



Planning &  
Infrastructure

**MAJOR PROJECT:**  
***LOGOS Kemps Creek Logistics Project***



Director-General's  
Environmental Assessment Report  
Section 75I of the  
*Environmental Planning and Assessment Act 1979*

April 2012

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## EXECUTIVE SUMMARY

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This is a report on a concept plan and project application lodged by Mamre Road Developments Pty Ltd for LOGOS Property (LOGOS) (the proponent) which seeks approval for a campus-style industrial estate at Kemps Creek pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act). The concept plan and project application is for the construction and operation of the entire development.

The site is located on the corner of Mamre Road and Bakers Lane, on land immediately adjacent to the Western Sydney Employment Area (WSEA) in the Penrith local government area. The subject site comprises an area of approximately 52 hectares, has an undulating topography and is located within a rural residential setting.

The proponent seeks to develop the site for warehousing and distribution comprising 11 warehouses and distribution centres for unspecified end-users, ancillary offices, a central estate facilities building (including café, conference room, gymnasium and estate services) and ancillary infrastructure and services, including upgrade of Bakers Lane (to form part of the WSEA 'Southern link road') and Mamre Road. Subdivision, demolition, bulk and detailed earthworks, construction of internal estate roads and on-site servicing are also proposed.

The Proponent has estimated that the project has a total capital investment value (CIV) of \$235 million and would generate 800 full time jobs during the five year construction period and 1,580 people once fully operational. The subject site is zoned RU2 rural under the Penrith LEP 2010. The project is prohibited under Penrith LEP 2010.

The project was declared to be a major project on 26 March 2010 under the now repealed Part 3A of the Act, as it includes development for the purpose of storage or distribution centres with a capital investment value of more than \$30 million, and consequently the Minister is the approval authority. At the same time the submission of a concept plan was authorised. The project is considered a transitional Part 3A project given that the Director-General's requirements were issued prior to 1 October 2011.

The Department of Planning and Infrastructure (the Department) exhibited the Environmental Assessment for the project from 20 October 2010 to 26 November 2010, and received eight submissions: five from public authorities and three from the general public. The majority of submissions raised concerns relating to strategic land use planning, lack of infrastructure to the site (and inadequacies in the proposed water management strategy), inconsistency with the character and amenity of the area, traffic and access (including the southern link road), noise, conflicts with existing land uses in the area, lack of a specific end-user and potential delays in servicing already zoned land in the WSEA. In particular, Penrith City Council, Sydney Water and the former RTA now RMS raised significant concerns regarding strategic planning and servicing.

The Proponent lodged a response to submissions in January 2011 and a Preferred Project report in October 2011. A number of iterations were made to the project the key changes being the inclusion of a site specific water strategy and the dedication of additional land to accommodate the proposed Southern Link Road. Further information was also provided by the proponent in correspondence dated 10 November 2011 in relation to a review of the water management strategy, and a Supplementary Traffic report was provided in January 2012.

The Department has assessed the merits of the project in detail against the relevant requirements of the Act and relevant strategic documents including the "Guide to the Western Sydney Employment Area" (particularly as it relates to the provision of infrastructure including the requirement for services to be provided at no cost to Government outside the WSEA). The Department has concluded that:

- The Proponent has failed to demonstrate that the water management strategy would accommodate future demand for the development of the site, and that the water management strategy for the site could be appropriately integrated into future servicing for the area;
- The Proponent has failed to demonstrate that the proposal represents no cost to government in regard to infrastructure requirements or meets all relevant environmental tests, required for



sites being rezoned ahead of schedule under the *Guide to the Western Sydney Employment Area* (August 2009);

- The proposal does not achieve the objects of the Act as it does not represent orderly development as required by Section 5(a)(ii) of the Act in that it seeks an ad-hoc expansion to the WSEA, is out of order with respect to strategic planning, limits adaptive reuse of the subject site, and does not allow for the proper and optimal use of existing services and transport infrastructure;
- The Proponent has provided insufficient justification for the proposal and the need to accelerate the site's use as employment land;
- The Proponent has failed to demonstrate that the site is suitable for the proposed landuse; and
- The proposal is therefore not in the public interest.

The location of the subject site outside the zoned employment land of the WSEA, the lack of infrastructure and the incomplete nature of the detailed investigations for the site, would represent an ad-hoc expansion of employment lands should the project be approved.

For these reasons, the Department considers the proposal is contrary to the public interest and should be refused.



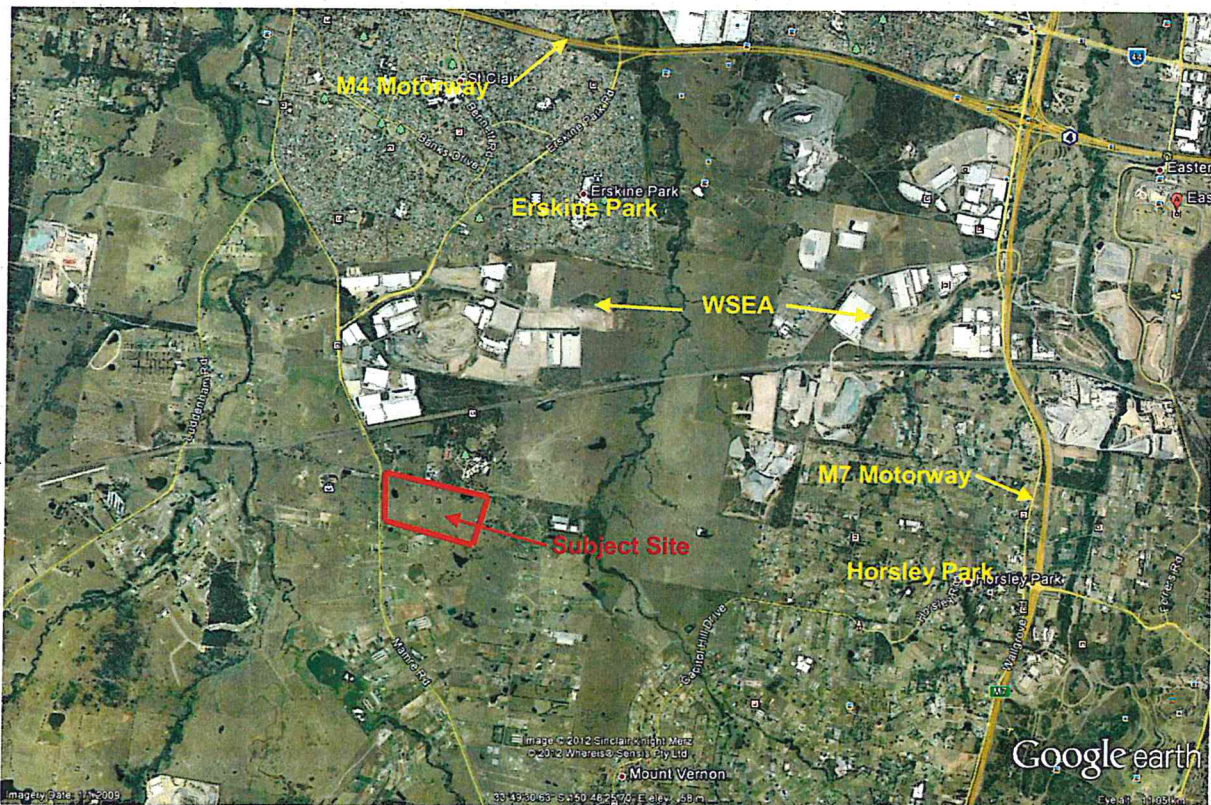
# 1. BACKGROUND

## 1.1 The Site

### 1.1.1 Site Context And Location

The site is located on the corner of Bakers Lane and Mamre Road at Kemps Creek, immediately to the south-west of the Western Sydney Employment Area (WSEA) within the Penrith Local Government Area (LGA). The site is located in the North West Subregion of Sydney with Penrith located approximately 26km to the north. The Sydney Water pipeline from Warragamba Dam to Prospect Reservoir is located to the north of the site, beyond Bakers Lane. The Erskine Park residential area is located approximately 3 kilometres to the north of the site.

The Westlink M7 Motorway is located to the east of the site while the M4 motorway is located to the north. Kemps Creek is a largely rural residential suburb characterised by a small commercial area along Elizabeth Drive and schools, residences and other community uses. The area, particularly along Mamre Road, is characterised by large lot housing with large setbacks as well as some agricultural uses. The suburb is bound to the west by South Creek and to the southeast by Kemps Creek. The site location is illustrated in **Figure 1**.



**Figure 1: Regional Context (Source: Environmental Assessment, LOGOS, September 2010)**

### 1.1.2 Site Features

The subject site comprises an area of approximately 52 hectares and generally comprises cleared grazing land.

The site currently contains a single rural residential dwelling house, located in the north-western portion of the site and which is currently unoccupied, and due to previous grazing activities contains some farm dams, fencing and some remnant vegetation. Vehicular access to the existing dwelling on the site is provided from two single width access driveways provided from Bakers Lane, with no access to Mamre Road. The subject site is illustrated in **Figure 2**.





**Figure 2: The subject Site from Mamre Road**

The site has an undulating topography, with a central ridge (80 – 83m AHD) running from the northern boundary to the south-east corner. The subject site generally falls to the south-western (42m AHD) and the north-eastern (55m AHD) corners of the site and there are significant level differences across the site.

Previous activities on the site have resulted in the vegetation being predominantly cleared, however, there are scattered mature trees across the site, with some small patches of treed vegetation. These patches comprise a degraded form of Cumberland Plain Woodland, an endangered community under the *Threatened Species Conservation Act 1995* (TSC Act).

The site is not serviced by a reticulated water supply or a reticulated sewer system. Stormwater infrastructure in the area is also minimal and telecommunications facilities are limited. Electricity and gas are available in the near vicinity.

The site has previously been used for rural residential uses and grazing, which reflects the current zoning regime for the site. The general area is undergoing a transition to an area with a more employment and industrial focus given its proximity to the M4 and M7 motorways and its proximity to the WSEA. The site is within a locality which has been the subject of a number of strategic plans, outlined below.

### **1.1.3 Zoning**

The subject site is zoned RU2 Rural Landscape under the *Penrith City Local Environmental Plan 2010* (Penrith LEP). Development for the purpose of warehouse and distribution is currently prohibited in this zone. The zoning of the subject site is illustrated in **Figure 3**.



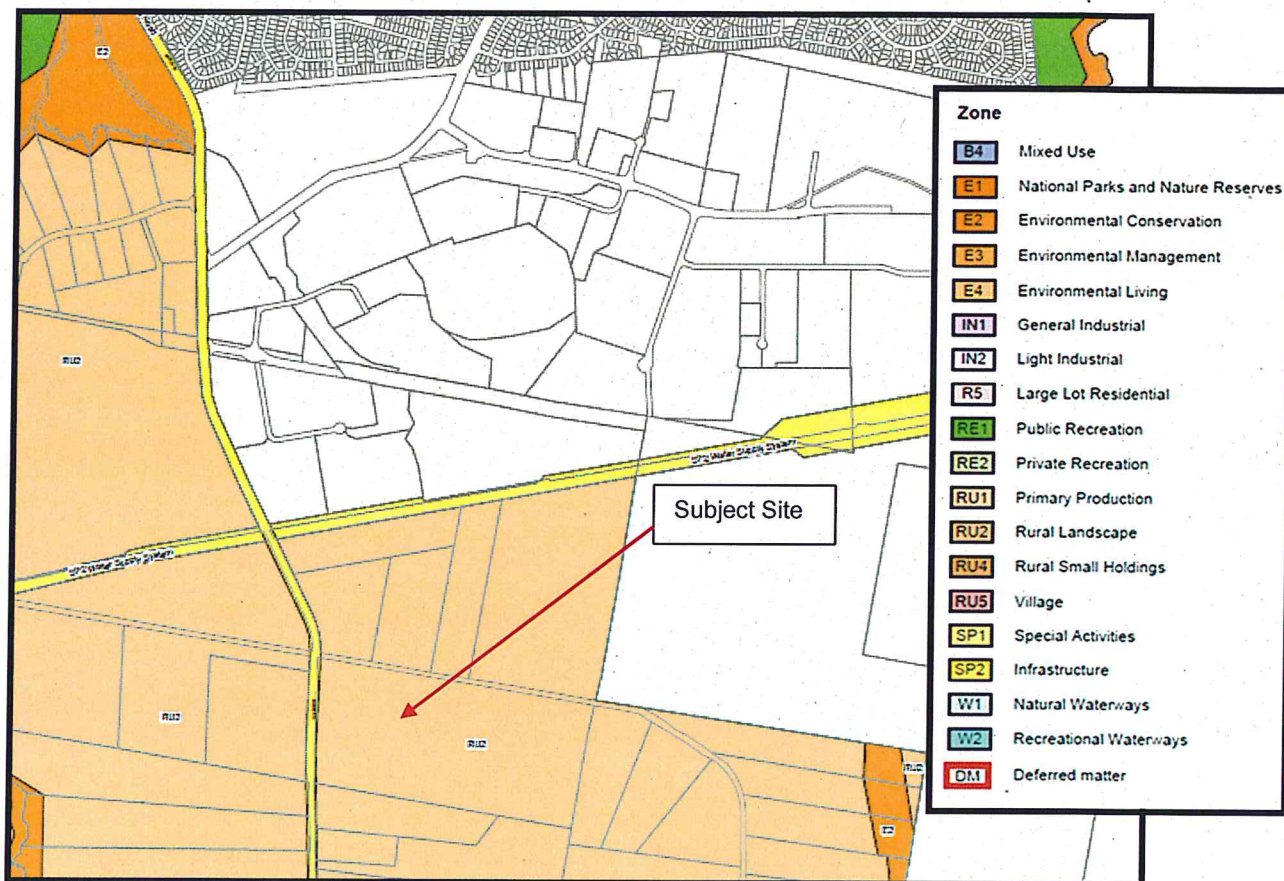


Figure 3: Zoning of the Subject Site (Source: Penrith LEP 2010)

#### 1.1.4 Surrounding Development

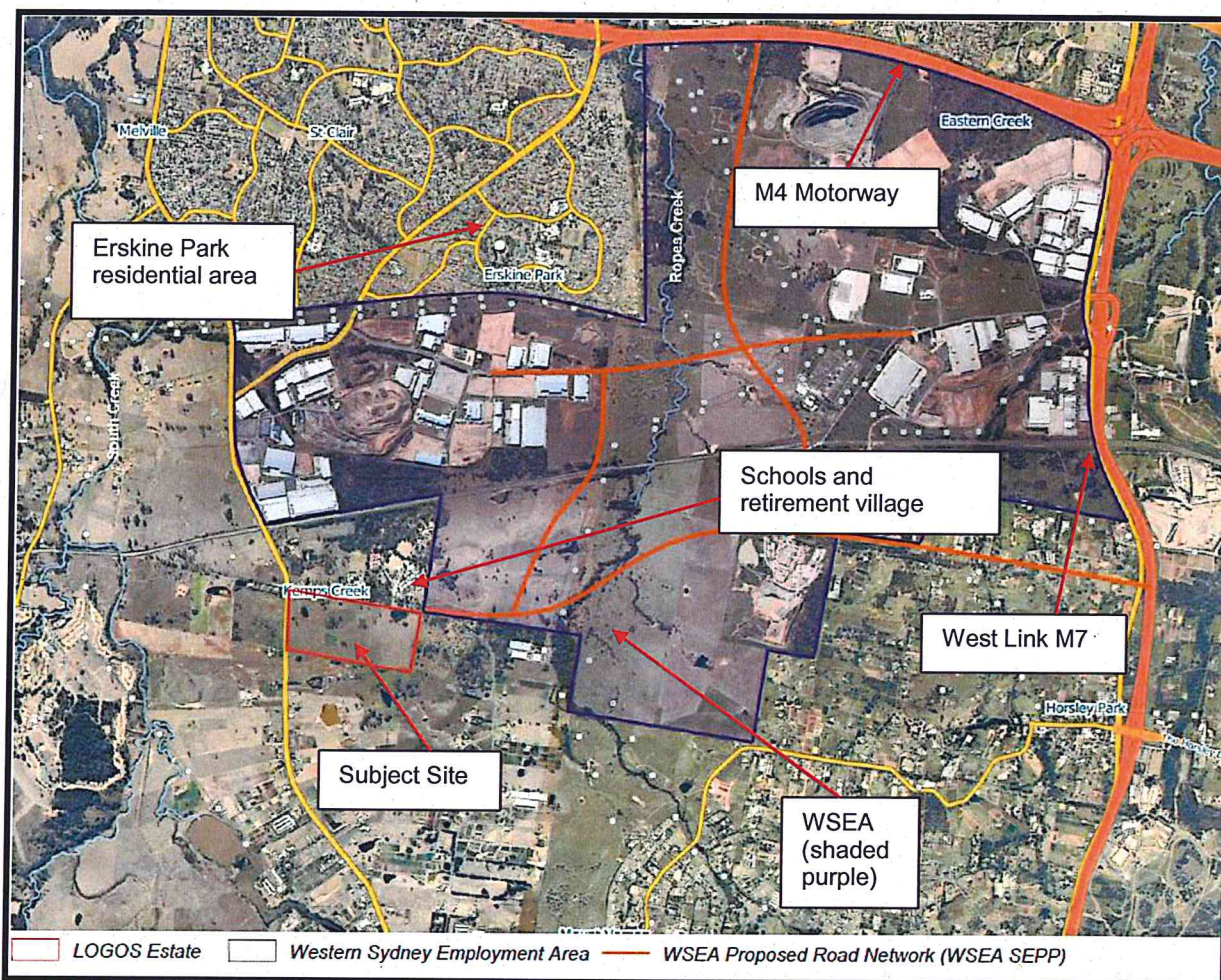
The subject site is generally surrounded by land zoned rural/rural residential (as illustrated in Figure 3), however, immediately to north is situated two primary schools including Mamre Anglican School (and child care centre), Trinity Catholic Primary School and Emmaus Catholic Secondary College with a retirement village beyond. Further to the north and north-east is the Western Sydney Employment Area. The WSEA was zoned by the *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (WSEA SEPP), which is discussed below. This area is still undergoing development, with some large sites having been developed by companies such as *Linfox* and *Chep* pallets, while there are also still large areas remaining vacant.

To the east are rural-residential properties and the WSEA beyond. The southern adjoining development comprises a rural-residential dwelling and construction related businesses. To the west, beyond Mamre Road, is a pet and farm supply business.

Mamre Road, which forms the western boundary of the subject site, is an arterial road under the care and control of Roads and Maritime Services (RMS) and provides a north-south arterial route between the Great Western Highway at St Marys and Elizabeth Drive at Mt Vernon. Mamre Road is generally a two lane undivided carriageway providing one lane of traffic in each direction.

Mamre Road intersects with Bakers Lane, which forms the northern boundary of the subject site, under traffic signal control at the north-western corner of the subject site. Bakers Lane is a local road under the control of the Council and performs an access function to Mamre Road serving the adjoining educational and community uses located opposite the subject site. Bakers Lane is a two lane undivided carriageway with one lane of traffic in each direction. The surrounding land uses are all illustrated in Figure 4.





**Figure 4: Surrounding Development (Source: Environmental Assessment, LOGOS, September 2010)**

## 1.2 Strategic Context

There are a number of strategic planning documents and studies carried out for Sydney which are relevant to the assessment of the proposal. These include:-

- NSW 2021;
- Metropolitan Plan for Sydney 2036;
- Draft North West Subregional Strategy;
- State Environmental Planning Policy (Western Sydney Employment Area) 2009;
- Western Sydney Employment Land Investigation Area (WSELIA); and
- Employment Lands Development Program 2010.

These planning documents are outlined below and considered in detail in Section 5 of this report.

### 1.2.1 NSW 2021

The NSW 2021 Plan provides priorities for Government action for the State of NSW. In relation to the western Sydney region, the Plan seeks to improve transport and travel time to employment lands and encourage economic growth. The Plan aims to generate around 100,000 jobs state wide.

The western Sydney region is a major contributor to the economic output of NSW and the provision of jobs closer to home for the people of western Sydney is seen as a key objective for the area.



### 1.2.2 Metropolitan Plan for Sydney 2036

The *Metropolitan Plan for Sydney 2036* (the Metro Plan) integrates with the *Metropolitan Transport Plan*. The Metro Plan identifies the challenge of providing more jobs closer to home and more efficient infrastructure delivery. Growing Sydney's economy, including planning for 760,000 new jobs, is relevant to the project (with half planned for Western Sydney), as well as developing detailed land use, transport and infrastructure plans for the WSEA. The site is outside the WSEA, but located in the Western Sydney Employment Lands Investigation Area (WSELIA). (See section 1.2.5 below).

### 1.2.3 Draft North West Subregional Strategy

The *North West Subregion – Draft Subregional Strategy* (Subregional Strategy), was released in December 2007. The key actions of this strategy include meeting the region's employment and housing capacity targets, providing sufficient zoned employment land to meet employment capacity targets and protecting and enhancing strategic employment lands within the M7 motorway corridor. The strategic planning for the WSEA and the WSELIA to improve the subregion's performance for providing jobs closer to home are also relevant key actions to this project.

The strategy structure plan depicts the site as 'rural lands', as opposed to those key strategic sites identified as future employment lands in the plan.

### 1.2.4 State Environmental Planning Policy (Western Sydney Employment Area) 2009

In August 2009, *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (WSEA SEPP) was gazetted which rezoned more than 800 hectares (ha) of employment lands at WSEA. This newly zoned land established up to 2,200ha of land for employment purposes in the WSEA. At this stage, it is estimated that around 78% of this zoned land (over 1700 ha at January 2011) is still vacant and available for development. The land to which the WSEA SEPP applies is illustrated in **Figure 5**.

This WSEA SEPP acknowledges that this area is transforming from a semi-rural area into a major zone of employment and economic activity, which would require infrastructure upgrading and amplification over time. The WSEA SEPP creates a consistent zoning system for the existing employment lands and established a development contribution rate of \$180,000 per net developable hectare to ensure adequate provision of infrastructure in the WSEA.

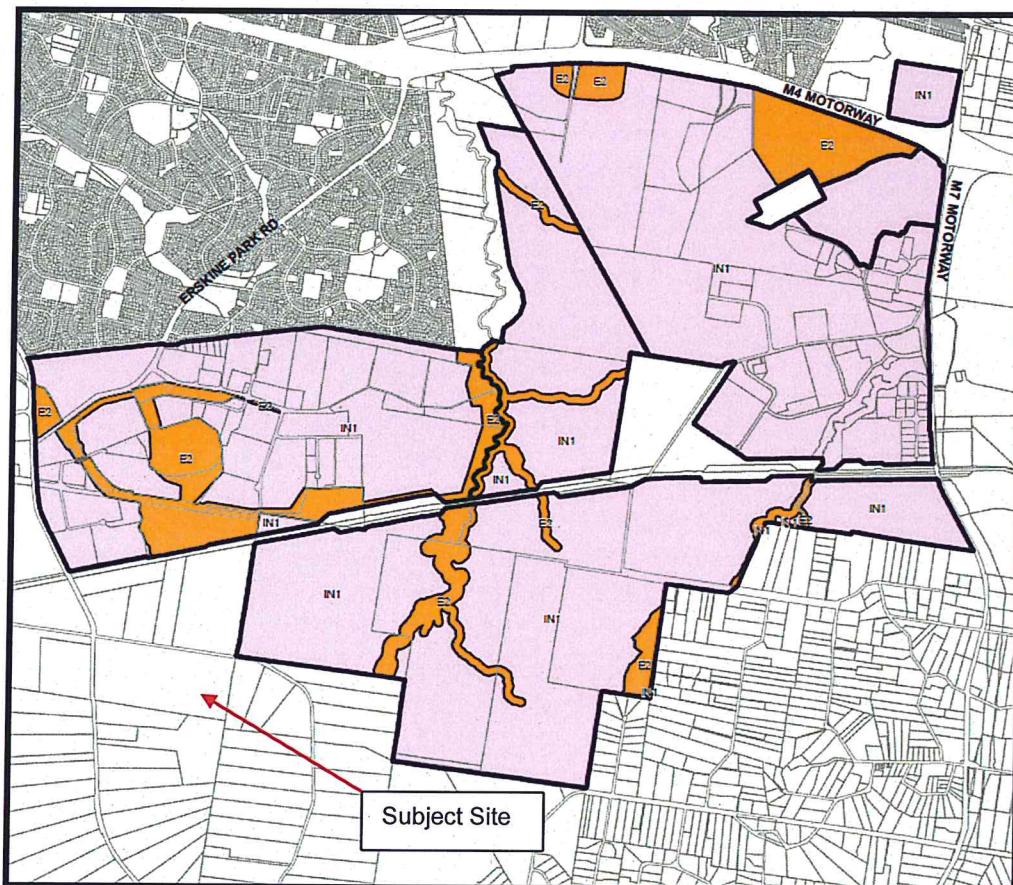
The WSEA SEPP does not apply to the subject site.

Notwithstanding, the *Guideline to the Western Sydney Employment Area* (2009) allows for consideration of sites adjacent to the WSEA zoned areas, provided the applicant suitably demonstrates that their proposal can demonstrate that the project:

- represents no cost to Government in regard to infrastructure requirements; and
- meets all relevant environmental tests.

This is considered further in Section 5 of this report.





**Figure 5: Western Sydney Employment Area pursuant to State Environmental Planning Policy (Western Sydney Employment Area) 2009**

### 1.2.5 Western Sydney Employment Land Investigation Area (WSELIA)

While the WSEA has been established and identified through the WSEA SEPP, the NSW Government has been investigating additional employment land areas as part of its *Metropolitan Plan for Sydney 2036*.

The Western Sydney Employment Lands Investigation Area (WSELIA) is one of the areas earmarked for investigation under the Metropolitan Plan and includes an area of around 10,000 ha. This area covers land within the Penrith and Fairfield LGAs from the boundary of the WESA to Elizabeth Drive and from The Northern Road in the west to Kemps Creek in the east (see Figure 6). The proposed Project is located within the WSELIA as identified in Figure 6 below.



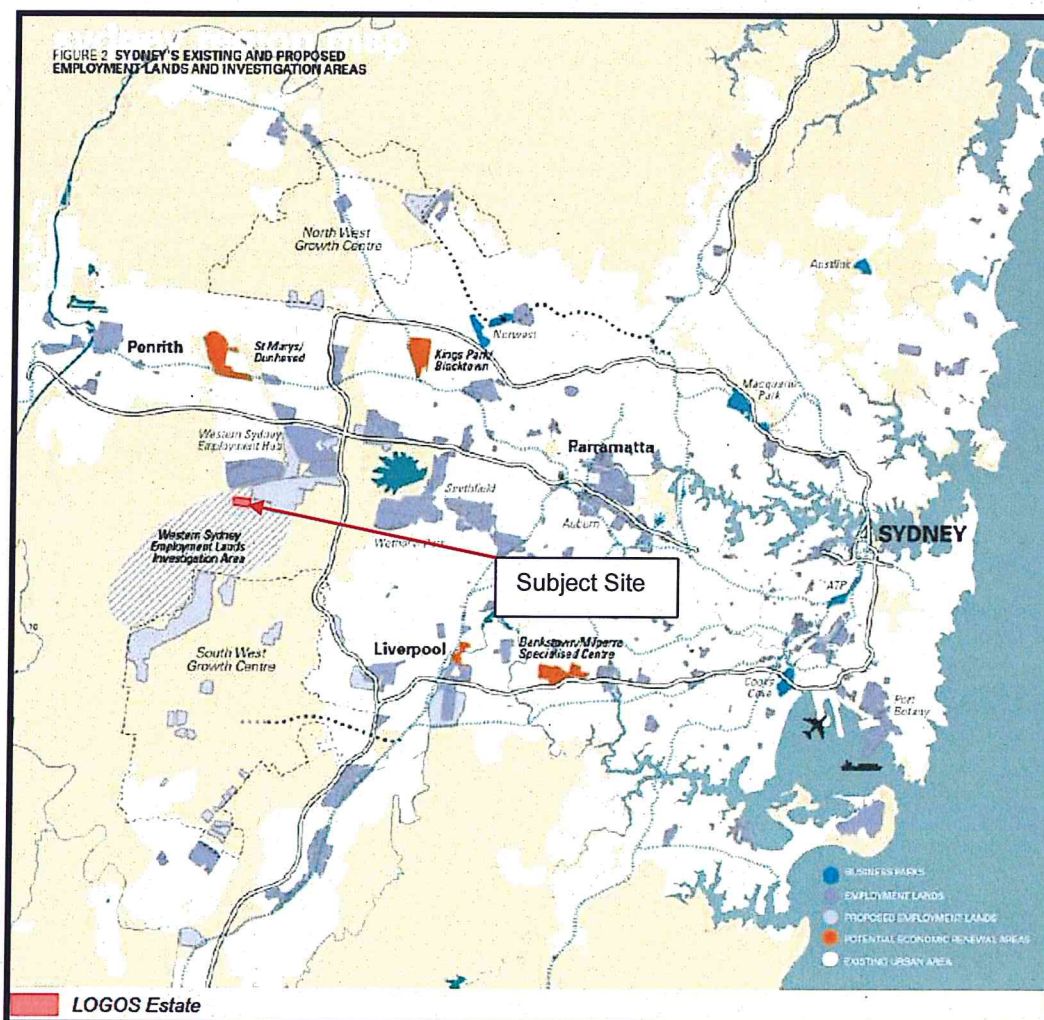


Figure 6: Western Sydney Employment Lands Investigation Area (source: EA prepared by LOGOS)

### 1.2.6 Employment Lands Development Program 2010

In 2011, the NSW Government released the *Employment Lands Development Program 2010 Overview Report* (ELDP), to provide a comprehensive assessment of the existing and future supply of employment lands in the Sydney region. The ELDP report includes a detailed map of Sydney's employment lands and will be used to help implement the Metro Plan. The ELDP is the State Government's key program for managing the supply of Employment Lands for the Sydney Region and assisting associated infrastructure coordination. Following the gazettal of the WSEA SEPP, (2010) the ELDP identified a further 712 hectares of land as potential future Employment Lands in the subregion. The site is not included in these identified lands.

## 2. PROPOSED PROJECT

### 2.1 Original Project

The concept plan and project application seeks approval for the development of the land for employment purposes. Concept plan approval and project approvals are sought for the entire project. For the purposes of this report, the concept plan and project application will be referred to as 'the Project'. The project involves the development of a campus style industrial estate comprising warehouses and distribution centres and is described as the LOGOS Kemps Creek Logistics Project (the Project). The Proponent is *Mamre Road Developments Pty Ltd* (for LOGOS Property, hereafter referred to as LOGOS).



The Project as originally submitted and exhibited comprised ten (10) warehouse and distribution centres, with 8 proposed to be used on behalf of DHL and 2 on behalf of Metcash as well as ancillary offices (the original Project). The original Project is described in full in the Environmental Assessment (EA), attached at **Appendix D**.

## 2.2 Current Project

The Department raised concerns with the original Project, particularly with regards to the broader strategic context of the area and provision of adequate infrastructure and servicing of the site. In response to these concerns, the Proponent made some amendments to the project and submitted additional information in an attempt to address these concerns.

A Preferred Project Report (PPR) was lodged by the Proponent in October 2011 following the exhibition of the EA and the preparation of the Response to Submissions. The PPR, attached at **Appendix E**, made several key amendments to the proposal including:-

- Construction of 11 warehouses and distribution centres for unspecified end-users;
- Construction of 2 main estate access roads via 2 signalised intersections on Baker's Lane (previously there was only one) and the removal of the left in/left out access to Mamre Road;
- Provision of an additional ten (10) metres of land dedicated along the Bakers Lane frontage to provide a total minimum reservation width of 40 metres for the future southern link road (20 metres on the site); and
- A revised Water Management Strategy comprising on-site collection of water and treatment of wastewater on the site (refer to Table 1 for description).

The major components of the revised project (hereafter referred to as the Project) are summarised in **Table 1**, and illustrated in **Figures 7** and **8**.

**Table 1: Major components of the Concept Plan and Project Application**  
(Source: PPR prepared by LOGOS)

| Aspect                          | Description  |
|---------------------------------|--|
| <b>Project summary</b>          | <b>Construction and use of the LOGOS Kemps Creek Logistics Project, including: Subdivision, demolition, bulk and detailed earthworks, construction of internal estate roads and site services, construction and use of 11 warehouses and distribution centres for unspecified end-users, along with ancillary offices and central estate facilities building (including café, conference room, gymnasium and estate services) and ancillary infrastructure and services, including upgrade of Bakers Lane (to form part of the WSEA 'Southern Link road') and Mamre Road.</b>  |
| <i>Subdivision</i>              | Subdivision of the site to create 4 development lots and 2 estate roads  |
| <i>Demolition</i>               | Demolition of uninhabited dwelling, farm fences and other minor structures.  |
| <i>Earthworks</i>               | Bulk and detailed earthworks across the site to create level building pads and install services. Approximately 50,000m <sup>3</sup> of excess topsoil to be exported from the site.  |
| <i>Facility Description</i>     | The estate master plan comprises a total gross floor area (GFA) of approximately 260,000m <sup>2</sup> including: <ul style="list-style-type: none"> <li>• 11 warehouse and distribution centres for unspecified end-users, ranging in size from 16,500m<sup>2</sup> to 28,400m<sup>2</sup> GFA, including attached ancillary offices and an attached central estate facilities building including a café, gym/conference room and estate manager/security office (to building 5).</li> </ul>  |
| <i>Staging</i>                  | Construction of the facilities would be staged over a period of approximately 5 years.   |
| <i>Capital Investment Value</i> | \$235 Million  |
| <i>Employment</i>               | 800 full time equivalents during construction and 1580 full time equivalents once fully operational  |
| <i>Access and Roads</i>         | Construction of internal road network, comprising 2 main estate access roads. Main access provided via 2 signalised intersections on Bakers Lane.<br>External roadworks include either funding or carrying out the following upgrading works on behalf of the applicable roads authority:- <ul style="list-style-type: none"> <li>• Bakers Lane adjacent to the site to a 4-lane dual carriageway to form part of the WSEA 'Southern Link Road';</li> <li>• Bakers Lane/Mamre Road intersection; and</li> <li>• Mamre Rod to provide localised acceleration and deceleration lanes adjacent to the Bakers Lane/Mamre Road intersection.</li> </ul> |
| <i>Stormwater Drainage</i>      | On-site stormwater harvesting, detention and treatment, with discharge to Mamre Road and Bakers Lane consistent with existing flows. Construction of stormwater infrastructure associated with upgrade of Bakers Lane. Additional stormwater harvesting is proposed (in PPR) to provide potable water supply and additional water sensitive urban design measures (including a bio-filtration swale along the main east-west internal estate road).  |
| <i>Potable water</i>            | Potable water would be predominantly supplied by rainwater harvesting from warehouse roofs, with on-site   |

| <b>Aspect</b>             | <b>Description</b>   |
|---------------------------|--|
|                           | treatment. Additional potable water (for irrigation and toilet flushing) would be supplied by on-site sewerage recycling. Rainwater harvesting and sewerage recycling would supply 98% of the project's water demand.  |
|                           | Reliance on Sydney Water reticulated potable water would be limited to a 20mm domestic-sized potable water connection off existing mains in Mamre Road or Bakers Lane for back up during drought situations. Demand on Sydney Water supplies would be minimal (equivalent to the annual demand of a single average sized household).   |
| <i>Sewer</i>              | An on-site sewerage treatment plant would recycle all sewerage generated by the project, with recycled water used for on-site non-potable uses (i.e. toilet flushing and irrigation). No reliance on Sydney Water sewerage infrastructure would be required.   |
| <i>Electricity</i>        | The site would be connected via a new 11kV distribution feeder to the existing Mamre Road zone sub-station off Lenore Lane. The energy saving measures have been boosted in the PPR by introducing a nominal 30kW solar panel Generation System. The system would be designed to generate enough electricity to fully supply the needs of the estate services, including estate sewer, stormwater and irrigation pumping systems, as well as road, security and access lighting (using LED light sources). |
| <i>Landscaping</i>        | Provision of landscaping for the site including the Bakers Lane entrance and Mamre Road left-in, left-out access driveway.   |
| <i>Signage</i>            | Signage would form a separate development application. It is envisaged however, that business identification and directional signage would be on building facades and at site entries. Further, a corner marker at the intersection of Mamre Road and Bakers Lane would be erected.  |
| <i>Telecommunications</i> | The site would be connected to telecommunications infrastructure in Mamre Road.  |
| <i>Gas</i>                | The project is not proposed to be connected to a reticulated gas supply, although existing gas supplies are available north of the site at Erskine Park Road, if required in the future.   |
| <i>Hours of operation</i> | 24 hours, 7 days a week.   |



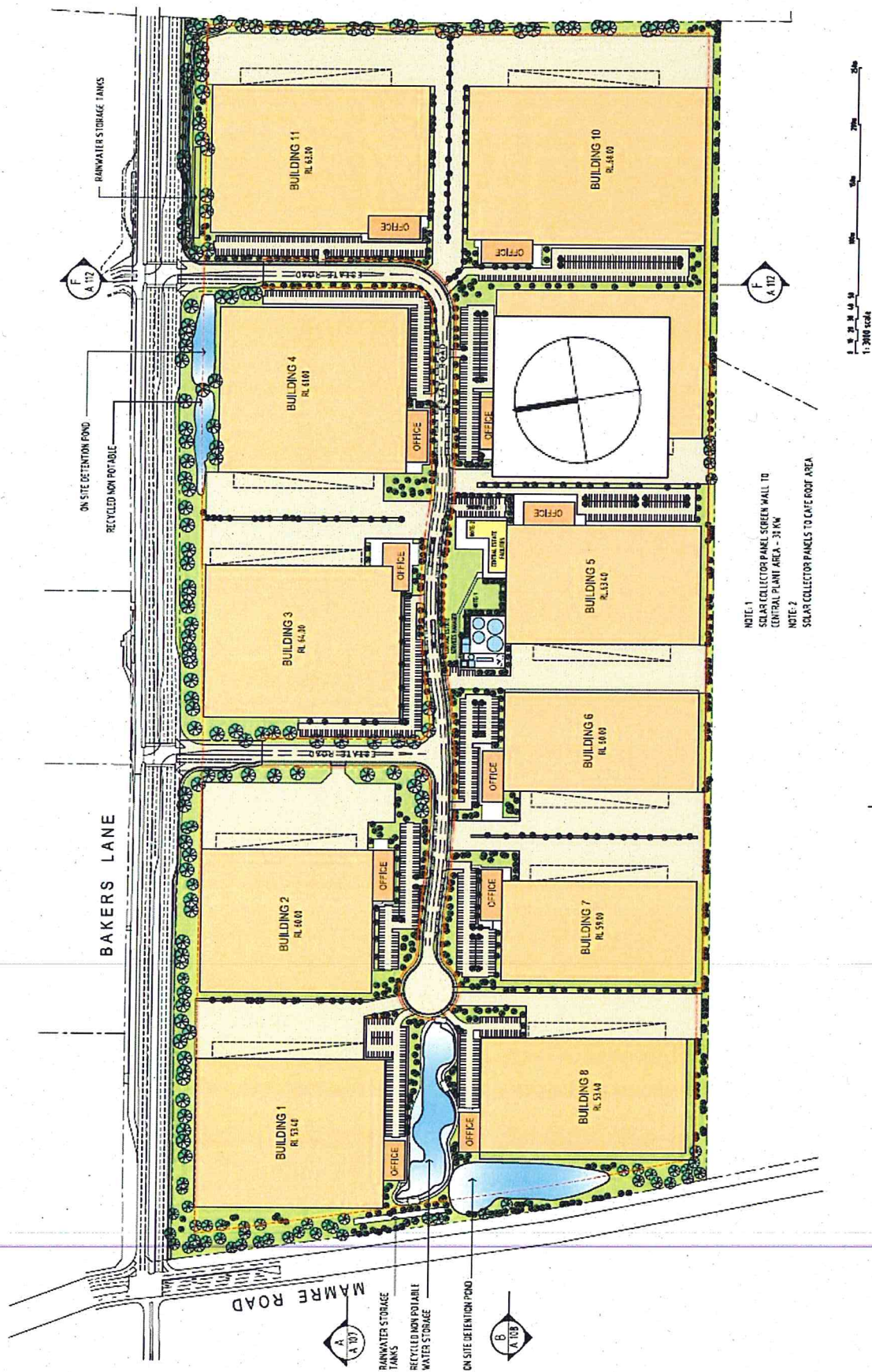


Figure 7: Proposed Kemps Creek Logistics Facility (Source: PPR prepared by LOGOS)





Figure 8: Indicative Proposed Elevations (Source: PPR prepared by LOGOS)



### 3. STATUTORY CONTEXT

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#### 3.1 Major Project

The Project is a transitional Part 3A project being development of a kind that is described in Schedule 1 of *State Environmental Planning Policy (Major Development) 2005* as was in force at the time, namely Clause 12 - development for the purpose of storage or distribution centres with a capital investment value of more than \$30 million. Therefore, the Minister for Planning and Infrastructure or delegate is the approval authority.

Despite its repeal on 1 October 2011, Part 3A continues to apply to certain projects, described as transitional Part 3A projects, pursuant to Schedule 6A of the Act. This concept plan and project application is a transitional Part 3A project as an Environmental Assessment was lodged in September 2010.

#### 3.2 Permissibility

The site is zoned RU2 Rural Landscape under the *Penrith Local Environmental Plan 2010* as illustrated in **Figure 3** in Section 1. Development for the purposes of industry or warehouse and distribution centres is prohibited in this zone. Under section 80 of the *Environmental Planning & Assessment Regulation 2000* (the Regulation), the Minister may approve a transitional Part 3A project that is prohibited provided it is not located in an environmentally sensitive area of State significance, and is the subject of an authorised concept plan.

On 26 March 2010, the then Minister agreed that the project was not located in an environmentally sensitive area of State significance, and authorised the preparation of a concept plan for the project. Consequently, the Minister, or delegate, may determine both the concept plan and project applications, despite some components of the proposal currently being classified as prohibited development.

The subject site is located adjacent to land to which *State Environmental Planning Policy (Western Sydney Employment Area) 2009* applies. The *Guide to the Western Sydney Employment Area* (the Guide) prepared by the Department provides the opportunity for fast tracking development in areas adjacent to the zoned employment area through a process similar to the existing precinct acceleration protocol employed in the Growth Centres or via an application under Part 3A of the Act. The Guide requires, however, that such a development is at no cost to government. The Guide states:-

*"A case would need to be demonstrated that the development of land outside the program represents no cost to government in regard to infrastructure requirements and meets all relevant environmental tests".*

This test of no cost to government and meeting all relevant environmental tests is further discussed in Section 5.

#### 3.3 Environmental Planning Instruments

Under Sections 75I(2)(d) and (e) of the Act, the Director-General's report is required to include a copy of, or reference to, the provisions of any State Environmental Planning Policies (SEPPs) that substantially governs the carrying out of the project, and the provisions of any environmental planning instruments (EPIs) that would (except for the application of Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project.

The Department's consideration of the relevant SEPPs and EPIs is provided in **Appendix F**.

#### 3.4 Objects of the Environmental Planning and Assessment Act 1979

The Minister is required to consider the objects of the Act when making decisions under the Act. The objects of most relevance to the Minister's decision on whether or not to approve this project are those under Section 5(a) (ii) and (iii), which state.



- (a) *'to encourage:*
  - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
  - (iii) *the protection, provision and co-ordination of communication and utility services.'*

The Department has fully considered the objects of the Act, including the encouragement of ESD, in its assessment of the Project. It is considered that the project does not satisfy the object of the Act relating to the promotion and co-ordination of the orderly and economic use and development of land (s5(a)(ii) and (iii) of the Act). This is further discussed in detail in Section 5 of this report.

### 3.5 Ecologically Sustainable Development (ESD) Principles

The Act adopts the definition of Ecological Sustainable Development (ESD) in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and can be achieved through implementation of:

- (a) *the precautionary principle – namely if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:-*
  - (i) *careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment*
  - (ii) *an assessment of the risk-weighted consequences of various options.*
- (b) *inter-generational equity – namely that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations*
- (c) *conservation of biological diversity and ecological integrity – namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration.*
- (d) *improved valuation, pricing and incentive mechanisms – namely, that environmental factors should be included in the valuation of assets and services, such as:-*
  - (i) *polluter pays – that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement;*
  - (ii) *the user of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste.*
  - (iii) *environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:-

**Precautionary Principle** – There is likely to be some environmental impact as a result of the project given the inadequate measures proposed for the treatment and management of wastewater and stormwater from the site. These concerns are considered in detail in Section 5 of this report.

**Inter-generational Principle** – The project results in unacceptable economic, planning and environmental costs to government and the public and is therefore contrary to the public interest. The potential costs and impacts of the project have not been appropriately mitigated as discussed in this report. The Department's assessment has duly considered all issues raised by the community and public authorities, and the proposal is not recommended for approval.

### 3.6 Statement of Compliance

Under section 75I of the Act, the Director-General's report is required to include a statement relating to compliance with the environmental assessment requirements for the project. It is considered that the environmental assessment requirements have been complied with in so far as there was sufficient



information to publicly exhibit, and make a proper assessment of the proposal. The assessment of the issues outlined in the DGRs is considered in this report.

## 4. ISSUES RAISED IN SUBMISSIONS

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### 4.1 Exhibition

Under Section 75H (3) of the Act, the Director-General is required to make the Environmental Assessment (EA) of an application publicly available for at least 30 days. After accepting the EA, the Department publicly exhibited the EA from 20 October 2010 until 26 November 2010 (37 days) on the Department's website and at the following locations:-

- Department of Planning Information Centre, 23-33 Bridge Street Sydney;
- Nature Conservation Council, Level 2, 5 Wilson Street, Newtown, NSW 2042; and
- Penrith City Council, 601 High Street, Penrith, NSW 2760

The Department also advertised the public exhibition in the *Penrith Press* and *Penrith City Star* from 20 October 2010 until 26 November 2010, and notified landholders and relevant State and Local government authorities in writing.

During the exhibition period, the Department received a total of 8 submissions on the project, 5 from public authorities and 3 from members of the general public. A full copy of these submissions is attached in **Appendix G**. A summary of the issues raised in submissions is provided below, with a summary of the agency submissions provided in **Appendix H**. The issues are further discussed in Section 5 of this report.

### 4.2 Public Authority Submissions

There were five (5) submissions received from public authorities including 2 from Penrith City Council (the Council and the Mayor), NSW Office of Water, Roads and Traffic Authority and Sydney Water. All of these submissions raised concerns with the proposal as outlined below.

#### 4.2.1 Penrith City Council

Penrith City Council (the Council) provided correspondence in relation to the EA (29 November 2010) and the PPR (18 November 2011), raising considerable and significant objection to the project, including:-

- Strategic planning - an ad-hoc expansion to the WSEA, being progressed ahead of already appropriately zoned land and being on land outside existing zoned employment areas;
- Site suitability – topographical constraints given significant earthworks and need to dispose of 50,000m<sup>3</sup> of fill material;
- The project represents a speculative warehouse and distribution development given there are now no specific end users nominated;
- Potential adverse impact to surrounding land uses;
- Environmental impact – particularly noise impacts, and potential site contamination and salinity issues;
- Road – the final design and layout of the southern link road for the WSEA has not been endorsed, favours Bakers Lane becoming a service road (due to sensitive land uses) with the arterial road offset to the south and environmental capacity of surrounding road network (Mamre Road and Erskine Park Road) is likely to be further impacted by the project;
- Employment projections overestimated and significant employment benefits cannot be demonstrated; and
- Lack of public transport and over-reliance on future road upgrades and bus routes to reduce greenhouse gas emissions not triggered by the project.

A letter from the Mayor was also lodged with the Department which outlined that the Council supported the need for more employment land now and in the future and that the Council is receiving representations for the rezoning of sites which are outside the WSEA. The Mayor however noted the



servicing constraints associated with the site.

#### **4.2.2 Sydney Water**

Sydney Water stated that they intend to prepare an integrated servicing strategy for the WSELIA when more detail is provided by the Department on future rezoning and land use of the area. Sydney Water is of the opinion that the servicing of the proposed development by Sydney Water cannot be considered in isolation, as staged provision of infrastructure to the area needs to be considered as part of an integrated servicing strategy, which is only possible following detailed investigation. At present, there is no funding allocation for planning, environmental impact assessment and delivery of infrastructure for this site in Sydney Water's Growth Servicing Plan.

However, following the Proponent's amendment of the project to include its own private scheme for the purposes of water and sewer servicing, Sydney Water advised that while it is the Proponent's decision to run its own scheme, they would need to obtain all appropriate approvals, including a Water Industry Competition Act (WICA) licence and NSW Health approval. Sydney Water also stated that any WICA licence applicant is also required to satisfy the Independent Pricing and Regulatory Tribunal (IPART) in order to obtain a licence.

#### **4.2.3 Roads and Maritime Services (formerly the Roads and Traffic Authority)**

Roads and Maritime Services (RMS) considered the traffic impact of the project in accordance with Clause 104 of *State Environmental Planning Policy (Infrastructure) 2007*. In response to the exhibition period, the main concerns raised by RMS included:-

- Potential impact on future new arterial road currently under investigation along the northern boundary of the site. The RMS originally did not support the project and considered that the Department should delay determination until such time as the road reserve requirements were determined;
- Proposed egress arrangements for the schools' service road will encourage unsafe and uncontrolled traffic manoeuvring; and
- Left-in/left-out access with acceleration and deceleration lanes to Mamre Road is not supported.

However in further correspondence to the Proponent, the RMS has indicated that following further discussions with the Proponent and review of concept designs for Bakers Lane, the RMS provided in-principle agreement.

#### **4.2.4 NSW Office of Water**

The NSW Office of Water (NOW) raised concerns that the proposed grass swale flow path in the north eastern corner of the site should function as a stable, naturalised system consistent with the NOW's Guidelines for Controlled Activities (August 2010). A further submission on the PPR recommended that the proposed rainwater storage tanks be located elsewhere on the site so as to retain the creek channel as a stable, naturalised system with a riparian area.

### **4.3 Public Submissions**

There were three (3) submissions received from the public, comprising submissions from the following:-

- Ingham Planning Pty Ltd on behalf of Sydney Anglican Schools Corporation (SASC);
- Goodman/Brickworks Limited (Goodman); and
- Jack Perica (Perica).

Of the public submissions, two (2) objected to the proposal (SASC and Goodman) and one did not specifically object to the project but raised concerns (Perica). The key issues raised in the public submissions are outlined in **Table 2** and discussed below. Further submissions were received from SASC and Goodman following the preparation of the PPR.



**Table 2: Issues in Public Submissions**

| Issue   | Submission    |
|---|---------------|
| Inconsistent with strategic land use planning       | SASC, Goodman |
| Traffic and safety concerns                         | SASC          |
| Inconsistent with character of area/amenity impacts | SASC          |
| Conflicting land uses (project and schools)         | SASC          |
| No end user   | SASC, Goodman |
| Noise and acoustic measures                         | Perica        |
| Delays in Servicing already zoned employment land   | Goodman       |

Consideration of the issues raised in submissions is provided in Section 5 of this report.

#### **4.4 Response to Submissions and Preferred Project**

A Response to Submissions dated January 2011 was prepared by the Proponent to provide a response to the key issues raised in submissions (see **Appendix I**). This submission also included a revised Statement of Commitments for the project. A Preferred Project report (PPR) was then lodged in October 2011. The response to submissions and PPR have been made publicly available on the Department's website. The Department has considered the issues raised in submissions and the Proponent's responses to these issues, in its assessment of the project (refer to the Assessment section below).

## **5. ASSESSMENT**

In assessing the merits of the project, the Department has considered:

- the EA, submissions and response to submissions on the project and PPR (see Appendices B to D);
- the relevant environmental planning instruments, guidelines and policies (see Appendix F); and
- the objects of the EP&A Act, including the object to encourage ecologically sustainable development.

The Department considers the five key issues for discussion are:

- Consistency with Strategic Planning;
- Site Infrastructure and Servicing;
- Cost to Government;
- Other Environmental Issues; and
- Suitability of the site and project justification.

### **5.1 Consistency with Strategic Planning**

As outlined in this report, the proposed Logos Project is located close to but outside the zoned Western Sydney Employment Area (WSEA). It is however located in an area identified for future investigation for use as employment lands [referred to as the Western Sydney Employment Lands Investigation Area (WSELIA)].

At this stage, the Department understands that of the 2,200ha of employment lands zoned in the WSEA, approximately 1,700ha (or 78%) is still currently vacant, and as such, available for development.

While the guideline to the WSEA SEPP allows consideration of proposals outside the zoned employment lands, the site is not identified as employment lands in the Employment Lands Development Program, which is the NSW Government's key program for managing the supply of employment lands in the Sydney Region. To date, there is also no clear program as to when the investigations into the WSELIA would be complete.

While the Department acknowledges that the site is potentially well located for future employment uses, the Department considers that the development of the Logos site is too early at this time. If the



site were to be developed for employment purposes now, the Department is concerned that this could potentially undermine or slow the uptake of existing zoned land in the WSEA.

The Department considers that the land in the WSEA should be the priority for development and for the provision of infrastructure prior to additional employment lands coming on line in the WESLIA. The WSEA precinct is far from capacity and is supported by the WSEA SEPP which provides a mechanism for ensuring adequate provision of infrastructure to service this area.

Furthermore, the proposal by Logos to service the site by its own private scheme raises further concerns. The Department is not satisfied that the private scheme proposed by Logos can be integrated into broader servicing infrastructure.

The Department is mindful that should lands within the WESLIA be rezoned in the future, there will need to be a co-ordinated servicing strategy to ensure water, sewage and other services can be integrated. Should further rural lands within the vicinity of the site also seek to develop as employment lands ahead of the WSEA, then these outstanding servicing and integration issues are likely to be exacerbated.

In addition, in terms of Strategic Planning for the area the Department also notes the following:

- approval of the proposal would represent an ad-hoc expansion of the WSEA, which needs to be considered in an orderly, integrated and detailed manner to ensure suitable land supply and infrastructure and services are provided;
- take-up of land in the WSEA has been declining in recent years (down 45% from 2009 to 2010); and
- the proposal is inconsistent with the underlying local planning provisions and prohibited in the RU2 Rural Landscape zone of the Penrith LEP.

In light of the above, the Department considers that the proposal lacks sufficient justification from a strategic land use planning perspective.

## **5.2 Site Infrastructure and Servicing**

Since the proposed development site is located outside of the zoned employment area and historically has been used as a rural property with a residence, the infrastructure and services on the proposed site are limited or not available. At this stage, the site is not serviced by a reticulated water supply or sewerage system and has limited stormwater infrastructure. Road access to the site is currently provided off Bakers Lane which is a 2 lane local road (1 lane each way) with no curb and gutter.

Therefore, the ability to provide adequate infrastructure and servicing is an important consideration for the project.

### **5.2.1 Water Supply, Wastewater Treatment and Stormwater Management**

To address the lack of water and sewerage related services, the Proponent originally sought to source water via an extension to the existing water main near the intersection of Mamre Road and James Erskine Drive approximately 1km north of the subject site. This water supply currently services the Erskine Park Employment Area within the WSEA, which has some spare capacity given the land in this area is not fully developed.

Sydney Water acknowledged that there was spare capacity in adjacent water and wastewater systems, but it advised that it did not support the development of out of sequence and isolated pockets of land without first developing a comprehensive servicing strategy that enabled the site to be fully integrated in terms of servicing with surrounding land. Sydney Water suggested that the Proponent prepare a comprehensive integrated servicing strategy to satisfy the servicing requirements of both the subject site and future employment lands identified both within WSEA (south of the pipeline) and in the vicinity of the site.

To date, the Proponent has been unable to satisfy Sydney Water's requirements in this respect, in particular, its ability to demonstrate that it could achieve an integrated servicing solution for the site and surrounding land.



As a result, the Proponent amended the proposal to provide a site-specific solution in terms of water supply (with the exception of one domestic sized 20mm potable water connection), wastewater treatment and stormwater. The revised strategy comprises:

- Water supply – provided via rainwater harvesting (tanks) for indoor demands including showers, taps, cleaning and on-site wastewater recycling for irrigation and toilet flushing, with connection to a single 20mm domestic mains connection to Sydney Water reticulated system.
- Wastewater – managed on-site with a wastewater treatment plant located within the development. Treated wastewater would be reused for toilet flushing and irrigation.
- Stormwater – managed in a treatment train including bio-retention swales and infiltration basins, designed to provide on-site detention (OSD) to meet Council's stormwater quality treatment objectives.

To assist the Department with its assessment of this revised water management strategy, the Department engaged an independent consultant to advise whether the water supply could meet the site's future needs, the ability of the wastewater management system to meet relevant guidelines and whether the stormwater management system was appropriate.

The independent consultant has advised the Department that:

- The wastewater disposal area has not been clearly identified, and therefore it is not clear if there will be sufficient unconstrained land available to dispose of the wastewater volumes that will be generated by the proposal;
- No site-specific soil testing has been undertaken to demonstrate the viability of the proposed disposal (irrigation) area. Testing for infiltration rates and soil salinity are key to verifying that the proposed water management solution will be viable;
- The additional information on the on-site detention system still suggests that it has been undersized, using optimistic assumptions about pre-development conditions;
- The additional information provided on the stormwater quality strategy, including the MUSIC model, confirms that this strategy rests on several optimistic assumptions, including:
  - Relying on infiltration without information on site-specific infiltration rates; and
  - Double-counting the on-site detention volume as extended detention to the infiltration systems.

From a strategic perspective the Department considers the water management strategy:

- Does not provide for an integrated and holistic approach to the provision of services as is envisaged in current strategic planning policies such as the Metro Plan 2036 and the Guide to the WSEA SEPP;
- Is inconsistent with the broader integrated servicing approach identified in Sydney Water's Growth Servicing Plan: July 2010 to June 2015 which applies to the majority of the zoned WSEA and may lead to the proliferation of site-specific servicing solutions rather than integrated precinct solutions; and
- Finally, the proposed approach restricts future uses (for example, certain types of manufacturing) on site given the limited water supply and high reliance on rainfall, thereby representing a significant impediment to the orderly and economic use of the land now and in the future.

The Department acknowledges that it is the Proponent's commercial prerogative to pursue a site-specific infrastructure strategy independent of Sydney Water's reticulated services. The Department further acknowledges that Sydney Water provided further comments in relation to the PPR which outlined the licensing and approval requirements for private schemes (which do not rely on Sydney Water's infrastructure). However, the Department considers that these comments from Sydney Water do not negate the need for a comprehensive and integrated approach to the provision of infrastructure. As a result, and for the reasons outlined above, the Department considers the approach chosen by the Proponent will not lead to the best planning outcome for the site and surrounds.

Subsequently, the Department considers that the proposed water strategy cannot be supported

### **5.2.2 Road Infrastructure**

The site has a frontage to Mamre Road (approximately 500 metres frontage) and Bakers Lane (approximately 1100 metres frontage), with Bakers Lane currently comprising a local road with a single lane in each direction with no constructed shoulder or kerb and guttering (see Figure 9).





**Figure 9 Existing Bakers Lane looking east**

The traffic assessment provided in the EA concluded that the subject site would generate in the order of 750 vehicle trips per hour in the peak periods. However the EA did not provide a discussion or calculation of the number of trucks and the percentage of trucks with respect to the overall vehicles which are likely to be utilising the site. In any case, the Department considers these figures represent a significant increase in the level of traffic in close proximity to sensitive land uses (schools and a retirement village).

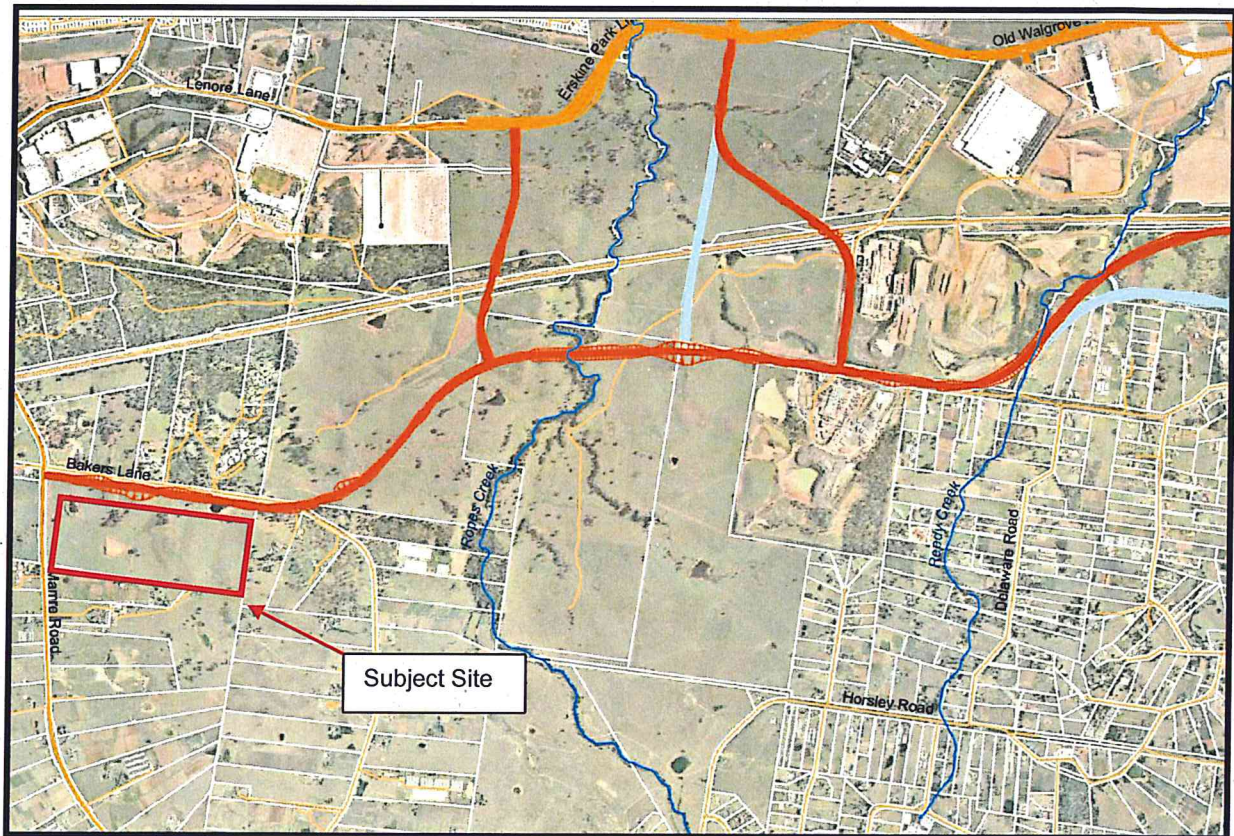
A future potential regional road is identified in the WSEA SEPP in the vicinity of Bakers Lane. The 'Southern Link Road' is envisaged to provide an east to west link for the existing zoned employment land in the WSEA.

The Department of planning commissioned and publicly exhibited a strategic analysis of preferred alignments for the Southern Link Road Network. The final report entitled "*Western Sydney Employment Area Southern Link Road Network Strategic Transport Assessment*" dated 18 April 2011 (the WSEA SLRN Report) indicates that the preferred alignment of the southern link road from Mamre Road is "*south of the existing Bakers Lane [i.e. wholly on the Logos site], in order to allow Bakers Lane to continue to operate as a service road for existing and adjacent landuses*". The exhibited 'preferred alignment' is illustrated in Figure 10. This final preferred alignment is yet to be endorsed by Government, or reflected in the WSEA SEPP. Furthermore, Penrith City Council does not support the alignment of the Link Road in this location.

The original project proposed the provision of a single signalised intersection on Bakers Lane with a secondary left-in, left-out access onto Mamre Road. The internal road network comprised two main estate access roads intersecting at a central roundabout. The upgrading of Bakers Lane to a 4 lane arterial road for the full frontage of the site was proposed with a 10 metre dedication of land on the subject site. A service road to run along the northern boundary of the planned upgraded road (i.e. in the current location of Bakers Lane) was also proposed.

The PPR, however, amended the design to provide the main access to the subject site via 2 signalised intersections on Bakers Lane immediately adjacent to the existing site entrances to the Mamre Anglican School, Trinity Catholic School and Emmaus Catholic College. One of these intersections would also provide access to a 5.5 metre wide service road to the north of the dual carriageway (but within the existing road reserve) to provide access to these existing community and educational establishments.





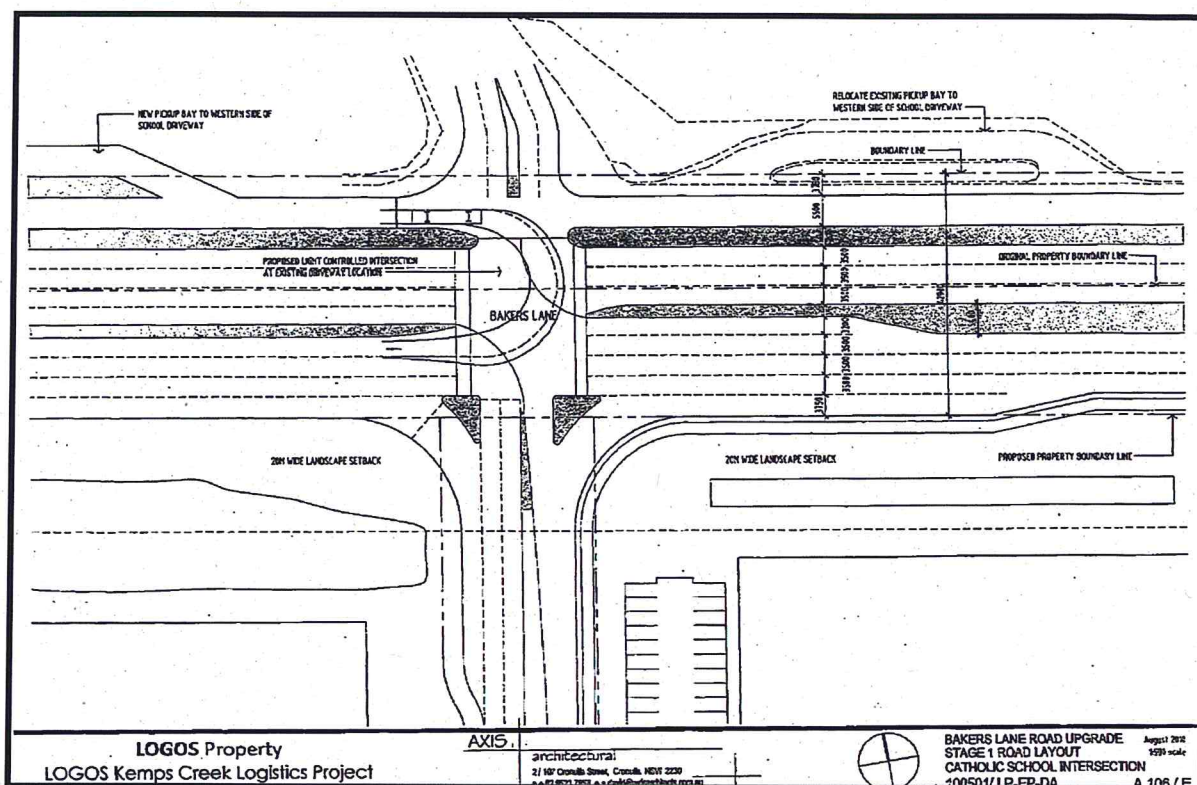
**Figure 10: WSEA SEPP (Transport and Arterial Road Infrastructure Plan (Source: WSEA SEPP)**

The PPR proposed to upgrade Bakers Lane adjacent to the site to a 4 lane dual carriageway (as in the original proposal) to form part of the WSEA 'Southern link road', however, a 20 metre wide dedication on the site was proposed. Upgrade works to the Bakers Lane/Mamre Road intersection with localised acceleration and deceleration lanes were also proposed. The Mamre Road left-in, left-out access point was removed.

Further amendments were made to the project in the *Supplementary Traffic Assessment* prepared by Transport and Traffic Planning Associates dated January 2012 (Ref No 10062) (the Supplementary Traffic Report). The Supplementary Traffic Report stated that Bakers Lane would be upgraded (widened and levelled in accordance with the RMS concept design) including upgrading of the section of Mamre Road incorporating the Bakers Lane intersection. The two access road intersections on Bakers Lane would be traffic signal controlled and would incorporate connections for the properties along the northern side.

The Proponent suggests concept design details are based on the RMS scheme for the upgrading of Bakers Lane with a service road (one-way east) along the northern side, with the likely arrangement for incorporating the service road with Bakers Lane reflecting traffic signal arrangements commonly provided at intersections involving a transit way running parallel to a major road. The Bakers Lane upgrade works proposed in the project are illustrated in **Figure 11**.





**Figure 11: The revised road layout for the Project (Source: Supplementary Traffic Report)**

The Department has considered the proposal and the PPR, in consultation with Penrith Council and the RMS and, still has a number of residual concerns regarding the provision of road infrastructure. The concerns include:

- Contrary to the Proponent's suggestion, the NSW Government has not finalised a design plan (concept or otherwise) for the 'Southern Link Road', and at this stage has no firm timeline as to when this network will be provided. As such, any proposed works to this section of Bakers Lane are considered premature and could compromise or impact on the work being undertaken as part of the broader infrastructure planning of the area;
- The proposal is inconsistent with the SLRN report, which generally envisaged a 40m road reserve wholly on the Logos site. Whilst it is acknowledged this may be able to be resolved through a detailed design process, it would need the support of the major stakeholders. It further highlights the inability of the current project to pre-empt findings of any studies or preferred alignments for the road upgrades which may be established;
- Contrary to the Proponent's suggestion, the Roads and Maritime Services (RMS) are not vested with the responsibility for Bakers Lane (or its upgrade) at this time. Whilst the Department acknowledges that RMS has indicated that the long term 6 lane Southern link road option may be accommodated by the Proponent's concept design from a technical perspective, the roads authority which needs to be satisfied by this proposal at this point in time is Penrith City Council (which in response to the PPR has maintained its concerns with the proposed road infrastructure arrangements);
- The Department has no indication that there is any level of support for the proposed road design from the adjoining schools and retirement village given objections were received from these key stakeholders. There is also an unacceptable level of uncertainty on how conflicts will be managed in the short and long-term with these sensitive users, particularly given the lack of an endorsed Government plan;
- The PPR's proposal to only construct the portion of Bakers Lane along the frontage of the subject site raises problems in relation to connection to the unconstructed section of the road. Such problems could include connection of the road surface, as well as services in, under and adjacent to the road as well as potential layout and design changes; and



- Uncertainties remain regarding the road layout aspects of the project following the amendments made in the Supplementary Traffic Report and the PPR, and how any extended road dedication that formed part of these reports will impact on the project layout.

Overall the Department considers that the lack of final endorsed details with respect to potential future road upgrades, the inconsistency of the project with strategic planning strategies, the inadequate traffic and road infrastructure details for the project and the likely short term impacts of the project on the surrounding locality are unsatisfactory. The Proponent has consistently advocated deferring these issues to a later 'detailed design' stage. However, the Department cannot support this approach. The failure to demonstrate that the project will not have adverse impacts on the existing and future road network and land uses and the unresolved nature of these fundamental aspects of the project does not represent orderly development and are not in the public interest.

### 5.3 Cost to Government

While the site is outside the WSEA, the *Guide to the Western Sydney Employment Area (2009)* does allow a Part 3A application or an accelerated rezoning to be lodged for development of sites that adjoin the zoned WSEA. However under the Guide, a Proponent is required to demonstrate that the proposed development:

- represents no cost to Government in regard to infrastructure requirements; and
- meets all relevant environmental tests.

The Proponent's ability to demonstrate the proposal would represent no cost to Government in terms of infrastructure and meets all environmental tests, represents a fundamental consideration for the assessment of the proposal.

The Guide also states that the fast-track development of land adjacent to the WSEA may be undertaken through a process similar to the Precinct Acceleration Protocol (PAP) employed in the Growth Centres. Specifically, the Growth Centres PAP requires that Proponents pay or provide for infrastructure to service and connect the accelerated precinct, including:

- infrastructure to service their site;
- excess capacity infrastructure, being the portion of infrastructure which services land in the precinct that is not owned by the developer; and
- linkage infrastructure which connects the accelerated precinct to existing precincts.

The Department has considered the issue of 'no cost to government' and the project in the context of the Guide and the PAP.

#### 5.3.1 Water supply and wastewater

The provision of water to the site and wastewater management was discussed in detail with Sydney Water. Sydney Water advised that there is a Growth Servicing Plan in place covering the WSEA, however a similar plan covering the site is yet to be prepared. Sydney Water advised that an integrated servicing strategy would need to be in place before areas outside the WSEA could be considered. The Proponent commenced preparation of an integrated servicing strategy, however Sydney Water was not satisfied that the strategy would meet relevant objectives. The Proponent subsequently abandoned the strategy and presented an alternate water management strategy for the site in its PPR.

Whilst the Proponent's on-site water management strategy would be delivered at no cost to Government in the short term, it is not consistent with the key objectives of the PAP, as it fails to:

- accelerate an entire precinct (as opposed to one site);
- provide excess infrastructure capacity; and
- provide linkage infrastructure.

Specifically, the Proponents on-site water management strategy would provide an isolated, site-specific solution that is inconsistent with the integrated servicing strategy recommended by Sydney Water, and does not provide for future integration with surrounding land. The key features of the Proponent's water management strategy include:



- water supply provided via rainwater harvesting tanks and on-site wastewater recycling, with a small domestic connection to Sydney Water's reticulated system;
- an on-site wastewater treatment plant; and
- on-site stormwater detention through bio-retention swales and infiltration basins.

The Department acknowledges that the Proponent's water management strategy has merit from an environmental sustainability perspective; however, the Department does not consider it an appropriate system for strategically linked employment lands that are subject to orderly and planned development.

The Proponent has given little regard for what is termed 'linkage infrastructure' to adjoining and surrounding sites. Future connections of any reticulated services are likely to incur additional costs to the government given likely changes to layout and potential problems with easements. In addition, the Project does not provide any 'excess capacity infrastructure', which would represent an economic saving to government if/when infrastructure was supplied to surrounding sites.

The servicing strategy essentially rules out other more intensive types of employment/industrial development ordinarily permissible in a general industrial zone (as in the WSEA), such as manufacturing and/or light industry. Such restrictions result from the limited water supply being provided for the site, largely relying on rainfall, while the large areas required for the on-site sewerage treatment and disposal (in landscaped areas) reduces the available area for other uses such as roads, car parking, buildings and other potential uses. As the proposal relies heavily on rainfall, then further concerns are raised in terms of whether sufficient water supply would be available to the site during periods of drought.

As discussed in Section 5.1 above, there is a high degree of uncertainty in relation to the water management strategy's ability to service the site with an attendant risk of failure. Hence, there is some likelihood that the site would need to be integrated with surrounding infrastructure. The integration of the site with future infrastructure provision would represent a cost to Government which is currently unquantified.

### 5.3.2 Roads

The site is bordered by Bakers Lane to the north (1100 metres of frontage) and Mamre Road to the west (500 metres of frontage), see **Figure 1**.

Bakers Lane is currently a local road with a single lane in each direction. The current condition of Bakers Lane is shown in **Figure 9**. Bakers Lane is identified in the *Transport and Arterial Road Infrastructure Plan Map* under the WSEA SEPP as forming the Southern Link Road.

Following detailed discussions with the RMS, the Proponent submitted a design for site access, road and intersection upgrades comprising:

- two signalised intersections on Bakers Lane to provide access to/from the site;
- upgrade of Bakers Lane to a 6 lane arterial road consistent with the proposed Southern Link Road, providing approximately 20 metres of land for the road within the site;
- retention of part of the existing Bakers Lane to the north of the Southern Link Road to act as a service road for existing commercial and educational facilities to the north of the site; and
- upgrading the intersection of Mamre Road with the upgraded Bakers Lane/Southern Link Road.

The RMS did not initially support the project on the basis that planning of the Southern Link Road has yet to be finalised and final designs could change and impact significantly on this project. Whilst its later comments indicated that from a technical perspective the future 6 lane Southern Link Road option could be accommodated by the Proponent's concept design, the Department does not believe the integration or delivery of the southern link road have been resolved.

To the contrary, the Proponent proposes to either fund or carry out the proposed road upgrade works to provide a 4 lane carriageway to Bakers Lane. It is clear from the PPR that such construction would only occur along the frontage of the subject site and would not extend further, essentially providing an isolated strip of four lane regional road that is unconnected at one end, and with no firm plans for connection in the short to medium term.



The Department concludes that the project could result in additional costs to Government following finalisation of planning for the Southern Link Road particularly if an alternate route was needed and/or additional land was required. Costs would include those associated with a redesign, retrofitting a partially completed road and potential compensation costs. These issues arise due to the lack of an approved route for this part of the Southern Link Road.

### **5.3.3 Relevant environmental tests and planning**

The Department engaged an independent consultant to review the potential impacts of the proposed water management strategy. The consultant concluded that the water management strategy is likely to adversely affect water resources through:

- an insufficient wastewater disposal area, leading to potential overflows of untreated wastewater;
- effluent irrigation and extensive infiltration, adversely impacting on groundwater; and
- inadequate on-site detention of stormwater leading to stormwater runoff and pollution of receiving waters.

The proposed water management strategy does not adequately demonstrate that impacts on water resources could be avoided, minimised or effectively managed.

The Department has also assessed the proposed road infrastructure proposed in support of the proposal and concluded that the project will have adverse impacts on the surrounding road network and adjoining land uses.

The PAP guidelines (section 6) require that, in order to fulfil the 'no cost to government' criteria, Proponents need to meet additional operational or maintenance costs arising from the provision of Government services. These additional costs relate not to the standard operating costs of a government service, but to any additional costs that arise due to the fact that the accelerated precinct (or this case one site), is a limited and isolated catchment. The Project has not considered supporting road infrastructure in these terms.

Furthermore, the inability of the project to provide an integrated approach to the rezoning of the subject site and the provision of infrastructure within the context of the broader area results in a lost opportunity to plan the 'precinct' which may in turn have implications for potential future uses on this and surrounding land.

The Department concludes that accelerating this project ahead of time will not lead to a good planning outcome for both the site and surrounding land and is likely to result in external costs to Government in terms of future infrastructure provision.

## **5.4 Other Assessment Issues**

### **5.4.1 Traffic**

The site has a frontage to Mamre Road and Bakers Lane, with Bakers Lane currently comprising a local road with a single lane in each direction with no constructed shoulder or kerb and guttering. The Transport Impact Assessment in the EA predicted that the Project would generate 750 vehicle trips per hour in the peak periods. However, the EA did not include discussion or calculations on the number of trucks and the percentage of trucks with respect to the overall vehicles which are likely to be utilising the site.

The original proposal has been amended a number of times following comments from the RMS, Council and the Department. The final concept design (described in the Supplementary Traffic Report prepared by Transport and Traffic Planning Associates dated January 2012) includes the upgrade of Bakers Lane (based on the RMS scheme for the upgrading of Bakers Lane) including upgrading of the section of Mamre Road incorporating the Bakers Lane intersection. The two access road intersections on Bakers Lane would be traffic signal controlled and would incorporate connections for the properties along the northern side.

While the proposal has changed significantly since the original Traffic Report was prepared, there has been no updated Traffic Report which analyses any potential changes in trip generation rates and/or the type of vehicles which will be using the site following the lack of specific end-users. There is no



detailed discussion on the numbers of heavy vehicles likely to be using the site, which is significant given the sensitive land uses surrounding the site including schools and aged care.

The plans do not demonstrate whether there is adequate road capacity to meet the demands of two school peak traffic periods including school vehicle queues and whether the safety of school children can be assured. It is inappropriate for a major industrial land use to be sharing access and frontage with sensitive land uses such as schools and a retirement village without a full and proper analysis of traffic and safety issues.

In conclusion, the failure to demonstrate that the project will not have adverse impacts on the surrounding road network and land uses, lack of final details with respect to potential future road upgrades, the inadequate traffic and road infrastructure details for the project and the likely impacts of the project on the surrounding locality, particularly given the location of the school are unsatisfactory and add to the reasons why this proposal should not proceed.

The Council has also raised concerns with the proposed traffic arrangements and assessment consistent with the Department's conclusions

#### **5.4.2 Amenity**

Other issues raised in submissions relating to noise, visual impact, bulk and scale and conflicts with adjoining and nearby land uses have not been thoroughly addressed by the Department given the fundamental concerns with site servicing and the strategic context of the proposal.

However, the project does have the potential to have adverse visual impacts given the bulk and scale of the development, and the limited side and rear setbacks which will be utilised by detention basins and wastewater irrigation areas thereby reducing opportunities for appropriate screening. The potential for noise to adversely affect adjoining and nearby development was a concern raised in submissions. It was acknowledged that both the construction and operation of the project would exceed the noise criteria at the adjoining residence to the east of the site.

Submissions also raised concerns in relation to the general impacts likely on surrounding land uses given the incompatible nature of industry and the adjoining special uses such as schools, retirement villages and residences. This interface with adjoining land uses is inherently incompatible with the industrial nature of the proposal. The school zones and the associated school traffic in the morning and afternoon, coupled with the topography of Bakers Lane, raise significant road traffic safety concerns.

#### **5.5 Site suitability and Project Justification**

The subject site is constrained by topography given the undulating nature of the majority of the site. The need for significant earthworks on the site (both cut and fill) as well as the need to dispose of 50,000m<sup>3</sup> of material is of concern. The suitability of the land for buildings with large floor plates is questionable. The Department is not convinced that industrial land uses are the most appropriate use of the land. These issues may be resolved in the future when the broader structure plan for the WSEA is completed by the Department and relevant authorities as required by the Metro Plan 2036.

The Department further considers that the Proponent has overstated the likely employment potential of the project, stating in the PPR that there will be 1580 full time employees upon full operation of the Project, which equates to 1 employee per 159 square metres. This is optimistic for warehouse and distribution uses. The lack of identifiable employment benefits and the fact that other forms of industry such as manufacturing are unlikely to be carried out on the site in the future due to the limited servicing capacity further limits the justification for the proposal.

In addition, the ELDP notes (as set out in Section 1.2.6 above) that there is sufficient land zoned for employment purposes in the vicinity of the subject site, which remains undeveloped. While some of this land is unserviced, the majority is capable of being developed now. Penrith Council has indicated that around 65% of land within the Erskine Park employment area and areas south of the Warragamba Pipeline are available for development which are not only suitably zoned but serviced as well.



The existence of zoned and serviced land further undermines the justification for this proposal as the subject site is not needed to overcome an immediate employment lands supply problem. In fact, it may have the effect of constraining the economic and efficient take up of land that is already zoned for employment purposes.

For these reasons, the Department considers there is a fundamental lack of justification for the proposal.

## 6. CONCLUSION

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The Department has fully assessed the EA, PPR and submissions on the project.

The Department considers that the key issues relate to whether the project can be adequately justified, whether it can proceed at no cost to Government, whether the infrastructure servicing arrangements are satisfactory and whether the project represents orderly development. The subject site is located south-west of the existing Western Sydney Employment Area and as such has not been considered by Government for the provision of suitable infrastructure such as water supply and sewerage.

The Department has assessed these concerns in detail having regard to the objects of the Act, and the principles of ecologically sustainable development and has concluded that:

- The Proponent has failed to demonstrate that the water management strategy would accommodate future demand for the development of the site, and that the water management strategy for the site could be appropriately integrated into future servicing for the area;
- The Proponent has failed to demonstrate that the proposal represents no cost to government in regard to infrastructure requirements or meets all relevant environmental tests, required for sites being rezoned ahead of schedule under the *Guide to the Western Sydney Employment Area* (August 2009);
- The proposal does not achieve the objects of the Act as it does not represent orderly development as required by Section 5(a)(ii) of the Act in that it seeks an ad-hoc expansion to the WSEA, is out of order with respect to strategic planning, limits adaptive reuse of the subject site, and does not allow for the proper and optimal use of existing services and transport infrastructure;
- The Proponent has provided insufficient justification for the proposal and the need to accelerate the site's use as employment land;
- The Proponent has failed to demonstrate that the site is suitable for the proposed landuse; and
- The proposal is therefore not in the public interest.

While supporting emerging employment opportunities in the WSEA and considering land for future employment growth is an important role of the government (and in particular the Department), it is important that such opportunity is part of a comprehensive strategic plan for the area and that issues such as site suitability, environmental constraints and coordinated infrastructure delivery are properly considered and addressed.

These concerns and impacts cannot be appropriately dealt with by conditions of project approval. It is possible that in the future the subject site will be used for employment uses given its location adjoining the WSEA and the indication of potential future employment uses in various strategic plans and policies.

On balance, the Department does not consider in this instance that the benefits of the project in terms of providing additional employment land outweigh short, medium and long term strategic planning impacts, the ability to appropriately service the site, and potential environmental impacts associated with the proposal as outlined above. Subsequently, the Department is of the view that the project is not in the public interest and the Department recommends that the application be refused.



## 7. RECOMMENDATION

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It is recommended that the Planning Assessment Commission:

- **consider** the Director-General's report;
- **refuse** to approve the concept plan (under Section 75O of the *Environmental Planning and Assessment Act 1979*) and project application (under Section 75J of the *Environmental Planning and Assessment Act 1979*)
- **sign** the attached instruments of refusal (see **Appendix A & B**).

  
Richard Pearson  
Deputy Director-General  
Development Assessment and Systems Performance

  
Sam Haddad  
Director-General

18/4/2012