

Our ref: SSD- 46983729

Ms Grace Macdonald  
NSW Planning Manager  
ESR Developments (Australia) Pty Ltd  
Level 24, 88 Phillip Street  
SYDNEY NSW 2000

3 April 2024

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**Subject: Request for Additional Information**

Dear Ms Macdonald

I refer to the Department of Planning, Housing and Infrastructure's (the Department) letter of 15 March 2024, which advised the Department would be providing comments following the exhibition of the Environmental Impact Statement for the proposed Westlink Industrial Estate Stage 2 (SSD-46983729).

As part of your submissions report addressing submissions and advice received during exhibition of your application, the Department requests you provide a response to the issues included in **Attachment 1** to this letter.

If you have any questions, please contact David Schwebel on 9274 6400 or via email at david.schwebel@planning.nsw.gov.au.

Yours sincerely,



Chris Ritchie  
**Director**  
**Industry Assessments**  
as delegate for the Planning Secretary

## Attachment 1

### EIS

- The Department notes that earthworks and other civil works have been undertaken within parts of the site that are subject to works proposed under this application. Please submit information that identifies all the works that have been undertaken across the Westlink site to date, which planning pathway has been relied upon to undertake these works, and whether any unauthorised works (or works undertaken prior to issuing of approval) have occurred.
- The proposed earthworks involve significant levels of cut and fill on the future Lots 3, 5 and 6, which effectively establish pads for future development. As raised in previous correspondence, the Department raises concerns with the scale of these works and the likely challenges for future development on these lots in the context of the site topography and planning framework. In addition, further consideration must be provided as to whether the proposal to undertake earthworks and construct retaining walls based on unapproved building footprints for Lots 3, 5 and 6 constitutes orderly development of land. Additional justification for these works must be provided, along with an options analysis to identify whether alternative designs for the site may achieve a reduction in the levels of cut and fill within the site and the height of proposed / future retaining walls and consider likely visual impacts from future buildings.
- While the Mamre Road Precinct Development Control Plan (MRP DCP) encourages the balance of cut and fill, due consideration is also required to be given to the provisions of Section 2.40 of the *State Environmental Planning Policy (Industry and Employment) 2021* (I&E SEPP) and the MRP DCP (including Sections 3.1, 3.2 and 4.4.1) when considering the layout, scale and design outcomes of the proposed development and suitability of the site for the likely future built form.

In particular, the scale of earthworks proposed on Lot 5 and 6 conflict with the aims, design principles and earthworks requirements of Chapter 2 the I&E SEPP and the objectives of the MRP DCP that seek to ensure development responds to site topography, minimize the extent of earthworks, and ensure earthworks and retaining wall construction is suitably designed and landscaped to ameliorate its visual impacts, particularly from the public domain and adjacent properties. The levels of cut and fill, and potential future built form, is likely to result in significant non-compliances with the controls of the MRP DCP in some parts of the site, including in relation to building height, retaining walls and landscaping. Further consideration should be given to the design, siting and scale of the development in order to better respond to the requirements of the MRP DCP.

- Further consideration or amendment to the development is required with regard to Section 2.40 of the I&E SEPP. This should include justification that impacts of the level of fill proposed on Lot 6 will not have detrimental implications for development on adjoining properties to the north and south, as well as the visual and amenity impacts of this fill on these properties and the surrounding area, including views from Aldington Road and Mamre Road.
- While no built form is proposed on Lot 5, the proposed earthworks establish the levels and pad size to accommodate future buildings. Given Lot 5 is located within 250m of the boundary with the Mount Vernon residential area, further consideration is required as to how the proposed earthworks and likely future built form will satisfy the matters in Section 2.22 of the I&E SEPP, including:
  - Compatibility with the height, scale, siting, and character of existing residential buildings in the vicinity
  - Landscaping, screening and appearance
  - Impacts from noise, operations and lighting.

Similarly, consideration is required of the objectives and controls in Section 3.3 of the MRP DCP. It is noted that the proposed earthworks on Lot 5 will not facilitate a vegetated bund to provide adequate visual screening.

- Further consideration should be given to the design and earthworks proposed on Lot 2 (or undertaken already separately) in order to reduce the amount of fill across the lot and the height of retaining walls fronting Mamre Road, improve compliance with the building height limit in section 4.2.1 of the MRP DCP, and improve the quality and density of landscape screening that is able to be achieved fronting public roads.
- Please note, the Department has engaged an independent engineer who is currently reviewing proposed earthworks within the MRP and whether improvements could be made to better respond to site topography and align with the DCP. Additional comments following this review may be provided separately for response.
- The civil plans indicate filling of part of the dam within the neighbouring property to the south (1066-1078 Mamre Road). If these works are to be undertaken as part of this development, owners consent must be provided and the impact of these works assessed in accordance with the relevant requirements of the SEARs.
- Clarify whether the private access road between the proposed extensions of Abbotts Road and Aldington Road will be retained once the ultimate road networks is delivered on adjoining properties, and if so, how access will be managed and the road maintained. Also confirm that the intersection of this road and the extension of Abbotts Road is suitably separated from the driveway on Lot 4.
- Clarify whether the Interim Operating Procedure (IOP) forms part of the proposed development, or alternatively, what approval pathway it is intended would facilitate these works. Consideration should be given to re-locating the IOP outside of the setback to Mamre Road. Please also clarify how the temporary infrastructure will be removed and rehabilitated once it is no longer required.
- Provide consideration of how the development promotes the orderly and economic use and development of land, in accordance with the Objects of the *Environmental Planning and Assessment Act 1979*, with regard to the western end of the adjoining property at 1066-1078 Mamre Road and any implications for the development of that site in future and ensuring long-term access, including:
  - The zoning of the land and intended land use identified in the Mamre Road Precinct Structure Plan
  - How long-term access to that part of the site will be achieved, with regard to the proposed roads as part of the subject development and the road network plan in the MRP DCP.
- Provide an assessment of how wildlife hazards will be managed within the development, with regard to section 2.38 of the I&E SEPP and section 4.19 of State Environmental Planning Policy (Precincts – Western Parkland City) 2021.
- Confirm whether there is an easement within the site that benefits Endeavour Energy, as indicated in their submission, and how the development addresses this.
- Given the time that has elapsed since community consultation was undertaken in 2022, and subsequent changes to development plans and works undertaken on the site, you are requested to undertake further consultation with surrounding landowners and detail how any issues raised have been responded to in the RTS. This reflects the requirements of *Undertaking Engagement Guidelines for State Significant Projects* which encourages engagement to continue throughout the exhibition, assessment, construction and operation of a project.

## Architectural Plans

- The location of the car entry/exit driveway for Warehouse 2 on the future roundabout location is not encouraged. Consideration should be given to relocating this access point and whether vehicles can safely enter and exit the site. Additionally, confirm that there is sufficient separation between the roundabout and the southern truck entry/exit driveway.
- Further consideration must be given to improvements to the design and appearance of the development to address the requirements of the MRP DCP more appropriately, including:
  - Section 3.2 - Responding to view corridors to Wianamatta-South Creek and Mount Vernon, visual connections with the blue-green network (naturalised trunk drainage) and ridgelines and high-quality landscaping to Mamre Road and Aldington Road.
  - Section 4.2.5 – Investigate opportunities to improve materials, colours, articulation to street frontages and open space that enhance the appearance of that façade
  - Provide screening of tanks, pump rooms and storage areas facing roads and open space areas (section 4.2.6).
- Provide fencing details for areas around the trunk drainage channel and the proposed IOP area.
- Confirm that permeable pavement can be provided for the trunk drainage access track and IOP area, as identified in the previous area plan.
- Confirm that solar access is achieved for both proposed communal areas on Lot 2 in accordance with section 4.2.4 of the MRP DCP.
- Signage illumination should be limited in accordance with section 4.2.8 of the MRP DCP.
- With regard to the advice provided by Penrith City Council dated 19 March 2024, and concerns raised regarding the 14 car parking spaces along the western elevation of the warehouse, clarify how access to these spaces can be safely managed or relocate these spaces to a more suitable location.

## Landscaping

- Further consideration must be given to improving the quality of landscaping fronting Mamre Road and Aldington Road in accordance with section 3.2 of the MRP DCP and with regard to the landscaping comments in the advice provided by Penrith City Council dated 19 March 2024.
- The proposed landscaping along the eastern boundary interface with Mount Vernon is not considered sufficient to achieve the requirements of section 3.3 of the MRP DCP. Further consideration should be given to the design, density and screening achieved by this landscaping, while also maintaining long distance view from properties in Mount Vernon. The MRP DCP requires the use of vegetated mounding to provide screening and this should be provided along the eastern boundary, especially in areas that maintain similar levels to the adjoining properties, unless otherwise suitably justified.
- Confirm that all proposed landscaping can be delivered within retaining wall tiers and at top of retaining walls with regard to sufficient deep soil and the backfill and structural components of the wall design. Please also confirm that proposed landscaping along the Mamre Road frontage will not be impacted by any existing or planned services and infrastructure along this corridor.
- Section 3.9 of the EIS identifies that landscaping is proposed along the site's eastern boundary to the Mount Vernon rural-residential area. This boundary landscaping should be extended along the remainder of the eastern site boundary and the northern boundary of Lot 3, in locations where final levels are proposed, to allow time for the landscaping to begin to establish in advance of future building construction. Detailed landscape plans should be provided for all landscaping proposed under this application, rather than just for Lot 2.

## Traffic and Transport Management

- The assessment of the interim road upgrades in the Transport Management & Accessibility Plan (TMAP) relies upon the LOG-E Modelling Memo. Provide further detail on how the Stage 2 site fits within the previous LOG-E modelling and demonstrate that there is still capacity within the assessed 990,215 m<sup>2</sup> of GFA with regard to development already approved or proposed within the MRP.
- It is noted that the traffic assessment for the Stage 2 development is based on the predicted operational traffic generation for both Silk warehouses (Lot 2 and Lot 4). To ensure that adequate capacity is still available should the tenancy for both warehouses change, particularly prior to the completion of the ultimate road network and upgrades, an assessment should also be undertaken against the adopted TfNSW trip rates referred to in section 6.2.1 of the TMAP.
- Section 4.3.3 of the TMAP suggests that the ultimate Mamre Road / Abbots Road intersection is to be delivered by the LOG-E. Provide evidence of this agreement with TfNSW that identifies that the ultimate intersection will be delivered by LOG-E.
- Clarify the relationship between the Preliminary Construction Traffic Management Plan prepared by Ason Group (Appendix C of the TMAP) and the two CTMPs prepared by White Group (dated 24/08/22 and 10/09/22), all submitted with the EIS. The CTMP must consider effective and safe management of construction traffic from all construction and operational traffic within the broader Westlink site and surrounding development in the Precinct along access routes to the site.

## Noise and Vibration

- Clarify how cumulative noise from development across the precinct was considered with regard to section 3.3.1.3 of the Noise and Vibration Impact Assessment (NVIA) and the identified development sites in Appendix C, noting that section 2.4.2 of the NPfI refers to 'additional premises' and that most of the identified sites are not just one building but comprise multiple premises. Clarify what industrial noise sources were considered as part of the assessment of cumulative noise and the influence of future development on surrounding industrial land, including the impact from changes to ground absorption due to hard surfaces replacing undeveloped land.
- Provide an assessment of cumulative construction noise with regard to concurrent construction activity occurring on other parts of the Westlink estate and other sites within the MRP.
- Clarify whether the NVIA included consideration of heavy vehicles travelling along the private access road between Abbots and Aldington Road, which has a gradient in some parts of 8%.
- Include consideration of mitigation measures that could further reduce predicted noise at the identified receivers outside of the MRP.
- As the development seeks to establish future development pads across the remainder of the site, consideration should be given as to whether future development on these lots will be able to achieve compliance with the noise criteria for the precinct and be able to be managed as part of the cumulative noise generated with the other parts of the Westlink Industrial Estate.

## Air Quality

- It is noted that the Air Quality Impact Assessment undertakes a risk assessment based on the UK IAQM Guidance for construction impacts. However, it is considered that further assessment is warranted due to the scale of earthworks proposed and the range of construction activities that are occurring on site under separate approvals and on nearby sites in the MRP. This should be supported by simple modelling and an emissions inventory to estimate predicted concentrations at the nearest sensitive receptor. An assessment

of cumulative air quality impacts from the construction of the Westlink Stage 1 development, as well as other development within the MRP should also have to the *Cumulative Impact Assessment Guidelines for State Significant Projects* (DPIE 2022).

- Figure 5 of the AQIA incorrectly identifies some residential receivers within the Mamre Road Precinct and in Mount Vernon as industrial/commercial receptors although they continue to be used for residential purposes. Rectify these errors and update any relevant assessment outcomes accordingly.
- Provide consideration of any recorded exceedances of air quality criteria established for the Westlink Stage 1 Construction Air Quality Management Plan during construction works undertaken to date, and identify what measures will be taken to ensure compliance as part of the Stage 2 works.
- Confirm what mitigation measures will be implemented to address air quality impacts during construction works.

### **Civil report and plans**

- Concern is raised with the level of fill on Lot 2 and its presentation to Mamre Road. Further consideration must be given to design amendments that minimise the height of fill within the lot and of retaining walls along the Mamre Road frontage, as well as incorporating larger setbacks between wall tiers or a landscaped batter to improve visual presentation to the public domain. Similarly, revisions should be made to the design and setbacks of the retaining wall along the north of Lot 2 to improve the interface of the wall and warehouse building with the naturalised trunk drainage channel and improve presentation of this wall to Mamre Road.
- Clarify the source of the required 448,250m<sup>3</sup> of fill material identified for the proposed earthworks, noting that the EIS states that there will be a balanced cut and fill between Stages 1 and 2 and that the approved earthworks plan for Stage 1 identified only 205,100m<sup>3</sup> of residual lot fill.
- Confirm that appropriate grades can be achieved for driveways for future buildings on Lot 5 based on the proposed road and earthworks levels.
- Confirm that the road levels for Abbots Road and Aldington Road at the property boundaries are at a suitable level to allow connection from development on adjoining properties.
- Confirm that the external catchments identified to be redirected in the Stormwater Drainage Catchment Plan (Post-Developed) will not have any impact on the current or future use of surrounding properties.
- Retaining walls, including that on the southern boundary of Lot 2 (RW-LOT 2-03), should be setback at least 2.0m into the property boundary in accordance with section 4.4.1 of MRP DCP.
- Provide further design details for the retaining proposed walls on Lot 3 and provide evidence that the proposed level of cut and subsequent retaining will not have any implications for future development of adjoining properties.

### **Water and Stormwater Management**

- Outline how the Erosion and Sediment Control Plan has been designed in accordance with the erosion and sediment control design principles in Chapter 3 of the 'Technical guidance for achieving Wianamatta-South Creek stormwater management targets' (DPE 2022) (technical guidance). Please also clarify how these measures accommodate Stage 1 earthworks where necessary and any other earthworks undertaken on site.
- Further information is required in relation to the design and delivery of the trunk drainage infrastructure, including:
  - Evidence must be provided of agreement to the location and design of the trunk drainage channel from Sydney Water, Transport for NSW and Transgrid.

- Confirm that the assessment and approval of the culvert relocation and works within the Mamre Road reserve has been undertaken under a separate pathway. Otherwise landowners consent and a full assessment of these works must be provided as part of the RTS, including but not limited to biodiversity, cultural heritage, water management and impacts on downstream properties.
- Confirm that the proposed Stage 2 works will maintain compliance with the stormwater requirements of the MRP DCP and Technical Guidance for the Stage 1 development (SSD-9138102).
- Further consideration must be given to the design of the trunk drainage channel and adjoining development works in order to reduce the height of retaining walls within the channel in accordance with section 2.4 of the MRP DCP.

## Contamination

- It is noted that the EIS relies on previous assessments undertaken as part of the Stage 1 development (SSD-9138102) in relation to contamination and remediation of Lots 11, 12 and 13 in DP 253503. Confirm that this assessment is still relevant to the proposed works within these lots and provide evidence that Conditions B66 and B67 of the consent for SSD-9138102 have been satisfied.

## Subdivision Plan

- The subdivision plan should reflect the areas of land along the Mamre Road frontage zoned SP2 classified road and identified for acquisition under the I&E SEPP, as well as the existing easement for the transmission line.

## Biodiversity

- The bio-certification letter relies upon the certification of the site under the Cumberland Plain Conservation Plan (CPCP). However, land within the Mamre Road reserve and some adjoining land is excluded from the CPCP. Any works within any excluded land within the site or adjoining road reserve (including battering, services, stormwater or other infrastructure) must be assessed in accordance with the *Biodiversity Conservation Act 2016*. Clarification must be provided if any works are proposed in the land mapped as excluded and these works assessed accordingly.

## Aboriginal Cultural Heritage

- Clarify whether the proposed reburial site in Figure 6 would conflict with any works relating to the IOP/sewer pump station.
- Confirm that works proposed within Lots 11, 12 and 13 in DP 253503 are consistent with the assessment and recommendations for the ACHAR undertaken for SSD-9138102.

## Flooding

- The Flood Impact Assessment (FIA) identifies local impacts downstream of the culverts under Mamre Road and identifies outstanding modelling and road design works to be undertaken by TfNSW, and that the final flood assessment for Stage 2 will incorporate the outcomes of TfNSW's design. Submit a final assessment that incorporates this information and demonstrate compliance with the relevant flood criteria.
- The FIA identifies impacts occurring on agricultural lands, however consideration should be given to the zoning and potential future uses of any impacted land.
- The FIA identifies earth bunds along the southern property boundary. Confirm whether these are still proposed and update the assessment accordingly if they are no longer part of the proposed development.
- Update the FIA to consider the Flood Risk Management Manual (2023).