

## COUNCIL ASSESSMENT REPORT

### WESTERN REGIONAL PLANNING PANEL

|                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PANEL REFERENCE &amp; DA NUMBER</b>                          | PPSWES-114 - Dubbo - D2021-569                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>PROPOSAL</b>                                                 | Recreational Facility (Indoor), which is defined as:<br><br><i>...a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.</i> |
| <b>ADDRESS</b>                                                  | Lot 902 DP 1033617, 8 Tony McGrane Place, Dubbo                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>APPLICANT</b>                                                | Premise P/L on behalf of NSW Public Works                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>OWNER</b>                                                    | Charles Sturt University (CSU)                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>DA LODGEMENT DATE</b>                                        | 29 September 2021                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>APPLICATION TYPE</b>                                         | Crown Development Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>REGIONALLY SIGNIFICANT CRITERIA</b>                          | Clause 4, Schedule 7 of the SRD SEPP: 'Crown development' with a capital investment over \$5 million                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>CIV</b>                                                      | \$27,632,657.00 (excluding GST)                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>CLAUSE 4.6 REQUESTS</b>                                      | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>KEY SEPP/LEP</b>                                             | SEPP (Resilience and Hazards) 2021<br>SEPP (Transport and Infrastructure) 2021<br>SEPP (Planning Systems) 2021<br>Dubbo Local Environmental Plan 2022<br>Dubbo Development Control Plan 2013                                                                                                                                                                                                                                                                                                    |
| <b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b> | The Application was placed on exhibition for a period of twenty (20) days ending 24 October 2021, during which time adjoining property owners were notified in writing of the proposed development. A notice was also placed in the local paper (Daily Liberal) on 13 October 2021.<br><br>Council received no submissions during the exhibition period.                                                                                                                                        |

|                                                     |                                                                                                |
|-----------------------------------------------------|------------------------------------------------------------------------------------------------|
| <b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>        | DA02 – Site Plan<br>DA10 – Building Works Plan<br>DA20 – Elevations 01<br>DA21 – Elevations 02 |
| <b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b> | N/A                                                                                            |
| <b>RECOMMENDATION</b>                               | Approval                                                                                       |
| <b>DRAFT CONDITIONS TO APPLICANT</b>                | Yes                                                                                            |
| <b>SCHEDULED MEETING DATE</b>                       | 22 June 2022                                                                                   |
| <b>PLAN VERSION</b>                                 | 2 September 2021 Rev                                                                           |
| <b>PREPARED BY</b>                                  | Senior Planner - Bo Moshage                                                                    |
| <b>DATE OF REPORT</b>                               | 20 May 2022                                                                                    |

The development application (D21-569) seeks consent for Recreational Facility (Indoor) ('the proposal'), comprising the following items:

1. Reception/ kiosk, foyer, youth hub and security area;
2. 499m<sup>2</sup> multipurpose space;
3. 79 m<sup>2</sup> learning space
4. 376 m<sup>2</sup> gymnasium;
5. 204 m<sup>2</sup> boxing area including ring;
6. Male, female and umpire change rooms and amenities;
7. 49 m<sup>2</sup> event management room;
8. Storage areas;
9. 1,093 m<sup>2</sup> gymnastics area;
10. Five indoor multi-sports courts, providing playing surfaces for netball, basketball and futsal (4,197 m<sup>2</sup>); and
11. Retractable seating for up to 500 patrons.

Associated landscaping and infrastructure provisions, including vehicular access and stormwater, are also proposed.

The subject site is known as Lot 902 DP 1033617, 8 Tony McGrane Place, Dubbo ('the site'), comprising an area of 38.55ha. There are multiple vehicle access points to the site, including from Tony McGrane Place and River Street.

Existing development on the site consists of a number of Charles Sturt University (CSU) buildings, including a dental and oral health teaching clinic, student services building and student accommodation, and associated car parking, paths and landscaping.

The development site is located close to the northern urban edge of Dubbo, approximately 2.5 kilometres from the central business district. Surrounding development in the locality is characterised by residential development and health care facilities in addition to the Playmates Cottage Childcare Centre to the south, Dubbo Regional Cycling Facility and industrial developments including the Troy Gully Sewerage Pump Station to the west and north, and Dubbo College Senior Campus to the east and Dubbo Turf Club further to the east.

The site zoned SP2 – Infrastructure (Educational Establishment) pursuant to Clause 2.2 of the *Dubbo Local Environmental Plan 2022* ('LEP 2022').

The principle planning controls relevant to the proposal include *State Environmental Planning Policy (Planning Systems) 2021*, *State Environmental Planning Policy (Transport and Infrastructure) 2021*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, the *Dubbo Local Environmental Plan 2022* ('LEP 2022'), and the *Dubbo Development Control Plan* ('DCP'). The proposal is consistent with various provisions of the planning controls.

There were no concurrence requirements from agencies for the proposal and the application is not integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). A referral to Essential Energy pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

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

- Clause 4.6 of *State Environmental Planning Policy (Resilience and Hazards) 2021* for consideration of whether the land is contaminated; and
- Clause 2.48 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* in relation to electrical infrastructure.

The application was placed on public exhibition from 5 October 2022 to 24 October 2022, with no submissions received.

The application is referred to the Western Region Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Clause (4) of Schedule 7 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is development for *Crown development* with a CIV over \$5 million.

A briefing was held with the Panel on 5 April 2022 where key issues were discussed, including:

- The proposed land use and its permissibility should be clarified;
- The proposed development is to be constructed in two (2) stages. The first stage includes all structures and facilities except construction of retractable seating, basketball courts and netball courts which will be at the second stage;
- The use of the car park and additional traffic generated by the proposal is not addressed in SoEE and Traffic Impact Assessment;
- Traffic and site access issues around River Street should be clarified;
- Traffic Report needs to be amended to address issues with traffic generation;
- Parking rates meet Council's car parking requirements;
- Additional information regarding stormwater management and salinity issues are currently being reviewed by Council's Development Engineer and Environmental Health Assessment team; and
- Council is currently assessing a separate DA that is for the Early Works Carpark which adjoins the subject site. Council will finalise and determine the adjoining car parking DA prior to finalising its assessment report for the indoor recreational facility DA.

The key issues associated with the proposal included:

### **1 Access and Traffic**

The Traffic Impact Assessment submitted with this application provides an assessment of the existing traffic movements experienced at the site and the anticipated traffic movements at completion of the development. This includes the proposed extension to River Street.

## **2 Groundwater Vulnerability/Salinity**

The design associated with the construction of the Indoor Sporting Facility will ensure consistency between the approved early works plans approved under D21-555 for the early civil works in the management of stormwater.

## **3 Noise and vibration Assessment**

On-going management of acoustics will be required to ensure no adverse impact on adjoining or nearby sensitive receivers. Condition accordingly that the activities carried out on site shall not constitute a nuisance in relation to noise, as specified under the Protection of the Environment Operations Act 1997.

## **4 Safety, security and crime prevention**

The assessment found that subject to implementation of adopted principles and recommendations with respect to surveillance, access control, territorial reinforcement and space management, the proposed development is considered acceptable in the context of crime and safety.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the proposed development is consistent with the objectives of relevant SEPPs the LEP, DCP and Council policies, and is therefore recommended that, pursuant to Section 4.16(1)(a) of the *EP&A Act*, D21-569 be approved subject to the conditions of consent contained at **Attachment A** of this report.

# **1. THE SITE AND LOCALITY**

## **1.1 The Site**

### *Site*

The proposed development will be located on Lot 902 DP 1033617. The site has an area of 38.55ha. For a locality map of the site see **Figure 4a**.

### *Slope*

The site slopes from the south east (275mAHD) to north and north west (262.5mAHD).

### *Vegetation*

The site has various pockets of vegetation.

### *Access*

Access to the site is obtained via and extension to River Street through Lot 114 DP 1032596 as shown in **Figure 4b**. The (proposed) extension of River Street, including the road construction, will need to be dedicated as public road, with all costs incurred in achieving compliance with this requirement to be borne by the developer as conditioned under D21-555 - Recreation facility (civil works).

Note: These early works will be completed prior to occupation of the proposed Indoor Sporting Facility.

### *Drainage*

Stormwater flows from the Dubbo College Senior Campus are to be accepted and managed through the site.

### *Services*

The site would be connected to all utility services (water, sewer, stormwater and electricity).

## 1.2 The Locality

The development site is located close to the northern urban edge of Dubbo, approximately 2.5 kilometres from the central business district. Surrounding development in the locality is characterised by residential development and health care facilities in addition to the Playmates Cottage Childcare Centre to the south, Dubbo Regional Cycling Facility and industrial developments including the Troy Gully Sewerage Pump Station to the west and north, and Dubbo College Senior Campus to the east and Dubbo Turf Club further to the east.

## 2. THE PROPOSAL AND BACKGROUND

### 2.1 The Proposal

The development application (D21-569) seeks consent for Recreational Facility (Indoor). **Figure 1** highlights the proposed Development Site Plan, which comprises the following items:

1. Reception/ kiosk, foyer, youth hub and security area;
2. 499m<sup>2</sup> multipurpose space;
3. 79 m<sup>2</sup> learning space
4. 376 m<sup>2</sup> gymnasium;
5. 204 m<sup>2</sup> boxing area including ring;
6. Male, female and umpire change rooms and amenities;
7. 49 m<sup>2</sup> event management room;
8. Storage areas;
9. 1,093 m<sup>2</sup> gymnastics area, including storage;
10. Five indoor multi-sports courts, providing playing surfaces for netball, basketball and futsal (4,197 m<sup>2</sup>); and
11. Retractable seating for up to 500 patrons.

It is proposed that the construction of the facility would occur over two stages, with items 1 to 9 and 11, together with two (2) of the five (5) indoor courts with the retractable seating, being built in the first phase of the project. The remaining three (3) indoor courts will be constructed in a second construction phase.

**NOTE:** For the avoidance of doubt, consent is sought for the entire development via this application and the development does not represent a concept Development Application within the provisions of Division 4.4 of the EPA Act.

An initial early works Development Application (D21-555) relating to the site has been prepared and approved by Council on 1 June 2022. The early works DA provides the following site components:

- Vegetation clearing to enable the development of the land;
- Bulk earthworks;
- Development of an extension of River Street, property access and internal access road;
- On site car parking for 230 vehicles (includes 6 accessible spaces);
- On site stormwater management; and
- Landscaping.



**Figure 1:** Site Plan - Proposed Development

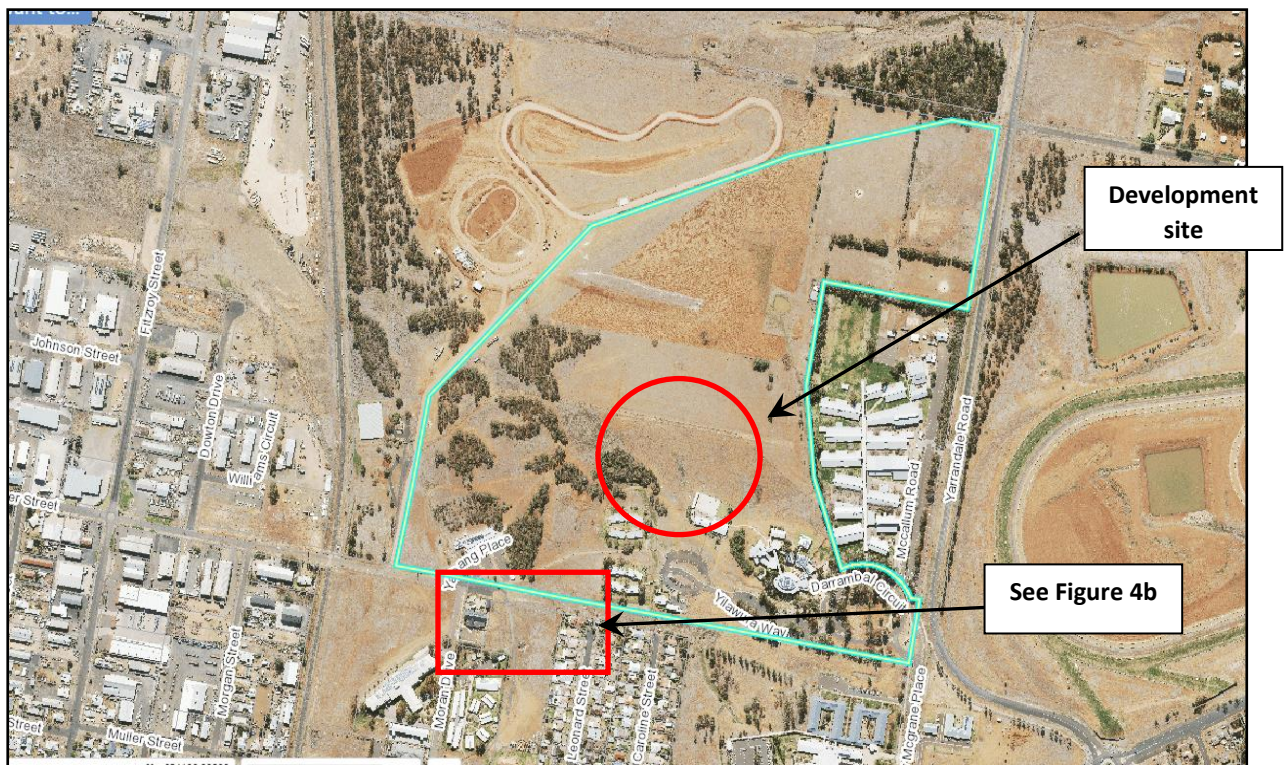
**Figure 2** and **Figure 3** show the northern view towards the main entrance and southern rear view respectively. A full list of plans is included in Annexures.



**Figure 2:** Northern (Entrance) View



**Figure 3: Southern (Rear) View**



**Figure 4a: Site location**



**Figure 4b:** Site Location of proposed extension of River Street

**Table 1: Development Data**

| Control             | Proposal                                                                                                                                                                                                                                                                                                                                                             |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Site area           | 38.55ha                                                                                                                                                                                                                                                                                                                                                              |
| Clause 4.6 Requests | No                                                                                                                                                                                                                                                                                                                                                                   |
| Max Height          | 11.88m                                                                                                                                                                                                                                                                                                                                                               |
| Landscaped area     | In addition to extensive shrubs and ground cover,<br>22 Fuzzy Box<br>18 Non Fruiting White Cedar Trees<br>54 Yellow Box<br>12 Lemon Scented Gun<br>24 Yellow Gum<br>3 Mottlecah                                                                                                                                                                                      |
| Car Parking spaces  | 230 off-street car spaces (210 spaces of which 6 are accessible in a designated car park in addition to 20 spaces along the internal road) approved under application D21-555 - Recreation facility (civil works).                                                                                                                                                   |
| Setbacks            | Given the substantial setbacks from any nearby buildings, which are educational and health care establishments, the nearest dwelling, being over 200 metres from the proposed facility, will not be subject to any adverse impacts from acoustics, privacy or traffic as a result of the development. Where relevant, these matters are discussed in further detail. |

## 2.2 Background

While the site has been the subject of a number of Development Applications over the years, of particular issue is D21-555, which is relevant to the assessment of this application.

D21-555 comprises the early civil works involving bulk earthworks; access arrangements, including the extension of River Street; carparking; formation of building pad/s and augmentation of servicing to support this application.

The Development Application was lodged on **29 September 2021**. 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                                                        |
|--------------------------|--------------------------------------------------------------|
| <b>29 September 2021</b> | DA lodged                                                    |
| <b>5 October 2021</b>    | Exhibition of the application                                |
| <b>5 October 2021</b>    | DA referred to external agencies                             |
| <b>29 October 2021</b>   | Request for Information from Council to applicant            |
| <b>29 November 2021</b>  | Amended plans lodged addressing Traffic and Transport issues |
| <b>5 April 2022</b>      | Panel briefing                                               |

### **2.3 Site History**

While the site has been the subject of a number of Development Applications over the years, of particular interest is D21-555 which requires further consideration.

D21-555 comprises the early civil works involving bulk earthworks; access arrangements, including the extension of River Street; carparking; formation of building pad/s and augmentation of servicing to support this application.

Access to the site is obtained via and extension to River Street through Lot 114 DP 1032596 as shown in **Figure 4b**. The (proposed) extension of River Street, including the road construction, will need to be dedicated as public road, with all costs incurred in achieving compliance with this requirement to be borne by the developer as conditioned under D21-555 - Recreation facility (civil works).

## **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
- (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 also noted that the proposal is considered to be Crown DA (s4.33), and the functions of regional planning panels (s.2.15) are relevant and are considered further in this report.

### 3.1 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 (Planning Systems) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Dubbo Regional Council Local Environmental Plan 2022
- Dubbo Development Control Plan 2013

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 State Environmental Planning Policies**  
(Preconditions in **bold**)

| EPI                                      | Matters for Consideration                                                                                                                                                                                                     | Comply (Y/N) |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| SEPP (Planning Systems) 2021             | <b>Chapter 2 - State and Regional Development</b><br><b>Part 2.4 Regionally significant development</b><br><b>Clause 2.19</b> declares the proposal as regionally significant development pursuant to Clause 4 of Schedule 6. | Yes          |
| SEPP (Resilience and Hazards)            | <b>Chapter 4 - Remediation of Land</b><br><b>Clause 4.6</b> - Contamination and remediation considered in Contamination Report and the proposal is satisfactory subject to conditions.                                        | Yes          |
| SEPP (Transport and Infrastructure) 2021 | <b>Chapter 2 - Infrastructure</b><br><b>Part 2.3 Development Controls</b><br><b>Division 5 Electricity transmission or distribution</b>                                                                                       | Yes          |

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                       |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
|  | <p><b>Clause 2.48 Determination of development applications - other development</b></p> <p>The proposal is satisfactory subject to conditions.</p> <p><b>Division 17 Roads and Traffic</b></p> <p><b>Clause 2.121 – Traffic Generating Development</b></p> <p>The proposal is satisfactory subject to conditions.</p> <p><b>Chapter 3 - Educational establishments and child care facilities</b></p> <p><b>Part 3.5 Universities - specific development controls</b></p> <p><b>Clause 3.46 - Universities - development permitted with consent</b></p> <p>The proposed facility will provide for the development and welfare of the community through the provision of facilities that assist the residents of the Dubbo Region with recreation and social opportunities.</p> | <p>Yes</p> <p>Yes</p> |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2 - State and regional development

Clause 2.19 of the SEPP establishes the requirements for determination of regionally significant development. In accordance with Schedule 6 (Clause 4), the proposed development is regionally significant development as it is 'Crown Development' with a Capital Investment Value greater than \$5 million. The proposed development has a CIV of \$27,632,657.00 (excluding GST), and the consent authority for the development is therefore the Western Regional Planning Panel. The proposal is consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 - Remediation of land

Clause 4.6 of the SEPP requires that the consent Authority consider if the land subject to a Development Application is contaminated, and if contaminated, if it is then suitable for the intended use, or if remediation is required.

A Preliminary Site Investigation was undertaken on 22 October 2020. No evidence was found to suggest that a contaminative land use activity has been carried out on the site. The undertaking of remediation work in accordance with Clause 4.7 of the SEPP would not be required and the site is identified as being suitable for the proposed development. Standard accidental finds conditions will be recommended to be applied to the project.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 - Infrastructure

Part 2.3 Development controls

Division 5 Electricity transmission or distribution

The application was referred to Essential Energy in accordance with Clause 2.48 for which they responded in correspondence dated 1 October 2021, raising no objection to the proposed development. The requirements specified by Essential Energy will be included on the development consent as notations, as Council is unable to enforce such requirements.

## Division 17 Roads and traffic

### Clause 2.121 – Traffic Generating Development

In relation to development specified in Column 1 of the Table to Schedule 3 that has direct vehicular or pedestrian access to any road (not being a classified road)—the size or capacity specified opposite that development in Column 2.

Schedule 3 identifies that Car parks (whether or not ancillary to other development) that provide 200 or more car parking space and are accessed from any road (other than a classified road) is traffic-generating development.

NOTE: All parking associated with the development was considered and provided by Transport for NSW (TfNSW) for the early civil works involving bulk earthworks; access arrangements, including the extension design and construction of River Street; carparking under D21-555 on 2 June 2022. Therefore, this development is not considered traffic-generating development.

## Chapter 3 - Educational establishments and child care facilities

### Part 3.5 Universities—specific development controls

Clause 3.46(5) of the SEPP provides for the carrying out of development that is provided for the physical, social, cultural or intellectual development or welfare of the community, is permitted with consent.

It is considered that the proposed facility will provide for the development and welfare of the community through the provision of facilities that assist the residents of the Dubbo Region with recreation and social opportunities. This is in line with the CSU's adopted strategic direction and the scope of the SEPP.

### Dubbo Regional Council Local Environmental Plan 2022

The relevant local environmental plan applying to the site is the Dubbo Regional Council *Local Environmental Plan 2022* (the LEP).

The LEP was notified on 25 March 2022 consolidating the (former) Dubbo LEP 2011 and (former) Wellington LEP 2012.

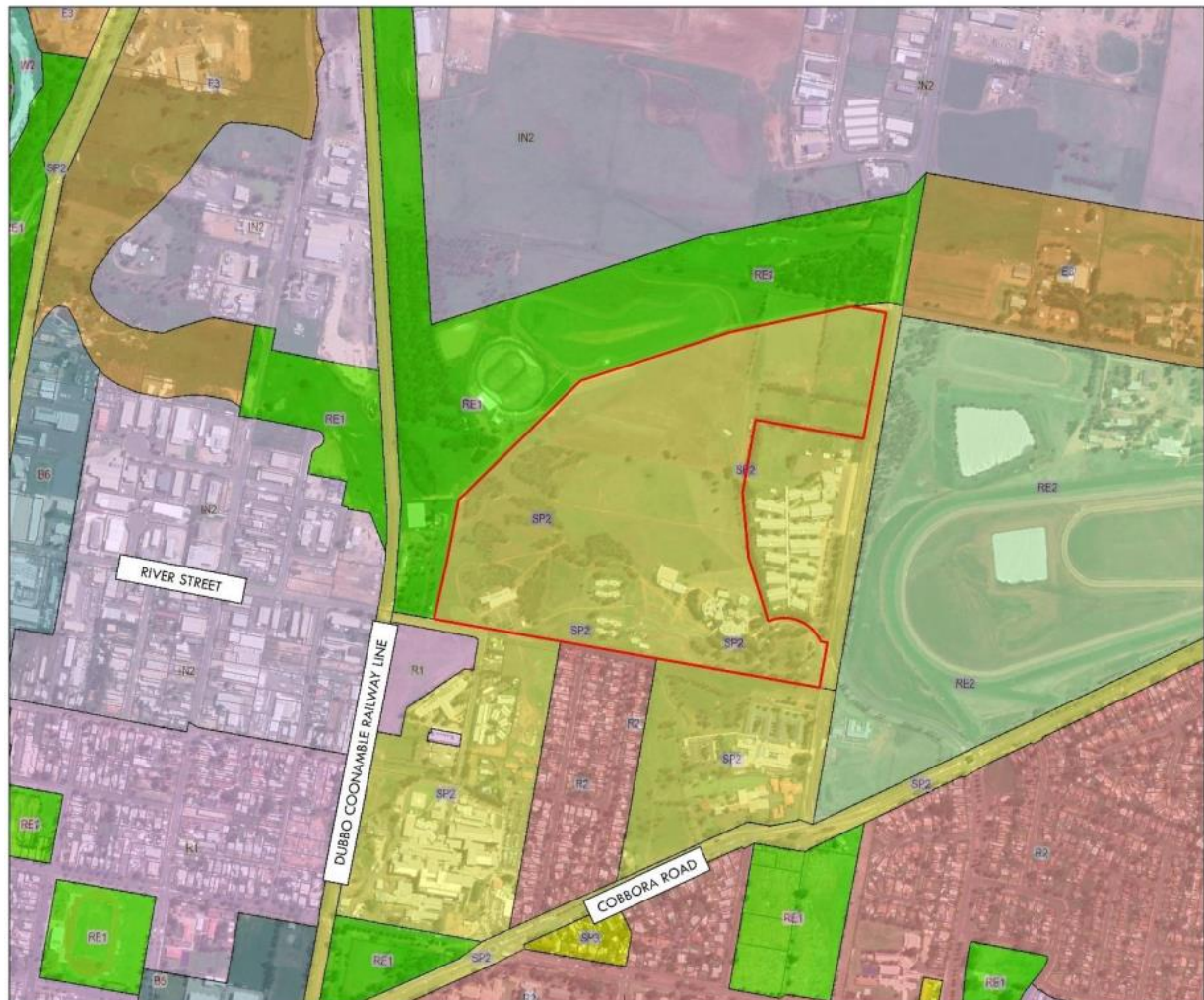
While the LEP now applies to all the land in the Dubbo Regional Council LGA, Clause 1.8A Savings Provision relating to development applications highlights that if a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced. Therefore, this DA is being processed under the provisions of the (former) Dubbo Local Environmental Plan 2011.

### *Zoning and Permissibility (Part 2)*

The aims of the LEP include making adequate provision for the development and improvement of cultural, educational, research and medical institutions. The proposal is consistent with this

aim of the plan as the proposal seeks to establish a Recreational Facility (Indoor) as part of the Charles Sturt University (CSU).

The site is located within the SP2 - Infrastructure (Educational Establishment) zone pursuant to Clause 2.2 of the LEP. See **Figure 5** for an extract of zoning map.



**Figure 5:** Zoning Map

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of *recreational facility (indoor)*, which is:

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

The SP2 zone is a closed zone and recreation facility (indoor) is not expressly permitted, and is therefore prohibited. However, while the development of a recreation facility (indoor) is not strictly an 'Educational Establishment', the facility is considered ancillary to the CSU - Dubbo campus.

This position is consistent with Clause 3.46(5) of Chapter 3 - Educational Establishments and Child Care Facilities in SEPP (Transport and Infrastructure) 2021, where the carrying out of

development that provides for the physical, social, cultural or intellectual development or welfare of the community, is permitted with consent, as previously discussed.

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

- To prevent development that is not compatible with or that may detract from the provision of infrastructure

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

- Provides for the physical, social, cultural or intellectual development or welfare of the community.

#### *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** and considered in more detail below.

**Table 4: Consideration of the LEP Controls**

| Control                                                    | Requirement                                                                                                                                                                                                                                                                                                                                                                                                                          | Proposal                                                                                                                                                                                                                                                                                                                                                                      | Comply |
|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| Heritage (CI 5.10)                                         | <p>The objectives of this clause are—</p> <p>(a) to conserve the environmental heritage of the Dubbo Regional local government area,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p> | The proposed development will have a negligible impact on the heritage significance of items, landscapes, areas, places, relics and practices within the locality.                                                                                                                                                                                                            | Yes    |
| Siding Spring Observatory – maintaining dark sky (CI 5.14) | Establishes the controls relating to emission of light and the potential impact light on Siding Spring Observatory.                                                                                                                                                                                                                                                                                                                  | All sporting components are integrated within the building with lighting impacts limited to external security lightings. After dark usage of the building is expected given the nature of the sports provided and lighting would be expected in the evening and early night time period to ensure the safety of site users. Security lighting would also be use at night as a | Yes    |

|                                    |                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                      |     |
|------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
|                                    |                                                                                                                                                                                                                                                              | means of deterring/reducing crime risks.<br>Condition that any lighting on the site be installed to emit light in a downward direction to reduce light overspill.                                                                                                                                                    |     |
| Flood planning (CI 5.21)           | Establishes the controls relating to development on land identified as "Flood Planning Area" on the Flood Planning Map and any other land at or below the flood planning level.                                                                              | The proposed development does not propose any works on land identified on the Flood Planning Map. Whilst it is acknowledged the subject site contains land identified on the Flood Planning Map, the proposed Indoor Recreation Facility and associated structures are contained outside of the Flood Planning Area. | Yes |
| Earthworks (CI 7.3)                | Establishes the controls to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. | Erosion and sediment control measures are required before any earthworks commence in which a condition to this effect will be placed on the consent.                                                                                                                                                                 | Yes |
| Groundwater vulnerability (CI 7.5) | Establishes the controls to maintain the hydrological functions of key groundwater systems and protect vulnerable groundwater resources from depletion and contamination.                                                                                    | The design associated with the construction of the Indoor Sporting Facility will ensure consistency between the approved early works plans in the management of stormwater.                                                                                                                                          | Yes |
| Airspace operations (CI 7.7)       | Establishes controls on operation of Dubbo Regional Airport by ensuring that such operations are not compromised by proposed development that penetrates the Obstacle Limitation Surface.                                                                    | The design of the proposed Indoor Sporting Facility will not breach the Obstacle Limitation Surface Map at height 340mAH.                                                                                                                                                                                            | Yes |

#### *Clause 5.10 Heritage Conservation*

##### European Heritage

While the proposed extension of River Street is adjacent to Heritage Item 172 - Dubbo Base Hospital (refer Schedule 5), no impacts on the heritage integrity of this item are envisaged given the orientation of the proposed development away from this item.

##### Aboriginal Heritage

A search of the Aboriginal Heritage Information Management System (AHIMS) revealed no Aboriginal sites or artefacts located within the study area.

The supporting SoEE notes that an inspection was carried out by Ozark archaeologist/s and a member of the local aboriginal community identified a single Aboriginal artefact, nominated as IF-1, on the banks of Troy Creek. Condition according to identify and protect prior to the commencement of works.

It is noted that the proposed works are removed from the bank of Troy Creek where the artefact has been located and are therefore unlikely to impact the item. Standard condition recommended regarding any “unexpected” Aboriginal archaeological material being discovered during on site activities.

#### *Clause 5.14 Siding Spring Observatory – maintaining dark sky*

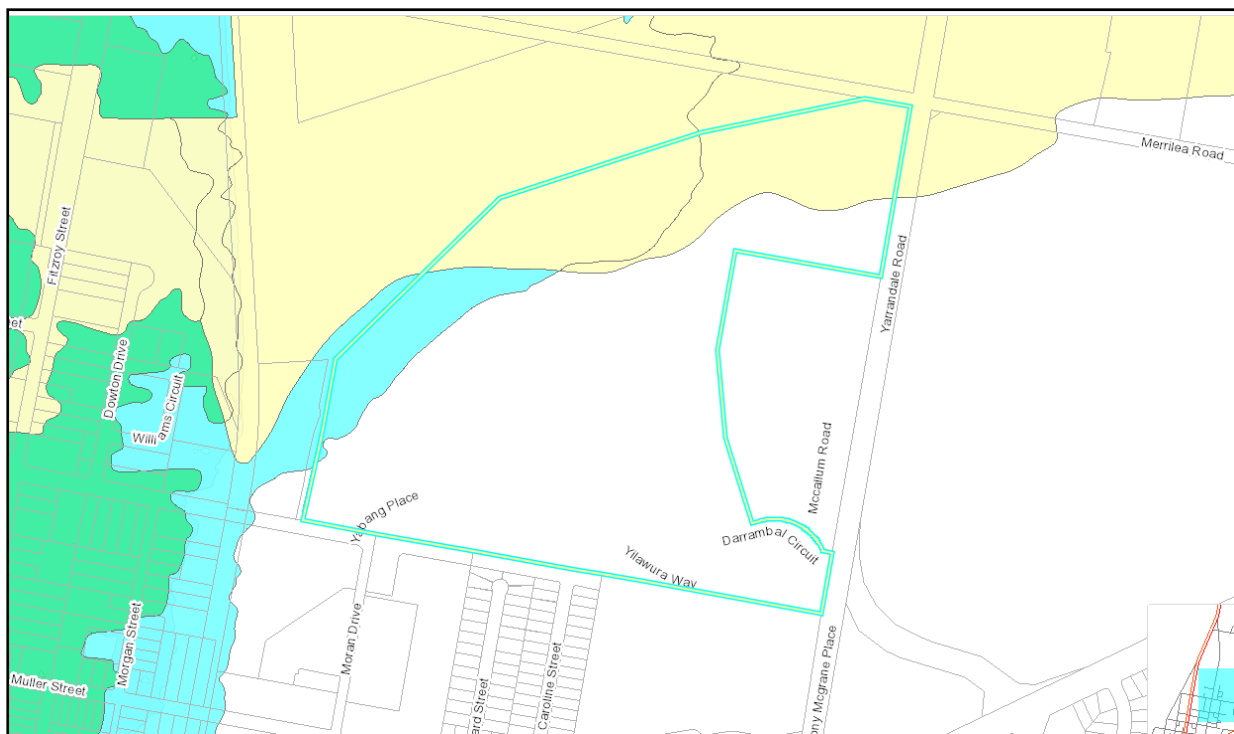
The proposed development would include external lighting for safety and security purposes. Condition that any lighting on the site must be installed to emit light in a downward direction and designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity or surrounding area by light overspill. The emission of lighting shall not exceed 1,000,000 lumens and must comply with the Australian Standard AS 4282 – 1997 Control of the Obtrusive Effects of Outdoor Lighting.

#### *Clause 5.21 Flood planning*

The site is affected by the flood planning area on relevant LEP mapping. As shown in **Figure 6**, this is limited to the northern parts of the site.

The proposed development does not propose any works on land identified on the Flood Planning Map, with the proposed Indoor Recreation Facility and associated structures are contained outside of the flood planning area.

It is considered the proposed development is compatible with the flood hazard and is not likely to adversely affect flood behaviour. It is also considered flood safe access to and from the site is maintained and the risk to life from flood is minimal.



**Figure 6:** Flood Planning Area

### Clause 7.3 Earthworks

The proposed development will require earthworks to be undertaken upon the site. Erosion and sediment control measures are required before any earthworks commence in which a condition to this effect will be placed on the consent.

### Clause 7.5 Groundwater vulnerability

Following discussions with Council's Environmental Systems Planner, the apparent conflict between draft Plans and the Salinity Report for the project requires resolution and/or clarification.

In accordance with the Dubbo Local Environmental Plan 2011, the land is identified to include moderate to high vulnerability groundwater. In addition, the site is known to suffer salinity impacts with groundwater bore monitoring showing both shallow and highly saline groundwater.

In relation to the groundwater, the proposed project will not be likely to increase contamination of this resource through spillage of contaminating chemicals as none will be stored on site, nor is it likely to noticeably deplete the groundwater resource, as the development will be connected to Dubbo's potable water resource.

In relation to the salinity issues on site the proponents commissioned a "Salinity Report for the Proposed Dubbo Sports Hub", from the NSW Soil Conservation Service (2021). This report shows mapped areas of shallow groundwater and testing has identified salinity levels across the site.

The report also highlights the potential negative impacts which can accrue to a development which occurs in a saline environment:

*"Buildings, hard courts, roads, and car parks have the potential to deteriorate quickly overtime where affected by high water tables and salinity if not constructed with the appropriate designs to overcome these problems. Roads will break up and the foundations of buildings can quickly decay (rising damp) if impacted by salt and high-water tables. Underground services such as steel gas and water pipes also are at an increased risk for corrosion if affected by salt. Playing fields can also be affected in that salt sensitive grass species will not establish effectively and fields become quickly saturated during wet seasonal conditions or if overwatered making them unplayable during these times."*

The proposed works will not occur on land currently known to be saline, however the increased hard stand (i.e. roofs, roads, car parking areas) proposed under this proposal will significantly increase runoff generated by the site. The report recommends that surface runoff be controlled to prevent ponding, and subsequent infiltration.

In order to minimise infiltration, conditions that the proposed development associated with this application be connected into this established stormwater drainage system.

### Clause 7.7 Airspace operations

The subject site is located within the Obstacle Limitation Surface Map at height 340mAHD. The Finish Floor Level for the proposed development is 270.7mAHD and with the development having a height of 282.5mAHD that equates to an overall height of 11.8m, 57.5m below the surface map.

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

### **3.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

No draft environmental planning instruments apply to the land to which the Development Application relates.

### **3.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

#### Dubbo Development Control Plan 2013 (the DCP)

There are no controls specifically related to indoor sporting facilities, or development within SP2 zoned land. An assessment against Section 3 of the DCP has been undertaken which provides general development standards relating to access / mobility, parking, environmental management and heritage.

#### **Chapter 3.1 Access and Mobility**

An Access Report has been prepared with the application and demonstrates that the development can comply with the relevant requirements.

Set down areas are located adjacent to the entrance which have accessible, well lit and sign posted continuous paths of travel within the development.

Kerb ramps will be provided where required, which along with entrance doors, will provide unimpeded access. Accessible bathrooms and facilities are also provided.

#### **Chapter 3.4 Heritage Conservation**

##### European heritage

The subject site does not contain any European heritage items and is not located within a Heritage Precinct. The site is approximately 300 metres from Dubbo Base Hospital which is identified as a local heritage item 172 under Schedule 5 of the LEP. The proposed development is a sufficient distance from the heritage item to not warrant a Heritage Impact Statement.

##### Aboriginal Heritage

The proponents have undertaken an Aboriginal Heritage Due Diligence report which identifies a single Aboriginal artefact, nominated as IF-1, located on the banks of Troy Creek. However, no works are proposed to be carried out in the vicinity of the artefact under this application. Condition accordingly that Aboriginal Artefact IF-1 be clearly identified and protected prior to the commencement of work. Also, condition that an Aboriginal Heritage Impact Permit (AHIP) is required to be obtained in the event that works are anticipated to impact Artefact IF-1. Standard condition recommended regarding any Aboriginal archaeological material being discovered during construction works.

## Chapter 3.5 Parking

| Use                       | Rate                     | NLA *                   | Requirement            |
|---------------------------|--------------------------|-------------------------|------------------------|
| Major Sporting Facilities | 1 / 10 seats             | 500 **                  | 50 spaces              |
| Gymnasiums                | 7 / 100m <sup>2</sup>    | 1,673m <sup>2</sup> *** | 117.1 (say 117) spaces |
| Administration            | 1 / 40m <sup>2</sup> NLA | 144m <sup>2</sup>       | 3.6 (say 4) spaces     |
| <b>Total</b>              |                          |                         | <b>171 spaces</b>      |

|     |                                                                                                                                                                                                                                                                                     |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| *   | Net Lettable Area (NLA) means the overall useable area of the building excluding amenities, stairways, lift-wells, public foyers and plant rooms                                                                                                                                    |
| **  | Retractable seating for up to 500 patrons                                                                                                                                                                                                                                           |
| *** | The facility incorporates a range of features that are consistent with gymnasium use, including gymnasium (376m <sup>2</sup> ), boxing area and ring (204m <sup>2</sup> ) and gymnastics area (1,093m <sup>2</sup> ). Overall this provides a gymnasium area of 1,673m <sup>2</sup> |

Based on the application to provide 210 spaces under D21-555 - Recreation facility (civil works) approved by Council on **2 June 2022**, these requirements are not exceeded.

## Chapter 3.7 Environmental Management

This application does not propose any tree removal and will not have any adverse impact on biodiversity or threatened species.

All vegetation required for removal was undertaken under D21-555 - Recreation facility (civil works), where a Biodiversity Development Assessment Report (BDAR) was prepared as required by the Biodiversity Offset Scheme.

It was determined that the project had a liability of four (4) species credits and it was conditioned that retirement of this liability being discharged prior to commencement of works.

Condition accordingly that there must be no removal or disturbance of native vegetation except as authorised by this consent, including canopy trees, understorey and ground cover vegetation without the prior written consent of Council.

Landscaping associated with the development has been designed taking DCP controls into account.

## Contributions

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):

### Water and Sewerage Contribution Policy - 2002

This Policy determines the requirement for Water and Sewerage Headworks contributions pursuant to Section 64 of the Local Government Act, 1993.

#### Water Supply Contribution

Water supply contributions are calculated on the number of plumbing fitting by the anticipated water usage (litres) to establish an Equivalent Tenement (ET).

|             |               |          |
|-------------|---------------|----------|
| Toilet      | 39 @ 30L each | = 1,170L |
| Handwashing | 30 @ 55L each | = 1,650L |
| Shower      | 21 @ 55L each | = 1,155L |

$$\begin{aligned}
 &= 3,975\text{L} \\
 &= 4,372.5\text{L} \\
 &= 4,372.5\text{L} \times 83 \text{ people} \\
 &= 362,917.5\text{L}
 \end{aligned}$$

$$\begin{aligned}
 \text{Contribution} &= (\text{Litres} / 5000\text{L}) \times \text{Rate} \\
 &= (362,917.5 / 5000) \times 6,024.50 \\
 &= 72.58 \times 6,024.50 \\
 &= \$437,258.21
 \end{aligned}$$

A contribution of **\$437,258.21** will be conditioned for Water Headworks.

#### Sewer Supply Contribution

Commercial Development is calculated on floor area (2,317m<sup>2</sup>) at 0.125 ET / 1,000m<sup>2</sup>, plus 0.5ET per toilet (39) with proposed calculations as follows:

$$\begin{aligned}
 &= \{(\text{Proposed floor area} / 1,000\text{m}^2 \times 0.125) + (\text{No. toilets} \times 0.5\text{ET})\} \times \text{Rate} \\
 &= \{(2,317 / 1,000 \times 0.125) + (39 \times 0.5\text{ET})\} \times \$6,024.50 \\
 &= \{0.289 \text{ ET} + 19.5 \text{ ET}\} \times \$6,024.50 \\
 &= 19.789 \text{ ET} \times \$6,024.50 \\
 &= \$119,218.83
 \end{aligned}$$

A contribution of **\$119,218.83** will be conditioned for Sewer Headworks.

### **S.94 Contributions Plan - Urban Stormwater Drainage Headworks Contributions 2019**

#### Stormwater Drainage Contribution

The proposal will require the discharge of stormwater into Council's stormwater drainage system and therefore, urban stormwater contributions are applicable.

The site is located in Catchment 4.4 – Samuels Estate Drainage, draining to Troy Creek which is a major stormwater disposal corridor for Dubbo, which is levied on a per ha rate

Council's adopted 2021/2022 financial year rate for this catchment is \$9,686.15 per ha. The development area for the proposed development is 1.77ha.

Contribution:

$$\begin{aligned}
 &= (\text{development area} \times \text{catchment rate}) \\
 &= 1.77 \times \$9,686.15 \\
 &= \$17,144.49
 \end{aligned}$$

A contribution of **\$17,144.49** will be conditioned for Stormwater Drainage.

### **Amended s.94 Contributions Plan - Roads, Traffic Management and Car Parking - 2016**

#### Urban Roads Contribution

The Plan provides for Council to levy contributions on new development where there is an increase in density or activity as a result of a development. The Plan allows Council to levy contributions to offset the impacts associated with new developments.

Under the provision of Clause 3.6 - Flexibility in Imposition of Contributions, of this Plan assumes particular land uses and traditional forms of development consistent with a wide range of urban forms. However, not all situations can be predicted and, from time to time, Council may receive applications which do not fit within these assumptions, such as this application.

While the development does not fall within a strict land use as identified in the Policy, no traffic analysis or justification was provided by the applicant. Notwithstanding, it is proposed to utilise Recreation – Gymnasium 45 trips / 100m<sup>2</sup> GFA for the Gymnasium area and Other Office – 16 trips / 100m<sup>2</sup> GFA for the balance of the proposed development.

#### Gym

$$\begin{aligned}\text{GFA} &= 580\text{m}^2 \\ \text{Trips} &= (580/100) \times 45 \\ &= 5.8 \times 45 \\ &= 261\end{aligned}$$

#### Other Office

$$\begin{aligned}\text{GFA} &= 1,720\text{m}^2 \\ \text{Trips} &= (1,720/100) \times 16 \\ &= 17.2 \times 16 \\ &= 275.2\end{aligned}$$

Contribution:

$$\begin{aligned}&= \$\text{rate} \times \text{trip generation (Gym + Other Office)} \\ &= \$412.90 \times (261 + 275.2) \\ &= \$412.90 \times 536.2 \\ &= \$221,396.98\end{aligned}$$

A contribution of **\$221,396.98** will be conditioned for Urban Roads Contributions.

### **3.4 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.

### **3.5 Section 4.15(1)(a)(iv) - Provisions of Regulations**

There are no specific regulations that relate to this development.

### **3.6 Section 4.15(1)(b) - Likely Impacts of Development**

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 locality. The character, finishes and amenity of the locality and streetscape will be maintained through landscaping of the site and articulation in the built form. The architectural design complements the modern facility being constructed and is considered appropriate in the setting.

The scale, form, character, and design of the development is compatible with the existing structures on the site, directly adjoining and within the locality.

The proposed development will not result in any adverse impact on adjoining properties given the substantial setbacks from any nearby buildings, which are educational and health care establishments.

The nearest dwelling, being over 200 metres from the proposed facility, will not be subject to any adverse impacts from acoustics, privacy or traffic as a result of the development.

Consideration has been given to the potential for overshadowing as a result of the design and it is considered there will be no adverse impact on solar access to the surrounding buildings.

The development will not detract from existing views and vistas enjoyed by adjoining properties and will not result in any additional impact on the character of the locality.

- Access and traffic – The Traffic Impact Assessment submitted with this application provides an assessment of the existing traffic movements experienced at the site and the anticipated traffic movements at completion of the development.

The existing configuration of River Street currently caters for significant volumes of traffic associated with the private hospital, CSU facilities, the regional cycling facility and Playmates Cottage.

The surrounding road network in this area is considered to be disconnected from other key localities in and around Dubbo. To address the discontinuity in this area, the Dubbo City Planning and Transportation Strategy – 2036 identifies that connectivity is required by 2036 and development should seek to spread to River Street by this time.

Unfortunately, as also noted in the Transportation Strategy, an agreement between the major players in this area a few years ago precludes the extension of River Street through to Yarrandale Road. However, an extension of River Street to the proposed development site will help to take pressure off Erskine Street and Cobbora Road, by offering another link to the proposed development area.

For additional traffic movements generated by this development to have sufficient capacity to integrate with the surrounding road network, will wholly be contingent upon the extension of River Street to service the proposed development.

Appropriate conditions have been included limiting construction access to a single stabilised entry and onsite vehicular management and in relation to the acquisition, classification and constructions of the proposed extension of River Street.

- Public Domain – It is considered the proposed development will not have any detrimental impact on the public domain. The site is located within close proximity to a number of educational and health care facilities such as Dubbo Senior Campus, Charles Sturt University, Dubbo Public and Private Hospitals and Catholic Healthcare. The proposed development enhances the public domain through architectural design, landscaping and improved pedestrian/vehicular access

- Utilities – The site would be connected to all utility services (water, sewer, stormwater and electricity).

It appears that the proposed development will be a generator of liquid trade waste discharge into Council's sewer. However, insufficient details have been provided with the DA to fully assess operational requirements. Notation added advising that consultation with Council's Infrastructure Division, being responsible for Trade Waste Approvals and control of such discharges into its sewer, to determine the adequacy of the proposal and any required pre-treatment.

- Heritage – While the proposed extension of River Street is adjacent to Heritage Item 172 - Dubbo Base Hospital, no impacts on the heritage integrity of this item are envisaged given the orientation of the proposed development away from this item
- Other land resources – In order to minimise infiltration, the supporting *Salinity Report for the Proposed Dubbo Sports Hub (March 2021)* contains a number of recommendations for this site to connect to existing channel improvements which generally disperse stormwater quickly in a western direction to assist in the prevention of ponding, and subsequent infiltration.

Condition accordingly that final details of the stormwater management system incorporating the recommendations of the Salinity Report to be shown on the engineering plans and approved by Council's Manager Environmental Compliance, or a nominated Accredited Certifier, prior to commencement of works.

- Flora and fauna impacts - Clearing activities associated with this application were addressed under D21-555 - Recreation facility (civil works). A Biodiversity Development Assessment Report (BDAR) has been prepared by OzArk concluded that the project will trigger a credit liability that must be discharged prior to works commencing.

Following surveys undertaken to assess site condition and vegetation integrity, four (4) of nineteen (19) candidate species were found as being present. These were assumed present for the purposes of the BDAR.

Vegetation impacts were similarly accounted for through the Biodiversity Assessment Method Calculator (BAMC) with the very low Vegetation Integrity score (0.3) resulting in a nil (0) Ecosystem credit liability. The Species Credits accounted for through the impact of the project were four (4).

As a result the project has a liability of four (4) species credits which can be retired through direct purchase from the biodiversity Credits market or through investment into the Biodiversity Conservation Fund as administered by the Biodiversity Conservation Trust.

Retirement of the noted Biodiversity credit liability must be demonstrated to Council prior to issue of Construction Certificate and will be appropriately conditioned.

- Noise and vibration – The proposed development will not result in any long term or ongoing adverse impacts relating to noise and vibration. Some noise and vibration may be experienced during construction which is limited through standard conditions relating to hours of construction and not exceeding 5dB(a) above background noise to be placed on the consent.

A Noise Impact Assessment prepared by Assured Environmental (20/04/2021) anticipates noise levels at a range of events including a major sporting event (one court

in use with a large audience) and normal sporting use (five courts in use with a small audience). The report concludes that the anticipated noise levels experienced by sensitive receivers (being residential dwellings on Leonard and Caroline Streets) will be minimal and barely audible. In addition, it noted that events would occur outside of normal business hours so the impact on the adjoining educational establishment is unlikely to be affected by any noise generated at the site.

On-going management of acoustics will be required to ensure no adverse impact on adjoining or nearby sensitive receivers. Condition accordingly that the activities carried out on site shall not constitute a nuisance in relation to noise, as specified under the Protection of the Environment Operations Act 1997.

- Natural hazards – It is noted the site is partly subject to flooding as shown in Figure 2. However, as previously noted, whilst part of the site is identified as flood prone land, the proposed building is not located on land that is mapped as being within the flood planning area.
- Safety, security and crime prevention – An assessment of the four (4) Crime Prevention Through Environmental Design (CPTED) principles has been undertaken in supporting Statement of Environmental Effects (SoEE). The assessment found that subject to implementation of adopted principles and recommendations with respect to surveillance, access control, territorial reinforcement and space management, the proposed building, the proposed development is considered acceptable in the context of crime and safety.

Condition application that the recommendations contained in the supporting Statement of Environmental Effects (SoEE) relating to safety, security and crime prevention to be implemented prior to commencement of operations.

- Social impact – The proposed development provides a high-quality sporting facility for the benefits of the Dubbo community and the greater region. The combination of CPTED principles employed in the design of the development and the enhanced opportunities for social interaction result in a positive outcome for the development of the site.
- Economic impact – The development is considered within the public interest and will provide social and economic benefits.
- Site design and internal design – The design of the building takes into consideration the Master Plan for this area, which seeks to provide an integrated sporting precinct. The proposal provides good connectivity from a traffic and pedestrian perspective both to and within the site.

It is considered that the development is appropriately designed and is consistent with the bulk and scale of existing buildings on the site and surrounding areas.

Landscaping is used to enhance the design of the building and soften the built form. Access and facilities throughout the site have been provided in accordance with the relevant development controls and Australian Standards.

The Accessibility Review Report prepared by ABE Consulting (15 April 2021) confirms the proposed building is capable of providing compliant access to all areas of the site. Grades of footpaths, width of corridors and circulation areas within the development are capable of compliance with Part D3, Clause F2.4 and Clause E3.6 'deemed-to-satisfy' (DtS) requirements of the Building Code of Australia 2019 Amendment 1 (BCA), The

Disability (Access to Premises – Building) Standards 2010 and pertinent Australian Standards.

- Construction – Noise will be generated through construction through the use of machinery, power tools and the like. An appropriate condition will be included on the consent restricting work hours (7 am to 6 pm Monday to Friday and 8 am to 1 pm Saturday and at no times on Public holidays) to minimise impacts to neighbouring property.

Condition accordingly regarding the suppression and mitigation of dust to be employed during works on the site to ensure dust is not emitted from the site at all times including when no activities are taking place on the site, and the implementation of erosion and sedimentation control measures to be onsite prior to any site disturbance.

- Cumulative impacts – The proposal is generally consistent with the planning controls and with the management of the facility by way of staggering times of events and the like ensuring there are no adverse cumulative impacts from a traffic or overcrowding.

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

### **3.7 Section 4.15(1)(c) - Suitability of the site**

The site is considered suitable for the proposed development for the following reasons:

- The development is permissible with the consent of Council within the SP2 Infrastructure zone subject to the provisions of SEPP (Transport and Infrastructure) 2021;
- The land is not known to be contaminated, and is not subject to natural hazards such as bushfire, with proposed building clear of the mapped flood planning area;
- The development would be provided with access to all required service infrastructure;
- The development is not inconsistent with the objectives for the SP2 Zone;
- The development would not have an adverse environmental social, or economic impact upon the surrounding locality; and
- The development would have a positive social and economic impact on the city and region through provision of high quality sporting facilities.

### **3.8 Section 4.15(1)(d) - Public Submissions**

The Development Application was placed on exhibition for a period of twenty (20) days ending 24 October 2021, during which time adjoining property owners were notified in writing of the proposed development. A notice was also placed in the local paper (Daily Liberal) on 13 October 2021.

Council received no submissions during the exhibition period.

### **3.9 Section 4.15(1)(e) - Public interest**

The proposed development is consistent with the existing infrastructure developments located on and adjoining the subject site. The indoor sporting facility will provide greater opportunity

for sport development in regional areas of NSW. The proposed development is considered to be in the public interest via delivery of a strategically important project.

There are no matters other than those discussed in the assessment of the Development Application above that would be considered to be contrary to the public interest.

On balance the proposal is consistent to the public interest.

### **3.10 Section 2.15 - Functions of Sydney district and regional planning panels**

Clause 2.12 and Clause 2.15 outlines the constitution and functions (respectively) of the Western Regional Planning Panel as it relates to the Dubbo Regional Council area.

As previously noted in this report, Clause 2.19(1) of State Environmental Planning Policy (Planning Systems) 2021 outlines that the Western (Joint) Regional Planning Panel (JRPP) is the consent authority with regard Regionally Significant Development described in Schedule 6 (Clause 4).

Clause 4 of Schedule 7 states that 'Crown development' with a capital investment over \$5 million is deemed development for the determination by a Regional Planning Panel.

The proposed development has a CIV of \$27,632,657.00 (excluding GST) and as such will need to be determined by the Western Regional Planning Panel.

### **3.11 Section 4.33 - Crown development**

The Applicant is Premise NSW Pty Ltd Dubbo on behalf of the Public Works Advisory (PWA). The PWA is a State Government agency and its Executive Directors and staff are employed in the service of the Crown. Consequently, such officers represent the Crown.

Under the provision of Section 4.33(1)(b), Council must not impose a condition on a Crown Development Application, except with the approval of the applicant. Therefore, in accordance with the above requirements, a copy of the (draft) consent will be sent to the applicant for review prior to finalisation.

Further, pursuant to Sections 6.28 and 6.7 the Crown is not required to obtain a Construction Certificate for any proposed building works, but only have the development certified by it or on its behalf, as complying with the technical provisions of the State's building laws. However this can be overturned by the Minister ordering that specific provisions of such laws do not apply to the development. The technical provisions of the State's Building Laws are the Building Code of Australia. The responsibility for ensuring that compliance is achieved with the BCA solely rests with the Crown – Council has no statutory role in this regard.

Consequently, an assessment would not usually be undertaken to determine the buildings compliance with the Building Code of Australia, but to determine only if there is likely to be any adverse impact upon those Council services for which it is the regulatory authority i.e. sanitary, water and stormwater plumbing and drainage; and those legislative building provisions under the EP&A Act that it must consider where applicable and included on the Development Application's determination notice.

As mentioned earlier, the Crown is exempt from having to obtain a Construction Certificate for the proposed building works. Consequently, the classification of the building will be required to be stipulated on the Development Application's determination notice pursuant to clause

100(1)(g) of the EP&A Regulation 2000. This classification is reproduced below and on the Development Consent.

Building Code of Australia Classification

| Applicable Building                             | Whole or Part | Class |
|-------------------------------------------------|---------------|-------|
| Single storey indoor sporting facility building | Whole         | 9b    |

#### 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 5**.

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 5: Concurrence and Referrals to agencies**

| Agency                                          | Concurrence/<br>referral trigger                                                              | Comments<br>(Issue, resolution, conditions)                                                                                                                                                                                                  | Resolved |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| <b>Referral/Consultation Agencies</b>           |                                                                                               |                                                                                                                                                                                                                                              |          |
| Essential Energy (Electricity supply authority) | CI 2.48 - SEPP (Transport and Infrastructure) 2021 Development near electrical infrastructure | No objection to the proposed development. The requirements specified by Essential Energy in correspondence dated 1 October 2021 will be included on the development consent as notations, as Council is unable to enforce such requirements. | Yes      |

##### 4.2 Council 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 |
|------------|--------------------------------------------------------------------------------------------------------------------------------------|----------|
| Stormwater | Council Engineers reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions. | Yes      |
| Traffic    | Council Engineers reviewed the Traffic Impact Assessment in relation to traffic generation. These issues are considered in           | Yes      |

|                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |     |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
|                  | more detail in the Key Issues section of this report, with appropriate conditions included in relation to the acquisition, classification and constructions of the proposed extension of River Street.                                                                                                                                                                                                                                                                                               |     |
| Health           | An acoustic report was submitted which addresses the noise in relation to functions and indoor sports activity and the noise related to construction has been addressed. Standard condition recommended in relation to hours of construction activity and level of noise caused by construction not exceed an LAeq (15 min) of 5dB(A) above background noise.                                                                                                                                        | Yes |
| Waste Management | Standard condition recommended that all solid waste from construction and operation of the proposed development shall be assessed, classified and disposed of in accordance with the NSW Environment Protection Authority's Waste Classification Guidelines. Whilst recycling and reuse are preferable to landfill disposal, all disposal options (including recycling and reuse) must be undertaken with lawful authority as required under the Protection of the Environment Operations Act, 1997. | Yes |
| Land Fill        | While construction work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements. Standard condition in relation to all fill material imported to the site must be Virgin Excavated Natural Material.                                                                                                                                                                                  | Yes |
| Trade Waste      | It appears that the proposed development may be a generator of liquid trade waste discharge into Council's sewer. Council's Infrastructure Division, being responsible for Trade Waste Approvals and control of such discharges into its sewer, will need to determine the adequacy of the proposal and any required pre-treatment.                                                                                                                                                                  | 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 from 5 October 2021 until 24 October 2021. The notification included the following:

- Notified in Daily Liberal on: 13 October 2021; and
- Notification letters sent to the twelve (12) adjoining and adjacent properties;

The 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 Access and Traffic**

The Traffic Impact Assessment submitted with this application provides an assessment of the existing traffic movements experienced at the site and the anticipated traffic movements at completion of the development. This includes the proposed extension to River Street.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

## **5.2 Groundwater Vulnerability/Salinity**

The subject site is identified as having a 'moderately high' risk of groundwater vulnerability.

The design associated with the construction of the Indoor Sporting Facility will ensure consistency between the approved early works plans approved under D21-555 for the early civil works in the management of stormwater.

The Salinity Report for the Proposed Dubbo Sports Hub prepared by the NSW Soil Conservation Service (2021), contains a number of recommendations to reduce the risk of increasing the salinity. It also identifies building methods to prevent salt damage.

It is proposed that the design and construction of the stormwater drainage system for the proposed development to be at the Developers expense and satisfaction to the Council. Stormwater drainage system is to incorporate the following:

### **River Street Construction:**

- River Street stormwater to be designed and constructed to manage 10% Annual Exceedance Probability (AEP), minor flows within a pipe system and 1% AEP major overland flows;
- The existing stormwater pipe in River Street is to be extended east past the limit of the River Street proposed road construction including any temporary turning circle;
- Stormwater flows from stormwater catchment area south of River Street is to be managed within the River Street corridor;
- Table drains to be stabilised to reduce risk of scouring and erosion; and
- Design and construction must provide for ease of table drain maintenance.

### **Proposed Carpark and access road:**

- Stormwater flows are to be managed across the proposed access road. Flows up to and including the 10% AEP is to be piped beneath the access way. Piped width to cater for the passage of pedestrians and vehicles. Flows up to and including the 1% AEP to make safe passage through the site. Overland flow over the access ways are limited to a maximum depth of 200mm and below the 0.4 depth velocity criteria for safe pedestrian access;
- In open channels the 0.4 depth velocity criteria is to be followed where possible or the design shall address the requirements for safety in relation to children by providing safe egress points from the channel or other appropriate methods; and
- Work as executed drawings shall be provided after construction including details of connection to Council's stormwater system.

### **Senior Campus flows:**

- Roof water shall be conveyed by drainage pipework to the property's stormwater drainage system;
- The site is to accept and manage both the piped and the overland flows from the

- Senior Campus through the site;
- The existing piped flows entering the site from the senior campus are to be piped through the site to Troy Gully in an inter-allotment style drainage pipeline. An easement to drain water, minimum 2.0m wide, is to be created in favour of Council over the line; and
- Stormwater drainage that will become the asset and responsibility of Council is to be piped. Open channels to incorporate low flow pipes. Pipes to convey the 10% AEP or a continuation of the existing pipe size, whichever the larger, or as otherwise agreed with Council's Infrastructure Strategy and Design Branch.

All works are to be undertaken in accordance with Council's adopted AUS-SPEC #1 Development Specification Series - Design and Construction, with detailed engineering plans submitted to and approved by Council prior to any construction works commencing.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

### **5.3 Noise and Vibration Assessment**

A Noise Impact Assessment prepared by Assured Environmental (20/04/2021) anticipates noise levels at a range of events including a major sporting event (one court in use with a large audience) and normal sporting use (five courts in use with a small audience). The report concludes that the anticipated noise levels experienced by sensitive receivers (being residential dwellings on Leonard and Caroline Streets) will be minimal and barely audible. In addition, it noted that events would occur outside of normal business hours so the impact on the adjoining educational establishment is unlikely to be affected by any noise generated at the site.

On-going management of acoustics will be required to ensure no adverse impact on adjoining or nearby sensitive receivers. Condition accordingly that the activities carried out on site shall not constitute a nuisance in relation to noise, as specified under the Protection of the Environment Operations Act 1997.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

### **5.4 Safety, security and crime prevention**

An assessment of the four (4) Crime Prevention Through Environmental Design (CPTED) principles has been undertaken in supporting Statement of Environmental Effects (SoEE). The assessment found that subject to implementation of adopted principles and recommendations with respect to surveillance, access control, territorial reinforcement and space management, the proposed building, the proposed development is considered acceptable in the context of crime and safety.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in **Attachment A**.

## 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 development is not considered likely to have any significant negative impacts upon the environment or upon the amenity of the locality.

The proposed development is consistent with the objectives of the applicable Environmental Planning Instruments, Development Control Plan 2013 and Council policies and is therefore recommended for approval subject to the conditions of consent attached.

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 A**.

## 7. RECOMMENDATION

That the Development Application D21/569 for Recreational Facility (Indoor) at Lot 902 DP 1033617, 8 Tony McGrane Place, Dubbo be **APPROVED** pursuant to Section 4.16(1)(a) 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
- Attachment B: Approval from the Crown (applicant) for imposition of Conditions
- Attachment C: Architectural Plans