

JOINT REGIONAL PLANNING PANEL (Western Region)

JRPP No	2014WES007
DA Number	DA0277/214
Local Government Area	Mid-Western Regional Council
Proposed Development	Construction of new building for the purpose of administration, library and learning hub.
Street Address	Lot 20 DP 826234 – 269 Ulan Road, Bombira NSW 2850
Applicant/Owner	Applicant: NSW Public Works Owner: Western Institute of TAFE NSW
Number of Submissions	1
Regional Development Criteria (Schedule 4A of the Act)	Crown Development: CIV >\$5m
Recommendation	Approval, subject to referral to the Minister for Planning regarding the application of condition 21 of the recommendations.
Report by	Mark Lyndon – Statutory/Strategic Planner

Assessment Report and Recommendation

EXECUTIVE SUMMARY

Reason for consideration by Joint Regional Planning Panel

The application has been referred to the Western Region JRPP pursuant to Schedule 4A of the Environmental Planning and Assessment Act 1979 as the capital investment value of the development is over \$5 million and the application has been lodged by or on behalf of the Crown (State of NSW).

Description of the Proposal

Development consent is sought for the construction of a new single storey building incorporating learning space, administration areas and covered outdoor areas at Lot 20 DP 826234, 269 Ulan Road Bombira, hereafter referred to as the subject land. The application also proposes the refurbishment of an existing administration building.

The site is located approximately 2.9km north of Mudgee town centre on Ulan Road and currently accommodates one of two campuses of Mudgee TAFE. The other is located in

Court Street, Mudgee and will become redundant once this new facility becomes operational. The land is zoned SP2 – Infrastructure and the proposal is permissible with consent.

The land to the north-east, north-west and south-west is utilised by the Australian Rural Education Centre (AREC). To the south-east are Ulan Road and agricultural land, although this land has now been rezoned to low-density residential.

The proposed operating hours of the new facilities are:

- Monday to Thursday: 7.30am to 9.30pm
- Friday: 7.30am to 6pm

Ulan Road is considered a Classified Road and as such the application was referred to NSW Roads and Maritime Services for comment.

Pursuant to Section 89 of the EP & A Act 1979, Council requests that the Regional Panel refer the application to the Minister for Planning as there is disagreement regarding the application of condition 21 of the proposed conditions of consent relating to the provision of a footpath. Council is pursuing the provision of the footpath due to the number of students that are anticipated to ride or walk to the site. There have also been a number of accidents between cars and cyclists in the vicinity of the site, resulting in two fatalities in recent times. Council's submission regarding the footpath issue is included as an attachment to this report.

Section 89 (1)(b) of the Environmental Planning & Assessment Act 1979 states that a consent authority (other than the minister) must not:

'impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.'

PLANNING ASSESSMENT

This proposal has been assessed against the relevant matters for consideration, detailed in Section 79C of the Environmental Planning and Assessment Act 1979, as follows:

Section 79C(1)(a)(i) provisions of any environmental planning instrument

Local Environmental Plan

Mid-Western Regional Local Environmental Plan 2012 (LEP)

The subject land is zoned SP2 Infrastructure under the LEP 2012. The proposed development is defined under the LEP as an 'educational establishment' and is permissible with consent in the zone. The proposal is considered to be consistent with the following objectives of the zone, with the exception of the third point which is not relevant to the subject land:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

- To protect the water storage of Windamere and Burrendong Dams.

Clause 5.10 Heritage Conservation

There are no items of environmental heritage located on or in the immediate vicinity of the site.

Clause 5.12 Infrastructure Development and Use of Existing Buildings of the Crown

This clause states that the LEP ‘...does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent,...

Comment: The development is permitted with consent and will be carried out by or on behalf of a Public Authority.

Clause 6.1 Salinity

The objective of this clause is to provide for the appropriate management of land that is subject to salinity and the minimisation and mitigation of adverse impacts from development that contributes to salinity.

The applicant undertook soil testing as part of their geo-technical investigations and concluded that the pH of the soil is considered non-aggressive towards concrete and non-corrosive towards steel.

Clause 6.4 Groundwater Vulnerability

The subject land is identified as being affected by groundwater vulnerability. The applicant undertook a geotechnical investigation which involved drilling bore holes to a depth of 2.9m and did not encounter any groundwater or inflow. Compliance with the proposed conditions of consent should be sufficient to ensure the objectives of this clause are satisfied.

Clause 6.9 Essential Services

The site has access to all essential services and utilities.

Regional Environmental Plan

No Regional Environmental Plans are relevant to this proposal.

State Environmental Planning Policies

State Environmental Planning Policy (State and Regional Development) 2011

The functions of Regional Panels are set out in Part 4 of this policy. For the purpose of this application, the Regional Panel may exercise the consent authority function of Council pursuant to Section 80A of the EP & A Act 1979.

State Environmental Planning Policy (Infrastructure) 2007

The subject land is within a prescribed zone, SP2 Infrastructure, pursuant to Division 3 of Part 3 of the SEPP. Development for the purpose of a TAFE Establishment is permitted with consent under this provision.

Section 79C(1)(a)(ii) any draft environmental planning instrument that is or has been placed on public exhibition

No draft environmental planning instruments are relevant to the proposal.

Section 79C(1)(a)(iii) any development control plan

The only relevant sections of Councils' Development Control Plan 2013 (Amendment 1) are Part 1.12 - Community Consultation and Part 5.1 - Car Parking. Educational Establishments require 1 space per 10 students. Previous development applications for this site required the following car parking requirements:

- DA 143/95 – 20 parking spaces plus 10 overflow;
- DA 0225/2003 – Total of 50 car parking spaces (30 additional);
- DA 0070/2007 – 20 additional car parking spaces.

Total of 70 spaces required by previous consents plus overflow.

The proposal will increase capacity by 150 students and 6 teachers, requiring an additional 21 spaces. The applicant proposes 30 new car parking spaces in addition to the 73 existing spaces which is considered more than satisfactory. One (1) new disabled space will be provided in addition to the 4 existing spaces.

Section 79C(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

Under Division 5 of Part 9 of the Environmental Planning & Regulation 2000, an annual fire safety certificate is required to be provided to Council and the Fire Commissioner. This has been included in the conditions of consent.

Section 79C(1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Access and Transport

The site has direct frontage to Ulan Road which is a Classified Road with a speed limit of 80km/h at the site entrance. The application was referred to NSW Roads and Maritime Services who did not object to the development nor require any specific conditions of consent.

The entrance to the site is shared with the Australian Rural Education Centre (AREC) and is sealed for the entire length. The intersection with the main access road and Ulan Road

has been previously upgraded with an Auxiliary Left (AUL) and a Basic Right turn treatment (BAR). The increase in traffic generated by the proposed development does not warrant further upgrades of the intersection.

The TAFE facility has an existing footpath which takes students from the teaching and administration buildings to the Ulan Road frontage. Once at Ulan Road, there is no footpath/cycleway infrastructure to convey pedestrians and cyclists back towards Mudgee. Part 4.5.1 of the Statements of Environmental Effects proposes the provision of 30 bicycle racks, therefore it is assumed that TAFE acknowledges that a proportion of its students will cycle to and from class.

As the demand for the use of a footpath/cycleway in this area is solely generated by the TAFE it is Council's position that the footpath be extended from the entrance of the site to the nearest footpath/cycleway which is located at the intersection of Henry Lawson Drive and Ulan Road at full cost of the developer.

The Department of Planning's Circular D6 'Crown Development Applications and Conditions of Consent' dated 21/09/1995 is still the current document providing guidelines for the application of conditions for Crown developments. The document states that it is appropriate to apply conditions for local traffic management (including footpaths) '...associated with the site entrance. It may also include traffic management facilities directly required to ensure safe access for the public...'. The key point here is about ensuring safe access to the public, which will not be achieved without the provision of a footpath/cycleway.

Utilities

The site has access to all essential utilities and services. Some minor extensions to Council's reticulated water and sewerage are necessary, however there is sufficient capacity in the network to accommodate the increased demand.

Heritage

Heritage has been considered with the previous development consents for this site and no items have been found as a result of previous works.

The site is heavily disturbed and, although it is possible that relics may be uncovered, a condition on the consent advising to cease work if relics are found will be sufficient to address this issue.

An Aboriginal Heritage Information Management System (AHIMS) search was undertaken by the applicant and no recorded aboriginal heritage sites were found.

Stormwater

The applicant has prepared a Stormwater Management Plan (SMP) which incorporates the following measures:

- New pit and pipe drainage system to convey stormwater from the site to the existing drainage system
- Two rainwater tanks to collect and conserve roof water for non-potable uses

- Grass swales to capture convey runoff from car park areas
- Water quality management measures
- An operation and maintenance program
- Environmental Management Plan during construction

The SMP has been reviewed by Council's Development Engineer and no objection or specific conditions of consent were required.

Erosion and Sediment Control

The site of the new building is relatively flat and compliance with the proposed conditions of consent which include erosion and sediment control measures should ensure that no erosion from the construction site occurs.

Air and Microclimate

The proposal will not have any air quality impacts, subject to appropriate on-site management of disturbed areas during construction

Flora & Fauna

A small amount of tree removal is required to provide the additional car parking and the construction of the new quadrangle. These trees are small shrubs and groundcovers and are of little significance. A new landscaping plan as submitted as part of the application which includes:

- Large native shade trees
- Turfing
- Low native groundcover and trees buffering the entry road and car park
- An avenue of new eucalypts to define the entrance road and shade the car park
- A grid of deciduous trees stabilised in paving

Vegetation species used in landscaping will be suitable for the Mudgee climate and the new plantings will more than make up for the proposed vegetation clearing.

Waste

The TAFE facility currently has a waste management plan for the site which is detailed in the Statement of Environmental Effects and the new facilities would operate in accordance with that plan.

Noise and Vibration

The development will have minimal impact in this regard and there are no residences in the vicinity of the site that may be impacted by the development.

Natural Hazards

The site is not subject to any natural hazards such as flooding, bush fire or soil instability.

Contamination

NSW Public Works conducted a preliminary Contamination Investigation in 2013 which did not uncover any contaminated land and concluded that the land is suitable for the proposed use.

Social and Economic Impact

The consolidation of TAFE facilities in one location is considered to have a positive social and economic impact for Mudgee and the Mid-Western Region in general.

Safety and Security

The TAFE operates from 7.30am to 9.30pm, Monday to Thursday and 7.30am to 6pm on Friday. There is adequate lighting around the car parking areas and administration building to provide passive surveillance. Outside of operating hours the site is patrolled periodically by private security. A gate at the site entrance prevents unauthorised access outside of

Section 79C(1)(c) the suitability of the site for the development

The application is for the construction of a new single storey building incorporating learning space, administration areas and covered outdoor areas on the site of an existing educational establishment. There is no land use conflict anticipated to be created as a result of the development and the proposal is considered to be a suitable use of the site.

Section 79C(1)(d) any submissions made in accordance with this act or the regulations

The application was notified and advertised from 17 February 2014 to 7 March 2014. One submission was received which was submitted by Council itself. The submission did not object to the development, however is expressed concern regarding the lack of pedestrian/cycle access to the site. This has been previously addressed in this report under the heading 'Access and Transport'.

Development Contributions

The Development Contributions Guidelines, published by the Department of Planning state that it is best practice to exempt these developments from the imposition of paying development contributions, as the material benefit of exceeds the demand imposed on existing infrastructure.

CONCLUSION

The proposal is considered to be an appropriate use of the site and will have a positive social and economic impact for the local community. The application has been assessed against the relevant local and state Planning provisions pursuant to Section 79C of the Environmental Planning & Assessment Act 1979 and is deemed to be satisfactory. The application is recommended for approval, however due to the disagreement between

parties regarding the application of condition 21, it is recommended that the application be referred to the Minister for Planning for determination.

APPROVED PLANS

1. Development is to be carried out generally in accordance with stamped plans identified in the table below and the application received by Council on 18 February 2014 except as varied by the conditions listed herein. Any minor modification to the approved plans will require the lodgement and consideration by Council of amended plans. Major modifications will require the lodgement of a new development application.

Plan Name	Plan No.	Rev	Date	Prepared by:
Site Plan	A02	B	20/03/2014	Public Works Government Architects Office
Block A Refurbishment	A13	N/A	20/03/2014	Public Works Government Architects Office
Overall Site Plan	DA00	N/A	14/02/2014	Public Works Government Architects Office
Overall Site and Demolition Plan	DA01	N/A	14/02/2014	Public Works Government Architects Office
Part Site Plan	DA02	N/A	14/02/2014	Public Works Government Architects Office
Floor Plan	DA03	N/A	14/02/2014	Public Works Government Architects Office
Roof Plan	DA04	N/A	14/02/2014	Public Works Government Architects Office
Sections	DA05	N/A	14/02/2014	Public Works Government Architects Office
Elevations	DA06	N/A	14/02/2014	Public Works Government Architects Office
Landscaping Site Plan and Indicative Plant Species	DL01	N/A	14/02/2014	Public Works Government Architects Office
Landscaping	DL02	N/A	14/02/2014	Public Works Government Architects Office

GENERAL CONDITIONS

2. If any aboriginal artefacts are uncovered or identified during construction earthworks, such work is to cease immediately and the local aboriginal community and National Parks and Wildlife Service are to be notified.
Note: The applicant should contact the Aboriginal Land Council and consult a suitably qualified individual to determine if artefacts were uncovered.

BUILDING CONSTRUCTION

3. All building work must be carried out in accordance with the provisions of the National Construction Code, the Environmental Planning & Assessment Act 1979 and Regulations and all relevant Australian Standards.
4. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
5. Construction work noise that is audible at other premises is to be restricted to the following times:

- Monday to Saturday - 7.00am to 5.00pm

No construction work noise is permitted on Sundays or Public Holidays.

6. All mandatory inspections required by the Environmental Planning & Assessment Act and any other inspections deemed necessary by the Accredited Certifier/Suitably qualified person being carried out during the relevant stage of construction.
7. A sign must be erected in a prominent position on any work site on which involved in the erection or demolition of a building is carried out;
 - a) stating that unauthorised entry to the work site is prohibited, and
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
 - c) the name, address and telephone number of the principal certifying authority for the work,
 - d) The sign shall be removed when the erection or demolition of the building has been completed.
8. All building work is to comply with the requirements of the Access to Premises Standard.
9. For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the building must provide the Council and the Commissioner of NSW Fire Brigades with a copy of a Annual Fire Safety Statement Certifying that each specified fire safety measure is capable of performing to its specification.
10. Where any essential services are installed in the building a copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and Council. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

ENGINEERING CONDITIONS

11. Prior to development the applicant shall advise Council's Development and Community Services Department, in writing, of any existing damage to Council property before commencement of works. The applicant shall repair any part of Council's property damaged during the course of this -development in accordance with AUS-Spec #1 (as modified by Mid-Western Regional Council) and any relevant Australian Standards.
12. Contractor's public liability insurance cover for a minimum of \$20,000,000 is to be sighted and to be shown to Mid Western Regional Council as an interested party. All work is to be at no cost to Council.
13. The applicants shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the Land Titles Office and Council.
14. All works are to be constructed at the full cost of the developer, in a manner consistent with Aus-Spec #1 and Council's standard drawings.
15. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.
16. All finished surface levels shall be shown on the plans submitted to the Accredited Certifier/Suitably qualified person. Where it is proposed to import fill, the material shall be certified as free of hazardous materials and contamination by a suitably qualified geotechnical

engineer. Fill placed in residential or commercial lots shall be compacted in accordance with *AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*.

17. Runoff and erosion controls shall be installed prior to clearing and incorporate:-
 - a) diversion of uncontaminated upsite runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed;
 - b) sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent sediment and other debris escaping from the land to pollute any stream or body of water;
 - c) maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilized beyond the completion of construction.
18. Requirements for parking numbers and standards shall comply with Council's DCP for Car Parking.
19. A total of 30 additional car parking spaces are to be provided within the site of the development and comply with AS 2890.1: 2004 and the following requirements:
 - (a) Each parking space is to have minimum dimensions of 5.5m x 2.4m;
 - (b) Each disabled car parking space is to be in accordance with the provisions of AS 2890.6: 2009.
 - (c) All car parking spaces are to be line-marked, sealed with concrete or bitumen, and must be maintained in a satisfactory condition at all times;
 - (d) Off street parking is to be encouraged by the placement of prominent signs indicating the availability of parking.
20. The aisle widths, internal circulation, ramp widths and grades of the car park are to generally conform to the Roads and Maritime Services (RMS) guidelines and Australian Standard AS 2890.1 – 2004. Details of compliance are to be shown on the relevant plans and specifications.
21. The developer is to construct a pedestrian/cycle path that extends from the intersection of Ulan Road/Henry Lawson Drive to the main entry to the TAFE facility on Ulan Road. The path shall be 2.5m wide, 150mm thick with reinforced concrete and have a compressive strength at 28 days of 32Mpa.
22. The adjustment of any existing utility services or installation of new services is to be at the full cost of the developer.
23. The developer is to extend and meet the full cost of water and sewerage reticulations (pipe work) to service the development plus the cost of connecting to existing services (Council sewage and water mains). All water and sewerage work is required to be carried out in accordance with the requirements of Mid-Western Regional Council (as the Water Supply Authority under the Local Government Act, 1993) and in accordance with the National Specification – Water & Sewerage Codes of Australia.
24. Engineering plans of any mains extensions, if required, are to be lodged with the Accredited Certifier/Suitably qualified person and approved prior to the commencement of any construction.

Note 1: Council will quote on connecting any sewer or water main extension to the existing "live" main upon request of the developer.

Note 2: Council does not permit other bodies to insert new junctions into 'live' sewer mains.