



COUNCIL ASSESSMENT REPORT

Panel Reference	PPSWES-115
DA Number	244/2020(2)
LGA	Griffith
Proposed Development	Recreation Facility (major) – Sports Precinct Redevelopment – Westend Oval
Street Address	85 – 119 Merrigal Street Griffith NSW
Applicant/Owner	Griffith City Council
Date of DA lodgement	Modification Application Lodged 22 September 2021
Number of Submissions	1 raising concerns – no objections to the development
Recommendation	Approval with conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	<p>20 Declaration of regionally significant development: section 4.5(b) (1) Development specified in Schedule 7 is declared to be regionally significant development for the purposes of the Act.</p> <p>Schedule 7 3 Council related development over \$5 million (1) Development that has a capital investment value of more than \$5 million if— (a) a council for the area in which the development is to be carried out is the applicant for development consent,</p>
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • The development proposal doesn't contravene a development standard or any other relevant provision of the Griffith Local Environmental Plan 2014. • The proposal is consistent with the zone objectives • The proposal doesn't contravene any adopted development control plan provision
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Section 4.55 Assessment report prepared by Council • Development application prepared by applicant • Letter supporting modification prepared by Applicant • Modification Site & Building plans prepared by Altus Group / Group GSA • Submissions from residents
Clause 4.6 requests	<ul style="list-style-type: none"> • There are no development standards relevant to this proposal under the Griffith LEP 2014 or any applicable SEPP.
Summary of key submissions	<ul style="list-style-type: none"> • Support for proposal for the construction of community infrastructure
Report prepared by	Miss Kerry Rourke (Relief Town Planner)
Report date	26 November 2021

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. *Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Not
Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

**Not
Applicable**

Conditions

Have draft conditions been provided to the applicant for comment?
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes

Section 4.55 Modification Assessment Report 244/2020(2)

PART 1 – PRELIMINARY

Division 1 – Application Details

1.1 Griffith City Council received an application to modify Development Consent No. 244/2020(1) on 29 September 2021 from Griffith City Council. The modification has been lodged pursuant to the provisions of Section 4.55 (2) and seeks to modify 244/2020(1) for Modification - Sports Precinct Redevelopment (Westend Oval) including which was issued by Council on 23 December 2020 by:

1. *The new carpark surface has changed from concrete to 40mm thick Hotmix*
2. *There were 4 shipping containers originally shown – 2 each side of the grandstand. These have not worked out as practical storage for the equipment so they have been replaced with a single storey colourbond shed in the area adjacent to the carpark already designated for this purpose on the original DA*
3. *The substation required for the site has moved approximately 7.0m to the south from its original location due to existing services and required clearances from these services*
4. *The grandstand has increased in height by 200mm to accommodate the installation of Mechanical services and maintain ceiling heights in the amenities*
5. *On the western elevation of the stadium the low level louvres have been deleted and replaced with the blockwork which already formed the rest of the 1.0m high wall*
6. *The Fire pump room required a second standby pump and due to this the room has increased in size by approximately 1.0m. The ventilation louver has been replaced with a ventilated roller door to allow the necessary access to service these pumps*
7. *The stage 2 works items 2.2 through to 2.5 noted on the site plan have been included in stage 1 works. These include the following,*
 - *Constructing the long & triple jump runways as this needed to be completed as part of the track works(2.2)*
 - *Obtaining Class 2 certification for the facility (2.3)*
 - *Removing an existing throw cage and replacing it with two new throw cages (2.4 & 2.5)*

As part of the assessment of the Section 4.55 modification Council is relying on the following documents provided by the applicant:

- (a) Information set out on the development application form
- (b) Cover letter prepared by Hines Constructions Pty Ltd
- (c) Along with the following

-  DA 244/2020(2) - Lodgement - Modification - 85-119 Merrigal Street Griffith - Stadium Elevations (Public)
-  DA 244/2020(2) - Lodgement - Modification - 85-119 Merrigal Street Griffith - Grandstand Elevations (Public)
-  DA 244/2020(2) - Lodgement - Modification - 85-119 Merrigal Street Griffith - Stadium Elevations (1) (Public)
-  DA 244/2020(2) - Lodgement - Modification - 85-119 Merrigal Street Griffith - Grandstand Plans (1) (Public)
-  DA 244/2020(2) - Lodgement - Modification - 85-119 Merrigal Street Griffith - Outdoor Courts (Public)
-  DA 244/2020(2) - Lodgement - Modification - 85-119 Merrigal Street Griffith - Proposed Site Plan (Public)
-  DA 244/2020(2) - Lodgement - Modification - 85-119 Merrigal Street Griffith - Structural engineers report
-  DA 244/2020(2) - Lodgement - Modification - 85-119 Merrigal Street Griffith - Shed Elevations
-  DA 244/2020(2) - Lodgement - Modification - 85-119 Merrigal Street Griffith - Structural engineers report 1
-  DA 244/2020(2) - Lodgement - Modification - 85-119 Merrigal Street Griffith - Shed Plans (Public)

Comment: In relation to the conditions to be amended to facilitate the 7 items listed above, there are only 3 conditions to alter:

#1 - to cover site plan and architectural plans related to the grandstand, stadium floor plan and elevations, shed plans, relocated substation and fire pump house, along with the track & field

infrastructure . The Site plan is to be amended in red to cross through the 10 informal spaces on the south western side of the car park entry.

#2 - Construction certificate to submit a CC for the shed

#56 – change concrete to asphaltic concrete construction for the carpark.

Division 2 – Background Information

- 2.1 A detailed site and locality description is set out in the original assessment report contained on file and in Council' Record Management system. Works associated with the approved development application have/have not commenced.
- 2.2. Prior to the application being lodged with Griffith City Council, the proponent for the development had pre-lodgement discussions with Council Officers. During the pre-lodgement discussions the following issues were raised verbally – shed was to replace the shipping containers, bitumen rather than concrete (which was a Council error in the original condition set), minor height change in the grandstand.
- 2.3 The matter was considered at the Development Control Unit meeting on 30 September 2021 and the following matters were raised during the preliminary assessment of the application which are potential issues or where further information from the applicant is required:

Other Issues

- Engineers have no issues
- Change wording from concrete to bitumen for carpark construction
-
- to be referred to the Western Regional Planning Panel for determination - wait til cover letter received
- Alana change determination to WRPP after cover letter
-

STOP-THE-CLOCK ADDITIONAL INFORMATION LETTER

Does Council require any additional information to enable assessment?



Yes



No

Other Issues

- Please provide a cover letter addressing the changes in the application and what impacts
- if any on the surrounding residential environment

- 2.4 Details of the development history can be found in the original assessment of the development application on file and in Council's Record Management system.

PART 2: ASSESSMENT

Division 3 – Section 4.55 Considerations

- 3.1 Section 4.55 of the Environmental Planning & Assessment Act, 1979 sets down matters the consent authority must take into consideration when assessing applications which seek modifications to development consents.
- 3.2 With regard to both section 4.55(1A) the Environmental Planning & Assessment Act, 1979 states that a consent authority may modify the consent if:

“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)” (viz. sections 4.55(1A)(b) and 4.55(2)(a))

In the matter of *Vacik Pty Ltd v Penrith City Council* the NSW Land and Environment Court held that Council in assessing whether the consent as modified will be substantially the same development one needs to compare the before and after situations, however *“one should not fall into the trap of saying that the development was for a certain use...and as amended will be for precisely the same use and accordingly is substantially the same development. What is important is that a development...must be assumed to include the way in which the development is to be carried out.”*

There is a shed proposed in this modification on the site of the ‘potential future maintenance storage shed location’ to the north east of the formal on site carpark. It has been considered reasonable to include this building in the modification. The shed proposed is smaller than that originally indicated on the approved plan. There will be landscaping between that building and the road reserve and the shed is proposed to be constructed of Woodland Grey Colorbond® steel which will reduce its visual prominence in the landscape.

Louvre panels on the western elevation of the stadium are proposed to be modified or removed. The lower level louvres, 5 sets of 6 panels along the wall are proposed to be removed and replaced with masonry, and the upper sets are proposed to be reduced from 5 sets of 6 louvres to 5 sets of 4 louvres. This does not make a significant difference to the appearance of the western façade and the location of the louvres may have left them vulnerable to vandalism.

The grandstand is proposed to be 200mm higher than the original approval which will have a negligible visible appearance given the scale of the property and the setback from road reserves for this building.

Other matters relating to the track and field act ivies could have been dealt with as development without consent under SEPP Infrastructure, but as they have been included on the application plan as being part of the stage 1 plans there is no issue with the change.

The original application is for a regionally significant sporting complex with upgrade of existing facilities and the construction of new development such as the grandstand. The modifications proposed are not inconsistent with the original approval and are considered to result in substantially the same development, with minimal change in environmental impact on the surrounding residential environment.

In this regard Council can be satisfied that the proposed modification represents substantially the same development as to which consent was originally granted that the proposal satisfies

the threshold requirements of Section 4.55(1A)(b) of the Environmental Planning and Assessment Act, 1979.

3.3 The provisions of section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 require the consent authority to notify the modification 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, (viz. sections 4.55(1A)(c)(i) & (ii) and 4.55(2)(c)(i) & (ii))*

Council's Community Participation Plan sets down the obligations of Council when it comes to notifying modification applications lodged pursuant to the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979.

Council has undertaken notification of the modification application in accordance with the CPP and the regulations.

In this regard Council has satisfied its obligations in terms of Section 4.55(c) of the Act.

3.4 The provisions of section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 require Council to consider:

"any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be." (viz. sections 4.55(1A)(d) and 4.55(2)(d))

Council received one (1) submission raising concerns regarding the road network in the vicinity of the carpark entry and Day Street:

- No inclusion of kerb & gutter from the Day St intersection right up to the proposed carpark entry.
- location of 10 informal 90 degree car spaces before the Day St & Merrigal St intersection approaching from Yarrabee St end.

It is noted that the informal car parking spaces noted on the application plan are in the same location as originally approved and this has not changed. There is no nexus under this modification to have those spaces formalised or kerb and gutter around the whole site included in the application conditions, given the minor changes in this modification.

Comments have been received from Council's Development Engineers in relation to the submission is provided for information:

In regards to the submission letter received from Mr Alister Watt dated 21 October 2021, ideally the installation of kerb and gutter along the boundary of the entire precinct would be ideal, and this may indeed be Council's intention in the future to improve the amenity of the area, however this was not allowed for in budget for this project as it was subject to external grant funding. The current state of the road widths and the surrounding ground areas do not cause an issue in regards to traffic and overland stormwater so therefore any future works would indeed improve the area but are not mandatory at this stage.

However I do agree with Mr Watt's that the location of the 10 informal 90 degree parking spaces being provided south west of the driveway into the internal new carpark on the bend

of Merrigal Street are in a bad location in regards to site distance and safety and ideally those spaces should be relocated to the north east of the internal new car park.

While there is little nexus between the informal parking and the modification, the location of the 10 informal spaces has been discussed with the applicant (Alan Vermeer Hines Construction) and there is no objection to these spaces being removed from the plan, as there are another 52 informal spaces identified north of the car park entry.

Division 4 – Section 4.15 Evaluation

4.1 The provisions of Section 4.55(3) of the Environmental Planning and Assessment Act, 1979 require the consent authority to evaluate a modification application with regard to Section 4.15 of the Act.

4.2 With regard to Section 4.15(1)(a)(i) of the Act in respect to the provision of any environmental planning instrument, the following evaluation has been undertaken:

(a) Griffith Local Environmental Plan 2014

The proposed modification of Development Application No 244/2020 (2) has been assessed with regard to Griffith Local Environmental Plan 2014 and it has been considered that:

- (i) The proposed modification does not result in any issue that would affect the permissibility of the development.
- (ii) The proposed modification does not result in any inconsistency with regards to the objectives of the zone.
- (iii) The proposed modification does not involve any breach of a development standard, nor does it involve any further breach of a development standard that has been previously been considered.

(b) State Environmental Planning Policies

The original application was assessed with regard to the relevant State Environmental Planning Policies that applied at the time. The proposed modification does not result in any inconsistency with the previous assessment.

4.3 With regard to Section 4.15(1)(a)(ii) there are no draft environmental planning instruments applicable to the Griffith Local Government Area or to the proposed development.

4.4 Council took into account the relevant development control plans as part of the original assessment of the development application in accordance with section 4.15(1)(a)(iii).

The modified development has been assessed with regard to those development control plans and it consistent with that plan.

4.5 There are no planning agreements which apply to this development and therefore the provisions of Section 4.15(1)(a)(iiia) do not apply.

4.6 The provisions of clauses 92, 93 and 94 of the Environmental Planning and Assessment Regulations, 2000 have been considered as part of this development in accordance with Section 4.15(1)(a)(iv) of the Act.

4.7 Council has considered the provisions of Section 4.15(1)(b) of the Act, and based on the assessment carried out thus far, Council can be satisfied the proposed modification to the

original development is unlikely to result in any adverse environmental, social or economic impact.

- 4.8 The proposed modification development does not alter the suitability of the site, which was considered appropriate when the original development application was determined. In this regard Council is satisfied the development accords with Section 4.15(1)(c) of the Act.
- 4.9 There were submissions made to Council in relation to the notification of this application and it is considered that the matters raised have been satisfactorily addressed in this modification.
- 4.10 The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment. The proposed modification has been considered in relation to relevant Environmental Planning Instruments, and deemed to be acceptable. On this basis, the proposal, is unlikely to raise any issues that are contrary to the public interest.

PART 3: CONCLUSION AND RECOMMENDATION

Division 5 - Conclusion

- 5.1 This application has been assessed under Section 4.55 of the Environmental Planning and Assessment Act, 1979 and it is considered that the proposed modification has merit and can be supported for the following reasons:
- (a) The modification is over minor environmental impact (viz. Section 4.55(1A)(a))
 - (b) The modification is considered to be substantially the same development.
 - (c) The modification has been notified in accordance with the provisions of the Act and regulations and that submissions have been addressed.

Division 6 - Recommendation

- 6.1 It is recommended that Council as the consent authority pursuant to Section 4.55 of the Environmental Planning & Assessment Act 1979 modify your previous Development Consent No: 244/2020(1) in the following way:

- (a) That condition "1" be deleted and replaced with the following:

1. Approved Development

Development consent has been granted for Multi-purpose Sports Precinct Redevelopment – Westend Oval, in the road reserve and at Lot 1 Section 71 DP 758476, Nos. 85 - 119 Merrigal Street Griffith, comprising:

Stage 1:

- the demolition of the existing Parks and Gardens Depot and part wall of existing basketball stadium;
- construction of a new five (5) court basketball stadium, including a 500 seat retractable seating system, change rooms, offices, meeting rooms, canteen and public amenities, with roof mounted air conditioning units;
- minor alteration to existing stadium for accessibility upgrades;

- construction of seven (7) outdoor netball courts, outdoor half basketball court, synthetic athletics track and field infrastructure, a synthetic and a grass hockey field and Grandstand, with amenities, canteen and maintenance and storage areas;
- construction of an on-site car park for 52 light vehicles and new access to Merrigal Street;
- Line marking of existing parking spaces in Merrowie Street to include 25 parking spaces including two accessible parking spaces;
- Removal of 14 parking spaces in Merrowie Street to install a new bus zone;
- Installation of a stormwater management system;
- Site-wide landscaping, footpath connections and installation of trees;
- Removal of existing electrical infrastructure within the site and installation of a new substation and connections to electrical infrastructure;
- Construction of footpaths around the site.

Stage 2:

- Increased capacity of the existing stadium canteen and kitchen, addition of a function room and increased indoor and outdoor casual seating areas
- Refurbishment of existing stadium tiered seating
- Installation of additional athletics field events infrastructure for discus, hammer throw and javelin;
- Construction of a viewing mound;

It is advised that the proposed development has been assessed in regards to the provision of the Griffith Local Environmental Plan 2014 and is considered to be a recreation facility (major), which is defined as:

recreation facility (major) means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

The development must be implemented in accordance with Development Application No. 244/2020 received by Council on 09/09/2020 as modified by lodgement with Council on 29/09/2021 and the below mentioned plans and/or documents, except where amended in red on the attached plans or modified by the conditions of this consent.

Drawing / Plan	Date Received by Council	Prepared or Drawn By
Site Plan – 190026 A-0-1100 Issue C	22 September 2021	Group GSA
Site Demolition Plan – 190026 – DA 105 Issue B	09 September 2020	Group GSA
Floor Plan Stadium – 190026 – A-S-2001 Issue C	22 September 2021	Group GSA
Roof Plan Stadium – 190026 – DA 205 Issue B	09 September 2020	Group GSA
Floor Plan Grandstand – 190026 – DA 220 Issue B	09 September 2020	Group GSA
Roof Plan Grandstand – 190026 – DA 225 Issue B	09 September 2020	Group GSA
Elevations Stadium – 190026 – A-S-3001 & 3002 Issue B	22 September 2021	Group GSA
Elevation Grandstand – 190026 – A-G-3001 Issue C	22 September 2021	Group GSA

Drawing / Plan	Date Received by Council	Prepared or Drawn By
Sections Stadium – 190026 – DA 400 & DA 401 Issue B	09 September 2020	Group GSA
Sections Grandstand – 190026 – DA 420 Issue B	09 September 2020	Group GSA
Perspectives Sheets 1 – 4 – 190026 – DA 601 Issue B, 602 – 603 Issue A & 650 Issue B	09 September 2020	Group GSA
Material & Finishes Schedule – 190026 DA 700 Issue A	09 September 2020	Group GSA
Canteen & Kiosk Floor Plan – 190026 DA 270 Issue A	17 September 2020	Group GSA
Landscape Master Plan Stage 01 + Stage 02 + Future Works - 190026-SK05 Issue B	09 September 2020	Group GSA
Landscape Plan Stage 01 – 190026 SK07 Issue B	09 September 2020	Group GSA
Plant Schedule – 190026 SK08 Issue B	09 September 2020	Group GSA
General Site Plan - 204005 C200 Revision P4	02 December 2020	TTW Taylor Thomson Whitting
Site Plan Sheet 1 of 5 – 204005 C201 Revision P5	02 December 2020	TTW Taylor Thomson Whitting
Site Plan Sheet 2 of 5 – 204005 C202 Revision P5	02 December 2020	TTW Taylor Thomson Whitting
Site Plan Sheet 3 of 5 – 204005 C203 Revision P4	02 December 2020	TTW Taylor Thomson Whitting
Site Plan Sheet 4 of 5 – 204005 C294 Revision P5	02 December 2020	TTW Taylor Thomson Whitting
Site Plan Sheet 5 of 5 – 204005 C205 Revision P4	02 December 2020	TTW Taylor Thomson Whitting
Pavement Plan Sheet 1 of 1 – 204005 C301 Revision P4	02 December 2020	TTW Taylor Thomson Whitting
Sporting Field Concept Design – 10611-00 Sheet 1 of 2 Revision D	09 September 2020	Sporteng
Sporting Field Concept Design – 10611-00 Sheet 2 of 2 Revision B	09 September 2020	Sporteng
Shed Plans	22 September 2021	The Shed Company Griffith
Shed Elevations	22 September 2021	The Shed Company Griffith

Document	Date Received by Council	Prepared or Drawn By
Statement of Environmental Effects	07 October 2020	SKM Planning
Traffic impact assessment	09 September 2020	Griffith City Council
Geotechnical Report Reg No GS20-120	02 December 2020	Aitken Rowe Geotechnical Engineering
Capability Statement	09 September 2020	Blackett Maguire + Goldsmith
Access Report	09 September 2020	Architecture & Access
Architecture & Urban Design Report	09 September 2020	Group GSA

If there is any inconsistency between the approved plans and documents referred to above, the conditions shall prevail. The ten (10) informal car spaces opposite Day Street are not approved.

(modified on ???)

(b) That condition “2” be deleted and replaced with the following:

2. Construction Certificate (Building Works)

Prior to construction of the approved development, it is necessary to obtain a Construction Certificate for the relevant building works. The Construction Certificate can be issued either by Council or a private certifier, including a construction certificate for the maintenance equipment storage shed.


(modified on ???)

(c) That condition 56 be deleted and replaced with the following:

56. Sealing of parking and manoeuvring areas

Prior to the issue of the first Occupation Certificate for the new stadium building all car parking areas off-street, and associated vehicular manoeuvring areas are to be constructed of a minimum 40mm thick Asphaltic Concrete in accordance with Council's Sealing of Parking and Manoeuvring Areas Policy (CS-CP-405) and Council's Engineering Guidelines - Subdivisions and Development Standards.

(modified on ???)

ASSESSING OFFICER		Date
Name:	Kerry Rourke	26 November 2021
Position:	Relief Town Planner – Acting Development Assessment Coordinator	
Signature:		
REVIEWING OFFICER		
Name:	Carel Potgieter	30 November 2021
Position:	Planning & Environment Manager	
Signature:	