

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
Application number and project name	SSD-10422 New Berrima Brickworks Facility
Applicant	THE AUSTRAL BRICK CO PTY LTD
Consent Authority	Minister for Planning and Public Spaces

Decision

The Director, Industry Assessments, under delegation from the Minister for Planning and Public Spaces has, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**the Act**) granted consent to the development application subject to the recommended conditions.

A copy of the development consent and conditions is [available here](#).

A copy of the Department of Planning, Industry and Environment's (the Department's) Assessment Report is [available here](#).

Date of decision

28 May 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 objects of the Act;
- the considerations under s 7.14(2) and 7.16(3) of the *Biodiversity Conservation Act 2016*;
- all information submitted to the Department during the assessment of the development application and any additional information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report; 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. Additional reasons for making the decision are also recorded in the Department's Assessment Report.

The key reasons for granting consent to the development application are as follows:

- the development will facilitate the improved environmental performance and continued production of bricks in the Southern Highlands region to support the NSW construction industry.
- the project would provide a range of benefits for the region and the State as a whole, including investment of \$80 million into the Southern Highlands economy, creation of 70 jobs and retention of 35 existing jobs, improvement to environmental performance for brick manufacturing.
- the project is permissible with development consent and is consistent with NSW Government policies including the Sydney-Canberra Regional Corridor Strategy 2006-2031 and South East and Tablelands Regional Plan 2036.
- 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; and
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent.
- weighing all relevant considerations, the project is in the public interest. subject to conditions of consent.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement for the project from Friday 31 July 2020 until Friday 28 August 2020 (28 days) and received 14 public submissions, including 4 objections and 10 providing comment.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker include greenhouse gas emissions, air quality impacts, noise impacts and biodiversity impacts. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<p><i>Air Quality</i></p> <ul style="list-style-type: none"> Concern was raised in the public submissions regarding the cumulative dust emissions of the development and surrounding industrial uses within the locality 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant provided an Air Quality Impact Assessment (AQIA) to assess the impacts of the development on air quality. In particular the AQIA provided an assessment of the development's contribution to particulate matter (PM) levels in the locality. The Department reviewed the AQIA in consultation with the EPA and found the development would have a minimal contribution to existing PM and would not result in any additional exceedances of the cumulative assessment criteria for PM_{2.5} and PM₁₀ under the Protection of the Environment Operations (Clean Air) Regulation 2010. <p><i>Conditions</i></p> <ul style="list-style-type: none"> The Department has recommended conditions of consent requiring the Applicant to undertake post commissioning monitoring of the air emissions and air emissions validation reporting to ensure site emissions are compliant with the emissions limits of the EPL. In addition, conditions of consent are recommended requiring the Applicant to prepare and implement an air quality management plan (AQMP) to the satisfaction of the Planning Secretary to manage and mitigate pollutant emitting operations of the development.
<p><i>Noise</i></p> <ul style="list-style-type: none"> Concern was raised in the public submissions that the development may result in unacceptable noise which will negatively impact on the noise amenity of local residents. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant provided a Noise Impact Assessment (NIA) to assess the impacts of the development on the acoustic amenity of the locality. The NIA provided a cumulative assessment of the noise impacts associated with the development and surrounding industrial development on the locality including local residents and sleep disturbance. The NIA additionally provided an assessment of construction noise impacts generated during the construction of the development. The Department reviewed the NIA in consultation with the EPA and its assessment found the development would comply with the project noise criteria at all receivers during day, evening and night with no predictions of sleep disturbance. The Department also considered the construction phase of the development will not have an adverse impact on the acoustic amenity. <p><i>Conditions</i></p> <ul style="list-style-type: none"> The Department has recommended conditions of consent imposing noise limits for the operation of the development and requiring the Applicant to undertake post-commissioning noise monitoring and reporting to ensure compliance with the noise limits. The Department has also recommended a condition requiring the Applicant to prepare and implement a Construction Noise Management Plan to manage noise generated during the construction of the development.
<p><i>Renewable Energy</i></p> <ul style="list-style-type: none"> Concern was raised in the public submissions that the Applicant had not adequately considered the implementation of renewable energy sources such as hydrogen and solar power for the operations of the development. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant provided consideration of the public's concern for renewable energies in its Response to Submissions (RtS) document. The Applicant updated the design of the development to include solar panels on the roof of the facility with an area of approximately 1,968 m². The Applicant also noted its consideration of alternative energy sources for kiln firing including microwave technology and hydrogen but stated alternative renewable energies technologies are not yet practical and feasible in NSW. The Applicant has further committed to ongoing research and consideration of the implementation of renewable energies technologies for its operations nationwide. The Department has undertaken an assessment of greenhouse gas emissions and concluded the development's contributions to state and national greenhouse gas emissions would be minimal. In addition, the Department notes alternative renewable energies technologies such as

	<p>microwave and hydrogen have not been adequately tested at an industry scale yet for implementation in NSW.</p> <p><i>Conditions</i></p> <ul style="list-style-type: none"> The Department has recommended conditions of consent requiring the Applicant to prepare and implement a Community Consultation Plan (CCP) which is to include procedures for updating the local community on the Applicant's research and consideration of practical and feasible renewable energies.
<p><i>Biodiversity</i></p> <ul style="list-style-type: none"> Concern was raised in the public submissions for the developments impact on biodiversity and local wildlife. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The development will require the removal of 2.06 hectares (ha) of vegetation to accommodate the development footprint. The Applicant provided a Biodiversity Development Assessment Report (BDAR) in accordance with the Energy, Environment and Science Group of DPIE's Biodiversity Assessment Method (BAM). The BDAR identified the vegetation of the site had been impacted by historic agricultural land use and the invasion of exotic ground coverage vegetation species had resulted in the clearing and degradation of native vegetation with the exception of scattered clusters of native vegetation. The BDAR concluded a total of 34 species credits are required to offset the clearing of vegetation on the land. The Applicant has additionally proposed the restoration and management of an identified riparian corridor located to the south and south-west of the site. The EES recommended the offsetting of 34 species credits, implementation of management measures during vegetation clearing and the implementation of a vegetation management plan which includes the restoration and management of the riparian corridor. The Department's assessment concluded the Applicant had satisfactorily considered the practical and feasible minimisation of impacts to the site's biodiversity. <p><i>Conditions</i></p> <ul style="list-style-type: none"> The Department has recommended conditions requiring the offsetting of 34 species credits in accordance with the <i>Biodiversity Conservation Act 2016</i> (BC Act) and the preparation and implementation of a vegetation management plan for the restoration of the riparian corridor and its ongoing management.
<p><i>Revegetation</i></p> <ul style="list-style-type: none"> Submissions made by the general public highlighted the importance of revegetating the riparian corridor of the site. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant submitted a Vegetation Management Plan which included a proposed 40 m wide restoration of the riparian corridor along the southern and south-western boundary of the site. The riparian corridor is to be revegetated with Southern Highlands Shale Woodlands (SHSW) species. EES reviewed the Vegetation Management Plan and BDAR and endorsed the revegetation of the identified riparian corridor. The Department's assessment considered the revegetation of the riparian corridor would enable the improvement of biodiversity values on the site along with providing visual vegetation screening to the south of the site. <p><i>Conditions</i></p> <ul style="list-style-type: none"> The Department has recommended conditions requiring the Applicant to submit a Vegetation Management Plan prior to operation which confirms the planting of SHSW species as proposed and contains measures for the maintenance and continued rehabilitation of vegetation.
<p><i>Greenhouse Gas Emissions</i></p> <ul style="list-style-type: none"> Concern was raised in the submission the development would not contribute to Wingecarribee Shire local government area aims of zero carbon emissions 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The development is proposed to improve the environmental performance of the Applicant's brick manufacturing operations by replacing the existing and outdated Bowral Brickworks plant which is not in line with best practice for industry. The Applicant provided an assessment of greenhouse gas (GHG) emissions in the submitted AQIA. The assessment demonstrated the development would have a minimal contribution to both NSW state and National GHG emissions. The Applicant has further committed to ongoing research and consideration of the implementation of renewable energies technologies with lower GHG emissions for its operations nationwide. The Department's assessment considered the development to have a minor contribution to State and National GHG emissions and would result in a reduction of overall GHG emissions contributed by the Applicant with the decommissioning of the existing Bowral Brickworks plant. <p><i>Conditions</i></p> <ul style="list-style-type: none"> The Department has recommended conditions of consent requiring the Applicant to prepare and implement a CCP which is to include procedures for updating the local community on the Applicant's research and

	<p>consideration of practical and feasible renewable energies. In addition, conditions of consent have been recommended for the Applicant to prepare and implement an air quality management plan (AQMP) to the satisfaction of the Planning Secretary to manage and mitigate pollutant emitting operations of the development</p>
<p><i>Construction Materials</i></p> <ul style="list-style-type: none"> Comments were raised in submissions from the general public that the development should be constructed of sustainable materials. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant provided an Ecological Sustainable Development report (ESDR) to detail the design and sustainability initiatives incorporated into the development. The ESDR outlined the energy efficient design elements incorporated into the development including building materials such as translucent roof materials for improved natural lighting, window shading, reverse cycle cooling, machinery and utilities to mitigate the environmental impact of the development. The ESDR predicted the design and materials of the development would reduce energy consumption of the office space by 44% and a reduction of 32% of the production building. The Department's assessment was satisfied the Applicant had suitably addressed the principles of ecological sustainable development and had incorporated materials and design features to improve the sustainability of the development. <p><i>Conditions</i></p> <ul style="list-style-type: none"> N/A, development to be constructed in accordance with the provided plans and schedule of materials.
<p><i>Traffic</i></p> <ul style="list-style-type: none"> Concern was raised in the submissions that the increase of heavy vehicles relating to the development could impact on the local road amenity and safety. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant provided a traffic impact assessment (TIA) to assess the impacts of the development on the local and regional road network which demonstrated the development would not impact on the existing level of performance of the key intersections being Berrima Road/Taylor Avenue and Old Hume Highway/Taylor Avenue. However, the TIA noted the intersection of Berrima Road/Taylor Avenue should be upgraded to ensure safe right-turn and left-turn movements for heavy vehicles from Berrima Road onto Taylor Avenue due to higher volume turning movements during AM peak hour periods. Council did not provide a submission during the exhibition period to comment on the proposed intersection works. TfNSW noted the development did not impact upon the State road network. The Department's assessment concluded the development would not have an adverse impact on the existing performance of the local and State road networks and that appropriate upgrade measures have been proposed to ensure the safe turning of heavy vehicles to mitigate impacts on traffic flows during peak periods. <p><i>Conditions</i></p> <ul style="list-style-type: none"> The Department recommends conditions of consent requiring the Applicant to prepare and implement an operational traffic management plan (OTMP) to manage operational traffic flows of the development and require intersection upgrade works to the satisfaction of the relevant road's authority.