

<b>DATE OF DETERMINATION</b>	28 July 2021
<b>PANEL MEMBERS</b>	Paul Mitchell (Chair), Stephen Gow and Penny Holloway
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Daniel Simpson and Robert Hayes declared a conflict of interest as they are councillors of Richmond Valley Council, and Council is the applicant for this development application

Papers circulated electronically on 21 July 2021.

**MATTER DETERMINED**

PPSNTH-82 – Richmond Valley - DA2021/0250 at Richmond St, Casino – Redevelopment of Casino Memorial Swimming Pool (as described in Schedule 1)

**PANEL CONSIDERATION AND DECISION**

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

**Application to vary a development standard**

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Richmond Valley Local Environmental Plan 2012 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 (Height of Buildings) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- a) the applicant’s written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (Height of Buildings) of the LEP and the objectives for development in the RE1 zone; and
- c) the concurrence of the Secretary has been assumed/provided.

**Development application**

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

**REASONS FOR THE DECISION**

The panel determined to uphold the Clause 4.6 variation to building height; and approve the application for the following reasons:

1. The proposed development is permissible in the relevant zones (RE1 and B3), is consistent with the zone objectives and complies with all but one (building height) of the applicable development standards; with respect to building height the Panel considers the variation to be satisfactory. It also satisfies all relevant provisions of the applicable SEPPs (Infrastructure and Contaminated Land).
2. The proposal will have no material adverse effects on the built or natural environments, including the locally listed heritage item being the entrance to the swimming centre.

3. The proposal will not increase peak patronage levels and as such will not increase parking demand nor traffic on nearby roads including Centre Street (a classified road) which will continue to function safely and efficiently.
4. The proposal will be of substantial community benefit; it will improve the existing facilities allowing a broader range of uses to be conducted over the full year.
5. The panel has carefully considered the issues raised in the two submissions received and considers that they have been addressed in either or both the design of the proposal and the conditions imposed. There are no residual issues which warrant refusal of the application.
6. For the reasons given above approval of the application is in the public interest.

## CONDITIONS

The development application was approved subject to the conditions attached to the Council Assessment Report, with the following amendments:

- Condition 61 to be amended to read:

Prior to any work commencing the applicant shall undertake a contaminated site investigation including soil sampling for lead contamination along potential drip lines. The technical report must be carried out by a suitably qualified professional in accordance with the requirements of the NSW EPA Consultants Reporting on Contaminated Land - Contaminated Land Guidelines 2020 and Richmond Valley Council Regional Policy for the Management of Contaminated Land, and be submitted to and be approved by Richmond Valley Council.

If contamination is identified, a site Remedial Action Plan must be prepared and be approved by Richmond Valley Council.

The requirements of the approved Remedial Action Plan must be complied with prior to the release of a Construction Certificate.

*Reason: To assess potential land contamination and to ensure effective management of any contaminated land*

- The following advisory notes to be added:

1. Consent Requirements

Occupiers, tenants or lessees of the pool complex and facilities are to be made aware of the requirements of the Clause 5.10 of Richmond Valley LEP 2012 in relation to the need to obtain prior consent for works including 'any alterations to the fabric, finish and appearance' of a heritage item and advised that no advertising panels, signs or any elements are to be affixed to the brickwork. Reason to protect the aesthetic and historical significance of the item and its streetscape setting.

2. Excavation and Relics-Due Diligence

If any deposit, artefact, object or material evidence defined as a relic under the Heritage Act 1977 is identified as having been uncovered due to development activities, all work shall cease immediately in that area; and the Heritage Council of NSW shall be advised of the discovery.

Note. Depending on the possible significance of the relics uncovered, an archaeological assessment and an excavation permit under the Heritage Act 1977 may be required before further work can continue in that area.

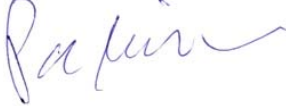


If any Aboriginal object (including evidence of habitation or remains) is identified as being present or uncovered due to development activities; all works shall cease immediately in that area; and the Heritage NSW and the Local Aboriginal Land Council must be advised of the discovery. Note. If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.

**CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the panel considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Removal of one Poinciana tree at the entrance to the facility

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised

PANEL MEMBERS	
 Paul Mitchell OAM (Chair)	 Penny Holloway
 Stephen Gow	

**SCHEDULE 1**

<b>1</b>	<b>PANEL REF – LGA – DA NO.</b>	<b>PPSNTH-82 – Richmond Valley - DA2021/0250</b>
<b>2</b>	<b>PROPOSED DEVELOPMENT</b>	<p>Redevelopment of Casino Memorial Swimming Pool including:</p> <ul style="list-style-type: none"> <li>- Partial demolition of existing building</li> <li>- New indoor 25 metre program/learn to swim pool</li> <li>- New family accessible amenities</li> <li>- New adult change room</li> <li>- New enclosed walkway from entry</li> <li>- New plant room</li> <li>- New store room</li> <li>- Refurbishment of control/kiosk, administration, first aid, staff facilities</li> <li>- New swim club</li> <li>- Refurbished gym and swim squad room</li> <li>- New twin flume waterslide</li> <li>- Solar photovoltaic roof panels</li> <li>- Removal of one (1) Poinciana tree</li> </ul> <p>And associated works</p>
<b>3</b>	<b>STREET ADDRESS</b>	Casino Memorial Swimming Pool and Memorial Park 84 Centre Street CASINO
<b>4</b>	<b>APPLICANT/OWNER</b>	Facility Design Group Pty Ltd /Richmond Valley Council
<b>5</b>	<b>TYPE OF REGIONAL DEVELOPMENT</b>	Council related development over \$5 million
<b>6</b>	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ Biodiversity Conservation Act 2016</li> <li>○ State Environmental Planning Policy (State and Regional Development) 2011</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ Richmond Valley Local Environmental Plan 2012</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Richmond Valley Development Control Plan 2015</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
<b>7</b>	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Council assessment report: 21 July 2021</li> <li>• Clause 4.6 variation request to vary Building Height development standard: April 2021</li> <li>• Written submissions during public exhibition: two (2)</li> </ul>
<b>8</b>	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Briefing: 17 June 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Paul Mitchell (Chair), Stephen Gow and Penny Holloway</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Council assessment staff</u>: Megan Yates, Pooja Chugh and Andy Edwards</li> <li>○ <u>Department staff</u>: Amanda Moylan and Lisa Foley</li> <li>● Final briefing to discuss council’s recommendation: 28 July 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Paul Mitchell (Chair), Stephen Gow and Penny Holloway</li> <li>○ <u>Council assessment staff</u>: Megan Yates, Brian Eggins, Pooja Chugh and Andy Edwards</li> <li>○ <u>Department staff</u>: Amanda Moylan and Lisa Foley</li> </ul> </li> <li>● Applicant Briefing: 28 July 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Paul Mitchell (Chair), Stephen Gow and Penny Holloway</li> <li>○ <u>Council assessment staff</u>: Megan Yates and Pooja Chugh</li> <li>○ <u>Department staff</u>: Amanda Moylan and Lisa Foley</li> <li>○ <u>Applicant representatives</u>: Stephen Johansson and Christian Webb</li> </ul> <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Approval
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to Council Assessment Report