

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2018STH001
<b>DA Number</b>	2018/36
<b>LGA</b>	Ballina Shire
<b>Proposed Development</b>	Construction of the Ballina Indoor Sports Centre comprising two basketball courts and associated amenities, vehicular access from Cherry Street, provision of on-site car parking, vegetation removal and associated infrastructure works. The proposed building has a maximum building height of 11.18m, which is above the maximum building height of 8.5m established for the site under the Ballina Local Environmental Plan 2012. It does not comply with the preferred building envelope (front building line) or Building Height Plane. It is otherwise compliant with the prevailing planning controls.
<b>Street Address</b>	Lot 392 DP 755684, Lot 1 DP 1083219, Lots 477 & 478 DP 729251, 37-49 Swift Street, Ballina
<b>Applicant/Owner</b>	Ballina Shire Council
<b>Date of DA lodgement</b>	30 January 2018
<b>Number of Submissions</b>	Three submissions were received from the public. None from agencies.
<b>Recommendation</b>	Approval with conditions
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	<p>4 Council related development over \$5 million</p> <p>Development that has a capital investment value of more than \$5 million if: <b>(a) a council for the area in which the development is to be carried out is the applicant for development consent</b>, or (b) the council is the owner of any land on which the development is to be carried out, or <b>(c) the development is to be carried out by the council</b>, or (d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).</p> <p>The estimated capital investment value of this development is \$6,525,000.</p>
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Ballina Local Environmental Plan 2012</li> <li>• Ballina Development Control Plan 2012</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No. 64 – Advertising and Signage</li> <li>• State Environmental Planning Policy No. 71 – Coastal Protection</li> <li>• Draft Coastal Management State Environmental Planning Policy 2016</li> </ul>

<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Schedule of Conditions</li> <li>• Plan Set</li> <li>• Written request for a contravention to a development standard</li> <li>• Submissions</li> </ul>
<b>Report prepared by</b>	<b>Mike Svikis RPIA (Fellow) – Consultant Planner</b>
<b>Report date</b>	23 March 2018

#### Summary of s79C matters

Have all recommendations in relation to relevant s79C 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 summarised, in the Executive Summary of the assessment report? **Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

#### 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? **Yes**  
**(App 1)**

#### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

#### 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**

## EXECUTIVE SUMMARY

Consent is sought for a development characterised as a *recreation facility (indoor)* on the Ballina High School site (BHS), Cherry Street, Ballina. The Ballina Indoor Sports Centre (BISC) will comprise two basketball courts and associated amenities, vehicular access from Cherry Street, provision of on-site car parking, vegetation removal and associated infrastructure works. The BISC will be integrated with and operated in conjunction with the approved BHS recreation facilities on adjoining land.

The application was placed on public exhibition from 7 February 2018 to 26 February 2018. Council received three submissions in relation to the application, none of which opposed it. The issues raised include tree removal, the proposed flooring in the facility and the inclusion of a stage. All matters raised have been considered and addressed.

A request for further information (RFI) was issued for clarification of a number of matters including amenity provision, waste management, acoustic issues, water supply, stormwater, traffic, parking, overshadowing and tree removal. These matters have all been addressed and changes made to the exhibited plans as required.

The proposed building has a maximum building height of 11.18m, which is above the maximum building height of 8.5m established for the site under the Ballina Local Environmental Plan 2012 (BLEP 2012). It does not comply with the preferred building envelope (front building line) or Building Height Plane (DCP requirements). It is otherwise compliant with the prevailing planning controls. The height variation is justified pursuant to clause 4.6 of BLEP 2012. In this case the BISC building will not impact on significant views from public places or private residences. The tallest parts of the building are set back about 25 metres from the nearest boundary. Its bulk and scale is what is required for an indoor sports stadium (minimum ceiling height is 7 metres for playing courts). It will not cause significant overshadowing of public open space or private land other than the school land immediately south of the building. It will not unduly impact on the amenity of the neighbourhood. It will blend in with the tall buildings on the adjacent BHS site. The encroachment on the front building line is warranted because it is minor (1 metre) and reduces the overall loss of sporting fields on the balance of the site. The Building Height Plane encroachment is a result of the height of the building.

Stormwater leaving the site is the most likely source of impact on the environment. In this case pollution loads are likely to be light from the proposed sports centre. All impervious runoff from the site is to be collected in a swale based system and treated prior to discharge to Bentinck Street. Modelling shows that Council water

quality standards can be met. Sediment and erosion controls will be implemented during construction.

Earthworks on the site will include filling, to achieve a ground level of about RL2.1 metres AHD and RL2.4 metres AHD for the building pad. The current ground level is about RL 1.6 to 1.8 metres AHD. Only clean fill will be used on the site. All buildings will have a floor level of RL 2.6 metres AHD. This should provide flood protection up to the design flood. The car park will be filled to RL 2.1 metres AHD and this should avoid nuisance flooding. No flooding impacts anticipated.

The site is identified as being within Class 2 Acid Sulfate Soils under the Acid Sulfate Soils Planning Maps. Implementation of the Acid Sulfate Soils Management Plan is a condition of approval.

The property is not identified on the Environmental Protection Authority's list of NSW contaminated sites, contaminated land record or environmental protection licence register. The proposed development site is not impacted by a cattle dip site nor is it within a 200m buffer of a dip site. It has no history of past land use that would lead to contamination. Sampling of the BHS site (and surrounds) was carried out and relevant contaminants of concern were identified and samples analysed accordingly. All results were below the Health Investigation Limits (HIL). It is also the case that the BISC will be an indoor facility and the car park will be sealed. Future site users will have minimal contact with the soil on the site and it will be filled with clean fill in any case. It is considered there is minimal risk to human health or the environment in regard to contamination and the site is suitable for the proposed use. A condition is recommended which requires the developer to notify Council if as a result of the works information is uncovered that alters the above conclusion.

The proposed car parking proposed meets the numerical requirements in Council's DCP (including covered disabled spaces). It has an entrance arrangement that will not impact unduly on Cherry Street traffic or the nearby roundabout. A bus and HRV truck can enter and exit the car park in a forward direction for patrons drop off, loading, or waste pick up. Bus parking is available in Swift and Martin Streets.

This site is not mapped as significant fauna habitat and does not contain any native remnant vegetation. All trees and shrubs have been planted as part of past land uses. However, 33 trees are to be removed as a result of this development. Of these, five are Camphor laurel, six are Tuckeroo, six Eucalypts and three are Fig trees. The balance are a mix of native species. In the past, trees have been planted on the edges of sports fields for shade and landscaping. In order to save as much sporting fields as possible the building and car park are now also to be located on the edges of sports fields. This loss will be offset by trees planted in landscaping around the new building and car park. About 26 trees are shown on the landscape

plan in addition to gardens and open grass areas. Landscape trees will be native species endemic to the locality to encourage bird life.

Council has determined that the proposal is acceptable subject to, where appropriate, conditions on the consent to manage the remaining issues.

All relevant matters under Section 79C of the *Environmental Planning and Assessment Act 1979* have been considered in the assessment of the application. The assessment raises minor issues in relation to these matters and recommends that the proposal be approved subject to the attached schedule of conditions (Appendix 2). These conditions are expected to mitigate any minor issues identified as part of the assessment.

Concurrence is required for the development in relation to the building height variation (BLEP cl 4.6) and this has been delegated to the JRPP. No integrated approvals are required.

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## **1.0 Introduction**

Development Application 2018/36 was lodged with Council on 30 January 2018. An assessment of the development application has now been completed and the application is presented to the Joint Regional Planning Panel for determination.

## **2.0 Details of Proposal**

The proposal involves the construction of Ballina Indoor Sports Centre (BISC) on part of the Ballina High School site. The centre will be integrated with and operated in conjunction with the approved Ballina High School (BHS) recreation facilities on adjoining land, which are currently under construction.

The proposal involves the following components:

- Construction of a single storey building with a gross floor area of 3017m<sup>2</sup> comprising:
  - 1876m<sup>2</sup> for court/play areas;
  - 585m<sup>2</sup> foyer/circulation;
  - 556m<sup>2</sup> changerooms/amenities/meetingrooms/storage/kiosk/comms/reception/box office;
- A covered walkway connecting the building back to BHS;
- A building identification sign;
- Onsite car parking for 77 vehicles (30 spaces for BISC users will be provided in addition to the 47 spaces required for the BHS site);
- Site access from Cherry Street in two locations;
- Infrastructure service provision for water, sewer, and stormwater; and
- Tree removal and landscaping.

The proposed hours of operation and typical activities are (seven days a week):

- 6am to 7am - staff arrival and setup of facility.
- 7am to 10:30pm - training and games on courts.
- 10:30pm to midnight - players leave immediately after game completion at 10:30pm, staff pack down of facility and staff leaving.

The proposed indoor sports centre will be available for use by BHS. The BHS sports facility will be available for use by the general public when not required by the school (eg weekends).

## **3.0 Description of Subject Site and Surrounds**

The subject site is Lots 477 & 478 DP 729251, Lot 1 DP 1083219 & Lot 392 DP 755684 Cherry Street, Ballina (Figure 1). The site has an area of approximately 5.9 hectares, with frontages to Swift Street in the south, and Bentinck Street in the north of approximately 201 metres each, and frontages to Martin Street in the east and Cherry Street in the west of 293 metres each.

The site is owned by The Minister for Education and Training. The southern part of the site comprises the new BHS (currently under construction) and the northern part comprises sports fields known as Clement Park. BHS was established in 1931. On 11 August 2017 consent was issued for the redevelopment of Ballina High School into Ballina Coastal High School and demolition / construction commenced shortly after that date.

The site is generally flat, with site levels varying from RL 1.5m AHD to RL 2.4m AHD. The southern side of the site containing the existing BHS is mostly above RL 2.0m AHD, whilst the Clement Park (northern) side of the site is predominantly below RL 2.0m AHD.



Figure 1 Subject site and surrounding land use



The subject site is zoned part R3 – Medium Density Residential and part RE1 Public Recreation (Figure 2). The indoor sports centre straddles both these zones on the Cherry Street frontage to the site. The development is defined as a *recreation facility (indoor)* and is permitted with consent in both zones.

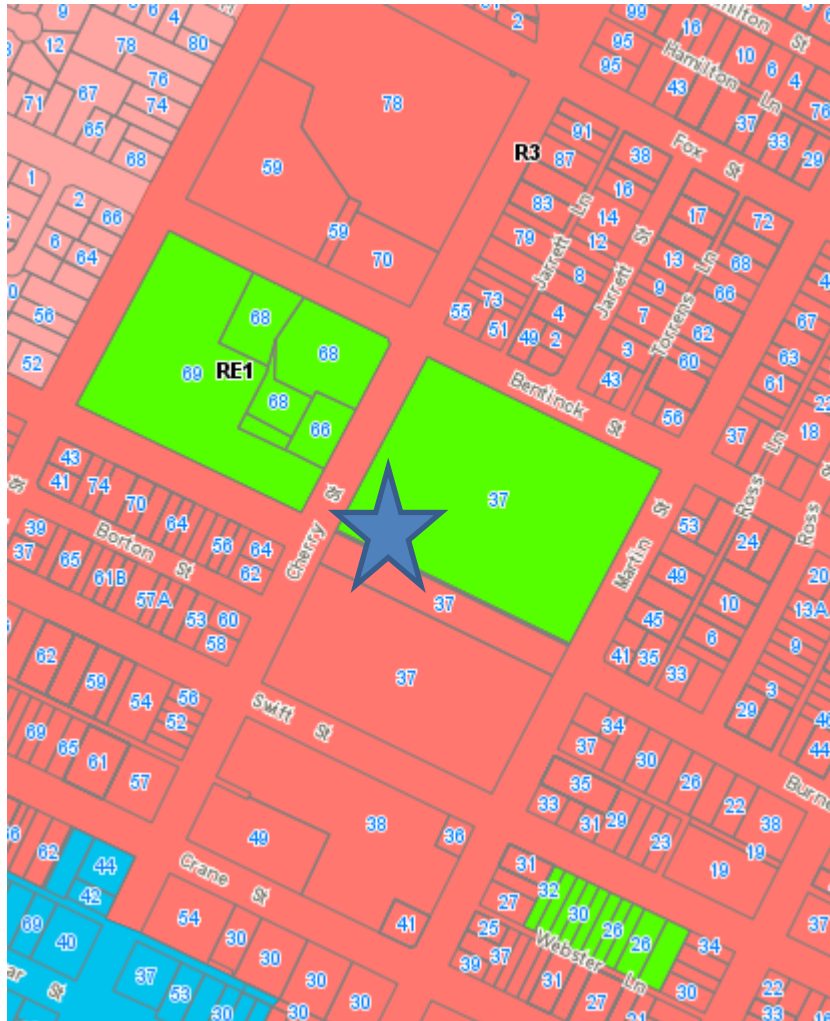


Figure 2 Land use zones under Ballina LEP 2012 R3 and RE1

The property is surrounded by a variety of land uses. Adjoining development to the north and east is low density residential comprising predominantly detached dwelling houses. To the south of the BISC site is the new BHS which is currently under construction and further to the south is the Ballina Public School and St Francis Xavier Primary School. To the west of the site are the Ballina Bowling and Recreation club buildings, bowling greens and tennis courts, together with some low density residential development.



#### **4.0     Background of Proposal**

Council has been looking for a suitable site for an indoor sports centre for some time. This site was one of several considered. In February 2017 Council and the Department of Education agreed to a 50 year lease over the subject land which should encompass the useable life of the BISC. Council is aiming to complete the BISC and have it operational by 1<sup>st</sup> February 2019 to coincide with the re-opening of the new Ballina Coastal High School.

#### **5.0     Matters for Consideration**

The proposed development has been assessed under the heads of consideration in Section 79(C) of the *Environmental Planning and Assessment Act 1979*. The assessment has identified the following key issues which are elaborated upon for the Panel's consideration.

##### **5.1     Section 79C(1)(a)(i)   provisions of   any environmental planning instrument**

###### **5.1.1 State Environmental Planning Policy No.55 – Remediation of Land**

Clause 7 of SEPP 55 outlines the contamination and remediation to be considered in determining development applications.

*(1) A consent authority must not 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.*

**Comment:** A Phase 1 Environmental Site Assessment has not been undertaken specifically for this development. It was undertaken for the redevelopment of the BHS and it included some test locations near to the location of the BISC. The site history indicates the majority of the site has been used for school purposes since circa 1915 with the current school constructed in 1931. Prior to this the area was used for public recreation or public markets. Burnet Street divided the northern and southern portion of the site until the mid-1970s when ownership was transferred to the Minister of Education and Training and the road was closed and converted for school usage which includes car parking areas, buildings, concrete playing courts and landscaped areas.

The property is not identified on the Environmental Protection Authority's list of NSW contaminated sites, contaminated land record or environmental protection licence register. The proposed development site is not impacted by a cattle dip site nor is it within a 200m buffer of a dip site.

Sampling of the BHS site (and surrounds) was carried out and relevant contaminants of concern were identified and samples analysed accordingly. All results were below the Health Investigation Limits (HIL). It is also the case that the BISC will be an indoor facility and the car park will be sealed. Future site users will have minimal contact with the soil on the site. The site is also required to be filled with clean fill to raise it above flooding levels.

As a result, it is considered there is minimal risk to human health or the environment in regard to contamination and the site is suitable for the proposed use. However a condition is recommended which requires the developer to notify Council if as a result of the works information is uncovered that alters the above conclusion.

No remediation works are proposed as part of the application.

*(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

**Comment:** The Phase 1 Environmental Site Assessment undertaken for the BHS site and surrounds is sufficient to address any concerns about this site.

*(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

**Comment:** Further detailed investigation is not warranted. A precautionary condition can be imposed that requires further information if any contamination concerns are encountered once construction starts.

*(4) The land concerned is:*

*(a) land that is within an investigation area,*

*(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*

*(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*

*(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*

*(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

**Comment:** There is no history of the site being used for a purpose referred to in Table 1 to the contaminated land planning guidelines. It has been a school, road or sports ground since the early 1900's.

#### **5.1.2 State Environmental Planning Policy No. 64 – Advertising and Signage**

The elevation plans for the BISC show a building identification sign at about RL 10.78 metres AHD on the northern elevation. This sign will be visible from Cherry Street and Bentinck Street. Limited detail is provided on the proposed signage in the SEE. A building identification sign is appropriate in this situation. The sign shown on plans is approximately 3.6 m<sup>2</sup> and this exceeds the 2.5 m<sup>2</sup> standard that would make it exempt development. Discussion with the applicant confirms that it is intended that this sign be illuminated at night while the centre is open.

Under SEPP 64 a consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

*(a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*

*(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

Clause 3 (1) (a) of the SEPP requires:

*that signage (including advertising):*

*(i) is compatible with the desired amenity and visual character of an area*

**Comment:** Other signage is already located along Cherry Street including the BHS site identification signage and the Ballina Bowling and Recreation club. The visual character of the area is a mix of uses including businesses with façade advertising

along Cherry Street. The BISC sign will be set back about 25 metres from Cherry Street and will be compatible with its character.

(ii) *provides effective communication in suitable locations*

**Comment:** Identifying the BISC to oncoming traffic is important and will assist in differentiating it from the adjacent BHS sports centre. It is in an elevated location and with street trees and landscaping this is appropriate.

(iii) *is of high quality design and finish*

**Comment:** Council intends to use high quality materials. The proposed sign is simple but effective in identifying the building.

Satisfying the assessment criteria specified in Schedule 1 of the SEPP as follows:

#### *1 Character of the area*

**Comment:** The sign is compatible with the existing mixed use character of the Cherry Street locality. There is no particular theme for outdoor advertising in this locality.

#### *2 Special areas*

**Comment:** The sign is well located on the upper part of the building and does not detract from the amenity or visual quality of the locality. It is not an environmentally sensitive area, or a heritage conservation area, natural or other conservation areas. It does not detract from the adjacent sports fields or the nearest residential areas.

#### *3 Views and vistas*

**Comment:** The sign does not obscure or compromise any important views. It does not dominate the skyline or reduce the quality of vistas. It does not impact on the viewing rights of other advertisers.

#### *4 Streetscape, setting or landscape*

**Comment:** The small scale, proportion and form of the sign is appropriate for the streetscape. It does not create clutter and will not impact on vegetation management. It does not protrude above buildings or structures and does not act as a screen.

#### *5 Site and building*

**Comment:** The sign is compatible with the scale, proportion and other characteristics of BISC building. It is respectful of the building.

#### *6 Associated devices and logos with advertisements and advertising structures*

**Comment:** There are no safety devices or platforms associated with the sign. It will not be moving or have flashing lights or bunting.

#### *7 Illumination*

**Comment:** The distance from both Cherry Street and Bentinck Street will ensure that the proposed illumination will not result in unacceptable glare. It will not affect safety for pedestrians, vehicles or aircraft. It will not detract from the amenity of any residence or other form of accommodation. It will be subject to a curfew condition that is consistent with the operating hours of the BISC.

#### *8 Safety*

**Comment:** The sign will not reduce the safety for any public road. It will not reduce the safety for pedestrians or bicyclists. It will not obscure sightlines from public areas

### **5.1.3 State Environmental Planning Policy No. 71 - Coastal Protection**

The subject site falls within the Coastal Zone which is defined on maps issued by the NSW Department of Planning & Environment. It is located about 700 metres from the high tide mark of the Richmond River and North Creek estuaries. The provisions of State Environmental Planning Policy No 71 - Coastal Protection (SEPP 71) require the consent authority to consider the aims of the SEPP No. 71 together with the matters for consideration listed in Clause 8 of the SEPP (and other relevant clauses) when determining an application within the Coastal Zone.

The type, location and design of the development and its relationship with the surrounding area, is considered to be suitable. The site is in an urban locality with no direct contact with the nearest coastal foreshore and therefore will not have any direct impacts on the coastal environment.

#### *Clause 8 Matter for Consideration*

##### *(a) the aims of this Policy,*

**Comment:** The proposal is considered to be consistent with the relevant aims of SEPP 71 (as outlined below).

- (a) *to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*

**Comment:** The objective of the project is to improve recreation and cultural facilities in Ballina LGA. There will be no negative impacts on the coast.

- (b) *to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*

**Comment:** The BISC will not impact on public access to coastal foreshores.

- (c) *to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*

**Comment:** The BISC is not able to provide new opportunities for public access to coastal foreshores given its location.

- (d) *to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*

**Comment:** The subject land is not identified as being of Aboriginal cultural heritage significance.

- (e) *to ensure that the visual amenity of the coast is protected, and*

**Comment:** The BISC will not affect the visual amenity of the coast given its distance from the coast, realistic height and urban location in proximity to other substantial new school buildings.

- (f) *to protect and preserve beach environments and beach amenity, and*

**Comment:** The nearest surf beach is more than 2km away and the BISC will not impact the beach amenity in any way.

- (g) *to protect and preserve native coastal vegetation, and*

**Comment:** No native vegetation will be affected by this proposal other than some trees planted on the edge of Clement Park Oval. None of the native trees to be removed are threatened or vulnerable species.

- (h) *to protect and preserve the marine environment of New South Wales, and*

**Comment:** Stormwater leaving the site is the most likely source of impact on the marine environment. Stormwater leaving the site will not be untreated. In this case pollution loads are likely to be light from the proposed sports centre. All impervious runoff from the site is to be collected, treated and detained on site for short periods prior to discharge to Bentinck Street. Modelling shows that Council water quality standards can be met up to a 1% ARI event. Sediment and erosion controls will be implemented during construction.

- (i) *to protect and preserve rock platforms, and*

**Comment:** No rock platforms are within 2km of the site.

- (j) *to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*

**Comment:** Council will manage the project in an ecologically sustainable manner.

- (k) *to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*

**Comment:** The main BISC building is a substantial structure but is suitable given its proximity to school halls and buildings and with no other immediate neighbours. It is compatible with the sports club across Cherry Street and the open Clement Park oval area nearby. It will not impact on the scenic quality of the locality substantially.

- (l) *to encourage a strategic approach to coastal management.*

**Comment:** The BISC is consistent with Councils strategic planning for its community.

The proposal is considered to be consistent with the balance of the Clause 8 matters for consideration in SEPP 71 as follows:

- (b) *existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*

**Comment:** The site is not along or adjoining the coastal foreshore therefore this access consideration is not applicable.

- (c) *opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*

**Comment:** The site is not along or adjoining the coastal foreshore therefore this access consideration is not applicable.

- (d) *the suitability of development given its type, location and design and its relationship with the surrounding area,*

**Comment:** The proposed development is considered suitable in the locality as the site is central to Ballina, easily accessible from the new high school and it is an appropriate and functional design.



*(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*

**Comment:** The subject site is not along the coastal foreshore therefore no anticipated impacts in relation to the amenity of the foreshore including overshadowing or view loss.

*(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*

**Comment:** The proposed commercial facility will not create any unreasonable impact on the scenic qualities of the coast. It will not lead to any view loss or impacts along the coastline.

*(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*

**Comment:** The Threatened Species Conservation Act 1995 Act was recently repealed. Notwithstanding this, the proposed development is on previously disturbed land and not considered to result in unreasonable impacts on any animals or plants within meaning of the Biodiversity Conservation Act 2016 or their habitats.

*(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats,*

**Comment:** The proposed development will not, subject to compliance with the recommended conditions, impact on *fish (within the meaning of Part 7A of the Fisheries Management Act 1994)* and marine vegetation (within the meaning of that Part), and their habitats.

*(i) existing wildlife corridors and the impact of development on these corridors,*

**Comment:** The development site is not identified as containing a Wildlife Corridor on Council's Wildlife Corridor Map (prepared by the NSW Office of Environment and Heritage), as referred to in the Ballina DCP 2012, Chapter 2, Section 3.3.

*(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*

**Comment:** The development is unlikely to impact on coastal processes and coastal hazards and will not be unreasonably affected by such processes and hazards.

*(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,*

**Comment:** The proposed development will not directly conflict with water-based coastal activities.

*(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*

**Comment:** the development site is not known to be recorded on any register as being a place of Aboriginal Heritage.

*(m) likely impacts of development on the water quality of coastal waterbodies,*

**Comment:** Stormwater leaving the site is the most likely source of impact on the marine environment. Stormwater leaving the site will not be untreated. In this case pollution loads are likely to be light from the proposed sports centre. All impervious runoff from the site is to be collected, treated and detained on site for short periods prior to discharge to Bentinck Street. Modelling shows that Council water quality standards can be met up to a 1% ARI event. Sediment and erosion controls will be implemented during construction.

*(n) the conservation and preservation of items of heritage, archaeological or historic significance,*

**Comment:** The subject site is not identified or known to have any items of historical significance other than those on the adjacent BHS site. It is not in a Heritage Conservation Area. A Clement Park entry sign and associated plaques (which are not heritage listed) will be relocated to the corner of Cherry and Bentinck Streets.

*(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*

**Comment:** No draft Local Environmental Plans applicable on the subject site.

*(p) only in cases in which a development application in relation to proposed development is determined:*

*(i) the cumulative impacts of the proposed development on the environment, and*

**Comment:** There are no significant anticipated cumulative impacts on the surrounding environment as a result of the proposed development. It has been intentionally co-located with the redeveloped Ballina High School and the cumulative effects of this are largely positive.

*(ii) measures to ensure that water and energy usage by the proposed development is efficient.*

**Comment:** The applicant has indicated that the proposed development will comply with the BCA in terms of energy efficiency which will be addressed in detail as part

of the Construction Certificate stage. Water efficient features will be incorporated into the wet areas of development. This is recommended to be addressed by way of conditions on the consent, should the application be approved. All toilets and urinals will be linked to reticulated recycled water. An outside tap for landscape watering will also be linked to reticulated recycled water.

The proposal is considered to be consistent with the balance of the matters for consideration in SEPP 71 as follows:

*14. Public access*

*A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.*

**Comment:** The proposed development will not have any effect on the coastal foreshore or any access thereto, therefore no further assessment is required.

*15. Effluent disposal*

*The consent authority must not consent to a development application to carry out development on land to which this Policy applies in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.*

**Comment:** Effluent generated by the development will be minimal and directed to Council's reticulated sewerage system. The proposed effluent disposal is not anticipated to have any negative impacts on water quality.

*16. Stormwater*

*The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.*

**Comment:** Stormwater leaving the site will not be untreated. In this case pollution loads are likely to be light from the proposed sports centre. All impervious runoff from the site is to be collected, treated and detained on site for short periods prior to discharge to Bentinck Street. Modelling shows that Council water quality standards can be met. Sediment and erosion controls will be implemented during construction.

### 5.1.4 Ballina Local Environmental Plan 2012 (BLEP 2012)

#### Aims of BLEP 2012 (Clause 1.2)

The proposed development is generally in accordance with the aims and objectives of the BLEP 2012.

(2) *The particular aims of this Plan are as follows:*

- (a) *to provide for a sustainable Ballina that recognises and supports community, environmental and economic values through the establishment and maintenance of the following:*
  - (i) *a built environment that contributes to health and wellbeing,*
  - (ii) *a diverse and prosperous economy,*
  - (iii) *a healthy natural environment,*
  - (iv) *diverse and balanced land uses,*
  - (v) *healthy, resilient and adaptable communities,*
  - (vi) *responsible and efficient use of resources,*
- (b) *to provide for development that is consistent with Council's established strategic planning framework for Ballina,*
- (c) *to achieve the objectives of the land use zones set out in Part 2 of this Plan,*
- (d) *to promote the orderly and efficient use of land having regard to the social and environmental characteristics of the land,*
- (e) *to provide for the development of public services and infrastructure.*

These aims are met by this development particularly in relation to supporting community values through built infrastructure that contributes to health and wellbeing, a range of diverse and balanced land uses within the Ballina locality and healthy and resilient and adaptable communities. It is consistent with Council's community strategic planning, achieves the objectives of the land use zones and will provide a useful public facility.

#### Definition & Permissibility (Clause 2.3)

The development is for an indoor sports centre and ancillary infrastructure. This land use is best characterised in the definitions of Ballina LEP 2012 as a *recreation facility (indoor)*.

***recreation facility (indoor)*** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

The subject site is zoned as part R3 Medium Density Residential and part RE1 Public Recreation under the Ballina Local Environmental Plan 2012. The proposed land use (***recreation facility (indoor)***) is permitted with consent in both zones.

### **Zone Objectives (Clause 2.3)**

The objectives of the R3 Medium Density Residential zone are as follows:

- *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.*
- *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.*

**Comment:** The proposed development complies with a number of the objectives of the R3 zone, particularly in relation to providing a public facility that can meet the day to day needs of residents; is compatible with the neighbourhood (recreation area, school, sports club) and providing for the social and cultural needs of the community.

The objectives of the RE1 Public Recreation zone are as follows:

- *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.*

**Comment:** The proposed development complies with a number of the objectives of the RE1 zone, particularly in relation to enabling the subject land to be used for recreational purposes; providing for public recreational activities that are compatible with surrounding land use; and providing for the social and cultural needs of the community. No plan of management is applicable to the subject land as it is school property owned by the NSW Government.

### **Height of Buildings (Clause 4.3) and Exceptions to Height of Buildings (Clause 4.3A)**

The relevant Height of Buildings map under Ballina LEP 2012 prescribes an 8.5 metre building height for this locality. The Exceptions to Height of Buildings map nominates a 2.0 metre (AHD) ground level for this locality. The actual ground level before any fill is applied is about 1.6 to 1.8 metres AHD. The proposed building height for the BISC is a maximum of 13.18 metres (AHD) from a ground floor level of 2.6 metres (AHD). Given that building height can be measured from 2.0 metres (pursuant to clause 4.3A) then the assessed building height is 11.18 metres. This exceeds the maximum height for the subject land by 2.68 metres.

The applicant has lodged a written request, under Clause 4.6, to vary the development standard set by Clause 4.3. The written variation is discussed in a later section.

The objectives of the height of buildings standard are:

- (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.*

**Comment:** Most development in this part of Ballina is one or two storeys. However, the redevelopment of Ballina High School includes buildings with heights of 11.3 metres and 15.5 metres. This development will be compatible with the adjacent Ballina High School buildings. In other directions it is sufficiently distant from other development as to not be an imposing structure. Mature street trees along Bentinck Street will also assist in reducing its impact. It is an urban area and the building will not impact on the scenic quality of the location. It will not impact on significant views. It will not cause significant overshadowing as a result of its setback from surrounding streets. The winter solstice shadow diagrams show that a small area of open space to the south of the BISC adjacent to the BHS buildings will lack solar access for most of the day. Shade tolerant plants, landscaping or art installations may be appropriate for this location. No BHS buildings will be impacted by shadows from the BISC. Most indoor sports facilities have high ceilings for sports requirements, for equipment and for ventilation. Exceeding the height limit in this case is reasonable.

### **Exceptions to development standards (Clause 4.6)**

The proposed BISC contravenes the Building Height standard because it has an assessable height of 11.18 metres in an area mapped as being 8.5 metres in BLEP 2012. This exceeds the height by 2.68 metres which is a 31 % exceedance. The building has two distinct levels. The part that exceeds the building height is the

playing courts which have a GFA of 1876 m<sup>2</sup> and account for about 62% of the footprint of the building. The ceiling within this section is between 8 and 9 metres above the playing surface.

A written request (see Appendix 12 of SEE and Appendix 1 to this report) is included in the development application to support this variation.

Recent Land and Environment court decisions have indicated that the consent authority needs to be satisfied that in this case the applicant has demonstrated:

- a) *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.*

The consent authority also needs to be satisfied that:

- a) *the applicant's written request has adequately addressed these matters, and*
- b) *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*

**Comment:** In this case the applicant has supplied a written request that outlines why the building height standard in this case is *unreasonable or unnecessary* and that there are sufficient grounds to justify contravening that standard.

The consent authority (JRPP) needs to be satisfied that the applicant can justify the variation adequately. In this case they have passed this test. The second part is that 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*.

The building height development standard has an objective of ensuring that development does not cause environmental harm. This is clearly expressed in the objectives of Clause 4.3 that refer to bulk, scale, amenity, views, etc. Accordingly, establishing that the development is unlikely to cause environmental harm is a means of demonstrating compliance with the objectives of the particular development standards under consideration here and, consequently, that compliance with those development standards is unreasonable or unnecessary.

In this case the BISC building will not impact on significant views from public places or private residences. The tallest parts of the building are set back approximately 25 metres from the nearest boundary. Its bulk and scale is what is required for an indoor sports stadium. It will not cause significant overshadowing of public open



space or private land other than the school land immediately south of the building. It will not unduly impact on the amenity of the neighbourhood. It will blend in with the tall buildings on the adjacent BHS site.

Sports such as volleyball and basketball require a 7 metre clearance above the playing surface to meet the official standards for competition. A further allowance in ceiling height is then required for light fixtures (or ventilation structures at a later date). In this case the building has a ceiling height of between 8 and 9 metres which is sufficient to cater for these games and to provide for air circulation and ventilation. The result is that the sports court part of the building exceeds the building height for this location.

Enforcing the building height in this case would not improve significantly on external impacts but would impact significantly on the ceiling height and ventilation of the main sports playing area.

Compliance with the objectives of the RE1 and R3 zones on which the BISC is located is discussed above. Not all of the objectives are relevant to this non-residential land use. However, the development is consistent with the relevant objectives.

On balance, the non-compliance with building height in this case is in the public interest, compliant with relevant zone objectives, compliant with the objectives of the standard and will result in a building fit for purpose that does not negatively impact on its surroundings.

### **Development within the Coastal Zone (Clause 5.5)**

The proposed development is located within the Coastal Zone and therefore provisions within Clause 5.5 are to be taken into consideration.

Clause 5.5 (2) states that:

*Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:*

- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
  - (i) maintaining existing public access and, where possible, improving that access, and*
  - (ii) identifying opportunities for new public access, and*

**Comment:** The proposal will not impact on the public access to and along the coastal foreshore.

*(b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*

- (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
- (ii) the location, and*
- (iii) the bulk, scale, size and overall built form design of any building or work involved, and*

**Comment:** The proposed indoor sports centre is acceptable in terms of its bulk, scale, size and overall built form. The co-location on the BHS site gives the community and the school access to a four court sports facility that will be of great benefit to both students and the Ballina sporting community. The central location is accessible by public transport and a short walk for students. The bulk, scale and size of the building are considered suitable in the location, particularly in relation to the recent approval of taller buildings on the BHS site next door. The bulk of the building is considered to be suited to the urban landscape and is not anticipated to have any major amenity impacts due to the 25 metre setback of the tallest and bulkiest part from Cherry Street.

*(c) the impact of the proposed development on the amenity of the coastal foreshore including:*

- (i) any significant overshadowing of the coastal foreshore, and*
- (ii) any loss of views from a public place to the coastal foreshore, and*

**Comment:** The proposed development is well removed from the coastal foreshore therefore no impacts anticipated on the foreshore or views to the foreshore.

*(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*

**Comments:** The proposed development is not located on the coast or coastal headland therefore will not have any impacts on the visual amenity or scenic qualities of these areas.

*(e) how biodiversity and ecosystems, including:*

- (i) native coastal vegetation and existing wildlife corridors, and*
- (ii) rock platforms, and*
- (iii) water quality of coastal waterbodies, and*
- (iv) native fauna and native flora, and their habitats, can be conserved, and*

**Comment:** The subject site is highly disturbed and no native flora, fauna or habitat areas have been identified on the site. Therefore, no conservation required as part of the proposed development. Some planted native trees will be removed and some camphor laurels.

- (f) *the cumulative impacts of the proposed development and other development on the coastal catchment.*

**Comment:** The proposed indoor sports centre will not have any effects on the coastal catchment as it is well removed from any waterways. Stormwater will be treated on the site before discharge to the public system.

- (3) *Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:*

- (a) *the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and*

**Comment:** the proposal is not located near a public access to the coastal foreshore therefore no issues have been raised and Council is satisfied that it will not have any effect on these areas.

- (b) *if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

**Comment:** The effluent will be disposed of by Council's reticulated sewer system.

- (c) *the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

**Comment:** The proposed development will not discharge untreated stormwater. Further to this, the proposal is not located near any coastal water bodies or rock platform.

- (d) *the proposed development will not:*  
*(i) be significantly affected by coastal hazards, or*  
*(ii) have a significant impact on coastal hazards, or*  
*(iii) increase the risk of coastal hazards in relation to any other land.*

**Comment:** The development will not have any effect of coastal hazards or create the risk of coastal hazards in relation to any other land.

#### **Heritage Conservation (Clause 5.10)**

The BISC is mainly located on Lots 477 and 478 DP 729251 but has a covered walkway that projects into Lot 392 DP 755684. Lot 392 DP 755684 is identified as containing two items of local heritage significance (I48 and I49) in LEP 2012. These

are BHS Building (1931) known as M Block, and BHS Building (1950) referred to as C Block. The consent recently approved for the redevelopment of BHS (Development Consent No. SSD16\_7742) authorises demolition of the majority of existing school buildings on site, including M Block (I48). C Block is not to be demolished and is located approximately 40m east of the proposed BISC, partly screened by trees. It will not be impacted by the development.

**Comment:** In relation to the remaining heritage significance of C Block (Item 149) the BISC development will not adversely affect the heritage significance of the heritage item. A heritage assessment was prepared for the BHS redevelopment that concluded the buildings were in poor condition and of limited heritage value. Given the BISC is located 40 metres away from the nearest remaining heritage item and has been assessed for its heritage values as part of the redevelopment of BHS there is little to be gained from additional heritage assessment. A heritage management document that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item is not required. A heritage conservation management plan is also not required. A condition will be imposed that raises awareness of the remaining heritage item (C Block) to ensure it is not unintentionally impacted during construction works.

A Clement Park entry sign and associated plaques (which are not heritage listed) that are located where the main building is to be erected will be relocated to an appropriate location on the subject land (Figure 3). The plaques could also be mounted in the foyer of the BISC if this is preferred. A conditions to this effect is proposed.



Figure 3: Clement Park entry sign to be relocated

### **Acid Sulfate Soils (Clause 7.1)**

The site is identified as being within Class 2 Acid Sulfate Soils under the Acid Sulfate Soils Planning Maps. The Statement of Environmental Effects includes an Acid Sulfate Soil Management Plan that was prepared for the adjacent BHS project (Appendix 11). Given that this site and the BHS are both Class 2 ASS then applying this management plan to this site is acceptable. Implementation of the ASS Management Plan will be a condition of approval.

### **Earthworks (Clause 7.2)**

Earthworks on the site will include filling, to achieve a ground level of about RL2.1 metres AHD and RL2.4 metres AHD for the building pad. The current ground level is about RL 1.6 to 1.8 metres AHD. Filling to this level is unlikely to impact on flooding and drainage in the wider locality. Only clean fill will be used on the site. Disturbance to relics is considered unlikely. The site is not in an environmentally sensitive area or water catchment. Appropriate conditions to control sediment and erosion will be imposed.

### **Flood Planning (Clause 7.3)**

The entire site is flood prone in the design flood (1%). The development area will be filled to the AEP 1% flood level of RL 2.1 metres AHD as a minimum as recommended in the Stormwater Management Plan. Building pads will be constructed to RL 2.4 metres AHD with minimum floor levels for the indoor sports centre set at RL 2.6 metres AHD.

The Council nominated Flood Planning Level for the site is RL 2.6 metres AHD so the proposed filling will achieve flood protection for the facility. The filling is compatible with the low hazard designation of the area.

There is unlikely to be any adverse impacts on neighbouring land or the environment. There will be no impacts on riparian land or watercourses. There will be no unsustainable social and economic costs to the community as a consequence of flooding.

### **Essential Services (Clause 7.7)**

The site is able to be fully serviced with necessary water, sewer, drainage, electricity and telecommunication infrastructure. Access to the BISC will be via the Cherry Street car park that has two entry points.

Non-potable water supply will be available for use in the toilets and for watering the landscaped areas.

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## 5.2 Section 79C(1)(a)(ii) the provisions of any proposed instrument

### **Draft Coastal Management State Environmental Planning Policy 2016**

The draft SEPP was placed on public exhibition from 11 November 2016 to 20 January 2017. As a consequence, the draft SEPP is a matter for consideration under Section 79C(1)(ii) of the Environmental Planning and Assessment Act 1979.

The draft Coastal Management SEPP seeks to consolidate and improve current coastal-related SEPPs and ensure that future coastal development is appropriate and sensitive to the coastal environment and public access to beaches and foreshore areas are maintained.

The subject site is identified under the Draft SEPP as being on the Coastal Use Area Map. The following provisions are therefore relevant to the assessment of the application.

#### *Clause 15 - Development on land within the coastal use area*

*Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:*

- (a) is satisfied that the proposed development:*
  - (i) if near a foreshore, beach, headland or rock platform—maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and*
  - (ii) minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and*
  - (iii) will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and*
  - (iv) will not adversely impact on Aboriginal cultural heritage and places, and*
  - (v) will not adversely impact on use of the surf zone, and*
- (b) has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.*

#### *Clause 16 - Development in coastal zone generally—development not to increase risk of coastal hazards*

- (1) Development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

**Comment:** The proposal is considered to be consistent with the aims and relevant provisions of the Draft Coastal Management SEPP 2016. The other matters have been previously addressed in this report in the assessment of SEPP 71 and CI 5.5 of Ballina LEP 2012.

### **5.3 Section 79C(1)(a)(iii) provisions of any development control plan**

#### **5.3.1 Ballina Development Control Plan 2012 (DCP 2012)**

#### **Chapter 2 – General and Environmental Considerations**

##### **Clause 3.4 - Potentially Contaminated Land**

Refer to Section 5.2 under State Environmental Planning Policy No. 55 – Remediation of Land for comments relating to potentially contaminated land.

##### **Clause 3.5 – Land Slip/ Geotechnical Hazard**

No geotechnical impacts are anticipated as a result of the proposed BISC. Filling is required to achieve flood planning levels on this site. Earthworks for footings will be addressed as per the Construction Certificate application stage.

##### **Clause 3.7 – Waste Management**

Construction activities (including tree removal) will generate waste and is required to be managed accordingly. A Site Waste Minimisation and Management Plan specific to this development has been prepared. Its implementation will be required as a condition of approval.

Waste management for the operational BISC (as indicated in the SWMMP), will be via a suite of wheelie bins managed by the site manager and emptied consistent with Council's normal service. This is likely to be near the building entrance in the car park as Cherry Street is not suitable due to on street parking. An enclosure for these bins is shown on plans for the development.

##### **Clause 3.9 – Stormwater Management**

The applicant has produced a stormwater report which identifies minimum floor levels for the developments set at the AEP 1% level plus 500mm or RL2.6m AHD. Generally, finished ground and pavement levels will be above the AEP 1% level of RL 2.1m AHD.

BISC roof drainage and surface drainage from the car park, landscaped areas and the closest sports field will be collected and channelled via overland flow and then treated by grassed swales and infiltration trenches prior to discharge to Bentinck Street. It will be kept separate from the BHS system.

Conditions will be imposed requiring the water quality targets and volume standards in the DCP to be met in the final design. This proposed stormwater management is supported by Council's Development Engineer and therefore is considered to be satisfactory in relation to the proposal.



### **Clause 3.10 – Sediment and Erosion Control**

Appropriate sediment and erosion control measures will be installed and effectively maintained to control stormwater run-off, particularly during the construction phase to ensure that there are no environmental impacts downstream. A condition of consent will be imposed to require the preparation and implementation of a sediment and erosion control plan prior to issuing a Construction Certificate.

### **Clause 3.11 – Provision of Services**

Potable and non-potable water supply will be available at the opening of the BISC. A condition will be recommended to require the BISC to be plumbed for dual supply for toilet flushing and landscape watering. Sewer is available as part of the service to BHS and Cherry Street generally.

The proponent is to arrange power supply to the BISC from the existing urban supply via a connection to the BHS site. BHS has made allowance for this connection.

### **Clause 3.12 – Heritage**

The subject land is not identified as being of Aboriginal cultural heritage significance. Lot 392 DP 755684 is identified as containing two items of local heritage significance (I48 and I49) in LEP 2012. These are BHS Building (1931) known as M Block, and BHS Building (1950) referred to as C Block. The consent recently approved for the redevelopment of BHS (Development Consent No. SSD16\_7742) authorises demolition of the majority of existing school buildings on site, including M Block (I48). C Block is not to be demolished and is located approximately 40m east of the proposed BISC, partly screened by trees. It will not be impacted by the development.

A heritage assessment was prepared for the BHS redevelopment that concluded the school buildings were in poor condition and of limited heritage value. Given the BISC is located 40 metres away from the nearest remaining heritage item and it has been assessed for its heritage values as part of the redevelopment of BHS there is little to be gained from additional heritage assessment. A heritage management document that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item is not required. A heritage conservation management plan is also not required.

A condition will be imposed that raises awareness of the remaining heritage item (C Block) to ensure it is not unintentionally impacted during construction works.

A Clement Park entry sign and associated plaques (which are not heritage listed) that are located where the main building is to be erected will be relocated to an appropriate location on the subject land. The plaques could also be mounted in the foyer of the BISC if this is preferred.

### **Clause 3.15 – Crime Prevention through Environmental Design**

The BISC is a public use area and this clause of the DCP applies.

The applicant has briefly addressed the Crime Prevention through Environmental Design principles. Although the CPTED assessment is limited, it is agreed that the site is unlikely to create any significant impacts on crime to the area. The applicant's architect has provided the following comments in relation to crime prevention through building design:

*"The Main entry to the building has been located to the north-west façade to address the main road and link directly to the carpark. An oversized feature awning has also been introduced to the entry, providing shelter from the elements within clear view of Cherry Street to maintain key thoroughfares and mitigate loitering. The external footprint of the building avoids stepping unnecessarily to maintain clear lines of sight along facades and in attempt to prevent nooks or further hiding spots. The intent is to address the street and minimise low/mid-level shrubs or hardscaping to maintain visual surveillance and connectivity to Cherry Street.*

*Connectivity between the school sports hall and the BISC has been carefully considered from a security/access standpoint. There is a requirement to provide an enclosed passage link which has been designed to provide passive surveillance through the use of battens, creating a physical barrier while keeping a visual link. The Reception, Kiosk, Amenities, Multipurpose rooms and Sports courts are all accessed off a main spine/foyer which encourages passive surveillance. A tapered 8degree alignment has been introduced to create an open entry space while maintaining a consistent wall with minimal stepping. In addition, the introduction of windows and glassed byfolds was introduced to create the visual connection between the foyer and sports court users. The entry foyer has a double height curtain wall to maximise natural light spill into the foyer space during the day and heightened surveillance looking into the space during night time operation (artificial lighting).*

*The sports courts have been designed to incorporate natural light spill (indirect) so that visual surveillance into these spaces is maintained during the day when the courts are not in use.*

*The carpark design is long and narrow and is located along the cherry street address creating high visibility. Further on the configuration of the carpark is only 2 parking aisles deep which mitigates opportunity for hiding given both aisle is exposed to an open playing field and main road."*

The following comments are made in relation to the CPTED principles for the proposed development.

- **Surveillance**

The site is considered to have suitable surveillance from public areas by pedestrians and motorists along Cherry Street as well as BHS. The proposal will be required to provide effective lighting, particularly though the connection to the school, foyer entrance and the car parking areas. The minimal landscaping proposed is suitable and unlikely to interfere with customer surveillance around the site. Although not proposed CCTV could be added if required at a later date. A lighting design, which satisfies CPTED principles, will be applied to all public areas of the development.

Within the building the proposed toilets are located within the primary entry area near to the reception desk and kiosk where visual and audio surveillance is possible.

- **Territorial Reinforcement**

The BISC and its car park will be largely open to the street. The majority of the site provides open areas allowing the public to view any activities. BHS will be defined by fencing and landscaping.

- **Access Control**

The car park entries are clearly visible from Cherry Street. A pedestrian path skirts the edge of the car park and links to the main foyer entrance. The covered walkway to the school is secure with vertical slats but remains open to be viewed from outside.

- **Space Management**

The landscaped areas and car park will be leased to Council and will be well maintained and looked after. A condition will be imposed that vandal reducing materials and anti-graffiti treatment will be used where possible. The Property Manager will be responsible to ensure that the site maintains a 'cared for' image.

### **Clause 3.18 – Protection of Foreshore and Public Open Space Areas**

That part of the land zoned RE1 (Lot 477 DP 729251) is owned by the Minister for Education and forms part of the BHS site. It is known as "Clement Park" but is not a regular public open space area in that the BHS can restrict access to it if they choose. The development will take about 7500m<sup>2</sup> from Clement Park and the associated closed road to be used for the indoor sports centre and car park. Both the car park and BISC will remain open to the public during normal operating hours. The school land will remain fenced to limit random access to school property from the BISC site. The proposed development will not impact on any foreshore areas.

### **Clause 3.19 – Car Parking and Access**

#### **External Roads and Traffic**

The external traffic impacts of the development were assessed by consultants TTM. TTM concluded that the proposed development will not have a significant impact on the future road network. Dedicated turn lanes are not warranted. To manage turns to and from the subject site and improve amenity for drivers using the angle parking, TTM suggest edge lines are provided on Cherry Street at the site frontage. This can be imposed as a condition of approval.

#### ***Pedestrian and Cyclist Requirements***

Pedestrian access to the site for the public is from Cherry Street via the existing footpath network. A new footpath will allow safe access to the foyer from the car park. BHS students will be able to gain direct access to the BISC via a covered walkway.

Cyclists can utilise the vehicle access network or be wheeled along the pedestrian pathways. The amended plans provide for fourteen bicycle parking structures. This meets Council's DCP requirements.

#### ***Site Access, Internal Driveways and Parking Design***

The proposed sight distances at the available access points are satisfactory and compliant with the relevant Australian Standard to allow vehicles to enter and exit the site safely. They will not impact on the Bentinck Street roundabout. The proposed driveway widths are appropriate.

#### ***Provisions for Service and Delivery Vehicles***

There is provision for HRV delivery trucks to enter and leave in a forward direction. This means that service vehicles including garbage trucks can use the car park. The arrangements comply with the provisions of the DCP and are considered satisfactory for the proposal.

#### ***Parking numbers***

TTM suggest the parking area provide a minimum 30 parking spaces for the BISC in addition to the 47 spaces required for school staff during school operating hours (and available to BISC outside these hours), for a total of 77 car parking spaces. The proposal incorporates 77 car parking spaces, which is consistent with the estimated demand. Council's Development Engineer agrees with these estimates.

It is considered that the provision of a blind aisle turning space at the northern end of the car park is appropriate. A footpath at the northern end of the car park is not required. A footpath along the eastern edge of the car park is supported.

Two accessible spaces are proposed and both will be covered.

### *Mobility Scooter Parking*

Mobility scooter parking is not provided for specifically but there is a covered area near the front door that is accessible to scooters and would be suitable if it is required.

### *Bus Servicing*

The proposed car park allows a full size bus to enter and exit in a forward direction for the pickup and drop off of patrons. Bus parking has not been provided specifically because it would use up additional space in the adjacent sports fields and bus parking is provided on Swift and Martin Streets. The BHS bus parking could be used by sports related buses when it is not required for BHS (eg weekends). Bus parking can be provided on Cherry Street adjacent to the BISC entrance, but will take up several existing car spaces. Should a need for a designated bus parking space closer to the BISC entrance be needed then this can be further examined and assessed by Council and the Local Traffic Committee if and when the demand arises.

## **Chapter 2B – Flooding**

This chapter is based on the application of site filling and building floor levels in relation to particular locations within the shire. Development proposals must be consistent with the planning objectives for the chapter. Such consistency is typically demonstrated by compliance with the identified prescriptive development controls.

The subject land is flood prone in the design flood event (1%). The DCP designates it as a Low Flood Hazard category and it is a low velocity area. The current ground levels are approximately 1.8 metres AHD. The Flood Planning Level for the site in a 1% event based on 2050 climate change conditions is 2.1 metres AHD (Note: that is the DCP definition of FPL).

The development area will be filled to the AEP 1% flood level of RL 2.1 metres AHD as a minimum. Building pads will be constructed to RL2.4 metres AHD with minimum floor levels for the indoor sports centre set at RL2.6 metres AHD. These measures will achieve flood protection for the facility and compliance with the DCP. The filling is compatible with the low hazard designation of the area. There is unlikely to be any adverse impacts on neighbouring land or the environment. There will be no unsustainable social and economic costs to the community as a consequence of flooding.

The development will be compliant with the DCP controls.

## Chapter 8 – Other Uses

### 3.4 Signage

No detail is provided on proposed signage in the SEE. The development plans show a Building Identification Sign which is appropriate for a community facility. The sign shown on plans is approximately 3.6m<sup>2</sup> and located towards the top of the tallest part of the building. It will be visible from Cherry Street and Bentinck Street. On balance, the sign is of a scale that is compatible with the streetscape in which it is located and will not dominate the streetscape in terms of style, proportion or form. It is compatible with the proposed building façade.

Given the elevated location of the sign and that it faces a residential zone it is appropriate that any illumination is subdued and switched off when the building is not operating.

Conditions can be imposed that address size and illumination to ensure compliance with the DCP.

#### 4.1.3 Provisions for Other Development in Residential, Business and Industrial Zones

These provisions apply to “Development other than **residential accommodation** or **tourist and visitor accommodation** in zones R2 and R3”. The intent is that non-residential uses should if possible conform to the general rules that apply to residential uses in the same zone. The subject land is in two zones (R3 and RE1). The application has been assessed in relation to R3 controls.

Provision	Comment
Building Envelope - The building envelope for the R3 zone prescribes a 6 metre front building line and a Building Height Plane (BHP) with an overall cap of 8.5 metres (plus a flood height allowance).	<p>Not compliant. The front building line setback is 5 metres (it angles back to 10 metres), rear is 140 metres, north side is 120 metres and south side is 6 metres. Given that building height can be measured from 2.0 metres AHD (pursuant to clause 4.3A of the LEP) then the assessed building height is 11.18 metres. This exceeds the maximum height for the subject land by 2.68 metres.</p> <p>The encroachment on the front building line is warranted because it is minor and reduces the overall loss of sporting fields on the balance of the site. The building height at the Cherry Street frontage is</p>

	<p>only 3.2 metres (at its lowest) and this will not be a major impact on this streetscape. Most of the building is set back at least 6 metres. The proximity to the BHS site is to minimise the distance for students to walk from the BHS buildings to the BISC via a covered walkway.</p> <p>The overall height of the main building is justified given the use of the building for sport (high ceilings required).</p> <p>Shadow diagrams show that there will be no shadow impacts on private land and acceptable effects on open space and BHS land.</p>
Site Coverage - Maximum allowable is 60% of the total site area.	Compliant. The gross floor area (GFA) of the BISC is 3017m <sup>2</sup> and the GFA of the new BHS is 10,751m <sup>2</sup> . The site area is approximately 59,000 m <sup>2</sup> . So the proposed overall site coverage will be approximately 23%.
Landscaped Area - Minimum 20% of the total site area is required. This is approximately 11,800 m <sup>2</sup> .	Compliant. The landscaping of the BISC is about 1000m <sup>2</sup> and the landscaping of the BHS is about 5000m <sup>2</sup> . However, landscaped area is defined in the LEP as <i>"part of a site used for growing plants grasses and trees but does not include any building structure or hard paved area."</i> The Clement Park Sports fields (BHS sports fields) will occupy about 2.5 hectares of this site (post development) and will substantially be open grass with scattered shade trees. This would bring the landscaped area to about 31000m <sup>2</sup> .
Car Parking – merit assessment	Compliant. The Traffic Engineering Report with the SEE indicates a total of 30 spaces are required for the BISC. BHS is required to supply 47 car spaces so a total of 77 car spaces represent the demand for this facility.
Consistent with the character of surrounding development, particularly in relation to the height, bulk and scale.	The main BISC building is a substantial structure but is suitable given its proximity to BHS school halls and buildings and with no other immediate neighbours. It is compatible with the sports club across Cherry Street and the open Clement park oval area nearby. It



	will not impact on the scenic quality of the locality substantially.
Proposed development will not adversely impact on the amenity of adjoining properties and the surrounding area, particularly in relation to noise, traffic movement and lighting and having regard for cumulative impacts	Noise issues can be addressed with appropriate conditions of consent. Traffic movements are addressed and problems are not anticipated with the dual access car park. Turning lanes have been considered but are not warranted.  Lighting will not impact on the nearest neighbours (across Cherry Street). Outdoor lighting will be confined to the car park and footpaths, security lighting etc. A single building identification sign will be illuminated with low intensity but switched off when the building is not in use.
Proposed development actively addresses the primary street frontages.	The building clearly addresses Cherry Street and the foyer opens out at an angle to the street creating an obvious and inviting entrance.

#### A. Location-based requirements

##### **5.4 Section 79C(1)(a)(iia) provisions of any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F**

There is no planning agreement or draft planning agreement applying to this development or the subject site.

##### **5.5 Section 79C(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)**

##### **NSW Coastal Policy 1997**

The subject site is affected by the NSW Coastal Policy 1997 requiring it to be taken into consideration for the assessment of approval. It is deemed that the proposal will not have any effect on the goals of this policy as it is well removed from the coastline and will not have any impacts on the coastal foreshore.

##### **5.6 Section 79C(1)(a)(v) provisions of any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)**

No specific coastal zone management plan applies to the site therefore no further assessment is required.

**5.7 Section 79C(1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The following assessment addresses the impacts that the development will have on the surrounding natural and built environment and the social and economic impacts that the proposal may have on the locality.

<b>Urban and Building Design</b>	
i) Context and Settings	The main BISC building is a substantial structure but is suitable given its proximity to BHS school halls and buildings and with no other immediate neighbours. It is compatible with the sports club across Cherry Street and the open Clement Park oval. It will not impact on the scenic quality of the locality substantially.
ii) Site Design and Internal Design	<p>The BISC addresses Cherry Street and has a car park with an ingress and exit that allows movement in a forward direction for site users, service vehicles and buses. The car park includes a footpath, safety lighting and landscaping.</p> <p>The design of the building is suitable to allow pedestrian access from Cherry Street as well as the BHS via its own covered walkway.</p> <p>A waste storage area is suitably screened but still accessible to the front of the building.</p> <p>The building has been located to minimise impact on the sports grounds of Clement Park.</p>
iii) Ecologically Sustainable Building Design	<p>The BISC will be required to have suitable insulation, energy efficiency and water efficiency measures to ensure that the centre will not have any major adverse impacts on the environment. These conditions will be recommended.</p> <p>Natural light will be available in the entry foyer via the full height glazed wall that faces north. Use of polycarbonate sheeting and louvres will add natural light to the sports stadium area.</p>

	<p>The design of the building is based on passive ventilation with upper level louvres to discharge hot air. Air circulation devices may be installed later if required.</p> <p>The initial budget will not be sufficient for solar roof panels but this can be retrofitted at any time in the future to offset the energy cost of the building.</p>
iv) Access, Transport and Traffic	<p>The site is considered to have suitable access points for vehicles, service vehicles and pedestrians, from the surrounding road networks and footpaths. It will be accessed by vehicle, bicycle and footpath from Cherry Street. However a covered walkway will allow pedestrian access from BHS.</p> <p>Traffic problems are not anticipated with the dual access car park. Turning lanes on Cherry Street have been considered but are not warranted.</p> <p>In accordance with Council's DCP 77 car parking spaces have been proposed on the site. This includes two covered accessible spaces, and bicycle racks for 14 bikes.</p> <p>The car park is accessible for buses for pick up/drop off. Bus parking is available in Swift Street and Martin Street (out of school hours).</p> <p>Although the car park includes a dead end aisle a turnaround space has been included.</p>
v) Public Domain	<p>The main impacts on the public domain will be the loss of mature trees along the Cherry Street frontage for both the car park and the building. This will change the look of the street but impacts will be ameliorated as landscaping and replacement trees mature.</p> <p>The BISC building will be taller than the general one or two storey nature of surrounding buildings. However it will be set in a backdrop of taller BHS buildings. It will also be stepped such that the tallest parts are set back 20 metres</p>

	<p>from Cherry Street. This should limit the impact on the public domain of the street.</p> <p>Clement Park is a sports field for the BHS and will be fenced off (as are most schools) from public access, as it is currently.</p> <p>The impact of the development from Bentinck Street and Martin Street will be minimal due to the retention of mature trees along these boundaries and the distance to the development. BHS will completely block any impact from Swift Street.</p>
vi) Utilities	<p>Potable and non-potable water supply is available to the site. Non potable water will be linked to toilets and for landscaping use.</p> <p>Sewer is available at the Cherry Street frontage.</p> <p>The proponent is to arrange power supply from the existing system that supplies power to the BHS site.</p> <p>Stormwater will be dealt with on site to Council standards and linked to the Bentinck Street system for disposal.</p>
vii) Heritage	<p>Lot 392 DP 755684 is identified as containing two items of local heritage significance (I48 and I49) in LEP 2012. These are BHS Building (1931) known as M Block, and BHS Building (1950) referred to as C Block. The consent recently approved for the redevelopment of BHS (Development Consent No. SSD16_7742) authorises demolition of the majority of existing school buildings on site, including M Block (I48). C Block is not to be demolished and is located approximately 40m east of the proposed BISC, partly screened by trees. It will not be impacted by the development.</p> <p>A heritage assessment was prepared for the BHS redevelopment that concluded the school buildings were in poor condition and of limited heritage value. Given the BISC is located 40 metres away from the nearest remaining</p>

	<p>heritage item and it has been assessed for its heritage values as part of the redevelopment of BHS there is little to be gained from additional heritage assessment. A heritage management document that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item is not required. A heritage conservation management plan is also not required.</p> <p>A condition will be imposed that raises awareness of the remaining heritage item (C Block) to ensure it is not unintentionally impacted during construction works.</p> <p>A Clement Park entry sign and associated plaques (which are not heritage listed) that are located where the main building is to be erected will be relocated to the corner of Cherry and Bentinck Streets. The plaques could also be mounted in the foyer of the BISC if this is preferred.</p> <p>No Aboriginal culturally significant areas are known to occur in this locality.</p>
viii) Construction	<p>Construction is anticipated to be undertaken while the BHS is still closed. The timing is that the BISC and BHS be opened at about the same time in early 2019 to avoid problems with mixing school traffic and construction traffic as well as noise, dust, etc impacting on school children.</p> <p>Currently the nearest sensitive receivers are across Cherry Street being the Sports Club, tennis courts, a sports medicine centre, a shop and some housing along Burnet Street. The nearest dwelling is about 60 metres away. The sports medicine centre is about 35 metres away. Impacts will be during normal construction hours and conditions will be imposed to restrict work to avoid any noise after 6pm or before 7 am.</p>

Environmental Impacts	
ix) Other Land Resources	No matters of concern.
x) Water	<p>Stormwater leaving the site is the most likely source of impact on the environment. In this case pollution loads are likely to be light from the proposed sports centre. All impervious runoff from the site is to be collected in a swale based system and treated prior to discharge to Bentinck Street. Modelling shows that Council water quality standards can be met. Sediment and erosion controls will be implemented during construction.</p>
xi) Soils	<p>No major excavation or disturbance of the natural soils at the site is proposed. Filling of the land is proposed to achieve to a ground level of about RL 2.1 metres AHD for the car park and RL 2.4 metres AHD for the building pad. The current ground level is about RL 1.6 to 1.8 metres AHD. So the fill depth across the construction area will be about 0.5 to 0.6 metres. Works are not expected to lower the water table.</p> <p>The site is identified as being within Class 2 Acid Sulfate Soils under the Acid Sulfate Soils Planning Maps. ASS could be encountered at any depth below the natural ground surface. The SEE includes an Acid Sulfate Soil Management Plan that was prepared for the adjacent BHS project. Given that this site and the BHS are both Class 2 ASS then applying this Management Plan to this site is acceptable. Implementation of the ASS Management Plan will be a condition of consent.</p>
xii) Air and Microclimate	<p>No issues are raised in relation to air quality and the microclimate. Any dust generation anticipated during the filling of the land will be addressed by site watering. This can be imposed as a condition of consent.</p>

<p>xiii) Flora and Fauna</p>	<p>This site is not mapped as significant fauna habitat and does not contain any native remnant vegetation. All trees and shrubs have been planted as part of past land uses.</p> <p>However, 33 trees are to be removed as a result of this development. Of these, five are Camphor laurel, six are Tuckeroo, six Eucalypts and three are Fig trees. The balance are a mix of native species.</p> <p>The problem with this site is that in the past trees have been planted on the edges of sports fields for shade and landscaping. In order to save as much sporting fields as possible the building and car park are now also to be located on the edges of sports fields.</p> <p>It is unfortunate that this many trees need to be removed but some of this loss will be offset by trees planted in landscaping around the new building and car park. About 26 trees are shown on the landscape plan in addition to gardens and open grass areas.</p> <p>Landscape trees should be native species endemic to the locality to encourage bird life. The landscape plantings will be imposed as a condition of consent.</p>
<p>xiv) Waste</p>	<p>Construction and operational waste are addressed in a SWMMP prepared in response to a RFI. Implementation of that SWMMP will be imposed as a condition of consent.</p> <p>Plans for the site now include an enclosure for wheelie bin storage that can be easily accessed by service vehicles via the car park.</p>
<p>xv) Energy</p>	<p>The proponent is to arrange power supply from the existing system that supplies power to the BHS site. The BISC will be separately metred.</p>

Hazards	
<p>xvi) Noise and Vibration</p>	<p>An Acoustic Report prepared by ASK consulting engineers was submitted with the proposal. The background noise levels in the Noise Impact Assessment prepared by ASK Acoustics and Air Quality dated 24 January 2018 have not be calculated in accordance with the Noise Policy for Industry (NSW EPA 2017), and the now superseded Industrial Noise Policy, due to the lack of data collected during field monitoring.</p> <p>These amended project specific noise criteria results in the noise modelling showing non-compliances during both the evening and night periods at two of the sensitive receivers modelled for the likely worst case operation noise. Compliance is achieved during the day at all three sensitive receivers modelled and also during the evening and night at R3. Compliance is achieved for all time periods at all receivers for the modelled scenario labelled ‘typical training/playing noise’ or ‘more typical operational activity with large number of spectators and amplified music’. The noise associated with the use of the carpark is found to comply with the project specific noise criteria.</p> <p>Conditions can be imposed to address this issue as follows:</p> <p>The hours of operation for the BISC be limited between 6am and 10pm</p> <ul style="list-style-type: none"> <li>• Waste collection limited to 7am and 6pm</li> <li>• Car park and driveway hardstand areas finished with a surface coating which prevents tyre squeal</li> <li>• Drainage grating over trafficable areas be well secured to prevent rattling</li> <li>• Mechanical plant to be designed and installed to comply with noise criterion provided with the application. As final plant selection has not been completed, additional acoustic assessment is required</li> </ul>



	once the plant sections in the landscape plan has been finalised.
xvii) Natural Hazards	<p>All buildings will have a floor level of RL 2.6 metres AHD. This should provide flood protection up to the design flood. The car park will be filled to RL 2.1 metres AHD and this should avoid nuisance flooding. No flooding impacts anticipated.</p> <p>No other hazards are anticipated.</p>
xviii) Technological Hazards	No technological hazard issues anticipated.
xix) Safety, Security and Crime Prevention (CPTED)	<p>The applicant has briefly addressed the Crime Prevention through Environmental Design principles. Although the CPTED assessment is limited, it is agreed that the site is unlikely to create any significant impacts on crime to the area. The applicant's architect has provided the following comments in relation to crime prevention through building design:</p> <p><i>"The Main entry to the building has been located to the north-west façade to address the main road and link directly to the carpark. An oversized feature awning has also been introduced to the entry, providing shelter from the elements within clear view of Cherry street to maintain key thoroughfares and mitigate loitering.</i></p> <p><i>The external footprint of the building avoids stepping unnecessarily to maintain clear lines of site along facades and in attempt to prevent nooks or further hiding spots. The intent is to address the street and minimise low/mid level shrubs or hardscaping to maintain visual surveillance and connectivity to Cherry Street.</i></p> <p><i>Connectivity between the School sports hall and the BISC is been carefully considered from a security/access standpoint. There is a requirement to provide an enclosed passage link which has been designed to provide passive surveillance through the use of battens, creating</i></p>

	<p><i>a physical barrier while keeping a visual link.</i></p> <p><i>The Reception, Kiosk, Amenities, Multipurpose rooms and Sports courts are all accessed off a main spine/foyer which encourages passive surveillance. A tapered 8degree alignment has been introduced to create an open entry space while maintaining a consistent wall with minimal stepping. In addition, the introduction of windows and glassed byfolds was introduced to create the visual connection between the foyer and sports court users. The entry foyer has a double height curtain wall to maximise natural light spill into the foyer space during the day and heightened surveillance looking into the space during night time operation (artificial lighting).</i></p> <p><i>The sports courts have been designed to incorporate natural light spill(indirect) so that visual surveillance into these spaces is maintained during the day when the courts are not in use.</i></p> <p><i>The carpark design is long and narrow and is located along the Cherry street address creating high visibility. Further on the configuration of the carpark is only 2 parking aisles deep which mitigates opportunity for hiding given both aisle is exposed to an open playing field and main road.”</i></p> <p>In relation to the four key principles of CPTED the following comments are relevant:</p> <p><b>Surveillance</b></p> <p>The site is considered to have suitable surveillance from public areas by pedestrians and motorists along Cherry Street as well as BHS. The proposal will be required to provide effective lighting, particularly though the connection to the school, foyer entrance and the car parking areas. The minimal landscaping proposed is suitable and unlikely to interfere with customer surveillance around the site.</p>
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	<p>Although not proposed, CCTV could be added if required at a later date. A lighting design, which satisfies CPTED principles, will be applied to all public areas of the development.</p> <p>Within the building the proposed toilets are located within the primary entry area near to the reception desk and kiosk where visual and audio surveillance is possible.</p> <p><b>Territorial Reinforcement</b></p> <p>The BISC and its car park will be largely open to the street. The majority of the site provides open areas allowing the public to view any activities. BHS will be defined by fencing and landscaping.</p> <p><b>Access Control</b></p> <p>The car park entries are clearly visible from Cherry Street. A pedestrian path skirts the edge of the car park and links to the main foyer entrance. The covered walkway to the school is secure with vertical slats but remains open to be viewed from outside.</p> <p><b>Space Management</b></p> <p>The landscaped areas and car park will be leased to Council and will be well maintained and looked after. A condition will be imposed that vandal reducing materials and anti-graffiti treatment will be used where possible. The Property Manager will be responsible to ensure that the site maintains a 'cared for' image.</p>
<b>Social and Economic Impacts</b>	
xx) Social Impacts in the Locality	<p>The proposed development is anticipated to have positive social impacts for the locality. It will enable the subject land to be used for healthy, recreation and sporting purposes; providing for public recreational activities that are compatible with surrounding land use; and</p>

	<p>providing for the social and cultural needs of the community. It increases the range of activities that can be undertaken on the site and is compatible with the adjacent BHS facilities. Council has known since 2008 that there was a shortfall in suitable indoor sports courts and indoor spaces. This project responds to that shortfall and will have a positive social impact on the Ballina community. Potential negative impacts will be minor and acceptable.</p>
xxi) Economic Impact in the Locality	<p>Council commissioned Morrison Low to undertake a cost benefit analysis for the project in early 2017. The work considered the total capital and operational expenditure with a Net Present Value (NPV) of 4%, 7% and 10%. The benefits assessment included revenue from the facility hire and additional visitor expenditure over a 30 year time frame.</p> <p>Morrison Low concluded that based on the current low interest environment a NPV of 4 to 7 percent is considered conservative. Applying a NPV discount rate of 4 percent, it is estimated that for every one dollar of costs associated with the Ballina Indoor Sports Centre, that the Ballina Shire economy will benefit by \$1.39.</p> <p>For the Construction Phase of the project the effect on Ballina Shire is significant and positive. From the direct stimulus of the project cost there is a total effect of \$15.918 million with 34 jobs and \$5.486 million value added to industry sectors in the region.</p> <p>For the operational phase of the project the economic impact is not as large but remains positive and therefore important. There is a total effect of \$591,195 with 4 jobs and \$238,498 value added to industry sectors in the region.</p> <p>The proposal is considered to have a positive economic impact including creating employment during construction and operation. Ongoing revenue will be a function of the level of use by the wider community but it is anticipated the</p>

	<p>revenue will outweigh operational costs after year 2 of operation.</p> <p>The BISC is not anticipated create any significant negative effect.</p>
<b>Cumulative Impacts</b>	
xxii) Cumulative Impacts	There are anticipated to be positive cumulative impacts on the locality as the BISC development builds on the BHS development and adds values to the site for both BHS students and the wider community.

### 5.8 Section 79C(1)(c) – The suitability of the site for the development

The subject site is considered appropriate for the BISC and its co-location with BHS is a positive feature that will increase its use by students and allow the school facility to be used by the wider community when needed. The BISC will provide a high quality facility that Council has been looking to supply for some time. This included extensive consideration of a range of other sites and locations. The proposal is not anticipated to have any significant negative impacts on the surrounding receiving environments, subject to compliance with the recommended conditions of consent. The proposed BISC is considered to be of a suitable scale, form and character and generally complies with the Ballina Local Environmental Plan and Development Control Plan.

### 5.9 Section 79C (1)(d) Any submission made in accordance with this Act or the Regulations?

The subject application was placed on public exhibition from 7 February 2018 to 26 February 2018. During this time three submissions were received and the relevant issues raised have been summarised below.

<b>Submission issues raised</b>	<b>Response</b>
Council should keep as many large trees as possible on the western boundary along Cherry Street and if possible do not remove any from the northern boundary along Bentinck Street.	Some trees will be removed so that the building can be located in close proximity to the school buildings. Other trees to be removed are within the car park footprint. If the car park is moved east to avoid the Cherry Street trees it will reduce the area available for sports fields for BHS. Most trees along Bentinck Street will be retained.

	<p>The applicant's response is: "It is the intent of the development only to remove those trees to allow the construction and the indoor sports centre and carpark. A landscape report was prepared indicating the location of trees which may be affected by the development. As part of the construction of the centre each tree will be reviewed by a qualified arborist prior to works to ascertain whether the tree can be retained."</p>
<p>The proposed indoor sports centre should include a stage.</p> <p>I believe a stage to be an essential element to such a substantial investment in our shire.</p> <p>A stage would allow extended functionality for conferences, functions and events both for our school, shire residents, the wider community and our sporting fraternities.</p>	<p>The applicant's response is: "The BISC is being designed primarily as an indoor sports centre. The final fitout of furniture and equipment will be determined on completion of the building and the available budget."</p> <p>It is noted that the BISC will be managed by Ballina Shire Council in conjunction with the equivalent structure on the adjacent BHS site. This building on the BHS site is described in plans as "dual use courts and performing arts building". Ground floor plans of the BHS building show a "performance theatre" with retractable seating.</p> <p>The BHS building will be available for use by the public outside of school hours and subject to booking through Ballina Shire Council.</p>
<p>I would like to put my support behind the construction of the 2 court Ballina indoor sporting facility.</p> <p>I would like council to ensure that this facility is fit to host representative basketball and other sports in the town. For this to happen council must install a double sprung timber floor.</p> <p>NSW basketball, and NSW netball do not endorse the use of anything other than double spring floors for indoor competition</p>	<p>Support for the project is noted.</p> <p>The applicant's response is: "Council will ensure that the flooring installed in the new sports complies with the FIBA - 2017 Official Basketball Rules, this information was provided by Basketball NSW. In accordance with the Official Rules, Council will install flooring that meets all Level 2 competitions, which includes "high-level competitions of the national federations"."</p>

### 5.10 Section 79C(1)(e) The public interest.

#### Public Interest

The proposal is a public facility paid for by public money to be located on public land and therefore has a significant public interest. There were only three public submissions and no actual objections. The issues raised have been addressed in this report. The development is consistent with the objectives relevant to the

development within each of the two zones in which it is proposed to be carried out. Particularly in relation to enabling the subject land to be used for recreational purposes; providing for public recreational activities that are compatible with surrounding land use; and providing for the social and cultural needs of the community.

### **Social Impact**

In 2008 Council commissioned a study that concluded there was a shortfall in suitable indoor sports courts and indoor spaces for older age groups. This was confirmed in 2009 and more recently by the Otium report in 2016. The benefit of this project is that it will finally provide a facility to meet this demand in a location that is central to the Ballina population and is timely given the redevelopment of the Ballina High School. Specific benefits include:

- Improved access to state-of-the-art facilities for a range of purposes at a single location through joint development projects. This allows students to have greater access to new and creative work environments that can improve their engagement with and achievement at school.
- A more positive perception of local schools and a greater sense of community can be achieved through the shared ownership, operation and maintenance of facilities.
- Access to funding for new projects through the pooling of school and local council resources and expertise, thereby benefiting from economies of scale. Through partnerships, councils and schools can also gain access to funding bodies that may not usually be available to them.
- Financial savings by sharing the operating and maintenance costs of large facilities between schools and councils.
- School security is improved and vandalism reduced as a result of the increased use of school premises outside of school hours.
- Local organisations such as sporting clubs can gain access to quality facilities for training and competition purposes that otherwise may not be available to them.

The construction of the BISC at the BHS site will provide a convenient and accessible public facility that is readily available to BHS students as well as the general public. Social impacts will be positive. With no close residential neighbours locality impacts are likely to be acceptable.

## **Economic Impact**

Council commissioned Morrison Low to undertake a cost benefit analysis for the project in early 2017. The work considered the total capital and operational expenditure with a Net Present Value (NPV) of 4%, 7% and 10%. The benefits assessment included revenue from the facility hire and additional visitor expenditure over a 30 year time frame.

Morrison Low concluded that based on the current low interest environment a NPV of 4 to 7 percent is considered conservative. Applying a NPV discount rate of 4 percent, it is estimated that for every one dollar of costs associated with the Ballina Indoor Sports Centre, that the Ballina Shire economy will benefit by \$1.39.

For the Construction Phase of the project the effect on Ballina Shire is significant and positive. From the direct stimulus of the project cost there is a total effect of \$15.918 million with 34 jobs and \$5.486 million value added to industry sectors in the region.

For the operational phase of the project the economic impact is not as large but remains positive and therefore important. There is a total effect of \$591,195 with 4 jobs and \$238,498 value added to industry sectors in the region.

The proposal is considered to have a positive economic impact including creating employment during construction and operation. Ongoing revenue will be a function of the level of use by the wider community but it is anticipated the revenue will outweigh operational costs after year 2 of operation.

## **6.0 Conclusions**

The application has been assessed having regard to the relevant matters for consideration prescribed by Section 79C (1) of the *Environmental Planning and Assessment Act 1979*.

The proposal is consistent with the objectives of the Act and is considered to be within the public interest as it will create positive social and economic impacts in the short and long term.

The proposed development has been assessed for possible negative impacts to the natural and built environments. The negative impacts anticipated will be mitigated by way of conditions.

It is considered that the reports and assessments provided with the application have satisfied the relevant matters within s79(c) of the *Environmental Planning and Assessment Act 1979*.



It is determined that through the application of the attached conditions, the proposed development can perform its purpose while providing an acceptable environmental outcome.

**7.0 Recommendation**

That Development Application 2018/36 be **APPROVED** subject to conditions **attached**.

**Appendices**

Appendix 1 CI 4.6 objection to Height of Building standard (cl 4.3)

Appendix 2 Schedule of Conditions