Memorandum of understanding

The Crown in Right of Tasmania

TasTAFE

Burnie City Council

Cradle Coast Authority

and

The University of Tasmania
## Contents

**Details and recitals**

1. Definitions and interpretation 
   1.1 Definitions  
   1.2 Interpretation  
   1.3 Headings  
   1.4 No rule of construction applies to disadvantage party  

2. Status of this memorandum and discussions 
   2.1 Consideration  
   2.2 Enforceability and legal Rights and obligations  
   2.3 Termination  

3. Discussions in relation to Specified Matters 
   3.1 Discussions  
   3.2 Resources  
   3.3 Communication  

4. Confidentiality 
   4.1 General obligations  
   4.2 Exceptions  
   4.3 Conditions on consent  

5. Termination 

6. Miscellaneous 
   6.1 Governing law  
   6.2 Dispute jurisdiction  
   6.3 No partnership or agency  
   6.4 Legal costs  
   6.5 Amendment  
   6.6 Disclosure  
   6.7 No interference with executive duties or powers  

**Signing**
Memorandum of understanding
Details and recitals

Date:

Parties:

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<th>Name</th>
<th>Short form name</th>
<th>Notice details</th>
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<tbody>
<tr>
<td>Crown in Right of Tasmania</td>
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</tbody>
</table>
Recitals:

A. The State Government has announced funding of $60 million in the 2015/16 budget towards the rejuvenation of northern cities, and has proposed that a portion of these funds to the growth of the University of Tasmania at West Park.

B. The parties have a desire to support a stronger higher education presence in the Cradle Coast. They also wish to see a rejuvenated and consolidated Burnie campus which offers internationally competitive course content in surroundings which reflect a modern contemporary learning environment. The parties also wish to see a revitalisation of the Cradle Coast and the creation of a genuine regional University presence by providing significantly increased economic activity stemming from a relocation and expansion of the University campus.

C. The parties recognise the role of the University in contributing to regional economic development through research, innovation and education and strong partnerships with business and industry.

D. Given this desire and recognition the parties wish to record in this memorandum the joint intent to undertake future discussions in relation to the Specified Matters.

E. The parties wish to record certain matters related to the conduct of those discussions.
General provisions

This memorandum records the following matters:

1. Definitions and interpretation

1.1 Definitions

In this memorandum, unless the context otherwise requires:

**Business Day** means a day that is not a Saturday, a Sunday, Easter Tuesday or a statutory holiday (as defined in the *Statutory Holidays Act 2000* (Tas)) generally observed in Hobart.

**CCA** means the Cradle Coast Authority as defined by the municipal areas of the constituent councils of CCA.

**Confidential Information** means, in relation to a party:

(a) the terms and conditions disclosed by that party to the other party as being terms and conditions which the first party may agree, or may not agree, to include in any agreement in relation to the Specified Matters;

(b) all information and/or data relating to the operations, business, property or affairs of that party which is of a confidential nature, including:

(i) information which that party designates in writing as 'confidential' before disclosing it to the other party;

(ii) financial information and data;

(iii) research information and data;

(iv) information relating to business operations and/or equipment;

(v) licences, negotiations and/or agreements with third parties; and

(vi) other business information.

**Council** means the Burnie City Council.

**Crown** means the Crown in Right of Tasmania.

**Details** means the details and recitals set out above.

**Law** means:

(a) principles of law or equity established by decisions of courts;

(b) legislation and subordinate legislation; and

(c) requirements, approvals (including conditions) and guidelines of any Government Body that have force of law.

**this memorandum** means this memorandum of understanding.

**month** means calendar month.

**Right** includes a right, a power, a remedy, a discretion or an authority.
TasTAFE means TasTAFE continued under the *Training and Workforce Development Act 2013*.

University means the University of Tasmania.

Specified Matters means:

(a) the relocation of the University Campus from 16-20 Mooreville Road to the West Park site; and

(b) the intention of the existing Tasmanian Institute of Agriculture (TIA) facilities currently located at 16-20 Mooreville Road in the North West region.

### 1.2 Interpretation

In this memorandum, unless the context otherwise requires:

(a) the singular includes the plural and vice versa;

(b) words importing a gender include all genders;

(c) other parts of speech and grammatical forms of a word or phrase defined in this memorandum have a corresponding meaning;

(d) a reference to a thing (including property or an amount) is a reference to the whole and each part of that thing;

(e) a reference to a group of persons includes a reference to any one or more of those persons;

(f) a reference to an annexure, an appendix, an attachment, a schedule, a party, a clause or a part is a reference to an annexure, an appendix, an attachment, a schedule or a party to, or a clause or a part of, this memorandum;

(g) a reference to any legislation or legislative provision includes subordinate legislation made under it and any amendment to, or replacement for, any of them;

(h) a reference to a document includes an amendment or supplement to, or replacement or novation of, that document;

(i) a reference to a 'person' includes a natural person, a partnership, a body corporate, a corporation sole, an association, a Government Body, or any other entity;

(j) a reference to a party includes that party's executors, administrators, successors and permitted assigns and substitutes;

(k) mentioning any thing after the words 'includes', 'included' or 'including' does not limit the meaning of any thing mentioned before those words.

### 1.3 Headings

Headings are included for convenience only and do not affect the interpretation of memorandum.

### 1.4 No rule of construction applies to disadvantage party

In relation to the interpretation of this memorandum, no rule of construction is to apply to the disadvantage of a party because that party was responsible for the preparation of this memorandum or any part of it.
2. Status of this memorandum and discussions

2.1 Consideration

In consideration of the mutual promises contained in this clause 2, the parties agree that the provisions of this clause are legally binding.

2.2 Enforceability and legal Rights and obligations

(a) Except for the matters provided for in this clause 2 and clauses 4, and 6, the parties agree that nothing contained in this memorandum is to give rise to:

(i) legally enforceable Rights and obligations as between the parties; and

(ii) any legal liability of any kind as between the parties.

(b) No legally enforceable Rights and obligations are to exist between the parties arising out of, or in connection with, the discussions to be conducted in accordance with clause 3 unless those Rights and obligations are recorded in a formal written agreement duly executed and exchanged between the parties.

(c) Nothing in this memorandum creates or implies any obligation on the part of any party to enter into any contract, agreement, commitment or other arrangement whatsoever in relation to Specified Matters or the other matters referred to in clause 3.1.

(d) Nothing in this memorandum requires a party to negotiate any matter concerning the Specified Matters, or the other matters referred to in clause 3.1 in any way contrary to its own interests or requirements.

2.3 Termination

This clause 2 survives the termination of this memorandum.

3. Discussions in relation to Specified Matters

3.1 Discussions

In connection with the Specified Matters and subject to this memorandum:

(a) the University will hold discussions with the other parties regarding to possibility of;

(i) expanding its north west presence at the West Park site; and expanding existing programs currently delivered in the Cradle Coast;

(ii) expanding into associate degree courses to be delivered at the West Park site.

(iii) the provision of firm concept plans of the University's proposals for new educational facilities at West Park on or before 30th June 2016.

(iv) in consultation with the local community, developing a Master plan for the West Park site which considers proposals for the development of new educational facilities and a shared community and private investment space with an intention to complete the Master plan by 31st May 2016.

(v) identifying purposeful uses for the balance of the Mooreville Road campus.
(vi) the opportunity for a collaborative approach to the delivery of post school education in the north west region with TasTAFE and Department of State Growth.

(b) the Council will carry out all actions contained within the existing Development Deed with the University;

(c) the Crown will ensure any issues under its control that may restrict the proposed development are dealt with in an expeditious manner;

(d) TasTAFE will hold discussions with the other parties regarding opportunities for the co-location of relevant programs at the West Park site.

(e) the CCA and the University will work together to review the key economic sectors in the North West region to inform which courses could be offered by the University at the Cradle Coast Campus and a regional economic development strategy for the North West.

(f) the parties will hold discussions about:
   (i) a combined approach by all parties to address the funding required to facilitate the Specified Matters;
   (ii) in the context of clause 3.1(f)(i), a joint approach to the Australian Government for it to become a funding partner in facilitating the Specified Matters; and
   (iii) any consequential issues.

The parties will hold the discussions in good faith and use reasonable endeavours to reach, by 30th June 2016, an agreement or agreements in relation to the Specified Matters.

3.2 **Resources**

Each party will make available senior representatives for the purposes of conducting the discussions in relation to the Specified Matters.

3.3 **Communication**

The parties will develop a comprehensive communications strategy for communications with stakeholders.

4. **Confidentiality**

4.1 **General obligations**

Subject to this clause 4, each party must keep confidential, and must not publish or disclose without the written consent of the other party the Confidential Information of the other party.

4.2 **Exceptions**

Nothing in clause 4.1 prevents:

(a) a Minister from publishing or disclosing Confidential Information that the Minister is required to disclose to Parliament in order to properly discharge that Minister's duties or responsibilities as a Minister of the Crown;
(b) a party from publishing or disclosing the Confidential Information of that party;
(c) a party from publishing or disclosing the Confidential Information of the other party to the extent that the publication or disclosure:
   (i) is required by law or lawful order of any Government Body having authority over a party;
   (ii) is necessary to enable that party to enjoy the benefit of, or enforce obligations arising under, this memorandum; or
   (iii) is made on a confidential basis to:
      (A) a related body corporate (for the purposes of the Corporations Act 2001 (Cwlth)); or
      (B) the professional advisers of such party for the purpose of obtaining professional advice in relation to this memorandum or otherwise for the purpose of consulting such professional advisers.

4.3 Conditions on consent

(a) If a party grants its consent to the disclosure of any Confidential Information it may impose conditions on that consent. In particular, but without limiting the generality of the preceding sentence, it may require that the disclosing party procure the execution of a licence on terms reasonably approved by the consenting party by the person to whom the disclosing party proposes to disclose the Confidential Information.

(b) If the consenting party grants consent subject to conditions, the disclosing party must comply with those conditions.

5. Termination

This memorandum operates from the date of signing and continues until the earlier of:

(a) 30 June 2016;
(b) the parties signing an agreement in relation to the Specified Matters; and
(c) a party terminating this memorandum by notice in writing to the other party.

Where practicable, a party will give at least 10 Business Days’ notice of its intention to terminate this memorandum.

6. Miscellaneous

6.1 Governing law

This memorandum is governed by the Laws applying in Tasmania.

6.2 Dispute jurisdiction

The parties submit to the non-exclusive jurisdiction of courts with jurisdiction in Tasmania, and any courts that may hear appeals from those courts, in respect of any proceedings in connection with this memorandum.
6.3 No partnership or agency

(a) Nothing contained or implied in this memorandum will:

(i) constitute, or be taken to constitute, a party to be the partner, agent or legal representative of another party for any purpose;

(ii) create, or be taken to create, a partnership or joint venture; or

(iii) create, or be taken to create, an agency or trust.

(b) A party must not represent or hold itself out to be a partner, joint venturer, agent or representative of another party.

6.4 Legal costs

Each party must bear their own costs in preparing and negotiating this memorandum and the discussions in relation to the Specified Matters.

6.5 Amendment

This memorandum may only be amended or supplemented in writing signed by the parties.

6.6 Disclosure

(a) Despite any confidentiality or intellectual property right subsisting in this memorandum, a party may publish all or any part of this memorandum without reference to another party.

(b) Nothing in this clause derogates from a party's obligations under the Personal Information Protection Act 2004 (Tas) or the Privacy Act 1988 (Cwlth).

6.7 No interference with executive duties or powers

Nothing in this memorandum is intended to prevent, is to be taken to prevent, or prevents, the free exercise by the Governor, by any member of the Executive Council, or by any Minister of the Crown, of any duties or authorities of his or her office. Any provision of this memorandum that is inconsistent with this clause is of no legal effect to the extent of the inconsistency.

Subject to clause 2, executed by the parties as a non-legally binding memorandum of understanding
Signing

Signed for and on behalf of the Crown by its duly authorised officer:

Signature: [Signature]

Signature of witness: [Signature]

Name of witness (block letters): JANELLE ALLISON

Address of witness:

Occupation: PVC UTAAS

Date: 19/2/16

Signed for and on behalf of the University by its duly authorised officer:

Signature: [Signature]

Signature of witness: [Signature]

Name of witness (block letters): JANELLE ALLISON

Address of witness:

Occupation: PVC UTAAS

Date: 19/2/16

Signed for and on behalf of Burnie City Council by its duly authorised officer:

Signature: [Signature]

Signature of witness: [Signature]

Name of witness (block letters): JANELLE ALLISON

Address of witness:

Occupation: PVC UTAAS

Date: 19/2/16

Signed for and on behalf of TasTAFE by its duly authorised officer:

Signature: [Signature]

Signature of witness: [Signature]

Name of witness (block letters): JANELLE ALLISON

Address of witness:

Occupation: PVC UTAAS

Date: 19/2/16

Signed for and on behalf of the Cradle Coast Authority by its duly authorised officer:

Signature: [Signature]

Signature of witness: [Signature]

Name of witness (block letters): JANELLE ALLISON

Address of witness:

Occupation: PVC UTAAS

Date: 19/2/16