

COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-281 – DA2023/336
PROPOSAL	Educational Establishment
ADDRESS	Lot 22, Lot 23, Lot 24, Lot 25, Lot 26, Lot 41, Lot 42 and Lot 43 DP755559 (No. 387) and Lot 21 DP755559 (part No. 327) Tamban Road, Eungai Creek
APPLICANT	Newington College
OWNER	Newington College SWAMM PTY LTD
DA LODGEMENT DATE	21 December 2023
APPLICATION TYPE	Integrated Development
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 5 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: Educational Establishment
CIV	\$13,070,000 (excluding GST)
CLAUSE 4.6 REQUESTS	nil
KEY SEPP/LEP	n/a
TOTAL & UNIQUE SUBMISSIONS ISSUES SUBMISSIONS	Zero (0)
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Aboriginal Due Diligence Assessment • Access Report • Architectural Plans • BCA Performance Requirements Compliance Statement • Bushfire Assessment Report • Civil Engineering Plan • Cost estimate report • Cost estimate Report (Capital Investment Value) • Flora and Fauna Assessment • Site Infrastructure Report • Architectural Design Statement • Electricity Provision Letter • Site Plan

	<ul style="list-style-type: none"> • Owners Consent (Newington College) • Owners Consent (SWAMM PTY LTD) • Section J Report (NCC 2022) • Development Plans • Statement of Environmental Effects • Traffic Report • Waste Management Plan • Wastewater Management Plan • Water Management Plan • Preliminary Contamination Report
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	n/a
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	YES
SCHEDULED MEETING DATE	17 April 2024
PLAN VERSION	20 December 2023
PREPARED BY	Charles Watts
DATE OF REPORT	10 April 2024

EXECUTIVE SUMMARY

The development application (DA2023/336) seeks consent for an educational establishment, which includes the partial demolition of an existing building, the construction of 10 cabins to house 64 students and 4 on-site staff, the construction of a dining hall building which includes a dining area, reception area, health care facility and kitchen, and construction relating to access, including on-site parking for 8 vehicles and a secondary road in case of a bushfire emergency.

The subject site is known as 387 Tamban Road, Tamban ('the site') and is comprised of 9 separate lots along Tamban Road, Tamban. The site occupies an irregularly shaped area of 243 hectares. There are two vehicle access points to the site, both being from Tamban Road to the North.

Existing development on the site consists of a number of buildings, including an existing dwelling and various farm buildings. The land is currently in use as minor grazing for cattle, although a temporary camp ground was approved for a week in the month of April 2024.

The site is located in a rural area, with adjoining land mainly being used for cattle grazing purposes.

The site is located in the RU1 Primary Production and RU2 Rural Landscape zones pursuant to Clause 2.2 of the *Nambucca Local Environmental Plan 2010* ('LEP'). The proposed educational establishment and ancillary demolition are permitted with consent in the zone.

The principle planning controls relevant to the proposal include the *State Environmental*

Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Industry and Employment) 2021, State Environmental Planning Policy (Planning Systems) 2021, State Environmental Planning Policy (Primary Production) 2021, SEPP (Resilience & Hazards) 2021, SEPP (Biodiversity and Conservation) 2021), the Nambucca Local Environmental Plan 2010 and the Nambucca Development Control Plan 2010 ('DCP'). The proposal is consistent with the provisions of the planning controls.

There are referral requirements to Essential Energy for the proposal and the application is integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'), specifically with the NSW Rural Fire Service.

A referral to Essential Energy pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP') was sent and raised no objections to the development, with recommended conditions included in the draft conditions of consent.

A referral was made to the NSW RFS pursuant to section 100B of the *Rural Fires Act 1997* as the educational establishment is classified as a special fire protection purpose. General conditions of consent were received and have been included in the draft conditions of consent.

Jurisdictional prerequisites to the grant of consent imposed by the following controls have been satisfied including:

- Section 2.48(2) of the Transport and Infrastructure SEPP in relation to electricity distribution pole.

The application was placed on public exhibition from 20 January to 20 February 2024, with zero (0) submissions being received.

The application is referred to the Northern Regional Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause (5)(b) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is development for *an educational establishment* with a CIV over \$5 million.

All issues associated with the proposal are of a minor nature, and do not constitute a key issue that disrupts the permissibility of the development.

- There were concerns of potential contamination of the land, due to its previous use as agricultural land and its proposed use as an educational establishment. A preliminary contamination investigation was conducted by Regional Geotechnical Solutions, in which the was resolved with the results of the report, and the recommendations outlined have been included in the draft conditions of consent.
- There were concerns for emergency access in the case of a bushfire. The development was referred to the NSW RFS, and a relevant report was prepared as part of the application. The NSW RFS have given a list of conditions that will ensure the education establishment is compatible with the bush fire threat of the site. There were concerns for the development's proximity to electricity infrastructure.
- The development was referred to Essential Energy, and a relevant report was prepared as part of the application. Essential Energy have given a list of conditions that will ensure the education establishment is compatible with the existing and proposed electricity infrastructure.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, it is recommended that development consent be granted subject to the draft conditions contained at **Attachment A** of this report.

1. THE SITE AND LOCALITY

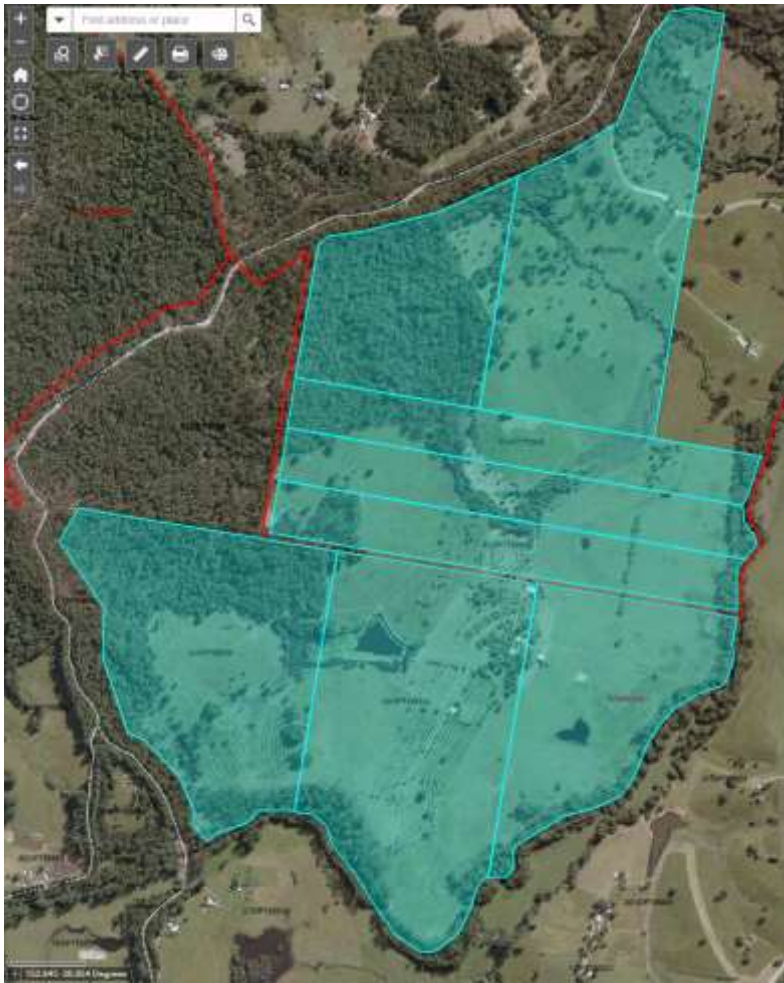
1.1 The Site

The site of the proposed development is 387 Tamban Road, Tamban and part of 327 Tamban Road, Tamban. 387 Tamban Road consists of Lots 22, 23, 24, 25, 26, 41, 42 & 43 DP755559 and the part of 327 Tamban Road is Lot 21 DP755559. The site area of the lots associated with the development total to approximately 243 hectares. The subject land has frontage to Tamban Road, with an approximate drive distance of 5 minutes to the village of Eungai Creek and 20 minutes to the township of Macksville. The adjoining land consists of low impact grazing.

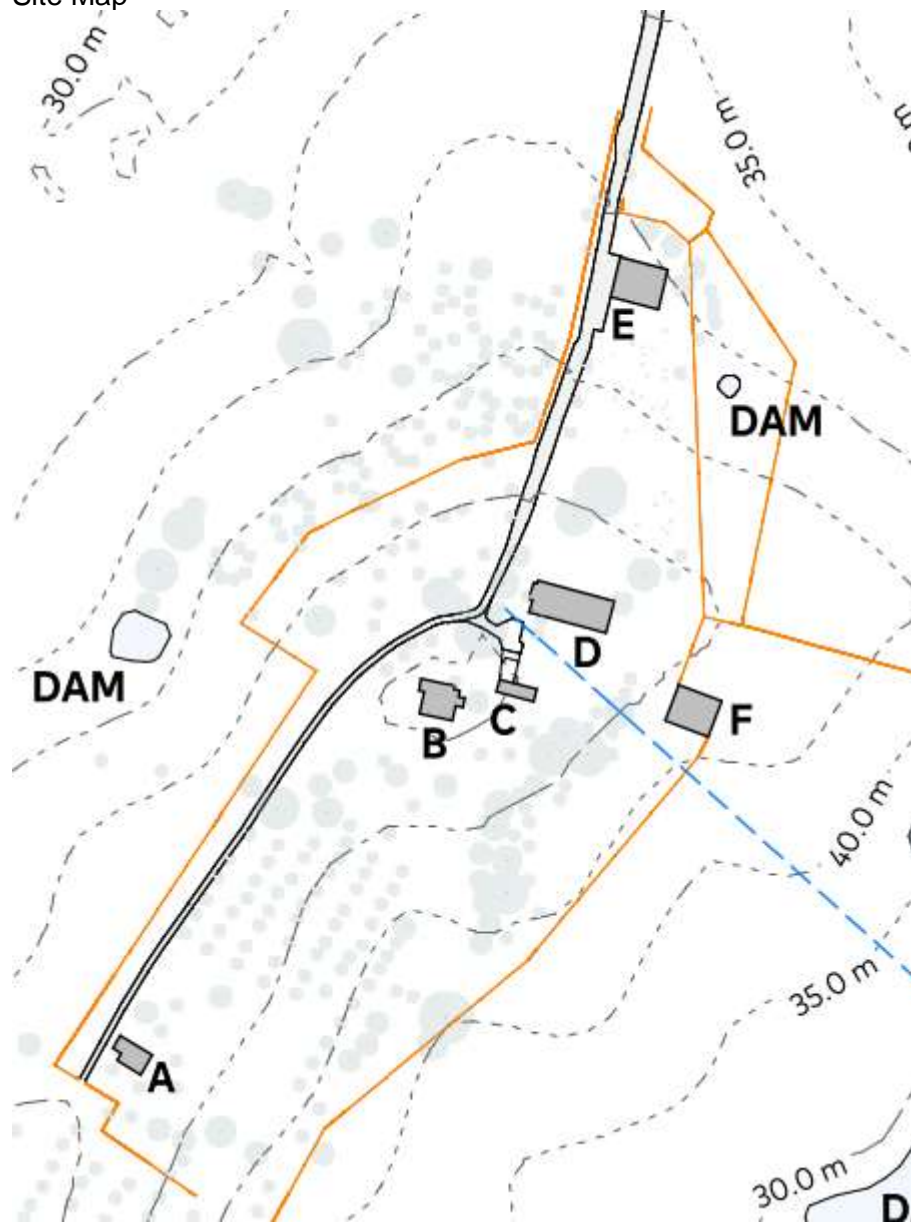
The site features multiple hills and gullies, with 15 total farm dams scattered across the lot. There are no features of significance on the land, and its previous uses have been associated with grazing of beef cattle and horticulture. The site currently features two existing dwellings, as well as multiple outbuildings in the form of farm sheds and stables.



Locality Map



Site Map



Existing site of educational establishment



Existing Building A



Existing Building B



Existing Building C



Existing Building D



Existing building E

1.2 The Locality

The adjoining land of the development is generally farmland used for grazing purposes. Tamban Road surrounds the north and west boundaries, while Eungai Creek abuts the south and east boundaries. The site is rural in context, and is a 5-minute drive to the small village of Eungai Creek. The nearest town centre is Macksville, being a 20-minute drive from the subject land.

There are other schools in the area, with a public school being located in Eungai Creek and multiple schools located in Macksville. There are no educational establishments of this type in the immediate vicinity.

As the subject land is in a fairly remote location, there is no opportunity for public transport and limited access to services – only reticulated electricity is available to the site. Services including water, sewerage and telecommunications are to be provided on site.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposed development is an educational establishment that will be used as a place for teachers and students to live in while undertaking educational activities on the subject land. It will involve the construction of 10 single story cabins for teachers and students, and a single-story dining hall with a dining area, reception area, healthcare facility and commercial kitchen.



Site plan for educational establishment



Educational establishment perspective



Cabin perspectives



Dining hall with attached reception perspectives

The development also involves the partial demolition of one of the existing outbuildings on site being the aforementioned building D.

The development will also require the construction of related infrastructure and utilities, including the construction of a secondary road for emergency bush fire access. The construction of the road will only require minor excavations and only minor tree clearing will be required as part of this development.

Table 1: Development Data

Control	Proposal
Site area	Approximately 243 Hectares
GFA	Approximately 2000 sqm
FSR (retail/residential)	n/a

Clause 4.6 Requests	No
No of apartments	n/a
Max Height	n/a
Landscaped area	n/a
Car Parking spaces	Eight (8)
Setbacks	Approximately 300m to South Eastern Boundary

2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the application on 18 October 2023 where various issues were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- Special Fire Purpose – the development is classified as special fire purpose, and the development was referred to the NSW RFS as integrated development.
- Water supply and waste water disposal – Rainwater tanks and on-site sewerage management systems will service the development.

The development application was lodged on **21 December 2023**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
21 December 2023	DA lodged
20 January 2024	Exhibition of the application
20 February 2024	Submissions close for application
15 January 2024	DA referred to NSW RFS, Essential Energy and the Northern Regional Planning Panel
15 January 2024	Request for Information from Council to applicant
16 April 2024	Panel briefing

2.3 Site History

- An application for a temporary camp ground on the site was made with Council. The camp ground was to run for a week in April, and was approved with consent on 13 March 2024.

- A private native forestry plan exists on the site, as well as an approval for a Timber Plantation from the NSW Department of Primary Industry (DPI). The application was referred to DPI and NSW Local Land Services with no objections received.

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'). These matters as 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.

It is noted that the proposal is considered to be (which are considered further in this report):

- Integrated Development (s4.46) – NSW RFS

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 (Transport and Infrastructure) 2021*

- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Primary Production) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Nambucca Local Environmental 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 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p>Chapter 2 – Infrastructure</p> <ul style="list-style-type: none"> • Clause 2.3 requires the referral of the development application to Essential Energy due to its proximity to a power distribution pole. <p>Chapter 3 – Education Establishments</p> <ul style="list-style-type: none"> • Part 3.4 does not apply to the buildings within the development, as they are in the RU1 zone which is not a prescribed zone outlined in clause 3.34. The access is in the RU2 zone, which is a prescribed zone. 	Y
State Environmental Planning Policy (Planning Systems) 2021	<p>Chapter 2: State and Regional Development</p> <p>Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 5(b) of Schedule 6 as it comprises an education establishment with an estimated development cost of more than \$5 million.</p>	Y
State Environmental Planning Policy (Primary Production) 2021	<p>Chapter 2: Primary Production and rural development</p> <p>Section 2.27 Requires Council to consider if the development will have an adverse effect on oyster aquaculture development or a priority oyster aquaculture area.</p>	Y
SEPP (Resilience & Hazards)	<p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> • Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions. 	Y
SEPP (Biodiversity and Conservation) 2021	<p>Chapter 3: Koala habitat protection 2020</p> <ul style="list-style-type: none"> • Clause 3.3 – This part applies to the proposed development as it is located in RU1 and RU2 zoning. 	Y
Proposed Instruments	No compliance issues identified.	Y

LEP	<ul style="list-style-type: none"> • Clause 2.3 – Permissibility and zone objectives • Clause 2.7 – Demolition requires development consent • Clause 7.4 – Public Infrastructure 	Y
DCP	<ul style="list-style-type: none"> • Part C – Car Parking and Traffic • Part D – Sediment and Erosion Control • Part F – Rural and Environment Developments • Part N – Waste Minimisation and Management 	Y

Consideration of the relevant SEPPs is outlined below.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 - Infrastructure

The proposal was referred to Essential Energy. Details of the referral can be found in section 4.1 of this report.

Chapter 3 – Education Establishments

Part 3.4 does not apply to the buildings within the development, as they are in the RU1 zone which is not a prescribed zone outlined in clause 3.34. The access is in the RU2 zone, which is a prescribed zone outlined in clause 3.34. There are no clauses that are applicable to the proposed access in the RU2 zone.

State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 5(b) of Schedule 6 of the Planning Systems SEPP as the proposal is development for an education establishment with an estimated development cost of more than \$5 million. Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Primary Production) 2021

It is not considered that the proposed development will result in any adverse effects on oyster aquaculture development or a priority oyster aquaculture area because of the sites location from any of these areas, with earthworks and stormwater flows resulting from the development being appropriately managed by conditions of consent.

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. In order to consider this, a Preliminary Site Investigation ('PSI') has been prepared for the site by Regional Geotechnical Solutions (RGS).

A Stage 1 Desktop SCA was required to assess past and present potentially contaminating activities and contamination types with regard to the site's suitability for residential land use. Residential land use has been adopted given the proposed development will involve student and a supervisor's accommodation. The previous and current activities on the site generally appear to have involved grazing or agricultural purposes since the 1930s. As such, identified AECs were predominantly associated with grazing and agricultural activities, existing structures, and unidentified disturbed areas.

Based on the results of site history study and walkover assessment outlined above, the following recommendations are made. Sampling and testing should be undertaken in the following areas:

- o Within AEC-2 around existing structures in the central and eastern portion of the site;
- o Within the former plantation areas (AEC-3) that are located in the central north, central portion, central south and southwest portions of the site;
- o Within the two stockpiles and structures identified as AEC-4 in the central portion and northwest portion of the site;

The site history assessment presented herein indicates that there is a low potential for residual contamination at the site and therefore it is recommended that limited judgemental sampling be undertaken rather than systematic grid sampling as defined by the NSW EPA (2022) 'Sampling Design Guidelines'.

Confirm that any imported fill that may be placed on the site for the proposed structures has been classified as Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM) in accordance with the Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 in accordance with the Resource Recovery Order under Part 9, Clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014 - the Excavated Natural Material (ENM) Order 2014).

Based on the results obtained in this investigation, RGS is of the opinion that the site can be made suitable for the proposed Newington College Eungai Campus, provided the recommendations and advice of this report are adopted, and site preparation works are conducted in accordance with appropriate site management protocols and legislative requirements.

Having considered the report from the applicant, Council will require the applicant to carry out, and provide a report on, a detailed investigation based on the recommendations above. A condition of consent has been added for these recommendations to be undertaken.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 3: Koala Habitat Protection 2020

Chapter 3 of the SEPP (Biodiversity and Conservation) 2021, which pertains to Koala habitat protection 2020, applies to the proposed development.

An ecological assessment of the study area prepared by WolfPeak Pty Ltd in relation to the provisions of this SEPP determined that the study area does not constitute Potential Koala Habitat. As such, the preparation of a Koala Plan of Management is not required to accompany the Development Application.

Nambucca Local Environmental Plan 2010

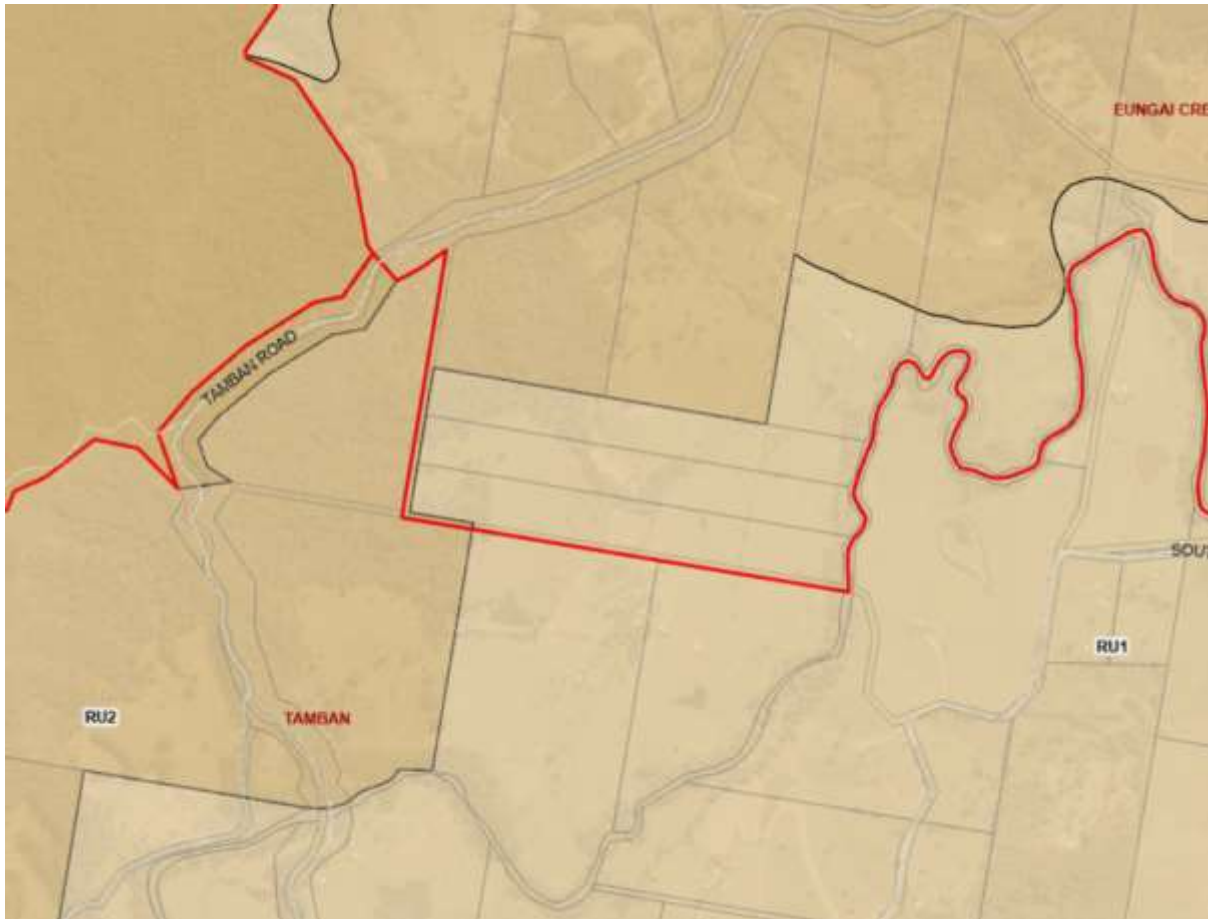
The relevant local environmental plan applying to the site is the Nambucca Local Environmental Plan 2010 ('the LEP'). The aims of the LEP include:

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,
- (a) to promote development that is ecologically sustainable,
- (b) to encourage growth in a planned and co-ordinated manner which will be economically and ecologically sustainable,
- (c) to protect, manage and enhance areas of high quality landscape, natural and scenic resources and environmental values, including water resources, wildlife habitat and corridors,
- (d) to protect and promote the use of rural resources for agricultural and primary production and related processing service and value adding industries,
- (e) to provide opportunities for rural, residential and hobby farm lifestyles on suitable land that is accessible and provided with adequate infrastructure,
- (f) to protect places and buildings of archaeological or heritage significance, including Aboriginal relics and places

The proposal is consistent with these aims as the proposal is for an educational establishment that promotes arts and cultural activity in an ecologically sustainable manner while protecting the landscape, environment, adjoining rural uses and places of archaeological and heritage significance.

Zoning and Permissibility (Part 2)

The site is located within the RU1 Primary Production and the RU2 Rural Landscape Zones pursuant to Clause 2.2 of the LEP.



Zoning of the subject land.

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies 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):

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

Zone RU2 Rural Landscape

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To control development which could have an adverse impact on the Council's urban water supply.

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

- The proposed development does not impede on primary industry production, does not fragment or alienate the resource lands, and minimises conflict between adjoining land uses.
- The proposed development maintains the rural landscape of the land by nature of being minor, single story development, and has no impact on Council's urban water supply.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Demolition requires development consent (CI 2.7)	The demolition of a building or work may be carried out only with development consent.	Consent for the part demolition of building D is sought as part of this application.	Yes
Public utility infrastructure (CI 7.4)	Public utility infrastructure that is essential for the proposed development must be available	Water and sewer services will all be provided on site. Power and telecommunications are available to the site and will be connected as part of the development.	Yes
Earthworks (CI 7.6)	To allow earthworks of a minor nature without requiring separate development consent.	The proposed earthworks will not impact significantly on surface water flows, will not result in any significant impacts on the future uses on the land or redevelopment, will not impact any contaminated soil or the amenity of surrounding properties, is unlikely to disturb any relics, and appropriate erosion control measures have been included within the recommended conditions of consent.	Yes

The proposal is considered to be generally consistent with the LEP.

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

There is one proposed instrument which has been the subject of public consultation under the EP&A Act, and are relevant to the proposal, that being the *Draft Remediation of Land SEPP*. As contamination has been considered in the assessment, the proposal is generally consistent with this proposed instrument.

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

The following Development Control Plan is relevant to this application:

- *Nambucca Development Control Plan 2010* ('the DCP')

Part C – Car Parking and Traffic

The parking requirements per section C2.1 for Education Establishments is considered adequate. There are adequate spaces for the full time staff on site, and although it does not meet the standard for per student parking, the students of the establishment are only being dropped by bus and do not require additional car parking.

All car parking will be designed to the standards defined in section C2.7.

A traffic assessment report was prepared as part of the development application, which confirmed there are no upgrades required to Tambar Road or the access points to service the development.

Part D – Sediment and Erosion Control

A condition of consent has been implemented to ensure all work is undertaken with appropriate erosion and sedimentation controls.

Part F – Rural and Environmental Development

This part applies as the development is in the RU1 and RU2 zones. There are no specific controls relating to educational establishments in this zone. The development exceeds the required distance of 300 metres to an unsealed road, and all land use conflict buffers outlined in table F1 of the DCP have been satisfied.

Part N – Waste Minimisation and Management

A condition of consent has been added to ensure compliance with Part N of the DCP.

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):

- *Nambucca Valley Council S7.12 Development Contributions Plan 2019*

This Contributions Plan has been considered and included the recommended draft consent conditions. The plan is applicable to the development, and a contribution of 1% of the Cost of Works has been applied (approximately \$121,180).

(d) Section 4.15(1)(a)(iiia) – 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

Section 61 of the EP&A Regulation 2021 contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- If demolition of a building proposed - provisions of AS 2601;

The proposed development will have a condition of consent that will ensure compliance with the provisions of AS 2601 regarding any proposed demolition.

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the EP&A Regulation 2021 are not relevant to the proposal.

These provisions of the EP&A Regulation 2021 have been considered and are addressed in the recommended draft conditions (where necessary).

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

The likely impacts of the 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 proposed development is considered to have an extremely minor impact on the environment and adjoining land. The works associated with the DA are in a remote rural location, and earthworks associated with the development are minor and will be in line with relevant erosion and sediment controls. As discussed in this report, there are no conflicts with adjoining uses expected as there are large setback distances to boundaries, and conflict with the change of use from rural lands has been addressed in the attached Geotechnical report.

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

- Context and setting – The proposal is considered to be generally consistent with the context of the site. The site of the development is rural and remote, and the scale of the development is single story and minor compared to the size of the land, therefore no negative impacts on the setting are expected.
- Access and traffic – The proposed educational establishment was found to have adequate parking and access requirements in a supporting study by JMT consulting, and there no upgrades are required to Tamban Road nor the existing access points. Conditions of consent have been added to ensure the development complies with the RFS access requirements as well as the design requirements for the car parks.
- Public Domain – The proposal does not impact on the public domain.
- Utilities – The proposal has adequate access to power and telecommunications services, and will utilise on site water and sewer systems.

- Heritage – The site does not impact on any built heritage. A due diligence assessment was undertaken as part of the assessment and confirmed that there is no need for further assessment regarding Aboriginal heritage. Conditions of consent have been added to ensure compliance with heritage controls.
- Other land resources – The development is minor in nature, and no effects on land resources are expected due to the siting and scale of the development.
- Water/air/soils impacts – A contamination report was prepared as part of the development, and found that the development can proceed on the land. No further impacts on water or air are expected due to the minor nature of the development.
- Flora and fauna impacts – Only a minor amount vegetation removal will be required as part of the development. A flora and fauna assessment was undertaken as part of the development application. No threatened flora species were recorded, and specific recommendations were provided to ensure indirect impacts on this sensitive habitat is minimised. A single threatened fauna species, the Comb-crested Jacana, was identified during surveys, however the assessment concluded that the species is unlikely to be significantly impacted by the proposal.
- Natural environment – No significant changes are proposed to the natural environment.
- Noise and vibration – The development is in a rural remote area, and no impacts by way of noise and vibration are expected.
- Natural hazards – The proposal is mapped as being in bush fire prone land. Conditions recommended by the NSW RFS have been included in the conditions of consent.
- Safety, security and crime prevention – There are no issues expected as the subject land is in a remote rural area.
- Social impact – There are no issues expected as the subject land is in a remote rural area.
- Economic impact – The development will have a positive economic impact as additional jobs will be provided locally.
- Site design and internal design – There are no issues expected regarding the design of the development.
- Construction – No issues are expected during the construction of the development. All development will be compliant with a relevant Construction Certificate issued for the development.
- Cumulative impacts – There are no cumulative impacts expected from the development.

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 education establishment fits within the locality, as it is a remote rural area and only occupies a small portion of the subject land. Adequate services and infrastructure are proposed with the development. Natural hazards, other than bush fire which has been addressed elsewhere in the report, are not expected to affect the operation of the education establishment. The site attributes lend to the education establishment by providing vast open space for the students attending the development. The uses adjoining the subject land are not prohibitive to the development, and an adequate buffer distance of at least 300 metres to the nearest boundary is in place.

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

These were no submissions made.

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

The proposal is considered to be in the public interest. The educational establishment provides and opportunity for economic benefits in the surrounding area while having little to no negative impact on people in the immediate vicinity and surrounding area.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/GTAs as required by the EP&A Act and outlined below in Table 5.

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

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Referral/Consultation Agencies			
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	The development was referred to Essential Energy due to its distance from electricity infrastructure. Conditions received from Essential Energy have been included in the conditions of consent.	Y
Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used	The development was referred to the NSW Rural Fire Service due to its classification as a Special Fire	Y

	for residential or rural residential purposes or development of land for special fire protection purposes	Protection purpose. Conditions received from the NSW RFS have been included in the conditions of consent.	
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4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Development Engineer reviewed the development application and considered that there were no objections subject to conditions.	Y
Health and Building	Council's Health and Building Team Leader reviewed the development application in terms of BCA and OSSM requirements. There were no BCA issues identified. The OSSM report provided does demonstrate that disposal of wastewater will be available onsite. Currently the section 68 application to install system of sewage management is still to be lodged, but will be submitted with the section 68 application for the OSSM.	Y

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 from 20 January 2024 until 20 February 2024. The notification included the following:

- An advertisement in the local newspaper *Nambucca Valley News of the Area*;
- Notification letters sent to adjoining and adjacent properties (16 letters sent);
- Notification on the Council's website.

Council received no submissions

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 Contamination

There were concerns of potential contamination of the land, due to its previous use as agricultural land and its proposed use as an educational establishment.

A preliminary contamination investigation was conducted by Regional Geotechnical Solutions, which included:

- Review of local geology;
- Review of government records of groundwater bores in the area;
- Review of available recent and historical aerial photography and satellite imagery for the last 50 years;
- Land title search of the respective lots available from the Land Titles Office;
- Search of Environmental Protection Authority (EPA) website for any contamination notices for the site;
- Search of the online Cattle Dip Site Locator provided by the NSW Department of Primary Industries; and
- Recommendations regarding the need for further investigation (including sampling and testing of samples) and extent.

The issue was resolved with the results of the report, and the recommendations outlined have been included in the draft conditions of consent.

5.2 Bushfire access

There were concerns for emergency access in the case of a bushfire.

The development was referred to the NSW RFS, and a relevant report was prepared as part of the application.

The NSW RFS have given a list of conditions that will ensure the education establishment is compatible with the bush fire threat of the site. The report identified an adequate secondary access that will be constructed to the relevant standards.

5.3 Conflicts with electricity infrastructure

There were concerns for the development's proximity to electricity infrastructure.

The development was referred to Essential Energy, and a relevant report was prepared as part of the application.

Essential Energy have given a list of conditions that will ensure the education establishment is compatible with the existing and proposed electricity infrastructure.

Resolution: The issue has been resolved through recommended conditions of consent Note – where specific conditions of consent are recommended to address impacts these should be cross referenced in this section of the report.

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.

The proposed educational establishment was found to be compliant with relevant legislation and does not negatively impact on the environment nor adjoining properties.

It is considered that the key issues as outlined in Section 6 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

That the Development Application DA2023/336 for an Educational Establishment at 387 Tamban Road & part 327 Tamban Road, Tamban, be APPROVED pursuant to Section 4.16(1)(a) or (b) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of Consent
- Aboriginal Due Diligence Assessment
- Access Report
- Development Plans
- BCA Performance Requirements Compliance Statement
- Bushfire Assessment Report
- Civil Engineering Plan
- Cost estimate report
- Cost estimate Report (Capital Investment Value)
- Flora and Fauna Assessment
- Site Infrastructure Report
- Architectural Design Statement
- Electricity Provision Letter
- Section J Report (NCC 2022)
- Statement of Environmental Effects
- Traffic Report
- Waste Management Plan
- Wastewater Management Plan
- Water Management Plan
- Preliminary Contamination Report