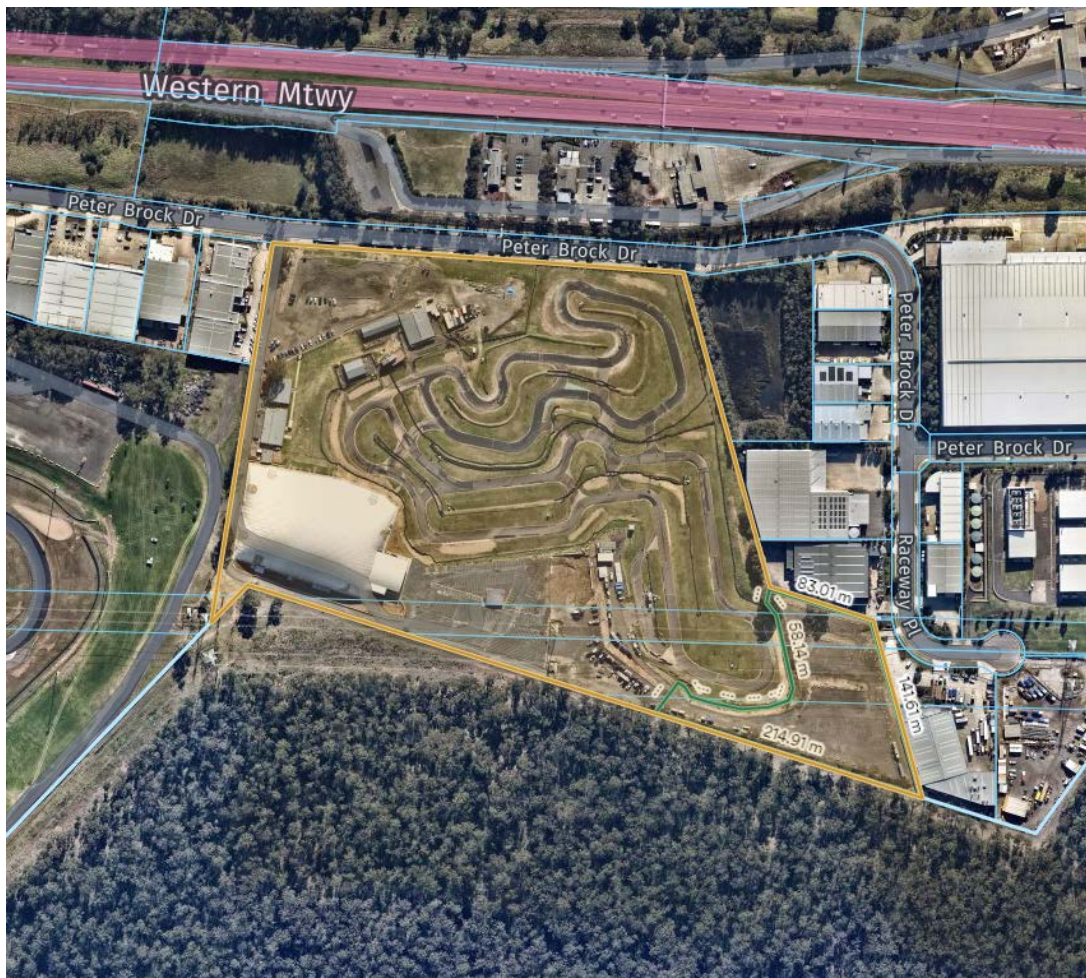


Eastern Creek Karts Modification 1

Event Car Park Area – Earthworks, drainage, carpark and landscaping works

State Significant Development Modification Assessment (DA-S29/3/97-Mod-1)



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Glossary

Abbreviation	Definition
1% AEP	1% Annual Exceedance Probability storm flow
AHD	Australian Height Datum
CIV	Capital Investment Value
Council	Blacktown City Council
Department	Department of Planning, Industry and Environment (DPIE)
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
NRAR	Natural Resources Access Regulator, DPIE
OSL	Office of Strategic Lands
Planning Secretary	Secretary of the Department
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
WSUD	Water Sensitive Urban Design

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1 Introduction

This report provides the NSW Department of Planning, Industry and Environment's (the Department's) assessment of an application to modify the development consent for the Eastern Creek Karting Facility (DA-S29/3/97-Mod-1) at 50 Peter Brock Drive, Eastern Creek (the site). The modification application relates to an existing event car park area within the site, and seeks consent to:

- retrospectively approve unauthorised earthworks and drainage works
- approve further upgrades to the event parking and install additional drainage infrastructure and undertake additional landscaping works.

The application was lodged on 6 November 2020 by City Plan Strategy & Development Pty Ltd (the Applicant) on behalf of Eastern Creek Karts Pty Ltd pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Background

The Applicant operates a go-karting facility at 50 Peter Brock Drive, Eastern Creek in the Blacktown local government area (LGA) (see **Figure 1**). The go-karting facility comprises an international standard go-kart track which can be configured for various events, and includes on-site kart storage, a repair workshop, retail outlet, clubhouse and parking (see **Figure 2**).

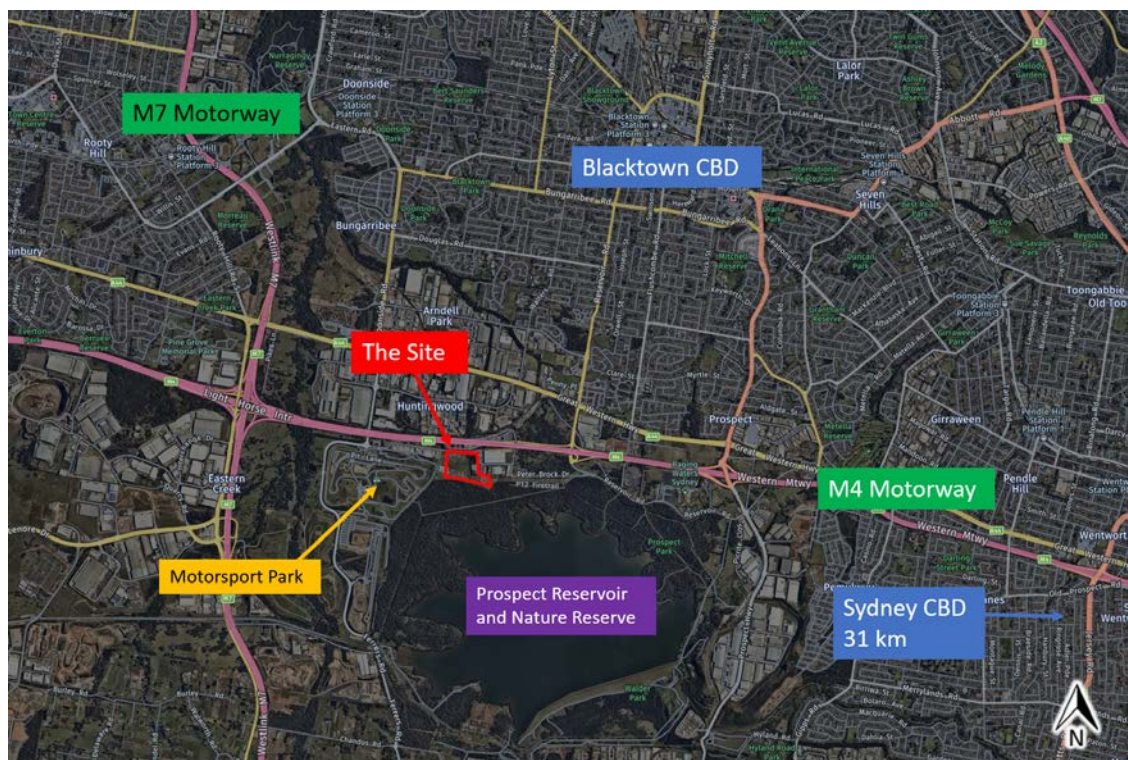


Figure 1 | Regional Context Map

The site is legally described as Lot 4 DP 1079897 and is located 31 kilometres (km) west of the Sydney CBD and 4.7 km south of the Blacktown CBD (see **Figure 1**). The site is owned by the NSW Government (Office of Strategic Lands (OSL)) and is currently leased to the Applicant.

The site is predominately zoned RE2 (Private Recreation) under the Blacktown Local Environmental Plan 2015, however the south-eastern corner of the site is located within the Raceway Precinct under the State Environmental Planning Policy (Western Sydney Employment Area) 2009 (WSEA SEPP) and is zoned IN1 (General Industrial).

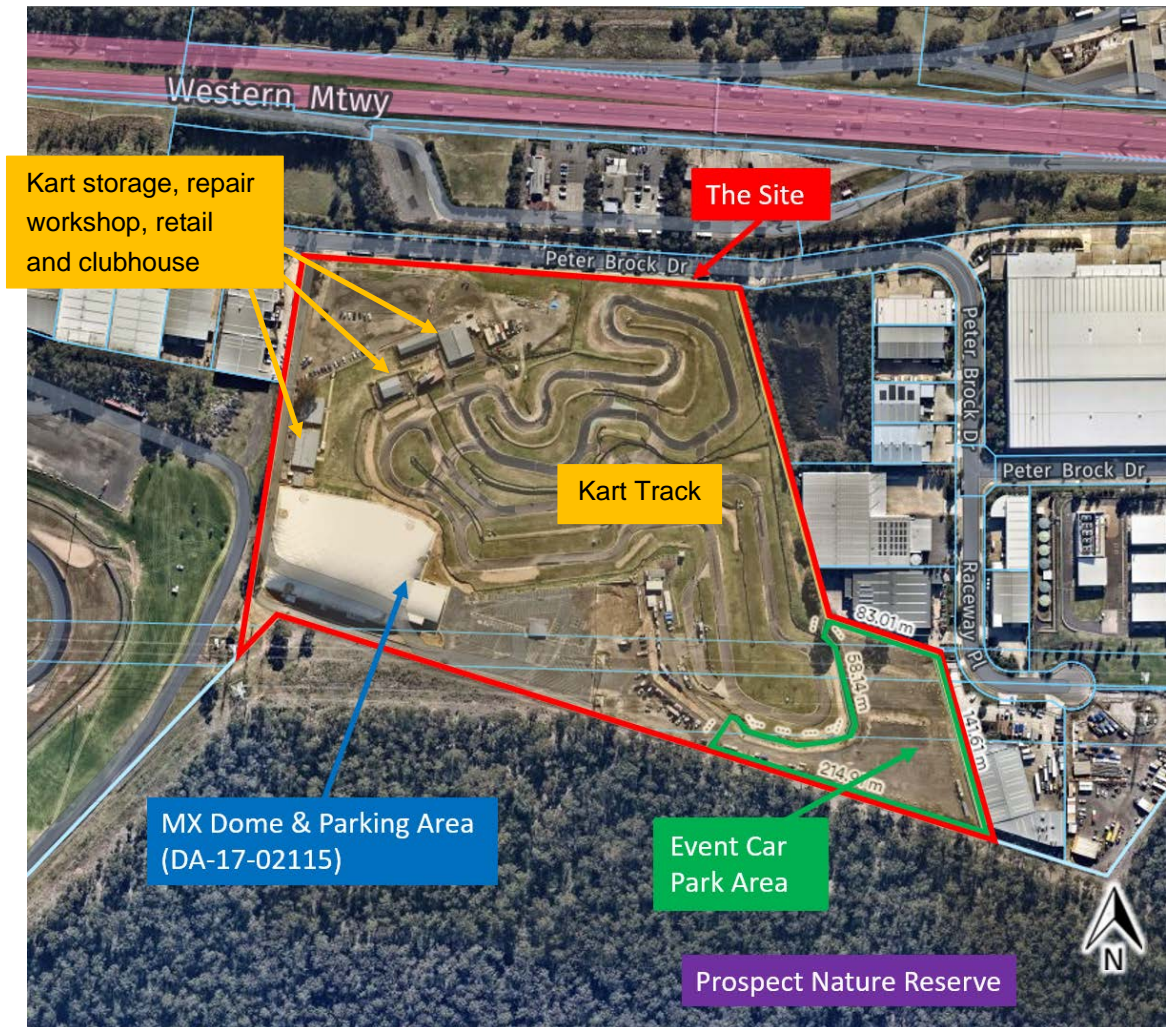


Figure 2 | Local Context Map

Site History – Event Car Park Area

On 29 August 1997, the Applicant was granted development consent (DA-S29/3/97) for the construction and operation of a go-karting facility in Eastern Creek. Under the original consent, an event car park area is permitted in the south-east corner of the site and is mainly used by kart racing participants to set up and prepare their karts during race events (see **Figure 2** and **Figure 3**). Spectator parking is located in the north-west corner of the site and is not impacted by the modification.

In 2019, the Department’s compliance team became aware of unauthorised fill and drainage works in the event car park area. While bulk earthworks were permitted to be carried out in three stages across the site under a separate development consent (DA-S29/1/97), this consent did not provide for

earthworks in the event car park area. In addition, Condition 14 of this consent did not permit importation of fill to the site.

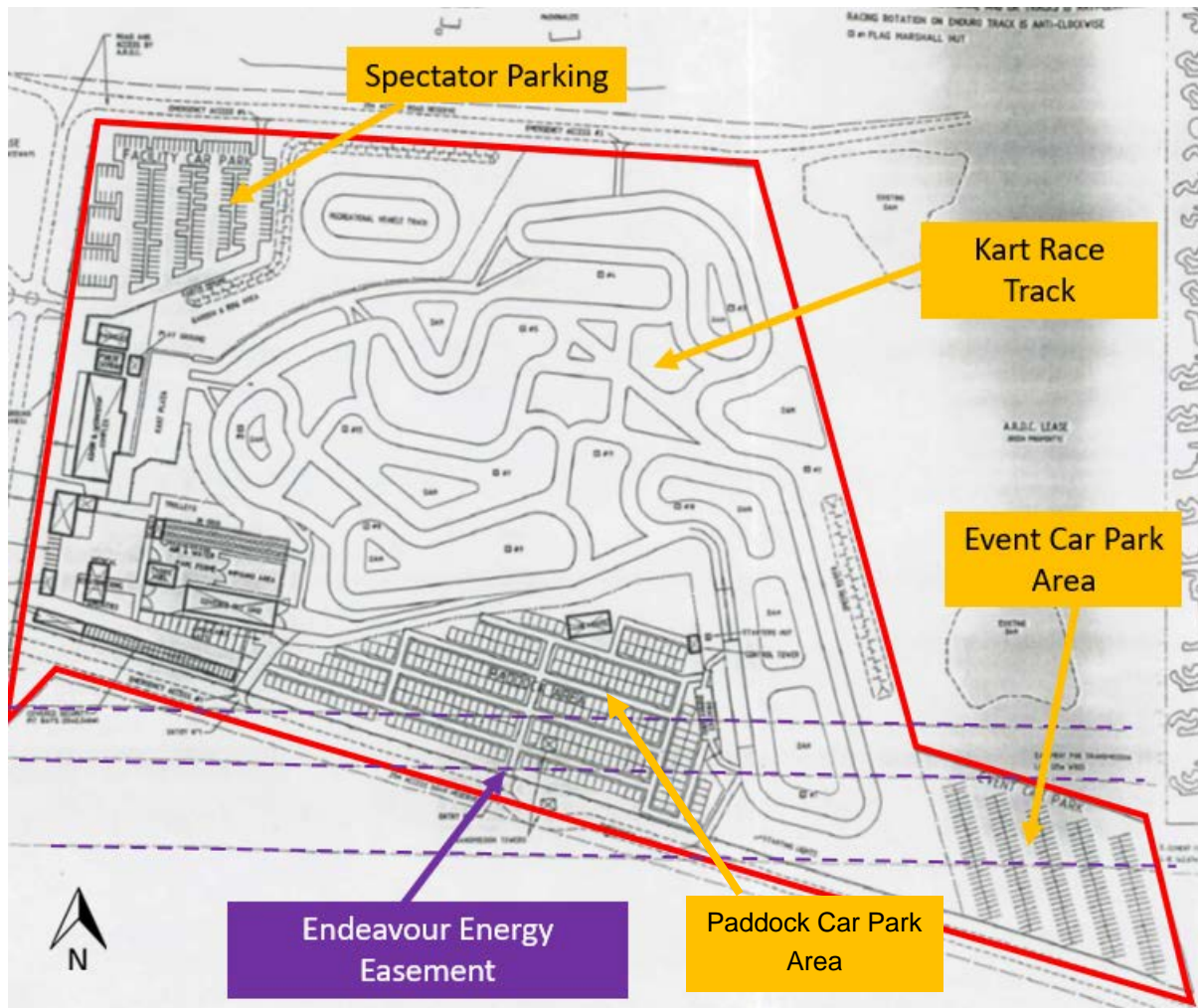


Figure 3 | 1997 kart raceway layout

The original site plans indicated the event car park area would be located on existing surface gradients of 4.5%, which did not require any fill to be imported to that part of the site. Additionally, the site was not flood affected and upstream stormwater runoff was evenly distributed across the site. Aerial photography available from October 2009 until recently showed the event car park was not actively used for event parking. It remained cleared with some trees remaining on its northern side boundary, and occasionally used for stockpiling materials.

Between December 2018 and April 2019, fill importation and compaction works occurred within the event car park area. Fill import extents are shown with blue outline in **Figure 4**.



Figure 4 | Earthworks aerial view of the Event Car Park Area (Dec 2018 to April 2019)

The major proportion of the fill work has been carried out at the eastern extremity of 50 Peter Brock Drive on IN1 zoned land and resulted in an increase in the height of the existing ground level of between 1.5 metres (m) and 4.5 m. The placement of fill material near the southern boundary of the site above its natural levels created potential for diverting natural catchment flows from upstream areas.

On 16 October 2019, the Department's Compliance Team received a complaint from Endeavour Energy advising that a recently constructed carpark on the site caused Endeavour Energy's electrical infrastructure to be damaged by flood, triggering an energy outage. The Compliance Team investigations referred the complaint to the OSL on 6 November 2019. The OSL was subsequently in direct contact with Endeavour Energy to assist Endeavour Energy's complaint.

On 19 March 2020, an objecting neighbour, Workhorse Collision Repairs, lodged a Class 4 proceeding (civil enforcement) in the Land and Environment Court (LEC) against the karting and motocross Lessees due to environmental impacts arising from the unauthorised works on the site. As a result, the karting and motocross Lessees agreed in principle to lodge a modification application to rectify the issue.

Given matters raised in the LEC appeal, and following further discussion between the Applicant and the OSL, the OSL provided written landowner's consent on 14 September 2020 to enable the Applicant to lodge a modification application with the Department seeking to retrospectively approve unauthorised works and proposed ancillary additional retaining and drainage works. The Department understands the LEC proceedings are on hold until a determination is made on the modification application.

Modification application DA-S29/3/97-Mod-1 was lodged with the Department on 6 November 2020 in order to retrospectively approve fill importation, some retaining walls and drainage pipe works to assist control of runoff from upstream catchments through the site, for disposal in the natural watercourse and wetland downstream. The existing fill importation, some retaining walls, and drainage works were practically complete in April 2019, prior to lodgement of the modification application. Ancillary civil works yet to be constructed include additional stormwater management infrastructure, landscaping and

sealing and line-marking of the event carpark. The modification application is described in greater detail in **Section 3.1**.

Surrounding Land Uses

The development is surrounded by a number of sporting venues and general industrial uses, as follows (see **Figures 1 and 2**):

- to the west of the site is the Sydney Motorsport Park (also owned by the NSW Government), which hosts Australian Touring Car Championship races and Superbike races.
- approximately 1.5 km to the south-west of the site is the Sydney Dragway
- to the southwest and southeast boundary of the site is the Prospect Reservoir and Prospect Nature Reserve
- to the east and northwest of the site is IN1 general industrial zoned land within Precinct 4 of the State Environmental Planning Policy (Western Sydney Employment Area) 2009 (WSEA SEPP)
- to the north of the site across Peter Brock Drive is the M4 Western Motorway service centre and 200 metres north of the site beyond the M4 is the Huntingwood Industrial Estate.

1.2 Approval history

DA-S29/1/97 – Bulk Earthworks

On 26 June 1997, development consent was granted by the then Minister for Urban Affairs and Planning for Bulk Earthworks for a Karting Raceway at 50 Peter Brock Drive, Eastern Creek (DA-S29/1/97). The DA was approved pursuant to the then section 91 (now section 4.16) of the EP&A Act and then clause 7 of State Environmental Planning Policy No 29 – Western Sydney Recreation Area (SEPP 29) which was repealed on 5 August 2016.

The development consent permitted the following works:

- movement within the site of 25,000 m³ of fill
- temporary stockpiling of fill
- preparation of site for the construction of Karting facilities
- sediment and erosion control devices.

DA-S29/3/97 – Go-karting Facility

On 29 August 1997, further development consent was granted by the then Minister for Urban Affairs and Planning for the construction and operation of an international standard go-kart track at 50 Peter Brock Drive, Eastern Creek (DA-S29/3/97). The DA was approved pursuant to the then section 91 (now section 4.16) of the EP&A Act and then clause 7 of SEPP 29.

The development consent permitted the following works:

- minor earthworks,
- a multi-configurable track layout, including recreational uses,
- associated uses such as on-site kart storage, a repair workshop, and retail outlet,
- clubhouse, canteen and catering facilities,
- kart race patron parking and access roads,

- drainage and stormwater measures,
- earth mounds and utilities.

The modification application has been submitted to address conditions in the 1997 consent for the karting facilities (S29/3/97). Development consent S29/3/97 has not been modified prior to lodgement of this section 4.55(2) modification application on 6 November 2020.

DA-17-02115 (MX Dome)

On 27 November 2017, Blacktown City Council granted consent to the construction and operation of the Sydney Indoor MX Dome facility in the south-western corner of the site (see **Figure 2**). The motor-cross facility is housed entirely within a climate-controlled, air-filled membrane dome. Parking associated with the motor-cross facility is located immediately east of the Dome, partly located on land which was identified for paddock parking under the S29/3/97 consent. The MX Dome car park provided 145 vehicles including 50 car and trailer spaces. The MX Dome was constructed between approximately April 2019 and August 2020. At the time of writing this Report, the MX Dome was not operating.

2 Proposed modification

2.1 Proposed Modification

On 6 November 2020, the Applicant lodged a modification application under section 4.55(2) of the EP&A Act to modify development consent DA-S29/3/97. The modification is described in full in the Statement of Environmental Effects (SEE) included in **Appendix A** and is illustrated in **Figure 5** below.

The modification application proposes the following:

- regularising retaining walls and earthworks for an existing on grade event carparking area, regrading, compaction of small areas of earthworks to specifications
- construction of a new retaining wall in the north-east of the event carpark area and grading finished levels of the earthworks to direct surface water away from batters and towards internal drainage systems on the western side of the carpark
- sealing of the event car park area, line marking of parking spaces, guard railing, surface drainage systems
- landscaping of earth batters and unpaved areas
- augmenting stormwater works and swales associated with the event carpark area to reduce risk of flooding (see **Section 2.2**).

The operation of the existing facility is not changing as a result of the modification. The modification would generate the equivalent of two full-time jobs and a number of specialised sub-contractors for four months but is not anticipated to create any operational jobs. Works associated with the modification is estimated to take four months to complete.

2.2 Proposed Additional Drainage Infrastructure

As discussed above, the modification application would involve construction of additional drainage infrastructure within the event car park area to reduce the flood risk associated with the unauthorised fills works. This would include:

- installation of water sensitive urban design (WSUD) treatment systems and an On-Site Detention system included in response to Council's submissions and design standards. These are annotated as 'Bioretention Basin' and 'OSD Basin' in **Figure 5**
- a proposed drainage network, which would collect upstream runoff from drainage swales at the southern and eastern edges of the fill works. The runoff from upstream areas and within the carparking fill area would drain runoff through a culvert, pit and piped drainage system and link to the existing downstream drainage point. This is annotated as 'Drainage Outlet' in **Figure 5**
- provision of a major overland flow drainage system in the event the drainage pipe systems suffer partial or total blockage. The overland flow paths would be directed away from adjoining properties and conveyed within drainage swales to the Drainage Outlet.

The proposed civil works are further detailed in plan set titled P2108122-PS01-A000 by Martens & Associates submitted on 31 August 2021. in response to the Department's request for information.

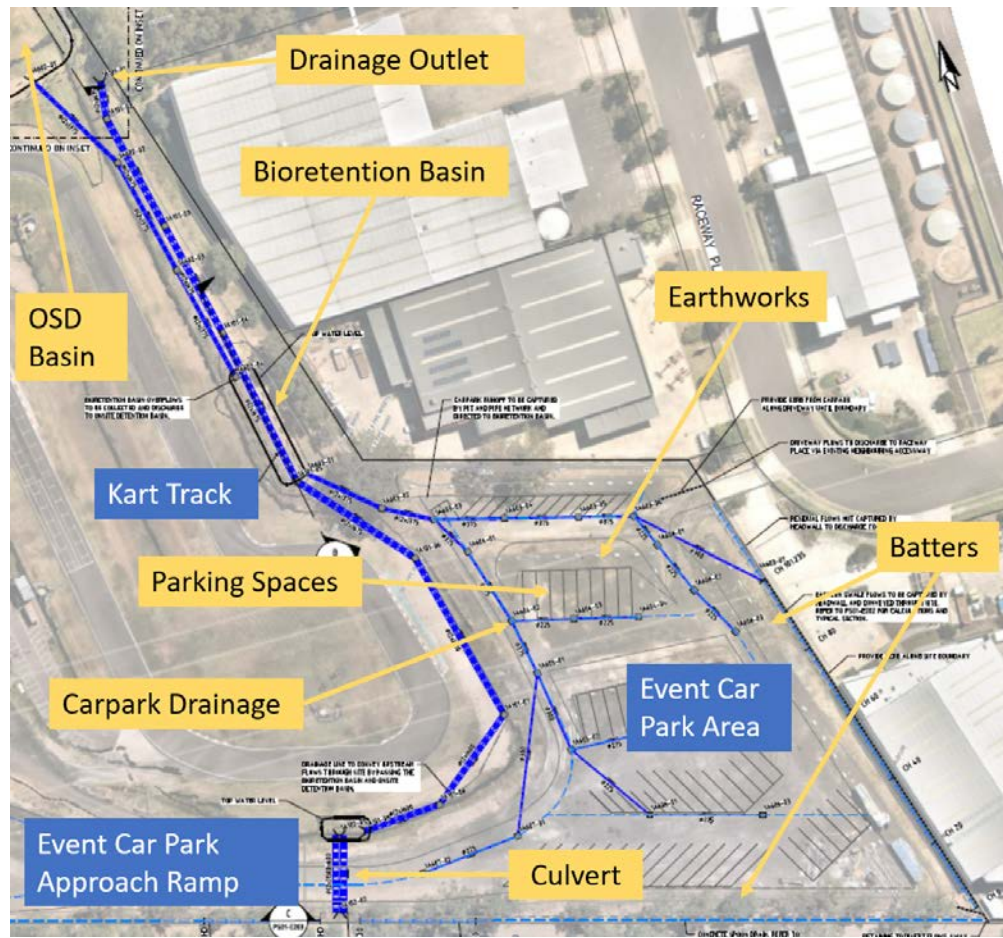


Figure 5 | Proposed Civil Works

2.3 Applicant's Justification for the Proposed Modification

The Applicant advised the modification works would improve the operation of the event car parking area for the reasons described below:

- formalising the event car park area would allow the event carpark to be used efficiently and more safely for parking, including when there has been wet weather
- access between the paddock parking and event car park areas would be improved with the importation of fill as the two areas differed in elevation by 11 m and were separated by a substantial gully
- the earthworks would permit vehicles and trailers to be parked on flatter grades than was previously the case on previously existing natural levels. The parking grades as per the proposed car park plan would permit safer and more efficient unloading of vehicles and trailers
- the modification works would reduce the flood risk to adjoining landowners by augmenting the stormwater infrastructure within the event car park area and safely conveying stormwater away from the site.

3 Statutory context

3.1 Scope of Modifications

The Department has reviewed the scope of the modification application and considers the application can be characterised as a modification as:

- the primary function and purpose of the approved development would not change as a result of the proposed modification
- the proposal is substantially the same development as originally approved
- the proposal is of a scale that warrants the use of section 4.55(2) of the EP&A Act

The Department has considered the scale of the proposed changes, including the regularisation of unauthorised works carried out on the site (see **Section 6** of this report) and is satisfied the proposed modification is within the scope of section 4.55(2) 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(2) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent Authority

The Minister for Planning and Public Spaces (Minister) is the consent authority for the application under section 4.5(a) of the EP&A Act. Under the Minister's delegation of 26 April 2021, the Executive Director, Energy, Resources and 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 less than 50 public submissions (other than a council) in the nature of objections
- 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.

3.3 Mandatory Matters for Consideration

The Department undertook a comprehensive assessment of the application against the mandatory matters for consideration as part of the original assessment of DA-S29/3/97 under section 90 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.

3.4 Biodiversity Conservation (BC) Act 2016

Clause 30A(2)(c) of the Biodiversity Conservation (Savings and Transitional) Regulation 2017 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.

Biodiversity impacts were primarily assessed under the earthworks consent (DA S29/1/97) for the site, which found that the works would not adversely impact on any critical habitats or threatened species populations in the area. The original application for the development (DA S29/3/97) related to the construction and operation of the go-karting facility and did not require any significant vegetation removal beyond what was previously assessed under the earthworks consent. Therefore, biodiversity impacts were considered to be negligible.

The Department notes the works associated with the modification are located within a cleared area and would not result in any additional biodiversity impacts beyond those considered as part of the original assessment for DA S29/3/97 and the earthworks consent. Any disturbance associated with the car park and stormwater works in this area would be negligible when compared to the original assessment.

For this reason, the Department's assessment concludes a BDAR is not necessary for the proposed modification.

4 Engagement

4.1 Department's Engagement

In accordance with clause 10 of Schedule 1 to the EP&A Act and clause 118 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), the Department exhibited the application for 14 days from 27 November 2020 to 11 December 2020. Notice of the application was published on the Department's website.

Previous submitters were notified of the modification application and invited to make a submission. The modification application was also referred to Blacktown City Council (Council) and relevant State government authorities.

4.2 Key Issues – Public Submissions

During the exhibition period, the Department received 18 submissions from the public, comprising 14 individual submissions and four private businesses including Endeavour Energy. All public submissions received objected to the proposed modification and no submissions were received from special interest groups. All individuals who made a submission work within 5 km from the proposal.

Issues were raised regarding the height of the imported fill, fill contamination, danger from errant vehicles, flooding, loss of trees, bushfire risk, noise, dust, visual impact and heritage impact on Prospect Nature Reserve. Endeavour Energy raised the following issues:

- **Endeavour Energy** – initially raised objection with the unauthorised works and sought additional information relating to land immediately below Endeavour Energy owned aerial conductors, including current levels and 132 kV Earth Potential Rise Assessment Report. The energy utility raised issues including the requirement for applications to be made to Endeavour Energy for any proposed service or structure, cut or fill within transmission easement sites, or do anything that may impact on Endeavour Energy's access, with a request for details of maximum heights of vehicles used to carry out proposed works to be provided. The unauthorised fill works have created nuisance flooding which caused an outage at the energy substation at 10 Raceway Close in 2019.

Following the submission of the Applicant's Response to Submissions (RtS) report (see **Section 4.4**), three objections (from Endeavour Energy and two individuals) were subsequently withdrawn, resulting in a total of 15 objections from the public.

4.3 Government Advice

The Department received submissions from the following Government authorities and Council:

- **Council** – provided comments for water quality treatment control and did not object to the development.
- **Transport for NSW** – provided comments and did not object to the development as the proposal does not impact on the State road network.

- **Environment Protection Authority (EPA)** - provided comments and did not object to the development as the proposal did not require an environment protection licence.
- **Sydney Water** – did not object to the development but provided recommended conditions of consent in relation to nearby Sydney Water assets.

4.4 Response to Submissions

On 31 March 2021, the Applicant submitted a RtS report to address issues raised in submissions. The RtS included several refinements to the design of the development including the drainage and carpark design. The Applicant subsequently submitted an additional document titled *Drainage Assessment – Event Parking Area* to accompany the RtS which was prepared by Consulting Engineers Martens and Associates.

The RtS and accompanying documents were made available on the Department's website and referred to previous objectors and government agencies. A summary of the responses is provided below:

- **Blacktown City Council** – raised no objection and provided no further comment.
- **Endeavour Energy** – advised some issues originally raised by Endeavour Energy had been resolved. Additionally, Endeavour Energy requested a plan of clearances between each of the energy easement 132 kV aerial conductors and proposed earthworks, and an earth potential rise analysis to assess worst case voltage hazard for the proposed drainage pipeline should there be an earth fault on an adjacent transmission tower.
- **DPIE Water Division (NRAR)** – advised the proposal does not require NRAR comment or approval as works are not on waterfront land as defined by the *Water Management Act 2000*.
- **WaterNSW** – advised the proposal does not fall within the Sydney Drinking Water Catchment, therefore the proposal did not require a neutral or beneficial effect assessment, and WaterNSW did not object to the proposal. The proposal adjoins the Prospect Special Area prescribed by Schedule 1 of the Water NSW Regulation 2013, therefore WaterNSW requested conditions to ensure protection of runoff water quality, and to ensure runoff from upstream catchments was not impeded. The proposed southern boundary drainage swale design was requested to direct runoff away from the Prospect Special Area.

All other government authorities notified did not provide further responses.

4.5 Additional Information

Following the Applicant's submission of the RtS, the Department sought additional information from the Applicant in relation to:

- a revised piped drainage and overland flow design for the 20 year and 100 year average recurrence interval (ARI) storms, respectively, and the Probable Maximum Flood (PMF) including conservative blockage factors and freeboard to reduce risk of local flooding
- a revised carpark aisle and module design given preference for car and trailer parking modules for kart events and providing swept out manoeuvrability for large vehicles
- a design of structural barrier fencing on carpark aisles and modules to reduce risk of errant vehicles causing injury and damage

- an assessment of kart race circuit safety given proposed earthworks and drainage appliances sited in proximity to the kart track as a result of the proposal
- an assessment of visual impact and a landscape plan for imported fill areas to reduce visual impact when viewed from adjacent properties and ensure loading surcharges on imported fill have been considered
- information to address an outstanding information request from Endeavour Energy.

The Applicant completed its responses to the Department's requests for further information on 30 August 2021 which addressed the above matters. Endeavour Energy received its requested information and confirmed withdrawal of its objection to the development.

5 Assessment

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

- the modification report, and response to the Department's RtS, and RFIs provided to support the proposed modification (see **Appendix A**)
- the documentation and Department's assessment report for the original development application (see **Appendix A**)
- submissions from the public, State government authorities and 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 considers the key assessment issue is stormwater and drainage design. The Department's assessment of other issues is provided in **Table 1**.

5.1 Stormwater and Drainage Design

Background

As described in **Section 1.1**, the unauthorised fill works raised the natural levels of the site by approximately 2.5 m at the southern boundary, altering stormwater runoff patterns from the adjoining Prospect Nature Reserve. In addition, the importation of fill without provision for pavement or landscaping also increased the risk of sediment transport.

Prior to the unauthorised fill works, a natural watercourse traversed the southern boundary of the site which carried upstream flows from the Prospect Nature Reserve draining into a dam that has since been removed. During the fill works, the watercourse was replaced with two 150 mm diameter PVC pipes to convey stormwater under the event car park approach ramp (see **Figure 5**). However, this system had limited drainage capacity and was overwhelmed during more intense rainfall events.

In 2019, a moderate storm event occurred which resulted in local flooding at surrounding receivers on Raceway Place and damaged electrical infrastructure owned by Endeavour Energy. Several submissions were received from affected properties, including Endeavour Energy, which objected to the regularisation of the fill works. Other submissions also raised concerns about dust, sediment transport and quality of stormwater runoff. WaterNSW manages the Prospect Reservoir and the Prospect Nature Reserve and requested a drainage swale be constructed on the southern boundary of the site to ensure runoff is not impeded and does not create additional flood risk on its land.

In its SEE, the Applicant presented an augmented stormwater design to reduce the risk of flooding to adjacent properties up to the Probable Maximum Flood (PMF) event. The design was subsequently amended in the RtS and supplementary information and is described further below.

Proposed Drainage Infrastructure

To manage upstream runoff within the event carpark area, the modification works would involve the following drainage works which provide additional safety in rare cases of partial pipe blockage and which are consistent with drainage design standards (see **Figure 5**):

- the installation of two new car park approach ramp culverts and drainage swales for up to the PMF event
- a trunk drainage system to convey storm flows up to the 20-year Average Recurrence Interval (ARI) within the site
- a major overland flow path system above the drainage pipe system to convey storms up to the 100-year ARI.

These works would keep runoff from upstream catchments within their respective catchment areas, enable safe management of stormflows up to the PMF from upstream areas, as well as the 100-year ARI within the site, prior to disposal in the natural watercourse system downstream.

Council did not object to the modification but requested that all works comply with Council's Engineering Guide for Development, which contains erosion and sediment control guidelines. Council also requested an on-site detention (OSD) system designed in accordance with its guidelines and an electronic MUSIC model and water quality treatment system to ensure Council's water quality targets are met.

In its RtS, the Applicant proposed a water quality system in the form of a biofiltration basin to ensure water from upstream areas comply with Council's water quality targets, as well as an OSD basin to cater for the 100-year ARI storm event in accordance with Council design requirements. Council reviewed the design and did not raise any further issues. Endeavour Energy reviewed the revised stormwater design and raised no further issue regarding risk of flood damage to its infrastructure.

Department's consideration

The Department acknowledges the concerns raised in public submissions regarding the unauthorised fill works and has worked closely with the Applicant to refine the stormwater design to reflect Council's requirements and current best practice.

The Department is satisfied the proposed drainage infrastructure would have adequate capacity to ensure stormwater runoff would not be impeded by the fill works and can be safely conveyed from the site. The Department notes the drainage infrastructure would also provide flooding protection for properties in Raceway Place and would be consistent with Council's flood management guidelines. The Department has recommended conditions in the modification instrument detailing the design requirements of the proposed drainage infrastructure. This would ensure the proposed drainage infrastructure has been designed to reduce the flood risk to adjacent properties up to the PMF event.

The Department has also recommended design requirements for on-site detention and a water quality treatment system in the recommended instrument. The Department is satisfied these requirements would resolve matters regarding erosion, sediment and water quality raised by submitters, Council and WaterNSW. The Department also notes the existing development consent has conditions relating to erosion and sediment control measures for the operation of the site including a first flush system to treat stormwater at pollutant source points.

The Department's assessment concludes that, subject to conditions, the proposed stormwater drainage infrastructure would be capable of safely conveying stormwater from the site, while also minimising flood impacts on adjoining properties.

5.2 Other Issues

The Department's assessment of other issues is provided in **Table 1**.

Table 1 | Assessment of Other Issues

Issue	Recommendations
Works within the Endeavour Energy Easement	
<ul style="list-style-type: none"> Two Endeavour Energy transmission easements are located over the event area carpark. Endeavour Energy objected to the modification because the unauthorised fill works restricted its access to the easement area. Nonetheless, Endeavour Energy advised that vehicles are permissible within easement areas if they are limited to a height of 4.3 m, not occupied or connected to power (such as food trucks or camper vans) and can be removed when Endeavour Energy requests. The Applicant consulted with Endeavour Energy and provided information to demonstrate the modification would not prevent Endeavour Energy from accessing the easement area. Endeavour Energy was also provided additional information on vertical clearances, and an earth potential rise assessment of the proposed drainage system to demonstrate that the risk to public safety would be minimal. On this basis, Endeavour Energy withdrew its objection confirming the proposed car park activities and easement access would be satisfactory. The Department notes the car park has been designed to meet Endeavour Energy's requirements and concludes Endeavour Energy's easement concerns and issues regarding protection of assets have been resolved. No additional conditions are recommended. 	No additional conditions are recommended.
Carpark design	
<ul style="list-style-type: none"> The event car park area was approved for car and trailer parking and kart servicing, however the Department understands that construction of the formal car park was never undertaken. The imported fill material allowed a finished parking surface with grades of about 1%, in accordance with Australian Standard (AS) 2890.1:2004. The Department considers these module gradients to be safe and efficient for trailer parking, access and kart servicing. Car park plans have been submitted showing swept path manoeuvres for car and trailer combinations and the design heavy rigid vehicle (HRV) which is considered safe and efficient. Maximum ramp grades are less than 14% which is also suitable for access by an occasional service HRV in accordance with AS 2890.2:2002. 	Require the Applicant to design and construct the car park in accordance with the Australian Standards and Council requirements.

Issue	Recommendations
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- The proposed event car park design includes steep batters constructed in fill material on all sides. As the batters are a hazard for all vehicles, plans have been submitted showing a barrier design to protect cars from running over batter edges in accordance with AS 2890.1:2004. This has been addressed in the recommended conditions.
- The Department's assessment concludes the carpark would comply with the Australian Standards, Council's Engineering Guide for Development, Endeavour Energy requirements and would provide safe access and usage. The car park design requirements have been formalised in the recommended instrument.

Visual Impacts and Landscaping

- The height of the event area carpark has increased by up to 2.5 m due to the unauthorised filling and compaction works.
 - The SEE assessed the visual impacts associated with the increased height of the carpark and concluded the visual impacts would be negligible because the car park is set back from Raceway Place and the site is located within an established industrial area, which includes large scale warehouses.
 - In response to the Department's request, the Applicant has committed to undertaking landscaping on the earth batters along the site boundary facing Raceway Place and adjoining neighbours, which would include large native shrubs and small trees in order to improve the visual amenity. The Applicant would also retain existing trees where possible.
 - No issues were raised by Council.
 - The Department considers the new carpark would not be visually intrusive and with the inclusion of landscaping measures, would complement the surrounding industrial land uses. The Department has recommended a condition requiring the Applicant to implement a landscaping plan incorporating the measure described above.
 - The Department's assessment concludes the visual impacts of the development would be minimal and can be adequately managed.
- Require the Applicant to implement a landscaping plan

Contamination

- Concerns were raised in submissions that unauthorised fill material imported onto the site between early 2018 and mid 2019 could potentially be contaminated with heavy metals, hydrocarbons or asbestos.
 - The SEE included a Site Investigation Report (SIR) prepared by Zoic Environmental Pty Ltd, which found the fill material imported onto the site had been classified as Virgin Excavated Natural Materials (VENM) and had been deposited across most of the site area.
- Require the Applicant to implement an unexpected finds procedure as part of the CEMP.

Issue	Recommendations
<ul style="list-style-type: none"> • The SIR noted that no heavy metals or asbestos were detected in any samples collected, and no fibre cement fragments were observed during site investigations. The report concluded the imported fill materials met the criteria for commercial land use for a car park. • In its RtS, the Applicant also provided further analysis around contaminants of concern which was provided to the EPA for comment. • The EPA did not raise any concerns and noted that no contaminants of concern were identified. • Based on the findings of the SIR and advice received from the EPA, the Department is satisfied that the imported fill material presents a low contamination risk. • Should contaminated material be uncovered during the proposed drainage and carpark works, the Department has recommended the Applicant prepare and implement an unexpected finds procedure as part of the CEMP. The Department has formalised this requirement in the recommended instrument. • The Department's assessment concludes the potential contamination impacts would be minimal and can be managed by the Applicant. 	
Bushfire Risk	
<ul style="list-style-type: none"> • Several public submissions raised concerns about the potential bushfire risks associated with the proposed modification. • Part of the site is located within bushfire prone land, which is classified as Bushfire Protection Vegetation Buffer Category 1 and extends 100 m into the subject site from the southern boundary. • In its RtS, the Applicant clarified the earthworks and proposed drainage works would not require additional bushfire protection measures, given the proposal would not change or increase the intensity of the existing use or introduce new fuel or ignition sources. • The Department is satisfied the proposed modification would not increase bushfire risks on-site and notes the consent includes an existing condition which restricts the storage or retail of fuel on-site. • The Department's assessment concludes the potential bushfire risks would be negligible and can be adequately managed by the Applicant. No additional conditions are recommended. 	No additional conditions recommended.
Construction Impacts – Noise and Dust	
<ul style="list-style-type: none"> • The modification has the potential to generate noise and dust emissions during the additional car park and drainage works. • These works are anticipated to be short-term and temporary in nature and is expected to take up to 4 months to complete. 	Require the Applicant to implement measures to manage construction dust and noise impacts as part of the CEMP.

Issue	Recommendations
<ul style="list-style-type: none"> • The potential impacts to residents from dust and noise emissions during construction would be negligible, given the closest residential areas are located more than 1.5 km away. • The Department notes the development consent contains existing conditions to manage construction air quality impacts and erosion and sediment transport. • The Department has recommended the Applicant prepare and implement a CEMP for the modification works, which would incorporate the requirements already set out in the existing conditions, as well as additional measures to manage construction noise emissions. • The Department's assessment concludes construction noise and air quality impacts during construction can be readily managed through the CEMP and are unlikely to impact on sensitive receivers. 	

6 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act.

While the modification would regularise the unauthorised fill works in the event car park area, the proposed drainage infrastructure would improve drainage runoff patterns and reduce local flooding impacts to adjoining neighbours on Raceway Place. As such, the improvements to the drainage infrastructure resulted in several affected neighbours withdrawing their objections to the proposal.

The Department considers the proposed modification is appropriate on the basis that:

- additional landscaping would be provided along the car park batters to improve to visual amenity
- the proposed modifications would result in minimal environmental impacts beyond the previously approved development, with minimal impacts to noise and dust and neighbouring land uses
- the modification would result in improved management of karting events, parking and access, kart servicing utility and patron safety
- the modification is substantially the same in terms of previously approved land uses.

Overall, the Department is satisfied the modified development can be appropriately managed through the Applicant's proposed mitigation measures and additional conditions of consent for DA-S29/3/97. It is recommended that the modification should be approved, subject to additional conditions and updates to the list of approved plans in Appendix 1 of the consent.

7 Recommendation

It is recommended the Executive Director of Energy, Resources and Industry Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the application DA-S29/3/97-MOD-1 falls within the scope of section 4.55(2) of the EP&A Act
- **forms** the opinion under Clause 30A(2)(C) of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* that a BDAR is not required to be submitted with the 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
- **modify** the consent DA-S29/3/97
- **signs** the attached approval of the modification

Prepared by:

Christopher Fraser and Pamela Morales
Industry Assessments

Recommended by:



13 December 2021

Joanna Bakopanos
Team Leader
Industry Assessments

Recommended by:



15 December 2021

Chris Ritchie
Director
Industry Assessments

8 Determination

The recommendation is **Adopted** by:

A handwritten signature in black ink that reads "Clay Preshaw". The signature is written in a cursive style with a large initial 'C'.

23 December 2021

Clay Preshaw

Executive Director

Energy, Resources and Industry Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – List of Documents

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

Modification Application

- S4.55(2) Planning Statement report prepared by City Plan Strategy and Development Pty Ltd dated 17 November 2020

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10636

Agency Advice

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10636

Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10636

Department's Assessment Report for DA-S29/3/97-MOD-1

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10636

Appendix B – Community Views for Draft Notice of Decision

The Department publicly exhibited the modification application from 27 November 2020 until 11 December 2020 (14 days). The Department received 24 submissions on the modification during the exhibition period, including five from public authorities, one from Council, 4 from private companies including Endeavour Energy and 14 from the general public. Of the 24 submissions received, 18 objected to the modification. The issues raised by Council, the private companies and the general public and a summary of how each issue has been addressed is provided in Table 2 below:

Table 2 | The Department's response to issues raised in submissions

Issue	Consideration
Drainage <ul style="list-style-type: none"> Poor drainage control has potential to cause flooding and reduce water quality 	<p>A detailed assessment of the existing and proposed drainage systems for the proposal is provided in Section 5 of this report.</p> <p>The Department has been provided with updated drainage plans to ensure the drainage system will perform at the relevant standards to reduce risk of flooding and maintain water quality.</p> <p>The Department has recommended conditions of consent to ensure:</p> <ul style="list-style-type: none"> the drainage design has been improved to reduce risk of flooding for adjacent properties and to comply with relevant standards on-site detention and water quality treatment systems will be provided to comply with Council's standards
Works within the Endeavour Energy easement <ul style="list-style-type: none"> Unauthorised works has potential to conflict with Endeavour Energy Assets and create safety hazards near transmission towers 	<p>A detailed assessment of the unauthorised and proposed works in the event car park as they impact Endeavour Energy assets is provided in Section 5 of this report.</p> <p>The Department has requested and been provided with information to ensure earthworks and drainage works comply with Endeavour Energy's clearances to aerial conduits and other safety standards.</p> <p>The Department has approved updated construction plans which ensure:</p> <ul style="list-style-type: none"> safe design of fill works within the carpark will maintain required clearances to aerial conduits drainage design complies with Endeavour Energy standards for possible earth faults adjacent transmission towers
Carpark design <ul style="list-style-type: none"> Carpark design has potential to cause risk of accident, or reduce access for long or large vehicles 	<p>A detailed assessment of the carpark design is provided in Section 5 of this report.</p> <p>The Department has been provided with information to ensure the car park complies with the relevant standards for aisles, turning areas, car spaces, ramp grades and car space gradients.</p> <p>The Department has recommended conditions of consent to ensure:</p> <ul style="list-style-type: none"> carpark design will be safe, accessible for cars and service vehicles, with protection for steep batters and compliance with the relevant standards construction of car park drainage design for car park amenity and safety.
Visual Impact	<p>A detailed assessment of the visual impact is provided in Section 5 of this report.</p>

Issue	Consideration
<ul style="list-style-type: none"> Fill work has potential to remove trees, be visually intrusive and cause loss of visual amenity <p>Contamination</p> <ul style="list-style-type: none"> Imported fill has the potential to contain heavy metals, hydrocarbons or asbestos, causing environmental hazard 	<p>The Department has been provided with a landscaping plan which includes native shrubs and small trees to ensure the fill works and car park is screened from surrounding viewpoints, is visually unintrusive, and complements surrounding industrial uses</p> <p>The Department has recommended conditions of consent to ensure landscaping will be undertaken with improvements to the car park.</p> <p>A detailed assessment of contamination issues is provided in Section 5 of this report.</p> <p>The Department has been provided with a Site Investigation Report which indicated that the imported fill material presents a low contamination risk, is appropriate for commercial use as a car park, and that contamination impacts during car park construction can be managed by the Applicant.</p> <p>The Department has recommended conditions of consent to ensure any contamination is managed through an unexpected finds procedure for disposal at an appropriate licensed facility.</p>
<p>Bushfire Risk</p> <ul style="list-style-type: none"> The Bushfire Protection Vegetation Buffer Category 1 extends 100 m into the subject site from the southern boundary and could impact on safe use of land. 	<p>A detailed assessment of bushfire risk is provided in Section 5 of this report.</p> <p>The Applicant advised the proposed works and land uses would not require additional bushfire protection measures, given the proposal would not change or increase the intensity of the approved use or introduce new fuel or ignition sources.</p> <p>The Department is satisfied the proposed modification would not increase bushfire risks on-site and notes the consent includes an existing condition which restricts the storage or retail of fuel on-site.</p> <p>The Department has concluded that fire risk can be managed by the Applicant and has recommended no change to conditions of consent</p>
<p>Construction Noise and Dust Impacts</p> <ul style="list-style-type: none"> The proposed regrading of some fill works and construction of car park and drainage system has potential to create noise and dust emissions reducing health and amenity 	<p>A detailed assessment of construction noise and dust issues is provided in Section 5 of this report.</p> <p>The proposed works are anticipated to take four months to complete and the closest residential areas are located more than 1.5 km away which is expected reduce impact of works on sensitive receivers. Regardless, the Department has required the Applicant prepare and implement a construction environmental management plan (CEMP) for the modification works, which would include additional measures to manage construction noise</p> <p>The Department has concluded noise and dust emissions can be managed by the Applicant and has recommended conditions of consent to ensure:</p> <ul style="list-style-type: none"> submission of a CEMP to the Secretary for approval for management of noise emissions compliance with existing conditions for dust management.

Appendix C – Notice of Modification

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10636

Appendix D – Consolidated Consent

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10636