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# **MODIFICATION REPORT**

Brookvale Oval

Prepared for

**MANLY WARRINGAH SEA EAGLES**

15 September 2021

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# 1. INTRODUCTION

This report has been prepared on behalf of the Manly Warringah Sea Eagles (MWSE) (the Applicant) pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (the EP&A Act). This application seeks to make minor modifications to the internal layout on concourse level 1, and a change to conditions of consent to allow for separate occupational certifications to be given to allow for staged delivery of the rehabilitation pool and the remaining building.

This planning report provides a comprehensive description and assessment of the proposed modifications within the following sections of the report as listed below.

- Section 2 – Summary of the approval history.
- Section 3 – Site and surrounding context.
- Section 4 – Proposed modifications to the current consent conditions.
- Section 5 – Proposed amendments to conditions of consent.
- Section 6 – Assessment of the modified proposal in accordance with section 4.55 of the Act 1979.
- Section 7 – Consideration of relevant matters listed under section 4.15 of the Act 1979.
- Section 8 – Summary and conclusion.

This modification application is supported by an updated architectural plan of concourse level 1 showing the changes. For ease of review, two plans have been included, with one showing the changes in red outline, and one without the red for approval.

The proposed changes, when considered on balance, do not result in a development which is substantially different to that approved. Further, the proposed changes do not result in new, or intensify known impacts resulting from the development. A detailed assessment against the relevant statutory controls has been undertaken within the following sections of this report.

## 2. PROJECT BACKGROUND

On 29 July 2020, the Sydney North Planning Panel resolved to approve DA2019/1190 which sought consent for the construction of a new grandstand and centre of excellence at Brookvale Oval, subject to the imposition of conditions.

The consent approved the demolition works and the construction of a building containing a Centre of Excellence for the Manly Warringah Sea Eagles rugby league football club, the formalisation of seating for approximately 3,000 spectators and public amenities at the northern end of the existing Brookvale Oval with associated landscape and stormwater management works.

Figure 1 CGI of Proposal from Pitch



Source: Hassell

The Centre of Excellence building, as approved, contains two levels. The lower level provides public toilets, an entry foyer, team change rooms and toilets, gymnasium and rehabilitation pool areas, a flexible education space, plant and store rooms. The upper level accommodates; offices, board room, meeting rooms, study, theatrette, breakout area, premium seating area, toilets, plant and store rooms. Tiered seating for 3,000 spectators is proposed. The proposal includes a canopy over the seating area extending out from the top of the Centre of Excellence building.

### 3. SITE CONTEXT

Brookvale Park contains both a neighbourhood park and the well-known Brookvale Sportsground. The sportsground dominates the centre of the Park and includes three stands, uncovered seating, two open grass viewing areas and related facilities and amenities. The area immediately south of the Southern Stand is a steep sloping grass embankment with a range of large trees. A formal car parking area is located on the corner of Alfred and Pittwater Roads whilst the remainder of the Park combines to form the neighbourhood park.

The neighbourhood park is used for both passive and active recreational pursuits and includes an area known as the “Village Green”, the open grass area adjacent to Federal Parade.

The site consists of 5 separate lots, referred to as Brookvale Oval, Pittwater Road, Brookvale; and is located within the Northern Beaches Council Local Government Area (LGA). The site is legally described as:

- Lot 1 on DP651295 (only minor infrastructure works proposed therefore not shown in aerial / LEP figures)
- Lot 1 on DP 784268
- Lot 1 on DP 114027
- Lot B on DP966128
- Lot 6 on DB 785409

The site has an area of 4.6ha, and is bound by Pittwater Road to the south, Alfred Road to the West, Federal Parade to the north, and Pine Avenue to the east. The site topography falls gradually from the norther west of the site, to the southern east of the site. The highest point located on the northern end, and the lowest point located on the southern end along Pittwater Road.

Overland flow paths currently fall from the north, running along the northern embankment and down the eastern side of the site into Council stormwater infrastructure towards Greendale Creek to the south-east of the site. The primary site is outlined in red in the aerial image in Figure 1 below

Figure 2 Site Aerial



Source: Urbis

The site is characterised by the Brookvale Oval sportsground. The ground currently contains three stands, under covered seating, two open grass viewing hills and related facilities and amenities. The area immediately south of the southern stand is a steep sloping grass embankment to Pittwater Road. A formal carparking area is located in the south western corner of the site along with the main entrance and ticket booth. A neighbourhood park is located on the northern side of the unformed section of Federal Parade, along with the Brookvale Occasional Care Centre.

The surrounding context to the site is described as diverse. A spine of commercial and retail runs along Pittwater Road. Uses contained within this spine include the Manly Leagues Club, hotels, pet stores, various neighbourhood shops, small retail premises including tax agencies, and car sales yards. Surrounding the site are a mix of existing residential dwellings, primarily one to two storeys in height. St Augustine's College is located directly adjacent to the west, with Brookvale Public School located to the south west.

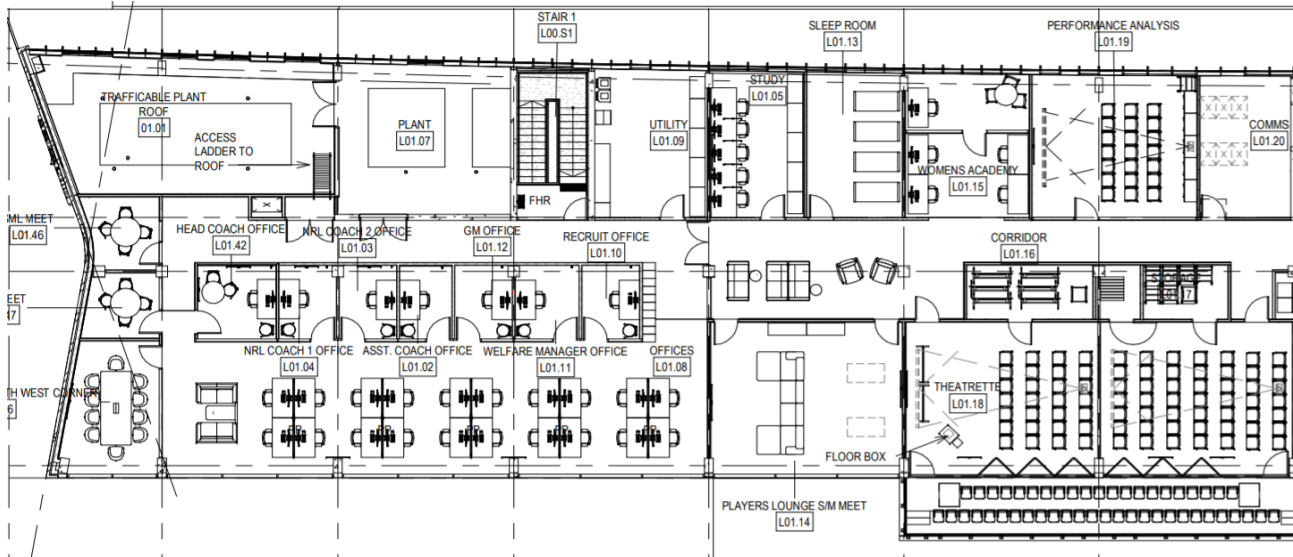


## 4. PROPOSED MODIFICATIONS

As a result of design refinement, the following change is proposed to the Concourse Level 1:

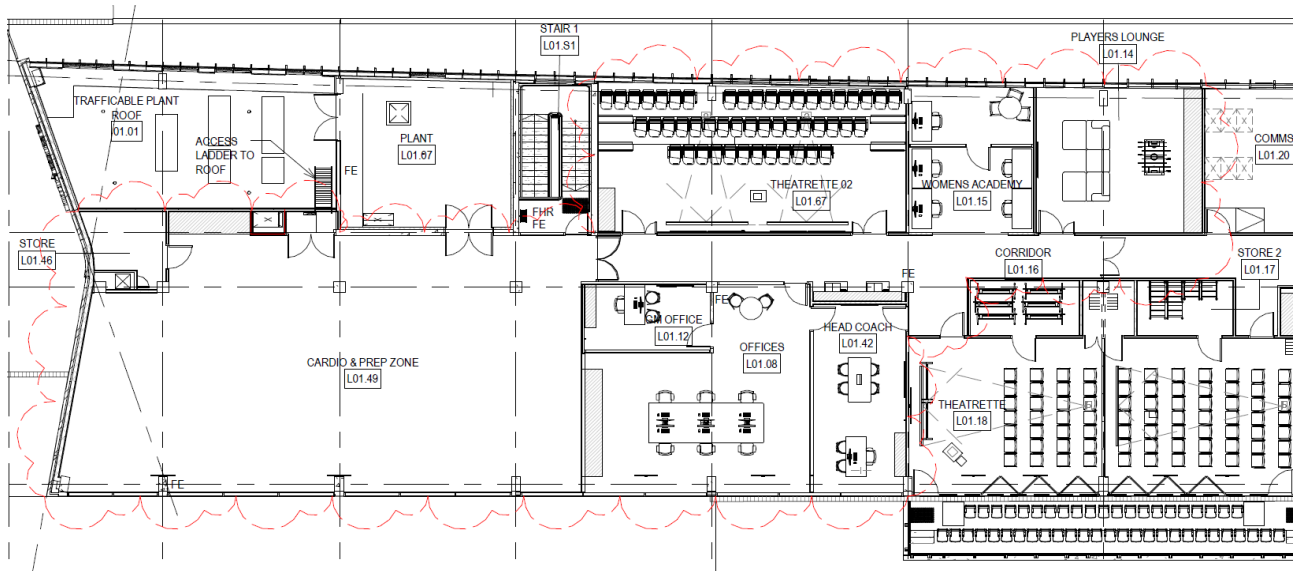
- Changes resulting from the way the Football Department would like to operate the Gym space within the COE have resulted in minor reconfiguration to level 1. This includes a change from currently approved office space to an active cardio gym area, reducing the office space and increasing the gym space. Additionally, the change seeks to introduce a tiered theatrette area for use by the players.
- Importantly, the proposed changes remain wholly within the approved building envelope, and do not propose an intensification of the use through changing the number or type of users of the site. There are no modifications to the external elements of the building whatsoever.

Figure 3 Approved Concourse Level 1 Plan



Source: Hassell

Figure 4 Proposed Concourse Level 1 Plan



Source: Hassell

Additionally, construction delays specific to the rehabilitation pool have resulted in the need to amend **Condition 52**. Specifically, the pool is being procured from Italy where the manufacturer is based. International procurement delays caused by the ongoing COVID pandemic is causing a delay in freight times, thus reducing the contractor's ability to ensure completion of this element in conjunction with the

remaining structure. This has resulted in the following change being necessitated to allow ongoing construction:

- The current condition states that the delivery of the pool is connected to the issuing of '*any interim / final Occupation Certificate*', however it is envisaged this will be changed to enable a Staged OC approach. The proposed wording is discussed in the next section.

## 5. AMENDED CONDITIONS

The proposed amendments to consent DA2019/1190 are shown below in red text.

### 1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A_0301 (Revision M)	03.07.2020	Hassell Ltd
A_0400 (Revision F)	03.07.2020	Hassell Ltd
A_0500 (Revision G)	03.07.2020	Hassell Ltd
A_0501 (Revision A)	03.07.2020	Hassell Ltd
A_1000 (Revision N)	03.07.2020	Hassell Ltd
A_1001 (Revision N)	03.07.2020	Hassell Ltd
A_1002 (Revision N)	03.07.2020	Hassell Ltd
A_1003 (Revision N)	03.07.2020	Hassell Ltd
A_1200 (Revision F)	03.07.2020	Hassell Ltd
A_2000 (Revision P)	13.08.2021	Hassell Ltd
A_3000 (Revision N)	03.07.2020	Hassell Ltd

### 52. Public swimming pools and spa pools fit out

Prior to the issuing of any ~~interim~~/final occupation certificate, certification is to be provided from a suitably qualified professional that the design, construction and fit out of the public swimming pools and spa pools are compliant with the relevant and current guidelines including:

- Public Health Act 2010
- Public Health Regulation 2012

Reason: To ensure compliance with legislation and to protect public health and safety.

## **6. SECTION 4.55(1A) ASSESSMENT**

Section 4.55 of the Act 1979 provides a mechanism for the modification of development consents. This section of the Act sets out the statutory requirements and heads of consideration for the assessment of such a modification application, depending on whether the application is made under section 4.55(1), 4.55(1A) or 4.55(1A).

As is relevant to this application, pursuant to section 4.55(1A), a consent authority may, subject to and in accordance with the Regulations, modify a development consent if:

- a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), 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 any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

Further, subsection (3) requires that the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application, and the reasons given by the consent authority for the grant of the consent that is sought to be modified.

These heads of consideration are addressed below.

### **6.1. MINIMAL ENVIRONMENTAL IMPACT**

The proposal will not result in an intensification of, or creation of new, environmental impacts from the changes to the approved plans. The proposal will remain to service the same number of players, coaches and staff as envisaged under the original consent, while reducing the administrative floor space and increasing player training space. Impacts of the proposed modifications are discussed further in section 6.3 below.

### **6.2. SUBSTANTIALLY THE SAME**

The modified proposal is substantially the same as the original development. The site will continue to be used for player and administrative activities associated with the Manly Warringah National Rugby League Club as the primary purpose, while facilitating refined internal layout requirements of the club.

The visual appearance and functional operation of the proposal will remain substantially the same as that previously approved. Key environmental aspects of the proposal, such as transport access points, useable floor space, and acoustic impacts remain unchanged.

### **6.3. IS THE IMPACT OF THE PROPOSAL ACCEPTABLE?**

The external built form proposed by the development remains unchanged, with all proposed changes being wholly contained within the approved structure. The internal layout will facilitate refined needs of players and coaching staff, while reducing the administrative floor space to be more inline with club requirements.

No additional impacts are considered likely to result from the proposed internal layout changes. As such, the potential impacts of the modifications are considered acceptable

## 7. SECTION 4.15 ASSESSMENT

The proposed modifications have been assessed in accordance with the matters for consideration listed in section 4.15 of the Act as outlined below.

### 7.1. ENVIRONMENTAL PLANNING INSTRUMENTS

The development as modified complies with the relevant provisions of the Warringah Local Environmental Plan 2011 as demonstrated in the table below.

Table 1 Compliance Table

Clause	Comment	Complies
Zoning and Permissibility	<p>The site is zoned RE1 Public Recreation under the Warringah LEP 2011. The proposal remains consistent with the objectives of the RE1 Public Recreation zone for the following reasons:</p> <ul style="list-style-type: none"><li>▪ The proposal is for a high-performance sports centre and formalised covered seating. The already approved office space which is ancillary onsite remains, albeit in a reduced capacity,</li><li>▪ The uses proposed remain compatible insofar as they will enhance the existing operations of the oval. The proposal will deliver further uses on site intrinsically related to the primary operation of the site.</li><li>▪ This proposal provides new modern facilities that will serve the MWSE as well as the local community.</li></ul>	Yes
Height & FSR	<p>The subject site is not subject to a maximum building height standard for the purpose of new development and is therefore subject to a merit-based assessment. The proposed amendments do not alter the external built form and therefore building height.</p>	Yes
Floor Space Ratio	<p>Clause 4.4 of the WLEP 2011 was not adopted, and therefore no assessment is required.</p>	Yes

### 7.2. PROPOSED ENVIRONMENTAL PLANNING INSTRUMENTS

There are on draft environmental planning instruments relevant to the assessment of the modification.

### 7.3. DEVELOPMENT CONTROL PLAN

As required under Section 4.15(3A) of the EP&A Act 1979, a consent authority is required to apply the provisions contained within Development Control Plan with reasonable flexibility to allow alternate design solutions to support outcomes which support the provisions on merit.

As the proposed changes are internal only and do not affect the operational nature of the use, the proposal remains consistent with the applicable provisions of the WDCP 2011.

### 7.4. PLANNING AGREEMENTS

There are no planning agreements relevant to this proposal.

## **7.5. REGULATIONS**

The application has been prepared and assessed in accordance with the relevant provisions of the Environmental Planning and Assessment Regulation 2000.

## **7.6. LIKELY IMPACTS OF THE DEVELOPMENT**

The proposed amendments to the design are minor in nature, internal only and do not affect the operational capacity of the propose use as approved. As such, it is not likely the proposed changes will result in any additional impacts, nor worsen known impacts.

## **7.7. SUITABILITY OF THE SITE**

The modification does not propose significant amendments or a change of use to the approved development that would make it unsuitable for the site. The development as modified will remain suitable for the site for the reasons stated in the original approval.

## **7.8. SUBMISSIONS**

This Section 4.55(1A) application may be notified. Any submissions received in response to the public exhibition will be reviewed as part of the assessment process.

## **7.9. PUBLIC INTEREST**

The proposed development is deemed to be in the public interest for the following reasons:

- The site is zoned RE1 Public Recreation under the WLEP 2011 which envisages the land uses proposed inclusive of the proposed changes.
- The proposal does not impact on the formalised seating on the northern hill which will provide an improved viewing experience for spectators who attend the oval for sporting matches and other events.
- The proposed amendments will not impact on the proposal's ability to provide flexible community space, along with the added benefits of access to the state of the art facilities by sportsmen and women (as part of scholarship programmes with the MWSE club).
- The proposal remains consistent with the POM for the site.

## **8. SUMMARY AND CONCLUSION**

This Statement of Environmental Effects and supporting documentation has demonstrated that the development as proposed to be modified is substantially the same development as that for which approval was originally granted.

There is no resultant increase in known environmental impacts, nor the creation of additional environmental impacts resulting from the proposed changes. The proposed development as modified will not alter the use occurring on site as originally approved and intended.

The proposal is considered satisfactory under Section 4.15 of the Environmental Planning and Assessment Act 1979, and as such it is recommended that approval be granted to the proposal.

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**APPENDIX A**

**UPDATED ARCHITECTURAL PLAN**

