

COUNCIL ASSESSMENT REPORT

NRPP Number	PPSNTH-82
DA Number	DA2021/0250
LGA	Richmond Valley
Proposed Development	Redevelopment of Casino Memorial Swimming Pool including: - Partial demolition of existing building - New indoor 25 metre program/learn to swim pool - New family accessible amenities - New adult change room - New enclosed walkway from entry - New plant room - New store room - Refurbishment of control/kiosk, administration, first aid, staff facilities - New swim club - Refurbished gym and swim squad room - New twin flume waterslide - Solar photovoltaic roof panels - Removal of one (1) Poinciana tree And associated works
Street Address	Casino Memorial Swimming Pool and Memorial Park 84 Centre Street CASINO NSW 2470
Applicant/Owner	Facility Design Group Pty Ltd /Richmond Valley Council
Date of DA lodgement	1 April 2021
Number of Submissions	Two (2)
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	The application is a Council related development with a capital investment value over \$5 million.
Recommendation	Development application number DA2021/0250 be approved subject to conditions contained in in the proposed conditions of consent at Attachment C.
List of all relevant s4.15(1)(a) matters	• Environmental Planning & Assessment Act 1979 • Environmental Planning & Assessment Regulation 2000 • Biodiversity Conservation Act 2016 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007 • Richmond Valley Local Environmental Plan 2012 • Richmond Valley Development Control Plan 2015
Documents submitted with this report for consideration	• Architectural drawings • Engineering drawings • Clause 4.6 variation request • Advice from Heritage Advisor, Deborah Wray

Clause 4.6 requests	• The Clause 4.6 variation request relates to the Richmond Valley Local Environmental Plan 2012. • The development standard the clause 4.6 application relates to is the height of buildings. • The zone the clause 4.6 relates to is RE1 Public Recreation.
Summary of key submissions	• Removal of one (1) Poinciana tree at entrance to the facility
Report prepared by	Megan Yates, Development Assessment Planner
Report date	19 July 2021

Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **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**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **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? **Yes**

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

**Redevelopment of Casino Memorial Swimming Pool – Development Application
Number DA2021/0250 (NRPP Reference No. PPSNTH-82)
Assessment Report and Recommendation**

1. Executive Summary

Development Application DA2021/0250 seeks consent for the Redevelopment of Casino Memorial Swimming Pool on Lots 1 & 2 DP 862730, 84 Centre Street, Casino. The application involves the Redevelopment of the Casino Memorial Swimming Pool and associated works. The proposed development seeks a variation to the 8.5 metre height of buildings development standard, to 13.8 metres. The application has been prepared by Facility Design Group Pty Ltd and is lodged on behalf of Richmond Valley Council.

The following environmental planning instruments require matters that the consent authority must be satisfied about before granting consent.

- Environmental Planning & Assessment Act 1979
- Environmental Planning & Assessment Regulation 2000
- Biodiversity Conservation Act 2016
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- Richmond Valley Local Environmental Plan 2012
- Richmond Valley Development Control Plan 2015

The application has been notified and assessed in accordance with requirements of the Richmond Valley Council Community Participation Plan 2020. The application was placed on public exhibition from 13 April 2021 to 27 April 2021. Two submissions were received and are detailed within this report.

The determining authority is the Northern Regional Planning Panel pursuant to cl. 2.15 of the Environmental Planning and Assessment Act 1979 and Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, being Council related development having a CIV greater than \$5 million.

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act, 1979 and the relevant environmental planning instruments. The proposed conditions are contained within Attachment C to this report.

Recommendation

It is recommended that;

1. Pursuant to the provisions of Clause 4.6 of the Richmond Valley Local Environmental Plan 2012, the written submission in relation to the variation to the height of buildings development standard satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the height of buildings development standard be varied to 13.8m, in respect to this application.
2. Development application number DA2021/0250 be approved subject to conditions contained in Schedule of recommended Consent Conditions at Attachment C.

Attachments

Attachment A	Proposed Development Plans.
Attachment B	Clause 4.6 variation request
Attachment C	Recommended Conditions of Consent.
Attachment D	Heritage Advisor – Deborah Wray

2. Development Proposal

Development Application DA2021/0250 seeks consent for the Redevelopment of Casino Memorial Swimming Pool on Lots 1 & 2 DP 862730, 84 Centre Street, Casino.

Property Description	Lots 1 & 2 DP 862730
Property Address	84 Centre Street, Casino
Registered Owners	Richmond Valley Council
Applicant	Facility Design Group Pty Ltd
Land Area	1.42587 Hectares
Existing Use	Lot 1 DP 862730 – two vacant commercial premises (previously the Visitor Information Centre) Lot 2 DP 862730 – existing recreation facility (outdoor) including public outdoor swimming pool, amenities, gymnasium and kiosk
Property Zoning	RE1 – Public Recreation B3 – Commercial Core E2 – Environmental Conservation
Heritage	I38 Casino Memorial Baths entrance facade
Integrated Referrals	N/A
Other External Referrals	Council's Heritage Advisor

The proposed development is to be located wholly upon 84 Centre Street, Casino. This property is currently utilised for public outdoor recreation facility and includes an existing outdoor 50 metre swimming pool, grandstand, small waterslide, amenities, gymnasium, small kids pool, kiosk, and associated infrastructure.

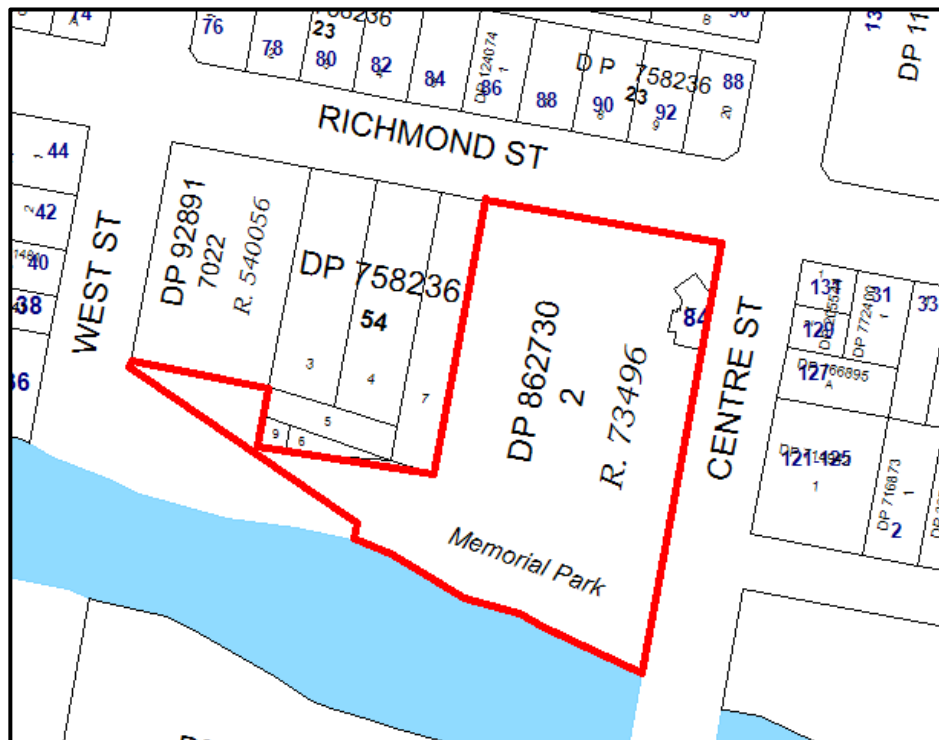


Figure 1 – Proposed development site.

The proposed development involves the second stage of the implementation of the Casino Memorial Swimming Pool masterplan. Stage one involves the reconstruction of the existing 50 metre swimming pool, refurbishment of the existing plant room, demolition of existing kids pool, construction of new kids pool and toy splash pad, removal of vegetation and associated works. Stage one of the redevelopment utilises Division 12 of State Environmental Planning Policy (Infrastructure) 2007 which allows the works to be undertaken without consent.

The proposal has an estimated CIV of \$8 million and comprises the following key components:

- Partial demolition of existing building
- New indoor 25 metre program/learn to swim pool
- New family accessible amenities
- New adult change room
- New enclosed walkway from entry
- New plant room
- New store room
- Refurbishment of control/kiosk, administration, first aid, staff facilities
- New swim club
- Refurbished gym and swim squad room
- New twin flume waterslide
- Solar photovoltaic roof panels with a capacity of 150kW
- Removal of one (1) Poinciana tree

And associated works

The proposed development seeks a variation to the 8.5 metre height of buildings development standard to 13.8 metres. The height variation relates to the proposed twin flume waterslide located in the south-west corner of the development site. All other components of the proposal comply with the 8.5 metre height development standard.

The proposed development footprint is shown in Figure 2 below.

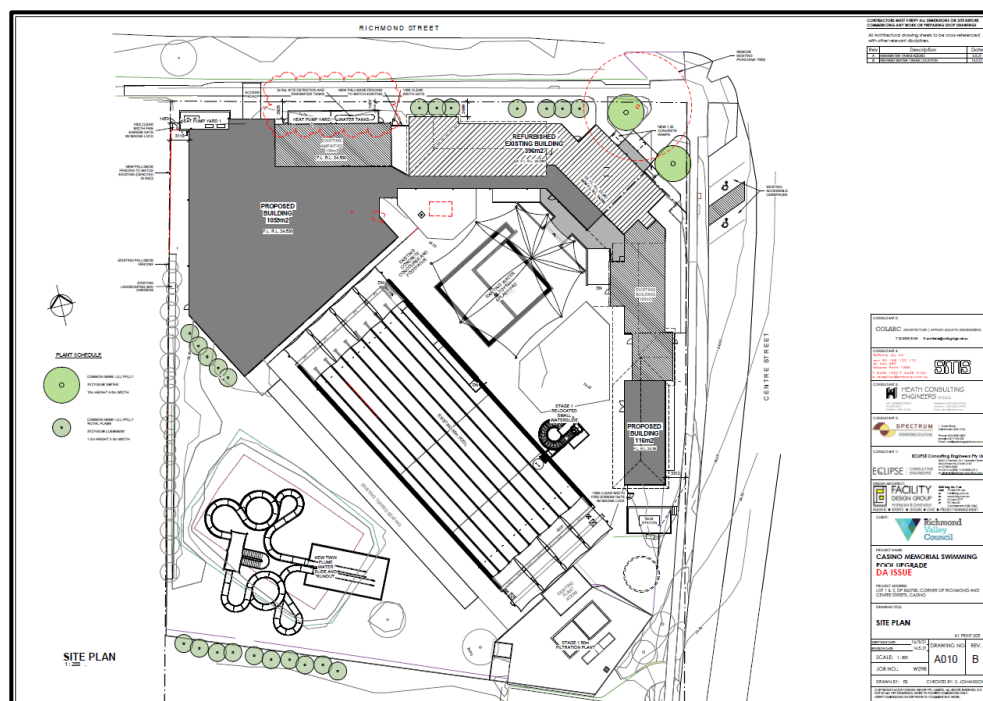


Figure 2 – Proposed Development

3. Referrals

The following referrals were undertaken as part of the assessment process:

External

Authority	Comment
Heritage Advisor	Comments were received on 28 April 2021 supporting the development subject to conditions

Internal

Authority	Comment
Environmental Health	Acceptable subject to conditions.
Development Engineer	Acceptable subject to conditions.
Building Certifier	Acceptable subject to conditions.

4. Environmental Planning and Assessment Act 1979

Section 1.7: Application of the Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

The provisions of Part 7 of the Biodiversity Conservation Act contains additional requirements with respect to assessments, consents and approvals under the EPA Act. The development includes removal of one (1) non-native tree (*Delonix regia* [Royal Poinciana]) and therefore assessment under the Biodiversity Conservation Act is required. Further comments are provided in Section 8 of this report.

Section 2.22: Mandatory Community Participation Requirements

Part 1 of Schedule 1 sets out the mandatory requirements for community participation.

The development application was placed on public exhibition from 13 April 2021 to 27 April 2021. Written notification to land owners was undertaken, a published notice appeared on Council's website and a social media post appeared on Council's Facebook page.

Two submissions were received and are considered in Section 10 of this report.

Section 4.2: Development that needs consent

The proposal is seeking consent under Part 4 of the Act.

Section 4.5: Designation of Consent Authority

The application is submitted with a cost of works of \$8,000,000.00. The application triggers the requirements for Regional Development Pursuant to Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011, being Council related development having a CIV greater than \$5 million. The determining authority is the Northern Regional Planning Panel pursuant to cl. 2.15 of the Environmental Planning and Assessment Act 1979.

Section 4.15: Evaluation

Section 4.15 details matters the consent authority is to take into consideration in determining an application. Consideration of the matters is provided in detail throughout this report.

Provision	Comment
(1)(a)(i) – Environmental planning instruments	Refer to section 5.

(1)(a)(ii) – Draft environmental planning instruments	No draft instruments are applicable
(1)(a)(iii) – Development control plans	Refer to section 6.
(1)(a)(iia) – Planning Agreements	No planning agreements relate to the application.
(1)(a)(iv) – The Regulations	Refer to section 7.
(1)(a)(v) – Repealed	N/A
(1)(b) – Likely impacts of the development	Refer to section 8.
(1)(c)(i) – Site suitability	Refer to section 9.
(1)(d)(i) – Submissions	Two submissions were received and are addressed in section 10.
(1)(e)(i) – The public interest	Refer to section 11.

5. Environmental Planning Instruments - Section 4.15(1)(a)(i)

The Environmental Planning instruments applying to this application are;

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- Richmond Valley Local Environmental Plan 2012

5.1 State Environmental Planning Policy (Infrastructure) 2007

This policy aims to facilitate the effective delivery of infrastructure across the State by providing standards for certain developments to be undertaken as exempt development and development without consent.

Clause/Development Standard	Comment
Clause 101 Development with Frontage to a Classified Road	
(1) The objectives of this clause are— (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads. (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that— (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of— (i) the design of the vehicular access to the land, or	The site is bordered by Centre Street which is a classified road. The development does not propose any changes to the existing access and function of Centre Street. There is no direct vehicular access currently available to the site, and there is none proposed as part of this development. No direct access is proposed off Centre Street. Carparking along Centre Street will remain as currently exist It is not considered likely that the safety, efficiency and ongoing operation of Centre Street will be adversely affected by the development.

(ii) the emission of smoke or dust from the development, or (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.	
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5.2 State Environmental Planning Policy No. 55 – Remediation of Land

The policy provides for consideration of possible land contamination, and remediation for the purpose of reducing the risk of harm to human health or the environment. Clause 7 requires a consent authority consider whether land is contaminated and if so whether the site is suitable for the intended purpose.

Prior to the proposed redevelopment the site has been used for recreational/community purposes since the opening of the Casino Memorial Baths in 1952. Prior to this the site was utilised as a public park being the Soldiers Memorial Park.

A Hazmat Survey Report prepared by ENV Solutions identified lead paint in multiple locations on site. As a precautionary measure, a condition of consent is recommended requiring a contaminated land assessment be undertaken prior to any work commencing. Subject to the recommended conditions, Council's Environmental Health Officer is satisfied the site is suitable for the proposed recreational use.

5.3 Richmond Valley Local Environmental Plan 2012

The site is zoned as RE1 Public Recreation, E2 Environmental Conservation and B3 Commercial Core as shown in Figure 3 below. The proposed development is located predominantly with the RE1 Public Recreation zone and partially within the B3 Commercial Core zone. No works are proposed within the E2 Environmental Conservation zone.



Figure 3 – RVLEP Zoning

Objectives of the zone

The RE1 Public Recreation zone objectives are:

- 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.

The development involves the redevelopment of the existing Casino Memorial Swimming Pool to provide a 25 metre indoor program/learn to swim pool, a twin flume waterslide and alteration and additions to the existing facility. The proposed development continues to enable the land to be used for public open space and recreational purposes. The addition of the indoor heated swimming pool and the twin flume waterslide increases the range of activities that can be undertaken on the site. The site is largely already developed however also includes a section along the river bank. No works are proposed within this area to continue to protect the natural environment. The proposed development is considered consistent with the zone objectives.

Objectives of the zone

The B3 Commercial Core zone objectives are:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

The development involves internal alterations and additions to the existing facilities. A small portion of these works are located on Lot 1 which is zoned B3 Commercial Core. The proposed works do not prohibit the continued ability for the building to be utilized as commercial space that serves the needs of the community. The internal works are not considered likely to prohibit employment opportunities. Public transport remains available to the property. The proposed development is considered consistent with the zone objectives.

Richmond Valley LEP contains a number of provisions that are of relevance to the application. These are detailed in the table below.

Clause	Compliance
2.7 Demolition The demolition of a building or work may be carried out only with development consent	The application includes internal demolition within the kiosk area and gymnasium. The proposal also includes demolition of two existing buildings, one being located on the Centre Street frontage, and the other being located on the Richmond Street frontage. The areas proposed for demolition are not part of the heritage listing and are not considered to have an impact on the heritage significance of the façade.
4.3 Height of Buildings	The application includes a twin flume waterslide with a proposed height of 13.8 metres which exceeds the height of buildings development standard of 8.5 metres. The application has been accompanied by a request to vary the development standard. A variation report can be found in Section 8 of this report.

5.10 Heritage Conservation	The site contains a locally significant heritage item being I38 'Casino Memorial Baths entrance façade' which is considered in Section 8 of this report.
6.2 Essential Services Requires a consent authority consider that essential services (water, electricity, sewage, stormwater drainage and road access) are available or suitable arrangements for its provision have been made.	<u>Water</u> The proposed development will be serviced by the existing water connection for the property. <u>Sewerage</u> The proposed development will be serviced by the existing sewer connection for the property. <u>Electricity</u> No changes to the existing electrical connections is proposed. <u>Stormwater</u> The proposal includes additional stormwater management infrastructure to direct the flow of stormwater to Council's stormwater system. The stormwater management plan proposes 2 x 5,000 litre water tanks, one being for reuse on site and one being for detention purposes to alleviate the impacts on the stormwater system. The stormwater infrastructure has been designed to facilitate a 5 minute storm event to a 5% AEP (20 year ARI). Council's Development Engineer has reviewed the SWMP have considered the arrangements suitable. Further detail regarding the proposed stormwater system is provided in Section 8 below. <u>Access</u> The site has frontage to Centre Street and Richmond Street with the main entrance being on Richmond Street. No changes to the existing vehicular or pedestrian access and entrance arrangements are proposed.
6.3 Earthworks Development consent is required for earthworks unless they are ancillary to other development having consent. The consent authority must consider the likely effect on; • existing drainage and soil stability, • future use or redevelopment of the site • the quality of fill or soil to be excavated, • disturbance of relics,	The proposed development involves earthworks to be undertaken for the construction of the indoor swimming pool and twin flume waterslide. A large extent of the earthworks will be associated with the construction of the indoor swimming pool. Consent conditions relating to erosion and sediment control, the disposal of excavated materials and protection of the amenity of the area have been recommended.

• adverse impacts on watercourses, catchments or environmentally sensitive areas • any measures proposed to avoid, minimise and mitigate impacts. • mitigate the impacts of the development.	Prior to the proposed redevelopment the site has been used for recreational/community purposes since the opening of the Casino Memorial Baths in 1952. Prior to this the site was utilised as a public park being the Soldiers Memorial Park. A Hazmat Survey Report prepared by ENV Solutions identified lead paint in multiple locations on site. As a precautionary measure, a condition of consent is recommended requiring a contaminated land assessment be undertaken prior to any work commencing. Subject to the recommended conditions, Council's Environmental Health Officer is satisfied the site is suitable for the proposed recreational use. The property is located adjacent the Richmond River, however the closest aspect of the proposed works (twin flume water slide) are located approximately 60 metres from the river. The majority of the works are located approximately 100 metres from the river. The earthworks and proposed development are not perceived likely to have an adverse impact on this existing watercourse. The earthworks will be managed through consent conditions relating to sediment and erosion control, the disposal of excavated materials and protection of the amenity of the area. Stormwater from the site once constructed will be directed to existing stormwater system on the Richmond Street and Centre Street frontages.
6.5 Flood Planning	As the proposed development relates to recreational and community facilities, no minimum habitable floor levels apply to the site. The flood waters through this area are low velocity with higher velocities closer to the river. It is not considered likely that the proposed development will have an adverse impact on the flood characteristics of the area. The development is non-habitable and would not be open in the event of a major flood. There is no potential for the property to be utilised for a refuge or evacuation centre in the event of a major flood. Council's Flood Engineers have reviewed the application and are satisfied with the flood impacts.
6.6 Terrestrial Biodiversity	The proposed development is located on land identified as 'biodiversity' on the Terrestrial Biodiversity Map. The mapped area covers the entire site. Very little vegetation exists on the site, with the primary vegetation being planted landscaped areas and non-native species. There are no continuous biodiversity corridors that would be impacted by the proposed development. The proposal includes the

	removal of one (1) Poinciana tree located at the entrance of the facility. A test of significance has been undertaken and determined there was no significant affect on threatened species. See Section 8 for further comment.
6.8 Riparian land and watercourses	The proposed subdivision is located on land identified as 'key fish habitat' on the Riparian Land and Waterways Map. The mapped area is located on the southern and south western portions of the property, outside of the impacted area of the development site. No part of the proposed development is located within the mapped area and therefore it is not considered likely that the proposed development will have an adverse impact on the riparian land and watercourse area.

6. Development Control Plans – Section 4.15(1)(a)(iii)

Richmond Valley Development Control Plan 2015

The DCP provisions applicable to the proposed development are listed below.

Part	Comment
Part B Commercial Development	While the development involves works within the B3 Commercial Core zone, these works are internal alterations only. It is therefore not considered warranted to assess the application against this chapter as no changes to requirements of the DCP are required.
Part H-1 Flood Planning	See Section 5.3 assessment of the Richmond Valley Local Environmental Plan (Clause 6.5 of the table).
Part H-2 Bushfire Prone Land	N/A
Part H-3 Acid Sulfate Soils	N/A
Part H-4 Natural Resources	See Section 5.3 assessment of the Richmond Valley Local Environmental Plan (Clause 6.6 and 6.8 of the table).
Part I Other Considerations	A range of other matters for consideration are outlined in this Chapter. Those of relevance to the current application are detailed below.
I3 Setbacks and Building Height	The proposal reduces the existing front setback along Richmond Street from 2.499m to 1.407m. The DCP does not specify a minimum setback for the RE1 zone. The proposed reduction is not considered to have an adverse impact on the amenity of the area or the existing streetscape and is considered consistent with the existing development on the property. The proposed development includes a minimum side setback of 1.453 metres along the western boundary and extends to 3.118 metres. No changes to any other side setbacks are proposed. The DCP does not

	specify a minimum setback for the RE1 zone. The proposed reduction is not considered to have an adverse impact on the amenity of the area or the existing streetscape and is considered consistent with the existing development on the property.
I4 Car Parking Provisions	There is currently no on-site parking provided at the facility and no space/access is available to provide on site car parking. Given the extent of the proposed redevelopment, it is considered appropriate to require on street parking to be formed and line marked for the extent of the Richmond Street frontage of the site. This section is currently unformed and is not line marked.
I5 Landscaping	Landscaping is proposed along the Richmond Street frontage and entrance, internally adjacent the proposed indoor swimming pool buildings, and along the fence line of the site adjacent the proposed twin flume waterslide. All landscaping will be required to be completed prior to the issue of the occupation certificate.
I7 Noise Impacts	The proposed development includes heat pumps and equipment which are considered noise generating. The pumps are located on the Richmond Street frontage with residential properties directly across Richmond Street. Due to the potential for noise impacts, a condition of consent is recommended requiring an acoustic report be prepared and submitted prior to the issue of a Construction Certificate.
I8 Social Impacts	The proposed development provides positive social, community recreational impacts through provision of additional community facilities. The redevelopment provides an inclusive facility that can serves the needs of a range of age groups and levels of ability.
I9 WSUD	A stormwater management plan was submitted as part of the application including the provision of detention and reuse tanks. A 5,000 litre reuse tank, and a 5,000 litre detention tank is proposed to mitigate the additional stormwater runoff created by the redevelopment. Council's Development Engineer's have reviewed the application and are satisfied with the stormwater provisions. Further detail regarding the proposed stormwater system is provided in Section 8 below.

7. The Regulations – Section 4.15(1)(a)(iv)

The matters relevant to the application as provided in the Environmental Planning and Assessment Regulation are detailed below.

Environmental Planning and Assessment Regulation 2000		
Part	Provision	Comment
Cause 25J and 25K	Section 7.12 levy— determination of proposed cost of development	Cost of Works: \$8,000,000 Levy: \$80,000 – however not applicable due to below.
	Maximum percentage	The redevelopment of the Casino Memorial Swimming Pool and Memorial park (Public Facility) is a development proposed by Richmond Valley Council

		(Public Authority). As it is a public facility development proposed by a public authority a Section 7.12 Levy is not applicable, as outlined in Section 1.4 of Council's adopted Section 94A Developer Contributions Plan in line with Section 7.12 of the EP&A Act 1979.
Part 6 Division 7	Public participation – Other Advertised Development	The Application was advertised and notified as required.
Part 6 Division 8 Additional matters to be considered:	Demolition	The application involves demolition of two existing buildings and internal areas of the kiosk/gym area. A condition of consent is recommended requiring to demolition works to be carried out in accordance with the provisions of AS 2601 - 2001 "The Demolition of Structures" as in force at 1 July 1993
	Paper Subdivisions	N/A
	Dark Sky Planning	The development is not within a dark sky planning area.
Part 9	Fire Safety and BCA compliance	Council's Building Certifier's have reviewed the application and have recommended conditions of consent to ensure the development complies with fire safety and BCA. The conditions include fire safety schedule, requirement for a fire safety certificate and the existing building be brought into total compliance with the fire safety provisions of the Building Code of Australia in accordance with Clause 94 of the Regs.

8. The Likely Impacts of the Development - Section 4.15(1)(b)

The main issues and likely impacts of the development arising from the assessment of the development application are the variation to the height of buildings development standard, biodiversity, heritage, car parking and stormwater. These issues are discussed below.

8.1 Height of Buildings Development Standard

The proposed development fails to comply with the development standard for height. Clause 4.3(2) of the RVLEP 2012 stipulates a maximum height of 8.5 metres for this site. The proposed building has a maximum height of 13.8 metres, which is a 62% variation to the development standard.

The objectives of the height of buildings development standard set out in Clause 4.3(1) of the RVLEP 2021 are as follows:

- (a) to establish the maximum height for buildings,*
- (b) to ensure that the height of buildings complements the streetscape and character of the area in which the buildings are located,*
- (c) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.*

The proposed development is consistent with the above objectives for the reasons outlined below:

- The variation relates to the proposed twin flume waterslide located at the rear of the facility. The height of the waterslide is considered appropriate for the site's context, usability, and functionality. As the waterslide is positioned at the rear of the facility, there are no perceived adverse impacts to the heritage listed façade at the entrance to the facility.
- The waterslide structure is approximately 80 metres away from the heritage listed entrance façade. There is no perceived adverse visual impact to the heritage significance of the entrance façade from the proposed waterslide.
- The proposed waterslide is not considered inconsistent with the development in the surrounding locality considering the sites location adjacent the town centre, and the sites zoning.
- The platform and shade structure that form the highest portion of the waterslide is an open structure and view lines penetrate through the platform. Landscaping is provided along the southern boundary of the facility to provide screening of a portion of the waterslide structure to the adjacent public park.
- The non-compliant portion of the waterslide structure is not considered likely to impact on any significant views as the site adjoins existing recreational facilities being tennis club, bowling greens, and parkland. The closest residential development is approximately 110 metres from the structure, the views from residential properties is not considered to be impacted as there are existing structures and vegetation between the properties and the facility.
- The waterslide is non-habitable, located at the rear of the facility and used intermittently only while the facility is operating. The usage of the waterslide will be appropriately managed by the facility operators. In this regard, there is no perceived loss of privacy from the proposed waterslide structure.
- The property is immediately adjacent existing recreational facilities being parkland, tennis courts and bowling greens. There is no perceived adverse overshadowing or solar access impacts from the proposed waterslide on these recreational facilities. The closest residential property is approximately 110 metres from the structure and therefore no adverse overshadowing or solar access impacts to residential properties is perceived likely.

The proposed waterslide is located within the RE1 Public Recreation zone. The objectives of this 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.*

The proposed development is considered consistent with the objective of the zone for the reasons outlined below:

- The proposed waterslide does not impact on the use of the land being for public open space or recreational purposes. The land will continue to be utilized for public recreational purposes and the waterslide structure enhances the use of this land for that purpose.

- The waterslide structure provides an additional recreational activity to the facility. The waterslide is compatible with the existing recreational use of the land and surrounding land uses.
- The waterslide does not impact on the natural environment and therefore enables the continued protection of the natural environment for recreational purposes.

The applicant has lodged a written request in accordance with the requirements of Clause 4.6 of the RVLEP 2012. A full copy of this request forms Attachment B to this report. The most relevant section is reproduced below:

5.1. Clause 4.6(3)(a) – Compliance is Unreasonable or Unnecessary

Strict compliance of the 8.5 metre height control is considered to be unreasonable or unnecessary as the benefits of constructing the recreational water slide for the community far outweighs the negligible impacts of the increase to the building height and the objectives of the development standards are achieved, notwithstanding non compliance with the standard.

Objective	Comment
• <i>to establish the maximum height limit for buildings,</i>	As discussed, the height of the water slide structure is 13.8m. The remainder of the built form, including the new indoor pool complex is located within the height limit development standard. Most importantly, the non-compliant component of the waterslide structure being the platform and shade structure does not result in any significant negative environmental impact on the surrounding public domain or/and neighbouring properties in terms of overshadowing, bulk and scale and privacy, as demonstrated in the below assessment. The breach of the standard does not affect consistency with this objective. The breach of the standard allows for rationalisation of community services/facilities and their integration within the site's recreational design. The proposed water slide structure located towards the rear of the subject site achieves a built form which is appropriate to the site's context, its functionality, useability and ensures minimal impact upon the heritage façade of the swimming pool complex with the intent of attracting local youth to use and support the recreational facility. Despite the nature and scale of the water slide proposed the proposal will not conflict with the underlying aims for built form in the zone or the site's relationship to the hierarchy of height limit for surrounding land.
• <i>to ensure that the height of buildings complements the streetscape and character of the area in which the buildings are located,</i>	The height variation relates to the proposed waterslide structure. Despite the proposed variation, it is submitted that the development reflects the intended scale of development at the site in that the variation relates only to the waterslide structure standing in isolation towards the rear of the site and the scale of the structure is not substantially different to that of a compliant scheme particularly when perceived from the street. It is noted that the planning instrument envisaged a low scale of development, however taking into consideration the site's zoning, location adjacent to the town centre and usage potentially supports a greater scale of development. In this

	sense it is logical that a variation is more appropriate at this site than it maybe elsewhere in town. It is considered that the requirement for strict compliance with the control would be counterproductive to achieving the aims to complement and support the type of development envisaged within the recreational zone whilst maximizing the use of the facility particularly when the scale of development will not be perceptibly different to a strictly compliant proposal.
to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.	Visual Impact The proposed development will not negatively impact upon the visual amenity and character of the surrounding area in that: - The proposed water slide design is unique to the site and will not impact the public entry heritage façade at the street frontage as it is located towards the rear of the site; - The platform and shade structure is not visually substantive as sight lines and view lines penetrate through the form; - The platform and shade structure constitutes an architectural roof feature; - it is situated within the recreational/community precinct; - it is surrounded by other recreational/community uses and therefore will not give rise to any adverse impacts in the surrounding locality; - some on-site landscape works and planting are proposed to integrate the structures within the site; - it is sufficiently separated from adjoining properties. View Loss - The non-compliant element of the water slide is not likely to impinge on any significant views as the site adjoins existing recreational facilities being tennis club, bowling greens, parkland. - The platform and shade structure is not visually substantive as sight lines and view lines are able to penetrate through its form. Loss of Privacy - The water slide structure is non habitable and appropriately located within the rear portion of the recreational facility. - The water slide structure will only be accessible during operating hours of the swimming pool complex and its usage managed within the site. - Its configuration mitigates cross view to adjacent residential properties preventing overlooking. Overshadowing Impacts - The site neighbour's recreational facilities. The additional shadow impact of the waterslide structure will be minor and will not have any negative impacts on these facilities. - There is no overshadowing of the public domain or adjacent residential buildings.

	The shadows cast are not substantiative and will not significantly reduce solar access to existing or potential future development.
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The proposal is considered to be a positive contribution to the Casino local community and more importantly the existing aquatic facility. It is considered to be an ancillary component being of benefit not only to the locality but the existing region as a whole. It is considered that the proposal will have minimal adverse impact upon the surrounding environment as it only relates to the subject site.

The height exceedance associated with the proposed development is necessary to permit the water slide to function as an added recreational element within the facility that will meet the needs of the youth within the community. It should be noted that, not supporting the proposed height exceedance will limit the recreational opportunities within the facility for the community as a whole.

Having regard to the above, it is our opinion that compliance with the height of buildings development standard is unnecessary in the circumstances of the case as the development meets the objectives of the standard as described above.

On this basis, the requirements of Clause 4.6(3)(a) are satisfied.

5.2. Clause 4.6(3)(b) – Grounds to Justify Contravening the Development Standard

The development, including the height non-compliance, will provide for a future outdoor recreational facility for the locality consistent with an approved Concept Plan. In this context there are sound planning grounds and significant benefits to justify contravening the building height development standard.

The proposed increase in height is considered to result in an appropriate built form outcome for the following reasons:

- The proposal is consistent with the objectives of the development standard.
- The resultant waterslide structure is an open structure that is appropriate in form and material treatment;
- The location of the waterslide structure will not impact upon the heritage façade of the swimming pool complex as it is located at the rear of the site;
- The water slide will provide an improved recreational element to the complex in terms of relationship with useability and provision for the local youth population and enhancing the range of facilities available to the community;
- The waterslide structure will encourage patronage of the facility and subsequently enhance quality of life for the community;

- The proposal seeks to improve the existing sporting complex facility catering to a growing number of different recreational elements to support the diverse local community;
- The proposed increase to the identified height requirement is:
 - appropriate in terms of the context and functionality of the provision of a waterslide structure;
 - appropriate in the context of the recreational environment and will not be perceived as an increase in approved bulk or scale;
 - consistent with the intent and useability of the recreational structure;
 - extends to essentially a platform, shade structure and climbing structure as a result it's visual bulk is minimised;
 - will not lead to any adverse impacts upon the existing streetscape, adjoining properties and amenity of the existing locality.
- the proposed increase in height appropriately responds to the use of the site as a recreational facility for the local population. The majority of the local community would not find the proposed waterslide structure offensive, jarring or unsympathetic to its location as it is compatible within the context of the site.
- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the community.
- There are no streetscape or amenity impacts associated with incorporating the waterslide structure within the recreational complex the benefit of permitting this element is considered to constitute sufficient environmental planning grounds to support the variation.
- The discussion provided throughout this variation request demonstrates that the additional height will not result in any adverse environmental impacts, in terms of amenity impacts on existing and potential future neighboring development, nor will there be any adverse streetscape impacts given the relatively minor nature of the departure as a whole. It is submitted that there are sufficient environmental planning grounds to support the variation on the basis that there are tangible public benefits associated with the inclusion of the waterslide structure and an absence of significant environmental impacts.
- The current proposal is consistent with the development outcomes as identified within the Concept Masterplan for the site.

For the reasons above, there are considered to be sufficient environmental planning grounds to

justify varying the development standard. In particular, the proposed construction of the waterslide provides for a significantly important useable and functional recreational feature and the proposed design outcome results in a site responsive built form without any consequent impacts on the amenity of neighboring sites, when compared to a strictly height compliant scheme.

5.3. Wehbe Tests

Wehbe Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard

The proposed variation to the building height development standard will achieve the objectives of the development standard as outlined within this report, notwithstanding the non-compliance with the standard as outlined in this report.

Wehbe Test 2: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary

The underlying objective and purpose of the height development standard, (including built form, minimise impacts, respect existing character and overshadowing) is considered relevant to the development.

However (as discussed above) it is considered that the localised increase in height to permit the construction of the waterslide structure will facilitate a useable element within the existing sporting facility while resulting in an improved interface that is respectful of the surrounding urban character, including a substantially positive design and acceptable amenity impacts.

Therefore, the increase in height represents a useable recreational element within the sporting complex and therefore better achieves the objectives of the development standard.

Wehbe Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable

The provision of a waterslide that strictly complied with the development standard would result in a recreational structure significantly inferior in it's useability and would not encourage the local population to make use of the facility and the complex as a whole.

Wehbe Test 4: The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable

The proposed increase in height is in response to specific contextual issues associated with the proposed construction of the waterslide and this recreational site. As such is not considered to result in the development standard being virtually abandoned or destroyed.

Wehbe Test 5: The compliance with development standard is unreasonable or inappropriate due

to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone

The land has been zoned appropriately and the controls applicable to the site are generally acceptable, despite the proposed increase in height. As discussed in this report, the proposed development is consistent with the objectives of the zone.

For the reasons outlined in in this report, the proposed variation in height is considered to be appropriate. The waterslide's design response better achieves the intended use and the objectives of the zone than a strictly height compliant scheme.

5.4. Clause 4.6(4) – Consistency with Objectives

This Request has adequately addressed the matters required to be demonstrated by subclause (3), as outlined in Section 5 of this submission. The proposed development is consistent with the objectives of the RE1 – Public Recreation zone as outlined in Table 3 and the building height development standard as outlined in Table 4.

In addition, the proposed development is a more useable development to a strictly height compliant scheme and therefore better achieves the objectives of the building height development standard and the zone. The proposal is therefore in the public interest.

RE1 Public Recreation Zone	
Objectives	Achievement of Objectives
<i>To enable land to be used for public open space or recreational purposes.</i>	The proposed variation to the building height development control enables this objective to be better met encouraging a multi-use sporting facility.
<i>To provide a range of recreational settings and activities and compatible land uses.</i>	The proposal maintains compatible land uses with the surrounding area.
<i>To protect and enhance the natural environment for recreational purposes.</i>	The proposed variation to the building height development control enables this objective to be better met through a better response for the community and visitors to utilise site.

CLAUSE 4.3 HEIGHT OF BUILDINGS DEVELOPMENT STANDARD	
OBJECTIVES	ACHIEVEMENT OF OBJECTIVES
<i>To establish the maximum height for buildings</i>	The variation of the building height development control will ensure the development provides a varied and interesting

	built form which provides for an appropriate sized and functional waterslide structure.
<i>To ensure that the height of buildings complements the streetscape and character of the area in which the buildings are located,</i>	The proposed scale is appropriate for the site and the variation of the building height standard is warranted having significant positive visual, and usage impacts. The proposal would not have an adverse impact on the character and scale of the nearby low density residential area nor impact the existing heritage façade of the complex as it is located at the rear of the site.
<i>To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.</i>	The variation to the building height control would not have an adverse impact on sky exposure and daylight to the site or to key areas of the adjoining public domain. The proposed water slide design is unique to the site and will not impact the public entry heritage façade at the street frontage as it is located towards the rear of the site as such minimising its visual impact to the street; Furthermore, the additional height would not have any adverse impacts on existing (or likely future) neighboring residential properties.

5.5. Clause 4.6(5)(a) – Matters of Significance for State of Regional Planning

The proposed exceedance of the maximum height development standard for the site does not raise any matters of State or Regional Planning significance as:

- the proposed waterslide structure development is not of a size or nature to have more than a local impact;
- the proposed height exceedance to the waterslide structure is considered to be appropriate in size and scale and is localised to facilitate the intend use of the waterslide structure;
- the increase in the height development standard is appropriate in the context of the use of the recreational facility element and broader recreational/community precinct;
- The proposed water slide design is unique to the site and will not impact the public entry heritage façade at the street frontage as it is located towards the rear of the site;
- the exceedance in height development standard of the proposed waterslide structure will have a positive impact with respect to the use of the swimming recreational

complex;

- there are no significant amenity or environmental impacts; and
- the site is not a site designated to be of State significance.

5.6. Clause 4.6(5)(b) – Public Benefit in Maintaining the Development Standard

As demonstrated in the previous sections of this report, the variation to the development standard would establish the best design response for the usage of the site and in response to the usability of the waterslide.

Conversely, a strictly compliant development would result in a substantially inferior and unusable structure and subsequently outcome.

In light of the significant public benefits arising from allowing a variation to the development height standard, it cannot be reasonably assumed that there is any public benefit in maintaining the existing building height development standard with regard to the construction of the waterslide structure.

The applicant's written submission demonstrates that compliance with the height development standard is unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this standard.

The proposed development is in the public interest as the proposal complies with the objectives for both height and the RE1 Public Recreation zone, for reasons outlined above, and in the applicant's Clause 4.6 variation request.

The proposed variation does not raise any matters of State or regional environmental planning significance. In addition, there is no public benefit to maintaining the height development standard in the circumstances of the case. The proposed waterslide benefits from the additional height in terms of its design and functionality, as outlined in the applicant's Clause 4.6 variation request, without impacting on the character or amenity of the area.

In conclusion, the variation to the height of buildings development standard satisfies all relevant parts of Clause 4.6 and therefore the variation can be supported.

8.2 Vegetation and Biodiversity

Biodiversity Conservation Act 2016

Part 7 of the Biodiversity Conservation Act requires development applications under Part 4 of the EP&A Act to determine whether the proposed development is likely to significantly affect threatened species. The proposed development involves the removal of one (1) non-native tree being (*Delonix regia* [Royal Poinciana]) and therefore required an assessment in accordance with the Biodiversity Conservation Act 2016 (BC Act).

In accordance with Section 7.2 of the BC Act the assessment included a threshold test, assessment of the biodiversity values map and a test of significance to determine whether further biodiversity development assessment report was required.

Clause 7.2 of the Biodiversity Conservation Regulation 2017 sets out the threshold limits for developments clearing native vegetation. These limits are based on the minimum lot size applicable to the land. As the minimum lot size for this property is less than 1 hectare the threshold for future assessment is 0.25 hectares (2500m²). The threshold test was calculated based on the of the one (1) Poinciana tree impacted by the proposed development and the approximate area covered by the tree. The estimated cover of the Poinciana tree was 250m² which does not exceed the threshold of 2500m² for the property.

Clause 7.3 of the Biodiversity Conservation Regulation 2017 sets out that clearing on land within the Biodiversity Values Map is determined to exceed the thresholds requiring additional assessment. The assessment undertaken by Facility Design Group identified that no part of the site is included on the Biodiversity Values Map. As shown below in Figure 4 the property is not mapped as having significant biodiversity on the Biodiversity Values map produced by the Office of Environment and Heritage. The map was accessed on 1 July 2021 showing no mapped area on the property.

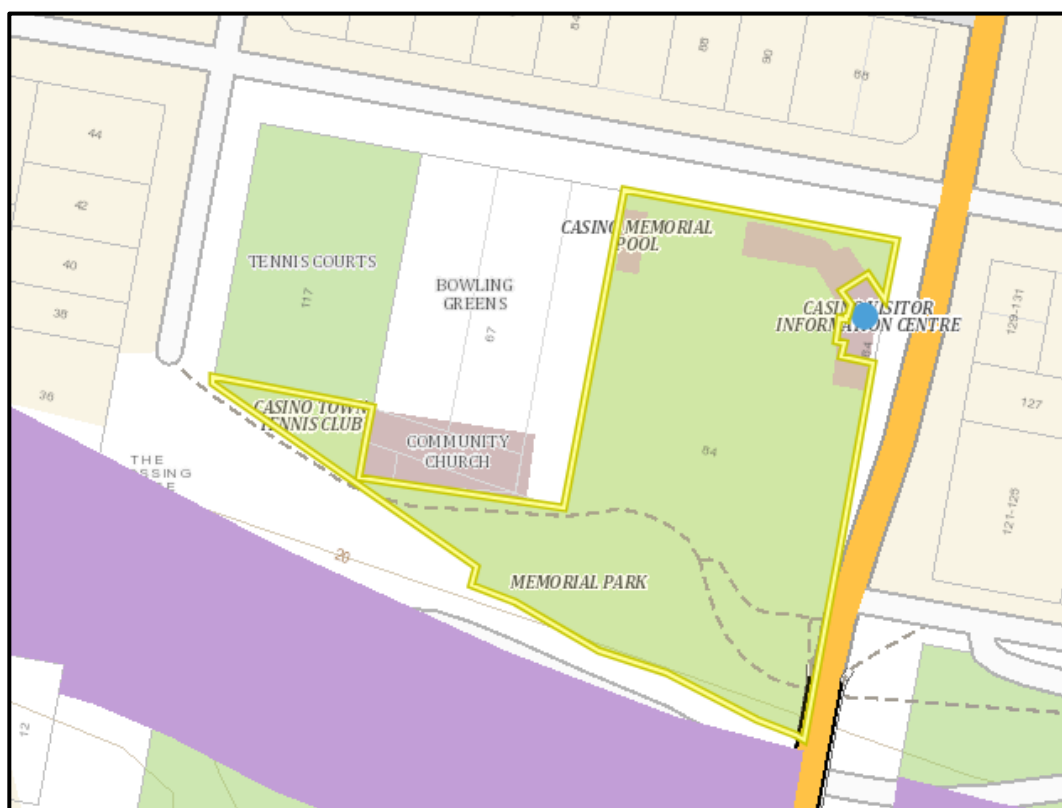


Figure 4 – Excerpt from Biodiversity Values Map

A test of significance in accordance with Section 7.3 of the BC Act was undertaken by Facility Design Group. The Test of Significance identified the habitat was highly degraded, provided no linkage to habitat corridors, was not representative of critical habitat and the removal of the tree did not represent a significant key threatening process. The Test of Significance determined the proposed development would not result in a significant impact on threatened species or endangered ecological communities.

Additionally, the tree is non-native, was not planted as part of the original development of the site and is not considered part of the heritage fabric. The applicant has provided justification for removal of the tree being;

- *the canopy is blocking and detracting from the views of the memorial wreath and torch that form a significant component of the heritage listed entrance façade,*

- *the canopy is damaging the memorial wreath and torch,*
- *the brick façade is cracked, and the continued rate of growth will see the tree start to damage the foundations of the entrance façade,*
- *the tree is already compromised by continual trimming for Essential Energy purposes,*
- *the excessive leaf foliage that drops from the tree is blocking and limiting the performance of the street drainage network, and*
- *neighbours and police have highlighted the existence of antisocial behaviour and loitering in the coverage provided by the tree.*

The application proposes two replacements trees at the entrance of the facility. An additional seven (7) trees are also proposed along the Richmond Street façade. Further landscape screen plantings are also proposed at the rear of the property to screen the twin flume waterslide.

8.3 Heritage

The site contains a locally significant heritage item being I38 'Casino Memorial Baths entrance façade'. There no works are proposed to the heritage façade of the building. The development does propose the removal of the existing Poinciana tree at the entrance to the facility and three iron gates.

As shown in the below image and plans (Figures 5-7), the original entrance to the facility did not include iron gates, however included a sliding steel gate setback inside the entrance façade. Additionally, the photo demonstrates the Poinciana tree was not planted as part of the opening of the facility. In this regard, the gates and Poinciana tree do not form part of the original fabric of the building and therefore their removal does not impact on the heritage significance of the building.

The application was referred to Council's Heritage Advisor, Deborah Wray. Comments were received 28 April 2021 supporting the application subject to conditions, see Attachment D.



Figure 5 – Photo of Casino Memorial Baths 1950's
Source: Casino Historical Society

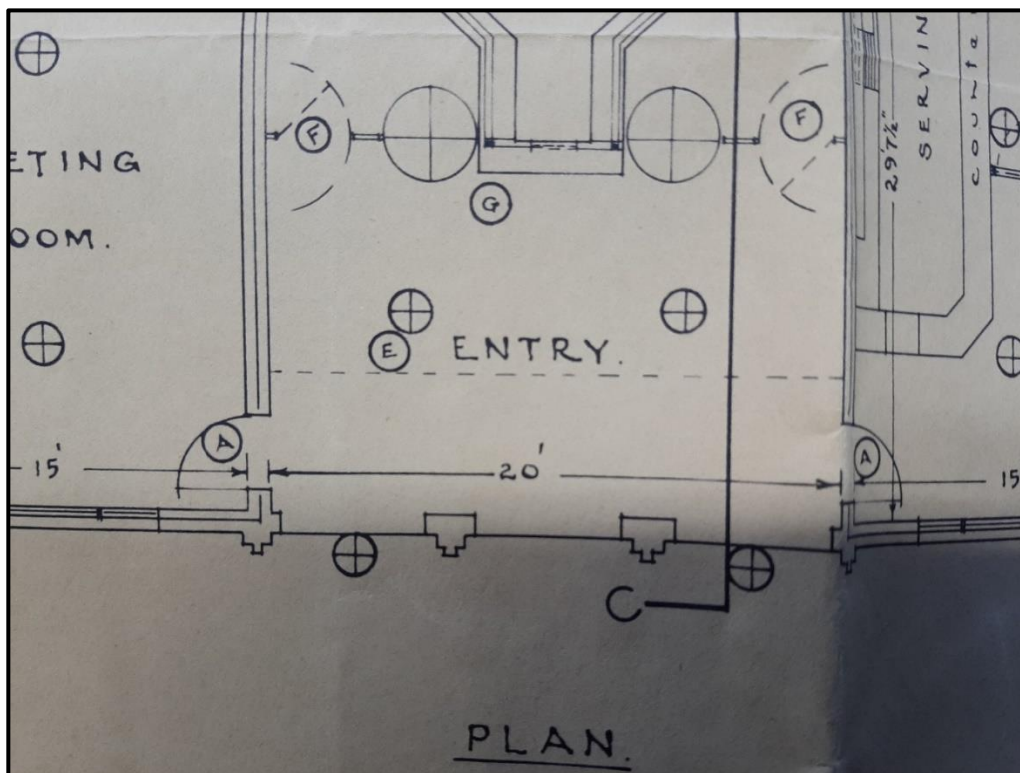


Figure 6 – Original Development Floor Plan
Source: Council File

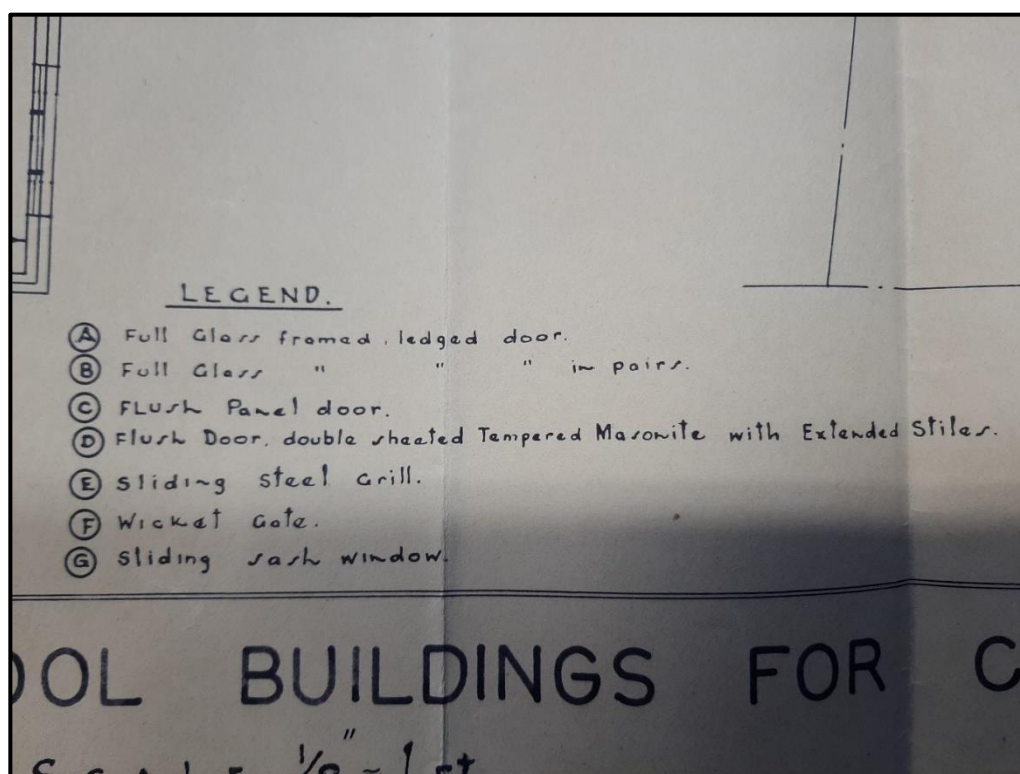


Figure 7 – Original Development Floor Plan Legend
Source: Council File

8.4 Car parking

There is currently no on-site parking provided at the facility and no space/access is available to provide onsite car parking. Currently, patrons park along the two street frontages of Centre & Richmond Street.

Given the extent of the proposed redevelopment, it is considered appropriate to require existing on street parking to be formalised and line marked for the extent of the Richmond Street frontage of the site. This section is currently unformed and is not line marked. A condition of consent will be included requiring the Richmond Street frontage be formalised and line marked in accordance with AS 2890.5-1993.

8.5 Storm water

Concept Civils and Stormwater Works plans prepared by Eclipse Consulting dated 13 May 2021 was submitted with the application detailing the proposed stormwater management. The proposal includes additional roofed area of approximately 1059m².

The proposal includes additional stormwater management infrastructure to direct the flow of stormwater to Council's stormwater system. The stormwater management plan proposes 2 x 5,000 litre water tanks, one being for reuse on site and one being for detention purposes to alleviate the impacts on the stormwater system. The stormwater infrastructure has been designed to facilitate a 5-minute storm event to a 5% AEP (20 year ARI).

Council's Development Engineer has reviewed the SWMP have considered the arrangements suitable.

9. Site suitability - Section 4.15(1)(c)(i)

An inspection of the site was undertaken on 1 July 2021. The site is centrally located within the township of Casino. The site is currently used for the recreational purposes being the existing outdoor 50 metre swimming pool and associated facilities.

The development is to be located within the Casino Central Business District and is immediately adjacent existing residential development and other recreational land uses. It is within walking distance to and connected via the public footpaths to the surrounding area and is also serviceable by public transport. Access to the site will remain from Richmond Street.

The site is located on flood prone land and contains a local heritage listed item. The development is non-habitable and would not be open in the event of a major flood. There is no potential for the property to be utilised for a refuge or evacuation centre in the event of a major flood. The application was referred to Council's Heritage Advisor. Comments were received 28 April 2021 supporting the application subject to conditions.

The proposed development requires clearing of one (1) non-native tree being a Royal Poinciana located at the entrance of the facility which has been assessed against the Biodiversity Conservation Act.

The proposed development will provide additional recreational opportunities to the local community. The proposed development is considered suitable in this location.

10. Submissions - Section 4.15(1)(d)(i)

The application was placed on public exhibition from 13 April 2021 to 27 April 2021. Written notification to land owners was undertaken, a published notice appeared on Council's website and a social media post appeared on Council's Facebook page. Two public submissions were received during the exhibition period. Issues raised in the submission are considered below.

Issue Raised	Comments
Removal of Poinciana tree	• An assessment against the Biodiversity Conservation Act 2016 has been undertaken which has determined the removal of the tree is not likely to affect threatened species and confirmed a Biodiversity Development Assessment Report is not required. • The tree is non-native, does not form part of the original development of the site, and is not considered part of the heritage fabric. • The canopy is damaging the heritage listed memorial wreath and torch, and blocks views of the heritage item. • The brick façade is cracked, and the continued growth rate of the tree will cause damage to the foundations of the entrance façade.

11. The Public Interest - Section 4.15(1)(e)(i)

The proposed development will provide additional recreational opportunities in the town of Casino and continue to enable the land to be utilised for public open space and recreational purposes. The redevelopment provides a facility that can be operated year-round, and also provides ability for additional services to be provided for Casino and surrounding area, including health services such as physiotherapy.

The application was referred to Council's Heritage Advisor who supports the application subject to recommended conditions of consent.

The submitted application has considered the likely impacts of the development and proposed management and mitigation measures as necessary. Therefore, the proposal is considered to be in the public interest.

12. Conclusion and Recommendation

Development consent is sought for Redevelopment of Casino Memorial Swimming Pool including:

- Partial demolition of existing building
- New indoor 25 metre program/learn to swim pool
- New family accessible amenities
- New adult change room
- New enclosed walkway from entry
- New plant room
- New store room
- Refurbishment of control/kiosk, administration, first aid, staff facilities
- New swim club
- Refurbished gym and swim squad room
- New twin flume waterslide
- Solar photovoltaic roof panels
- Removal of one (1) Poinciana tree

And associated works

The proposed development complies with legislative requirements, has appropriately considered potential impacts, is suitable for the location and will have positive social and community benefits. The development is not considered to be inconsistent with the public interest subject to proceeding in accordance with the Statement of Environmental Effects, additional information submitted and recommended consent conditions.

It is recommended that;

1. Pursuant to the provisions of Clause 4.6 of the Richmond Valley Local Environmental Plan 2012, the written submission in relation to the variation to the height of buildings development standard satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the height of buildings development standard be varied to 13.8m, in respect to this application.
2. Development application number DA2021/0250 (PPSNTH-82) be approved subject to conditions contained in Schedule of Recommended Consent Conditions at Attachment C.

