



**SUBMISSION PURSUANT TO CLAUSE 4.6 OF BLEP2012  
REQUESTING A VARIATION TO THE BUILDING HEIGHT LIMIT OF 8.5M  
CONTAINED IN CLAUSES 4.3 & 4.3A OF BLEP2012**

**PROPOSED BALLINA INDOOR SPORTS CENTRE  
CHERRY STREET  
BALLINA**

**PREPARED FOR:**

PDT Architects

**PREPARED BY:**

DAC Planning Pty Ltd

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## **1.0 INTRODUCTION**

This submission has been prepared by DAC Planning Pty Ltd in relation to an exception to the development standards in Clauses 4.3 and 4.3A of BLEP2012, which limit the height of buildings on the subject land to 8.5m.

The proposed building has a maximum building height of 11.18m (measured from the minimum AHD level identified for the site under Clause 4.3A addressed below), which is 2.68m above the maximum building height permitted for the site by the BLEP2012.

The subject site is identified on the BLEP2012 Building Height Allowance Map as having a minimum level AHD of 2.0m (refer **Figure 8** below).

Whilst the maximum height of the proposed building from the existing ground level (approximately RL 1.8m AHD) is 11.38m, based on the minimum AHD level identified for the subject site on the BLEP2012 Building Height Allowance Map, being RL 2.0m AHD and the allowance to measure the maximum height of development from that level under this Clause, the maximum height of the proposed building is 11.18m.

It is noted that the new BHS buildings have been approved at a height of 11.3m to 15.526m.

Clauses 4.3 and 4.3A are reproduced as follows:

***"4.3 Height of buildings***

- (1) *The objectives of this clause are as follows:*
- (a) *to ensure that the height of buildings is compatible with the bulk, scale and character of the locality,*
  - (b) *to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality,*
  - (c) *to protect significant views from public places.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

***4.3A Exceptions to height of buildings***

- (1) *The objective of this clause is to align building height and flood planning provisions and provide for a consistent point of reference for the measurement of building heights in flood prone areas.*
- (2) *This clause applies to land identified as "Minimum Level Australian Height Datum (AHD)" on the Building Height Allowance Map.*
- (3) *The maximum height of a building on land to which this clause applies is to be measured from the minimum level AHD permitted for that land on the Building Height Allowance Map."*

## **2.0 DESCRIPTION OF THE PROPOSED DEVELOPMENT**

This application seeks development consent for an indoor sports centre comprising the following key elements:

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- ♦ Construction of a single storey building with a gross floor area of 3003m<sup>2</sup> comprising:
    - 1876m<sup>2</sup> for court/play areas;
    - 585m<sup>2</sup> foyer/circulation;
    - 542m<sup>2</sup> change rooms/amenities/meeting rooms/storage/kiosk/comms/ reception/box office, etc.

The building will comprise two courts which can be used flexibly for various sports including volleyball, basketball, tennis and the like.

The capital investment value of the project is \$6,525,000.00. Onsite parking for 32 vehicles will be provided in addition to the 47 spaces required for the BHS site. The spaces will be provided adjacent to the approved high school spaces on the north western side of Lot 477 DP 729251 (Clement Park). Recycled effluent will be used in the toilets.

Full details of the proposal are shown on the Application Plans at **Annexure 3**. It is estimated that one fulltime equivalent position will be created during the operational phase of the development and approximately 10 fulltime equivalent positions during the construction phase.

The BISC project is to join with the high school sports centre and to ultimately result in a shared four court facility. It is a requirement of the project that the Council and high school sports facilities are integrated.

### 3.0 JUSTIFICATION FOR CONTRAVENTION OF THE DEVELOPMENT STANDARD

Clauses 4.6(1) to (5) of BLEP2012 are in the following terms:

#### ***"4.6 Exceptions to development standards***

- (1) The objectives of this clause are as follows:
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.**
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.**
- (4) Development consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and**
  - (b) the concurrence of the Secretary has been obtained.**
- (5) In deciding whether to grant concurrence, the Secretary must consider:*

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- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) the public benefit of maintaining the development standard, and*
  - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence."*

The following submission addresses Clauses 4.6(3) and (4).

#### **Clause 4.6(3)(a)**

The height of the proposed BISC building is determined by the following factors.

- ♦ Clearance requirements from the various sporting groups.
- ♦ Structural clearances required above the minimum height to span courts.
- ♦ Ventilation requirements to the sports hall (western louvres).
- ♦ The adjacent Ballina High School (BHS) sporting facility requires an enclosed link to the BISC, as such the proposed floor level needs to align with RL 2.6m AHD to ensure compliant access between both buildings.

As a result of these requirements, the overall height of the proposed building is 11.18m.

#### **Clause 4.6(3)(b)**

The proposed BISC will be located partly on Clement Park, which is a sports field owned by the Minister for Education and which forms part of the BHS. The remaining part of the BISC will be located on the new BHS site. The new High School is under construction.

It is intended that the BISC will be used by school students during normal school hours and by other sporting groups and the general public after school hours.

The BHS site (including Clement Park) is a discrete parcel bounded by Cherry Street, Swift Street, Martin Street and Bentinck Street. Cherry Street has a 30m wide road reserve and the other streets have a 20m wide road reserve.

The approved BHS buildings range from 11.3m to 15.3m high. The proposed BISC building will be compatible with the approved High School buildings and the BISC is to join with the High School sports centre to ultimately result in a shared four court facility.

Clause 4.6(4)(a) requires the consent authority to be satisfied that the applicant's written request adequately addresses the matters in Subclause 3 and the proposed development will be in the public interest and is consistent with the objectives of the development standard and the zone objectives.

The objectives of the R3 and RE1 zones are as follows:

##### ***"Zone R3 Medium Density Residential***

##### ***1 Objectives of zone***

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

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- To provide development that is compatible with the character and amenity of the surrounding neighbourhood.
  - To encourage housing and infrastructure that supports the ageing population.
  - To provide for development that meets the social and cultural needs of the community.
  - To encourage development that achieves the efficient use of resources such as energy and water.

#### **Zone RE1 Public Recreation**

##### **1 Objectives of zone**

- 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 provide for a diversity of development that meets the social and cultural needs of the community.
- To provide for public access to open space and natural recreation areas.
- To protect and conserve landscapes in environmentally sensitive areas, particularly in foreshore and visually prominent locations.
- To provide for development that is consistent with any applicable plan of management.
- To encourage development that achieves the efficient use of resources such as energy and water."

The objectives of the 8.5m building height development standard are reproduced as follows together with a response:

*"(1) The objectives of this clause are as follows:*

- (a) to ensure that the height of buildings is compatible with the bulk, scale and character of the locality,*
- (b) to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality,*
- (c) to protect significant views from public places."*

#### **(a) Response**

The BHS site is in a discrete locality and the approved high school building will establish the character of the locality. In summary, the BHS buildings have been approved at 11.3m to 15.526m high and therefore the proposed BISC will be compatible with the character established by the high school buildings. The proposed BISC building height is therefore consistent with Objective (a).

#### **(b) Response**

BHS and the proposed BISC are located on a discrete site which is separated from adjacent residential, recreational and education uses by existing public streets. In addition, the building height variation is limited to 2.68m.

In the context of the site's setting and the bulk and scale of the approved high school buildings, no significant adverse impacts are likely. The proposed building height is therefore consistent with Objective (b).

#### **(c) Response**

There are no significant view corridors through or from the site, which is flat and within an established urban setting.

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The site is approximately 2.5 kilometres from the coast and will not impact on foreshore views or visual amenity.

The proposed building height is therefore consistent with Objective (c).

Having regard to the facts and circumstances outlined in response to Subclauses 3(a) and 3(b), it is considered that the consent authority can be satisfied that the matters in Subclause 4(a) have been adequately addressed.

In addition, the consent authority can reasonably be satisfied that the proposed development will be in the public interest because it is not inconsistent with the objectives of the building height development standard and the zone objectives.

Clause 4.6(b) provides that development consent can only be granted with the concurrence of the Secretary of the Department of Planning and Environment. Ballina Shire Council and the Joint Regional Planning Panel do not have delegated authority to assume the Secretary's concurrence pursuant to Planning System Circular PS17-006 dated 15 December 2017. The Secretary's concurrence is therefore required.