

Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Chris Ritchie
Director
Industry Assessments

Sydney

7 June 2024

SCHEDULE 1

Development consent:	SSD-9138102 granted by the Director, Industry Assessments on 21 April 2023
For the following:	Construction of the first stage of an industrial estate including bulk earthworks, subdivision, construction, fit out and operation of two warehouse buildings and ancillary office space with a total gross floor area of 81,317m ² , including, landscaping, construction of estate roads and external road upgrades, site servicing and stormwater infrastructure.
Applicant:	ESR Developments (Australia) Pty Ltd
Consent Authority:	Minister for Planning and Public Spaces
The Land:	Lots 111, 112, 113, 114 and 115 DP 1296469 and Lot 10 DP 1296455, Mamre Road / Abbotts Road intersection, Abbotts Road and Aldington Road
Modification:	Construction of external road upgrades including Mamre Road and Abbotts Road intersection works, widening of Abbotts Road and widening of a section of Aldington Road

SCHEDULE 2

This consent is modified as follows:

In Schedule 1:

1. Delete the definition of The Land and replace it with the following

Lots 111, 112, 113, 114 and 115 DP 1296469 and Lot 10 DP 1296455, Mamre Road / Abbots Road intersection, Abbots Road and Aldington Road

In the Definitions:

2. Insert the following new definition:

External Road Works

The upgrade of:

- Mamre Road / Abbots Road Intersection Works as shown on the plans in Appendix 7 and including installation of interim traffic signals
- Abbots Road and Aldington Road Widening Works as shown on the plans in Appendix 7

3. Insert the following words into the definition of 'Modification Assessments' after a) as follows:

- b) Section 4.55(1A) Modification Report, Modification 5, 1030-1048 & 1050-1064 Mamre Road, 59-62 & 63 Abbots Road and 290-308 Aldington Road, Kemps Creek prepared by Ethos Urban dated 21 March 2024 and Response to Submissions prepared by ESR dated 21 May 2024

4. Insert new definitions in alphabetical order as follows:

Stage 1 Abbots Road Widening Works

Constructing temporary pavement on the southern side of Abbots Road and western side of Aldington Road and temporary safety barriers, as shown on the plan 'AARU Civil Works Staging Drawing Stage 01 Abbots Rd SP2_3 (Nov 2023)' prepared by Robson Civil

In Schedule 2, Part A Administrative Conditions

5. Insert new Condition A2(f) after Condition A2(e) as follows:

- (f) in accordance with the Modification Assessments.

In Schedule 2, Part B Specific Environmental Conditions

6. Delete Conditions B4 to B12.

In Schedule 2

7. Insert new Part D External Road Works after Part C Environmental Management, Report and Auditing, as follows:

PART D EXTERNAL ROAD WORKS

ADMINISTRATIVE CONDITIONS

Terms of Consent

- D1. The External Road Works may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) in accordance with the Modification Report and Response to Submissions for Modification 5; and
 - (d) in accordance with the plans in Appendix 7.

Notification of Commencement

- D2. The date of commencement of each of the following phases of the External Road Works must be notified to the Planning Secretary in writing, at least one month before that date, or as otherwise agreed with the Planning Secretary:
- (a) construction of each stage of the External Road Works, including any sub-stages;
 - (b) operation of the interim traffic signals at the Mamre Road / Abbotts Road intersection; and
 - (c) completion of the External Road Works.

Mamre Road / Abbotts Road Intersection Works - Works Authorisation Deed

- D3. Within 3 months of the date of the consent for SSD-9138102-Mod-5, or as otherwise agreed by the Planning Secretary, the Applicant must enter into a Works Authorisation Deed with TfNSW for the Mamre Road/Abbotts Road intersection works, including the installation of the interim signalised intersection of Abbotts Road and Aldington Road. TfNSW fees for administration, plan checking, civil works inspections and project management shall be paid by the Applicant prior to the commencement of works.
- D4. Prior to the commencement of construction of the interim traffic control signals, the proposed Traffic Control Signal/s (TCS) at the intersection of Mamre Road/Abbotts Road and Aldington Road/Abbotts Road must be designed to meet TfNSW requirements and have approval under section 87(4) of the *Roads Act, 1993*. The TCS plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant TfNSW supplements (available on www.transport.nsw.gov.au). The certified copies of the TCS design and civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of a Construction Certificate and commencement of construction of the traffic control signals. Please send all documentation to development.sydney@transport.nsw.gov.au.

- D5. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works referred to in Condition D3. Please send all documentation to development.sydney@transport.nsw.gov.au. A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.
- D6. The Applicant must be responsible for all public utility adjustment/relocation works, necessitated by the work referred to in Condition D3 and as required by the various public utility authorities and/or their agents. Should any public utility adjustment/relocation works be required adjacent to a classified road, plans are to be submitted to TfNSW for concurrence under section 138 of the *Roads Act, 1993*, prior to the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee may be payable and a performance bond may be required before TfNSW approval is issued.

- D7. Any realignment of site boundaries to facilitate the works referred to in Condition D3, inclusive but not limited to drainage, footpaths and batters resulting from the proposed road and construction works, must be dedicated as public road at no cost to the relevant roads authority unless specified otherwise in a planning agreement.
- D8. The Applicant must obtain a Road Occupancy Licence (ROL) from TfNSW Transport Management Centre for any works that may impact on traffic flows on Mamre Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

Abbotts Road and Aldington Road Widening Works

- D9. The Applicant must design and construct the Abbotts Road and Aldington Road widening works in accordance with the requirements of Council and any approval issued under section 138 of the *Roads Act 1993*.

Internal Access Roads

- D10. Prior to the commencement of operation of the first warehouse building, the Applicant must construct and operate the east-west internal road works shown in Figure 1 in Appendix 1 to the satisfaction of relevant road authority.
- D11. Prior to the commencement of operation of warehouse 4, the Applicant must construct and operate the north-south internal road works shown in Figure 1 in Appendix 1 to the satisfaction of the relevant road authority.

Road Maintenance

- D12. The Applicant is responsible for the upkeep and repair of the operational road pavement of Abbotts Road for its full length within the existing road reserve and Aldington Road across the development frontage (full width) during the External Road Works. The repair works must be undertaken to the satisfaction of Council, and be at no cost to Council. Weekly pavement inspections must be undertaken by the Applicant to ensure that the road pavements are safe for all vehicles. Any identified potholes or pavement failures must be reported to Council immediately together with the proposed rectification method and timing for repair. All repairs must be undertaken at no cost to Council. If Council is required to undertake any repairs to the road works to ensure a safe operating environment for all road users, the cost of such will be paid by the Applicant.

Timing

- D13. Prior to the commencement of operation of warehouse 1, the Applicant must prepare an Operational Traffic Management Plan (OTMP) for the development to the satisfaction of the Planning Secretary. The OTMP must:
- (a) be prepared by a suitably qualified and experienced person(s);
 - (b) be prepared in consultation with TfNSW and Council;
 - (c) detail the measures to be implemented to manage operational traffic from warehouse 1 to ensure that all operational traffic accesses the site from Abbotts Road via a left turn in from Mamre Road and exit the site via Abbotts Road and turn left onto Mamre Road until the interim traffic signals are operational;
 - (d) detail the measures to manage operational traffic with concurrent construction traffic from the site and the External Road Works and other public traffic, to ensure road safety and network efficiency at all times;
 - (e) detail heavy vehicle routes, turning restrictions, access and parking arrangements;
 - (f) include an Operational Driver Code of Conduct to:
 - (i) minimise impacts on the local and regional road network;
 - (ii) minimise conflicts with other road users;
 - (iii) minimise road traffic noise;

- (iv) inform truck drivers of the site access arrangements, turning restrictions and use of specified routes;
 - (v) include a program to monitor the effectiveness of these measures; and
 - (vi) detail the compliance actions that would be implemented for any vehicles that deviate from approved routes and turning restrictions.
- D14. The Applicant must:
- (a) not commence operation of warehouse 1 until the OTMP required by condition D13 is approved by the Planning Secretary;
 - (b) update the OTMP to reflect any changes to staging, routes or turning restrictions, and submit the updated plan to the Planning Secretary for approval, at least 1 month prior to implementing the changes; and
 - (c) implement the most recent version of the OTMP approved by the Planning Secretary for the duration of the development.
- D15. The Applicant must lodge an application under section 138 of the *Roads Act 1993* to the relevant roads authority to undertake the Stage 1 Abbotts Road Widening Works within 1 month of the date of consent of SSD-9138102-Mod-5.
- D16. The Applicant must complete the Stage 1 Abbotts Road Widening Works within 4 months of receiving the section 138 *Roads Act, 1993* approval for the works, to the satisfaction of the relevant roads authority, unless otherwise agreed by the Planning Secretary.
- D17. The Applicant must execute a Voluntary Planning Agreement with Council to complete the remaining stages of the Abbotts and Aldington Road widening works, within 12 months of the date of consent of SSD-9138102-Mod-5 and prior to the issue of an occupation certificate for warehouse 4.
- D18. The Applicant must complete the External Road Works to the satisfaction of the relevant roads authorities prior to operation of warehouse 4.
- D19. The Applicant must comply with the requirements of TfNSW and Council for all construction and operational vehicle movements, as detailed in Construction Traffic Management Plans approved as part of the WAD and *Section 138 Roads Act, 1993* approval processes.
- D20. The Applicant must not:
- (a) undertake any subsequent development, including exempt or complying development, on the Stage 1 site shown in Figure 1 in Appendix 1; and
 - (b) commence operation of warehouse 4;
- until the External Road Works are completed to the satisfaction of the Planning Secretary.
- D21. All External Road Works must be completed, to the satisfaction of the relevant roads authorities, prior to any other buildings on the Stage 1 site receiving occupation certificate(s).

COMMUNITY CONSULTATION PLAN

- D22. The Applicant must prepare a Community Consultation Plan for the External Road Works to the satisfaction of the Planning Secretary. The Plan must:
- (a) be approved by the Planning Secretary prior to the commencement of the External Road Works;
 - (b) be implemented for the duration of the external road works;
 - (c) assign a central contact person to keep the community regularly informed throughout the works;
 - (d) detail the mechanisms for regularly consulting with the nearest sensitive receivers and wider residential communities, to keep them informed about:
 - (i) upcoming works, duration and any night-time or out of hours works;
 - (ii) changes to property access and details of traffic disruptions;

- (iii) schedule for high noise generating works and vibration intensive activities, including details of the specific mitigation measures that would be implemented in accordance with the construction noise and vibration management plan approved under Condition D25;
- (iv) procedures to minimise dust impacts including details of the controls that would be implemented in accordance with the air quality management plan approved under Condition D25;
- (v) relocation of services including utilities and drainage; and
- (vi) details of environmental monitoring results;
- (e) include contact details for key project personnel, relevant regulatory authorities and key community stakeholders;
- (f) include a complaints procedure for recording, responding to and managing complaints, including:
 - (i) website, email, toll-free telephone number and postal address for receiving complaints;
 - (ii) advertising the contact details for complaints prior to and during the works through on-site signage;
 - (iii) a complaints register to record the date, time and nature of the complaint, details of the complainant and any actions taken to address the complaint; and
 - (iv) procedures to resolve any disputes that may arise during the course of the External Road Works.

D23. The Applicant must:

- (a) not commence construction of the External Road Works until the Community Consultation Plan is approved by the Planning Secretary;
- (b) implement the approved Community Consultation Plan for the duration of the External Road Works.

D24. The Applicant must provide details of the consultation undertaken in accordance with the Community Consultation Plan, to the Planning Secretary on a monthly basis including:

- (a) the outcomes of consultation, matters resolved and unresolved; and
- (b) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

D25. Prior to the commencement of the External Road Works, the Applicant must prepare a Construction Environmental Management Plan (CEMP) for the External Road Works in accordance with the requirements of Condition C1 and to the satisfaction of the Planning Secretary. The CEMP must include the following:

- (a) be prepared in consultation with Council;
- (b) a **traffic management plan** prepared in consultation with TfNSW and Council, detailing the measures to ensure road safety and network efficiency during the External Road Works, a Driver Code of Conduct, a program to monitor the effectiveness of the measures and adherence to specified routes, and procedures for notifying residents and local schools of any disruptions to routes;
- (c) a **noise and vibration management plan** prepared in accordance with the *Construction Noise and Vibration Guideline*, TfNSW 2023 and *Interim Construction Noise Guideline*, DECC 2009, describing measures developed in consultation with affected residents to manage high noise and vibration intensive works, and include an out of hours work protocol. Measures may include notifications, respite periods, scheduling of noisy works, temporary barriers, quieter plant or alternative construction methods, verification monitoring and/or provision of alternative accommodation;

- (d) an **air quality management plan** prepared in accordance with the *Good Practice Guide for the Assessment and Management of Air Pollution from Road Transport Projects*, CASANZ 2023, detailing the location and duration of dust controls, details of monitoring and triggers for implementation of additional dust controls if required;
- (e) an **erosion and sediment control plan** prepared in accordance with *Managing Urban Stormwater: Soils and Construction – Volume 1: Blue Book* (Landcom, 2004) and detail the measures to ensure the construction phase water quality targets in the *Technical Guidance for Achieving Wianamatta South Creek Stormwater Management Targets* (Technical Guidance) (NSW Government, 2022) are met;
- (f) mitigation measures recommended in the Biodiversity Development Assessment Report for the Mamre and Abbots Road Intersection prepared by Fraser Ecological and dated 3 June 2024;
- (g) a **cultural heritage management plan** including an unexpected finds protocol, prepared in consultation with Registered Aboriginal Parties;
- (h) an **unexpected finds procedure** to manage any unexpected contamination encountered during the works, including details of testing and off-site disposal in accordance with the POEO Act and associated regulations; and
- (i) a **contingency plan** detailing measures to deal with unexpected issues arising during the works, such as excessive dust, noise, traffic, water quality impacts and unfavourable weather conditions.

D26. The Applicant must:

- (a) not commence construction of the External Road Works until the CEMP is approved by the Planning Secretary; and
- (b) carry out the construction of the External Road Works in accordance with the CEMP approved by the Planning Secretary and as revised and approved by the Planning Secretary from time to time.

INDEPENDENT AUDIT

D27. Within six months of the commencement of construction of the External Road Works, and every six months thereafter, until completion of the works, unless the Planning Secretary directs otherwise, the Applicant must commission and pay the full cost of an Independent Environmental Audit of the works. The audits must:

- (a) be prepared in accordance with the Independent Audit Post Approval Requirements (Department, 2020)
- (b) be led and conducted by a suitably qualified, experienced and independent expert, including a specialist traffic person, whose appointment has been endorsed by the Planning Secretary;
- (c) assess the environmental performance of the External Road Works;
- (d) assesses whether the works are complying with the conditions of this consent; and
- (e) recommends measures or actions to improve the environmental performance of the works; and
- (f) be submitted to the satisfaction of the Planning Secretary within six weeks of commissioning the Audit (or within another timeframe agreed by the Planning Secretary).

D28. In accordance with the specific requirements in the Independent Audit Post Approval Requirements (Department 2020), the Applicant must:

- (a) review and respond to each Independent Audit Report prepared under condition D27 of this consent;
- (b) submit the response to the Planning Secretary and any other NSW agency that requests it, together with a timetable for the implementation of the recommendations;

- (c) implement the recommendations to the satisfaction of the Planning Secretary; and
- (d) make each Independent Audit Report and response to it publicly available no later than 60 days after submission to the Planning Secretary and notify the Planning Secretary in writing at least 7 days before this is done.

NOISE

- D29. The External Road Works must be undertaken during the following hours:
- (a) 7 am to 6 pm Monday to Friday;
 - (b) 8 am to 1 pm Saturday; and
 - (c) at no time on Sundays or public holidays.
- D30. Works outside of the hours identified in condition D29 may be undertaken in the following circumstances:
- (a) works that are inaudible at the nearest sensitive receivers;
 - (b) works agreed to in writing by the Planning Secretary;
 - (c) for the delivery of materials required outside these hours by the NSW Police Force or other authorities for safety reasons; or
 - (d) where it is required in an emergency to avoid the loss of lives, property or to prevent environmental harm.
- D31. Notwithstanding Conditions D29 and Condition D30, the following works may be undertaken out of hours, in accordance with the Out of Hours Works Protocol approved under Condition D25(c):
- (a) installation of drainage infrastructure;
 - (b) asphaltting; and
 - (c) other works required to be completed at night for safety reasons, as detailed in an approved CTMP.

VIBRATION

Condition Surveys

- D32. Prior to the commencement of the External Road Works, the Applicant must:
- (a) undertake building condition surveys for properties located within 25 metres of the works; and
 - (b) prepare a dilapidation survey of the heritage post adjacent to Mamre Road.
- D33. The Applicant must repair, or pay the full costs associated with repairing property that is damaged by carrying out the External Road Works.

Vibration Criteria

- D34. Vibration caused by external road works at any residence or structure outside the site must be limited to:
- (a) for structural damage, the latest version of *DIN 4150-3 (2016-12) Vibration in Buildings – Part 3: Effects on Structures* (German Institute for Standardisation, 2016); and
 - (b) for human exposure, the acceptable vibration values set out in the *Environmental Noise Management Assessing Vibration: a technical guideline* (DEC, 2006) (as may be updated or replaced from time to time).
- D35. Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified in condition D34.
- D36. The limits in Conditions D34 and D35 apply unless otherwise outlined in a Construction Noise and Vibration Management Plan, approved under Condition D25 of this consent.

In the Appendices

8. Insert new Appendix 7 – External Road Works Plans after Appendix 6 as follows:

APPENDIX 7

EXTERNAL ROAD WORKS PLANS

Table 5 **Schedule of External Road Works Plans**

Drawing No.	Title	Issue	Date
Civil Engineering Drawings			
GE-2000	MR536 Mamre Road and Abbots Road Kemps Creek 2000 Series – Proposed Signalised Intersection Civil Works Package 80% Detailed Design	1	03/11/2023
24-1177- C500	Westlink – External Roads Kemps Creek 500 Series – Phase 1 – Civil Works Package	P1	01/02/2024

**End of modification
(SSD 9138102 MOD 5)**