

DETERMINATION UNDER PART 5 OF THE *ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979* (NSW)

PROPOSED WORKS AT THE WSU BANKSTOWN CITY CAMPUS

Project

The project involves alterations, being an internal fitout, to Levels 10 to 17 of the existing building at the Western Sydney University (**WSU**) Bankstown City Campus.

The WSU Bankstown City Campus is located at 74 Rickard Road, Bankstown which is legally identified as Lot 15 DP1256167.

The site is approximately 3,678 square metres in size and is located within the Canterbury-Bankstown Local Government Area. The site is bounded by Rickard Road to the north, The Appian Way to the east, Bankstown Library and Knowledge Centre to the west, and Paul Keating Park to the south.

Description of the project

The proposed works involve minor alterations or additions, being an internal fitout, to an existing building at the WSU Bankstown City Campus, for the purposes of an educational establishment (a TAFE Campus) and includes:

- Level 10, Level 11 and level 12: General purpose classrooms, group study rooms, small meeting rooms and focus rooms.
- Level 13: Hair and beauty learning facilities including:
 - Hair, beauty and nail learning salons
 - Practical learning rooms
 - Storage
 - Waiting area
 - Reception
- Level 14: LCS spaces including:
 - Collaboration / reading areas
 - Group study rooms, meeting rooms and focus rooms
 - Library facilities and storage
 - Customer service and security office and reception area
- Level 15: General purpose classrooms, meeting rooms, prayer rooms, storage, focus rooms, student services
- Level 16: Aged care learning facilities (simulated home care and ward care); general purpose learning areas; community services counselling rooms and reception.
- Level 17: Teaching staff facilities including workstations, focus rooms, meeting rooms, kitchenette and informal breakout space, reception and waiting area.

The works are depicted in the plans contained in the attached *Review of Environmental Factors – TAFE New South Wales – Western Sydney University Bankstown City Campus* prepared for TAFE NSW by its planning consultants, Planning & Co (**REF**).

Discussion of planning pathway and potential environmental impacts

The WSU Bankstown City Campus is zoned E2 Commercial Centre under the *Canterbury-Bankstown Local Environmental Plan 2023 (LEP)*.

In the E2 Commercial Centre zone, development for the purpose of “educational establishments”, which is defined to include a university, is permitted with consent. However, as the proposal is for development within the boundaries of an existing university to be carried out by or on behalf of a public authority (i.e. TAFE NSW), it is permissible without consent by virtue of section 3.47(1)(b) of the *State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport & Infrastructure SEPP)* and can be assessed under Part 5, Division 5.1 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

Specifically, the proposed works are characterised as minor alterations or additions to an existing building within the meaning of sections 3.47(1)(b) of the Transport & Infrastructure SEPP.

Development consent from the Canterbury-Bankstown Council (**Council**) is not required for the proposed works.

The proposal, therefore, triggers the need for an environmental assessment under Part 5, Division 5.1 of the EP&A Act before a Public Service senior executive of TAFE NSW, as a “determining authority”, can make a “determination” as to whether the proposal can be carried out. In this regard, it is noted that:

- a Public Service senior executive within the meaning of the *Government Sector Employment Act 2013 (GSE Act)* is a “public authority” and, accordingly, a “determining authority” for the purpose of Part 5 of the EP&A Act;
- under section 3 of the GSE Act, a Public Service senior executive means “the Secretary of a Department and any other Public Service employee to whom Division 4 of Part 4 applies”, which relevantly includes “employees of a Public Service agency who are employed in a Public Service senior executive band” under section 33(1)(c) of the GSE Act;
- the TAFE Commission (Senior Executives) Staff Agency is listed as a Public Service agency in Part 3 of Schedule 1 of the GSE Act; and
- the Director Infrastructure Delivery, TAFE Infrastructure Delivery is a Public Service senior executive within the meaning of the GSE Act as an employee of the TAFE Commission (Senior Executives) Staff Agency, who is employed in a Public Service senior executive band and, accordingly, has statutory authority to make the determination under Part 5 of the EP&A Act for and on behalf of TAFE NSW under sections 3 and 33(1)(c) of the GSE Act.

As the proponent and the determining authority under Part 5, TAFE NSW must examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of the proposal (section 5.5) having regard to the factors set out in section 170(1) of the *Environmental Planning and Assessment Regulation 2021 (EP&A Regulation)*, being the *Guidelines for Division 5.1 Assessments* (Department of Planning and Environment, June 2022) (**Guidelines**). Where a proposal is likely to significantly affect the environment, an Environmental Impact Statement (**EIS**) is required to be prepared under section 5.7 of the EP&A Act.

Accordingly, the REF was prepared on behalf of TAFE NSW for the purposes of assessing:

- whether the proposal (as an “activity”) is likely to have a significant impact on the environment and, therefore, the necessity for an EIS to be prepared;
- the significance of any impact on threatened species, populations or ecological communities or their habitats as defined by the *Biodiversity Conservation Act 2016* (**BC Act**), and therefore the requirement for a species impact statement or biodiversity development assessment report; and
- the potential for the proposal to significantly impact a matter of national environmental significance or Commonwealth land and the need to make a referral to the Commonwealth Department of Climate Change, Energy, the Environment and Water for a decision by the Commonwealth Minister for the Environment and Water on whether assessment and approval is required under the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**).

The REF concludes that the environmental impacts of the proposed works comprising the activity will **not** have a significant effect on the environment having regard to the factors under the Guidelines and, therefore, it is not necessary for an EIS to be prepared.

In particular, the REF assessment concludes that:

- **European heritage:** The site does not contain any local heritage items and is not located within a heritage conservation area under the LEP. The proposed activity also does not involve an item or place listed on the NSW State Heritage Register or that is the subject of an interim heritage order or listing. An approval for the works is therefore not required under Part 4 of the *Heritage Act 1977*.
- **Aboriginal heritage:** An Aboriginal Heritage Information Management System search undertaken did not identify any previously recorded Aboriginal sites or places within 50 metres of the site. It is unlikely that the proposed activity will impact any Aboriginal sites or objects and an Aboriginal Heritage Impact Permit is not required.
- **Bushfire:** The site is not mapped as being bushfire prone.
- **Flooding:** The site is mapped as flood prone. Due to the nature of the proposed works which are confined internally to Levels 10 to 17 of an existing building, the proposed works will not increase the flood risk of the site or cause adverse or cumulative impacts on flooding.
- **Flora and fauna and biodiversity:** The activity will not impact any vegetation on or adjacent to the site and is not expected to impact any habitats for threatened or migratory species.
- **Contamination/remediation/pollution:** The site is not listed as being significantly contaminated under the *Contaminated Land Management Act 1997*. A waste management plan is in force in respect of the existing building on the site, which outlines satisfactory conditions to manage any potential waste impacts. The proposed works will not impact the existing building from complying with relevant conditions of consent relating to operational waste.

No licences under sections 47, 48, 49 or 122 of the *Protection of the Environment Operations Act 1997* have been identified as being required for the proposed works.

- **Waste management:** Mitigation measures for waste management during the proposed works will be implemented and are detailed in the summary of mitigation measures section of the REF.

- **Noise:** To manage the noise impacts of the proposal, the REF contains noise management measures that will mitigate acoustic impacts during construction. Works will also be undertaken during standard construction hours, to minimise disturbance on potentially sensitive receivers.
- **Construction impacts:** Some construction noise and dust are expected, and the proposal will generate waste as part of the construction works. This will be managed in accordance with mitigation measures detailed in the REF and the implementation of relevant management plans.
- **Visual impact and environmental amenity:** The proposed works are located in an established university campus and are confined to internal alterations. The proposal is not expected to have any impact on the visual amenity of the site.
- **Traffic, parking and access:** The proposed activity will not result in materially additional traffic demand during the construction phase.

Community amenity: The proposed works will not adversely affect community amenity. The works will have a positive impact on the community by upgrading an existing university facility to facilitate the temporary occupation of TAFE NSW.

- **Consistency with existing conditions of consent:** The proposed works will not contravene any existing condition of the most recent development consent for the site (SSD-9831) relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management, landscaping or student or staff numbers.
- **Cumulative environmental impacts:** It is not expected that there will be any cumulative environmental impacts as a result of the proposed works.
- **Matters of National Environmental Significance/Commonwealth land:** The proposed works will not have an impact on any matters of National Environmental Significance or on the environment of Commonwealth land under the EPBC Act. Accordingly, the proposal does not require Commonwealth assessment and approval.

Mitigation measures

The mitigation measures and best practice work methods recommended to be implemented prior to works commencing and during construction in order to mitigate and/or avoid potential adverse environmental outcomes are set out in the REF.

Consultation

Part 3.2, Division 1 and Part 3.5 of the Transport & Infrastructure SEPP contain provisions for proponents to consult with councils and other public authorities prior to commencing certain types of development (such as development impacting on council-related infrastructure or services, heritage items and flood liable land).

Section 3.8 of the Transport & Infrastructure SEPP sets out consultation requirements in relation to development permissible without consent where the works will impact on council-related infrastructure or services. The proposed works will not have an impact on Council-related infrastructure or services referred to in these sections. Consultation with Council was therefore not required under this section.

Section 3.9 of the Transport & Infrastructure SEPP sets out consultation requirements for works that have the potential to impact on local heritage. The site is not listed as a local heritage item or within a heritage conservation area under the LEP and consultation with Council was therefore not required under this section.

Section 3.10 of the Transport & Infrastructure SEPP requires consultation with councils and the State Emergency Service (**SES**) in relation to development on flood liable land, other than for the demolition of building or structures, or internal works to an existing building. The site is mapped as flood liable land but involves internal works to an existing building and consultation with Council and SES was therefore not required under this section.

Section 3.12 of the Transport & Infrastructure SEPP requires consultation with public authorities other than councils in relation to certain specified matters. The proposal does not constitute development specified in section 3.12(2) and, accordingly, consultation was not required under this section.

Section 3.48 of the Transport & Infrastructure SEPP requires a proponent carrying out certain development that is permissible without consent to give written notice of the intention to carry out the development to the local council and the occupiers of adjoining land. Section 3.48(1) only applies to “development to which section 3.47(1)(a) applies” and the proposed activity is permissible pursuant to section 3.47(1)(b). Accordingly, consultation was not required under this section.

Nevertheless, Council was notified of the proposed works, in its capacity as owner of the site and head lessor. At the date of this decision memorandum, no response has been received.

Publication of REF

As the proposed activity has an estimated development cost of more than \$5 million, the REF is required to be published on TAFE NSW's website or the NSW Planning Portal in accordance with section 171(4) of the EP&A Regulation. TAFE NSW must publish this REF before the activity commences, or if not practicable, as soon as practicable, and no later than 1 month, after the activity commences.

Adequacy of REF

The REF is considered to be of adequate quality and meets all relevant requirements.

The external planning consultants who prepared the REF have certified that:

- the REF addresses to the fullest extent possible all matters affecting or likely to affect the environment as a result of the proposed activity; and
- they have reviewed and endorsed the contents of this REF document and, to the best of their knowledge, the REF is in accordance with the EP&A Act, the *Environmental Planning and Assessment Regulation 2021 (EP&A Regulation)* and the environmental factors guidelines made under section 170 of the EP&A Regulation, and the information it contains is neither false nor misleading.

Recommendation

It is recommended that the proposed activity at the WSU Bankstown City Campus as described in the REF proceed subject to the implementation of all controls, safeguards and management/mitigation measures identified in the REF.

The REF has examined and taken into account to the fullest extent possible all matters likely to affect the environment by reason of the proposed activity and established that:

- 1 the proposed activity is not likely to have a significant impact on the environment and therefore an EIS is not required;
- 2 the proposed activity will not be carried out in a declared area of outstanding biodiversity value and is not likely to significantly affect threatened species, populations or ecological communities, or their habitats or impact biodiversity values, meaning a

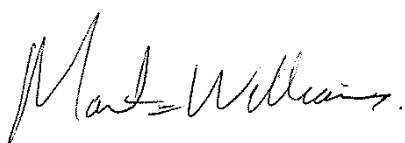
species impact statement and biodiversity development assessment report is not required;

- 3 some mitigation measures are required to eliminate, minimise or manage environmental impacts. These are outlined in section 7 of the REF; and
- 4 there will be no significant impacts on matters of National Environmental Significance or on Commonwealth land under the EPBC Act.

For the reasons established in the REF and outlined above, the proposed activity may proceed.

This determination will remain current for five years until 5 years from the determination date, at which time it shall lapse if works have not been physically commenced.

Recommended by:



Martin Williams
Head of Legal
Technical and Further Education Commission

Determined in accordance with the above recommendation for and on behalf of the Technical and Further Education Commission in accordance with sections 5.5 and 5.7 of the *Environmental Planning and Assessment Act 1979* and signed by the Director Infrastructure Delivery, TAFE Infrastructure Delivery in his capacity as a Public Service senior executive within the meaning of sections 3 and 33(1)(c) of the *Government Sector Employment Act 2013*:

Date: _____

Tom Ryan
Director Infrastructure Delivery, TAFE Infrastructure Delivery
A Public Service senior executive within the meaning of the *Government Sector Employment Act 2013*

Attachment

- 1 *Review of Environmental Factors – TAFE New South Wales – Western Sydney University Bankstown City Campus* prepared for TAFE NSW by its planning consultants, Planning & Co (**REF**).