

COUNCIL ASSESSMENT REPORT

WESTERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSWES-271 – DA 2025-0004
PROPOSAL	Health services facility (Bourke Aboriginal Corporation Health Services)
ADDRESS	Lot 6 - 10 DP 35797 88-96 Mitchell Street, Bourke
APPLICANT	Bourke Aboriginal Corporation Health Services
OWNER	Bourke Shire Council
DA LODGEMENT DATE	22 November 2024
APPLICATION TYPE	Development application
REGIONALLY SIGNIFICANT CRITERIA	<p>Section 2.19(1) and Clause 3b of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 declares the proposal regionally significant development as:</p> <ul style="list-style-type: none"> <i>Council is the owner of the land on which the development is to be carried out and the applicant has indicated an estimated cost of development exceeding \$5 million.</i> <p>Additionally, the development is also declared regionally significant development under Clause 5b of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 as:</p> <ul style="list-style-type: none"> <i>The development comprises a health services facility and the applicant has indicated an estimated cost of development exceeding \$5 million.</i>
CIV	\$14,054,873 (excluding GST)
CLAUSE 4.6 REQUESTS	N/A
KEY SEPP/LEP	<ul style="list-style-type: none"> <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021;</i> <i>State Environmental Planning Policy (Planning Systems) 2021;</i> <i>State Environmental Planning Policy (Resilience and Hazards) 2021;</i>

	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021; and</i> • <i>Bourke Local Environmental Plan 2012.</i>
TOTAL & UNIQUE SUBMISSIONS ISSUES KEY IN SUBMISSIONS	No submissions were received.
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • <i>Statement of Environmental Effects</i> • <i>RFI Response Letter</i> • <i>ESD and General Sustainability Provisions Report</i> • <i>Section J Report and Statement of Compliance</i> • <i>Embodied Emissions Report</i> • <i>Survey</i> • <i>Estimated development cost report</i> • <i>Refined Architectural Plans and Design Statement</i> • <i>Refined Landscape Plans and Design statement</i> • <i>Geotechnical Investigation Report</i> • <i>Site Contamination Investigation and Remediation Action Plan</i> • <i>Refined Traffic Impact Assessment</i> • <i>Concept Electrical, Hydraulic and Fire Servicing Plans</i> • <i>Arboricultural Report</i> • <i>AHIMS Search</i> • <i>Refined Civil Engineering Drawings and Statement, including Sediment and Erosion Control Plan</i> • <i>Refined Operational Plan</i> • <i>Operational and Construction Waste Management Plan</i> • <i>Construction and Operational Noise Assessment</i> • <i>BCA and Access Statement</i>
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	N/A
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	27 May 2025
PLAN VERSION	17 February 2025 Version No 5
PREPARED BY	Lucy McDermott (Premise Australia Pty Ltd) on behalf of Bourke Shire Council
DATE OF REPORT	29 April 2025

EXECUTIVE SUMMARY

The development application (DA 2025-0004) seeks consent for a health services facility at 88 – 96 Mitchell Street, Bourke (formally known as Lots 6 – 10 DP 35797). The proposed development involves the demolition of existing signage poles and six existing trees, construction of a new building for use as a health services facility, including parking and access to both the southern laneway and Mitchell Street (Kamilaroi Highway), landscaping, and installation of ancillary infrastructure.

The development site comprises five vacant lots with a combined area of approximately 4,605 m², located at the corner of Mitchell Street (Kamilaroi Highway), Tarcoon Street, and an unnamed lane. The development site is generally flat and currently vacant aside from temporary event signage poles and scattered trees. It is affected by 1% AEP flooding, identified as non-riverine flooding.

The development site is located within an established low-density residential area, approximately one kilometre from the Bourke town centre. The locality features single-storey built form and is characterised by surrounding residential dwellings and community facilities, including a high school and two places of worship. Mitchell Street and Tarcoon Street are both designated Oversize Overmass (OSOM) vehicle routes.

The development site is located in the R1 General Residential zone pursuant to Clause 2.2 of the *Bourke Local Environmental Plan 2012* (LEP). Demolition and the construction of a building for use as a health services facility is permissible with consent in the R1 General Residential zone.

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'). Written notice was given to both Essential Energy pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP'), and Transport for NSW (TfNSW) pursuant to Section 138 of the *Roads Act 1993*. Comments from Essential Energy required that the development provide a minimum clearance distance of 3.1 metres from essential energy infrastructure. Comments from TfNSW were provided including in relation to driveway widths, sightlines, and access for service vehicles. The applicant has provided amended plans that address the matters raised in both referrals.

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

- *Section 2.6 of the State Environmental Planning Policy (Biodiversity & Conservation) 2021 for consideration of whether approval is required for vegetation removal;*
- *Section 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021 for consideration of whether the land is contaminated;*
- *Section 3.2 of State Environmental Planning Policy (Sustainable Buildings) 2022 for consideration of whether embodied emissions and sustainability provisions have been addressed;*
- *Section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 in relation to the proximity to overhead powerlines; and*
- *Section 2.119 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 for consideration of impacts on a classified road.*

The application was placed on public exhibition from 28 November 2024 to 13 December 2024. No submissions were received.

The development application is declared to be '*regionally significant development*', pursuant to the following:

- Section 2.19(1) and Clause (3)(b) of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 (Systems SEPP) as Bourke Shire Council is the owner of the land on which development is to be carried out and the applicant has indicated an estimated cost of development exceeding \$5 million.
- Clause (5)(b) of Schedule 6 of Systems SEPP as the proposal is development comprising a health services facility and the applicant has indicated an estimated cost of development exceeding \$5 million.
- The consent authority is therefore the Western Regional Planning Panel ('the Panel') pursuant to Section 4.5(b) of the EP&A Act.

A briefing was held with the Panel on 18 March 2025 where the proposed development was discussed and the key issue of car parking was raised.

The key issues associated with the proposed development is limited to car parking. Based on the requirements of the *Bourke Development Control Plan 2012* (BDCP 2012), the proposed development requires 32 parking spaces. The proposed development provides for 22 parking spaces, resulting in a shortfall of 10 parking spaces. This shortfall was justified through the use of fleet vehicles for pick up/put down services, and appointment based operations. Based on the assessment and justification provided in the Traffic Impact Assessment (TIA), as well as consideration of the operational and contextual factors of the development, it is concluded that the shortfall in parking is unlikely to result in any significant adverse impacts. It is therefore considered that there are no outstanding key issues relating to the proposed development.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant SEPPs, LEP and DCP it is considered that the proposed development is generally consistent with the relevant planning requirements and as such can be supported. The proposal is considered to be in the public interest, delivering essential health services and local employment opportunities, while incorporating sustainable design measures and appropriate mitigation of any potential impacts.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the *EP&A Act*, DA 2025/0004 is recommended for approval subject to draft conditions of consent provided in **Attachment A** of this report.

1 THE SITE AND LOCALITY

1.1 The Site

The development site comprises five lots with a combined area of approximately 4,605 m², measuring approximately 91 metres by 50 metres. The development site has frontages to Mitchell Street (Kamilaroi Highway) to the north, Tarcoon Street to the east, and an unnamed lane to the south. The development site is currently vacant, containing only poles for temporary event signage and several scattered trees. The development site is generally flat with a slight slope to the east and has a north-south orientation.

Street infrastructure includes both low voltage and 22 kV power lines along the Mitchell Street and Tarcoon Street frontages. The land is zoned R1 General Residential under the LEP. Adjoining uses include residential dwellings, places of worship, and educational facilities. The development site is identified as flood-prone within the 1% Annual Exceedance Probability (AEP) in the *Bourke Floodplain Risk Management Study 2022*. Council staff have identified that the flooding is non-riverine and identified the required minimum finished floor height.

Figure 1 - Location map

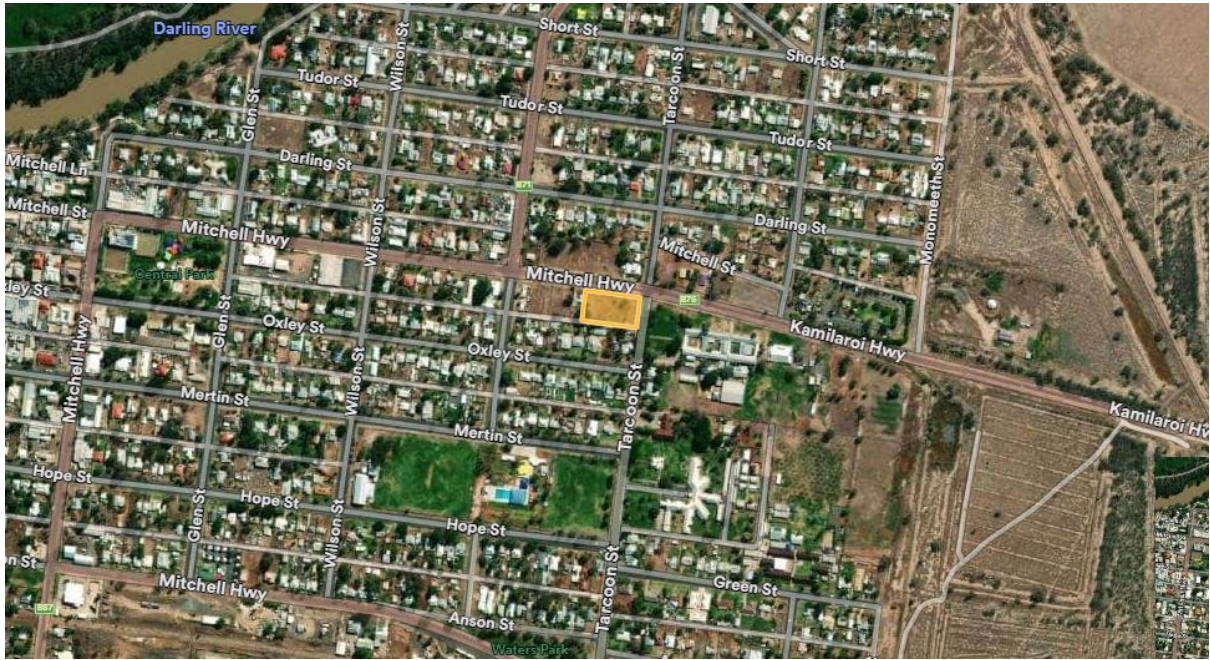


Figure 2 - Aerial site map

Figure 3 - Laneway looking north



Figure 4 - Laneway looking south



Figure 5 - Western boundary looking east



Figure 6 - Trees along southern boundary



Figure 7 - Adjoining western neighbour



Figure 8 - Powerlines on Mitchell Street



Figure 9 - Existing signage poles



Figure 10 - View north on Tarcoon Street



1.2 The Locality

The development site is situated within a low density residential area of Bourke, approximately one kilometre from the town centre. The locality is characterised by a low-scale, single-storey built form and is zoned R1 General Residential. Surrounding land uses are predominantly residential, with community facilities including a high school to the east and two places of worship located to the north-east and south. Mitchell Street (Kamilaroi Highway) and Tarcoon Street, which front the development site, are classified roads and approved as Oversize Overmass (OSOM) transport routes. The locality reflects a stable residential environment with a mix of educational and religious land uses.

2 THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for a health services facility for use by the Bourke Aboriginal Corporation Health Services. Specifically, the development involves the demolition of existing signage poles and the removal of six trees from the development site, construction of a new building and accessways, and the installation of essential infrastructure.

The proposed building will function as a health services facility and have a gross floor area (GFA) of 786m². The building is single storey and features an “L” shaped footprint, positioned along the northern and eastern boundaries of the development site. The building layout includes general administration rooms and waiting areas to the north, with consulting rooms located toward the southern end. The external façade incorporates a metal shingle pattern inspired by the yellowbelly, a culturally significant fish species native to the Darling River.

The building is arranged around a central landscaped area. The submitted documentation provides that this space has been designed through community consultation to provide a welcoming and nurturing environment for visitors. The landscaping incorporates climate-resilient plant species suitable for the local environment.

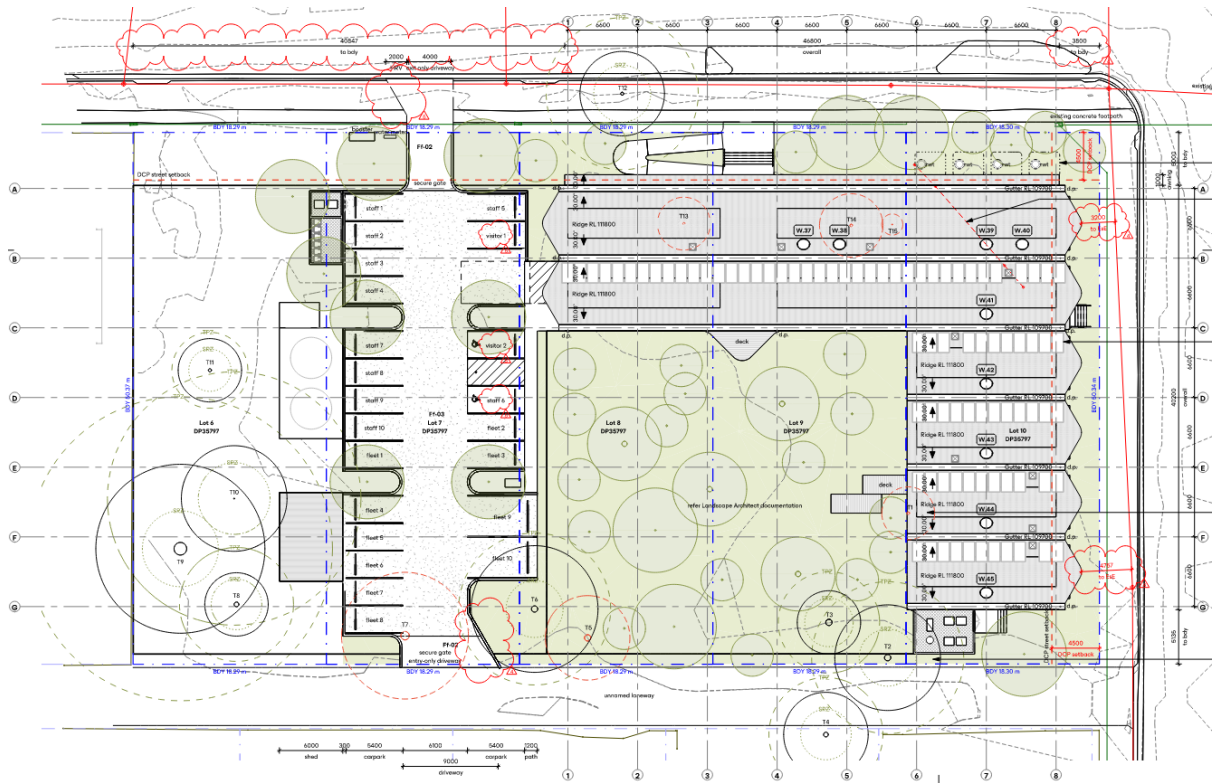
The construction of the health services facility also involves the construction of new accessways and a hardstand parking area. Vehicular access to the development site is provided via ingress from the southern laneway and egress at Mitchell Street (Kamilaroi Highway) and has been designed with chamfered edges to allow for vehicles up to 12.5m. The driveway width at Mitchell Street is limited to 4m to prevent two way access.

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

Table 1: Development Data

Control	Proposal
Site area	4,605 m ²
GFA	786 m ²
FSR (retail/residential)	Not applicable
Clause 4.6 Requests	No
No of apartments	Not applicable
Max Height	6.6 metres
Landscaped area	871 m ²
Car Parking spaces	22 parking spaces <ul style="list-style-type: none"> - 2 visitor - 10 staff - 10 fleet
Setbacks	North – 5 m East – 3.8 m South – 5.1 m West – 40.8 m

Figure 11 - Site Plan



2.2 Background

The development application was lodged on **22 November 2024**. 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
22 November 2024	DA referred to external agencies
27 November 2024	DA referred to internal departments
28 November 2024	Exhibition of the application
21 January 2025	Request for Information from Council to applicant
19 February 2025	Additional information received
18 March 2025	Panel briefing
10 April 2025	Call between assessing officer and applicant town planner to clarify details of parking arrangements.
19 May 2025	Report finalised for issue to WRPP

2.3 Site History

The development site was historically occupied by residential dwellings, which were removed in the mid-1990s. Since their removal, the development site has remained vacant and undeveloped.

3 STATUTORY CONSIDERATIONS

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

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is not considered to be (which are considered further in this report):

- *Integrated Development (s4.46);*
- *Designated Development (s4.10);*
- *Requiring concurrence/referral (s4.13); or*
- *Crown DA (s4.33).*

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

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

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

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021;*
- *State Environmental Planning Policy (Planning Systems) 2021;*
- *State Environmental Planning Policy (Resilience and Hazards) 2021;*
- *State Environmental Planning Policy (Sustainable Buildings) 2022;*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021; and*
- *Bourke Local Environmental Plan 2012.*

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

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<p>Chapter 2: Vegetation in non-rural areas</p> <ul style="list-style-type: none"> • Section 2.6(1) – requires approval from council for removal of vegetation to which Part 2.3 applies. Part 2.3 provides that a DCP may declare relevant vegetation. The BDCP 2012 does not declare any vegetation for the purposes of the Biodiversity SEPP. However, it does require the retention of any significant trees and vegetation under Section 6.3.3. The arborist report provided identifies that only one tree of the six to be removed is classed as “Consider for retention”. Replacement planting around the carpark is proposed. <p>Chapter 4: Koala Habitat Protection 2021</p> <ul style="list-style-type: none"> • Section 4.10 – states that Council may grant consent if the land is outside of an approved koala plan of management (POM) and is not core koala habitat. A POM does not apply to the land, and the land is not considered core koala habitat. 	Y
State Environmental Planning Policy (Planning Systems) 2021	<p>Chapter 2: State and Regional Development</p> <ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development pursuant to Sections 3b and 5b of Schedule 6. 	Y
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land	Y

EPI	Matters for Consideration	Comply (Y/N)
	<ul style="list-style-type: none"> • Section 4.6 – A Preliminary Site Investigation (PSI) has been undertaken by the applicant. The PSI provided identifies that asbestos was detected on site. The PSI advises that remediation works is expected to be considered Category 2. Pursuant to Section 4.11 of the SEPP (Resilience & Hazards), Category 2 remediation work is work that does not require consent. A Remedial Action Plan (RAP) for the works has been provided which stated that the remediation works are considered Category 2 remediation. While the RAP states the work is category 2, it is recommended that a condition be imposed prior to occupation certificate requiring a validation report, to ensure the development site is suitable for the proposed use. The development site is considered to be satisfactory subject to conditions. 	
State Environmental Planning Policy (Sustainable Buildings) 2022	<p>Chapter 3: Standards for non-residential development</p> <ul style="list-style-type: none"> • Section 3.2 – A Section J Report, Embodied Emissions worksheet and General Sustainability Provisions Report have been provided to support the development application. The submitted reports confirm the development has been designed to minimise construction waste, reduce peak electricity demand, maximise passive design to limit artificial lighting and mechanical systems, enable renewable energy generation and storage, monitor energy use, and minimise potable water consumption. The Embodied Emissions worksheet submitted ensures that embodied emissions have been quantified. 	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p>Chapter 2: Infrastructure</p> <ul style="list-style-type: none"> • Section 2.48 - <i>(Determination of development applications—other development) – The development is located in close proximity to overhead powerlines. Written notice was provided to Essential Energy and a response was received. Comments from Essential Energy require that the development provides a minimum distance of 3.1 metres between the closest point of the development and Essential Energy infrastructure. Plans have been amended to achieve these requirements, which involved a shift of the building by 700mm to the west.</i> • Section 2.119 - Development with frontage to classified road – The development fronts onto the Mitchell Street (Kamilaroi Highway), with an exit only access point. The development has been amended to ensure the exit driveway to Mitchell Street (Kamilaroi Highway) is 4 	Y

EPI	Matters for Consideration	Comply (Y/N)
	metres wide to prevent two-way access. This arrangement will avoid traffic queuing on Mitchell Street (Kamilaroi Highway). The provided TIA identifies that the exit to Mitchell Street (Kamilaroi Highway) has sufficient sight lines to mitigate impacts on the classified road. Further, as the proposed development is expected to generate an increase of 22 vehicle trips per hour during AM and PM peaks, the TIA states that the proposed development is unlikely to detrimentally impact on the safety, efficiency or ongoing operation of the classified road.	
LEP	<ul style="list-style-type: none"> • Clause 1.2 – Aims of Plan • Clause 2.3 – Zone objectives and Land Use Table • Clause 5.21 – Flood planning • Clause 6.1 – Earthworks • Clause 6.5 – Essential services 	Y
BDCP 2012	<ul style="list-style-type: none"> • Chapter 2 – Information Requirements • Chapter 3 – Natural Hazards • Chapter 4 – Development Types • Chapter 6 – General Development Specifications 	Y

Consideration of the relevant SEPPs is outlined below:

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in Non-Rural Areas

Under Section 2.3 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the Biodiversity SEPP), Chapter 2 of the Biodiversity SEPP applies to non-rural areas of the state which includes all land within the R1 General Residential zone. Under Section 2.6 of the Biodiversity SEPP, a person must not clear:

- Vegetation in a non-rural area of the State to which Part 3 (understood to mean Part 2.3) of the Biodiversity SEPP applies without the authority conferred by a permit granted by Council; or
- Native vegetation in a non-rural area of the State that exceeds the biodiversity offsets scheme threshold without approval by the Native Vegetation Panel under Part 2.4 of the Biodiversity SEPP.

With respect to the first point, Section 2.9 of the Biodiversity SEPP provides that a development control plan may declare any vegetation in any non-rural of the State as vegetation to which Part 2.3 applies by reference to the species, size or location of vegetation or presence of vegetation in an ecological community or in the habitat of a threatened species.

The BDCP 2012 does not declare any vegetation for the purposes of the Biodiversity SEPP. However, it does require the retention of any significant trees and vegetation under Section 6.3.3.

An arborist report has been provided by the applicant which includes an assessment of 15 trees on site in accordance with the *AS-4970 Protection of Trees on Development Sites* to determine retention value. The proposed development involves the removal of six trees within

the development site. Of these, only Tree 7 is identified as “consider for retention”. Tree 7 is identified as a *Eucalyptus sideroxylon* (Mugga Ironbark) and is considered to be in good health with fair structural condition. However, the arborist report notes that the species has a short useful life expectancy of 5 to 15 years. Tree 7 is located within the footprint of the proposed driveway and is therefore required to be removed. The removal of these trees is acceptable as their retention would significantly constrain the development potential of the development site.

To account for the loss of these trees the arborist report recommended new tree planting within the carparking area to offset the loss of canopy cover and amenity. Tree planting has been incorporated into the submitted landscaping plan.

A condition shall be imposed to ensure that tree protection zones are established for retained trees during the construction stage.

With respect to the second point and as discussed in Section 3.2, the development does not exceed the biodiversity offsets scheme threshold. Accordingly, approval by the Native Vegetation Panel is not required.

Chapter 4 Koala Habitat Protection

Chapter 4 of the Biodiversity SEPP relates to koala habitat protection. At Section 4.4, it provides that the chapter applies to each LGA listed in Schedule 2 of the SEPP, subject to certain exceptions. Where the Chapter applies, the development assessment process is dependent upon whether an approved koala plan of management does (Section 4.8) or doesn't (Section 4.9) apply to the land or other (Section 4.10). Where an approved koala plan of management doesn't apply (Section 4.9), the development assessment process need only be considered for land that has an area of at least one hectare including adjoining land in the same ownership.

Whilst the BSC LGA is listed in Schedule 2 of the SEPP and the exceptions specified in Section 4.4 do not apply, no approved koala plan of management applies and the development site has an area of less than one hectare. Accordingly, no further assessment is required.

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2 State and regional development

Chapter 2 of *State Environmental Planning Policy (Planning Systems) 2021* (the Planning Systems SEPP) identifies that development specified in Schedule 6 of the Planning Systems SEPP is declared as regionally significant development. Schedule 6 specifies Private infrastructure and community facilities over \$5 million, including health services facilities. As the proposed development is for health services facilities over \$5 million the proposed development is declared as regionally significant development.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (the Hazards SEPP) relates to remediation of land. Section 4.6 of the Hazards SEPP prevents the consent authority from granting development consent on land unless it has considered whether the land is contaminated and, if contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for the purposes for which the development is to be carried out.

A search of the NSW EPA Contaminated Land Record of Notices on 29 April 2025 did not identify any recorded sites in Bourke. However, a review of the List of Notified Sites, last updated 9 April 2025, identified two recorded sites.

A preliminary site investigation (PSI) has been provided by the applicant prepared by Barnson Pty Ltd. The PSI identified the presence of asbestos on the development site, including visible fragments of asbestos representing a risk to human health, and requiring remediation. A remediation action plan has also been provided to address this contamination and identifies the remediation works as Category 2 under the Hazards SEPP. Pursuant to Section 4.11 of the SEPP (Resilience & Hazards), Category 2 remediation work is work that does not require consent.

A condition is recommended which requires a validation report to be provided to Council prior to the issue of an occupation certificate, to ensure that the land will be remediated before the land is used for the proposed use as a health services facility.

Subject to the recommended condition, it is considered that the contamination status of the development site will be suitable for the proposed development.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 3 Standards for non-residential development

Section 3.2 of State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainability SEPP) applies to non-residential development. The section states that a consent authority must consider whether the development has been designed to enable the following:

(1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—

(a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,

(b) a reduction in peak demand for electricity, including through the use of energy efficient technology,

(c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,

(d) the generation and storage of renewable energy,

(e) the metering and monitoring of energy consumption,

(f) the minimisation of the consumption of potable water.

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

A report has been provided that demonstrates how the development responds to the general sustainability provisions. The report concludes that the proposed development has considered and appropriately addressed all the General Sustainability Provisions in accordance with the Sustainability SEPP. The proposed development will be required to adhere to the commitments made in this report.

An embodied emissions attribute table has been provided in relation to the proposed development and quantifies the embodied emissions of the development.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP) relates to infrastructure development. The following provisions in Chapter 2 are considered below:

- Section 2.48 Development likely to affect an electricity transmission or distribution network
- Section 2.119 Development with frontage to classified road

S 2.48 Development Likely to Affect an Electricity Transmission or Distribution Network

Under section 2.48 of the Transport and Infrastructure SEPP, a consent authority must give written notice to the electricity supply authority for the area and take into consideration any response received within 21 days with respect to development involving any of the following:

- (a) *the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- (b) *development carried out—*
 - (i) *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) *immediately adjacent to an electricity substation, or*
 - (iii) *within 5m of an exposed overhead electricity power line,*
- (c) *installation of a swimming pool any part of which is—*
 - (i) *within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
 - (ii) *within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*
- (d) *development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.*

The proposed development involves construction within 5 metres of adjacent overhead powerlines on both Mitchell Street and Tarcoom Street and was therefore referred to Essential Energy for comment. No comments were raised in the initial response, with only general comments provided.

Based on the experience of Councils and its consultants, further clarification was sought from Essential Energy. Essential Energy subsequently provided the following commentary:

Strictly based on the documents submitted, Essential Energy has the following comments to make as to potential safety risks arising from the proposed development:

- *As the plans provided do not show the distances from Essential Energy's infrastructure and the development, there may be a safety risk. A distance of 3.1m from the nearest part of the development to Essential Energy's infrastructure (measured horizontally) is required to ensure that there is no safety risk.*
 - *A clearance of 3.1m from the Overhead 22Kv Network along Tarcoom Street.*
 - *A clearance of 2.1m from the Overhead Low Voltage Network along Tarcoom Street.*
- *It is also essential that all works comply with SafeWork clearance requirements. In this regard it is the responsibility of the person/s completing any works to understand their safety responsibilities. The applicant will need to submit a Request for Safety Advice if*

works cannot maintain the safe working clearances set out in the Working Near Overhead Powerlines Code of Practice, or CEOP8041 - Work Near Essential Energy's Underground Assets.

Information relating to developments near electrical infrastructure is available on our website Development Applications (essentialenergy.com.au). If the applicant believes the development complies with safe distances or would like to submit a request to encroach then they will need to complete a Network Encroachment Form via Essential Energy's website Encroachments (essentialenergy.com.au) and provide supporting documentation. Applicants are advised that fees and charges will apply where Essential Energy provides this service.

Council's and the applicant's attention is also drawn to Section 49 of the Electricity Supply Act 1995 (NSW). Relevantly, Essential Energy may require structures or things that could destroy, damage or interfere with electricity works, or could make those works become a potential cause of bush fire or a risk to public safety, to be modified or removed.

Essential Energy makes the following general comments:

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
- Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure;
- Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW); the location of overhead and underground powerlines are also shown in the Look Up and Live app essentialenergy.com.au/lookupandlive.

The applicant has since provided amended plans relocating the building 700mm to the west to ensure a suitable separation distance from Essential Energy infrastructure are achieved. The amended development is considered to be consistent with the advice from Essential Energy. It is recommended that comments from Essential Energy be included as conditions on the notice of determination.

S 2.119 Development with frontage to classified road

Under section 2.119 of the Transport and Infrastructure SEPP, a consent authority must not grant consent to development on land that has a frontage to a classified unless it is satisfied that:

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The proposed development fronts Mitchell Street (Kamilaroi Highway) to the north, which is a classified road. To ensure vehicular access to the development site is practical and safe, the proposed development involves access from both Mitchell Street and the southern laneway. However, the development proposes that direct access to Mitchell Street is limited to vehicular egress only, with vehicular ingress proposed from the southern laneway. To ensure access from Mitchell Street (Kamilaroi Highway) is limited to one way traffic, the driveway access has been amended to a maximum width of 4 metres, with a chamfered edged in a western direction to facilitate required sweep paths.

The Mitchell Street (Kamilaroi Highway) egress only arrangement will mitigate the risk of queuing traffic on the classified road. The provided TIA identifies that the exit to Mitchell Street (Kamilaroi Highway) has sufficient sight lines to mitigate impacts on the classified road. Due to the nature of the development, it is not expected to result in the emission of smoke or dust.

Councils Manager Road Infrastructure has confirmed that it is not practicable and safe to provide or encourage vehicle access by a road other than the classified road since the other road, being Tarcoon Street, is a narrow street which is on an OD route. Councils Manager Road Infrastructure has also confirmed that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the factors listed under Section 2.119(2)(b) of the Transport and Infrastructure SEPP.

The TIA states that the proposed development is expected to generate an increase of 22 vehicle trips per hour during AM and PM peaks. The TIA states that due to the regional nature of Bourke, and the existing traffic volumes, this increase in traffic is unlikely to detrimentally impact on the safety, efficiency or ongoing operation of the classified road.

The acoustic report submitted by the applicant confirms that traffic noise generation resulting from the development would be limited to an increase of 2db above existing noise levels. Further, due to the nature of the health services facility, it is considered that the development is not of a nature that would be sensitive to traffic noise or vehicle emissions. Notwithstanding, the acoustic report recommends windows with a glazing rating of R_w32 . The proposed development includes double glazed windows which are considered to address this recommendation.

Councils Manager Road Infrastructure has also confirmed that the development is of a type that is not sensitive to traffic noise or vehicle emissions or is appropriately located and designed.

Bourke Local Environmental Plan 2012

The relevant local environmental plan applying to the development site is the *Bourke Local Environmental Plan 2012* (LEP). The aims of the LEP comprise the following:

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to encourage the proper management of the natural and human-made resources of Bourke by protecting, enhancing or conserving—*
 - (i) productive agricultural land, and*
 - (ii) timber, minerals, soils, water and other natural resources, and*
 - (iii) areas of significance for nature conservation, and*
 - (iv) areas of high scenic or recreational value, and*

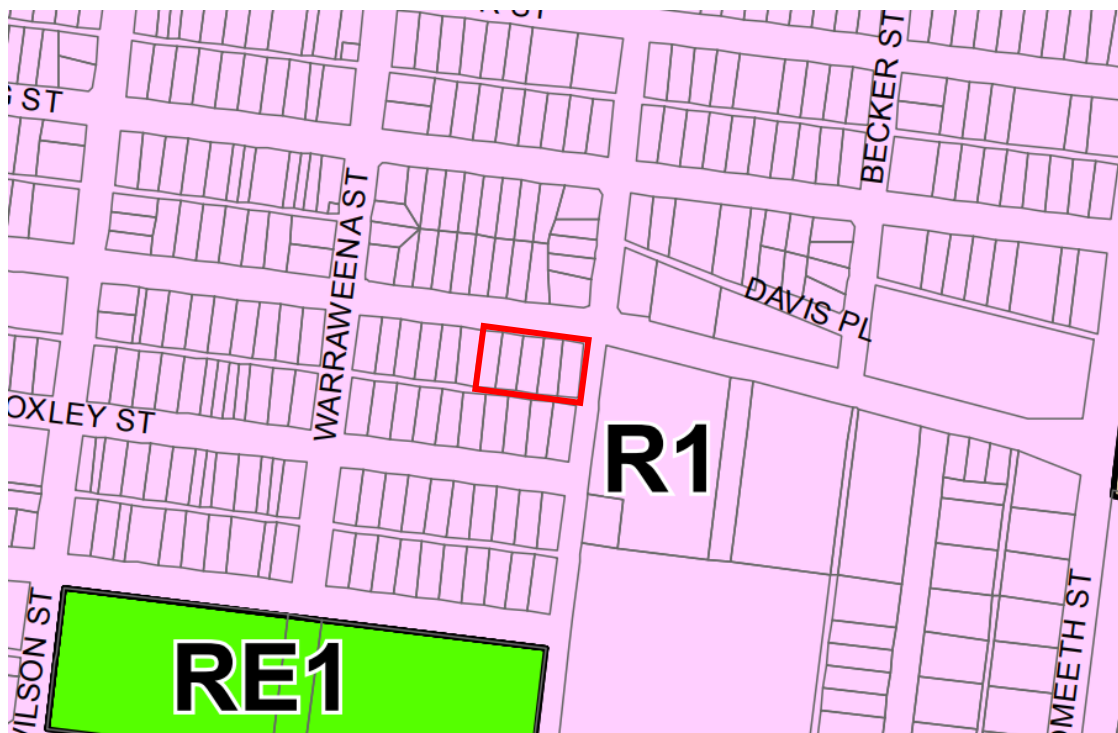
- (v) *places and buildings of archaeological or heritage significance,*
- (b) *to support the urban areas of Bourke by strengthening retail hierarchies, providing opportunities for employment growth and promoting tourism development,*
- (c) *to promote ecologically sustainable urban and rural development,*
- (d) *to provide a secure future for agriculture by expanding Bourke's economic base and minimising the loss or fragmentation of productive agricultural land,*
- (e) *to minimise land use conflict,*
- (f) *to ensure that development has regard to the capability of the land,*
- (g) *to provide a choice of living opportunities and types of settlement in Bourke,*
- (h) *to ensure that the efficiency of arterial roads is not adversely affected by development on adjacent land.*

The proposal is consistent with these aims as the proposal provides employment opportunities within Bourke, will promote ecologically sustainable urban development, and is unlikely to impact the efficiency of the Kamilaroi Highway.

Zoning and Permissibility (Part 2)

The development site is located within the R1 General Residential zone pursuant to Clause 2.2 of the LEP.

Figure 12 - LEP Land Zoning Map



According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of *health services facility* which is a permissible use with consent in the Land Use Table in Clause 2.3.

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

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that any non-residential land uses permitted on land in the zone are compatible with the amenity of the zone.*

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

- *The health services facility will provide health services that meet the day to day needs of the local community.*
- *Due to the nature and operating hours of the development, the development is not likely to detrimentally impact on the amenity of the surrounding residential area. Therefore, the proposed development is considered compatible with the amenity of the residential zone.*

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

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

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (CI 4.1)	800m ²	The proposed development does not involve further subdivision of the land. As the proposed development is located over five separate lots, a condition shall be imposed requiring consolidation of the lots prior to occupation certificate.	Yes
Flood planning (CI 5.21)	Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied of the matters raised in subclause 5.21(2), and has considers the matters of subclause 5.21(3).	The development site is located within the flood planning area identified within the Bourke Floodplain Risk Management Study and Plan 2022 and therefore must consider clause 5.21. Council staff have advised that the development site is subject to non-riverine flooding, with a mapped flood level of RL 105.4 m. The proposed development has been designed with a finished floor level of RL 105.9, which is 500mm above the flood level, exceeding the minimum	Yes

Control	Requirement	Proposal	Comply
		<p>300mm freeboard requirement.</p> <p>The flood study identifies the flood hazard vulnerability classification on the development site to be H1, which is considered generally safe for vehicles, people and buildings. Based on this, the development is considered compatible with the flood function and behaviour of the land.</p> <p>The development involves the use of fill to achieve the proposed finished levels. Council staff have advised that the extent of fill is not to an extent that should impact on surrounding areas. As a result of this advice, it is considered unlikely that the proposed development would result in detrimental increases in flood affectation of adjoining properties or other development</p> <p>Given the height of the proposed finished floor level, the flood hazard classification, and the central and well connected location of the site, it is considered unlikely that the development will compromise safe occupation or evacuation. Evacuation during a flood event could occur via Tarcoon Street to the north or Kamilaroi Highway to the east, which are not mapped as flooded during a 1% AEP local catchment flood within the Bourke levee.</p> <p>It is considered that the design incorporates several</p>	

Control	Requirement	Proposal	Comply
		<p>measures to mitigate residual flood risk to life, including site selection in a low flood hazard location, and minimum finished floor heights.</p> <p>No works are proposed within or adjacent to a watercourse, riparian corridor, or riverbank. As such, the proposal is not expected to result in adverse environmental impacts, erosion, siltation, or loss of riparian vegetation</p> <p>In consideration of clause 5.21(3), the development is of a scale and design that is appropriate to the site and surrounding context. It incorporates measures to reduce risk to life and enable safe evacuation and is not expected to impede future adaptability or relocation should flooding conditions in the area change over time.</p>	
Earthworks (CI 6.1)	Development consent is required for earthworks unless the earthworks are exempt, permitted without consent or ancillary to development for which consent has been granted. Where consent is required, the consent authority is required to consider the impacts of the earthworks in accordance with subclause 6.1(3).	<p>The development site is generally level; however, to maintain a 300mm freeboard above the flood level, approximately 793.6m³ of fill will be used. Stormwater will be managed on-site through permeable surfaces and rainwater tanks, with a condition of consent requiring a stormwater management plan before the release of a construction certificate. The proposed earthworks will not hinder future development, as any future structures would also need to comply with flood level requirements. Conditions of consent will ensure that imported soil is appropriately sourced,</p>	Yes

Control	Requirement	Proposal	Comply
		excavated material is classified and disposed of correctly, and any uncovered relics are reported to the Heritage NSW. The works are not expected to impact the amenity of adjoining properties or sensitive areas, and conditions are proposed to manage stormwater, excavation, and heritage protection.	
Essential services (CI 6.5)	Development consent must not be granted unless the consent authority is satisfied that that essential services for the development are available or adequate arrangements have been made to make them available.	The development site can be connected to Council's reticulated water and sewerage system. Electricity is available to the development site. Suitable road access will be provided from the southern lane way and Mitchell Street. Stormwater drainage will be directed to the Mitchell Street and Tarcoon Street.	Yes

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

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

There are no draft environmental planning instruments currently on exhibition relevant to the proposed development or site.

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

The following Development Control Plan is relevant to this application:

- *Bourke Development Control Plan 2012* (BDCP 2012)

The proposed development is generally compliant with the relevant requirements of the BDCP 2012, with the exception of a non-compliance with regards to parking. Notwithstanding, as discussed below, it is considered that the proposed shortfall of parking is acceptable in this instance.

The primary matter of compliance that has been identified within the BDCP 2012 assessment is the required parking to facilitate the staffing and visitors to the development site. The use within the BDCP 2012 that most closely aligns with the proposed development is "medical centre". The BDCP 2012 requirement for medical centres is one space per 25m² of gross floor area (GFA), or three spaces per practitioner plus one space per employee.

When demand is calculated by GFA, the proposed development is considered to require 32 parking spaces, based on a GFA of 786m². This figure has been adopted in the submitted TIA.

However, when calculated based on staffing levels, the requirement becomes less definitive due to the generalised wording of the BDCP 2012 and the varying practitioner and staff attendance. In this case, calculations based on anticipated staffing scenarios result in a parking demand ranging from 19 spaces to a conservative estimate of 36 spaces.

Given the variation in potential demand, it is considered reasonable to adopt the GFA-based requirement of 32 spaces as the benchmark for assessment, while also acknowledging the operational nuances of the facility.

The applicant has proposed a total of 22 off-street parking spaces, including 2 visitor spaces, 10 staff spaces, and 10 fleet vehicle spaces. The fleet vehicles are proposed to be used to transport visitors to and from the facility by appointment and will be stored on the premises when not in use. It is understood that the majority of visitors will be transported via these fleet vehicles, significantly reducing reliance on private vehicles to access the development site. Given the intended operation of the fleet, reliance on private vehicles for access to the development site is expected to be significantly reduced compared to a typical medical centre.

Additionally, should any visitors choose to travel via private vehicle, there is sufficient on-street parking available in the surrounding road network, particularly along Mitchell Street to the west of the development site.

The submitted TIA provides a detailed analysis of the anticipated parking demand and concludes that the proposed parking provision is sufficient to accommodate expected parking needs. The TIA finds that shortfall, when assessed in the context of the proposed use and operational measures, is acceptable.

The TIA also notes that visiting services will occur on a staggered and infrequent basis, which will assist in spreading parking demand throughout the day. Furthermore, it is expected that visiting practitioners will carpool where possible, further reducing overall parking demand.

While the BDCP 2012 does not include provisions for performance-based assessment of parking rates, it is considered that the submitted TIA provides sufficient justification in support of the proposed parking arrangement. In this instance, the parking provision is considered to be adequate having regard to the nature of the proposed use, operational characteristics of the development, and the availability of surrounding on-street parking. Accordingly, the proposed parking shortfall is considered acceptable in this instance.

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

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

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

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application. The proposed development is in relation to a new non-residential building and does not relate to the demolition of a building. As such, the regulations are not relevant to the proposed development.

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

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

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

- **Context and setting** – The proposed health services facility is a single-storey development with setbacks and scale that are compatible with the surrounding residential context. The building design incorporates community feedback, with external finishes and landscaping selected to reflect local character and values, including a façade pattern inspired by the yellowbelly fish.
Landscaping is proposed along the street frontage and within the site, using climate-resilient species. A condition shall be imposed to ensure planting is completed prior to occupation.
Operations are limited to daytime hours and, subject to implementation of the acoustic report's recommendations, are not expected to result in adverse amenity impacts such as noise or loss of privacy.
Given the built form and operational characteristics, the development is not considered to detract from the existing environment or residential amenity.
- **Access and traffic** – As discussed in the Transport and Infrastructure SEPP and DCP assessments, the proposed development involves access from the southern laneway and to Mitchell Street, (Kamilaroi Highway). The proposed development will operation using pick up/put down shuttle services. The TIA identifies that the proposed development would have a peak traffic generation of 22 vehicles per hour, which would be a net increase on existing conditions. The TIA concludes that there would be a negligible impact on the performance of the external road network. The TIA states that no external improvements would be required. It is considered that the proposed development has been appropriately designed to mitigate traffic and access impacts.
- **Public Domain** – The proposed development incorporates a generous amount of landscaped open space, which is expected to contribute positively to the public domain. As a community-facing facility, the health services will be accessible to the public and support local needs. The development will connect to the existing footpath along Mitchell Street to the north, ensuring safe and convenient pedestrian access. Overall, the proposal is not expected to result in any adverse impacts on the public domain.
- **Utilities** – The development site is considered to be sufficiently serviced to meet the requirements for the proposed development. Water, stormwater, sewer and electricity services are available to the development site, and suitable vehicular access arrangements have been proposed as part of the development.
- **Contamination** – As discussed in the Hazards SEPP assessment above, a preliminary site investigation identified the presence of asbestos on the development site. A remediation action plan was provided by the applicant stating that the remediation works would be classed as Category 2 remediation works and therefore did not require development consent.
A condition requiring a validation report shall be imposed to ensure the development site is suitably remediated prior to occupation of the development.
- **Flora and fauna impacts** – A total of 15 trees are located on site. Of the six trees identified to be removed, the arborist report only identifies Tree 7 as “consider for retention”. Tree 7 is a native Mugga Ironbark and has a short useful life expectancy of 5 to 15 years. The tree is considered healthy but is located whether the proposed

driveway is located. Replacement planting has been proposed. TPZ fencing will be conditioned for remaining trees on site.

Given the existing characteristics of the development site and the absence of recorded sightings in or around the area, it is considered unlikely that any threatened species would be adversely impacted by the proposed development.

It is considered unlikely that the proposed development will result in significant adverse impacts on flora or fauna.

- **Noise and vibration** – A acoustic report has been submitted by the applicant to address construction and operational noise impacts of the proposed development. The assessment found that the noise associated with construction of the development was expected to exceed noise limits for highly affected receivers within standard hours. However the acoustic report identifies mitigation measures such as acoustic screening that can be used to ensure compliance with construction noise criteria. A condition shall be imposed requiring a detailed Construction Noise and Vibration Management Plan to be prepared by a suitably qualified acoustic consultant prior to Construction Certificate. Similarly, while the acoustic report touches on safe work distances for construction vibration, if any vibration intensive equipment is required for construction, a condition is recommended requiring the engagement of a qualified engineer to carry out a vibration survey to identify any potential impacts. The acoustic report also considers plant mechanics proposed for the development, including the position on the development site and the operating hours. Based on consideration of worst case scenario assessment the acoustic report finds that the mechanical plant is predicted to comply with noise criteria for both day and evening periods subject to acoustic screening attenuation measures. A condition shall be imposed requiring that acoustic screening attenuation measure be installed prior to occupation certificate. It is considered that the proposed development will comply with the relevant noise criteria, subject to mitigation measures, to ensure impacts on adjoining land are suitably managed.
- **Natural hazards** – While the development site is clear of bushfire prone land, it is noted that the development site is identified as flood planning area within the Bourke Floodplain Risk Management Study and Plan 2022. The flooding is considered to be non-riverine, with a mapped flood level of RL 105.4m. The proposed development has been designed with a minimum finished floor level of RL 105.9m to allow for the required 300mm freeboard. It is considered that the proposed development has reasonably considered potential flood impacts to mitigate any likely impacts.
- **Natural environment** – While the development site is generally flat, the proposed development will require some cut and fill to achieve the finished floor level of RL 105.9m. The require earthworks will comprise 2m³ of cut and 793.6m³ of fill to be reused or imported. A condition shall be imposed requiring the fill to be sourced from a verified source. The proposed changes to the contours of the development site are not expected to significantly adversely impact on the natural environment or the flow of run off from the development site.
- **Safety, security and crime prevention** – The proposed development responds appropriately to Crime Prevention Through Environmental Design (CPTED) principles to support safety, security and crime prevention outcomes. Territorial reinforcement is achieved through the placement of the building along the Mitchell

Street and Tarcoon Street frontages, with the built form itself establishing a strong edge that clearly defines the boundary of the development site. The absence of a front fence contributes to a safe, accessible and welcoming public interface, with the building line functioning as a visual and physical boundary. Secure 1.8-metre-high fencing is proposed along the western boundary, southern laneway and part of the Mitchell Street frontage, softened by landscaping to mitigate visual impacts. Secure gates are provided at each end of the driveway and at the pedestrian entrance to restrict unauthorised access. Natural surveillance is supported through clear sightlines from internal areas to the landscaped open space and street frontages, while outdoor areas have been designed to avoid concealed corners or visually shielded spaces. Access control is reinforced through clearly defined vehicular access points and pedestrian pathways. Space and activity management is addressed through a centrally located landscaped area that supports passive surveillance, social interaction and occupant wellbeing, while internal areas will be securely managed. Overall, the development effectively integrates CPTED principles and is unlikely to result in adverse safety, security or crime prevention impacts.

- **Social impact** – The proposal is anticipated to provide health care services to the community within a space that has been designed to be accessible and inclusive within the Bourke community. The design of the building and surrounding landscaping has been designed with community input to ensure positive social outcomes.
- **Economic impact** – The proposed development is expected to generate employment opportunities for both medical specialists and administration staff located within the Bourke local area, which is anticipated to result in positive economic impacts to the local economy.
- **Cumulative impacts** – The proposed development is located within a residential area surrounded by dwellings, places of worship and a school. The proposed development is considered to be generally consistent with the relevant development standards and provisions of applicable legislation. It is unlikely that the proposed development will result in any significant adverse cumulative impacts that would warrant refusal.

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

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

The development site is suitable for the proposed development due to the following:

- Health services facilities are permissible in the R1 General Residential zone;
- The operations of the development are compatible with the nature of adjoining developments;
- Essential services are available and suitable;
- The proposed development will have direct vehicular access from the southern laneway and to Mitchell Street;
- The local road network is suitable to support the proposed development without upgrade;
- The contamination status of the land can be made suitable for the proposed development;

- The development site does not have any particular environmental or cultural values; and
- The development site is not subject to significant natural hazards that would prevent the proposed development.

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

No submissions were received in relation to the proposed development.

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

The proposed development is considered to be in the public interest. It is consistent with the objectives of the R1 General Residential zone and generally complies with the relevant development standards and provisions of applicable legislation. The applicant has submitted several technical reports to address potential impacts, with recommended mitigation measures to be conditioned to ensure any adverse effects on the environment and adjoining properties are appropriately managed.

Given the nature of the proposal, the development is expected to deliver positive social and economic outcomes by providing employment opportunities and delivering essential health services that support the wellbeing of the local community. It also has regard to the principles of Ecologically Sustainable Development (ESD), incorporating rooftop solar panels, water-efficient landscaping, and efficient use of existing urban infrastructure.

Overall, the proposal achieves a balance of environmental, social and economic considerations, and is considered to be in the public interest.

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/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Department of Climate Change, Energy, the Environment and Water	S7.12(2) - <i>Biodiversity Conservation Act 2016</i>	N/A	N/A
TfNSW	S138(2) – Works and structures	The development fronts Mitchell Street which is a classified road. While the applicant has not applied for approval under s138 at this	Y

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
		stage, it is noted that approval will be required. Accordingly, the proposal was referred to TfNSW. Comments have since been provided, and additional information has been provided by the applicant to address these matters.	
Referral/Consultation Agencies			
Essential Energy	S2.48 – Transport and Infrastructure SEPP Development likely to affect an electricity transmission or distribution network	The proposed development involves construction within 5 metres of adjacent overhead powerlines on both Mitchell Street and Tarcoon Street. The proposal was referred to Essential Energy. No comments were raised in the initial response, with only general comments provided. This advice has since been amended to require a distance of 3.1m from the nearest part of the development to Essential Energy's infrastructure (measured horizontally) to ensure that there is no safety risk. The applicant has provided amended plans relocating the building 700mm to the west to ensure suitable distances are achieved.	Y
Integrated Development (S 4.46 of the EP&A Act)			
Subsidence Advisory NSW	S22 – <i>Coal Mine Subsidence Compensation Act 2017</i>	The development site is not located within a mapped mine subsidence district.	N/A
DPI	S144, S201, S205, S219 – <i>Fisheries Management Act 1994</i>	The development site does not contain any mapped watercourses, nor is it located near any mapped watercourses.	N/A

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Heritage NSW	S58 – <i>Heritage Act 1977</i>	Neither an interim heritage order or listing on the State Heritage Register applies to the development site.	N/A
Resource Regulator NSW	S63, S64 – <i>Mining Act 1992</i>	A mining lease is not sought.	N/A
NPWS	S90 – <i>National Parks and Wildlife Act 1974</i>	An Aboriginal heritage impact permit is not required.	N/A
Resource Regulator NSW	S16 – <i>Petroleum (Onshore) Act 1991</i>	A petroleum production lease is not sought.	N/A
EPA	S43(a), S47, S55, S43(b), S48, S43(d), S122 – <i>Protection of the Environment Operations Act 1997</i>	An environment protection licence is not sought.	N/A
Transport for NSW	S138 - <i>Roads Act 1993</i>	<p>Section 4.46(3) of the EP&A Act provides that development is not integrated development in respect of consent required under Section 138 of the Roads Act 1993 if it requires the development consent of council and the approval of the same council.</p> <p>Council is the roads authority for Mitchell Street and the unnamed lane. The Western Regional Planning Panel is the consent authority for the development. Accordingly, the development was referred to TfNSW as integrated development.</p> <p>TfNSW rejected this referral for integrated development and requested this development to be re-referred under S138(2) of the Roads Act for concurrence.</p>	N/A

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
		On this basis it has been concluded that the development is not integrated development.	
RFS	S100B - <i>Rural Fires Act 1997</i>	The development site is not located within mapped bushfire prone land.	N/A
NRAR	S89, S90, S91 – <i>Water Management Act 2000</i>	A water use approval, water management work approval or activity approval is not sought.	N/A

4.2 Council Officer Referrals

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

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Manager Road Infrastructure	<ul style="list-style-type: none"> Based on the information in the traffic impact statement (TIS) regarding a courtesy bus, the on street parking generated should not be a problem. TIS seeks to encourage parking on Tarcoon Street over Mitchell Street. As Tarcoon Street is an Over Dimensional route this may not be a desirable strategy. 	Y
Coordinator Road Operations	<ul style="list-style-type: none"> Concerns raised regarding on street parking impacting on Oversize Overmass route on Tarcoon Street between Mitchell Street and Oxley Street, and a potential increase in vehicle and pedestrian interactions. 	Y
Principle Transport Engineer (Premise)	<ul style="list-style-type: none"> Staff number inconsistencies between the Traffic Impact Statement and the Operational Plan Operational shortfall of carparking for staff parking Flagged the use of 2016 Census data over 2021 census data and questioned why data from existing operations have not been utilised. Lack of information regarding fleet vehicles Visitors bays limited to accessibility bays 	Y
Council flood advice	<ul style="list-style-type: none"> Prelodgement advice was provided by Council advising that the non-riverine flood level is RL 105.4 m. With a freeboard of 300mm, the minimum floor level on site is set at RL 105.7 m. 	Y

Officer	Comments	Resolved
	<ul style="list-style-type: none"> <i>Council have advised that there should not be any impact to surrounding areas as a result of fill on site.</i> 	

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 BDCP 2012 from 28 November 2024 until 13 December 2024. No submissions were received.

5 KEY ISSUES

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

5.1 Carparking

As discussed in the DCP assessment, the proposed development requires a total of 32 parking spaces and provides 22 parking spaces, resulting in a shortfall of 10 parking spaces. While the BDCP 2012 does not include provisions for performance-based assessment of parking, the submitted TIA demonstrates that the parking provided is adequate having regard to the proposed operation of the facility, including the use of fleet vehicles to transport visitors. The TIA concludes that the shortfall is acceptable due to the reduced reliance on private vehicles, staggered service visits, and the availability of on-street parking in the surrounding network.

Concerns were initially raised regarding inconsistencies between the TIA and the Operational Plan; however, these were found to relate to the inclusion of the CEO and Deputy CEO, both of whom will drive fleet vehicles to the development site. These vehicles are accounted for within the parking provision.

Additional concerns were raised regarding parking arrangements for drivers of fleet vehicles. It has since been confirmed by the applicant that the fleet vehicles will be driven by administration staff who are already accounted for in the parking demand calculations.

Council staff also raised concerns about potential impacts of on-street parking along Tarcoon Street on the existing approved OSOM (Over Size Over Mass) route. While management of this route is an internal matter for Council staff to address, it is noted that Council prefers that overflow on-street parking should occur on Mitchell Street (Kamilaroi Highway), rather than Tarcoon Street.

With consideration of the justification provided in the TIA and the development site's context, it is concluded that the proposed number of parking spaces is sufficient to meet the anticipated demand for the health services facility.

Resolution: The issue has been resolved through consideration of justification provided in the TIA and context of the development site.

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 key issues were limited to parking, with the proposed shortfall in parking considered acceptable given the operational model of the development, the availability of surrounding on-street parking, and the findings of the submitted TIA.

The development site is considered suitable for the proposed use, being a permissible land use in the zone, with appropriate access, services, and no identified environmental or hazard constraints.

The proposal is considered to be in the public interest, delivering essential health services and local employment opportunities, while incorporating sustainable design measures and appropriate mitigation of any potential impacts.

It is considered that the key issues have been resolved satisfactorily through provision of additional information and recommended draft conditions at **Attachment A**.

7 RECOMMENDATION

That the Development Application DA 2025/0004 for a health services facility at 88 to 96 Mitchell Street (Kamilaroi Highway) 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/reasons for refusal*
- *Attachment B: Tables of Compliance*
- *Attachment C: Refined Architectural Plans*
- *Attachment D: Statement of Environmental Effects*
- *Attachment E: RFI Response Letter*
- *Attachment F: ESD and General Sustainability Provisions Report*
- *Attachment G: Section J Report and Statement of Compliance*
- *Attachment H: Embodied Emissions Report*
- *Attachment I: Survey*
- *Attachment J: Estimated development cost report*
- *Attachment K: Refined Architectural Plans and Design Statement*
- *Attachment L: Refined Landscape Plans and Design Statement*
- *Attachment M: Geotechnical Investigation Report*
- *Attachment N: Site Contamination Investigation*
- *Attachment O: Remediation Action Plan*
- *Attachment P: Refined Traffic Impact Assessment*
- *Attachment Q: Concept Electrical Servicing Plans*
- *Attachment R: Concept Hydraulic Servicing Plans*
- *Attachment S: Concept Fire Servicing Plans*
- *Attachment T: Arboricultural Report*
- *Attachment U: AHIMS Search*
- *Attachment V: Refined Civil Engineering Drawings and Statement, including Sediment and Erosion*
- *Attachment W: Refined Operational Plan*
- *Attachment X: Operational and Construction Waste Management Plan*
- *Attachment Y: Construction and Operational Noise Assessment*
- *Attachment Z: BCA and Access Statement*

Attachment B – Tables of Compliance

Attachment B1 – BDCP 2012 Compliance

DCP Control:	Comment/compliance	
4.8.1 Building Setbacks		
No minimum setbacks are specified. Side and rear setbacks must meet BCA requirements.	The proposed development has been designed to comply with the required BCA setbacks from side and rear boundaries as follows: Mitchell Street – 5m Tarcoon Street – 3.8m Unnamed alley – 5.135m	✓
4.8.2 Height		
No height restrictions.	The proposed development is a single storey built form, consistent with surrounding structures.	✓
4.8.3 Outdoor Lighting		
Demonstrate compliance with AS/NZS 11583.1 Pedestrian Area (Category P) Lighting and AS4282 Control of Obtrusive Effects of Outdoor Lighting.	A condition shall be imposed to ensure compliance.	✓
4.8.4 Outdoor Signage		
A single business premises is permitted to have: one under awning sign, one top hamper sign, and one fascia sign, that do not project above or beyond that to which it is attached. One of which may be illuminated, but not flashing, moving or floodlit. Design and location of signage must be shown on plans with DA. Where there is potential for light spill from signage to adjoining properties, all illuminated signage shall be fitted with a timer switch to dim or turn off the light by 11pm each night. Signage must comply with SEPP 64 – Advertising and Signage Schedule 1 Assessment Criteria.	The applicant has advised that signage will be exempt development and therefore consent is not sought. An advisory note is recommended advising that any signage that does not meet exempt development provisions will require separate development consent.	✓
4.8.5 Design		
Building facades shall be articulated by use of colour, arrangement of elements or by varying materials. Large expansive blank walls not permitted unless abutting a building on an adjoining allotment. Plans must show the location of all external infrastructure (including air conditioning units, plant rooms,	The proposed development has been designed with reference to several guidelines issued by the Government Architect NSW. As a result of community consultation, the design reflects the appearance of the Yellowbelly fish, which is a significant fish to the area. The exterior facade of the building features a tiled finish in colours	✓

DCP Control:	Comment/compliance	
<p>ducting) and demonstrate how it will be screened from view from a public place or road.</p> <p>Development on corner sites shall incorporate splays, curves, building entries and other architectural elements to reinforce the corner as land mark feature of the street.</p>	<p>reflecting the Yellowbelly. Windows are positioned along the street-facing elevations, with awnings over the windows, to provide visual relief along the building frontages.</p> <p>External infrastructure has been suitably integrated to generally prevent visibility from the street. Rainwater tanks are located underground, while the outdoor plant room is screened with fencing and landscaping.</p> <p>The development site is on the corner of Mitchell Street and Tarcoon Street. It is considered the building design incorporates recognisable architectural elements, such as the roof form, to be identifiable as a landmark site.</p>	
<p>4.8.6 Post supported verandahs and balconies</p>		
<p>Set back a minimum of 600 mm from the back of the kerb.</p> <p>Must complement the style, materials and character of the building being altered.</p> <p>Public liability insurance to Council requirements, and a Council license is required for verandah or balcony awning over the public footpath.</p> <p>Not to interfere with operation of or access to utility infrastructure.</p>	<p>The proposed development does not involve post supported verandahs or balconies.</p>	<p>N/A</p>
<p>4.8.7 Utilities and Services</p>		
<p>Servicing strategy required to demonstrate the availability and feasibility of providing water, sewer and stormwater services appropriate for the scale and nature of development. Evidence of consultation with the Council is to be provided.</p> <p>Applications must demonstrate adequate provision for storage and handling of solid wastes.</p> <p>Trade Waste Application and facilities are required where liquid wastes (excluding domestic waste from a hand wash basin, shower, bath or toilet) are to be discharged to Council's sewerage system.</p> <p>Buildings and structures are to be located clear of utility infrastructure.</p> <p>For sewer mains, structures are to be located a minimum of one metre or the equivalent invert depth, whichever is greater, from the</p>	<p>The development site is located in an established residential area, with access to water, sewer and stormwater services. Conditions shall be imposed to ensure sufficient servicing is available to the development site.</p> <p>A bin storage area has been located to the west of the carpark.</p> <p>Services location to be determined at construction stage in consultation with Council.</p>	<p>✓</p>

DCP Control:	Comment/compliance	
<p>centreline of the main. See Council Policy "Excavating/Filling or Building Adjacent to or Over Existing Sewer Mains" for further detail.</p>		
<p>4.8.8 Traffic and Access</p>		
<p>All vehicles must be able to enter and exit the site in a forward direction.</p> <p>Design must demonstrate no conflict between pedestrian, customer vehicles and delivery vehicles</p> <p>Wearing surfaces for access driveways, parking areas, loading/unloading facilities and associated vehicle manoeuvring areas relative to the design vehicle.</p> <p>Unsealed vehicle movement areas are not acceptable due to environmental management impacts.</p> <p>Loading bay(s) must be sited to avoid use for other purposes such as customer parking or materials storage and be linemarked and signposted.</p> <p>Site access not permitted:</p> <ul style="list-style-type: none"> Close to traffic signals, intersection or roundabouts with inadequate sight distances; Opposite other large developments without a median island; Where there is heavy and constant pedestrian movement on the footpath; Where right turning traffic entering the site may obstruct through traffic. <p>Separate, signposted entrance and exit driveways are required for developments requiring more than 50 parking spaces or where development generates a high turnover of traffic.</p> <p>The number of access points from a site to any one street frontage is limited to 1 ingress and 1 egress.</p> <p>Driveways must be provided in accordance with AS 2890.1 Parking Facilities</p>	<p>A TIA has been submitted by the applicant that considered the traffic generation, parking requirements, access and sight lines, and concludes that the proposed development is supportable on traffic planning grounds.</p> <p>The proposed development has been designed to limited access points to forward ingress from the southern laneway and forward egress to Mitchell Street to the north. Site access points have been designed away from intersections to ensure sight lines are sufficient.</p> <p>Civil plans provided by the applicant demonstrate that hardstand vehicular access areas will allow for manoeuvring of service vehicles up to 12.5 metres.</p> <p>The development has been designed with physical separation between pedestrian and vehicular movements to minimise conflicts.</p> <p>The TIA confirms that the driveway and parking shall be constructed in accordance with the Australian Standards.</p>	<p>✓</p>

DCP Control:		Comment/compliance	
4.8.9 Parking			
Land Use	Parking Requirements Visitor Spaces	<p>The proposed development has a gross floor area (GFA) of 786m², which generates a requirement for 32 parking spaces when assessed against the parking rates based on GFA. This figure has been adopted in the submitted TIA. Due to the general wording of the BDCP 2012 and the variable nature of staffing and practitioner attendance at the development site, calculations based on staffing levels indicate a demand ranging from 19 to a conservative estimate of 36 parking spaces.</p> <p>The proposal includes a total of 22 parking spaces, comprising 2 visitor parking spaces, 10 staff spaces, and 10 spaces for fleet vehicles. As outlined in the TIA, these fleet vehicles will be used by the facility to transport visitors to and from the development site by appointment, and will be stored on site when not in use. Given the intended operation of the fleet, reliance on private vehicles for access to the development site is expected to be significantly reduced compared to a typical medical centre.</p> <p>Nevertheless, it is noted that should visitors choose to drive, there is ample on-street parking available in the surrounding road network, particularly along Mitchell Street.</p> <p>The TIA also notes that visiting medical services will occur on an infrequent and staggered basis, which will assist in managing parking demand and maintaining the operational efficiency of the development site. Furthermore, due to the nature of travel for visiting practitioners, it is expected that carpooling will occur where practicable, further reducing the demand for off-street parking.</p> <p>Based on the proposed operational arrangements, availability of on-street parking, and supporting evidence within the TIA, the proposed shortfall of off-street parking is considered acceptable in this instance.</p>	✓
Medical Centres	1 space per 25 m2 GFA or 3 spaces per practitioner plus 1 space per employee whichever is greater		
NB. Other land use requirements are provided in Parking Schedule of the Discretionary Development Standards			
4.8.10 Landscaping			

DCP Control:	Comment/compliance	
<p>Landscaping or shade structures shall be provided in outdoor car parking areas where >10 spaces are required, to provide shading and soften the visual impact of large hard surfaces.</p> <p>Edging to be provided to retain mulch and protect the landscaping from damage from vehicles.</p> <p>Landscaping shall comprise only low maintenance, drought and frost tolerant species.</p>	<p>The landscaping plan provided by the applicant identifies several proposed trees within and around the proposed car parking area. These trees will comprise a range of species that may include desert kurrajong, kurrajong, mulga, leopard wood, or river red gum trees.</p> <p>The landscaping plan also includes garden areas surrounding the parking areas and within the central outdoor area on the development site. The plan was developed with consultation with the local community and reference to the NSW Government Architect documents Connecting with Country and Designing for Country.</p> <p>Species selected include hardy climate tolerant species.</p>	✓
6.3.2 Soil and Erosion Control		
<p>Runoff shall be managed to prevent any land degradation including offsite sedimentation.</p> <p>Cut and fill will be minimised and the site stabilised during and after construction.</p> <p>Arrangements in place to prompt revegetation of earthworks to minimise erosion.</p>	<p>An erosion and sediment control plan has been provided by the applicant. The plan is considered sufficient to mitigate impacts of erosion.</p>	✓
6.3.3 Vegetation		
<p>Development design shall accommodate the retention of any significant trees and vegetation.</p>	<p>The arborist report provided identifies that only one tree of the six to be removed is classed as "Consider for retention". Replacement planting around the carpark is proposed.</p>	✓
6.3.4 Waste Management		
<p>General waste storage and collection arrangements shall be specified</p>	<p>An operational and construction waste management plan has been provided by the applicant which outlines how waste will be suitably disposed of. It is considered that the proposed arrangements are sufficient to manage the anticipated waste produced by the proposed development.</p>	✓
6.3.5 Noise		
<p>Where relevant, applications are to contain information about likely noise generation and the method of mitigation.</p>	<p>An acoustic assessment report has been provided by the applicant that identifies the potential acoustic impacts of the proposed development. The report identifies several mitigation measures that will be incorporated into a</p>	✓

DCP Control:	Comment/compliance	
	<p>Construction Noise and Vibration Management Plan to be provided to Council prior to CC.</p> <p>A condition is also recommended prior to occupation that mitigation measures recommended in relation to the external plant are implemented.</p>	
6.3.6 Geology		
<p>The design process must give consideration to the potential impact of erosive soils, saline soils, soils of low wet strength, highly reactive soils and steep slopes and document how these constraints are addressed.</p>	<p>A geotechnical report has been provided by the applicant which documents how the relevant soil impacts will be addressed during site earthworks.</p>	✓