



Our reference: ECM: 9630965
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21 July 2021

Department of Planning, Industry and Environment
Attn: David Schwebel
Email: david.schwebel@planning.nsw.gov.au

Dear Mr Schwebel,

**Response to Notice of Exhibition: Proposed Westlink Industrial Estate
SSD-9138102**

I refer to the Department's request to provide comments on the Notice of Exhibition for the above application. Thank you for the opportunity to review and contribute to the assessment.

The following comments are provided for the Department's consideration in relation to this matter.

1. Planning and Design Considerations

Development Contributions

Development consent for the proposal should not be granted until a development contributions framework is in place, including local and state infrastructure.

Compliance with Draft Mamre Road Precinct DCP

It is noted that public exhibition of the Draft Mamre Road Precinct Development Control Plan (DCP) concluded on 17 December 2020 and is the only available guide to the intended controls and objectives which then should inform the assessment and regulation of development progression in this precinct. It is considered that this Draft DCP should be relied upon for the purposes of complying with the SEPP provisions. It is not considered appropriate that a separate site specific DCP is considered where it is different to or contrary to these draft provisions as this will result in inconsistent development outcomes across the precinct.

While Council maintains that the setback and landscape outcomes within the draft DCP as exhibited are inadequate, it is appreciated that the draft controls have been applied to a number of development proposal progressing via SEAR's and formal DA lodgement. If the concerns raised by Council concerning the inadequacies of the draft DCP are not shared by the Department, then at the very least the provisions which are drafted should be complied with.

The subject site has challenging topographic levels and as a result, it is appreciated that a considerable amount of excavation and fill will be required. Notwithstanding that, the Draft DCP includes a number of specific landscape,

setback and retaining wall design requirements in an attempt to minimise the visual impact on the streetscape that stems from these required works.

The proposal as submitted includes a number of quite significant non-compliances to those controls with concerns raised regarding the retaining wall heights, setbacks and landscaping requirements as outlined within Clause 4.4 – Earthworks and Retaining Walls within the Draft DCP. The identified non-compliances and of key concern are:-

- Objective (b) of the above clause requires that proposals “minimise the extent of earthworks when creating a building site”. The finished ground levels throughout a large portion of the site are well in excess of existing ground levels with extremely high retaining walls (in the vicinity of 10m) which are visually prominent from the proposed public domain / public roads and not suitably setback and stepped to meet the objective identified in this clause, nor the controls within the DCP.
- Control 2 of the above clause requires that level transitions must be managed between lots and noT at the interface of the public road network. The proposal provides numerous examples where level transitions are managed at the interface of the proposed public road with non compliant landscaping and wall design treatments to address that transition.
- Control 4 of the above clause requires that finished ground levels are no greater than 1.0m above finished road levels. Where there is a necessity for greater level transition, this transition must be managed via increased landscape setbacks which accommodate tiered retaining walls.
- Control 6 of the above clause requires than walls that are up to 3m in height must be set back into the property boundary by at least 2.0m and the 2.0m setback must be suitably landscaped.
- The proposal does not comply with the above objective and controls as follows :-
 - o The stepped retaining wall associated with Lot 1 fronting Aldington Road appears to only be set back 500mm and not the required 2.0m as per the DCP. Further, the 500mm accommodates a catchment drain (assumed to be a swale) which will compromise any potential for screen landscaping in front of the first retaining wall tier. While the retaining wall (effectively 7.4m in height as per section indications in the civil drawing package) is of a tiered design and landscaped at each tier which is appreciated, the setback at ground level is still important, especially when considering the pedestrian experience and streetscape presentation of the development to the roadway,.
 - o Cross section “N” within the civil drawing package provides for unsupportable finished ground levels above natural ground level with retaining wall heights which are exposed to the proposed public road. Further there is no stepping and nil landscaping to ameliorate their scale and visual prominence. The retaining wall transition between the bio- basin and Lot 6 (although cross section “N” identifies this as lot 5 which should be verified) is a poor

outcome and does not suitably consider visual impacts to the adjacent site(s).

- Various lots within the development provide for 9m retaining walls fronting the proposed public road network between the car park and lot boundary which is a poor outcome. The retaining walls are not stepped as required by the DCP. Refer to Section B1 and B2 on Drawing No. 20748.C1021 in the civil drawing package. It is also noted that any level transition over 1.0m requires greater landscaping setbacks than the minimum. The proposed 3.75m is inadequate, noncompliant and a larger setback is required to ameliorate the presentation impacts of the proposed level difference and retaining wall presentation.
 - Lot 5 provides for a 10m retaining wall fronting the proposed public road. As per above, the same concerns apply and while a 5.0m landscape setback is proposed, this is still inadequate to address the scale and resulting streetscape outcome of the wall and the elevated buildings on top of the finished pad level. Refer to Section "L" on Drawing 20748.c1021 in the Civil drawing package.
- Where retaining walls fronting the public domain are proposed with a height in excess of 3.0m, it is considered necessary that the building setbacks in the DCP are applied as the verticality of the resulting retaining wall is no different to that of a warehouse or building form on the proposed lot. This would mean that all allotments with level differences and finished ground levels which are greater than 3.0m above the proposed finished road level should have setbacks between the wall and the property boundary of no less than 7.5m which are landscaped with a tiered wall design with planting at each tier. This would then comply with the DCP controls and the objectives referenced above and would require redesign of the subdivision and master plan proposal. If the 7.5m setback suggestion is not shared by the Department, it is imperative that a detailed landscape design (not landscape concept plans) and prepared for each and every lot that depicts how the species selected, pot sizes, quantity and spacing can ameliorate the wall presentations and positively contribute to the overall public domain treatment.
 - There are also lots proposed with a 3.75m landscape setback between loading docks and manoeuvring areas and property boundaries to the proposed road. This is not permitted by Clause 4.4.4 – Building Setbacks, specifically clause (3) which only permits off street parking in the setback zone and even then, the location of the protrusion of car parking must enhance the overall design via screen landscaping without detracting from the streetscape. This allowance does not extend to loading docks and truck manoeuvring areas (such as Lot 3 and 4) and as such, all lots with this arrangement must be amended to comply with the required 7.5m landscape setback. This further reinforces the need for loading docks and associated manoeuvring to be internalised and not front the public road.
 - Please also refer to landscape design comments below which should be considered in conjunction with the above comments,

2. Flooding and Stormwater Management



Local Overland Flow Flooding

- The site flood affected by local overland flow flooding from the local catchment and has been coded as being subject to flood related development controls.
- The application must demonstrate that the development proposal is consistent with the Mamre Road Precinct Draft DCP Section 2.7 Flood Prone Land.
- The application must be accompanied by an Overland Flow Flood Report prepared by a suitably qualified person to assess the developments impacts upon overland flows. Overland flows shall be managed through the site in a safe manner.
- Further information regarding Council's Flood Studies is available from Council's website at the following address:
 - o <https://www.penrithcity.nsw.gov.au/services/other-services/floodplain-management>

Stormwater Management

- Stormwater drainage for the site must be in accordance with the Mamre Road Precinct Draft DCP
- No objections are raised to the proposed methodology to separate internal treated stormwater flows from external catchment flows.
- The emergency overflow weir from the water quality / water quantity basin discharges onto the adjoining lot to the south. A drainage easement will be required to discharge water over the adjoining lot and evidence of owners consent for the creation of easements over adjoining land should be secured to comply with legal point of discharge considerations.
- A stormwater pipe is proposed along Abbots Road to Mamre Road to cater for external catchment flows and flows in excess of the basins 1%AEP capacity. Any pipeline within Aldington Road shall be designed to cater for the future upgrade of Aldington Road, however Penrith Council and the Department of Planning have yet to agree upon the final alignment and configuration of the road.
- The application is to demonstrate how stormwater discharge from the proposed development complies with the trunk drainage infrastructure as per the Mamre Road Precinct Draft DCP. Subdivision and development is to consider the coordinated staging and delivery of trunk drainage infrastructure. Development consent will only be granted to land serviced by trunk drainage infrastructure where suitable arrangements are in place for the delivery of trunk infrastructure (to the satisfaction of Council or other water management authority).
- The stormwater concept plan shall demonstrate how the development complies with the Mamre Road precinct Draft DCP water quality and water quantity controls for any interim and ultimate developments.
- It is unclear of the function of the temporary basins proposed on Lots 5 & 6. Full details are to be submitted.

3. Traffic Modelling and Further Precinct Wide Design Considerations

Council's Traffic Engineering Section has reviewed the proposal and raised the following concerns which should be considered in the assessment of the application and address by the applicant:-

- The proposal may not fit with the ultimate Aldington Road, Abbots Road, industrial roads and other roads and intersections in the Draft Mamre Road Precinct DCP which is yet to be determined.
- The road corridor setbacks for Addington Road, Aldington Road extension south of Abbots Road to left out at Mamre Road, Abbots Road and Mamre Road reconstruction have not been resolved and designed which could have significant implications on the design and arrangement of the proposed subdivision and master plan.
- The Draft Mamre Road Precinct DCP has not yet been supported by details including traffic modelling, cut/fill strategy, road designs for alignments / cross sections / intersections, cost estimates, road and infrastructure delivery strategy and a contributions plan and staged development strategy.
- Council's Traffic Section does not support the Draft Mamre Road Precinct DCP road cross section for Distributor / Collector Roads including Aldington Road and Abbots Road (from Aldington Road to Mamre Road). Council require that the cross section be 5.0m centre median, 2 X 3.5m through lanes both sides, 4.2m kerbside shoulder both sides, 5.6m verge with 2.5m sharded path both sides, all multi lane approach intersections to be Traffic Control Signals with pedestrian crossings facilities with 3.5m left turn and right turn lanes, 2.0m bicycle lane between left turn lanes and through lanes and additional widening to accommodate 36m B-triple heavy vehicle turn paths.
- Any connection of the development to the existing Aldington Road / Abbots Road / Bakers Lane / Mamre Road road system in not supported. These existing Aldington Road / Abbots Road / Bakers Lane / Mamre Road roads and intersections are not acceptable for industrial development traffic.
- The proposed connection of a staged part of the development to an "interim" Land Owners Group (LOG) 2026 traffic modelling identified "interim" upgrades to Aldington Road, "interim" Aldington Road / Abbots Road intersection roundabout, Abbots Road and Abbots Road / Mamre Road traffic controlled intersection are not accepted.
- Any consideration of this development must include either:
 - o The delivery of the ultimate Aldington Road / Aldington Road link to Southern Link Road / Aldington Road extension south of Abbots Road south to left out to Mamre Road / Abbots Road / Mamre Road ultimate road and intersection upgrades; or
 - o Possibly at least the ultimate Abbots Road / Abbots Road and Aldington Road signalised intersection / Abbots Road and Mamre



Road signalised intersection to TfNSW/Council requirements and with all industrial/development traffic directed via that route only. Plus with agreements regarding any contributions plans / VPA to cover the other ultimate Aldington Road / Aldington Road link to Southern Link Road / Aldington Road extension south of Abbots Road south to left out to Mamre Road / Abbots Road / Mamre Road ultimate road and intersection upgrades. This option would also require suitable controls to restrict all development heavy vehicle and light vehicle access via Aldington Road extension south of Abbots Road south to left out to Mamre Road / Abbots Road / Mamre Road only with no access via Aldington Road north of Abbots Road.

- Any consideration of this development must also be contingent upon the State Government / TfNSW / DPIE delivery of the Southern Link Road including arrangements for connection across Aldington Road to the Southern Link Road and the ultimate Mamre Road and intersection upgrade works being completed to the satisfaction of TfNSW and Council.

4. Environmental Management Considerations

Contamination and SEPP 55 Considerations

- Review of the 'Preliminary Environmental Site Investigation with Limited Intrusive Investigation' (92352.00) for 59-63 Abbots Rd, Kemps Creek prepared by Douglas Partners dated 8/8/2019 has highlighted a number of potential areas of environmental concern which exist on the site including hazardous building materials, chemical/fuel storage, filling, agricultural use and the presence of power poles. In addition, sampling confirmed the presence of asbestos at the site. The Conclusions/Recommendations section of the report recommends/requires the preparation of a detailed site investigation, remediation action plan and validation reporting to further address and clear the areas of environmental concern. Further, a hazardous building materials survey of site structures is required prior to demolition. Whilst a contamination investigation for 290-308 Aldington Rd, Kemps Creek is referenced in the EIS as being submitted, this report could not be located. A contamination investigation of this property is required to be undertaken and submitted to relevant authorities or made available for assessment. The detailed site investigation is also required to assess the water quality of the dams proposed to be filled.

Noise and Vibration

- The 'Noise and Vibration Assessment' (RWDI # 2101343) for ESR Kemps Creek Logistics Park prepared by RWDI/Wilkinson Murray dated 5 February 2021 identifies that a construction noise and vibration management plan (CNVMP) is to be prepared prior to any works occurring at the site. This must be addressed via conditions of consent if the proposal is supported by the Department.

5. Waterway and Water Quality Management Considerations

- In order to comply with the Draft Mamre DCP, the stormwater strategy includes the use of stormwater ponds on proposed Lots 5 and 6, as well as a range of treatment measures including on-lot rainwater tanks, GPTs, and a 3,200m² collocated bioretention / OSD system. It is assumed the ponds are temporary as the masterplan indicates that warehouses are intended on the lots. Details as to what is proposed with respect to the plans for ongoing stormwater management in the absence of the ponds being removed, is required.
- It is noted that the design of the proposed collocated OSD / bioretention system has not been prepared in accordance with Council's requirements. In this regard, the design should be modified to be consistent with Council's design requirements. Details on the design is included in Council's Bioretention Specifications and Standard Drawings. The proponent should reconsider the design and configuration of the stormwater management basins. This should include but not be limited to, the inlet design and flow configuration, depth of maximum ponding, sizing of basin, provision for access for maintenance, and vegetation densities and species. It is also suggested that additional detail on the ponds is required with respect to maintenance as well as with regards to their long-term replacement as per the estate master plan.
- With respect to riparian corridors, it is noted the site has two mapped first order Strahler streams which intersect and merge into a second order stream. Based on review of the plans, it seems that the creeks are proposed to be removed as a result of the development. It also appears that the proposal is inconsistent with the trunk drainage infrastructure included in the draft DCP. This needs to be clarified, and all works would need to be in accordance with NRAR requirements. The protection of the drainage line is an opportunity to include vital habitat and amenity to the area. It is recommended that a riparian corridor, particularly along the Strahler order 2 section of stream, be incorporated into the development which should be in the vicinity of 40m however advice from NRAR is a critical component to this consideration, which should also be discussed with the officers responsible for the preparation of the Precinct DCP.
- Council had also maintained a position that private stormwater treatment measures including all proposed stormwater treatment infrastructure (e.g., GPTs and bioretention basin) must remain in the ownership of the developer, in perpetuity (including all maintenance responsibilities). As such, appropriate conditions would need to be imposed.
- As has also been raised on other proposals in this precinct, there are opportunities to improve the stormwater strategy, so it has more of a focus on providing for a range of ecological services including integrated water management which maximises the opportunities passive irrigation of street trees etc., as to better contribute to urban cooling and to the Parkland City. This should be further considered and applied within the development.

6. Biodiversity Considerations

- The proposal appears to disregard the existing natural drainage lines that run through the site which is captured earlier within the above item. The

Draft Mamre Road DCP section 2.2.1 has as an overriding objective concerning the retention of existing trees. It states, *“The siting and layout of a development at the initial concept stage must consider the location of existing trees with a view to their preservation and new trees with a view to their survival”*. The proposal makes little attempt to comply with this objective with all existing trees likely to be removed given the cut-and-fill required to facilitate the proposed development. This is an aspect that the consent authority is requested to have specific regard to, in combination with the comments above with the planning and waterways sections of this correspondence.

- Notwithstanding the above, a Biodiversity Management Plan should be prepared and should incorporate the following:
 - a. A Vegetation Management Plan (including for the restoration of the riparian corridor as recommended above);
 - b. A Fauna Management Plan to address fauna likely to be found at the site, including macropods;
 - c. A Weeds Management Plan to ensure the extent and spread of weeds including weeds of national significance (WONS) are minimised during the construction and operation of the development and managed towards eradication; and
 - d. A Dam Dewatering Plan to ensure that water is dealt with in an environmentally satisfactory manner, and any wildlife using the dam can be rescued and relocated.

7. Landscape Considerations

Council’s Landscape Architecture Section has reviewed the proposal and raised the following concerns which should be considered in the assessment of the application and addressed by the applicant:-

- Generally:
 - o The vision for the landscape masterplan is referenced but not provided in the documentation reviewed. The landscape documents as submitted lack sufficient detail and sufficient design consideration to enable an adequate assessment. This is primarily due to the fact that the plans are conceptual in nature and do not detail the specific planting intentions for each allotment with respect to plant species, quantities, pot sizes and irrigation measures. This is of critical importance when the proposal includes cut and fill and retaining wall construction that is dependent on a landscape design treatment to address the scale and visual impact of the proposed works.
- Streetscapes and front setbacks require continuous tree canopy of a mix of species and heights to provide cooling, reduce bulk and scale of built forms, address level changes, provide amenity etc. This should be considered in conjunction with the planning comments raised earlier within this letter.



- Street trees in clusters with extensive gaps do not contribute to streetscape amenity or cooling. It is recommended that regard be given to the NSW Western Sydney Street Design Guide. This guide recommends min. 75L trees to be planted individually in organic mulch evenly spaced (8-10m centres) allowing for mature canopies to touch and not significantly compromising street lighting. A diverse range of street tree species is required across the estate to contribute to biodiversity, sustainable diversity, wayfinding. Trees must be procured sufficiently in advance of planting to secure their quantity, quality, species and size required / approved
- Warehouse 3: With respect to the west boundary additional tree planting should be included within the landscape design.
- Opportunities exist for canopy plantings in several areas around the estate, both large and small which are currently proposed as turf. This should be reconsidered,
- There is lack of clarity how retaining walls are treated with planting. There are no spot levels or sections provided that demonstrate the design response is appropriate to the conditions. It is imperative that the landscape plans and architectural drawings include the cross sectional detail only evident in the civil drawing package. The plans should include landscape cross sections in addition to the engineering drawings that address how the scale relationship of walls to the public domain and interface boundaries is intended to be addressed.
- Carparks – tree planting detail and tree species information is required to enable adequate assessment.
- Insufficient detail is provided for the Aldington Rd frontage, such as wall heights, species, materials. While one (1) x section drawing was evident within the civil drawing package for the Aldington road treatment, the landscape design plans have no corresponding sections and require spot levels and top of wall heights to assess the impact of the proposed levels with respect to landscaping. The applicant is requested to provide detail to scale and with dimensions. All wall surfaces should be screened with planting, including the lowest wall. Tall trees & canopy are required to the streetscape and verge
- Medium and tall shrubs should be added to the species mix on mounds and boundary treatments, for species diversity, biodiversity, screening
- There is inadequate canopy plantings around the basin. Significantly greater canopy cover required to these areas
- Fencing must be setback min 2m from street boundaries with landscaping provided between fence and boundary to reduce the visual impact of fences
- Where large scale retaining walls are unavoidable, it is suggested that the proposal includes creepers (not climber) up the wall eg. Ficus pumila.

This would give the streetscape added greening however this does not diminish or replace the need for continuous canopy creation within the streetscape.

8. Heritage Considerations

The proposal is listed for consideration by Council's external heritage advisor on 5 August 2021. Noting that the submission is due before this can occur, some preliminary comments in response to the proposal and a review of the submitted documents is provided however further comment and clarification will be provided under separate comment following the above review. Key points identified from a review of the submitted Heritage Impact Statement (HIS) are as follows:-

- The conclusions and recommendations from the HIS give explanations and justifications of why the proposed industrial development is "supportable from a heritage perspective" in the proposed form shown. An independent and impartial heritage assessment of a site/development should include different recommendations and/or options in making considerations of the heritage impact (in following the Burra Charter Process). When an HIS primarily states that the proposal in its current form is suitable, there is some concern that the analysis has not followed the Burra Charter Process and that the significance of the site and area may not be sufficiently understood to then inform the recommendations and conclusions formed.
- As stated in the 2007 Paul Davies Heritage Study for 282 Aldington, it is part of "small farm holdings set within a landscape of high historic interest and aesthetic value". The HIS mentions that principal outward views are to the north and west, and therefore development to the south and south-east of the site would be negligible in terms of views from the heritage property. The heritage item is located at the top of a hill, and whilst it is noted that there are some extensions and associated outbuildings along the south boundary, it is debatable that the views to the east, south-east and south are any less important from the heritage dwelling and site. Further, given that the 'Recommendations' section has included no options or other recommended design configurations, it is questionable that sufficient consideration has been given to the impact of views from the heritage site.
- The HIS also states that the "item is not considered to be of such significance nor intactness that the subject proposal will adversely impact its significance", based on the extensions, additions and subdivisions that have occurred previously. Furthermore, Page 3 of the HIS states that "no site visit was conducted for the preparation of the report, and that [Urbis] completed a desktop review only". This is unacceptable and a site inspection is considered critical, to inform the establishment of significant views and the resulting built form's response to those views and the significance of the item (from it and to it). Concern is also raised with the above statement in the HIS regarding the significance of the heritage dwelling and site, when a physical site inspection has not been conducted, neither external nor internal of the heritage dwelling. An extension to a heritage dwelling does not necessarily mean that the original dwelling component, and its significance, is not intact nor significant.

- It is currently considered that the HIS is deficient both in the information sourced to inform the assessment (by virtue of no inspections) and the nature of the assessment in that the assessment seeks to justify the suitability of the proposed development rather than outline key aspects and recommendations to inform a design response. The above concerns in the analysis that has informed the conclusions in the HIS will be reviewed by Council's independent external heritage advisor when the matter is listed for consideration on 5 August 2021 and the result of that analysis will be provided as soon as possible.

Should you require any further information regarding the comments, please do not hesitate to contact me on (02) 4732 8125.

Yours Sincerely,



Gavin Cherry
Development Assessment Coordinator