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Wingecarribee Shire Council  
PO Box 141  
Moss Vale NSW 2577  
Attention: Nancy Sample

Dear Nancy,

**RE: Modification Application to Development Application 20/0758, Moss Vale Aquatic Centre, Kirkham Road, Moss Vale**

This Statement of Support has been prepared to support an application made pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*, in relation to the abovementioned Development Application.

It satisfies the requirements of Clause 115 of the *Environmental Planning and Assessment Regulation 2000* in providing the appropriate information to enable Council to appropriately assess and determine the application.

The application seeks to make a minor modification to the Moss Vale Aquatic Centre as approved, through the introduction of an adult change room suitable for those with limited mobility.

All proposed changes are clearly identified upon the plans prepared by Facility Design Group that have been submitted with the modification application.

The proposal is being put forward by BluFit, who manage the Moss Vale Aquatic Centre under licence from Wingecarribee Shire Council, who retain ownership of the facility.

**Approved Development Application**

Development Application 20/0758 was initially approved on 23 June 2020. This approval was for:

*Recreation Facilities (Indoor) – Alterations and Additions*

This Statement of Support provides the appropriate consideration of the proposed modification against the relevant planning legislation to allow Council to be satisfied pursuant to s4.55(1A), that the development, as modified, will be substantially the same development as originally approved and of minimal environmental impact.

*Providing a range of Planning and Development services including:*

· Planning Proposals · Statement of Environmental Effects · Strategic Planning and Development advice · Advocacy and problem solving  
· Land and Environment Court · Local Government specialist

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This is a reasonable conclusion for a number of reasons, including the fact that the development as modified will remain a recreation facility (indoor), with the alterations proposed providing a complementary feature of the development as distinct from changing the nature or function of the use.

There will be no environmental impacts arising from the modification that would be different to any of the potential impacts originally assessed and there would be no consequential changes to any of the imposed conditions of consent other than Condition 1 – reference to plans.

With direct reference to the provisions of Clause 115 of the Regulations, the following information is provided:

*(1) An application for modification of a development consent under section 96 (1), (1A) or (2) or 96AA (1) of the Act must contain the following information:*

*(a) the name and address of the applicant,*

Refer to application form

*(b) a description of the development to be carried out under the consent (as previously modified),*

The approval issued under Development Approval 20/0758 is for the development of the land for a *Recreation Facility (indoor) – Alterations and Additions*. The proposed modification to the consent does not seek any change to this.

*(c) the address, and formal particulars of title, of the land on which the development is to be carried out,*

Refer to application form. The land the subject of Development Application 20/0758 was Part Lot 3 DP1108992. This remains the legal description of the land.

*(d) a description of the proposed modification to the development consent,*

The proposed modification is described in this Statement of Support, but more specifically upon the set of drawings prepared by Facility Design Group.

*(e) a statement that indicates either: (i) that the modification is merely intended to correct a minor error, misdescription or miscalculation,*

It does not correct a minor error, misdescription or miscalculation.

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*Or (ii) that the modification is intended to have some other effect, as specified in the statement,*

The modification is to have the effect of providing an additional change room that is specifically designed for people with mobility issues. It is directly adjacent to the pool deck. It will make the centre a more inclusive community facility.

*(f) a description of the expected impacts of the modification,*

It is not expected that the proposed modification will result in any impacts of an adverse nature, or be different to or greater than, the impacts already accepted by Council in approving the original development application. There are no proposed modifications to any of the operational aspects of the aquatic centre.

*(g) an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved,*

The development, as to be modified, will remain substantially the same as that originally approved. The approval issued under DA20/0758 for the Moss Vale Aquatic Centre, allowed for some important additions to the facilities provided at the centre. The modification to the approved consent retains that development outcome with the addition of a much needed change room that will properly cater for those users of the centre that have limited mobility.

The additional change room will not change the final development outcome in any material way because there is no proposed change to any of the operational aspects of the aquatic centre, nor any change to its overall bulk, scale or character.

*(h) if the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application (except where the application for the consent the subject of the modification was made, or could have been made, without the consent of the owner),*

Wingecarribee Shire Council is the owner of the land and will need to authorize the application.

- (i) a statement as to whether the application is being made to the Court (under section 96) or to the consent authority (under section 96AA), and, if the consent authority so requires, must be in the form approved by that authority.*

Not relevant to this application.

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## **Description of the Modifications being sought**

Council is requested to consider modifying the consent as issued, through the reference to the plans prepared by Facility Design Group that support this modification application.

The proposed changes are highlighted on the submitted plans. In summary these plans provide for a new change room of approximately 14 square metres adjacent to the main pool deck. This change room is specifically designed to accommodate those with mobility issues. This is a positive outcome that ensures the aquatic centre can properly cater for all members of the community.

## **Category of Modification**

The proposed modification to the existing consent is considered to be within the ambit of Section 4.55 of the *Environmental Planning and Assessment Act 1979* (the Act).

The modification application has been lodged pursuant to Section 4.55(1A) of the Act, which states:

### ***(1A) Modifications involving minimal environmental impact***

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the 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.*

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Council is at liberty to accept that the modified development will be substantially the same as the development as originally approved. It remains an approval for an indoor recreation facility.

Section 4.55(1A) is appropriate in this case in recognition of the fact that the proposed modification has no identifiable adverse impacts. Its purpose is to provide an additional amenity for users of the centre.

### **Assessment of Proposed Modification**

The proposed modification to the issued consent is considered to be fair and reasonable, suitable to the circumstances of the case and can be supported.

The general development layout upon the site will remain as approved, with only a small increase in the overall footprint of the aquatic centre. The additions however will not be noticeable from any public space and will not alter the overall bulk, scale or character of the centre. There is no change to the site car parking and road access. All of the above is confirmed with reference to the submitted plans from Facility Design Group.

In support of the proposed modifications, it is noted that making such a change room available within the centre has been consistently encouraged and supported by Council in its regular and ongoing discussions with BluFit who manage the facility for Council. This has been on the basis of ensuring equality of access for all residents of the Shire who may wish to use the facility.

The proposed modifications result in the development occupying a footprint only 16sqm larger than the approved development, with the increased area not being visible. As a result, there will be no change in any physical scale of the development.

In terms of potential impacts, the proposed modification does not change any of the factors previously assessed by Council. This includes potential traffic and parking issues.

The proposed modification will retain the desired effect in terms of its design and character.

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## **Conclusion**

The requested modification to the approved Development Approval 20/0758 is not considered to be significant and is well within the ambit of S4.55(1A) of the Act.

There are no adverse impacts arising from the proposed modification. It has no direct affectation on any of the previously considered issues that were considered with the original Development Application.

The modification will have a significant social benefit in ensuring that all members of the community visiting the aquatic centre have amenities available that facilitate their safety and enjoyment.

Thank you and I would be pleased to discuss any aspect of this submission with you at your earliest convenience if necessary.

Yours Faithfully,

Scott Lee

23 April 2021