

COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-274 DA2024-0192 (PAN-392898)
PROPOSAL	Erection of an Educational Establishment - University of New England Campus
ADDRESS	Part Lot 73 in DP 1107041 545 Peel Street TAMWORTH NSW 2340
APPLICANT	L Norton, Touchstone Partners C / - University of New England
OWNER	Tamworth Regional Council
DA LODGEMENT DATE	08/12/2023
APPLICATION TYPE	Crown Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 4 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: Development carried out by or on behalf of the Crown (within the meaning of Division 4.6 of the Act) that has a capital investment value of more than \$5 million.
CIV	\$26,515,000.00 (excluding GST)
CLAUSE 4.6 REQUESTS	NIL
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> • <i>State Environmental Planning Policy (Industry and Employment) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>Tamworth Regional Local Environmental Plan 2010</i> • <i>Tamworth Regional Development Control Plan 2010</i>

TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	<p>Three (3) total unique submissions</p> <p>Key issues:</p> <ul style="list-style-type: none"> • Design is out of place. • Regional university campuses are not viable. • The site should be a true community development – a library or the like. • Lack of opportunity for expansion.
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>Attachment 1: Recommended conditions of consent</p> <p>Attachment 2: Approval from the Crown (Applicant) for imposition of Conditions</p> <p>Attachment 3: Plan Set for Endorsement</p> <p>Appendix A - Historical Approvals, Correspondence & Minutes from Meetings Relating to the Development</p> <p>Appendix B - Land Titles and Deposited Plan</p> <p>Appendix C - Bushfire Assessment Report</p> <p>Appendix D - Preliminary Site Investigation</p> <p>Appendix E - Architectural Design Report, Consultant Reports and Plans</p> <p>Appendix F - Utilities and Services, Civil Engineering Concept Design Report & Stormwater Management Plan</p> <p>Appendix G - Geotechnical Report</p> <p>Appendix H - Flora and Fauna Assessment & Tree Management Plan</p> <p>Appendix I - Section J Compliance Investigations</p> <p>Appendix J - Aboriginal Cultural Heritage Assessments and European Heritage Impact Statement</p> <p>Appendix K - Flood Concept Report</p> <p>Appendix L - Sediment and Erosion Control Plans</p> <p>Appendix M - Waste Management Strategy</p> <p>Appendix N - Noise Impact Assessment</p> <p>Appendix O - BCA Assessment Report</p> <p>Appendix P – Amended Traffic Impact Assessment</p>
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	<p>N/A</p>
RECOMMENDATION	<p>Approval</p>
DRAFT CONDITIONS TO APPLICANT	<p>Yes</p>
SCHEDULED MEETING DATE	<p>18 September 2024</p>
PLAN VERSION	<p>Version No 1</p>

PREPARED BY	Christopher Ross - Consultant Town Planner
DATE OF REPORT	11 September 2024

EXECUTIVE SUMMARY

Development Application (DA2024-0192 / PAN-392898) seeks development consent for the construction an Educational Establishment - University of New England Campus comprising four-storeys, with at grade carparking and associated infrastructure. The proposal is to be located on Part of Lot 73 in DP 1107041, known generally as 545 Peel Street, TAMWORTH NSW 2340. The proposed University Campus will employ 30 staff and provide places for 295 students.

The subject land is located at the southern end of the Tamworth CBD and is presently a portion of a larger, 14 Hectare area of open space that generally separates the Tamworth CBD from the Peel River. The specific area of the allotment subject to this application is proposed to hold a total area of 11,120m² after subdivision, and is bound by frontages to Peel Street to the northeast, and Roderick Street to the northwest, with the levee bank generally located along the southwest boundary. The southeast boundary is to be separated from Scott Road/New England Highway by a strip of landscaped land retained Council ownership. This parcel of land is referred to as 'the site' throughout this report.

The subdivision and transfer of the land to University of New England (UNE) is discussed further within Section 1.1 of this report.

The subject land is identified as being partially bushfire prone (to the top of the levee bank from the river side) but is not identified as being liable to inundation by flooding. There are no known items of heritage significance located on the site.

The subject land is zoned wholly E2 Commercial Centre in accordance with the provisions under the *Tamworth Regional Local Environmental Plan 2010*. The proposal is identified as being for the purpose of an 'educational establishment' and is permissible with consent in the E2 zone. The proposal is also permitted with consent under Clause 3.46 of *State Environmental Planning Policy (Transport & Infrastructure) 2021*.

The proposed development has been assessed to be compliant with the applicable statutory planning provisions and Council's Development Control Plan (DCP). The proposal is also deemed to be consistent with the applicable State Environmental Planning Policies, as identified and addressed within this assessment report.

The proposal was notified in accordance with the Council's Community Participation Plan 2019 from 27/12/2023 until 14/02/2024. Three (3) submissions were received by Council during the public consultation period.

The application has been referred to the Northern Regional Planning Panel (NRPP) as the proposal constitutes 'regionally significant development' pursuant to Section 2.19(1) and Clause 4 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*. The development is regionally significant development as it comprises development carried out by or on behalf of the Crown with a Capital Investment Value of more than \$5 million (noting that the regulatory changes for the new Estimated Cost of Development commenced on 4 March 2024).

A briefing meeting with the Panel was held on 13 March 2024 where key issues were discussed, namely around parking numbers, clarification of staff and student numbers, and matters around the location and finishing of the proposed plant/fire pump/waste building.

The submitted and revised Traffic Impact Assessment has addressed Council's concerns regarding manoeuvrability of vehicles, however has not added any parking above that originally proposed. The updated detail and plans in relation to the other matters, being staff and student numbers (30 and 295 respectfully) and detail of the proposed plant/fire pump/waste building have also been addressed.

An unresolved aspect of the application is Council's recommended to imposed S7.12 contributions and a shared pathway condition on the Roderick Street and Peel Street frontages.

The Applicant has stated that they seek an exemption from payment of contribution fees as they are *“recognised as the Crown by virtue of Clause 294 of the EP&A Regulation. Section (sic. Division) 4.6 of the EP&A Act 1979 provides that in relation to Crown applications, a consent authority is unable to impose a condition of consent without the approval of the University or the Minister”*.

The applicable Section 7.12 contribution is \$291,665.000 based on 1% of estimated construction cost including GST, a not insignificant cash injection to assist Council in completing upgrades and improvements to the Tamworth Central Business District (CBD)

Council is of the view that the authorisation of the sale of a parcel of public land to UNE for a nominal fee is highly supportive of a specifically built UNE campus in Tamworth and that Council is making a significant contribution to UNE to facilitate the development. Imposing the 7.12 developer contribution and requiring the shared pathways provides an opportunity for the UNE to contribute to CBD public amenity outside of the subject site which in turn will only benefit the UNE facility and its students in the future. Council's preference is that both conditions remain in the consent and UNE can specifically request (if desired) that Council waive them along with supporting reasons (post approval). The types of improvements that the contributions would go towards are outlined in the Tamworth's Integrated Transport Plan (2024), which identifies Kable Avenue and the broader CBD as priority precinct improvements. With these conditions included, Council can ensure that the development supports the city's strategic goals for growth, connectivity and revitalisation in the CBD.

The Applicant has reviewed the recommended conditions and has, on two separate occasions, declined to accept both the condition relating to contributions and the shared pathway (pedestrian linkage) requirements as proposed, without any justifiable reasons apart from referencing the relevant Crown provision in the EP&A Act 1979. Despite discussions, at the time of writing this report, the Applicant remains unwilling to incorporate these elements into the development plan. This ongoing unwillingness to accept the standard conditions has raised concerns regarding the project's ability to meet essential community and infrastructure needs.

Council believes that this development has significant potential to contribute positively to both the immediate and broader streetscape, provided that certain key conditions are met. The inclusion of the relatively minor 1% s7.12 contributions and the construction of essential pathways are not only necessary in the eyes of Council, but integral for ensuring that the development actively enhances the area's functionality and aesthetic values.

Council stresses the importance of creating a development that facilitates smooth and safe connectivity for both pedestrians and vehicles. Without these critical elements, the development presents a risk in under-delivering in terms of community benefit. By ensuring that pedestrian pathways are constructed and properly integrated, the project can offer improved access and convenience, fostering a more dynamic interaction with the surrounding areas – and promoting alternative transport options – something stressed by the Applicant as being a key part of the development.

There is concern, however, that if these conditions are not addressed from the outset, legacy issues may arise, placing undue strain on Council's resources in the future. Potential problems such as growing public demand for a shared path on Peel and Roderick Streets, and the

necessity for adequate lighting and CCTV infrastructure are just some examples of challenges that could escalate – and that will be borne at full cost by the local community and Council. These are issues that should be proactively managed during the development phase rather than retroactively addressed at a later date. Council views it as essential that the development offers an enhanced experience for both students and visitors from day one. Ensuring smooth pedestrian movement and access will be key to this. If these conditions - particularly those related to contributions, pedestrian linkage, traffic management and access - are not incorporated into the project, Council may reconsider its recommendation for approval – such is the magnitude these matters play into the future development of the CBD.

Council's support therefore hinges on the fulfillment of these conditions, as they are essential for the development to achieve its potential to contribute meaningfully to the community.

Council is cognisant of the fact however that the NRPP may not be able to require conditions to be imposed that have been rejected by the Crown and that the recommendation for an approval may be made without those conditions included. Council also recognises that the NRPP may also choose to defer the application should they agree with Council's position on this matter and the Applicant maintains their rejection of said conditions.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979*, it is recommended that DA2024-0192 be approved subject to the conditions of consent contained in **Attachment 1**.

1. THE SITE AND LOCALITY

1.1 The Site

The subject land is an irregularly shaped area of Tamworth Regional Council owned public open space that generally separates the Tamworth CBD from the Peel River. The large allotment is legally known as Lot 73 in DP 1107041 and holds a total area of approximately 14 Hectares.

Lot 73 in DP 1107041 is to be subdivided under a separate Development Application (DA2025-0065) with the resultant allotment subject to this application to hold frontages to Peel Street to the northeast, and Roderick Street to the northwest. The specific area of the allotment subject to this application is commonly described as 545 Peel Street, Tamworth and is proposed to hold a total area of 11,120 m² after subdivision. This parcel of land is referred to as 'the site' throughout this report.

The site is anticipated to be transferred to UNE post subdivision. The subdivision is to be undertaken by Council, and exact terms of transfer are yet to be finalised. The following is a timeline of Council decision making events leading to the transfer of the land:

- 12 June 2018 – Mayoral Minute – support for transfer of velodrome land to UNE
- 25 February 2022 - Heads of Agreement entered into between TRC and UNE
- 28 November 2023 – Mayoral Minute – support to proceed with transfer of land and extend Heads of Agreement
- 13 August 2024 – Council report to authorise the subdivision and gift of velodrome land to UNE was approved authorising the Mayor and General Manager to negotiate and enter into a Contract for the Sale of Land or similar Agreement with UNE.

Refer to **Figure 1** for an overview of the subject land.

Figure 1: Aerial Image of Entire Subject Area (Marked in Light Blue)



The site is to be considered as cleared as the demolition of the velodrome infrastructure presently located on site is currently underway, with works to be completed by Tamworth Regional Council inclusive of any required site remediation and fill in preparation for the subject development.

1.2 The Locality

The site is located at the southern end of the Tamworth CBD and is approximately an 800m walk to the Tamworth Train Station. The site is not presently connected by a regular bus service that serves the wider Tamworth community. However, this service is available within short (300m) walking distance from the site.

Adjacent the site to the northwest and northeast across Roderick Street are commercial land uses, and to the east across Peel Street is a shopping centre known as the East Point Shopping Centre. Across the New England Highway to the southeast are residential dwellings, and the Tamworth Country Music Hall of Fame, along with a drive through fast-food premises. The entire southwestern boundary adjoins the Peel River, with the levee bank generally forming the property boundary.

Refer to **Figure 2** for an overview of the subject land in regard to the wider locality.

Figure 2: Locality Map



2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal (DA2024-0192) seeks consent for an 'educational establishment', a 'car park', and associated site works.

The proposed educational establishment is shown to be located toward the Roderick Street frontage, the carparking toward the Scott Road/New England Highway end of the site with access from Peel Street, and the associated works inclusive of performance spaces and areas for community gathering located between the two. Buildings for plant, waste management and servicing are proposed to be located between the education facility building and the Peel Street frontage. All vehicular access to the site, both student/staff and service vehicles is proposed from a single point of entry within the Peel Street frontage.

The multi storey education facility building is of an irregular shape and contains three levels of teaching rooms. Refer to **Figures 3, 4 and 5** for artistic renders of the proposed educational facility, and **Figure 6** for a building section.

Figure 3: Proposed Site Render from Peel Street and Roderick Street Junction, Looking Southwest (showing pedestrian linkages on road frontages)



Figure 4: Detail Render of Plant Room façade (showing pedestrian linkages on road frontages)



Figure 5: Proposed Site Render from Roderick Street and Kable Avenue Junction, Looking East (showing pedestrian linkages on road frontages).



Figure 6: Proposed Education Facility Building Section.



Specifically, the education facility will cater for 295 students and 30 staff (per the traffic report), and will contain:

- **Ground Floor** - Amenities and kitchenette; teaching spaces; care space (first aid / parent / counselling rooms); communications room; staff rooms; service/storage rooms; lift services; and student breakout areas. The approximate total gross floor area is shown to be 649m².

- **Level 1** - Amenities and kitchenette; teaching spaces (simulation); care space; community space; cultural centre; service spaces; lift services; and student breakout areas / concierge. The approximate total gross floor area is shown to be 663m².
- **Level 2** - Amenities and kitchenette; teaching spaces; student breakout areas; service spaces; and lift services. The approximate total gross floor area is shown to be 520m².
- **Level 3** - Amenities and kitchenette; staff area; teaching spaces; student breakout areas; service spaces; and lift services. The approximate total gross floor area is shown to be 360m².

The total internal Gross Floor Area (GFA) of the building is 2,192m².

The at grade parking area is to provide a total of 53 parking spaces. The supporting documentation describes an additional 33 parking spaces being available on the public roadways of Roderick Street and Peel Street that may be used by students and staff. However, no arrangement for the use of these spaces with Council is in place. It is also noted that these parking spaces and loading bays are well used by the local and travelling community.

Toilet facilities provided throughout the building are sufficient to cater for 450 Students and 90 Staff, and three (3) accessible carparking spaces are proposed with associated shared zone/s. However, as noted in the Applicant's response to Council's Request for Information dated 08 May 2024, student numbers are proposed at 295 with 30 teaching staff.

The proposal will not require demolition with a separate application (DA2024-0227 - Demolition of Velodrome) being approved on 14 June 2024 for these works.

The landscape design provides for significant planting throughout the site.

The key development data is provided in **Table 1**.

Table 1: Development Data

Control	Proposal	
Site area	11,120 m ²	
GFA	2,192 m ²	
FSR (retail/residential)	N/A	
Clause 4.6 Requests	No	
Hours of Operation	For Staff:	
	Monday to Friday	5am to 11pm
	Saturday and Sunday	6am to 11pm
	For Students:	
	Monday to Friday	6am to 11pm

	Saturday and Sunday	6am to 11pm
Max Height	18.7m	
Landscaped area	Total area not specified, however substantial in context of site.	
Car Parking spaces	53	
Setbacks	North (to Roderick Street) 7.79m	7.79m
	East (to Peel Street) From Educational Facility	25.6m
	From Services Building	1m (approx.)
	South (to Scott Road)	85.7m
	West (to Peel River Boundary)	16.26m

2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the application on 28 September 2023 where various issues were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- The proposed development is required to comply with the carparking requirements. The Proponent indicated that the design complies with Parking requirements. Post Meeting Comment: Parking calculations must not rely on street carparking spaces are not considered in the parking calculations);
- Design should connect to the river path; and,
- Colours and materials of the site to match earthy/ local tones.

The DA was lodged on **8 December 2023**. A chronology of the DA since lodgement is outlined in **Table 2**.

Table 2: Chronology of the DA

Date	Event
27/12/2023 - 14/02/2024	Exhibition of the application
20/12/2023	DA referred to external agencies
13/03/2024	Panel Briefing
17/04/2024	Request for Information from Council to Applicant

08/05/2024	<p>RFI response received with minor amendments to plans. Amendments limited to additional detail on Plant Room materiality and presentation, and a minor realignment of the carparking layout (contained within the updated Traffic Impact Assessment).</p> <p>Updated plans accepted by Council under CI 38(1) of the <i>Environmental Planning and Assessment Regulation 2021</i> ('2021 EP&A Regulation') on 03/06/2024 when individual documents/plans were uploaded to the Planning Portal.</p>
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2.3 Site History

The site has historically been utilised as public open space, with a concrete velodrome occupying the site for the past 30 years. Refer to aerial photograph (**Figure 7**) for site conditions at time of lodgement.

Figure 7: Aerial Image of Site – January 2024



The application history of relevance for the subject area of the site is:

- **DA077/1993** - Velodrome Bicycle Facility Club - Approved 17 June 1993; and
- **DA601/2002** - Installation of Light Poles and Fittings to Velodrome - Approved 20th May 2002.
- **DA2024-0277** - Removal and demolition of infrastructure at existing velodrome and level site – Approved 14 June 2024.

3. STATUTORY CONSIDERATIONS

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

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (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, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

- Crown DA (s4.33) - written agreement from the Crown to the proposed conditions of consent must be provided.

The development is classified as Crown Development as the UNE is identified as the Crown under the provisions of Clause 294(b) of the EP&A Regulation 2021, and subsequently Section 4.32(2)(a) of the EP&A Act 1979 identifies the proposed DA is Crown development.

As Crown Development, defined through Section 4.33 of the EP&A Act, a consent authority (other than the Minister) must not:

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

As such, the proposed conditions of consent have been supplied to the Applicant for review and approval prior to the recommendation of approval being presented the Planning Panel for consideration.

As previously noted, an unresolved aspect of the application is the recommended imposition of S7.12 contributions which is detailed, with Council's reasons for their inclusion, further within this report.

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

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

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Tamworth Regional Local Environmental Plan 2010*
- *Tamworth Regional Development Control Plan 2010*

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

Table 2: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Clause 4.9(2) – requires Council to consider the impact of development on koala habitat. Council is satisfied that the proposal will have minimal impact on koala habitat, there being no koala habitat on or around the subject site, and therefore consent can be granted.	Y
State Environmental Planning Policy (Sustainable Buildings) 2022	Chapter 3: Standards for non-residential development Schedule 3: Standards for energy and water use for large commercial development	Y
State Environmental Planning Policy (Industry and Employment) 2021	Chapter 3: Advertising and Signage Section 3.6 – granting consent to signage	Y

State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development Clause 4 of Schedule 6 – declares the development to be regionally significant development as it comprises Development carried out by or on behalf of the Crown with an estimated development cost of more than \$5 million.	Y
State Environmental Planning Policy (Resilience & Hazards) 2021	Chapter 4: Remediation of Land Clause 4.6 – contamination and remediation have been considered and, as such, the site is suitable for the proposed development.	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 3 – Educational Establishments & Childcare Facilities <ul style="list-style-type: none"> Clause 3.46 Development Permitted with Consent – the proposed development is permitted with consent as it is located within a prescribed zone (E2), which is prescribed zone for universities in Section 3.44. Clause 3.58 Traffic Generating Development – the proposed development has been referred to TfNSW, with the matters referred to in subsection (3) taken into consideration. 	Y
Proposed Instruments	Nil	N/A
Tamworth Regional Local Environmental Plan (TRLEP) 2010	Clause 2.3 – Permissibility and zone objectives Clause 4.4 – Floor Space Ratio Clause 5.10 – Heritage Clause 5.21 – Flood Planning Clause 7.1 – Earthworks Clause 7.6 – Development in flight path Clause 7.11 – Design Excellence	Generally compliant
Tamworth Regional Development Control Plan (TRDCP) 2010	Step 2 – Commercial / Retail Development Controls Step 3 – Environmental Controls	Generally compliant

Consideration of the relevant SEPPs is outlined below.

State Environmental Planning Policy (Biodiversity & Conservation) 2021

Chapter 2: Vegetation in non-rural areas

Chapter 2 of the Biodiversity and Conservation SEPP seeks to protect the biodiversity and amenity values of trees and other vegetation in non-rural areas. As the subject land is located within the E2 Commercial Centre zone, this Chapter applies.

Six (6) existing trees / shrubs on the subject land will need to be removed in order to accommodate the development. The Flora and Fauna Assessment Report (prepared by Moss

Environmental, dated 30 August 2023) accompanying the DA found that there were no native plant communities within the subject site and that most of the flora species are weeds or cultivated natives not of local provenance.

The proposed development includes planting to offset the proposed tree removal. The submitted landscaping plans show a mixture of native trees, grasses, shrubs and groundcovers throughout the site.

Chapter 4: Koala habitat protection 2021

Pursuant to Clause 4.9(2) of this Policy, Council must assess whether the development is likely to have any impact on koalas or koala habitat. Six (6) existing trees / shrubs are required to be removed in order to facilitate the proposed development. The Flora and Fauna Assessment Report (prepared by Moss Environmental, dated 30 August 2023) accompanying the DA found that there is no koala habitat on the subject site and an unlikely presence of Koala. On this basis, Council is satisfied that the development is likely to have a low or no impact on koala and consent can be granted to the DA.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 3 of this Policy applies to development, other than development for the purposes of residential accommodation, that involves the erection of a new building, if the development has an estimated development cost of \$5 million or more, as is the case with the subject application.

The Policy requires that the consent authority must consider whether the development is designed to enable the following in deciding whether to grant consent:

- (a) *the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,*
- (b) *a reduction in peak demand for electricity, including through the use of energy efficient technology,*
- (c) *a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,*
- (d) *the generation and storage of renewable energy,*
- (e) *the metering and monitoring of energy consumption,*
- (f) *the minimisation of the consumption of potable water.*

Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

The application has been supported by an Environmentally Sustainable Design (ESD) report, and a Section J NCC report, both prepared by ADP Consulting/Engineering that addresses the matters for consideration as described by the SEPP, along with a wider suite of overarching controls and regulations.

On review of the supplied information, it is considered that the proposed development is able to adequately meet the requirements of the SEPP, noting that finite design is not undertaken at the preliminary design stage, and that will be the responsibility of the Crown Certifier (CC) post approval.

State Environmental Planning Policy (Industry and Employment) 2021 ('Industry and Employment SEPP')

Chapter 3 of the Industry and Employment SEPP aims to regulate the quality of the signage and ensure effective communication of content is located in suitable locations, and is of a high-quality design, consistent with the character of the area. Section 3.6 of this policy requires the consent authority to ensure the signage is consistent with the objectives of this chapter and the assessment criteria provided in Schedule 5, prior to granting an approval.

The proposal includes business identification and wayfinding signage in varied form, with pedestrian wayfinding signage as pylons, vehicular entrance and directional signage also as pylons, and campus naming signs as metal pin hung signage with lighting.

An assessment of the proposed signage against Schedule 5 is provided in **Table 4**.

Table 4 – Consideration of Schedule 5 Requirements

Assessment Criteria	Comments	Comply (Y/N)
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?	The proposed signage does not cause any undesirable impacts on the surroundings, and considered compatible with the existing and future context of the site and area.	Y
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	There is no particular theme for outdoor signage in the locality. A variety of signs, both illuminated and non-illuminated, both pylon and wall mounted are found in the area. The scale and form of the proposed signage is not inconsistent with present local character.	Y
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?	The site is not in a significant view corridor or an identified environmentally sensitive area. The adjacent waterway of the Peel River is beyond a formed levee bank, and is not envisaged to be impacted by the proposed signage in any manner.	Y
3. Views and vistas Does the proposal obscure or compromise important views?	No important views or vistas are found in proximity to the development.	Y
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage is located at ground level of the development, and will not dominate the skyline or reduce any views across the site.	Y

Does the proposal respect the viewing rights of other advertisers?	The proposed signage would not interfere with any existing signage.	Y
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed scale and form of the signage is justified by its location, the streetscape and the intended use. It is not considered to be out of proportion to the development proposed.	Y
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage proposed is a considered response to the development, and is of a scale and design that contributes positively to the streetscape.	Y
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	Signage as proposed is succinct and located in rational areas of the development.	Y
Does the proposal screen unsightliness?	The proposed signage on the plant room wall has been designed to screen the otherwise potentially bland cement block exterior. Other signage is not considered to be screening unsightliness, though given the development is for new construction, there is not likely to be unsightly areas that require screening.	Y
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	All signage is affixed to ground level structures, or the ground itself.	Y
Does the proposal require ongoing vegetation management?	No vegetation management will be required specifically in relation to signage.	Y
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?	The proposed signage is compatible with the scale of the proposed development, and is to be located within areas of the site likely to appear complimentary to the built environment and surrounds.	Y

Does the proposal respect important features of the site or building, or both?	The signage is of a scale that respects the proposed built form, and is not out of character when considered against the existing signage within the immediate area.	Y
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage design is compatible with the building design and fits into the context without causing any undesirable impacts.	Y
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?	The signage is generally with internal illumination. The wall mounted signage proposed will have external illumination, though it is at grade, and safety devices are not required.	Y
7. Illumination Would illumination result in unacceptable glare?	<p>The site is located within a defined CBD area where signage with illumination is expected. Noting though that the site is at the fringe of the CBD, and that residential land is located nearby, the Applicant has proposed that <i>the signage shall be fitted with a timer switch to dim or turn off the light by 12.00 pm each night. The signage will also be designed to comply with Australian Standard AS 4282 - Control of the Obtrusive Effects of Outdoor Lighting.</i></p> <p>The proposed signage is not considered to result in unacceptable glare.</p>	Y
8. Safety Would the proposal reduce the safety for any public road?	The signage is wholly within the subject allotment, and is of a scale and content that is unlikely to cause a reduction in safety through obscured sightlines or distraction through content.	Y
Would the proposal reduce the safety for pedestrians or bicyclists?	No, the proposed signage is located within the site without interfering with the activities in the road reserve or pedestrian and cycling network.	Y

Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No. Signage is proposed in areas of the site that would not cause interference with pedestrian movements.	Y
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State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

The proposal is regionally significant development pursuant to Section 2.19(1) as it satisfies the criteria under Clause 4 Schedule 6 of this Policy. The proposal is development for the purpose of crown development and has a Capital Investment Value of more than \$5 million. In this regard, the Northern Regional Planning Panel (NRPP) is the consent authority for the DA.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021 ('the Resilience and Hazards SEPP')* have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

A Preliminary Site Investigation Report (PSI) prepared by JK Environmental and a Geotechnical Investigation Report prepared by JK Geotechnics have been prepared to support the DA. The PSI report found that the site can be made suitable for the proposed development. However, the PSI makes the following recommendations:

- *Undertake a Detailed Site Investigation (DSI) to address the data gaps identified in Section 9.4 of the Report, noting that it would be reasonable to limit the DSI to broadly capture the proposed development footprint; and,*
- *If the DSI identifies a need for remediation, a RAP will be required and the site will need to be remediated and validated to confirm site suitability.*

The site has been subject of borehole sampling undertaken as part of this application, with the results being of relevance to the subject of contamination. In total, 15 boreholes were drilled, with minor traces of ash, plastic, glass and slag being noted only in fill material of the site. Asbestos was not detected, and volatile hydrocarbons were not detected. The soil testing undertaken did not trigger any concerns for chemical prevalence.

The subject of contamination was considered under a separate application (DA2024-0277), which consented to the demolition of the existing structures on the site.

Council is satisfied that there are no known contaminants expected to be found on site, and that appropriate conditions can be recommended to safely manage any unknown contaminants found during works. As such, the requirements of this policy are met.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 3 of the Transport and Infrastructure SEPP standardises the approval pathways and assessment considerations for educational establishments and early education and care facilities across the state. Relevant sections under this policy are discussed below.

The subject site contains E2 zoned land which is identified as a prescribed zone for universities in Section 3.44.

Section 3.46(1) permits development for the purpose of a university to be undertaken by any person with development consent on land in a prescribed zone.

Section 3.58 of the Transport and Infrastructure SEPP nominates educational establishments with a capacity of 50 or more students and is a new premises, as traffic generating developments. As per Section 3.58(2), the consent authority is required to notify such development to Transport for NSW (TfNSW) and take into consideration the following matters in subsection (3), prior to the determination of the application:

Section 3.58(3) The consent authority must take into consideration—

- (a) any submission that TfNSW provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and*
- (b) the accessibility of the site concerned, including—*
 - (i) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (ii) the potential to minimise the need for travel by car, and*
- (c) any potential traffic safety, road congestion or parking implications of the development.*

The application was notified to TfNSW who provided a response advising that insufficient information has been provided by the Applicant to enable TfNSW to complete the assessment. To enable TfNSW to undertake a thorough assessment of the proposal, a number of items were required to be addressed. The items sought were included in the RFI sent to the Applicant on 17 April 2024, with response received 03 June 2024.

The revised information was referred back to TfNSW who responded on 21 June 2024 with the following comments:

TfNSW has reviewed the referred information and provides the following comments to assist the consent authority in making a determination:

- The justification of less parking due partly to promotion of alternative modes of transport should mean maximising pedestrian and bicycle facilities. Council should ensure the proposal has adequate, safe and connected walking and cycling infrastructure for the campus as well as the provision of end of trip facilities (lockers, bike stands, showers etc).
- Council should consider a continuation of the shared path along the front of Peel Street to allow for flow of bicycles and pedestrians to the site.
- Adequate public transport facilities and infrastructure, such as bus stops and shelters should be planned for to accommodate the student population and encourage public transport use.

- Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.
- All matters relating to internal arrangements on-site such as traffic / pedestrian management, parking, manoeuvring of service vehicles and provision for people with disabilities are matters for Council to consider.

Details relating to traffic impacts, parking and pedestrian management, any road treatments required, and traffic management during construction are provided under 'Key Matters' in Section 5 of this report. Of note is the referral response requiring Council to ensure that a continuation of the shared path along the Peel Street frontage is included in plans, and that the development has adequate, safe and connected walking and cycling infrastructure for the campus.

Tamworth Regional Local Environmental Plan 2010

The relevant local environmental plan applying to the site is the *Tamworth Regional Local Environmental Plan 2010* ('the LEP'). The aims of the LEP include the need to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts, and to encourage the orderly management, development and conservation of natural and other resources within the Tamworth region by protecting, enhancing or conserving important and culturally significant lands.

As with many plans, the Tamworth LEP seeks to allow flexibility in the planning framework so as to encourage orderly, economic and equitable development while safeguarding the community's interests and residential amenity and aims to manage and strengthen employment opportunities whilst promoting ecologically sustainable urban development.

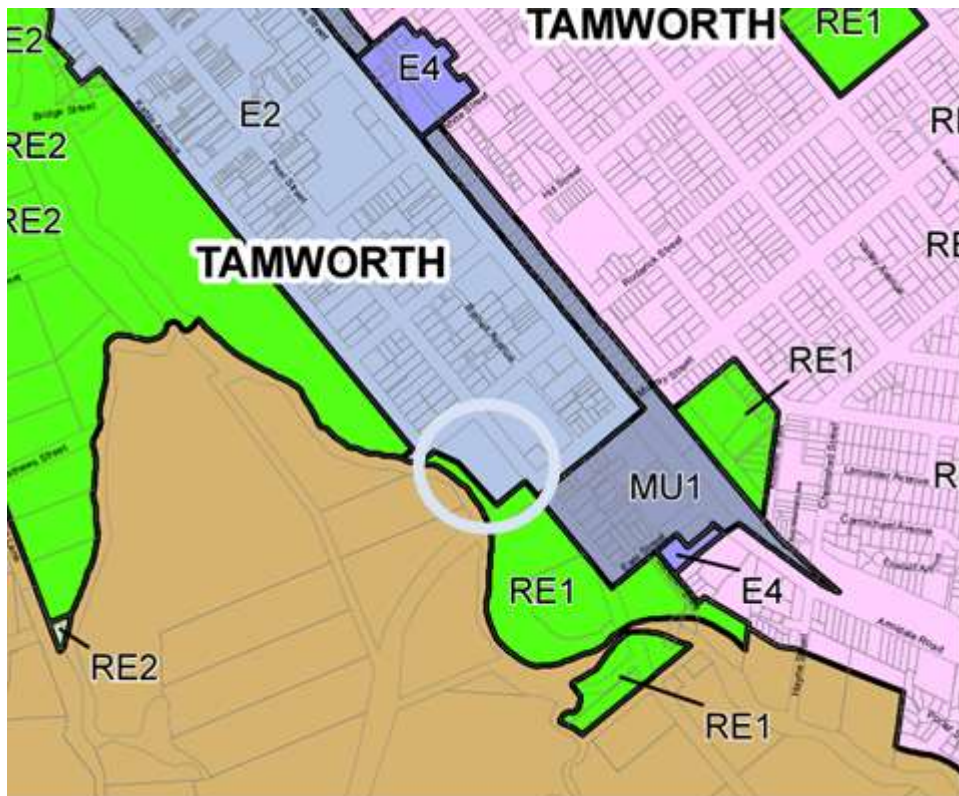
The proposal is consistent with these aims, seeking consent to utilise an area of land as a new educational facility which was historically used as public open space, and in recent times as a disused velodrome track – itself replaced with a new, fit for purpose facility at the Tamworth Regional Cycling Centre. The available areas of public open space near the CBD of Tamworth would not be noticeably reduced due to the development, with the riverfront area remaining undisturbed post the proposed development.

The proposed educational facility has been designed to ensure the retention of culturally significant lands – with an extensive Aboriginal Cultural Heritage Assessments and European Heritage Impact Statement prepared in support of the application, and with ecological sustainability at the fore, evidenced by the supplied Environmental Sustainable Design Report that details the measures taken to incorporate ESD principals throughout the design process.

Zoning and Permissibility (Part 2)

The site is located within the E2 Commercial Centre pursuant to Clause 2.3 of the *Tamworth Regional Local Environmental Plan 2010* (TRLEP 2010) (**Figure 8**). The proposal is permissible in the zone with consent. The proposal is generally consistent with the zone objectives.

Figure 8: Zoning Map



The proposal is identified as meeting the definition of **educational establishment** which is a permissible use with consent in the Land Use Table in Clause 2.3.

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

- *To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.*
- *To encourage investment in commercial development that generates employment opportunities and economic growth.*
- *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
- *To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*

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

- Provides a compatible land use complementary to the role of the city centre without compromising the existing business, retail or cultural uses within the centre;
- Is committing substantial investment to the city centre that will both enable employment opportunities, and attract substantial numbers of people to the city centre; and,
- Integrates a land use in an accessible location that will enable and encourage walking and cycling.

The proposal is considered to fit the subject site, and larger locality, by siting a significant social aggregator in a location on the periphery of the existing city centre – able to utilise and enhance existing social infrastructure, and provide a steady influx of people to the CBD who will, in turn, utilise existing businesses and enhance economic growth in the area.

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

The controls relevant to the proposal are considered in **Table 5** below

Table 5: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
FSR (CI 4.4(2))	The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map – 0.4:1.	The Subject site area is 11,120m ² resulting in an allowable developable area of 44,480m ² . The plans show a proposed floor area of 2,173m ² which is approximately 0.05:1, or 5% of the potential gross development area of the and complies with the maximum FSR.	Yes
Heritage (CI 5.10)	This part requires that the consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.	The subject land is not identified as holding Aboriginal or European heritage in any mapping, however the precautionary approach to development has been undertaken by the Applicant, and an Aboriginal Cultural Heritage Assessments and European Heritage Impact Statement has been prepared for the site. No items of cultural significance were identified, and no further assessment is required.	Yes
Flood planning (CI 5.21)	Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development— (a) is compatible with the flood function and behaviour on the land, and	The subject land is identified partially on the Flood Planning Map. Council's Development Engineering Division has confirmed that the site is protected by the Tamworth CBD levee along Peel River, and as such, Council does not consider this location to	Yes

	<p>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p>	be within the Flood Planning Area as defined in the LEP so the flood related development controls in the LEP do not apply.	
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Furthermore, a condition has been included in the recommended conditions requiring engineering certification to be provided to Council or the Crown Certifier prior to the commencement of works to demonstrate that the structures and foundations of the development do not affect the performance of the flood levee.

Additional Local Provisions (Part 7).

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 6** below.

Table 6: Consideration of the LEP Additional Local Provisions Controls

Control	Requirement	Proposal	Comply
Development in flight path (CI 7.6)	Development consent must not be granted to erect a building on land in the flight path of the Tamworth Airport if the proposed height of the building would exceed the obstacle height limit determined by the relevant Commonwealth body.	The proposed development seeks consent for a building with a maximum height of 18.7m, complying with the stated OLS height controls.	Yes

	The applicable Obstacle Limitation Surface Map identifies a height of 45m being relevant to the site.		
Design excellence (CI7.11)	<p>The objective of this clause is to deliver high quality urban design in the Tamworth City Centre. Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.</p> <p>A series of stated matters for consideration are listed,</p> <p>(a) <i>whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</i></p> <p>(b) <i>whether the form and external appearance of the development will improve the quality and amenity of the public domain,</i></p> <p>(c) <i>whether the development detrimentally impacts on view corridors,</i></p> <p>(d) <i>whether the development incorporates active frontages to streets and pedestrian thoroughfares,</i></p> <p>(e) <i>how the development addresses the following matters—</i></p> <p>(i) <i>the suitability of the land for development,</i></p> <p>(ii) <i>existing and proposed uses and use mix,</i></p> <p>(iii) <i>heritage issues and streetscape constraints,</i></p>	<p>Noting that design is subjective, and that the assessment requires no review by independent Architects, the proposal generally exhibits elements of design considered to be of a high quality, and is thought to have considered the objectives and stated matters in a manner sufficient to exhibit design excellence.</p> <p>The proposed works have been designed by “Architectus” a regarded Australian Architect firm, who describe the project and design as;</p> <p><i>“A collaboration with First Nations design partner, Yerrabingin, and members of the local community, the building’s design celebrates connection to the river and landscape, enlivens the urban edges of the campus, creating a welcoming and inclusive environment.</i></p> <p><i>Drawing inspiration from Tamworth’s scenic setting, the language of the landscape is reflected in the geometry of the building, with opportunities to implement local materials, and to create both external and internal spaces that are inviting and offer outlook, with generous shade and connection to the natural environment.</i></p> <p><i>The new four-storey building prioritises flexibility, amenity, and connectivity to enrich the</i></p>	Yes

	<p>(iv) <i>the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</i></p> <p>(v) <i>bulk, massing and modulation of buildings,</i></p> <p>(vi) <i>street frontage heights,</i></p> <p>(vii) <i>environmental impacts such as sustainable design, overshadowing, wind and reflectivity,</i></p> <p>(viii) <i>pedestrian, cycle, vehicular and service access, circulation and requirements,</i></p> <p>(ix) <i>the impact on, and proposed improvements to, the public domain.</i></p>	<p><i>campus and student experience. With over 2,000 square metres, the facility will include flexible, multi-purpose spaces to support teaching, research, and collaboration. The building is designed to achieve a 5-star Green Star rating.”</i></p> <p>The design of the main building is open at ground level and glazed for the levels above on the elevation toward the Peel River, allowing for Active frontages where pedestrian movements are most prolific, and the mass and scale of the building is complementary to existing development nearby.</p> <p>Pedestrian and cycle linkages to existing infrastructure are available – though as discussed further throughout this assessment, able to be further enhanced through recommended conditions of consent.</p> <p>Notwithstanding the potential for pedestrian and cycle connectivity to be explored further, Council considers the design to hold sufficient elements of design excellence to achieve compliance with the stated matters for consideration within this clause.</p>	
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The proposal is considered to be generally consistent with the LEP.

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

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

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

The following Development Control Plan is relevant to this application:

- *Tamworth Regional Development Control Plan 2010* ('the DCP')

The DCP does not contain any specific controls for university developments. However, the controls under the "Other Types of Development Control's" are relevant and discussed in Table 7 below:

Table 7 – DCP Assessment

Development Control	Comment
Building Setbacks	Side and rear setbacks must meet BCA requirements as detailed within the accompanying BCA Report prepared by Jensen Hughes Australia.
Building Height	No height restrictions are applicable to the site. The DCP requires that reference is made to the LEP for Floor Space Ratio, of which the development complies fully with.
Outdoor Lighting	Lighting is to be conditioned to attain compliance with AS/NZS 11583.1 Pedestrian Area (Category P) Lighting and AS4282 Control of Obtrusive Effects of Outdoor Lighting.
Outdoor Signage	Signage has been assessed against the requirements of SEPP Industry and Employment within Table 4 of this report.

Design	<p>The proposed building has been designed by Architects to respond to the circumstances of the site, and utilises an articulated form with colour and arrangement of elements that complement the character of the area.</p> <p>The design is considered under the design excellence provisions within Table 6.</p>
Utilities and Services	All services required for the development are available to the site.
Traffic and Access	<p>The DCP requires that design must demonstrate that there is no conflict between pedestrian, customer vehicles and delivery vehicles. Further, the DCP requires that loading bays must be sited to avoid use for other purposes such as customer parking or materials storage, and be line marked and signposted.</p> <p>Separate, signposted entrance and exit driveways are required for developments requiring more than 50 parking spaces or where development generates a high turnover of traffic.</p> <p>Council's Development Engineering Division has reviewed the proposed development, and subsequent designs in response to</p>

	<p>requests for information and whilst some matters identified through the assessment process have yet to yield full compliance in relation to traffic and access, conditions have been provided.</p> <p>It is anticipated that the carpark will comply with AS2890, the required vehicle movements will be in a forward direction and a pedestrian link path be incorporated between the Peel River pathway on top of the levee and the ramp connecting the Foundation Building to the on-site carpark.</p>
Parking	<p>According to Council's Development Control Plan 2010 (Amendment No.16), now repealed, the specified parking requirement for an Educational Establishment was as follows:</p> <ul style="list-style-type: none"> • 1 car parking space per 2 staff members • 1 car parking space per 5 students <p>This identified that the development was short 21 spaces with 74 spaces being the calculated requirement for the staff and student numbers.</p> <p>However, during the course of the assessment of the application, Council adopted a new Amendment to the DCP (Amendment No. 17 adopted on the 23 July 2024), which stipulated new parking requirements for an <i>Education Establishment (or Tertiary Schools & Colleges)</i>, the adopted (and in force) requirement is as follows:</p> <ul style="list-style-type: none"> • <i>Subject to individual parking assessment inclusive of considerations regarding parking and turning areas for any auditoriums or sportsgrounds.</i> <p>Whilst the Applicant has presented information to support the parking shortfall in parking under Amendment No.16 (now repealed), they have also undertaken a parking assessment which has benchmarked against other university projects. This is discussed in greater detail within Section 5 of this report.</p> <p>Council staff have reviewed all the information submitted by the Applicant and is satisfied that the submitted number of spaces is sufficient however there are conditions required to be included to ensure the carpark, surrounding on street spaces and pedestrian linkages will function efficiently.</p>
Landscaping	<p>A landscape plan has been provided that shows sufficient consideration of the DCP requirements.</p>

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

- *Tamworth Regional Section 7.12 (formerly Section 94A) (Indirect) Contributions Plan 2013*

- *Tamworth Regional 7.12 (formerly Section 94) (Direct) Development Contributions Plan 2013*

Consistent with the Purpose and Objectives of the Tamworth Regional Section 7.12 (formerly Section 94A) (Indirect) Contributions Plan 2013 Scheme, Council is satisfied that the proposed development will or is likely to require the provision of or increase the demand for the community infrastructure within the immediate CBD locality and therefore requires the levy to be applied. In addition, according to the Contributions Plan, the proposed educational Establishment is not a type of use that benefits from an exemption to development contributions.

The Applicant has stated however that whilst they seek an exemption from payment of contribution fees, they are also conscious of their role within the centrally located site in the Tamworth CBD, they state –

“The UNE is recognised as the Crown by virtue of Clause 294 of the EP&A Regulation. Section 4.6 of the EP&A Act 1979 provides that in relation to Crown applications, a consent authority is unable to impose a condition of consent without the approval of the University or the Minister. However, the University is conscious of its central position in the Tamworth region LGA and its ongoing relationship with Council and the local community.

The UNE also understands the need to continue to work cooperatively with Council to reach agreement on an appropriate balance of development conditions that meet Council’s planning responsibilities, whilst also meeting the University’s need to provide critical infrastructure.”

Further, the Applicant notes that –

“Crown Development Applications and Conditions of Consent” was formulated in 1995, it still remains the guiding document in relation to Crown applications and development contributions. The effect of this circular is, that where the applicant is a Crown authority and the development is for Educational Services, no contributions should be collected for open space, community facilities, parking, and general local and main road upgrades. As the proposed development is for the purpose of a new university building, it is clearly development for the purposes of Educational Services. Contributions may however be levied for stormwater works.”

A comprehensive briefing was conducted with Council’s Executive Leadership Team during which the application and the associated potential contributions were thoroughly discussed. It was determined that these contributions should be applied in this instance. Council acknowledges the importance of the 7.12 Contributions and firmly believes that they are both applicable and necessary to be levied for this development.

The funds generated through the 7.12 Contributions are critical to supporting the planned upgrades and improvements to the Tamworth Central Business District (CBD), and the funds generated through the imposition of these contributions will directly contribute to the enhancement of key infrastructure and public spaces, which are integral to the CBD revitalisation efforts underway – themselves of benefit to the UNE campus development.

The types of improvements that the contributions would go towards are outlined in the Tamworth’s Integrated Transport Plan (2024), which identifies Kable Avenue and the broader CBD as priority precinct improvements. Utilising the contributions from this application, Council can ensure that the development supports the city’s strategic goals for growth and revitalisation in the CBD.

Part 3.4 of the Contributions Plan also relates to the demand for public facilities and services being a fundamental principle of development contributions. It is considered the proposal has a direct nexus to the key aspects identified in Part 3.4, which are:

- *whether the anticipated development actually creates a demand or increases the demand for a particular public facility;*
- *whether the estimates of demand for each item of public infrastructure to which the proposed development contribution relates are reasonable;*
- *what types of facilities will be required to meet that demand;*
- *whether the proposed development contribution is based on a reasonable apportionment between existing demand and new demand for public infrastructure to be created by the proposed development to which the contribution relates;*
- *whether the proposed development contribution is based on a reasonable estimate of the cost of proposed public infrastructure; and*
- *when facilities will be provided to meet the demand of the development – often expressed as timing or thresholds*

Council is of the view this development will create extra demand to the immediate locality and that it is already making a significant contribution to UNE by authorising the sale of public land for a nominal fee to support a UNE campus in Tamworth. With this investment by Council and if the UNE agree to the imposition of 7.12 developer contributions, there is an opportunity for this development to make a significant contribution to public amenity works within the immediate CBD locality which will only benefit the UNE facility in the future.

Finally, Council believes this request is not out of the ordinary and there are many instances where Crown Developments have had contributions imposed, noting the following applications:

- *SSD-47749715 - University of Newcastle, Gosford Campus*
 - 7.12 and Special Infrastructure Contributions recommended to be levied.
- *PPSWES-205 - Additions to Educational Establishment - 141 Sheraton Road Dubbo*
 - Sewer – Water – Section 94 levied.
- *PPSNTH-281 - Educational Establishment - 327 Tamban Road Eungai Creek*
 - S7.12 contributions levied
- *PPSWES-226 - Information and Education Facility - 2 Coronation Drive Dubbo*
 - Sewer – Water – Section 94 levied.

Council is of the view that the proposed development is subject to the provisions of the Tamworth Regional Section 7.12 (formerly Section 94A) (Indirect) Contributions Plan 2013. The nominated cost of the development is \$26,515,000.00 (excluding GST) or \$29,166,500.00 (including GST). Therefore, the applicable Section 7.12 contribution is \$291,665.00 based on 1% of estimated construction cost (including GST) and shall be paid prior to occupation. A condition of consent is recommended in this regard.

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

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

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

Clause 66A of the Regulations states that a Council related development must not be determined by the consent authority unless the council considers the adopted conflict of interest policy in determining the application. The subject site is Council owned and as such the application is classified to be a Council related development.

The proposal meets the following management control and strategy requirements of the *Managing Conflict of Interest in Council-Related Development Policy*:

Management controls	Proposed	Complies?
Where Council is the assessing authority, the application shall not be prepared by Council's Liveable Communities Division. Alternatively, applications may be prepared by another Division of Council or external consultancy.	The application was prepared by an external Applicant: - Touchstone Partners	Yes
Council related applications are exhibited for a minimum 28 days.	The application was exhibited via the NSW Planning Portal for 28 days and 3 submissions were received.	Yes
Management controls for Council related DAs with a cost of works greater than \$5 million include: <ul style="list-style-type: none">• DA to be assessed by a third party consultant• DA to be determined by the Northern Regional Planning Panel (NRPP)	Estimated cost of proposed works is over \$5million. DA is assessed by Contract Planning Consultant. DA to be determined by the NRPP.	Yes

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

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

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

- Context and setting – The proposed development is considered appropriate for the context and setting of the site, and is located in an area of the CBD that is complementary to the surrounding locality. No land use conflict issues are anticipated subject to compliance with the recommended conditions of consent.

- Access and traffic – It is anticipated that the use of the site will not lead to significant adverse traffic impacts in the long term provided the relevant recommended conditions are incorporated into the final consent and adhered to. Access and traffic impacts are discussed in greater detail further in this report.
- Public Domain – The proposed development is considered to improve the public domain and streetscape through a considered design that has been formed through community consultation. The works will offer public landscaped areas that connect to the wider city centre and allow for rest, whilst locating future students in a purposefully designed multi storey building that offers views over the surrounding lands.
- Utilities – All utilities are available to the site.
- Water & Sewer – the subject land is connected to Council's reticulated water infrastructure and existing sewer infrastructure.
- Natural Hazards – the subject land is identified as being partially bushfire prone (to the top of the levee bank from the river side) but is not identified as being liable to inundation by flooding. No other natural hazards are known to affect the site. General referral conditions have been provided by the NSW Rural Fire Service and are included in the recommended condition of consent.
- Noise and vibration – the proposed development is expected to generate noise and vibration emissions during construction and, to a lesser extent, operations. However, given that there is approximately 200m separation to the nearest dwelling – itself across the New England Highway and that no submissions relating to noise were received during the public consultation period for the DA, no adverse impacts are anticipated. Conditions have also been included in the recommended terms of consent to preserve the amenity of the environment during construction and operations.
- Safety, security and crime prevention – Crime Prevention Through Environmental Design or CPTED has been considered as part of the assessment.

The four (4) principles are identified as follows: -

- Surveillance
- Access Control
- Territorial Reinforcement
- Space Management

The application has exhibited consideration of the four principals through design, whereby there are few areas where passive surveillance will not be available, and in those areas, it is expected that CCTV and on ground security will be available to monitor, and building entry will be signposted as well as having the building staffed at all operating hours.

The building and lands associated with the development can be expected to remain in good order and well maintained, which will assist in territorial reinforcement and space management.

- Social impact – It is anticipated that the proposed development will result in a positive social impact by providing new educational facilities that will cater to local and out of area students.

- Economic impact – the proposed development is likely to contribute to the economic sufficiency of the Tamworth community by providing University educational facilities associated with a regional provider that will help cater to the local population.
- Cumulative impacts – no adverse cumulative impacts are anticipated.

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

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

- The proposed development, being an 'educational establishment', is permitted with consent in the E2 zone and under Clause 3.46 of the Transport & Infrastructure SEPP 2021;
- The proposed development is considered to be consistent with the objectives for the E2 zone;
- The proposed development is not expected to result in detrimental impacts to the wider community, subject to the imposition of suitable conditions of consent; and,
- The attributes of the site are conducive to the proposed development, as discussed throughout this assessment report.

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

The application was exhibited between 27 December 2023 – 14 February 2024. Three (3) submissions were received against the application. These submissions are considered in Section 4 of this report.

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

The development is considered to achieve balanced and orderly outcomes and is in the public interest. The development has demonstrated no significant amenity impacts will arise now or in the future, subject to the imposition and compliance with recommended conditions of consent.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 8**.

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

Table 8: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
N/A			
Referral/Consultation Agencies			
RFS	S4.14 – EP&A Act Development on bushfire prone land	General referral conditions received. RFS note that entire development site shall be managed as an inner protection area in accordance with Appendix 4.1.1 of Planning for Bush Fire Protection 2019.	Yes
Transport for NSW	S3.58 - SEPP (Transport and Infrastructure) 2021 Traffic Generating Development	TfNSW has provided a response with recommendations dated 21 June 2024.	Yes
Essential Energy	Clause 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 requires referral of applications immediately adjacent to an electricity substation to be referred to the affected energy provider.	Essential Energy provided a response with recommendations on 11 February 2024	Yes
Integrated Development (S 4.46 of the EP&A Act)			
N/A - this Division does not apply to development the subject of a development application made by or on behalf of the Crown (within the meaning of Division 4.6), other than development that requires a heritage approval.			

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 9**.

Table 9: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	No objections subject to recommended conditions	Yes

Traffic	Council's Traffic Engineering Officer reviewed the proposal and raised concerns in relation to car parking. These issues are considered in more detail in the Key Issues section of this report. No objections subject to recommended conditions.	Refer to key Issues
Building	No objections subject to recommended conditions	Yes
Health	No objections subject to recommended conditions	Yes

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan 2019 from 27/12/2023 until 14/02/2024. The notification included the following:

- Notification on the NSW Planning Portal;
- Notification letters sent to adjoining and adjacent properties; and,
- Notification on the Council's website.

The Council received a total of three (3) unique submissions, comprising three (3) objections and nil submissions in favour of the proposal. The issues raised in these submissions are considered in **Table 10**.

Table 10: Community Submissions

Issue	No of submissions	Council Comments
Parking is not provided at a sufficient rate to cater for the proposed student and staff numbers	2	<p>The specific detail of objection goes further by suggesting that the staff and student numbers proposed are unlikely to remain as low, and that the University will seek higher student numbers to remain viable, in turn requiring more staff.</p> <p>In consideration of the subject application, assessment can only take place with regard to the information proposed, not assumption, and as such, the assessment has considered the 30 staff and 295 students in relation to the car parking rates.</p> <p>This issue has been discussed in detail throughout section 5 of this report.</p>
The site would be better used as a regional art gallery	1	The subject application is a permissible land use within the E2 zone. The Tamworth Regional Blueprint 100 has identified the site as the location of a future University Precinct. The proposed use is consistent with the envisaged use of the site.

<p>The building appears to have not been designed with energy efficiency in mind</p>	<p>1</p>	<p>The buildings proposed have been designed by Architects, a nationally renowned Architecture firm, with a preliminary Section J report prepared in consideration of the proposed buildings that outlines the NCC 2022 Section J Part J4 compliance requirements for the subject project.</p> <p>In addition, an Environmentally Sustainable Design Report has been prepared that notes <i>“Preliminary works for climate resilience has been carried out through a high-level climate projection and as microclimate study. It is recommended for the project to pursue natural ventilation in passive design through building orientation in NW-SE direction, solar panels on rooftop, and rainwater capture.”</i></p> <p>The project is considered to display sufficient consideration in terms of energy efficiency.</p>
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5. KEY ISSUES

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

5.1 Car Parking, Traffic and Access

Car parking, traffic and access was a significant focus during the assessment of this application. Initially, as outlined in this report, Council’s Development Control Plan 2010 (Amendment No. 16) required the proposed development to provide 74 parking spaces to meet the needs of staff and students. With only 53 spaces proposed, the development fell short according to the DCP at the time by 21 spaces.

However, during the course of the assessment process, Council adopted a new amendment to the DCP (Amendment 17) on 23 July 2024. This recent amendment, now in force, introduced a revised parking calculation regime for Education Establishments, including Tertiary Schools and Colleges. These updated guidelines effectively require the Applicant to provide an individual parking assessment inclusive of considerations regarding parking and turning areas for any auditoriums or sportsgrounds.

In response to these revised requirements, the Applicant is expected to provide a comprehensive parking analysis that aligns with the new standards. This assessment should justify the parking provisions and demonstrate how the development will accommodate the updated parking needs effectively. Within the Traffic Impact Assessment, the Applicant notes that -

“The proposed 53 parking spaces are considered sufficient for the development, considering the availability of 33 spaces on adjacent streets (Peel and Roderick Street) and sustainable travel initiatives that will be employed by the project. The encouragement of alternative transportation use will reduce car reliance and promote pedestrian access, in line with sustainable transport goals and state policies.

All intersections operate at a satisfactory Level of Service both pre and post development, achieving a level of service A during AM and PM peak hours, except for the Marius Street and Murray Street roundabout, which achieves Level of Service B.

This indicates minimal significant delays or queues at relevant intersections near to the site after the proposed development.”

Further to this, the Applicant offers the following justifications for why the parking spaces allocated are sufficient:

- *“The site benefits from 33 on-street parking spaces on Peel Street and Roderick Street, reducing the need for excessive on-site parking.*
- *Proposed sustainable travel initiatives encourage staff and students to use alternative transportation modes, aligning with TfNSW's Road User Space Allocation Policy and fostering a safer, lower-traffic environment around the campus.*
- *The central location of the site within Tamworth provides strong connectivity to pedestrian and cyclist networks, including a shared path along Peel River, promoting active transportation.*
- *Reducing on-site parking also supports environmental sustainability by discouraging car dependency and enhancing the urban streetscape, maintaining a vibrant city centre atmosphere.*

These factors form the basis for the requested reduction to the DCP rate, supporting a more sustainable and efficient approach to campus development.

We note that the current Tamworth CBD Parking Strategy prepared by Tamworth Regional Council notes an average of at least 1,500 vacant car parking spaces at any one time within the city centre, indicating there is ample parking within the city centre available for overflow demands of the university should that overflow be required.

Additionally, UNE is open to exploring potential leasing car parking opportunities through commercial agreements to address potential overflow parking needs while the transport mode shift occurs.”

In response to Council's request for base traffic generation rates on a survey of similar existing developments. The Applicant stated –

It is important to note that the proposed development is unique to the city of Tamworth, with no current University campus of similar scale within Tamworth to compare trip generation rates with. To provide a comprehensive understanding of traffic and transport behaviour, census data showing Journey-to-work patterns (Place of work & Place of Residence), along with data from similar regional universities within other city centres has been included in Section 3.6.

Traffic modelling has been completed with consideration to a 10-year horizon. Analysis indicates that the level of service (LoS) remains within acceptable ranges, with levels primarily at LoS A and B for both post development and in the 10-year horizon.

The traffic study supports sustainable travel initiatives and encourages staff and student to use alternative transport modes, yet, a requirement to have a shared path on the adjoining street road reserves of Peel and Roderick Street has been rejected by the Applicant. It is Council's view that the shared pathway condition should remain. It is a very standard requirement and expectation that commercial developments install a path network on road frontages, to support safe pedestrian travel to the site. The shared path requirement as per this condition would vastly improve active transport opportunities as the UNE has claimed is important for the development and is also a justification for only having 53 spaces onsite.

Council is somewhat satisfied with the concluding statements made by the Applicant in relation to car parking numbers and the likely minimal traffic impacts on the adjoining street network as a result of this development, though notes that the conditions relating to contributions and shared pathway requirements on Roderick Street and Peel Street will be critical in ensuring adequate funds are available and pedestrian linkages are installed to assist

in upgrades to the CBD road network and public domain to offset the lack of parking provided through the subject development.

6. CONCLUSION

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

Overall, the site is considered suitable for the proposed educational establishment and is not considered to be contrary to the public interest nor result in a significant adverse social, environmental or economic impact. The proposal was found to be compliant with relevant legislation. It is considered the key issues outlined in this report have been resolved satisfactorily through design amendments and the recommended conditions of consent.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment 1**.

7. RECOMMENDATION

That DA2022-0192 for the construction an Educational Establishment - University of New England Campus on Part Lot 73 in DP 1107041, known generally as 545 Peel Street, TAMWORTH NSW 2340 be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the recommended conditions of consent attached to this report at **Attachment 1**.

The following attachments are provided:

- Attachment 1: Recommended conditions of consent
- Attachment 2: Approval from the Crown (Applicant) for imposition of Conditions
- Attachment 3: Plan Set for Endorsement
- Appendix A - Historical Approvals, Correspondence & Minutes from Meetings Relating to the Development
- Appendix B - Land Titles and Deposited Plan
- Appendix C - Bushfire Assessment Report
- Appendix D - Preliminary Site Investigation
- Appendix E - Architectural Design Report, Consultant Reports and Plans
- Appendix F - Utilities and Services, Civil Engineering Concept Design Report & Stormwater Management Plan
- Appendix G - Geotechnical Report
- Appendix H - Flora and Fauna Assessment & Tree Management Plan
- Appendix I - Section J Compliance Investigations
- Appendix J - Aboriginal Cultural Heritage Assessments and European Heritage Impact Statement
- Appendix K - Flood Concept Report

- Appendix L - Sediment and Erosion Control Plans
- Appendix M - Waste Management Strategy
- Appendix N - Noise Impact Assessment
- Appendix O - BCA Assessment Report
- Appendix P – Amended Traffic Impact Assessment