



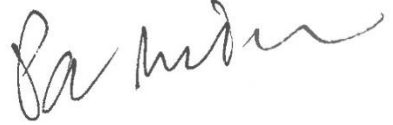
Section 4.55 (2) Modification Application

DA S29/3/97

Submitted to NSW Department of Planning, Industry & Environment
On Behalf of Sydney Indoor MX Dome & Eastern Creek Karts Pty Ltd

NOVEMBER 2020

REPORT REVISION HISTORY

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		Prepared by	Verified by
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APPENDICES

Appendix	Document	Prepared by
A	Owner's Consent	NSW Office of Strategic Lands
B	Civil Works General Arrangement Plan	SGC
C	Architectural Plans	JF Architects
D	Contamination Assessment	Zoic Environmental Pty Ltd
E	Stormwater Report	SGC

1. EXECUTIVE SUMMARY

This Planning Statement is submitted to the NSW Department of Planning, Industry, & Environment (DPIE) on behalf of Sydney Indoor MX Dome and Eastern Creek Karts Pty Ltd. The report supports an application to amend Development Consent S29/3/97 for 50 Peter Brock Drive, Eastern Creek (subject site), granted on 29 September 1997.

Development Consent S29/3/97 allowed for construction and use of an international standard go-kart track, as well as storage facilities and workshops, civil works (including onsite and offsite stormwater management), and parking facilities. This application seeks to modify a car parking area and pit area approved in the south-eastern corner of the subject site by increasing the height of the existing ground level by approximately 1.5m – 3.5m to flatten the parking and pit area and improve its functionality. The parking area is an event parking area and pit area used only for specific events by participants and visitors. The only associated works are drainage improvements and installation of ground stabilization structures primarily retaining walls. The modified car park and pit area will remain within its originally approved footprint.

Specifically, the application seeks to amend Condition No 2 by adding the following words:

- “...and the following plans:
- *event carpark modification plan’, prepared by JF Architects, drawing number 201703 DA 102, revision A, dated 17 May 2017.*
- *Civil works general arrangement plan’, prepared by SGC, project number 20190125, drawing number C201, C202, C203, C204 and C211, revision D, dated 16 November 2020”.*

It should be noted that most of the proposed works have already been completed. This has included the filling and compaction works to raise the levels of the carpark in the south-east of the site by 1.5 - 3.5m. All necessary fill is in place and the land has been formed into the required dimensions.

In addition, some limited stormwater drainage infrastructure works have been carried out to date as set out on page 3 of the stormwater report prepared by Mr Haddad of SGC (see Appendix E). This includes:

1. installation of two 300mm diameter uPVC pipes under the emplaced fill in the west of the event carpark; and
2. a drainage swale along the eastern boundary of the parking area.

The work that is yet to be carried out is described below. These do not involve significant earthworks and largely relate to drainage improvements primarily located around the periphery of the emplaced fill.

Excluding the works described at (1) and (2) above, the works to be conducted are shown in the plans prepared by SGC dated 16 November 2020, specifically Drawings C201, C202, C203, C204 and C211 and include:

- construction of a swale and installation of a 450mm stormwater pipe in the west and north-west of the carpark (Western Pipe);
- stormwater drainage infrastructure in the north of the event carpark including PVC pipes and drainage pits, directing stormwater to the Western Pipe;
- construction of a retaining wall in the north-east of the event carpark and some minor fill to direct water away from the north-east boundary;
- landscaping earth batters with turf;
- sealing the carpark with 2-coat bitumen;
- retention and cleaning out of the existing drainage swale along the eastern boundary; and
- extension of the Western Pipe in a north-westerly direction to a new headwall with riprap to discharge to an existing wetland.

The application seeks retrospective approval for works that have been carried out and approval of the previously described works to be conducted.

The application has been prepared after considering:

- Legislative requirements relating to the modification of a consent;
- Provisions of relevant environmental planning instruments;
- Likely impacts of the modified development subject to proposed mitigation measures;
- Suitability of the site; and
- The public interest.

This statement describes the proposed modification, assesses it against the applicable planning regime and identifies potential environmental effects. Where such impacts would be unsatisfactory the proposal has been modified or mitigation measures proposed.

The resulting modified development will remain substantially the same as that originally approved. Its impacts will be much the same in most respects but, importantly, some impacts will be reduced. The improved drainage infrastructure will divert runoff away from neighbouring properties in all storms up to and including the 1% AEP event. The regraded car park and pit area will be more functional. Thus, overall, the proposal will benefit all parties - the operator, participants, visitors and neighbours.

2. SITE DETAILS

The subject site is 50 Peter Brock Drive, Eastern Creek, formally known as Lot 4 in DP 10798987. An aerial view of the site is given in Figure 1 below with the proposed works area outlined blue.



Figure 1: Aerial view with entire site outlined red. Area of car park in question is outlined blue (Source: SixMaps/City Plan)

Neighbouring land uses are industrial to the east, industrial and motor racing to the west, the M4 Motorway and a service centre to the north, and bushland surrounding Prospect Reservoir to the south.

The entire site including the development area, is owned by the Minister Administering the *Environmental Planning and Assessment Act 1979* (Corporation Sole) ('The Minister'). Part of the site (in the south western corner) is leased by Sydney Indoor MX Dome from Mr Gary Holt. Owner's Consent to lodge this application has been provided by The Minister (see Appendix A).

3. PROPOSED MODIFICATION

3.1. Planning History and Consent to be Modified

On 29 September 1997, the then Minister for Urban Affairs and Planning issued Development Consent S29/3/97 for works on the subject site. The consent allowed for:

PROPOSED DEVELOPMENT:	The construction and operation of an international standard go-kart track which can be configured for a number of events, including recreational use, associated uses including on-site kart storage, a repair workshop, retail outlet, clubhouse, parking and access roads, canteen and catering facilities, minor earthworks, drainage and stormwater measures, earth mounds and utilities
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Figure 2: Extract of approved development (Source: DC S29/3/97)

The consent for S29/3/97 incorporated only minimal measures for the management of stormwater, being:

- Condition 10 which required provision of erosion and sediment controls measures.
- Condition 12 which required the applicant to ensure that the **quality** of stormwater which leaves the site be equivalent or better than the water quality that existed prior to the construction of the earthworks (emphasis added).
- Condition 36 which stated that “where temporary or overflow parking is proposed in unpaved locations parking shall be limited to those areas having a maximum slope of 10%...appropriate measures shall be provided to ensure that there are no dust impacts from these areas or changes in the **quality** of stormwater which is discharged into adjoining receiving water during periods of work weather.” (emphasis added)
- Engineering plans approved as part of DC S29/3/97 which show that existing drainage swales extending through the subject site and onto adjoining sites were to be used for stormwater disposal, (see following Figure 3).

As such, the consent was largely confined to managing stormwater quality with future runoff to be directed to then existing drainage swales which were largely outside the subject site including on neighbouring properties to the east. Also, the consent lacks specific stormwater design specifications, which may be because at the time when the application was made (i.e. 23 years ago), the area around the subject site was largely undeveloped and did not have any formal stormwater drainage network.

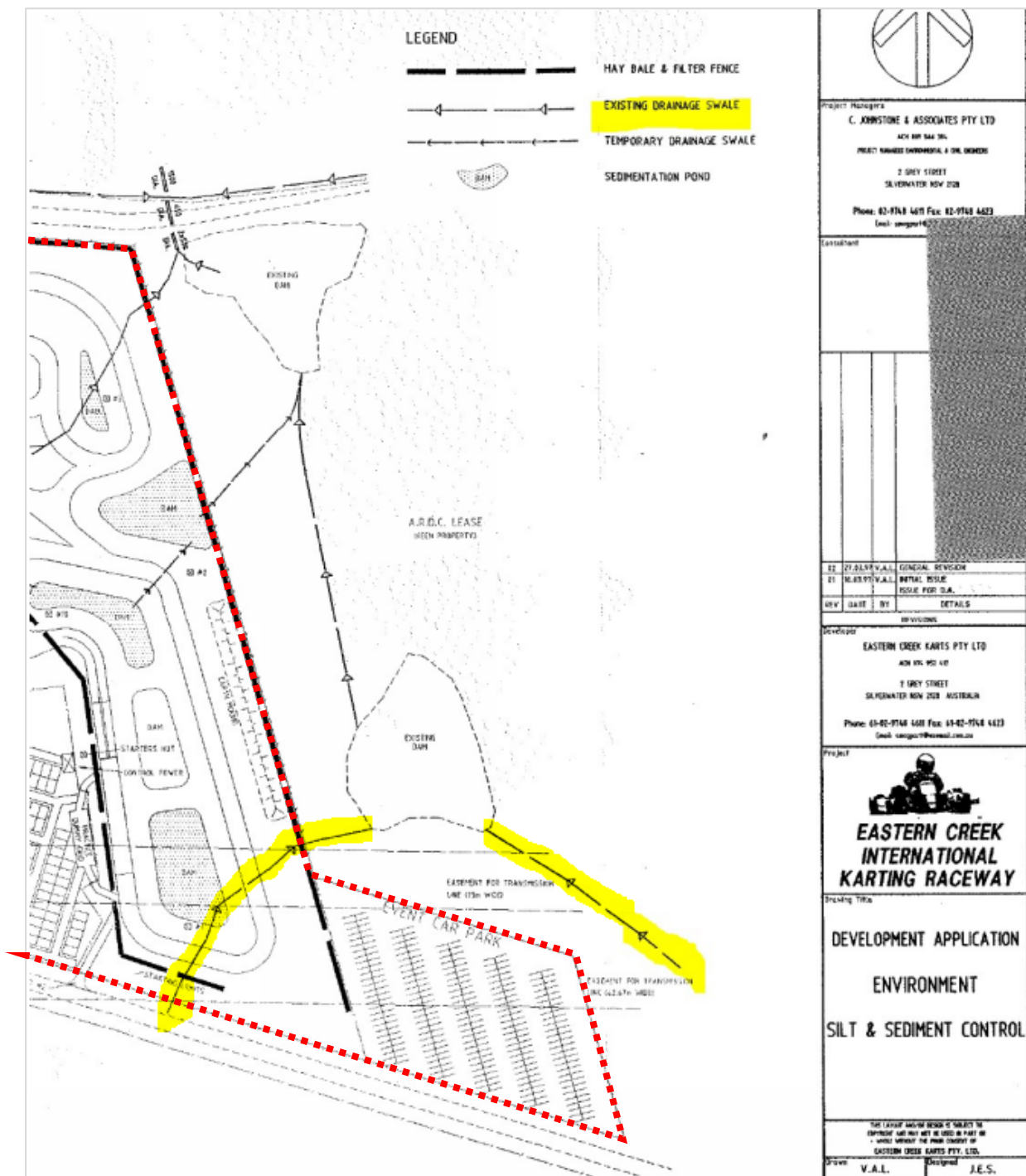


Figure 3: Extract of conceptual stormwater plans approved as part of DC S29/3/97. Red dashed line indicates approximate part eastern and southern boundary of subject site (Source: S29/3/97)

In addition to the above, Sydney Indoor MX Dome obtained Development Consent 17-02115 from Blacktown City Council on 27 November 2017. This consent allowed for the construction and operation of an indoor motor-cross facility in a new “dome”. The approved dome is somewhat separated from the car park which is the subject of this application. The car park is parking for specific events at the motor-cross facility and go-kart track. Below is an extract of the approved motor-cross site plan, which also shows the approximate location of the car park.

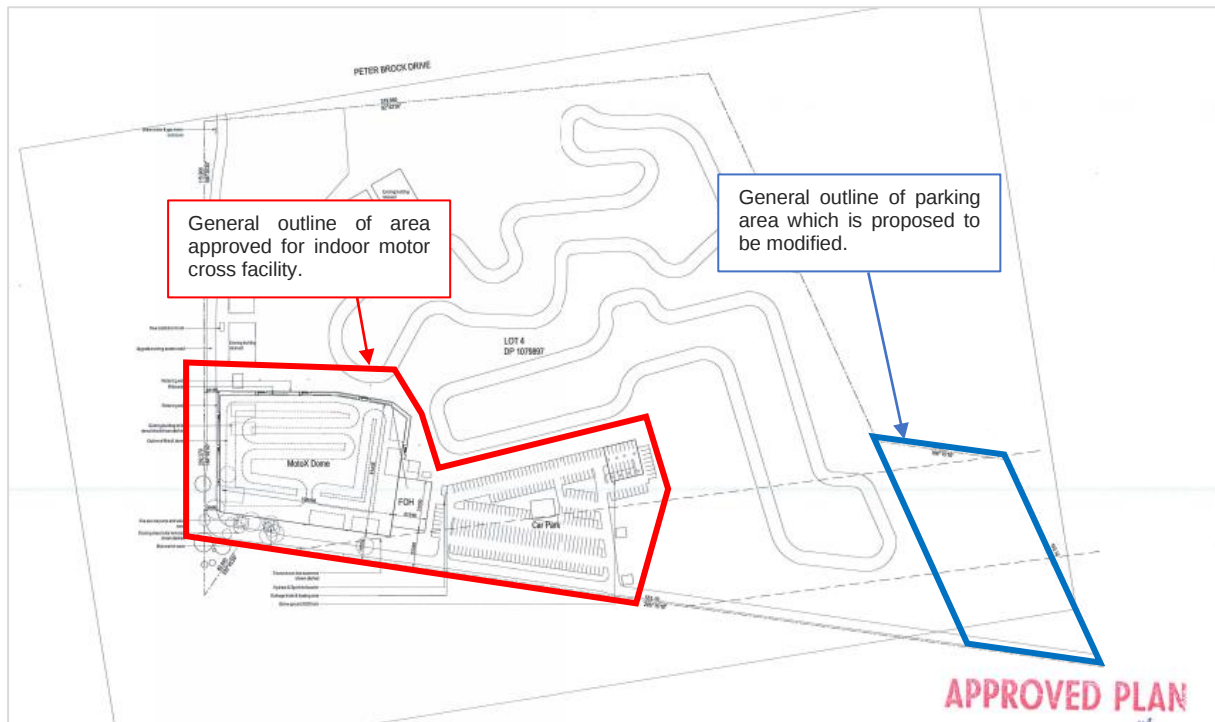


Figure 4: Extract from site plan approved in DA17-02115 (Source: Blacktown City Council/City Plan)

3.2. Proposed Modifications

3.2.1. Overview of Modifications

As described above, Development Consent S29/3/97 allowed for construction and use of an international standard go-kart track, as well as storage facilities and workshops, civil works (including onsite and offsite stormwater management), and parking facilities at the subject site. This application seeks to modify a car parking area and pit area approved in the south-eastern corner of the subject site by increasing the height of the existing ground level by approximately 1.5m – 3.5m to flatten the parking and pit areas and improve their functionality. The parking area is an event parking area and pit area used only for specific events by participants and visitors. The only associated works are drainage improvements and installation of ground stabilization structures primarily retaining walls. The modified car park and pit area will remain within its originally approved footprint.

Specifically, the application seeks to amend Condition No 2 by adding the following words:

- “...and the following plans:
- ‘event carpark modification plan’, prepared by JF Architects, drawing number 201703 DA 102, revision A, dated 17 May 2017.
- ‘Civil works general arrangement plan’, prepared by SGC, project number 20190125, drawing number C201, C202, C203, C204 and C211, revision D, dated 16 November 2020”.

It should be noted that most of the proposed works have already been completed. This has included the filling and compaction works to raise the levels of the carpark by 1.5 - 3.5m. All necessary fill is in place and the land has been formed into the required dimensions.

In addition, some limited stormwater drainage infrastructure works have been completed as set out on page 3 of the stormwater report prepared by Mr Haddad of SGC (see Appendix E). These are:

1. Installation of two 300mm diameter uPVC pipes under the emplaced fill in the west of the event carpark.
2. a drainage swale across the eastern boundary of the parking area.

The work that is yet to be carried out is described below. They do not involve significant earthworks and are largely drainage improvements primarily located around the periphery of the emplaced fill.

Excluding the works described at (1) and (2) above, these works are depicted in the civil works plans prepared by SGC dated 14 October 2020 (see Appendix B), specifically as shown in Drawings C201, C202, C203, C204 and C211 and include:

- construction of a swale and installation of a 450mm stormwater pipe in the west and north-west of the carpark (Western Pipe);
- stormwater drainage infrastructure in the north of the event carpark including PVC pipes and drainage pits, directing stormwater towards the Western Pipe;
- construction of a retaining wall in the north-east of the event carpark and some minor fill to direct water away from the north-eastern boundary;
- landscaping earth batters with turf;
- sealing the carpark with 2-coat bitumen;
- cleaning out the existing drainage swale along the eastern boundary; and
- the extension of the Western Pipe in a north-westerly direction to a proposed headwall with riprap to discharge to an existing wetland.

The application seeks retrospective approval for works that have been carried out and approval for the above described works that are yet to be carried out.

3.2.2. Conditions to be Modified

The application seeks to modify condition 2 of the consent as shown in bold and italics below:

- *The development shall be carried out generally in accordance with the following documents:-*
 - *Development Application No. S29/3/97*
 - *The Development Application document prepared by Eastern Creek Kart Pty. Ltd dated 2 April, 1997*
 - *Addendum document prepared by Hughes Trueman Reinhold dated 18 June 1997;*
 - *Except where amended by plans showing the Site Layout and Location of Buildings numbered 1 – 8 received by the Department of Urban Affairs and Planning on 15 August 1997 **and**;*
 - ***The following plans:***
 - ***‘event carpark modification plan’, prepared by JF Architects, drawing number 201703 DA 102, revision A, dated 17 May 2017.***
 - ***‘Civil works general arrangement plan’, prepared by SGC, project number 20190125, drawing number C201, C202, C203, C204 and C211, revision D, dated 16 November 2020.***

3.2.3. Supporting Documentation

The subject Section 4.55 (2) Modification Application is supported by the following documentation:

- Owner's consent from the Minister.
- Architectural and engineering plans referenced in bold immediately above.
- A contamination assessment prepared by Zoic Environmental Pty Ltd.
- A stormwater management report by SGC.

4. STATUTORY PLANNING FRAMEWORK

4.1. Section 4.55 (2) Modification

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (the Act) addresses modifications to a development consent involving minimal environmental impact and provides that a consent may be modified if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with:*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be*

In response to (a) above “*substantially the same development*” means “*essentially or materially or having the same essence*” as defined by Pearlman C.J. in *Schroders Australian Property Management Ltd v Shoalhaven City Council and Anor* (1999) NSWLEC 251. Accordingly, the key factor to be examined is the substance of the proposal relative to the substance of the development as originally approved. In this case the development as modified would essentially and materially have the same substance or make-up as the approved development.

It is noted that the 1997 consent is broad in scope, permitting a large scale international standard karting race track to be built and operated.

The proposed amendments would not result in any of the following:

- significant change to the nature or intensity of the use;
- significant change to the relationship to adjoining properties;
- adverse impact on neighbours from the changes (drainage overflow, overshadowing; visual and noise intrusion; traffic generation, etc); and
- change to the scale or character of the development.

Accordingly, the proposed modification would not change the essential features of the approved development. The proposal simply seeks to raise and regrade the land in question within the same footprint as that originally approved and ensure the raised land is properly secured and drained.

Further, the proposed modification is substantially the same as originally approved given, in our view, the original consent for S29/3/97 provided some latitude in relation to its design and operation. In this regard, we are of the view that the proposed works to the event car park are within the scope of works originally consented to and can therefore be approved as part of a modification application. We believe

the proposed car park works are substantially the same as those originally approved for the following reasons:

- The subject development area was approved for event car parking purposes.
- The consent did not contain definitive design specifications for the carpark, stormwater or other ancillary works. As such, it is reasonable to assume that some latitude would have been available in the detailed design of the approved works.
- There is little detail in the approved plans, including no final approved levels or grades of land. As mentioned above, this is because the consent allows a reasonably broad scope of works and the works proposed in this modification application generally accord with the original approval.
- The consent was for a substantial state significant development, approved by the then Minister under a State Environmental Planning Policy. The area the subject of that consent was at least 12 hectares, and involved significant earthworks, landscaping and construction. In this context, the final detailed design of a small car park in the corner of subject site was not specified and, as discussed above, only broadly defined. The works the subject of this modification application are, in our view, squarely consistent with the originally approved scope, particularly if such works contribute to the delivery of a world class facility as envisaged by S29/3/97.

With respect to remaining Section 4.55 (2) matters it is relevant to note that:

- this 4.55(2) application concerns modifications to an approved development that does not require the concurrence of the relevant Minister, public authority or other approval body.
- the proposed modifications would not result in anything other than minor environmental impacts, as explained in Section 5 below or the specialist consultant reports accompanying this application as Appendix D, C, D and E; and
- notification of this application is a matter for the DPIE. Should DPIE notify the application and receive any submissions the applicant requests the opportunity to provide a response to any issues raised, prior to the application being determined.

From the above it is evident that the proposal satisfies all provisions of Section 4.55 (2) and that DPIE can categorise the application as one having minimal environmental impacts.

4.2. Matters for Consideration

Section 4.55 (3) of the Act requires that in determining an application for modification of a consent, the consent authority must take into consideration such of the matters referred to in Section 4.15 (1) of the Act as are of relevance to the development the subject of the application.

Section 4.15 (1) identifies the matters to be considered when assessing a development application, being:

- (a) *the provisions of:*
- (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

(v) (Repealed)

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest*

These issues are considered in Section 5 below.

5. SECTION 4.15 (1) ASSESSMENT

5.1. Section 4.15 (1)(a)(i) – Environmental Planning Instruments

The relevant statutory regime and assessment criteria applicable to development on the subject site comprises the following:

- State Environmental Planning Policy (Western Sydney Employment Area) 2009
- State Environmental Planning Policy (Infrastructure) 2007
- Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)
- State Environmental Planning Policy No 19—Bushland in Urban Areas
- Blacktown Local Environmental Plan 2015 and the accompanying DCP 2015.

In considering the implications of the above instruments on the proposal the following are important factors:

- The proposed modification is modest in area and involves no extension beyond the currently approved works envelope.
- The modifications would not alter the character or operational nature of the approved development.
- The proposal does not involve any removal of trees or other native vegetation.
- Improved engineering measures will be implemented to better control stormwater runoff.
- Patronage and employment numbers will not be materially impacted by the proposal.
- The proposal's principal outcomes will be improvements to both internal traffic movement and safety, and drainage and land stability.

Given the above it is self-evident that the proposal is either unaffected by or consistent with all instruments except for SEPP 55, the BLEP and DCP. The proposal's compliance with the provisions of these plans is considered below.

5.1.1. State Environmental Planning Policy No 55—Remediation of Land

Clause 7 - Contamination and remediation to be considered in determining development application

In summary, this clause requires the consent authority to consider whether the site is contaminated as part of any Development Application (DA). If the land is contaminated, the consent authority must be satisfied that the subject site is suitable in its current state or will be suitable following remediation.

Any DA which involves a "change of use" on any land referenced in sub-clause 4, must be accompanied by a preliminary investigation of the site's potential contamination. The proposal does not relate to land referenced in sub-clause 4.

Nevertheless, Zoic Environmental Pty Ltd was engaged to undertake a detailed investigation of the subject development area for the purposes of sub-clause 1. Their assessment is included at Appendix D. The methodology used by ZOIC to undertake the assessment included:

- Inspecting the subject site and immediate surrounds;
- Identifying and understanding surrounding land uses;
- Understanding the relevant geology and hydrology;
- Research the subject site's land use history, including identifying previous development consents, searching EPA records, researching aerial records, and the like;

- Reviewing the VENM documentation obtained by the operator of Indoor MX Dome for the purposes of the fill in question;
- Undertaking soil sampling and testing, including soil drilling; and,
- Documenting the outcomes of the soil testing.

The report by ZOIC subsequently concludes that “...No further action is required at the site to comply with the requirements of State Environmental Planning Policy (SEPP) No. 55: Remediation of Land” and that “materials imported onto the site meet the criteria for commercial land use for a car park from a contamination perspective and are suitable to remain on site”

Given the above, the proposed modification works comply with the provisions of SEPP 55.

5.2. Section 4.15 (1)(a)(ii) – Draft Environmental Planning

At the time of preparing this report no draft instruments of relevance to the proposal were on exhibition.

5.3. Section 4.15 (1)(a)(iii) – Development Control Plans

Blacktown Development Control Plan 2015

The BDCP 2015 applies to the subject site. However, it is considered that the BDCP 2015 is of limited relevance given the original consent was issued in 1997 by the then Minister for Urban Affairs and Planning under a significantly different statutory planning regime that has since been repealed and replaced by State Environmental Planning Policy No. 29 – Western Sydney Recreation Area. Notwithstanding, the proposal's compliance with the BDCP is assessed in Table 1.

Table 1: BDCP 2015 Compliance Table

Control	Compliance Y/N
Part A – Introduction & General Guidelines	
Part 6 – Car Parking	
It is important to recognise that the development area was approved for parking purposes in the original Development Consent S29/3/97, and the parking provided was considered sufficient for the land use to which this DA relates (i.e. the indoor motor-cross facility) was also separately approved in Development Consent 17-02115 issued by Blacktown City Council. As such, Part A(6) of the BDCP is relevant with regard to the design of the proposed parking spaces but not to the number of parking spaces provided.	
6.4.1 Location of parking area Within the development site the location of the parking area should have regard to: (a) The site conditions, such as slope and drainage (b) The visual amenity of the development and the adjacent sites (c) The proximity of the parking area to any neighbouring residential areas (d) The relationship of the building/s to the parking area	Yes The proposed parking area is suitable given it relates to an approved parking area, as provided by Development Consent S29/3/97. Further, it is in close to an existing driveway crossing along Peter Brock Drive and the land use to which the spaces actually relate (i.e. the indoor motor-cross facility).

(e) The relationship of the parking area to the street.	
6.4.2 Access Car parking areas should be designed so that vehicles can enter and leave the site in a forward direction.	Yes The car park in question is designed such that vehicles can enter and exit the subject site in a forward direction.
6.4.3 Manoeuvring The NSW Roads and Maritime Services' standards for car, truck and semi-trailer design turning paths (which are available from Council) should be used to determine the layout of parking areas.	Yes The civil and architectural plans accompanying this application at Appendix B and C respectively, demonstrate that the proposed parking spaces and associated aisles have been designed in accordance with the various standards referenced in controls 6.4.3 and 6.4.4.
6.4.4 Bay and Aisle Dimensions Bay and aisle dimensions should be designed in accordance with relevant Australian Standards	
6.4.6 Pedestrians Parking areas should be designed to minimise the potential for vehicular / pedestrian conflict.	Yes The parking area's aisles are particularly wide to accommodate trailers. As such, they provide pedestrians with sufficient space to minimise conflicts with vehicles. They also provide pedestrians with ample viewing capacity of any approaching vehicles.
6.5 Materials All internal roads and car parking areas must be constructed of hard-standing, all-weather material which is maintained to the satisfaction of Council at all times.	No The car parking in question is not proposed to be hard sealed with bitumen or the like. It will be surfaced with crushed 'blue metal' and appropriately compressed. Whilst this does not strictly comply, it is considered sufficient as it will allow sufficient manoeuvrability whilst avoiding potential erosion through the measures given in the civil plans at Appendix B and the Stormwater Report at Appendix E. The car park in question is only intended for temporary use and the proposed finish is considered suitable in this regard. Other car parks throughout the site used on a regular and/or daily occurrence are indeed sealed as required by the control. Further, the proposed car park finishing is consistent with finishing allowed by DC S29/3/97.
Part H – Landfill Guidelines	
Part 3 – General Requirements A person who undertakes any landfill activity will have to demonstrate through the application process that they have considered the potential impacts on:	These matters have been addressed largely by the contamination assessment at Appendix D, civil plans at Appendix B, and stormwater report at Appendix E.

(a) Soil erosion and sedimentation (b) Flooding / floodways / stormwater runoff (c) Groundwater / surface water (d) Contaminated material (existing or imported) (e) Existing trees and vegetation (f) Water pollution (g) Dust (air pollution).	In summary, the contamination assessment by ZOIC concludes that the site is suitable for the proposed use. Similarly, SGC has included stormwater measures which will adequately manage stormwater generated by the proposal.
Landfilled areas must: (a) Comprise clean material free from contamination (imported material shall be virgin excavated natural material (VENM)) (b) Be suitably compacted and stabilised with density tests to verify that compaction was achieved (c) Be revegetated where appropriate (d) Be provided with soil erosion and sedimentation controls in accordance with Part J (Water Sensitive Urban Design and Integrated Water Cycle Management) of Blacktown DCP 2015.	These matters have been addressed largely by the contamination assessment at Appendix D, civil plans at Appendix B, and the stormwater review at Appendix E. In addition, sedimentation and erosion control measures are already in place by virtue of Condition 10 in the original approval.
Part I – Contamination Land Guidelines	
This part of the DCP is addressed by the contamination assessment given in Appendix D. In summary, this assessment provides that "...No further action is required at the site to comply with the requirements of State Environmental Planning Policy (SEPP) No. 55: Remediation of Land." In this case, it is considered that Part I of the DCP, as well as SEPP 55, have been adequately addressed by the proposal.	

The table above demonstrates that the proposal achieves a high level of compliance with the relevant elements of the BDCP 2012. Any non-compliances are minor and of no material consequence.

5.4. Section 4.15 (1)(a)(iia) – Planning Agreements

Not applicable.

5.5. Section 4.15 (1)(a)(iv) – Matters Prescribed by the Regulations

Not applicable.

5.6. Section 4.15 (1)(b) – Likely Impacts of the Development

5.6.1. Built form

The proposal does not include any buildings or the like. The proposal will, however, increase the RL by approximately 1.5m to 3.5m and this increase warrants consideration with regard to visual impacts.

The development area is substantially setback from most publicly accessible areas such as streets and footpaths and has a backdrop of established trees on the adjoining western property (see Figure 5). As such, the increased RL will have negligible visual impact, if any, from public areas. Given the subject

site is within an established industrial zone, with large scale warehouses, impacts from adjoining privately owned properties will also be negligible.



Figure 5: Raceway Place street view with fill in place (red outlined). Their impact is negligible when considered against the backdrop of existing trees and large warehouses. (Source: Google Street View/City Plan)

5.6.2. Amenity

The proposal will not cause any amenity impacts, such as noise or odour. There will be minor visual change due to the elevated finished ground level, but it will not have consequential effects particularly as the area in question is already approved and used for parking. Further, the locality is industrial in nature which, arguably, has lower visual amenity expectations. Regardless of the industrial nature, the locality in and of itself does not contain any notable visual elements such as notable buildings or views towards water, or district views.

5.6.3. Traffic and parking

The development area is already approved for parking. The increase in height will not change the nature of the approved traffic and parking impacts. As discussed earlier in Table 1, the proposed parking and manoeuvring arrangements have been designed in accordance with the relevant standards meaning no adverse traffic and parking impacts will occur. This design has been verified by SGC, as demonstrated in Appendix B. The impacts will be positive providing improved access, manoeuvrability and safety.

5.6.4. Heritage

Given the site is not listed as an item of environmental heritage within the Blacktown LEP 2015, related impacts will not occur.

5.6.5. Drainage

The proposal will significantly improve stormwater management including for neighbouring properties. All stormwater will be conveyed effectively across the site and into the local stormwater network rather than some drainage being to neighbouring properties as currently occurs. Stormwater provisions for the proposed works have been designed by SGC (refer to Appendix B and E).

5.7. Section 4.15 (1)(c) – Suitability of the Site

The suitability for the site for the car parking was established by the granting of consent to Development Application S29/3/97. The proposed modification does not change this conclusion.

5.8. Section 4.15 (1)(d) – Submissions

The consent authority will need to consider any submissions received in response to the public exhibition of the proposed development.

5.9. Section 4.15 (1)(e) – Public Interest

Pursuant to *Ex Gratia P/L v Dungog Council* ([2005] NSWLEC 148), the question that needs to be answered with respect to the public interest is “*Whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development?*”

Construction of the proposed works may cause some minor nuisance. Once established no unsatisfactory impacts will result from the proposed development, whereas it will have benefits for users and visitors- improved and safer access- and neighbours- much improved stormwater management. Thus, positive impacts clearly outweigh negative ones and, as such, the proposed development will be in the public interest.

6. CONCLUSION

This application seeks approval for a modification that will have minor impacts and be substantially the same as that in Development Consent S29/3/97.

A comprehensive assessment of the proposed modifications has been undertaken against all the applicable environmental planning provisions. The modification will be largely compliant in terms of meeting applicable standards, underlying objectives, and merits. The assessment demonstrates that the modification will be:

- substantially the same development as that which was originally approved;
- a suitable use of the site;
- consistent with the aims, objectives and provisions of the applicable planning instruments and guidelines including SEPP 55; and
- a minor and appropriate development that will improve both internal traffic flows and safety, and drainage control and land stability.

The proposal will thus benefit all relevant parties- the operator, participants, visitors, and neighbours meaning it will also be in the public interest.



APPENDIX A



APPENDIX B



APPENDIX C



APPENDIX D



APPENDIX E