

Modification 5 of Westlink Industrial Estate Stage 1

State Significant Development Modification Assessment Report
(SSD-9138102-Mod-5)

June 2024





Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Modification 5 of Westlink Industrial Estate Stage 1 (SSD-9138102-Mod-5)
Assessment Report

Published: June 2024

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Preface

This assessment report provides a record of the Department of Planning, Housing and Infrastructure's (the Department) assessment and evaluation of ESR Developments (Australia) Pty Ltd's application to modify the State significant development (SSD) consent for the Westlink Industrial Estate Stage 1 located in the Penrith local government area. The report includes:

- an assessment of the modification against government policy and statutory requirements, including mandatory considerations
- a demonstration of how matters raised by government agencies have been considered
- an assessment of the likely environmental, social and economic impacts of the modification
- an evaluation which weighs up the likely impacts and benefits of the modification, having regard to the proposed mitigation measures and government agency advice, and provides a view on whether the impacts are, on balance, acceptable
- a recommendation to the decision-maker, along with the reasons for the recommendation, to assist them in making an informed decision about whether the consent should be modified and any conditions that should be imposed.

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1 Introduction

1.1 The Proposal

ESR Developments (Australia) Pty Ltd (the Applicant) proposes to modify the Westlink Industrial Estate Stage 1 (SSD-37486043 MOD 5) to include:

- an upgrade of the Mamre Road and Abbots Road intersection
- upgrade of Abbots Road from the Mamre Road intersection into the Westlink Industrial Estate
- upgrade a section of Aldington Road along the frontage of the Westlink Industrial Estate

The modification application was lodged on 25 March 2024 by the Applicant pursuant to section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). An overview of the proposed modification is provided in **Section 2**.

1.2 Background to the Modification

The Applicant is constructing Stage 1 of the Westlink Industrial Estate (WIE) located in the Mamre Road Precinct of the Western Sydney Employment Area. The WIE was approved by a delegate of the Minister for Planning and Public Spaces on 21 April 2023. The approved development involves site wide earthworks and construction and operation of two warehouses. Construction of the first warehouse is due for completion by late 2024.

Development of the Mamre Road Precinct requires upgraded road infrastructure to support the growth in traffic generated by industrial uses. The Mamre Road Precinct Development Control Plan 2021 (MRP DCP) identified the road network required to support development including widening of existing roads, upgraded intersections and construction of new local roads. The existing and proposed road network is shown in **Figure 1**.

Transport for NSW (TfNSW) are investigating the upgrade of Mamre Road to an arterial road standard, however these works would not commence prior to completion of the Westlink Industrial Estate (WIE). Widening of Abbots and Aldington Roads to provide additional capacity are also under consideration with a design adopted by Penrith City Council (Council). Similar to Mamre Road, these works are not expected to be delivered by Council prior to completion of the WIE.

In order to facilitate development, the Applicant, along with two other developers, propose to undertake some of the initial road upgrade works identified in the MRP DCP. The works would provide access to approved industrial development including the WIE, and maintain the capacity and safety of the road network. The Applicant would construct the road widening works within the existing road corridor and on land within their ownership. Further widening works to complete the ultimate design would be undertaken by TfNSW and Council at a later stage.

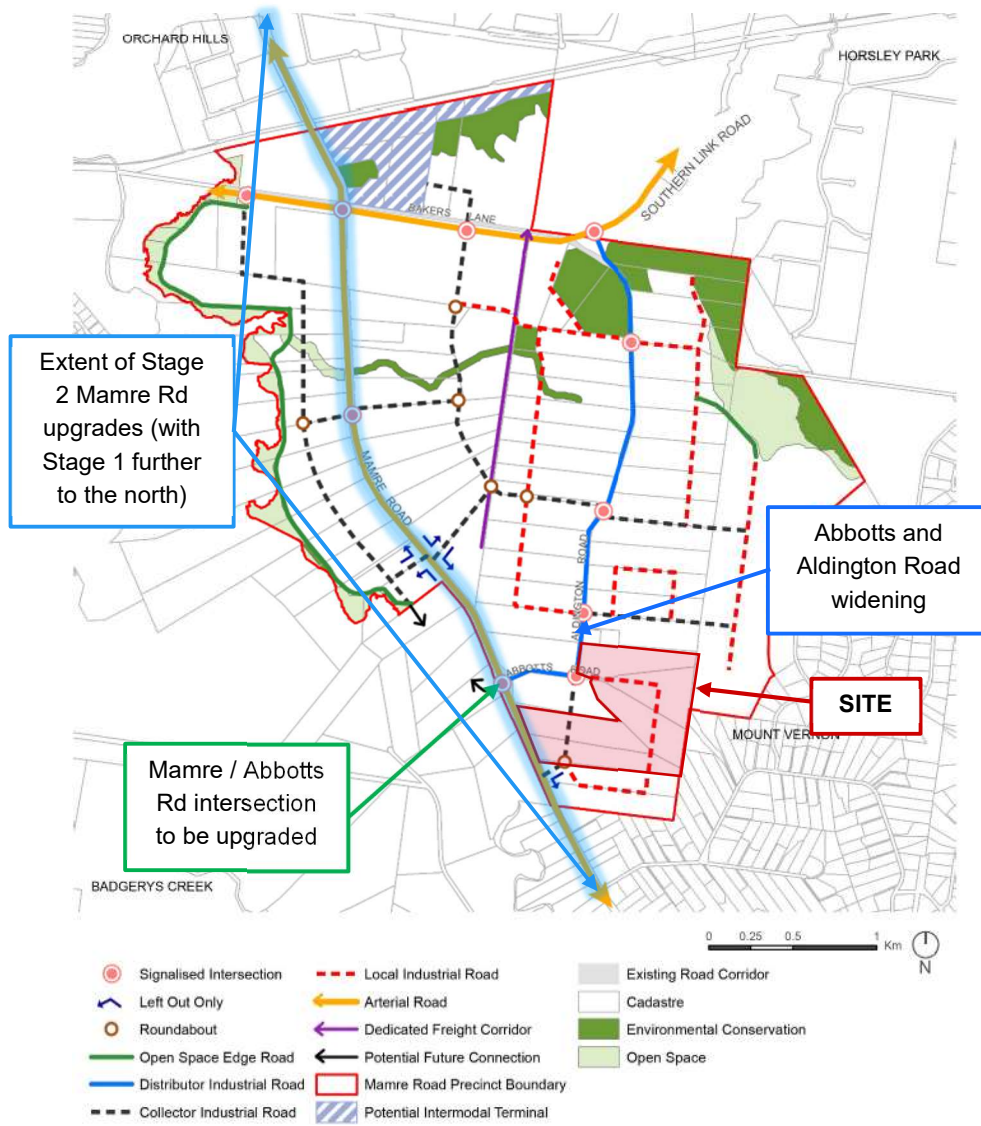


Figure 1 | Mamre Road Precinct Road Network

The initial road upgrade works were considered in the SSD application for the WIE and the Department conditioned that they be completed prior to operation of the first warehouse.

The road upgrades also require approval under Section 138 of the *Roads Act 1993* from both Council (as the relevant roads authority for Abbots and Aldington Roads) and TfNSW (as the relevant roads authority for Mamre Road). The upgrades are also subject to a Voluntary Planning Agreement (VPA), as the works would offset some of the Applicant's development contributions. During the process of preparing the applications under the *Roads Act 1993* and the VPA, some refinements to the road works designs were identified. These include minor changes to the alignment and scheduling of the works which necessitate a modification to the existing SSD consent.

Timely delivery of the upgraded road network is becoming more critical as the existing network is increasingly constrained as more development comes online, presenting capacity and safety issues.

1.3 Development Location

The WIE Stage 1 is located at the corner of Abbots and Aldington Roads, Kemps Creek in the Penrith local government area (LGA), see **Figure 2** and **Figure 3**.

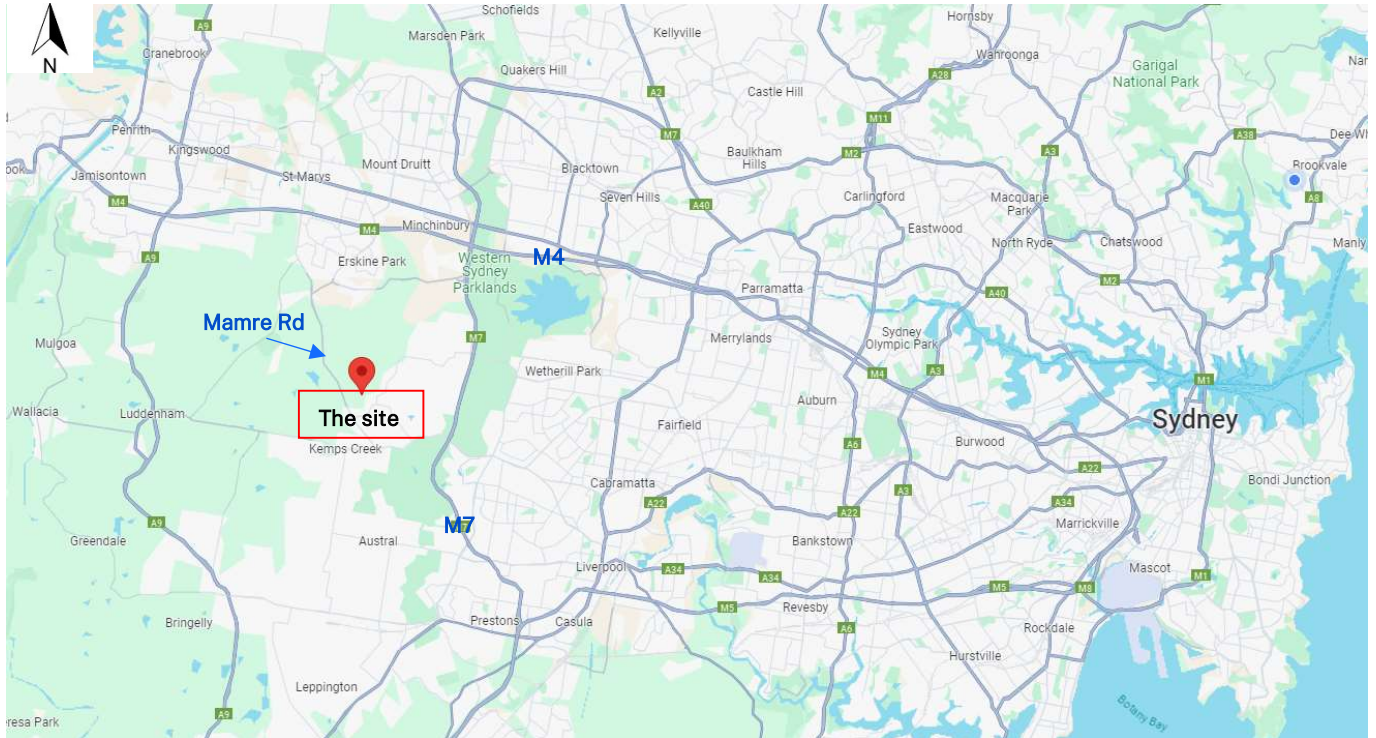


Figure 2 | Regional Location

The WIE is located 4.5 kilometres to the north-east of the new Western Sydney International Airport and is within the Mamre Road Precinct (MRP) of the Western Sydney Employment Area (WSEA).

The site is legally described as Lots 11, 12 and 13 in DP 253503 and Lots 3 and 4 in DP 250002.

Industrial zoned land is located immediately to the north, west and south of the site. There are some rural residences that remain on the industrial zoned land and these are adjacent to the site's northern and western boundaries, see **Figure 3**. The established residential suburb of Mount Vernon is located immediately to the east of the site and is separated by a natural ridgeline.

1.4 Approval History

On 21 April 2023, a delegate of the Minister for Planning and Public Spaces approved the Westlink Industrial Estate Stage 1 development (SSD 9138102).



Figure 4 shows the approved development plan. Stage 1 includes:

- bulk earthworks, construction of retaining walls, site servicing and subdivision
- installation of stormwater infrastructure including a detention basin and naturalised trunk drainage channel
- construction and operation of two warehouses (warehouse 1 and warehouse 4) covering a total of 81,317 square metres (m²) of gross floor area (GFA) for warehouse and distribution centre uses
- construction of an internal road network

- upgrade of the Mamre Road and Abbots Road intersection, upgrades of parts of Abbots Road and Aldington Road and construction of a signalised intersection at the Abbots/Aldington Road intersection.

Earthworks commenced on the site in July 2023 and construction of warehouse 1 is expected to be complete by late 2024.

The Applicant has proposed four modifications to the development consent for changes to earthworks, retaining walls and warehouse design. MODs 1, 2 and 4 have not been determined. MOD 3 was approved on 9 April 2024.



Figure 3 | Local Context



Figure 4 | Approved Stage 1 Development Plan

2 Proposed Modification

2.1 Modification overview

The modification is summarised below in **Table 1** and described in full in the Modification Report in **Appendix A. Figure 5 to Figure 7** show the proposed modifications.

Table 1 | Modifications to the Stage 1 Development

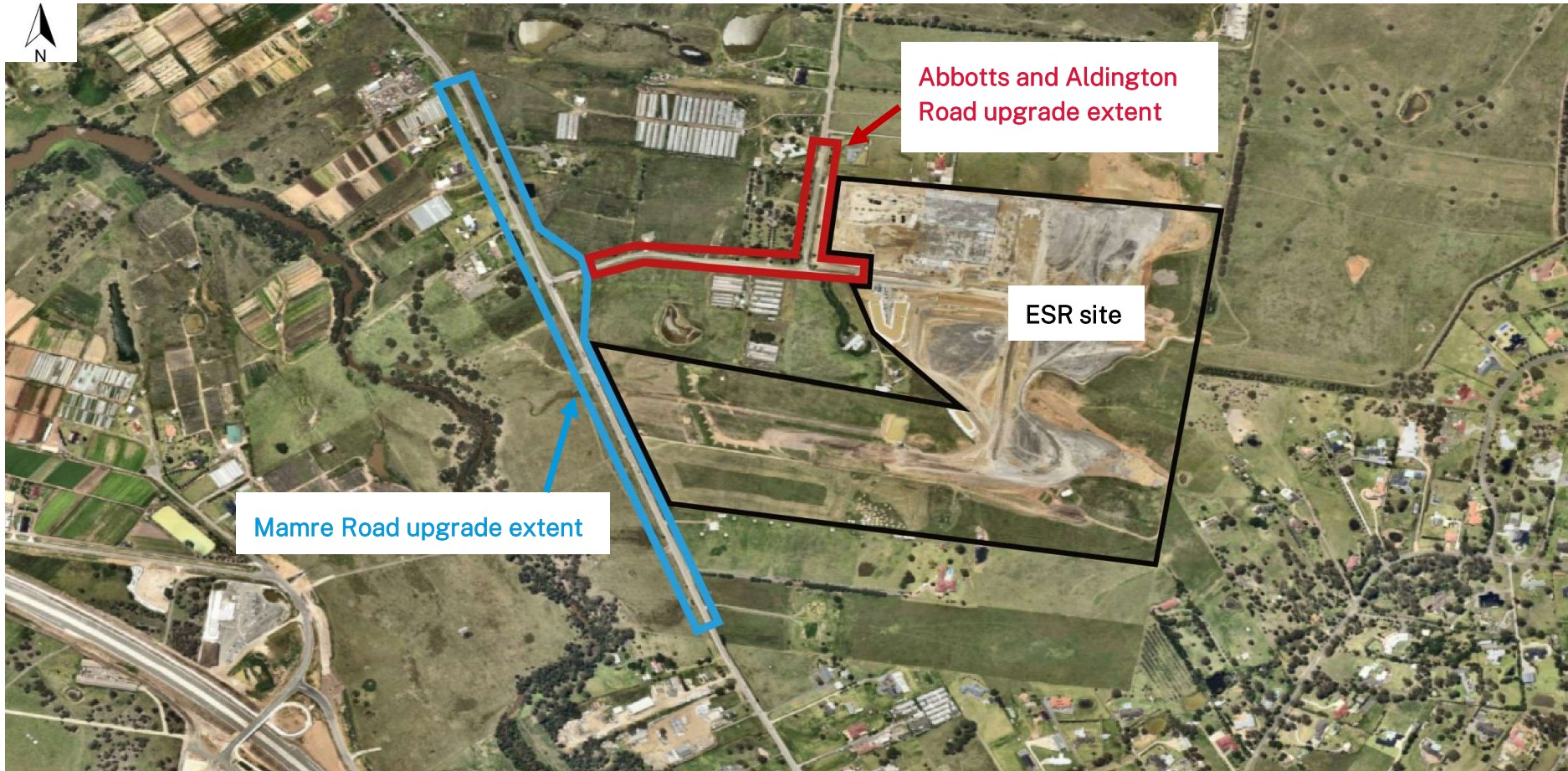
| Project element | Original project | Modified project |
|---|---|---|
| Abbotts Road and Mamre Road Intersection Works | <ul style="list-style-type: none"> interim upgrade of the Abbotts Road and Mamre Road intersection | <ul style="list-style-type: none"> upgrade of the Abbotts Road and Mamre Road intersection including the ultimate intersection layout within lands owned by ESR and Council. An interim layout is proposed in other areas widen Mamre Road for 200 m to the north and 600 m to the south of the intersection including provision of dual carriage ways on both sides and turning lanes at the intersection install interim traffic signals to manage the upgrade works and then install permanent traffic signals as per the ultimate design |
| Abbotts Road and Aldington Road Upgrades | <ul style="list-style-type: none"> interim widening of Abbotts Road and Aldington Road installation of traffic signals at the intersection of Abbotts and Aldington Roads | <ul style="list-style-type: none"> widening of Abbotts Road consistent with the ultimate layout on land owned by ESR and Council, with the interim layout proposed in other areas widen Aldington Road within the existing road reserve along the frontage of the WIE install traffic signals at the intersection of Abbotts and Aldington Roads |
| Ancillary works | <ul style="list-style-type: none"> relocation of services and installation of drainage infrastructure | <ul style="list-style-type: none"> construction and use of a temporary site compound for materials storage on the northern side of Abbotts Road upgrade stormwater infrastructure including larger culverts across Abbotts Road relocate existing services |

| Project element | Original project | Modified project |
|--|--|---|
| Timing to commence operation of Warehouse 1 | <ul style="list-style-type: none"> upgrades to the Mamre Road / Abbotts Road intersection and Abbotts and Aldington Roads must be completed prior to operation of the development (Warehouse 1) | <ul style="list-style-type: none"> commence staged operations of Warehouse 1 while construction of the road and intersection upgrades are taking place |
| Site boundary | Lots 11, 12 and 13 in DP 253503 and Lots 3 and 4 in DP 250002. | Add Lot 10 in DP 1296455 (285 Aldington Road, Kemps Creek) to the consent to enable road widening works and use as a construction compound. |

2.2 Applicant's Justification for the Proposed Modification

The Applicant has proposed the modification to enable an approval to be issued under Section 138 of the *Roads Act, 1993* and enable construction of the road upgrades. The proposed upgrades are consistent with the road network identified in the MRP DCP and are necessary to enable the development of industrial zoned land and maintain road network capacity and safety. The Applicant has also requested the development consent be modified to enable warehouse 1 to commence operation while the road upgrades are being undertaken. The Applicant noted the operational traffic volumes of warehouse 1 would be lower than construction traffic volumes, indicating there would be sufficient capacity on the existing road network, and during the road upgrades to accommodate operational traffic.

The Applicant also noted the modification would have minimal environmental and amenity impacts and would facilitate the delivery of approved industrial development.



Aldington Road and Abbotts Road Upgrades
 Mamre Road and Abbotts Road Upgrades
 Westlink Stage 1



Figure 5 | Location of Road Upgrade Works

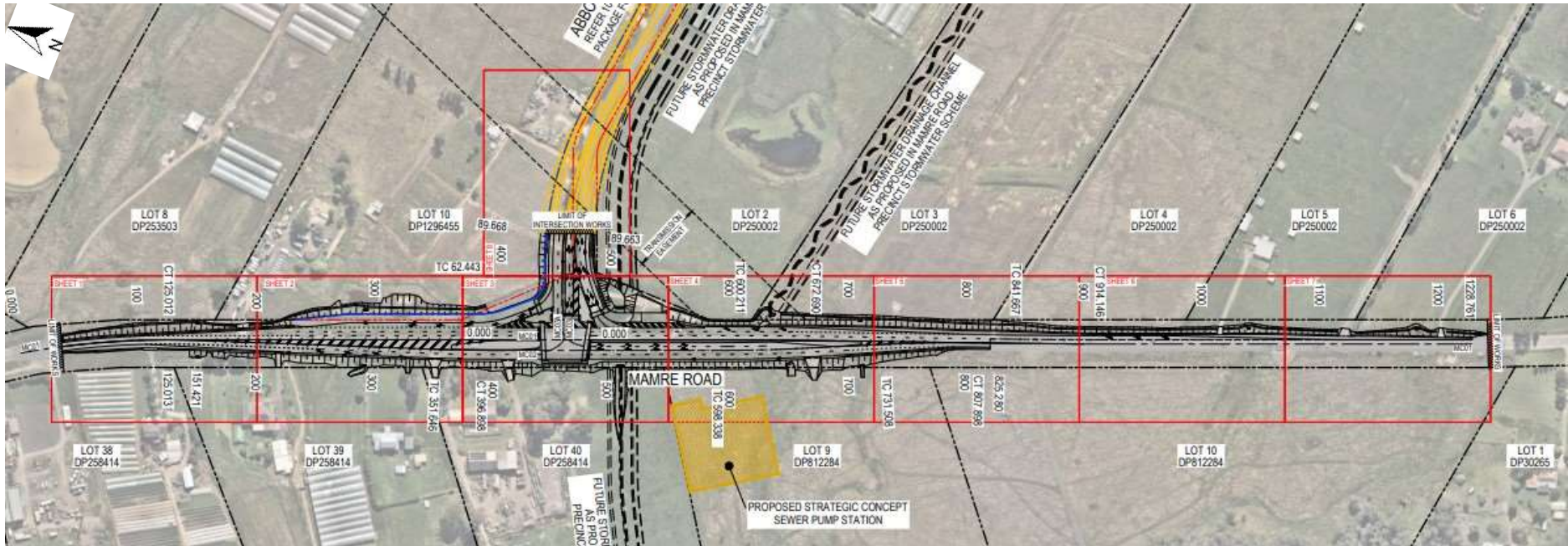


Figure 6 | Extent of Mamre Road / Abbotts Road Intersection Works

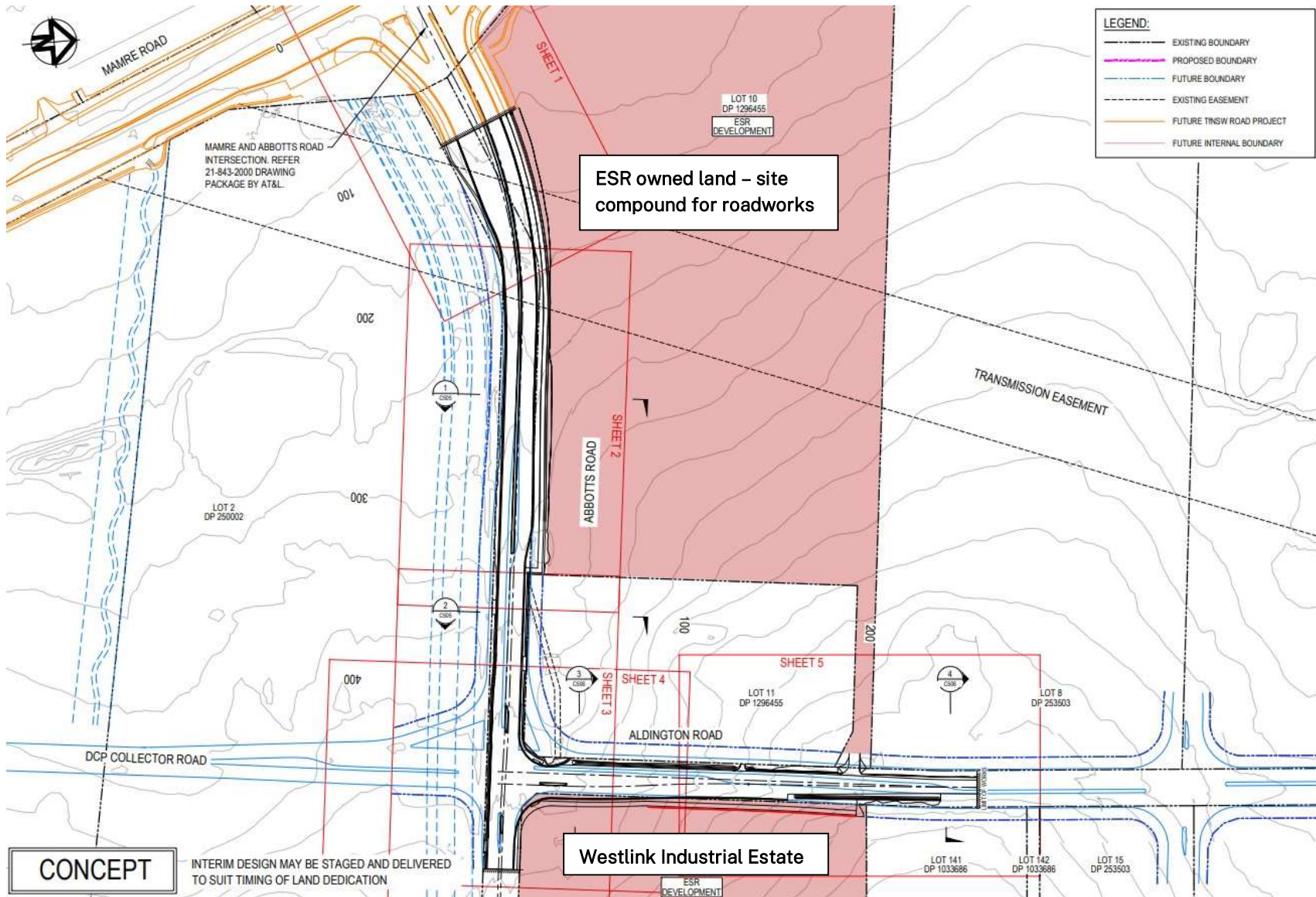


Figure 7 | Extent of Abbots and Aldington Road works (black outline)

3 Statutory Context

3.1 Scope of modification and assessment pathway

Details of the assessment pathway under which the modification is sought are provided in **Table 2**.

Table 2 | Permissibility and assessment pathway

| Consideration | Description |
|-------------------------------------|---|
| <p>Scope of modification</p> | <p>The Department has reviewed the scope of the modification and considers that it can be characterised as a modification involving minimal environmental impact as:</p> <ul style="list-style-type: none"> • the primary function and purpose of the approved development would not change as a result of the modification • any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of consent • the modification is of a scale that warrants the use of section 4.55(1A) of the EP&A Act • the modified development is substantially the same development as originally approved. <p>The Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.</p> |
| <p>Consent Authority</p> | <p>The Minister is the consent authority under section 4.5(a) of the EP&A Act.</p> |
| <p>Decision-maker</p> | <p>Under the Minister’s delegation of 9 March 2022, the Director, Industry Assessments, may determine the application under delegation as:</p> <ul style="list-style-type: none"> – the application has not been made by a person who has disclosed a reportable political donation under section 10.4 of the EP&A Act – there are less than 15 public submissions (other than a council) in the nature of objections, and – Council has not made a submission by way of objection under the mandatory requirements for community participation listed under Schedule 1 of the EP&A Act. |

3.2 Mandatory matters for consideration

3.2.1 Matters of consideration required by the EP&A Act

The Department undertook a comprehensive assessment of the application against the mandatory matters for consideration as part of the original assessment of SSD-9138102 (under section 4.15 of the EP&A Act). This modification application does not result in significant changes that would alter the Department's consideration of the mandatory matters for consideration under section 4.15(1) of the EP&A Act and conclusions made as part of the original assessment.

3.2.2 Objects of the EP&A Act

In determining whether or not to modify the consent, the consent authority should consider whether the modified development is consistent with the relevant objects of the EP&A Act (section 1.3) including the principles of ecologically sustainable development.

The Department is satisfied the modified development is consistent with the objects of the EP&A Act and the principles of ecologically sustainable development (ESD).

3.2.3 Biodiversity development assessment report

Section 7.17(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires all SSD modifications to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the authority or person determining the application is satisfied the modification will not increase the impact on biodiversity values (as identified in the BC Act and in the Biodiversity Conservation Regulation 2017).

Part of the road upgrade works are located on biodiversity certified land under the Cumberland Plain Conservation Plan (CPCP), meaning these areas do not require biodiversity assessment. However, the road corridors of Mamre, Abbots and Aldington Roads are excluded land and therefore require biodiversity assessment. The Applicant provided a BDAR for the areas of excluded land, confirming the development would have negligible impacts on biodiversity values, see Section 5.3.

4 Engagement

4.1 Department's Engagement

In accordance with the *Environmental Planning & Assessment Regulation 2021*, the Department made the modification application publicly available on the Department's website on 26 March 2024 and forwarded the application to Penrith City Council and relevant government agencies for comment. The Department also consulted the public submitters on the original SSD application.

The Department received advice from four government agencies and Penrith City Council and one submission from the public. No advice or submissions objected to the modification.

The Department undertook further consultation throughout its assessment of the modification including meetings with Transport for NSW and Penrith City Council.

4.1.1 Summary of advice from government agencies

A summary of the agency advice is provided in **Table 3**. A link to the full copy of the advice is provided in **Appendix B**.

Table 3 | Summary of agency advice

| Agency | Advice summary |
|---|--|
| Transport for NSW (TfNSW) | <ul style="list-style-type: none">• did not support the proposed staging plans or the commencement of warehouse operations using the existing road. TfNSW noted concerns about the current level of construction activity and road safety issues raised by the community.• did not support proposed restrictions on turning movements at the intersection during construction works.• recommended the staging plans include the installation of temporary traffic signals to safely control vehicle movements during all stages of construction works. Interim traffic signals must be installed prior to occupation and operation of the warehouse. |
| Environment & Heritage Group (EHG) | <ul style="list-style-type: none">• noted there would be an increase in biodiversity impacts due to the modification and requested a Biodiversity Development Assessment Report (BDAR) be submitted.• had no comments in relation to flood risk management. |
| Heritage NSW | <ul style="list-style-type: none">• advised there are no heritage comments as the site is not listed on the State Heritage Register and does not contain any known historical archaeological relics.• advised the Applicant to consult with Council in relation to local heritage items. |

| Agency | Advice summary |
|--|--|
| Heritage NSW (Aboriginal Cultural Heritage) | <ul style="list-style-type: none"> recommended the Applicant prepare and implement a procedure for the management of unexpected Aboriginal objects and human remains. recommended the Applicant update the ACHAR to reflect the outcomes of consultation with registered Aboriginal parties. |

4.1.2 Summary of Council submission

Penrith City Council (Council) supported the road upgrades to facilitate industrial development in the precinct. Council requested further information on the staging of works and details of when operational traffic from the first warehouse building would overlap with construction staging. Council did not support the proposal to modify existing conditions to unlink delivery of the road upgrades from operation of the first warehouse, noting the nexus between the works and the development. Council suggested a phased commencement of operations, linked to completion of specific stages of roadworks. Council also recommended that a Construction Traffic Management Plan be approved by Council prior to commencement of any works. Subsequent discussions with Council indicated they would support some level of operational traffic provided Stage 1 of the Abbots Road widening works were completed first.

4.1.3 Public submissions

One submission was received from the public requesting further information on measures to minimise dust and noise. The submission also noted the current, poor road conditions was causing damage to vehicles.

4.2 Response to Submissions

On 21 May 2024, the Applicant provided a Response to Submissions (RTS) to address issues raised in government agency advice, submissions and issues raised by the Department. This included a request for consultation with the nearest residences to discuss the proposed works, the potential impacts and options for mitigating key impacts such as noise and dust, see **Appendix A**. The RTS included revised staging plans for installation of interim traffic signals at the Mamre / Abbots Road intersection, updated noise assessments, details of consultation with the nearest residences, a community engagement strategy, an updated Aboriginal Cultural Heritage Assessment Report, updated biodiversity assessment and details of stormwater management.

The Department published the RTS on the NSW planning portal and met with TfNSW and Council to discuss the revised staging plans and conditions regarding the timing for delivery of the road works.

5 Assessment

The Department has assessed the merits of the proposed modification. During this assessment, the Department has considered the:

- Modification Report and RTS provided to support the proposed modification (see **Appendix A**)
- documentation and the Department's assessment report for the original SSD application (see **Appendix A**)
- submissions from State government authorities, Council and the public (**Appendix A**)
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act, including the Objects of the EP&A Act.

The Department considers the key assessment issues are traffic management and noise. The Department's assessment of other issues is provided in **Section 5.3**.

5.1 Traffic Management

Background

The existing road network in the MRP requires substantial upgrades to support planned industrial growth and maintain road safety. There are emerging capacity constraints and safety issues on Mamre Road, as approved developments are being constructed and some are starting to commence operation.

Several developers around Aldington Road, including the Applicant, formed the Landowners Group East (LOG E) and collectively agreed to deliver some of the interim road upgrades to facilitate development ahead of completion of the ultimate road network by TfNSW and Council and alleviate the emerging capacity and safety issues.

The Applicant has committed to:

- upgrade the intersection of Mamre Road and Abbots Road to include additional lanes and traffic signals. The Applicant has progressed a Works Authorisation Deed (WAD) process with TfNSW to undertake these works
- upgrade Abbots and Aldington Roads in the vicinity of the WIE through a VPA with Council.

The intersection works are expected to take 15 months and the Abbots and Aldington Road works would take 13 months to complete, with the works undertaken concurrently.

WIE Stage 1

For the SSD application, the Applicant modelled operational traffic volumes from the WIE Stage 1, assuming the interim road upgrades would be complete. The modelling was reviewed and accepted by TfNSW and Council and concluded the development would be safely accommodated on the upgraded road network. The Applicant predicted the WIE Stage 1 would generate 2,376 daily vehicle trips (from warehouses 1 and 4), based on TfNSW's trip generation rate for the MRP. Warehouse 1 would generate around 78% of the total trips (estimated to be 1,853 daily trips).

For the construction phase, the Applicant assessed cumulative traffic volumes, considering multiple construction projects along Aldington Road and concurrent construction of the road upgrade works. The estimated construction traffic volumes were around 1,800 vehicle trips per day. The Applicant's assessment concluded these volumes would be adequately accommodated on the road network with the worst-case intersection performance at the Mamre/Abbotts intersection being a level of service 'D' (near capacity) during the AM peak.

Traffic Volumes for the Modification

The modification does not involve any substantial changes to the interim road works that were contemplated in the SSD in terms of design. However, as delivery of the road works has been delayed, the Applicant is proposing to commence operation of warehouse 1 while the road upgrade works are taking place. This would add operational vehicles to the network and remove construction vehicles (from warehouse 1).

The Applicant advised the operation of warehouse 1 would build up over three stages as the warehouse fit-out progresses. The proposed tenant provided vehicle movement data which is considerably lower than the TfNSW trip generation rate used in the traffic modelling (1,853 vehicles per day for warehouse 1). The first stage of operation of warehouse 1, scheduled to commence in November 2024 would generate 410 vehicle trips per day, increasing to 511 vehicle trips per day once fully operational (around 12 months from opening, being around November 2025).

The Applicant advised the additional 410 – 511 vehicle trips from operation of warehouse 1 would be offset by a corresponding reduction in construction traffic (from warehouse 1). Full operational traffic volumes would be 30% less for light vehicles and 85% less for heavy vehicles compared to construction volumes. The operational vehicles would also be spread over a 24 hour period, compared to construction vehicles which are restricted to a day time 11 hour period.

Updated modelling was not provided as intersection performance was considered likely to improve based on the substantially reduced volumes associated with operational traffic.

Traffic Management for the Modification

Managing traffic movements while the road upgrades are taking place is a key safety aspect that was raised by TfNSW in its advice on the modification. TfNSW noted Mamre Road has capacity constraints

and there is queuing and congestion that is creating safety issues. TfNSW requested the Applicant reconsider the proposed staging of the works to incorporate interim traffic signals to manage safety issues. TfNSW also raised concerns with the proposed removal of the right-turn movement into Abbots Road for the full construction program, noting this would inconvenience local traffic.

The Applicant revised the staging plans to incorporate interim traffic signals at Stage 2 (roughly 7 months into the construction program) advising there would be safety issues for road construction workers if signals were to be required earlier, before additional road pavement is constructed to widen the road corridor. Installing the traffic control signals in Stage 2 would mean the right turn restriction would be limited to a period of around 7 months. During this period light vehicles would have to travel north to Bakers Lane to make a right turn to access Aldington and Abbots Roads. After the traffic control signals are installed, all turning movements would be enabled at the Mamre / Abbots Road intersection. Operational vehicles accessing warehouse 1 would also be restricted to left-in, left-out movements during the initial 7 month period.

The road upgrade works and interim signals would improve the overall management of construction traffic in the precinct by removing the ability for vehicles to undertake U-turns or unauthorised right-in, right-out movements at the intersection. These uncontrolled movements have contributed to the urgency for the road upgrade works to commence, to improve safety for all road users.

Importantly, the current restrictions on construction traffic heading north through Bakers Lane would remain in place for the modification and all construction vehicles must continue to turn left-in, left-out at the Mamre/Abbots Road intersection as mandated in approved construction traffic management plans for all SSD approved projects in the MRP. The Department has an ongoing compliance program to monitor these safety measures.

Agency Advice

TfNSW reviewed the revised staging plans incorporating interim traffic signals in Stage 2. TfNSW noted the detailed design for the intersection works is well progressed through a Works Authorisation Deed (WAD) process and this would need to be updated to reflect the revised staging and installation of temporary signals. TfNSW noted there is a need to balance road safety, delivery of critical supporting infrastructure and operation of the development. TfNSW reviewed the draft conditions and provided recommendations for the proposed operational traffic management plan and delivery of the road upgrade works.

Council raised concerns about removing existing conditions that require the completion of the road upgrade works before operation of warehouse 1. Council's concerns related to the orderly rollout of infrastructure and ensuring there is a mechanism within the consent that requires delivery of the works by a certain timeframe. Council indicated that partial operation could be considered before the

completion of the road works and noted they would support some level of operational traffic provided Stage 1 of the Abbotts Road widening works are completed first.

Department's Assessment

The Department has considered the traffic impacts associated with the road upgrade works in the context of the emerging safety and capacity issues on Mamre Road. The works are needed in the short-term to mitigate these issues and would facilitate approved and future development in the long-term.

The road works were contemplated in the SSD for the WIE and it was envisaged the works would be completed in time to support operation of the first warehouse. However, the progression of the road design through the WAD and VPA processes has been delayed, meaning delivery of the works are now out of sync with the completion of the first warehouse. The Department acknowledges the need to maintain road safety and considers the proposed works are essential for mitigating increasing congestion and ensuring safe vehicle movements.

Traffic Volumes

The proposed addition of operational vehicles from warehouse 1 while road works are underway would generate fewer vehicle movements than construction of the warehouse, which was assessed and approved through the SSD and subsequent Construction Traffic Management Plan (CTMP).

Operational vehicles using Abbotts Road and the Mamre / Abbotts Road intersection would be managed via CTMPs approved by both Council and TfNSW through the Section 138 *Roads Act, 1993* approval process. To provide further certainty the vehicle movements would be safely managed, the Department has recommended the Applicant prepare an Operational Traffic Management Plan (OTMP) for warehouse 1, in consultation with both Council and TfNSW. The OTMP must be approved by the Planning Secretary prior to commencing operation and must be updated at each stage of the roadworks to reflect changed traffic conditions and turning restrictions. TfNSW supported the requirement for an OTMP and advised the left-in, left-out restrictions for operational vehicles would need to be enforced through this process until the traffic signals are operating.

Council requested the first stage of widening of Abbotts Road be completed before any operational vehicles start using the road. These works involve construction of additional pavement on the southern side of Abbotts Road and western side of Aldington Road along the site frontage. This would provide improved pavement condition and a widened corridor, improving safety for road users. The Department considers the addition of operational vehicles onto the existing road, with the first stage of widening of Abbotts Road being completed, could be safely managed through CTMPs and an OTMP. The vehicle volumes would be between 30 – 85% less than construction vehicle movements and would be spread over a 24 hour period. The Department notes the Applicant would need to obtain approval under Section 138 of the *Roads Act, 1993* for the road and intersection works and these

processes involve the preparation of detailed CTMPs approved by TfNSW and Council as the roads authorities. In addition, an OTMP would need to be approved by the Planning Secretary before warehouse 1 can commence operating. These plans would ensure there are adequate controls in place to safely manage vehicle movements from the site and on the immediate road network.

Delivery of the Road Works

The Department acknowledges Council's concerns about retaining a mechanism within the consent for ensuring delivery of the road works. The Department notes the road works would be delivered in accordance with a VPA which is currently being negotiated between Council (as the relevant roads authority) and the Applicant. The VPA includes detailed legal mechanisms for delivery of the road works, including the payment of a security to Council. The Department considers the VPA is the appropriate mechanism for ensuring delivery of the road works. The Department has recommended conditions requiring the Applicant to:

- execute a VPA with Council within 12 months of the date of consent of this modification, and
- complete the road works before operation of warehouse 4.

These conditions would ensure further operational vehicles are not added to the network before completion of the road upgrades and would retain a mechanism within the consent to ensure timely delivery of the works.

The Department, in consultation with Council, has included a requirement for completion of the Stage 1 widening of Abbots and Aldington Roads as a priority. As these works are subject to a Section 138 approval and this timing is determined by Council, the Department has included conditions requiring the Applicant to:

- lodge a Section 138 application within 1 month of the date of consent of this modification
- complete the Stage 1 widening works within 4 months of obtaining the Section 138 approval.

This timing aligns with the proposed commencement of operation of warehouse 1 (November 2024), but is contingent on the grant of a Section 138 approval for the works, which is managed by Council. At Council's request, the Department has also included a condition to ensure any road maintenance and rectification of damage is undertaken by the Applicant at no cost to Council.

The Department acknowledges there are external factors that influence the timing to commence and complete the road upgrade works, such as the Section 138, WAD and VPA processes. The Department has consulted extensively with TfNSW and Council as part of assessing the modification and in developing conditions that recognise the subsequent approvals that are required to facilitate the road works, but retains obligations within the consent for the Applicant to deliver the road works. The Department considers there are appropriate mechanisms within the consent to ensure timely commencement and delivery of the works, while enabling some of the approved development to

safely come online in the interim. The Department has also included conditions that restrict any further development on the site until the road works are complete. This includes development applications, exempt and complying development on the Stage 1 site and operation of warehouse 4. This would ensure no additional operational vehicles are added to the network until the road upgrade works are completed.

The Department's assessment concludes the modification would address current road capacity and safety concerns and provide suitable access for approved and future development in the MRP.

5.2 Noise

Background

The noise environment of the local area is changing as rural lands are being developed for industrial uses following rezoning of the Mamre Road Precinct. Road traffic noise is also increasing as there is a higher level of construction activity in the area. There are some rural residences remaining in the precinct and these are located close to Mamre, Abbots and Aldington Roads. The nearest residential suburb is Mt Vernon which varies in distance from the proposed road works, ranging from 400 m at the closest point, to around 1.5 km away, see **Figure 8**.

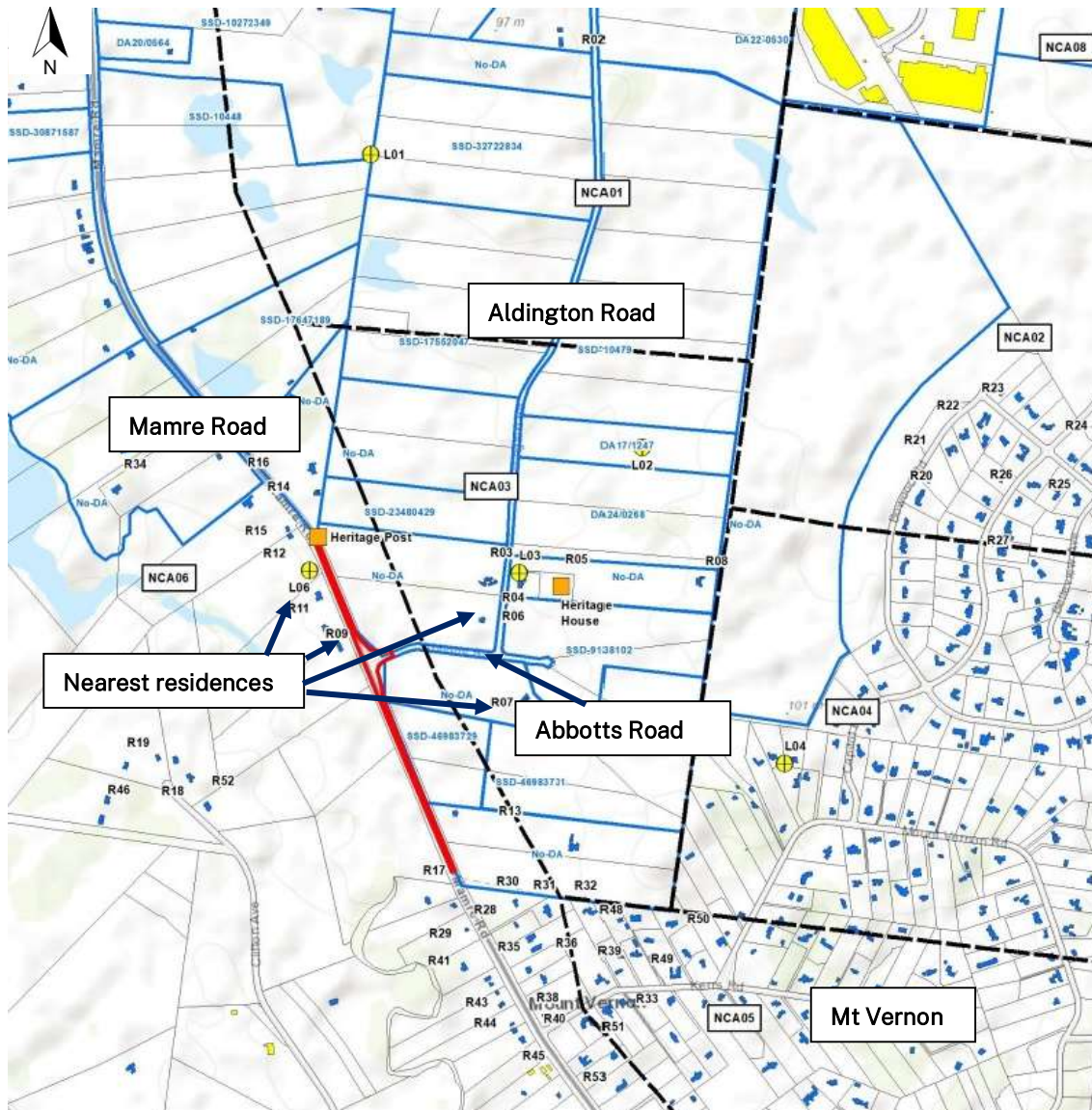


Figure 8 | Nearest Residential Receivers

Modification

Construction of the road works would generate varying noise levels, with more intensive activities such as clearing and earthworks most likely to generate noise impacts. Out of hours work such as asphaltting, that must be undertaken at night when roads can be closed or there is little traffic, may also cause sleep disturbance. Noise impacts would be temporary, with the construction duration for all the external road upgrades estimated to take a total of 15 months.

The modification would not substantially change the operational noise levels from ESR's Stage 1 development, although there is likely to be a decrease in noise as traffic volumes generated by warehouse 1 would be significantly lower than those assessed in the SSD.

The Applicant prepared a construction noise assessment for the road works considering guidance in TfNSW's *Construction Noise and Vibration Guideline (Roads), July 2023 (CNVG)*. The assessment established noise management levels (NML) for the roadworks based on background monitoring and

identified where exceedances would occur. Potential exceedances are categorised in accordance with the CNVG (highly or moderately intrusive), with each category requiring a specific management approach depending on the predicted level of noise exceedance.

The construction noise assessment found residential receivers would be affected to varying degrees throughout construction. The most affected receivers are those located closest to the works on the western side of Mamre Road and immediately adjacent to Abbots and Aldington Roads. Receivers in Mt Vernon would also be noise affected during night time works.

Figure 9 shows the predicted noise levels for standard construction hours for the intersection works. This shows six receivers would be highly noise affected (purple shading) during the earthworks phase and would experience high to moderate noise (red shading) for several other work phases. **Figure 10** shows the predicted noise levels for night works, including construction of drainage infrastructure and asphaltting. These works would affect a larger number of receivers in the southern part of Mt Vernon, with sleep disturbance possible for several receivers.

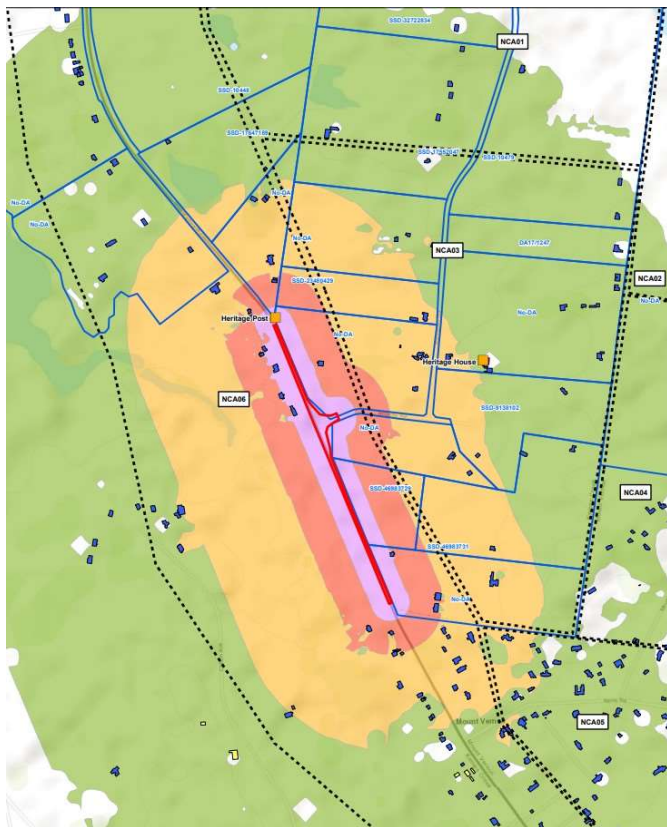


Figure 9 | Noise Contours – Standard Hours

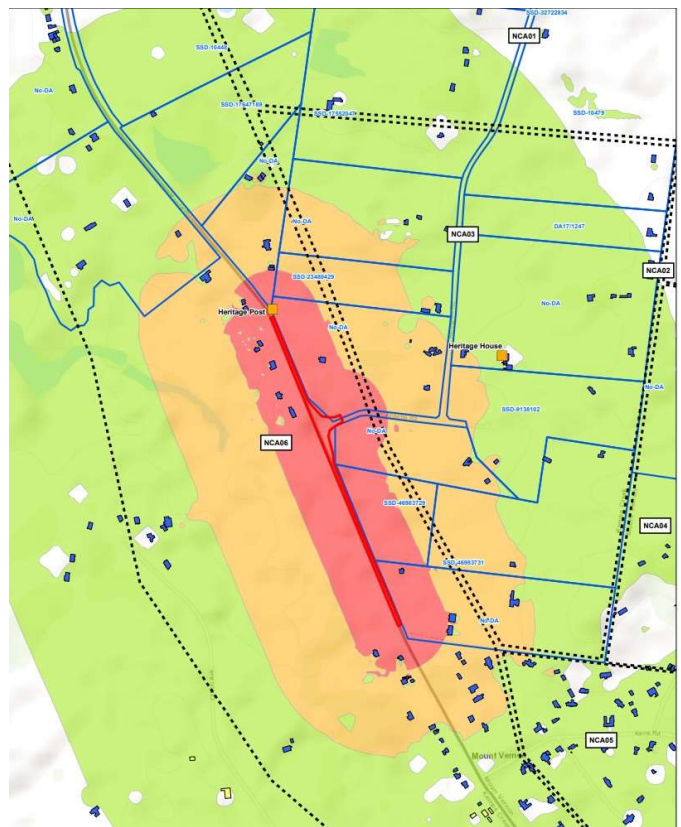


Figure 10 | Noise Contours – Night Works

Error! Reference source not found. shows the predicted noise levels for the Abbots and Aldington Road upgrade works. Receivers immediately adjacent to these roads would be the most impacted, being highly noise affected or subject to highly intrusive noise for most of the work phases. When

night works are required (up to 10 nights needed over the construction program), sleep disturbance impacts would extend to Mt Vernon residents located near Mamre Road, see Figure 12.

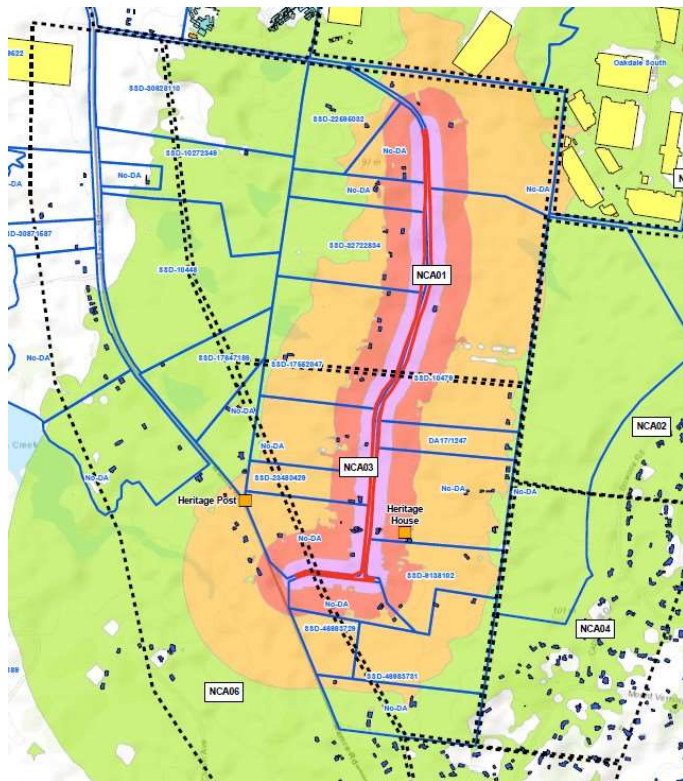


Figure 11 | Noise Contours – Standard Hours

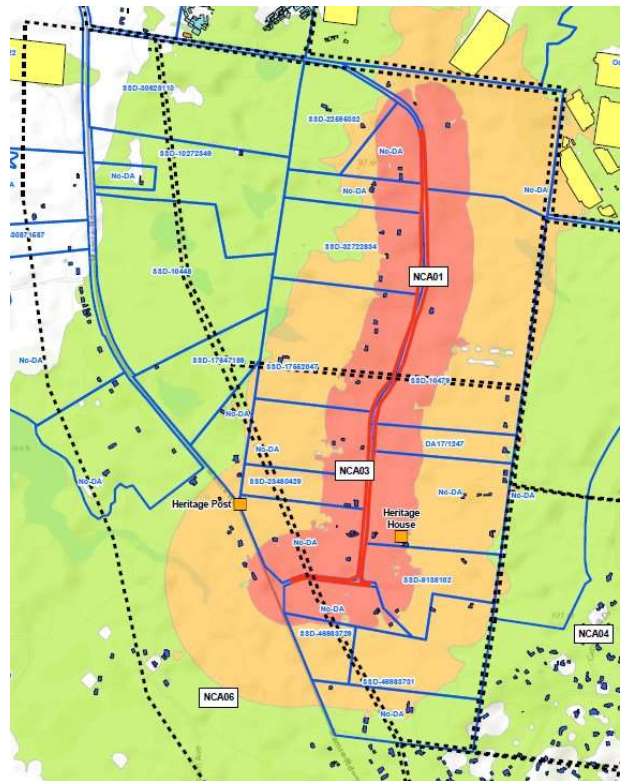


Figure 12 | Noise Contours – Night Works

Department’s Assessment

The proposed works may generate a community reaction to noise and requires specific mitigation measures to manage these impacts.

The Department requested the Applicant consult with the nearest affected residences to discuss the anticipated levels of noise that may be experienced, noise mitigation options, including regular communication throughout the works, provision of respite periods and offers of alternative accommodation for highly intrusive works.

The Applicant met with residences along the Mamre, Abbots and Aldington Road corridors to discuss the proposed works and outline the measures that would be taken to minimise noise throughout the construction program.

The Department notes there would be periods of moderate to highly intrusive noise during some phases of construction, and impacts on residents would vary depending on the location of the works relative to receivers. The works would take 15 months and would be primarily undertaken during standard day time hours. There would be approximately 10 nights where asphaltting and installation

of drainage infrastructure would be carried out which have the potential to impact a larger number of receivers due to the lower background noise environment at night.

The impacts of construction noise on residents would be temporary and the Applicant has advised it will work with residents to implement the most effective noise controls to minimise amenity impacts. This would include notification prior to noisy works, offering specific respite periods or providing alternative accommodation for discrete periods. The Department has recommended these measures be detailed in a construction noise and vibration management plan to be approved by the Planning Secretary prior to commencement of works. The plan must be developed in consultation with the affected residents and detail:

- an out of hours work protocol
- notification procedures
- provision of respite periods
- scheduling of noisy works
- use of temporary barriers, quieter plant or alternative construction methods
- verification monitoring
- provision of alternative accommodation for highly intrusive works.

With these measures in place, the Department’s assessment concludes the noise impacts of construction would be appropriately managed.

5.3 Other issues

The Department’s consideration of other issues is summarised in **Table 4** below.

Table 4 | Assessment of other issues

| Findings and conclusions | Recommended conditions |
|---|---|
| Air Quality | |
| <ul style="list-style-type: none"> • Road works construction would generate dust during earthworks, laying road base, from stockpiles and construction vehicles working on unpaved surfaces. • These emissions may cause amenity impacts for the nearest residential receivers located 30 m from Mamre Road and 20 m from Aldington Road. • A construction air quality management plan (CAQMP) is an appropriate measure for managing dust during construction, noting these impacts would be temporary. Mitigation measures include regular watering of | <ul style="list-style-type: none"> • Consult with the nearest residential receivers throughout the roadworks • Prepare and implement a CAQMP. |

Findings and conclusions

Recommended conditions

surfaces, covering or stabilising stockpiles, limiting vehicle speeds on unsealed areas and limiting works during windy conditions.

- The Department has considered the potential air quality impacts of construction and notes there is likely to be short term amenity impacts for the nearest residences at various stages of the construction program.
- Given the proximity of receivers to the works, the Department recommends the Applicant consult with the nearest residences throughout the construction program. The Applicant must keep residents informed of upcoming works and the measures that would be implemented to manage dust.
- The Department's assessment concludes the air quality impacts during construction would be adequately managed through the implementation of a CAQMP.

Vibration

- Vibration intensive equipment including vibratory rollers and hydraulic hammers would be used for installing drainage infrastructure and during bulk earthworks.
- There are 8 buildings located within the minimum working distance (100 m) for the human comfort criteria for the Mamre/Abbotts intersection works and 7 buildings adjacent to the Abbotts/Aldington road works. Two buildings are within the minimum working distance (25 m) for cosmetic damage to buildings along Aldington Road and a heritage listed post on Mamre Road is also within 25 m.
- The Applicant's vibration assessment recommended building condition surveys for buildings within 25 m and a dilapidation survey for the heritage post. Vibration monitoring was also proposed to establish site-specific minimum working distances.
- The Department agrees with the findings and recommendations of the vibration assessment. Vibration impacts would be managed via monitoring, specific work practices to avoid damage to buildings and minimise human comfort impacts and rectification of any damage.
- The Department recommends condition surveys for buildings within 25 m of the works and a dilapidation survey of the heritage post. Vibration monitoring and mitigation measures must also be detailed in a Construction Noise and Vibration Management Plan (CNVMP).

- Conduct building condition surveys for properties within 25 m of the works, prior to commencing work.
- Undertake a dilapidation survey of the heritage post prior to commencing work.
- Prepare and implement a CNVMP including vibration monitoring.

| Findings and conclusions | Recommended conditions |
|--------------------------|------------------------|
|--------------------------|------------------------|

| | |
|--|--|
| <ul style="list-style-type: none"> The Department’s assessment concludes potential vibration impacts would be adequately managed. | |
|--|--|

Biodiversity

| | |
|---|---|
| <ul style="list-style-type: none"> Road and intersection upgrade works would be undertaken between 5 – 10 m either side of the existing road corridor. Land in the existing road corridor is excluded land under the CPCP and requires biodiversity assessment. EHG confirmed this requirement in its advice on the modification. The Applicant provided a Biodiversity Development Assessment Report (BDAR) covering the road upgrade works along Mamre, Abbots and Aldington Roads. The modification would require clearing of 0.2 ha of Cumberland Shale Plains Woodland (CPW) for the road works. The small area of vegetation and its poor condition means it does not trigger a requirement for biodiversity offsets. No threatened plant species were recorded on the site. The Department notes the modification would require minor clearing of low integrity vegetation and concludes the modification would not impact on biodiversity values. The recommended biodiversity mitigation measures must be included in the Construction Environmental Management Plan. | <ul style="list-style-type: none"> Implement biodiversity mitigation measures as detailed in the BDAR. |
|---|---|

Heritage

| | |
|---|--|
| <ul style="list-style-type: none"> An Aboriginal Cultural Heritage Assessment Report (ACHAR) was provided for the modification. The ACHAR found three archaeological sites of low significance within the road corridor and recommended the preparation of a Cultural Heritage Management Plan to manage any unexpected finds. Heritage NSW recommended an unexpected finds protocol be prepared. A Statement of Heritage Impact was prepared for the modification and concluded the works are unlikely to impact any items of heritage significance. Recommendations were included for protecting the local heritage ‘gateposts’ on Mamre Road and preparing an unexpected finds protocol. Heritage NSW had no comments. | <ul style="list-style-type: none"> Prepare a Cultural Heritage Management Plan as part of the CEMP. Implement an unexpected finds protocol for heritage items. |
|---|--|

| Findings and conclusions | Recommended conditions |
|---|---|
| <ul style="list-style-type: none"> The Department reviewed the heritage assessments and concluded the road upgrade works would not impact on listed heritage items or Aboriginal heritage. | |
| <p>Contamination</p> | |
| <ul style="list-style-type: none"> The Applicant provided a detailed site investigation (DSI) which included soil sampling 5 m either side of the road corridors. Testing was carried out for a range of chemical contaminants, with the results showing the contaminants are below the human health screening criteria for commercial/industrial land use. The DSI concluded the road corridor is suitable for the proposed road works and a remediation action plan is not required. The DSI recommended the construction environmental management plan include procedures for managing any unexpected finds. The Department reviewed the DSI and is satisfied the land is suitable for the proposed road upgrade works. The Department concludes the modification would not impact on contaminated land and has included the recommendation for an unexpected finds protocol in the conditions. | <ul style="list-style-type: none"> Implement an unexpected finds protocol for construction. |
| <p>Stormwater Management</p> | |
| <ul style="list-style-type: none"> The Applicant is proposing interim road upgrades that would be extended to an ultimate design by TfNSW and Council at a later date. The road assets will be owned and managed by TfNSW and Council. The interim road design incorporates stormwater drainage infrastructure, including widened culverts under Mamre Road that would manage surface water flows from the upgraded road corridor. The Applicant provided an analysis of the potential additional stormwater flows from the upgraded road corridor, noting the works contribute around 0.3% of impervious area to the precinct. The analysis indicated the increased flows from this additional impervious area would be negligible. A series of erosion and sediment controls would be implemented to manage the construction works and ensure the construction phase water quality targets for the precinct are met. The Department's assessment concludes the modification would have a negligible impact on surface water flows and quality. | <ul style="list-style-type: none"> Implement an erosion and sediment control plan as part of the CEMP. |

6 Evaluation

The Department's assessment has considered the relevant matters and objects of the EP&A Act and advice received from government agencies and Council.

The modification proposes to construct interim road upgrades to the Mamre Road and Abbots Road intersection and widen Abbots Road and part of Aldington Road, consistent with the MRP DCP. The road upgrade works have become critical for maintaining road safety and enabling access for approved and future development in the Mamre Road Precinct.

The Department referred the modification to government agencies, Council and the public submitters on the original SSD application. Advice was received from four government agencies and Penrith City Council. One public submission was received. No objections were raised.

TfNSW requested revised staging plans incorporating interim traffic signals and updated traffic count data. Council recommended the first stage of Abbots Road widening works be completed before the commencement of operation of warehouse 1. The Department requested additional information on proposed noise management including engagement with the most affected residential receivers.

The Applicant's RTS provided updated staging plans, traffic count information, details of engagement with residential receivers and updated heritage and biodiversity assessments.

As the upgraded road network would ultimately be transferred to TfNSW and Council as the relevant roads authorities, the Department liaised extensively with both parties to ensure the design and delivery of the roads meet the requirements of these agencies.

The Department also requested the Applicant consult further with affected residents along the road corridors to communicate the potential impacts of road works, the duration of works and the types of mitigation measures that would be implemented to minimise temporary amenity impacts.

The Department's assessment concluded that some level of operational traffic from warehouse 1 could be accommodated while the road works are taking place. This traffic would be managed through construction traffic management plans prepared in accordance with the requirements of TfNSW and Council and an operational traffic management plan approved by the Planning Secretary. The installation of interim traffic signals would improve existing safety and congestion issues by controlling movements through this critical intersection.

The potential noise impacts of the road works would be temporary (around 15 months) and would affect receivers to varying degrees dependent on proximity of the works as they progress along the road corridors. A construction noise and vibration management plan is required to manage these works.

The Department's assessment concludes the modification is appropriate on the basis that:

- it will result in minimal environmental impacts beyond the approved development
- it will deliver critical infrastructure to address current road safety and capacity concerns
- the road upgrade design is consistent with the MRP DCP and the design has been adopted by TfNSW and Council
- the modification would enable operation of approved and future development in the MRP, contributing to the generation of new jobs in the Penrith local government area
- it is consistent with environmental planning instruments including the Objects of the EP&A Act.

The Department has recommended a range of conditions to manage residual environmental impacts, including measures to manage traffic, noise, air quality, surface water, heritage and biodiversity.

The Department is satisfied the modification should be approved subject to conditions.

7 Recommendation

It is recommended that the Director, Industry Assessments, as delegate of the Minister:

- **considers** the findings and recommendations of this report
- **determines** that the application MOD 3 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **agrees** with the key reasons for approval listed in the notice of decision
- **modifies the consent** for the Westlink Industrial Estate Stage 1 (SSD-9138102 MOD 5), subject to the conditions in the attached instrument of modification.
- signs the attached instrument of modification (**Appendix C**).

Recommended by:



7 June 2024

Deana Burn

Specialist Planner

Industry Assessments

8 Determination

The recommendation is **adopted** by:



7 June 2024

Chris Ritchie

Director

Industry Assessments

Glossary

| Abbreviation | Definition |
|----------------------------|--|
| Applicant | ESR Developments (Aust) Pty Ltd |
| Council | Penrith City Council |
| Department | Department of Planning, Housing and Infrastructure |
| EHG | Environment and Heritage Group of the Department |
| EP&A Act | <i>Environmental Planning and Assessment Act 1979</i> |
| EP&A Regulation | Environmental Planning and Assessment Regulation 2021 |
| EPBC Act | <i>Environment Protection and Biodiversity Conservation Act 1999</i> |
| EPI | Environmental Planning Instrument |
| Heritage | Heritage NSW, within the Department |
| LGA | Local Government Area |
| Minister | Minister for Planning and Public Spaces |
| Planning Secretary | Secretary of the Department of Planning, Housing and Infrastructure |
| RTS | Response to Submissions |
| SEARs | Planning Secretary's Environmental Assessment Requirements |
| SEPP | State Environmental Planning Policy |
| SSD | State Significant Development |
| TfNSW | Transport for NSW |

Appendices

Appendix A – List of Referenced Documents

The Department has relied upon the following key documents during its assessment of the proposed development. These documents can be found at the link below:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-5-external-road-upgrades>

Modification Application

- Modification Report ‘Westlink Industrial Estate Stage 1 Modification 5’ prepared by Ethos Urban dated 21 March 2024

Submissions and Advice

- Included in the above link

Response to Submissions

- ‘SSD-9138102 Modification 5 External Roads’ prepared by ESR Developments (Aust) Pty Ltd dated 21 May 2024

Department’s Assessment Report for SSD-9138102

- <https://www.planningportal.nsw.gov.au/major-projects/projects/westlink-industrial-estate-stage-1>

Appendix B – Submissions and government agency advice

All submissions and government agency advice can be found here:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-5-external-road-upgrades>

Appendix C – Recommended Instrument of Modification

The recommended instrument can be found at the following link:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-5-external-road-upgrades>