

21 May 2024

Chris Ritchie
 Director, Industry Assessments
 Department of Planning, Housing and Infrastructure
 4 Parramatta Square
 12 Darcy Street
 Parramatta, NSW 2150

CC: Deana Burn, Specialist Planning Officer

Dear Chris,

RE: SSD-9138102 Modification 5 External Roads

ESR Developments (Australia) Pty Ltd (**ESR**) are responding to a request for information following a notification to agencies regarding a proposed modification. The proposed modification seeks to incorporate environmental assessment for Abbots Road and Mamre Road intersection and Abbots Road to enable the delivery of the road upgrades. It also seeks to update conditions in the consent to reflect current delivery of warehouses and timing of road upgrades.

To assist with closing the items, ESR have prepared a table outlined below. It is noted that Department of Climate Change, Energy, the Environment and Water – Non- Aboriginal Heritage division have provided a response to the material. No comments were raised other than the recommendation to consult with Penrith City Council. A response to this letter is not included in the response as its not warranted.

Table 1 RFI Response

Item	Agency Comment	ESR Response
Department of Climate Change, Energy, the Environment and Water (DCCEE) – Aboriginal Heritage		
Aboriginal Heritage	The inclusion of a procedure for the management of unexpected Aboriginal objects and human remains must be developed in consultation with the Registered Aboriginal Parties and Heritage NSW. The procedure must be prepared in accordance with Heritage NSW guidelines and codes of practice and must be implanted for the duration of the project.	In addition to the Addendum Letter, Biosis prepared an ACHAR which has been completed. A recommendation for a Cultural Heritage Management Plan, which contains an unexpected finds protocol, was recommended by Biosis. A requirement for the CHMP is to be prepared in consultation with registered Aboriginal

		parties. This can be a condition of consent. Refer to Appendix 1 .
Aboriginal Heritage	The inclusion of documentation of the consultation with existing registered Aboriginal parties for the ACHARs undertaken in the immediate area as per the HNSW advice (13 February 2024). The documentation should be provided should demonstrate the provision of the addendum for review and comment and any responses received.	A final ACHAR has been issued, which includes the consultation outcomes with the RAPs. Refer to Appendix 1 .
Transport for NSW (TfNSW)		
Temporary Intersection	<p>TfNSW recommends that the roadwork staging plan include the installation of temporary traffic signals to safely control all vehicle movements during all stages of construction to maintain road safety for all road users.</p> <p>The temporary traffic signals will require a separate approval from TfNSW under section 87 of the <i>Roads Act 1993</i>, and will need to be included in the conditions of the Works Authorisation Deed (WAD) for the Mamre Road/ Abbots Road works.</p> <p>The interim traffic signals would need to be installed prior to the occupation to and operation of the warehouse.</p>	<p>ESR met with TfNSW and DPFI on 10 May to discuss inclusion of interim signals during the proposed road works. The outcome of this discussion was to look at when interim signals are appropriate given the contractors concerns over safety of workers during the early stages of road works.</p> <p>ESR are proposing Stages 1 and 2 of the intersection to remain left in, left out only. The first two stages works include delivery of temporary pavement to widen the road to enable through traffic on Mamre Road.</p> <p>Once the northern half of the intersection is complete and traffic is switched, interim signals will be provided on Stage 3. They will remain operational until such time the ultimate signals are delivered.</p> <p>Updated plans detailing the stages and intersection arrangements are included at Appendix 2.</p> <p>To assist in commencing the works as soon as possible, it is proposed for TfNSW to sign off on the WAD design and management plans for Stage 1 and 2 to commence delivery of the roads. This is outlined at Appendix 6. ESR is seeking endorsement of this proposed timeframe from TfNSW and DPFI as part of this RFI.</p>

While this is occurring, ESR with its delivery partners will work with TfNSW under the WAD process to update Stage 3 and 4 to enable interim signals. This includes updating the WAD for construction plans and management plans to reflect this intersection arrangement.

Penrith City Council

Road Upgrade	In principle, road upgrade works in the Precinct is encouraged. It is evident that the Precinct is developing at a rapid pace, and that road infrastructure needs to be upgraded to match the industrial outcomes permitted by the precincts rezoning. It is also apparent that roads and intersections are no longer fit for purpose.	Noted.
Relevant Consent	From a procedural perspective, DPPI should ensure that this proposed Modification is seeking to amend the most relevant SSD approval, noting that the site has various SSD approvals and a current application relating to Stage 1 (SSD-9138102) and Stage 2 (SSD-46983729). DPPI should therefore ensure consistency throughout the relevant applications and determinations.	<p>The proposed modification relates to the Stage 1 DA. Therefore, the assessment of this modification should relate to the Stage 1 approval.</p> <p>The Stage 2 DA is undergoing a response to submissions. Should roads need to be considered as part of this assessment, ESR will nominate it in their response to DPPI.</p>
Coordination of Road Works	DPPI should consider how the proposed works tie in with other road upgrades proposed in the Precinct. This includes the timing for other landholders, such as LOG-E, to both obtain Part 4 development consent and commerce/ carry out the works.	<p>The design of the road upgrade has been a coordinated effort across the entire corridor. The design ties in seamlessly with the Aldington Road extent beyond ESR's site, which is not part of this modification.</p> <p>Land acquisition as proposed for Aldington Road is not available for the lots directly north of ESR's land. In addition, road levels at this point are consistent with the existing RLs. Therefore, the tie in at this junction, whether concurrently or separately, does</p>

		<p>not matter as the approach remains the same.</p> <p>Further, the environmental assessment reports have been prepared across the entire road corridor to ensure consistency across the two road projects.</p>
	<p>The EIS refers to road upgrade works also proposed by Fife as part of a Modification to SSDA-10479 at 200 Aldington Road. Those proposed works should be reconciled with the current proposed works as part of this Modification application to ensure that work proposed to be carried out by varied landholders is consistent with the MRP DCP and Council's technical requirements.</p>	<p>ESR's consent does not require access to Aldington Road, given trucks cannot use the existing Bakers Lane.</p> <p>We have coordinated reports and design across the two scopes to ensure consistency on the design and delivery of the proposed road upgrades.</p> <p>It is not appropriate for ESR's consent to incorporate the Aldington Road works, as it was not relevant in the assessment of the original approval.</p>
SEPP Amendment	<p>DPHI should consider the timing of the proposed amendment to the SEPP (Industry and Employment) as the draft SEPP amendments have implications for roads in the vicinity of the site.</p>	<p>The SEPP Amendment is a housekeeping amendment to reflect the design of the road upgrades, which ESR has prepared.</p> <p>It does not impact the assessment of this proposed modification. All land under this assessment is within ESR's land or Council's road reservation, which we received owners consent for this modification.</p> <p>The resolution of the SEPP amendment should not hold up the determination of this modification.</p>
Tree Planting	<p>It is unclear how street tree planting will be provided given the interim design outcome proposed</p>	<p>This is a matter for the Section 138 approval with Council. Trees and landscape will be delivered as reflected under these plans and approved by Council.</p> <p>This should not hold up assessment of this road's modification, which seeks to incorporate the environmental assessment of the land affected by the proposed road works.</p>

Condition of Consent	<p>Part A Condition 24</p> <p>An amendment is sought to insert additional wording to refer to a table that outlines the indicative contributions for each lot. The reason supplied by the applicant is the insertion is intended to ensure that contributions are paid at an appropriate time to allow the staged commencement of operations. In this regard:</p> <ul style="list-style-type: none"> A. It is requested that the timing of payment of contributions occurs as per the requirements in section 1.9 of the Mamre Road Precinct DCP 2022. B. Council's preference is that no indicative contribution obligations values are attached to the consent, unless Council can verify and confirm these values by way of an NDA plan prepared by a registered surveyor. This information does not appear to be attached to the subject modification application. C. The proposed condition modification refer to 'table 1'. However, the table 1 referenced cannot be located. 	<p>A NDA plan and table has been prepared and is attached to this response. Refer to Appendix 7.</p> <p>The NDA will not change on the approved areas as it's based on land area, not the development footprint. Therefore, it is ESR's view that the table can be inserted to provide guidance on what contributions are required to be paid, subject to indexation.</p>
Conditions of Consent	<p>Part B Condition B4 and B11</p> <p>Amendments are sought to uncouple the operation of the development from the delivery of the upgrades of Abbots/ Aldington Road. The reasoning provided by the applicant is that it would enable them to deliver the road in an appropriate timeframe and should there be elements outside of ESR's control, that they would be released from the delivery of the roads. In this regard:</p>	<p>ESR remains committed to deliver the roads. However, the ability for us to commence the road upgrade works is contingent on roads authorities providing the appropriate approvals and other agencies completing works required by those road authorities to enter into agreements to deliver the road works.</p> <p>Given this current status and the delivery of the warehouse, which is underway and on track to deliver for Q4 2024, ESR requires a resolution that enables us to move forward with our estate, while still</p>

	<p>A. Abbotts and Aldington Roads are currently existing rural roads that were never envisioned to service operational industrial traffic in their current state.</p> <p>B. The completion of the delivery of the road should have the nexus with the development and be tied to a threshold trigger (such as Occupation Certificate or a partial/staged Occupation Certificate) to ensure orderly and logical rollout of critical infrastructure before operation of major developments. The amendments appear to uncouple the delivery of the road from the operation of the development, which is not supported.</p> <p>C. Consideration is to be given to the effect of timing and triggers of the delivery of Abbotts Road on other SSD approvals that rely on the delivery of both Abbotts and Aldington Roads to facilitate further operational industrial traffic.</p>	<p>working with relevant authorities on the infrastructure approval.</p> <p>To provide assurance to the road authorities on the commitment to deliver the roads, ESR proposes the following triggers to be tied to the SSDA:</p> <ul style="list-style-type: none"> • Road works must commence prior to completion of Lot 4 warehouse, which is now labelled proposed Lot 3, under the Stage 1 SSDA; • Road works must be delivered no later than June 2026 unless specified under a planning agreement with the relevant road authority. <p>We believe the above trigger mechanisms are appropriate. ESR remains committed to deliver the roads. The moving of the obligation does not remove ESR's obligation and need for the roads to be delivered. ESR's Westlink has 8 lots with a proposed 12 warehouses to locate within the estate. Lot 1 and Lot 3 warehouses are the first stage, which is reflected in the consent. However, ESR understand the roads need to be delivered to fully support the entire estate once operational. Refer to Appendix 5 which outlines the indicative estate staging for the development.</p>
<p>Road Upgrade Timing</p>	<p>There is no legal mechanism proposed in this modification to ensure the road works are completed by the developer, rather it gives the applicant flexibility to deliver the road as they see fit to their circumstances.</p>	<p>Yes, there is a legal mechanism to deliver the road works, which are the conditions spelling out the requirement to enter a Works Authorisation Deed (WAD) with TfNSW and Section 138 approval by Council.</p> <p>ESR remain committed to deliver the road upgrade works and are working with both government agencies to finalise these agreements.</p>
<p>Sequencing of Upgrades</p>	<p>There is insufficient information on how the staging of Mamre Road intersection and the staging of Abbotts Road/ Aldington Road upgrade works correspond to one</p>	<p>The indicative staging plans have been provided to provide context on how the roads will be delivered. The final staging and delivery are subject to approval of the WAD and Section 138 plans.</p>

	<p>another and how it will tie with obtaining the Occupation Certificate for the first warehouse.</p>	<p>The timing and coordination of the stages across both road projects depends on sign off from the relevant road's authorities.</p> <p>We have provided an indicative timeframe on what stages would be completed by the project completion of ESR's first warehouse building. Refer to Appendix 6.</p> <p>However, it is noted that the warehouse is currently under delivery, while the road works are pending sign off of this modification and relevant road approval (e.g. WAD and Section 138). The sequencing of the staging plans will change depending on the outcome of this process.</p>
<p>Staging of Abbotts Road</p>	<p>Stage 3 for the upgrade works along Aldington Road should be revised as the permanent works in progress as shown in green should be noted as completed works.</p> <hr/> <p>It is suggested that DPHI could consider staging the delivery of the road works with a staged Occupation Certificate for the Toll warehouse. For instance, the stage 1 upgrade works of Abbotts/ Aldington Road are to commence and be completed prior to the issue of an occupation certificate up to 50% of the area of the Toll warehouse. Upon completion of all the upgrade works to Abbotts and Aldington Road to Council's satisfaction, the Occupation Certification for the remainder the warehouse can be issued.</p> <p>For additional security, it is recommended that a bond of 200% the costs of works is to be obtained</p>	<p>The staging plans are indicative to assist with showing how ESR and its contractor intends to deliver the works. The staging plans to be refined via the WAD and Section 138 approval process. This update can be coordinated with the relevant road's authority via this process.</p> <hr/> <p>Refer to the above response in relation to how road works should be tied to the development.</p> <p>Bank Guarantees relating to developer planning agreements is outlined in the Penrith City Council's 'Penrith Development Agreements Policy'. The request for 200% is not appropriate and is at conflict with this policy. The policy states on Page 39, item 9.2(b) the following:</p> <p><i>Where works are not listed in the contribution plan, security must be equivalent to 200% of the value of works.</i></p> <p>Given the proposed works are captured under the Section 7.11 Plan for the Mamre Road Precinct, this requirement is not applicable.</p>

	from the developer for the delivery of the upgrade works.	Further the requirement for a bank guarantee is related to planning agreement and should be dealt with under this process accordingly. It is not relevant to the proposed roads modification.
Referral to TfNSW	The proposed modification shall be referred to TfNSW for comment.	The application has been referred to TfNSW. Refer to their response above.
Road Modelling	TfNSW should endorse the modelling assessment for Mamre Road/ Abbots Road intersection, as well as the Abbots Road and Aldington Road corridors.	The road modelling was endorsed as part of the original SSDA assessment. The road modelling for the proposed road upgrade works has not changed.
Bakers Lane	Construction traffic is not to utilise Bakers Lane. All construction traffic is to access each of the sites via the Mamre Road/ Abbots Road intersection.	Noted.
Construction traffic	All construction vehicles, including light and heavy vehicles, access to the sites shall be left in, left out movements only at Mamre Road/ Abbots Road intersection.	Noted.
Construction traffic	The right-in movement from Mamre Road into Abbots Road for local traffic requires approval from TfNSW.	Noted. This will be addressed as part of the WAD.
CTMP	Prior to commencement of any works, a Construction Traffic Management Plan (CTMP) is to be submitted to Penrith City Council's Asset Management Department for endorsement. The CTMP must be prepared by a suitably qualified consultant with appropriate training and certification from TfNSW.	Noted. To be dealt with via the relevant road authority under the WAD and Section 138 approval.
CTMP	The CTMP must include details of any required road closures, work zones, loading zones, and the like. Approval of the CTMP may require approval of the Local Traffic Committee.	Noted. To be dealt with via the relevant road authority under the WAD and Section 138 approval.
Construction Noise	The Construction Noise and Vibration Impact Assessment identify that works are likely to impact receivers and mitigation measures identified in the assessment must be implemented.	Noted. To be dealt with via the relevant road authority under the WAD and Section 138 approval.

Contamination	<p>The contamination investigations identify that whilst no large-scale contamination was located, soil material will need to be classified prior to disposal. Further, recommendations of the reports must be implemented.</p>	<p>This can be conditioned in the consent and form part of the WAD and Section 138 approval.</p> <p>We cannot undertake these investigations until the road upgrade works commence.</p>
Landscape	<p>Council's Landscape Architect Lead has reviewed the proposal and have raised the following considerations:</p> <ul style="list-style-type: none"> A. The proposed development and documentation must provide substantial species diversity generally, with tree species selected from the Penrith City Council Street Tree Masterplan B. For Mamre Road this includes <ul style="list-style-type: none"> a. Eucalyptus tereticornis, Forest Red Gum* b. Eucalyptus moluccana, Grey Box Gum* c. Eucalyptus crebra, Narrow-Leaved Ironbark* d. Corymbia maculate, Spotted Gum e. Waterhousia floribunda, Weeping Lilly Pilly f. Tristaniopsis laurina 'Luscious', Water Gum g. Cupaniopsis anacardioides, Tuckeroo h. Melaleuca decora, White Feather Honey Mrytle i. Note* = Trees for very wide verge areas or large open space setback 	<p>The landscape to be detailed under the WAD and Section 138 approval. The road design provided for this modification is for context to inform the environmental assessment of the roads.</p>

- C. For Aldington Road this includes,
 - a. West side –
Lophostemon confertus, Brushbox
 - b. East side –
Lophostemon confertus, Brushbox
- D. For Abbots Road this includes,
 - a. North side –
Corymbia eximia, Yellow Bloodwood
 - b. South side –
Corymbia eximia, Yellow Bloodwood

Department of Planning, Housing, and Infrastructure

Noise	The assessment of the Acoustic Report was completed in March 2023, please updated Tables 12 and 13 in each assessment (Mamre Road/ Abbots + Aldington/ Abbots) providing details of the number of affected receivers in each category (highly noise affected, sleep disturbance, .20 db exceedance, etc). The tables refer to them as 'Number of Receivers not subject to Development Applications'.	The Acoustic Reports have been updated to reflect current sensitive receivers in the Precinct, refer to Appendix 3 . Further, ESR and Fife Stockland undertook a door knock to the affected receivers on the 16 May to inform them of the proposed works. Key outcomes of the discuss identified at Appendix 4 , including a proposed engagement strategy to be utilised during the construction of the roads.
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Department of Climate Change, Energy, the Environment and Water

Biodiversity	Section 7.17 of the <i>Biodiversity Conservation Act 2016</i> (BC Act) requires a Biodiversity Development Assessment Report (BDAR) to be submitted with an application to modify a State Significant Development application, unless the authority or person determining the application for modification is satisfied that the modification will not increase the impact on biodiversity values. Any proposed changes that will result in direct, indirect, or prescribed impacts on biodiversity values not assessed under the original	There are no works proposed on non-certified land. The road corridor is excluded under the Cumberland Plain Conservation Plan, as its an infrastructure projects. The road works are only proposed on certified or excluded land. A Flora and Fauna Assessment was prepared by NARLA. It identified 3.52ha of exotic vegetation loss within the Mamre Road/ Abbots Road intersection and Abbots Road corridor. Fraser Ecological is attending site on 21 May to observe vegetation with an intent to prepare a BDAR. Based on NARLA's previous investigations, it is anticipated
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approval, are considered to constitute an increase in impacts.

In the case of this modification application, there is excluded land (i.e. non-certified) under the Cumberland Plain Conservation Plan (CPCP) where native vegetation is proposed for removal. Therefore, there will be an increase in impacts to biodiversity values as a result of the modification proposal and so in accordance with Section 7.17 of BC Act, a BDAR is required.

this assessment will determine if credits are required for the extent of works along this road corridor. ESR will verify the outcomes of this site visit to DPHI later this week.

Should you have any questions on the above, please do not hesitate to contact me.

Kind regards,

Grace Macdonald
ESR Australia
Planning Manager NSW
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**APPENDIX 1
ABORIGINAL CULTURAL HERITAGE ASSESSMENT REPORT**

**APPENDIX 2
UPDATED STAGING PLANS FOR MAMRE ROAD/ABBOTTS ROAD INTERSECTION**



**APPENDIX 3
ACOUSTIC REPORTS**

**APPENDIX 4
ENGAGEMENT STRATEGY**

**APPENDIX 5
INDICATIVE ESTATE STAGING**

STAGE	ESTIMATED PROJECT COMPLETION (SC or OC)
Proposed Lot 1	November 2024 <i>Note: This is under delivery with PC anticipated this year.</i>
Proposed Lot 2	November 2025
Proposed Lot 3	June 2025 <i>Note: Project is commencing and approved under Stage 1.</i>
Proposed Lot 4	March 2027
Proposed Lot 5	September 2026
Proposed Lot 6	January 2026
Lot 10/ DP 1296455	January 2026



**APPENDIX 6
ROAD WORKS TIMEFRAMES**

MAMRE ROAD/ ABBOTTS ROAD INTERSECTION w/ SIGNALS (TfNSW)

Action	By	Est. Duration	Indicative Completion Date
Submit Stage 1 and 2 Traffic management plans for approval by TfNSW	Robson	4 Weeks	28 June 2024
Update staging plans for new layout and provide revised brief to Digitise	Robson	1 Week	7 June 2024
Complete layout / long section / cross section drawings for revised layout	Digitise	3 Weeks	28 June 2024
Stage 1 Construction	Robson	10 weeks	2 August 2024
Complete TCS design for each of the 2 stages	TCS Designer	4 Weeks	26 July 2024
Review and approve this TCS Design	TfNSW	4 Weeks	23 August 2024
Ducting plans and cabling diagrams based on approved TCS Design (3 x Stages)	TCS Designer	2 Weeks	6 September 2024
Review and approve ducting plans and cabling diagrams	TfNSW	4 Weeks	20 September 2024
Stage 2 Left in Left out Only Complete	Robson	18 Weeks	20 December 2024
Obtain "Personality Chip" for signal controller	TfNSW	12 Weeks	31 January 2025

LOT 1 ANTICIPATED PC DATE

Commission Traffic Signals (required to proceed to Stage 3)	TCS Contractor	1 Weeks	14 February 2025
Stage 2 Construction	Robson	26 Weeks	28 February 2025
Stage 3	Robson	20 weeks	18 July 2025
Stage 4/Handover and Completion	Robson	8 Weeks	12 September 2025

ABBOTTS ROAD (COUNCIL)

Action	By	Est. Duration	Indicative Completion Date
Stage 1 Construction	Robson	6 weeks	6 September 2024
Stage 2 Construction	Robson	14 Weeks	20 December 2024
Stage 3	Robson	27 weeks	17 July 2025
Handover and Completion	Robson	2 Weeks	30 July 2025

LOT 1 ANTICIPATED PC DATE

**APPENDIX 7
NDA PLAN and CONTRIBUTIONS TABLE**

Contribution Table

Lot	Area	S7.11 Contribution*
Lot 10 DP 1296455	7.8890	\$4,727,286.02
Proposed Lot 1	11.0803	\$6,639,592.77
Proposed Lot 2	2.7828	\$1,667,523.33
Proposed Lot 3	4.3460	\$2,604,231.85
Proposed Lot 4 Easement	.6254	\$374,635.47
Proposed Lot 4 (excluding easement)	15.0374	\$9,010,786.02
Proposed Lot 5	9.9017	\$5,933,346.18
Proposed Lot 6	7.1780	\$4,301,237.05
Road No. 1 (Stage 1)	1.0380	\$1,052,059.33
Road No. 1 (Stage 2)	.7177	\$621,995.55
Total	60.5963	\$36,932,693.60

*This is the base rate. The final contribution amount needs to be confirmed by Council at the time of payment as per the Mamre Road Precinct Development Control Plan 2022 triggers and subject to indexation.