

3 March 2021

2200292

Department of Planning Industry and Environment  
4 Parramatta Square  
12 Darcy Street  
Parramatta NSW 2150

Dear Sir / Madam,

## RE: PROPOSED SPECIAL INFRASTRUCTURE CONTRIBUTION FOR THE WESTERN SYDNEY AEROTROPOLIS

We are writing on behalf of Fife Kemps Creek Trust Pty Ltd (FKC) in response to the proposed Special Infrastructure Contribution Plan (SIC) for the Western Sydney Aerotropolis (WSA).

FKC have land interests in seven lots comprising 106-228 Aldington Road, Kemps Creek, located in the Mare Road Precinct of the WSA. FKC are proposing to develop the land for industrial purposes including warehouse and distribution in line with the desired future outcomes of the Mamre Road Precinct and the broader Western Sydney Employment Area (WSEA). The FKC development area is shown in **Figure 1** below.



**Figure 1 FKC Development Site**

Source: Nearmap and Ethos Urban

FKC welcome the opportunity to comment on the proposed SIC. The proposed SIC represents a significant further step forward in the land use and planning framework for the Mamre Road Precinct and the broader Aerotropolis.

As you would be aware, in October 2020, FKC lodged a concept State Significant Development Application (SSDA) seeking concept approval for an industrial estate comprising 13 development lots and two drainage infrastructure lots yielding a total GFA of 375,755m<sup>2</sup> of warehouse space and associated ancillary office space. The SSDA also seeks Stage 1 approval for the first warehouse (48,430m<sup>2</sup>) and associated bulk earthworks and infrastructure. The SSDA was publicly exhibited by the DPIE from 18 November to 15 December 2020. FKC therefore has a significant interest in the proposed development contributions framework for the Precinct and seeks assurance that contributions are based on the principles of efficient costs, nexus and apportionment. FKC is also interested in opportunities to work with the Department to deliver infrastructure early in the Precinct's development phase, through works-in-kind agreements (WIK) or voluntary planning agreement (VPA) arrangements.

The following sections outline FKC's key comments and concerns with regard to the proposed SIC as exhibited:

## 1.0 A Level Playing Field

Infrastructure provision needs to meet the needs of the precinct and be comparable with the required standards of similar employment precincts, based on a genuine demand for State and regional infrastructure and services and not aspirational outcomes. In the recent Productivity Commission Report into development contributions, the Commission found that contributions should be based on *efficient costs* for the provision of infrastructure which the Commission defined as "the most cost effective means of delivering a standard service without 'gold plating'":

This principle needs to be incorporated into the design and costing of local infrastructure for the Mamre Road Precinct such that there is a greater correlation with the ability of industry to pay for the infrastructure either through contribution or works-in-kind. It should also be emphasised that to achieve the desired land uses in the precinct, development needs to be feasible and competitive with comparable employment areas in Sydney and nationally. A consistent set of development controls and standards should be applied across employment lands precincts to ensure the playing field is level and development in Mamre Road is not lost to other jurisdictions.

There needs to be recognition that the proposed infrastructure requirements, as aspired to in the Western Parkland City District plan, Aerotropolis Plan and the draft Mamre Road DCP are considerably in excess of any comparable precinct in metropolitan Sydney and nationally. Infrastructure requirements for employment precincts need to be of a standard and cost that facilitate the proposed use and highly functional nature of that use. A balance is required between subjective aspirations of the higher order strategic plans which are often not based on site specific technical information, and the economic feasibility of the desired land use. While FKC generally support the vision for the Western Parkland City, the expectation that the development industry bear the bulk of the burden to fund the infrastructure is misguided and will undermine the feasibility development in the precinct.

The nature of development for commercial end users is that buildings will continue to be developed and redeveloped over time. The first generation of buildings within the Mamre Precinct ('First Movers') should not be required to deliver the ultimate state vision in one go up front. Levies can be charged for future development to spread the costs over time.

To ensure the Mamre Precinct is competitive and maximises job creation in the short term the "First Movers" should only be required to fund the essential infrastructure needs, which are still substantial, to service the first wave of development. For example, the Mamre Road / Abbotts Road intersection can be upgraded to service a substantial portion of development through interim solutions rather than the final intersection upgrade required for the longer term, full development state.

The delivery of the road upgrades can be progressively delivered as further development and operational revenues increase from completed buildings (rates, taxes, payroll, GST etc). Furthermore, when developed on a staged basis the 'First Movers' should not be penalised for the increased costs of delivery by staging works (abortive costs) as is common practice in VPA negotiations. It is counter intuitive that 'first movers' are penalised for establishing a new employment precinct.

## 2.0 Biodiversity Offsets

As stated earlier, FKC has lodged a concept SSDA with the Department that is currently under assessment, having been publicly exhibited in November and December 2020. A Biodiversity Development Assessment Report (BDAR) was prepared and submitted with the development application that has included calculations for required biodiversity offset credits to be retired prior to development proceeding, should consent be granted.

The draft Cumberland Plain Conservation Plan, which was publicly exhibited at the end of 2020, identifies the FKC site a "urban capable" and therefore the land proposed to be bio-certified, with offsets funded through the proposed SIC. The draft Mamre Road Precinct DCP (Section 2.2.2) however requires that a BDAR be submitted with development applications lodged prior to the implementation of the Cumberland Plain Conservation Plan. If credits are paid in accordance with the BDAR, this will in effect duplicate the component of the required SIC payment designated for biodiversity offsets.

There needs to be clarity around discounts from the SIC which currently propose a double-payment for biodiversity offsets efforts. Should a developer pay the credits required under an approved BDAR, and then pay the biodiversity offset element under the SIC, a discount should be applied equivalent to the amount paid for the BDAR credits.

## 3.0 Works-in-kind Planning Agreements

The process for negotiating planning agreements to deliver SIC infrastructure needs to be seamless and not in itself become a delay in the DA assessment process for future development.

Many early developments in the industrial / enterprise zoned precincts of the Aerotropolis, including the Mamre Road Precinct will provide significant opportunities to deliver infrastructure, proposed to be funded by the SIC framework.

FKC would welcome an efficient and transparent process for the early delivery of this infrastructure through works-in-kind planning arrangements. In this aspect, where Applicants for developments propose planning agreements for the delivery infrastructure through of works-in-kind, the negotiation of these arrangements should not hold up the assessment of the relevant development application. Negotiation associated with the Satisfactory Arrangements requirements under Clause 29 of the WSEA SEPP have incurred significant delays for significant projects in the WSEA. This has been related to the Department's policy of insisting that planning agreements be executed prior to development consent being granted, rather than addressing the satisfactory arrangement process through conditions of consent.

It is noted that the recent consent for the SSD-9522 development (Kemps Creek Warehouse, Logistics and Industrial Facilities Hub), also in the Mamre Road Precinct dealt with satisfactory arrangements by way of a condition of consent requiring a planning agreement to be entered into, prior to the first Occupation Certificate or with 12 months of development commencement, on the basis of a submitted letter of offer from the Applicant. This arrangement appear to signal a more flexible approach to satisfactory arrangements / SIC agreements which FKC would strongly support and encourage for the implementation of the Aerotropolis SIC.

## 4.0 Conclusion

FKC welcomes the opportunity to comment on the proposed Special Infrastructure Contribution for the Western Sydney Aerotropolis and the requests that the issues raised in this submission are given serious consideration by the Department prior to its finalisation.

FKC are happy to meet directly with the department to discuss further any of the matters raised in this submission. As the development partners for a number of landowners with a significant combined landholding in the precinct, FKC are keen to work with the Department to ensure the early, efficient and equitable provision of local infrastructure.

Yours sincerely,

A large black rectangular redaction box covering the signature and name of the sender. Below it, a smaller black rectangular redaction box covers the contact information.