

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development modification
Application number	DA S29/3/97-Mod-1
Project name	Eastern Creek Karts
Applicant	Eastern Creek Karts Pty Ltd
Consent Authority	Minister for Planning and Public Spaces

Decision

The Executive Director, Energy, Resources and Industry Assessments, under delegation from the Minister for Planning and Public Spaces has, under 4.55(2) of the *Environmental Planning and Assessment Act 1979* (**the Act**) modified the consent subject to the recommended conditions.

A copy of the instrument of modification and conditions is available [here](#).

A copy of the Department of Planning, Industry & Environment's assessment report is available [here](#).

Date of decision

23 December 2021

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's assessment report;
- the prescribed matters under the Environmental Planning and Assessment Regulation 2000;
- the reasons given by the consent authority for the granting of the original consent;
- the objects of the Act;
- the considerations under section 7.17(2) of the *Biodiversity Conservation Act 2016* (NSW);
- all information submitted with the modification application during the assessment and information considered in the Department's assessment report;
- the findings and recommendations in the Department's assessment report;
- advice from relevant government authorities and Blacktown City Council; and
- the views of the community about the project (see **Attachment 1**).

The findings and recommendations set out in the Department's assessment report were accepted and adopted as the reasons for making this decision.

The decision maker was satisfied that the development to which the consent as modified relates is substantially the same development as the development authorised by the consent.

The key reasons for granting the modification are as follows:

- the modification would require installation of additional stormwater infrastructure while also regularising unauthorised fill and drainage works, which would improve drainage runoff patterns and reduce local flooding impacts to adjoining landowners on Raceway Place, Eastern Creek;
- the modifications would result in improved management of karting events, parking and access, kart servicing utility and patron safety
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards;
- the issues raised by the adjoining landowners, Blacktown City Council and the relevant State government authorities during consultation and in submissions have been considered and adequately addressed through existing and recommended conditions of consent
- weighing all relevant considerations, the modification is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the modification application from 27 November 2020 to 11 December 2020 (14 days) and received 18 public submissions, comprising 14 individual submissions and four submissions from private businesses. All public submissions objected to the modification application. Following the submission of the Applicant's Response to Submissions report, three objections were subsequently withdrawn, resulting in a total of 15 objections from the public.

The key issues raised by the community (including in submissions) and considered in both the Department's Assessment Report and by the decision maker and are summarised below.

Issue	Consideration
Drainage Poor drainage control has potential to cause flooding and reduce water quality	A detailed assessment of the existing and proposed drainage systems for the proposal is provided in Section 5 of this report. 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. The Department has recommended conditions of consent to ensure: - 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 Unauthorised works has potential to conflict with Endeavour Energy Assets and create safety hazards near transmission towers	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. 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. The Department has approved updated construction plans which ensure: - 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 Carpark design has potential to cause risk of accident, or reduce access for long or large vehicles	A detailed assessment of the carpark design is provided in Section 5 of this report. 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. The Department has recommended conditions of consent to ensure: - 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 Fill work has potential to remove trees, be visually intrusive and cause loss of visual amenity	A detailed assessment of the visual impact is provided in Section 5 of this report. 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 The Department has recommended conditions of consent to ensure landscaping will be undertaken with improvements to the car park.
Contamination Imported fill has the potential to contain heavy metals, hydrocarbons or asbestos, causing environmental hazard	A detailed assessment of contamination issues is provided in Section 5 of this report. 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. 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.

<i>Bushfire Risk</i> 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.	A detailed assessment of bushfire risk is provided in Section 5 of this report. 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. 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 has concluded that fire risk can be managed by the Applicant and has recommended no change to conditions of consent
<i>Construction Noise and Dust Impacts</i> 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	A detailed assessment of construction noise and dust issues is provided in Section 5 of this report. 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 The Department has concluded noise and dust emissions can be managed by the Applicant and has recommended conditions of consent to ensure: - submission of a CEMP to the Secretary for approval for management of noise emissions - compliance with existing conditions for dust management.