

Applicant	The University of Notre Dame Australia C/-Townstaff Projects
Owner	Health Administration Corporation
Application No.	DA-485/2010
Description of Land	Lot D & E, DP 420405, 88-90 Water Street, AUBURN
Proposed Development	Construction of a four (4) storey building for use as a medical training and research facility with associated site works (Crown Development)
Site Area	923.00 sqm
Zoning	R3 - Medium Density Residential Zone
Disclosure of political donations and gifts	Nil disclosure
Issues	<ul style="list-style-type: none"> • Lack of parking to accommodate the proposed development.

Recommendation

- 1. That the application for the construction of a four (4) storey building for use as a medical training and research facility with associated site works by The University of Notre Dame (Crown DA) on land at 88-90 Water Street, Auburn be refused for the reasons attached to this report.***

Consultations

25 June 2010

A Pre-lodgement application (PL-17/2010) was first lodged with Council on the 25 June 2010 proposing a four (4) storey medical training facility. A subsequent meeting was held with the applicant on 20 July 2010 to discuss the proposal. The minutes of the pre-lodgement advice raised various matters of concern, particularly in relation to the following:

- Parking, access arrangements, traffic
- Development categorisation and permissibility;
- Bulk, scale, height and sitting in respect of the residential context;
- Site contamination and remediation.
- Storage of potentially hazardous materials
- Referral requirements to other Government departments
- Stormwater drainage;
- Council's Development Contributions Plan 2007.

2 December 2010

The subject development application (DA-485/2010) was formally lodged with Council on 2 December 2010. Following a detailed assessment of the development proposal against relevant planning controls, a number of issues were identified as being of concern including a lack on site car-parking.

It is noted that the initial pre-lodgement application included that provisions of 12 parking spaces within the lower ground level of the building, whilst the current proposal the subject of this report, provides for no staff, student or visitor parking.

27 January 2011

Council advised the applicant of the above concerns by letter dated 27 January 2011.

2 February 2011

A meeting was held on the 2 February 2011 with Council officers at the request of the applicant, to discuss the issues associated with the proposal. Council received a formal response from the applicant with regard to the issues raised in Council's letter via email on the 9 February 2011.

10 February 2011

A briefing for the development application was held on the 10 February 2011 with representatives of the Joint Regional Planning Panel (JRPP) in relation the potential issues of the proposed development.

4 March 2011

A final assessment of the application including the additional information provided by the applicant was completed by Council staff. In view of the parking deficiency associated with the development proposal, Council advised the applicant by letter dated 4 April 2011 of the intention to report the application to the JRPP with a recommendation for refusal.

27 April 2011

Council Staff finalised the information report to Council. The report was subsequently scheduled for publishing in the Business Paper and was made available to the public on Council's website on 6 May 2011.

10 May 2011

Further information was submitted by the applicant in response to Council's Information report. Council's staff reviewed the additional information and this has been incorporated within the subejct report.

Site and Locality Description

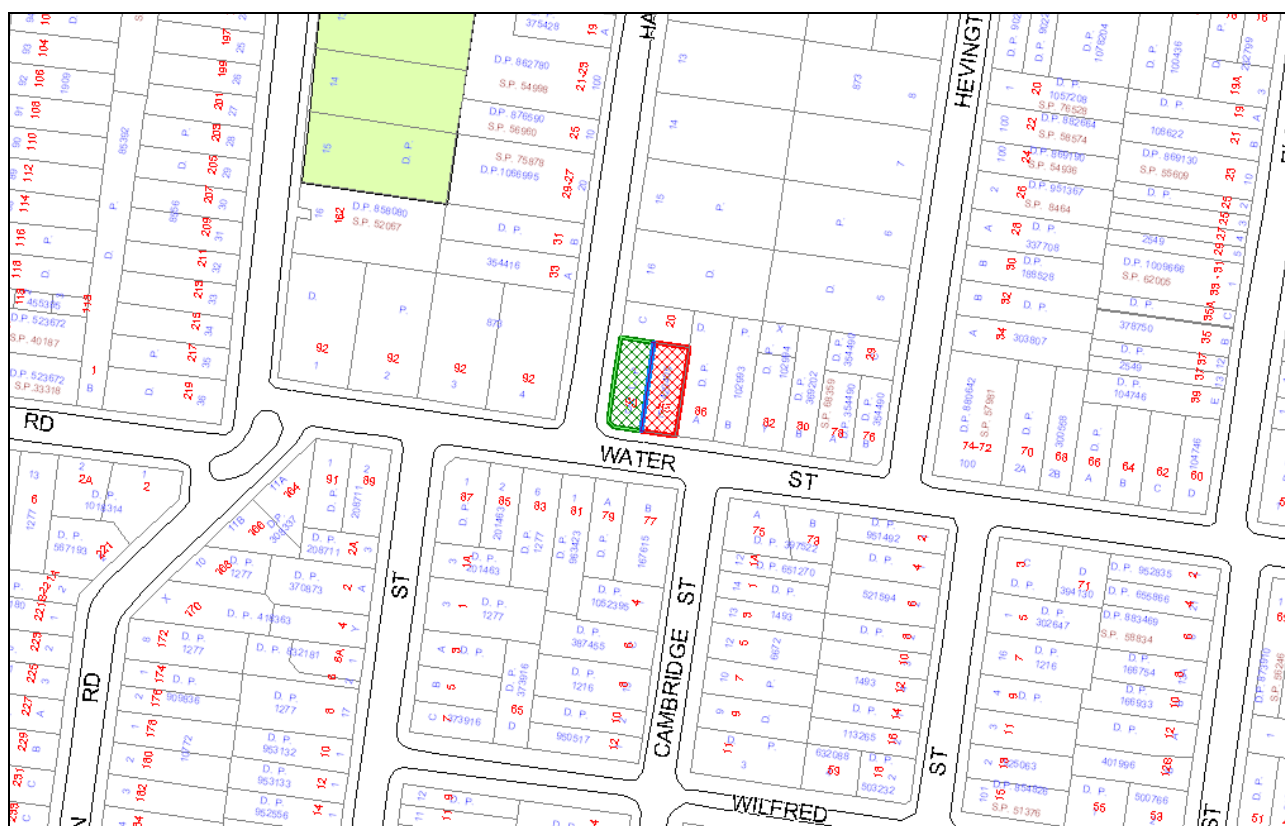
The subject site is legally described as Lots D & E in DP 420405 and is known as no. 88-90 Water Street, Auburn. It is located on the eastern corner of Water Street and Hargrave Road. The lots are rectangular in shape and have dimensions of 25.03 metres to 26.60 metres in width by 33.26 metres to 34.74 metres in depth, thus creating a total combined area of 923 square metres.

The development site is currently vacant with sparse remnant vegetation located on the site's western boundary. The land has a gentle slope from the north western direction to the south eastern direction, with a level change of approximately 3.2 metres over the entire site.

Surrounding developments located in the immediate vicinity consists predominantly of low to medium density residential developments of varying scale, age and style. Directly to the north of the development site is the recently re-developed Auburn Hospital which dominates the local built form. To the east of the subject site is the ancillary medical uses which forms part of the Auburn Hospital. Directly to the west of the subject site is the Auburn School

Dental Clinic and other medical uses associated with Auburn Hospital and to the south of the site, sit three residential dwellings of varying size and scale.

The site is identified on the map below:



Description of Proposed Development

Council has received a development application seeking approval to develop:

- A four storey medical teaching and research facility (including lower ground level), with a total gross floor area of 2133 square metres for students of University of Notre Dame Australia (UNDA),
- Provision of student facilities including tutorial rooms, study area, a lecture theatre, common room, break out space and wet and dry laboratories;
- Consultation and examination rooms;
- Three bedrooms with ensuite bathrooms providing short stay, on-site accommodation for students and visiting lecturers;
- Provision of staff facilities including offices and tea rooms;
- Reception and waiting areas for patients;
- Parking for two ambulances and two paramedical vehicles in the basement parking area;
- Facilities for ambulance staff in the lower ground level which includes bicycle parking facilities;
- Zones for building identification signage;
- Landscaping and associated site infrastructure works

The proposed development is to function as a clinical training and medical research facility for students of the UNDA and is said to operate in partnership with the Auburn Hospital,

providing medical students from UNDA Medical School with the opportunity to work in the Hospital as interns.

The applicant states that the new facility is proposed to accommodate approximately 26 to 30 students and up to 10 staff members. Classes held within the facility will be held on weekdays during normal business hours. Clinical consultation rooms will provide practical training to students, enabling them to observe consultation and examination procedures being performed by qualified practitioners, on patients referred from the Hospital. The applicant states that consultations are proposed to be carried out on an appointment basis, with approximately 10 consults expected per month.

Patients will be able to access the building between the hours of 8:30am to 4:00pm Monday to Friday and the lifts will only enable public access to the first floor, with access to other parts to the building being restricted by swipe cards.

The application also seeks approval for signage zones for the purposes of building identification and signage directory/way finding signage. The details of the proposed signage including size, dimensions, wording, materials etc, are to form part of a separate Development Application to Council.

Four signage zones plus an additional zone for Ambulance signage are proposed to be located on the following elevations of the building:-

- One main sign is to be located on the southern elevation of the building facing Water Street;
- One smaller sign is to be located on the pedestrian ramp on the western elevation facing Hargrave Road;
- Two smaller signs are to be located in the entry lobby of the medical training facility, on the building's Hargrave Road frontage; and,
- Ambulance signage to be located in the south western corner of the site, on the stair case which leads up from the Ambulance area on the Lower Ground Floor to Hargrave Street.

Crown Development

Crown Development

The development proposal constitutes development by the "Crown" for the purposes of Division 4 Part 4 of the Environmental Planning and Assessment Act as detailed below:

Section 88(1) and 88(2) of the EPA Act relevantly provides the following:

"Crown development application" means a development application made by or on behalf of the Crown.

and,

A reference in this Division to the Crown:

(a) includes a reference to a person who is prescribed by the regulations to be the Crown for the purposes of this Division:

Clause 226(1)(c) of the EPA Regulations provides the following:

The following persons are prescribed for the purposes of Division 4 of Part 4 of the Act (as referred to in section 88 (2) (a) of the Act):

(c) an Australian university within the meaning of the Higher Education Act 2001

It is noted that Schedule 1 of the Higher Education Act 2001 specifically recognises the University of Notre Dame. As a consequence, the subject development application constitutes a "Crown" development proposal.

Determination of Crown development applications

In view of the above, it should be noted that Section 89 of the EPA Act precludes a consent authority, including a regional panel, from refusing a Crown development application, except with the approval of the Minister, or from imposing a condition of consent to a Crown development application, except with the approval of the applicant or the Minister.

Referrals

Internal Referrals

Development Engineer

The development application was referred Council's Development Engineer in relation to stormwater drainage, car parking and access arrangements.

In response to design plans and supporting information initially lodged with the development application, concern was raised as to the lack of on-site car parking proposed for the development. It was also advised that insufficient information regarding the current activities was submitted with the application to demonstrate that a concession for parking numbers could be considered for the development. Concerns were also raised with regard to the dependence on street parking, particularly in view of the very high parking demands in the immediate locality; especially within the existing restricted 2 hour time limited areas. It was therefore concluded that any proposal without the adequate parking facility for visitors within the premises would have an adverse impact on the surrounding residential areas.

Further concerns were raised with regard to the proposed facility being able to potentially accommodate a far greater number of students and staff than that indicated by the applicant. In this regard, it was noted that the proposed facility consists of a lecture theatre with a capacity of 73 seats, tutorial room with 48 seats, study carrels with 24 seats and a number of wet and dry laboratories.

The proposed vehicular access ramp and driveway grades were also identified as not complying with the Australian Standards AS2890.1.

The applicant submitted additional information on the 10 February 2011 in response to the above issues and also included supplementary Traffic advice.

In response to the further information provided by the applicant, Council's Development Engineer acknowledged that the proposed training facility would be substantially replacing activities which currently occur in a dispersed manner throughout Auburn Hospital. However, the lack of parking associated with the proposed facility was not acceptable due to the intensification of the land use, the substantial increase in floor area and the potential capacity of the facility to operate at a far higher capacity than that which had been indicated by the applicant.

Further additional information was submitted by the applicant on the 10 May 2011 following Council's recommendation for refusal to the JRPP. The information was reviewed by Council's Development Engineer with regard to the measures proposed to mitigate parking impacts; by way of leasing 7-12 parking spaces from the Auburn Hospital Carpark and providing a 50% public transport subsidy for students/staff. The following advice provided by Council's Development Engineer on the 16 May 2011 indicated that:

- a) The leasing of 7-12 parking spaces are inadequate for the development, as the proposal requires a minimum of 29 spaces; as outlined in the compliance table for the Parking and Loading chapter of the Auburn DCP 2010. Council's Officer is of the opinion that any compromise on parking spaces will have an adverse impact on available street parking in the surrounding residential area.
- b) As discussed previously and throughout the report, in accordance with Council's DCP requirements for Parking and Loading, if there is an increase in floor area or intensification of the use of the existing floor area, adequate parking shall be provided in order to minimise adverse impacts on surrounding streets. Also, the proposed development is a self contained educational facility that has the potential to operate as a separate entity on its own within the subject site and it is considered that approval of such a facility without the proper parking facility within the site will have adverse impact on the surrounding residence in terms of parking.
- c) Subsidies cannot be considered in lieu of shortfalls for parking spaces due to reasons including:
 - Council has no control over future subsidy arrangements within the development;
 - Use of the subsidy among the students and staff and the impact on parking cannot be quantified with certainty;
 - Any future change of use of the building will be severely restricted, if reduced parking for the facility is considered.

In view of the above, Council's Engineering Unit contends that the proposed development, even with the proposed measures to mitigate parking impacts; provides insufficient on-site car parking and the likely impacts on the local traffic network and adjoining residential areas are unacceptable in this instance.

Transportation and Traffic Officer

The development application was referred to Council's Transportation and Traffic Officer for comment. The advice provided indicated that Council has received several complaints pertaining to patient visitors parking in the residential streets even though hospital parking is available. Complaints received by residents in the area have advised that the hospital car park facility is underutilised due to the pay parking arrangement within the hospital parking facility.

Environmental Health

The development application was referred to Council's Environmental Health Officer and the comments provided in the referral generally raised no objections to the proposed development subject to recommended conditions of consent.

Fire Safety Officer

The development application was referred to Council's Fire Safety Officer and the comments provided in the referral generally raised no objections to the proposed development subject to recommended conditions of consent.

Building Surveyor

The development application was referred to Council's Building Officer and the comments provided in the referral generally raised no objections to the proposed development subject to recommended conditions of consent.

External Referrals

The development application was not required to be referred to any external bodies or approval agencies. (Refer to comments under SEPP (Infrastructure) 2007).

The provisions of any Environmental Planning Instruments (EP& A Act s79C(1)(a)(i))

State Environmental Planning Policies

(a) State Environmental Planning Policy No. 55 – Remediation of Land

The requirement at clause 7 of SEPP No. 55 for Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development has been considered in the following table:

Matter for Consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
In the development going to be used for a sensitive land use (eg: residential, educational, recreational, childcare or hospital)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site listed on Council's Contaminated Land database?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site subject to EPA clean-up order or other EPA restrictions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the site been the subject of known pollution incidents or illegal dumping?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the site adjoin any contaminated land/previously contaminated land?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Details of contamination investigations carried out at the site: <i>A Preliminary Environmental Site Assessment Report, Ref ES3353/2, prepared by Aargus Australia, dated May 2010 was submitted with the application.</i>	

Matter for Consideration	Yes/No
<i>The report concluded that “based on the results of the investigation, it is considered that the risks to human health and the environment associated with soil contamination at the site are low in the context of the proposed use of the site as a research and educational facility. The site is therefore considered to be suitable for the proposed use.”</i>	
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

In view of the above, the site is considered to be suitable to accommodate the proposed development from a land contamination perspective.

(b) State Environmental Planning Policy (Infrastructure) 2007

Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2008, outlines a list of specific criteria for traffic generating developments requiring referral to be made to the Roads and Traffic Authority of NSW. It is noted that a “hospital” with 200 or more beds and “educational establishments” with 50 or more students, are both required to be referred to the RTA. The proposed use, although classified as a hospital under clause 57 of the SEPP (Infrastructure), does not contain any patient beds. The application was therefore not referred to RTA on these grounds.

The potential “educational establishment” trigger of the SEPP was specifically raised with the applicant. In response, the applicant indicated to Council that the development would not accommodate more than 50 students and as such referral to the RTA was not required. Accordingly, that applicant also did not submit a concurrence referral fee to Council in favour of the RTA and the application was not referred to the RTA for comment.

(c) State Environmental Planning Policy no. 64 (Advertising and Signage)

The proposal includes signage zones for the purposes of building identification and signage directory/way finding signage. The details of the proposed signage including size, dimensions, wording, materials etc, are to form part of a separate Development Application to Council.

(d) Other State Environmental Planning Policies and Regional Environmental Planning Policies

SEPP/REP	Applicable	SEPP/REP	Applicable	SEPP/REP	Applicable
SEPP 1 – Development Standards	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	SEPP 4 – Development Without Consent and Miscellaneous Complying Development	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	SEPP 6 – No. of Storeys in a Building	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N
SEPP 19 – Bushland in Urban Areas	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	SEPP 33 – Hazardous & Offensive Development	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	SEPP 53 – Metro Res. Development	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N
SEPP 55 – Remediation of Land	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	SEPP 64 – Advertising & Signage	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	SEPP 65 – Design Quality of Residential Flat Development	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N
SEPP (Housing for Seniors & people with	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	SEPP (Building Sustainability Index:	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	SEPP (Major Projects) 2005	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N

a Disability) 2004		BASIX) 2004			
Sydney REP (Sydney Harbour Catchment) 2005	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	SEPP (Temporary Structures & Places of Public Entertainment)	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	SEPP (Infrastructure) 2007	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N
SEPP (Affordable Rental Housing) 2009	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	SEPP (Exempt and Complying Development Codes) 2008	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	REP No. 24 – Homebush Bay Area	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N

Regional Environmental Plans

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the area within the Sydney Harbour Catchment and SREP (Sydney Harbour Catchment) 2005 is applicable to the development application. The development application raises no issues in terms of consistency with the requirements and objectives of this planning instrument or the associated Development Control Plan.

Local Environmental Plans

Auburn Local Environmental Plan 2010

The relevant objectives and provisions of Auburn LEP 2010 have been considered in the following assessment table:

Clause	Yes	No	N/A	Comment
resource management facilities; Water recreation structures; Water supply systems; Wholesale supplies				<p><i>surgical treatment, psychiatric care or cared for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:</i></p> <ul style="list-style-type: none"> <i>a) day surgery, day procedures or health consulting rooms,</i> <i>b) accommodation for nurses or other health care workers,</i> <i>c) accommodation for persons receiving health care of or for their visitors,</i> <i>d) shops and refreshment rooms,</i> <i>e) transport of patients, including helipads, ambulance facilities and car parking,</i> <i>f) educational purposes or any other related use,</i> <i>g) research purposes (whether or not it is carried out by hospital staff or health care workers or for commercial purposes),</i> <i>h) chapels,</i> <i>i) hospices,</i> <i>j) mortuaries.</i>

Clause	Yes	No	N/A	Comment
Part 3 Exempt and complying development				
This part is not relevant as the development is not exempt or complying development.				
Part 4 Principal development standards				
4.1 Minimum subdivision lot size				
(1) The objectives of this clause are as follows:				
(a) to ensure that lot sizes are able to accommodate development consistent with relevant development controls, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	In accordance with the Lot Size Map LSZ_003, there is no minimum lot size that applies to the subject site.
(b) to ensure that subdivision of land is capable of supporting a range of development types.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is an existing lot and no subdivision is proposed.
(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(3A) Despite subclause (3), the minimum lot size for dwelling houses is 450 square metres.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(3B) Despite subclause (3), if a lot is a battle-axe lot or other lot with an access handle and is on land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone B6 Enterprise Corridor, Zone B7 Business Park, Zone IN1 General Industrial and Zone IN2 Light Industrial, the minimum lot size excludes the area of the access handle.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(3C) Despite subclauses (3)–(3B), the minimum lot size for development on land within the Former Lidcombe Hospital Site, as shown edged blue on the Lot Size Map, is as follows in relation to development for the purpose of:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(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,				
© multi dwelling housing – 170 square metres for each dwelling,				

Clause	Yes	No	N/A	Comment
black on the Floor Space Ratio Map, is as follows:				
(a) for sites less than 1,300 square metres—0.75:1,	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(b) for sites that are 1,300 square metres or greater but less than 1,800 square metres—0.80:1,	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(c) for sites that are 1,800 square metres or greater—0.85:1.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(2B) Despite subclause (2), the maximum floor space ratio for the following development on land in Zone B6 Enterprise Corridor within the Parramatta Road Precinct, as shown edged orange on the Floor Space Ratio Map, is as follows:				
(a) 1.5:1 for bulky goods premises, entertainment facilities, function centres and registered clubs, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(b) 3:1 for office premises and hotel or motel accommodation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(2C) Despite subclause (2), the maximum floor space ratio for the following development on land in Zone B6 Enterprise Corridor within the Silverwater Road Precinct, as shown edged light purple on the Floor Space Ratio Map, is as follows:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(a) 1.5:1 for bulky goods premises, entertainment facilities, function centres and registered clubs, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(b) 2:1 for office premises and hotel or motel accommodation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Clause	Yes	No	N/A	Comment
<p>(5) Strata subdivisions</p> <p>The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(6) Only significant development to be included</p> <p>The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<p>(7) Certain public land to be separately considered</p> <p>For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(8) Existing buildings</p> <p>The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(9) Covenants to prevent “double dipping”</p> <p>When consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(10) Covenants affect consolidated sites</p> <p>If:</p>				
<p>(a) a covenant of the kind referred to in subclause (9) applies to any land (affected land), and</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Clause	Yes	No	N/A	Comment
the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Plan is reduced by the quantity of floor space area the covenant prevents being created on the affected land.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(11) Definition In this clause, public place has the same meaning as it has in the <i>Local Government Act 1993</i> .	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
4.6 Exceptions to development standards (1) The objectives of this clause are: (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances. (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause. (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating: (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and (b) that there are sufficient environmental planning grounds to justify contravening the development standard. (4) Consent must not be granted for development that contravenes a development standard unless: (a) the consent authority is satisfied that: (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3),	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<p>As discussed earlier, the applicant seeks to vary the development standards for height and FSR under clause 4.3 and clause 4.4 as follows:</p> <p>FSR = 2.31:1 which exceeds the max FSR limit of 0.75:1 by 1440.75 sqm</p> <p>Height = 18.45 metres which exceeds the max height limit of 9 metres by 9.45 metres.</p> <p>The applicant's justification for the departure of these development standards are summarised as follows:</p> <ul style="list-style-type: none"> • <i>"The proposal should be considered within the context of the main Auburn Hospital Building and the wider Auburn Hospital site. The redeveloped hospital building significantly exceeds Council's controls with respect to height and FSR.</i> • <i>Council's controls have been prepared for medium density residential development, and do not take into account the unique nature of the Auburn Hospital site or the requirements of non-residential developments. It is considered unreasonable that these standards be applied to the proposed facility, particularly when the standards have already been exceeded by the hospital site.</i> • <i>The proposal does not generate any adverse impacts on neighbouring properties in terms of overshadowing, privacy and noise.</i> • <i>The additional height and floor space does not manifest in an unreasonable bulk and scale impacts and the design of the proposal is compatible with surrounding development, particularly the hospital in terms of bulk, scale and height."</i> <p>In view of the above justification, Council Officer is in agreement that the planning provisions have been prepared</p>

Clause	Yes	No	N/A	Comment
<p>and</p> <p>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>predominantly with medium density residential developments in mind and as such to apply these controls to the proposed development would be unreasonable given the nature of the proposal and the built form of the adjacent Auburn Hospital development.</p> <p>Therefore, despite exceeding the height and FSR controls of the Auburn LEP the development is considered to be consistent with the broader objectives of the development standards within the zone and accordingly there are sufficient environmental planning grounds to justify contravening the FSR and Building Height development standards in this instance.</p> <p>It should be noted however, that Council Officer's support of the above variation does not represent support for the building design in it's entirety. The development is considered to incorporate insufficient car parking and this matter is discussed in greater detail elsewhere in this report.</p>
<p>(b) the concurrence of the Director-General has been obtained.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>The concurrence of the Director-General has been assumed in this instance in accordance with Planning Circular PS 08-003 issued on 9 May 2008.</p>
<p>(5) In deciding whether to grant concurrence, the Director-General must consider:</p>				
<p>(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(b) the public benefit of maintaining the development standard, and</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>© any other matters required to be taken into consideration by the Director-General before granting concurrence.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(6) Not applicable</p>				
<p>(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(8) This clause does not allow consent to be granted for development that would contravene any of the following:</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(a) a development standard for complying development,</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(b) a development standard that arises, under the regulations under the Act,</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Clause	Yes	No	N/A	Comment
nature of any such item, area or site is also described in Schedule 5.				
(1) Objectives				
The objectives of this clause are:				
(a) to conserve the environmental heritage of Auburn, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(c) to conserve archaeological sites, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(d) to conserve places of Aboriginal heritage significance.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(2) Requirement for consent				
Development consent is required for any of the following:				
(a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This clause is not relevant as the subject site is not identified as being a heritage item or within a heritage conservation area.
(b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(c) altering a heritage item that is a building by making structural changes to its interior,	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(g) subdividing land on which a heritage item is located or that is within a heritage conservation area.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(3) When consent not required				
However, consent under this clause is not required if:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the				

Clause	Yes	No	N/A	Comment
proposed development:				
(i) is of a minor nature, or is for the maintenance of the heritage item, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(b) the development is in a cemetery or burial ground and the proposed development:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(d) the development is exempt development.				
Note. For land known as Rookwood Cemetery zoned SP1 Cemetery, development consent from, and notification to, the consent authority is not required under this plan for the further use of an existing grave site or crypt within a graveyard that is a heritage item, provided the heritage significance of the item is not adversely affected.				
(4) Effect on heritage significance				
The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(5) Heritage impact assessment				
The consent authority may, before granting consent to any development on land:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(a) on which a heritage item is situated, or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(b) within a heritage conservation area, or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(c) within the vicinity of land referred to in paragraph (a) or (b),	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Clause	Yes	No	N/A	Comment
on the Acid Sulfate Soils Map as being of the class specified for those works.				
Class of land Works				
1 Any works.				
2 Works below the natural ground surface. Works by which the watertable is likely to be lowered.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
3 Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
4 Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
5 Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(4) Despite subclause (2) Development consent is not required under this clause for the carrying out of works if:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Clause	Yes	No	N/A	Comment
(3) Before granting development consent for earthworks, the consent authority must consider the following matters:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(b) the effect of the proposed development on the likely future use or redevelopment of the land,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(c) the quality of the fill or of the soil to be excavated, or both,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(e) the source of any fill material and the destination of any excavated material,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(f) the likelihood of disturbing relics,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Note. The <i>National Parks and Wildlife Act 1974</i> , particularly section 86, deals with disturbing or excavating land and Aboriginal objects.				

Clause	Yes	No	N/A	Comment
6.3 Flood planning (1) The objectives of this clause are: (a) to minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change, (c) to avoid significant adverse impacts on flood behaviour and the environment. (2) This clause applies to: (a) land that is shown as "Flood planning area" on the Flood Planning Map, and (b) other land at or below the flood planning level. (3) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development: (a) is compatible with the flood hazard of the land, and (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and (c) incorporates appropriate measures to manage risk to life from flood, and (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding. (4) A word or expression used in this clause has the same meaning as it has in the NSW Government's <i>Floodplain Development Manual</i> published in 2005, unless it is otherwise defined in this clause. (5) In this clause: flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard. Flood Planning Map means the Auburn Local Environmental Plan 2010 Flood Planning Map.				In accordance with Flood Planning Map FLD_003, the subject site is not identified as being flood prone.

<p>D6 where available.</p> <p>D7 Driveways servicing car parking shall comply with AS 2890 – Parking Facilities or similar designs for car turning paths unless otherwise advised by Council's Engineering Department.</p> <p>D8 The maximum gradient for a driveway shall be 20% (with appropriate transitions). However, in extreme circumstances, gradients up to 25% (with appropriate transitions) will be considered.</p> <p>D9 13 Parking and Loading Auburn Development Control Plan 2010.</p>	<div><input type="checkbox"/></div>	<div><input type="checkbox"/></div>	<div><input type="checkbox"/></div>					
<p>8.2 Miscellaneous development parking rates</p> <p>D1 Refer to the table below for parking rates for recreational, community and special use developments.</p> <p>Table 10 – Miscellaneous development parking requirements:</p> <table><tr><th>Land use</th><th>Parking requirements</th></tr><tr><td>Educational establishments: Tertiary institutions</td><td>1 space per 6 students + 1 space per 2 staff</td></tr></table>	Land use	Parking requirements	Educational establishments: Tertiary institutions	1 space per 6 students + 1 space per 2 staff	<div><input type="checkbox"/></div>	<div><input checked="" type="checkbox"/></div>	<div><input type="checkbox"/></div>	<p>As detailed above, it is estimated that the development will generate the following parking demand:</p> <p>143 students @ 1 per six = 23.8 spaces, plus,</p> <p>10 staff @ 1 per 2 = 5 spaces</p> <p>Total parking requirement = 29 spaces</p>
Land use	Parking requirements							
Educational establishments: Tertiary institutions	1 space per 6 students + 1 space per 2 staff							

b) *Multiple Dwellings*

The subject site is located within the zone R3 – Medium Density Residential and under clause 57 of the State Environmental Planning Policy (Infrastructure) 2007, health service facilities which includes 'hospital' is permissible subject to approval from a consent authority. To this extent, the Multiple Dwellings part of the Auburn DCP 2010 is technically applicable. However, given the nature of the proposal, the design objectives, performance criteria and development standards of this policy have limited application in this instance.

The proposed development is considered to be appropriate for the site in terms of its relationship with the adjoining Auburn Hospital and will create an appropriate interface with the adjacent residential areas. The development will not impact on adjoining properties in terms of noise, overshadowing and has a suitable bulk and scale for the site.

c) *Access and Mobility*

The relevant requirements and objectives of the Access and Mobility part of the Auburn DCP 2010 have been considered in the assessment of the development application. Council Officer is satisfied that the proposal satisfies the requirements of the DCP in general as pedestrian access ramp is provided to the main entrance of the building and suitable accessible facilities such as communal staff areas, disabled toilet facilities and lifts are provided within the building. In this regard the application is considered to be consistent with the objectives and relevant requirements of the DCP.

d) *Stormwater Drainage*

The relevant requirements and objectives of the Stormwater Drainage part of the Auburn DCP 2010 have been considered in the assessment of the development application. Suitable stormwater plans and specifications have been submitted to accompany the development application. Council's Engineers have raised no objection to the proposed stormwater design and appropriate conditions have been provided to be imposed on any development consent. Therefore the application is considered to be consistent with the objectives and relevant requirements of the DCP.

Auburn Development Contributions Plan 2007

Exemption from the payment of Section 94 contributions has been sought by the applicant in this instance. A submission addressing Section 3.6 of the Council's Section 94 Contributions Plan supports the application and requests exemption to the payment of contributions on the grounds that the UNDA will operate in conjunction with the Auburn Hospital and will provide a community benefit.

Comment

The facility is a medical teaching and research facility and would therefore be used for a wide range of activities with staff, students and patients likely to be living and working outside the LGA and coming from a wide range of localities – even from outside of Sydney and NSW.

As such the proposed facility will not really provide a direct community benefit, nor be directly available on a day to day basis to the Auburn community in the same way that a local ambulance service or police or fire service would provide emergency assistance to the local community. The benefit to the community of this facility is principally for the wider NSW community.

This type of facility therefore does not qualify for an exemption on the basis of providing a local community benefit, even though it is located in the Auburn LGA.

Furthermore the proposed facility will generate additional traffic and increase visitation and employee activity within the LGA

Council officers therefore contend that S94 levy should apply to any tertiary teaching facility of this type. The application for exemption under the Section 94 Contributions plan is therefore not supported by Council officers.

Disclosure of Political Donations and Gifts

The NSW Government introduced The Local Government and Planning Legislation Amendment (Political Donations) Act 2008 (NSW). This disclosure requirement is for all members of the public relating to political donations and gifts. The law introduces disclosure requirements for individuals or entities with a relevant financial interest as part of the lodgement of various types of development proposals and requests to initiate environmental planning instruments or development control plans.

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

The provisions of the Regulations (EP& A Act s79C(1)(a)(iv))

The proposed development raises no concerns as to the relevant matters arising from the EP& A Regulations 2000.

The Likely Environmental, Social or Economic Impacts (EP& A Act s79C(1)(b))

It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

The suitability of the site for the development (EP&A Act s79C(1)(c))

The subject site and locality is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. However, the locality is known to be affected by high traffic demands as advised by Council's Engineering Department.

It is considered that the lack of parking provided for the proposed medical facility and the reliance of street parking and parking within Auburn Hospital will exacerbate the problems in the area. There are also concerns that the future use of the building, which could potentially operate independently and/or at a significantly higher increased capacity, will further escalate future problems associated with increased traffic generation and parking demands in the locality.

Accordingly, it is considered that the lack of parking being provided for the development renders the site unsuitable to accommodate the development in current form.

Submissions made in accordance with the Act or Regulation (EP&A Act s79C(1)(d))

Advertised (newspaper) ☒ Mail ☒ Sign ☒ Not
Required ☐

In accordance with Council's Notification of Development Proposals Development Control Plan, the proposal was publicly exhibited for a period of 21 days between 21.12.10 and 11.01.11. No submissions were received in respect of the proposed development.

The public interest (EP& A Act s79C(1)(e))

The public interest is served by permitting the orderly and economic development of land, in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users.

In view of the foregoing analysis it is considered that the proposed development would not be consistent with the public interest as the insufficient provision of on-site car parking will further exacerbate problems in the area due to the high parking demand in the locality.

Conclusion

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979.

The non-provision of any parking to accommodate the proposed new four storey medical training facility is likely to have a significant and detrimental impact upon the surrounding local traffic network and the immediate residential area.

Having regard to the relevant matters of consideration under Section 79C of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is unacceptable for the reasons outlined in this report. It is recommended that the development application be refused.