

Development Assessment and Planning Committee



06/10/2015	DAP036-16
Report Title:	SSLEP2015 Amendment 4: Special Uses - Schools
File Number:	2015/220811
Author:	Manager Environmental Planning (RW)

REPORT SUMMARY

EXECUTIVE SUMMARY:

Council is concurrently considering a report from the Environmental Planning Unit which lists priority matters to be included in the next amendment to the new Local Environmental Plan. This report addresses three of those matters which relate to zoning and maximum height controls for schools. The matters were raised in submissions to the exhibition of SSLEP2015 and identified as needing review in the report Results of Draft Sutherland Shire Local Environment Plan 2013 (LEP3) Exhibition - DAP043-15 dated 10 November 2014.

The first matter relates to a submission to the draft LEP requesting rezoning of part of Jannali East Public School to allow residential development. The second matter relates to a submission on the mapped height of schools in low density areas (8.5m) being misleading as it is inconsistent with the height allowed under SEPP (Infrastructure) 2007, which is 12m. The SEPP Infrastructure overrides the LEP. The third matter relates to the zoning of land owned by Inaburra School, Bangor. Although this land was exhibited and gazetted as E4 Environmental Living, it can be developed as a school using the SEPP (Infrastructure) 2007, with development standards as set out in the SEPP. As such, the low density residential zoning on the land owned by Inaburra School could be misleading.

SUMMARY OF RECOMMENDATION:

Regarding Jannali East Public School, it is recommended that Council request that the Jannali East Parents and Citizens Association, and the NSW Department of Education and Communities, prepare a Planning Proposal, supported by the necessary investigations and studies, including an assessment of bushfire risk, in order to rezone part of Jannali East Public School for residential development.

Regarding the mapped maximum height for schools it is recommended that the SSLEP2015 Height Map be amended to increase the maximum permissible height to 12m for schools where the lots are located in low and medium density residential areas, where the height limit shown on the SSLEP2015 Height Map is less than 12m. The affected lots are identified in the spreadsheet attached as Appendix A.

Regarding Inaburra School, it is recommended that land zoned E4 Environmental Living and owned by Inaburra School is rezoned from E4 to SP2 Infrastructure (Educational Establishment/ Place of Public Worship), with development controls consistent with those which are recommended to be applied to other schools in residential areas (height 12m and no FSR). The

affected lots are at 17-19 Bodalla Crescent (Lots 2,4,5,11,12,13,14,15,16,17 DP 262613) and 21 Bodalla Crescent (Lot 3 DP 262613). Development associated with the school is permitted on the land by the SEPP Infrastructure, whether the land is zoned E4 or SP2.

FINANCIAL / RESOURCE IMPLICATIONS:

The preparation of the planning proposal which will include these proposed LEP amendments is budgeted for with the allocation to the Environmental Planning Unit.

RELATIONSHIP TO STRATEGIC DIRECTIONS:

These matters are consistent with the broad policy directions contained in the draft Metropolitan Strategy for Sydney and support Council's community plan known as 'Our Shire Our Future: Our Guide for Shaping the Shire to 2013'. They do not contravene any state environmental planning policies (SEPPs).

POLICY / LEGAL IMPLICATIONS:

The planning initiatives identified in the report will be amendments to Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) which was gazetted on 23 June 2015.

LIST OF APPENDICES:

Appendix A contains a spreadsheet showing all lots where it is proposed that the Height Map is amended to 12m.

PREVIOUS CONSIDERATION / HISTORY OF MATTER:

DAP043-15  Results of Draft Sutherland Shire Local Environmental Plan 2013 (LEP3) Exhibition - 10 November 2014.

REPORT IN FULL

Purpose

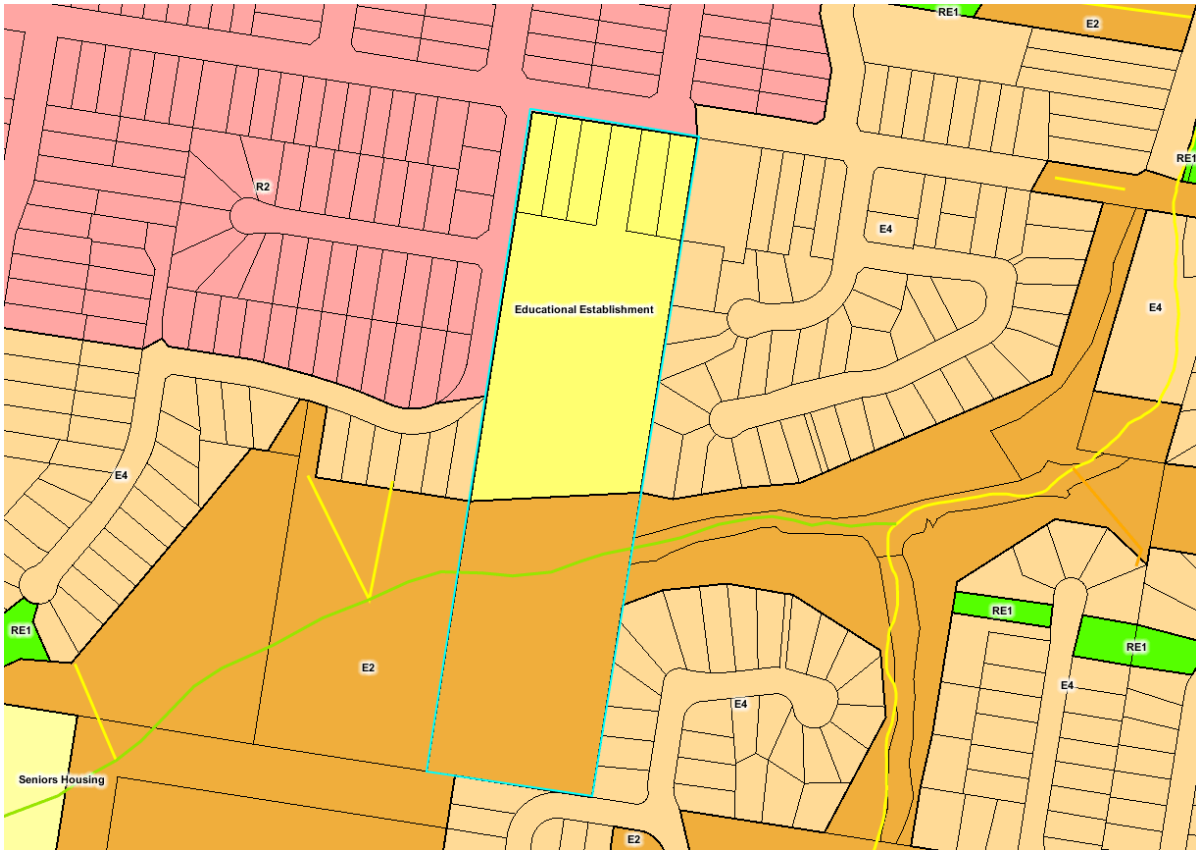
This report addresses matters relating to zoning and development standards for schools which were raised in submissions to the exhibition of SSLEP2015. The matters were identified as needing review in the Submissions Report DAP043-15 Results of Draft Sutherland Shire Local Environment Plan 2013 (LEP3) Exhibition - 10 November 2014.

1. Jannali East Public School

Jannali East Public School is located at 498-500 Box Road, Jannali. The school land is rectangular in shape and extends from Box Road in the north to Mulga Place in the south. The school buildings and playgrounds are located along Box Road. The remainder of the land is mostly steeply sloping bush, with Oyster Creek traversing eastward through the bush.



Aerial Photo – Jannali East Public School showing location of Oyster Creek



Zoning map SSLEP2015 as made – Jannali East Public School

The northern part of the site, where the school facilities are located, was zoned Zone 12 Special Uses under SSLEP2006. This zone extends into the bush approximately 100 metres, creating space for future expansion of the school. The remainder of the bushland portion of the site was deferred from SSLEP2006, and zoned 5(a) Special Uses (Educational Establishment) under SSLEP2000.

The third exhibition of SSLEP2015 showed the lot with a split zone, being SP2 Educational Establishment for the northern part of the site and E2 Environmental Conservation for the southern bushland part of the site which extends to Mulga Place.

During the third exhibition of the LEP a submission from the school community requested that part of the school land fronting Mulga Place, and now zoned E2 Environmental Conservation, be deferred from DSSLEP2013 pending further studies to determine its suitability as residential land (Zone E4 Environmental Living). This zone would facilitate the subdivision of the land and sale for residential development. This opportunity is being explored by the school community to raise funds to address the space and infrastructure shortages being experienced. The school community submission requested that approximately 1ha of the school lands adjacent to Mulga Place, Kirrawee, be deferred from SSLEP2015. The land is identified in the map below.

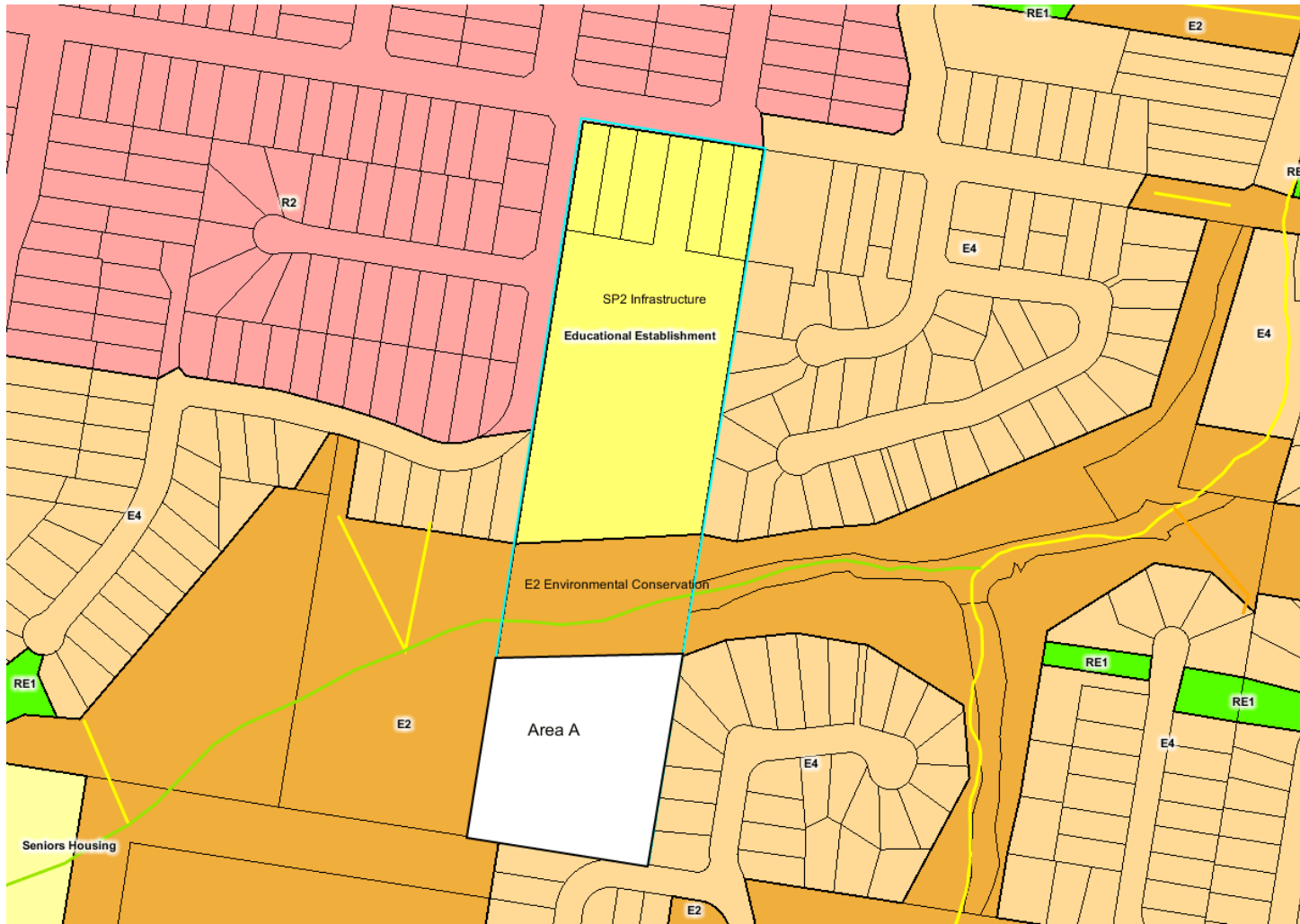


Figure 3 – The submission from the school community identified Area A as a possible future residential area

In response to the submission on the exhibited LEP, it was recommended that the zone of the southern section of the site be changed to SP2 Educational Establishment, consistent with the northern section of the site. However, this change from the exhibited version would have required re-exhibition of the LEP. Ultimately, the plan as made is consistent with the zones as exhibited (SP2 Educational Establishment and E2 Environmental Conservation).

The allocation of the E2 zone to the southern section of the site was based on the circumstances of Oyster Creek traversing the land, the steep topography and the bushland on the site, and the contiguous corridor of bushland to the west. The school and surrounding residential land are bush fire prone. Steep slopes make this area difficult to develop. There may be some potential for future residential development on this land, but this needs to be established through a planning proposal, prepared by the proponent. The planning proposal should be prepared in accordance with the Department of Planning and Environment guidelines and supported by the necessary investigations and studies, including an assessment of bushfire risk.

Conclusion

It is recommended that council sends letters to the Jannali East Parents and Citizens

Association, and the NSW Department of Education and Communities, saying that if they want to apply to have part of Jannali East Public School rezoned for residential development, they will need to prepare a planning proposal, supported by the necessary investigations and studies, including an assessment of bushfire risk. The planning proposal should be prepared by the proponent, which could be the NSW Department of Education and Communities in conjunction with the Jannali East Parents and Citizens Association.

2. **Schools: Maximum Building Height**

Under SSLEP2006, schools were zoned Zone 12 Special Use. Generally, the SSLEP2006 default height control of two storey maximum (7.2m to the ceiling and 9m overall) applied to school sites. SSLEP2015 allows maximum building height of 8.5m or 9m for most schools; the exception being those schools in the town centres where height limits are in keeping with those proposed for surrounding development.

During the exhibition of LEP3, submissions objected to the proposed heights of 8.5m or 9m for school sites in the low and medium density residential areas. The submissions maintained that existing buildings on the school sites exceed the 8.5m or 9m height control, a height control appropriate for domestic residential buildings, but not for contemporary educational buildings where floor to ceiling heights of about 3.6m are necessary.

The Infrastructure SEPP (Clause 31A) sets a 12m height limit for complying development of existing government and non-government school. The complying development provisions in the SEPP also include controls for setbacks and standards to limit overshadowing of adjacent residential properties. It can be reasonably expected that most development for the purposes of educational establishments will be undertaken utilising these provisions. The SEPP height control (12m) overrides any lesser height control specified in the LEP. Therefore having a lower height in SSLEP2015 has no effect. Having a lower height limit in SSLEP2015 may also create a community expectation that future development on these sites would be in keeping with the SSLEP2015 height. When development under the SEPP is undertaken, this could create confusion about the development outcomes possible on a site.

SSLEP2015 has set height limits for school sites consistent with adjoining land. In most cases, where schools are adjacent to low density residential areas, this means an 8.5m height limit is shown on the LEP height map. No FSR is applied to most schools. The height limits in the LEP for school sites was based on the land being the same zone as surrounding land consistent with a Standard Instrument LEP State Directive. This policy was put in place to facilitate the quick sale of surplus public assets. Where land occupied by schools was declared surplus it could be sold on the open market quickly without having to be rezoned. Because this flexibility was originally inherent in the plan, development standards were made consistent with surrounding land. In this way if surplus land is sold off for housing, the new houses would be limited to 8.5m rather than 12m set for a school. The key point is that the development standards go with the land, not the use of the land as was the case under SSLEP2006.

However, Council subsequently resolved to zone all schools SP2 Infrastructure (Educational establishment) or SP2 Infrastructure (Educational Establishment/ Place of Public Worship), and the plan has been made with these zones. The rezoning means that it is now appropriate that the height control for government and non-government school sites zoned SP2, which are adjacent to low and medium density residential zones, be amended to 12m, consistent with the height allowed in the Infrastructure SEPP. The low and medium residential zones are: Zone R2 Low Density Residential; Zone R3 Medium Density Residential; Zone E3 Environmental Management and Zone E4 Environmental Living.

Conclusion

That the SSLEP2015 Height Map is amended to increase the maximum permissible height to 12m for public and private schools on land zoned SP2 Infrastructure (Educational establishment) and land zoned SP2 Infrastructure (Educational Establishment/ Place of Public Worship) where the lots are located adjacent to low and medium density residential areas, and where the height limit shown on the SSLEP2015 Height Map is less than 12m.

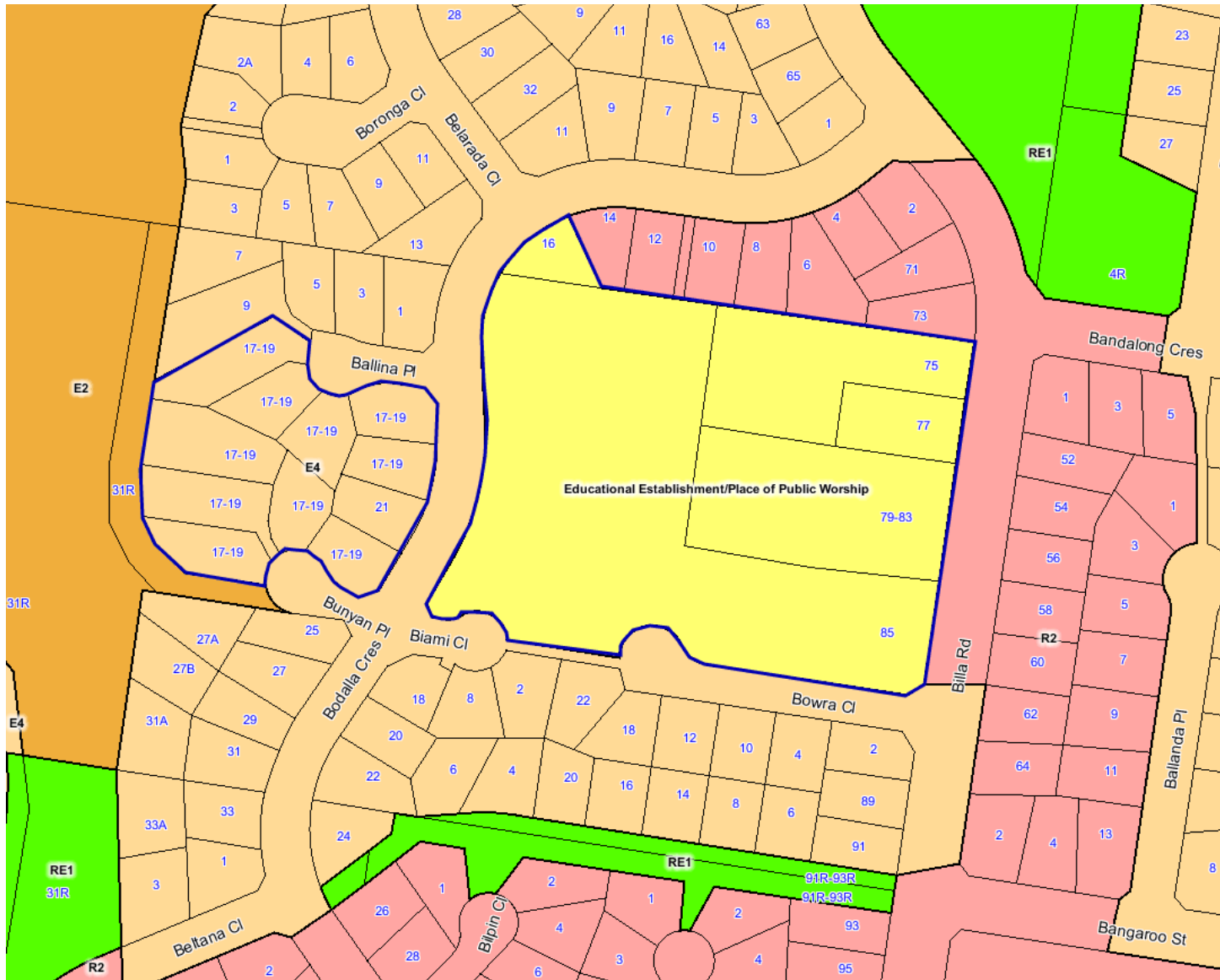
The affected lots are identified in the spreadsheet attached as Appendix A.

3. Inaburra School, Bangor

Inaburra School owns and occupies land between Billa Road, Bowra Close and Bodalla Crescent, and land west of Bodalla Crescent. Under SSLEP2006, the eastern part of the school, containing the school buildings, was zoned Zone 12 – Special Uses (Educational Establishment/Place of Public Worship). The western part of the school land at 17-19 Bodalla Crescent was zoned Zone 12 – Special Uses (Recreation Area). One of the buildings on this land has historically been used for school purposes, and the remainder of the land provides an open playing field. Land at 21 Bodalla Crescent, is now also owned by Inaburra and surrounded by Zone 12 Special Uses land, and was zoned Zone 3 Environmental Housing under SSLEP2006.

SSLEP2015 zoned the eastern part of the school SP2 Infrastructure (Educational Establishment/Place of Public Worship) in accordance with Council's resolution of August 2014 relating to school sites. However, Council's resolution at that time did not apply to western part of the school; this land was zoned the same as the adjoining land (E4 Environmental Living), in accordance with Council's initial compliance with Practice Note PN 10 –001.

DAP036-16



Inaburra School Zoning – SSLEP2015

During the exhibition of LEP3, a submission from Inaburra School requested that the western part of the school be zoned SP2, the same as the eastern part, to ensure no ambiguity as to the future use of this land.

State Environmental Planning Policy (Infrastructure), 2007 (the Infrastructure SEPP) includes provisions applying to construction of a new school or expansion of an existing school. The SEPP applies for government or non-government schools. Clause 28(1) permits development for the purpose of educational establishments on land within a prescribed zone. The E4 Environmental Living zone is a prescribed zone. This means that the school could expand beyond its current boundaries and the immediately adjoining lands under the SEPP. The SEPP permits the construction, alteration or addition of a range of buildings (such as libraries, sports halls, classrooms, tuckshops, child care facility, hall, or car park) on land within the boundaries of an existing school, up to a height of 12m, regardless of the land use zone in which that school is located, either as complying development (if the complying development requirements are met) or with development consent. The possible development outcomes on the western part

of the school are therefore the same, despite the zone of E4 Environmental Living which now applies to the land under SSLEP2015.

An advantage of rezoning the land owned by Inaburra on the western side of Bodalla Crescent from E4 to SP2 is that to do so provides the most complete information about permitted future uses of the land. Amending the zone the western part of the school to SP2 Educational Establishment /Place of Public Worship would provide a clear indication to the community as to the future use of the land. It would also remove an inconsistency in the zoning of the land on which Inaburra School is located.

A negative outcome of the zone change is that there will be community sensitivity to changing the zone of land on the western side of Bodalla Crescent to SP2 Educational Establishment, a zone which explicitly acknowledges the use of the land as part of a school. There has been a history of community opposition to traffic and parking problems associated with the school and the expansion of the school. However, the difference between keeping the zone of the land as Zone E4 and changing it to SP2 is a matter of perception, as the SEPP Infrastructure overrides the local environmental plan for land owned by the school, and the SEPP allows the school to develop the land it owns, consistent with the development standards in the SEPP Infrastructure.

Conclusion

Regarding Jannali East Public School, it is recommended that the LEP is not changed in the next amendment. Instead, Council could write to the Jannali East Parents and Citizens Association, and the NSW Department of Education and Communities, saying that if they want to apply to have part of Jannali East Public School rezoned for residential development, they will need to prepare a planning proposal, supported by the necessary investigations and studies, including an assessment of bushfire risk.

Regarding schools in low density residential zones, it is recommended that the LEP is amended to show a 12m height limit, which is consistent with the Infrastructure SEPP.

Regarding Inaburra School in Bangor, it is recommended that the LEP is amended to rezone the land owned by the school which is currently zoned E4, to SP2 Infrastructure (Educational Establishment/ Place of Public Worship), because development on this land is allowed by the Infrastructure SEPP, whether it is zoned E4 or SP2.

REPORT RECOMMENDATION

1. That Jannali East Parents and Citizens Association and the NSW Department of Education and Communities be requested to prepare a Planning Proposal, supported by the necessary investigations and studies, including an assessment of bushfire risk, in order rezone part of Jannali East Public School for residential development.
2. That the SSLEP2015 Height Map be amended to increase the maximum permissible height to 12m for land zoned SP2 Infrastructure (Educational Establishment) and land zoned SP2 Infrastructure (Educational Establishment/ Place of Public Worship), where the height limit as shown on the SSLEP2015 Height Map is less than 12m. The affected lots are identified in Appendix A.

3. That land owned by Inaburra School in Bangor and zoned E4 Environmental Living be rezoned to SP2 Infrastructure (Educational Establishment/ Place of Public Worship) with development controls consistent with those which are recommended to be applied to other schools in residential areas (height 12m and no FSR). The affected lots are located at 17-19 Bodalla Crescent Bangor (Lots 2,4,5,11,12,13,14,15,16,17 DP 262613) and 21 Bodalla Crescent Bangor (Lot 3 DP 262613).
4. That consequential mapping changes be made to the following Map Series in relation to land owned by Inaburra School at 17-19 Bodalla Crescent Bangor (Lots 2, 4, 5, 11, 12, 13, 14,15,16,17 DP 262613) and 21 Bodalla Crescent Bangor (Lot 3 DP 262613): Height of Buildings, Floor Space Ratio, Landscape Area and Minimum Lot Size.
5. That these amendments be prepared as a Planning Proposal and submitted to NSW Planning for Gateway Determination in order to allow to the proposal to be publicly exhibited.

COMMITTEE RECOMMENDATION

1. That Jannali East Parents and Citizens Association and the NSW Department of Education and Communities be requested to prepare a Planning Proposal, supported by the necessary investigations and studies, including an assessment of bushfire risk, in order to rezone part of Jannali East Public School for residential development.
2. That the SSLEP2015 Height Map be amended to increase the maximum permissible height to 12m for land zoned SP2 Infrastructure (Educational Establishment) and land zoned SP2 Infrastructure (Educational Establishment/ Place of Public Worship), where the height limit as shown on the SSLEP2015 Height Map is less than 12m. The affected lots are identified in Appendix A.
3. That no further action be taken in regards to land owned by Inaburra School in Bangor.
4. That these amendments be prepared as a Planning Proposal and submitted to NSW Planning for Gateway Determination in order to allow to the proposal to be publicly exhibited.

(Councillor Johns / Councillor Schreiber)

COUNCIL RESOLUTION

1. That Jannali East Parents and Citizens Association and the NSW Department of Education and Communities be requested to prepare a Planning Proposal, supported by the necessary investigations and studies, including an assessment of bushfire risk, in order to rezone part of Jannali East Public School for residential development.
2. That the SSLEP2015 Height Map be amended to increase the maximum permissible height to 12m for land zoned SP2 Infrastructure (Educational Establishment) and land zoned SP2 Infrastructure (Educational Establishment/ Place of Public Worship), where the height limit as shown on the SSLEP2015 Height Map is less than 12m. The affected lots

are identified in Appendix A.

3. That no further action be taken in regards to land owned by Inaburra School in Bangor.
4. That these amendments be prepared as a Planning Proposal and submitted to NSW Planning for Gateway Determination in order to allow to the proposal to be publicly exhibited.

(Councillor Johns / Councillor Simpson)

APPENDIX

SSLEP2015 Amendment 4: Special Uses - Schools

Appendix A: List of Schools



2015 09 23 Special Uses (schools) List for report (A3280380).xlsx

(To view the document, double click on icon and select 'Open'. Select 'File' 'Close' to return to report.)