

Planning Services

Gateway Determination Report

LGA	Cumberland
RPA	Cumberland Council
NAME	Amendment to permit educational establishments as an additional permissible use (no dwellings)
NUMBER	PP_2017_CUMBE_004_00
LEP TO BE AMENDED	Auburn Local Environmental Plan 2010
ADDRESS	2 Percy Street, Auburn
DESCRIPTION	Pt Lot 14 Sec 1 DP 2647; Lot 15 Sec 1 DP 2647; Lot 16 Sec 1 DP 2647; Lot 17 Sec 1 DP 2647; Lot 18 Sec 1 DP 2647; Lot 19 Sec 1 DP 2647; Lot 20 Sec 1 DP 2647; Lot 21 Sec 1 DP 2647; Lot 1 DP 721683; and Lot 1 DP 76735
RECEIVED	27 November 2017 with additional information received 4 December 2017
IRF NUMBER	IRF17/632
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The proposal seeks to amend Auburn Local Environmental Plan (LEP) 2010 to amend the maximum height of building control (from no control to 12m) and permit educational establishments as an additional permissible use at 2 Percy Street, Auburn.

The planning proposal is accompanied by an urban design report and reference design plans. These documents present a development concept for an educational establishment containing a kindergarten, primary school, secondary school and administration office uses to accommodate up to 650 students at the site comprising:

- approximately 7,143m² gross floor area comprising 26 classrooms;
- outdoor open space area (approximately 3,873m²);
- multi-purpose hall;
- library and canteen;
- office administration area; and
- parking for 52 cars.

A site plan (**Figure 1**) and artist's impression (**Figure 2**) of the reference design are provided on the next page.

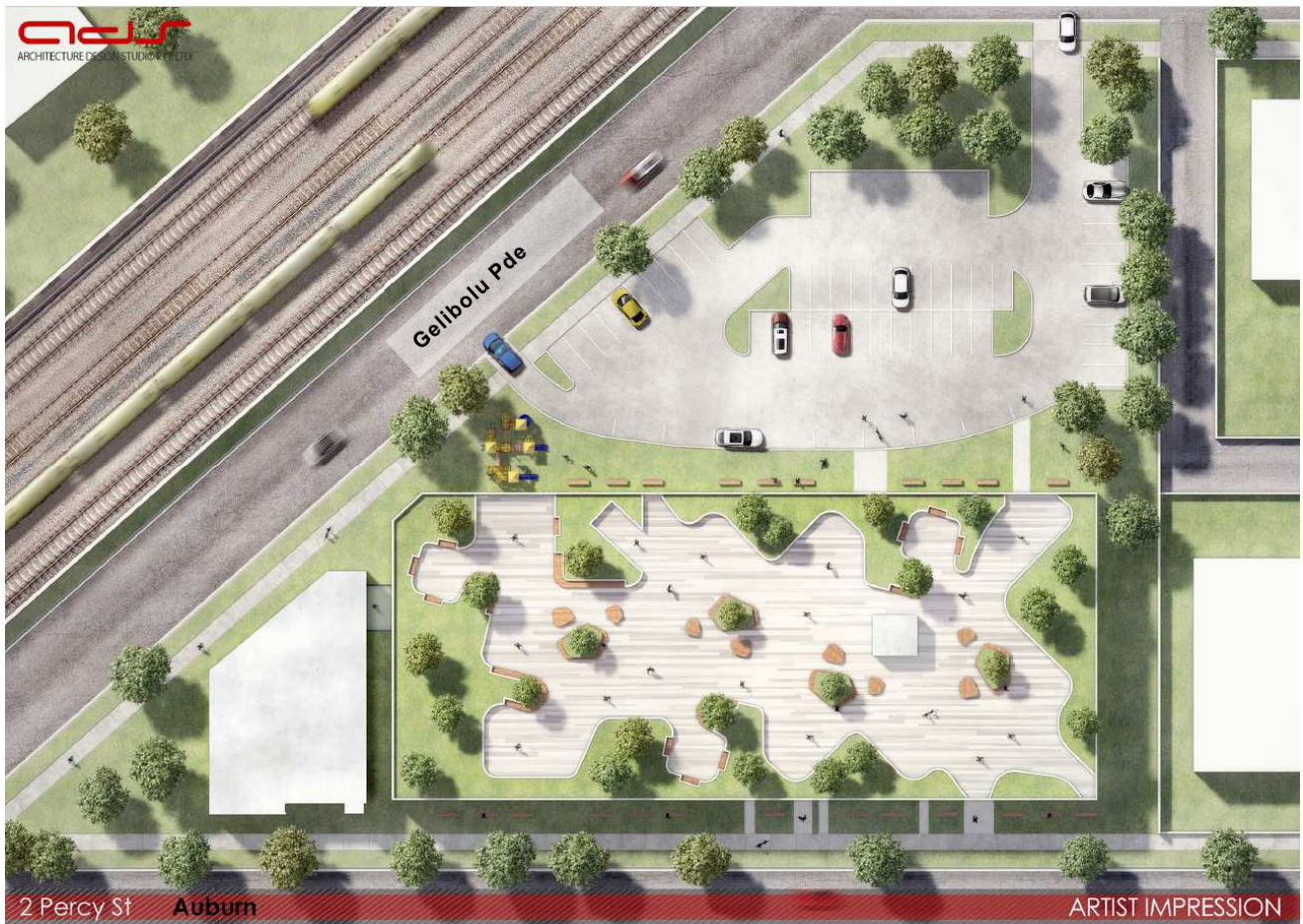


Figure 1: Site plan concept sourced from the proponent's reference design.



Figure 2: Artist's impression from Percy Street.

Site description

The site is approximately 7,300m² and contains a two-storey industrial warehouse, administration building and car park.

The site (**Figure 3**) fronts Percy Street to the east, Gelibolu Parade to the south, St Hillier's Road to the west and a part laneway that buffers the adjoining residential area.

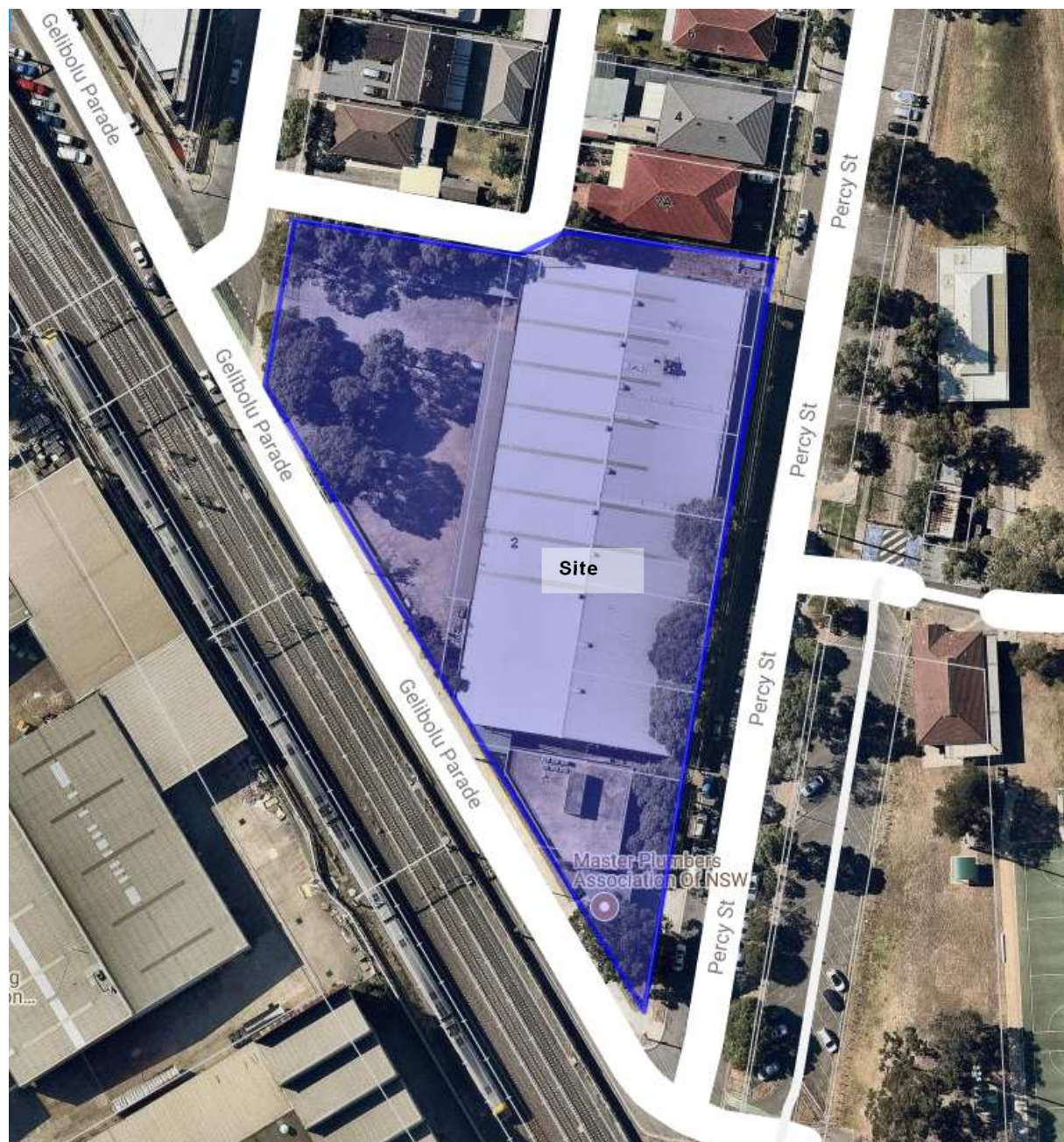


Figure 3: Site.

Surrounding area

The site is adjacent to the T1 Western Train Line approximately 100m-500m east of the Auburn Gallipoli Mosque.

The site is in the south-east of Auburn town centre, which is characterised by residential, industrial and community uses, and is approximately 700m from Auburn Train Station. The site is serviced by local buses from Auburn town centre, which is within 850m-900m walking distance.

The St Hilliers Road/Rawson Street intersection (classified as state/regional roads) is approximately 250m from the site and is a key intersection that provides access to the regional road network.

Surrounding development consists of single-storey and two-storey detached residential development to the north; an approved three-storey residential aged care facility (under construction) and community facilities associated with the Auburn Gallipoli Mosque to the west; and Wyatt Park, a major district public open space and recreation facility to the east.

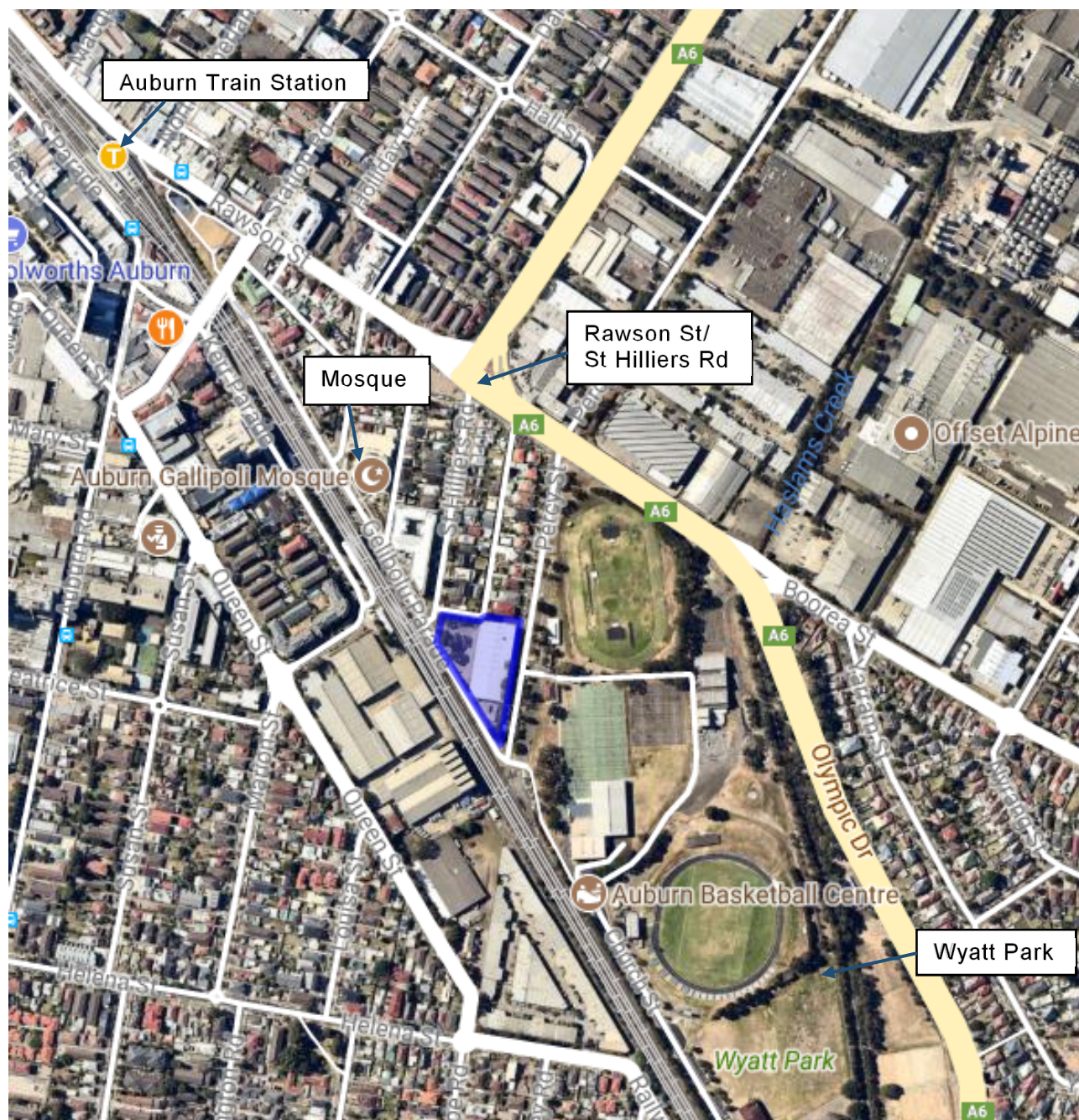


Figure 4: Site and surrounding area.

Summary of recommendation

It is recommended the planning proposal proceed to Gateway determination subject to conditions. These conditions have been recommended to ensure:

- the resolution of appropriate height controls;
- traffic and transport issues are adequately addressed;
- future development is capable of meeting the objectives of the LEP; and
- community and agency consultation requirements are met.

PROPOSAL

Objectives or intended outcomes

Based on the documentation provided, the objective of the planning proposal is to amend the Auburn LEP 2010 to permit redevelopment of the site for an educational establishment and introduce a 12m maximum height of building control.

Department assessment

The details of the planning proposal are specific enough to clearly identify the intent of the proposal yet flexible enough to enable Cumberland Council to determine the most appropriate development standards to achieve the desired outcome.

Explanation of provisions

To permit the site redevelopment, it is proposed the Auburn LEP 2010 be amended to include:

- a provision under Schedule 1 to permit a floor space ratio (FSR) of 1:1 and a 12m maximum building height;
- updated additional permitted uses map; and
- updated height of building map.

Department assessment

The planning proposal indicates that the proposed amendment seeks to utilise an additional use to incentivise a certain planning outcome in line with the proponent's intention to redevelop the site for the purpose of a school.

As this planning proposal seeks to amend the LEP via a Schedule 1 additional permitted uses, it is recommended that the Explanation of Provisions be amended to provide a more justification that supports the proposed mechanism rather than applying a zone that permits educational facilities. A condition of gateway has been recommended to this effect.

NEED FOR THE PLANNING PROPOSAL

The planning proposal seeks to permit an additional use for an educational establishment. The proposal is not the result of any site-specific study or report; however, two main options were considered by the proponent and Council to proceed with the proposal as discussed below:

Option	Options to proceed with the proposal	Council officer assessment
1	Introduce an educational establishment for	Council officers support the proponent's view and consider this option as a better short-term planning option than option 2 for the following reasons:

	the site as an additional permissible use to amend Schedule 1.	<ul style="list-style-type: none"> • it retains the existing IN2 Light Industrial zoning; • it retains the existing FSR of 1:1; • it is generally consistent with Auburn LEP 2010 objectives for IN2 Light Industrial zoning; • the existing site is developed with a large warehouse and a two-storey administration building that can be adapted for reuse; • the proposed additional use adds more flexibility for the site's uses in an IN2 Light Industrial Zone; • it is consistent with the recommendations of the Auburn Employment Lands Strategy 2015; and • it is unlikely to create any major environmental, social and economic impacts.
2	Rezone the site to SP2 Infrastructure (Educational Establishment)	<p>This option is not supported because:</p> <ul style="list-style-type: none"> • it limits the site's existing permissible land uses extensively and without purpose; • it is not flexible with regards to land-use provision considering the site's historical nature of different uses; and • the SP2 Infrastructure Zone prohibits educational establishments under Auburn LEP 2010.

In addition to options 1 and 2, Council officers considered a third option, which included the rezoning of the site from IN2 Light Industrial to R2 Low Density Residential to permit the proposed educational establishment as a permissible use within the site.

In the planning proposal document, Council states that "if this option was to proceed, the proponent may need prepare site specific provisions for the site ...and justify the loss of locally significant employment lands within the Cumberland LGA including the section 117 direction by the Minister".

Department assessment

A proposal seeking to amend the LEP is the most effective way of providing certainty for Council, the proponent and the local community.

This planning proposal has broadly set out relevant environmental, social, economic and other site specific considerations to be identified before issuing Gateway determination.

The level of information provided is considered reasonable to justify the planning proposal proceed to Gateway determination.

STRATEGIC ASSESSMENT

State

The Premier's Priorities highlight the importance of creating jobs, building infrastructure, affordable housing and tackling childhood obesity. The planning proposal is considered to be consistent with these priorities by creating jobs and delivering an educational establishment within an existing centre.

Regional / District

A Plan for Growing Sydney

The plan commits to supporting key industrial precincts with appropriate planning controls (Action 1.9.1) and planning for social infrastructure to support growing communities (Action 1.11.3).

With its focus on enabling the development of an educational establishment and retaining the existing industrial zoning, the planning proposal is considered to be consistent with the plan.

Draft Greater Sydney Region Plan

The plan provides a 40-year vision and 20-year plan for the delivery of 725,000 dwellings and an extra 817,000 jobs in the Greater Sydney region. The plan recognises the Cumberland LGA as being within the Central River City.

The planning proposal is consistent with the focus of the plan to align infrastructure with growth and planning for jobs through the provision of services and infrastructure to meet changing needs (Objective 6) and to deliver places that bring people together (Objective 12).

Revised Draft Central City District Plan

The plan commits to a 9,350 dwelling, five-year housing target by 2021 (Action 15), which is to be supported with infrastructure by aligning infrastructure investment with community outcomes (Planning Priority C1). The plan identifies the importance of providing services and social infrastructure to meet changing needs (Planning Priority C12).

To ensure rezoning decisions do not compromise job growth capacity, the plan requires councils to undertake a strategic review of the role industrial and urban services land provides to the local government area in the broader district. The Auburn Employment Lands Strategy takes into account the role of the subject site and considers the site suitable for alternative uses. The proposal is therefore consistent with that strategy and therefore consistent with the plan.

Overall the proposal is consistent with the priorities and actions set by the plan. The proposal provides an opportunity to deliver a school in a highly accessible location without compromising future capacity to deliver jobs in an area expected to experience significant growth.

Local

Draft Auburn and Lidcombe Town Centres Strategy

Exhibited in early 2017, the strategy proposes several principles to support growth and change in the Auburn and Lidcombe town centres. The strategy identifies the site in the vicinity of the Gelibolu precinct, which includes the Auburn Gallipoli Mosque.

To ascertain potential density increases for the precinct, the strategy recommends a study be prepared to further consider access, traffic and flooding issues.

As the planning proposal does not propose to change the existing IN2 zone, the proposal is considered to be consistent with the strategy.

Auburn Employment Lands Strategy 2015

The strategy relates to land zoned for employment within the former Auburn LGA and focuses on land for retail, commercial or industrial activities.

The strategy recommends Council investigate alternative land uses for the site, as it will be difficult to attract new occupiers to isolated employment precincts that abut residential areas, particularly when the current occupiers vacate.

The site is considered to be suitable for alternative uses due to the isolated nature of its location abutting existing residential lands.

Section 117(2) Ministerial Directions

The planning proposal is consistent with relevant section 117 Directions, except for 4.3 as discussed below.

Direction 4.3 Flood Prone Land

The planning proposal is inconsistent with this Direction as it proposes development on flood-prone land that may be considered a significant increase in the development of that land. The proposal does not seek any changes to flood-related development controls, and future development will be subject to the relevant development controls in Auburn LEP 2010 and the Auburn Development Control Plan 2010 (Auburn DCP). The Auburn DCP gives effect to the Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.

Potential flood constraints on the land would be considered as part of the development assessment process and appropriate flood mitigation measures determined and implemented. The planning proposal is considered to be justifiably inconsistent with this Direction and the Gateway determination recommends consultation with the Office of Environment and Heritage and the Department of Industry to ensure consistency.

State environmental planning policies

The following state environmental planning policies (SEPPs) apply as follows:

SEPP No 55 – Remediation of Land

Consistent with the requirements of the SEPP and the Environment Protection Authority's *Managing Land Contamination Planning Guidelines*, a preliminary investigation should be undertaken to examine the possible contamination risks from historical land uses.

As a condition of the Gateway, it is recommended that a Phase 1 – Preliminary Site Investigation be carried out and publicly exhibited with the planning proposal.

SEPP (Educational Establishments and Child Care Facilities) 2017

The SEPP contains provisions that make it simpler for childcare providers, schools, TAFEs and universities to build new facilities and upgrade existing facilities within the prescribed zone through complying development provisions.

The proposed development is a traffic-generating development per clause 57 of the SEPP as it will result in an educational establishment accommodating 50 or more additional students and involves an enlargement of an existing premises.

Accordingly, it is recommended the planning proposal be referred to Roads and Maritime Services and be amended in accordance with any comments received.

SITE-SPECIFIC ASSESSMENT

Social

Heritage

The site is opposite the local heritage-listed Wyatt Park, Haslams Creek, Lidcombe Pool, Lidcombe Oval, Stormwater Drain referenced as Item I40 in the Auburn LEP 2010.

As the site has been developed and the proposed additional use is intended to be contained within the existing building, no further assessment of impacts on the heritage values of this item is warranted as part of the plan-making process.

Potential heritage impacts would be further considered as part of the development assessment process and appropriate mitigation measures determined and implemented.

Environmental

Height of building and views

The planning proposal seeks to introduce a 12m maximum height of building (HOB) control to a site that has no HOB controls.

In its assessment accompanying the planning proposal, Council has indicated that the proposal has the potential to impact on local character, particularly on view lines to the Auburn Gallipoli Mosque.

The proponent considers that a height control should not be imposed on the site as FSR and other design constraints will regulate built form outcomes for the site.

To guide the finalisation of its Auburn and Lidcombe Town Centres Strategy, Council is undertaking a view-line analysis in relation to the mosque.

Department assessment

The site is approximately 100m-150m east of the Auburn Gallipoli Mosque and opposite an approved three-storey residential aged care facility under construction.

A condition of the Gateway determination is recommended that allows the proposed HOB to proceed to community consultation with 12m as the currently proposed control; however, prior to finalisation, the HOB control is to be reviewed and amended to reflect the findings of the view-line analysis being carried out by Council.

Floor space ratio

The planning proposal seeks a maximum FSR of 1.1:1, which retains the existing FSR control for the site.

Accompanying the planning proposal is an initial planning proposal request report prepared by the proponent, which indicates a preferred FSR of 1.2:1. However, as per Council's resolution of 6 September 2017, the proponent agreed to retain the existing FSR control for the site.

Despite this, the proponent has indicated that it intends to seek to vary the FSR control by demonstrating to Council and the Department that the 0.1 increase in FSR will not result in any adverse impacts on neighbouring properties.

Department assessment

In its current form, the planning proposal does not adequately justify an increase above the existing FSR control, yet the site represents an opportunity to deliver an urban infill school close to transport and community facilities.

The proposed FSR increase represents a minor overall intensification of the site, having regard to the cumulative impact associated with potential FSR uplift expected to occur in the broader precinct.

Given that the Auburn and Lidcombe Town Centres Strategy recommended a further study be carried out to assess increased density in the Gelibolu precinct, an increase to the FSR control should be investigated as part of the planning proposal. Therefore, the Gateway determination recommends Council review and consider the potential for a 1.2:1 FSR control post-Gateway should the proponent be able to demonstrate by further urban design testing that additional floor space can be supported at the site.

Traffic and transport accessibility

Traffic

Council's Draft Auburn Traffic and Transport Study (Hyder Consulting 2013) modelled several key intersections across the former Auburn LGA and identified poor levels of

service (i.e. long delays) at several intersections, and made recommendations about future intersection improvements. Council's traffic study did not assume redevelopment of the site; however, Council is undertaking an updated traffic study for the Gelibolu precinct that includes microsimulation.

The proponent's transport assessment (GTA – Jul / Oct 2017) provided in support of the proposal indicated the proposal would contribute approximately 638 vehicle trips in the morning/afternoon school peak and up to 70 additional trips in the afternoon commuter peak.

Council's assessment of traffic impacts identifies that the proposed additional use would have major implications on traffic movements in the Gelibolu precinct with the performance of key intersections currently operating at capacity or requiring potential additional capacity.

Transport accessibility

To reduce private car dependency, the GTA report assumes 30 per cent of students will travel by private car, 40 per cent by bus and 20 per cent by train services, with 10 per cent expected to either walk or cycle from nearby neighbourhoods.

The report confirms that the proposed development would be serviced by public transport, including bus and train services, near the Auburn Road/Queen Street bus stop and Auburn Railway Station.

The report identifies existing on-street car parking at the Council athletic field as an option to cater for pick-up/drop-off activities during school hours and an opportunity to provide a bus zone on the western edge of Percy Street along the property boundary.

Department assessment

The cumulative impact of traffic associated with additional development in the locality will result in further impact on intersection performance in the broader precinct.

Accordingly, it is recommended that Transport for NSW and Roads and Maritime Services be consulted on the proposal prior to community consultation, and the planning proposal be amended in accordance with any comments made by those agencies.

Economic

The site is zoned IN2 Light Industrial and is not proposed to be transitioned to non-employment related land. The site's proposed educational establishment use would preserve employment at the site, providing approximately 50 or more jobs at both the construction and operational phase.

Infrastructure

The proposed school is expected to have a population of 650 students. This includes 350 kindergarten and primary school students and 300 secondary school students.

The planning proposal refers to recreation and community facilities in neighbouring Wyatt Park for use of the future school. However, Council has raised concerns regarding the ability of Wyatt Park (**Figure 5**) to accommodate adequate outdoor play areas for the future student population.



Figure 5 – Recreation and community facilities in Wyatt Park (site outlined in blue).

Notwithstanding the need to confirm local and state infrastructure requirements for transport accessibility, the proponent has submitted a letter of offer to Council to undertake any required infrastructure improvements for this proposal and enter into a voluntary planning agreement with Council.

Department assessment

While a planning agreement between the proponent and Council will contribute towards local infrastructure needs, the student population will potentially generate additional demand for designated state infrastructure. Therefore, the Department considers it is necessary that future infrastructure provision within the wider precinct aligns with growth demands generated by the development.

To support delivery of the school, the planning proposal should be updated to identify state and local infrastructure requirements (including infrastructure improvements identified for traffic, parking, transport, recreation and community facilities). As discussed above, it is recommended that Transport for NSW and Roads and Maritime Services be consulted.

The Gateway determination has been drafted accordingly.

CONSULTATION

Community

The planning proposal outlines a community consultation process that is consistent with *A Guide to Preparing Local Environmental Plans (2016)*.

Given the nature of the planning proposal, it is recommended that a 28-day community consultation period applies.

Agencies

To comply with the requirements of relevant section 117 Directions, it is considered appropriate that the following agencies and organisations be consulted on the planning proposal:

- Transport for NSW;
- Roads and Maritime Services;
- Department of Education;
- Department of Industry – Crown Lands and Water Division; and
- Office of Environment and Heritage – Floodplain Division.

TIME FRAME

It is recommended that a 12-month time frame for completing the LEP is given, taking into account the complex nature of completing traffic modelling studies for the broader precinct.

DELEGATION

Council has not requested the use of plan-making delegations. Given the nature of the proposed amendments required prior to community consultation, delegation is not recommended to be authorised in this instance.

CONCLUSION

Subject to Gateway conditions, the planning proposal has merit and is supported to proceed for the following reasons:

- to promote the orderly redevelopment of a low-rise industrial site to a higher use in proximity to Auburn town centre;
- to promote the development of an urban infill school site close to transport and community facilities;
- to deliver a school in a location expected to experience significant growth to meet changing community needs; and
- to enable an opportunity to provide 50 or more jobs.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. **agree** that the inconsistency with section 117 Direction 4.3 Flood Prone Land is of minor significance.

It is recommended that the delegate of the Greater Sydney Commission determine that the planning proposal should proceed subject to the following conditions:

1. Prior to undertaking community consultation, Council is required to:
 - (a) amend the planning proposal to provide a more justification regarding the proposed additional permitted use rather than applying a land use zone that permits educational facilities;
 - (b) prepare a Phase 1 – Preliminary Site Contamination Investigation Study for the site in accordance with the *Managing Land Contamination Planning Guidelines* (Environment Protection Authority, 1998);
 - (c) review and consider the proposed floor space ratio control should the proponent be able to demonstrate through urban design testing to Council's satisfaction, that additional floor space can be supported at the site;
 - (d) complete the updated traffic study for the Gelibolu precinct, and update the planning proposal in accordance with the findings/ recommendations of the study;
 - (e) on completion of condition 1(d), the planning proposal is to be referred to Transport for NSW and Roads and Maritime Services, and amended in accordance with any comments received; and
 - (f) confirm any local and state infrastructure requirements (including improvements for traffic, parking, transport, recreation and community facilities) to support the additional use.
2. Community consultation is required under sections 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979* (the Act) as follows:
 - (a) the proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
3. Consultation is required with the following public authorities and organisations under section 56(2)(d) of the Act and/or to comply with the requirements of relevant section 117 Directions:
 - Department of Education;
 - Department of Industry – Crown Lands and Water Division; and
 - Office of Environment and Heritage – Floodplain Division.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.
4. Prior to finalisation, Council must review the proposed height of building control having regard to the findings of the view-line analysis being carried out as part of the Auburn and Lidcombe Town Centres Strategy being undertaken by Council.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

23/01/2018

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05/02/2018

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