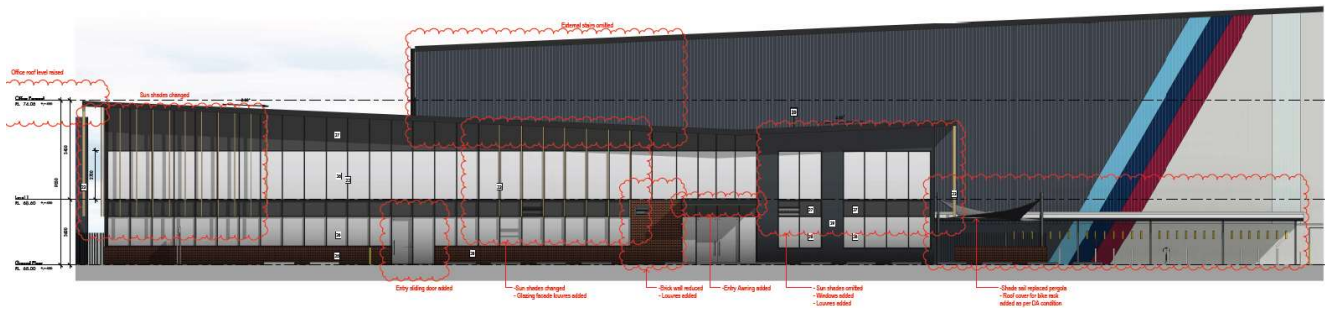


# Westlink Industrial Estate Stage 1 Modification 3

State Significant Development Modification Assessment Report (SSD-9138102-Mod-3)

April 2024





# Acknowledgement of Country

The Department of Planning and Environment 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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Westlink Industrial Estate Stage 1 Modification 3 (SSD-9138102-Mod-3)  
Assessment Report

Published: April 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 (the Applicant) 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 stakeholders have been considered
- an explanation of any changes made to the modification during the assessment process
- 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 government 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 approval should be modified and any conditions that should be imposed.

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# 1 Introduction

## 1.1 The Proposal

The modification application seeks consent to modify the Westlink Industrial Estate Stage 1 development consent (SSD-9138102, the approved development) for minor design amendments to Warehouse 1.

The application was lodged on 17 November 2023 by ESR Developments (Australia) Pty Ltd (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 Development Location

The subject site is located at 1030-1048 and 1050-1064 Mamre Road, 59-62 and 63 Abbots Road and 290-308 Aldington Road, Kemps Creek (see **Figure 1** and **Figure 2**).

The site is legally described as Lots 11, 12 and 13 Deposited Plan (DP) 253503, Lots 3 and 4 DP 250002.

The development site is located within the Mamre Road Precinct (MRP), which forms part of the Western Sydney Employment Area (WSEA). The MRP covers 850 hectares (ha) of land that comprised mostly rural-residential uses until it was rezoned for industrial uses in 2020. The MRP is expected to deliver 17,000 jobs when fully developed and would include industries that will service the airport. Development in the MRP is guided by the Mamre Road Precinct Structure Plan 2020 and the Mamre Road Precinct Development Control Plan 2021 (MRP DCP).

The site is surrounded by industrial zoned land to the north, south, west and part of the eastern boundary of the site, which was all rezoned as part of the MRP and remains predominantly undeveloped to date with existing rural residential and agricultural land uses. A place of worship is currently under construction approximately 470 m north of the site (230-242 Aldington Road). The closest existing residential receivers within the MRP are located on properties directly adjoining the site, approximately 33 m to the north and 20 m to the south-west.

Land zoned C4 Environmental Living within the suburb of Mount Vernon directly adjoins part of the eastern boundary of the site and adjoins the southern MRP boundary (see **Figure 2**). The closest residences in Mount Vernon are over 400 m to the east and 500 m to the south from the approved buildings. Development in Mount Vernon is typically large lot rural residential land uses. Most of the existing residences to the east of the site in Mount Vernon are located behind a ridgeline that

obstructs direct views toward the site, with approximately 2-3 residences with direct or partial views of the site.



Figure 1 | Regional context map



**Figure 2** | Local context map

### 1.3 Modification Background

The Applicant is constructing the first stage of an industrial estate, including two warehouse buildings (Warehouse 1 and Warehouse 4) and ancillary office space, roads, stormwater infrastructure and services (refer to **Figure 3**) at 1030-1048 and 1050-1064 Mamre Road, 59-62 and 63 Abbots Road and 290-308 Aldington Road, Kemps Creek in the Penrith local government area.

Earthworks and construction of Warehouse 1 has commenced on site, and once operational, the development will be used for warehousing and distribution purposes.

The modification application has been submitted by the Applicant in response to design refinements to meet tenant requirements for Warehouse 1 (the subject site, refer to **Figure 3**).



**Figure 3 | Stage 1 development site layout with subject site highlighted**

## 1.4 Approval History

On 21 April 2023, development consent was granted by the Director, Industry Assessments as delegate for the Minister for Planning and Public Spaces (the Minister) for the development of the Westlink Industrial Estate Stage 1 (SSD-9138102). The development consent permits the following works:

- bulk earthworks and retaining walls
- subdivision
- construction, fit out and operation of two warehouse buildings and ancillary office space with a total gross floor area of 81,317 m<sup>2</sup>
- landscaping
- construction of estate roads



- site servicing, and
- stormwater infrastructure, including a trunk drainage channel and a basin.

The consent has not been modified previously, while three other modification applications are currently under preparation or assessment (see **Table 1**).

**Table 1 | Summary of modifications**

Modification	Description	Decision-maker	Type	Status
<b>MOD 1</b>	Modification to the approved earthworks volumes and locations.	To be confirmed (TBC)	4.55(2)	Preparing application
<b>MOD 2</b>	Reduction in the approved trunk drainage channel width and increase in the floor area of Warehouse 4	TBC	4.55(1A)	Preparing application
<b>MOD 3</b>	Minor design amendments to Warehouse 1 site plans (this subject modification proposal)	Department	4.55(1A)	This application
<b>MOD 4</b>	Changes to retaining wall height and design on Lot 1	TBC	4.55(1A)	Under assessment

## 2 Proposed modification

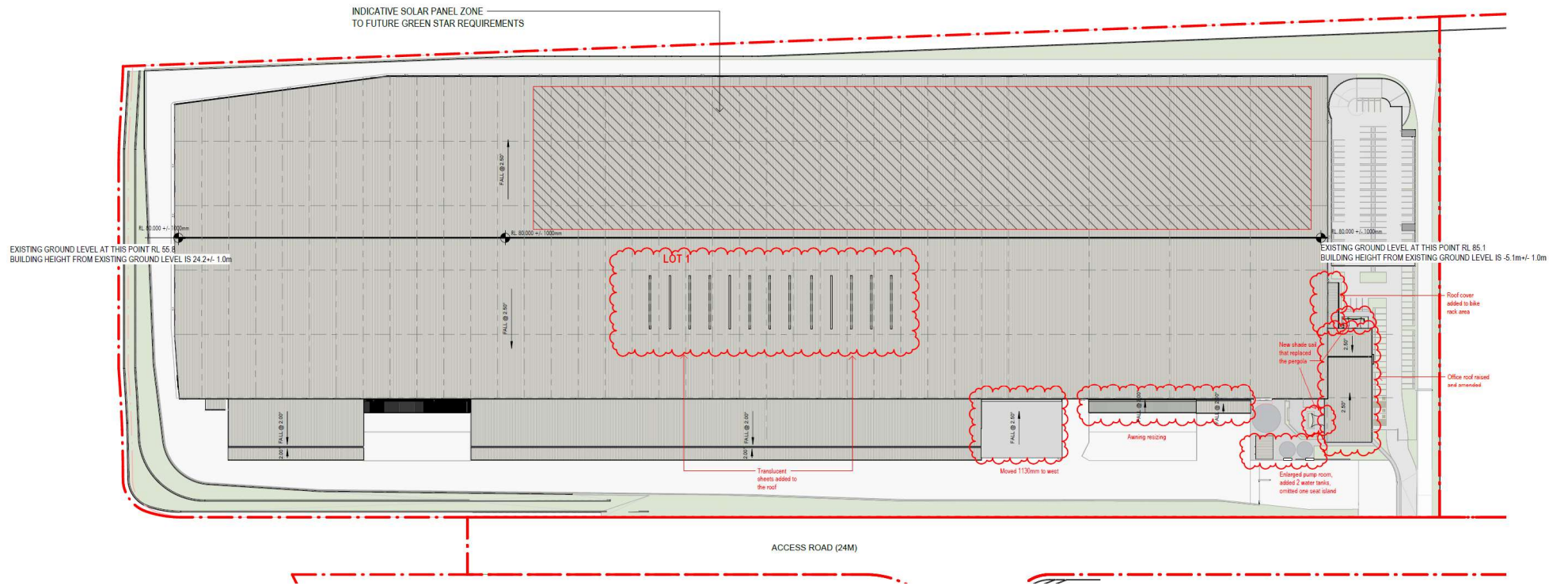
### 2.1 Modification overview

The modification is described in full in the Modification Report included in **Appendix A** and is illustrated in **Figures 4 - 6**.

The modification seeks to make minor changes to the approved design for Warehouse 1 to reflect tenant requirements, including:

- relocation of the battery charging room and recess docks approximately 1 m to the west
- relocation of the north-eastern rainwater tank to underground below the hardstand near the transport office
- addition of extra windows to the transport office
- enlargement of the pump room and addition of two water tanks
- reconfiguration of the southern recreation area and replacement of approved pergolas with shade sails for the outdoor area
- reconfiguration of the warehouse amenities in the south-west corner of the site
- addition and relocation of fire egress doors
- adjustments to the internal office layout, including a new awning over the entry, and removal of external stairs
- warehouse office roof amended and raised by 250 millimetres (mm)
- reduction in car parking provision by six spaces
- addition of translucent sheeting to the warehouse roof
- changes to the sizing of the awning above the recessed docks adjoining the battery charging room, and
- minor reconfiguration of the driveway, with a sliding gate instead of swing gates, and landscaping at the entry to the site.





**Figure 5 | Proposed roof plan for Warehouse 1**

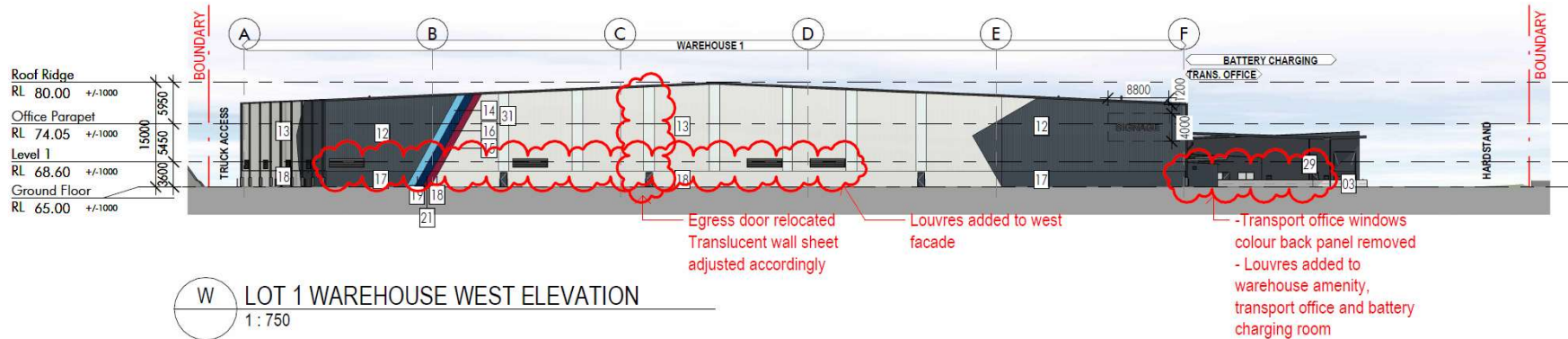
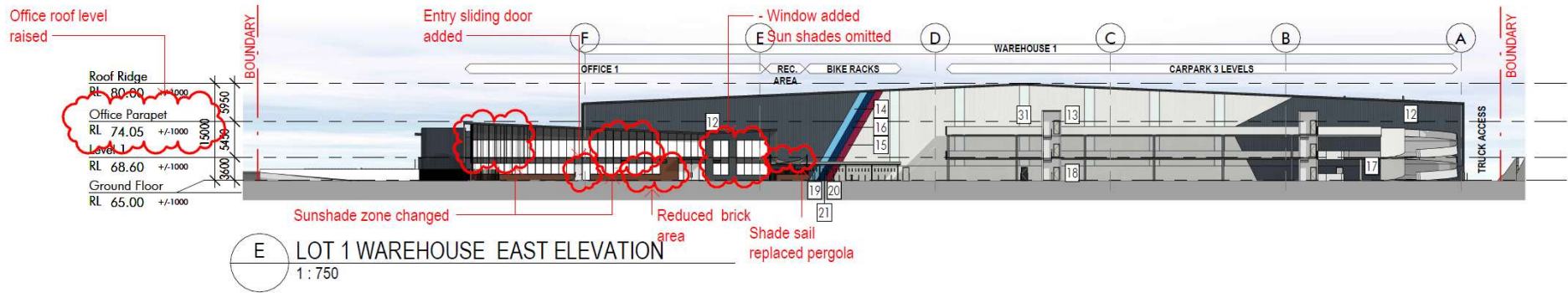


Figure 6 | Proposed east and west elevations for Warehouse 1

## 2.2 Applicant's Justification for the Proposed Modification

The Applicant has advised that the proposed modifications to the approved plans are in response to detailed design requirements from the incoming tenant for Warehouse 1 and would not result in any additional environmental impacts beyond the approved development.

The Applicant has further justified that the proposed amendments to the design of Warehouse 1 remains substantially the same as the approved development and is consistent with the relevant strategic plans, including the MRP Structure Plan.

# 3 Statutory context

## 3.1 Scope of modification and assessment pathway

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

**Table 2** | Permissibility and assessment pathway

Consideration	Description
<p><b>Scope of modification</b></p>	<p>The Department has reviewed the scope of the modification application and considers that it can be characterised as a modification involving minimal environmental impact as the proposal:</p> <ul style="list-style-type: none"> <li>• would not significantly increase the environmental impacts of the project as approved</li> <li>• the primary function and purpose of the approved development would not change as a result of the proposed modification</li> <li>• any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of consent</li> <li>• is substantially the same development as originally approved</li> <li>• would not involve any further disturbance outside the already approved disturbance areas for the development.</li> </ul> <p>The Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&amp;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&amp;A Act rather than requiring a new development application to be lodged.</p>
<p><b>Consent Authority</b></p>	<p>The Minister is the consent authority for the application under section 4.5(a) of the EP&amp;A Act.</p>
<p><b>Decision-maker</b></p>	<p><b>Delegate position</b></p> <p>Under the Minister’s delegation of 9 March 2022, the Team Leader, Industry Assessments, may determine the application under delegation as:</p> <ul style="list-style-type: none"> <li>• the application has not been made by a person who has disclosed a reportable political donation under section 10.4 of the EP&amp;A Act</li> <li>• there are no public submissions (other than a council) in the nature of objections, and</li> <li>• Council has not made a submission by way of objection under the mandatory requirements for community participation listed under Schedule 1 of the EP&amp;A Act.</li> </ul>

### 3.1.1 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 79C of the EP&A Act, as in force at the time). 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.

### 3.1.2 Objects of the EP&A Act

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

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

### 3.1.3 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 that the modification will not increase the impact on biodiversity values (as identified in the BC Act and in the Biodiversity Conservation Regulation 2017)

As the proposed modifications do not change the footprint of works to be undertaken, the Department is satisfied that the modification will not increase the impact on biodiversity values and consequently a BDAR is not required to accompany the modification application.

In addition, as the site is subject to biodiversity certification under the Cumberland Plain Conservation Plan, no further consideration of biodiversity impacts is required in accordance with section 8.4 of the BC Act.



# 4 Engagement

## 4.1 Department's Engagement

In accordance with the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) the Department made the modification application publicly available on the Department's website on 17 November 2023 and also forwarded the application to Penrith City Council (Council) for comment.

### 4.1.1 Summary of Council advice

Council did not raise any objections to the modification but requested further details regarding:

- addressing potential visual amenity impacts, particularly relating to the materials for the façade of the battery charging station fronting Aldington Road and fencing along the northern boundary
- clarification on any proposed amendments to the approved retaining wall located to the west of Warehouse 1 and fronting Aldington Road
- confirmation that the approved and proposed interim water management measures (i.e., addition of two water tanks and the relocation of one rainwater tank) will be decommissioned, and the development will be connected to the Sydney Water regional scheme once available.

## 4.2 Request for Information (RFI)

On 20 December 2023 the Department asked the Applicant to respond to the matters raised in the advice received from Council. In addition, the Department requested the Applicant to provide further information to the following:

- justification for the inclusion of the louvres on the elevations of the Lot 1 warehouse and clarification on whether this addition will impact on potential noise impacts from the development
- details on the screening of the proposed additional water tanks to improve visual presentation from the road
- details on the calculations relating to the pervious shortcrete surfaces to the areas along the northern boundary of Lot 1 as part of the retaining wall design.

### 4.2.1 Applicant's supplementary response to the Department's RFI

On 16 January 2024, the Applicant provided further supplementary information in response to the Department's RFI and Council advice which included:

- justification on the proposed relocation of the louvers on the Lot 1 warehouse due to potential Bushfire Attack Level (BAL) mapping in relation to bushfire protection, and confirmation that the changes to their location would not impact the previous noise impact assessment for the development as external noise sources (e.g., truck movements) would be greater
- clarification that the retaining wall would be screening the majority of the height from the proposed rainwater tanks (5.9 m), and that only 0.6 m would be visible from street level
- details on the calculation of the total pervious area of the site, excluding the shotcrete retaining wall design along the northern boundary of Lot 1 (11,581.60 m<sup>2</sup>) and demonstrating its compliance with the retaining wall design requirements within the MRP DCP
- clarification of the proposed changes to the panelling materials for the battery charging area due to fire safety provision requirements associated with the storage of batteries, and also justifying that with both the setback (15 m) of this area from the road and plantings in the landscape area, the visual amenity impacts of the battery charging area would be negligible
- confirmation that no additional changes are proposed to the approved retaining walls
- justification that the proposed addition of two water tanks at the site is to adhere to Condition B25 of the SSD-9138102 consent which requires the implementation of interim stormwater management until the MRP Stormwater scheme is delivered.

The Department has considered the issues raised by Council and responses provided in the supplementary information in its assessment of the modification.

## 5 Assessment

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

- modification report and supplementary information provided to support the proposed modification (see **Appendix A**)
- documentation and Department's assessment report for the original DA and subsequent modification application(s) (see **Appendix A**)
- advice from Council (**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's assessment in **Table 3** below.

**Table 3 | The Department’s Assessment**

Findings and conclusions	Recommended conditions
<p><b>Traffic and Parking Provisions</b></p> <ul style="list-style-type: none"> <li>• The proposed modification would reduce the parking spaces at the approved Lot 1 warehouse from 300 to 294 (reduction of 6 spaces).</li> <li>• Condition B14 of the SSD-9138102 consent requires that sufficient parking facilities on-site are in accordance with the MRP DCP to ensure that traffic with the approved development does not utilise public and residential roads or parking facilities.</li> <li>• The car parking for the development on Lot 1 (at-grade and within a multi-level car park), was approved for 300 car parking spaces which is in excess of the MRP DCP minimum requirement (245 spaces) to meet the operational requirement of the tenant for Warehouse 1.</li> <li>• The Applicant has justified that the proposed amendment to the car parking spaces for Lot 1 would contribute to a 2% reduction from the approved development.</li> <li>• Council did not provide comments on car parking or traffic impacts associated with the modification proposal.</li> <li>• The Department notes that while the Applicant seeks to reduce the onsite car parking, the provision of 294 car spaces is consistent with the MRP DCP and satisfies the requirements of Condition B14 of the development consent.</li> <li>• The Applicant provided a Traffic Statement in the modification report which found that the proposed layout changes would not affect traffic generation volumes (1,856 vehicle movements per day) from the approved development.</li> <li>• The Department is satisfied that the proposed reduction in car parking spaces still retains adequate parking for Warehouse 1, and that the traffic impacts associated with the proposed layout amendments for the warehouse will not contribute to additional traffic generation at the approved development.</li> <li>• The Department further notes that potential construction traffic impacts at the approved development can be appropriately managed in accordance with the approved Construction</li> </ul>	<p>No additional conditions recommended.</p>

Findings and conclusions	Recommended conditions
<p>Environment Management Plan (CEMP) for the development (as per Condition B1 of the development consent), and therefore no additional conditions are required.</p>	

### Visual Impact

<ul style="list-style-type: none"> <li>• The proposed modifications result in minor changes to the appearance of Warehouse 1 from the approved development, including the reconfiguration of the warehouse south-west amenities area and internal office layout, relocation of the battery charging room/recess docks (approximately 1.13 m to the west), increasing the office roof height (an additional 250 mm), and installation of two additional water tanks near the pump station.</li> <li>• The proposal also seeks to introduce louvres to the transport office, battery charging station façade and western/northern elevation building façade, and addition of extra windows to the Transport office.</li> <li>• The Applicant’s assessment found the proposed layout changes will be largely visually indiscernible from the approved development as there are no changes to the building footprint, bulk and scale.</li> <li>• The increased roof height for the office would be considered imperceptible, noting that the office would remain lower than the warehouse and within its elevation.</li> <li>• Potential visual impacts from the relocation of the battery charging station and recess docks would be minimised due to the building and landscape setback.</li> <li>• The Applicant also reported that the two additional water tanks proposed to be installed to the pump room would be mostly screened by a retaining wall, and that the remaining unscreened height (600 mm) would have negligible impact from the street view (Abbots Road).</li> <li>• The proposed changes to the Warehouse 1 façade (windows and louvres) will have negligible impact on the appearance or design quality of the development.</li> </ul>	<p>No additional conditions recommended.</p>
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Findings and conclusions	Recommended conditions
<ul style="list-style-type: none"> <li>The Department considers that the proposed changes are minor, have negligible impact on the bulk, scale and visual appearance of the warehouse, and that the modification would generally be consistent with the approved building envelope, as well as being consistent with the approved GFA.</li> <li>The Department has considered the proposed layout and design changes and finds that they would not detract from the design quality or visual amenity of the development.</li> </ul>	

### Noise Impacts

<ul style="list-style-type: none"> <li>The modification proposal includes addition of louvres to the transport office, battery charging station façade and north façade at Warehouse 1.</li> <li>Through the RFI, the Department requested for the Applicant to clarify whether the proposed additions would impact on noise emissions from the development, or any assumptions previously assessed for the approved development.</li> <li>The Applicant justified that the proposed louvres are located on the western and northern elevations of Warehouse 1 facing land zoned IN1 General Industrial and are not anticipated to impact noise to surrounding sensitive receivers (Luddenham/ Mount Vernon residents and BAPS Swaminarayan Sanstha Temple) as identified in Condition B52 of the SSD-9138102 consent.</li> <li>The Applicant further stated that previous noise technical reports provided for the assessment of the approved development had demonstrated that potential noise impacts from the site were more likely associated with external noises sources such as vehicle movements rather than the building operations. Based on this, the location of the proposed louvres would not contribute to any additional impacts on the noise modelling previously undertaken for the approved development.</li> <li>The Department considers that the potential noise emissions associated with the additional louvres added to the Warehouse 1 building façade would be negligible, and that the modification will not likely contribute to further noise impacts from the approved development. Noting that the SSD-9138102 consent requires adherence of specific noise limits and the</li> </ul>	<p>No additional conditions recommended.</p>
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**Findings and conclusions****Recommended conditions**

implementation of operational noise mitigation measures at the approved development, the Department finds that no further conditions of consent relating to noise management are required for this modification.

## 6 Evaluation

The Department's assessment has considered the relevant matters and objects of the EP&A Act and considers the proposed modification is appropriate on the basis that:

- the proposed modification will result in minimal environmental impacts beyond the approved facility
- the modifications will not impact the operation and traffic movements of the development as approved
- the design and layout amendments to Warehouse 1 would have minimal visual impacts
- the modified development is substantially the same development (in terms of bulk, scale and appearance) as previously approved.

The Department is satisfied the modification should be approved.

## 7 Recommendation

It is recommended that the **Team Leader, Industry Assessments** , as delegate of the Minister:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD-9138102-Mod-3 falls within the scope of section 4.55(1A) of the EP&A Act
- **forms the opinion** under section 7.17(2)(c) of the Biodiversity Conservation Act that a BDAR is not required to be submitted with this application as the application will not increase the impact on biodiversity values on the site
- **accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies the consent** for the Westlink Industrial Estate Stage 1 (SSD-9138102-Mod-3), subject to the conditions in the attached instrument of modification.
- signs the attached instrument of modification (**Appendix C**).

Recommended by:



**Ellen Luu**

Senior Environmental Assessment Officer  
Industry Assessments



## 8 Determination

The recommendation is **adopted** by:



9 April 2024

**Lindsey Blecher**

Team Leader

Industry Assessments

# Glossary

Abbreviation	Definition
<b>Applicant</b>	ESR Developments Pty Ltd
<b>BAL</b>	Bushfire Attack Level
<b>BC Act</b>	<i>Biodiversity Conservation Act 2016</i>
<b>BDAR</b>	Biodiversity Development Assessment Report
<b>Council</b>	Penrith City Council
<b>Department</b>	Department of Planning, Housing and Infrastructure
<b>DP</b>	Deposited Plan
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>Minister</b>	Minister for Planning and Public Spaces
<b>MRP</b>	Mamre Road Precinct
<b>MRP DCP</b>	Mamre Road Precinct Development Control Plan 2021
<b>Planning Secretary</b>	Secretary of the Department of Planning, Housing and Infrastructure
<b>RFI</b>	Request for information
<b>SSD</b>	State Significant Development
<b>SSD-9138102</b>	The approved development, Westlink Industrial Estate Stage 1
<b>WSEA</b>	Western Sydney Employment Area

# Appendices

## Appendix A – List of Referenced Documents

The Department has relied upon the following key documents during its assessment of the proposed development:

### Modification Application

- ‘Section 4.55(1A) Modification Report, Modification 3, 1030-1048 & 1050-1064 Mamre Road, 59-62 & 63 Abbots Road and 290-308 Aldington Road, Kemps Creek’ prepared by Ethos Urban dated 9 November 2023 - <https://www.planningportal.nsw.gov.au/major-projects/projects/mod-3-warehouse-1-minor-design-changes>

### Response to Request for Additional Information

- ‘RE: SSD-91388102 Mod4 – Request for Additional Information’ prepared by ESR Developments (Australia) Pty Ltd dated 16 January 2024 - <https://www.planningportal.nsw.gov.au/major-projects/projects/mod-3-warehouse-1-minor-design-changes>

### Department’s Assessment Report for SSD-9138102

[https://www.planningportal.nsw.gov.au/major-projects/projects/westlink-industrial-estate-stage-](https://www.planningportal.nsw.gov.au/major-projects/projects/westlink-industrial-estate-stage-1)

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## Appendix B – Penrith City Council Advice

Council's advice can be found here: <https://www.planningportal.nsw.gov.au/major-projects/projects/mod-3-warehouse-1-minor-design-changes>

## Appendix C – Recommended Instrument of Modification

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-3-warehouse-1-minor-design-changes>