

6 December 2022

2200446

David Schwebel
Senior Planning Officer, Industry Assessments
Department of Planning and Environment
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

Dear David,

SSD-9138102: 290-308 Aldington Road, 59-62 Abbots Road and 63 Abbots Road, Kemps Creek

Ethos Urban write on behalf of ESR Australia, the proponent for a State Significant Development Application 9138102 (SSDA) at 290-308 Aldington Road, 59-62 Abbots Road and 63 Abbots Road, Kemps Creek. The SSD is seeking consent for development of a warehouse and distribution facility, in response to Secretary's Environmental Assessment Requirements (SEARs) received on 17 December 2020.

ESR Australia have recently submitted an Amended Application to the Department of Planning and Environment (DPE) on 15 September 2022. A letter requesting further information was received from DPE dated 16 September 2022. ESR Australia then prepared and re-submitted an updated Amended Application closing out all issues raised on 21 October 2022 through the Planning Portal.

The DPE then referred the updated Amended Application package to agencies and Council with a response date provided of 7 November 2022. Agency and DPE comments have since been received from:

- Penrith City Council.
- DPE Water.
- DPE Environment and Heritage.

This letter responds to the matters raised and is provided to DPE to address these queries.

It is considered that the application as amended is appropriate for finalisation of assessment and determination by DPE.

The following supporting documentation forms part of this response package, which includes an updated Amendment Report where changes are required:

- Updated Mamre Road Development Control Plan Assessment (**Appendix A**)
- Updated State Environmental Planning Policy (Industry and Employment) 2021 (**Appendix B**)
- Updated Architectural Plans prepared by Nettleton Tribe (**Appendix C**)
- Updated Landscape Plans including Lot 1 Landscaping and Tree Canopy Plan prepared by Site Image (**Appendix D**)
- Updated Visual Impact prepared by Geoscapes (**Appendix E**)
- Acoustic Impact Assessment Memorandum prepared by RWDI (**Appendix F**)
- Revised Geotechnical Report by Douglas Partners (**Appendix G**)
- Retaining Wall Structural Design Plan prepared by Costin Roe (**Appendix H**)
- Updated Civil Plans prepared by AT&L (**Appendix I**)
- Updated Civil Report prepared by AT&L (**Appendix J**)
- MUSIC Model prepared by AT&L (**Appendix K**)
- Updated Heritage Report prepared by Urbis (**Appendix L**)

- Retaining Wall Urban Design Review (**Appendix M**)

1.0 Department of Planning and Environment

DPE – Industrial Assessments provided comment via email on 25 November 2022, with matters raised relating to:

- State Intersection Design Signoff
- Acoustic
- Landscape
- Architectural
- Development Layout
- Civil - Stormwater and Trunk Drainage
- Civil - Earthworks
- Watercourse
- Visual
- Heritage
- Geotechnical
- General

Responses to these are provided below.

Table 1 Responses to DPE commentary

DPE Comment	Response
State Intersection Design Signoff	
Final endorsement of conditions from Penrith City Council and TfNSW are required for proposed external road upgrades.	<p>As stated in previous correspondence between ESR and DPE on 12 November 2022, there is precedent of determining DA prior to execution of planning agreements under SSD-9522 Condition A23 which states:</p> <p><i>Prior to the issue of the first Occupation Certificate or within 12 months of the date of commencing development under this consent, whichever occurs first, the Applicant must enter into a planning agreement with the Minister in the terms of the offer made to the Minister by the Applicant in connection with SSD-9522 by letter dated 15 December 2020, being an offer to enter into a planning agreement in the terms of the agreement attached to the letter in Appendix 5.</i></p> <p>Similar drafting to this condition can enable your team to determine the DA, while providing Department of Planning and Environment and Transport for NSW the time to sign off on the VPA, design and commence the WAD process.</p> <p>Further, a similar condition can be worded for the works associated with Council.</p> <p>Note: This DA was determined prior to the execution of the Special Infrastructure Contributions (SIC) and the Section 7.11 Plan. With both plans in effect, it creates a reduced risk for our DA compared to SSD-9522, which was determined prior to the completion of these items.</p>
Acoustic	
The NIA states it has relied upon an assessment of prevailing meteorological conditions done by SLR Consulting and reported in their NIA (ref. 610.19127-R2) for another development in MRP. It notes that "Outcomes of the metrological analysis determined	The <i>Noise Policy for Industry</i> notes that either scenario can be used with the phrasing "and/or". Predictions were presented for worst case weather conditions, that is, source to receiver for all receptors. A prevailing night period wind of 3 m/s was not modelled. Noise enhancements from this situation is similar to noise enhancements

DPE Comment**Response**

that standard weather conditions should be used during daytime and evening periods. with noise enhancing weather conditions during the night-time period. The night-time, noise-enhancing conditions defined as F-class temperature inversion with a 2m/s source to receiver drainage flow."As the nearest receiver in Mount Vernon is uphill from the site, please clarify whether air movement modelled during temperature inversions was source to receiver for all receptors or modelled as a drainage flow downslope. A prevailing night period of 3m/s from the southwest and west-southwest has also not been modelled.

generated in the F-class with 2 m/s wind scenario, when applying CONCAWE.

Confirm the vehicle movements numbers in Table 6-2 are accurate with expected traffic generation.

The vehicle movement numbers in Table 5-2 are based on information provided by the tenant of the warehouses. This information is based on predicted operations using information on how their existing warehouses operate. This information is considered more than adequate compared to estimated assumption typically used in speculative development.

Clarify how noise from vehicle movements and other activity within the multi-storey car park on Lot 1 were considered.

The Lot 1 car park was modelled as light vehicles travelling at 40 km/h within an open car park. It is expected that noise emissions from the car park would be negligible in comparison to heavy vehicle movements and be unlikely to impact the noise level at the receiver and this is confirmed when reviewing partial noise levels. For example, during the night period:

- Receiver N15, overall level 35 dBA, Lot 1 car park contribution 6 dBA.
- Receiver N35, overall level 38 dBA, Lot 1 car park contribution 16 dBA.

Landscape

Confirm the proposed landscaping is viable and appropriate space and deep soil is provided for all areas to allow sustainable growth for the proposed plant species including along all of the northern boundary (considering the location of retaining walls, catch drains, etc.) in areas adjoining retaining walls and within retaining wall tiers (including consideration of compacted fill requirements) and in the detention basin (clay lined).

Site Image has reviewed the landscape concept and on lot plans for the Stage 1 development. Clay is the primary soil type within the estate. All trees identified can grow within this soil typology. Further, an assessment has been undertaken on retaining walls. ESR is currently reviewing the retaining wall concepts and undergoing detailed design. The detail design confirms the following:

- A minimum 1m top soil will be provided
- A geogrid and sandstone retaining wall to be designed to enable tree root zones to permeate through the structure.

This design has been confirmed by Site Image and ESR's structural engineers, Costin Roe. Further, Site Image has assessed all trees proposed within the retaining wall structure using Penrith DCP guidelines for tree planting areas. It is noted these guides are used for residential apartments with podiums but the concept of soil depths can be used for retaining wall structures which have similar engineering features. As a result, the following assessment was used.

Tree	Size	Area	Depth	Volume
Small	6-8 x 4	<9.5m ²	1 - 1.3m	30m ³
Medium	8-12 x 8	9.5-18.5m ²	1.3-2.5m	35m ³
Large	12-18 x 16	>18.5m ²	>2.5m	80m ³

Penrith DCP

Therefore, the updated landscape plans have changed the classification of trees to suit this criteria. For all trees within the retaining wall structure, they have been amended to reflect small or medium trees. Areas provided for tree planting range from a minimum of 1.5m width to 6.5m. Refer to updated landscape plans for further information at Appendix D.

Provide a response to the landscaping issues raised by Penrith City Council in their letter dated 11 November 2022.

Ethos Urban and ESR have provided response to Penrith City Council's comments at Section 2 below.

DPE Comment

Response

Update the canopy cover calculations if it is found that some proposed planting is not viable in relation to matters raised above. The MRP DCP stipulates public roads should not be included in canopy coverage.

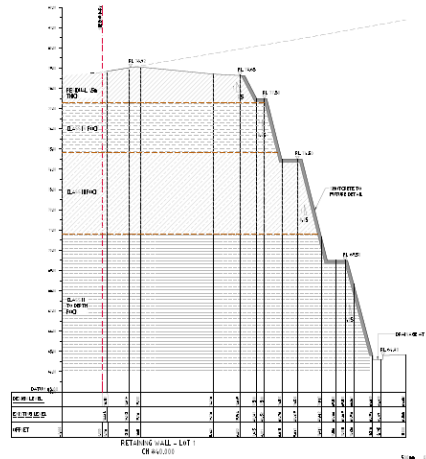
The canopy cover across Stage 1 development has been updated. Lot 1 has reduced by 1%. Canopy cover however still meets the 10% requirement for each lot.

Provide trees on top of retaining walls as per Control 5 in Section 3.2 of the MRP DCP to reduce visual impact and improve screening of the proposed warehouses from surrounding land at lower elevations.

Sufficient soil areas have been provided to ensure the vegetation and trees proposed within retaining walls can thrive during the life of the development (refer to the above response). Trees proposed within the third and fourth tier of the retaining wall will grow to 8-12m in height. The provision of trees within this retaining wall tier enables larger trees to grow compared to at the top of the retaining wall. The top of the fourth tier does not provide a suitable planting depth to enable trees to be planted at this location. Therefore, it is considered the design response meets the objectives of the retaining wall Control 5. Further, all retaining walls proposed in the Stage 1 development are oriented towards surrounding industrial zoned land. Given the distance away from sensitive receivers, i.e. rural residential lands to the east, and the level changes within the estate, the visual impact to these receivers will be minimal.

Clarify the type of surface within the area identified as 'structural zone for retaining wall' on the Lot 1 Landscape plans (i.e. hardstand, landscaped, pervious)

Shotcrete is to be used for surface of cut retaining wall at Lot 1. Given this is a cut retaining wall, trees can be landscaped at the top of the retaining wall and roots going into the existing soil typology on the site. Refer to detailed design structural retaining wall section below.



The civil plans note that adjustment works are required for the basin when the remainder of the catchment is developed. Please clarify if the proposed landscaping in the basin will be maintainable in the event changes area made to the basin design.

The basin will be constructed in one stage to suit Stage 1 and future development across the site. The AT&L plans and report have been updated to reflect this amendment. The landscaping within the basin will be installed at the completion of the basin. Therefore, landscape in the basin can be maintained moving forward.

Clarify what areas have been included in the pervious surface calculations and whether they were considered as deep soil, shallow soil or permeable pavement in accordance with Control 4 in Section 4.2.3 of the MRP DCP. Retaining walls on each lot and access tracks and rock scour protection areas in the basin should not be included in calculations.

Pervious surface calculations have been provided for Lot 1 and 4, which is as follows:

- Lot 1
 - Deep: 12,039m²
 - Shallow: 50m²
 - Permeable Pavement: 275m²
 - Total: 12,364m²
- Lot 4
 - Deep: 10,587m²
 - Shallow: 55m²
 - Permeable Pavement: 373m²
 - Total: 11,015m²

The total pervious area for Stage 1 is 15%, which meets the MRP DCP requirement.

Landscaping should be provided for the full width of landscape setbacks. The plans for Lot 4 show a paved area within the landscape setback in the northern car park.

This is a proposed footpath to enable safe pedestrian movements across the site. It is identified as a permeable surface. This path can be constructed with landscaped materials to meet the requirements

DPE Comment	Response
	of the landscape setback zone. Refer to updated landscape plans at Appendix D.
Architectural	
Consideration of building height should include the location of rooftop plant in accordance with Control 6 of Section 4.2.1 of the MRP DCP.	All warehouse buildings proposed in Stage 1 will be ambient. Whirly birds and smoke extraction will be installed on the roof. However, these items will be no higher than 1m and provided lower than the ridge height (being the highest point of the warehouse). The location of these items is to be confirmed during detailed design. Given these items will be below the ridge height and the size of these items is small compared to the broader warehouse structure, the assessment of height impacts to surrounding receivers is considered appropriate.
Relocate building elements of Lot 4 outside of the building setback including the northern Office 4a roof and recreation area pergola.	The pergola and roof awning structure have been amended to sit behind the building setback line. Refer to updated architectural plans at Appendix C
The DCP compliance table states that two communal areas are provided for Lot 1 but only one is shown on the plans. This area receives no direct sunlight between 11am and 3pm on the 21st of June (contrary to section 4.2.4 of the MRP DCP.	An additional recreation area has been provided north of the office. The addition of this recreation area enables Lot 1 to be compliant with the solar requirements. Refer to updated architectural plans at Appendix C.
The proposed pylon sign should be 2m wide in accordance with Section 4.2.8 of the MRP DCP.	The proposed pylon sign at the estate entrance has been updated to reflect a 2m width. Refer to updated architectural plans at Appendix C.
Fencing fronting the road along the basin of Lot 4 should be palisade style, not chain wire.	Palisade fencing has been updated around the basin near Lot 4. Refer to updated architectural plans at Appendix C.
Further consideration is required of the architectural design controls in Section 4.2.5 of the MRP DCP - in particular the selection of external finishes and articulation along part of the northern elevation of the warehouse on Lot 1 that are visible from the surrounding area.	The height of the Lot 1 northern retaining wall varies in height. The warehouse will be viewed from the surrounding area at the north western corner. As the warehouse continues to the east, the height of the retaining wall increases which results in screening of the warehouse façade. ESR has selected a variety of Colorbond materials/colours to provide façade articulation across our warehouse. Further, translucent sheeting is proposed to be introduced to the warehouse façade. Refer to architectural plans at Appendix C. The type of façade articulation proposed is consistent with similar approved developments within the Mamre Road Precinct.
Development Layout	
The amendments to the development have resulted in the requirement for larger development pads, increased levels of cut and fill, and changes to interfaces with roads and adjoining properties. This results in significant non-compliances in the Mamre Road Precinct DCP including building height, retaining wall scale and design and landscaping. These aspects also conflict with the aims, design principles and earthworks requirements of Chapter 2 of <i>State Environmental Planning Policy (Industry and Employment) 2021</i> (I&E SEPP). Further consideration should be given to the design, siting and scale of the development in order to respond to the requirements of the MRP DCP including consideration of matters raised below.	Further to the DCP compliance table provided in the Amending DA submission, Ethos Urban has prepared an assessment of Stage 1 against the Industry and Employment SEPP. While there are minor non-compliances, the proposed development meets the objectives of each clause in both the I&E SEPP (Appendix B) and Mamre Road Development Control Plan (Appendix A). Important to note is that there are only seven variations to the DCP requested: <ul style="list-style-type: none"> • Section 3.2, Control 2 (Views and Visual Impact) • Section 3.4.1, Control 3 (Road Network) • Section 4.2.1, Control 2, Control 3 (Building Height) • Section 4.2.3, Control 5 (Landscaping) • Section 4.4.1, Control 6, Control 7 (Development on Sloping Sites) These variations have been justified within the Amendment Report (refer to Section 4.1.5 of the Amendment Report), noting that per Section 2.10 of the State Environmental Planning Policy (Planning Systems) 2021, DCPs do not apply to State Significant Development, and the Mamre Road DCP itself provides that provided the objectives of the relevant controls are met, the control can be varied. The assessment against the relevant clauses of the I&E SEPP provides that the proposed development satisfies the objectives and requirements of each applicable development standard and miscellaneous provision.

DPE Comment	Response
Civil - Stormwater and Trunk Drainage	
<p>Provide an assessment of the development in accordance with the 'Technical guidance for achieving Wianamatta-South Creek stormwater management targets' (September 2022) (Tech Guide). Include consideration of the Sydney Water draft MRP scheme plan and demonstrate how the development will connect to the regional stormwater infrastructure when it becomes available.</p>	<p>An assessment against the 'technical guidance for achieving for achieving Wianamatta-South Creek stormwater management targets' has been prepared by AT&L. Refer to Appendix J.</p>
<p>The MRP DCP and draft Sydney Water MRP scheme plan identify a trunk drainage path within the development site. Sydney Water has advised that the 15ha contributing catchment should be calculated based on existing catchments, rather than post-development catchments. Naturalised trunk drainage paths should be provided in accordance with Section 2.4 of the MRP DCP, unless alternative design options are agreed to with Sydney Water (as the Water Management Authority).</p>	<p>Given steep nature of existing topography (up to 10% longitudinal grade), a naturalised trunk channel with large drop structures and energy dissipation measures (rock structures) is not deemed viable for this site. Conveying water underground in a pipe network is deemed a more appropriate measure considering the trunk drainage network within the DCP corresponds with the Abbots Road extension and proposed utility services for the site. This pipe network connects into the Aldington Road upgrade stormwater which is also being piped.</p> <p>ESR has amended the location of the trunk drainage pipe to be within private-owned lands. This infrastructure will be maintained by ESR in perpetuity.</p> <p>It should be noted that Control 11 of Section 2.4 of the DCP provides that the consent authority can agree to alternate solutions to a naturalised drainage path.</p>
<p>Clarify how the interim arrangement to achieve the stormwater target will be maintained under future stages given the intent to construct Stages 2 and 3 in similar timeframe to Stage 1 (including the evaporation pond of Lot 5).</p>	<p>There are three options for determination of applications in relation to stormwater</p> <ol style="list-style-type: none"> 1. Accept a period of non-compliance precinct-wide toward stormwater controls with an intention for each developer to tie into the regional solution and not preclude delivery of this infrastructure. Previous correspondence with Sydney Water and Department of Planning and Environment shows approximately 33% (250 ha out of 750ha) of Mamre Road Precinct can be developed before stormwater targets require the regional solution. 1. Accept on-lot stormwater solution, such as roof irrigation. 2. Approve first stage of development for each estate and require developers to withhold development on later stages. <p>Given the proposed on-lot stormwater solution is not accepted by Department of Planning and Environment and Sydney Water, it is recommended for the following conditions to be adopted for Stage 1 approval.</p> <ol style="list-style-type: none"> 1. Future development on site must achieve compliance with the Integrated Water Cycle Management (IWCM) controls in the MRP DCP in accordance with the <i>Technical Guidance for achieving Wianamatta-South Creek Stormwater Management Targets</i> (NSW Government, 2022). The Applicant must ensure sufficient land is reserved for stormwater management purposes, unless the Applicant provides evidence that an agreement is in place to demonstrate that the development is integrated into the regional stormwater system. 2. Future DAs must include an update to the Stormwater Management Strategy (SMS). The strategy must: <ol style="list-style-type: none"> a. be prepared by a suitably qualified chartered professional engineer with experience in modelling, design and supervision of WSUD systems in consultation with the relevant stormwater management authority; b. consider the approved or as modified stormwater management system for preceding stages of the development, including compliance of this system with the ICWM controls of the MRP DCP; c. demonstrate the relevant stage can comply with the IWCM controls of the MRP DCP;

DPE Comment	Response
	<ul style="list-style-type: none"> d. include an assessment of any impacts on salinity and sodic soils from the future development including any proposed WSUD infrastructure; and e. detail what infrastructure may be required to connect to a precinct-wide stormwater management system from the relevant stage. <p>These conditions have been adopted under neighbouring approvals in the Mamre Road Precinct, such as SSD- 10448. These conditions should apply to the estate to enable development to occur. The first stage will meet the stormwater targets by providing large underground tanks with irrigation to occur across the residual lots. As subsequent stages occur across the site, each respective DA will need to address this condition to provide assurance to the NSW Government the targets will be met by either on-lot or regional. The approval of Stage 1 will not preclude this process and ESR remains committed to work with NSW Government on resolving this item throughout the life of this development.</p>
<p>The development proposed to use roof irrigation to achieve the stormwater flow targets. Roof irrigation/misting is not supported as it is not a proven method, is overly reliant on high levels of maintenance and management and is not an option under the Tech Guide.</p>	<p>If on lot infrastructure to meet stormwater targets is not accepted, the above list of conditions must be adopted for the estate to move forward with assessment and determination of the development. Roof misting has been removed from the design.</p>
<p>Further advice from Sydney Water and DPE Environment and Heritage Group will be provided when received.</p>	<p>Noted.</p>
<p>Civil - Earthworks</p>	
<p>While the 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 I&E SEPP and MRP DCP (including Sections 3.1, 3.2 and 4.4.1) when considering the layout, scale and design of outcomes of the proposed development and suitability of the site for the proposed built form.</p>	<p>Further to the DCP compliance table provided in the Amendment Report and the variation justification in Section 4.1.5 of that report, Ethos Urban has prepared an assessment of Stage 1 to the Industry and Employment SEPP. While there are minor non-compliances, the proposed development meets the objectives of each clause in both the I&E SEPP and Mamre Road Development Control Plan, refer to Appendix B.</p>
<p>It is noted the proposed Stage 1 works do not result in a balance cut and fill, as outlined in the Civil Report (Appendix E) and relies on further earthworks under Stage 2. However, the civil plans provided in the draft EIS for Westlink Stage 2 indicate that a balanced cut and fill is not achieved. Please provide clarification on the earthworks strategy for the whole Westlink estate.</p>	<p>Balance cut and fill will be achieved for the entire estate. The cut and fill table provided in both the Stage 1 and Stage 2 report are high level estimates. They do not consider bulking factor and import of structural fill, basin, and spoil for services. Since lodgement of this DA, ESR has progressed detailed design investigations on the cut and fill. The detailed design cut and fill table has been inserted into AT&L report, which shows a balance cut and fill across the site, refer to Appendix J.</p>
<p>Retaining walls are to be setback at least 2 metres from the property boundaries and suitably landscaped in accordance with Control 8 of Section 4.4.1 of the MRP DCP.</p>	<p>All retaining walls have been setback 2m from property boundary and landscaped accordance with Section 4.4.1.</p>
<p>Where tiered retaining wall exceed the cumulative of tiers or height limit in Section 4.4.1 of the MRP DCP, consideration should be given to increasing setbacks between tiers or reducing the overall amount of fill proposed in those areas.</p>	<p>Additional landscaping has been provided compared to the indicative retaining wall tier. Refer to updated architectural plans at Appendix C.</p>
<p>Civil plans should show proposed levels as +/- 500mm, not +/- 2000mm.</p>	<p>Civil plans have been updated to +/- 1,000mm. This is consistent with other approved developments within the Mamre Road Precinct.</p>
<p>Ensure the retaining wall profiles in the civil plans correlate with the Retaining Wall General Arrangement Plan.</p>	<p>The General Arrangement Plan has been updated to provide more sections of proposed retaining walls across the development.</p>
<p>Provide consideration of measures to improve the visual appearance of the retaining wall at the eastern end of the private access road (such as tiering) given the height of this wall, location facing a road and elevated located when viewed from west along Abbots Road.</p>	<p>[There is a 2.5m landscape setback provided to the retaining wall. Mature trees will be planted in front of the retaining wall to screen it.</p>

DPE Comment

Ensure updated rendering and illustration of the proposed retaining wall accurately depict the proposed landscaping are consistent with the engineering plans show proposed materials that are viable in terms of cost and engineering and include a street level viewpoint.

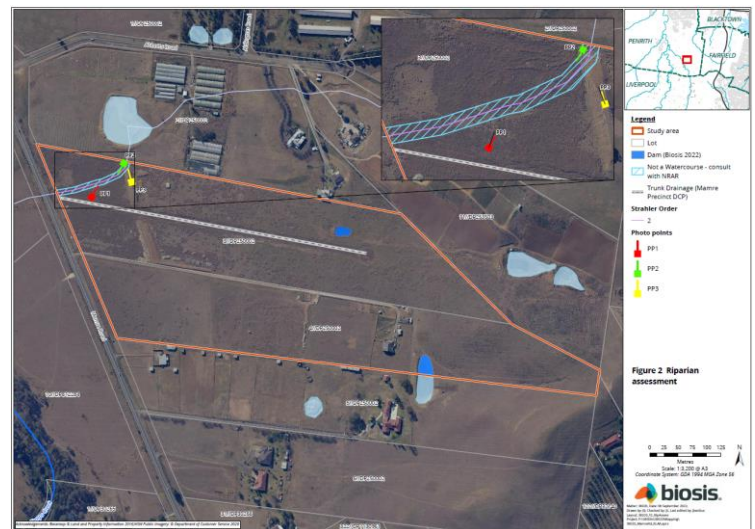
Response

Landscaping and civil engineering have been coordinated. ESR has worked with a structural engineer to ensure the retaining wall can be designed to support landscape features within its setback. Further, the materials and types of retaining walls are consistent across the two technical streams. ESR has costed all retaining walls across the site with the structural engineer and can confirm these can be delivered as per the Civil and Landscape plans.

Watercourse

The DCP compliance table state that only Strahler Order 1 streams are located within the site. However, this conflicts with the BDAR report prepared for the development (Figure 2 and Section 1.3.4). Provide further consideration of the mapped watercourses on the site with regard to the controls in Section 2.3 of the MRP DCP, the 'Mamre Road Flood, Riparian Corridor, and Integrated Water Cycle Management Strategy' (Sydney Water, August 2021) and any applicable DPE Water/NRAR guidelines.

As part of the Stage 2 application, Biosis undertook a Riparian Assessment which identified that the part of the stream entering the broader Westlink site from Mamre Road is not a watercourse. Furthermore, the BDAR submitted with the RTS package provides that the Strahler streams located within the Stage 1 site are not mapped as riparian areas to be retained.



Visual

The photomontage of viewpoint 3 is not accurate as most of the existing trees shown along the northern site boundary are located within the development site and are proposed to be removed.

Viewpoint 3 has been updated, refer to pages 30 – 33 and 11.0 Appendix E.

The screening benefits of the proposed landscaping are to be reconsidered with regard to response to issues raised in the above section on landscaping.

Visual impacts have been re-assessed for VP3 with consideration of the existing vegetation being removed.

Consider lighting impacts on receivers in Mount Vernon (particularly the residence at 30-38 Mount Vernon Road) including from vehicle headlights, in accordance with Sections 3.3 and 4.2.10 of the MRP DCP.

The estate closest to the rural residential receivers is proposed to have significant cut, which results in lower pad RLs compared to the surrounding rural residential neighbours. Further, buildings will be oriented away from these receivers with hardstand facing inward to the estate. Roads will be screened by a 30m landscape setback with mature tree canopy and vegetation, cut retaining walls resulting in lower RLs on the site compared to the surrounding receivers and buildings heights compatible with the maximum height controls in the DCP.

Heritage

Section 2.7 of the MRP DCP compliance table (Appendix R) only provides consideration of the local heritage item 'Gateposts to Colesbrook' and not the heritage-listed house on the directly adjoining property at 282 Aldington Road.

The DCP Compliance Table at Appendix R (being Appendix A of this letter) has been updated to include reference to the relocated farmhouse.

The Heritage Impact Statement (Appendix K) provides an assessment against the Penrith DCP 2010, which no longer applies to the site. It should be updated to consider MRP DCP 2021.

An updated heritage report has been prepared assessing against the Mamre Road Precinct DCP. The recommendations and mitigation measures have not changed, refer to Appendix L.

DPE Comment	Response
<p>While the HIS noted that the proposed pad level on Lot 1 directly south of the heritage building will be below the heritage item, consideration should be given to the proposed fill and higher floor levels in the north-west corner of Lot 1, relative to the adjoining land to the north, and impacts on views from the heritage house looking towards south-west. The fill retaining wall (RW-LOT 1-02) reaches over 5m in height along the property boundary along Aldington Road.</p>	<p>The views from the original heritage house are screened south-west due to additions and alterations on the existing residential structure. Any changes beyond this, such as a warehouse, are not anticipated to compromise this view.</p>
<p>Further consideration should also be given to the viability of landscaping to screen the development given concerns raised above under 'landscaping'. The section from the landscape masterplan provided at Figure 18 in the HIS is not reflective of the levels and landscaping proposed along the whole of the northern boundary of the Westlink.</p>	<p>The setback of the cut retaining wall along the northern boundary is at minimum 1m. This area is sufficient for trees to grow within the landscape area, noting roots can grow into the existing soil profile. The HIS has been updated to reflect this information.</p>
<p>Geotechnical</p>	
<p>Justify why the preliminary geotechnical investigations report provided previously remains valid for the amended development given the significant increase in cut and fill depths proposed and further investigations are recommended in the reports.</p>	<p>Additional geotechnical investigations have been prepared (refer to Appendix G). The geotechnical reports confirm the proposed cut and fill can be managed on the site.</p>
<p>General</p>	
<p>Provide any reports and responses to previous submissions including in the Response to Submission Report and referred to in the Amendment Report. As the RTS was not formally accepted, these documents should be resubmitted and updated to reflect the amended development as required.</p>	<p>DPE issued a request for a Response to Submissions (RTS) on 21 July 2021. This was addressed in the RTS package submitted to the Planning Portal on 14 April 2022. It is noted an RFI relating to the RTS was issued on 19 April 2022 requesting additional information associated with precinct-wide transport model and further details on construction traffic, along with further clarifications on the RTS report (specifically responses to each agency comment). The updated RTS report was re-issued to DPE on 26 April 2022. Additional RTS comments from DPE relating to stormwater and noise were received on 15 June 2022, with a further response provided to DPE on 21 June 2022 to address earlier commentary. Further comments from DPE were provided across the course of May, June, July and August 2022.</p> <p>A request from ESR to prepare and submit an Amendment Report was provided to DPE on 15 August 2022, with the approached agreed on 19 August 2022. The Amendment Report was submitted on 15 September 2022, closing out all previous RTS issues raised.</p> <p>DPE then provided commentary relating to the proposed Amendment Report on 20 September 2022. These matters were addressed in a letter to DPE on 13 October 2022, with follow up queries from DPE provided on 14 October 2022. The Amendment Report and package was then re-submitted through the Portal on 21 October 2022, and referred to agencies.</p> <p>This letter now provides a response to those comments and further comments from DPE on the Amendment Report received.</p> <p>ESR has re-issued this information in this response. It is noted DPE advised the reissue of these reports for this DA was not required given they were already contained on the portal. All reports affected by the amendments have been updated and provided in the Amending DA submission.</p>

2.0 Penrith City Council

In correspondence from the 11 November 2022, Penrith Council provided comments per the below.

Table 2 Responses to Council commentary

Comment	Response
Local Contributions	
The DPE are to be satisfied that the proposed development, building and landscape setbacks and general design is satisfactory and that the design had been undertaken to consider the ultimate roadway and intersection alignments including those proposed for Aldington and Abbots Road and their intersection.	ESR with two other developers have prepared the design of Abbots and Aldington Road with the consultation of Penrith City Council and Transport for NSW. The design is reflected in the application and appropriate setbacks have been provided for the ultimate road upgrade works including an intersection at Abbots and Aldington Roads. Further as part of this process, the developers have consulted with every landowner along the corridor regarding the upgrade. The land acquisition is equally shared across both sides of the road making it the most equitable solution. If variation does occur with any changes, this can be addressed via a future modification as a requirement of a condition of consent.
It is recommended that consent not be issued until such a time as the road alignment is gazetted, and to enable a proper and full assessment of the application against the finalised road and intersection designs.	The gazettal of the road should not hold up the determination of the DA. ESR has proposed wording of conditions, which have been adopted for other developments in the Mamre Road Precinct, that enable development to occur in tandem with road improvements.
Regional Infrastructure Contributions	
It is raised that the Environmental Planning and Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Direction 2020 is in effect and applies to the subject development. Any consent for the proposed shall include conditions which are required by the Direction and as apply to Concept and Stage 1 development applications.	Noted. ESR is happy to have a condition which requires payment of SIC or entering into a State VPA for works-in-kind.
Bulk Levels and Impacts on Rural Residential Uses	
DPE shall be satisfied that unsupportable noise, amenity and view impacts will not occur as a result of the future redevelopment of lots being part of Stage 1, for permissible purposes within the IN1 General Industrial zone, and which result from the approved bulk levels on the Site.	Supplementary reports have been prepared to support this Stage 1 DA. They assess noise, amenity, visual impacts etc. They have identified appropriate mitigation measures which have been adopted in the DA. Further, any future DA will assess these items to ensure impacts to neighbouring properties are minimised.
If bulk levels, subdivision and roads are proposed above and beyond the needs of the Stage 1 works, to ensure that future development of these lots can be supported a view impact assessment is to be undertaken which analyses block forms ascertainable for future stages. It is also necessary to ensure that any future development envisaged by the Concept and later Stages is capable of achieving a supportable level of compliance with established noise criteria, amenity impacts and the like.	The proposed DA only encompasses Stage 1 works. Future DAs will be lodged to capture future development. Bulk levels will be assessed as part of these DAs. No concept plan is proposed.
Height/Retaining Wall	
DPE are to be satisfied with the applicant's justification in relation to the areas of each warehouse which exceed the DCP height maximums. In relation to Warehouse/Lot 1, the height exceedance is at the street frontage where the finished floor level of the warehouse is significantly higher than the street level. To mediate bulk and level transitions, wider areas of planting may be required for each tier. The upper podium (fourth tier) must be setback further, as this element is approx. 3m in height at the intersection of Abbots and Aldington Road. DPE may benefit from the production of photomontage	Refer to the DCP compliance table and I&E SEPP compliance table (Appendix A and Appendix B) which confirm the height, bulk and scale can be managed in accordance with the objectives. Further, additional planting area has been provided in retaining wall setback. Refer to DPE response above.

Comment	Response
images created from a pedestrian viewpoint and from street approaches.	
High quality landscaping in quality soil (including if necessary engineered tree planting pits or zones) including canopy tree planting is required to be provided at the base of the first tier of retaining walls (at street level).	Noted. The landscape design provides considerations of these matters and are detailed out in the on-lot landscape plans at Appendix D2 and D3.
DPE are to ensure that selected materials are appropriate for the expanse of elevation they are to be used on. It is recommended that materials are recessive in colour and varied by utilising complementary shades across levels.	See response below.
DPE are to ensure there is vertical connectivity between colours and materials to avoid visually dominant horizontal banding, which will increase the appearance of bulk and scale and exacerbate the apparent extent of retaining wall fronting the street.	The materials within the estate have been selected to compliment with the vegetation. The sandstone colour of the retaining wall façade relates to materials used within this area. Further, the landscape design has been designed to allow the planting to integrate such as cascade planting. This response provides a cohesive palette for an employment area.
Landscaping	
The civil sections do not correlate with the landscape sections Civil section C on AT&L plan no. 20-748-C1021 does not accurately reflect the toe lengths for retaining walls. Toe lengths and drainage aggregates and pipes will impact soil volume and soil quality, and will detrimentally impact on the ability of the development to deliver tree canopy around the periphery of the site - noting that the majority of the canopy tree planting relied upon to achieve canopy targets is located at the site boundaries within tiered retaining wall sections. It is recommended that larger areas for canopy tree planting are provided which are not located within steep tiered retaining walls and which will thrive to maturity and be sustainable.	Civil section has been updated to reflect the landscape section. Refer to Appendix I. Landscaping and civil have been designed to ensure trees can be maintained in the proposed locations. Majority of the trees are planted in front of the retaining walls. These are planted in a minimum 2m width to enable trees to thrive. Further, any trees proposed within the retaining wall sit within a landscape setback of 3 – 6.5m with battering to enable tree roots to grow and establish within this area.
Landscape plans indicate <i>Eucalyptus tereticorni</i> or Forrest Grey Gum and <i>Eucalyptus moluccana</i> or Grey Gums, although do not indicate where on the plans these or other species will be located. The landscape plans are to fully detail as to what is planted where.	The on lot landscape plans for Lot 201 and Lot 204 have been provided at Appendix D2 and Appendix D3. These plans detail the location of each plant species.
No minimum dimensions are provided to inform the width (or minimum widths) of landscaped area between retaining walls or between hardstand truck manoeuvring area and the guard rail and the upper most retaining wall tier.	A minimum 1.5m width has been provided along all retaining walls. In the areas where the retaining wall level changes are the greater, i.e. the corner, additional landscaping setbacks have been provided up to 6m. The landscape setback zones include screening shrubs capable of growing 2.5 - 3m in height within this zone. In addition, cascade planting is provided in planter bed along the top of wall to complement shrub planting and provide variation. The cascade planting is also provided to minimise the perception of the retaining wall height.
A 1.5m wide planter within a tiered retaining wall cannot support the selected canopy trees to maturity. The canopy target plan indicates canopy tree planting along the northern boundary is proposed within a 800mm landscaped area located within compacted fill area.	Trees are not proposed in retaining wall gaps of 1.5m. The trees identified within the retaining wall structure are within landscape areas of 3m – 6.5m . These landscape areas are battered to enable a depth of 1m of topsoil to ensure the 100L pot sizes can thrive. Further, retaining walls have been designed to ensure tree roots can grow into the retaining wall structure (geogrid and sandstone) without compromising the tree's viability or retaining wall solution. There is no area along the northern boundary that has less than 800m. The retaining wall section provided in Appendix F1 Civil Infrastructure Section G shows the minimum width is 1m. This area combined with the ability for a tree's root zone to enter into the adjacent property gives enough space to enable the trees to thrive.

Comment	Response
The plans for the development are to be amended to set back off the boundaries to provide the proposed canopy trees sufficient area to grow and thrive.	Assessment of trees has been completed across the estate. Sufficient areas have been provided. Refer to Department of Planning and Environment response above.
It is calculated that the proposal includes excess parking beyond the minimum needs of the DCP of approximately 50 car parking spaces. It is recommended that in replacement of additional car parking spaces, larger areas for meaningful and sustainable stands of canopy trees are provided.	The car parking quantum is based on a customer requirement. This is based on the number of employees. Therefore, the car parking requirement is appropriate.
Transport	
A Section 138 Roads Act approval is required for the proposed works to Aldington and Abbotts Roads.	Noted. This can be a condition of consent.
Accessible car spaces should be in accordance with the Access to Premises Standards, Building Code of Australia and AS2890. The proposal appears to achieve compliance.	Noted. Accessible spaces have been provided in relation to AS2890.
Mamre Road Precinct DCP 2021 requires dedicated parking bays for EV charging. It does not provide guidance on the specific number of bays. A total of 2 spaces per warehouse will be designated as electric vehicle charging bays, DPE shall be satisfied with the number of spaces and relevant conditions of consent shall ensure delivery.	EV charge locations to be confirmed with tenant consultation. ESR has committed to Green Star 5-Star rating for these warehouses. EV charge stations are a consideration for this rating and will be confirmed during detailed design and delivery of each warehouse.
Council recommends a min. 5% of car parking spaces be provided for EV charging and a further 5% be constructed to be readily adaptable.	EV charge locations to be confirmed with tenant consultation. ESR has committed to Green Star 5-Star rating for these warehouses. EV charge stations are a consideration for this rating and will be confirmed during detailed design and delivery of each warehouse.
Based on the DCP requirement, Lot 1 will require 65 bicycle spaces and Lot 4 will require 18 bicycle parking spaces. DPE are to ensure the proposed number of secure undercover spaces are provided for the development.	Noted. Bicycle spaces have been identified on the architectural plans as per the DCP requirements.
Relevant conditions of consent are to be inserted to ensure secure and compliant bicycle parking and end of trip facilities are indicated on plans and are delivered. - vehicular access must be swept path tested for the largest vehicle that will access the site. In this instance it will be 30m PBS Level 2 Type B vehicle.	Noted.
Council's Traffic Engineering unit recommends the following conditions, based on the above: 1. All vehicles shall enter and exit the site in a forward direction. 2. Safe pedestrian routes shall be provided throughout the site. 3. Car parking numbers are to be required through condition of consent. 4. Three accessible parking spaces shall be provided for Warehouse 1, and two accessible parking spaces shall be provided for Warehouse 4, in accordance with Access to Premises Standards, Building Code of Australia and AS2890.6:2009 5. Heavy vehicle loading and manoeuvring areas/routes shall be completely separated from customers/visitors to the site. 6. The approved car parking areas shall be designed to accommodate B99 vehicles as per AS2890.1:2004. 7. A minimum of 5% car parking spaces for each warehouse shall be designated as EV charging bays. 8. 65 bicycle parking spaces shall be provided for warehouse 1 and office. 18 bicycle parking spaces shall be provided for warehouse 2 and office. 9. Each warehouse and office shall be provided with a minimum of 1 shower cubicle for each gender. 10. Where service vehicles are accessing the site vehicular access must be swept path tested for 30m PBS Level 2 Type B vehicle. 11. Use of 30m PBS Level on local roads will require approval	Agree with all proposed conditions except number 7. EV charging bays to be confirmed via the Green Star rating system and coordination with the customer.

Comment	Response
from NHVR and Council's Asset Section, such approval must be sought prior to the issue of a Construction Certificate.	

3.0 DPE Water

The DPE Water provided comments on 11 November 2022.

Table 3 Responses to DPE Water commentary

Comment	Response
Groundwater	
DPE Water has reviewed the Amendment Report and recommends that the proponent quantify groundwater take and demonstrate that they have sufficient water entitlement.	There will be no groundwater take associated with the proposed construction or operation of the estate.

4.0 DPE Environment and Heritage

DPE Environment and Heritage provided comments relating to:

- Biodiversity.
- Waterway health.

Responses to these are provided below.

Table 4 Responses to DPE Environment and Heritage commentary

Comment	Response
Biodiversity	
In previous comments dated 19 July 2022 (DOC21/504282), EHG advised that it considered the BDAR report to be adequate.	Noted.
EHG noted that the Order Conferring Strategic Biodiversity Certification on the Cumberland Plain Conservation Plan (CPCP) came into force on 17 August 2022. The subject site is identified as Certified - Urban Capable land under the Plan. With this noted, biodiversity measures to mitigate and manage impacts identified in Section 2.2.5 of the BDAR remain relevant to the proposal (regardless of the CPCP) and a condition of approval should be applied requiring the implementation of these measures.	Noted.
Waterway Health	
The erosion and sediment control plan does not meet the requirements of the Mamre Road Precinct DCP Section 2.4 and 4.4.2 and Technical guidance for achieving Wianamatta-South Creek stormwater management targets. A separate Erosion and Sediment Control Plan certified by a Certified Professional in Erosion and Sediment Control which outlines how the construction phase stormwater targets are achieved has not been provided. The submitted information does not	An erosion and sediment control plan is a condition of consent similar to existing consents in the Mamre Road Precinct, such as SSD-10448. Therefore, it is recommended to adopt the following condition: <i>Prior to the commencement of any construction or other surface disturbance, the Applicant must design and detail the erosion and sediment control measures for the site to ensure the construction phase IWCM controls in the MRP</i>

Comment	Response
<p>contain suitable detail or calculations to illustrate how the stormwater targets will be achieved.</p>	<p><i>DCP are achieved. Detailed Erosion and Sediment Control Plans (ESCP) and drawings must:</i></p> <ul style="list-style-type: none"> <i>(a) be prepared by a Chartered Professional Erosion and Sediment Control (CPESC) specialist;</i> <i>(b) be prepared in accordance with Managing Urban Stormwater: Soils and Construction – Volume 1: Blue Book (Landcom, 2004) and with the WSUD design principles set out in the Draft Technical Guidance for achieving Wiannamatta South Creek Stormwater Management Targets (NSW Government, 2022);</i> <i>(c) demonstrate the construction approach and timing to ensure the construction phase stormwater quality targets can be met; and</i> <i>(d) be included in the CEMP.</i> <p>This is consistent with existing consents in the Precinct, which have set the precedent.</p>
<p>A separate Water and Stormwater Management Plan (and MUSIC model) which outlines how the operational phase stormwater targets are achieved has not been provided. A high level summary of the proposed strategy has been included in Stage 1 Civil Infrastructure and Water Management Strategy proposes a strategy which is not consistent with the Technical guidance for achieving Wiannamatta-South Creek stormwater management targets.</p>	<p>The updated MUSIC model has been issued as part of this response refer to Appendix K. Water and Stormwater Management Plan is discussed at Appendix J at Section 9 and Section 10.</p>
<p>This application focusses on the first stages of the development only and does not illustrate how the targets will be achieved in future stages. Importantly, the application relies on 'undeveloped' portion of the site to comply with the stormwater quality and flow targets. If any further development is to occur on the site, then stormwater targets will no longer be achieved. Details of future stages required.</p>	<p>Subsequent development applications will address the stormwater and flow targets and demonstrate compliance. This will be a consideration for those future DAs and not hold up the determination of the Stage 1 DA, as its shown compliance.</p>
<p>MUSIC model to be updated as per EHG recommendations.</p>	<p>The MUSIC model has been updated. Refer to Appendix K.</p>
<p>It is noted that no commitment to the regional stormwater scheme (Sydney Water) is made. It is recommended that the applicant discuss this issue with Sydney Water, noting a regional approach to achieve the targets has been established by DPE.</p>	<p>ESR is in regular discussions with Sydney Water on how to resolve the regional scheme. We are looking at an interim scheme for the estate, as well as the ultimate solution.</p>
<p>Rooftop misting is not supported. Remove.</p>	<p>Roof misting has been removed from the proposal.</p>
<p>The soils on the site have been confirmed as strongly sodic. All stormwater management devices must contain an impermeable liner. All naturalised trunk drainage (or other open drainage) to be either lined with an impermeable liner or ameliorated and compacted to a suitable depth and topsoiled to limit infiltration to soils.</p>	<p>Noted.</p>

We trust that the information contained within this letter assists the DPE in completing its assessment and issuing a determination of the application. Should you have any queries please contact the below.

Yours sincerely,



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