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Sent: Wednesday, 18 December 2019 5:22 PM
To: DPE PS ePlanning Exhibitions Mailbox <eplanning.exhibitions@planning.nsw.gov.au>
Subject: Webform submission from: Mamre Road Precinct in the Western Sydney Employment Area

Submitted on Wed, 18/12/2019 - 16:54

Submitted by: Anonymous

Submitted values are:

Submission Type: I am submitting on behalf of my organisation

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Submission file:

[18.12.2019-altis-submission--mamre-road-precinct-draft-structure-plan.pdf](#)

Submission: This submission is made on behalf of Altis Property Partners Pty Ltd and directly related to 772 - 782 Mamre Road and 884 - 928 Mamre Road Kemps Creek. Altis commends the Department of Planning, Infrastructure and Environment (Department) and the Minister of Planning on the release of the Mamre Road Precinct for rezoning, responding to the critical employment land shortage in Western Sydney We understand that the Structure Plan and accompanying documents require detailed technical studies to support the proposed land uses / controls and look forward to working collaboratively with the Department to ensure the most optimal economic outcome is achieved for the Precinct. Altis have major concerns with the proposed land uses and additional planning controls currently on exhibition, which do not align with the strategic objectives of the Region Plan (Metropolis of 3 Cities), the District Plan and the WSEA SEPP that aim to promote employment within Western Sydney and embrace the 30 minute city. Detailed commentary on the exhibited material is contained within our submission and we would welcome the opportunity to discuss with the Department at the earliest possible opportunity Regards Altis Property Partners Stephen O'Connor - Project Director

URL: <https://pp.planningportal.nsw.gov.au/draftplans/exhibition/mamre-road>

Kathryn Van Lauren and Submissions Team –
Mamre Rd Precinct
Greater Sydney Place and Infrastructure
NSW Dept of Planning, Infrastructure and
Environment
GPO Box 39
SYDNEY NSW 2000

Dear Kathryn and the Greater Sydney Place and Infrastructure team

Submission on proposed Mamre Road Precinct Rezoning

This submission is made by Altis Property Partners (**Altis**) in relation to the proposed Mamre Road Precinct Rezoning and the amendments to the *State Environmental Planning Policy (Western Sydney Employment Area) 2009 (WSEP SEPP)*.

RE: SUBMISSION TO THE MAMRE ROAD PRECINCT DRAFT STRUCTURE PLAN
772 – 782 and 884 – 928 MAMRE ROAD, KEMPS CREEK

INTRODUCTION

This submission has been prepared by Altis Property Partners (Altis) in response to the release of the draft Mamre Road Precinct (Precinct) exhibition package. Altis welcomes the opportunity to comment on the exhibition package and seeks a continued partnership with NSW Government on the rezoning and delivery of Mamre Road Precinct.

Altis congratulates the Department of Planning, Industry and Environment (Department) on releasing the draft Plan, in response to the current critical land shortage that exists within Western Sydney.

It is clear the plan was released very quickly and intended as a “draft for discussion”, without the publication of technical studies or detailed engineering analysis. Altis understand that the plan will be amended and refined following completion of these studies.

Altis has a proven track record in development of industrial property within Western Sydney, including the recently completed First Estate (250,000sqm) facilitating over 1,200 jobs within the local area. Within the Precinct, Altis has interests in 125 hectares of land and this submission relates to 772 - 782 and 884 -928 Mamre Road Kemps Creek.

Altis has a firm commitment to be an active participant in the development of employment land within the Precinct and through this commitment, we support the success of Mamre Road Precinct through the delivery of a timely rezoning.

Key Issues and Recommendations

We look forward in working with the NSW Government in addressing the following issues and look forward to our recommendations being considered:

- 1. A draft Special Infrastructure Contribution (SIC) Plan has not been provided to accompany the precinct plans. Release of the SIC plan is essential for developers and landowners to understand the costs for development, which impact on land values**
- 2. The NSW Government’s decision to use the WSEA SEPP as the primary environmental planning instrument for the precinct is supported, however the Plan and discussion paper proposes to include additional land uses and controls. These land uses and controls are not necessary, will significantly reduce employment within the Precinct and lead to substantial acquisition costs for the Government.**
- 3. Detailed technical investigations have not been completed to inform decisions on land use planning. It is critical these studies are completed and considered to preserve employment land within the Precinct and jobs within Western Sydney**
- 4. Introduction of the Intermodal Investigation Area encompassing 175 hectares of land was not accompanied by an options investigation report or any detailed technical studies confirming the viability of the Precinct. Serious economic and topographical constraints need to be carefully considered by Government in consultation with Industry**
- 5. Adoption of the Probable Maximum Flood (PMF) as a flood planning control is considered inappropriate, leading to significant loss of employment land capital investment within the Precinct.**
- 6. The designation of new zones RE1 (private recreation) and RE2 (public recreation) on land suitable for employment is not economical and unwarranted. The Precinct already has over 488 hectares of land affected by the 1 in 100 year flood that is suitable for open space and recreation.**

MAMRE ROAD PRECINCT

PRECINCT DESCRIPTION

Mamre Road Precinct is located within the Western Sydney Employment Area (WSEA), approximately 40km west of the Sydney CBD and 12km south-east of the Penrith CBD. It is also located within the Western Sydney Aerotropolis, approximately 6km from the future Western Sydney International (Nancy-Bird Walton) Airport.

The precinct covers an area of approximately 972 hectares. The precinct is located within the Penrith Local Government Area (LGA). It is partially located in Kemps Creek and Mount Vernon localities. The precinct is directly south of the established Erskine Park Industrial Area, which forms part of the WSEA. Large lot rural residential borders the precinct to the east, South Creek forms its western boundary and Rossmore Precinct within the Western Sydney Aerotropolis sits to the south.

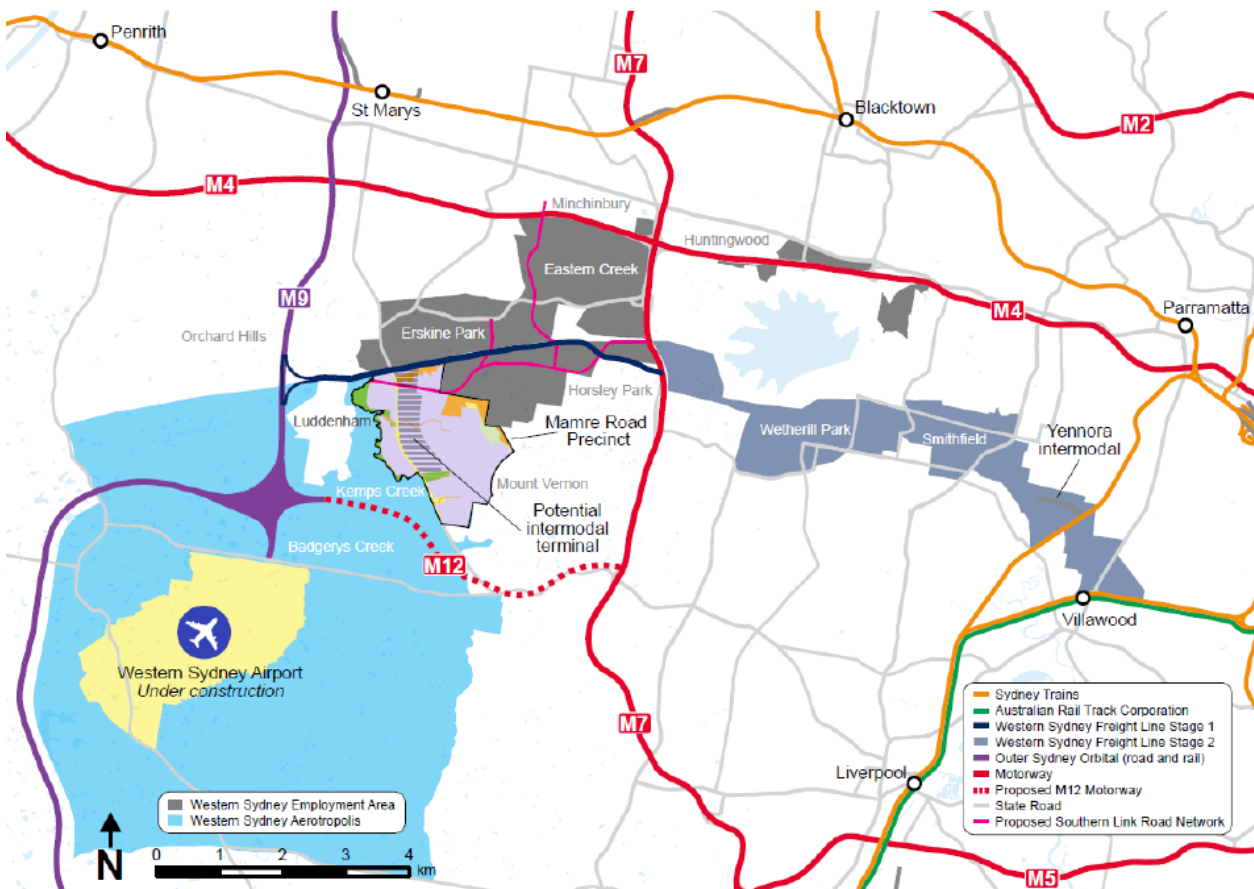


Figure 1, context map - Source: Transport for NSW

The Mamre Road Precinct has a history of being designated as future employment land. This began in 2014 when the NSW Government announced a proposal to expand the WSEA to dedicate a further 4,574 hectares (ha) of employment land. This proposal amended the *State Environmental Planning Policy (Western Sydney Employment Area) 2009 (WSEA SEPP) Land Application map* to increase the boundary south to Elizabeth Drive and include land west to the planned Western Sydney Airport. The expansion of employment area was referred to as the Broader WSEA.

The Broader WSEA's draft Structure Plan divided the Broader WSEA into 6 precincts: Aldington Road, South Creek, Luddenham Road West, Adams Road, Commonwealth Land and the South West Growth Centre Industrial. The present Mamre Road Precinct and part South Creek Precinct was originally within the broader WSEA's Aldington Road Precinct and South Creek Precinct (refer to **Figure 1**). These precincts were adjacent to the existing WSEA zoned land and identified 493 ha for employment uses and 377 ha for non-employment. Its proximity to existing employment areas made it the next logical extension.

We appreciate and commend the NSW Government acknowledging the importance of Mamre Road Precinct as an essential employment area for Western Sydney. The expedited planning and rezoning of the precinct is supported and the choice to rezone the land under the WSEA SEPP is appropriate.

SITE DESCRIPTION

Altis owns and has interests in 772 – 782 and 884 – 928 Mamre Road, Kemps Creek (Lot 61 DP259135, Lot 52 DP259135 and Lot 53 DP259135), which is shown on Figure 2 below. The site is located within the Mamre Road Precinct, and:

- Is readily accessed by the regional road network, including both the M4 and M7 Motorways;
- Slopes east to west with a level difference of 12 meters;
- Is sparsely vegetated with scattered stands of trees and scrub, in poor condition (i.e. not meeting the definition under the *Environment Protection and Biodiversity Conservation Act 1999*);
- Contains two dams which are proposed to be removed (see below);
- Was historically used for agricultural as well as rural residential purposes; and
- Is not affected by flooding

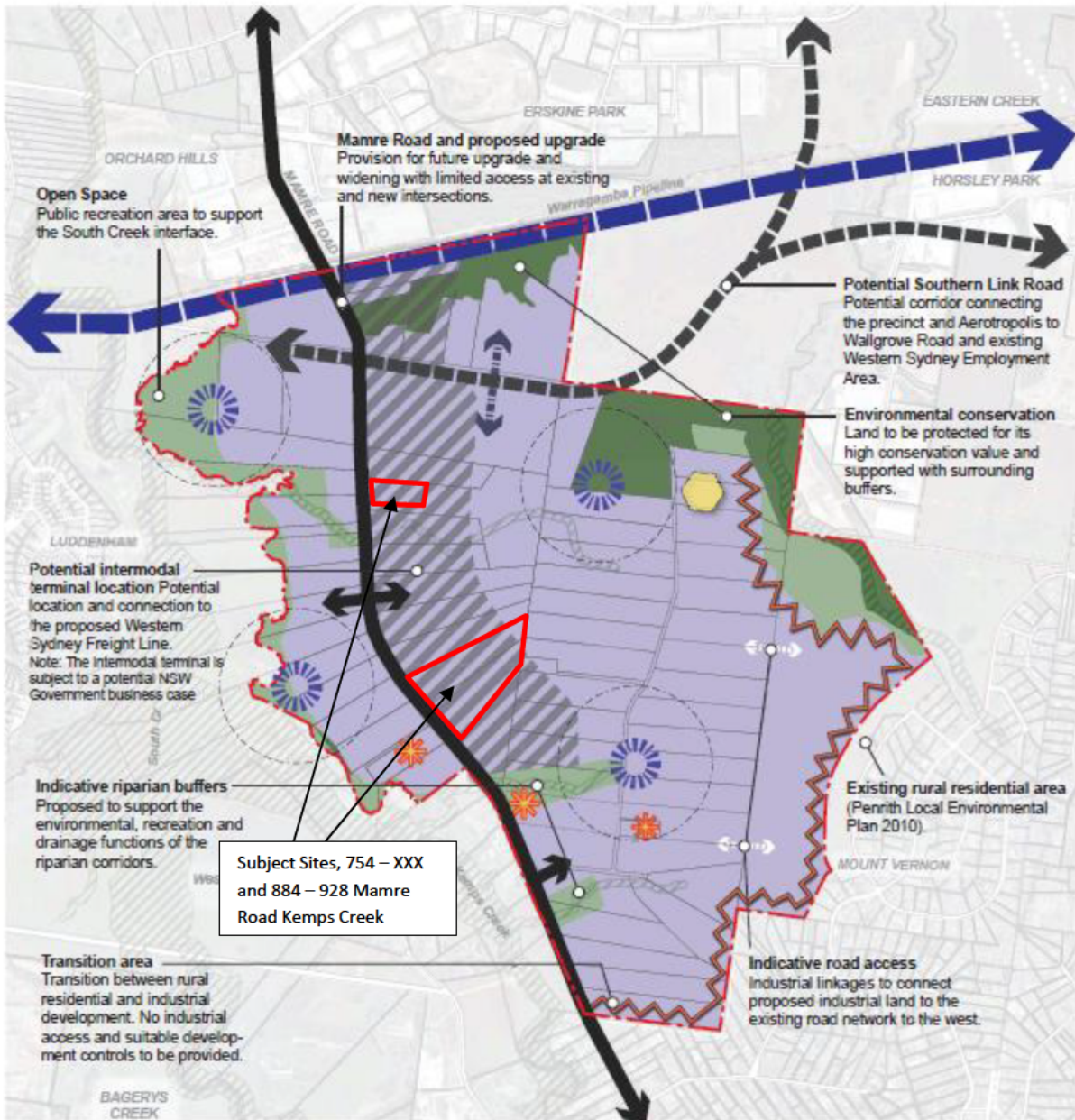
The site is bound by the following:

- Mamre Road to the west;
- The Warragamba Pipeline and the "First Estate" industrial precinct (SSD 7173) owned by Altis to the north west; and
- Rural and residential land holdings to the north, including some educational precincts (Trinity Primary School and Emmaus Catholic College).

Further to the north of the Warragamba Pipeline is Erskine Business Park, 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 2, site location - Source: nearmaps



Draft Structure Plan

- | | | | | | |
|--|--|--|--|---|---|
| | Precinct boundary | | Mamre Road and proposed upgrade | | Local heritage items |
| | Cadastral boundaries | | Potential Southern Link Road | | Indicative employment service hub (with 400m catchment) |
| | Industrial | | Potential road access | | Potential reservoir |
| | Environmental conservation | | Indicative road access (subject to further investigation) | Note: Refer to Discussion Paper for further information | |
| | Drainage / open space | | Indicative riparian buffers (subject to further investigation) | | |
| | Potential intermodal terminal location (subject to a potential NSW Government Business Case) | | Transition area | | |
| | Proposed Western Sydney Freight Line | | | | |

Figure 3 Site location within Mamre Road Precinct – Source DPIE

COMMENTS AND RECOMMENDATIONS ON THE EXHIBITION OF MAMRE ROAD PRECINCT

Altis has a number of significant concerns with the proposed rezoning that require clarification or reconsideration prior to the finalisation of the exhibition package. These issues seek to significantly reduce the amount of employment land available within the precinct, working against the main objective of releasing the Mamre Road Precinct, combating the critical land shortage within Western Sydney and promoting job growth in the local area.

Adoption of the proposed land uses, infrastructure reservation areas and additional controls contained within the exhibition package will reduce the amount of employment land by up to 40%, leading to a decrease in around 7,000 jobs.

Indeed consideration of these issues is critical to the success and delivery of Mamre Road Precinct.

1. SPECIAL INFRASTRUCTURE CONTRIBUTIONS

The Discussion Paper contained within the exhibition package notes the Western Sydney Aerotropolis will still apply to Mamre Road Precinct. This includes application of the Western Sydney Aerotropolis Plan, Special Infrastructure Contributions, Place-based Infrastructure Compact and a Section 7.11 Contribution Plan. These inputs are critical in understanding the future vision of the area.

The Mamre Road Precinct includes a number of major regional roads that are either existing roads requiring upgrading (Mamre Road) or proposed new roads (Southern Link Road). It is prudent that all Special Infrastructure Contributions relate to the acquisition, design and construction of these regional roads, not infrastructure that services the new Western Sydney Airport or remaining areas of the Aerotropolis.

There is a need to exhibit the Special Infrastructure Contributions, Place-based Infrastructure Compact and Section 7.11 Contribution as a matter of urgency. These inputs are critical for the assessment of development feasibility.

Recommendations:

- *Utilise the current WSEA SIC for development commencing in the short term*
- *Release a SIC that relates to only major road infrastructure serving the Mamre Road Precinct (Mamre Road Upgrade and Southern Link Road)*

2. STATE ENVIRONMENTAL PLANNING POLICY (WESTERN SYDNEY EMPLOYMENT AREA) 2009 - PROPOSED AMENDMENTS.

The exhibition of Mamre Road Precinct confirms the WSEA SEPP will be the environmental planning instrument to facilitate rezoning. Altis agree this is the appropriate planning instrument to facilitate timely delivery of employment lands within Western Sydney, which is demonstrated in the development within the WSEA land to date.

The draft exhibition package includes proposed amendments to the WEA SEPP, including the following that are not supported in its current form:

- Introduction of new zones: RE1 Public Recreation and RE2 Private Recreation;
- Identification of SP2 Drainage on Land Zoning Map and Land Application Map;
- Insertion of new clause – Development of land within or adjacent to transport corridor requiring a consent authority to obtain concurrence of TfNSW land affected by the overlay hatching on the Land Zoning Map;
- Insertion of new clause – Require development to be serviced by a water recycling plan, when available.
- Insertion of new clause – Ensure earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of surrounding land
- Insertion of new clause – Require development to address stormwater and management requirements

- Insertion of new clause – Require consent authorities to consider the cumulative and local impact of development on the whole flood plain within the Probable Maximum Flood (PMF) and 1: 100 ARI flood events.

The introduction of these new land use zones and clauses is excessive. The WSEA SEPP already provides a streamlined and considered process to encourage the delivery of employment in Western Sydney, the major objective of Government within the Region and District Plan. The WSEA SEPP has operated effectively since 2009, providing over 25,000 jobs to the local area and the recent First Estate development completed by Altis is an excellent example of this

Recommendation

- *Removal of the additional clauses proposed above, relying on the established WSEA SEPP and promoting jobs within Western Sydney*

3 TECHNICAL INVESTIGATIONS AND LAND USE PLANNING

The level of detail provided within the exhibition package of the Mamre Road Precinct Structure Plan strongly suggests that detailed technical investigations have not been completed and used to inform the proposed land use planning.

The land use planning contained within the structure plan including designation of land uses (including open space, drainage, flood affected areas and infrastructure investigation zones) require detailed technical studies on flooding, riparian, biodiversity, contamination, acoustic and transport to inform the practical and economic uses of the space.

There is a need to release the technical inputs used to inform the proposed structure plan and associated statutory planning controls. If technical studies have not yet been prepared, they need to be finalised as a matter of urgency to allow sufficient opportunity for landowners to comment. Industry needs transparency in how these technical studies will inform the Structure Plan and statutory planning controls.

Altis has already undertaken a range of technical investigations as part of the land acquisition process and is willing to work with the NSW Government to prepare the evidence needed for rezoning and the preparation of a Development Control Plan (DCP). Rezoning for open space and drainage should not take place until there is evidence available to map these zones accurately. The WSEA SEPP IN1 employment zone has sufficient flexibility to allow these uses to be accommodated.

Recommendation

- *Prior to gazettal, the DPIE must complete, release and consider the relevant technical investigations that should inform land use zones and infrastructure corridors*
- *Workshops with industry are required so that key technical studies can be shared and understood before gazettal*

4 PRECINCT INFRASTRUCTURE AND INTEMODAL INVESTIGATION AREA

4.1 Intermodal Terminal and Investigation Area

The NSW Freight and Ports Plan 2018 – 2023 (Ports Plan) highlights the need to identify, protect and provide access to future intermodal terminals in Western Sydney. The plan forecasts the Greater Sydney region freight volumes will increase from 194 to 288 million tonnes per annum between 2016 and 2036, roughly 50% increase, driven mostly by growth in general manufacturing.

TfNSW identified an urgent need to plan and protect intermodal terminal capacity to serve Western Sydney, identifying that by 2036, the broader WSEA will be a key destination for cargo arriving at Port Botany.

While an indicative location has been identified on the Structure Plan, the final location of the intermodal terminal is subject to a NSW Government business case. The exhibition package does not provide an indicative date as to when this business case will be finalised.

The Discussion Paper's rationale on the identification of the Intermodal Terminal is due to its efficient connection to the Western Sydney Freight Line, Outer Sydney Orbital, and M4 and M7 Motorways. In addition, the indicative location is relatively flood free and protected from incompatible land uses.

Analysis of the demand for freight within the Sydney Metropolitan Area shows with the expansion of Moorebank Intermodal Terminal to 1.7 million and Stage 1 St Marys, there will be a total Intermodal capacity of approximately 4.3 million TEU by 2041. There will be even greater capacity if the balance of St Marys is developed before 2041.

The Moorebank Intermodal Site shows a projection of 13.6 TEU at Port Botany by 2040 would need a total of 3.8 TEU of rail freight capacity within Sydney, given the 28% freight rail target set by the NSW Government. In addition, there will be 0.36 million TEU of interstate freight in Sydney. The projected capacity of 4.3 million TEU by 2040 is sufficient to meet the expected freight demand of 4.2 million TEU, indicating no further need for an additional Intermodal Terminal capacity by the year 2030.

It is our view the identification of the Intermodal Terminal in the Precinct with no other options is premature. Further work with industry and the NSW Government needs to occur as the proposed Intermodal Terminal has significant economic implications.

Specifically, we outline the following issues locating an intermodal terminal within the Mamre Road Precinct;

4.11 Connection to Port Botany via the Southern Freight Line

The western part of the Western Sydney Freight Line Corridor was exhibited in 2018 and was accompanied by Draft Strategic Environmental Assessment prepared by WSP.

Whilst the Western portion of the corridor was clearly defined and economic and environmental constraints considered, the eastern connection from the M7 to Villawood was deferred.

The eastern connection to Villawood proposes to cut through the Western Sydney Parklands (including 2 operating quarries) and more significantly through the established employment precincts of Smithfield, Wetherill Park, Yennora and Villawood.

Acquisition costs associated with acquiring land within these areas combined with business interruption is considered cost prohibitive as will be tunnelling under these precincts due to the proposed height of the double stacked trains travelling to the proposed Western Sydney Intermodal Terminal.

Designating a large area of land within the Mamre Road precinct without conforming the connection to port Botany is viable is considered premature and unnecessary

4.12 Topographical Challenges

The Mamre Road Precinct is characterised by flat land on the Western side of Mamre Road that is partially flood affected and land on the western side of Mamre Road that slopes to a defined ridge adjacent to Adlington Road. In some areas the level difference is up to 50 meters.

The total area of the cross hatched land within the Intermodal Investigation Area is 173.14 hectares (ha), located on the western side of Mamre Road and on land that is subject to significant level changes, supporting tiered warehousing and smaller pad sizes. The width of the cross hatch shows the functional relationship between the proposed rail spur and the warehouse sheds immediately adjacent, which is based off industry best practice to co-locate warehouses, which will be operationally linked to the container handling process and fully automated.

Co location of warehouses to an intermodal terminal, connected via automated infrastructure provides optimal efficiency for the Stevedor operator and considered essential to make an intermodal terminal of this nature viable (similar to the recently completed Moorebank Intermodal Terminal).

This wide area required for co-location suggests that it is not just a matter of reserving land for the rail line, but the terminal hardstand (up to 250m wide) and the related warehouses as well, which will need to be at the same level as the rail line.

To enable this connectivity the land must be flat and in the case of the Mamre Road Precinct Investigation Area, a full land levelling process (cut and fill) for an intermodal will need to be undertaken/

Taking into consideration the current level differences, the need to access efficiently from Mamre Road and to connect warehouses to the intermodal Terminal, no amount of cut and fill engineering can be achieved to allow viable co-location.

4.13 Demand For Intermodal Uses Within the Mamre Road Precinct

Altis questions the demand for intermodal based operators and users within the Mamre Road Precinct. Investigations into warehouse commitments within the last 5 in the Sydney Metropolitan areas show subdued enquiry, even in areas like Enfield and Moorebank that have recently been upgraded.

Without a NSW Government business case for the intermodal to be acquired and the vision for this to be private sector funded infrastructure, the success of this project is completely up to private sector demand and acquisition. Altis have concerns as to whether an intermodal operator like Qube, DP World or Pacific National will expand their current operations into the Mamre road Precinct.

It is known that Enfield, Moorebank and St Mary's Intermodal Terminals have major expansion plans that will see them cater for the demand for containers into 2040.

Further, there is a serious practical question as to how a private intermodal operator will acquire the land for the Intermodal Terminal, particularly if a key landowners do not want to sell. The fragmentation of the proposed Intermodal Terminal's cross hatched area needs to be recognised.

4.14 Interim Land Uses

During the industry briefing conducted on the 4th December 2019 at Twin Creeks, the Department and TfNSW proposed that industry work with both agencies in order to work through a design that will allow for provision of a rail corridor, warehouses will connect to at a time in the future.

Aside from the significant topographical challenges mentioned above it will not be economical to design warehouses with multiple loading faces, large hardstands and low site coverage (taking into consideration a rail corridor and intermodal terminal).

The large scale tenants currently looking to occupy industrial facilities within the Mamre Road Precinct are increasingly looking towards higher more automated buildings, with significant fitout costs. These tenants will not commit to an area that is subject to changing uses in the future.

To ensure that the land is not sterilised for both the rail and related sheds means that it is effectively impossible to have an interim use within the cross hatched area. TfNSW has suggested that the Intermodal Terminal will be needed within ten to fifteen years. This short period also means that it would be uneconomic to build interim warehouses as the economic life of these structures is at least 20 years.

4.15 Sterilisation of Land Available Now

To cross hatch land to allow for the possibility that a private operator may one day choose to buy land in the unforeseeable future is not reasonable. This is particularly so, given the Moorebank and St Marys facilities are very likely to satisfy intermodal demand for the region to beyond 2040.

The end result is prime employment land being sterilised for twenty years, which is completely at odds with the Government's intention to release and rezone land at a time of critical land shortage.

Taking into consideration the demand and delivery of an intermodal terminal in western Sydney is not for another 20 – 30 years and the challenges specified above with interim uses it is not considered economical to sterilise prime employment land that can directly access services and be developed immediately. This approach is considered to directly contravene the objectives of the Region Plan, District Plan, the LUIP and the WSEA SEPP.

4.16 Alternate Locations

The Mamre Road Structure Plan exhibition package provides no evidence in relation to site selection for the proposed Western Sydney Intermodal Terminal. This is unusual, given that an options assessment and detailed locational study is usually prepared to inform the most efficient and economical location for key infrastructure corridors.

Given the constraints listed above, it is our strong belief that there are more suitable locations for a future intermodal terminal within the Aerotropolis land and specifically within the Agribusiness precinct that will have a direct connection to the Outer Sydney Orbital and freight line

It is critical for the Government to consider development timing when choosing a suitable site for the Western Sydney Intermodal, especially considering delivery of the Intermodal Terminal is a long-term project (20-30 years). In this regard the most suitable site must have a longer lead time for servicing and development ensuring the most optimal economic outcome for the land and economy of Western Sydney.

4.17 Concurrence with TfNSW

The Industry Briefing sessions for the draft Mamre Road Structure Plan suggested that land acquisition by the government is not an option which is being explored. It is understood that, being a private sector proposal, the NSW Government **will not** acquire the land.

In consultation with other industry planners and expert consultants, similar cross hatched areas for transport corridors within NSW were government sponsored projects, where a clear, statutory based land acquisition process can be followed.

Altis question the legality of including a concurrence with TfNSW within an area that is not proposed to be acquired by the Government. Indeed, the proposed drafting similar to Clause 6.10 of Appendix 7 in the Growth Centres SEPP (Sydney Regional Growth Centres) 2006 is not applicable as it relies on a compulsory acquisition from the Government.

Given these circumstances, and the lack of evidence that alternative sites are not available, this submission seeks the immediate removal of the cross hatching for an Intermodal Terminal from the draft Precinct Plan. There does not appear to be any reasonable alternative to this outcome.

We ask the NSW Government to work with the landowners on an alternative solution. While we understand the sense of urgency to identify an Intermodal Terminal before urban development precludes site options, we feel it is premature to dismiss any other opportunities in the Aerotropolis.

Recommendations

- *The Department completes the necessary technical investigations (including strategic demand analysis and civil engineering assessment) to ascertain viability of an Intermodal Terminal in this location*
- *The Department organise a workshop to meet with industry, running a collaborative process to review the constraints associated with the land identified and working through solutions for relocation.*
- *Removal of the Intermodal Investigation Area hatching from the Structure Plan*

4.2 Mamre Road Upgrade

Mamre Road is the main arterial road that provides access to the precinct, forming the major transport spine of the precinct. Altis understand that the RMS have been planning an upgrade to Mamre Road for the last 4 years and Stage 1 of the upgrade (M4 motorway to Erskine Park Road) has confirmed funding.

Success of the Mamre Road Precinct relies on Mamre Road being upgraded and its imperative that this project become a priority for Government.

In order to facilitate the efficient release of employment land within the Precinct, landowners and industry will need confirmation that the design for Mamre Road (including proposed acquisition) is final and the program for road upgrades to occur

Recommendations

- *RMS confirm the Mamre Road design is final and RMS is the acquisition authority*
- *RMS confirm the program for Mamre Road Upgrade*

4.3 Southern Link Road

The Southern Link Road is a future link from Wallgrove Road to the proposed Outer Sydney Orbital (M9), connecting the precinct to the existing zoned WSEA. RMS is undertaking a concept design for this road which includes an environmental and constraints analysis.

Landowner briefings suggested the possibility of grade separation with Mamre Road as well as the Intermodal Rail line. These have major design and land take implications.

Concept design should therefore be expedited to establish the land reservation requirements. This will allow landowners to incorporate the road into future development, streamlines delivery of employment lands and eliminates the need for the overlay hatching requiring concurrence from TfNSW or RMS.

Recommendations

- *RMS expedite concept design of the Southern Link Road, particularly the proposed grade separation to Mamre Road.*

5. FLOODING AND STORMWATER

Within the Mamre Road Precinct Exhibition Discussion Paper, the Government is seeking an extension of the flood planning level to the Probable Maximum Flood (PMF), which is contrary to the current state and local flood planning controls and a new precedent for NSW.

The PMF has never been used as a flood planning control and adoption of the PMF is contrary to both NSW state policy and local government policy. In the South Creek catchment the probability of this event occurring is between a 10,000 and 100,000 year storm.

The NSW Floodplain Development Manual, the guiding document for flood planning within the state, acknowledges that the PMF should not be used as a determinant of Flood Prone Land (FPL's). "it is neither feasible nor socially or economically justifiable to adopt the PMF as the basis for FPL's. FPL's for typical residential development, would generally be based around the 1 in 100 year flood event plus an appropriate freeboard"

The NSW Planning Circular PS 07-003 (31/1/07) "New guideline and changes to section 117 Direction and EP&A Regulation on Flood Prone Land" notes "The Guideline confirms that, unless there are exceptional circumstances, councils should adopt the 100-year flood as the FPL for residential development."

As referenced in Penrith Council's Draft Exhibition South Creek Floodplain Risk Management Study (Section 4.3, Advisian/ Penrith Council 2019) completed in consultation with the Department and Infrastructure NSW, "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". This is inconsistent with the recently released Structure Plan

The PMF event is only used to assess evacuation within NSW and cannot be used as a development control, as long as appropriate evacuation routes are provided. If this was used as a standard, development within key economic centres like Parramatta and Penrith would be severely restricted.

The implications of adopting the PMF as a flood standard within the Mamre Road precinct will sterilise 120 hectares of prime employment land, lead to a loss of around 3,600 jobs and significant acquisition costs for the Government in excess \$1 billion

Adopting the PMF as a flood standard across the entire south creek catchment will have far greater implications on employment and housing growth within Western Sydney. The appropriate flood standard to adopt is the 1 in 100 year event. This is the most appropriate control to impose on land within the Precinct and is in line with local and State Government policies

Figure 4 below identifies land between the 1 in 100 year flood line and the areas designated for industrial employment. If the PMF is adopted the amount of industrial land shown below will decrease further.

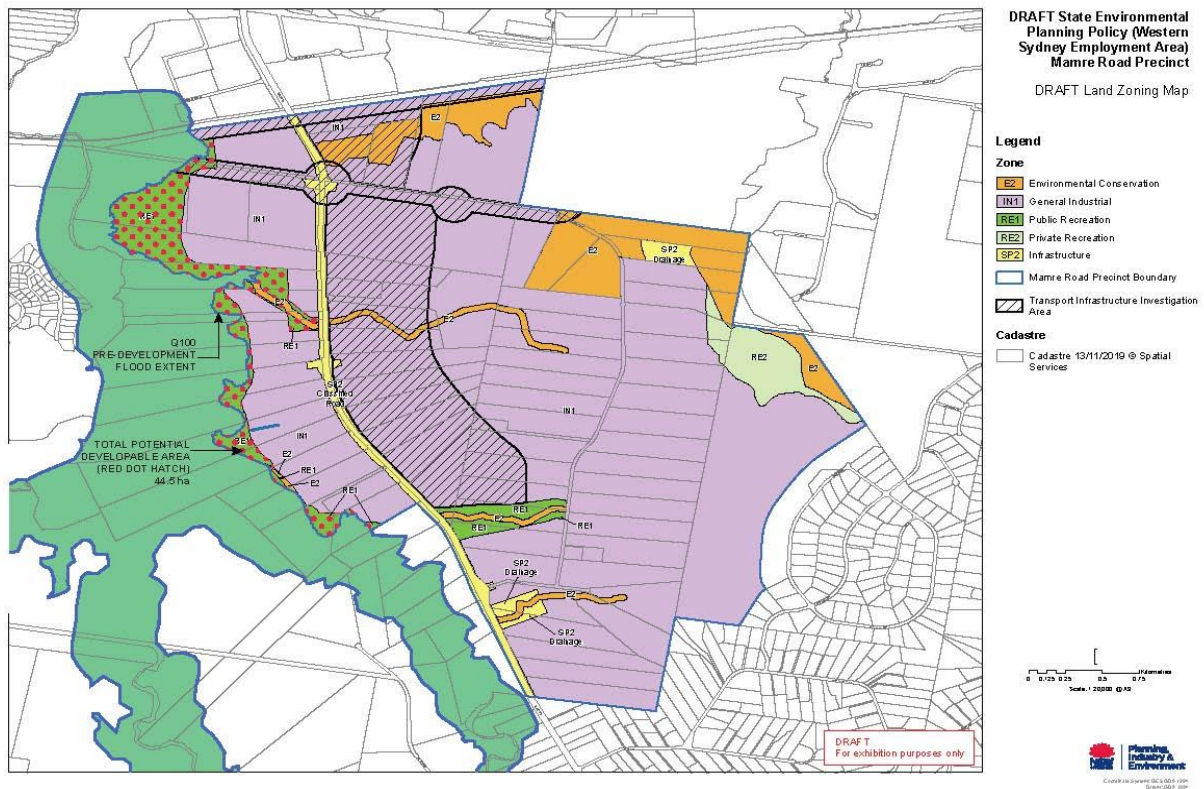


Figure 4, Flooding and Open Space Plan - Source: Department of Planning, Industry and Environment adapted by Altis

Recommendations

- Removal of the PMF as a flood planning control, maintaining the current state and local policies of the 1 in 100 year event + 500mm freeboard

6. OPEN SPACE

The Mamre Road Precinct exhibition package proposes new land uses within the WSEA SEPP: RE1 Public Recreation and RE2 Private Recreation. The rationale for the introduction of these new land uses has not been based upon engineering constraints or detailed reports (like flooding) and this open space has been designated upon land that is suitable for employment uses.

Open space for both public and private recreation should and has always been designated upon land that was deemed not suitable for employment or residential uses, including flood prone land. The Mamre Road precinct already contains 448 hectares of land within the 1 in 100 year flood affected flood plain, an area more than adequate for these purposes.

The area of land outside the 1 in 100 year flood affected area designated for RE1 and RE2 is c60 hectares, which will translate into a loss of approximately 1,800 operational jobs and 600 construction jobs. This contravenes the major objective of the Region Plan, District Plan, the WSEA SEPP and release of the Mamre road Structure Plan being the provision of employment land, jobs in the local area and creation of the “30 Minute City”

Should the Department wish to maintain these proposed land uses (RE1 and RE2) and ignore the significant economic impacts listed above the land should be acquired for its highest and best use (IN1 General Industrial) under the Just Terms Compensation Act 1991. Acquisition costs relating to this area are c\$500M, with yearly maintenance costs likely to be in the millions for the relevant acquiring authority.

Recommendations

- Removal of RE1 and RE2 areas within the Structure Plan, expanding the IN1 zoning into these areas not affected by the 1 in 100 year flood
- Designation of open space for drainage should be completed at the Development Application stage, following detailed civil engineering and stormwater studies.

CONCLUSION

Altis supports the exhibition of the Mamre Road Precinct and applauds the response by the Minister to the critical employment land shortage within Western Sydney. The successful delivery of employment land in the Mamre Road Precinct by the private sector is dependent on consideration of the comments and recommendations contained within this submission.

In our view, the imposition of the Intermodal Investigation Area overlay, adoption of the PMF and designation of land for open space is both premature and flawed. If any new overlay, development controls or land uses are to be imposed, it is important that the public is provided with more information, including the relevant technical justification mitigating the impact on viable employment land. In the specific case of the Intermodal investigation Area it is essential that the text of any concurrence clause is properly exhibited and open for public comment

NEXT STEPS

Altis recognise that the Mamre Road Structure Plan was released quickly and without the support of detailed technical studies required to properly inform land uses. This has led to some significant gaps and errors in the designation of proposed land uses, infrastructure corridors and uninformed development controls.

We welcome the opportunity to participate in collaborative workshops, sharing technical studies that have been prepared by both Government and industry to ensure that much needed employment land is released and facilitate jobs within Western Sydney.

YOURS SINCERELY

ALTIS PROPERTY PARTNERS



Shaun Hannah
Director

Annexure 1 – Mills Oakley Letter



18 December 2019

ABN: 51 493 069 734

Your ref: N/A

Our ref:
AJWS/CYCS/33839442

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Dear Greater Sydney Place and Infrastructure team

Submission on proposed Mamre Road Precinct Rezoning

This submission is made on behalf of Altis Property Partners (**Altis**) in relation to the proposed Mamre Road Precinct Rezoning and the proposed amendments to the *State Environmental Planning Policy (Western Sydney Employment Area) 2009 (WSEP SEPP)*.

Altis is a real estate investment company with an interest in land within the WSEP SEPP area. As a current and future landholder, Altis has significant concerns with the proposed amendments to the WSEP SEPP and the impact that these will have on development within the area, as well as employment opportunities within the Western-Sydney employment precinct.

We have reviewed all of the publicly available material regarding the rezoning, namely:

- The Mamre Rd Precinct discussion paper and Structure Plan;
- The FAQ document; and
- The Draft Land Zoning Map, Draft Land Reservation Acquisition Map and Draft Land Application Map.

The focus of this submission is on the transport investment area zoning overlay and the proposed location of an intermodal terminal (**IMT**) within the Mamre Rd precinct.

Altis generally supports the creation of the Mamre Rd precinct and the rezoning of land for industrial purposes to meet demands for industrial space within greater Sydney and to generate employment opportunities. However, on behalf of Altis, we have a number of concerns regarding differing information as to what exactly is proposed, as well the impact which the zoning overlay will have on the development of much of the land within the Mamre Rd precinct. This zoning overlay will inhibit develop and prevent land from being developed for industrial purposes so as to generate the employment opportunities which the WSEP SEPP is designed to facilitate.

Altis is concerned that inconsistent and conflicting information regarding the proposed rezoning is being provided. For example, the documents publicly exhibited state that the IMT is subject to a NSW Government business case and that Transport for NSW is involved in the project. However, at recent forums held for local landowners, the Department of Planning, Industry and Environment (**DPIE**) has indicated **that the IMT will be wholly privately owned and operated**. In these circumstances **where there is directly contradictory information being circulated by the Department**, it is difficult for any landowner to make an informed decision regarding the impacts of the rezoning and to prepare a fully informed submission. In our view, the entire exhibition process is flawed and the DPIE needs to carefully consider the accuracy of the documents which have been publicly exhibited.

Despite these constraints, we provide our comments on the proposed rezoning and amendment to the WSEP SEPP below.

1. The imposition of a zoning overlay is premature

As part of the proposed amendment to the WSEP SEPP, a significant portion of the Mamre Land precinct will be subject to a zoning overlay as an 'infrastructure investment area'. Concurrence from Transport for NSW (TfNSW) will be required before consent can be obtained for any development within this transport investment area.

Most of this 'infrastructure investment area' relates to a potential IMT. We understand that the actual site for the IMT facility has not been identified or determined. It appears that this has led to a very large area of land being subject to the proposed infrastructure investment area on the basis that the IMT facility 'might' be on that land. Furthermore, all of the documentation regarding the rezoning notes that the IMT is 'subject to a potential NSW Government Business Case'. There is clearly **significant uncertainty as to whether the IMT will even proceed and, if it does, on what land it will be located.**

In these circumstances, it is premature to impose a zoning overlay which requires concurrence for TfNSW for all development applications. This overlay will severely constrain landowners in how they may develop the land and unduly affect far more landowners than is necessary simply because the NSW Government has not yet even prepared a business case or identified an appropriate site for the IMT.

In our opinion, it is premature to impose the infrastructure area zoning overlay, especially over the IMT area. This zoning overlay may be introduced (if appropriate) once there is a proper business case for the IMT, the feasibility of the project has been determined and the site of the IMT has been narrowed down to a smaller area.

2. Different parts of the infrastructure investment area should be treated differently

At present, the infrastructure area zoning overlay places the same planning constraints on land which may be needed for the Mamre Rd widening, a new potential Southern link Rd and a new proposed freight line. In our view it is not appropriate to treat all of this land in the same way, as the land will be used for different purposes and there are varying degrees of certainty that the different projects will go ahead.

In particular, the IMT, which is subject to a business case and is therefore inherently uncertain, should not be subject to the same zoning constraints as the other areas of land (particularly the land required for the Mamre Rd widening).

3. Draft clauses for the amendment to the WSEP SEPP should be publicly exhibited and open for submissions prior to enactment

The Mamre Rd precinct rezoning involves significant planning reforms and will potentially impose significant restraints on the development of land due to the requirement to obtain concurrence from TfNSW, as well as the factors which TfNSW will be required to take into consideration when deciding whether to grant concurrence. However, DPIE has not even released any draft text for the WSEP SEPP amendments.

The discussion paper merely states that the new clause will be similar to clause 6.10 of Appendix 7 in the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP)*. However this clause in the Growth Centres SEPP relates to a public transport corridor in Schofields which would run from the Schofields train station. In that case, the concurrence requirements squarely require consideration of matters such as future acquisition costs to Government. In this case however, recent public information forums have been told by Department representatives **that the IMT will be wholly privately owned and operated.** If so, it is unclear how or why the concurrence clause would be similar to that contained in clause 6.10 of Appendix 7 in the Growth Centres SEPP, It is also not known whether the proposed clause in the WSEP SEPP will be identical to this clause or simply that concurrence from TfNSW will be required.

In the circumstance, **it is impossible for landowners to understand what is being proposed, and therefore to make informed submissions in response to the exhibited documents.** As the Department would be aware, this is a fundamental flaw in any exhibition process, amounting to a denial of the legal requirements for natural justice and procedural fairness: *DeBattista v Minister for Planning and Environment* [2018] NSWLEC 202; and *DeBattista v Minister for Planning and Environment* [2019] NSWCA 237.

It is therefore obviously imperative that DPIE release the full text of the draft clauses to the WSEP SEPP as part of the public exhibition process. In particular, those impacted by the amendment to the SEPP need to be aware of exactly what TfNSW will be able to take into consideration when deciding whether to grant

concurrence. **This concurrence clause is a key part of the rezoning and one of the most significant amendments to planning controls.** It is not appropriate to enact a concurrence clause without exhibiting the actual draft text of the clause for public comment.

4. The concurrence requirements are too onerous for this proposal

Presuming that the proposed concurrence clause is similar to that in the Growth Centres SEPP, these concurrence requirements should not be imposed on that part of the infrastructure investment area which is ear-marked for the IMT. If the concurrence clause is similar to that in the Growth Centres SEPP it will allow TfNSW to take into consideration the following:

- The practicability and cost of carrying out infrastructure projects on the land in the future, and
- The structural integrity or safety or, or ability to operate, infrastructure projects on the land in the future, and
- The land acquisition costs and the costs of construction, operation or maintenance of infrastructure projects on land in the future.

This will essentially allow TfNSW to refuse to grant concurrence for any development on the land as any form of development will increase the cost of carrying out future projects and increase land acquisition costs.

In circumstances where there is not yet a business case for the IMT and the proposed construction of the IMT is slated for 2036, it is unreasonable to impose such concurrence requirements on the IMT land. Further, it is entirely contradictory to the Department's recent public comments that the IMT will be wholly privately owned and operated. If that is the case, considerations such as "the land acquisition costs" would be **entirely irrelevant**.

5. Zoning overlay should not be imposed if IMT is to be privately run

The documents exhibited with the Mamre Rd Precinct rezoning package indicate that the IMT is subject to a government business case and suggest that the NSW Government will be developing and operating the IMT. However, Altis has been informed by DPIE that the IMT will be privately run and operated and that no land will be acquired for the IMT. In particular, at an industry briefing on 3 December 2019 by the Department, it was stated that "the Department are looking for industry to deliver the IMT without government involvement" and that "There are uplift opportunities", presumably to encourage private sector delivery of an IMT. If so, it is extremely difficult to understand why the Department has advertised that the IMT is subject to a government business case. It is also inappropriate for TfNSW to be required to grant concurrence for any development within the infrastructure investment area.

Ultimately, if the IMT is to be delivered by industry without government involvement, it is inappropriate for there to be any requirement for concurrence from TfNSW and this requirement should be removed from the amendment to the WSEP SEPP.

6. Acquisition uncertainty

A large area of land has been marked as an infrastructure investment area and the concurrence clause appears to be designed to facilitate acquisition of land within this area. However, DPIE has indicated that it will not be acquiring any land for the purposes of the IMT. There is therefore significant uncertainty for landowner as to whether land may be subject to acquisition.

DPIE should outline how much land it intends to acquire, if any, and the location of this land within the Mamre Rd precinct (and in particular the infrastructure investment area) prior to any amendment to the WSEP SEPP.

7. Engineering/feasibility issues

The feasibility of having an IMT within the Mamre Rd precinct depends entirely on existing of a freight line to connect to this IMT. At present, the feasibility of the proposed freight line seems in doubt. In order to construct the freight line along the proposed route, large portions of land would need be acquired and the NSW Government has not indicated or confirmed that this land will all be compulsorily acquired so as to allow the freight line to constructed. Our client will make further submissions on this point.

8. The proposal is inconsistent with the aims and objective of the WSEP SEPP

Two of the key aims of the WSEP SEPP are:

- *'To promote economic development and the creation of employment in the Western Sydney Employment Area by providing for development....'*; and
- *'To improve certainty and regulatory efficiency by providing a consistent planning regime for future development and infrastructure provision in the Western Sydney Employment Area'.*

In our view the imposition of the infrastructure investment area zoning overlay is inconsistent with these two objectives of the WSEPP SEPP. The imposition of the overlay and the onerous concurrence requirements will limit development of the area and prevent the creation of jobs. Furthermore, it will increase uncertainty for landowners who will be at the whim of TfNSW in relation to concurrence.

In these circumstances, the infrastructure investment overlay and proposed TfNSW concurrence requirements should not be enacted.

Conclusion

Whilst Altis supports the rezoning of the Mamre Rd precinct for industrial purposes so as to improve employment opportunities in the precinct, in our view the imposition of the infrastructure area overlay is both premature and flawed and the overlay should not be imposed at this time as part of the rezoning. If any overlay is to be imposed, it is important that the public is provided with more details of the IMT and that the text of any concurrence clause is properly exhibited and open for public comment.

Please contact Anthony Whealy on 8035 7848 if you have any queries or wish to discuss.

Yours sincerely



Anthony Whealy

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