

## COUNCIL ASSESSMENT REPORT

### PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSSEC-360 – MOD/2024/0453
<b>PROPOSAL</b>	Section 4.55(2) Modification application to modify Determination DA/2022/0033 dated 28 November 2023. The proposal seeks changes to earthworks and the management of contaminated excavated soil on the site, fill and landscaping works to the southern corner of the park, demolition of a mechanical plenum and associated works to the north-eastern side of the grandstand, other design changes to the grandstand and broadcasters building, removal of bicycle parking and line marking to the car park and other minor modifications
<b>ADDRESS</b>	Henson Park, Centennial Street MARRICKVILLE
<b>APPLICANT</b>	Hamptons Property Services Pty Ltd
<b>OWNER</b>	Inner West Council
<b>DA LODGEMENT DATE</b>	7 January 2025
<b>APPLICATION TYPE</b>	Section 4.55(2) - Modification of consent
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 3, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Development has a capital investment value of more than \$5 million and Inner West Council is the owner of the land.
<b>CIV</b>	\$6,752,864 (excluding GST)
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021</i>;</li> <li>• <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i></li> <li>• <i>Inner West Local Environmental Plan 2022</i></li> </ul>
<b>TOTAL &amp; UNIQUE SUBMISSIONS</b>	Nil
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	<ul style="list-style-type: none"> <li>• Council's Assessment Report</li> <li>• Architectural Plans</li> <li>• Implementation of Long-term Environmental Management Plan</li> <li>• Construction Environmental Management Plan</li> </ul>
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>	N/A

<b>RECOMMENDATION</b>	Approval
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	8 May 2025
<b>PLAN VERSION</b>	Different versions, dated 12/12/24
<b>PREPARED BY</b>	Crawford Architects
<b>DATE OF REPORT</b>	10 April 2025

## EXECUTIVE SUMMARY

DA/2022/0033 “To demolish part of the premises and carry out alterations and additions to the existing grandstand and associated building to provide additional site facilities and construct a new broadcaster building on the site” was approved by the Sydney Eastern City Planning Panel (SECPP) on 5 September 2022.

On 28 November 2023, the SECPP approved MOD/2023/0247 to modify the approved DA as follows:

*Section 4.55(2) application to modify Determination DA/2022/0033 dated 5 September 2022 to reconfigure the internal layout and external windows and doors of the grandstand and broadcasters building including amendments to reflect NCC/BCA requirements, alter the external finishes, amend conditions relating to tree management and other minor changes.*

The subject application to modify a development consent pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') was lodged on 7 January 2024.

The site is located within the RE1 zone. The development, as approved and proposed to be modified, is for a 'recreation facility (major)', which is a permissible land use with consent in the RE1 zone.

Henson Park is located in Marrickville, with access via Sydenham Road and at the termination of Centennial, Woodland and Amy Street. The site is listed as a local heritage item, a former brickwork. The park was opened in 1933 after the brick pits were drained and infilled. Henson Park is owned and managed by Inner West Council.

Council adopted the Henson Park Plan of Management (POM) and Masterplan on 20 July 2021, which provides a framework for planning and management of the park over the next ten years.

The site contains a grandstand/pavilion and broadcast building on the northern side of the playing field. The majority of the approved works is in this area. Additional earthworks are proposed over the north-eastern half of an existing containment cell that is positioned in the southern corner of the site.

In 2017, the Newtown Jets entered into an 8-year agreement with the former Marrickville Council to allow exclusive use for match play for the Newtown Jets and the AFL NSW/ACT

until the year 2025. The site is also utilised by the local community for passive and active recreation purposes and dog walking.

The proposed modifications do not result in significant changes to the approved development and, subject to recommended conditions, there are no substantial concerns with the proposed changes.

There were no concurrence or referral requirements from agencies for the proposal and the application is not integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act').

The application was placed on public exhibition from 14 January 2025 till 11 February 2025 and no submissions were received.

The application is referred to the Sydney Eastern City Planning Panel ('the Panel') as the development is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in 3 of Schedule 6 of the Planning Systems SEPP as the proposal is development for development that has a capital investment value of more than \$5 million and Council is the owner of the land on which the development is to be carried out. Accordingly, the Sydney Eastern City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

The key issue associated with the proposal is related to containment of contaminated soil on the site, and treatment of significant heritage fabric.

Following consideration of the matters for consideration under Section 4.55(2) and Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP and A Act 1979), the provisions of the relevant State Environmental Planning Policies, and the applicable Development Control Plan, the proposal is considered supportable.

Subject to recommended conditions, the proposed modifications will not result in any adverse environmental impacts and are considered to be in the public interest.

It is recommended that, subject to amended conditions, the application to modify a consent is approved.

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

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### **1.1 The Site**

- Henson Park (the site) is located in Marrickville, with access via Sydenham Road and at the termination of Centennial, Woodland and Amy Street (Figures 1 and 2).
- The site of a former brickworks, the park was opened in 1933 after the brick pits were drained and infilled. Henson Park is owned and managed by Inner West Council (Council).
- Henson Park is zoned for public recreation and is defined as community land. Council adopted the Henson Park Plan of Management (POM) and Masterplan on 20 July 2021, which provides a framework for planning and management of the park over the next ten years. The POM was subject to public consultation with the local community.
- The site is legally described as Lot 423 in Deposited Plan 1035319. It has a total area of 48,699m<sup>2</sup>.

- The site contains a grandstand/pavilion and broadcast building (Figures 3-6) on the northern side of the playing field. This is the area of the proposed works, and the remainder of the park (Figure 7) is not subject to this application.
- In 2017, the Newtown Jets entered into an 8-year agreement with the former Marrickville Council to allow exclusive use for match play for the Newtown Jets and the AFL NSW/ACT until the year 2025.
- Henson Park hosts up to 20 ticketed games for each sporting code per winter and summer season and other ticketed events are held throughout the year.
- The site is also utilised by the local community for passive and active recreation purposes and dog walking. There is an off-leash dog walking area located to the south of the playing field.
- Henson Park is listed as a Local Heritage Item under Schedule 5 of *IWLEP 2022* (I1217) being a former brick pit and for its longstanding sporting use.

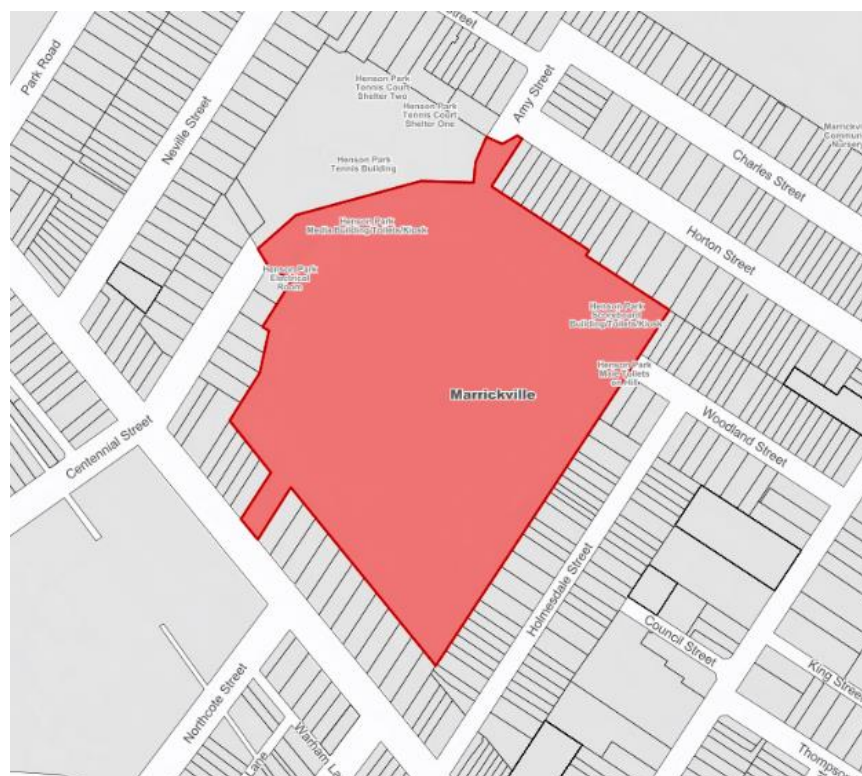


Figure 1: Location Plan 1





*Figure 2: Location Plan 2*



*Figure 3: Existing Grandstand*

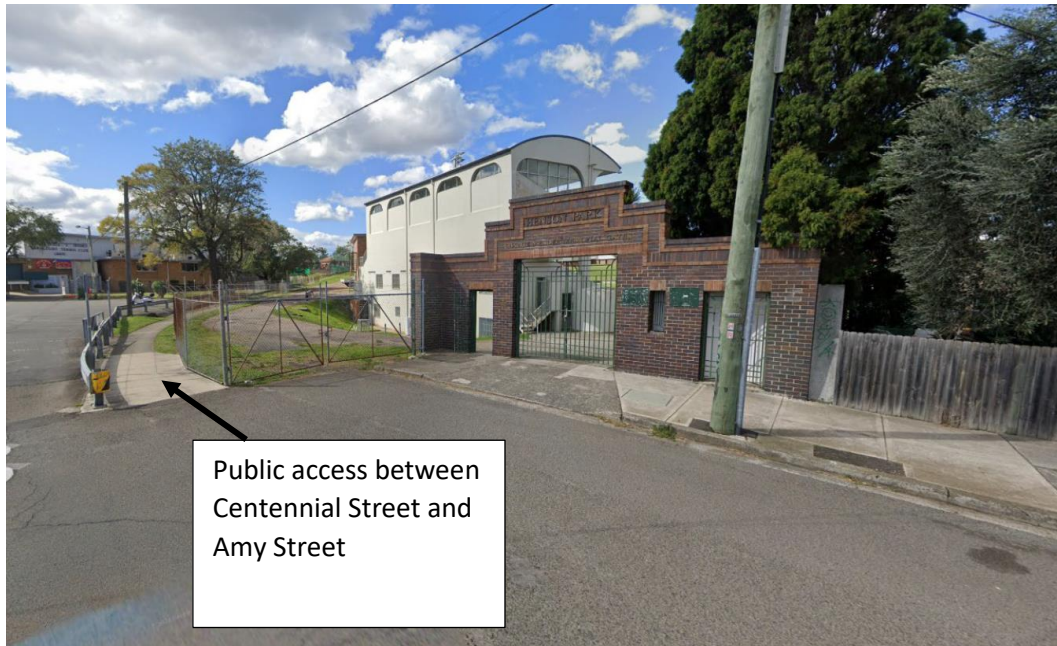


*Figure 4: Existing broadcast building*



*Figure 5: Existing stadium and broadcast building viewed from the playing field*





*Figure 6: View showing the "Charlie Meader Memorial Gates", providing entry from Centennial Street and tennis club to the north*



*Figure 7: View to the southern side of the playing field and the dog walking area*

## 1.2 The Locality

To the north of the grandstand is the Marrickville District Hard Court Tennis Club on a separate parcel of land accessed via Centennial Street, and the Amy Street playground accessed via Amy Street.

Henson Park is surrounded by low density residential development and adjoins dwelling houses along the southern, western, eastern, and north-eastern boundaries.

### Plan of Management and Masterplan

The Plan of Management and Masterplan is a guiding framework, which directs the future vision, planning, management and use of the park. The formulation of the POM was subject to community consultation and was adopted on 20 July 2021.

The Master Plan component is a design report outlining the actions required for improvement, intended to guide the physical upgrade of the site over the next ten years. An extract of the draft Masterplan in the POM is shown in Figure 8.

The POM includes upgrade works to the existing grandstand to provide a better spectator experience, improved access, reconfiguration of the back of house and service area facilities and improved storage and club facilities, including a gymnasium. The modified proposal is consistent with the POM.



Figure 8: Henson Park Masterplan



## **Construction Environmental Management Plan**

In accordance with Condition 11 of the consent, a Construction Environmental Management Plan (CEMP) was prepared and submitted to Council and approved by Council's Team Leader Environmental Health. The CEMP considers all potential environmental impacts from the works, including stockpiling of contaminated soil and future capping of contaminated soil. The subject application seeks consent for the retention and capping of contaminated soil.

## **2. THE PROPOSAL AND BACKGROUND**

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### **2.1 The Proposal**

The following modifications are proposed:

#### Earthworks

Capping of contaminated soil, placed in the approved temporary stockpile location.

#### Demolition/removal

- Demolition of plenum concrete slab walls and stair landing at north-eastern side of existing Grandstand
- Demolition of an existing first floor window on the north-western elevation of the existing Grandstand
- Demolition of the existing interchange bench on the southern side of the Grandstand
- Deletion of bicycle racks and car park line marking on the western side of the site

#### Grandstand

- New fire rated blades and concrete hood to the north-east
- Construction of fire rated wall, aluminium windows and drenching on the north-eastern side
- Construction of a concrete blade wall on the south-western elevation
- Construction of a new galvanised balustrade
- Installation of an access ladder to the condenser platform on Level 2
- New interchange bench on the southern side of the Grandstand
- Extension of accessible viewing platform
- Addition of a new concrete blade wall on the western side
- Installation of a 10,000 litre rainwater tank on the north-western side
- Removal of an existing opening to the rear of the Grandstand
- Replacement of two windows to the Grandstand
- Relocation of windows and louvers to the rear of the additions to the Grandstand
- Addition of external downpipes to the new additions behind the Grandstand, connecting to new rainwater tank

#### Multipurpose Building

- Installation of a roof access ladder
- Modification of the approved roof to the pergola, from a operable roof to a fixed roof system

## 2.2 Background

DA/2022/0033 “To demolish part of the premises and carry out alterations and additions to the existing grandstand and associated building to provide additional site facilities and construct a new broadcaster building on the site” was approved by the Sydney Eastern City Planning Panel on 5 September 2022.

MOD/2023/0247 “Section 4.55(2) application to modify Determination DA/2022/0033 dated 5 September 2022 to reconfigure the internal layout and external windows and doors of the grandstand and broadcasters building including amendments to reflect NCC/BCA requirements, alter the external finishes, amend conditions relating to tree management and other minor changes” was approved by the Sydney Eastern City Planning Panel on 28 November 2023.

This Section 4.55(2) application to modify a development consent was lodged on 7 January 2025. A chronology of this application since lodgement is outlined below. The SECPP has not been involved in this application prior to the determination meeting.

**Table 1: Chronology of the DA**

Date	Event
<b>7 January 2025</b>	Section 4.55(2) application lodged
<b>14 January 2025</b>	Exhibition of the application until 11 February 2025
<b>23 January 2025</b>	Council emailed the applicant, requesting to confirm the Estimated Development Cost specific to the modification application.
<b>11 February 2025</b>	Community Consultation Session held via MS Teams
<b>4 March 2025</b>	Council met with the applicant on site to inspect the stockpiling area and location of the proposed containment cell.
<b>7 March 2025</b>	The applicant submitted a revised Geotechnical Advice and Estimated Development Cost specific to the modification application through the NSW Planning Portal.
<b>27 March 2025</b>	The applicant submitted signed consent from Council's General Manager to lodge the subject application through the NSW Planning Portal.
<b>28 March 2025</b>	Council emailed the applicant: <ul style="list-style-type: none"><li>• Advising that a change to the landscape plan, which the applicant requested could be considered as part of the subject application</li><li>• Requesting additional information about the removal of the bicycle racks and car park line marking</li></ul>

	<ul style="list-style-type: none"> <li>• Advising that the proposed removal of the existing opening to the Grandstand rear elevation could not be supported</li> </ul>
<b>3 April 2025</b>	Council met with the applicant on site to inspect, and discuss the infilling of, the existing openings to the rear elevation of the Grandstand.
<b>5 April 2025</b>	The applicant submitted, through the NSW Planning Portal an amended landscape plan and the requested additional information for the proposed deletion of the bicycle racks and car park line marking.
<b>8 April 2025</b>	<p>The applicant, via email, enquired whether the following additional modifications could be sought as part of the subject application:</p> <ol style="list-style-type: none"> <li>1) Louvre and window relocation to new additions to the Grandstand</li> <li>2) Addition of external rainwater downpipes to the norther façade of the new additions to the Grandstand (connecting to new rainwater tank)</li> <li>3) Replacement of two (2) windows to the existing Grandstand</li> </ol> <p>Council advised that additional information was required for the window replacement and that Council would review the plans provided in the email the following day if the additional information could be provided.</p>
<b>9 April 2025</b>	Council advised that the first two changes could be considered under the current application and requested additional information about the third change (i.e., window replacement).
<b>10 April 2025</b>	<p>Council advised that all three proposed additional modifications could be included in the current application; however, Council did not confirm that the additional modifications were supported. Council noted that further assessment of the window replacement would be undertake.</p> <p>The applicant, subsequently, submitted the updated architectural drawings showing the three additional modifications, to the NSW Planning Portal.</p> <p>The amended plans and additional information submitted, in accordance with Council's Community Engagement Strategy did not require renotification as:</p> <ul style="list-style-type: none"> <li>• The additional modifications did not result in any greater impact than the original application,</li> <li>• The modifications have no measurable adverse effect to adjoining properties.</li> </ul>



### 3. STATUTORY CONSIDERATIONS

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When considering a Modification of consent application under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'), the consent authority must take into consideration the following matters:

*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 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), and*
- (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, 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 the period prescribed by the regulations or provided by the development control plan, as the case may be.*

In addition, in accordance with section 4.55(3) of the EP&A Act,

*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.*

In considering the above:

- The essence of the development, as modified, is substantially the same as the original consent;
- The application was notified in accordance with Council's Community Engagement Strategy;
- No submissions were received;
- As outlined below, the application has been assessed in accordance with Section 4.15 of the EP&A Act;
- The Sydney Eastern City Planning Panel noted in the reasons for the decision:

*The Panel determines to approve the application for the reasons outlined in the independent consultants Assessment Report.*

*The Panel considers the upgrading of Henson Park facilities to be a community benefit and enhancement of facilities for all sporting codes. Furthermore, it is noted that the Park will still be available for the residents of the local community to access.*

The proposed modifications are minor and do not result in significant changes to the development as approved. The development, as proposed to be modified, still upgrades the Henson Park facilities while retaining access for residents and the community.

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *EP&A Act 1979*, which outlines that the consent authority must take into consideration the matters outlined in this Section. The matters that are of relevance to the application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (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),*
- (b) *that apply to the land to which the development application relates, 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.*

These matters are further considered below.

### **3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

#### **(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*

- *Inner West Local Environmental Plan 2022*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

**Table 2: Summary of Applicable Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development <ul style="list-style-type: none"> <li>• Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 3 of Schedule 6 as it comprises development that has a capital investment value of more than \$5 million and Council is the owner of the land on which the development is to be carried out.</li> </ul>	Y
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land <ul style="list-style-type: none"> <li>• Section 4.6 - Contamination and remediation has been considered during the assessment of the DA. Subject to conditions imposed on the DA consent, which will remain in force, and imposition of additional conditions as recommended, the proposal is satisfactory.</li> </ul>	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure <ul style="list-style-type: none"> <li>• Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory, subject to conditions.</li> <li>• Section 2.118(2) - Development with frontage to classified road</li> </ul>	Y
Inner West Local Environmental Plan 2022	<ul style="list-style-type: none"> <li>• Clause 1.2 – Aims of Plan</li> <li>• Clause 2.3 – Permissibility and zone objectives</li> <li>• Clause 2.7 – Demolition</li> <li>• Clause 5.10 – Heritage conservation</li> <li>• Clause 6.1 – Acid sulfate soils</li> <li>• Clause 6.2 – Earthworks</li> <li>• Clause 6.3 – Stormwater management</li> <li>• Clause 6.8 – Development in areas subject to aircraft noise</li> </ul>	Y

Consideration of the relevant SEPPs is outlined below:

*State Environmental Planning Policy (Planning Systems) 2021* ('Planning Systems SEPP')

#### Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in 3 of Schedule 6 of the Planning Systems SEPP as the proposal is development for development that has a capital investment value of more than \$5 million and Council is the owner of the land on which the development is to be carried out. Accordingly, the Sydney



Eastern City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

#### *State Environmental Planning Policy (Resilience and Hazards) 2021*

The site is located at Henson Park, Centennial Street Marrickville and, therefore, the *State Environmental Planning Policy (Resilience and Hazards) 2021* is relevant to the development application.

#### Chapter 4: Remediation of Land

Contamination of the site was considered in previous applications, and it was concluded that, subject to recommended conditions, the development would not result in unacceptable risk to human health and the environment. The subject application seeks consent to retain and cap existing contaminated soil.

Section 4.16 (1) of the SEPP requires the consent authority to not grant consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

Stockpiling of excavated contaminated soil in the southern corner of Henson Park has been approved as part of the CEMP. As outlined in the submitted "Implementation of the LTEMP", prepared by Kane Constructions, it is proposed to cap the stockpiled contaminated soil "in an above ground containment cell that partially overlies an existing containment cell".

Management of contaminated soil, as approved as part of the DA, is guided by the Long Term Environmental Management Plan (LTEMP), prepared by CONSARA in 2020, which has been adopted by Council for the management of parks, including Henson Park. However, the LTEMP, prepared by CONSARA, does not include guidance for excavation of contaminated soil.

In addition to the "Implementation of the LTEMP", the applicant submitted various reports and documentation for the capping of the stockpiled contaminated soil in the southern corner of Henson Park. The information submitted outline the management of these works, including contamination mitigation measures to be implemented during works.

The "Implementation of the LTEMP" concludes, and confirms, that the "ongoing use for open space recreational land use will not be adversely affected". In addition, this report includes a recommendation that a compliance report be prepared for these works and that, following completion of the works

*a separate long term environmental management plan (LTEMP) will be prepared and implemented to ensure that the contaminated soil contained in the new cell will be maintained in the long term, such that it does not pose an unacceptable risk to human health or the environment.*

Council's Environmental Health Officer has reviewed the submitted information, provided additional conditions (which have been also reviewed by the applicant), and raised no concerns, noting that

*The CEMP was previously approved for the works, and capping is to be in accordance with this.*

*Condition 34 of [the consent] requires the preparation of a compliance report covering the works referred to in the CEMP.*

It is also recommended that the submitted "Implementation of the LTEMP", and other supporting documentation addressing the new containment cell, be included with any consent granted, and that a supplementary condition of consent is imposed to ensure that the additional LTEMP (for the new containment cell) is prepared and approved by Council's Team Leader Environmental Health before the issue of an Occupation Certificate.

Subject to recommended conditions, it is considered that the development, as proposed to be modified, remains suitable for the site. As such, the development, as proposed to be modified, is consistent with the aims of this SEPP.

*State Environmental Planning Policy (Transport and Infrastructure) 2021*

## Chapter 2 Infrastructure

*Development likely to affect an electricity transmission or distribution network*

The proposed modifications have no impact on the substation and switchboard building located adjacent to the Centennial Street entry of the site. Conditions imposed on the DA consent include requirements to protect Ausgrid assets.

*Development with frontage to classified road*

Vehicular access to the land is provided from Sydenham Road, which is a Classified Road. However, no changes are proposed to the existing, and approved, vehicular access arrangements.

## Inner West Local Environmental Plan 2022

The relevant local environmental plan applying to the site is the *Inner West Local Local Environmental Plan 2022* ('the LEP'). The aims of the LEP are:

- (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 development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles,*
- (b) to conserve and maintain the natural, built and cultural heritage of Inner West,*
- (c) to reduce community risk from and improve resilience to urban and natural hazards,*
- (d) to encourage walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes,*
- (e) to facilitate economic growth and employment opportunities within Inner West,*
- (f) to encourage diversity in housing to meet the needs of, and enhance amenity for, Inner West residents,*

- (g) to create a high quality urban place through the application of design excellence in all elements of the built environment and public domain,*
- (h) to prevent adverse social, economic and environmental impacts on the local character of Inner West,*
- (i) to prevent adverse social, economic and environmental impacts, including cumulative impacts.*

The proposal is consistent with the aims as the proposal:

- The proposal conserves and maintains the cultural heritage of the Inner West;
- The proposal facilitates economic growth and provides additional employment opportunities in the Inner West;
- The proposed design is of high quality and improves the appearance of Henson Park and the surrounding area;
- The proposal will not result in adverse social, economic or environmental impacts, providing improvements to community facilities within Henson Park.

### *Zoning and Permissibility (Part 2)*

The site is located within the RE1 Zone pursuant to Clause 2.2 of the LEP (Figure 9).



Figure 9: Zoning map

The proposal satisfies the definition of a 'recreation facility (major)', which is a permissible use with consent in the Land Use Table in Clause 2.3.

The zone objectives are as follows (pursuant to the Land Use Table in Clause 2.3):

- (b) To enable land to be used for public open space or recreational purposes.*
- (c) To provide a range of recreational settings and activities and compatible land uses.*
- (d) To protect and enhance the natural environment for recreational purposes.*
- (e) To conserve, maintain and enhance biodiversity and the natural environment, including terrestrial, aquatic and riparian habitats and natural land forms.*



The proposal is considered to be consistent with these zone objectives for the following reasons:

- The site is, and will continue to be, open to the public and can be used for recreational purposes;
- The site provides for various recreational uses and activities, such as sport and walking;
- The proposal will not result in changes to the natural environment;
- The proposal will not result in adverse impacts to flora or fauna on, and adjacent to, the site.

*General Controls and Development Standards (Part 2, 5 and 6)*

The LEP also contains controls relating to miscellaneous provisions and local provisions (no development standards apply to the site). The controls relevant to the proposal are considered in **Table 4** below.

**Table 3: Consideration of the LEP Controls**

Control	Requirement	Proposal	Comply
Demolition (CI 2.7)	The demolition of a building or work may be carried out only with development consent.	Consent for demolition works granted under the DA. Only minor additional demolition works are proposed.	Yes
Heritage (CI 5.10)	<ul style="list-style-type: none"> <li>• To conserve the environmental heritage of Inner West,</li> <li>• To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</li> <li>• To conserve archaeological sites,</li> <li>• To conserve Aboriginal objects and Aboriginal places of heritage significance.</li> </ul>	Refer to discussion below this table	Yes, subject to recommended conditions
Acid sulphate soils (CI 6.1)	To ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	<p>The site contains Class 3 and 5 Acid Sulfate Soils (Figure 10).</p> <p>While the proposed containment cell is in an</p>	Yes

		area of Class 3 ASS, no works are proposed that are below 1m below the natural ground surface (i.e., the works are proposed above existing natural ground surface).	
Earthworks (CI 6.2)	To ensure earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	<p>No additional excavation is proposed.</p> <p>The proposed earthworks (i.e., containment cell works), as outlined in detail elsewhere in this report, will have no detrimental impact on environmental functions and processes, neighbouring uses, the heritage item or features of the surrounding land.</p>	Yes
Stormwater Management (CI 6.3)	To minimise impacts of urban stormwater on (a) land to which this clause applies, and (b) adjoining properties, and (c) native bushland, and (d) receiving waters.	<p>Other than the addition of a rainwater tank, there are no modifications proposed to the approved stormwater arrangements.</p> <p>Subject to adhering to the stormwater drainage design, and conditions imposed on the DA consent, the proposal will remain consistent with this clause.</p>	Yes
Development in Areas subject to Aircraft Noise (CI 6.8)	<p>(a) to prevent certain noise sensitive developments from being located near the Sydney (Kingsford Smith) Airport and the airport flight paths,</p> <p>(b) to assist in minimising the impact of aircraft noise from the airport and the flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,</p>	An Acoustic Report was submitted with the DA and the proposal, subject to conditions imposed on the DA consent, is capable of satisfying this clause and will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015.	Yes

	(c) to ensure land use and development near the airport do not hinder or have other adverse impacts on the ongoing, safe and efficient operation of the airport.		
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Consideration of Clause 5.10, and Part 8 (Heritage) of the MDCP 2011 is outlined below:

Henson Park is listed as a Local Heritage Item under Schedule 5 of IWLEP 2022 (I1217), being a former brickpit. The significance of the place is a function of its past use and the topography of the site is a manifestation of its genesis from a brickworks to a sporting field, and its associations with sporting use, particularly as the home ground of the Newtown Jets Rugby League Club since the 1930s.

Consideration of the above has been included in the assessment of the DA and, in principle, the heritage significance of the site has been adequately addressed. Overall, the form and scale of the proposal, as approved and proposed to be modified, is considered sympathetic and complimentary to the existing building.

Council's Heritage Specialist notes that the proposed changes to the plenum, multi-purpose building that is adjacent to the Grandstand, landscaping and parking have no heritage impacts. While the concrete blade walls to the side elevation of the Grandstand partially obscure the original side of the Grandstand, no objections have been raised.

However, Council's Heritage Specialist notes that the removal of an original window and opening to the rear elevation of the existing Grandstand, as proposed and shown on the submitted elevations, will impact on the heritage significance of the Grandstand, physically and aesthetically. Also, it is noted that the heritage advice submitted by the applicant did not address this element.

While the removal of this opening is shown on the Construction Certificate Plans, the drawings and supporting information lodged with the DA (Figure 10) did not identify that the four windows and openings towards the sides be removed and infilled.



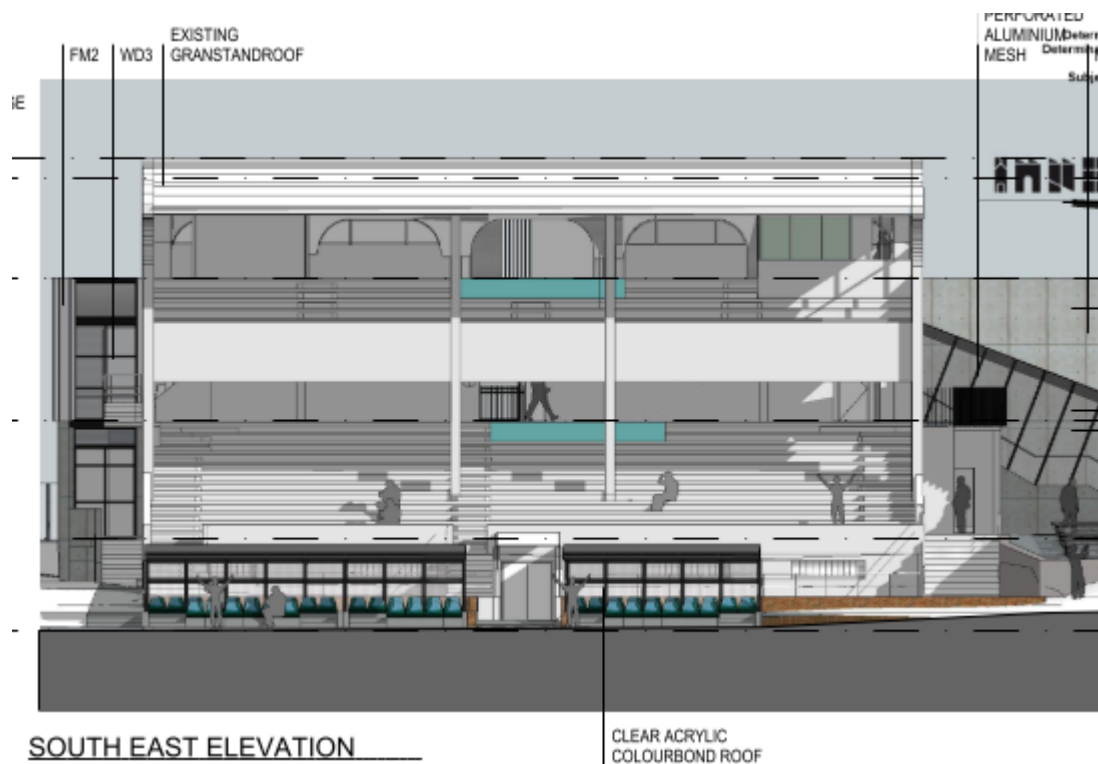


Figure 10: DA approved elevation of Grandstand showing retention of existing openings on upper level.

Infilling of the openings was also not proposed/mentioned in the supporting documentation submitted as part of the previous Section 4.55 Application (MOD/2023/0247), nor was it depicted on the plans as a proposed modification.

The demolition plans submitted with the subject modification application depict the demolition of these openings.

The applicant has indicated that the infilling of the existing openings is required to achieve the required fire rating between the existing Grandstand and the new additions to the rear of it, which has been confirmed by Council's Building Surveyor after inspecting the site.

To achieve the required fire rating without adversely impacting the heritage significance of the Grandstand, physically and aesthetically, Council's Heritage Specialist supports infilling of the four openings towards the sides of the Grandstand, subject to the form and size of these openings being recognisable in the future by incorporating an indent of 75mm from the windowsill edges to both sides of the openings, and the infill material being painted in a darker shade than the rest of the Grandstand. However, Council's Building Surveyor advised that such an indent from both sides could not be provided while achieving the required fire rating as the existing windowsill has a depth of only 220mm.

The existing openings are, and will be, highly visible from Henson Park (as viewed in Figure 5). Visibility of the openings from the rear will be largely obscured by the new additions to the rear of the Grandstand. As such, it is considered that an indent to the park facing elevation is more critical. The openings and windowsills are already inset from the rear wall of the existing Grandstand, and it is considered that the openings would remain readable from the rear if the existing inset would remain, and by painting it in a darker colour as recommended by Council's Heritage Specialist. Council's Building Surveyor confirmed that this would provide sufficient depth for the infilling to achieve the required fire rating.

The proposed replacement of the two (2) windows to the side elevations (Figures 11 and 12) of the Grandstand, identified as GB W-02 and GB W-10 is supported on heritage grounds as the window frames are not original, or of significant heritage fabric.

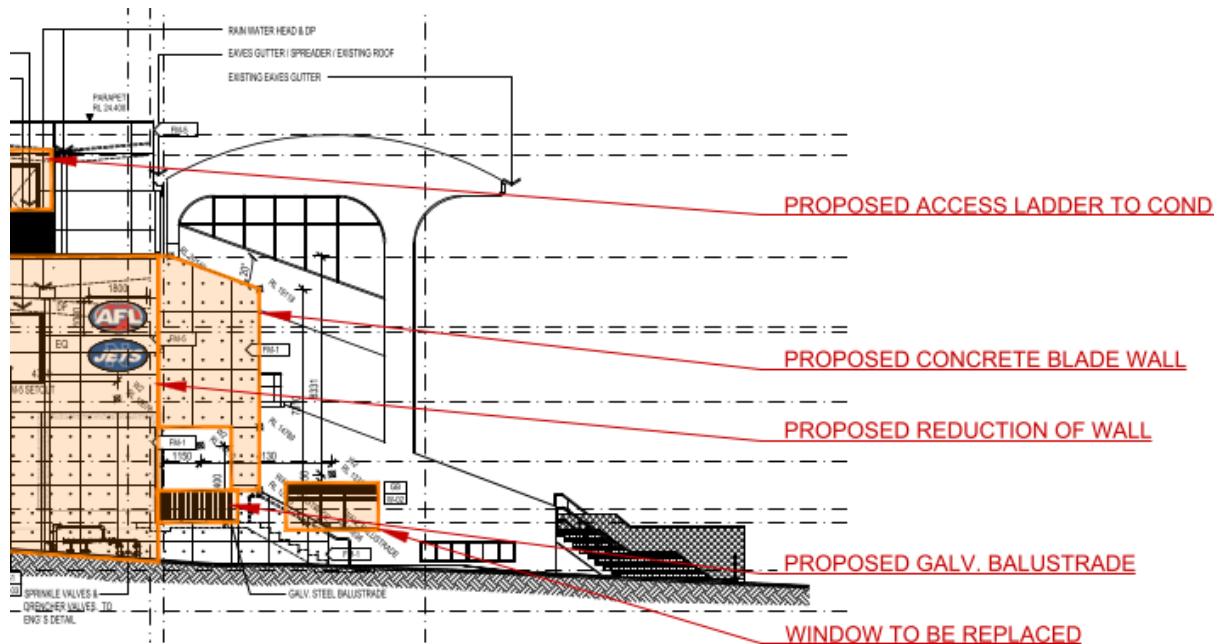


Figure 11: Proposed Grandstand side elevation (SW) showing location of window GB W-02

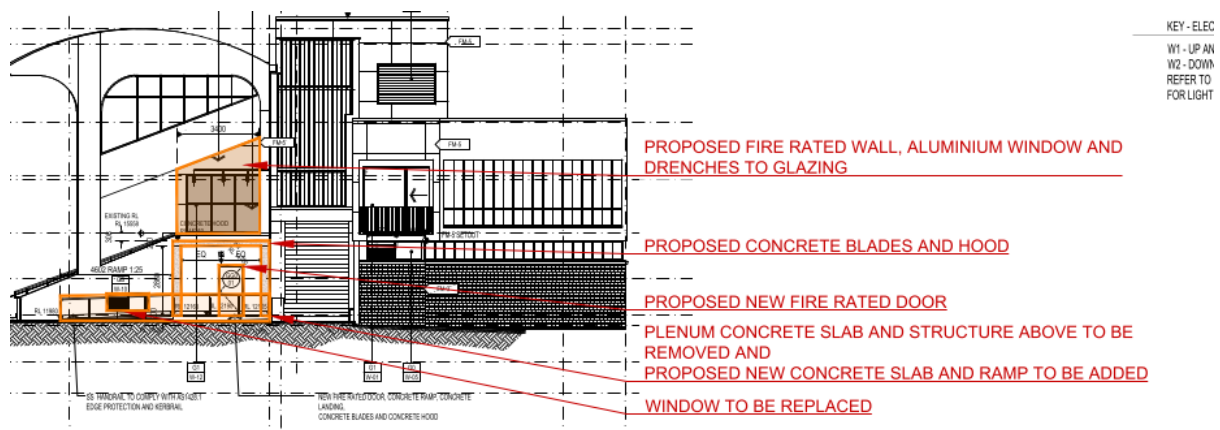


Figure 12: Proposed Grandstand side elevation (NE) showing location of window GB W-10

The proposed design of window GB W-02 (as depicted on the 'shop drawings – windows and door schedule 1', prepared by Boka Windows, dated 25/2/2025) is not consistent with original/historic detailing (Figure 13). While no evidence of the original/historic size and materials and detailing of window GB W-10 have been provided by the applicant, it is reasonable to assume that the design of this window was similar to window GB W-02.



Figure 13: Historic photograph of Grandstand. Image source: Statement of Heritage Impact (December 2021), prepared by Archnex Designs

As such, to ensure that the design of the replacement windows is generally consistent with the original/historic one (Figure 13), a condition is included in Attachment A requiring that the replacement window BG W-02 consists of 12 individual panes of four columns and 3 rows. Window GB W-10 should consist of four individual panes in a single row. A combination of fixed panes and louvers, similar to the proposed is considered supportable to provide access to daylight and ventilation, which the applicant notes as one of the reasons for replacing these windows. No objections are raised to reintroducing new/refurbished security grilles for safety reasons to these windows.

Other modifications to the Grandstand have no significant heritage impact and, overall, the proposed modifications have no greater impact on the heritage item than the approved development.

Given the above, subject to recommended conditions included in Attachment A, the proposal complies with the provisions of Clause 5.10 of IWLEP 2022 and Part 8 of the MDCP 2011.

#### **(f) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

- *Marrickville Development Control Plan 2011* ('the DCP')

The application has been assessed and the following provides a summary of the relevant provisions of the DCP.

Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.5 – Equity of Access and Mobility	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Yes
Part 2.8 – Social Impact	Yes
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	Yes
Part 2.16 – Energy Efficiency	Yes
Part 2.17 – Water Sensitive Urban Design	Yes
Part 2.20 – Tree Management	Yes
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.24 – Contaminated Land	Yes
Part 2.25 – Stormwater Management	Yes
Part 8 – Heritage	Yes

The following provides discussion of the relevant issues:

#### Part 2.1 Urban Design

Council's planning controls do not contemplate development such as sporting facilities and are of limited relevance or applicability to the proposal. Notwithstanding, the urban design principles in the DCP have a role to play in making places that are valued and significant for those who use them.

All development, and related, applications that involve substantial external changes that are visible from the public domain are required to be consistent with the urban design principles to ensure a high-quality design outcome for the site. The relevant principles are discussed below:

#### *Principle 2 – Accessibility*

The proposed modifications will retain a connected and accessible concourse that relates to the levels of the surrounding public domain and supports safe, convenient, public circulation through the site. The proposed development will provide improved access for all people and achieve compliance with the *Disability (Access to Premises - Buildings) Standards 2010*.

#### *Principle 5 – Urban Form*

The changes proposed to the approved built form are minor. The addition of downpipes to the additions to the rear of the Grandstand will have no adverse impacts on the appearance of the additions, and the relocation/swapping of windows and louvers to the rear of the additions will have no impact on the architectural expression of the additions. The built form, as approved and proposed to be modified (and conditioned), is well-designed and will incorporate high quality materials to create a contemporary expression that is compatible and complementary with the existing structures on site.

#### Part 2.5 Equity of Access and Mobility

The proposed development will provide improved access for all people and achieves compliance with the *Disability (Access to Premises — Buildings) Standards 2010*. This will be achieved through accessible paths of travel through the main entry and in and around the

facility, provision of lift access, accessible sanitary facilities, access to common areas and terraces and stadium seating and accessible car spaces.

#### Part 2.6 Acoustic and Visual Privacy

The modifications to the buildings will not result in any additional noise impacts from the development, once completed. Additional noise impacts during works are considered minor and conditions imposed on the DA consent will remain in force to ensure that noise from construction works are mitigated. The relocation/swapping of windows and louvers the rear elevation of the new additions to the Grandstand will not result in changed visual privacy impacts.

The proposed containment cell in the southern corner of Henson Park is above an existing mound. Filling and compaction of the excavated soil will marginally increase the height of this mound, between 0.25 and 1.5 metres. There will be no additional undue or perceived visual privacy impacts to surrounding sites. Only a small portion of the existing mound will be increased in height by 1.5 metres, the majority of additional height is limited to 1 or less metres.

#### Part 2.7 Solar Access and Overshadowing

The proposed modifications will not result in additional overshadowing.

#### Part 2.8 Social Impact

The proposed modifications will not result in adverse impacts and the proposal provides significant community benefit in terms of overall site improvements and upgraded sporting facilities.

#### Part 2.9 Community Safety

The development, as approved and proposed to be modified, is designed having regard to the principles of Crime Prevention through Environmental Design (CPTED) and focuses on the design, planning and structure of the environment.

#### Part 2.10 Parking

It is sought to delete remove/delete bicycle racks and car park line marking on the western side of the site.

The bicycle racks and car park line markings were not proposed as part of the DA and are not depicted on the plans approved under DA/2022/0033. Also, no other documents that form part of the original consent refer to these elements. While the bicycle racks and line markings were depicted on the plans approved under MOD/2023/0247, other documentation submitted as part of this application, including the Statement of Environmental Effects (SEE), did not propose any changes to bicycle and car parking.

The bicycle racks and car park line marking are part of the broader master plan for Henson Park; hence, will be provided regardless at a later stage. Council's Development Engineer also notes that there is no "*specific parking requirement for the use of parklands*" and that the approved, and proposed to be modified, development does not seek to increase the spectator capacity of the site. The Traffic Report submitted with the DA also concluded that "*The Park is considered to have an adequate capacity in its current form to accommodate ... events*". In addition, a Special Events Traffic Management Plan would need to be prepared, and approved, for special events at the site.



As such, the deletion of bicycle racks and car park line marking is considered supportable.

#### Part 2.17 Water Sensitive Urban Design

There are no specific provisions that apply to major recreational facilities. It is only sought to include a 10,000-litre rainwater tank, which is considered to contribute to water sensitive urban design.

#### Part 2.20 Tree Management

The proposal provides for the retention of all existing street trees.

It is sought to delete a small landscaped area at the Centennial Street entry. Only small trees and shrubs, no significant trees, were proposed to this landscaped area. The removal of this area is sought to allow for better pedestrian and vehicular movement during game days. This change is considered minor and supportable, noting that no change is proposed to the planting of significant trees as required by the consent.

#### Part 2.21 Site Facilities and Waste Management

Existing conditions of consent will remain in force to ensure the adequate management of waste. Management of excavated soil is discussed in other sections of this report.

#### Part 2.24 Contaminated Land

Refer to Previous discussion under the *Resilience and Hazards SEPP*.

#### Part 2.25 Stormwater

The proposal includes an On-site Detention Tank (OSD) with water sensitive urban design measures and a series of pits and pipes around the building connecting to the existing network. No objection has been raised by Council's Development Engineer in relation to stormwater drainage.

#### Part 8 Heritage

*Refer to the previous discussion under the Clause 5.10 IWLEP 2022.*

### **(g) Section 4.15(1)(a)(iv) - Provisions of Regulations**

Section 61 of the *EP&A Regulation 2021* contains matters that must be taken into consideration by a consent authority in determining a development application.

These provisions of the *EP&A Regulation 2021* were considered under the DA assessment and were addressed through the imposition of conditions.

The proposed modifications have no implications and, subject to conditions imposed on the DA consent remaining in force, the proposal is consistent with this Section.

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the *EP&A Regulation 2021* are relevant to the proposal, which has been addressed in the IWLEP 2022 Cl. 5.10 assessment above.

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

### **3.2 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 applicable SEPPs, the IWLEP 2022 and MDCP 2011 controls outlined above.

There will be no change to the existing public access to Henson Park as a result of the proposed modifications. During ticketed events, the side gates to the playing field will be closed, but the existing access for park users between Amy Street and Centennial Street will be retained.

The media space and coaches' boxes within the broadcast building are required to achieve the modern-day broadcasting technology and specific requirements of the sporting codes.

The proposal does not result in an increase in patron capacity or intensification of the sporting events held on the site. The current cap on the number of ticketed sporting events held each year will not change as a result of the proposed upgrade to the sporting facilities.

Subject to recommended conditions, the modified proposal will not result in unreasonable impacts on the physical and aesthetic appearance of the heritage item.

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

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

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed modifications, and this has been demonstrated in the assessment of the application.

### **3.4 Section 4.15(1)(d) - Public Submissions**

No submissions were received.

### **3.5 Section 4.15(1)(e) - Public interest**

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is in the public interest as it provides improvements to Henson Park and, subject to recommended conditions, the proposal will not result in adverse impacts to the environment.

The proposal is not contrary to the public interest.

## **4. REFERRALS AND SUBMISSIONS**

## 4.1 Agency Referrals and Concurrence

N/A

## 4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

**Table 4: Consideration of Council Referrals**

Officer	Comments	Resolved
Engineering	Council's Development Engineer raised no concerns to the proposed modifications, which is discussed in detail elsewhere in this report.	Yes
Building	Council's Building Surveyor raised no concerns and provided advise on the infilling of existing openings to achieve the required fire rating, which is discussed elsewhere in this report.  Conditions of consent imposed on the DA consent will remain in force to ensure compliance with BCA and accessibility requirements.	Yes
Health	Council's Environmental Health Officer raised no concerns to the proposed modifications, which is discussed in detail elsewhere in this report.	Yes
Heritage	Except for the proposed removal of an existing opening to the Grandstand, Council's Heritage Specialist raised no concern, which is discussed in detail in this report.	Yes, subject to conditions

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

## 4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Engagement Strategy from 14 January 2025 until 11 February 2025. The notification included the following:

- A sign placed on the site;
- 887 notification letters sent to adjoining and adjacent properties; and
- Notification on the Council's website.

Council received no submissions.

## 5. CONCLUSION

The proposed application to modify a consent has been considered in accordance with the requirements of the *EP&A Act 1979* and the Regulations as outlined in this report. Following

a thorough assessment of the relevant planning controls identified in this report, it is considered that, subject to recommended conditions, the application can be supported.

## **6. RECOMMENDATION**

That the Sydney Eastern City Planning Panel exercising its functions as the consent authority pursuant to s4.55(2) of the *Environmental Planning and Assessment Act 1979*, grant consent to application No MOD/2024/0453, which seeks to modify Determination DA/2022/0033 dated 5 September 2022. The modification seeks to change earthworks and the management of contaminated excavated soil on the site, fill and landscaping works to the southern corner of the park, demolition of a mechanical plenum and associated works to the north-eastern side of the grandstand, other design changes to the grandstand and broadcasters building, removal of bicycle parking and line marking to the car park and other minor modifications, subject to the amendments listed in Attachment A.

The following attachments are provided:

- Attachment A: Draft amended conditions of consent
- Attachment B: Architectural Plans and Containment Cell details
- Attachment C: Current Notice of Determination (MOD/2023/0247)
- Attachment D: Council approved Construction Environmental Management Plan
- Attachment E: Statement of Heritage Impact submitted as part of DA/2022/0033