



REPORT: D21-569 - 8 Tony McGrane Place Dubbo - Recreation Facility (Indoor) - Development Contributions

DIVISION: Development and Environment
REPORT DATE: 18 August 2022
TRIM REFERENCE: ID22/1723

EXECUTIVE SUMMARY

Purpose	To advise Council of the request to waive development contributions for road, stormwater drainage, water and sewer in support of D21-569 Recreation Facility (Indoor) at 8 Tony McGrane Place, Dubbo and to seek Council's endorsement whether to waive any or all of these contributions.	
Issue	• Payment of Development Contributions • Manage impacts on Council's existing infrastructure	
Reasoning	• To ensure adequate funding is provided to cater for the anticipated impact of the proposed development on existing Council infrastructure	
Financial Implications	Budget Area	Infrastructure
	Funding Source	Development Contributions under • s.7.11 - Environmental Planning and Assessment Act, 1979 - s.64 - Local Government Act, 1993
	Proposed Cost	\$221,396.98 - Roads \$17,144.49 - Stormwater / Drainage \$437,258.21 - Water supply \$119,218.83 - Sewer headworks
	Ongoing Costs	Development Contributions
Policy Implications	Policy Title	• Local Government Act, 1993 • Environmental Planning and Assessment Act, 1979 • Water Management Act, 2000 • State Environmental Planning Policy (Planning Systems) 2021 • SEPP (Transport and Infrastructure) 2021 • Water and Sewerage Contribution Policy - 2002 • S.94 Contributions Plan - Urban Stormwater Drainage Headworks Contributions 2019 • Amended s.94 Contributions Plan - Roads, Traffic Management and Car Parking - 2016

		Planning Circular D6 - Crown Development Applications and Conditions of Consent
	Impact on Policy	There are no policy impacts arising from this report

STRATEGIC DIRECTION

The Towards 2040 Community Strategic Plan is a vision for the development of the region out to the year 2040. The Plan includes six principle themes and a number of objectives and strategies. This report is aligned to:

Theme: 2 Infrastructure
CSP Objective: 2.2 Infrastructure meets the current and future needs of our community
Delivery Program Strategy: 2.2.1 Water and sewer infrastructure and services meet the needs of the community

Theme: 2 Infrastructure
CSP Objective: 2.2 Infrastructure meets the current and future needs of our community
Delivery Program Strategy: 2.2.3 Urban drainage systems meet the needs of the community

Theme: 2 Infrastructure
CSP Objective: 2.1 The road transportation network is safe, convenient and efficient
Delivery Program Strategy: 2.1.2 The road network meets the needs of the community in terms of traffic capacity, functionality and economic and social connectivity

RECOMMENDATION

That Council determine the level of development contributions for the proposed Crown Recreation Facility (Indoor) at 8 Tony McGrane Place, Dubbo from the following three options:

- a. Support the request to waive all contributions; or**
- b. Not require contributions under s7.11 of the Environmental Planning and Assessment Act, 1979 for roads and stormwater drainage, but endorse the requirements for any water supply and sewerage headworks to be levied (payable prior to release of a 'compliance certificate' under s.307 of the Water Management Act, 2000 and prior to the use of the development);**
- c. Reject the request to waive all contributions.**

Stephen Wallace
Director Development and Environment

BM
Senior Planner

BACKGROUND

Dubbo Sports Hub stage 1 which aimed to develop an indoor centre that was equivalent to those found in other similar sized regional centres and in some cases smaller centres. A position of Council at that time was an in-kind contribution of Council that equated to \$900,000 depending on the individual grant applied for. The majority of funding was proposed to be coming from NSW and Australian Government with approximately \$4,000,000 of funding commitment from PCYC. The value of the CSU land contribution was valued at \$980,000.

On 29 September 2021, a Crown application for a proposed Recreational Facility (Indoor) ('the proposal') at Lot 902 DP 1033617, 8 Tony McGrane Place, Dubbo was lodged with Council.

The proposal comprises the following items:

1. Reception/ kiosk, foyer, youth hub and security area
2. 499m² multipurpose space
3. 79m² learning space
4. 376m² gymnasium
5. 204m² boxing area including ring
6. Male, female and umpire change rooms and amenities
7. 49m² event management room
8. Storage areas
9. 1,093m² gymnastics area
10. Five indoor multi-sports courts, providing playing surfaces for netball, basketball and futsal (4,197m²)
11. Retractable seating for up to 500 patrons.

Associated landscaping and infrastructure provisions, including vehicular access and stormwater, are also proposed. For a locality map of the site see **Figure 1**.

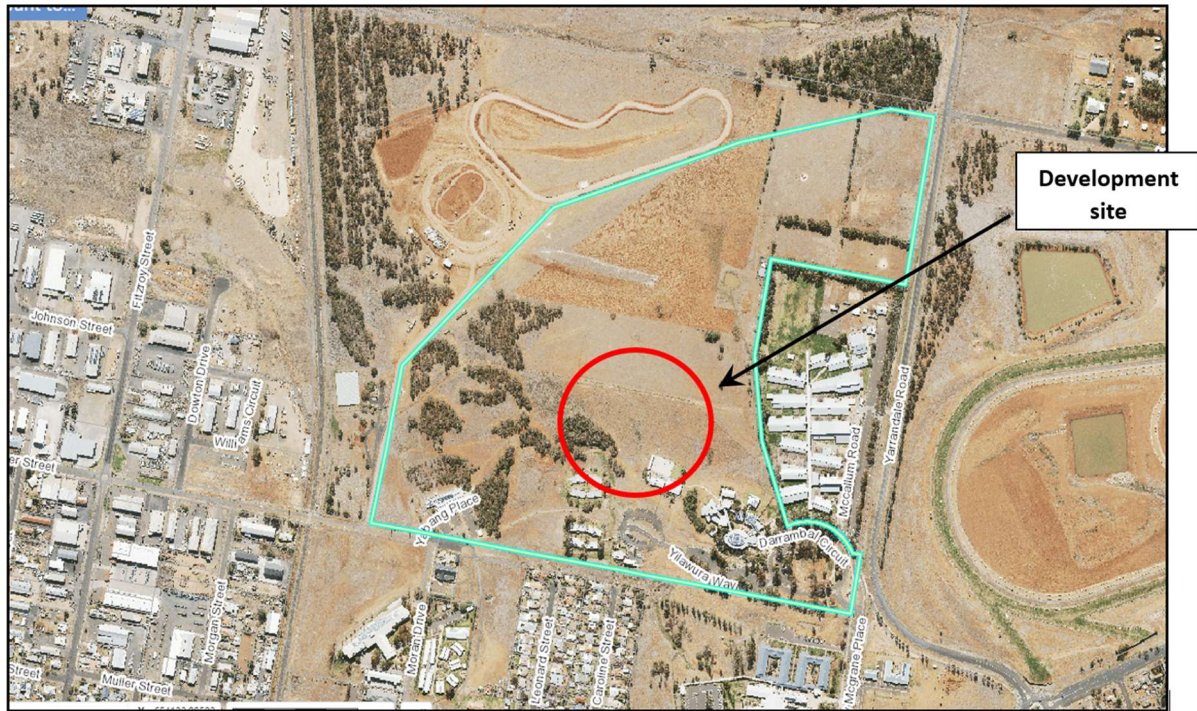


Figure 1: Site location

The application was 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 capital investment value (CIV) over \$5 million.

Following the Panel's meeting on 22 June 2022, the Crown applicant objected to two conditions:

- Condition B1 as it related to the Payment of Development Contributions for (a) Water Supply, (b) Sewerage, (c) Stormwater Drainage and (d) Urban Roads
- Condition B4 as it related to Stormwater Management - Senior Campus Flows.

The Crown applicant lodged an amended Civil Engineering Design Drawing - Stormwater on 11 July 2022 giving effect to the Stormwater Management objection. This was subsequently considered by Council's Infrastructure Strategy and Design, with an amended design and draft conditions submitted to the Crown for endorsement on 8 August 2022.

However, the matter relating to the payment of development contributions remains outstanding, with a formal request, attached as **Appendix 1**, to waive all contributions made on 19 July 2022, which is the subject of this report.

REPORT

Development Contributions

Section 7.11 of the Environmental Planning and Assessment Act 1979 and Section 64 of the Local Government Act 1993 enables councils in New South Wales to levy contributions on a development where that development generates an increased demand on council's services and facilities.

These contributions are intended to ensure that ratepayers are not required to meet the cost of providing new or expanded infrastructure supporting new or expanded development.

Dubbo Regional Council has Contributions and Development Servicing Plans for the embellishment of public open space, community facilities, urban stormwater drainage, carparking for commercial developments, water supply, sewerage headworks and roads.

Proposed Development

The following contributions plans are relevant to the assessment of the proposal and considered in the recommended conditions to the Panel on 22 June 2022:

S.64 Water and Sewerage Contribution Policy - 2002

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

Water Contribution of **\$437,258.21** and Sewer Contribution of **\$119,218.83** were conditioned in support of the proposal for water supply and sewer headworks.

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

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, and contributions are levied on a per ha rate.

Stormwater Drainage Contribution of **\$17,144.49** was conditioned for Stormwater Drainage.

S.94 Contributions Plan - Roads, Traffic Management and Car Parking – 2016 (amended)

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, 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, Recreation - Gymnasium for the Gymnasium area and Other Office for the balance of the proposed development were utilised in the contribution calculations, which amounted to an overall contribution of **\$221,396.98** for Urban Roads Contributions.

Crown Development

The Department of Planning and Environment, Planning Circular D6 - Crown Development Applications and Conditions of Consent, outlines the limitation on imposition of levies on Crown developments with an underlying philosophy of essential community services: education, health, community services, law and order and some housing.

The proposal is defined as a 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 site is zoned SP2 - Educational Establishment, and recreation facility (indoor) is not expressly permitted, and therefore prohibited. However, the proposed development of a recreation facility (indoor) while not an 'Educational Establishment', is considered ancillary to the CSU - Dubbo campus and as such permitted with consent.

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.

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.

Note that the term infrastructure in this instance refers to the 'Educational establishment' and the proposal is considered to be consistent with this zone objective as it provides for the physical, social, cultural or intellectual development or welfare of the community.

As a development ancillary to an 'Educational establishment', a formal request, attached as **Appendix 1**, to waive the requirement to pay development contributions for Water Supply, Sewerage, Stormwater Drainage and Urban Roads has been made under these guidelines on the basis that the project represents a material public benefit to the community through the provision of a *"... modern state of the art sporting facility."*

Road Contributions

As part of the assessment and consideration of the proposal, 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 construction of the proposed extension of River Street.

While discussions between the Crown applicant and Council to identify issues to be addressed prior to lodging the development application did not occur in accordance with the *"... Suggested Procedures Prior to Lodging a Crown DA"* outlined in Planning Circular D6, the public benefit associated with the site entrance is noted.

Therefore, noting Planning Circular D6 - Crown Development Applications and Conditions, it is recommended that a condition for road contributions under s7.11 of the Environmental Planning and Assessment Act, 1979, not be required in lieu of the conditioned acquisition, classification and construction of the proposed extension of River Street.

Drainage Contributions

As part of the assessment and consideration of drainage works, Planning Circular D6 encourages Council and Crown agencies to apply techniques which ensure that development does not contribute to additional run-off, particularly in established areas. This should be taken into account when councils levy contributions.

As noted previously in this Report, an amended Civil Engineering Design Drawing - Stormwater was lodged with Council on 11 July 2022 and it has been considered by Council's Infrastructure Strategy and Design, with an amended design and conditions returned to the Crown on 8 August 2022, addressing stormwater.

If the amended design and conditions are accepted by the Crown, it is therefore recommended, noting Planning Circular D6 - Crown Development Applications and Conditions, that a condition for stormwater contributions under s7.11 of the Environmental Planning and Assessment Act, 1979, not be required in lieu of the conditioned movement of stormwater from the site.

Water supply and Sewerage headworks

Council can require developers to undertake works or to pay part of the whole cost of these works using the combined authority under s64 of the Local Government Act 1993 and Part 2 of the Water Management Act 2000.

Council's Water and Sewerage Contribution Policy was last reviewed in 2020, to provide a clear direction for the calculation of water and sewer contributions to ensure contributions accurately reflect the costs of providing a development with reticulated water and sewer services until a new Plan can be prepared and adopted by Council.

Water supply and sewer headworks were subsequently assessed and calculated under the provisions of this policy.

Noting the Crown objection to the amount of contributions to be levied and the complex nature of water and sewer contributions given the wide variety of different development types, the use of Council's policy may not always accurately or fairly reflect the demand for water and sewer services generated by a proposal.

In this case, the Crown applicant was invited in response to their objection, to provide Council with 'real world data', including average usage rates for a similar development anywhere in NSW. These figures would then be used by Council in the calculation of water and sewerage contributions. This data has not been submitted to Council.

As an alternative consideration to facilitate on going assessment, Council can require a 'Certificate of Compliance' for water supply works, sewerage works.

Therefore, it recommended that a condition in relation to water and sewer requiring a 'compliance certificate' under Section 307 of the Water Management Act, 2000 for water supply and headworks be obtained prior to the use of the development.

This will allow the Crown applicant to proceed with the approval, while making an application to Council's Water Supply and Sewerage Branch in order to fully assess the impacts of the proposal and, if required, to be issued a 'Notice of Requirements' letter detailing development requirements, which may include contributions, that must be met prior to the operation of the development.

Notwithstanding the above, neither of these alternative options have been pursued by the Crown applicant, with the formal request made to waive all contributions being forwarded to Council on 19 July 2022.

Consultation

- Council's Infrastructure Strategy and Design
- Council's Water Supply and Sewerage Branch
- Crown's Applicant (Premise Consulting Pty Ltd)
- Public Works Advisory

Resourcing Implications

The following resourcing implication are applicable:

Option 1

Revenue will be forgone from calculated contributions generated from the proposal in the amount of **\$795,018.51**, made up of the following:

S. 7.11 Contributions

- \$221,396.98 in roads contributions;

Noting that a public benefit will result from the conditioned acquisition, classification and construction of the proposed extension of River Street in lieu of road contributions.

- \$17,144.49 in stormwater drainage contributions; and

Noting that a public benefit will result from the conditioned movement of stormwater from the site in lieu of stormwater drainage contributions.

S.64 Contributions

- \$437,258.21 in water supply contributions; and
- \$119,218.83 in sewer headwork contributions.

Works would be funded from user charges and other contributions that cater for the increased demand on Council's water supply and sewer services and facilities.

However, it may be considered by Council that the provision of the proposed Recreation Facility reflects an overall material public benefit to the community in lieu of all calculated contributions.

Option 2

The cost to Council for the proposal are anticipated to be neutral for Council given the following considerations:

- A public benefit will result from the conditioned acquisition, classification and construction of the proposed extension of River Street in lieu of road contributions;
- A public benefit will result from the conditioned movement of stormwater from the site in lieu of stormwater drainage contributions;
- Council's Water Supply and Sewerage Branch will assess the development and, if required, issue a 'Notice of Requirements' letter detailing any necessary water and sewerage work conditions, including any contributions, prior to the use of the development.

Option 3

To manage the increased demand of the proposal on Council's road network and the drainage, water supply and sewer services and facilities, Council levy the calculated contribution amount of **\$795,018.51**, made up of the following:

- \$221,396.98 in roads contributions;
- \$17,144.49 in stormwater drainage contributions;
- \$437,258.21 in water supply contributions; and
- \$119,218.83 in sewer headwork contributions.

Options Considered

Council has the following options:

1. Council support the request to waive all contributions as outlined in this report.

This option does not reflect the contribution calculated intensification of use of the proposal on existing infrastructure provided by Council, including road network, drainage, water supply and sewer headworks. It may however be considered by Council to reflect the material public benefit to the community of the provision of the proposed Recreation Facility.

2. Council not require contributions under s.7.11 relating to roads and stormwater drainage noting the public benefit provided in relation to the acquisition, classification and constructions of the proposed extension of River Street and the conditioned movement of stormwater off site respectively.

The requirements under s.64 of the Local Government Act, 1993 for water supply and sewerage headworks be retained as a condition requiring a 'compliance certificate' to be issued by Council under s.307 of the Water Management Act, 2000 for water supply and headworks prior to the use of the development.

This is the option that best manages the proposal's impacts on Council's existing water and sewerage infrastructure. However, it is noted that this option can delay the determination of the Development Application if the Crown does not accept this condition, triggering the mechanism for a referral of the application to the Planning Minister under Division 4.6 Crown Development of the Environmental Planning and Assessment Act 1979.

3. Council reject the request to waive all contributions.

This option will delay the determination of the Development Application, trigger the mechanism for a referral of the Development Application to the Planning Minister under Division 4.6 Crown Development of the Environmental Planning and Assessment Act 1979.

APPENDICES:

- 1 Request to Waive Contributions