



Our reference: P-670198-H7H8
Contact: Sandra Fagan
Telephone: (02) 4732 7992

19 April 2024

Attn: Deana Burn
Email: deana.burn@planning.nsw.gov.au

Dear Deana,

Council Response to Modification Report for SSD-9138102 MOD-5, Westlink Industrial Estate (ESR) Stage 1 at 1030-1048 and 1050-1064 Mamre Road, 59-62 and 63 Abbots Road, and 290-308 Aldington Road, Kemps Creek

Thank you for providing Penrith City Council the opportunity to comment on the abovementioned modification report.

Council staff have reviewed the information referred for comment and provides the following advice for the Department's consideration.

1. Planning Considerations

- a) 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.
- b) From a procedural perspective, DPHI 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). DPHI should therefore ensure consistency throughout the relevant applications and determinations.
- c) DPHI 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 commence/carry out the works.

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- d) The EIS refers to road upgrade works also proposed by Fife as part of a Modification to the 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.
- e) 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.
- f) Concern is raised about the proposed amendments to SSDA conditions to allow the commencement of warehouse operations concurrent with road upgrade works. This is discussed further below.
- g) It is unclear how street tree planting will be provided given the interim design outcome proposed.

2. City Planning Considerations

Council's City Planning Department have reviewed the proposal and have raised the following considerations:

- a) The proposed modification seeks to make several amendments to existing conditions of consent. It is requested that DPHI consider the following comments.
- b) Part A Condition 24 – 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:
 - 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 Development Contribution Plan 2022.
 - b. Council's preference is that no indicative contribution obligation 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 refers to 'table 1'. However, the table 1 referenced cannot be located. In the modification report prepared by Ethos Urban – table 1 contains applicant details, which does not relate to the reference in the proposed condition.

c) Part B Condition B4 and B11 – 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:

- a. Abbots and Aldington Roads are currently existing rural roads that were never envisioned to service operational industrial traffic in their current state.
- b. The completion of the delivery of the road should have nexus with the development and be tied to a threshold trigger (such as the 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.
- c. Consideration is to be given to the effect of timing and triggers of the delivery of Abbots Road on other SSD approvals that rely on the delivery of both Abbots and Aldington Roads to facilitate further operational industrial traffic.

3. Development Engineering Considerations

Council's Development Engineering Department have reviewed the proposal and have raised the following considerations:

- a) The proposed modification seeks to make several amendments to existing conditions of consent, including amendment to Part B Conditions B4 and B11. The proposed amendments are sought to unlock the operation of the first warehouse from the delivery of the upgrades of Abbots/Aldington Road. Rather, the applicant is tying

the road delivery to staged traffic volumes associated with the operation of the Toll facility. This would then allow the operation of the first warehouse prior to the commencement and completion of the upgrade works along Abbots and Aldington Road. Concerns are raised with this approach (discussed below).

- b) The proposed road construction staging plan indicates that the works will take approximately 13 months to complete.
- c) In principle, the staging of the road works will allow the delivery of Abbots and Aldington Roads under live traffic. This will also provide an opportunity for operational traffic for the subject and other developments to access the road during the road construction.
- d) 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.
- e) There is insufficient information on how the staging of Mamre Road intersection and the staging of Abbots Road / Adlington Road upgrade works correspond to one another and how it will tie with obtaining the Occupation Certificate for the first warehouse.
- f) 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.
- g) Consideration is to be given to other developments along Aldington Road who rely on the delivery of both Abbots and Aldington Roads to facilitate further operational industrial traffic during the 13-month construction time frame.
- h) The ability for Council and DPHI to ensure that the road is delivered in an appropriate time frame as the request for linking operational traffic volumes to construction phases and stages contains a risk of traffic volume 'creep' and no legal enforcement mechanism to tie the development to delivery of the road within the 13 months.
- i) Council requests further advice regarding alignment of staging and completion of the Mamre Road/Abbots Road intersection together with the issue of Occupation Certificate/s for the proposed warehouse to ensure that appropriate hold points are in

place that align with the proposed road construction staging, its completion, and the issue of a final Occupation Certificate.

- j) Transport for NSW are requesting a temporary signalised intersection on Mamre Road and Abbots Road until such time the ultimate signalised intersection is delivered. This would have significant impact on the proposed staging plan for the delivery of the road works and the tie in with the operation of the first warehouse.
- k) 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 Abbots / 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 Abbots and Aldington Road to Council's satisfaction, the Occupation Certificate for the remainder the warehouse can be issued. For additional security, it is recommended that a bond of 200% the cost of works is to be obtained from the developer for the delivery of the upgrade works.

4. Traffic Considerations

Council's Traffic Engineer has reviewed the proposal and has raised the following considerations:

- a) The proposed modification shall be referred to Transport for NSW for comment.
- b) Transport for NSW should endorse the modelling assessment for the Mamre Road / Abbots Road intersection, as well as the Abbots Road and Aldington Road corridors.
- c) 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.
- d) 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.

- e) The right-in movement from Mamre Road into Abbots Road for local traffic requires approval from Transport for NSW.
- f) Prior to the 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 Transport for NSW.
- g) 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. The proponent can contact Council's Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

5. Environmental Management Considerations

Council's Environmental Management Department have reviewed the proposal and have raised the following considerations:

- a) Construction Noise and Vibration Impact Assessment – The reports identify that works are likely to impact receivers and mitigation measures identified in the assessment must be implemented.
- b) Detailed Site Investigations – 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.

6. Landscape Architect Considerations

Council's Landscape Architect Lead has reviewed the proposal and have raised the following considerations:

- c) The proposed development and documentation must provide substantial species diversity generally, with tree species selected from the Penrith City Council's (Draft) Street Tree Masterplan (see below).
- d) For Mamre Road this includes,
 - a. Eucalyptus tereticornis, Forest Red Gum*
 - b. Eucalyptus moluccana, Grey Box Gum*



- c. Eucalyptus crebra, Narrow-Leaved Ironbark*
- d. Corymbia maculata, Spotted Gum
- e. Waterhousia floribunda, Weeping Lilly Pilly
- f. Tristaniopsis laurina 'Luscious,' Water Gum
- g. Cupaniopsis anacardioides, Tuckeroo
- h. Melaleuca decora, White Feather Honey Myrtle.
- i. Note * = Trees for very wide verge areas or large open space setback.

e) For Aldington Road this includes,

- a. West side - Lophostemon confertus, Brushbox.
- b. East side - Lophostemon confertus, Brushbox.

f) For Abbots Road this includes,

- a. North side - Corymbia eximia, Yellow Bloodwood.
- b. South side - Corymbia eximia, Yellow Bloodwood.

Should you wish to discuss this matter further, please don't hesitate to contact me on (02) 4732 7992.

Yours sincerely,

Sandra Fagan,
Principal Planner

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