

Mr Paul Solomon
Fraser's Property Australia

Level 2, 1C Homebush Bay Drive
Rhodes New South Wales 2138

19/07/2019

Dear Mr Solomon

**Kemps Creek Warehouse, Logistics and Industrial Facilities Hub (SSD 9522)
Response to Submissions**

The exhibition of the development application including the Environmental Impact Statement (EIS) for the above proposal ended on 8 July 2019. All submissions received by the Department during the exhibition of the proposal are available on the Department's website at www.planningportal.nsw.gov.au/major-projects/projects.

The Department requires that you provide a response to the issues raised in those submissions, in accordance with clause 85A(2) of the *Environmental Planning and Assessment Regulation 2000*. You must also provide additional information in response to the Department's comments provided at Attachment 1. It is noted that both the Department's comments and the agency submissions identify that there are fundamental strategic issues with the proposed development.

Please note that the Department of Primary Industries, the Environment, Energy and Science Group (former OEH) and the Department's Western Sydney and Aerotropolis Activation Team have advised they are intending to provide a submission. These submissions will be forwarded to you once they have been received. The Department has also engaged the services of an independent expert in flooding to carry out a peer review of the development. We expect this peer review to be completed on or around the 2nd of August 2019. Based on this peer review, the Department may have additional comments for you to respond to.

Please provide a response to the issues raised in these submissions by Friday 2 October 2019.

Note that under clause 113(7) of the *Environmental Planning and Assessment Regulation 2000*, the days occurring between the date of this letter and the date on which your response to submissions is received by the Secretary are not included in the deemed refusal period.

If you have any questions, please contact William Hodgkinson, who can be contacted on 02 8275 1055 or william.hodgkinson@planning.nsw.gov.au.

Yours sincerely



Kelly McNicol

Team Leader
Industry Assessments

as delegate for the Secretary

Attachment 1

The Department's Comments

Strategic Justification

- There are significant strategic issues with how the development aligns with the Western Sydney Aerotropolis Land Use and Infrastructure Implementation Plan Stage 1 Initial Precincts (LUIIP) and the long term role of the South Creek Precinct. The EIS states that the proposal is entirely consistent with the objectives under the LUIIP (pg. xv) and repeatedly mentions that 11ha of the site will be dedicated as green space along South Creek.

The South Creek precinct is identified as the central green spine of the Aerotropolis, set to provide open space, amenity, biodiversity and wellbeing values on land identified as 'non-urban'. The EIS does not consider that the majority of the 118ha site is located within the South Creek precinct and that 11ha represents a significant shortfall in non-urban land as envisaged. Locating the proposed development within the South Creek precinct would extinguish a large area of potential parkland. Justification is required as to how the proposal can therefore be consistent with the LUIIP.

Additionally, the proposal is inconsistent with Objectives 25, 26, 27, 31 and 32 under the Greater Sydney Region Plan: A Metropolis of Three Cities 2018 and the Sustainability Planning Priorities under the Draft Western City District Plan. These relate to protecting and improving the health and enjoyment of waterways, creating a cool and green Parkland City with the South Creek corridor as the defining spatial element and other relevant matters. No response is provided in the EIS to these Objectives and Planning Priorities.

Flood Impacts/Proposed Filling

- The Department has engaged the services of an independent expert to undertake a peer review of the EIS and supporting information on this matter. Comments will follow once the peer review has been completed.

Traffic

- The Traffic Impact Assessment (TIA) assumes the expansion of Mamre Road to two lanes each way will be completed prior to operation of Stages 2 and 3 of the development. RMS have advised that funding has not been allocated for the Mamre Road expansion along the site frontage. The TIA must assess the traffic impacts of the entire development (stages 1, 2 and 3) for the scenario where no expansion to Mamre Road has been completed.
- The left in/left out connection to Mamre Road is not supported.
- A connection between the internal access roads and future development sites to the south should be provided.

Southern Link Road Extension

- The development assumes an alignment for the western extension of the Southern Link Road (SLR). The western extension of the SLR does not form part of the Transport and Arterial Road Infrastructure Map in the SEPP WSEA and it is premature to design a subdivision until an alignment is finalised. Additionally, due to the flood affectation of the site, consideration should be given to the infrastructure required for a crossing over South Creek.

Green Space

- Section 3.2 - Description of the Proposal of the EIS provides limited details regarding works to establish an 11ha green space to the western side of the site or the detention basin proposed within that area. Despite this, the EIS continually alludes to outcomes for that space:

“this further emphasises the important environmental work planned for the South Creek banks, as part of the Proposed Development” (pg.10)

“The Site will contribute strongly to a new, greener, more aesthetic setting at the Creek’s edge, activating a functional, new outdoor passive and active recreational parkland space, covering an area of over 11-ha to be dedicated as Open Space.” (pg.32)

“Through the landscaping and enhanced planting of indigenous tree species and shrubs, the creek’s edge will be activated with creation of 1.4km of walkable, green trails...” (pg. 33)

“Revegetates a denuded 118 ha Site with over 615 new mature trees and over 16,000 shrubs and plants, helping to revitalise and naturally landscape a substantial canopy cover, particularly near the South Creek edge.” (pg. 37)

The above comments are misleading and inconsistent with the architectural plans, the landscape plans and civil plans which depict differing functions for that area. The statements also contradict the following comment that suggests the revegetation would occur as part of later development applications and not under this SSD:

“South Creek Corridor, which at a later development application stages, will be revitalised into an aesthetically-pleasing re-vegetation riparian edge, through an activated open, green space at the South Creek edge of the Site.” (pg. 4)

Clarification is sought as to what works are proposed between the western boundary of the subdivision and the edge of South Creek. This includes details on any retaining structures,

access arrangements, planting, facilities/land uses proposed and the timing of the works in relation to the staging of the development.

Additionally, Lot 31, which is approximately 7.2 ha in area contains a large OSD basin. The revegetation of this infrastructure would not be possible as it would compromise the basins integrity or capacity. Further, the dedication of the detention basin would not be appropriate as the estate is reliant on it.

Visual Impact Assessment

- No visual impact assessment has been provided for the extensive cut and fill proposed and building pads on adjacent receivers and future users of recreation areas along South Creek.

Noise Assessment

- The Noise Assessment does not model the impacts of construction.

State Environmental Planning Policy (State and Regional Development) 2011

- The EIS does not contain sufficient analysis of proposal against *State Environmental Planning Policy (State and Regional Development) 2011* (the SEPP). The proposal includes the construction of 9 warehouses and distribution centres and site wide earthworks, roads, infrastructure and subdivision of 24 lots for future development. The SEPP under Clause 8(2) requires the following:

(2) If a single proposed development the subject of one development application comprises development that is only partly State significant development declared under subclause (1), the remainder of the development is also declared to be State significant development, except for:

(a) so much of the remainder of the development as the Director-General determines is not sufficiently related to the State significant development

The proposal has been classed as SSD in accordance with Schedule 1, Clause 12:

12 Warehouses or distribution centres

(1) Development that has a capital investment value of more than \$50 million for the purpose of warehouses or distribution centres (including container storage facilities) at one location and related to the same operation.

(2) This clause does not apply to development for the purposes of warehouses or distribution centres to which clause 18 or 19 applies.

The component of the proposal which is considered SSD is the construction and use of the warehouse on proposed Lot 6 which is being constructed for the purposes of a single operation and is valued in excess of \$50 million. The EIS has not addressed Clause 8(2) of the SEPP. The RTS must include an analysis of the proposal against clause 8(2) and argue that the remainder of the development (not associated with the component of the development which is SSD) is sufficiently related to the SSD component, including the

construction and subdivision of 24 additional lots and all infrastructure, including stormwater detention. As the EIS argues the site is unzoned, these lots could, be utilised for any type of use with consent.

Ecologically Sustainable Development

- The EIS notes that the proposed development is targeting “Six-Star-Green-Star rated industrial buildings designed to set new standards in relation to sustainability, social amenity and building quality” (pg xv). This is inconsistent with the Ecologically Sustainable Development Report (Appendix 29) which states that the proposal “will aim to be a certified 5 Star Green Star Design and As-Built certification” (pg 8).

Commitments are made within the EIS to sustainable design features, such as green walls (pg 41); however, these are not reflected on the architectural plans.

Wastewater

- In the RTS to Sydney Water’s comments, please address how the three year delay in providing wastewater to the site will impact timing of construction and operation of the development.

Development Control Plan

- Section 1.3 of the Draft Development Control Plan (Appendix 38) states that the DCP applies to land zoned IN1 General Industrial under the provisions of the WSEAP SEPP. The Draft DCP would therefore not apply to the site.
- An initial review of the DCP against the proposal reveals several inconsistencies. Please provide an assessment of the development against every clause in the DCP to ensure compliance.

Owner’s Consent

- Should the Bakers Lane extension be considered a crown road reserve, owner’s consent will be required.

Voluntary Planning Agreement

- The EIS details that a letter of offer has been submitted to the Department to enter in a VPA (pg. xix) and that further details are provided at Appendix 40. Only 38 appendices were submitted with the Application. Further information must be provided with the Application regarding any proposed VPA.

EIS Inconsistencies

The EIS contains several assertions which are misleading and not backed by sufficient evidence, including:

- “The Proposed Development constitutes a sequential (and highly orderly) economic development.” (pg. 36).
- “Given its siting and location, the Site is highly logical, given its proximity to existing industrial facilities and services to which it can connect at No Cost to Government.” (pg. 36).
- “The Proposed Development also has minimal impact on the South Creek Corridor.” (pg. 37)

“The development will reduce gross pollutant, suspended solids and chemical leaching into South Creek by up 90%” (pg. 87)

- Is there any factual evidence to back up these statements?
- “All common areas of the Estate would be subject to a Community Management scheme. Altis and Frasers will jointly manage and operate the Estate, including stormwater basins and associated infrastructure.” (pg. 20)
 - Please provide details of the Community Management Scheme and how it is going to be tied to the Torrens Title Subdivision of the lands.

The following inconsistencies were also identified:

- The Architectural Plans (Appendix 6) do not provide any details regarding the 11ha green space area to the western portion of the site. The Bulk Earthworks & Building Plan (Appendix 5) show a green space as part of Stage 2 works. The Landscape Plan (Appendix 8) also shows a green space whilst the Civil Plans (Appendix 10) show an extensive OSD basin (Appendix 10).
- Setbacks are described in the EIS (pg 58) which are inconsistent with the setbacks shown on the architectural plans (Appendix 6). For example, the setback for proposed Lot 3 is described as including 5m of landscaping but on the architectural plans this is shown as 4m.
- The Stage 1 works as shown on Drawing Number DA-001 (Appendix 5) are inconsistent with the Stage 1 works shown on Drawing Number SP-KC1 DA-500 (Appendix 6).
- The EIS (pg x) identifies 39 appendices in total but an Appendix 40 is also referred to (pg xix). Additionally, only 38 appendices were submitted.