

Notice of decision

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

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| Application type | State significant development |
| Application number and development name | SSD-10436 ESR Horsley Logistics Park |
| Applicant | ESR Developments (Australia) Pty Ltd |
| Consent Authority | Minister for Planning and Public Spaces |

Decision

The Executive Director, Energy, Industry and Compliance 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 Assessment Report is available [here](#).

Date of decision

31 March 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* (NSW);
- applicable NSW Government policies and guidelines;
- all information submitted to the Department during the assessment of the development application;
- advice from relevant NSW Government authorities, Fairfield City Council and Penrith City Council; and
- the views of the community about the development (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 key reasons for granting consent to the development application are as follows:

- the development would provide a range of benefits for the region and the State as a whole, including 254 construction jobs, 441 operational jobs and a capital investment of \$110 million in the Fairfield City local government area;
- the development is permissible with development consent under *State Environmental Planning Policy (Western Sydney Employment Area) 2009* and consistent with NSW Government policies, including the Greater Sydney Region Plan – A Metropolis of Three Cities and Western City District Plan;
- 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 community during consultation and in submissions have been considered and adequately addressed through changes to the development and the recommended conditions of consent; and
- weighing all relevant considerations, the development is in the public interest, subject to strict conditions of consent.

Attachment 1 – Consideration of Community Views

The Department publicly exhibited the Environmental Impact Statement (EIS) from 30 July 2020 until 26 August 2020 and received a total of six community submissions, including four objections.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker include the development's potential noise and visual impacts, consistency with the conditions of consent under DA 893/2013, and management of contamination on the site.

| Issue | Consideration |
|-------------------------------------|---|
| Noise Impacts | <p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant has proposed noise mitigation and management measures including the construction of acoustic barriers and awnings and restricting night-time truck movements on Lot 204 to ensure compliance with the relevant noise criteria including sleep disturbance at sensitive receivers. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Require the development to be constructed and operated in accordance with the relevant noise criteria established under the <i>Noise Policy for Industry 2017</i>. Restrict the number of truck movements on Lot 204 during the night-time to two inbound and two outbound movements within any fifteen-minute period. Prepare noise verification reports to demonstrate the operational compliance of each warehouse tenancy with the relevant noise criteria within three months of operation. Implement suitable and verified mitigation measures to ensure any exceedances of the criteria at sensitive receivers are rectified. |
| Visual Impacts | <p><i>Assessment</i></p> <ul style="list-style-type: none"> The southern boundary treatments and additional tree planting within the site at maturity would provide effective screening and reduce the visual impact of the development. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Prepare detailed Landscape Plans for the site including additional tree plantings at the southern boundary. Prepare a Landscape Management Plan to ensure the southern boundary treatments reach maturity and are maintained for the life of the development. |
| Consistency with DA 893/2013 | <p><i>Assessment</i></p> <ul style="list-style-type: none"> As part of the RtS and as requested by the Department, the Applicant provided a compliance audit of the development against the requirements of DA 893/2013. The compliance audit established that the development was consistent with the requirements established by NSW Land and Environment Court decision, including building pad levels, building heights, road dedication and landscaping. The Applicant also provided works-as-executed plans for the landscape bund on the southern boundary confirming adherence to the relevant conditions in DA 893/2013. <p><i>Conditions</i> Not necessary</p> |
| Contamination | <p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant has provided adequate measures to ensure the site can be made suitable for the development as required by <i>State Environmental Planning Policy No 55 – Remediation of Land</i> including engaging an EPA accredited Site Auditor and by providing Site Audit Statements (SAS) for Lots 201 and 204. A former landfill site is located to the north of Lot 201, outside the site boundary. The landfill site is subject to an approved Remedial Action Plan under a Council DA. A gas collection system and flare for the landfill has also been approved by Council. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Provide SAS's for Lots 202 and 203 prepared by a Site Auditor prior to the commencement of works. |