI zone where adequate flood design and mitigation measures are implemented, as per standard civil engineering practice throughout NSW. Moreover, Part C3 of the *Penrith Development Control Plan 2014* (PDCP 2014) sets out adequate controls to guide and manage such industrial, commercial and residential

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

---

developments within the floodplain. The PDCP 2014 goes on to state that Penrith City Council will not grant consent to new development in floodways or in high hazard areas. 'Floodways' experience significant discharges during flood events whilst 'high flooding hazards' occur where there is:

- Possible danger to life and limb;
- Evacuation by truck is difficult;
- There is potential for structural damage; and
- Social disruption/financial losses could be high.

Moreover, the PDCP 2014 adopts industry standard design controls for new industrial and commercial developments in the floodplain as follows:

- Floor levels shall be at least 0.5m above the 1% AEP (100 year ARI) flood or the buildings shall be flood-proofed to a least 0.5m above the 1% AEP (100 year ARI) flood. If floor levels are below the 1% AEP (100 year ARI) flood the matters listed in section 7 i) – vii) shall be addressed; and
- Flood safe access and emergency egress shall be provided to all new developments.

The PDCP 2014 furthermore adopts the following standard controls for the assessment of industrial and commercial infill/extension works:

- Where the application is for an extension to an existing building on land at or below the flood planning level or for new development that can be classed as infill development, Council may approve of the development with floor levels below the 1% AEP (100 year ARI) flood if it can be demonstrated by the applicant that all practical measures will be taken to prevent or minimise the impact of flooding. In considering such applications and determining the required floor level, Council shall take into account such matters as:
  - The nature of the business to be carried out;
  - The frequency and depth of flooding;
  - The potential for personal and property loss;
  - The utility of the building for its proposed use;
  - Whether the filling of the site or raising of the floor levels would render the development of the property unworkable or uneconomical; and
  - Whether the raising of the floor levels would be out of character with adjacent buildings; and vii) Any risk of pollution of water from storage or use of chemicals within the building;
- Any portion of the proposed building extension subject to inundation shall be built from flood compatible materials.

The above approach adopted by Penrith City Council is reasonable and in line with standard industry practice. As such, there is no need to adopt a more stringent approach whereby all 1:100 ARI land is effectively sterilised from being used for industrial purposes. Vapovi and Mamre Road Holdings therefore submit that the newly proposed flood assessment clause within WSEA SEPP should:

- Use the PMF level as the standard for flooding safety and evacuation requirements only, rather than as the allowable building line; and
- Allow development to the 1:100 ARI building line, with development beyond that subject to a separate study demonstrating no/acceptable cumulative impacts.

Indeed, Schedule 4 to WSEA SEPP already requires the making of flood planning controls consistent with the NSW Government's *Floodplain Development Manual: the management of flood liable land* (April 2005) as part of any Development Control Plan for the WSEA. Part C3 of Penrith Development Control Plan likewise requires that development not lead to any offsite flooding affectation to upstream, downstream or adjoining properties. Given these existing flood controls, the approach in the Draft Mamre Road Precinct Structure Plan is completely unnecessary. Rather, the abovementioned flood planning controls are considered to be sufficient and in line with the broader planning regime throughout NSW.

It follows on from this argument that it is completely unnecessary to rezone such a significant portion of the site to RE1 Public Recreation/E2 Environmental Conservation under WSEA SEPP, as there is no compelling



## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

flood risk reasons why much of this land cannot be developed for industrial or other purposes. Overall, Vapovi and Mamre Road Holdings reject the extent of this RE1 Public Recreation zoning running through the middle of the site (refer to **Section 4.9** below for more details). On this point, the Discussion Paper is also considered to be misleading as it does not specify that no built form would be permitted in the extensive RE1 Public Recreation zone. However, given the stringent application of flooding levels to define the buildable zone within the Precinct, it can be inferred that this is the intent of the Draft Mamre Road Precinct Structure Plan. In contrast, it is considered that there are various compatible built form land uses that could be undertaken within the RE1 Public Recreation zone should this zone be formalised within the Precinct (refer to **Section 4.9** below).

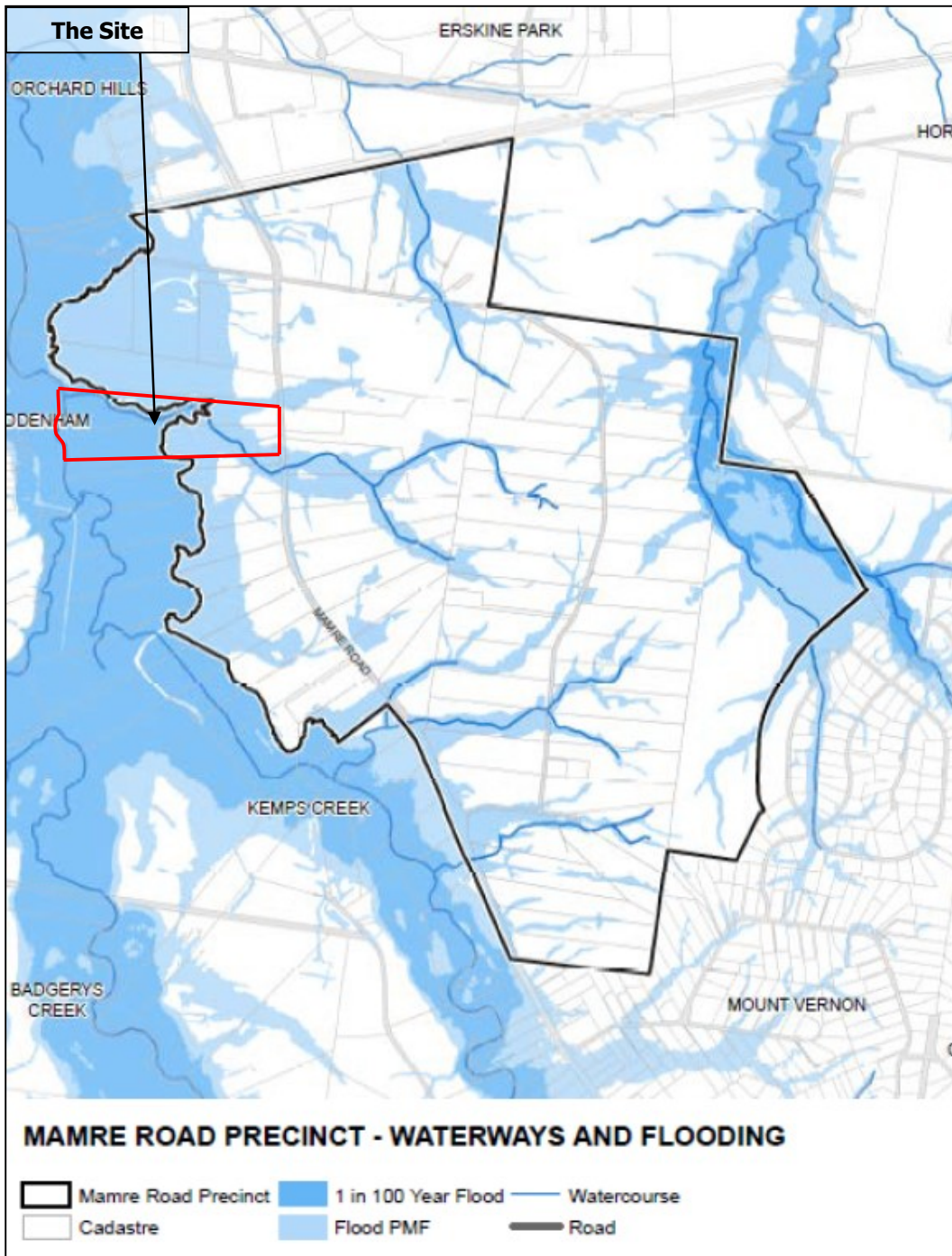


Figure 10 Draft Mamre Road Precinct Flood Affection (NSW DPIE, 2019)

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

---

### 4.7 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.

Vapovi and Mamre Road Holdings also make the following specific comments regarding developer contributions for the Mamre Road Precinct:

- The scope of any new applicable Section 7.11 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 7.11 Contributions and Special Infrastructure Contributions.

Overall, the current situation where no formal Section 7.11 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.*

### 4.8 Land Reservation Acquisition

Vapovi and Mamre Road Holdings note how significant portions of land are mapped under the Draft Mamre Road Precinct Structure Plan as being for future Land Reservation Acquisition, aligning with the proposed SP2 Infrastructure and RE1 Public Recreation zonings (refer to **Figure 5** and **Figure 6** in **Section 3.0** above). However, the Discussion Paper does not provide sufficient details on the process for, nor the timing and costs of, such land acquisition. It is submitted that a mechanism be put in place to manage this process of land acquisition for the Mamre Road Precinct, so as to provide developer certainty. The permissibility and feasibility of potential interim land uses should also be considered in the meantime.

Furthermore, the NSW Government has not specifically budgeted for this land acquisition, let alone the costs involved in embellishing this land. It is therefore possible that the costs to Government in both acquiring and embellishing this land may well be cost prohibitive.

Vapovi and Mamre Road Holdings moreover submit that any land which is rezoned to RE1 Public Recreation should be acquired according to its highest and best industrial land use, which is currently around the \$750/m<sup>2</sup> price range. This reflects the current planning law scenario where much of the land under WSEA SEPP can be used for permissible WSEA SEPP land uses even where it is not zoned under WSEA SEPP, by invoking Clause 12 of the same.

### 4.9 RE1 Public Recreation Zone

As set out in **Section 4.6** above, it is completely unnecessary to rezone such a significant portion of the site to RE1 Public Recreation on the grounds of flooding risk. Indeed, Vapovi and Mamre Road Holdings reject the extent of this RE1 Public Recreation zoning running through the site.

Nevertheless, should the proposed RE1 Public Recreation zoning prevail within the Precinct, it is considered that the permissible land uses must be broadened. Specifically, Vapovi Mamre Road Holdings make the following firm suggestions:

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

---

- Restaurants and Cafés be permitted in the RE1 zone to encourage a suitable level of private investment activation;
- Centre-based Child Care Centres be permitted in the RE1 zone to make use of the surrounding open space network and to support the adjacent employment-generating land uses;
- Recreation Facilities be permitted in the RE1 zone to encourage further public use of these spaces;
- Artisan Food and Drink Industries be permitted in the RE1 zone to further encourage private investment and public access into these spaces;
- The extent of the IN1 General Industrial zone within the precinct should be increased so as to encourage more private provision of active land uses near to the creekline; and
- Provide an RE2 Private Recreation zoning to creek facing land so as to furthermore encourage private investment in activating this space.

The above, whilst encouraging private investment in and public access to these areas, could also assist in lessening the Government's financial burden in acquiring and embellishing open space land within the Precinct.

### 4.10 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.

### 4.11 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:

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

Vapovi and Mamre Road Holdings agree 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.

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

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.

The Discussion Paper is also considered to be misleading as it does not specify that no built form would be permitted in the extensive RE1 Public Recreation zone. However, given the stringent application of flooding levels to define the buildable zone within the Precinct, it can be inferred that this is the intent of the Draft Mamre Road Precinct Structure Plan. In contrast, it is considered that there are various compatible built form land uses that could be undertaken within the RE1 Public Recreation zone should this zone be formalised within the Precinct (refer to **Section 4.9** above).

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 Structure Plan 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.

### 4.12 Commentary Against Discussion Paper Table 4.3

**Table 1** below sets out Vapovi's and Mamre Road Holdings' points of contention with respect to the Table provided in Section 4.3 of the Discussion Paper.

Table 1 Proposed Amendments to WSEA SEPP		
Clause/Schedule/Map	Proposed Amendment	Comment
Part 1 Preliminary	<p>Proposed amendment to the Land Application Map in clause 4 to:</p> <ul style="list-style-type: none"><li>Realign the WSEA boundary to remove some of the existing land that is currently not zoned. This would mean that the WSEA SEPP only applies to land that is zoned under it; and</li><li>Zone additional land within the precinct as IN1 General Industrial, E2 Environmental Conservation, SP2 Infrastructure, RE1 Public Recreation and RE2</li></ul>	<p>To date, development on the site for warehousing, logistics and industrial purposes has been considered permissible by invoking Clause 12 of the WSEA SEPP. As such, the site currently benefits from certain land uses being made permissible due to its innominate zoning status under the WSEA SEPP, which provides the entire site with a quasi-industrial land zoning that can be employed to override the RU2 Rural Landscape zoning under the PLEP 2010.</p>

**Submission to Draft Mamre Road Precinct Structure Plan**

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

Table 1 Proposed Amendments to WSEA SEPP		
Clause/Schedule/Map	Proposed Amendment	Comment
	Private Recreation zones.	<p>The Draft Mamre Road Precinct Structure Plan seeks to include the land within the South Creek Precinct under the Stage 1 Western Sydney Aerotropolis Land Use Infrastructure and Implementation Plan and introduce an extensive RE1 Public Recreation zone alongside a strip of E2 Environmental Conservation. This would essentially reduce the opportunity to enable development for employment generating purposes.</p> <p>Vapovi and Mamre Road Holdings therefore submit that the WSEA SEPP's boundaries should be amended to align with actual property boundaries in this location, so as to avoid planning law confusions and to prevent an effective 'downzoning' of a site for future industrial development. Refer to <b>Section 4.5</b> above for more details.</p> <p>Vapovi and Mamre Road Holdings consider that there is already adequate open space provided for in the locality. Nevertheless, any land which is rezoned to RE1 Public Recreation should be acquired according to its highest and best industrial land use, which is currently around the \$750/m<sup>2</sup> price range. This reflects the current planning law scenario where much of the land under WSEA SEPP can be used for permissible WSEA SEPP land uses even where it is not zoned under WSEA SEPP, by invoking Clause 12 of the same (refer to <b>Section 4.8</b> above).</p>
Part 2 Permitted or prohibited development	<p>The land use table will be updated to include new land use zones, RE1 Public Recreation and RE2 Private Recreation, intended to apply to land within the precinct. These zones will permit the following uses:</p> <p><u>RE1 Public Recreation</u></p> <ul style="list-style-type: none"> <li>▪ Aquaculture</li> <li>▪ Kiosks</li> <li>▪ Recreation areas</li> </ul>	<p>Should the RE1 Public Recreation zone be applied to the Precinct, it should permit a broader range of compatible land uses and the RE2 Private Recreation zone should also be considered for possible extension along creeklines. IN1 General Industrial zones should also be extended into these areas. This would improve opportunities for private investors to assist in activating and embellishing these open space areas, removing some of the public burden in</p>

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

Table 1 Proposed Amendments to WSEA SEPP		
Clause/Schedule/Map	Proposed Amendment	Comment
	<p><u>RE2 Private Recreation</u></p> <ul style="list-style-type: none"> <li>▪ Aquaculture</li> <li>▪ Community facilities</li> <li>▪ Kiosks</li> <li>▪ Recreation areas</li> <li>▪ Recreation facilities (indoor)</li> <li>▪ Recreation facilities (outdoor)</li> </ul> <p>The land use table will also be updated to ensure it aligns with the <i>Standard Instrument (Local Environmental Plans) Order 2006</i>, where appropriate.</p>	covering these costs (refer to <b>Section 4.9</b> above for more details).
Part 5 Principal development standards	Clause 26 which deals with "Development on or in vicinity of proposed transport infrastructure routes" will be amended to replace the referral required to the Department with a referral requirement to the relevant Government agency responsible for the transport infrastructure.	<p>The process for, and function of, this concurrence has not been adequately explained within the Draft Mamre Road Precinct Structure Plan.</p> <p>This uncertainty effectively sterilises certain lands in the meantime.</p>
Part 6 Miscellaneous provisions	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.	The Discussion Paper does not provide sufficient details on the process for, nor the timing and costs of, such land acquisition. It is submitted that a mechanism be put in place to manage this process of land acquisition for the Mamre Road Precinct, so as to provide developer certainty. The permissibility and feasibility of potential interim land uses should also be considered in the meantime (refer to <b>Section 4.8</b> above for more details).
New clause – Development of land within or adjacent to transport corridor	A new clause will be inserted similar to clause 6.10 of Appendix 7 in the State <i>Environmental Planning Policy (Sydney Region Growth Centres) 2006</i> which will require a consent authority to obtain the concurrence of TfNSW in certain transport corridors prior to the granting of development consent. This land will be identified on the Land Zoning Map, which will include an overlay for a potential intermodal terminal, potential Southern Link Road and Western Sydney Freight Line.	<p>The process for, and function of, this concurrence has not been adequately explained within the Draft Mamre Road Precinct Structure Plan.</p> <p>This uncertainty could effectively sterilises certain lands in the meantime.</p>
New clause – Development in areas subject to	For development on land affected by an ANEF/ANEC contour of 20 or greater, the SEPP will include a new clause that will	Vapovi and Mamre Road Holdings note that their land is not subject to an ANEF of 20 or greater. However, it is

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

Table 1 Proposed Amendments to WSEA SEPP		
Clause/Schedule/Map	Proposed Amendment	Comment
aircraft noise	set out additional matters for a consent authority to consider before it grants development consent. This may include anew clause which limits the permissibility of child care centres within on land affected by an ANEF/ANEC contour of 20 or greater.	submitted that this Clause would be too stringent, and that such sensitive developments should nevertheless be allowed to proceed where they can be demonstrated to achieve acceptable noise impact criteria.
New clause Contamination	- A new clause is proposed to satisfy any requirements set out clause 6(1) of <i>State Environmental Planning Policy No 55 Remediation of Land</i> .	Where this Clause mirrors existing Local Environmental Plan standard contamination assessment requirements, it would be acceptable to Vapovi and Mamre Road Holdings.
New clause Recycled water	- A new clause is proposed to require development to be serviced by a water recycling plant, when available.	It is considered that more detail is required in order to assess the full implications of such a requirement. Suggest that the Clause be worded so as not to "require" this connection "when available," but rather "when it is available and connection is reasonable and feasible" or similar.
New clause Earthworks	- A new clause is proposed to set out the development controls relating to earthworks, to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	Where this Clause mirrors existing Local Environmental Plan standard earthworks assessment requirements, it would be acceptable to Vapovi and Mamre Road Holdings.
New clause Waterway Health	- A new clause is proposed to require development to address stormwater and water management requirements. Targets will specifically aim to preserve waterway heath and habitat by preserving the hydrologic regimes and water quality of waterways.	Where this Clause mirrors existing Local Environmental Plan standard stormwater and water management requirements, it would be acceptable to Vapovi and Mamre Road Holdings.
New clause Flooding	- A new clause is proposed to require consent authorities to consider the cumulative and local impact of development on the whole flood plain within the PMF and 1 in 100 chance per year flood level.	There is no need to adopt a more stringent approach whereby all 1:100 ARI land is effectively sterilised from being used for industrial purposes. This should in turn allow the western portion of the site to continue to be subject to WSEA SEPP, meaning that its quasi industrial zoning may now be formalised at law (refer to <b>Section 4.6</b> for more details).
Dictionary	The Dictionary is proposed to be amended in accordance with the <i>Standard Instrument (Local Environmental Plans) Order 2006</i> , where	This is considered to be appropriate.

**Submission to Draft Mamre Road Precinct Structure Plan**

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

Table 1 Proposed Amendments to WSEA SEPP		
Clause/Schedule/Map	Proposed Amendment	Comment
	appropriate.	
Maps	<p><u>Land Application Map</u></p> <p>Proposed to be amended to realign to application only applies to land zoned under the WSEA SEPP.</p> <p>Precinct names proposed to be amended to replace "11 Broader Western Sydney Employment Area" with "11 Mamre West" and add "12 Mamre Road".</p> <p><u>Land Use Zoning map</u></p> <p>Proposed to be amended to reflect proposed zoning and introduce a zoning overlay for concurrence requirement regarding a potential intermodal terminal site and Southern Link Road.</p> <p>WSEA boundary realigned to remove unzoned land.</p> <p><u>Transport and Arterial Road Infrastructure Plan Map</u></p> <p>Proposed to be amended to reflect the proposed transport infrastructure within the precinct, including Southern Link Road and Mamre Road upgrade.</p> <p>Proposed to be amended to realign to application only applies to land zoned under the WSEA SEPP</p> <p><u>Industrial Release Area Map</u></p> <p>Proposed to be amended to realign to application only applies to land zoned under the WSEA SEPP.</p> <p><u>Additional Permitted Uses Map</u></p> <p>Proposed to be amended to realign to application only applies to land zoned under the WSEA SEPP.</p> <p><u>Land Reservation Acquisition Map</u></p> <p>Proposed acquisition areas to align with proposed zoning. Proposed to be amended to realign to</p>	<p>These areas should remain within the WSEA SEPP, becoming formally zoned under the same (refer to <b>Section 4.5</b> for more details).</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Vapovi and Mamre Road Holdings consider this to be effectively an unnecessary downzoning of its land which can currently rely on Clause 12 of WSEA SEPP.</p> <p>Noted.</p> <p>Vapovi and Mamre Road Holdings are concerned that this future land acquisition has not been adequately planned or budgeted for.</p>



## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

**Table 1 Proposed Amendments to WSEA SEPP**

Clause/Schedule/Map	Proposed Amendment	Comment
	application only applies to land zoned under the WSEA SEPP.	
Penrith Local Environmental Plan 2010	It is proposed to amend the <i>Penrith Local Environmental Plan</i> (LEP) 2010 to remove certain land from the application of this LEP and apply the proposed zoning and supporting development controls of the precinct under the WSEA SEPP to these sites.	<p>To date, development on the site for warehousing, logistics and industrial purposes has been considered permissible by invoking Clause 12 of the WSEA SEPP. As such, the site currently benefits from certain land uses being made permissible due to its innominate zoning status under the WSEA SEPP, which provides the entire site with a quasi-industrial land zoning that can be employed to override the RU2 Rural Landscape zoning under the PLEP 2010.</p> <p>Removing the westernmost portion of the site from WSEA SEPP and returning it to its prevailing zoning under the PLEP 2010 is therefore considered to be an effective downzoning of the site.</p>

## 5.0 CONCLUSION

The effect of the Draft Mamre Road Precinct Structure Plan would be to designate more than 50% of the 38.4 hectare site owned by Vapovi and Mamre Road Holdings as being unsuitable for urban development. As a result, it is estimated that over 500 jobs could be lost on the site alone (based on standardised rates of industrial land use). Vapovi and Mamre Road Holdings therefore submit that the WSEA SEPP's boundaries should be amended to align with actual property boundaries in this location, so as to avoid planning law confusions and to prevent an effective 'downzoning' of a site where industrial land uses are currently permitted, in direct contradiction with the Greater Sydney Commission's vision for the Aerotropolis. This key issue with the Draft Mamre Road Precinct Structure Plan is largely a result of an arbitrary application of flood planning controls in direct contradiction to NSW Government and Penrith City Council's policies, as well as standard industry practice and knowledge.

Specifically, Vapovi's and Mamre Road Holdings' grounds of submission to the Draft Mamre Road Precinct Structure Plan relate to the following matters:

- That rezoning around a quarter of the site as RE1 Public Recreation or E2 Environmental Conservation, whilst leaving another half of the site outside of the WSEA Application Area, would result in grave inefficiencies in the site's developable footprint, with irregular shaped and relatively small pockets of IN1 General Industrial land created. This would effectively prohibit several permissible IN1 General Industrial land uses from being undertaken on both Lots;
- The implications of significant RE1 Public Recreation and E2 Environmental Conservation zoning in the east, meaning that this land would likely be subsumed into the adjoining future Western Sydney Intermodal site. Indeed, the proposed locations of RE1 and E2 land running east-west from Lots 23 and 24 through the proposed Intermodal site would result in a vast tract of land being sterilised. This would negatively impact on the future operation of the Western Sydney Intermodal, whilst also preventing employment-generating land uses being undertaken at the site;
- Fragmentation of existing properties leading to contradictions with NSW Planning Policies established by the Land and Environment Court;

## Submission to Draft Mamre Road Precinct Structure Plan

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

---

- The location of the proposed E2 Environmental Conservation zone to preserve the existing tributary of South Creek as it traverses the site not making best use of the land. This tributary could be more efficiently realigned along the southern boundary of Lot 24, or to Lot 2001 DP1036837 to support more efficient development outcomes;
- DPIE failing to take the opportunity to align the WSEA SEPP boundaries and land zonings so as to apply them to defined parcels of land, creating planning system uncertainties and sterilising the use of land which may otherwise be most efficiently used for industrial purposes;
- The Precinct's zoning and boundaries have been drawn based on overly stringent flood planning controls (i.e. built form development not considered suitable within the 1:100 ARI), which directly contradict NSW Government and Penrith City Council planning policies, as well as standard industry knowledge and practice. This results in an unnecessary sterilisation of land. These flood affected areas, when adjusted to the prevailing topography, would not result in any net loss of flood storage, nor any changes to the existing flood hazard/overall flooding characteristics of the locality;
- Uncertainty regarding applicable Section 7.11 Contribution and applicable Special Infrastructure Contribution rates, as the Discussion Paper contains insufficient details;
- Insufficient details on process for, as well as costs and timing of, land reservation acquisition; and
- There is already adequate open space provided for in the locality. Nevertheless, should the RE1 Public Recreation zone be applied to the Precinct, it should permit a broader range of compatible land uses and the RE2 Private Recreation zone should also be considered for possible application; and
- 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.

Specifically with regards to land that is to be mapped for Vapovi and Mamre Road Holdings moreover submit that any land which is rezoned to RE1 Public Recreation should be acquired according to its highest and best industrial land use, which is currently around the \$750/m<sup>2</sup> price range. This reflects the current planning law scenario where much of the land under WSEA SEPP can be used for permissible WSEA SEPP land uses even where it is not zoned under WSEA SEPP, by invoking Clause 12 of the same.

In general, it is also considered that the Discussion Paper contains several inconsistencies, as well as employing language which is generally vague or poorly worded. In its current form, the Discussion Paper is therefore not fit to guide the current period of public exhibition and invitation to submit.

It is recommended that these matters be addressed before the Draft Mamre Road Precinct Structure Plan proceeds towards being finalised and the corresponding amendments to WSEA SEPP are gazetted.

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

Yours faithfully,

Regards,



Jessica Miller  
Willowtree Planning Pty Ltd  
[jmiller@willowtp.com.au](mailto:jmiller@willowtp.com.au)  
0402845415

**Submission to Draft Mamre Road Precinct Structure Plan**

On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd, 771-781 and 783-797 Mamre Road, Kemps Creek WTJ19-561

---

**APPENDIX 1 CIVIL ENGINEERING MEMO**

17 December 2019  
Job No: 19325

Katherine Van Lauren  
Acting Executive Director, Western and Central Sydney  
NSW Department of Planning, Industry and Environment  
320 Pitt Street  
Sydney NSW 2000

PO Box 979  
Level 1, 91 George Street  
PARRAMATTA NSW 2150  
Office 02 9891 5033  
Fax 02 9891 3898  
admin@sparksandpartners.com.au  
sparksandpartners.com.au  
ABN 95 161 152 969

**Re: Submission with Respect to Draft Mamre Road Precinct Structure Plan Under State Environmental Planning Policy (Western Sydney Employment Area) 2009 On Behalf of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd**

Attention Katherine,

We Sparks & Partners Consulting Engineers at the request of Vapovi Pty Ltd and Mamre Road Holdings Pty Ltd being the owners of 771-781 and 783-797 Mamre Road, Kemps Creek (Lots 23 and 24 DP2587414) respectively have undertaken a review of the proposed rezoning of the Mamre Rd Precinct as prepared by the NSW Government Department of Planning, Industry and Environment. The review of the proposed planning has been undertaken to assess the proposed land zones for the above mentioned properties from a civil engineering perspective and assess the possible implications the zoning will have on the future use of the site and the overall Mamre Road precinct as a whole.

### **Proposed Land Zoning**

The proposed land zoning is a mixture of IN1, RE1 and E2. The extent of the Mamre Rd precinct along its western boundary appears to follow the 1:100yr ARI flooding extents as detailed in both the Updated South Creek Flood Study, January 2015 prepared by Worley Parsons for Penrith City Council, and the Exhibition Draft South Creek Floodplain Management Study and Plan, August 2019 prepared by Advisian for Penrith City Council. This precinct boundary dissects the properties approximately halfway along the southern boundary, with a central spur running into the properties to the east before dissecting the properties toward the west on the northern boundary. From the precinct boundary an RE1 zone has been allocated to the east with the extent appearing to be arbitrary as it does not relate to any available flood mapping or other environmental considerations. The proposed E2 zone alignment follows the route of an existing tributary of South Creek which originates from the east of Mamre Road in Lot 35 DP258949 and flows west through nine (9) properties before discharging to South Creek. This route travels from the south east to the north west through the eastern portion of the subject properties. An RE1 zone has been setback around this E2 zone and again appears to be arbitrary in its allocation. The remainder of the lot parcels is zoned IN1 which results in two irregular shaped portions of land located on the eastern side and southern sides of the properties. Figure 1 and 2 show

the location of the site in relation to the draft land zoning and land reservation acquisition respectively.

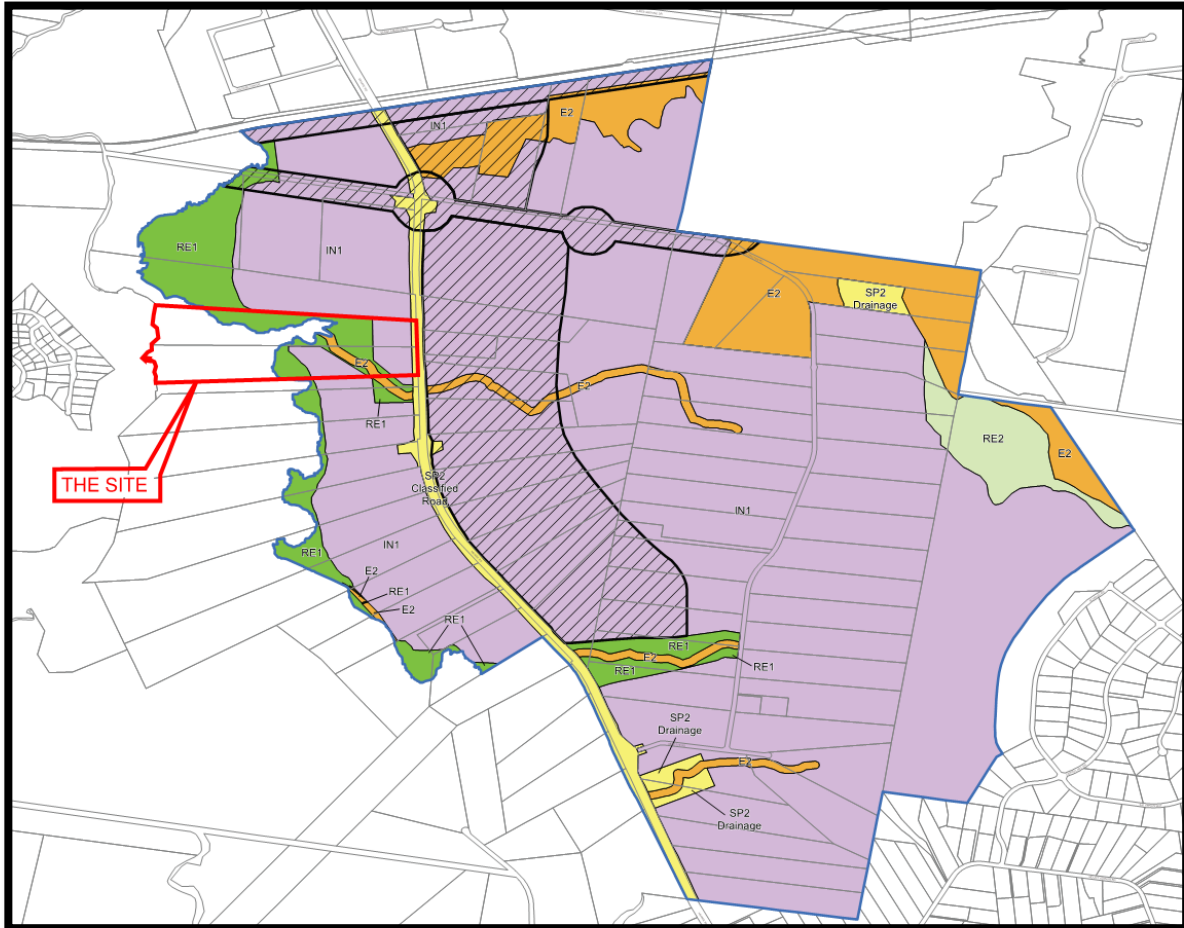


Figure 1 - DRAFT Land Zoning Map (NSW Government, Planning Industry & Environment, 2019)

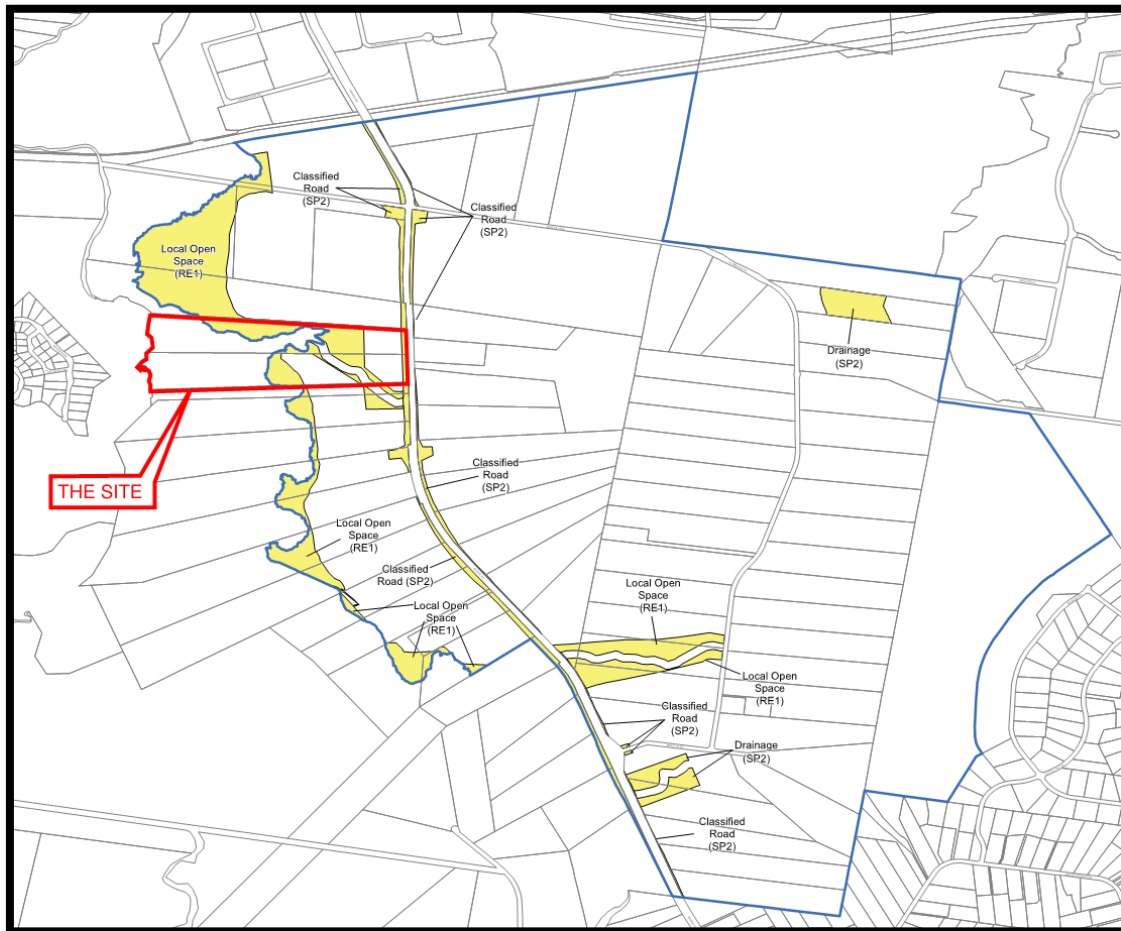


Figure 2 - DRAFT Land Reservation Acquisition (NSW Government, Planning Industry & Environment, 2019)

### Proposed Zoning Impacts

The proposed zoning impacts result in fragmented and irregular shaped developable land parcels. The IN1 land parcels are not connected to the north and south IN1 zones where proposed road networks are most likely to be located. Any future local road would most likely dissect these proposed zones locations resulting in further fragmentation of the land parcels and the objectives of the precinct plan not being realised.

### Precinct Boundary

The nominated precinct boundary location results in a significant divide between northern and southern IN1 zones. A future local collector road would be required to convey traffic to and from the two (2) main precinct traffic intersections proposed along Mamre Rd. Submission comments provided by Penrith City Council and RMS with regard to SSD 9522 indicate that there will be a future north-south collector road running through this IN1 zone to convey traffic from the Southern Link Road to the running along the north of the precinct to another main intersection with Mamre Rd located in the centre of the precinct. Due to the proposed location of the precinct boundary spur within Lot 23 and the RE1 and E2 zones a future north-south collector road would traverse these zones requiring amendments to the zoning as it currently stands.

### **RE1**

The arbitrary location of the RE1 line and its irregular shape would make development of the land parcels along this boundary line difficult to achieve and enforce. A surveyor would need to set out this zone boundary line and unless it is determined based on real geometric alignments and a cadastral recording made, the potential error that can occur would result in either development of land occurring in the RE1 zone or underdevelopment of land in the IN1 zone.

The shape of the RE1 zoning in the east of the site does not allow activation of the area as it is disconnected from Mamre Rd and surrounded by IN1 zones to the north and south. Access to this area is restricted as direct access from Mamre Rd will not be allowed by RMS and due to the nature of warehousing and industrial developments located in IN1 zones, any future development will most likely be built directly to the edge of this area resulting in any access and public recreation benefit not being realised.

### **E2**

The proposed E2 zoning alignment follows the existing tributary, however the likelihood that this alignment will remain in this form is considered low. The tributary is the result of a minor catchment that is located to the east and conveys overflows from rural dams located in this area. Historical photos show the tributary has intermittent flows with periods of little or no flow, therefore not being suitable for fish habitat. The alignment dissects the site and results in IN1 land parcels that are fragmented from the main IN1 zones to the north and south, and also the result in irregular shaped land parcels would be difficult to develop given the geometrically square nature of warehousing and industrial developments. In this regard any future development would most likely result in a submission to the department to have this E2 zone realigned to allow for better realization of the land in accordance with the objectives to the precinct plan.

This realignment of the E2 zone would also most likely occur on the eastern side of Mamre Rd in the proposed intermodal facility. From an engineering perspective an intermodal facility such as the facilities located at Cosgrove Road, Strathfield, and the new Moorebank intermodal facility at Moorebank Ave, Moorebank require geometrically square layouts that have a flat finished surface to facilitate the easy transfer of goods from trains to trucks and vice versa. The alignment of the proposed E2 zoning on the eastern side of Mamre Rd conflicts with these requirements of an intermodal facility and should the zoning plan be gazetted it would most likely result in a future submission to the department to have the E2 zone re-aligned in a way that is more geometrically compatible with infrastructure such as railway sidings, hardstand pavements and warehouse buildings.

## **Proposed Amendments**

### ***Precinct Boundary***

The proposed amendment to the precinct boundary is to remove the spur that protrudes into the Lot 23. This can be achieved through cut and fill earthworks to fill in the spur area with cut from the west of the precinct boundary line currently designated as RE1. This proposal would most likely result in a zero to positive flood storage offset with no

detrimental effects to the flooding regime. The current Exhibition Draft South Creek Floodplain Management Study and Plan, August 2019 prepared by Advisian for Penrith City Council shows the location of spur and categorises this area as being flood fringe and flood storage. From an engineering perspective flood storage and flood fringe areas are able to be developed as they are not the main floodway, as long as adequate assessment is undertaken to assess the risks of the proposed development and there are nil impacts to the flood plain as a whole. In this regard the current flood modelling assessment undertaken by Advisian for Penrith City Council has assessed various flood risk/mitigation scenarios and the impacts of cutting and filling within the flood plain. It is proposed that further assessment should be undertaken by the Department in conjunction with Council to assess the impacts of cutting and filling within the spur area. Should the results be favourable with no detrimental impacts within the floodplain the resultant proposed precinct boundary would eliminate the divide and provide a land parcel that reflects the objectives of the precinct plan whilst also managing the requirements of the South Creek Catchment and Flood Plain. Refer to Annexure A for a copy of Figure B.2 from the Exhibition Draft South Creek Floodplain Management Study and Plan, August 2019 with a mark-up of the proposed works for reference. Figure 3 – Proposed Land Zoning Map shows the proposed Precinct Boundary location.

The realigned precinct boundary will also have a positive effect on any future local collector road alignment. By realigning the precinct boundary, a collector road is able to be easily provided with any future road reserve linking the north and south areas of the western side of the Mamre Rd precinct. Figure 4 – Proposed Land Reservation Acquisition shows the proposed Precinct Boundary location

### **RE1 Zoning**

The proposed amendment to the RE1 zone is to provide an alignment that consists of geometric lines rather than an arbitrary line that better reflect the intention and the purpose of RE1 and IN1 zones and would allow for easier implementation during the development approval process and ultimate construction on-site. The proposal would involve a designated offset from the RE1 precinct and E2 boundary which can be clearly shown on any future development proposals. Figure 4 – Proposed Land Zoning Map shows the proposed road alignment and precinct boundary.

### **E2 Zoning**

The proposed amendment to the E2 zoning consists of realigning the tributary to the southern boundary of Lot 24 and then heading north along the proposed precinct boundary located in the west of Lot 23 and 24. The tributary appears to be classified as a 1<sup>st</sup> Order stream based on the approximate 40.0m width allocated within the DRAFT Land Zoning Map. Based on the NSW Government Department of Primary Industries, Office of Water, Controlled Activities on Waterfront Land – Guideline for Riparian Corridors on Waterfront Land, July 2012, 1<sup>st</sup> Order Streams are able to be realigned if required. This realignment results in less fragmentation and irregular shaped land parcels ensuring the overall objectives of the precinct for utilisation of the IN1 zones and environmental consideration



of conveyance of overland flows from the upstream catchment located to the east. Figure 3 – Proposed Land Zoning Map shows the proposed E2 zone location.

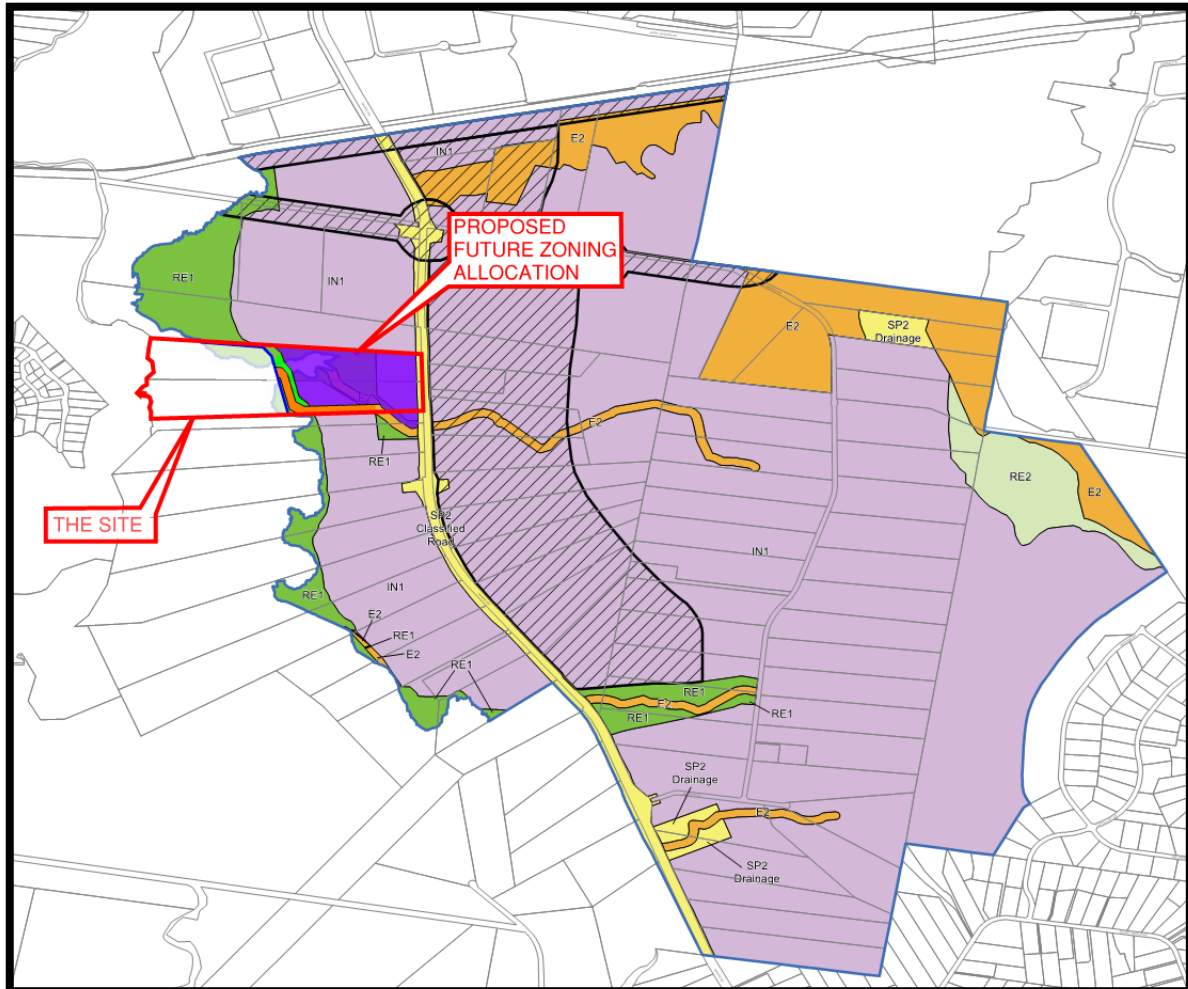


Figure 3 - Proposed Land Zoning Map

### Conclusion

Based on the above we believe the proposed adjustments to the zoning boundaries will provide a better outcome for the development with higher utilisation of the available land, less fragmentation and irregular shaped land parcels allowing for full development potential to be realised, consideration of a consistent road network that is in line with Penrith City Council and RMS objectives, and the consideration stormwater and flood management within the current framework of applicable planning and guidelines.

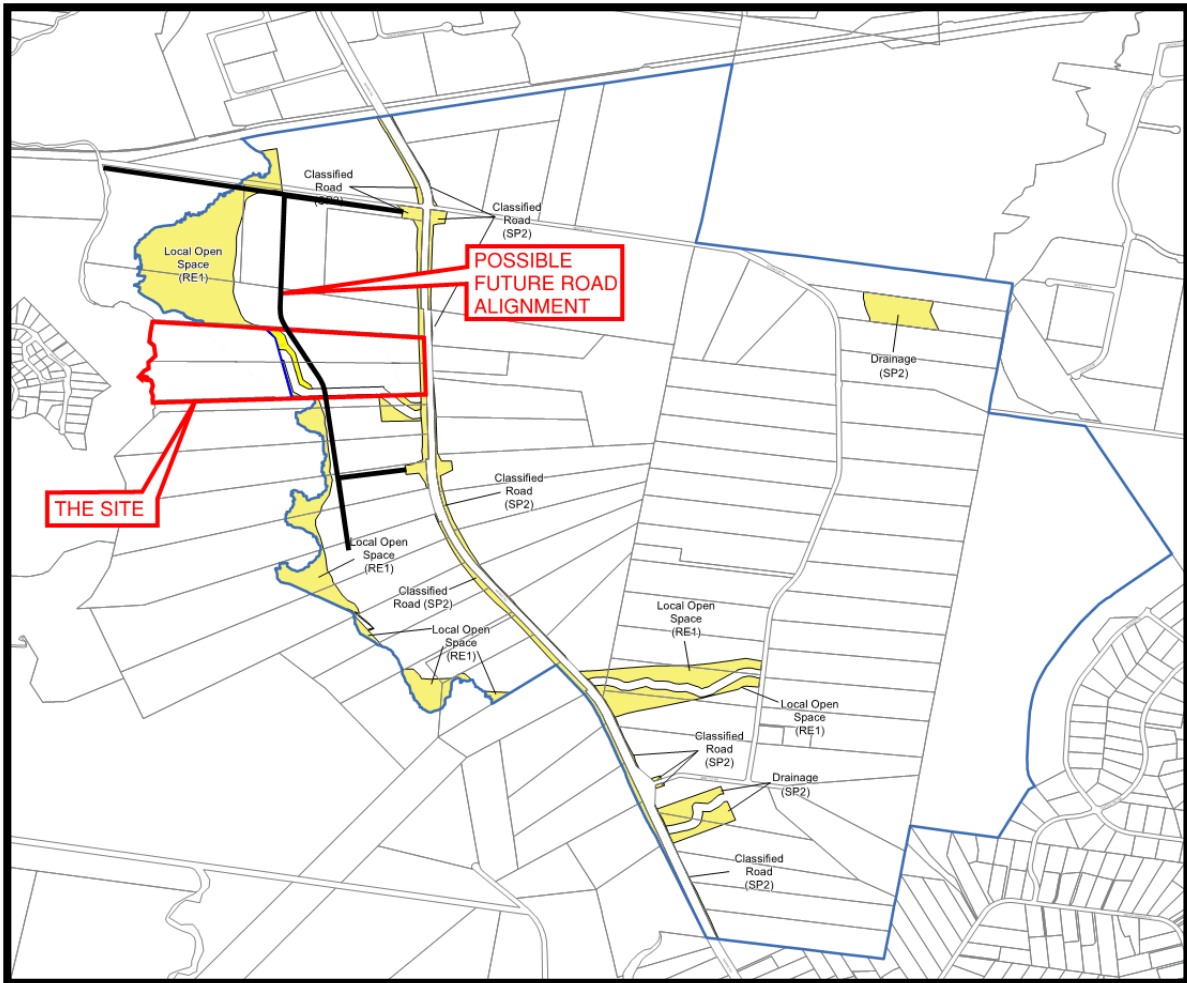


Figure 4 - Proposed Land Reservation Acquisition and Precinct Road Alignment

Should you have any questions with regard to the above please do not hesitate to contact the undersigned.

Yours Faithfully,

Morgan Walter  
Civil Engineering Manager  
Sparks & Partners Consulting Engineers  
[morgan@sparksandpartners.com.au](mailto:morgan@sparksandpartners.com.au)

## Annexure A – Hydraulic Category Mapping

FIGURE B.2

