



# ESR Horsley Logistics Park Modification 7

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Amendment to Conditions to update references to Lots, update plans and to delete Condition B15 requiring an acoustic barrier

State Significant Development Modification Assessment

(SSD-10436-MOD- 7)

August 2022



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Title: ESR Horsley Logistics Park SSD-10436-Modification 7

Subtitle: Amendment to Conditions, plans and deletion of Condition B15

*Cover image: Aerial view of the proposed ESR Horsley Logistics Park (Source: ESR Developments (Australia) Pty Ltd)*

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# Glossary

Abbreviation	Definition
<b>Council</b>	Fairfield City Council
<b>Department</b>	Department of Planning and Environment (DPE)
<b>EA</b>	Environmental Assessment
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979 (NSW)</i>
<b>EP&amp;A Regulation</b>	Environmental Planning and Assessment Regulation 2021
<b>EPI</b>	Environmental Planning Instrument
<b>GFA</b>	Gross Floor Area
<b>HLP</b>	Horsley Logistics Park
<b>LEC</b>	NSW Land and Environment Court
<b>LGA</b>	Local Government Area
<b>Minister</b>	Minister for Planning
<b>Planning Secretary</b>	Secretary of the Department
<b>RtS</b>	Response to Submissions
<b>SEPP</b>	State Environmental Planning Policy
<b>PS SEPP</b>	State Environmental Planning Policy (Planning Systems) 2021
<b>SSD</b>	State Significant Development

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# 1. Introduction

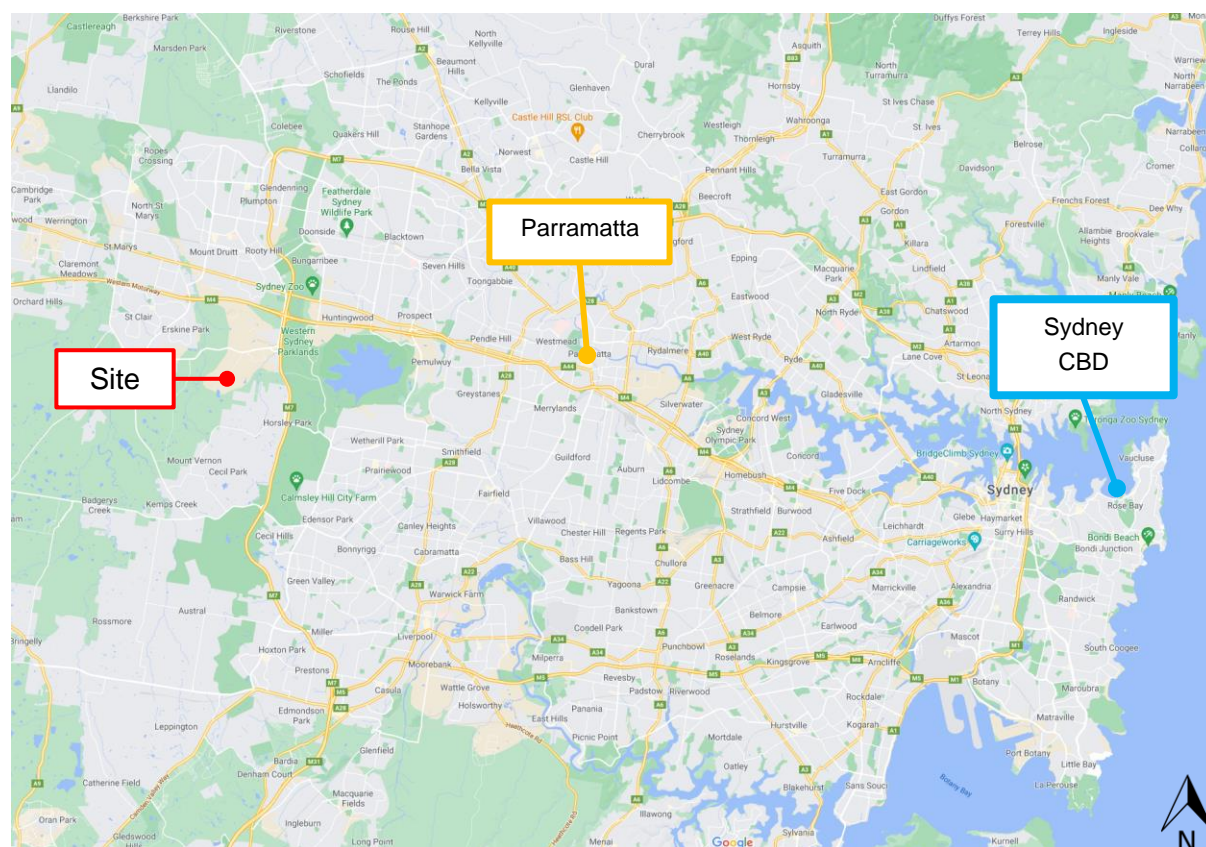
This report provides the Department of Planning and Environment's (the Department's) assessment of an application to modify the State significant development (SSD) consent for the ESR Horsley Logistics Park (HLP) (SSD-10436). The modification application seeks approval to amend conditions to update references to Lots and references to Conditions, to update the estate masterplan and landscape plan and to delete Condition B15 requiring the construction of an acoustic barrier.

The application was lodged on 3 August 2022 by ESR Developments (Australia) (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## 1.1. Background

The Applicant seeks to modify the development consent (SSD-10436-Mod 6) for an approved warehouse and distribution facility at 6 Johnston Crescent, in the Fairfield City local government area. The site is located approximately 35 kilometres (km) west of the Sydney central business district (CBD), 18 km west of the Parramatta CBD and is within the Western Sydney Employment Area (WSEA). The site location is shown in **Figure 1**.

The approved development involves the construction, fit-out and operation of eight warehouse and distribution tenancies in four buildings with a total GFA of 112,719 square metres (m<sup>2</sup>) including offices, loading docks, hardstand areas, truck and car parking areas, landscaping, associated infrastructure and signage.



**Figure 1 | Regional Context Map**



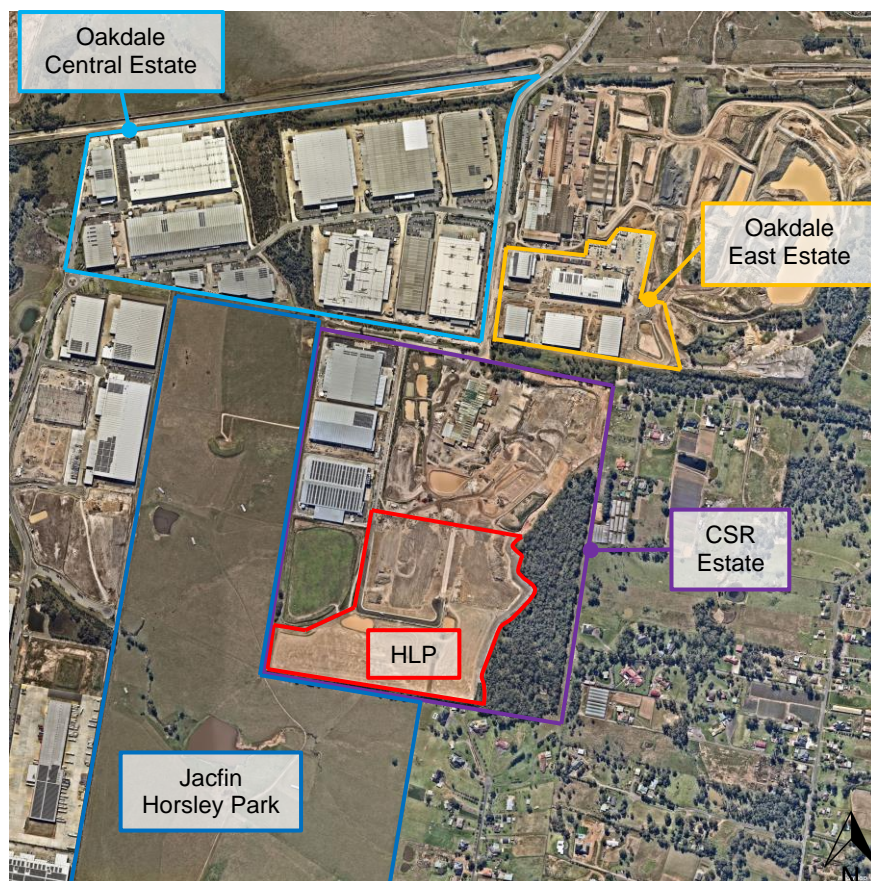
## 1.2. Site Description

On 16 October 2015, the NSW Land and Environment Court approved a staged 14-lot industrial subdivision called the CSR Estate (DA 893.1/2013). The HLP covers approximately 20.8 hectares (ha) of the CSR Estate and is located within Stage 2 and at the southern extent of the CSR Estate. Site preparation works including remediation, bulk earthworks, building pads, road infrastructure and services are being delivered as part of DA 893.1/2013 for the site. Construction work has commenced within the HLP.

The site is located to the north of existing rural residences on Greenway Place separated by a bund, retaining walls and a landscaped buffer constructed as part of the CSR Estate. An 11-lot rural residential subdivision located adjacent to a portion of the southern boundary of the site has been approved but not constructed to date.

To the east of the site is an environmental conservation area established to protect approximately 10 ha of Endangered Ecological Community being Cumberland Plain Woodland. To the west and south of the site is the Jacfin Horsley Park development, which is under early stages of construction as part of project approval 10\_0130. To the north of the site are the other stages of the CSR Estate, which are under construction. Warehousing complexes including Oakdale Central Estate and Oakdale East Estate are located further to the north.

The local context is shown in **Figure 2**.



**Figure 2** | Local Context Map

### 1.3. Approval History

On 31 March 2021, the then Executive Director, Energy, Industry and Compliance as delegate of the then Minister of Planning and Public Spaces (the Minister) granted development consent for the HLP (SSD-10436) at 6 Johnston Crescent, Horsley Park.

The development consent has been modified on 4 occasions and 1 modification is currently under assessment (see **Error! Reference source not found.**).

**Table 1 | Summary of Modifications**

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
<b>MOD 1</b>	Amendments to the layout of Lots 201 and 204	Department	s.4.55(1A)	4 August 2021
<b>MOD 2</b>	Design amendments to Lot 204; renumbering of lots; amendment to development consent condition relating to development contributions	Department	s.4.55(1A)	16 December 2021
<b>MOD 3</b>	Installation of rooftop cooling units on Lot 201	Department	s.4.55(2)	Withdrawn
<b>MOD 4</b>	Design amendments to Lot 204 (formerly Lot 203)	Department	s.4.55(1A)	10 May 2022
<b>Mod 5</b>	Amendment to Lot 201 warehouse, including installation of plant equipment, amalgamation of tenancies and fit out works	Department	s.4.55(1A)	21 February 2022
<b>Mod 6</b>	Amendment to Condition B40	Department	s.4.55(1A)	9 June 2022
<b>Mod 7</b>	Amend Conditions A9, B13, B19, C3 and C6 to update references to Lots and correct referencing, update approved estate masterplan and landscape plans to remove references to an acoustic barrier and delete condition B15 requiring construction of an acoustic barrier (this modification application)	Department	s.4.55(1A)	Under assessment

### 1.4. Acoustic Barrier Requirement - Condition B15

The Department's assessment of SSD-10436 identified the site as having potential for operational noise impacts. The consent for SSD-10436 incorporates conditions requiring the construction of an acoustic barrier (Condition 15) and an awning (Condition 16).

Condition B15 is the subject of this modification, it requires that prior to the commencement of operation of the Lot 201 warehouse, the Applicant must construct the acoustic barrier shown on Lot 201 Site and Facility Plan (Drawing Number 200226-DA-201-A100, Issue C). This plan included a notation on the plan along the western end of the southern wall of the Lot 201 warehouse stating a '*3m high A.FFL x Approx. 80m length masonry acoustic wall (Precast concrete or blockwork to engineer's details)*'. The same notation for the acoustic barrier is included on the Estate Masterplan.

Condition B15 was derived from the Applicant's Noise and Vibration Impact Assessment submitted with the Response to Submissions (RtS) for SSD-10436 as a mitigation measure to minimise noise impacts on adjacent residential receivers.

The Lot 201 Site and Facility Plan (Drawing Number 200226-DA-201-A100, Issue C) is no longer reflected in the consent, it was replaced by an updated plan in the assessment of a Modification to SSD-10436 as detailed in Table 1. As part of the amendment sought to Lot 201 in SSD-10436-Mod 1, the Applicant provided a Noise Impact Assessment which noted that due to the redesign of the Lot 201 warehouse including the extension of the Lot 201 warehouse towards the western boundary, additional acoustic screening was provided to the nearest existing and proposed receiver locations. The Noise Impact Assessment found that the 3m noise barrier to the western hardstand of Lot 201, included in SSD-10436, was no longer required to comply with the operational noise limits at the most affected receivers in each noise catchment area. Subsequent noise modelling was undertaken to accompany further modifications to SSD-10436 on this basis. Condition B15 however, remained in the consent since SSD-10436 was approved in March 2021.

The Department notes that Condition B15, requiring the construction of the 3 m high x 80 m length masonry acoustic barrier, remains within the consent. The acoustic barrier is also shown as a notation on the Landscape Plan (SSD-10436-Mod 1) and the Estate Masterplan (SSD-10436-Mod 6). Condition B15 however, remained in the consent since SSD-10436 was approved in March 2021.

The Applicant has commenced construction of the Lot 201 warehouse and seeks to occupy the warehouse. The Applicant has identified that the noise modelling undertaken to date demonstrates that the 3m acoustic barrier, required under Condition B15, is not needed to achieve compliance at the most affected receivers in each noise catchment area.

As such, the Applicant has lodged a modification application to delete Condition B15.



## 2. Proposed Modification

### 2.1. Proposed Modification

The Applicant lodged a modification application under Section 4.55(1A) of the EP&A Act seeking to:

- amend Conditions A9, B13, B19, C3 and C6 to update references to Lot 202 and updating cross referencing of conditions within the consent
- delete Condition B15 requiring the construction of an acoustic barrier
- update approved estate masterplan, landscape plans and the noise sensitive receiver locations plan (Appendix 1, Figures 1, 6 and 7 respectively) to remove references to the 3 m acoustic barrier.

The amendments to Conditions A9, B13, C3 and C6 are administrative amendments only and do not require further assessment.

Condition B15 is as follows:

*B15. Prior to the commencement of operation of the Lot 201 warehouse, the Applicant must construct the acoustic barrier shown on Lot 201 Site & Facility Plan (Drawing Number 200226-DA-201-A100, Issue C).*

As detailed in Section 1.4, Condition B15 requires the construction of a 3 m acoustic wall along the southern boundary of Lot 201 prior to the commencement of operation of the Lot 201 warehouse. The Applicant argues that Condition B15 is no longer required. The Applicant's Acoustic Consultant found that the 3 m noise barrier was no longer required to comply with the operational noise limits at the sensitive noise receivers. Subsequent noise modelling was undertaken to accompany further modifications to SSD-10436 on this basis. The noise impact assessment for SSD-21190804 the Jalco development within Lot 201 warehouse tenancy 1 was also undertaken on the basis of no 3 m acoustic barrier.

The modification is described in full in the Environmental Assessment (EA) included in **Appendix A** and is shown in **Figure 3**.

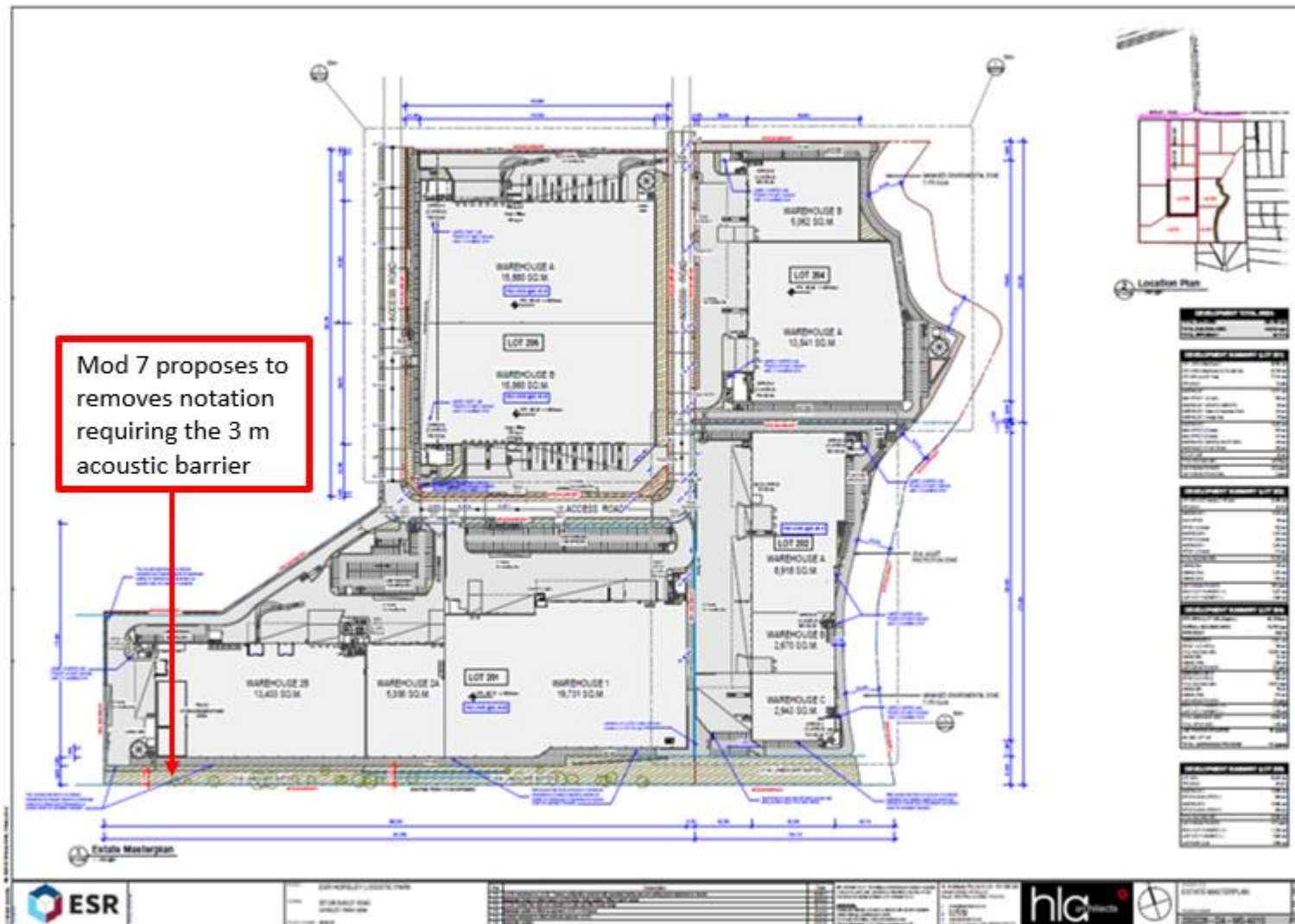


Figure 3 | Proposed HLP Master Plan

## 3. Statutory Context

### 3.1. Scope of Modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as:

- the primary function and purpose of the approved development would not change as a result of the modification
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of consent
- the modification is of a scale that warrants the use of section 4.55(1A) of the EP&A Act
- the modified development is substantially the same development as originally approved.

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

### 3.2. Consent Authority

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

- the Applicant has not disclosed a reportable political disclosure in connection with the application
- there are no public submissions in the nature of objections, and
- Fairfield City Council (Council) has not made a submission by way of objection.

### 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 SSD-10436.

Since lodgement of the modification application, all NSW State Environmental Planning Policies (SEPPs) have been consolidated into 11 policies. The consolidated SEPPs commenced on 1 March 2022, with the exception of State Environmental Planning Policy (Housing) 2021, which commenced on 26 November 2021.

The SEPP consolidation does not change the legal effect of the repealed SEPPs, as the provisions of these SEPPs have simply been transferred into the new SEPPs. Further, any reference to an old SEPP is taken to mean the same as the new SEPP.

This modification application would 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 Act 2016

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

A BDAR waiver request for the original SSD was approved on 6 August 2020 on the basis that the development would not involve the removal of any vegetation and is consistent with EPBC Act Approval (2017/7744) and DA 893.1/2013.

As the modification remains within the approved development footprint and no vegetation removal is proposed, it is not considered there is an increase in impacts on biodiversity values and the Department concludes a BDAR is not required.

## 4. Engagement

### 4.1. Department's Engagement

Clause 117(4) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) requires a section 4.55(1A) modification application to be notified or advertised if specified by a community participation plan. The Department's Community Participation Plan notes the exhibition requirements for such modifications are discretionary, and based on the urgency, scale and nature of the proposal.

Given the proposed changes would result in minimal environmental impacts (see **Section 3**), the application was not notified or advertised. However, it was made publicly available on the Department's website on 5 August 2022.

### 4.2. Response to Submissions

On 11 August 2022 the Department requested further information from the Applicant including land owners consent, updated Estate Masterplan and a comparison of the approved operational noise levels (as per Condition B12 of SSD-10436-Mod 6) compared to the predicted noise levels in the SSD-10436-Mod 1 and Jalco Operational Noise Impact Assessments. This information was received on 12 August 2022. The Applicant's additional assessment found that the 3 m acoustic barrier is not required to achieve compliance with the operational noise levels detailed in Condition B11 of the consent.



## 5. Assessment

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

- the Modification Report and Revised Modification Report provided to support the modification
- the documentation and Department's assessment report for the original development application
- 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 operational noise impacts.

The amendments to update references to Lots and update plans, are administrative in nature and do not warrant a detailed assessment.

There are no other impacts to be considered in conjunction with the Department's assessment.

### 5.1. Operational Noise Impacts

As discussed in Section 1.4, the Applicant seeks to delete Condition B15 to remove the requirement for the construction of an acoustic barrier within Lot 201.

The advice from the Acoustic Consultant confirmed the acoustic barrier was not required to achieve compliance with the Operational Noise Limits within the consent (Condition B12) because the design changes to Lot 201, approved under SSD-10436-Mod 1, resulted in an extension of the Lot 201 warehouse towards the western boundary and created additional screening to the receiver locations. A Noise Verification Report (NVR) for the Lot 202 warehouse was also submitted with the Modification Application, however the Department deemed that the NVR was not relevant to the Lot 201 warehouse (the subject of this modification).

Nonetheless, the Applicant advised that the Operational Noise Impact Assessment prepared by SLR as part of the RtS submitted with the Jalco SSD-21190804 (located within the approved Lot 201 warehouse) was relevant to the current modification application. In the Jalco Operational Noise Impact Assessment, the Applicant advised that the 3 m acoustic barrier was not included as a noise mitigation measure and was not modelled in the predicted operational noise levels in the sensitive noise receivers (**Figure 4**). The predicted operational noise impacts in the Jalco assessment were found to be consistent with the noise levels within Condition B12 of the SSD-10436-Mod 6 consent.

In the Response to Submissions (RtS), the Applicant compared the operational noise levels specified in Condition B12 (SSD-10436-Mod 6) with those predicted in the SSD-10436-Mod 1 and SSD-21190804 Jalco Operational Noise Impact Assessments (**Table 2**). The Applicant found that the predicted operational noise levels for the modification application, which excluded the 3m acoustic barrier in its modelling, would be compliant with the Operational Noise Limits within the consent.

The Applicant concluded that the 3 m acoustic barrier is not required to achieve compliance with the noise levels within Condition B12 at the sensitive receiver locations and that the predicted operational noise impacts at the identified residential receivers would remain generally consistent with the consent.



**Figure 4 I** Site and Sensitive Receivers (Source: Jalco SSD Noise Assessment)

**Table 2** | Comparison of predicted operational noise levels – SSD-10436-Mod 1 and Jalco (Source: ESR)

NCA	Period (weather)	LAeq (15 minutes) Noise Level (dBA)				LAmax Noise Level (dBA)			
		Operational Noise Limit	Predicted (Mod 1)	Predicted (Jalco SSDA)	Compliance	Sleep Disturbance Screening Noise Level	Predicted (Mod 1)	Predicted (Jalco SSDA)	Compliance
NCA01	Daytime (neutral)	44	36	38	Mod 1: Yes Jalco SSDA: Yes	n/a <sup>2</sup>	n/a <sup>2</sup>	n/a <sup>2</sup>	Mod 1: Yes Jalco SSDA: Yes
	Evening (neutral)	43	36	38	Mod 1: Yes Jalco SSDA: Yes	n/a <sup>2</sup>	n/a <sup>2</sup>	n/a <sup>2</sup>	Mod 1: Yes Jalco SSDA: Yes
	Night-time (noise-enhancing)	38	36	38	Mod 1: Yes Jalco SSDA: Yes	52	45	46	Mod 1: Yes Jalco SSDA: Yes
NCA02	Daytime (neutral)	40	38	39	Mod 1: Yes Jalco SSDA: Yes	n/a <sup>2</sup>	n/a <sup>2</sup>	n/a <sup>2</sup>	Mod 1: Yes Jalco SSDA: Yes
	Evening (neutral)	40	38	39	Mod 1: Yes Jalco SSDA: Yes	n/a <sup>2</sup>	n/a <sup>2</sup>	n/a <sup>2</sup>	Mod 1: Yes Jalco SSDA: Yes
	Night-time (noise-enhancing)	38	38	38	Mod 1: Yes Jalco SSDA: Yes	52	48	47	Mod 1: Yes Jalco SSDA: Yes
NCA03	Daytime (neutral)	44	33	38	Mod 1: Yes Jalco SSDA: Yes	n/a <sup>2</sup>	n/a <sup>2</sup>	n/a <sup>2</sup>	Mod 1: Yes Jalco SSDA: Yes
	Evening (neutral)	43	33	38	Mod 1: Yes Jalco SSDA: Yes	n/a <sup>2</sup>	n/a <sup>2</sup>	n/a <sup>2</sup>	Mod 1: Yes Jalco SSDA: Yes
	Night-time (noise-enhancing)	38	36	38	Mod 1: Yes Jalco SSDA: Yes	52	49	52	Mod 1: Yes Jalco SSDA: Yes

Note 1: **Bold** text indicates an exceedance of the project noise trigger level.

Note 2: LAmax criteria are not applicable during this time period.

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### **The Department's Assessment and Conclusion**

The Department has carefully considered the information provided by the Applicant. The Department also notes that no changes are proposed to the operational noise limits and noise management conditions within the consent.

The Department finds that the 3 m acoustic barrier is not required to achieve compliance with the operational noise limits specified in Condition B12 as demonstrated in **Figure 10**.

The Department is therefore satisfied the proposed modification can be supported in this instance, for the following reasons:

- compliance with the operational noise limits is achieved without the 3 m acoustic barrier as the Lot 201 warehouse (SSD-10436-Mod 1) provides acoustic screening to the sensitive receivers (**Figure 9**)
- potential operational noise impact risks would be adequately managed via the conditions of consent including Condition B12

The Department's assessment concludes the deletion of Condition B15 would not result in adverse environmental impacts. The conditions of consent would still limit operational noise impacts and therefore manage any noise risks associated with the development.

## 6. Evaluation

The Department has assessed the modification application and considered the objectives and the relevant considerations under section 4.55 of the EP&A Act.

The Department's assessment of the modification concludes the deletion of Condition B15 and amendments to Conditions A9, B13, B19, C3 and C6 to update references to Lot 202 and cross referencing of conditions, to delete Condition B15 requiring the construction of an acoustic barrier and to update approved estate masterplan, landscape plans and sensitive receiver location plan (Appendix 1, Figures 1, 6 and 7 respectively) to remove references to the acoustic barrier, would not present a risk of harm to the community or the environment.

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

- the conditions to control operational noise impacts are retained within the remaining conditions of consent
- the development could be appropriately managed through the existing and modified condition of consent.

Overall, the Department is satisfied operational noise impacts could be appropriately managed through the existing conditions of consent. It is therefore recommended the modification should be approved.



## 7. Recommendation

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

- **considers** the findings and recommendations of this report
- **determines** that the application SSD-10436 MOD-7 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modify** the development consent SSD-10436
- **signs** the attached approval of the modification (**Appendix B**).

**Recommended by:**



**Rebecka Groth**

Senior Environmental Assessment Officer  
Industry Assessments

## 8. Determination

The recommendation is **Adopted** by:



17 August 2022

**Pamela Morales**

A/Team Leader

Industry Assessments

as delegate of the Minister for Planning

# Appendices

## Appendix A – List of Documents

The Department has considered the following key documents during its assessment of the modification:

- ESR Horsley Logistics Park SSD-10436 MOD 7, prepared by Urbis, dated 29 July 2022
- Response to Submissions, prepared by ESR, dated 12 August 2022

These documents may be viewed on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/projects/ssd-10436-modification-7>

The Department has also considered the:

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

## Appendix B – Notice of Modification

The Notice of Modification may be viewed on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/projects/ssd-10436-modification-7>

## Appendix C – Consolidated Consent

The consolidated consent may be viewed on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/projects/ssd-10436-modification-7>