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Plan finalisation report – PP-2022-2295

80 Betty Cuthbert Drive, Lidcombe (85 additional dwellings and 90 jobs) – Cumberland Local Environmental Plan 2021 (Map Amendment 5)

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Introduction

1.1 Overview

1.1.1 Name of draft LEP

Cumberland Local Environmental Plan 2021 (Map Amendment 5).

The plan seeks to facilitate the redevelopment of an existing Multiple Sclerosis Limited (MSL) health services facility at 80 Betty Cuthbert Drive, Lidcombe for a new MSL health facility, educational establishment, medium density housing and associated infrastructure (**Figure 1**).



Figure 1 Indicative Master Plan (Source: Planning Proposal)

1.1.2 Site description

The site is known as 80 Betty Cuthbert Drive, Lidcombe (Lot 475 DP 45747, Lot 74 and 75 DP 1141724). It is irregular in shape and has an area of approximately 5.88 hectares. It has a primary frontage of approximately 360 metres to Joseph Street (to the west), a classified road, and an alternative vehicular entry/exit point at the end of Betty Cuthbert Drive (to the south-east). The site accommodates the MSL facility, and associated car parking, internal roads and landscaping (**Figure 2**).

The site is located in the Cumberland Local Government Area (LGA). It is approximately 1.2km south of Lidcombe Local Centre and Train Station and within a 30 minute public transport journey to other centres such as Berala, Sydney Olympic Park and Parramatta CBD. The site is accessible by road and a number of bus routes. Surrounding land uses include low to medium density residential areas, Lidcombe TAFE and Sydney University Cumberland Campus to the south-east, and Carnarvon Golf Course and Coleman Park to the west (across Joseph Street).



Figure 2 Subject site (Source: Planning Proposal)

1.1.3 Purpose of plan

The purpose of the plan is to enable planning proposal PP-2022-2295 (Error! Reference source not found.). The objectives of the proposal are to facilitate redevelopment of the site for the following mix of land uses:

- a new multiple sclerosis health facility;
- a new educational establishment;
- medium density housing; and
- associated stormwater detention basins and local roads.

The table below outlines the current and proposed controls for the LEP.

Table 1 Current and proposed controls

Control	Current	Proposed
Zone	SP2 Hospital	part SP2 Hospital, part SP2 Educational Establishment, part SP2 Drainage and part R3 Medium Density Residential
Height of buildings (HOB)	N/A	9 metres within the proposed R3 zone
Floor space ratio (FSR)	N/A	0.75:1 within the proposed R3 zone
Lot size	N/A	170 - 350 square metres (sqm)* within the proposed R3 zone

Number of dwellings	Nil	Additional 53 – 85 dwellings
Number of jobs	40	90 additional jobs (130 jobs in total): <ul style="list-style-type: none"> • 70 additional jobs associated with the educational establishment • 20 additional jobs associated with the health facility (MSL)

*Clause 4.1(3C) of Cumberland LEP 2021 (shown below) provides site-specific minimum lot size requirements on the 'Botanica' (Former Lidcombe Hospital Site) residential area, adjoining the site to the south. The planning proposal seeks to extend the provision of this clause to apply to the residential component of the site by amending the Lot Size Map (Sheets LSZ_016 and LSZ_017).

4.1 Minimum subdivision lot size

(3C) The minimum lot size for development on land shown edged blue and identified as "Former Lidcombe Hospital Site" on the Lot Size Map is as follows in relation to development for the purposes of—

(a) dwelling houses—

(i) 350 square metres, or

(ii) if a garage will be accessed from the rear of the property—290 square metres, or

(iii) if the dwelling house will be on a zero lot line—270 square metres,

(b) semi-detached dwellings—270 square metres,

(c) multi dwelling housing—170 square metres for each dwelling,

(d) attached dwellings—170 square metres

The planning proposal is supported by a number of other technical reports which assess the impacts of matters such as traffic, environment, contamination and infrastructure. Council has prepared a site-specific Development Control Plan (DCP) to guide future development applications (Error! Reference source not found.).

1.1.4 State electorate and local member

The site falls within the Auburn state electorate. Lynda Voltz MP is the State Member.

The site falls within the Watson federal electorate. Tony Burke MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

The Gateway determination issued on 28 July 2022 (**Attachment C**) determined that the proposal should proceed subject to conditions. Council has met all the Gateway determination conditions. The planning proposal and supporting documents were assessed in the Gateway determination report (**Attachment D**).

In accordance with the Gateway determination, the proposal was due to be finalised on 30 April 2023. Council submitted the proposal for finalisation prior to this date on 23 January 2023. The Department considers the delay in finalisation to be minor in nature and acceptable.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 6 September 2022 to 5 October 2022. The draft site specific DCP was exhibited concurrently with the planning proposal.

3.1 Submissions during exhibition

A total of 49 community submissions were received, comprising of 30 objections (61% of total), 5 submissions supporting the proposal (10% of total) and 14 submissions of a mixed or neutral position (29% of total). The key issues raised in submission are discussed in **Table 2** below.

Council's summary of key issues and responses are included as **Attachment E** and the proponent's response to submissions at **Attachment F**.

Table 2 Summary of Key Issues

Issue raised	Submissions (%)	Council response and Department assessment of adequacy of response
General objection to residential development and a small amount of support	53%	<p>Council Response:</p> <p>The proposed residential development is consistent with Council's <i>Cumberland 2030: Our Local Strategic Planning Statement</i> (LSPS) which encourages growth in housing and employment opportunities.</p> <p>The proposed rezoning is supported with an urban design report and a site specific DCP to ensure appropriate residential development consistent with the character of the surrounding residential area. The design of residential development will be considered and assessed in detail at the development application stage.</p> <p>Department Response:</p> <p>The Department is satisfied that the Council report has adequately addressed the submissions.</p> <p>The Department further notes:</p> <ul style="list-style-type: none"> The objection to residential development covered a number of themes including: <ul style="list-style-type: none"> objection to loss of public land request for additional open space provision of affordable housing concerns about multi-storey development. A small number of submissions supported residential development. A site-specific DCP has been prepared to ensure that the additional medium density housing reflects the local character of the area. It is noted that the proposed HOB and FSR controls on R3 zone is consistent with the surrounding residential area.

Issue raised	Submissions (%)	Council response and Department assessment of adequacy of response
Parking and traffic generation impacts of the proposed school proposed and narrow local streets	49%	<p>Council Response:</p> <p>In accordance with Gateway Condition 1(a) and 1(b), the exhibited planning proposal included a technical report on traffic and transport matters.</p> <p>Council requested additional parking and traffic information from the proponent regarding:</p> <ul style="list-style-type: none"> Local traffic impacts of the school and a potential road closure of Betty Cuthbert Drive near the intersection of Ironbark Crescent to contain minimise traffic impacts of the school on the Botanica Estate. Impacts of the proposed kiss and drop zone on Leila Street on the western side of the proposed pedestrian bridge over Joseph Street. <p>The proponent provided additional traffic modelling information to indicate that traffic impacts related to these two issues would be minimal. The site specific DCP has been updated to ensure that the proposed development can minimise potential parking and traffic impacts and provides an assessment framework for future development applications.</p> <p>Department Response:</p> <p>The Department is satisfied that the Council report has adequately addressed the submissions.</p> <p>The proposal is unlikely to result in significant adverse traffic and parking impacts, and these impacts are considered manageable.</p> <p>The planning proposal is supported by a Traffic and Transport Assessment Report assessed in the Gateway report, the proponent's response to submissions and additional traffic modelling information.</p> <p>Traffic and parking modelling, management and infrastructure requirements are the result of extensive consultation involving TfNSW, Council and the proponent.</p>
Lack of detail about the proposed school size and development timeframe	45%	<p>Council Response:</p> <p>Council requested further information on the proposed school. School Infrastructure NSW provided information on 4 November 2022 noting the following:</p> <ul style="list-style-type: none"> The proposed school would cater for up to 1,000 students, with a built form maximum of 4 storeys and 10m² of open space per student. General information about the proposed pedestrian overpass, road configuration and operational management Detailed service need planning will be undertaken to identify timing of projected population growth, and the impacts of enrolments in the short and medium term on current schools in the area.

Issue raised	Submissions (%)	Council response and Department assessment of adequacy of response
		<ul style="list-style-type: none"> No firm commitment can be provided for the school at this time until a business case is approved. <p>Council has updated the site specific DCP which requires the design of a new school to cater for up to 750 students to minimise local amenity impacts.</p> <p>Department Response:</p> <p>The submissions relating to the school generally objected to the lack of detail about the school student population, size and the timeframe for development rather than to the provision of the school itself. A small number of submissions identified a preference for a high school over a primary school.</p> <p>The Department notes that Council has attempted to determine additional details about the school from School Infrastructure NSW as the service provider with limited success. However, the technical studies related to the school, such as the traffic study, assume a school for up to 1,000 students and these are considered to provide a reasonable assessment of the potential impacts of the school on the environmental and local amenity.</p> <p>Rezoning of part of the site for a school is considered to provide a positive social and economic impact. The design, delivery, type and scale of school will be considered and assessed in detail at the development application stage. The Department also notes that a future business case would need to be prepared by School Infrastructure NSW as part of the budget process for the delivery of the school.</p> <p>The Department is satisfied that the Council report has adequately addressed the submissions.</p>
Removal of large canopy and mature trees and loss of existing vegetation to be minimised.	41%	<p>Council Response:</p> <p>Council noted that a number of controls are included in the site specific DCP to address landscaped and open space areas provision. These controls include:</p> <ul style="list-style-type: none"> a minimum 10 metre wide vegetated buffer zone along the full length of Joseph Street as a continuation of the landscape buffer to the south within Botanica Estate, landscaping of the proposed stormwater basins, a green pedestrian and cyclist link to connect Ironbark Walkway to East Street and Botanica Street. <p>Department Response:</p> <p>The Department notes the site specific DCP has been amended to require development applications to provide:</p> <ul style="list-style-type: none"> a tree replacement strategy where tree removal is proposed a biodiversity study to guide and apply to development compliance with the Biodiversity and Conservation SEPP.

Issue raised	Submissions (%)	Council response and Department assessment of adequacy of response
		<p>The NSW Environment and Heritage Group (EHG) confirmed that the measures proposed by Council in response their biodiversity and tree retention advice is acceptable, as discussed in Table 3.</p> <p>The Department is satisfied that the Council report has adequately addressed the submissions.</p>

3.1.1 Other issues raised

Other matters of concern raised in a small number of submissions included:

- Noise and amenity impacts of the proposed school. Council noted that noise and amenity issues will be assessed at the development application stage in accordance with the site specific DCP.
- Reduction in the size of the MSL facility. The Department notes that the existing MSL health facility is approximately 30 years old and no longer meets ongoing operating requirements. The NSW Government has approved a \$16 million contribution to assist MSL to develop and deliver a new neurological health care facility on a portion of the site to meet their future needs and plans. The new facility will provide approximately 60 staff on site, a net uplift of 20 additional jobs. Although the facility site size will be reduced, the service capacity will increase.

3.2 Advice from agencies

In accordance with the Gateway determination condition 2, Council was required to consult with the following agencies:

- Transport for NSW
- School Infrastructure NSW
- NSW Health
- NSW Environment and Heritage
- Utility providers

The agencies that provided advice are listed below in Table 3.

Council's summary of agency advice and responses are included as **Attachment G**. Transport for NSW, School Infrastructure NSW and NSW Health did not provide a submission.

Table 3 Advice from public authorities

Agency	Advice raised	Council response
NSW Environment and Heritage Group (EHG)	<p>The advice raised the following issues:</p> <p><i>Biodiversity</i></p> <p>The proponent's ecological, tree, flora and fauna assessments were not detailed enough to indicate if threatened species were prevalent, because the site was not surveyed. Any significant and potential impacts to biodiversity should be further assessed at the development application stage.</p>	<p>Council notes the proposal is supported with a preliminary tree assessment report, habitat assessment and targeted flora survey, and an environmental assessment which addresses biodiversity.</p>

Agency	Advice raised	Council response
	<p><i>Tree retention</i></p> <p>The advice acknowledged the site specific DCP controls for tree retention and replacement. However, concern was raised that only 3% (16 high value trees) out of existing 483 medium and low retention value trees on site were identified for retention, and that no target had been set for tree canopy cover.</p> <p><i>Environmental Assessment</i></p> <p>The advice recommended the site specific DCP controls be strengthened to require additional biodiversity investigation, and include a tree canopy cover target requiring that local street tree planting contribute to canopy cover through appropriate species selection.</p> <p><i>Floodplain risk management</i></p> <p>The advice did not raise any concerns in relation to floodplain risk management.</p>	<p>Council also notes that the site specific DCP and development application process will require:</p> <ul style="list-style-type: none"> • a detailed biodiversity study which investigates threatened species and their habitats, • a tree replacement strategy where tree removal is proposed • compliance with the Biodiversity and Conservation SEPP. <p>EHG confirmed that the measures proposed by Council in response to their advice is acceptable.</p>
Endeavour Energy	No objection raised. The site is located in Ausgrid network area.	Noted
Ausgrid	No objection raised. Future development applications must consider the adequacy of electrical infrastructure.	Noted
Jemena	No objection raised. Proposed development will not impact on the operation of high pressure gas pipeline to the north due to sufficient physical separation.	Noted
Sydney Water	No objection raised. Future development applications should engage a hydraulic consultant to demonstrate the adequacy of the wastewater infrastructure for proposed development in both dry and wet weather.	Noted

The Department considers Council has adequately addressed matters raised in submissions from public authorities.

3.3 Post-exhibition changes

At Council's Ordinary Meeting on 7 December 2022, Council resolved to proceed with the exhibited planning proposal without amendment, in accordance with Gateway condition 4. Council also resolved to adopt the related site specific DCP with amendments (**Attachment H**).

Following the receipt of the revised planning proposal from Council, the Department has not made any further changes to the proposal.

4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Central City District Plan and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report, the planning proposal submitted to the Department for finalisation:

- Remains consistent with the consistent with the objectives and priorities of the Central City District Plan.
- Remains consistent with the Council's Local Strategic Planning Statement.
- Remains generally consistent with all relevant Section 9.1 Directions.
- Remains consistent with all relevant SEPPs.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage.

Table 4 Summary of strategic assessment

	Consistent with Gateway determination report Assessment
Central City District Plan	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Note: The delegate to the Secretary agreed that any inconsistencies with section 9.1 Direction 4.5 Acid Sulfate Soils are minor and justified.
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Table 5 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment
Social and economic impacts	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Environmental impacts	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Infrastructure	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 6 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Eight (8) maps have been prepared by the Council and reviewed by the Department's ePlanning team, and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979 (Attachment I)</i>.</p> <p>Council confirmed on 24 March 2023 that it approved the draft and that the plan should be made.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- gives effect to the Central City District Plan,
- aligns with Cumberland 2030: Our Local Strategic Planning Statement (LSPS),
- is consistent or justifiably inconsistent with Section 9.1 Ministerial Directions,
- is consistent with all relevant State Environmental Planning Policies,
- is consistent with the Gateway Determination,
- addresses issues raised during consultation, and
- there are no outstanding agency objections to the planning proposal.



08/05/2023

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9/05/2023

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Attachments

Attachment	Document
A	Council endorsed planning proposal – November 2022 (incl. supporting documents)
B	Draft site specific DCP
C	Gateway determination
D	Gateway determination report
E	Council community submissions summary
F	Proponent response to submissions
G	Council agency advice summary
H	Council report and Council meeting minutes – 7 December 2022
I	Clause 3.36(1) consultation with Council