

DATE OF DETERMINATION	Wednesday 11 April 2018
PANEL MEMBERS	Garry West (Chair), Pamela Westing, Stephen Gow, and Keith Williams
APOLOGIES	None
DECLARATIONS OF INTEREST	David Wright declared a non-pecuniary interest as he as the Mayor of Ballina Shire Council had been involved in prior discussions regarding this development

Public meeting held at Lennox Head Community Centre, 1 Mackney Lane Lennox Head on 11 April 2018, opened at 1pm and closed at 1.35pm.

MATTER DETERMINED

2018NTH001 - Ballina – DA2018/36 at 37-39 Swift Street Ballina (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel unanimously approved the applicant's request to vary the height standard in Clause 4.3 of the Ballina LEP 2012. The Panel considered the applicant's submission had demonstrated the matters required by Clause 4.6 and the objectives of the height standard will be met notwithstanding the variation.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 4.16 (previously section 80) of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The reasons for the decision of the Panel to approve the Clause 4.6 variation were:

- The Panel has considered the Applicants request to vary development standards contained in the Ballina Local Environmental Plan 2012 Clause 4.3 relating to height of buildings. The Panel notes the standard height limit applying to the site is 8.5 metres and the assessed building height of the proposal is 11 18 metres.
- The Panel is satisfied that the request has adequately addressed the matters to be demonstrated and the Panel considers compliance with the standard would be unreasonable and unnecessary in the circumstances of this case are:
 - The height will be comparable with the adjacent Ballina High School buildings;
 - The Panel notes the building has two distinct levels. That part that exceeds the building height is the playing courts which have a GFA of 1876 m² and account for about 62% of the footprint of the building;
 - Is sufficiently distant from other development as to not be an imposing structure;
 - It is an urban area and the building will not impact on the scenic quality of the location and will not cause significant overshadowing as a result of its setback from surrounding streets.
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Further reasons for the decision of the Panel to grant approval were:



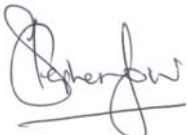
- Sepp 55 - Remediation of Land: The site history indicates the majority of the site has been used for school purpose since circa 1915 with the current school constructed in 1931. No further investigation is not warranted and the site is considered suitable for the proposed use;

- SEPP 64 – Advertising and Signs: The sign shown on the plans exceeds the standard in size, however it is considered it will be compatible with the character of the mixed use of the Cherry Street locality; does not obscure or compromise any important views; and is compatible with the scale, proportion and other characteristics of the Centre.
- SEPP 71 – Coastal Protection: The proposed development will not have any effect on the coastal foreshore;
- The provision of a total of 77 car parking spaces is considered appropriate for both the Ballina Indoor Sports Centre and the school staff during school operating hours;
- The site is considered appropriate for the Ballina Indoor Sports Centre and its co-location with Ballina High School is a positive feature that will increase its use by students and allow its use by the school and the wider community.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Condition 9 was amended to require a arborial survey prior to commencement of works to identify existing trees along the Cherry Street frontage which are able to be protected and retained in conjunction with the project;
- Condition 16 was amended to delete the requirement the design of the car parking and vehicular accesses to be in accordance with the Australian Standard;
- Condition 26 regarding energy efficiency was deleted as it was deemed unnecessary as energy efficiency is covered under building code requirements (condition 5);
- Condition 75 was amended to delete reference to the car parking meeting the Australian Standard.

PANEL MEMBERS	
 Garry West (Chair)	 Pamela Westing
 Stephen Gow	Approved by email 13 April 2018 Keith Williams

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018NTH001 – Ballina – DA2018/36
2	PROPOSED DEVELOPMENT	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.
3	STREET ADDRESS	Lot 392 DP 755684, Lot 1 DP 1083219, Lots 477 & 478 DP 729251, 37-49 Swift Street, Ballina
4	APPLICANT/OWNER	Ballina Shire Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No.55 - Remediation of Land State Environmental Planning Policy No.64 – Advertising and Signage State Environmental Planning Policy No.71 – Coastal Protection State Environmental Planning Policy Draft Coast Management Ballina Local Environmental Plan 2012 Ballina Local Environmental Plan 1987 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Ballina Development Control Plan 2012 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: clauses 92 and 94 Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 23 March 2018, received 27 March 2018 Written submissions during public exhibition: 3 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Support – Nil Object – Deb McFarlane expressed concerns On behalf of the applicant – Mike Svikis, Consultant Planner and Alistair Weallans, Development Engineer
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: 11 April 2018 Final briefing meeting to discuss council's recommendation, 11 April 2018. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Garry West (Chair), Pamela Westing, Stephen Gow, Keith Williams <u>Council assessment staff</u>: Dave Kelly, Manager, Infrastructure Planning; Alistair Weallans, Development Engineer; Andrew Smith, Manager, Development Services
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report and as amended at the meeting