

Modification Report

Westlink Industrial Estate – Stage 1 (Modification 4)

1030-1048 & 1050-1064 Mamre Road, 59-62 & 63 Abbotts Road, 290-308 Aldington Road, Kemps Creek

Submitted to the Department of Planning and Environment
on behalf of ESR Developments (Australia) Pty Ltd

SSD-9138102



'Gura Bulga'

Liz Belanjee Cameron

'Gura Bulga' – translates to Warm Green Country. Representing New South Wales.



'Dagura Buumarri'

Liz Belanjee Cameron

'Dagura Buumarri' – translates to Cold Brown Country. Representing Victoria.



'Gadalung Djarri'

Liz Belanjee Cameron

'Gadalung Djarri' – translates to Hot Red Country. Representing Queensland.

Ethos Urban acknowledges the Traditional Custodians of Country throughout Australia and recognises their continuing connection to land, waters and culture.

We pay our respects to their Elders past, present and emerging.

In supporting the Uluru Statement from the Heart, we walk with Aboriginal and Torres Strait Islander people in a movement of the Australian people for a better future.

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1.0 Introduction

This Modification Report has been prepared by Ethos Urban on behalf of ESR Developments (Australia) Pty Ltd (ESR) (the Applicant) pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify the Westlink Industrial Estate – Stage 1 (Westlink Stage 1) (SSD-9138102) State Significant Development Application (SSDA).

The proposed modification seeks to modify the approved development to amend the approved design of the retaining wall along the northern boundary of the estate, adjacent to Lot 1. This modification is necessary due to a change in levels of the northern neighbouring site (Lot 15 DP 253503). This Modification Report describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. It has been prepared with regard to the Department of Planning and Environment’s (DPE’s) *State Significant Development Guidelines – Preparing a Modification Report*.

1.1 Applicant Details

The Applicant’s details are presented in **Table 1** below.

Table 1 *Applicant Details*

Applicant:	ESR Developments (Australia) Pty Ltd
Address:	Level 24, 88 Phillip Street, Sydney NSW 2000
ABN:	88 625 766 109

1.2 Overview of the approved development

The Westlink Stage 1 SSDA (SSD-9138102) was approved by the Department of Planning and Environment as delegate of the Minister for Planning and Public Spaces on 21 April 2023 for:

Construction of the first stage of an industrial estate including bulk earthworks, subdivision, construction, fit out and operation of two warehouse buildings and ancillary office space with a total gross floor area of 81,317m², landscaping, construction of estate roads and external road upgrades, site servicing and stormwater infrastructure.

The approved Westlink Stage 1 Site Plan is provided in **Figure 1** illustrating the approved development.

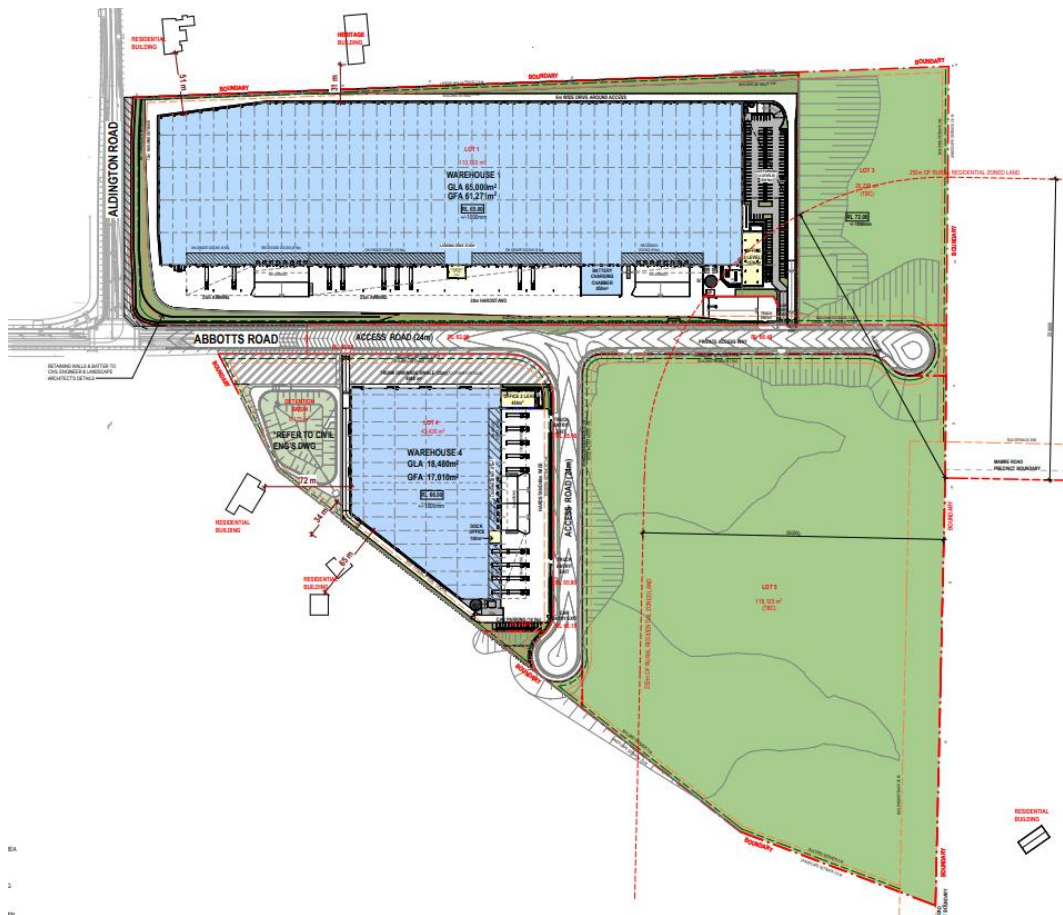


Figure 1 Approved Westlink Stage 1 Site Plan

Source: Nettletontribe Architects

1.2.1 Site Overview

The Westlink Stage 1 site is located at the southern end of the Mamre Road Precinct (MRP) (refer to **Figure 2**), which sits within both the Western Sydney Employment Area (WSEA) and the Western Sydney Aerotropolis. The site was rezoned in 2020 as part of the gazettal of the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*, now known as *State Environmental Planning Policy (Industry and Employment) 2021* (Industry and Employment SEPP), which rezoned the site to IN1 General Industrial.

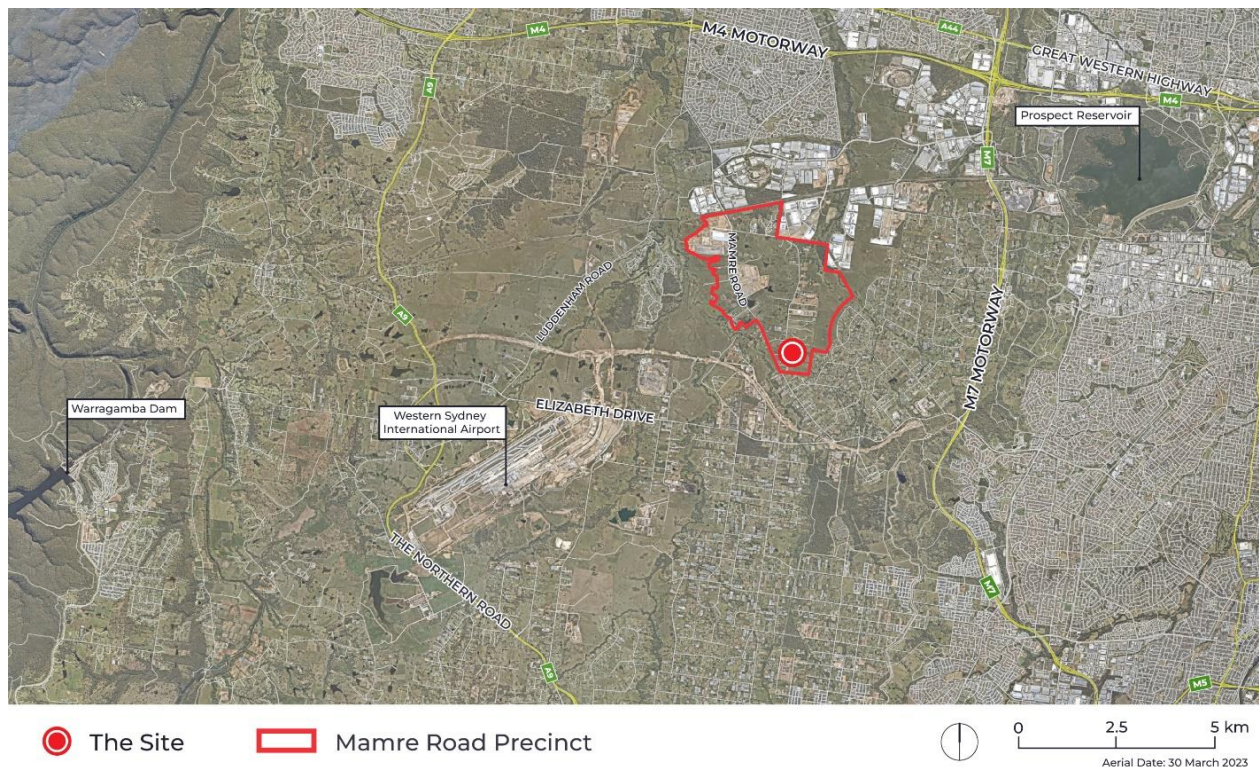


Figure 2 Site Location and Context Map

Source: Nearmap, Ethos Urban

The site comprises five (5) separate allotments owned by ESR, being 1030-1048 & 1050-1064 Mamre Road, 59-62 & 63 Abbotts Road and 290-308 Aldington Road, Kemps Creek (Lot 11, 12 and 13 DP253503, Lot 3 and 4 DP250002). An updated Site Aerial Map is provided in **Figure 3**. Site photos of the approved development site are provided in **Figure 4** and **Figure 5** following.



Figure 3 Site Aerial Map

Source: Nearmap, Ethos Urban



Figure 4 View of Westlink Stage 1 Lot 4 from the Abbots Road extension looking south



Figure 5 View of Westlink Stage 1 Lot 1 looking east

Source: Ethos Urban

1.3 Overview of Proposed Modifications

The proposed modification seeks to modify the approved development to amend the approved design of the retaining wall along the northern boundary of the estate, adjacent to Lot 1. Specifically, the height of the retaining wall along the northern boundary of the estate will be reduced and the design of the retaining wall will be amended. This modification is necessary due to a change in levels of the northern neighbouring site at 272-280 Aldington Road (Lot 15 DP 253503).

A comparison of the approved and proposed to be modified retaining wall sections is illustrated in **Figure 3**, and is also provided at **Appendix B**.

The maximum height of the approved retaining wall was RL 85.947 (20.980m) at chainage 420.00. It is proposed to reduce the maximum height of the retaining wall to RL 76.00 (11.5m), as shown in the images below, due to a change in ground levels on the adjacent neighbouring property to the north. Similarly, at chainage 280.00 in the

approved design, the height of the retaining wall was RL 72.972 (8.102m), whereas the height of the retaining wall at chainage 280.00 in the amended design is proposed to be RL 70.000 (5.5m). Overall, the retaining wall height is intended to be reduced from that as approved.

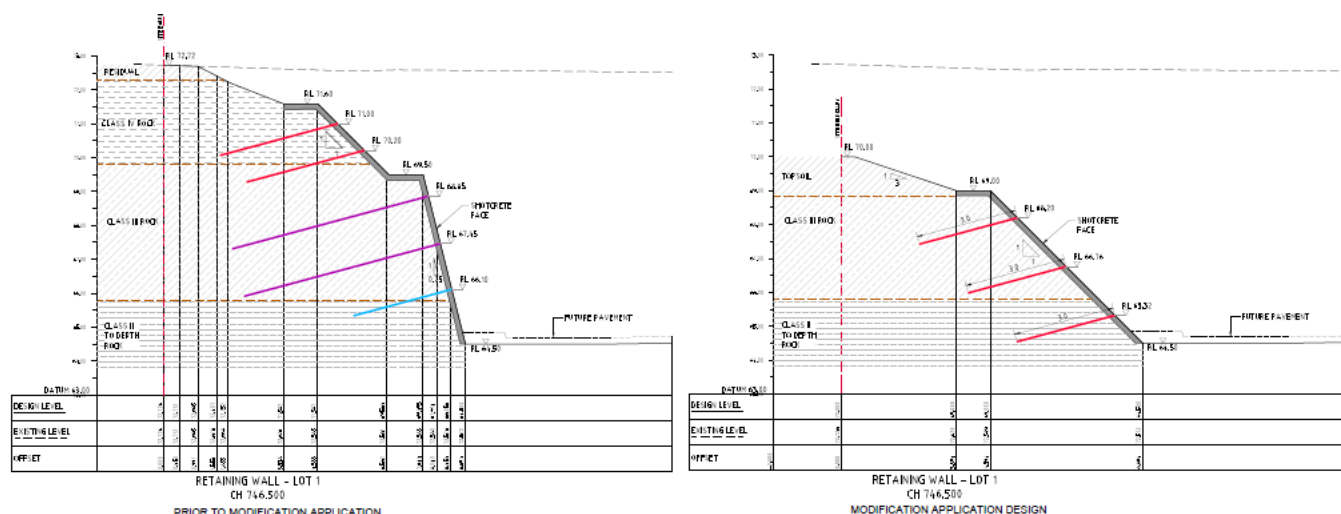


Figure 6: Comparison of approved and modified northern boundary retaining wall sections for Lot 1

Source: AT&L

The development, as proposed to be modified, is both essentially and materially of the same essence as that of the approved development and is therefore considered to be substantially the same. The modification of the development consent can therefore be lawfully made under section 4.55(1A) of the EP&A Act.

1.4 Analysis of Alternatives

Three options are available to ESR in responding to the identified need for the changes to the design, as outlined below.

1.4.1 Option 1 – As Approved

Retaining the existing design as approved is not feasible, as there have been substantial level changes to adjoining allotments that do not align with the end outcome.

1.4.2 Option 2 – Alternative Designs

Alternative design outcomes were explored by ESR and its engineering consultant to identify other means of managing the change in levels, and these were deemed unfeasible.

1.4.3 Option 3 – As Proposed to be Modified

The modification application as proposed provides for a better design outcome for the retaining wall and interface with the adjoining allotment, and in parts reduces the overall retaining wall height as a result of changes in levels on neighbouring sites.

2.0 Strategic Context

The strategic context of the development as proposed to be modified remains substantially the same as approved on 21 April 2023. Since then, construction of the proposed development has commenced with the bulk earthworks currently being completed at the time of writing.

The modified development's alignment with its strategic context remains consistent for the following reasons:

- The development will continue to provide warehousing and industrial floor space in an area identified for this purpose
- The development remains permissible with consent under the relevant statutory planning framework for the site
- The development remains consistent with the Greater Sydney Region Plan – A Metropolis of Three Cities, the Western City District Plan, and the Mamre Road Precinct Structure Plan

3.0 Description of the Modifications

3.1 Detailed Overview

The section 4.55 (1A) modification application will seek to modify Westlink Industrial Estate – Stage 1 (SSD-9138102) to reduce the height and amend the design of the retaining wall along the northern boundary of the estate (adjacent to Lot 1).

A comparison of the approved and proposed to be modified retaining wall sections is illustrated in **Figure 3**, and is also provided at **Appendix B**.

The maximum height of the approved retaining wall was RL 85.947 (20.980m) at chainage 420.00. It is proposed to reduce the maximum height of the retaining wall to RL 76.00 (11.5m), as shown in the images below, due to a change in ground levels on the adjacent neighbouring property to the north. Similarly, at chainage 280.00 in the approved design, the height of the retaining wall was RL 72.972 (8.102m), whereas the height of the retaining wall at chainage 280.00 in the amended design is proposed to be RL 70.000 (5.5m). Overall, the retaining wall height is intended to be reduced from that as approved.

An updated project description has been provided below and the proposed modifications are illustrated on the revised Engineering Drawings prepared by Coston Roe Consulting included at **Appendix C**. The proposed modifications are also supported by revised retaining wall design drawings prepared by Douglas Partners included at **Appendix D**.

3.2 Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in ~~**bold strike through**~~ and words to be inserted are shown in ***bold italics***.

Given the detailed engineering plans are not listed in the consent specifically, it is at the Department's discretion if these plans are to be listed in Appendix 1 – Development Layout Plans, or alternatively a reference added into the 'Definitions' relating to this modification.

3.3 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- The proposed modifications are minor in nature and are in response to changes in adjoining land levels that require reconsideration of the interface retaining wall.
- The development remains as originally approved in terms of its intended use and overarching design principles.
- The proposed modifications do not alter the key components of the approved development, being an industrial estate.
- The operational elements of the approved development do not change.
- The proposed modifications do not increase the gross floor area of the approved development.

The development, as proposed to be modified, is both essentially and materially of the same essence as that of the approved development and is therefore considered to be substantially the same. The modification of the development consent can therefore be lawfully made under section 4.55(1A) of the EP&A Act.

3.4 Modification Category

The consent authority may be satisfied that this Modification Application is one which may be determined pursuant to Section 4.55(1A) of the EP&A Act as the proposed design changes are of minimal environmental impact with no impacts on surrounding properties.

3.5 Updated project description

There is no change required to the development description as a result of this modification, with the description to remain as:

Construction of the first stage of an industrial estate including bulk earthworks, subdivision, construction, fit out and operation of two warehouse buildings and ancillary office space with a total gross floor area of 81,317m², landscaping, construction of estate roads and external road upgrades, site servicing and stormwater infrastructure.

4.0 Statutory Context

This section identifies the relevant statutory context in relation to the proposed modification of the Westlink Stage 1 SSDA (SSD-9138102).

Table 2 Statutory Context

Statutory Requirement	Assessment
Power to Grant Consent	<p>Section 4.55(1A) of the EP&A Act relates to modifications involving minimal environmental impact and enables a consent authority to modify a development consent if:</p> <ul style="list-style-type: none"> (a) it is satisfied that the proposed modification is of minimal environmental impact, and (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and (c) it has notified the application in accordance with— <ul style="list-style-type: none"> (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be. <p>Minimal Environmental Impact</p> <p>The proposed modifications are of minimal environmental impact as the proposed design changes are minor in nature, resulting in a reduced retaining wall height overall which will not alter visual or acoustic impacts of the project.</p> <p>An assessment of the anticipated impacts of the proposed modification is provided in Section 6.0 which is supported by a Stormwater and Civil Letter, a Visual Impact Letter and an Acoustic Letter (Appendices G and H). Due to minimal environmental impacts associated with the proposed modification it can be approved under Section 4.55(1A) of the EP&A Act.</p> <p>Substantially the Same Development</p> <p>The development, as proposed to be modified, is substantially the same development as that originally approved in that it:</p> <ul style="list-style-type: none"> • The proposed modifications are minor in nature and are in response to the change in levels of the northern neighbouring site at 272-280 Aldington Road (Lot 15 DP 253503); and • The proposed modifications do not alter the key components of the approved development, only resulting in a decrease in height of an approved retaining wall.
Permissibility	The proposed modifications do not seek to alter the use of the approved development. The approved development remains consistent with <i>State Environmental Planning Policy (Industry and Employment) 2021</i> (Industry and Employment SEPP).
Other Approvals	The proposed modification does not relate to any 'other approvals'.
Pre-Conditions to Exercising the Power to Grant Consent	<p><i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></p> <p>Section 2.121 requires the consent authority to provide TfNSW with written notice of the development application for developments considered a 'traffic generating activity'. The original DA was considered a 'traffic generating activity' as consent was sought for warehouse or distribution centres with a site area of more than 8,000sqm. Given that no change to the proposed warehouses / distribution centres, Section 2.121 of the TISEPP is not considered to be relevant.</p>
Mandatory Matters for Consideration	<p><i>State Environmental Planning Policy (Industry and Employment) 2021</i></p> <p>The development remains consistent with relevant provisions of the Industry and Employment SEPP with an assessment of the relevant matters provided at Appendix A.</p>
	<p><i>Mamre Road Precinct Development Control Plan</i></p> <p>The development remains consistent with relevant provisions of the MRP Development Control Plan (DCP) with an assessment of the relevant matters provided at Appendix A.</p>

5.0 Community Engagement

This section describes the engagement undertaken during the preparation of the Modification Report as well as any engagement to be carried out following the preparation of the Modification Report.

5.1 Engagement Carried Out

Following the approval of Westlink Stage 1 development in April 2023, the Applicant has consulted with other agencies in relation to the commencement of earthworks on the site, however these discussions have not involved the proposed retaining wall changes. Discussions have been held with the adjoining landowner where ground levels have changed that result in the adjustment to the walls and the impetus for this modification. It is noted this modification application would be referred to agencies and placed on public exhibition however the changes are not expected to impact any of these external parties.

5.2 Engagement to be Carried Out

The Applicant will continue working with agencies and surrounding landowners as required through the design refinement and construction process. Throughout the Modification Application process, the Applicant will remain open to consultation and/or feedback from any relevant parties.

6.0 Assessment of Impacts

This section provides a detailed summary of the findings of any further assessment of the impacts as a result of the proposed modifications.

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the proposed modification is of minimal environmental impact”*. Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The EIS submitted with the originally approved SSD Application assessed the following environmental impacts of the proposed development, and in particular, the following elements of the development are not considered to require further environmental assessment or consideration due to the minor nature of the design development changes proposed as part of this modification:

- Infrastructure requirements
 - No changes proposed.
- Soils and water
 - No changes proposed.
- Hazards and risk
 - No changes proposed.
- Traffic and transport
 - The proposal will not result in any additional vehicle movement on the existing road network as proposal only relates to a reduction in height of an approved retaining wall.
- Landscaping
 - The proposed retaining wall modification does not result in changes to the landscaping proposed along the northern boundary.
- Biodiversity
 - The matter of biodiversity was addressed under SSD-9138102 with the existing land approved to be cleared in addition to the land being classified as Certified-Urban Capable Land and therefore does not require any additional assessment.
- Heritage
 - The matter of environmental and Aboriginal heritage was assessed under SSD-9138102 and therefore requires no additional assessment. The existing procedures under SSD-9138102 consent will be complied with.
- Aboriginal heritage
 - The matter of environmental and Aboriginal heritage was assessed under SSD-9138102 and therefore requires no additional assessment. The existing procedures under SSD-9138102 consent will be complied with. Social and economic impacts
- Contamination and geotechnical
 - The geotechnical conditions of the existing land have been assessed and do not change at the reduction of the retaining wall.
- Bushfire
 - No changes proposed.
- Air quality
 - The proposed modification will continue to be managed per existing approved air quality measures as per the CEMP that applies across the site.
- Waste management
 - No changes proposed.
- Flooding
 - No changes proposed.
- Ecological sustainable development
 - No changes proposed.

The following assessment considers the relevant matters under section 4.15(1) and those elements of the proposed modification requiring additional assessment beyond that considered in the original EIS and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

6.1 Visual Impact

A Visual Impact Letter has been prepared by Geoscapes Landscape Architecture and is attached in **Appendix G**. This letter assesses the potential changes to visual amenity as a result of the proposed modification to the northern boundary retaining wall.

A Visual Impact Assessment was undertaken by Geoscapes for the original Westlink Stage 1 Scheme (SSD-9138102). This included a viewpoint from 284 Aldington Road. The significance of visual impact from this viewpoint was assessed to be high due to the close proximity of the development, however this was offset by significant landscape planting which would screen and soften views of the development and partially exposed retaining wall to the west.

Geoscapes have noted that the proposed modification to the northern boundary retaining wall will not result in any change to the view, when compared to the original approval, as the visual impact will remain the same with no change to the approved landscaping being proposed.

Furthermore, Geoscapes note that the retaining walls will not be visible from the northern property at 272-280 Aldington Road in both the approved development and proposed modification, due to the retaining wall being in cut. The proposed retaining wall height will reduce overall and landscaping will continue to visually screen the retaining wall.

As such, it is concluded that the proposed modification will not result in any different visual impacts, when compared to the approved development.

6.2 Acoustic Impact

An Acoustic Letter has been prepared by SLR Consulting for the proposed modification and is attached in **Appendix H**. A pre-construction Design Noise Verification Report is currently being prepared to meet the requirements of Condition B54 of SSD-9138102. The noise model was updated to include the new ground levels and revised design of the northern boundary retaining wall. Based on the updated modelling, it has been confirmed that the proposed modification will not result in any change to predicted noise levels at the nearest receivers, including the nearest residential properties to the southeast and the BAPS Temple to the north.

As such, it is concluded that the proposed modification will not result in different acoustic impacts from that of the approved development.

6.3 Civil and Stormwater Engineering

A Civil and Stormwater Engineering Letter has been prepared by AT&L and is attached in **Appendix E**. This letter confirms that the proposed modification will not have any adverse impact on existing stormwater drainage catchments within and around the Westlink Estate, when compared to the approved development.

As such, the modified development remains consistent with the stormwater drainage strategy of the approved development.

6.4 Reasons given for granting Consent

The key reasons given by the Department of Planning and Environment for granting consent to Westlink Stage 1 (SSD-9138102) were as follows:

- The development would provide a range of benefits for the region and the State as a whole, including a capital investment value of \$128 million and generation of 160 full-time equivalent construction jobs and 212 operational jobs.
- The development is permissible with development consent under State Environmental Planning Policy (Industry and Employment) 2021.

- The development is consistent with NSW Government policies including the Greater Sydney Region Plan – A Metropolis of Three Cities, the Western City District Plan, and the Mamre Road Precinct Structure Plan.
- The impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards.
- The issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the development and the conditions of consent.
- Weighing all relevant considerations, the development is in the public interest.

The development remains substantially the same as that approved with the proposed modification not impacting the reasons given for granting consent.

7.0 Justification of the Modified Project

The proposed modification seeks to modify the approved development to reduce the height and amend the design of the retaining wall along the northern boundary of the estate (adjacent to Lot 1).

In accordance with section 4.55(1A) of the EP&A Act, the consent authority may modify the consent as:

- The proposed modification is of minimal environmental impact; and
- Substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request with justification of the modified project provided in the following subsections.

7.1 Project Design

The design of the retaining wall, as proposed to be modified, remains substantially the same to that approved. The retaining wall height has been reduced from 20m to 11.5m in response to a change in levels on the neighbouring property to the north. This modified design is, therefore, both an appropriate and necessary design response to the change in levels.

7.2 Strategic Context

The strategic context of the development remains substantially the same as approved on 21 April 2023. The proposed modification is consistent with the MRP SSP as well as the MRP Structure Plan and other relevant strategic plans. Since approval, construction of the proposed development has commenced with the bulk earthworks currently being completed at the time of writing.

7.3 Statutory Context

The development as proposed to be modified is consistent with Section 4.55 (1A) of the EP&A Act as it is of minimal environmental impact and is substantially the same development. The proposed modifications are of minimal environmental impact as the proposed design changes are minor in nature, resulting in a reduced retaining wall height overall which will not alter visual or acoustic impacts of the project.

An assessment of the anticipated impacts of the proposed modification is provided in **Section 6.0** which is supported by a Stormwater and Civil Letter, a Visual Impact Letter and an Acoustic Letter (**Appendices G and H**). Due to minimal environmental impacts associated with the proposed modification it can be approved under Section 4.55(1A) of the EP&A Act.

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- The proposed modifications are minor in nature and are in response to the change in levels of the northern neighbouring site at 272-280 Aldington Road (Lot 15 DP 253503); and
- The proposed modifications do not alter the key components of the approved development, only resulting in a decrease in height of an approved retaining wall.

The remaining statutory context of the development remains unchanged from that approved on 21 April 2023.

7.4 Community Views

Due to the nature of the modification and negligible impacts on the community, further authority and community engagement is not considered to be required.

7.5 Likely Impacts of the Proposal

The development, as proposed to be modified, does not have any greater built environment, natural environment or social and economic impact to that of the approved development. The modified development will provide adequate retaining walls and a suitable response to the change in levels from recent earthworks on the adjoining property at 272-280 Aldington Road, Kemps Creek.

7.6 Suitability of the Site

The development, as proposed to be modified, is suitable for the site as it:

- Facilitates the necessary reduction in retaining wall height in response to the change in levels from recent earthworks on the adjoining property at 272-280 Aldington Road, Kemps Creek.
- Will continue to provide for the development of the estate land for employment purposes consistent with the objectives of the IN1 General Industrial zone.

7.7 Public Interest

The development, as proposed to be modified, is in the public interest as it:

- Constitutes the orderly and economic development of the site by continuing to provide for the development of the estate land for employment purposes;
- Will deliver appropriate retaining walls to support the development of land for employment uses; and
- Is consistent with the Industry and Employment SEPP and other relevant statutory provisions.

8.0 Conclusion

The proposed modification seeks to modify the approved development to amend the approved design of the retaining wall along the northern boundary of the estate, adjacent to Lot 1. Specifically, the height of the retaining wall along the northern boundary of the estate will be reduced and the design of the retaining wall will be amended. This modification is necessary due to a change in levels of the northern neighbouring site at 272-280 Aldington Road (Lot 15 DP 253503).

In accordance with section 4.55(1A) of the EP&A Act, the consent authority may modify the consent as:

- the proposed modification is of minimal environmental impact; and
- substantially the same development as development for which the consent was granted.