

PLAN 04

Planning Proposal - 60 Gurner Avenue, Austral

Strategic Objective	Liveable, Sustainable, Resilient Deliver effective and efficient planning and high-quality design to provide best outcomes for a growing city
File Ref	176172.2024
Report By	Danielle Hijazi - Strategic Planner
Approved By	Lina Kakish - Director Planning & Compliance

Property	60 Gurner Avenue, Austral
Owner	60 Gurner Avenue
Applicant	Sutherland & Associates Planning Pty Ltd

EXECUTIVE SUMMARY

In September 2022, Sutherland & Associates Planning Pty Ltd submitted a Planning Proposal (**Attachment 1**) prepared on behalf of 60 Gurner Avenue, Austral Pty Ltd seeking to amend *State Environmental Planning Policy (Precincts—Western Parkland City) 2021* (the SEPP), to rezone land at 60 Gurner Avenue, Austral (Lot 3 DP 1243352) from SP2 Educational Establishment to R2 Low Density Residential.

The site is identified on the Land Reservation Acquisition (LRA) Map in the SEPP, with the relevant acquisition authority being the NSW Department of Education. School Infrastructure NSW (SINSW) has confirmed in a letter to Council that the site is surplus to their needs. The Proposal also seeks to remove the site from the LRA map, reduce the maximum building height from 12 metres to 9 metres, and reduce the permissible density on the subject site from 25 to 15 dwellings per hectare to facilitate the future residential development of the site.

The application has been submitted pursuant to Section 3.33 of the *Environmental Planning and Assessment (EP&A) Act 1979* and the Proposal was referred to the Liverpool Local Planning Panel (LPP) in accordance with Section 2.19 of the *EP&A Act 1979* for advice.

The Proposal aligns with the strategic objectives outlined in various planning frameworks including the Greater Sydney Region Plan, District Plan, and Council's Local Strategic Planning Statement (LSPS). By introducing additional housing supply to the locality, the

Proposal seeks to address the evolving housing needs while maintaining consistency with the surrounding context and emerging character of the area.

It is noted that this site (approximately 6,000m²) makes up a small portion of the 29,000m² set aside for a future primary school. It is Council staff's understanding that since the Austral and Leppington North Precincts were rezoned, SINSW has revised its school site planning guidelines, and the land requirement for a new primary school is now only 1.5 hectares. The remaining 23,000m² of land to the west is sufficiently sized to cater for a future primary school, and as such this site is considered surplus to needs.

However, clarification from SINSW and the NSW Department of Education (DoE) is considered necessary at the Gateway determination stage to demonstrate that the locality will still be serviced by sufficient public school infrastructure. Council staff are aware that dwelling densities in the Precinct have been higher than anticipated, which may necessitate additional public school infrastructure compared to what was initially planned. Council staff are also aware of an State Significant Development (SSD) lodged on the remainder of the lands zoned for a public school (at 66-80 Gurner Avenue, Austral), which seeks to develop the site for the purpose of a private school. Approval of this SSD would make the provision of a public school at this site unfeasible.

Rezoning the site to R2 Low Density Residential and developing the land for housing enhances compatibility with adjacent zones and promotes streamlined land use regulations. Furthermore, a reduction in building height fosters sensitive land use planning and integrates future development seamlessly with the surrounding locality.

It is noted however that a dwelling density control of 25 dwellings per hectare applies to the site. This dwelling density control is most applicable to land zoned R3 Medium Density Residential (as per the rest of the Austral and Leppington North Precincts). This will create problems when lodging and assessing Development Applications as many SEPP, DCP and Contributions Plan provisions only assume 25 dwellings per hectare in the R3 zone. Therefore, the Planning Proposal seeks to amend the minimum dwelling density control to 15 dwellings per hectare to better align with land uses surrounding the site.

The Planning Proposal request was considered by the Liverpool LPP on 29 April 2024, as required by the Local Planning Panels Direction – Planning Proposals. Following consideration of the Proposal, the Liverpool LPP advised that the Proposal has both strategic and site-specific merit and supported the Proposal proceeding to Gateway determination. However, the LPP did not support reducing the height limit and dwelling density amendments. Justification on proceeding with these amendments are detailed in Table 1 of this Report.

RECOMMENDATION

That Council:

1. Notes the advice of the Liverpool Local Planning Panel.
2. Endorses in principle the Planning Proposal request to amend the *State Environmental Planning Policy (Precincts—Western Parkland City) 2021* as follows in relation to the site known as 60 Gurner Avenue, Austral (Lot 3 DP 1243352):
 - a) *Amend the zone from SP2 Educational Establishment to R2 Low Density Residential;*
 - b) *Amend the Land Reservation Acquisition Map by removing the yellow colouring and Educational Establishment notation;*
 - c) *Amend the 'Height of Buildings Map' from 12 metres to 9 metres; and*
 - d) *Amend the minimum dwelling density from 25 to 15 dwellings per hectare.*
3. Forwards the Planning Proposal to the Department of Planning, Housing and Infrastructure (DPHI), pursuant to Section 3.33 of the *Environmental Planning and Assessment Act 1979* seeking Gateway determination.
4. Subject to a Gateway determination, undertakes public exhibition and community consultation in accordance with the conditions of the Gateway determination and the Liverpool Community Participation Plan 2022;
5. Receives a further Report on the outcomes of the public exhibition period; and
6. Delegates to the CEO (or delegate) to amend the draft Planning Proposal and attachments for any typographical and other minor errors / amendments if required.

REPORT

BACKGROUND

The Site

The Planning Proposal relates to land located at Lot 3 DP 1243352, 60 Gurner Avenue, Austral (see Figure 1). The site covers a total area of approximately 6,173m², is irregularly shaped, and has a frontage to Gurner Avenue of approximately 60 metres.

A dwelling currently occupies the site located at the north-eastern corner, whilst the remainder of the site consists of cleared land. The site is bounded by Gurner Avenue to the north, new dwelling houses to the east, Mugagaru Street to the south and 66 Gurner Avenue (proposed Al Fasial College) to the west.



Figure 1: Subject site highlighted in yellow. Source: Nearmap

The site is predominantly zoned SP2 Educational Establishment with the north-eastern corner of the site being zoned R2 Low Density Residential (see Figure 2). The site is also identified on the Land Acquisition Reservation (LRA) map, with the relevant acquisition authority being NSW Department of Education (see Figure 3).

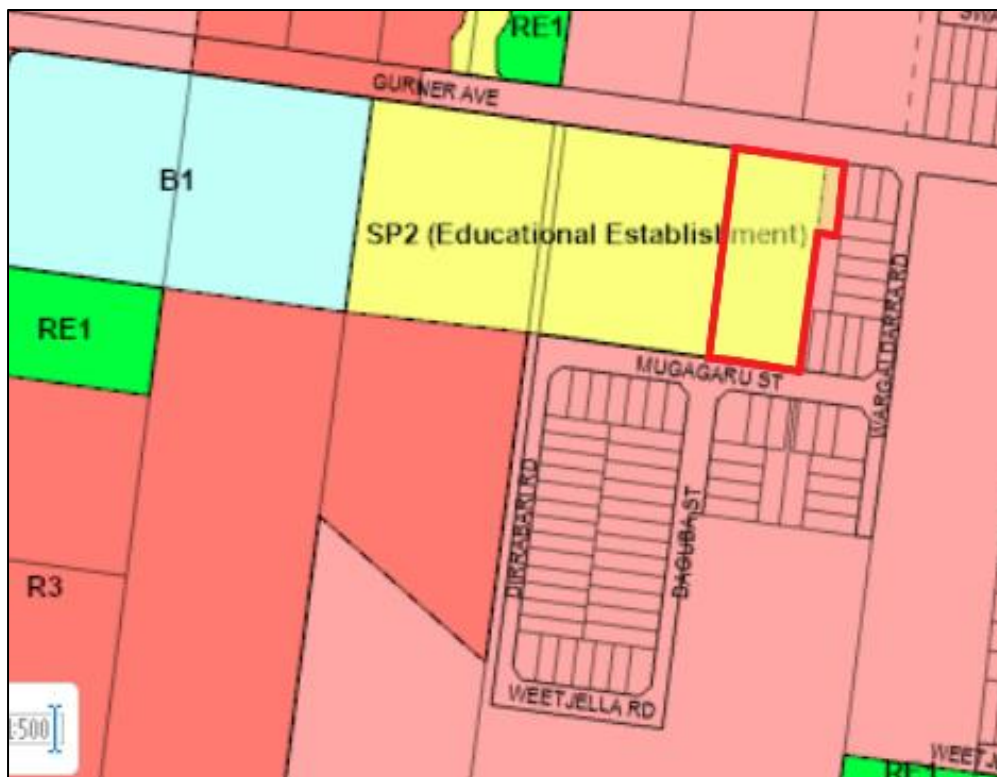


Figure 2: Land Use Zoning Map. Source: Geocortex

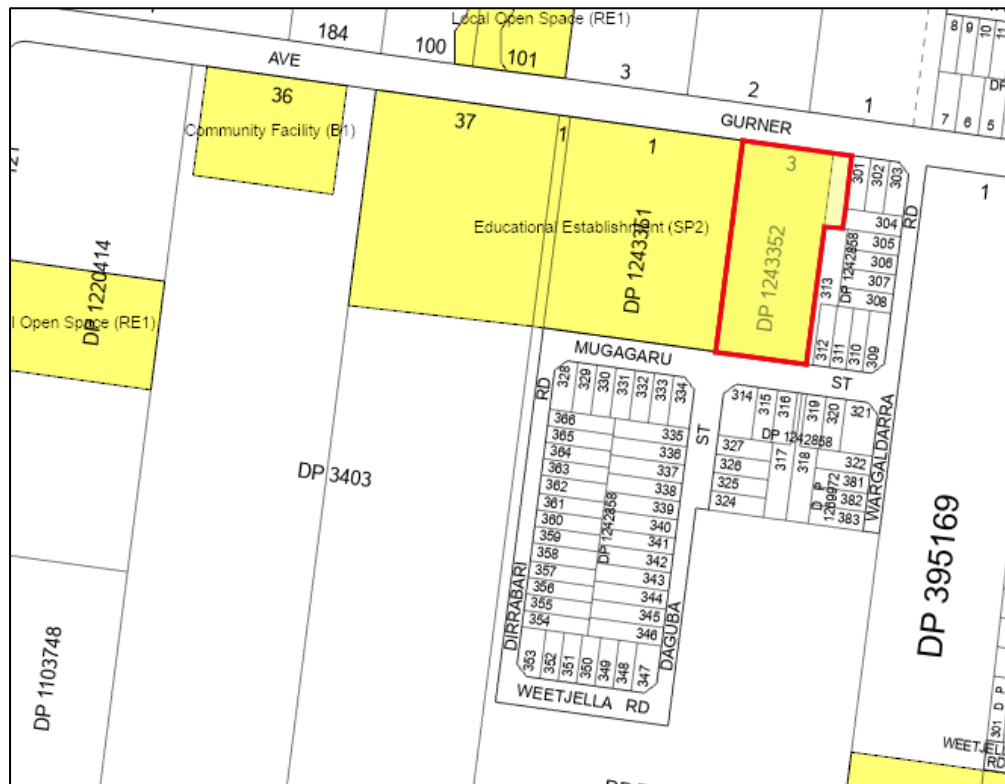


Figure 3: Land Reservation Acquisition Map. Source: Geocortex

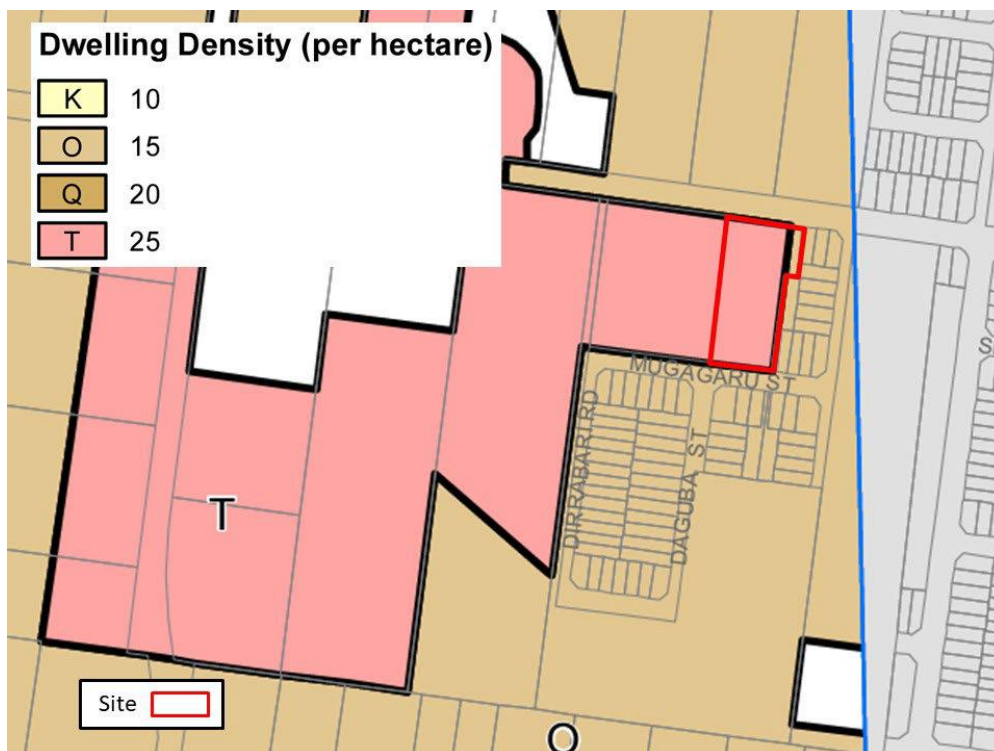


Figure 4: 2021 Dwelling Density Map. Source: SEPP (Precincts—Western Parkland City) 2021

Locality

The locality is predominantly characterised by semi-rural lands transitioning to low density residential subdivision and housing. A private educational establishment “Al-Faisal College” is located to the north-west of the site (see Figure 5).



Figure 5: Locality Map. Source: Geocortex

SINSW Advice

In January 2018, SINSW informed the landowner of 60 Gurner Avenue, Austral that the land was no longer required for an educational establishment and that SINSW would relinquish its acquisition rights to the site (**Attachment 2**).

Al-Faisal Site

In addition to the site at 121 Gurner Avenue noted in Figure 5, the Al-Faisal College also owns the adjacent sites to the west of the subject site known as 66 & 80 Gurner Avenue, Austral.



Figure 6: Subject site for (SSD -1045) Proposal 66 & 80 Gurner Avenue, Austral Locality Map. Source: Geocortex

In November 2020, Al-Faisal College lodged a State Significant Development Application (SSD-1045) which seeks the staged construction of a new private secondary school on the land at 66 & 80 Gurner Avenue, Austral.

The Environmental Impact Statement (EIS) prepared by Planning Ingenuity and lodged with the SSD application, identifies the subject site as containing land reserved for acquisition. This land is zoned SP2 Infrastructure – Educational Establishment and is identified to be acquired by the NSW Department of Education. The EIS advises that:

“Communications have been received from the Department of Education advising that whilst the Department has an acquisition affectation on the subject property in SEPP (Sydney Region Growth Centres) 2013, it does not preclude the land from being developed by other interested parties or owners in accordance with its underlying zoning (i.e. education establishments). The Department of Education advised that they welcome the non-government sector in planning for the provision of education infrastructure for growing communities such as Austral.”



Figure 7: zoning Map of land to subject to SSDA for a proposed private secondary school (60 & 80 Gurner, Avenue Austral) Source: NSW Planning Portal.

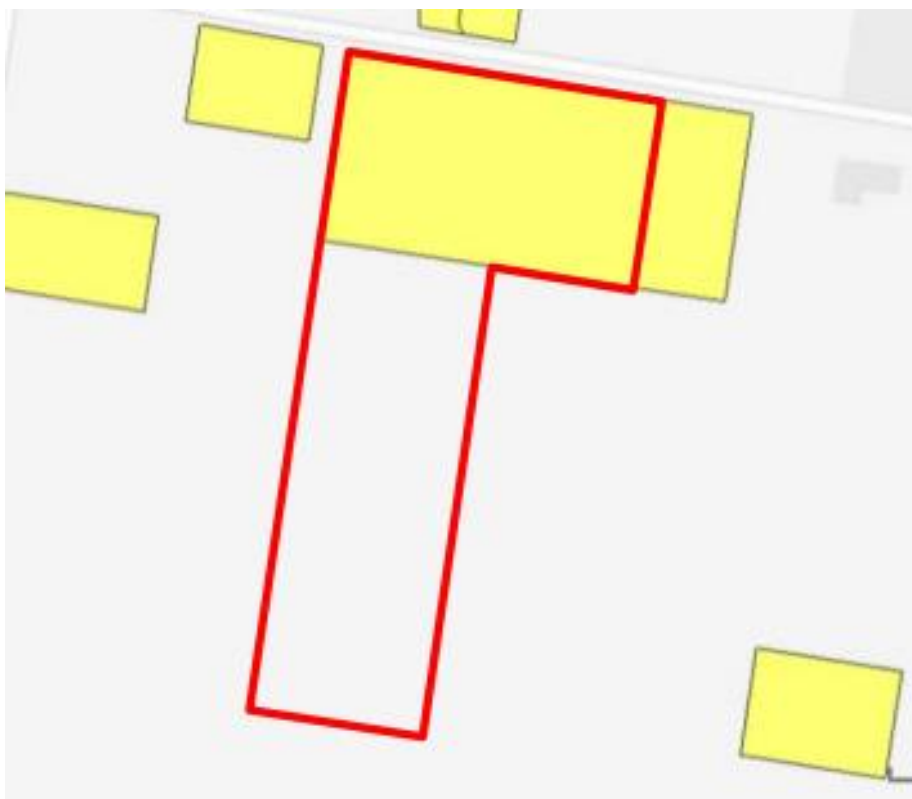


Figure 8: Land Reservation Acquisition Map of proposed private secondary school (60 & 80 Gurner, Avenue Austral) Source: NSW Planning Portal.

Pre-Planning Proposal

In February 2022 an initial pre-Planning Proposal meeting was held with the Proponent. Council officers advised that any Planning Proposal would need to be supported by:

- a. Confirmation of SINSW's intention to relinquish acquisition rights,
- b. Justification for any alternative land-uses on the site,
- c. Evidence that the locality would continue to be served by a public school in alignment with the LSPS, State and Regional plans.

In April 2022, the Proponent received advice from SINSW reaffirming their decision to relinquish acquisition rights to the site at 60 Gurner Ave, Austral (**Attachment 3**). A follow up pre-Planning Proposal meeting was subsequently held in June 2022, in which Council officers reiterated their earlier advice regarding the need to be provided with an indication as to how social infrastructure (i.e. public schools) are to be provided in the area.

In September 2022, Sutherland & Associates Planning Pty Ltd submitted the subject Planning Proposal. Council officers referred the Proposal to SINSW (**Attachment 4**) who confirmed the Department's intention to relinquish their acquisition rights to the site. SINSW also advised that as a first preference and where appropriate for future school planning in Austral, the NSW Department of Education would optimise use of existing assets through the solutions outlined in (**Attachment 5**).

DETAILS OF THE PROPOSAL

The Planning Proposal seeks to amend the *State Environmental Planning Policy (Precincts—Western Parkland City) 2021* to:

- Amend the Land Use Zoning Map to rezone the site from SP2 Educational Establishment to R2 Low Density Residential;
- Amend the Land Reservation Acquisition Map to remove the yellow colouring and Educational Establishment notation;
- Amend the 'Height of Buildings Map' from 12 metres to 9 metres; and
- Amend the minimum dwelling density from 25 to 15 dwellings per hectare.

The proposed changes to the Land Use Zoning, Maximum Height of Buildings, Land Reservation Acquisition and Dwelling Density maps are to be amended as part of this Proposal as shown in Figures 9-16.

Zoning

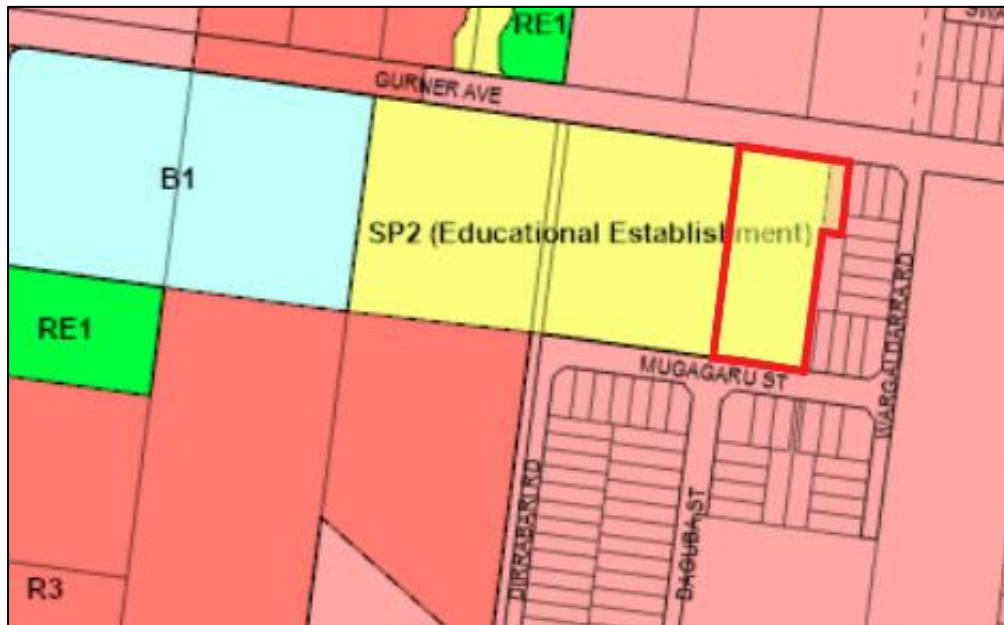


Figure 9: Current Zoning Map. Source: Geocortex

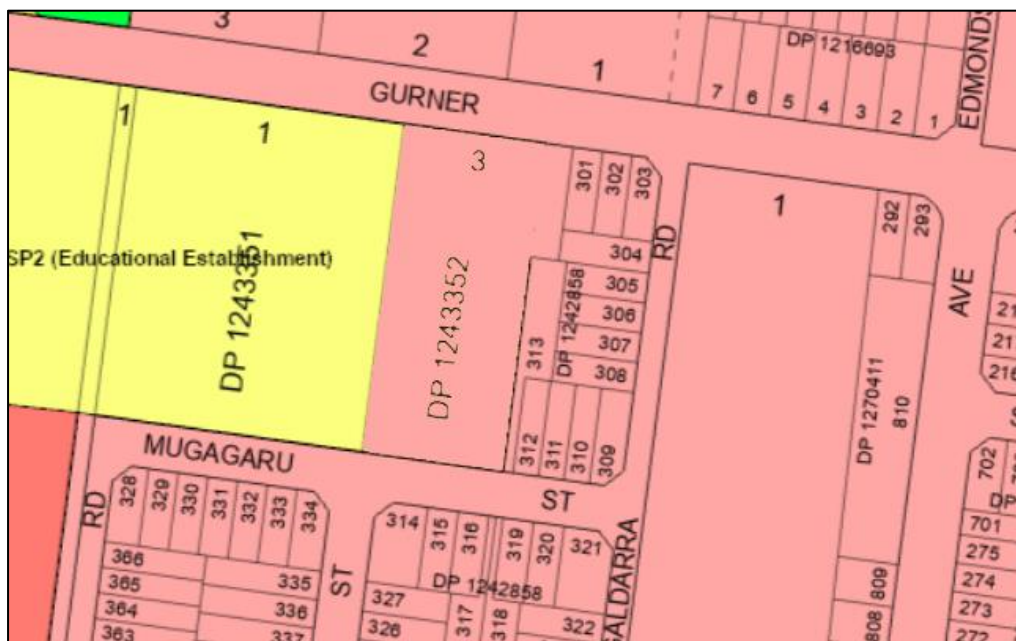


Figure 10: Proposed Zoning Map. Source: Geocortex

Height of Buildings

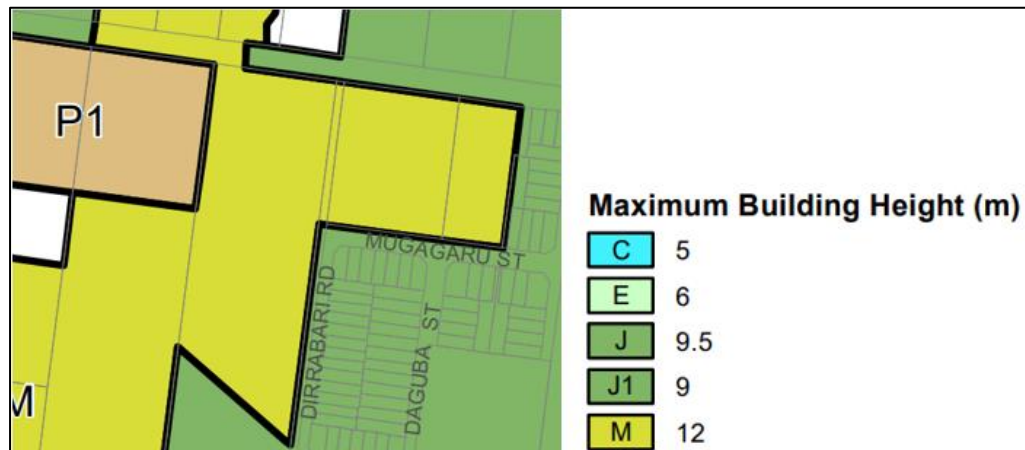


Figure 11: Extract from SEPP 2021 Current Height of Buildings Map

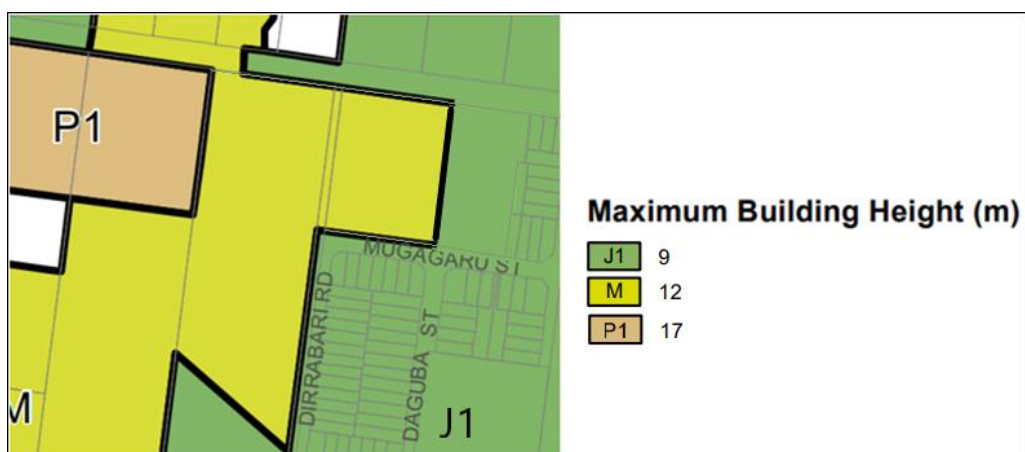


Figure 12: Proposed Height of Buildings Map

Land Reservation Acquisition

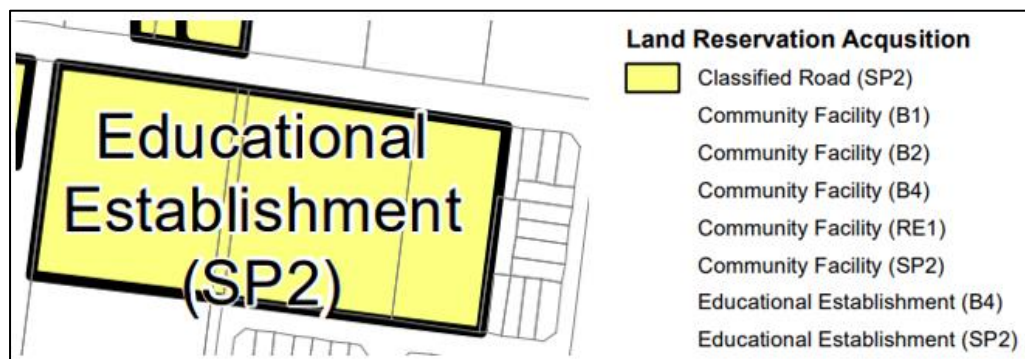


Figure 13: Extract from SEPP 2021 Current Land Reservation Acquisition Map

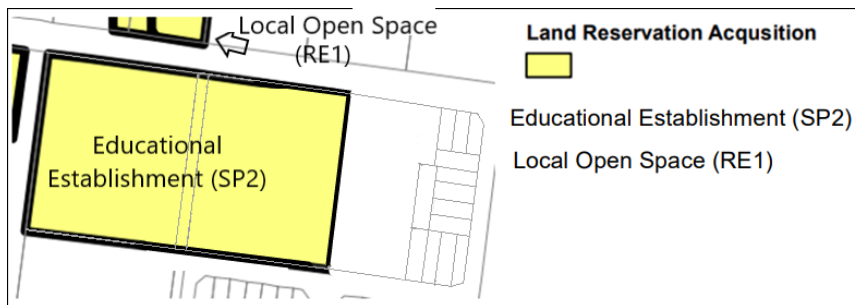


Figure 14: Proposed Land Reservation Acquisition Map

Dwelling Density

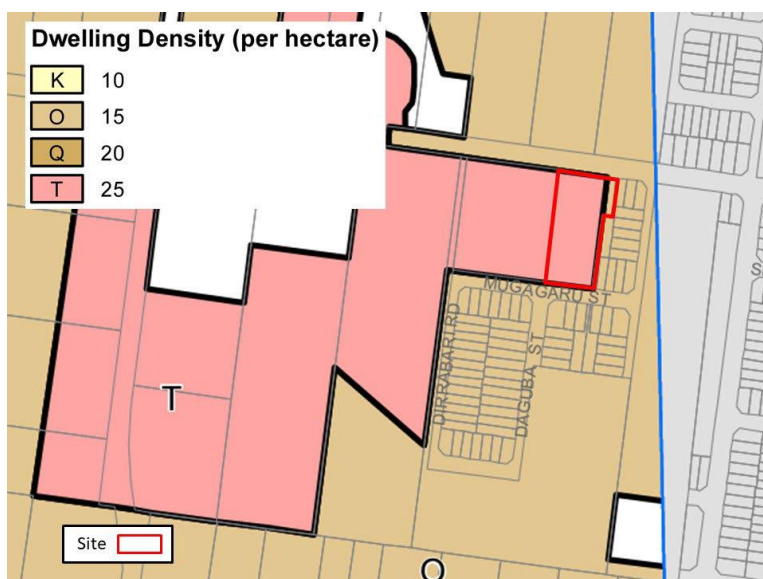


Figure 15: Extract from SEPP 2021 Current Dwelling Density Map

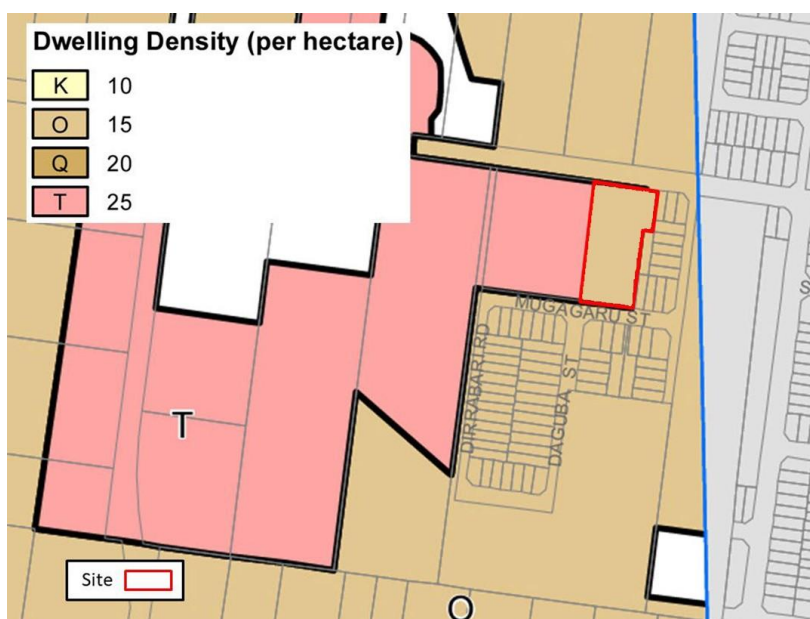


Figure 16: Proposed Dwelling Density Map

LOCAL PLANNING PANEL ADVICE

The draft Planning Proposal was referred to the Liverpool LPP for advice on 29 April 2024. A summary of the Panels comments and staff response is provided in Table 1 below. The LPP Report and Minutes are provided at **Attachment 9**.

Table 1: Summary of Panel Comments and Staff Response

Local Planning Panel Comment	Council Response
Supports the Proposal to rezone the whole of the subject site to R2 Low Density Residential.	Noted.
Does not support the Council officer's recommendation to reduce the permissible density on the subject site to 15 dwellings per hectare.	The 25dw/ha dwelling density control is applicable to land zoned R3 Medium Density Residential (as per the rest of the ALN precincts). If the Proposal is rezoned to R2, amending the minimum dwelling density control to 15dw/ha will align the statutory control with other development standards on the site, and will avoid the need to create site-specific SEPP, DCP and Contribution Plan controls. This will also ensure that the minimum development yield is more aligned with the zone objectives.
Does not support lowering of the height limit from 12m to 9m.	The reduced height is consistent with the existing scale and character of the surrounding built environment, which reflects a low-density scale. This will ensure the overall aesthetic integrity of the area is maintained and potential negative impacts such as overshadowing, loss of privacy, and visual intrusion on neighbouring properties are minimised. This ensures that the proposed future development integrates seamlessly with its surroundings and enhances the overall quality of the site.
The Panel recommends to Council that RZ-7/2022 proceed to Gateway, at the same time, based on current development and population projections, there is an urgent need for the NSW Department of Education and Schools Infrastructure NSW to work with Council and the	Noted. Council staff are continuing to work with SINSW to seek clarification their future plans on how the ALN precinct will be serviced to ensure adequate public school infrastructure provisions are provided for the precinct particularly the area north of Fifteenth Avenue.

Local Planning Panel Comment	Council Response
Department of Planning, Housing and Infrastructure to finalise plans for the provision of public schools in the ALN Precinct (especially the northern part of the Precinct).	

It should be noted that discussion was had with the Proponent following the LPP advice. The Proponent clarified that the proposed R2 Low Density zoning and commensurate development standards remained their preferred choice rather than the suggested changes made by the LPP.

DISCUSSION

Strategic Merit

The Planning Proposal is generally consistent with the housing and liveability objectives contained in the Greater Sydney Region Plan, District Plan, Council's Local Strategic Planning Statement (LSPS) and with the Section 9.1 Ministerial Directions, as per Part 3 of the Planning Proposal (**Attachment 1**).

Addition Housing Supply

The Proposal will contribute an additional housing supply to the locality. The proposed rezoning, if inclusive of a revised dwelling density control, will be commensurate with that of land in the surrounding area, is consistent to the surrounding context of the site and the emerging character within the locality.

Loss of School Infrastructure

Whilst the proposed residential zone is deemed to not have any adverse social and economic impact, the rezoning away from SP2 Infrastructure (Educational Establishment) is identified as potentially having social and economic implications.

The Proposal is a result of SINSW relinquishing the acquisition on the subject site based on their current policy and demographic needs assessment (**Attachment 5**). The Proposal seeks to amend the zone to enable the use of the surplus land.

Council staff acknowledge that, if the Al-Faisal SSD is approved, then the approximately 6,000sqm offered by this site is insufficient for the establishment of a new primary school. Other lands immediately adjacent to the site are also developed, meaning that SINSW would not be able to integrate this parcel into adjacent sites in order to provide a 1.5ha parcel to

deliver a school. On the other hand, should the Al Faisal SSD not proceed, the remaining SP2 zoned land at 66-80 Gurner Avenue, being over 2ha in size, is more than sufficient for the 1.5ha required for new public school sites.

As such, it is determined that the rezoning of this site will not materially impact the provision of public school infrastructure in the locality, rather it is the determination of the Al-Faisal SSD that is likely to impact the viability of a government primary school in the area.

Access to public schools in Austral

Council staff have compiled development forecasts to understand the demand for school sites in the ALN precincts. They have taken into consideration various population projections, school infrastructure benchmarks, and recent updates in population forecasts. The data suggests a potential shortfall in school infrastructure, particularly in light of indications that the Department of Education (DoE) may relinquish acquisition responsibilities for other school sites in the locality.

Staff still have concerns regarding the adequacy of public education infrastructure to service the growing population. Should the Al-Faisal SSD be approved, there are concerns that there will be no public primary school within a reasonable walking distance from this site to serve the proposed residential development. If the Planning Proposal progresses to a Gateway determination, Council staff will seek clarification from SINSW regarding their future plans to address these concerns and ensure adequate public school infrastructure provisions are provided for the ALN precinct, particularly the area north of Fifteenth Avenue.

Site-Specific Merit

Land use compatibility

The Proposal aims to rezone the subject site to R2 low density residential, aligning it with the adjacent and surrounding zones to the site, thereby enhancing overall compatibility. The subject site is also characterised by a split zone configuration, with a portion of the site as already being zoned R2. Consolidating the entire site under R2 zoning would effectively streamline the split zone, promoting clarity and consistency in land use regulation across the site.

Reduction of height

The Proposal seeks to amend the current building height from 12m to 9m. The reduced height is consistent with the existing scale and character of the surrounding built environment, which reflects a low-density scale. This will ensure the overall aesthetic integrity of the area is maintained and potential negative impacts such as overshadowing, loss of privacy, and visual intrusion on neighbouring properties are minimised. This ensures that the proposed future development integrates seamlessly with its surroundings and enhances the overall quality of the site.

Residential density and housing opportunities

Rezoning the site to R2 zoning will likely result in the development of housing and address housing needs within the locality. The Proposal is accompanied by a conceptual subdivision plan (**Figure 7** in the Planning Proposal **Attachment 1**) demonstrating how the rezoned site can accommodate a number of dwellings, providing much-needed housing options to meet the demands of the local population. The residential use of the site enables more efficient land use and maximises the utilisation of existing infrastructure which is already in place to support this type of development. This approach not only promotes sustainable urban development but also contributes to creating a more orderly, inclusive and vibrant community by enhancing residential opportunities within the locality.

However, the site is currently subject to a minimum dwelling density control Clause 4.1B of Appendix 4) under the SEPP (Precincts – Western Parkland City) 2021. The control requires that at least 25 dwellings are provided per hectare of land. This control is typically used in areas zoned R3 medium Density Residential. Other controls in the SEPP, the relevant DCP, and relevant Contributions Plan, make reference to the 25dw/ha area as being associated with medium density development and the R3 zone.

It is recommended that the Planning Proposal amends the minimum dwelling density control of the land from 25dw/ha and 15dw/ha to wholly 15dw/ha. This would bring this statutory control in alignment with other development standards on the site, and will avoid the need to create site-specific SEPP, DCP and Contribution Plan controls. This will also ensure that the minimum development yield is more aligned with the zone objectives.

Public Infrastructure and S7.11 contributions

The site is serviced by essential public services including electricity, telecommunications, gas, water, and sewerage. There are constraints relating to the servicing of sewerage infrastructure and permanent stormwater infrastructure, however it is Council's understanding that Sydney Water is constructing the Upper South Creek Advanced Water Recycling Facility, which should be operation in 2025, and the delivery of permanent flood detention basins is on-going. A feasibility letter from Sydney Water (**Attachment 6**) confirms the existing water mains in Gurner Avenue and Mugagaru Street are capable of servicing the concept subdivision plan. Clause 6.1 of Appendix 4 of the SEPP contains additional provisions for the consideration of public utility infrastructure at the DA stage.

The rezoning of the land to R2 Low Density Residential will create development potential therefore, S7.11 contributions will apply to assist in providing appropriate local infrastructure. In accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011, the future subdivision will include the requirement for a Special Infrastructure Contribution (SIC) payment to also assist with public infrastructure for the area.

CONCLUSION

It is recommended that Council endorses “in principle” the Planning Proposal request and that it be forwarded to the DPHI for Gateway determination. This is supported by the advice of the Liverpool LPP and Council’s assessment that the Proposal has sufficiently demonstrated both strategic and site-specific merit.

Upon receipt of a Gateway determination, public exhibition and community consultation will be undertaken in accordance with the Liverpool Community Participation Plan 2022. It is noted that the provision of various additional studies and clarification may be required by the DPHI prior to exhibition occurring.

As noted above, if the Planning Proposal progresses to a Gateway determination, Council staff will seek clarification from SINSW regarding their future plans on how the ALN Precinct will be serviced to ensure adequate public school infrastructure provisions are provided for the Precinct. Council will then receive a Post-exhibition Report for a final decision on the Proposal including any possible amendments resulting from the consultation process.

FINANCIAL IMPLICATIONS

There are no financial implications relating to the Report recommendations. A fee has been paid by the Proponent for the assessment and processing of this Planning Proposal request.

CONSIDERATIONS

Economic	Facilitates economic development.
Environment	There are no environmental and sustainability considerations.
Social	There are no social and cultural considerations.
Civic Leadership	There are no civic leadership and governance considerations.
Legislative	Environmental Planning and Assessment Act 1979 State Environmental Planning Policy (Precinct – Western Parkland City) 2021
Risk	The risk is deemed to be very low. Landowners and the community will have a further opportunity to comment on the Planning Proposal if and after a Gateway determination in favour of the Proposal is issued. Further community feedback as well as requirements from DPHI will then be presented to Council at a second meeting, prior to the finalisation of

	the Planning Proposal. The risk is considered within Council's risk appetite.
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ATTACHMENTS

1. Planning Proposal (Under separate cover)
2. SINSW correspondence dated 2 February 2018 (Under separate cover)
3. SINSW correspondence dated 11 April 2022 (Under separate cover)
4. Council Referral Letter to SINSW dated September 2022 (Under separate cover)
5. SINSW Submission - Planning for Growth in Austral (Under separate cover) - **Confidential**
6. Sydney Water Feasibility letter (Under separate cover)
7. LPP Determination Minutes (Under separate cover)
8. Asic Extract (Under separate cover) - **Confidential**

Council

COUNCIL DECISION

Motion:

Moved: Clr Harle

Seconded: Clr Ammoun

That Council:

1. Notes the advice of the Liverpool Local Planning Panel.
2. Endorses in principle the Planning Proposal request to amend the *State Environmental Planning Policy (Precincts—Western Parkland City) 2021* as follows in relation to the site known as 60 Gurner Avenue, Austral (Lot 3 DP 1243352):
 - a) Amend the zone from SP2 Educational Establishment to R2 Low Density Residential;
 - b) Amend the Land Reservation Acquisition Map by removing the yellow colouring and Educational Establishment notation;
 - c) Amend the 'Height of Buildings Map' from 12 metres to 9 metres; and
 - d) Amend the minimum dwelling density from 25 to 15 dwellings per hectare.
3. Forwards the Planning Proposal to the Department of Planning, Housing and Infrastructure (DPHI), pursuant to Section 3.33 of the *Environmental Planning and Assessment Act 1979* seeking Gateway determination.
4. Subject to a Gateway determination, undertakes public exhibition and community consultation in accordance with the conditions of the Gateway determination and the Liverpool Community Participation Plan 2022.

5. Receives a further Report on the outcomes of the public exhibition period.
6. Delegates to the CEO (or delegate) to amend the draft Planning Proposal and attachments for any typographical and other minor errors / amendments if required.
7. Write to the Minister for Education, Ms Prue Car, reaffirming Council's commitment to public education.
8. Work with School Infrastructure NSW to ensure that parents in that area are given the choice to send their children to a public school and enquire what land areas that they will acquire to achieve this.

On being put to the meeting the motion was declared CARRIED.

Councillors voted unanimously for this motion.