

Westlink Industrial Estate Stage 1 Modification 4

State Significant Development Modification Assessment Report (SSD-9138102-Mod-4)

March 2025





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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Westlink Industrial Estate Stage 1 Modification (SSD-9138102-Mod-4)
Assessment Report

Published: March 2025

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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:

- a description of the proposed modification
- 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 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 authority 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.

Contents

Preface.....	i
1 Introduction.....	1
1.1 The Proposal	1
1.2 Development Location.....	1
1.3 Modification Background.....	3
1.4 Approval History	4
2 Proposed Modification	6
2.1 Modification Overview.....	6
2.2 Applicant’s Justification for the Proposed Modification	9
3 Statutory Context	10
3.1 Scope of Modification and Assessment Pathway	10
3.2 Mandatory Matters for Consideration.....	11
4 Engagement.....	12
4.1 Department’s Engagement	12
4.2 Summary of Council Advice.....	12
5 Assessment.....	14
6 Evaluation.....	16
7 Recommendation.....	17
8 Determination	18
Glossary.....	19
Appendices.....	20
Appendix A – List of Referenced Documents.....	20
Appendix B – Penrith City Council Advice.....	21
Appendix C – Recommended Instrument of Modification.....	22

1 Introduction

1.1 The Proposal

The modification application seeks to modify the Westlink Industrial Estate (WIE) Stage 1 (SSD-9138102) consent to amend the design of the northern boundary retaining wall adjacent to Warehouse 1 and make administrative amendments to the conditions of consent regarding external roadworks and land dedication.

The application was lodged on 5 December 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).

A more detailed overview of the proposed modification is provided in **Section 2**.

1.2 Development Location

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

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

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).

Industrial zoned land is located immediately north, west and south of the site. Some rural residences remain on the industrial zoned land adjacent to the site's northern and western boundaries (refer to **Figure 2**). The established residential suburb of Mount Vernon directly adjoins part of the eastern boundary of the site and is separated by a natural ridgeline.

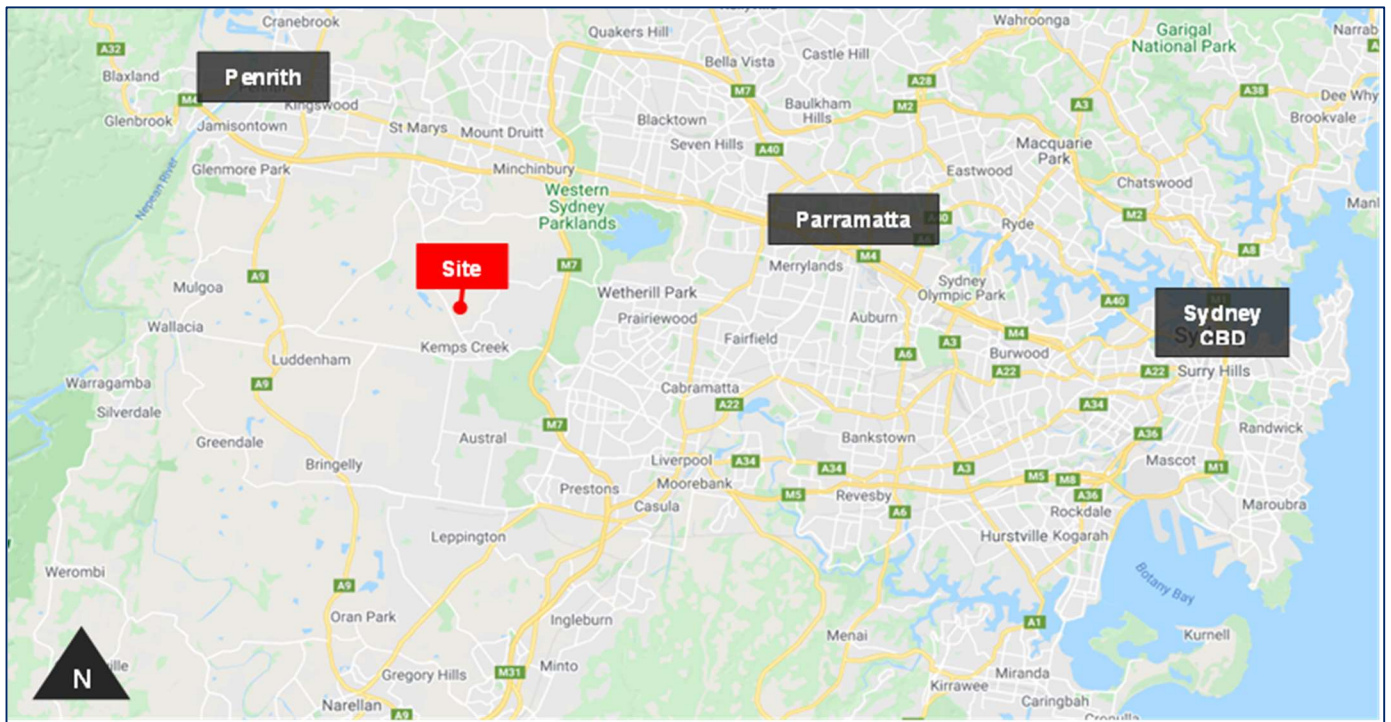


Figure 1 | Regional context map

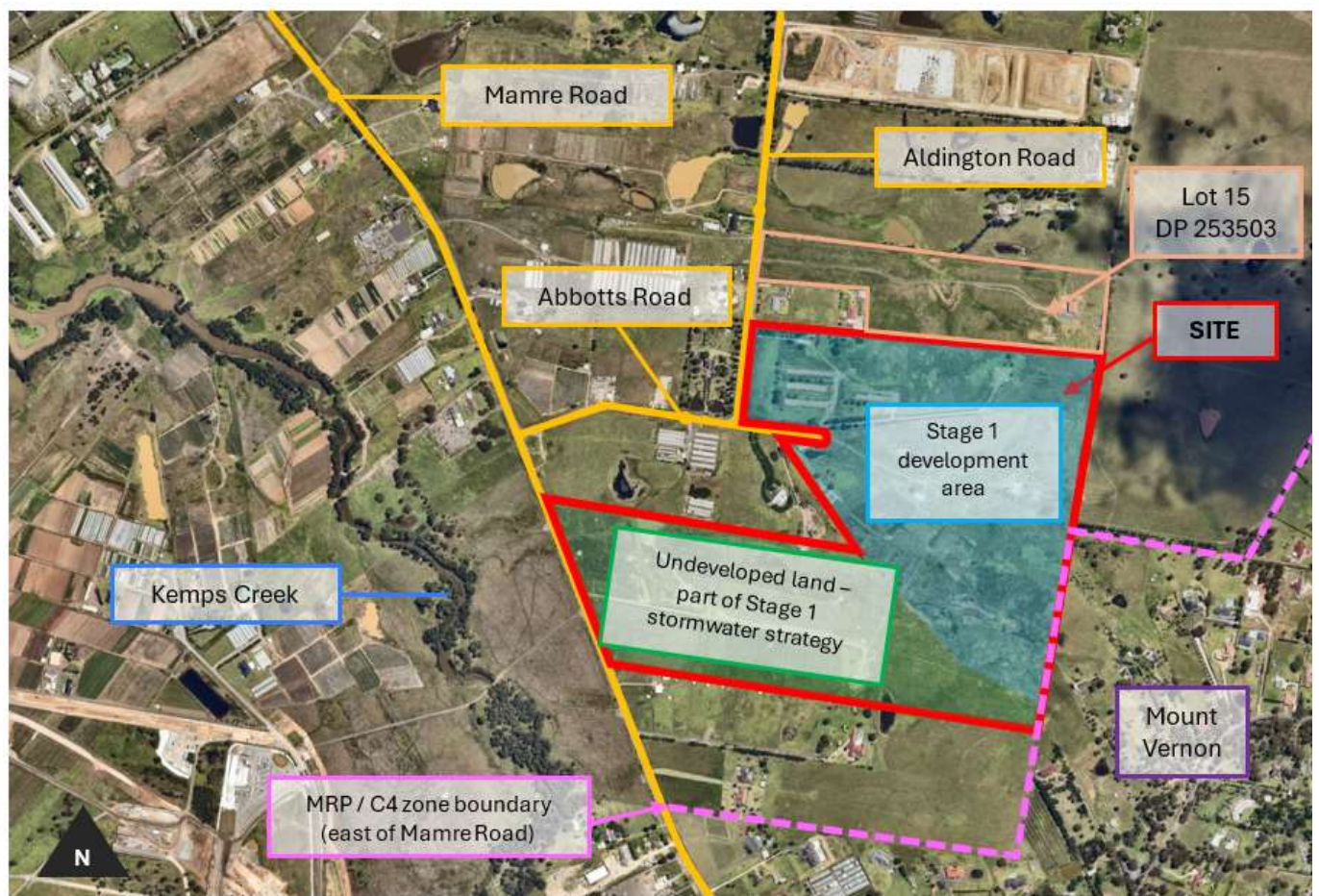


Figure 2 | Local context map

1.3 Modification Background

1.3.1 Northern Site Retaining Wall

The Applicant is constructing Stage 1 of the WIE. The approved development involves site-wide earthworks, retaining walls, and construction and operation of two warehouses (Warehouse 1 and Warehouse 4) (see **Figure 3**). The Applicant has advised that construction of Warehouse 1 is expected to be completed by April 2025.

The approved development includes a cut retaining wall along the northern site boundary adjacent to Warehouse 1. The retaining wall was designed to manage the transition between the Warehouse 1 pad level and the rural-residential property adjoining the site to the north (272 – 280 Aldington Road, Lot 15 DP 253503) (refer to **Figure 2**).

Following approval of the development, earthworks occurred on the neighbouring lot that resulted in reduced ground levels along the shared site boundary.

In response to the changed ground levels on the adjoining site, the Applicant is seeking to amend the design of the retaining wall to tie in with the new existing levels.



Figure 3 | Approved WIE Stage 1 development plan

1.3.2 Road Upgrades to Abbotts / Aldington Roads

To facilitate development within the MRP precinct, and to provide access to approved industrial development including the WIE, SSD-9138102 permits road upgrade works, including road widening within the existing road corridor and on land within the Applicant's ownership. As part of the SSD-9138102 development consent, the Department conditioned for the initial road upgrades to be completed prior to operation of the first warehouse at the WIE.

The consent was previously modified (SSD-91387102-MOD-5) to enable the commencement of operations at Warehouse 1 whilst the initial road upgrades are being undertaken. The Department included a condition requiring the Applicant to complete the approved road upgrades prior to the operation of Warehouse 4.

A condition of consent in SSD-9138102-MOD-5 also required the Applicant to execute a Voluntary Planning Agreement (VPA) with Council within 12 months of the date of consent of the modification. It is understood that a VPA was executed on 19 December 2024. The Department considers the VPA to be an appropriate mechanism for ensuring delivery of the approved road upgrade works.

Minor administrative changes to conditions of the existing SSD-9138102 consent are necessary to ensure that there is consistency between the requirements of the VPA and approved development consent relating to the alignment and scheduling of approved operations the WIE and road upgrade works.

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 m²
- landscaping
- construction of estate roads
- site servicing, and
- stormwater infrastructure, including a trunk drainage channel and a basin.

The consent has been modified on three occasions and one modification is currently under assessment (see **Table 1**).

Table 1 | Summary of modifications

Modification	Description	Decision-maker	Type	Status
MOD 1	Modification to the approved earthworks volumes and locations.	To be confirmed (TBC)	4.55(2)	Preparing application
MOD 2	Reduction of the approved trunk drainage channel width and subsequent amendments to the design of Warehouse 4 and stormwater infrastructure, and amendments to the private access road length and design.	Department	4.55(1A)	Determined on 10 July 2024
MOD 3	Minor design amendments to Warehouse 1 site plans (this subject modification proposal).	Department	4.55(1A)	Determined on 9 April 2024
MOD 4	Change the northern site boundary retaining wall height and design, and update administrative conditions relating to the scheduling of operations and land dedication requirements within the Voluntary Planning Agreement.	Department	4.55(1A)	This application
MOD 5	Construction of external road upgrades including Mamre Road and Abbotts Road intersection works, widening of Abbotts Road and widening of a section of Aldington Road.	Department	4.55(1A)	Determined on 7 June 2024

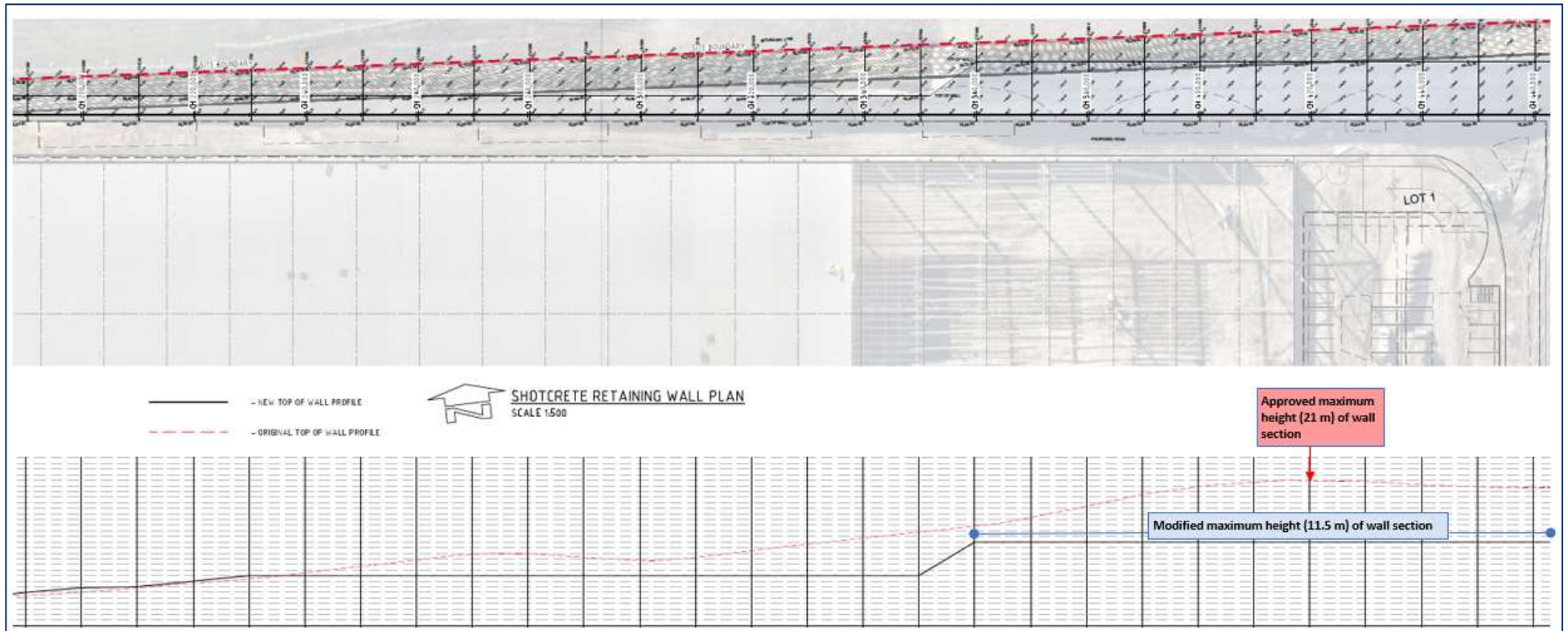


Figure 5 | Northern boundary retaining wall comparison between SSD-9138102 approval and proposed modification

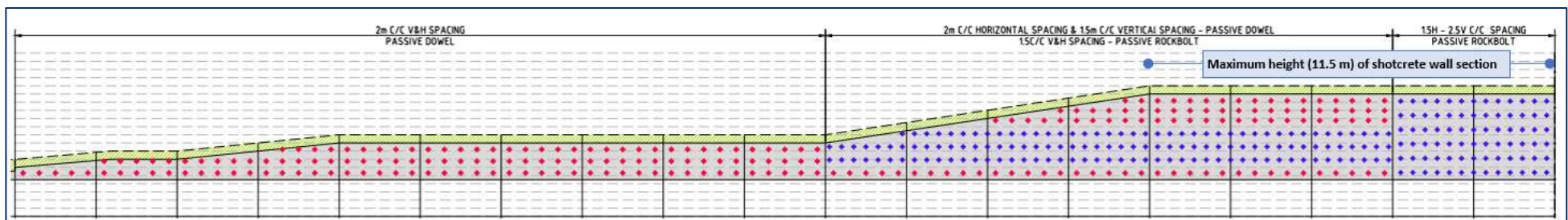


Figure 6 | Modified northern boundary retaining wall section

2.1.2 Administrative Amendments to Conditions B37 and D17

In addition to the amendments described in **Section 2.1.1** above, the Applicant is seeking to amend two conditions as shown in **Table 2** below.

Table 2 | Proposed changes to conditions

Condition reference in SSD-9138102 consent (as modified)	Existing	Proposed
Schedule 2, Part B Condition B37	Prior to the commencement of operation of the development, the Applicant must connect the development to the road drainage infrastructure for the upgraded Aldington and Abbotts Roads, to ensure the development does not increase flood flows and velocities on adjoining properties for all flood events up to and including the critical 1% Annual Exceedance Probability flow.	After completion of the works in accordance with Condition D17 and prior to commencement of operation of Warehouse 4, the Applicant must connect the development to the road drainage infrastructure for the upgraded Aldington and Abbotts Roads, to ensure the development does not increase flood flows and velocities on adjoining properties for all flood events up to and including the critical 1% Annual Exceedance Probability flow.
Schedule 2, Part D, Condition D17	The Applicant must execute a Voluntary Planning Agreement with Council to complete the remaining stages of the Abbotts and Aldington Road widening works, within 12 months of the date of consent of SSD-9138102-Mod-5 and prior to the issue of an occupation certificate for Warehouse 4.	The Applicant must execute a Voluntary Planning Agreement with Council to complete the remaining stages of the Abbotts and Aldington Road widening works and dedication of the land in which they are located, within 12 months of the date of consent of SSD-9138102-Mod-5 and prior to the issue of an occupation certificate for Warehouse 4.

The Department notes that the approved land dedication plans from the SSD-9138102-MOD-5 are incorporated in the executed VPA between Council and the Applicant, and any variations to the VPA should be negotiated further with Council. The Department considers that the proposed amendments to Conditions B37 and D17 are administrative and do not require further assessment.

2.2 Applicant's Justification for the Proposed Modification

The Applicant has advised that the proposed modification to the design of the northern boundary retaining wall is in response to a change in elevation levels on the neighbouring property to the north and would not result in any additional environmental impacts beyond the approved development. The Applicant has further justified that the proposed modified design remains substantially the same as the approved development and is consistent with the relevant strategic plans, including the MRP Structure Plan.

The Applicant has also highlighted that the proposed administrative updates to Conditions B37 and D17 relating to the scheduling and reference to land dedication requirements for the Abbots Road / Aldington Road widening works would ensure there is consistency between the requirements of the VPA and consent.

3 Statutory Context

3.1 Scope of Modification and Assessment Pathway

Details of the assessment pathway under which the modification is sought is provided in **Table 3** below.

Table 3 | Permissibility and assessment Pathway

Consideration	Description
Scope of modification	The Department has reviewed the scope of the modification and considers that it can be characterised as a modification involving minimal environmental impact as the proposal: • the primary function and purpose of the approved development would not change as a result of the proposed modification • any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of consent • is substantially the same development as originally approved • would not involve any further disturbance outside the already approved areas for the development. 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.
Consent Authority	The Minister is the consent authority under section 4.5(a) of the EP&A Act.
Decision-maker	Under the Minister's delegation of 9 March 2022, the Team Leader, Industry Assessments, may determine the application under delegation as: • 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 no public submissions 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, 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.

3.2.2 Objects of the EP&A Act

In determining whether or not to modify the consent, the consent authority should consider whether the modified 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 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 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 modification does 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 5 December 2023 and forwarded the application to Penrith City Council (Council) for comment.

4.2 Summary of Council Advice

Council did not raise any objections to the modification but noted that one of the submitted cross-sections appeared to show that the boundary level had been reduced by three metres in an area outside of the works undertaken by the neighbouring property.

Council also advised that an investigation was being undertaken into the excavation works carried out on the northern neighbouring property, which could have implications for the proposed changes to the final design of the northern boundary retaining wall.

Additional correspondence from Council on 11 April 2024 advised that further investigations had established that the earthworks undertaken on the neighbouring property were carried out to stabilise the ground adjacent to the Applicant's site. Based on these findings, Council determined that further investigation or compliance action was not warranted.

The Department also sought advice from Council regarding the Applicant's proposed administrative changes to conditions. Council did not raise any concerns, but recommended consistency with other approved development consents regarding the dedication and delivery of Aldington / Abbotts Road.

4.2.1 Response to Council's advice

On 14 March 2024, the Applicant provided a response to Council's comments and clarified that at the time of the lodgement Modification Report, the provided documents had not captured further excavation works that had occurred on the neighbouring property since the survey (dated 26 October 2023). The Applicant therefore provided an updated survey plan (dated 29 February 2024).

4.2.2 Additional Information

On 14 May 2024, the Department asked the Applicant to provide further information, including:

- a comparison of the approved and proposed heights of the northern boundary retaining wall
- a comparison of the original and existing northern boundary levels
- a description of the additional proposed amendments to the design of the northern boundary retaining wall.

The Applicant provided additional information on 12 June 2024 in response to the Department's comments, including long-section plans showing comparisons of the approved and proposed retaining wall heights and ground levels. The Applicant also clarified that the retaining wall would be sloped, with permanent anchors and a shotcrete face.

Furthermore, between 25 September 2024 and 4 March 2024 further discussions were undertaken between the Department and Applicant regarding clarification of the Applicant's proposed administrative changes to conditions to ensure consistency with the executed VPA and other approved MRP developments consents. Following these discussions, the final proposed amended wording of Conditions B37 and D17 were accepted by the Applicant, and all previous concerns raised by the Department had been adequately addressed.

5 Assessment

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

- Modification Report and additional 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 (see **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 consideration of assessment issues is summarised in **Table 4** below.

Table 4 | Assessment of Issues

Findings and conclusions	Recommended conditions
Visual Impact	
• The proposed modification results in changes to the height of the northern boundary retaining wall, which has been revised to respond to the reduction in boundary levels within the property adjoining the site to the north. • A Visual Impact Review (VIR) was included as part of the modification application to assess the potential changes to visual amenity associated with the proposed retaining wall design amendments. • The VIR reports that during the assessment of SSD-9138102, the visual impacts directly north of the WIE was assessed to be high due to the proximity of the site to the neighbouring properties, however concluded that these issues would be mitigated by significant landscaping planting which would screen and soften views of the development from the north. • The VIR indicates that the proposed modification would not result in any changes in visual impacts when compared to the approved development, as the amount of retaining wall observed from the viewpoint to the north of the site would remain the same, and that the	No additional conditions recommended.

Findings and conclusions	Recommended conditions
tree and shrub plantings would continue along the northern boundary to screen the built form of Warehouse 1. • The Department considers that the proposed design changes to the northern boundary retaining wall would have a negligible impact on visual appearance of the approved development, and that the modification would not result in any significantly different visual impacts when compared to the approved development. • The Department has considered the proposed design changes to the northern boundary retaining wall and finds that they would not detract from the design quality or visual amenity of the development.	
Noise Impacts	
• A supplementary noise impact review (NIR) was prepared for the proposed modification and noted that a Design Noise Verification Report (DNVR) was being prepared to meet the noise verification requirements of Condition B54 of the SSD-9138102 development consent. • The NIR indicated that the noise model was revised within the DNVR to include the updated northern boundary elevations and the proposed design changes to the northern boundary retaining wall. • The NIR reported that results from the noise modelling within the DNVR confirmed that the proposed retaining wall modification would not contribute to any changes to the predicted noise levels at the nearest sensitive receivers relative to the approved development. • The Department considers that the potential noise emissions associated with the proposed design changes to the northern boundary retaining wall would be negligible, • Noting that the SSD-9138102 consent requires adherence to specific noise limits and the 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. • The Department considers that the existing conditions of consent remain sufficient, and that the modification will not cause further adverse noise impacts at sensitive receivers.	No additional conditions recommended.

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 design amendments to the northern boundary retaining wall would have minimal visual and noise impacts
- the modified development is substantially the same development as previously approved.

The Department is satisfied the modification should be approved.

7 Recommendation

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

- considers the findings and recommendations of this report
- determines that the application SSD-9138102-MOD-4 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 2016 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), subject to the conditions in the attached instrument of modification.
- signs the attached instrument of modification (**Appendix C**).

Recommended by:



11/03/2025

Ellen Luu

Senior Environmental Assessment Officer

Industry Assessments

8 Determination

The recommendation is **adopted** by:



11/03/2025

Lindsey Blecher

Team Leader

Industry Assessments

Glossary

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

- ‘Westlink Industrial Estate – Stage 1 (Modification 4) 1030-1048 & 1050-1064 Mamre Road, 59-62 & 63 Abbotts Road, 290-308 Aldington Road, Kemps Creek’ prepared by Ethos Urban, dated 5 December 2023 - <https://www.planningportal.nsw.gov.au/major-projects/projects/mod-4-northern-boundary-retaining-wall>
- ‘Response to Request for Additional Information – MOD 4 Westlink Stage 1 (SSD-9138102)’, prepared by Ethos Urban, dated 12 June 2024

Submissions and Advice

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-4-northern-boundary-retaining-wall>

Department’s Assessment Report for SSD-9138102

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

Appendix B – Penrith City Council Advice

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-4-northern-boundary-retaining-wall>

Appendix C – Recommended Instrument of Modification

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-4-northern-boundary-retaining-wall>