



COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-152– 0766/22DA
PROPOSAL	Alterations and additions to a recreation facility (indoor) (new basketball court, associated works, including demolition).
ADDRESS	Lot 1000 DP 871662, 74-74A BRAY STREET COFFS HARBOUR
APPLICANT	GEOLINK CONSULTING
OWNER	COFFS HARBOUR CITY COUNCIL
DA LODGEMENT DATE	08-Mar-2022
APPLICATION TYPE	DA
REGIONALLY SIGNIFICANT CRITERIA	Clause 3 Schedule 6 of the Planning Systems SEPP: Council development over \$5 million
CIV	\$6,269,309 (excluding GST)
CLAUSE 4.6 REQUESTS	Coffs Harbour LEP 2013, Clause 4.3 (height) to be varied. Land zoned R2: Low Density Residential, RE1: Public Recreation
KEY SEPP/LEP	Coffs Harbour LEP 2013
TOTAL & UNIQUE SUBMISSIONS ISSUES SUBMISSIONS	None
DOCUMENTS SUBMITTED FOR CONSIDERATION	Access report, Architectural Plans BCA Performance Requirements Compliance Statement Bushfire report, Civil Engineering Plans Clause 4.6 variation request Cost estimate report Landscape plan AHIMS search Statement of environmental effects Traffic report Waste management plan

SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	N/A
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	27 October 2022
PLAN VERSION	18 February 2022 Version No 2
PREPARED BY	Glenn Petersen
DATE OF REPORT	23 September 2022

EXECUTIVE SUMMARY

The development application (0766/22DA) seeks consent for additions and alterations to the existing recreation facility (indoor) including:

- Construction of an addition for provision of a new complaint basketball court. This involves extending one of the sports halls at Sportz Central to the south to provide the court to the appropriate standard.
- Provision of Accessible and Female Friendly Amenities.
- Demolition of the existing Skate Park.
- Demolition of the Cricket Nets.
- Additional parking and associated works

The development is a result of a grant to Council from the Federal Government under the Female Facilities and Water Safety Stream Program. The grant is for the provision of one new compliant basketball court, new accessible and female friendly amenities for players and officials, and other minor building upgrades and works. It is noted that new cricket nets, skate park and associated works are to be approved under Part 5 of the EP&A Act 1979 with much of these works already being carried out.

The subject site is known as 74-74A Bray Street, Lot 1000 DP 871662 and is of an irregular shape with a total area of approximately 7.3Ha. The site is bound by Bray Street, Apollo Drive, Antaries Avenue and also adjoins residential development. The northern boundary is adjacent the North Coast Railway with the eastern boundary adjoining public reserves and residential development. An unnamed tributary to Coffs Creek meanders inside the west and north boundary. Mature vegetation exists along the tributary and in the northern section of the site. Besides the existing recreation facility (indoor) for which the additions and alterations are proposed, the site contains a PCYC building, skate park, bike safety park, cricket pitch and nets, amenities building and associated car parking.

The site is located in the RE1 – Public Recreation zone. *Recreation Facilities (indoor)* are permitted with consent in the RE1 zone under Clause 2.2 of *Coffs Harbour Local Environment Plan 2013*.

The principle planning controls relevant to the proposal include, *State Environmental Planning Policy (Planning Systems) 2021*, *State Environmental Planning Policy (Resilience and*

Hazards) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, Coffs Harbour Local Environmental Plan 2013, Coffs Harbour Development Control Plan 2013 (LEP 2013). The proposal is inconsistent with the various provisions including:

- Maximum building height under Cl 4.3 of LEP 2013
- E1 Biodiversity - Riparian zone requirements - Revegetation of riparian land to a width of 40m

There were no concurrence requirements from agencies for the proposal and the application is not integrated development pursuant to Section 4.46 of the Environmental Planning and Assessment Act 1979 ('EP&A Act'). A referral to NSW RFS under 4.14 of the EP&A Act was sent as the development includes a public assembly building with floor space area greater than 500m². Recommended conditions have been provided and incorporate into the draft conditions. Application also referred to Essential Energy as development is proposed within 5m of overhead power lines. Further information was provided by the applicant to show safety clearances distances are maintained.

Jurisdictional prerequisites to the grant of consent imposed by the following controls have been satisfied including:

State Environmental Planning Policy (Resilience and Hazards) 2021

- Clause 4.6 - Consider whether land is contaminated and suitable for proposed use.

Coffs Harbour Local Environmental Plan 2013

- Clause 4.6(4) – Satisfactory written request to vary a development standard and concurrence from the Planning Secretary.

The application is to be determined by the Northern Regional Planning Panel as the development is considered regionally significant development. No briefing meeting has been held with the planning panel. The application proposed to be considered for the first time by the panel at the determination meeting.

The development is consistent with the provision of relevant State environmental planning policies and is generally consistent with CHLEP 2013 and CHDCP 2015. The site is considered suitable for the proposed use, and the proposal has included appropriate measures to mitigate impacts of the development and site constraints. The development is considered to provide better access to community sporting facilities.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State environmental planning policies, the CHLEP 2013, the CHDCP 2015 and the likely impacts of the development, the proposal can be supported.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the *EP&A Act*, DA 0537/22DA is recommended for approval subject to the conditions contained in **Attachment A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

The site consists of a large irregular shape lot of approximately 7.34Ha. Primary frontage to Bray Street is approximately 350m in length. The western boundary has frontage to Apollo Drive, Antaries Avenue and also adjoins residential development.

The northern boundary is adjacent the North Coast Railway with the eastern boundary adjoining public reserves and residential development.

An unnamed tributary to Coffs Creek meanders inside the west and north boundary. Mature vegetation exists along the tributary and in the northern section of the site. The land involved with the development is relatively level with a significant uphill slope on the northern side of the tributary.

Besides the existing recreation facility (indoor) for which the additions and alterations are proposed, the site contains a PCYC building, skate park, bike safety park, cricket pitch and nets, amenities building and associated car parking.

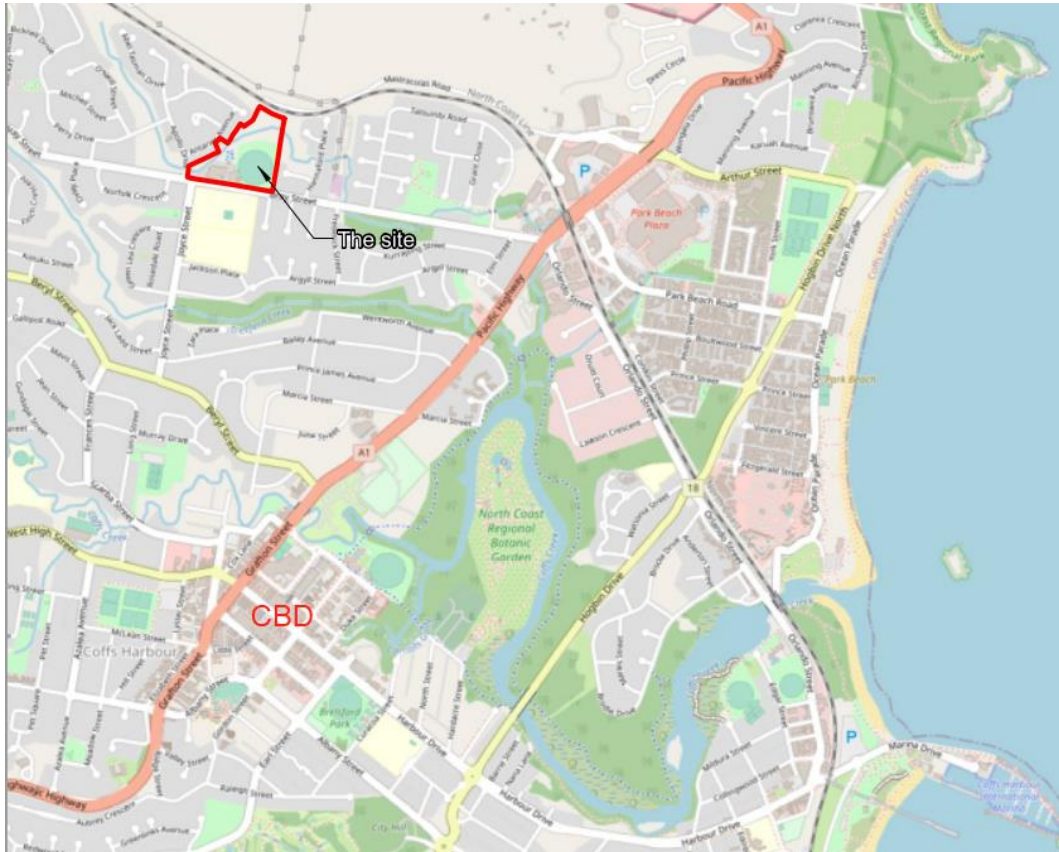


Figure 1. Location Map



Figure 2. The site (aerial imagery)



Figure 3. Looking north east into the site. Existing recreation facility with PCYC in background –



Figure 4. Looking north-west into the site. PCYC building in distance.

1.2 The Locality

Orara High School exists across Bray Street to the south with large two storey buildings and sporting fields visible from the street. Low density residential accommodation exists to the east and west. Due to the large lots sizes, existing large buildings and mature vegetation the recreation facility on the site and the nearby school appear somewhat isolated from the nearby residential character of the area. Bray street at the site frontage is a collector road which connects to the Pacific Highway to the east. Bray street also includes bike lanes and numerous bus stops.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal involves additions and alterations to the existing recreation facility (indoor) including:

- Minor internal and external demolition works to accommodate the proposed works
- Demolition of the existing Skate Park.
- Construction of an addition for provision of a new complaint basketball court. This involves extending the eastern sports hall to the south (location of Skate Park) to provide a court to the appropriate standard.
- Construction of Accessible and Female Friendly Amenities. The new amenities extend to the north of the eastern hall into the existing carpark area. They are fully integrated into the facility.
- Demolition of the existing Cricket Nets.
- Additional car parking spaces, resulting in a net increase of 20 parking spaces on the site.
- Replacement of the existing roof (damage as a result of the October 2021 storms)
- Installation of solar panels
- Adjustment of services

- Associated works, including earthworks, civil works, and landscaping.

Table 1: Development Data

Control	Proposal
Site area	Approximately 7.34Ha
GFA	Final GFA = 4096 m2 (increase of 849m2)
Clause 4.6 Requests	Yes – Height variation requested. Proposed height of 12.9m – 51%
Max Height	8.5m
Landscaped area	Approximately 310m2 of additional garden beds which does not includes additional 26 trees throughout the site.
Car Parking spaces	Total of 127 spaces including 3 accessible spaces.
Setbacks	Front setback of 4.13m. Existing development closer to all other boundaries than proposed additions.



Figure 5. Site plan

2.2 Background

In 2020 Council received a \$6.3 million dollar grant from the Federal Government under the Female Facilities and Water Safety Stream Program for the provision of one new compliant basketball court, new accessible and female friendly amenities for players and officials, and other minor building upgrades and works for Sportz Central.

A pre-lodgement meeting was held prior to the lodgement of the applicant on 16 November 2021 where various issues were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- Height – a 4.6 variation request will be required to consider the proposed height of the development. 4.6 Variation request provided and discussed under 3.1 of this report.
- Front setback – Merit based. Provide assessment and justification for proposed front setback. Addressed in SEE.
- Sediment and erosion control plan due to proximity to waterway. Sediment and erosion control plan provided.
- Traffic impacts and parking to be assessed. Traffic impact assessment provided.
- Location of Council's underground infrastructure will need to be considered and may require relocation. Addressed with no works proposed in proximity to underground assets.
- Proximity to waterway and impacts to riparian area to be considered. Additional car parking moved away from waterway and riparian area.
- Flooding. Raising level of proposed car parking and flood signage should be considered to mitigate flood impacts. Car parking located further from creek with Civil Plans showing minor fill to raise finished level of car parking.

The development application was lodged on **8 March 2022**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc.) with the application:

Table 2: Chronology of the DA

Date	Event
8 March 2022	DA lodged
14 March 2022	DA referred to external agencies
25 March 2022	Exhibition of the application
13 May 2022	Request for Information from Council to applicant
8 June 2022	Amended plans lodged. Changes to car parking design and notations on plans that approval for skate park and cricket nets not sought under this development application.

2.3 Site History

Previous approvals:

0053/86DA - Sporting Club
0173/96DA - Police & Community Youth Club
0248/96DA - Extension to Indoor Stadium
1734/02DA - Access Stairs, Landings, Handrails to Existing Slab Over Offices & Amenities
0745/06DA – Extension to Indoor Stadium

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (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,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is not considered to be:

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence/referral (s4.13)
- Crown DA (s4.33)

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

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021;*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021;*
- *Coffs Harbour Local Environmental Plan 2013*

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

Table 3: Summary of Applicable State Environmental Planning Policies
(Preconditions in **bold**)

EPI	Matters for Consideration	Comply (Y/N)
SEPP Planning Systems	<ul style="list-style-type: none"> Clause 2.19(1) declares the proposal as regionally significant development pursuant to Clause 3 of Schedule 6. 	Y
SEPP Resilience and Hazards	<ul style="list-style-type: none"> Clause 4.6 - Contamination and remediation to be considered in determining development application - Contamination Report and the proposal is satisfactory subject to conditions. 	Y
SEPP (Biodiversity and Conservation) 2021	<ul style="list-style-type: none"> Clause 4.8(2) - The council's determination of the development application must be consistent with the approved koala plan of management that applies to the land – Development is consistent with <i>Coffs Harbour City Koala Plan of Management</i>. 	Y

State Environmental Planning Policy (Planning Systems) 2021

State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP) applies to the proposal as it identifies if development is regionally significant development. In this case, pursuant to Clause 2.19(1), the proposal is a regionally significant development as it satisfies the criteria in Item 3 of Schedule 6 of the Planning Systems SEPP as the proposal is development carried out on behalf of the Crown with a CIV over \$5 million. Accordingly, the Northern Regional Planning Panel is the consent authority for the application.

State Environmental Planning Policy (Resilience and Hazards) 2021

Clause 4.6 of the Resilience and Hazard SEPP requires consent authorities to consider whether the land is contaminated, and 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.

The development does not involve a change of use. The site does not have any apparent history of use that would indicate potential contamination. Council does not hold records that an activity that may have likely caused contamination has been approved or licenced on the land.

The site is considered suitable for continued use as a recreation facility (indoor) with the proposal considered to be consistent with the Resilience and Hazard SEPP.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Clause 4.8(2) of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 requires that the determination of a development application must be consistent with the *Coffs Harbour City Koala Plan of Management* (KPOM).

The site includes areas identified as Primary and Secondary Koala Habitat under the KPOM. The proposed development footprint is geographically removed from this area with no removal of vegetation identified in the KPOM. The development is unlikely to have any impact on koala habitat.

No further consideration of the KPOM is required with the development consistent with the KPOM.

Coffs Harbour Local Environmental Plan 2013

The relevant local environmental plan applying to the site is the *Coffs Harbour Local Environmental Plan 2013* ('the LEP'). The aims of the LEP include to promote ecologically sustainable development that supports a strong and diverse local economy both now and into the future, to provide for the social and economic welfare of the community by facilitating equitable access to public open spaces, community services and facilities that are safe and meet the needs of a diverse population, to promote the effective management of natural hazards and risks and the creation of a climate resilient community. The proposal is consistent with these aims as the proposal is considered to involve sustainable development that provides a community health service to meet the current and future needs of a diverse population and has effectively managed natural hazards and risks in its design.

Zoning and Permissibility (Part 2)

The site is located within RE1 Zone pursuant to Clause 2.2 of the LEP.

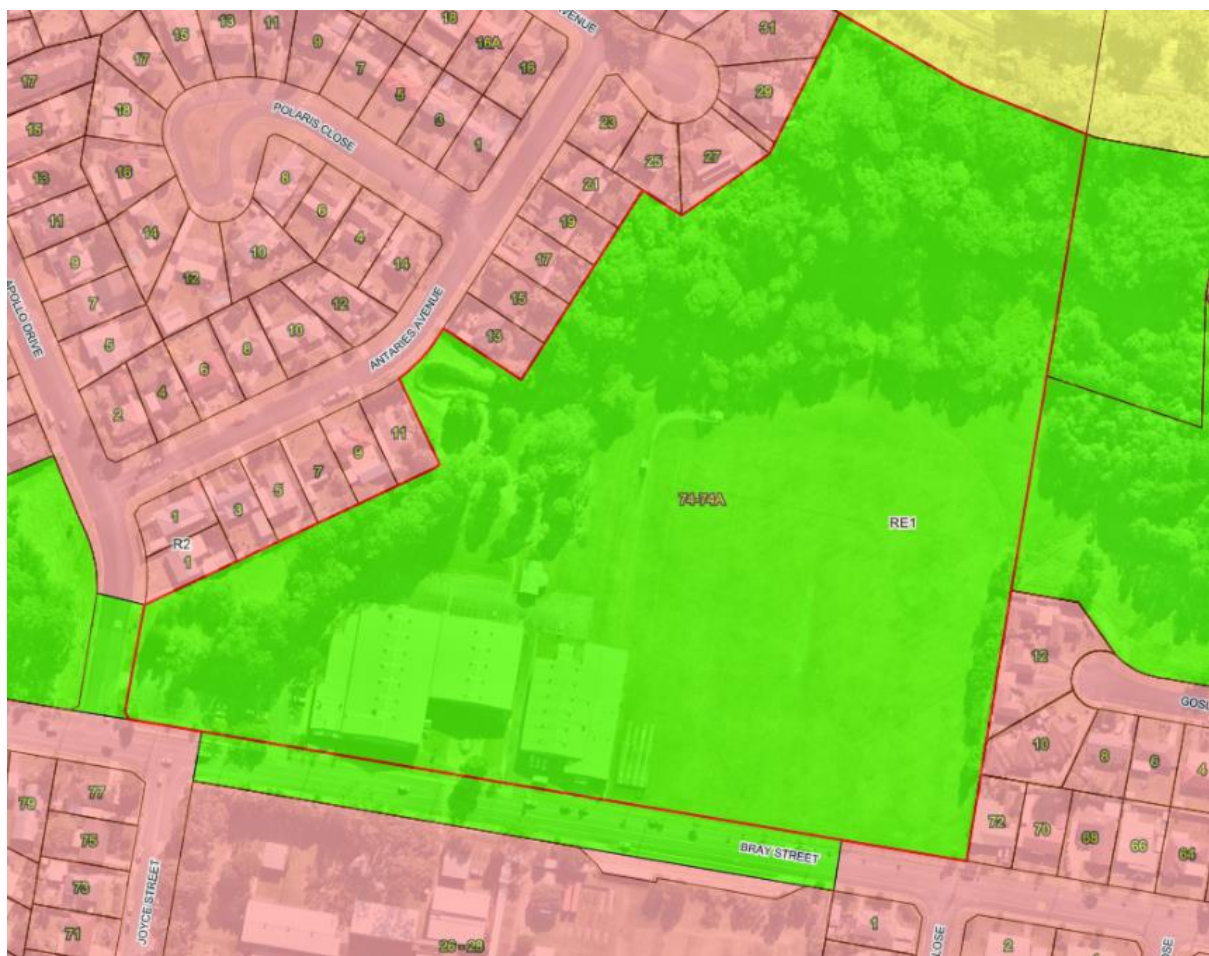


Figure 8 – Zoning Map

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of *recreation facility (indoor)* which is a permissible use with consent in the Land Use Table in Clause 2.3.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- 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 encourage active living through the provision of healthy, walkable, green and safe built environments and streets, greener connections and walking and cycling infrastructure.
- To ensure that development reflects design excellence and is of a high visual quality in its presentation to the public realm.
- To provide places that are safe and welcoming, that meet the needs of a diverse population and facilitate equitable access.
- To encourage places that reflect local character and identity and allow for cultural expression.

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

- The development is considered a compatible land use for the zone
- The development reflects design excellence and is of high visual quality
- The development contributes to community safety and the needs of a diverse population

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below. The proposal does not comply with the development standard/s in Part 4 of LEP 2013 and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum height of buildings.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	8.5 metres	12.9 Metres	No
Flood planning (CI 5.21)	Consent authority considers development: compatible with flood behaviour, not adversely affect other	The development is compatible with the flood impacts of the site and has incorporated appropriate	Yes

	properties, not affect safe occupation and efficient evacuation, manage risk of life and not adversely affect the environment.	measures in the design of the development.	
Earthworks (CI 7.2)	Consent authority to consider: disruptions and detrimental effects, effect on redevelopment, quality of fill/excavation soil, effect on amenity, proximity to environmentally sensitive areas, Aboriginal cultural heritage/relics and measures to avoid, minimise and mitigate impacts.	The earthworks are not considered to have any long term detrimental effects or inhibit future development. The application has appropriately considered likely impacts and has proposed adequate mitigation measures in the form of erosion and sediment controls. Conditions of consent further ensure compliance.	Yes
Terrestrial biodiversity (CI 7.4)	Consent authority must consider whether development is likely to have adverse impact to: Flora and fauna, habitat of native fauna, biodiversity structure and habitat connectivity. Must also be satisfied that impacts have been avoided, minimised and managed.	Development has been sited to minimise vegetation impacts and avoids impacts to koala habitat and riparian vegetation. Impacts are further managed by proposed erosion and sediment plan.	Yes
Koala habitat (CI 7.8)	Development must be in accordance with <i>Coffs Harbour City Koala Plan of Management</i> .	Development does not involve the removal of koala feed tree species or jeopardise connectivity of koala habitat.	Yes
Essential services (CI 7.11)	Development must have following services available or have adequate arrangements for: water, electricity, sewerage, drainage and vehicle access.	All essential services are available to the site. Adequate arrangements are in place for the management of stormwater drainage and ensured to be carried out with conditions of consent.	Yes
Coffs Harbour City Centre (CI. 7.13)	To maintain the primacy of Coffs Harbour City Centre.	Development is not detrimental to primacy of Coffs Harbour City Centre.	Yes

The proposal is considered to be generally consistent with the LEP.

Clause 4.6 Request

The Development Standard to be varied and extent of the variation

The proposal includes a request to vary CI 4.3 - Height of Buildings of LEP 2013. The site has a maximum building height of 8.5 metres. The proposed additions include a building height of 12.9 metres, an exceedance of 4.4 metres (51%).

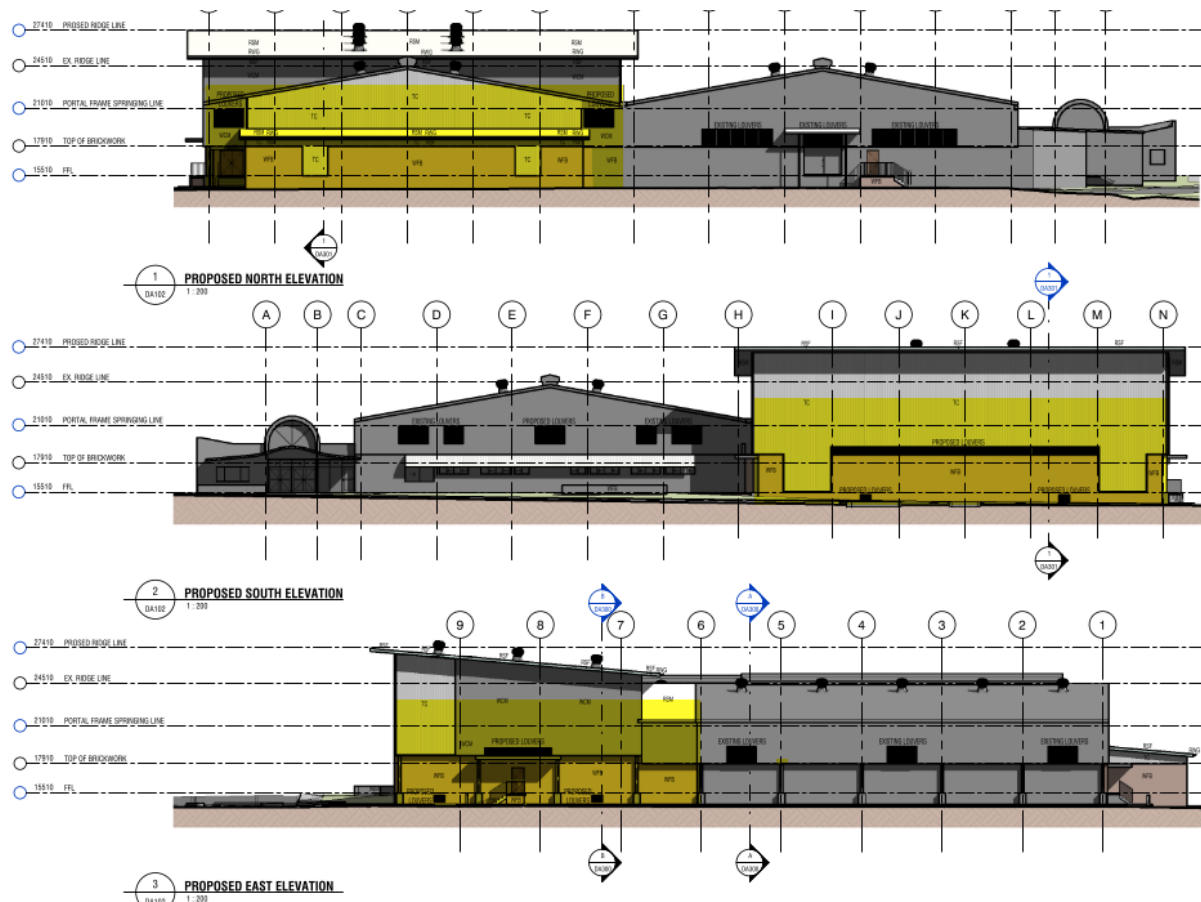


Figure 9. Elevations (Approximate 8.5m height limit for additions indicated in yellow)

Preconditions to be satisfied

Clause 4.6(4) of the LEP establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. Clause 4.6(2) provides this permissive power to grant development consent for a development that contravenes the development standard is subject to conditions.

The two preconditions include:

1. Tests to be satisfied pursuant to CI 4.6(4)(a) – this includes matters under CI 4.6(3)(a) and (b) in relation to whether the proposal is unreasonable and unnecessary in the circumstances of the case and whether there are sufficient environmental planning

grounds to justify contravening the development standard and whether the proposal is in the public interest (CI 4.6(a)(ii)); and

2. Tests to be satisfied pursuant to CI 4.6(b) – concurrence of the Planning Secretary.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request

CI 4.6(3)(a) – Compliance unreasonable or unnecessary

The variation request provides that compliance with the development standard is unreasonable or unnecessary as the relevant objectives of the development standard are achieved notwithstanding non-compliance as established in *Wehbe v Pittwater [2007] NSWLEC 827*. The assessment against the objectives of the standard are summarised below.

Table 5. Consistency with development standard objectives

CI 4.3 Objectives	Consistency
Objective (a) is to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,	<p>The development will not impinge on the established urban character and amenity of the area. The character of the site and its impact on the surrounding area was largely established when the sporting complex was built some 30 plus years ago. The additions are consistent with the existing built character which already exceeds the building height limit. This character is also reflected with the two-storey built form of Orara High School opposite the site.</p> <p>The sporting facility is surrounded by riparian vegetation and open space used for outdoor recreation. This setting provides a buffer between the built character of the site and nearby residential development which mitigates and softens the built form impacts. These attributes ensure the development does not dominate the streetscape.</p>
Objective (b) is to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,	<p>While geographically removed from the CBD, the site can be considered within a more structured urbanised area as immediately adjacent to the site is Orara High School and some 300m west along Bray Street is the Bray Street shopping complex and Wesleyan Methodist Church.</p> <p>The area is supported public transport routes, shops, pedestrian and cycle paths.</p>
Objective (c) is to ensure that the height of future buildings has regard to heritage sites and their settings and their visual interconnections,	<p>The proposed development is not located within a Heritage Conservation area nor does the site contain or is it in close proximity to any Heritage Items.</p>
Objective (d) is to enable a transition in building heights between urban areas having different characteristics,	<p>The site's characteristics allow for a smooth transition in building height between the site and the surrounding residential, single storey development that characterise the adjoining residential areas. The surrounding vegetation and open space geographically separates the development from the surrounding residential areas and serves to soften the transition in bulk and scale</p>

Objective (e) is to limit the impact of the height of a building on the existing natural and built environment,	<p>The proposed additions are compatible with the existing facility by being similar in bulk, height and scale and successfully integrating with the industrial character and built form context.</p> <p>The additions have been deliberately designed so that the bulk of the building fronts Bray Street thus not detracting from the natural reserve and open space area to the rear of the facility.</p>
Objective (f) is to encourage walking and decreased dependency on motor vehicles by promoting greater population density in urban areas.	<p>This objective is not relevant to the proposal as it relates to increase densities for residential accommodation.</p> <p>Nevertheless, the pedestrian pathways proposed as part of this development linking the development to the adjoining recreational areas, bike and footpaths as well as the adjoining school and bus stops ensures that the development facilitates and encourages a decreased dependency on motor vehicles.</p>

CI 4.6(3)(b) – Environmental planning grounds to justify contravention

The salient points of the environmental planning grounds to justify the contravention are summarized as below:

- The exceedance in height of the development does not adversely impact amenity of the area;
- Is compatible with the existing built form on the site and immediate area;
- The height is integral to the design and intent to provide compliant facilities;
- The development does not result in significant heritage, visual, streetscape, privacy, solar access, or other amenity or environmental impacts.

While not related to the variation in height, the request also stipulates that the development will continue to achieve positive outcomes for the community and locality in terms of economic investment and improved sporting/recreation facilities for the community.

CI 4.6(4)(a)(ii) – Public interest

Development is considered to be in the public interest if it is consistent with the objectives of the relevant standard and zone in which the development is being carried out.

Consideration against the objectives of the Height of Building development standard of LEP 2013 is outline above in *Table 1. Consistency with development standard objectives*.

Consideration against the objectives of the RE1 zone are outlined below.

Table 6 - Consistency with zone objectives

RE1 Public Recreation Zone Objectives	Consistency
To enable land to be used for public open space or recreational purposes.	The proposal is consistent with enabling the land to be used for recreational purposes, including in this instance where a higher building height is necessary to support the provision of compliant sporting facilities.
To provide a range of recreational settings and activities and compatible land uses.	The proposal provides for value-adding by integrating into the existing facility as opposed to the provision of a new standalone building. The new

	roof height ensures that the court meets international standard clearances for the sports catered for onsite with both Basketball and Netball requiring a clear height from finished floor of 7 metres.
To protect and enhance the natural environment for recreational purposes.	The extension of the facility, rather than construction of a new facility, ensures any impact on the existing natural environment is kept to a minimum. The development as proposed does not impact on the enjoyment of the site's natural environment or prevent recreational pursuits within those areas such as the Bray Street Reserve.
To encourage active living through the provision of healthy, walkable, green and safe built environments and streets, greener connections and walking and cycling infrastructure.	The site frontage includes walking and cycling infrastructure. Safety is addressed with facilities compliant with international standards and safe vehicle access compliant with AS2890.
To ensure that development reflects design excellence and is of a high visual quality in its presentation to the public realm.	The design of the addition have been made by an accredited architect and have considered the facility requirements as well as the presentation to the public realm.
To provide places that are safe and welcoming, that meet the needs of a diverse population and facilitate equitable access.	The facility is designed to be compliant with international standards for basketball and netball and can also be used for a variety of other indoor activities. Equitable access is provided to all areas within the proposed additions from the main entrance and accessible parking spaces.
To encourage places that reflect local character and identity and allow for cultural expression.	The design of the additions have given adequate regard to the existing buildings on the site and character in the immediate area.

Cl 4.6(b) – concurrence of the Planning Secretary

Planning Circular PS 20-002 issues assumed concurrence for all consent authorities under cl 4.6 of a local environmental plan. Assumed concurrence is conditional on the variation not involving a lot that is less than 90% the require minimum lot size in a rural or environmental conservation zone or; a delegate of Council if the variation is for a non-numerical standard or greater than 10% of a numerical standard.

As the development variation does not involve subdivision and the consent authority is not a delegate of Council, concurrence can be assumed of the Planning Secretary.

3.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no proposed instruments which have been the subject of public consultation under the EP&A Act, and which may be relevant to the proposal.

3.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- *Coffs Harbour Development Control Plan 2015* ('the DCP')

Part D Built Form Controls

There are no applicable built form controls for the site. The 'Front Setback Map' and 'Side and Rear Setback Map' identify the site to have merit based setbacks.

The front setback to the existing facility is 9.1m. The proposed front setback for the additions is 4.1m. Minimum side and rear setback from the additional amenities is approximately 54m. Significant vegetation also exists at the rear of the site which screens the development.

The front setback is required in order to incorporate clearance around the courts which complies with international standards. In order to achieve the existing setbacks, it is likely demolition of the existing facility would be required. The bulk and scale of the development is mitigated by the incorporation of a skillion roof, landscaping at the front of the site and the use of transparent building materials. On balance, the proposed built form and setbacks are considered acceptable for the development.

E1 Biodiversity

E1.3 Riparian zone requirements

Riparian zones are to be vegetated and stabilised within 40m watercourses classified with a stream order of three or higher.

A small portion of the additional amenities at the rear is within 40 of an order three watercourse.

The additional development is over the existing carpark with no impact to riparian vegetation. The application does not propose any additional vegetation outside of the proposed landscaping.

E4 Flooding

Commercial facilities are required to have minimum building floor levels at the Flood Planning Level (FPL). Open car parking areas are assessed on merit taking into account adjoining land uses and flood levels.

FPL for the site is 15.5m AHD. The additions are proposed at the existing floor level of 15.52m. The finished level of the additional car parking areas is at about the 1:20 ARI flood level of about 14.1m AHD

CHCC flood engineer has reviewed the application and supports the development subject to conditions.

F1 Access and Parking

Vehicles are required to enter and exit the site in a forward direction. Parking is to be in accordance with AS2890 and meet the required parking rates included in F1.5 One-site Parking – Non Residential Uses. If no specific rate is identified, a parking study is required.

A Traffic Impact Assessment (TIA) has been provided to support the application and has included assessment of parking requirements. The TIA concludes that the development will require an additional 20 parking spaces which have been included in the proposal. The existing access arrangements are also considered suitable for the development.

CHCC development engineers have reviewed the Traffic Impact Assessment and proposal and support the findings subject to conditions.

F3 Landscaping

Landscaping is to be provided that complements and enhances the existing streetscape and softens buildings and hard landscaping. Plant selection is to be sensitive to the local climate and natural features. One shade tree is required for every eight parking spaces. Street trees are also to be provided within the road reserve.

A landscaping plan prepared by a landscape architect has been supplied to support the development. Landscaping within the street frontage incorporates a number of trees, shrubs and grasses to screen the development. Plant selection includes number of native varieties that are suitable to local climate and location. 12 shade trees are included in the vicinity of the 20 parking spaces.

The development does not include the provision of any street trees. It is noted that there is no viable space within the road reserve due to the existing and new footpath, overhead power lines and Council water main. A number of small trees are included within the front setback.

F6 Waste Management

The development is to include a three stream waste system to cater for all waste generated by the development. A demolition and construction waste management plan is also required to ensure waste is appropriately stored on site and disposed to an approved waste management facility.

The existing bin storage area is capable of meeting the waste management requirements for the development. Signage is included to ensure access for bin servicing at 9am Tuesday and Friday. A draft waste management plan has been provided to support the application. Conditions are recommended to ensure the development is carried out appropriately.

Contributions

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- ***Coffs Harbour Development Contributions Plan 2019***

Coffs Harbour Development Contributions Plans 2019 does not specify an exemption for Council development. As such, contributions are required to satisfy increased demand for water and sewer infrastructure within the area totalling \$68,234.68

3.4 Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

3.5 Section 4.15(1)(a)(iv) - Provisions of Regulations

Clause 92(1) of the Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, comprising the following:

- Demolition of a building proposed - provisions of AS 2601;

These provisions have been considered and addressed in the draft conditions (where necessary).

3.6 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The existing buildings on the site could be characterised as industrial in appearance and exceed the building height limit for the land. The site is also separated from nearby residential development by riparian vegetation and open space.

The proposed additions and alterations are not considered to significantly impact the existing character of the site and streetscape.

- Access and traffic – The supplied TIA states the additional court could generate 26 extra trips in peak hour which is distributed across three entries and two exits. The site has sufficient access and facilities of walking and cycling patrons. A bus stop also exists adjacent the primary access to the site.

Parking was reviewed onsite for typical peak use on Friday at 64%. The additional 20 spaces are considered sufficient for the additional court. Significant overflow parking is also available on Bray and Joyce streets should it be required. The additional 26 trips are considered as having a minimal and acceptable impacts on the road network.

- Public Domain – The visual impacts to the public domain are mitigated with the use of transparent building materials and landscaping. An additional path within Bray Street will also provide linkage to the skate park and cricket nets. There is significant open space and vegetation around the development which separates the site from nearby residential development.
- Utilities – All utilities are available at the site.
- Heritage – The site does not contain a heritage item and is not adjacent to any heritage item or heritage conservation area. The application includes consideration for the due diligence code of practice and concluded the development is unlikely to impact any Aboriginal objects. Conditions are recommended should an unexpected find be discovered during vegetation removal and earthworks.

- Water/air/soils impacts - Erosion and sediment control measures are proposed to be in place prior to any works and will remain until the site is stabilised. WSUD is also integrated into the stormwater management to treat pollutants prior to discharge of stormwater.
- Flora and fauna impacts – Two trees are proposed for removal. The trees are not considered high conservation value vegetation. The proposed landscaping proposes over 20 additional trees on site and numerous shrubs
- Natural environment – No significant changes to the natural environment or contours of the site.
- Noise and vibration – The additions are separated from sensitive receivers and are not likely to result in any additional noise impacts. The additional 26 car movements are also unlikely to result in any significant impacts. Special construction hours are not considered warranted.
- Natural hazards – The site is affected by flooding and mapped as bushfire prone.

The additions are above the flood planning level which includes a freeboard of 500mm above the 1:100 ARI event. The additional car parking is also at approximately the 1:20 ARI event. Conditions are also recommended to ensure the development is carried out as proposed, that electrical infrastructure is not below the FPL, and the signage is included to advise patrons of the potential flood hazard for the carpark.

The bushfire hazard has been considered in the supplied consultant's report. As the development includes a public building with greater than 500m², the application has been referred to RFS for comment. All recommended conditions from the RFS including APZ management, evacuation plan and construction standards have been incorporated into the draft conditions.

- Safety, security and crime prevention – The application has considered CPTED principles by ensuring adequate public surveillance and minimising opportunities for concealed criminal behaviour.
- Social impact – The development has potential to have beneficial impacts through:
 - Contributing to improved and expanded community services.
 - Providing high-quality and contemporary standard sporting facilities.
 - Facilitating an improved capacity to attract and support a variety of sporting pursuits
- Economic impact – The proposal will also inject capital investment into the region which will stimulate employment and have positive economic multiplier effects
- Site design and internal design – The design has considered the riparian vegetation and flooding on the site and also the existing facilities. The design avoids impacts to the riparian area and appropriately mitigates flood impacts.

The internal design has been considered in order to provide an additional court that is compliant with international standards in terms of clearance and height.

- Construction – Standard construction hours are specified in the conditions.

- Cumulative impacts – The proposed stormwater management system will reduce pollutants from leaving the site. The development is not considered to result in adverse cumulative impacts.

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

3.7 Section 4.15(1)(c) - Suitability of the site

- The character of the site and immediate locality have been previously established by the existing recreation facility and adjacent school. The additions are consistent with the existing character.
- The development has access to all required services and adequate transport infrastructure.
- The development has appropriately considered the flood and bushfire risks relevant to the site and incorporated appropriate mitigation measures.
- The site includes an existing recreation facility with adequate vegetation and distance buffers to residential development.

The application has demonstrated a detailed investigation into the constraints of the site and likely impacts of the development. The likely impacts associated with the development are considered to be appropriately mitigated and will not result in unacceptable impacts to the environment or locality.

The site is considered suitable for the proposed development.

3.8 Section 4.15(1)(d) - Public Submissions

The development was notified and advertised from 25 March 2022 to 8 April 2022 in accordance with CHCC Community Participation and Engagement Plan. No submissions were received in relation to the development proposal.

3.9 Section 4.15(1)(e) - Public interest

The proposed development provides additional community sporting facilities for the public. The proposal has appropriately considered the likely impacts of the development and has proposed adequate mitigation measures. The proposal is generally consistent with relevant planning controls and is considered an orderly and economic use of the site.

On balance, the proposal is considered to be in the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 7.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 7: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act) (if none – N/A – to show consideration)			
			N/A
Referral/Consultation Agencies (if none – N/A – to show consideration)			
RFS	S4.14 – EP&A Act Development on bushfire prone land	Public assembly building with floor space area greater than 500m2. All RFS recommendations included in draft conditions.	Y (conditions)
Electricity supply authority	CI 2.48 – Transport and Infrastructure SEPP Development near electrical infrastructure	Development within 5m of overhead power lines. Essential energy advised minimum clearance requirements. Further information provided demonstrating minimum safety clearances from power lines – see below.	Y
Integrated Development (S 4.46 of the EP&A Act) (if none – N/A – to show consideration)			
			N/A

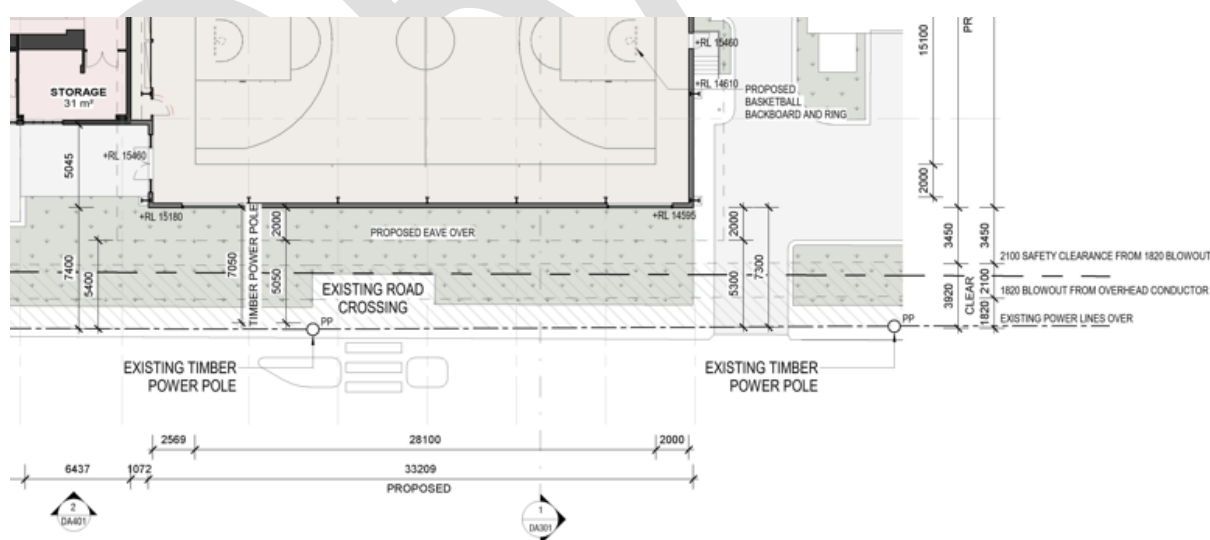


Figure 10. Clearance distances from overhead power lines.

4.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 8**.

Table 8: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Engineers have reviewed the submitted stormwater concept plan, WSUD measures, traffic impact assessment, amended site plan and civil engineering package and considers the proposal can be supported subject to conditions.	Y (conditions)
Biodiversity	Referred due to concerns with pre-DA plans showing car parking adjacent to waterway and potential for APZ to impact riparian vegetation. Amended car parking location supported and RFS APZ requirements exclude the riparian vegetation. Concerns appropriately resolved.	Y
Flooding	Council's Flood Engineer has reviewed the proposal The proposal can be supported subject to conditions	Y (conditions)
Finance	Advised that contributions plan does not specify an exemption for Council development. As such, contributions are required to satisfy increased demand for water and sewer infrastructure within the area.	Y (conditions)

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 25 March 2022 until 8 April 2022 The notification included the following:

- Notification letters sent to adjoining and adjacent properties (74 letters sent);
- Notification on the Council's website.

The Council received no submissions.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Height of Building

The maximum building height for the site is 8.5m as defined under LEP 2013. The proposed additions include a building height of 12.9m above natural ground level, a variation of 51%. The consent authority must not grant consent for the development unless it is satisfied that:

- The applicant's written request has adequately addressed the matters in CL 4.6(3) of LEP 2013,
- The development will be in the public interest; and
- Concurrence from the Planning Secretary has been obtained.

A detailed assessment of the 4.6 request has been undertaken above under part 3.1 of this report. As a summary; compliance with the development standard is proposed to be unreasonable or unnecessary as the objectives of the standard are achieved notwithstanding the non-compliance.

The environmental planning grounds for the contravention include:

- The exceedance in height of the development does not adversely impact amenity of the area;
- Is compatible with the existing built form on the site and immediate area;
- The height is integral to the design and intent to provide compliant facilities;
- The development does not result in significant heritage, visual, streetscape, privacy, solar access, or other amenity or environmental impacts.

The public interest is addressed with consistency with the development standard and relevant zone objectives.

The planning secretary's concurrence may be assumed for the development as stipulated in Planning Circular PS 20-002 published by the Department of Planning and Environment.

Resolution: The issue has been resolved through the supplied written request for vary a development standard which demonstrates that compliance with the development standard is unreasonable or unnecessary with sufficient planning grounds for the contravention.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls and the key issues identified in this report, it is considered that the application can be supported.

The development will provide better access to community sporting facilities, is suitable for the site, has adequately considered the constraints of the site and is compatible with the existing development on the site and in the immediate locality.

It is considered that the key issues as outlined in Section 6 have been resolved satisfactorily through the provision of an adequate written request to vary the development standard (height).

7. RECOMMENDATION

That the Development Application 0766/22DA (PPSNTH-152) for alterations and additions to a recreation facility (indoor) at 74-74A BRAY STREET COFFS HARBOUR be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Architectural Plans
- Attachment C: Clause 4.6 Request
- Attachment D: Engineering Plans
- Attachment E: Landscaping Plans