

CUMBERLAND COUNCIL

9, 11 & 13 Gelibolu Parade and 2, 2A, 4 & 6 St Hilliers Road, AUBURN

INFORMATION REPORT FOR JRPP DA-189/2015/B

SUMMARY

Applicant	NSW Auburn Turkish Islamic Cultural Centre Inc
Owner	NSW Auburn Turkish Islamic Cultural Centre Inc
Application No.	DA-189/2015/B
Description of Land	Lot C DP 374304, Lot B DP 374304, Lot 13 DP 16298, Lot 12 DP 16298, Lot A DP 374304, Lot 11 DP 16298, Lot 10 DP 16298, 9, 11 & 13 Gelibolu Parade and 2, 2A, 4 & 6 St Hilliers Road, AUBURN
Proposed Development	Section 96(2) application for various modifications including internal reconfiguration of floor plan, increase in finished floor levels of Levels 1 & 2, increase in size and height of roof plant, window relocation and changes to building facade & awning
Site Area	3234.96m ²
Zoning	Zone R2 - Low Density Residential
Disclosure of political donations and gifts	Nil disclosure
Issues	SEPP (Housing for Seniors or People with a Disability) 2004 S.94 Contributions Exemption

Recommendation

That Development Application No. DA-189/2015/B for Section 96(2) application for various modifications including internal reconfiguration of floor plan, increase in finished floor levels of Levels 1 & 2, increase in size and height of roof plant, window relocation and changes to building facade & awning on land at 9, 11 & 13 Gelibolu Parade and 2, 2A, 4 & 6 St Hilliers Road, AUBURN be approved subject to the modified conditions in the attached schedule.

History

The Sydney West Joint Regional Planning Panel, at its meeting of 10 December 2015 unanimously determined to approve Development Application No. 189/2015 for “Demolition of existing buildings and construction of a 3 storey residential aged care facility comprising 102 beds and a neighbourhood shop over one level of basement parking and associated stormwater, landscaping works and tree removal” subject to conditions, including:

1. Approved Plans

The development is to be carried out in accordance with the approved stamped plans as numbered below:

Plan Number	Prepared By	Revision No.	Dated
ECA-DG-0501 Site Plan	Jacobs	4	10/08/2015
ECA-DG-1300 Basement Floor Plan (as amended in red)	Jacobs	11	14/09/2015
ECA-DG-1301 Ground Floor Plan (as amended in red)	Jacobs	11	14/09/2015
ECA-DG-1302 Level 1 Plan (as amended in red)	Jacobs	10	20/08/2015
ECA-DG-1303 Level 2 Plan (as amended in red)	Jacobs	10	20/08/2015
ECA-DG-1303 Roof Plan	Jacobs	6	20/08/2015
ECA-DG-3001 Elevations (as amended in red)	Jacobs	6	20/08/2015
ECA-DG-3002 Elevations (as amended in red)	Jacobs	6	20/08/2015
ECA-DG-4001 Elevations (as amended in red)	Jacobs	7	14/09/2015
ECA-ECA-DG-10000 Material Board	Jacobs	3	14/05/2015
0215 0127 LD DA 01 Landscape Plan	Tract	02	14.05.2015
0215 0127 LD DA 02 Landscape Plan - Courtyard	Tract	01	13.05.2015
0215 0127 LD DA 05 Section - Courtyard	Tract	01	13.05.2015
Report on Preliminary Site investigation (Contamination and Acid Sulfate Soils) Project 84769.01 – Rev 1	Douglas Partners	1	April 2015

DA Acoustic Assessment 20150576.1/2605A/R3/MF	Acoustic Logic	3	08/07/2015
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except as otherwise provided by the conditions of this determination (Note:- modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act).

Reason:- to confirm and clarify the terms of Council's approval.

6. **Auburn DCP 2007 - LGA Wide**

A sum of **\$186,020.25** is to be paid to Council for the purpose of LGA Wide plans being the provision of open space and recreation facilities, community facilities, accessibility and traffic works, town centre upgrades, car parking and Council's administration of the development contributions framework.

The above sum is broken down to the following items:

Item	Amount
Community Facilities	\$45,649.52
Public Domain	\$100,964.52
Accessibility and Traffic	\$27,799.61
Administration	\$10,711.66
Employment Generating Development (Exc HBW, Carter)	\$894.93
TOTAL	\$186,020.25

Reason:- to provide open space and recreation facilities, community facilities, accessibility and traffic works, town centre upgrades, car parking and Council's administration of the development contributions framework.

8. **Obscure glazing to windows**

The windows in the northern elevation of the Level 1 and Level 2 dining rooms shall contain obscure glazing to a minimum height of 1.6m as measured from the finished floor level.

Details demonstrating compliance shall be submitted to the Council or accredited certifier **prior to issue of the Construction Certificate**.

Reason:- to ensure the privacy of the adjoining residential premises.

108. **Front Fencing**

The front and side dividing fences (where located within the front yard area) shall not exceed a height of 1.2 metres as measured above existing ground level and shall be a minimum of 50% transparent. Front and side dividing fences (where located within the front yard area) shall not be constructed of solid pre-coated metal type materials (ie Colourbond or similar).

Reason:- to maintain reasonable levels of amenity to adjoining residential development and the streetscape and to comply with Council's Development Control Plan provisions.

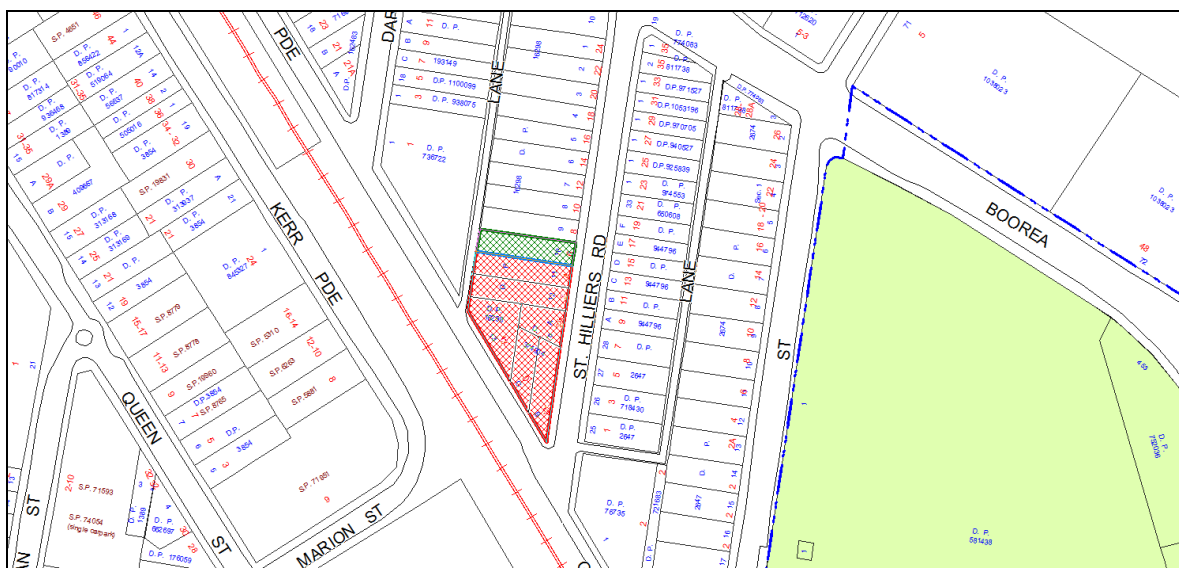
Site and Locality Description

The subject site is legally known as Lot C DP 374304, Lot B DP 374304, Lot 13 DP 16298, Lot 12 DP 16298, Lot A DP 374304, Lot 11 DP 16298, Lot 10 DP 16298, being 9, 11 & 13 Gelibolu Parade and 2, 2A, 4 & 6 St Hilliers Road, Auburn. The site is irregular in shape with a frontage of 80.61m to Gelibolu Parade (south), 106.7m to St Hilliers Road (east), 44.15m to the laneway (west), 51.56m to the adjoining residential property (north) and a total site area of 3,872.5sqm. The site generally slopes from west to east.

Existing development on the site consists of six (6) residential dwellings and associated outbuildings with no. 13 Gelibolu Parade being a vacant site. There are no significant trees on the site.

Development surrounding the site includes the Gallipoli Mosque to the north-west (on the opposite side of the lane) and generally older style single storey dwellings to the north and east. An industrial building is also located to the south-east of the site with frontage to St Hilliers Road and Gelibolu Parade. Public parking is available on the opposite side of Gelibolu Parade adjacent the railway line. The Auburn Town Centre is located at the north-western end of Gelibolu Parade and Wyatt Pak is located at its south-eastern end.

The site is identified on the map and aerial photograph below:





Detailed Description of Proposed Modification

Council has received on the 8 March 2016 an application under the provisions of Section 96(2) of the Environmental Planning and Assessment Act, 1979 to modify the subject development consent as follows:-

Level/Elevations	Proposed modifications
Basement	<ul style="list-style-type: none"> Extension of basement to accommodate additional storage areas (Gelibolu Parade boundary) and mechanical ventilation shafts (NB: Air intake grilles will be added to the boundary wall along St Hilliers Road boundary) Reconfiguration of plant and service rooms
Ground	<ul style="list-style-type: none"> Conversion of 2 bedroom rooms to 2 x 1 bedroom rooms Internal reconfiguration of staff and amenities areas Increase in the size of the activity room and lounge room located on the eastern and western side of the internal courtyard and corresponding reduction in the size of the courtyard Realignment of south-eastern portion of façade (Gelibolu Parade frontage) Stair relocation Awning redesigned
Levels 1 & 2	<ul style="list-style-type: none"> Conversion of 2 bedroom rooms to 2 x 1 bedroom rooms Internal reconfiguration of staff and amenities areas Infilling of void areas on Gelibolu Parade frontage to provide larger communal lounge rooms Modify floor levels: <ul style="list-style-type: none"> Level 1 from RL 18.6 to RL 18.7; and Level 2 from RL 22.0 to 22.0. (NB: NO CHANGE TO HEIGHT OF BUILDING PARAPET)
Roof	<ul style="list-style-type: none"> Increase size and height of plant room and add roof platform and access walkway
Elevations	Minor corresponding changes to elevations

The following modifications to conditions of the consent are also sought:

- Deletion of condition no. 6 requiring payment of S.94 contributions. The applicant contends that the development's owner is a non-profit organisation;
- Modification of condition no. 8 to delete reference to the requirement for 1.6m high obscure glazing in the north-facing window of the first floor dining room; and
- Modify condition no. 108 to delete the requirement for fencing forward of the building line be a maximum height of 1.2m. To allow for additional security it is proposed that fencing along Gelibolu Parade and St Hilliers Road be a combination of masonry and metal palisades to a height of 1.8m from the site's finished ground level.

Referrals

Internal Referrals

Development Engineer

The development application was referred to Council's Development Engineer for comment who has raised no objections to the proposed development subject to conditions of consent.

External Referrals

The original application was referred to Sydney Trains for concurrence in accordance with Clause 86 of State Environmental Planning Policy (Infrastructure) 2007 as the site is within 25m of a rail corridor and the development involves the excavation to a depth of at least 2m below ground level. No comments or conditions were received by Sydney Trains in respect of the original application. As General Term of Approval were not issued the subject modification application was therefore, not required to be referred to Sydney Trains.

Assessment

Section 96(2) of the Environmental Planning and Assessment Act 1979 allows Council to modify a development consent if:-

- (a) **it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)**

The development consent granted approval for construction of a new three storey residential aged care facility and neighbourhood shop. The amendments to the development relate only largely to reconfiguration of floor plans and corresponding changes to elevations. The modifications are not to such an extent that they could be construed as being a substantially different development to that which for consent was

originally granted. Accordingly, the modifications are considered acceptable in respect of Section 96(2) of the Act.

- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirements of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent

The original application was referred to Sydney Trains for concurrence in accordance with Clause 86 of State Environmental Planning Policy (Infrastructure) 2007 as the site is within 25m of a rail corridor and the development involves the excavation to a depth of at least 2m below ground level. No comments or conditions were received by Sydney Trains in respect of the original application. As General Term of Approval were not issued the subject modification application was therefore, not required to be referred to Sydney Trains.

- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

In accordance with Council's Notification of Development Proposals Development Control Plan, adjoining and nearby property owners and occupiers were advised of the proposed modification and were invited to comment. During this period, no submissions commenting on the proposal were received.

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

State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies

State Environmental Planning Policy (State and Regional Development) 2011

Given that the proposed works are in excess of a Capital Investment Value (CIV) of \$20 million, the development is identified as Regional Development in accordance with Clause 20 of the SEPP (State and Regional Development) 2011 and Schedule 4A of the Environmental Planning and Assessment Act 1979. In this regard, the Joint Regional Planning Panel (JRPP) is the relevant consent authority.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The relevant provisions of SEPP (Housing for Seniors or People with a Disability) 2004 pertaining to the development proposal have been considered in the assessment of the application. In accordance with Clause 4(1)(a)(i) the SEPP applies to the subject site as dwelling houses are permitted on the land in the R2 Low Density Residential zone under Auburn Local Environmental Plan 2010. The proposed development is defined as a *residential aged care facility* in accordance with Clause 11 and the applicant submitted a satisfactory site analysis in accordance with Clause 30 as part of the original application.

An assessment of the proposed modifications against the relevant design principles and development standards of *Chapter 3 Development for seniors housing* is discussed in further detail below.

Part 3 Design Requirements, Division 2 Design principles

- *Clause 34 Visual and acoustic privacy*

This clause requires consideration be given to the visual privacy of neighbours through the appropriate location and design of windows and balconies. A condition of consent was originally imposed requiring that the windows in the northern elevation of the Levels 1 and 2 dining rooms contain obscure glazing to a minimum height of 1.6m as measured from the finished floor level so as to prevent overlooking of the rear yard of the adjoining residential dwelling.

The applicant has requested as part of the subject application, that this condition (no. 8) be modified to delete reference to the Level 1 dining room window as it is setback 2.5m from a 1.2m high masonry parapet, therefore, it is not possible to see into the neighbour's private outdoor space.

The proposed modification to condition no. 8 to delete the requirement for the Level 1 Dining Room window to contain obscure glazing is acceptable in this instance given that the window is setback 6m from the boundary and 2.5m from a 1.2m high masonry parapet, thus preventing overlooking of the adjoining residential property.

- *Clause 25 Solar access and design for climate*

This clause requires that a proposed development ensure adequate daylight to main living areas and substantial areas of private open space. It was detailed in the report regarding the original application that the development would only overshadow part of the front yards of the dwellings on the eastern side of St Hilliers Road (No.s 1-9) by 3pm in mid-winter. Shadow diagrams have been submitted demonstrating the increased plant room will not result in any additional shadow to that of the originally approved development.

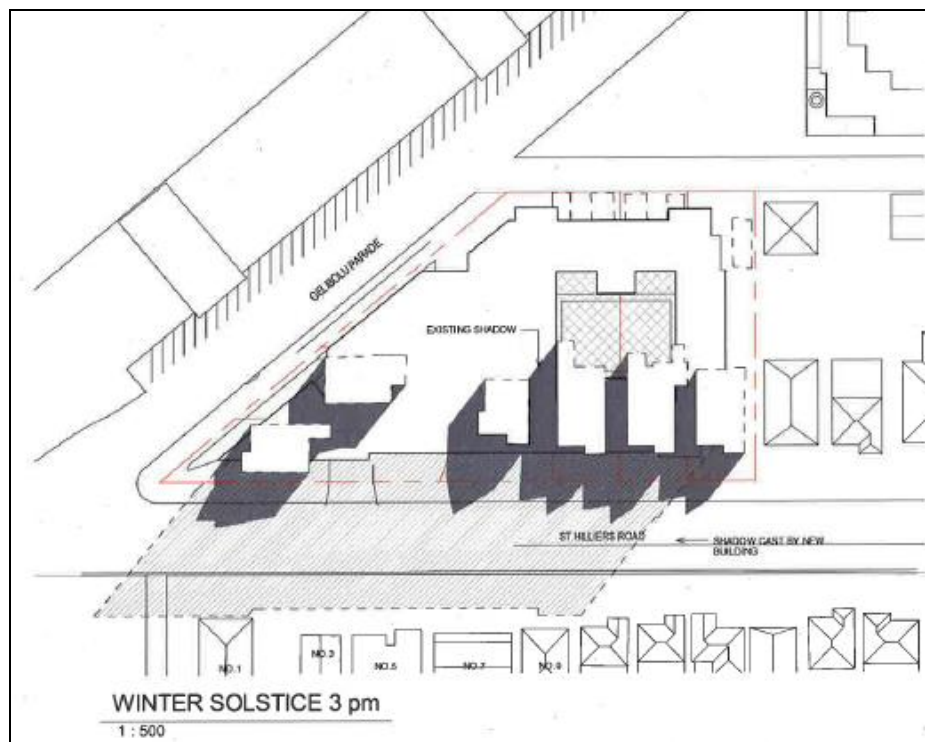
Part 4 Development standards to be complied with, Division 1 General

- *Clause 40(4) Height in zones where residential flat buildings are not permitted*

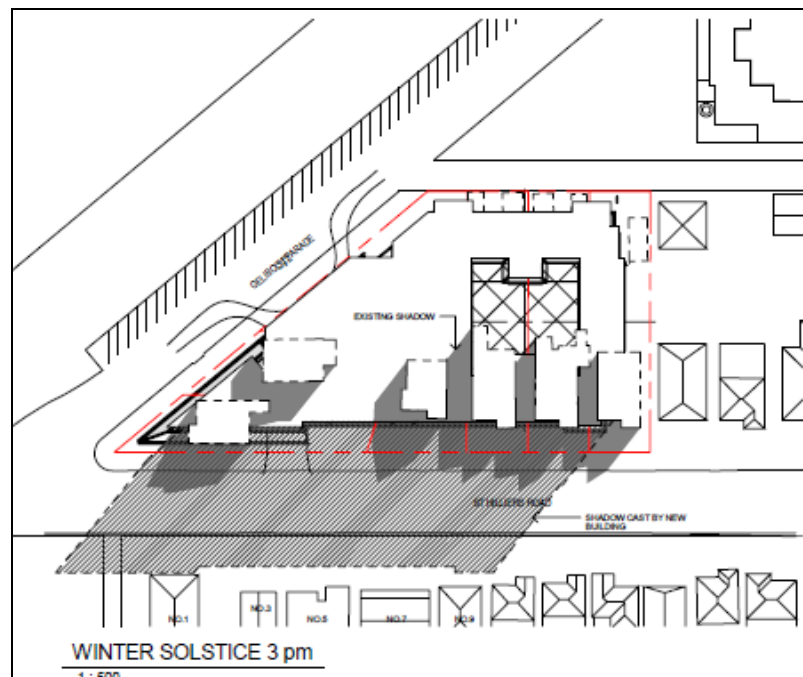
This clause limits height of buildings to 8m in zones where residential flat buildings are not permitted. The site is zoned R2 Low Density Residential and residential flat buildings are prohibited in the zoned. The original application was accompanied by a Clause 4.6 Variation to vary the maximum building height as the development had an overall height to the parapet of approximately 11.5m along the Gelibolu Parade frontage and 12.2m-12.87m along the St Hilliers Road frontage. It was also noted in the report that the plant room and lift overruns were an additional 0.7m in height above the building parapet.

The subject application proposes to increase the size of the plant room located on the southern side of the building from 7m x 10m to 7m x 19.5m and increase the height an additional 1.05m so as the plant room would be 1.75 in height above the building parapet.

Although the approved building exceeds the maximum height of 8m under the SEPP it was considered that a variation under Clause 4.6 was justified. The proposal to increase the height and size of the plant room will not add to bulk and scale of the building as it will be setback approximately 14.5 from the St Hilliers Road elevation and between 5m and 31m from the Gelibolu Parade frontage. Further, the applicant has submitted amended shadow diagrams which show that no additional overshadowing is cast over residential properties in the vicinity of the site (Refer to diagrams below). For these reasons, the proposed modification is considered to be acceptable in this instance having regard to the relevant Design Principles of the SEPP.



3PM Winter solstice shadow diagram - APPROVED DEVELOPMENT



3PM Winter solstice shadow diagram - MODIFIED DEVELOPMENT

*Part 7 Development standards that cannot be used as grounds to refuse consent,
Division 2 Residential Care Facilities*

- *Clause 48(a) density and scale*

The proposed modifications include an increase in the area of the internal activity room and lounge area, located on the eastern and western sides of central courtyard, and infilling void areas along the Gelibolu Road frontage over all three floors of the building. This is an increase of 239sqm GFA. The development was originally approved with an FSR of 1.55:1. The proposed FSR is 1.62:1 (Site area – 3,872sqm, GFA – 6,256sqm). The SEPP stipulates that a development cannot be refused if the density and scale of buildings is 1:1 or less.

At the time of consideration of the original application it was considered that the proposed development performed satisfactorily having regard to the Design Principles of the SEPP. The proposed modifications to the floor plan will not increase the intensity, density or scale of the development as it involves only a minor increase in the size of approved activity/lounge rooms which are either visible only for the internal courtyard of the development or infill asymmetric void areas in the façade. For these reasons, the proposal is considered to be satisfactory in this instance.

- *Clause 48(b) landscaped area*

As detailed above, the proposed modifications include an increase in the area of the internal activity room and lounge which are located on the eastern and western sides of central courtyard. This results in a decrease in area of the central courtyard of approximately 10.2sqm. The reduction in the total landscaped area from 1,711.6sqm to 1,701.4sqm results in a minor decrease in the landscaped area provided per resident from 16.8sqm to 16.6sqm. The SEPP stipulates that a development cannot be refused if a minimum of 25sqm of landscaped area is provided per residential care facility bed.

The landscaped area was considered to be sufficient at the time of consideration of the original application given the provision of a large central courtyard, patio area in the northern side setback, and the front and rear setbacks providing additional outdoor areas to adjoining bedrooms. The proposed modification will not impact on the useability of the large central courtyard and the loss in landscaped area is to be dedicated to internal recreation/leisure spaces for the residents. The proposed modification is therefore, considered to be acceptable in this instance.

State Environmental Planning Policy (Infrastructure) 2007

- *Subdivision 2 Development in a rail corridor*

Clause 86 – Excavation in, above or adjacent to rail corridors

In accordance with Clause 86 of State Environmental Planning Policy (Infrastructure) 2007 the application was referred for concurrence to Sydney Trains on 3 July 2015 as the development involves the penetration of ground to a depth of at least 2m below ground level (existing) on land within 25m of a rail corridor.

Receipt of the referral was acknowledged by Sydney Trains, however, a reply regarding the application has not been received to date. In accordance with Clause 86(5) consent can be granted as 21 days have passed since giving notice and the authority has not granted concurrence or refused to grant concurrence.

Clause 87 Impact of rail noise or vibration on non-rail development

The proposal is located within 25m of a railway line. Given the residential nature of the development Council requested as part of the assessment of the original application that an appropriate assessment of the potential impact of rail noise and vibration to ensure that the specified noise criteria are not exceeded in accordance with Clause 87(3)(a). An acoustic report was submitted and approved as part of the original determination. The report included recommendations with respect to the selection of mechanical plant to comply with the specified noise criteria. Further, conditions of consent were imposed requiring installation of all measures specified in the report and an acoustic report be submitted within three (3) months of the development being occupied certifying compliance. The proposed modifications to the development do not raise any further issues in this regard.

State Environmental Planning Policy No.55 – Remediation of Land

This matter of site contamination was satisfactorily addressed as part of the assessment and determination of the original application. The proposed modifications to the development do not raise any further issues in this regard, hence, Council can be satisfied that the site is suitable or can be made suitable to accommodate the proposed development in accordance with clause 7 of the SEPP.

Regional Environmental Plans

The proposed development is affected by the following Regional Environmental Plans:

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed modifications do not raise any issues as to consistency with the objectives and requirements of the SREP.

(Note: - the subject site is not identified in the relevant map as 'land within the 'Foreshores and Waterways Area' or 'Wetland Protection zone', is not a 'Strategic Foreshore Site' and does not contain any heritage items. Hence the majority of the SREP is not directly relevant to the proposed development).

Local Environmental Plans

Auburn Local Environmental Plan 2010

The provisions of Auburn Local Environmental Plan (ALEP 2010) are applicable to the development proposal and were considered in detail in the assessment of the original application. The proposed modification application raises no further issues as to consistency with ALEP 2010.

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

The proposed development is not affected by any relevant Draft Environmental Planning Instruments.

The provisions of any Development Control Plans (EP& A Act s79C(1)(a)(iii))

Auburn Development Control Plan (ADCP) 2010

The relevant requirements and objectives of ADCP 2010 were discussed in detail in the assessment of the original application. The proposed modification application raises no further issues as to consistency with ADCP 2010.

(a) Detached Dwellings and Dual Occupancies

Although this chapter of ADCP 2010 is not applicable to the subject development, the site is located in the R2 Low Density Residential development within an area of existing detached residential dwellings. Taking the context of the site into consideration, condition no. 108 was imposed on the original consent requiring that any fencing constructed forward of the building line be limited to a maximum height of 1.2m and a minimum of 50% transparent in accordance with the DCP requirements so as to be compatible with existing and future development.

The applicant is proposes that the condition be amended to increase the height to a maximum of 1.8m to allow for additional security to the development. The submitted plans shows a combination of masonry and open style metal palisade fencing along the St Hilliers Road frontage a small portion of the Gelibolu Parade frontage. The fencing will still allow for causal surveillance of the street and will not detract from surrounding development. The proposed modification to the condition is therefore supported in this instance.

Section 94 Contributions Plan

A condition of consent was imposed on the original application requiring the payment of S.94 contributions for the additional residents, and neighbourhood shop, associated with the development. The following amount is payable:

Item	Amount
Community Facilities	\$45,649.52
Public Domain	\$100,964.52
Accessibility and Traffic	\$27,799.61
Administration	\$10,711.66
Employment Generating Development (Exc HBW,Carter)	\$894.93
TOTAL	\$186,020.25

As part of the subject S.96 application the applicant is seeking to delete the condition requiring the payment of S.96 contributions (Condition no. 6) on the basis that the organisation, NSW Auburn Turkish Islamic Cultural Centre Incorporated ("NATICCI") is non-profit organisation and the occupants of the subject facility are unlikely to ever visit or use the facilities for which Council is levying a contribution. A copy of the applicant's submission is provided as an Attachment to this report.

Council's S.94 Planner has provided the following comments in respect of the application:

The ADCP 2007 [Auburn Development Contributions Plan (Amendment No. 1)] requires under 3.6 Policies on exemptions:

Exemptions may be considered only in the following cases and under the following conditions:

1. *Policy on development contributions and affordable housing*

Council may consider exempting other developments which provide affordable housing for aged and disabled persons, and developments which provide affordable housing for the general community, subject to certain criteria:

- *In the case of privately owned housing for aged and disabled persons, the applicant must justify that the proposal will provide permanent*

housing for such persons. A caveat to this effect may be placed on the title of the resultant development.

For a S94 exemption the applicant must show: The proposal will provide affordable (low cost) housing for the general community, (and preferably managed by a non-profit community housing provider) to support an exemption from contributions under this Plan.

2. Policy on merit exemptions to development contributions

It is not always possible to identify all developments which may be able to make a meritorious case for exemptions from contributions under this Plan. This clause details the limited opportunity for making a merit-based case for exemption.

The applicant must make a merit based case for exemption.

Council may consider, on the individual merits, a case for exempting the following types of development from the levying of development contributions:

- Developments which provide a distinct community benefit on a not-for-profit basis including but not limited to: fire stations, police stations or police shopfronts, ambulance stations and the like;*
- Development by or for non-profit organisations which provide a distinct community benefit including but not limited to: the provision of childcare services, outreach services or the like, on a cooperative or not-for-profit basis;*

The SEE on behalf of the applicant states that “NATICCI is a non-profit organisation, its objectives are all for charitable purposes”, and that NATICCI “is also a registered charity with the Australian Charities and Not-for-profits Commission”. However evidence has not been provided, but “is available on request.”

The Not For Profit (NFP) provisions of the current ADCP 2007 were only meant to apply to small-scale voluntary organisations, and not to private schools, large scale church / religious organisations, etc which are unlikely to be considered as NFP entities under current and future draft guidelines that have been under consideration by the Australian Government in recent time.

The Federal Government has released draft guidelines for NFP entities, and according to these guidelines - for a S94 exemption as a NFP entity - the NATICCI should be able to demonstrate an appropriate NFP governance structure.

While the Australian Charities and Not-for-profits Commission (ACNC) will be regulating many structures of entities, such a single set of core principles will make it easier for NFP entities to comply with the requirements. However it is understood that many existing entities currently registered with the ACNC have not, or may not, meet draft or future NFP governance requirements.

At this time it is not known - unless more detailed information, including the NATICCI governance provisions are provided - whether the NATICCI as the applicant does or could comply with an appropriate set of governance requirements to be classified as an NFP entity.

In particular, further information will be required for a determination of Not- For-Profit status for the Applicant, as this will also depend on the details of governance principles around the following areas:

- duties and minimum standards of responsible individuals, including rules for proper organisational management and running of the entity;
- disclosure requirements and managing conflicts of interest;
- risk management procedures, including external reviews and auditing requirements;
- the coverage of the minimum requirements of governing rules; and
- relationships with members (where applicable).

The proposal to delete condition no. 6 requiring the payment of S.94 contribution cannot therefore, be supported on the basis of the information submitted for Council's consideration.

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 modifications raise 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 modifications will have no significant adverse environmental, social or economic impacts in the locality.

Submissions made in accordance with the Act or Regulation (EP&A Act s79C(1)(c))Advertised (newspaper) ☒ Mail ☒ Sign ☒ Not Required ☐

In accordance with Council's Notification of Development Proposals Development Control Plan, the modification(s) was publicly exhibited for a period of 14 days between 12 April 2016 and 26 April 2016. No submissions were received in respect of the proposed development.

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

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 modifications. Accordingly, the site can be said to be suitable to accommodate the modifications. The proposed modifications have been assessed in regard to its environmental consequences and having regard to this assessment, it is considered that the modifications are suitable in the context of the site and surrounding locality.

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 modifications, if carried out subject to the conditions set out in the recommendation below, will have no significant adverse impacts on the public interest.

Operational Plan / Delivery Program

This assessment and report relates to the Auburn City Council Operational Plan and Delivery Program, Our Places – Attractive and Liveable theme, action “2a.1.1.3 Assess development applications, complying development and construction certificates”.

Conclusion

The proposed modification, under the provisions of Section 96(2), is considered acceptable having regard to the provisions of Sections 79C(1) and 96(2) of the Environmental Planning and Assessment Act 1979. The proposed modification is considered to result in a development substantially the same as that development for which consent was granted.

CONDITIONS OF DEVELOPMENT CONSENT

DA No: DA-189/2015/B
 Property: 9, 11 & 13 Gelibolu Parade and 2, 2A, 4 & 6 St Hilliers Road, AUBURN
 Description: Section 96(2) application for various modifications including internal reconfiguration of floor plan, increase in finished floor levels of Levels 1 & 2, increase in size and height of roof plant, window relocation and changes to building facade & awning

A. Amending condition no.s '1', '8' and '108' to read as follows:

1. Approved Plans

The development is to be carried out in accordance with the approved stamped plans as numbered below:

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0215 0127 LD DA 02 Landscape Plan – Courtyard – Section 96	Tract	03	10.02.2016
0215 0127 LD DA 05 S96 Section – Courtyard – Section 96	Tract	03	10.02.2016

Report on Preliminary Site investigation (Contamination and Acid Sulfate Soils) Project 84769.01 – Rev 1	Douglas Partners	1	April 2015
DA Acoustic Assessment 20150576.1/2605A/R3/MF	Acoustic Logic	3	08/07/2015

except as otherwise provided by the conditions of this determination (Note:- modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act).

Reason:- to confirm and clarify the terms of Council's approval.

8. **Obscure glazing to windows**

The windows in the northern elevation of the ~~Level 1 and~~ Level 2 dining rooms shall contain obscure glazing to a minimum height of 1.6m as measured from the finished floor level.

Details demonstrating compliance shall be submitted to the Council or accredited certifier **prior to issue of the Construction Certificate.**

Reason:- to ensure the privacy of the adjoining residential premises.

[Condition no. '8' amended by S.96(2) Modification application no. DA-189/2015/B]

108. **Front Fencing**

The front and side dividing fences (where located within the front yard area) shall not exceed a height of 1.8 metres as measured above existing ground level and shall be a minimum of 50% transparent. Front and side dividing fences (where located within the front yard area) shall not be constructed of solid pre-coated metal type materials (ie Colourbond or similar).

Reason:- to maintain reasonable levels of amenity to adjoining residential development and the streetscape and to comply with Council's Development Control Plan provisions.

[Condition no. '108' amended by S.96(2) Modification application no. DA-189/2015/B]