Letter of Advice: Modification (MOD 2) of Condition B81 of SSD-46983729

Westlink Stage 2, 1030-1048 and 1050-1064 Mamre Road, 59-62 and 63-72 Abbotts Road and 290-308 Aldington Road, Kemps Creek, NSW

Ref: EP4132.003_v2

17 July 2026

ESR Developments (Australia) Pty Ltd
Level 13, 39 Martin Place
Sydney NSW 2000

Via email: Mohanad.Al-Juboori@esr.com

Attention: Mohanad Al-juboori

Letter of Advice: Modification (MOD 2) of Condition B81 of SSD-46983729
Westlink Stage 2, 1030-1048 and 1050-1064 Mamre Road, 59-62 and 63-72 Abbotts Road and 290-308 Aldington Road, Kemps Creek, NSW

Introduction

ESR Developments (Australia) Pty Ltd (the Client) engaged EP Risk Management Pty Ltd (EP Risk) to prepare this Letter of Advice for the Letter of Advice (LoA) associated with the proposed Modification of Condition B81 of SSD-46983729 (MOD 2) for Westlink Stage 2, 1030-1048 and 1050-1064 Mamre Road, 59-62 and 63-72 Abbotts Road and 290-308 Aldington Road, Kemps Creek, NSW (the Site).

The Site is legally defined as a portion of Lot 2 in Deposited Plan (DP) 1321939 (formerly Lots 111–115 in DP1296469).

The development for the Site is a State Significant Development (SSD), which has been approved by the NSW Department Planning, Housing and Infrastructure (DPHI) and Development Consent granted under Section 4.38 of the *Environmental Planning and Assessment Act 1979, SSD-46983729.*

The area to the north of the Site, known as Westlink Stage 1, has also been approved by NSW DPHI as a SSD under *SSD-913810.*

The location of the Site and Stage 2 is shown in **Attachment 1 – Figure 1**.

Background

Condition B81 (Remediation) of the SSD Consent (SSD-46983729), dated 3 October 2025, currently states:

B81. The Applicant must ensure the remediation works are undertaken by a suitably qualified and experienced consultant(s) in accordance with the Remedial Action Plan included in the EIS and the Remedial Action Plan Addendum included in the Additional information, and the relevant guidelines produced or approved under the Contaminated Land Management Act 1997.

Condition B81 refers to the following reports:

- Douglas Partners Pty Ltd (DP) (2022) *Remediation Action Plan, Proposed Industrial Development – Westlink Stage 2, 1030-1064 Mamre Road, Kemps Creek*, (RAP) ref: 211619.02, dated 27 October 2022.
- EP Risk (2024) Addendum (01) – D*ouglas Partners (2022) Remediation Action Plan, Westlink Stage 2 – 1030 – 1064 Mamre Road, Kemps Creek, NSW, 2178*, (Addendum 01) ref: EP4132.001_v2, dated 04 April 2025.

Since the SSD Consent, additional investigations have been completed across the Site, and documented in the following reports:

- Foundation Earth Sciences Pty Ltd (FES) (2026) *Waste Classification – Stockpile 3, Westlink Stage 2 – 1030-1043 Mamre Road, Kemps Creek, NSW,* ref: E3507, dated 24 June 2026.
- FES (2026a) *Waste Classification – Stockpile 4, Westlink Stage 2 – 1030-1043 Mamre Road, Kemps Creek, NSW,* ref: E3507, dated 24 June 2026.
- FES (2026b) *Waste Classification – Stockpile 6, Westlink Stage 2 – 1030-1043 Mamre Road, Kemps Creek, NSW,* ref: E3507, dated 24 June 2026.
- FES (2026c) *Waste Classification – Stockpile 9, Westlink Stage 2 – 1030-1043 Mamre Road, Kemps Creek, NSW*, ref: E3507, dated 24 June 2026.
- FES (2026d) *Waste Classification – Stockpile 12, Westlink Stage 2 – 1030-1043 Mamre Road, Kemps Creek, NSW*, ref: E3507, dated 30 June 2026.
- FES (2026e) *Waste Classification – Stockpile 8, Westlink Stage 2 – 1030-1043 Mamre Road, Kemps Creek, NSW*, ref: E3507, dated 30 June 2026.

Based on the findings of these reports, FES has classified approximately 520 m^3 as General Solid Waste (non-putrescible) – Special Waste Asbestos. Under the RAP and Addendum 01, the currently endorsed remediation approach is excavation and disposal of contaminated soils to a licensed waste facility (DP 2022), with the treatment of bonded (non-friable) asbestos containing material (ACM) associated with stockpile AEC22/40 (EP Risk 2024). Given the large volume of material requiring offsite disposal, the Client has chosen to reconsider the preferred remedial approach. In consideration of the quantity, nature and type of contamination, and in the interest of sustainability and feasibility, a revised remedial approach of cap and containment for selected contaminated soils is now considered and documented in the EP Risk (2026) *Addendum 02 – Douglas Partners Remediation Action Plan, Westlink Stage 2: 1030 – 1043 Mamre Road, Kemps Creek, NSW, 2178* (Addendum 02) ref: EP4132.002_v2, dated 28 June 2026.

To inform the MOD 2 submission per requested comments from DPHI, the following matters are responded to in this LoA:

- '*A clear description of what remediation works have been undertaken on the site under both SSD-9138102 and SSD-46983729 to date.*
- *The relationship between the new proposed remediation strategy and what works have been undertaken on site to date.*
- *Confirmation that revised remediation strategy in the RAP Addendum 2 relates to remediation works under SSD-46983729 only.*
- *Justification for the revised remediation approach*.'

Objective and Purpose

The purpose of this LoA is to support the MOD 2 application and seek endorsement from DPHI of a change to Condition B81 of SSD-46983729 to allow for a cap and containment remedial methodology at the Site, as detailed in Addendum 02.

The objective of the LoA includes the following:

- Summarise the remediation works completed to date for Stage 1 under SSD-9138102 and the Site under SSD-46983729;
- List the remedial works completed on the Site to date and compare to the proposed future remedial approach;
- Confirm the revised Remedial Strategy in Addendum 02 is applicable only to SSD-46983729; and
- Provide rationale for the revised remedial approach for endorsement by NSW DPHI.

Scope of Work

To achieve the aforementioned objectives, EP Risk has completed the following scope of work:

- Review the remedial and validation works completed to date;
- Review of the current SSD conditions; and
- Preparation of this Letter of Advice.

Summary of Remedial Works Completed

Stage 1 (SSD-9138102)

Remedial works were undertaken in accordance with the RAP (Alliance 2023)[1], Addendum (EP Risk 2023)[2], the State Environmental Planning Policy (Resilience and Hazards) 2021 and relevant industry standards and guidance to facilitate development under an ongoing proposed commercial / industrial use.

The preferred remedial strategy in the RAP (Alliance 2023) involved the excavation and off-site disposal of contaminated soils. The Addendum (EP Risk 2023a) provided an alternative remediation hierarchy for each Area of Environmental Concern (AEC), based on a technical review of collected environmental data. In the Addendum, EP Risk developed a remediation hierarchy for the Site, comprised of three (3) categories of contamination and three (3) levels of suitability based on exceedances to the adopted relevant criteria.

The three (3) categories of contamination for the Site are:

- Bonded (non-friable) asbestos, denoted as B.
- Friable asbestos (AF/FA) denoted as F.
- Other impacted, denoted as O.

Material was assigned a level of suitability as below:

- 1 = Suitable (no detections).
- 2 = Below health screening level (HSL) / relevant guideline. Suitable subject to conditions.
- 3 = Above HSL / relevant guideline. Not suitable.

Remedial works were completed over two (2) phases:

- Phase 1 - was undertaken between 10 July 2023 and 25 September 2023 by Class A Licensed Asbestos Remediation Contractor (LARC), TCE Contracting Pty Ltd (TCE) as engaged by JK Williams Pty Ltd (JKW), with asbestos hygiene and validation works undertaken by EP Risk. EP Risk was engaged by ESR from 10 July 2023 to 04 September 2023 and later engaged by TCE from 19 September 2023 to 25 September 2023.
- Phase 2 - was undertaken 28 September 2023 and 03 November 2023, by Class A LARC Omega Hazmat Pty Ltd (Omega) and Penny Green Pty Ltd (Penny Green), as engaged by Ground King Civil Pty Ltd (GKC) with asbestos hygiene works undertaken by Foundation Earth Sciences Pty Ltd (FES).

Remedial works in Phase 1 involved the:

- Establishment of stockpiling and treatment pads.
- In-situ treatment of bonded (non-friable) asbestos in soils (ASBINS) (B3) via mechanical raking and emu-picking to downgrade the material to a B2 classification.
- Excavation, stockpiling and ex-situ treatment of bonded (non-friable) ASBINS (B3) at the treatment pad via mechanical raking and emu-picking to downgrade the material to a B2 classification.
- Excavation and stockpiling of friable ASBINS (F2 and F3), including a contaminated brick and tyre stockpile at the stockpiling pad.
- Removal of vegetation to facilitate clear and unobstructed visual walkover of surface soils.

[1] Alliance (2023), Remediation Action Plan (RAP), *Proposed Commercial / Industrial Subdivision 290 – 308 Aldington Road and 59-63 Abbotts Road, Kemps Creek, NSW,* ref: 13546-ER-2-2_Rev2[1], dated 21 June 2023.
[2] EP Risk (2023a), Remediation Action Plan (RAP) Addendum, *Westlink Stage 1 – Aldington Road and Abbotts Road, Kemps Creek, NSW,* ref: EP3244.004_v1, dated 12 September 2023.

- Excavation and stockpiling of material associated with septic tank systems at the stockpiling pad.
- Removal of concrete stockpiles (not contaminated with ACM) to an off-site landfill facility.
- Movement of concrete stockpiles contaminated with bonded (non-friable) ACM to the stockpiling pad.
- Management of unexpected finds for the duration of ASBINS remediation works.
- Construction of one (1) Asbestos Placement Area within a portion of the Lot 5 Northern Finger, currently a portion of Lot 112 in DP1296469.
- Disposal of three (3) wheelie bins containing bonded (non-friable) ACM and asbestos cement (AC) fragments, sheeting and conduits as unexpected finds to an off-site landfill facility.

Remedial works in Phase 2 involved the:

- Ex-situ treatment of bonded (non-friable) asbestos in soils (ASBINS) (B3) soils stockpiled at the treatment pad via mechanical raking and emu-picking to downgrade the material to a B2 classification.
- Construction / extension of two (2) Asbestos Placement Areas:
    - A portion of Lot 4, currently a portion of Lot 111 and Lot 112 in DP1296469.
    - A portion of the Lot 5 Northern Finger, currently a portion of Lot 112 in DP1296469.
- Removal of B2 soils from the treatment pad for final placement on-site, within the two (2) Asbestos Placement Areas with a survey undertaken to confirm location at depths.
- Construction of one (1) on-site Containment Cell within a portion of Lot 4 Trunk Drainage Swale, currently a portion of Lot 112 in DP1296469.
- Removal of F2 and F3 soils, asbestos contaminated brick stockpiles, and concrete stockpiles contaminated with asbestos from the stockpiling pad for final placement on-site, within the on-site Containment Cell with a survey undertaken to confirm location at depths.
- Removal of O2 and B3 material associated with the excavation of septic tank systems, for stockpiling off-site at the adjacent Westlink Stage 2 project.
- Disposal of ACM fragments, asbestos contaminated tyres, geotextile fabric for disposal to a licensed landfill facility as Special Waste (Asbestos).

Validation works for Phase 1 and Phase 2 were completed and documented within the Site Remediation and Validation Report (SRVR) (EP Risk 2024a)[3]. An Asbestos Management Plan (AMP) was subsequently prepared for the ongoing management of ASBINS within the Asbestos Placement Areas (EP Risk 2024b)[4]. In addition, a Long-Term Environmental Management Plan (LTEMP) was prepared for the on-site Containment Cell (EP Risk 2024c)[5].

[3] EP Risk (2024a), Site Remediation and Validation Report, *Westlink Stage 1 – Aldington Road and Abbotts Road, Kemps Creek, NSW,* ref: EP3244.006_v1, dated 28 August 2024.
[4] EP Risk (2024b), Asbestos Management Plan, *Westlink Stage 1 – Aldington Road and Abbotts Road, Kemps Creek, NSW,* ref: EP3244.008_v1, dated 28 August 2024.
[5] EP Risk (2024c), Long Term Environmental Plan, *Westlink Stage 1 – Aldington Road and Abbotts Road, Kemps Creek, NSW,* ref: EP3244.009_v1, dated 28 August 2024.

Stage 2 (SSD-46983729)

EP Risk understands no remedial works have yet commenced on the Site based on the currently approved remedial approach in the RAP and Addendum 1, under SSD-46983729.

Additional environmental investigations, in the form of waste classifications were undertaken at the Site by FES in June 2026:

- FES (2026) Waste Classification – Stockpile 3, *Westlink Stage 2 – 1030-1043 Mamre Road, Kemps Creek, NSW*, ref: E3507, dated 24 June 2026.
- FES (2026a) Waste Classification – Stockpile 4, *Westlink Stage 2 – 1030-1043 Mamre Road, Kemps Creek, NSW*, ref: E3507, dated 24 June 2026.
- FES (2026b) Waste Classification – Stockpile 6, *Westlink Stage 2 – 1030-1043 Mamre Road, Kemps Creek, NSW*, ref: E3507, dated 24 June 2026.
- FES (2026c) Waste Classification – Stockpile 9, *Westlink Stage 2 – 1030-1043 Mamre Road, Kemps Creek, NSW*, ref: E3507, dated 24 June 2026.
- FES (2026d) Waste Classification – Stockpile 12, *Westlink Stage 2 – 1030-1043 Mamre Road, Kemps Creek, NSW*, ref: E3507, dated 30 June 2026.
- FES (2026e) Waste Classification – Stockpile 8, *Westlink Stage 2 – 1030-1043 Mamre Road, Kemps Creek, NSW*, ref: E3507, dated 30 June 2026.

Proposed Cap and Containment Strategy and Rationale

Endorsed Preferred Remedial Strategy

The currently endorsed RAP (DP 2022) and Addendum 01 (EP Risk 2024) include the following endorsed preferred remedial strategy based on the contamination identified:

- Hand picking and validation of bonded ACM (non-friable) impacted soils, for beneficial reuse onsite, provided concentrations were below the NEPM health screening level criterion for commercial / industrial land uses (HSL-D, '0.05 %w/w') with a condition of placement at depth greater than 0.1m below finished surface levels.
- Excavation and disposal to a licensed waste facility of soils impacted with asbestos fines / fibrous asbestos (AF/FA) (friable) above the NEPM health screening level criterion for all land uses (0.001% w/w) and other unacceptable concentrations of chemical contamination exceeding the relevant adopted Tier 1 commercial / industrial criteria.
- Any other unacceptable contamination exceeding the relevant ecological criteria, was to be placed at depth greater than 2 m below finished ground level and in areas where no services will be installed.

The RAP (DP 2022) and Addendum 01 (EP Risk 2024) also included a requirement for further assessment of in-situ soils and stockpiles to assess suitability to remain onsite.

The preferred outcome at the completion of remedial works, was to not have:

- A notation on a planning certificate for the site;
- A covenant registered on the title to the land; or
- A Long-Term Environmental Management Plan (LTEMP).

In consideration of the additional assessment results (FES 2026, FES 2026a, FES 2026b, FES 2026c, FES 2026d and FES 2026e), further asbestos impacted soils containing both friable and bonded (non-friable) asbestos have been identified which are considered unsuitable to remain onsite based on the proposed commercial / industrial land use scenario.

Proposed Preferred Remedial Strategy

The revised remediation strategy detailed in Addendum 02, consistent with the DPHI endorsed remedial strategy for SSD-9138102, limited to the Site under SSD-46983729 is detailed in **Table 1**:

Table 1 Addendum 02 Proposed Remedial Hierarchy

Category	B	F	O
	Bonded (Non-Friable) Asbestos	**Friable Asbestos (AF/FA)**	**Other Impacted**
1	B1: Suitable (No asbestos detected)	F1: Suitable (No asbestos detected)	O1: Suitable
2	B2: <0.05% HSL (Bonded (non-friable) asbestos detected below HSL) Suitable to remain on-site subject to placement >0.1 m below finished ground level and in areas where no services will be installed. Location of this material must be tracked, and a survey must be undertaken to confirm placement at depth.	F2: <0.001% HSL (Friable asbestos detected below HSL) Suitable to remain on-site subject to placement >0.1 m below finished ground level and in areas where no services will be installed. Location of this material must be tracked, and a survey must be undertaken to confirm placement at depth.	O2: Suitable, subject to additional management. Suitable to remain on-site, subject to placement > 2 m below finished ground level and in areas where no services will be installed. Location of this material must be tracked, and a survey must be undertaken to confirm placement at depth.
3	B3: >0.05% HSL (Bonded (non-friable) asbestos detected above HSL). Not suitable. Suitable subject to mechanical raking and emu picking treatment. If successfully validated, material downgraded to B2 status. If ACM is identified, re-treat the material again until the material can be successfully validated.	F3: >0.001% HSL (Friable asbestos detected above HSL). Not suitable. Excavate and stockpile on-site. Dispose off-site with a Waste Classification or placed within an on-site containment cell with a LTEMP.	O3: >NEPM Guidelines Not suitable. Excavate and stockpile on-site. Dispose off-site with a Waste Classification or placed within an on-site containment cell with a LTEMP.

Under this proposed remedial strategy, the key remedial strategy change includes an option of 'cap and containment' of detected unacceptable concentrations of contaminated soils on the Site, subject to placement at depth within a containment cell, with a legally enforceable LTEMP to be implemented to manage the ongoing human health risks and a covenant on title. The containment cell is to be located behind retaining wall, at a minimum depth of 2.4m below final levels, with an overlying capping layer comprised of site won natural soils.

The LTEMP must be legally enforceable and registered on Title. This will be achieved by the following:

- Placement of a public positive covenant on the land under Section 88D or 88E of the Conveyancing Act 1919 by Local Council, with Landowner consent, enables public notification and legal enforcement of the LTEMP. A land covenant on title raises awareness of an existing LTEMP on the land to potential purchases, detailing the obligations for the land and assisting in legal enforcement. The authority executing the covenant (and therefore the LTEMP requirements), can enforce its requirements though the Supreme Court, either through corrective actions or active actions and cost recovery.
- Advice from planning authorities, including local councils or the Environment Protection Authority (EPA) on the appropriateness of the plan, where these authorities are actively involved in the Site.
- Reference to the LTEMP will be added to the planning certificate by Penrith City Council enabling notification under Section 10.7(5) of the *Environmental Planning and Assessment Act 1979*.

Rationale

The preferred hierarchy of remedial options for site clean-up and/or management, as set out in s.6(16) *Assessment of Site Contamination Policy Framework of Schedules A and B* of NEPC (1999) is as follows:

1. On-site treatment of contamination, so that it is destroyed or the associated risk is reduced to an acceptable level;
2. Off-site treatment of excavated soil so that the contamination is destroyed or the associated risk is reduced to an acceptable level, after which the soil is returned to the site; or

If the above is not practicable then;

3. Consolidation and isolation of the soil by on-site containment with a properly designed barrier; and
4. Removal of contaminated material to an approved site or facility, followed, where necessary, by replacement with appropriate material; or
5. Where the assessment indicates remediation would have no net environmental benefit or would have a net adverse environmental effect, implementation of an appropriate management strategy.

In consideration of the above and section 4.3.3 of the NSW EPA (2017) *Contaminated Land Management Guidelines for the NSW Site Auditor Scheme (3rd edition),* the revised remedial strategy detailed in Addendum 02 is considered appropriate due to the following:

- The proposed contaminated soils to be placed within the containment cell are non-leachable and are not to come into direct contact with groundwater;
- The location of the containment cell is in an area unlikely to be disturbed in the future and there are no structures proposed above which could impact the integrity of the proposed cap. This maximises the long-term stability of the cap and any proposed structures above it (from an engineering perspective);
- The containment cell will be managed with a legally enforceable LTEMP, which mitigates the potential exposure risk of public health or the environment; and
- A notification mechanism to ensure that the capped and/or contained areas are protected from any unintentional or uncontrolled disturbance that could breach the integrity of the physical barrier, such as recommending placing a notation or covenant on the property title or a notation on a s.149 certificate or issuing an order or placing a covenant on the title to land under the Contaminated Land Management Act 1997 (CLM Act) to require ongoing maintenance under the Act.

Furthermore, the revised strategy aligns well with the NSW EPA Waste and Sustainable Materials Strategy, as the approach minimises unnecessary handling and transport of contaminated soils to a land fill facility.

Closure

Based on the rationale detailed above, EP Risk considers the revised remedial strategy can be achieved and the Site can be made suitable for the proposed commercial / industrial land use, subject to approval and endorsement by DPHI.

Please feel free to contact the undersigned on 0435 860 610 should you have any queries.

Yours sincerely,



Beau Dubois
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EP Risk Management Pty Ltd
ABN: 81 147 147 591

Attachments:

Attachment 1 Figures

Quality Control

Version	Author	Date	Reviewer	Date	Quality Review	Date
V1	B. Dubois	13/07/2026	P. Simpson	14/07/2026	J. Shao	13/07/2026
V2	B. Dubois	17/07/2026	P. Simpson	17/07/2026	J. Shao	17/07/2026

Document Control

Version	Date	Reference	Submitted to
V1	*14/07/2026*	*EP4132.003_ESR_WS2-KempsCk_Mod-2_Add02_v1*	*ESR Developments (Australia) Pty Ltd*
V2	*17/07/2026*	*EP4132.003_ESR_WS2-KempsCk_LoA-MOD2_v2*	*ESR Developments (Australia) Pty Ltd*

Limitations

This Letter of Advice: Modification (MOD 2) of Condition B81 of SSD-46983729 was conducted on the behalf of ESR Developments (Australia) Pty Ltd ((the Client) for the purpose/s stated in the Objective section.

EP Risk has prepared this document in good faith but is unable to provide certification outside of areas over which EP Risk had some control or were reasonably able to check. The report also relies upon information provided by third parties. EP Risk has undertaken all practical steps to confirm the reliability of the information provided by third parties and do not accept any liability for false or misleading information provided by these parties.

It is not possible in an Letter of Advice: Modification (MOD 2) of Condition B81 of SSD-46983729 to present all data, which could be of interest to all readers of this report. Readers are referred to any referenced investigation reports for further data.

Users of this document should satisfy themselves concerning its application to, and where necessary seek expert advice in respect to, their situation.

All work conducted and reports produced by EP Risk are based on a specific scope and have been prepared for ESR Developments (Australia) Pty Ltd (the Client) and therefore cannot be relied upon by any other third parties unless agreed in writing by EP Risk.

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Attachment 1

Figure 1



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Letter of Advice for Mod 2 - West Link Stage 2
1030 Mamre Road, Kemps Creek NSW, Australia

Figure 1 - Site Location and Stage 1

Job No: EP4132
Date: 17-07-2026
Version: v1

N

0 50 m 100 m

Approximate Scale Only

Coordinate System: WGS 84
Drawn By: AW Checked By: BD
Scale of regional map not shown
Source: © OpenStreetMap contributors

ISO 9001 Quality management system
ISO 45001 OH&S management system
ISO 14001 Environment management system

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