



# Aspect Industrial Estate

## Modification 1

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Administrative Amendments to the condition of consent

State Significant Development Modification Assessment (SSD-10448-MOD-1)

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# Glossary

Abbreviation	Definition
<b>AIE</b>	Aspect Industrial Estate
<b>BC Act</b>	<i>Biodiversity Conservation Act 2016</i> (NSW)
<b>BDAR</b>	Biodiversity Development Assessment Report
<b>Council</b>	Penrith City Council
<b>Department</b>	Department of Planning and Environment
<b>EA</b>	Environmental Assessment
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i> (NSW)
<b>EP&amp;A Regulation</b>	Environmental Planning and Assessment Regulation 2000 (NSW)
<b>EPI</b>	Environmental Planning Instrument
<b>Minister</b>	Minister for Planning
<b>SSD</b>	State Significant Development
<b>TfNSW</b>	Transport for NSW
<b>WAD</b>	Works Authorisation Deed

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# 1 Introduction

This report provides the NSW Department of Planning and Environment's (the Department) assessment of an application to modify the State significant development consent for the Aspect Industrial Estate (AIE) (SSD-10448).

The proposed modification seeks approval to make administrative amendments to SSD-10448 development consent. The amendment is necessary to clarify a condition recommended by Transport for NSW (TfNSW), which requires the Applicant to enter into a Works Authorisation Deed (WAD) with TfNSW for intersection works on Mamre Road. The WAD was requested by TfNSW to manage potential construction impacts and to ensure the efficient and safe operation of Mamre Road.

The modification application was lodged by Mirvac Projects Pty Ltd (the Applicant) on 4 August 2022 pursuant to section 4.55(1) of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act). The Department's assessment is consistent with that undertaken with SSD-10448, noting that the nature and impacts associated with the development are unchanged from that SSD. The Department's assessment has also considered the legislation and planning instruments relevant to the site.

## 1.1 Background and Site Description

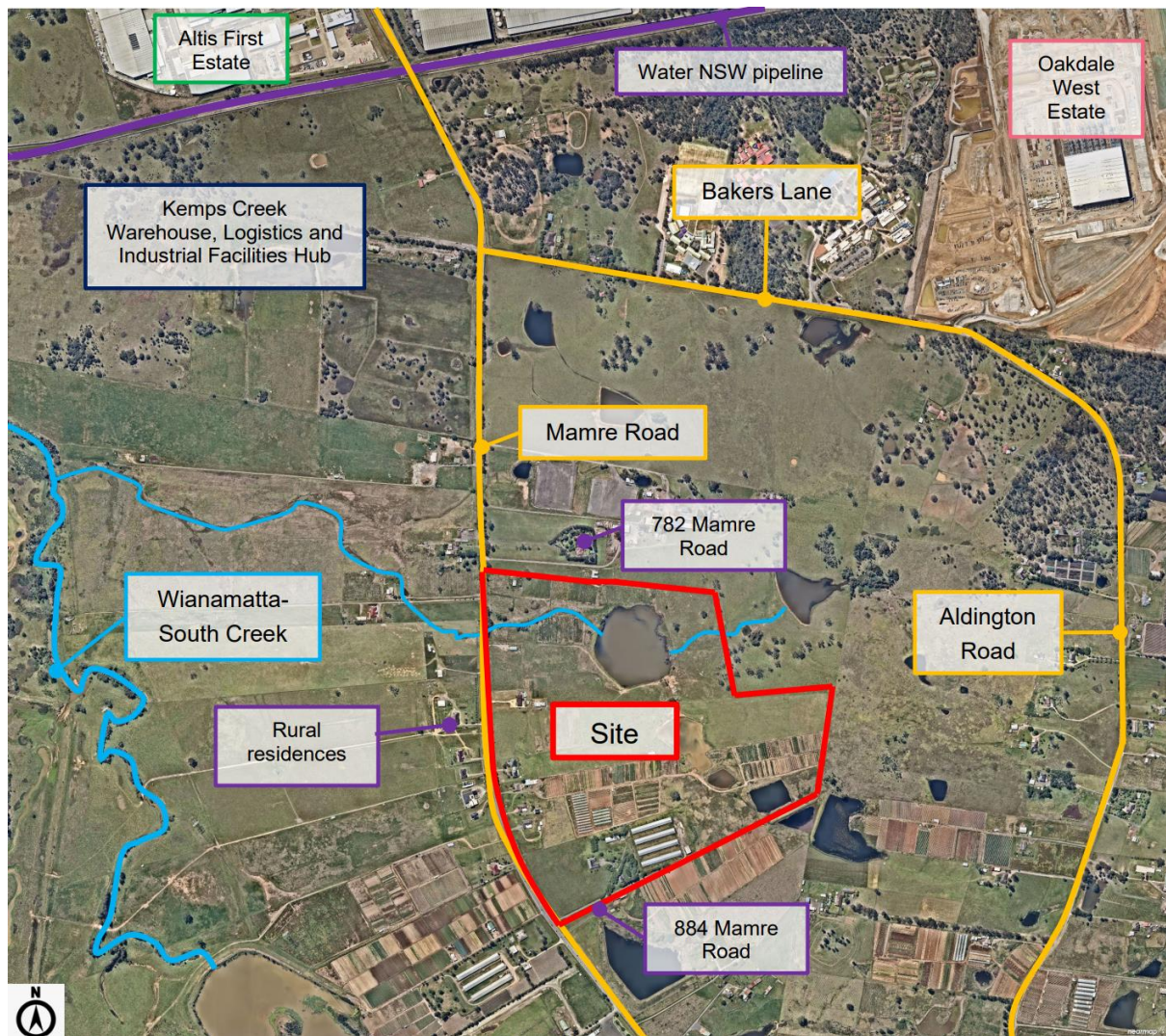
The Applicant is developing an industrial estate comprising of up to 11 buildings for warehousing, logistics and industrial purposes at 788-882 Mamre Road, Kemps Creek (the site) (see **Figure 2**). The Applicant obtained Concept Proposal of the staged development of the AIE as well as development consent for the construction and operation of a Stage 1 development, comprising bulk earthworks, road upgrades, subdivision and the construction and operation of two buildings, ancillary offices, and a café.

The site is located within the Western Sydney Employment Area (WSEA), which is the largest dedicated employment area in Sydney. The WSEA was established in 2009 through State Environmental Planning Policy (Western Sydney Employment Area) 2009 (WSEA SEPP), now consolidated into the State Environmental Planning Policy (Industry and Employment) 2021 (Industry and Employment SEPP). (see **Figure 1**).



**Figure 1 | Regional Context Map**





**Figure 2 | Local Context Map**

The development site comprises 56.3 ha of land and is located on the eastern side of Mamre Road between Bakers Lane to the north and Abbots Road to the south. The site is legally described as Lots 54-58 in Deposited Plan (DP) 259135. The site is bound by industrial zoned properties fronting Mamre Road to the north, north-east and south and properties fronting Aldington Road to the east. The site has a frontage of approximately 950 metres (m) to Mamre Road along its western boundary.

The site is undulating and falls from approximately 70.33 m Australian Height Datum (AHD) at the north-eastern site boundary to approximately 39.9 m AHD at Mamre Road on the western site boundary. It is predominantly cleared of vegetation except scattered trees and shrubs in the north-eastern part of the site. It is currently used for dairy farming, horticulture and grazing and includes farm dams, two unnamed tributaries of Wianamatta-South Creek, greenhouses, and rural residences. Access to the site is currently available via existing driveways off Mamre Road. The site has access to the regional road network of the M4 and M7 Motorways which are approximately 6 kilometres (km) to the north and 10 km to the east via Mamre Road and Elizabeth Drive respectively.

During the original assessment of SSD-10448, TfNSW recommended conditions for inclusion in the development consent, including a requirement for the Applicant to enter into a WAD with TfNSW for the temporary and permanent site accesses on Mamre Road. While the Department imposed a broad and

general condition (Condition D13) requiring the Applicant to enter into a WAD for the intersection works on Mamre Road, TfNSW has since clarified that the condition must be more specific in that two WADs concerning the temporary and permanent accesses are required. As such, an administrative modification is required to clarify the WAD requirements in the consent.

## **1.2 Approval History**

On 24 May 2022, the Director, Industry Assessments, as delegate of the Minister for Planning approved the AIE, including the following components:

- a Concept Proposal for the staged development of an industrial estate comprising of 11 buildings with a total GFA of up to 247,990 square metres for industrial, warehousing and distribution centres, and café uses
- Stage 1 development comprising site preparation works, vegetation clearing, realignment of the existing creek, construction of access roads and eastern half of Mamre Road/ Access Road 1 intersection works, construction, fitout, and operation of one warehouse and one industrial building with ancillary offices, car parks, landscaping, signage and a café, construction and operation of services and utilities, and subdivision of the site into three lots.

The Applicant has not commenced construction of the approved Stage 1 development.

## 2 Proposed Modification

### 2.1 Description of Modification

The Applicant has lodged the modification application under section 4.55(1) of the EP&A Act to modify SSD-10448 development consent to clarify the WAD requirements approved under Condition D13. While Condition D13 is broad in nature, it is TfNSW's preference that the condition clearly states that the Applicant enters into a WAD with TfNSW for temporary construction access and permanent intersection works.

The Applicant is seeking to insert new conditions D13A and D13B as follows:

D13A The Applicant must enter into a WAD with TfNSW for establishing a temporary left in/left out construction access and left-turn lane on Mamre Road to be used by vehicles during Stage 1 construction. The WAD must:

- (a) include details of the removal of the temporary left in/left out construction access and left-turn lane on Mamre Road; and
- (b) be executed prior to commencement of construction of the temporary left in/left out construction access and left-turn lane on Mamre Road.

D13B The Applicant must:

- (a) ensure the temporary left in/left out construction accesses and left-turn lane are maintained at no cost to TfNSW;
- (b) remove the temporary left in/left out construction access and left-turn lane at the completion and commissioning of the Mamre Road/ Access Road 1 intersection works, at no cost to TfNSW; and
- (c) reinstate shoulder along Mamre Road within three months of satisfying Condition D6, at no cost to TfNSW.



## 3 Statutory Context

### 3.1 Scope of Modifications

The Department has reviewed the scope of the modification and considers the application can be characterised as a modification given it is to correct a minor error, misdescription, or miscalculation of a development consent.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1) 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(1) of the EP&A Act rather than requiring a new development application to be lodged.

### 3.2 Consent Authority

The Minister for Planning (the Minister) is the consent authority for the modification under section 4.5(a) of the EP&A Act. Under the Minister's delegation dated 9 March 2022, the Acting Team Leader, Industry Assessments, may determine the application under delegation as:

- the applicant has not disclosed a reportable political donation under section 10.4 of the EP&A Act in connection with the modification application
- there is no public submission (other than a council) in the nature of an objection, and
- Penrith City Council has not made an objection.

### 3.3 Mandatory Matters for Consideration

Section 4.15 of the EP&A Act outlines the matters that a consent authority must take into consideration when determining an application that seeks to modify an SSD application. The Department conducted a comprehensive assessment of the development against the mandatory matters for consideration as part of the original assessment of SSD-10448.

The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act and conclusions made as part of the original assessment.

### 3.4 Biodiversity Conservation Act 2016

Section 7.17 of the *Biodiversity Conservation Act 2016* (NSW) (BC Act) specifies that if the determining authority is satisfied a modification will not increase the impact on biodiversity values, a biodiversity development assessment report (BDAR) is not required.

The Department is satisfied that there would be no additional clearing of native vegetation or habitat loss beyond that previously assessed and considered under SSD-10448 as modified.

For the reasons discussed above, the Department's assessment concludes a BDAR is not necessary for the modification.

## 4 Assessment

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

- the Applicant's EA provided to support the proposed modification (see **Appendix A**)
- the documentation and Department's assessment report for the original development application, including submissions from the public, State government authorities and 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.

### 4.1 Administrative Amendments

The modification is intended to clarify the conditions in the approved consent by appropriately reflecting TfNSW recommendations where it relates to the WAD requirements.

The Department notes there are no additional works or amendments proposed.

The Department considers the modification is of an administrative nature and would not cause additional impacts beyond what has been assessed and approved under SSD-10448. As such, the Department has formalised TfNSW's recommendations concerning construction access(es) on Mamre Road and has recommended two new conditions being D13A and D13B.

## 5 Evaluation

The Department has reviewed the SEE, taking into consideration the relevant matters under section 4.15 of the EP&A Act and the objectives of the EP&A Act.

The Department notes the modification is intended to correct a minor error, misdescription or miscalculation, being the clarification of a condition of consent from TfNSW. In addition, there are no additional amendments or impacts associated with this modification beyond that already considered and assessed by the Department under SSD-10448. The Department's assessment concludes the modification is appropriate, and the consent should be modified to include recommendations provided by TfNSW, so that the potential impacts on Mamre Road associated with Stage 1 construction of the AIE could be appropriately mitigated and managed as originally intended.

Consequently, the Department is satisfied that the modification application should be approved, subject to the recommended revised conditions of consent.

## 6 Recommendation

It is recommended that the Acting Team Leader, Industry Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD-10448-MOD-1 falls within the scope of section 4.55(1) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **agrees** with the key reasons for approval listed in the draft notice of decision
- **modify** the consent SSD-10448
- **signs** the attached approval of the modification (**Appendix D**).

**Recommended by:**



25/08/2022

**Bruce Zhang**

Senior Environmental Assessment Officer  
Industry Assessments



## 7 Determination

The recommendation is **Adopted** by:



25/8/2022

**Pamela Morales**

Principal Planning Officer

Industry Assessments

as delegate of the Minister for Planning

# Appendices

## Appendix A – List of Referenced Documents

The Department has considered:

- Environmental Assessment, Section 4.55(1) Application to Amend SSD-10448, Aspect Industrial Estate, prepared by Urbis, dated 19 July 2022.

The document may be viewed on the Department's website at

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

The Department has also considered:

- the existing conditions of consent
- documents supporting the original development
- relevant environmental planning instruments, policies, and guidelines
- relevant requirements of the *Environmental Planning and Assessment Act 1979* (NSW).

## **Appendix B – Notice of Modification**

The modification instrument may be found on the Department's website at

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