



## COUNCIL ASSESSMENT REPORT – MODIFICATION APPLICATION HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSHC-376 DA 2022-95(2)				
<b>PROPOSAL</b>	Grandstand (modification of design and operating hours)				
<b>ADDRESS</b>	Lot 7010 DP 93327 Olympic Park Muswellbrook				
<b>APPLICANT</b>	Muswellbrook Shire Council				
<b>OWNER</b>	Crown Land for which Muswellbrook Shire Council is the Land Manager				
<b>MOD LODGEMENT DATE</b>	13 June 2025				
<b>ORIGINAL DA DETERMINATION DATE</b>	16 April 2024				
<b>APPLICATION TYPE</b>	Modification Application under Section 4.55(2) or 4.56				
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 2.19 Schedule 6 Clause 3 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Council related development over \$5-million				
<b>CIV</b>	\$8,683,659				
<b>CLAUSE 4.6 REQUESTS</b>	NA				
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i></li> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021</i></li> <li>• <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></li> <li>• <i>Muswellbrook Local Environmental Plan 2009</i></li> </ul>				
<b>TOTAL &amp; UNIQUE SUBMISSIONS ISSUES SUBMISSIONS</b>	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;"></td> <td style="width: 50%; text-align: center;">UNIQUE KEY IN</td> </tr> <tr> <td style="text-align: center;">Nil</td> <td></td> </tr> </table>		UNIQUE KEY IN	Nil	
	UNIQUE KEY IN				
Nil					
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	Attachment A: Draft Conditions of consent/reasons for refusal Attachment B: Proposed Plans Attachment C Proposed Stormwater plan				

	Attachment D: Noise Impact Assessment
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b>	NA
<b>RECOMMENDATION</b>	Approval subject to conditions
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	TBC by Panel
<b>PLAN VERSION</b>	<ul style="list-style-type: none"> <li>• Architectural Plans Revision B 28/5/2025</li> <li>• Stormwater Plan Revision C 24/11/2025</li> </ul>
<b>PREPARED BY</b>	Hamish McTaggart
<b>DATE OF REPORT</b>	9 December 2025

## **EXECUTIVE SUMMARY**

- The proposed development involves the demolition of an existing Grandstand in Olympic Park and the construction of a larger Grandstand and new player amenities, a club house, and spaces for supporting activities. The initial development application was approved by the Panel on 16 April 2024.
- This Section 4.55(2) modification alters the grandstand design and in doing so retain elements of the existing grandstand, reduce grandstand seating, reduce the overall grandstand area and revision of various building elements. The modification also seeks to adjust the approved operating hours of a function centre attached to the grandstand, permitting operation up to 10pm Sunday through to Thursday and 11pm Fri, Sat and Public Holidays.
- The proposed modification remains 'substantially the same' as the approved development and has been considered against the relevant criteria for a S 4.55(2) modification as described in this report. Council Officers are satisfied that the modification meets the relevant criteria and may be supported by the Panel.
- A Noise Impact Assessment has been provided from an Acoustic Engineer in relation to the proposed modification and operating hours. This Noise Impact Assessment indicates that the proposed operating hours would not cause for any exceedances to relevant Noise Trigger Levels related to the project under the NSW EPA document Noise Policy for Industry and may be supported subject to the recommendations of the Noise Impact Assessment. Those recommendations include a requirement for the adoption of general practices that manage noise associated with a license premises to be adopted into a Plan of Management for Function Centre operation.
- The proposed modification reduces the overall capacity of the grandstand from 870 to 630 seats. The proposal does not seek any change to the parking and traffic management measures in place/proposed at the time of the initial application approval.

In its consideration of that application and informed by the related Traffic Impact Assessment the Panel accepted the rate of parking available in the precinct as suitable for regular sporting activities/events and that larger events (Major events of 2,000 people or more) would be managed by the implementation of individualised Event Traffic Management Plans. An example Traffic Management Plan indicative of the typical plan to be employed was provided to the Panel and endorsed as an approved document in the determination.

- The modification and proposed changes were considered against Section 4.15(1) assessment considerations. The proposed modification remains compatible with relevant Section 4.15(1) considerations and may be supported by the Panel.
- This modification has been reported to the Hunter and Central Coast Regional Panel as a Section 4.55(2) modification to a development application for which the Panel is the consent authority under the SEPP (Planning Systems) 2021, given the development is a Council related development with capital investment greater than \$5-million.

## **1. THE SITE AND LOCALITY**

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### **1.1 The Site**

The site is located within the Muswellbrook Olympic Park precinct on part Lot 7010 DP 93327, 3 Wilkinson Avenue, Muswellbrook, NSW. The subject site is bound by Haydon Street to the west, the New England Highway to the south, Bell Street to the east, and Australian Rail Track Corporation (ARTC) railway corridor to the north. Lot 7010 DP 93327 is Crown parcel that is currently managed by Council.

The current sporting field areas were originally the site of the Muswellbrook Showground and have been used for organised field sports since the late 1800's. The Showground moved from the reserve in 1955. Amenities were constructed, with the current integrated grandstand and amenities building developed in 1982. The fields are used predominantly for Rugby League in the winter and Touch Football in the summer.

Along with the Muswellbrook golf course, the Olympic Park precinct forms the northern end of an almost 3.2 km long green space corridor running primarily east of the New England Highway from Wilkinson Avenue in the north and along the length of Muscle Creek to Bimbadeen Drive in the south. The site is located directly adjacent to areas zoned E2 Commercial Centre to the north along Market Street and Victoria Street, E3 Productivity Support to the west along Maitland Street and Sydney Street, and R1 General Residential also along Maitland Street, Wilder Street, Gyarran Street, Clifford Street, Victoria Street and Bell Street.

The site is strategically located between Singleton and Scone, approximately a 40-minute drive from Singleton and 25-minute drive from Scone.

The image 1 below identifies the subject site.

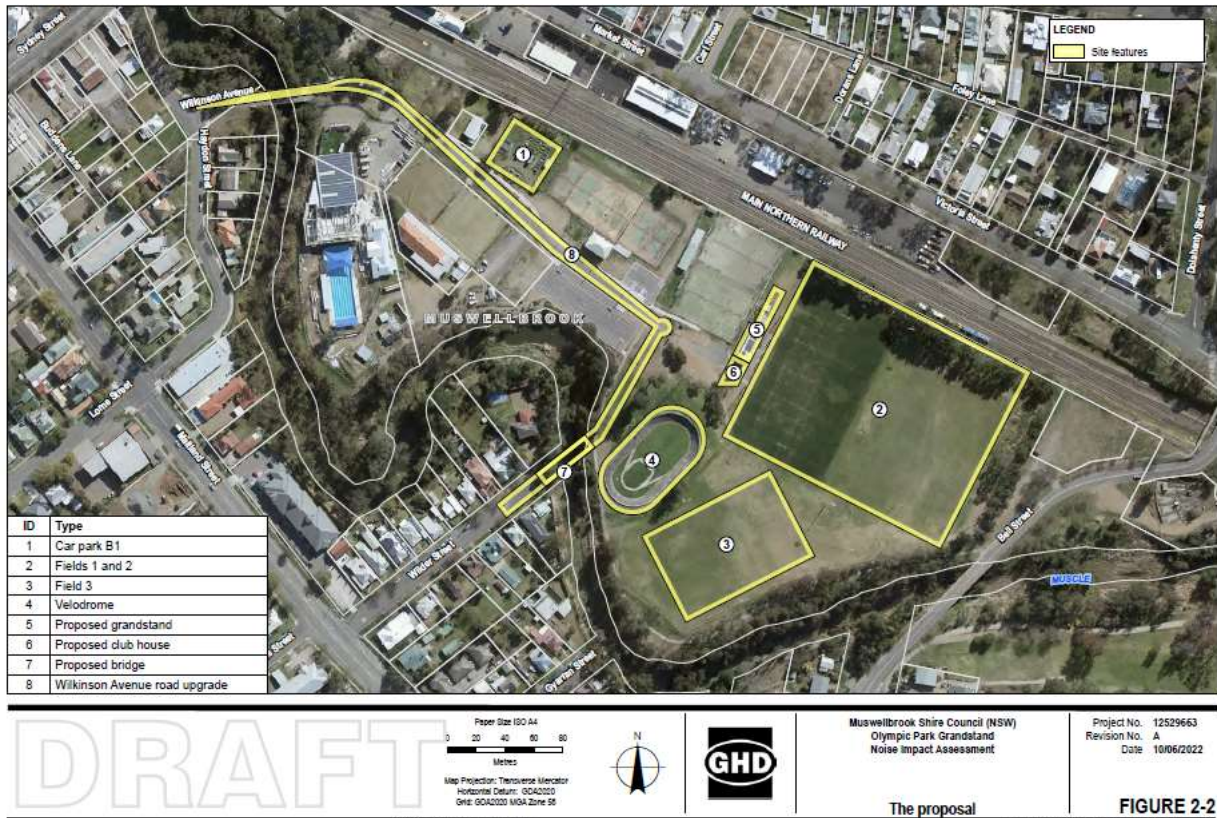


Image 1. Site of the proposed Grandstand in relation to other uses at Olympic park

## 1.2 The Locality – Olympic Park Sporting Precinct

The proposed new Grandstand and amenities are identified within the Olympic Park Master Plan and the Olympic Park Plan of Management.

Olympic Park is a sporting precinct comprising rugby league fields and grandstand, tennis courts, the Ron King Velodrome, the Muswellbrook Aquatic Centre, and two bowling greens.

The existing grandstand is located on the eastern boundary of the tennis courts and western boundary of the existing playing field (Olympic Park). The new grandstand will retain the orientation of the existing grandstand, which faces south-east to the existing playing field.

The site of the Proposal is generally flat. The adjoining land consists of maintained open grassland accommodating two existing football fields directly east, a junior football field directly southeast, and a velodrome directly south of the site. A number of semi mature trees and shrubs are scattered throughout the vicinity of the site.

## 2. THE PROPOSAL AND BACKGROUND

### 2.1 The Proposed Modification

This Section 4.55(2) modification seeks to amend the proposed development by modifying/amending the following aspects of the proposal

Modification to plans:

The key proposed key change proposed as part of this application is the revision of the Grandstand approved plans to alter the design and in doing so retain elements of the existing grandstand, reduce grandstand seating, reduce the overall grandstand area and revision of various building elements.

For ease of reference key proposed design changes are summarised below:

- Retention of parts of the existing grandstand and simplification of the overall design
- Reduction of grandstand overall areas
- Increase of canteen/bar/amenities/clubhouse overall areas
- Reversal of changerooms and amenities locations
- Increase in terrace area
- Access and egress has been improved throughout the building to comply with the relevant standards.
- The storage rooms have been removed from the main building with an 80sqm colorbond steel storage shed proposed adjacent to the building along the railway line.
- Reduction in number of grandstand seats from 870 to 630
- Install overland drainage at the boundary between the tennis courts and grandstand building.

The table below taken from the applicants accompanying letter summarises the proposed changes to individual floor area of various grandstand parts.

**Table 1: Modified Area Schedule**

Location	DA Approved (m <sup>2</sup> )	Modified Design (m <sup>2</sup> )
<b>Ground Level</b>		
Changerooms etc	591	441
Canteen/Bar/Amenities	243.5	325
<b>Level 1</b>		
Clubhouse	144	154
Kitchen/Amenities/Circulation	214	75
Terrace	250	276
Seating/Circulation	515	505
<b>Level 2</b>		
Media/Coaches	177	103
<b>Total</b>	<b>2134.5m<sup>2</sup></b>	<b>1879 m<sup>2</sup></b>

To assist in contrasting the various design amendments proposed Images contrasting the footprint and elevations for both the current approved plans and proposed amended plans have been included here.

Figure 1a – Approved Site Plan

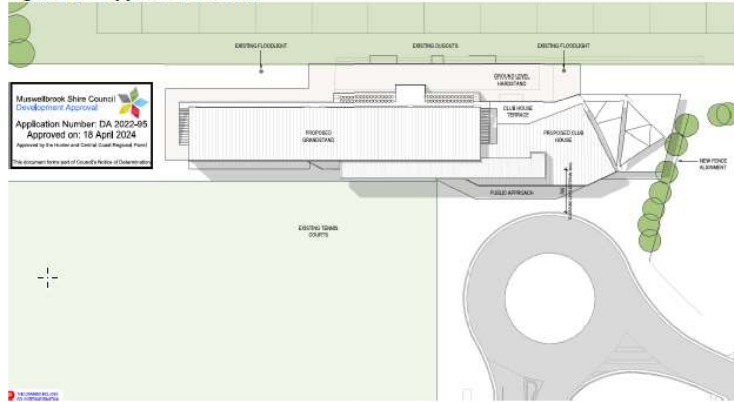


Figure 1b – Proposed Site Plan



Figure 2a - Approved North Elevation

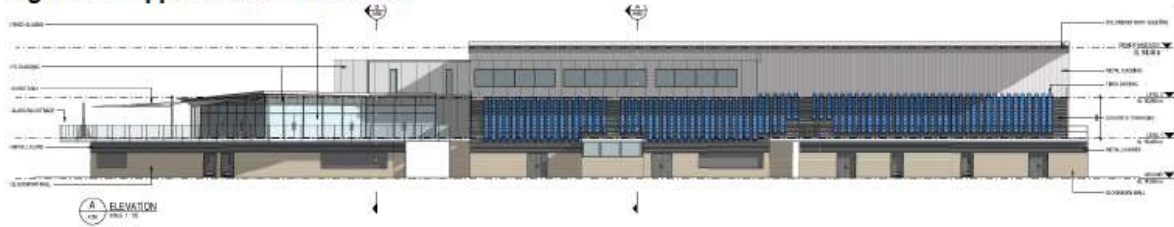


Figure 2b - Proposed North Elevation

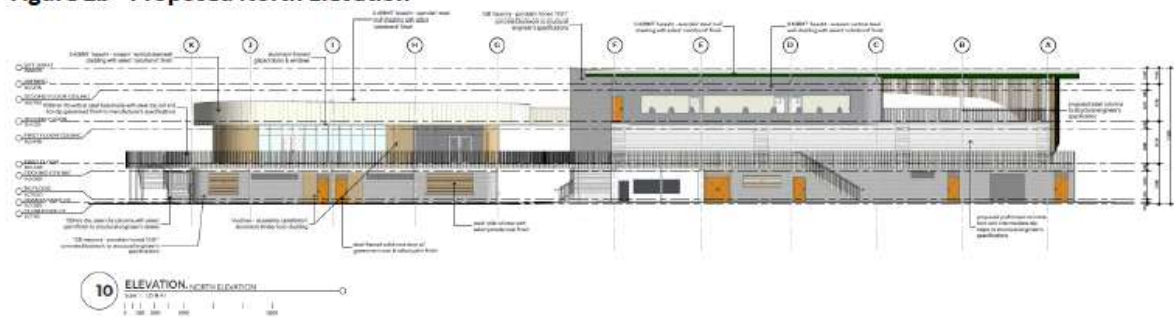


Figure 3a - Approved South Elevation

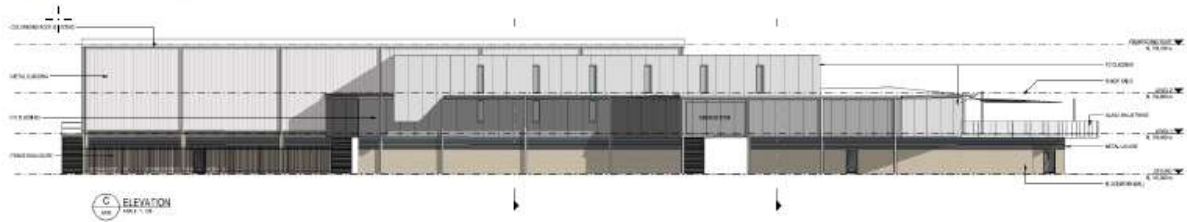


Figure 3b - Proposed South Elevation

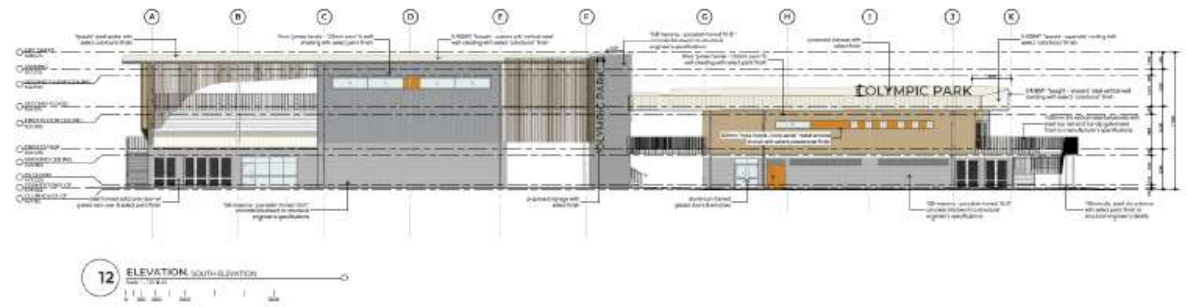


Figure 4a - Approved West Elevation

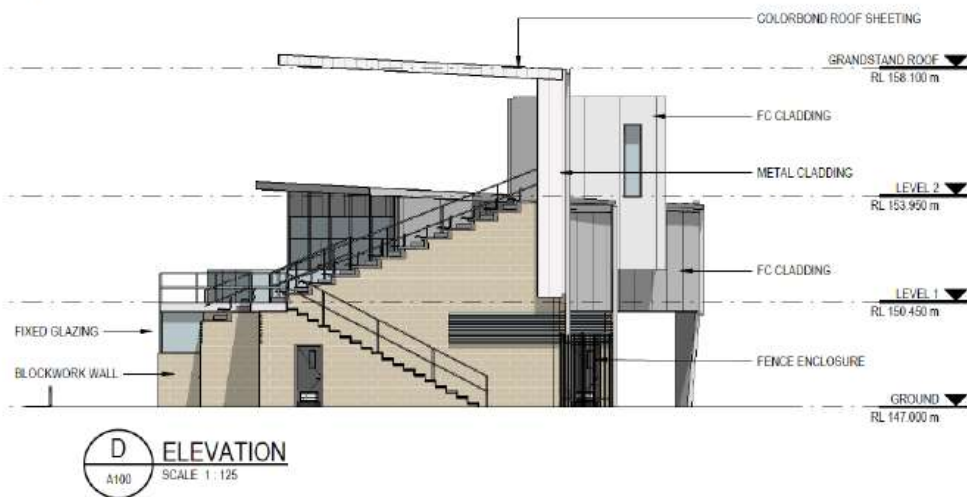
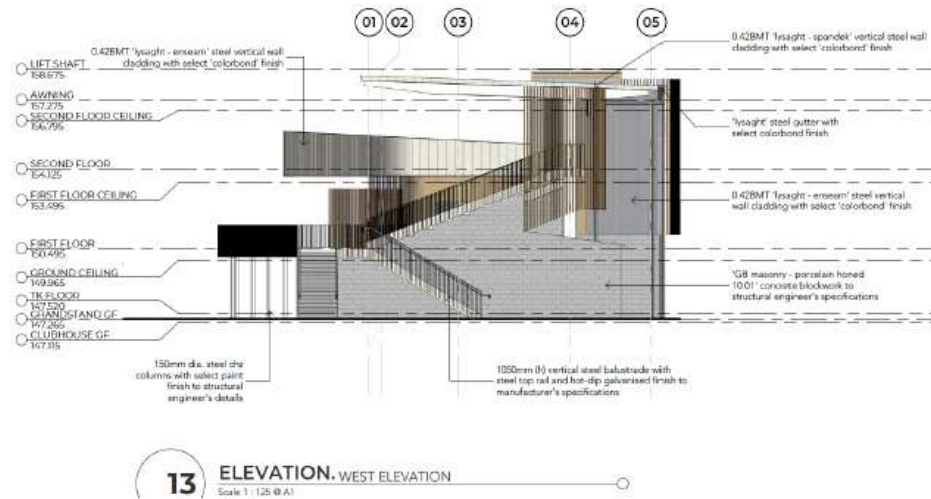


Figure 4b - Proposed West Elevation



**Modify Section 7.12 Contribution**

An updated quantity surveyor cost summary has been prepared related to the proposed amended project.

That estimate costs the amended project at \$8,683,659. The applicant has requested that the conditions related to the payment of Section 7.12 contributions be updated to reflect rates payable relevant to the project as amended.

**Modify Operating hours**

Condition 56 in the Notice of Determination restricted the use of the function centre to – Monday through to Sunday 8:00am and 7:00pm.

The applicant is seeking to amend these permitted operating hours to allow the enable operation of the function centre for the following hours:

- Sunday – Thursday – 8:00am to 10:00pm
- Friday, Saturday and public holidays – 8:00am to 11:00pm

To inform the consideration of the proposed operating hours amendment the applicant has submitted a Noise Assessment Report.

**Proposed Changes to conditions**

Where the Panel is supportive of the findings of this assessment report it is proposed to amend the following conditions to give effect to amendments sought through this application

**Table 1: Proposed Changes to Conditions**

<b>Condition No</b>	<b>Condition requirements</b>	<b>Change Proposed</b>	<b>Reason for Change</b>
1	Approved plans and documents	Amend approved plans to endorse updated plans submitted with this application	Modify to scope of the development to reflect changes proposed through this application
7	Stormwater Detailed Design prior to CC	Amended to reflect updated stormwater design and related requirements from Council Engineer following design review. Specific changes include – removing GPT trap requirement and replacement with downpipe filters – requirement related to kerb gutter pipe installation	Reflect amended design and related Council Roads and Drainage referral advice/requirements for detailed construction stormwater design.
19	Section 7.12 Contribution	Modify S7.12 contributions to reflect change in total estimated cost to the development as a result to	Amend S7.12 contributions to reflect to the updated estimated project costing as informed by

		changes to development scope/plans.	the updated quantity surveyor costing report of \$8,683,695.
12A	CC Engineering Detail	<p>New Condition</p> <p>Condition 12 requires structural detail of new work prior to CC.</p> <p>New condition proposed by Council to require engineering certification of building elements of existing grandstand retained and their ability to support structural loads of alterations and additions.</p>	Proposed by Council Assessment Officers – required to ensure appropriate certification documentation prepared with CC.
25	Construction Management Plan	Updated to include Management Plan to detail measures to protect the adjacent tennis court from any damage through the carrying out of work.	The modified design has the new building constructed adjacent to the adjoining tennis court.
52A	Completion of work related to Tennis Court	<p>New condition</p> <p>Related to completion of work affecting adjoining tennis court and rectification of any damage to playing surface prior to Occupation Certificate</p>	<p>Modified design has new building constructed adjacent to tennis court with alterations to the court required/detailed.</p> <p>New condition those works to be completed prior to Occupation Certificate and rectification of any damage to the court surface related to construction activities.</p>
56	Operating Hours	Update approved operating hours to endorse operating hours proposed through this application.	Modify to scope of the development to reflect changes proposed and supported by related acoustic assessment

*Development Data*

**Table 2: Development Data**

Control	Proposal
Site area	10.5ha (approximately)

FSR (retail/residential)	Not applicable
Clause 4.6 Requests	Not applicable
Max Height	<b>Proposed</b> 11.56m (proposed) <b>Current approved height</b> – 11.1m (approved plans measurement is based at low side of sloped roof) <b>LEP Control</b> – 12m
Car Parking spaces	172 Olympic Park car parking spaces – Traffic Management Plan for ‘major event types’ with expected 2,000+ attendees.
Setbacks	Greater than 20m in all directions

## 2.2 Background

The original development consent was issued on 16 April 2024, with the key issues considered in the assessment of the original development comprising the following:

- Noise – in its determination of the development application the Panel noted that the Noise Impact Assessment with the application did not include noise from events and imposed conditions capping event operating hours. The applicant proposes to amend this condition. A Noise Impact Assessment has been provided considering event related noise and confirming the acceptability of the proposed amended event operating hours.
- Traffic Management – the proposed facility would have the potential to host various events including high level sporting matches and entertainment functions. The traffic implications for larger events was considered in the application. A Traffic Management Plan was submitted detailing event and transport strategy for larger events (2,000 patrons). The strategy to manage this issue was endorsed by the panel in its determination. This modification reduces the overall capacity of the grandstand and proposes no change to the event Traffic Management Parking scheme.
- Flooding – parts of the Olympic Park precinct is subject to the 1% AEP flood event (1% 146.05m AHD level 147.1m ground level). The part of the site approved for development is outside the mapped extent of the 1% AEP flood event but is subject to flooding in PMF events. This remains the case under this modification. The Panel’s conditions of consent include a requirement for a flood evacuation plan to be prepared as part of the carrying out of the development. No change is proposed to related requirements.

The proposed modification application was lodged on 13 June 2025. A chronology of the modification application since lodgement is outlined below in **Table 3** including the Panel’s involvement (briefings, deferrals etc) with the application:

**Table 3: Chronology of the Modification Application**

Date	Event
<b>13 June 2025</b>	Modification application lodged

<b>19 June – 24 July 2025 (min 28 day period)</b>	Exhibition of the application
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### 2.3 Site History

The site subject to this application has a longstanding history of use related to its use to provide local recreation facilities and sporting fields. There are substantive site improvements, facilities related to these activities/uses.

The precinct and property area is a 10.5ha holding and includes Council's aquatic centre. The most recent development consents related to the precinct is associated with an upgrade to that facility, DA 2019/11.

Low/modest scale works associated with the upgrade and regular maintenance of the sporting facilities would typically qualify as either development permitted without consent or exempt development and carried out by Council as appropriate under that pathway.

## 3. STATUTORY CONSIDERATIONS

When determining a modification application, the consent authority must take into consideration the matters outlined in 4.55(2) of the EP&A Act in relation to modification of consents provisions, Section 4.15(1) of the EP&A Act in relation to matters for consideration for applications and Part 5 of the 2021 EP&A Regulation in relation to information requirements and notification. These matters are considered below.

### 3.1 Section 4.55 of the EP&A Act

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 number of matters are satisfactorily addressed pursuant to Section 4.55(2) of the EP&A Act. The matters include the following:

#### **For Section 4.55(2) applications:**

- (a) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all) (s4.55(2)(a)), and*

The approved development involved the demolition of structures (including the existing grandstand and construction of a grandstand at the Olympic Park recreation precinct.

This Section 4.55 modification remains as a proposal involving the construction of a grandstand at the site, with the principal changes comprising:

- The reduction in the overall footprint of the grandstand.
- Retention and refurb of the ground floor of the existing grandstand in the upgrade design.
- Reduction in the total number of grandstand seats from 870 to 630.
- Notwithstanding, the reduction in the building footprint the physical location of the grandstand on the site remains generally in accordance with that approved.
- Alteration to the facility approved operating hours.

While the proposal alters various aspects of the approved grandstand Council Officers remain satisfied that the proposal remains for the redevelopment of the site grandstand a remains substantially the same as the approved development, and does not alter the proposal or increase its scale/intensity in a manner that may cause Council to form a view that the proposal is no longer substantially the same.

### **Complies**

- (b) *It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent (s4.55(2)(b)), and*

The original development application was not a type of integrated development requiring General Terms of Approval from an Approval Authority or a development requiring approval from the Minister.

No referrals are required to determine this modification in line with this requirement.

### **Complies**

- (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 (s4.55(2)(c)), and*

This Section 4.55 Modification has been notified for 28 days (28 days being the notification period required for Council applications under Council's Conflict of Interest Management Policy), in line with Council's Community Participation Plan and Conflict of Interest Management Policy.

No submissions related to the proposal were received through the notification of the application.

### **Complies**

- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be (Section 4.55(2)(d)).*

The modification application was notified between 19 June – 28 July 2025 and no submissions were received. Accordingly, the proposed development may proceed in accordance with this requirement.

### **Complies**

- (e) *In determining an application for modification of a consent under this section, 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. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified (Section 4.55(3)).*

The matters required to be considered include:

- Matters for consideration pursuant to Section 4.15(1) of the EP&A Act – these matters are considered below in Section 3.2 of this report; and
- Reasons given by the consent authority for the grant of the consent that is sought to be modified – outlined below.

### Reasons for Grant of Consent

The Hunter and Central Coast Regional Planning Panel granted consent to the original development in a notice of determination dated 16 April 2024. The reasons outlined in the Statement of reasons for this decision included the following:

- The proposed development remains substantially the same as the approved development.
- The proposed amendments to the building design remain in accordance with the relevant assessment provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and thereby may be supported by the consent authority, subject to the recommended amended conditions of consent.
- The Noise Impact Assessment submitted has regard to potential event noise associated with the facility and confirms that the proposed adjusted operating hours condition would not have an adverse environmental impact and may be supported.
- The proposed modification is consistent with these reasons for the decision on this consent in that the proposed development is entirely consistent with the planning controls and expectations for the site given the zoning and other planning controls for the site.

### **3.2 Section 4.15(1) of the EP&A Act**

Section 4.15(1) of the EP&A Act contains matters which the consent authority must take into consideration in determining a development application and modification applications pursuant to Section 4.55(3), which are of relevance to the application.

These matters include the following, which are considered in detail below:

- (a) *the provisions of—*
- (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- that apply to the land to which the development application relates,*

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

**3.2.1 Section 4.15(1)(a) - Provisions of Environmental Planning Instruments, Proposed Instruments, DCPs, Planning Agreements and the Regulations**

The relevant provisions under s4.15(1)(a) are considered below.

**(a) Environmental planning instruments (s4.15(1)(a)(i))**

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Muswellbrook Local Environmental Plan 2009.*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 4** and considered in more detail below.

**Table 4: Summary of Applicable State Environmental Planning Policies (Preconditions in bold)**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<p><u>Chapter 3 koala habitat</u> The initial assessment identified that the subject site was not considered a potential koala habitat under the SEPP, and therefore a development that may proceed.</p> <p>This proposed modification does not alter the way that the proposal relates to this SEPP and it may proceed under the Chapter provisions.</p>	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p><b>S 2.122 Traffic Generating Development</b> The Traffic Impact Assessment submitted with the initial development application indicated that the development application was not ‘traffic generating development under the SEPP requiring referral to TfNSW. This modification reduces the overall grandstand capacity meaning the proposal remains below the traffic generating development threshold and may proceed under this SEPP.</p> <p><b>S 2.97 development in vicinity of a rail corridor</b> The development is located within 40m of a rail corridor. The initial application was referred to ARTC whose comments informed the consent and recommended conditions.</p>	Y

	This modification does not change the way the proposal relates to that rail corridor and no change is proposed to related requirements.	
State Environmental Planning Policy (Sustainable Buildings) 2022	<p>Chapter 3 Standards for non-residential development</p> <p>The SEPP requires non-residential development with a value of over \$10-million that involves the alteration, enlargement or extension of an existing building to have regard to sustainability and energy efficiency design matters set in S 3.2 of the SEPP. For new buildings this requirement comes in at \$5million</p> <p>The estimated cost of the development is less than \$10-million. That being the case the proposal does not meet that criteria and accordingly, the SEPP provisions are not mandatory for the development construction.</p> <p>While it is not mandatory to achieve the sustainability criteria set out in the SEPP for this proposal the applicant has submitted a Sustainable Design Statement prepared by Barnson for the development.</p>	Y
State Environmental Planning Policy (Planning Systems) 2021	<i>State Environmental Planning Policy (Planning Systems) 2011</i> applies to the proposal. Pursuant to Clause 2.19(1) of the SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 3 of Schedule 6 of the SEPP as the proposal is Council related development over \$5 million.	Y
SEPP (Resilience & Hazards)	<p>Chapter 4 Remediation</p> <p>The site is located in a public sports and recreation precinct. The review of the Chapter provisions related to contamination and remediation as part of the initial development application determination determined that the land was unlikely to be affected by any contamination requiring remediation and may proceed in accordance with the SEPP provisions.</p> <p>This modification remains consistent with the relevant SEPP provisions.</p>	Y
Muswellbrook LEP	<p>Discussed below this table</p> <p>Clause 2.3 – Permissibility and zone objectives</p> <ul style="list-style-type: none"> <li>• Clause ? - Urban release areas/satisfactory arrangements clauses</li> </ul>	Y

*Muswellbrook Local Environmental Plan 2009*

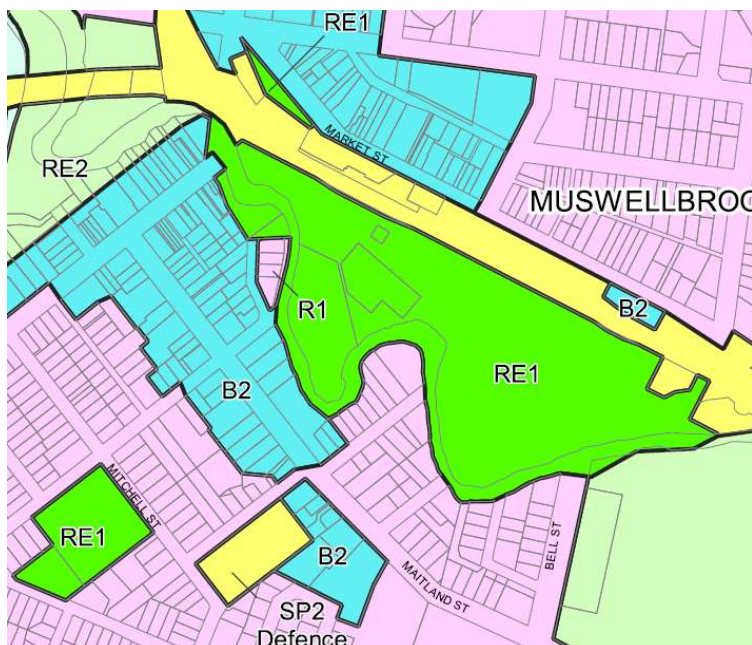
The relevant local environmental plan applying to the site is the Muswellbrook *Local Environmental Plan 2009* ('the LEP'). The aims of the LEP include:

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,
- (a) to encourage the proper management of the natural and human-made resources of Muswellbrook by protecting, enhancing or conserving—
  - (i) productive agricultural land, and
  - (ii) timber, minerals, soils, water and other natural resources, and
  - (iii) areas of significance for nature conservation, and
  - (iv) areas of high scenic or recreational value, and
  - (v) places and buildings of archaeological or heritage significance,
- (b) to manage the urban areas of Muswellbrook by strengthening retail hierarchies and employment opportunities, promoting appropriate tourism development, guiding affordable urban form and providing for the protection of heritage items and precincts,
- (c) to promote ecologically sustainable urban and rural development,
- (d) to manage development in flood-prone areas by ensuring any obstruction, re-direction or pollution of flood waters will not have adverse consequences for the environment or increase the risk of endangering life or property,
- (e) to enhance the urban amenity and habitat for flora and fauna,
- (f) to protect and conserve—
  - (i) soil stability by controlling development in accordance with land capability, and
  - (ii) remnant native vegetation, and
  - (iii) water resources, water quality and wetland areas, natural flow patterns and their catchments and buffer areas,
- (g) to provide a secure future for agriculture by expanding Muswellbrook's economic base and minimising the loss or fragmentation of productive agricultural land,
- (h) to allow flexibility in the planning framework so as to encourage orderly, economic and equitable development while safeguarding the community's interests and residential amenity, and to achieve the objectives of each zone mentioned in Part 2 of this Plan.

The proposal is consistent with these aims as the proposal seeks to establish a facility that supports local cultural and sporting activity. The proposal remains consistent with key LEP development standards that give affect to these objectives.

### Zoning and Permissibility (Part 2)

The site is located within the RE Public Recreation Zone pursuant to Clause 2.2 of the LEP



The proposal involves a development consistent with the land use definition for a *Recreation Facility (major)*. This land use is permissible with consent within the RE1 zone.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To encourage the development of public open spaces in a way that addresses the community’s diverse recreation needs.*
- *To identify land that is suitable for future public recreation use and that can be brought into public ownership as a consequence of development contributions.*
- *To provide linked open space for ecosystem continuity, local community recreation, off-road transport and waterway protection.*
- *To provide space for integrated stormwater treatment devices for flow and water quality management, whilst enhancing urban and rural amenity.*

The proposed grandstand is viewed to be compatible with/complement this land use objectives as a development establishing a grandstand and related amenities within a previously developed recreation/sporting complex.

**Table 5: Consideration of the LEP Controls**

<b>Control</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Comply</b>
Height of buildings (S 4.3(2))	12m	11.56m	Yes
FSR (S 4.4(2))	NA	The site is not subject to a FSR	Yes
Heritage (S 5.12)	Local Heritage Item	<p>The site is identified as containing a heritage listed item pursuant to the Muswellbrook LEP 2009 - Item I124 - Fitzgerald/Olympic Park Gates (Local Significance).</p> <p>Although the gates are to be relocated within the Olympic Park Precinct along Wilkinson Avenue as per the OPMP, the proposed upgrade and development of the grandstand will not have an impact on the heritage listed gates.</p> <p>Council’s Heritage Advisor was referred this modification and raised no objection to the amended proposal.</p>	Yes

		The proposal may proceed in accordance with S 5.10 heritage considerations.	
Flood planning (S 5.21)	This Clause prescribes matters for consideration when determining development applications within the 'Flood Planning Area'	<p>The proposed development is outside of the 1% AEP flood event, which forms the basis of the flood planning area definition.</p> <p>The maximum height of the 1% AEP in the development site locality is 146.05m. The site ground level is 147.1m AHD. The proposed development comfortably above the 1% and 0.5m freeboard.</p> <p>As the proposed for development is outside the flood planning area the matters specified the flood planning controls specified by the sub-section 5.21(2) do not require further consideration for this proposal.</p> <p>While outside the Flood Planning Area the site remains within the mapped extent of the PMF and the requirement on the original determination for a Flood Emergency Response Plan remains current.</p>	NA
Earthworks 7.5	Specifies matters for consideration related to carrying out of earthworks	<p>This modification does not substantially change the scope of related earthworks and how the proposal relates to the matters for consideration.</p> <p>It is recommended that the proposal may proceed subject to conditions of consent previously imposed related to carrying out of earthworks.</p>	Yes

The proposal is considered to be generally consistent with the LEP.

**(b) Provisions of any Proposed Instruments (s4.15 (1)(a)(ii))**

There are no draft instruments relevant the assessment of this modification.

**(c) Provisions of any Development Control Plan (s4.15(1)(a)(iii))**

The following Development Control Plan is relevant to this application:

- *Muswellbrook Development Control Plan 2009*

The proposed modification:

- Reduces overall grandstand capacity
- Alters architectural design
- Does not propose any reduction to overall car parking or change to the Event Parking Management Plan.

The Muswellbrook DCP does not include any chapter specific to recreation or grandstand development. General provisions relevant/considered in relation to the proposal include:

- 13 Flooding
- 15 Heritage Conservation
- 16 car parking
- 20 erosion and sediment control
- 25 Stormwater management

This modification application does not substantially change the way which the proposal relates to any of these Chapters, from the original proposal.

Council Officers are satisfied that the proposal as modified remains in accordance with the relevant related DCP requirements of these chapters (per the previous Panel determination) and may be supported.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *Muswellbrook Shire Council 94A Contribution Plan -*

This Contributions Plan has been considered. This modification reduces the overall cost of the development by reducing the scope of the project and retaining parts of the existing structure.

Council Officers have updated the related recommended condition of consent to reflect the updated cost estimate provided for the development. This reduces Section 7.11 contributions from \$94,566.00 to \$86,836.59

**(d) Planning agreements under Section 7.4 of the EP&A Act (s4.15(1)(a)(iia))**

There are no Planning Agreements related to this matter.

**(e) Provisions of Regulations (s4.15(1)(a)(iv))**

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- **S 61 Demolition** - The proposed development involves alteration including partial demolition of the existing grandstand. In accordance with the Regulations a standard condition was previously imposed and is retained requiring demolition works to be carried out in accordance with AS 2601 and relevant local authority requirements.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

### **3.2.2 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered.

In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- **Context and setting** – The proposed modification will alter the physical design of the approved grandstand. While altered the visual bulk and scale of the building will not be significantly different to the development previously approved. Architecturally/aesthetically, the modification incorporates different design elements and retains and refurbishes the ground floor building shell. While visually different from the previous approval, the proposal would retain the visual characteristics of a modern grandstand facility. That being the case, the visual impact of the proposed modification and its relationship with the context and setting is not anticipated to be substantially different to the approved development.
- **Access and Traffic** – this modification maintains the car parking and traffic arrangements approved as part of the original development application while reducing the overall capacity of the grandstand facility.

The Traffic Impact Assessment prepared in relation to the initial development confirmed that there was suitable on-site car parking in the precinct to cater typical sporting events held at the premises (for the larger approved stadium).

To supplement car parking in the precinct for larger events a typical Event Traffic Management Plan was developed and approved as part of the initial development application. This strategy was endorsed by the Panel and required larger events (2,000 patrons or more) held at the facility to implement.

This strategy details a management strategy for controlling access to the precinct for car parking identifies sites outside the precinct where special event parking will be made available and a plan for shuttle bus services to bring patrons from those overflow parking areas to the site. The Event Management Plan was informed by the 'Rocking in the Brook' event held at the site in 2023 which catered for up to 5000 people.

The consent includes a condition requiring specific Event Management Plans to be implemented for all Major Events (2,000 people or greater) held at the facility.

- **Heritage** – Olympic Park Gates are listed as a local heritage item under the Muswellbrook LEP 2009. These Heritage items were temporarily removed for protection as part of recent road works (construction of Muscle Creek Bridge).

To consider any potential impact the modified design may have on this heritage item the application was referred to and considered by Council' heritage advisor. Advice

from that referral was that the updated design would not have any substantive impact on the item and that the proposal may proceed without change to any requirement from a heritage perspective.

- **Flora and fauna impacts** – The development footprint and the site more generally is largely clear of vegetation not associated with the recreation area sporting field playing surfaces or managed landscaping/grassed areas. The area to be disturbed by the proposed building footprint includes an area of managed grass, a mature gum tree and a row of planted landscaping trees.

Under this proposed modification there are no significant changes to the grandstand building footprint. Accordingly, there is no significant change to the total area of vegetation disturbance as part of the carrying out of the development. Vegetation to be affected largely consists of managed grassed area a row trees/shrubs planted and managed for landscaping purposes and a mature gum tree.

Noting the proposal involves limited disturbance of established native vegetation and the area of disturbance is not significantly alter from that previously approved Council Officers are satisfied that the proposed modification does not represent any significant change to the ecological impacts/considerations from those supported by the Panel in their initial determination of the application.

- **Noise and vibration** – this modification seeks to adjust the operating hours of the function centre attached to the complex. An updated Noise Impact Assessment has been prepared which accounts for noise associated with the potential use of that space for events. This Noise Impact Assessment indicates that the proposed operating hours would not cause for any exceedances to relevant Noise Trigger Levels related to the project under the NSW EPA document Noise Policy for Industry and may be supported subject to the recommendations of the Noise Impact Assessment. Those recommendations include a requirement for the adoption of general practices that manage noise associated with a license premises to be adopted into a Plan of Management for Function Centre operation.

This guidance has informed an additional recommended related condition of consent requiring these procedures to be adopted into an operating plan prior to the issue of an Occupation Certificate.

- **Social and Economic Impact** – the proposed development would support the continued/expanded operation of this local Muswellbrook sporting precinct. The upgraded infrastructure will enhance the ability of the precinct to support larger events and significant sport matches having positive social and economic outcomes for the community.

Accordingly, it is considered that the proposed modification will not result in any significant adverse impacts in the locality as outlined above.

### **3.2.3 Section 4.15(1)(c) - Suitability of the site**

The proposed Grandstand will replace an existing Grandstand, in accordance with the approved Plan of Management for Olympic Park and the adopted Master Plan for Olympic Park. The proposal would be consistent with relevant planning controls and would not have an adverse environmental impact. The site is suitable for the proposed development.

This is an indication that the site is suitable for the Proposal.

### 3.2.4 Section 4.15(1)(d) - Public Submissions

No submissions were received in relation to this modification application. Information related to the notification period is included in Section 4.3 of this report.

### 3.2.5 Section 4.15(1)(e) - Public interest

The proposed modification supports the redevelopment of the grandstand at the Olympic Park sporting precinct. The modification remains substantially the same as the approved development and appropriately responds to relevant planning assessment controls including the Muswellbrook LEP 2009 and DCP. Accordingly, Council Officers are satisfied that the proposal would remain compatible with the public interest.

### 3.3 Part 5 of the 2021 EP&A Regulation

There are a number of matters required to be addressed in an application for modification of development consent pursuant to Division 1, 2 and 3 of Part 5 of the 2021 EP&A Regulation. These matters are considered in **Table 7** below.

**Table 6: Consideration of the Requirements under the Regulation**

Matter	Comment	Comply
<b>Clause 100 Application for modification of development consent</b>		
May be made by— (a) the owner of the land to which it relates, or (b) another person, with the consent of the owner of the land (CI 98(1))	Council (Crown Land Manager) has completed and signed the land owners consent form.  Per S 23(2) of the <i>Environmental Planning and Assessment Regulation 2021</i> Muswellbrook Shire Council as a Public Authority and Crown Land Manager has provided Crown Lands Notice of their intent to lodge the application in accordance with that Clause  Accordingly, the applicant has achieved the S 23 provisions related to land owners consent.	Y
NSW Aboriginal Land Council consent required for land owned by a Local Aboriginal Land Council (CI 98(6)).	The land is not owned by a Local Aboriginal Land Council and consent is not required/has been provided.	N/A
Form approved by Planning Secretary and on portal (CI 99).	The application has been provided in accordance with the Regulation.	Y
Applicant details (CI 100(1)(a))	Provided on the NSW Planning Portal.	Y

Description of the development (CI 100(1)(b))	Provided on the Portal and outlined in Section 2 of this Report.	Y
Address and title details (CI 100(1)(c))	Provided on the Portal and outlined in Section 1 of this Report.	Y
Description of the proposed modification (CI 100(1)(d))	Provided on the Portal and outlined in Section 2 of this Report.	Y
Whether to correct a minor error, mis-description or miscalculation, or some other effect (CI 100(1)(e))	The proposed modification is to modify the original consent under Section 4.55(2)	Y
Description of the expected impacts of the modification (CI 100(1)(f))	There are unlikely to be any significant impacts resulting from the proposed modification. Potential environmental impacts are explored above. Overall the proposal: <ul style="list-style-type: none"> <li>- Remains broadly compatible with approved development</li> <li>- Reduces grandstand size and capacity</li> <li>- Adjust function room operating hours supported through Noise Impact Assessment</li> </ul>	Y
Undertaking that modified development will remain substantially same as development originally approved (CI 100(1)(g))	The modified development will remain substantially the same development as that originally approved. Refer to Section 3.1 of this Report.	Y
If accompanied by a Biodiversity development assessment report, the biodiversity credits information (CI 100(1)(h))	Not applicable	NA
Owner's consent (CI 100(1)(i))	An undertaking has been provided on the Portal.	Y
Whether the application is being made to the Court (under section 4.55) or to the consent authority (under section 4.56) (CI 100(1)(j)).	This Application is made to the consent authority pursuant to Section 4.55(2) or 4.56(1) of the EP&A Act.	NA
BASIX Certificate (CI 100(3))	The proposed modification does not involve BASIX development and an updated BASIX Certificate has/has not been provided/is not required.	N/A
Penrith Lakes Development Corporation (CI 101)	The proposed modification does not Penrith Lakes Development Corporation.	N/A
Qualified designer statement for residential apartment development (CI 102)	The proposed modification does not involve residential apartment development and a qualified designer statement has/has not been provided/is not required.	N/A

Mining and petroleum development consents (CI 102)	The proposed modification does not mining and petroleum development consents.	N/A
Notification and exhibition requirements (CII 105-112)	Refer to Section 4.3 of this report.	Y
Notification of concurrence authorities and approval bodies (CI 109) (to be undertaken by Council)	No relevant concurrence authorities	N/A

## 4. REFERRALS AND SUBMISSIONS

### 4.1 Agency Referrals and Concurrence

The modification application is not integrated or designated development.

No concurrence/referral is required from a Government Agency under the EP&A Act 1979.

### 4.2 Council Referrals

The modification application was referred to various Council officers for technical review as outlined **Table 9**. The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

**Table 7: Consideration of Council Referrals**

Officer	Comments	Resolved
Roads and Drainage Engineers	<p>The proposed modification was referred to Council Roads and Drainage Engineers.</p> <p>Council Roads and Drainage Engineers noted the proposal involved a reduction in grandstand seating capacity and noted that the proposal did not propose any change to the approved traffic and parking criteria. Accordingly, no objection was raised from a parking and traffic perspective.</p> <p>Council Roads and Drainage Engineers raised no objection to final updated stormwater drainage plans and that the proposal may proceed in accordance with related conditions of consent.</p>	Y
Building	<p>Proposed development was referred to Council's Building Certification Team.</p> <p>Council's Building Surveyor noted the retention of the ground floor grandstand structure and incorporation into the new build and reviewed related preliminary engineering drawings. No objection was raised to the retention of this existing structure. A related condition was recommended requiring engineer certification for the</p>	Y

	existing structure to withstand the additional loads of the new build or details that alterations will achieve this outcome with the Construction Certificate. This additional condition has been put forward.	
Heritage	<p>Council's Heritage Officers referred the application to consider the proposals relationship with the Olympic Park entry gates, a locally listed heritage item.</p> <p>The Heritage Advisor confirmed that the modification presented no significant changes to the original proposal from a heritage impact perspective and may proceed from a heritage impact perspective.</p>	Yes

### 4.3 Notification and Community Consultation

The modification application was notified in accordance with the DCP/Council's Community Participation Plan and Conflict of Interest Policy from 20/6/2025 24/7/2025

Notification included

- Notification on Council social media;
- Notification letters sent to adjoining and adjacent properties (a rough estimate of the number of letters sent);
- Notification on the Council's website.

No submissions were received by Council.

## 5. KEY ISSUES

Key issues are summarised in the Executive Summary Section of this report.

The proposed modification would not significantly change the way which the proposal relates to key Section 4.15 considerations from the original application.

Key considerations in the assessment and recommendation to support the modification include:

- Noise – the initial capping of the function room operating hours was imposed by the panel as the proposal's acoustic assessment did not have regard to that component of the development. An acoustic assessment has been provided which has regard to function centre operating noise. That assessment indicates that the proposal would not have noise emissions creating night time noise exceedances against night time noise trigger level criteria for the nearest residential receptors per the NSW EPA Noise Policy for Industry criteria. Accordingly, the following adjusted function centre operating hours of Sunday – Thursday (10pm), Friday, Saturday and public holidays (11:00pm) may be supported.

- Traffic Management – the proposed facility would have the potential to host various events including high level sporting matches and entertainment functions. The traffic implications for larger events was considered in the application. A Traffic Management Plan was submitted detailing event and transport strategy for larger events (2,000 patrons). The strategy to manage this issue was endorsed by the panel in its determination. This modification reduces the overall capacity of the grandstand and proposes no change to the event Traffic Management Parking scheme.
- Visual impact – the proposed development does not significantly alter the height bulk and scale of the proposed development. Overall the proposal involves a modest reduction to grandstand capacity and size. The grandstand design remains that of a modern grandstand structure. There are no significant impacts related to design aesthetics or visual impacts.
- Alteration of existing grandstand – the proposed modification incorporates/retains ground floor elements of the existing grandstand. The retention of this building in the design was considered by Council Building Surveyor and preliminary engineering plans provided related to the project. A recommended condition of consent has been put forward requiring documentation from an Engineer with the Construction Certificate application confirming existing building elements to be suitable to withstand additional structural loading from alterations/grand stand extensions proposed.

## 6. CONCLUSION

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This modification application has been considered in accordance with the requirements of the EP&A Act and the 2021 EP&A Regulation as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported subject to recommended modified conditions included in **Attachment A**.

## 7. RECOMMENDATION

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It is recommended:

- That the Modification Application DA 2022/95 for alterations to the grandstand design and adjustment to operating hours at Olympic Park Muswellbrook (Lot 7010 DP 93327 be APPROVED pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A; and
- Pursuant to Clause 118 of the *Environmental Planning and Assessment Regulation 2021*, a notice of determination is to be prepared by Council following the Panel's determination of this modification application.

The following attachments are provided:

- Attachment A: Draft Conditions of consent/reasons for refusal
- Attachment B: Proposed Plans
- Attachment C Proposed Stormwater plan
- Attachment D: Noise Impact Assessment