

Item Number:	6
Application Number:	RZ-7/2022
Proposed Development:	Planning Proposal to amend the zone from SP2 Educational Establishment to R2 Low Density Residential, amend the Land Reservation Acquisition Map by removing the yellow colouring and Educational Establishment notation; and amend the 'Height of Buildings Map' from 12 metres to 9 metres.
Property Address	60 Gurner Avenue, Austral
Legal Description:	Lot 3 DP 1243352
Applicant:	Sutherland & Associates Planning Pty Ltd
Land Owner:	60 Gurner Avenue, Austral Pty Ltd
Cost of Works:	Not Applicable
Recommendation:	Proceed to Gateway determination – subject to amendment
Assessing Officer:	Danielle Hijazi

1 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) have 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 and reduce the maximum building height from 12 metres to 9 metres to facilitate 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 is referred to the Liverpool Local Planning Panel 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. 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 6,000sqm), makes up just a portion of the 29,000sqm set aside for a future primary school. It is Council staff's understanding that since the Austral and Leppington North precincts were rezoned, Schools Infrastructure NSW (SINSW) has revised its school site planning guidelines, and the land requirement for a new primary school is now only 1.5ha. The remaining 23,000sqm 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 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 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 and developing the land for housing enhances compatibility with adjacent zones and promotes streamlined land use regulations, whilst 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 25dw/ha applies to the site. This dwelling density control is most applicable to land zoned R3 Medium density Residential (as per the rest of the ALN precincts). This will create problems when lodging and assessing DAs as many SEPP, DCP and Contribution Plan provisions only assume 25dw/ha in the R3 zone. It is suggested that, prior to lodgement for gateway, the planning proposal be amended to change the minimum dwelling density control to 15dw/ha, as per lands surrounding the site.

On the basis that the planning proposal demonstrates strategic and site-specific merit, this report recommends that the planning proposal proceeds to a Gateway determination, subject to the modification above.

2. BACKGROUND

Site And Locality Description

The Site

The planning proposal relates to land located at Lot 3 DP 1243352, 60 Gurner Avenue, Austral (see Figure 1). The site is an irregularly shaped parcel of land and covers approximately 6,173 square metres. The site has a frontage of approximately 60 metres to Gurner Avenue. 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).

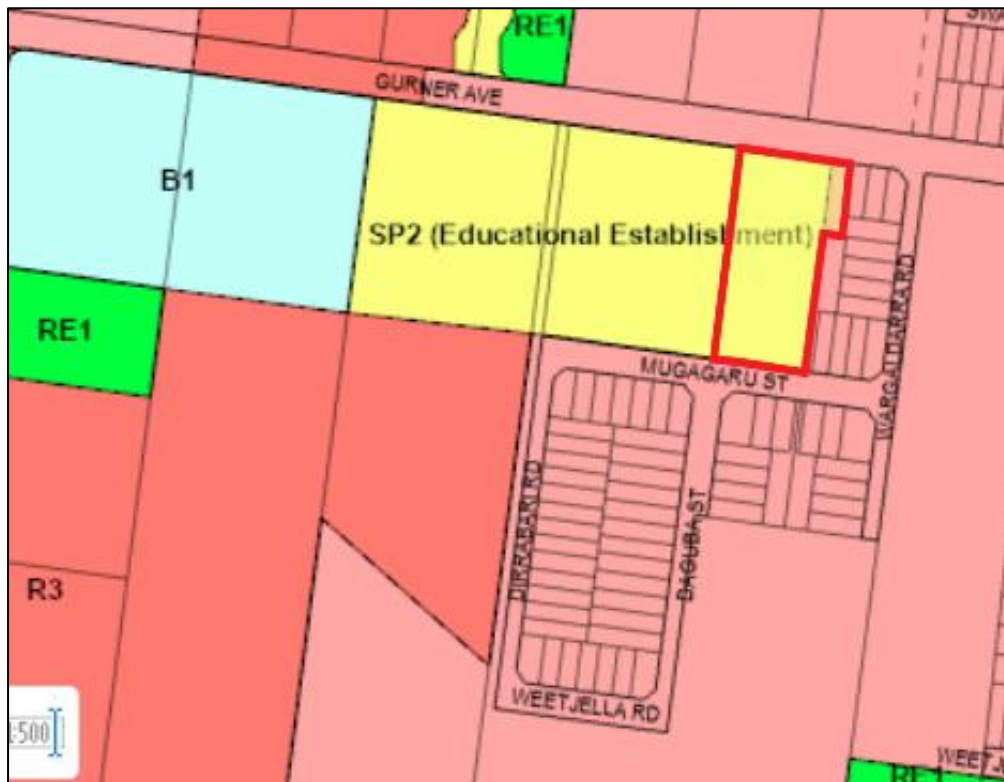


Figure 2: Land Use Zoning Map. Source: Geocortex

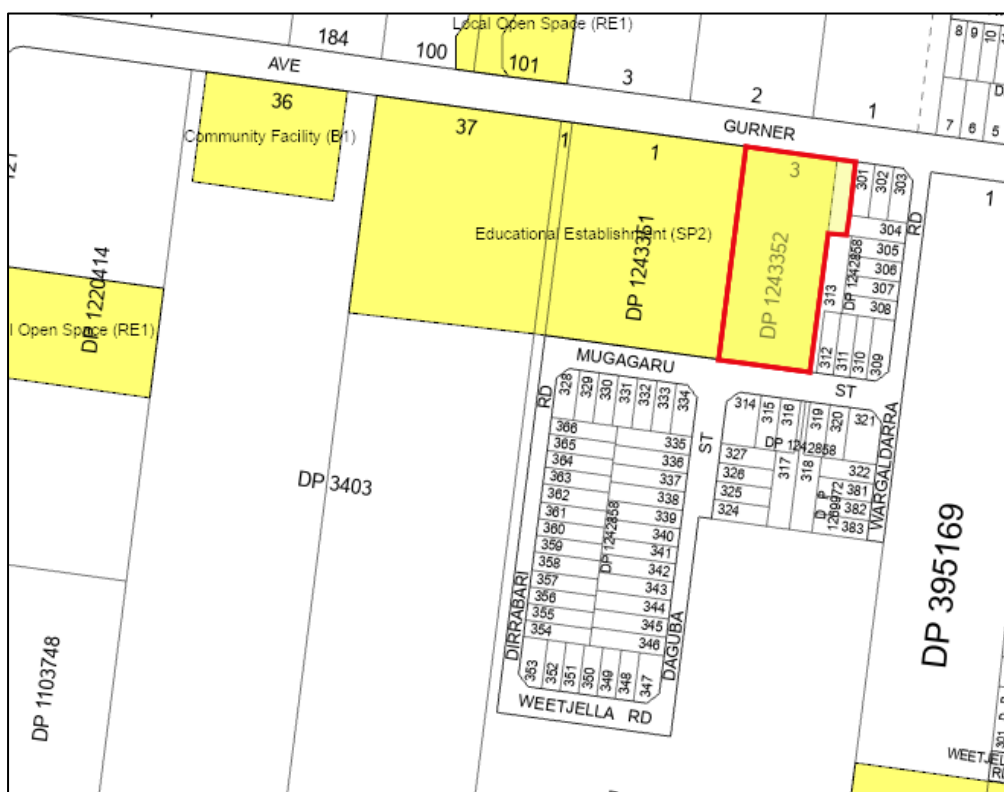


Figure 3: Land Reservation Acquisition Map. Source: Geocortex

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 4).



Figure 4: 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 4 above, the Al-Faisal Collage also owns the adjacent sites to the west of the subject site known as 66 & 80 Gurner Avenue, Austral.



Figure 5: Subject site for (SSD -1045) proposal 66 & 80 Gurner Avenue, Austral Locality Map. Source: Geocortex

In November 2020, The Al-Fasial 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 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 Department of Education.



Figure 6: zoning Map of land to subject to SSDA for a proposed private secondary school (60 & 80 Gurner, Avenue Austral) Source: NSW Planning Portal.

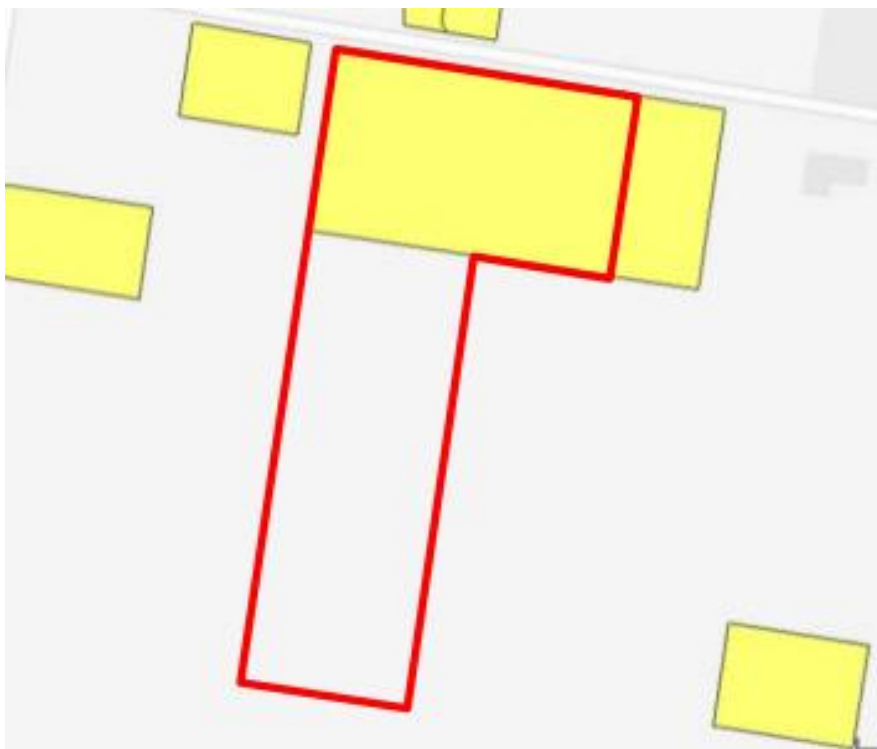


Figure 7: Land Reservation Acquisition Map of proposed private secondary school (60 & 80 Gurner, Avenue Austral) Source: NSW Planning Portal.

The Environmental Impact Statement 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.

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 Department of Education would optimise use of existing assets through the solutions outlined in (**Attachment 5**).

3. 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; and
- Amend the 'Height of Buildings Map' from 12 metres to 9 metres

The proposed changes to the Land Use Zoning, Maximum Height of Buildings and Land Reservation Acquisition maps are to be amended as part of this proposal as shown below:

Zoning

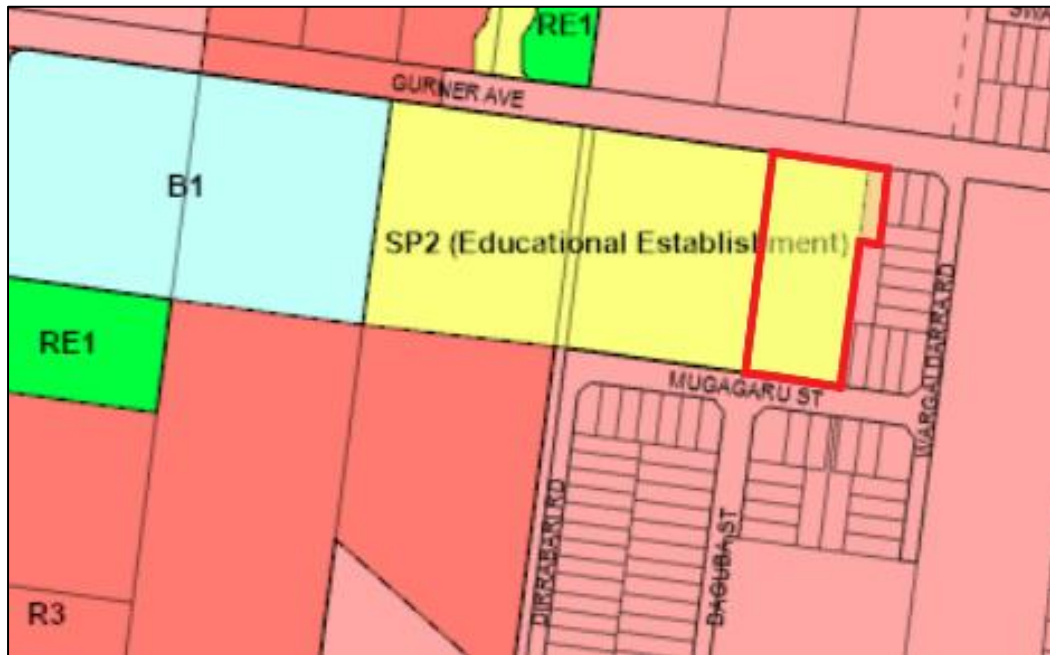


Figure 8: Current Zoning Map. Source: Geocortex

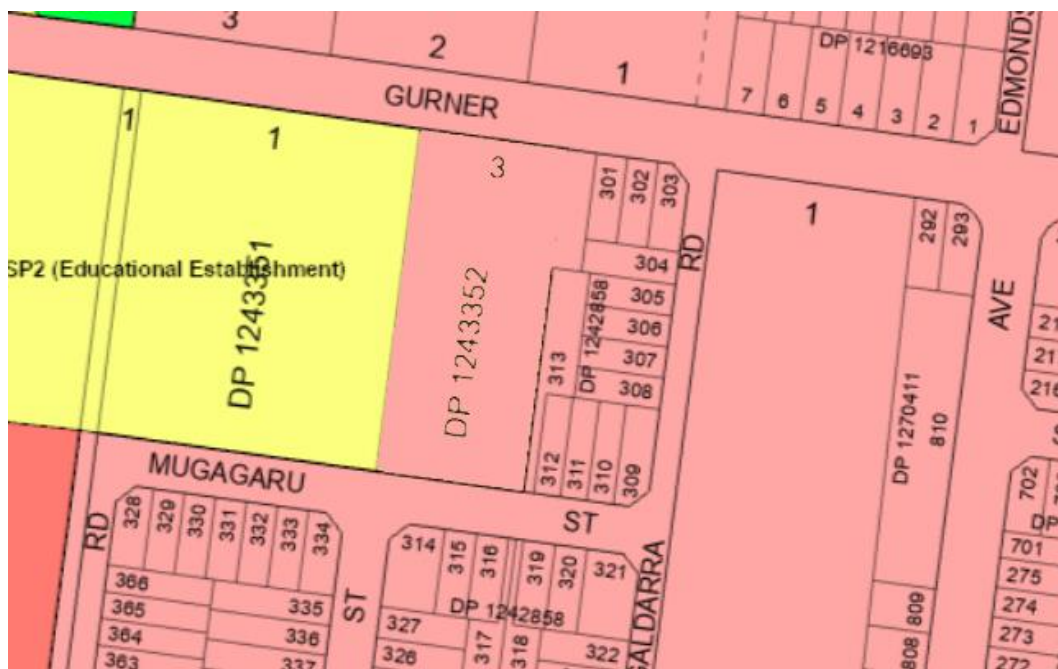


Figure 9: Proposed Zoning Map. Source: Geocortex

Height of Buildings

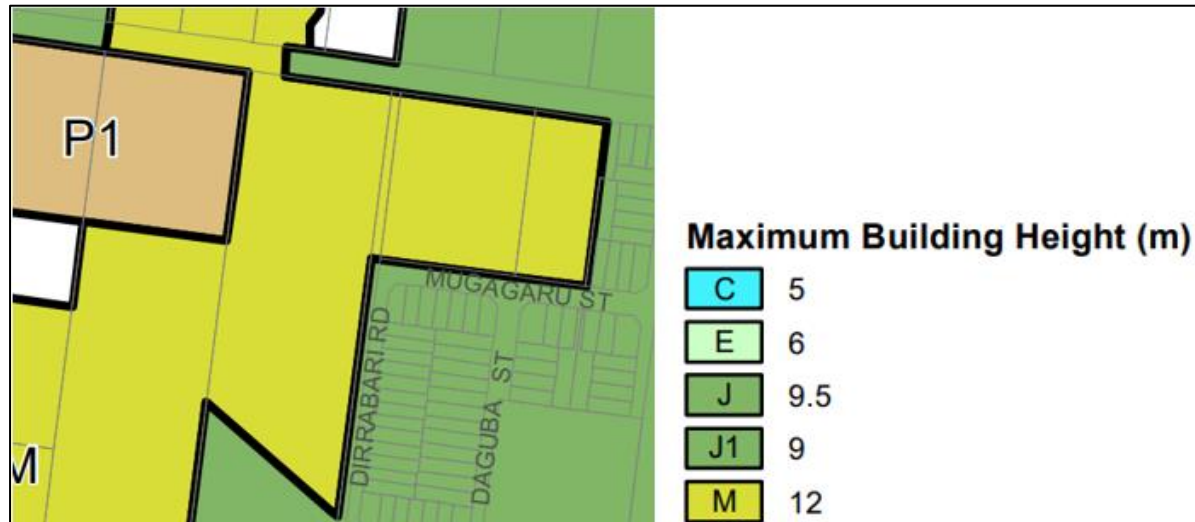


Figure 10: Extract from SEPP 2021 Height of Buildings Map

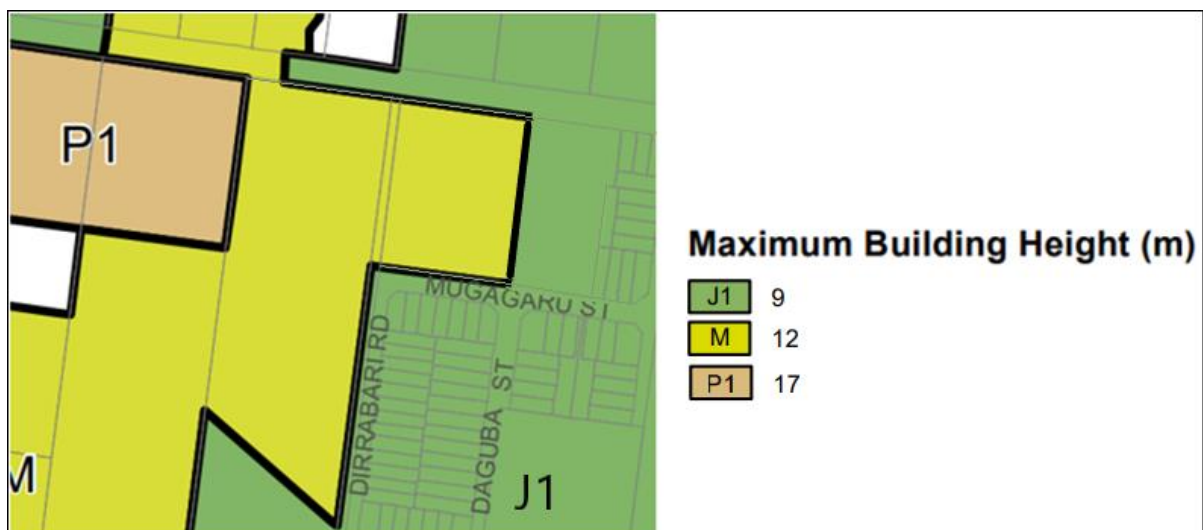


Figure 11: Proposed Height of Buildings Map

Land Reservation Acquisition

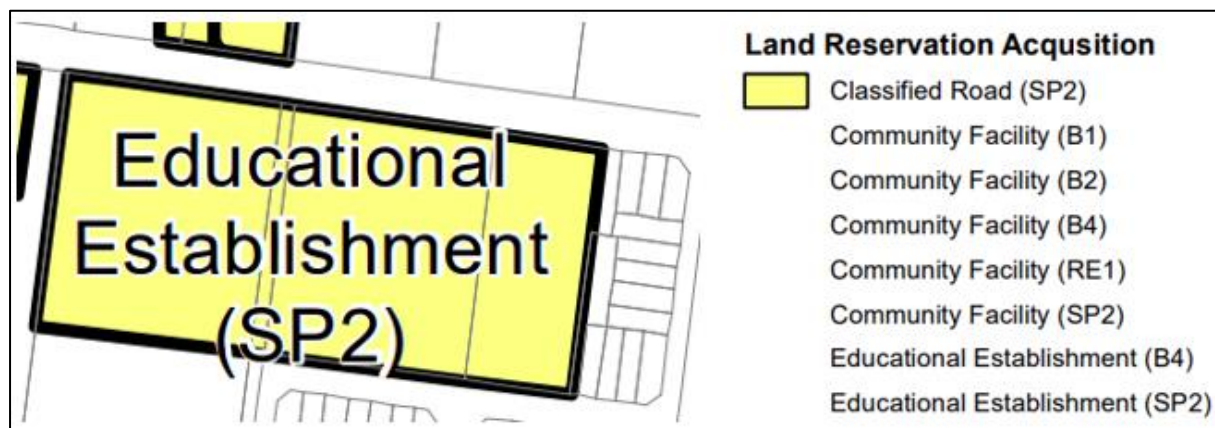


Figure 12: Extract from SEPP 2021 Land Reservation Acquisition Map

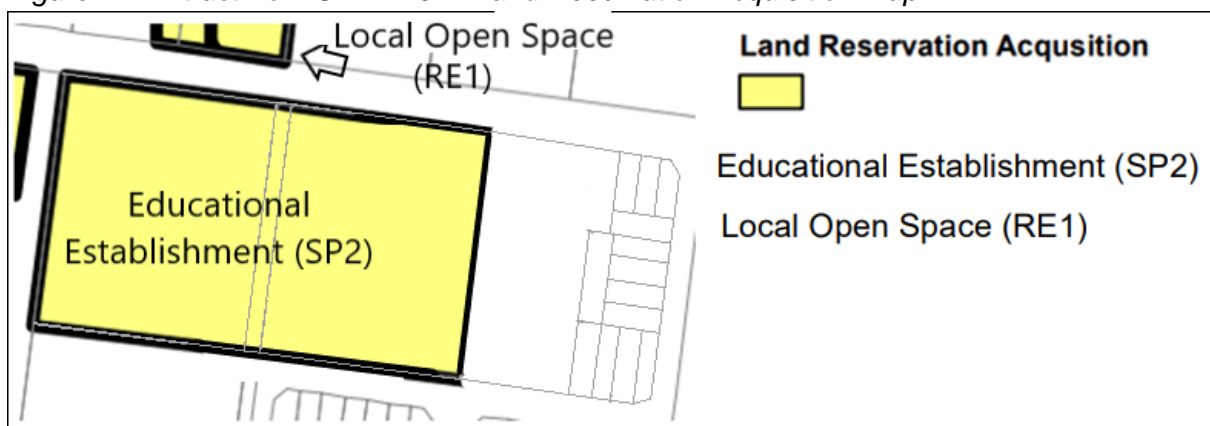


Figure 13: Proposed Land Reservation Acquisition Map

4. 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.

For the sake of consistency, it is considered that, prior to a gateway determination, the planning proposal is modified so as to seek amending 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 8**) confirms the existing water mains in Gurner Avenue and Maugagaru Avenue 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.

5. NEXT STEPS

Following the Panel's consideration, the planning proposal will be reported to Council for consideration. Should the planning proposal request be endorsed, it will be forwarded to DPE seeking a Gateway determination.

Following a Gateway determination in support of the planning proposal, there will be public authority and community consultation and a further report to Council, prior to proceeding with the making of any amendment to the SEPP. It is noted that the provision of various

additional studies and clarification may be required by 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.

6. RECOMMENDATION

1. That the planning proposal be modified to indicate that any part of the site subject to a minimum dwelling density control of 25dw/ha be amended to 15dw/ha,
2. That the modified planning proposal be supported by the Local Planning Panel and be presented to a Council meeting seeking a Gateway determination.

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ATTACHMENTS

1. Planning Proposal - 60 Gurner Avenue, Austral
2. SINSW correspondence dated 2 February 2018
3. SINSW correspondence dated 11 April 2022
4. Council referral letter to SINSW dated September 2022
5. SINSW Submission to Council - Planning for Growth in Austral
6. ALN Social infrastructure assessment final report
7. ALN Precincts Infrastructure Delivery Plan Final
8. Sydney Water Feasibility letter

**ADVICE ON PLANNING PROPOSALS
LIVERPOOL LOCAL PLANNING PANEL**

Monday, 29 April 2024

To be held at
**Liverpool Civic Centre, Council Chambers
Level 1, 50 Scott St
LIVERPOOL**

Panel: Stephen Alchin (Chair)
Jan Murrell (Expert)
Annette Ruhotas (Expert)
Jeremy Thomas (Community Rep)

There were no conflicts of interest declared by any Panel members in relation to any items on the agenda.

Speakers:

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- Lachlan Rovers (Trifalga) – On behalf of the Proponent

LIVERPOOL CITY COUNCIL

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ITEM No:	6
APPLICATION NUMBER:	RZ-7/2022
SUBJECT:	Planning Proposal to: amend the zone from SP2 Educational Establishment to R2 Low Density Residential; amend the Land Reservation Acquisition Map by removing the yellow colouring and Educational Establishment notation; and amend the 'Height of Buildings Map' from 12 metres to 9 metres.
LOCATION:	60 Gurner Avenue, Austral
OWNER:	60 Gurner Avenue, Austral Pty Ltd
APPLICANT:	Sutherland & Associates Planning Pty Ltd
AUTHOR:	Danielle Hijazi

VOTING NUMBERS:

4-0

ADVICE OF THE PANEL:

The Panel read the Council officer's report, was briefed by Council officers and visited the site.

The subject land known as 60 Gurner Avenue, Austral is part of a larger area zoned SP2 Infrastructure – Educational Establishment and is identified for acquisition by the NSW Department of Education. However, the NSW Department of Education (School Infrastructure NSW) has decided to relinquish its right to acquire the subject land.

Additionally, lots adjoining the subject site (including a lot zoned SP2 Infrastructure – Educational Establishment) form part of a State Significant Development Application (SSD-1045) lodged by The Al-Faisal College for the construction of a new private secondary school on the land at 66 & 80 Gurner Avenue, Austral.

Therefore, the planning proposal raises the following issues:

- the appropriate future zoning of the subject land, given the site area (6,173m²) is too small to accommodate a primary school
- matters of broader public interest, particularly in relation to integrated development of the area and the delivery of public school infrastructure.

Future zoning of the site

An appropriate future use for the land needs to be identified. It would be inefficient and poor planning to leave the land vacant. The planning proposal seeks to:

- rezone the entire site as R2 Low Density Residential (a small portion of the site's north-eastern corner is already zoned R2)
- lower the height limit applying to the site from 12m to 9m
- amend the Land Reservation Acquisition Map to remove the yellow colour and 'Educational Establishment' designation on the site.

Importantly, the planning proposal does not propose a change in the density standard applying to the subject site under Clause 4.1B of Appendix 4 of *SEPP (Precincts – Western Parkland City) 2021*, i.e. a minimum density of 25 dwellings per hectare.

Given surrounding patterns of development and the site's proximity to land that is zoned B1 – Neighbourhood Centre, some form of residential development is the obvious preferred land use. The Panel considered the arguments for and against the application of various planning controls over the site.

The planning proposal includes a conceptual plan for a 12-lot subdivision of the site (at 19 dwellings per hectare). It is unclear why this has been included in the proposal since the existing development standard clearly requires a denser form of development (at least 16 dwellings on the site). The Council officer's report recommends that the minimum dwelling density control be reduced to 15 dwellings per hectare, essentially on the grounds of consistency with the minimum permissible densities on adjoining land to the east and avoiding the need for site-specific planning controls. At that minimum density, only 10 dwellings would be required on the site.

There are plausible reasons for applying a R2 zoning, given land immediately east of the site is zoned R2 and has been developed as low density housing (at what appears to be a density of around 20 dwellings per hectare). An R2 zoning over the site would continue the 'look and feel' of development to the east and minimise the risk of inconsistent development. Moreover, as noted in the officer's report, applying a R2 zoning would promote "clarity and consistency in land use regulation across the site."

On the other hand, there is an argument for applying a R3 zoning to the site. Approximately 1.5 hectares of land at 66 and 80 Gurner Avenue (south of the B1 - Neighbourhood Centre) is presently zoned R3. The State Significant Development (SSD) application to establish a private secondary college on that land (and the other land on Gurner Avenue zoned SP2) has yet to be determined. If approved, the R3 land (and a further 1.4 hectares of land zoned R2 that would also be required for the college) would not be available to increase housing supply, both in absolute terms and in the number of dwellings located close to the local centre. The land

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associated with the college proposal would otherwise have been able to accommodate at least 58 dwellings.

Zoning the subject site as R3 could partially address that prospective loss of housing supply, by permitting the development of a residential flat building (RFB) on the land. Given the site's size and large frontage (approximately 60m on Gurner Avenue and 50m on Mugagaru Street), there is an arguable, but not conclusive, case for such development. For example, Council officers feel a RFB would not suit the character of the area. In any event, as the SEPP requires a minimum permissible density of 25 dwellings per hectare over the subject site, and medium density forms of housing (such as multi-dwelling housing) are permissible in the R2 zone, it is not necessary to zone the land R3 to achieve densities that at least partially address the housing supply issues mentioned above.

The Panel has considered the recommendation in the officer's report to lower the permissible density on the site to a minimum of 15 dwellings per hectare, which would result in no less than ten dwellings being built on the site.

Given the arguments set out above, the Panel does not support that recommendation. Nor does the Panel support the proposal to lower the existing height limit from 12m to 9m. The combination of an R2 zoning, retention of the existing minimum 25 dwelling per hectare density standard and a 12m height limit provides an opportunity to design a development (perhaps including some row housing) that offers a transition from the low density housing east of the site, while also reasonably increasing housing supply in a location close to the land zoned B1 - Neighbourhood Centre. Although dwelling houses on separate lots are presently the dominant form of residential development in Austral, row housing is being built in the southern parts of the Austral/Leppington North (ALN) Precinct.

Assuming the subject site is not to be used for education purposes, the Panel:

- supports the proposal to rezone the whole of the subject site to R2 Low Density Residential
- does not support the Council officer's recommendation to reduce the permissible density on the subject site to 15 dwellings per hectare
- does not support lowering of the height limit from 12m to 9m.

The Panel believes this provides flexibility to architects and designers to achieve an outcome that recognises both existing development to the east and the site's proximity to future development on the land zoned B1 - Neighbourhood Centre to the west.

Integrated planning and delivery of supporting infrastructure

The planning proposal highlights weaknesses in current processes aimed at ensuring integrated planning and development in the area. In particular, the proposal raises questions about the effectiveness of mechanisms for the co-ordinated provision of supporting infrastructure, particularly, in this case, the provision of public schools to serve the ALN Precinct.

This matter was raised in the Council officer's report to the Panel, and in a briefing to the Panel. It is clear Council has material concerns in relation to this matter.

Background

The following events and timeline are relevant in considering this matter:

1. Studies undertaken in 2011 for the then Department of Planning and Infrastructure established land use plans and associated infrastructure plans for development of the ALN Precinct. At that time, the land use plans were expected to yield 17,350 dwellings across the precinct. This figure was based on an average residential density of 15 dwellings per hectare and an average lot size of 550m².
2. Population-based standards for the provision for schools were provided by the then Department of Education and Communities, along with advice on site sizes for new schools and locational attributes (e.g. a 1.6km catchment, schools being located adjacent to community playing fields, and not being located on a sub-arterial or arterial road).
3. On this basis, the 2011 *Austral and Leppington North Precincts: Demographic and Social Infrastructure Assessment* prepared for the Department of Planning and Infrastructure concluded that the precinct would ultimately require 6-7 primary schools and two high schools (as well as private schools as the need arose).
4. In 2013, the subject site and adjoining land at 66-80 Gurner Avenue were zoned for infrastructure purposes 'SP2 - Educational Establishment', with the Department of Education identified as the nominated acquisition authority. The site is centrally located within the northern part of the ALN Precinct.
5. The Department of Education's 2016 *Schools Strategic Asset Plan* flagged an intention to increase maximum school sizes, which had the potential to reduce the required number of schools.
6. School Infrastructure NSW (SINSW) did not acquire the subject site or the other properties in Gurner Avenue zoned SP2. In February 2018, SINSW advised consultants for the owner that it no longer required the land at 60-80 Gurner Avenue (i.e. including the subject site) for education purposes and had decided to "relinquish its acquisition rights" to the land. Clause 27(b) of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the acquisition to use its 'best endeavours' to remove the relevant reservations. Council understands that, rather lodge planning proposals to remove SP2 zonings with councils directly, SINSW and the Department of Education are often relying on private landowners to lodge their own planning proposals.
7. A SSD application to develop a private secondary college on 66-80 Gurner Avenue (i.e. excluding the subject site) and adjoining R3-zoned land to the south was lodged with the Department of Planning in November 2020. As noted below, the application has not yet been determined.
8. Council was not advised of the 2016 change in standards for school size until this planning proposal was lodged in September 2022. At that point, Council sought information from SINSW as to why the subject land was no longer required for a school.

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9. The Department of Education wrote to Council in September 2022, advising: *DOE will undertake school planning for the Precinct to better understand where and when additional school provision is required, so that the most appropriate school asset solutions can be identified [Emphasis added]. The identification of suitable locations for potential educational establishments within the Precinct will need to be proactively supported by Council and other actors (including developers) responsible for the additional growth (and the subsequent demand for school places). Further, in order to address the increased infrastructure demands arising from additional growth within the precinct, SINSW request that Council give consideration to including requirements for public domain, transport and other infrastructure works (required to support existing government schools) in the relevant Contributions Plan.*
10. Council replied to SINSW in November 2022 providing various information about rates of development in the area and implications for the provision of public schools. There does not appear to have been any written response to that information, although there have been subsequent meetings between Council staff and the Department of Education about planning for the provision of schools in the precinct. In short, SINSW has yet to provide Council with a plan as to how it will consolidate its landholdings or acquire sites to address the new benchmarks.
11. Development in the ALN Precinct proceeded at higher densities than was assumed in the 2011 studies. Different forms of development have occurred, and lot sizes are typically closer to 300m² in area. As a result, by September 2022, Liverpool Council was projecting that the precinct's dwelling yield would ultimately be 22,730 dwellings, 31% higher than the projection in 2011.
12. The area is still developing rapidly:
- Census data shows that the population of Austral increased by 3,800 persons (127%) to 6,630 persons between the 2016 and 2021 Census.
 - The ABS' most recent demographic estimates show that between 2016 and 2023 the population of the broader Austral-Greendale Statistical Area 2 (the finest geography available for these estimates) grew by 7,524 persons (80.0%) to 16,734 persons. The boundaries of the SA2 and Google Maps imagery suggest that almost all of this growth has occurred in the suburb of Austral (including some north of Fifteenth Avenue). Actual growth is appreciably faster than the projected growth in the same SA2 in the NSW Government's Common Planning Assumptions (which projected growth of 1,415 persons or 15.2% over the same period).
13. Substantial future growth is planned to occur. The Common Planning Assumptions project that the population of the SA2 will grow by 33,112 persons (310%) between 2016 and 2041 - or 31,697 persons (297%) between 2023 and 2041.
14. It is unclear what further 'school planning' for the precinct has been undertaken by SINSW since 2011, and whether there have been any changes in the identification of sites and prioritisation of funding to acquire the necessary land for the provision of public schools to meet the greater than anticipated population growth detailed above.

Commentary

Although new housing is being built at a rapid rate in the ALN Precinct and demand for local primary and secondary schools is rising, there appears to be no clear plan

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for meeting that demand, at least one that is publicly (or confidentially) available and against which progress is periodically reported.

The Panel agrees that, where it is reasonable to do so, it is sensible to use existing schools to meet early demand for local educational infrastructure. However, depending on where in Austral the distances are being measured from, the nearest public schools to residential development in the northern part of the ALN Precinct are:

- Austral Public School: located some 3.5 km to the south, on the corner of Edmondson Avenue and Tenth Avenue. This distance equates to around a 50 minute walk.
- Middleton Grange Public School: located some 5 to 6 km to the east.
- Hoxton Park Public School: located some 6 to 7 km to the east
- Hinchinbrook Public School: located over 9 to 10 km to the east.

The distances to schools in the east (especially to Middleton Grange Public School) are greater than distances ‘as the crow flies’ because there is no crossing of the Sydney Water canal between Fifteenth and Eighteenth Avenue (a distance slightly over one kilometre). In addition, the primary school at Middleton Grange is separated from Austral by steep topography and a lack of footpaths for children to walk or cycle to school. The Hoxton Park and Hinchinbrook primary schools are substantially further away, on the far side of arterial roads such as Cowpasture Road and the M7 Motorway.

Importantly, other than the subject site (over which acquisition rights are to be relinquished), the indicative layout plan for the ALN Precinct provides no public primary school site north of Fifteenth Avenue. Therefore, on the information available to the Panel, the children from that area will need to walk or be transported to the schools mentioned above, not only in the short-term but over the long term.

The Panel understands that there is demand for faith-based private schools in parts of the Liverpool Local Government Area. While this may slow the need for new public schools in the area, it does not obviate the need to provide for public schools; not all residents of Austral will want to send their children to a faith-based school or, even if they do, they may not be able to afford the fees. Local parents need to have a viable option to send their children to a local public school.

The Panel appreciates that it is unrealistic to expect that the implementation of land and infrastructure plans will follow exactly the trajectory set out when the plans were released; circumstances evolve, priorities change and plans are reviewed. Indeed, these factors were identified in the draft 2011 *Infrastructure Delivery Plan* referred to above.

That said, even allowing for changes in standards for the provision of schools, the case for securing a site for a public school north of Fifteenth Avenue (and, in due course, development of the site) appears to be as strong or stronger than in 2011.

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Funding is likely to be a key issue. It is noteworthy that, at the time of the draft *Infrastructure Delivery Plan*, Special Infrastructure Contributions (as they were then known) were to be used to fund the acquisition of land for education facilities among other things. Those contributions were scaled back shortly after the draft plan and have more recently been replaced by Housing and Productivity Contributions (HPC) for state-provided infrastructure (set at a rate of \$12,000 per dwelling-house or \$10,000 per unit). While the HPC can provide some funding, a comprehensive and structured approach to fund the acquisition of land for future school and other infrastructure has not yet been settled.

The Panel acknowledges that securing such an approach is likely to require potentially difficult policy reform and/or some re-prioritisation of spending.

Development on 66-80 Gurner Avenue

The status of the SSD application for staged development of a private secondary college on land at 66-80 Gurner Avenue is also relevant to the Panel's consideration of the planning proposal. The application was lodged in November 2020. Three and a half years on, the application has not been determined. It is unclear why this is the case. It may be that the application raises a number of significant issues that are difficult to resolve.

If so, this raises questions as to whether there are any consequential implications for assessment of this planning proposal, especially if the SSD application is refused or the development does not proceed for other reasons. For example, this may provide the grounds for SINSW to reconsider its position in relation to acquisition of the subject site and the SP2 land at 66-80 Gurner Avenue. If there is some material uncertainty about the status of the proposed private secondary college, there is an arguable case for not proceeding with rezoning of the subject land at this time, i.e. at least until the future of the private secondary college becomes clearer.

Conclusion

Subject to the earlier comments in relation to minimum permissible densities and retention of a 12m height limit, the Panel supports the planning proposal to rezone the land from SP2 Educational Establishment to R2 Low Density Residential.

However, that support is contingent.

Firstly, as part of the Gateway review, there needs to be an open and frank exchange of information and views between senior levels of the Department of Planning, Housing and Infrastructure, the Department of Education (including SINSW) and Liverpool City Council about the future development of the ALN Precinct and the short, medium and long-term provision of public schools in the area. The information to be exchanged should include:

- updated development, population and school demand estimates for this area that reflect:

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- a current understanding of the local development market (ideally informed by discussions with landowners, developers)
 - a current understanding of the intentions and demand projections of private school operators
- information on potential school sites that can serve the ALN Precinct, particularly the northern part of the precinct, bearing in mind current thinking on school catchments and locational guidelines
- estimated costs associated with zoning the potential sites as SP2 and, in turn, acquiring the sites
- plausible funding and delivery scenarios for each of these sites having regard to the NSW Government's overall budget for school infrastructure.

The parties may not agree on the outcomes of that exchange and the discussions that ensue; however, it will still:

- inform future land use and infrastructure planning for the area
- demonstrate focussed effort to deliver on the objectives of the *Environmental Planning Assessment Act*, including the "sharing of the responsibility for environmental planning and assessment between the different levels of government in the State."

Secondly, there needs to be clarity about the future of the proposed private secondary college. Rezoning the subject site for this planning proposal to R2 (and probably seeing the site developed in the near-term) and then finding that the private secondary college does not proceed would be a poor outcome; the opportunity to secure a site and develop a primary school might be lost or made more difficult and costly.

The outcomes of the discussions referred to above and a conclusion about the private secondary college should inform a final decision about the planning proposal.

ADVICE OF THE PANEL:

While 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 Department of Education and Schools Infrastructure NSW to work with Council and the Department of Planning, Housing and Infrastructure to finalize plans for the provision of public schools in the ALN Precinct (especially the northern part of the Precinct).