

## SOUTHERN REGIONAL PLANNING PANEL

Panel Reference	PPSSTH-86
DA Number	DA-2021/447
LGA	Wollongong City Council
Proposed Development	Extension of existing indoor sporting facility
Street Address	Fred Finch Park, Hooka Creek Road, Berkeley
Applicant/Owner	Facility Design Group/Wollongong City Council
Date of DA lodgement	28 April 2021
Total number of Submissions	40 (39 in support, 1 objection)
Number of Unique Objections	1
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Council owned land. Capital Investment Value exceeding \$5 Million
List of all relevant s4.15(1)(a) matters	<p><u>State Environmental Planning Policies</u></p> <ul style="list-style-type: none"> <li>State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>State Environmental Planning Policy No. 64 – Advertising and signage</li> <li>State Environmental Planning Policy (State and Regional Development ) 2011</li> <li>State Environmental Planning Policy (Coastal Management) 2018</li> </ul> <p><u>Local Environmental Planning Policies</u></p> <ul style="list-style-type: none"> <li>Wollongong Local Environmental Plan 2009</li> </ul> <p><u>Other Policies</u></p> <ul style="list-style-type: none"> <li>Wollongong Development Control Plan 2009</li> </ul> <p><u>Any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii)</u></p> <ul style="list-style-type: none"> <li>Nil</li> <li>relevant regulations e.g. Regs 92(1)(a) demolition</li> </ul> <p><u>Any coastal zone management plan: s4.15(1)(a)(v) Page 2 of 26</u></p> <ul style="list-style-type: none"> <li>There is no Coastal Zone Management Plan currently applicable to the land</li> </ul>
List all documents submitted with this report for the Panel's consideration	<p>Architectural plans</p> <p>Landscape plans</p> <p>Aerial photograph</p> <p>WLEP 2009 zoning map</p> <p>Clause 4.6 Exception Request – Building Height</p> <p>WDC2009 Assessment</p> <p>Draft Conditions</p>
Report prepared by	Brad Harris - Development Project Officer

## Summary of s4.15 matters

Yes

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

---

## 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*

# Assessment Report and Recommendation Cover Sheet

## Executive Summary

---

### Reason for consideration by Regional Planning Panel

The proposal has been referred to Southern Regional Planning Panel pursuant to Clause 3 of Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 as it is located on Council owned land and has a Capital Investment Value in excess of \$5 Million.

### Proposal

The proposal is for the extension of existing indoor sporting facility.

### Permissibility

The site is zoned RE1 Public Recreation pursuant to Wollongong Local Environment Plan 2009. The proposal is categorised as a recreation facility (indoor) and is permissible in the zone with development consent.

### Consultation

The proposal was notified in accordance with Council's Notification Policy and received 40 submissions which are discussed at section 1.5 of the assessment report.

### Main Issues

The main issues arising from the assessment pertain to:

- Height of the building.
- Traffic and Parking.
- Compliance with BCA requirements.
- Flood and stormwater management.

### RECOMMENDATION

It is recommended that the application be approved subject to conditions.

## 1 APPLICATION OVERVIEW

---

### 1.1 PLANNING CONTROLS

The following planning controls apply to the development:

(a) State Environmental Planning Policies:

- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 64 – Advertising and signage
- State Environmental Planning Policy (State and Regional Development ) 2011
- State Environmental Planning Policy (Coastal Management) 2018

(b) Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

(c) Development Control Plans:

- Wollongong Development Control Plan 2009

(d) Other policies

- Wollongong City Wide Development Contributions Plan 2019

### 1.2 PROPOSAL

The proposal comprises redevelopment works to the Illawarra Sports Stadium located at Fred Finch Park, Berkeley which comprise of the following:

- Demolition of the existing outdoor netball courts and existing netball building
- Upgrade of the existing indoor courts being Hall No.1 and No.2
- Construction of Hall No. 3 (multi-purpose sports centre) incorporating three (3) new indoor courts with a mezzanine viewing area and tiered seating
- Ancillary facilities comprising change rooms, toilets, disabled access toilet, storerooms, canteen/cafe, sports office areas, multi-purpose room, administration areas, staff area, control rooms, first aid rooms
- 24/7 Gymnasium
- Construction and formalisation of off-street parking area to provide 720 spaces, provision of accessible parking, set down and tandem parking area that allows buses to drive in and out in a forward direction.
- Hard and soft landscaping
- Removal of twenty five (25) existing trees
- 3 x Building Identification Signs
- The existing hours of operation are to be maintained being, Mondays to Friday 7.00am to 11.00pm, Saturdays, Sundays and Public Holidays 7.00am till 7.00pm
- Existing staff numbers are to remain the same.
- No change is proposed to existing waste management and storage.

The applicant has advised that the design brief was to provide the community with an additional indoor multi-purpose complex with reasonable seating capacity, as well as essential ancillary components to ensure operational success. The Brief's objectives are noted as follows:

*"The centre must be able to accommodate at least 3 indoor courts which has been determined as the minimum size to enable the facility to cater for regional and state level basketball carnivals and competitions.*

*It was also noted that the centre must also be able to cater for a range of other sports including:*

- *Basketball, Netball, Volleyball, Badminton, Indoor Soccer/Futsal;*

*The facility should be designed to allow a minimum of national standard competition for these sports without major changes. The centre should cater for major sports events with ability to host up to 900 spectators at major games with provision in the future to increase this capacity. In addition, it is expected that the centre will be suitable for fitness, social interaction and fun for life activities. The centre design must also cater for other multipurpose uses to allow the broadest possible appeal to community users and potential commercial partnerships.”*

The applicant further states that:

*“In line with the above objectives the design has been developed to provide a recreational facility that not only addresses the above needs but provides a multi-faceted sports complex that will showcase the organisations desire to provide a positive development outcome for the community.*

*Illawarra Sports Stadium is committed to providing fair and equitable access to its facility and in promoting partnership agreements between Council and community groups for the best possible use of community facilities.*

*The total planned re-development will give the Illawarra Sports Complex a revitalised and modern facility that complies with the current standards and is in line with modern community expectation. It will provide a multitude of opportunities for the Illawarra community as well as visiting clubs.”*

### **1.3 BACKGROUND**

There is a large volume of applications and approvals over the site with the most relevant being pre-lodgement meeting (PL-2018/204) held for the proposal on 10 June 2020.

#### **Customer service actions**

There are no outstanding customer service requests of relevance to the development.

### **1.4 SITE DESCRIPTION**

The site is located at Hooka Creek Road Berkey and is known Fred Finch Park. The title reference is Lot 1667 DP 233439 and Lot 1868 DP 233438. The site is irregular in shape and relatively flat. The overall site area is approximately 22.5 ha.

The existing indoor Sports Centre forms part of a broader sport, recreation and community precinct. It lies adjacent to existing residential development, Hooka Creek and the shore of Lake Illawarra. Car parking and the main access to the facility is from Hooka Creek Road with a secondary access point from Hertford Street.

The property is owned by Council and is categorised as Community Land.

The subject site currently comprises the following elements :

- Indoor sports centre comprising of two (2) halls each of approximately 1400m<sup>2</sup> and comprising two (2) indoor courts with a mezzanine area of 250m<sup>2</sup> and ancillary facilities;
- Forty three (43) outdoor netball courts;
- Sports catered for includes netball, basketball, table tennis, futsal, indoor bowls, floorball;
- Off street parking for approximately 740 vehicles.

#### **Property constraints**

Council records identify the land as being impacted by the following constraints:

- Acid sulphate soils: Class 3
- Flooding: The site is identified as being located within an uncategorised flood risk precinct. The applicant has provided a flood report and following amendments to the report to address sea level rise.
- Coastal Hazards:

There are no restrictions on the title that would affect the proposed development.



**Figure 1: Site photograph showing existing stadium and primary access off Hooka Creek Road**

## 1.5 CONSULTATION

### 1.5.1 NOTIFICATION

The application was notified between 1-15 June 2021 in accordance with Council's Community Participation Plan 2019. Thirty nine (39) submissions were in support of the proposal and one in the form of an objection. The issues raised in the objection are identified and discussed below.

**Table 1: Submissions**

Concern	Comment
<p><b>1. Traffic Management:</b></p> <p>The flow of the traffic is being moved closer to the back of residential housing which effects both the amount of access residents have to the back of their properties, but also the safety of residents.</p> <p>Currently, the sporting grounds have made accessing/leaving the nearby streets difficult and sometimes unsafe.</p> <p>The traffic report submitted in the application that was taken to provide an understanding of the effect the proposed development would have on traffic conditions, was taken during 2020 where the level of traffic was heavily affected by COVID-19, leading to an inaccurate representation as to local traffic patterns the proposal should look at reports from the years prior to 2020 &amp; the spread of COVID.</p> <p>The proposed redesign of the parking area will further hinder the use and access of the back entrance of properties as the traffic will be bottle necked directly behind properties due to the proposed building being so close to the residential area, this causes the traffic flow to</p>	<p>The properties in Hertford Street that adjoin the northern boundary of Fred Finch Park where the car park is to be extended in part, do not have legal access from their properties from the car park.</p> <p>It is not considered that the changes to the car parking area would have any adverse impacts on adjacent residential properties.</p> <p>It is acknowledged that when sporting events are held at the site, the influx of traffic would be noticeable to local residents who in the main enjoy quiet traffic conditions. The proposal will not significantly contribute an increase in traffic.</p> <p>The traffic report may have been undertaken during an unrepresentative period due to the COVID-19 Pandemic, however, Council's Traffic engineer has not raised any concerns regarding traffic generation or parking provision which comply with Council policies.</p>

Concern	Comment
<p>reduce to a single lane directly behind houses which will affect the flow of traffic, access and use of the overall area.</p>	
<p><u>2. Environmental Effects:</u>  The proposal involves the removal of established native trees from the existing area for the building to be placed. The application presents a risk for the established flora of the area, during the construction of the proposed building established trees will be damaged or removed completely to make space for the proposed building to be constructed. The arborist report included as part of the application mentions that the current tree life span of the majority of the trees could be projected to live sustainably for more than 40 plus years and that the trees mentioned in the report are established native flora. As is mentioned in the report all current trees of which there are 17, are to be removed.  In the information provided within the application there is no current plans for the replacement of these trees, there is a small garden area planed for the entrance but that does not replace the loss of tree cover.</p>	<p>The proposal involves removal of 25 trees. The applicant provided an arborist report to address tree removal. This report has been considered by Council's landscape officer who requested an amended landscape plan to address appropriate replacement tree planting throughout the car parking area. A total of 76 replacement trees are specified, and a satisfactory referral has been provided.</p>
<p><u>3. Noise and Light Pollution:</u>  The removal of the existing trees would also affect the noise levels of the area as the existing plant life helps to provide a natural barrier that helps to disperse the noise and light pollution that is created from the current sporting grounds and the existing buildings, the removal of these trees and plant life will impact the levels of noise and light pollution that is created in the area.  The extension of the building would move this light pollution closer to the residential area that can cause disturbance and distress for residents of nearby properties. The new building will entail the installation of increased levels of external lighting and security lights which increase the levels of light pollution that is produced by the structure.  Noise pollution levels will also increase. The current levels of noise pollution produced when the stadium is in use affect daily life of the residents and if the application is approved this will increase and cause further disruption to the life of residents.</p>	<p>The removal of trees is within the car parking area and will have minimal impacts on existing residential properties. The proposed location of the building in closer proximity to existing residential properties does have some potential visual impact on those properties although this is not considered significant. The proposed new building will shield noise from existing outdoor courts and conditions of consent are proposed to limit the impacts of external lighting and noise. The applicant has advised that the design of the new building, which includes insulation, will result in reduced noise impacts compared to the existing stadium.  The key sources of potential adverse noise impacts from the proposed development are associated with plant/equipment and carpark (people and vehicles). Illawarra Sports Stadium Complex currently occupies the site as a lightweight clad structure. The proposed new multi-purpose indoor development is to be constructed of precast panels at lower level and insulated upper wall cladding - buffering noise generated to residents to the north of the complex.  The additional ancillary components wrapping around the indoor sports halls will further deaden the noise impact being generated from the site in a manner superior to the existing complex.</p>
<p><u>4. Design and Safety:</u>  In the flood report it is stated that the development site is classified as a High Risk Precinct because of the proximity to the mullet</p>	<p>Council's stormwater engineer has reviewed the flood study submitted by the applicant. Further modelling</p>

Concern	Comment
<p>creek floodplain. In this report it is stated that under the current Wollongong Council DCP that the use of Commercial or Industrial Use is not suitable for development in High Risk flood areas, therefore under the current Wollongong Council DCP guidelines the proposed function centre and the canteen are not suitable for development in the proposed area.</p> <p>The close proximity to residential housing of the proposed build creates an overbearing and intrusive structure due to the placement of building and the sheer size of the proposed build.</p>	<p>was requested to address potential sea level rise and to ensure that floor levels were designed to be free above the level of any future flood events. The proposed use is considered appropriate notwithstanding the flood affectation of the site.</p>
<p><u>Suggested solutions:</u></p>	
<p>Possible Solutions to the above issues that have been suggested by the objector are as follows:</p> <ul style="list-style-type: none"> <li>• Build extension to the east of the existing stadium in line with the current building, would help to prevent the destruction of the natural barrier, also aiding in the protection of local flora and fauna while providing a greater distance between the proposed build and residential areas, therefore decreasing the threat of increased noise and light pollution while preventing a bottleneck of traffic behind residential buildings.</li> <li>• Build indoor netball courts as a separate build in another area.</li> <li>• Removal of commercial rooms (function room and canteen) due to flood zone requirements as per Wollongong DCP from the design plan to allow planned courts to be moved towards the south removing the need to remove the native plant life and reducing the encroaching nature of the building.</li> </ul>	<p>The flood impacts of the site prevent any building further to the east or south of the existing stadium building.</p> <p>The proposal is considered to be appropriately sited and is not likely to result in any significant increase in impacts on adjacent residential properties.</p>

## 1.5.2 INTERNAL CONSULTATION

Satisfactory referrals and conditions have been received from Council's Stormwater Engineer, Landscape Architect, Traffic Engineer, Building Officer, Property Officer, Environment Officer and Health Officer

## 1.5.3 EXTERNAL CONSULTATION

None required

## 2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

### **Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994**

This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.



## NSW BIODIVERSITY CONSERVATION ACT 2016

Section 1.7 of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents and approvals under this Act.

Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. For the subject site, entry into the offset scheme would be triggered by clearing of an area greater than 0.25 hectares based upon the minimum lot size of the WLEP 2009 R2 zoned land (i.e. less than 1 hectare minimum lot size).

Only a relatively small number of trees (25) are proposed to be removed and the proposal does not trigger the requirement for a biodiversity offset scheme. None of the trees on the site were identified as containing hollows.

The site is not identified as being of high biodiversity value on the [Biodiversity Values Map](#).

Council's Environmental Assessment Officer has considered whether the development site would potentially provide suitable habitat for any threatened species and the test of significance and has concluded that the proposed development is not expected to likely significantly affect threatened species or ecological communities, or their habitats. The development proposed would not be considered a key threatened process.

The development would therefore not be considered to result in adverse impacts on biodiversity and is consistent with the provisions of the Biodiversity Conservation Act 2016.

Notwithstanding, conditions are recommended which require consideration of fauna during the tree removal works.

Council's Environment Officer has reviewed the application and considered the proposal satisfactory with regards the requirements of the BC Act subject to imposition of conditions relating to the above matters.

## **2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT**

### **2.1.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND**

A Combined Stage 1 Preliminary & Stage 2 Detailed Site Investigation – Illawarra Sports Stadium, Berkeley (Sydney Environmental Group, 3/9/2021) was prepared. This has been prepared/reviewed by Steven Wallace (CEnvP No. 1375) and Greg Whitmore (CEnvP SC No. 41144), as per Wollongong City Council's DA Lodgement Requirements.

The report made the following recommendations:

- A Supplementary Contamination Assessment is to be undertaken by a suitably qualified environmental consultant for the areas beneath existing hardstand and structure footprints prior to redevelopment works to confirm land-use suitability of the inaccessible soil materials not able to be assessed;
- A groundwater management plan is to be prepared and implemented prior to the commencement of construction phase works;
- Undertake a hazardous building materials survey of the structures present on-site (proposed for demolition) prior to demolition;
- Following removal of hazardous building materials (if identified) and subsequent demolition of the building materials, a clearance inspection should be carried out by an appropriately qualified occupational hygienist / NSW LAA; and
- A waste classification assessment should be carried out on any soil materials proposed for disposal offsite as per the NSW EPA Waste Classification Guidelines (2014).

These items are proposed to be conditioned.

The DSI also identified extensive Coal wash on the site. Geotechnical advice will be required accordingly and referred to Councils Geotechnical team for assessment. No further environmental comment is provided in this regard.

Note: The above was discussed with Council's Geotechnical officer who advised as follows:

*When Section 4.4 of Chapter E19 of the Wollongong DCP was brought over from the previous Council Policy on the Use of Coal Washery Reject (CWR) a key parameter was missed in the translation which was written in the heading but not specifically in the text. The original Policy, of which I was a contributor, was specific for the development of residential land not recreational, industrial or commercial land on which successful development on CWR had been completed for decades beforehand.*

*Before the Policy was written, CWR was barred for residential use due to its potential for ignition in some circumstances and the Policy set out constraints under which it could be used. International and local research confirmed that CWR could ignite in uncontrolled fill from an adjoining ignition source – typically bush fires or waste depot fires which were at that time unregulated and often caught fire which spread to the CWR cover material. The research determined that controlled emplacement of CWR cannot ignite if its combustibles content was less than the limits specified in the Policy (and Clause 4.4 of Chapter E19) and its density was at least 100% standard.*

*Fred Finch Park is a recreational use for which Clause 4.4 of Chapter E19 was not intended. Furthermore, there is no history of CWR emplaced for recreational use catching fire. (Cringila Primary School CWR fire is not in an emplaced CWR. It was loosely end dumped and caught fire from an adjoining bush fire) Furthermore, at Fred Finch Park the water table is very high. There is no available oxygen for combustion in saturated ground. It is not relevant to the building that the CWR is deemed uncontrolled due to a lack of test data as the building will be piled from the underlying bedrock.*

The site can be made suitable for the proposed development under clause 7.

## 2.1.2 STATE ENVIRONMENTAL PLANNING POLICY NO. 64 – ADVERTISING AND SIGNAGE

The following signage is proposed as part of the development:

- Sign 1: Building identification wall sign located on the northern building façade -comprising the wording "Illawarra Sports Stadium" This proposed sign measures 21.4sqm x 0.7sqm totalling 14.98sqm in area.
- Sign 2: Building identification wall sign located on the northern building façade -comprising the wording "ISS" This proposed sign measures 5.5sqm x 2.0sqm and has a total area of 11sqm

The proposed signs are considered to be satisfactory with regard to the aims of this policy and the assessment criteria in Schedule 1 as follows:

### 1 Character of the area

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*

Yes

- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

Yes

### 2 Special areas

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

No

### 3 Views and vistas

- *Does the proposal obscure or compromise important views?*

No

- *Does the proposal dominate the skyline and reduce the quality of vistas?*

No

- *Does the proposal respect the viewing rights of other advertisers?*

N/A

#### 4 Streetscape, setting or landscape

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*  
Yes
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*  
Yes
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*  
N/A
- *Does the proposal screen unsightliness?*  
N/A
- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*  
No
- *Does the proposal require ongoing vegetation management?*  
No

#### 5 Site and building

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*  
Yes
- *Does the proposal respect important features of the site or building, or both?*  
Yes
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*  
Yes

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

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*  
N/A

#### 7 Illumination

- *Would illumination result in unacceptable glare?*  
No
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*  
No
- *Would illumination detract from the amenity of any residence or other form of accommodation?*  
No
- *Can the intensity of the illumination be adjusted, if necessary?*  
N/A
- *Is the illumination subject to a curfew?*  
N/A

#### 8 Safety

- *Would the proposal reduce the safety for any public road?*  
No
- *Would the proposal reduce the safety for pedestrians or bicyclists?*  
No  
*Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*  
No

### 2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011

The development is located on Council owned land and has a Capital Investment Value in excess of \$5 Million, accordingly the application is required to be determined by the Southern Regional Planning Panel pursuant to Clause 2 of Schedule 7 of the SEPP

### 2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

#### **Part 2 Development controls for coastal management areas**

##### Division 1 Coastal wetlands and littoral rainforests area

##### 10 Development on certain land within coastal wetlands and littoral rainforests area

##### 11 Development on land in proximity to coastal wetlands or littoral rainforest

Advice from Council's environment officer is that the site is partially mapped as within the Coastal Wetlands Proximity area. The proposal is entirely within the existing sporting facility and will not result in an increase of impacts on the coastal wetland. Note. At the commencement of this Policy, no Coastal Vulnerability Area Map was adopted and therefore no coastal vulnerability area has been identified.

##### 13 Development on land within the coastal environment area

The proposal has been assessed against the requirements of this Clause. The site is identified as being located within the coastal environment area but is not considered likely to have an adverse impact on the biophysical, hydrological or ecological environments, natural coastal processes, water quality, or marine and terrestrial habitats. The proposal is entirely within the existing sporting facility, some minor landscaping and vegetation will be removed, and the development will not result in an increase of impacts on the coastal environment area.

##### 15 Development in coastal zone generally— development not to increase risk of coastal hazards

The proposal is entirely within the existing sporting facility and appropriate for the site, and therefore unlikely to increase the risk of coastal hazards on the site or surrounding area

##### 16 Development in coastal zone generally coastal—management programs to be considered

The NSW Coastal Management Act 2016 came into force on 3 April 2018. Under the Act any existing certified CZMP's continue to be in force until 31 December 2021. Notwithstanding that this date has passed, a review of Council's CZMP coastal hazard mapping extents identifies that the subject site and specifically the building envelope is not impacted by coastal inundation/ coastal geotechnical risk/ reduced foundation capacity at the 2010/ 2015/2100 timeline.

Minimal adverse impact on the coastal environment is anticipated as a result of the proposed development.

Minimal adverse impacts on the development are expected as a result of coastal processes

The proposal is therefore considered satisfactory with regard to the aims outlined in clause 3 of this policy and the matters outlined for consideration.

### 2.1.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

#### Clause 1.4 Definitions

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

#### **Part 2 Permitted or prohibited development**

##### Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned RE1 Public Recreation.

##### Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To cater for the development of a wide range of uses and facilities within open spaces for the benefit of the community.

The proposal is satisfactory with regard to the above objectives.

The land use table permits the following uses in the zone.

Aquaculture; Boat sheds; Camping grounds; Caravan parks; Centre-based child care facilities; Community facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Helipads; Information and education facilities; Kiosks; Markets; Recreation areas; **Recreation facilities (indoor)**; Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Roads; Signage; Take away food and drink premises; Water recreation structures

The proposal is categorised as a **Recreation facility (indoor)** as defined above and is permissible in the zone with development consent.

## Part 4 Principal development standards

### Clause 4.1 Minimum subdivision lot size

Not applicable

### Clause 4.3 Height of buildings

The proposed building height of 12.715m exceeds the maximum of 9m permitted for the site. This represents a variation of 41.2%. A Clause 4.6 Variation Statement is provided by the applicant to address the height exceedance. This is addressed below.

### Clause 4.4 Floor space ratio

Not applicable

### Clause 4.6 Exceptions to development standards

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.3 Building Height– maximum height limit 9m as per the Height of Buildings map
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Yes, the applicant's request contains this justification  In summary, the applicants request is based on the fact that the site is flood affected and this requires a minimum floor level which requires the building to be raised above natural ground level. Further the unique operational need of the proposed development requires minimum indoor ceiling heights which impacts on the overall height of the building. The proposed variation in building height is minimal and does not affect the redevelopment potential or amenity of any adjoining land.
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes, the applicant's request contains this justification
4.6 (4) (a) Consent authority is satisfied that:	
(i) the applicant's written	The written request has adequately addressed the matters required to

request has adequately addressed the matters required to be demonstrated by subclause (3), and	be addressed under subclause (3).
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and	<p>The consent authority can be satisfied that the proposed development will be in the public interest because (a) it is consistent with the objectives of the particular standard and (b) the objectives for development within the zone in which the development is proposed to be carried out will be achieved.</p> <p>It is considered that there is no public benefit of maintaining the standard in this instance.</p> <p>The non-compliance with the development standard is relatively minor having regard to the context of the site and the siting of the building in relation to adjacent development. The variation is considered to be consistent with the aims of the aims of Clause 4.6 and nor does the non-compliance with the development standard tend to hinder the attainment of the objectives specified in section 5(a)(i) and (ii) of the EP&amp;A Act.</p> <p>The objectives of the building height standard are:</p> <p>(a) <i>to establish the maximum height limit in which buildings can be designed and floor space can be achieved,</i></p> <p>(b) <i>to permit building heights that encourage high quality urban form,</i></p> <p>(c) <i>to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.</i></p> <p>The proposed variation is considered to meet these objectives in that the flexibility in applying the maximum height standard allows for the stadium to meet standard requirements for a facility of its type without unduly affecting the amenity of adjacent residential properties i.e. it does not impact on views or overshadowing.</p> <p>The objectives of the zone are not compromised by the height variation and in particular the objective relating to catering for the development of a wide range of uses and facilities within open spaces for the benefit of the community is achieved by allowing the variation.</p> <p>In conclusion, it is considered that the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.</p>
the concurrence of the Secretary has been obtained.	Yes; the SRPP can exercise its assumed concurrence in this instance

## Part 5 Miscellaneous provisions

### Clause 5.21 Flood planning

Council's stormwater engineer has assessed the flood study and considers that the proposal is satisfactory. Appropriate conditions of consent have been recommended in relation to flooding matters.

## Part 7 Local provisions – general

### Clause 7.1 Public utility infrastructure

The development is serviced by existing electricity, water and sewerage infrastructure. A condition is proposed requiring approval from the relevant authorities for the connection of electricity, water and sewerage to service the site.

#### Clause 7.2 Natural resource sensitivity – biodiversity

The site is not identified as being affected by “Natural Resource Sensitivity – Biodiversity” on the Natural Resource Sensitivity – Biodiversity Map.

#### Clause 7.4 Riparian lands

The site of the proposed building is not identified in the Riparian Land Map as containing “riparian land”.

#### Clause 7.5 Acid Sulfate Soils

The site is identified as being affected by class 2 and 3 acid sulphate soils. The part of the site where the proposed building is sited is mapped as Class 3.

Council's Environment Officer has noted that the site contains fill which will impact on the depth or potential Acid Sulfate Soils.

Pre-lodgement advice for the proposal from Councils Geotechnical Officer stated that the site has a highly variable subsurface soil profile consisting of 1 to 2m of coal washery refuse over natural saturated silty clay. Weathered bedrock ranges from 3.5m to 14.3m in depth. The water table is around 1.6m depth. To avoid differential settlement all structures should be piered to the bedrock. A geotechnical report would not be required for any Development Application however one may be required to support the structural design. Pier design should assume acid sulphate soils although the existence of blast furnace slag placed in the area is likely to have neutralised the acid.

As per Pre-lodgement environment advice, works proposed greater than 2m below the existing ground surface will require suitable management of Acid Sulfate Soils which is proposed to be conditioned.

## **2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT**

### **Draft Environment SEPP**

Nil of relevance to the proposal.

### **Draft Remediation of Land SEPP**

Nil of relevance to the proposal.

### **Draft Design and Place SEPP**

Nil of relevance to the proposal.

## **2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN**

### **2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009**

There are no chapters in WDCP 2009 that are specific to the type of development proposed. A summary of relevant DCP Chapters and assessment of the proposal in relation to those chapters form ATTACHMENT 4.

### **2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN**

A written exemption request for an exemption has been submitted by the applicant under the provisions of Clause 15 of the Plan which includes exemptions for privately funded community infrastructure, such as but not limited to education facilities (primary and secondary) and private hospitals. The request has been approved by Council's Contributions Officer and accordingly contributions will not be required.

## **2.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4**

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

## **2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)**

### **92 What additional matters must a consent authority take into consideration in determining a development application?**

Conditions of consent are recommended with regard to demolition.

### **93 Fire safety and other considerations**

Not applicable

### **94 Consent authority may require buildings to be upgraded**

Not applicable

## **2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT**

The proposal is considered acceptable with regard to the likely impacts.

### **Context and Setting:**

In regard to the matter of context, the planning principle in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 is relevant in that it provides guidance in the assessment of compatibility. The two major aspects of compatibility are physical impact and visual impact. In assessing each of these the following questions should be asked:

- Are the proposals physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposals appearance in harmony with the buildings around it and the character of the street?

In response to the first question, matters such as overshadowing, privacy concerns, bulk scale and setbacks are relevant.

The development will result not result in overshadowing of any adjacent properties nor will it result in privacy impacts. In regard to visual impacts, the proposed new building, whilst being closer to residential properties than the existing stadium, it is of a much higher architectural quality and this together with enhanced landscaping within the car parking area is considered to contribute to a development which will be largely in harmony with the surrounding locality.

In summary, the proposal has been assessed with regard to the amenity impacts from the development, the zoning and existing and future character of the area and is considered to be compatible with the local area.

### **Access, Transport and Traffic:**

Existing vehicular access arrangements will remain. Adequate parking is provided commensurate within the increased intensity of the facility. Major sporting events will likely be supported by the transport of sporting teams by bus.

### **Public Domain:**

No public domain works are required or proposed.

### **Utilities:**

The proposal is not envisaged to place an unreasonable demand on utilities supply. Existing utilities are adequate to service the proposal.

### **Heritage:**

No heritage items will be impacted by the proposal.

### **Other land resources:**

The proposal is considered to contribute to orderly development of the site and is not envisaged to impact upon any valuable land resources.



Water:

The site is presently serviced by Sydney Water, which can be readily extended to meet the requirements of the proposed development. The proposal is not envisaged to have unreasonable water consumption.

Soils:

No unmanageable impacts.

Air and Microclimate:

The proposal is not expected to have any negative impact on air or microclimate.

Flora and Fauna:

There is minimal vegetation removal proposed and compensatory planting is proposed in accordance with the landscape plan which will form part of any consent.

Waste:

A condition is proposed that an appropriate receptacle be in place for any waste generated during the construction.

Energy:

The proposal is not envisaged to have unreasonable energy consumption.

Noise and vibration:

A condition is proposed that nuisance be minimised during any construction, demolition, or works.

Natural hazards:

Council records list the site as flood affected. As detailed in this report a flood study has been prepared and in accordance with the study floor level controls adopted in the design.

Technological hazards:

Council records list the site as acid sulphate soil affected (class 3)

Safety, Security and Crime Prevention:

The proposal is unlikely to result in any opportunities for criminal or antisocial behaviour.

Social Impact:

The proposed development provides a modern indoor facility for organised sports and recreation. The centre will be under the control of an on-site manager at all times, and it is not envisaged that there will be any adverse social impacts resulting from the proposed development.

Economic Impact:

The proposal is not expected to create any negative economic impact.

Site Design and Internal Design:

The application results in a departure from the height development standard as outlined above.

A condition will be attached to any consent granted that all works are to be in compliance with the Building Code of Australia.

Construction:

Conditions of consent are recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding.

Cumulative Impacts:

The proposal is not expected to have any negative cumulative impacts.

## **2.7 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

### Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have any negative impacts on the amenity of the locality or adjoining developments.

### Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

## **2.8 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS**

See Section 1.5 of this report.

## **2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST**

One submission was received which raised concerns in relation to potential impacts from the development. This report has addressed those issues and they are not considered to be of sufficient weight to warrant refusal of the development. In contrast 39 submissions in support of the proposal have been received and these illustrate the considerable public benefit from the proposal which will be a state of the art sporting and recreational facility which will be an asset to the residents of Wollongong.

### Local Government Act 1992

Division 2 Use and Management of Community Land.

The Wollongong City Council Generic Plan of Management 2018 (POM) for the site identifies the site as sportsground. The proposal is consistent with the core objectives for the site in accordance with Sections 36F and 36G of the Act.

## **3 CONCLUSION**

---

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979. The proposed development is permissible with consent in the RE1 Public Recreation zone and has regard to the objectives of the zone. The development has been assessed with regard to all relevant SEPPs and supporting guidelines.

The proposal features a departure from the building height under WLEP2009. A satisfactory exception request has been provided in support of the proposed departure which has been assessed as worthy of support in this instance due to the unique circumstances of the site.

The proposal is consistent with the relevant chapters of Wollongong DCP 2009. Referrals were satisfactory and all submission have been considered.

It is considered that the proposed development is unlikely to result in significant adverse impacts on the character or amenity of the surrounding area subject to conditions.

## **4 RECOMMENDATION**

---

It is recommended that the development application be approved subject to appropriate conditions of consent which form **Attachment 6**.

### **Attachments**

- 1 Aerial photograph
- 2 WLEP zoning map
- 3 Plans
- 4 WDCP 2009
- 5 Clause 4.6 Variation
- 6 Draft conditions of consent