

Cumberland Local Environmental Plan (LEP) 2021

The relevant objectives and provisions of the Cumberland LEP 2021 have been considered in the following assessment table:

Clause	Yes	No	N/A	Comment
Part 1 Preliminary				
1.1 Name of Plan				
This Plan is <i>Cumberland Local Environmental Plan 2021</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1.1 AA Commencement				
This Plan commences on the day on which it is published on the NSW legislation website.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The plan was gazetted on 5 November 2021.
1.2 Aims of Plan				
(1) This Plan aims to make local environmental planning provisions for land in Auburn in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.	<input checked="" type="checkbox"/>			<p>The modified development is considered to be satisfactory with regard to the aims of this plan.</p> <p>The modified proposal is an appropriate development for the land and its context.</p>
(2) The particular aims of this Plan are as follows—	<input checked="" type="checkbox"/>			
(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,				
(a) to provide a comprehensive planning framework for the sustainable development of land in Cumberland,				
(b) to provide for a range of land uses and development in appropriate locations to meet community needs,				
(c) to facilitate economic growth and employment opportunities within Cumberland,				
(d) to conserve and maintain the natural, built and cultural heritage of Cumberland,				
(e) to provide for community facilities and services in Cumberland to meet the needs of residents, workers and visitors,				
(f) to promote development that is environmentally sustainable.				

<p>1.3 Land to which Plan applies</p> <p>(1) This Plan applies to the land identified on the Land Application Map.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The plan applies to the site.</p>
<p>1.4 Definitions</p> <p>The Dictionary at the end of this Plan defines words and expressions for the purposes of this Plan.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<p>1.6 Consent authority</p> <p>The consent authority for the purposes of this Plan is (subject to the Act) the Council.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<p>1.8 Repeal of planning instruments applying to land</p> <p>(1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.</p> <p>(2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The application was lodged under the Cumberland Local Environmental Plan and is assessed under that current instrument.</p>
<p>1.8A Savings provision relating to development applications</p> <p>If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The application was lodged under the Cumberland Local Environmental Plan and is assessed under that current instrument.</p>
<p>1.9 Application of SEPPs</p> <p>(1) This Plan is subject to the provisions of any State environmental planning policy that prevails over this Plan as provided by section 36 of the Act.</p> <p>(2) The following State environmental planning policies (or provisions) do not apply to the land to which this Plan applies:</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>There are a number of State Policies relevant to the development application which are addressed elsewhere.</p>
<p>1.9A Suspension of covenants, agreements and instruments</p> <p>(1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a development consent granted under the Act, any agreement, covenant or other similar instrument that restricts the</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Noted.</p>

<p>carrying out of that development does not apply to the extent necessary to serve that purpose.</p> <p>(2) This clause does not apply:</p> <p>(a) to a covenant imposed by the Council or that the Council requires to be imposed, or</p> <p>(b) to any prescribed instrument within the meaning of section 183A of the <i>Crown Lands Act 1989</i>, or</p> <p>(c) to any conservation agreement within the meaning of the <i>National Parks and Wildlife Act 1974</i>, or</p> <p>(d) to any Trust agreement within the meaning of the <i>Nature Conservation Trust Act 2001</i>, or</p> <p>(e) to any property vegetation plan within the meaning of the <i>Native Vegetation Act 2003</i>, or</p> <p>(f) to any biobanking agreement within the meaning of Part 7A of the <i>Threatened Species Conservation Act 1995</i>, or</p> <p>(g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.</p> <p>(3) This clause does not affect the rights or interests of any public authority under any registered instrument.</p> <p>(4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).</p>	<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 checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	
Part 2 Permitted or prohibited development				
<p>2.1 Land use zones</p> <p>Business Zones</p> <p>E1 Local Centre</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The land is zoned E1 Local Centre. The proposed development is permitted with consent on land so zoned.</p>
<p>2.2 Zoning of land to which Plan applies</p> <p>For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The land is zone E1 Local Centre.</p>
<p>2.3 Zone objectives and land use table</p> <p>(1) The Table at the end of this Part specifies for each zone:</p> <p>(a) the objectives for development, and</p> <p>(b) development that may be carried out without consent, and</p> <p>(c) development that may be carried out only with consent, and</p> <p>(d) development that is prohibited.</p> <p>(2) The consent authority must have regard to the objectives for development in a</p>	<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"/>	<p>The zone objectives have been considered during the assessment of the development application.</p> <p>The proposed development is consistent with the relevant zone objectives and furthers those objectives.</p>

<p>zone when determining a development application in respect of land within the zone.</p> <p>(3) In the Table at the end of this Part:</p> <p>(a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and</p> <p>(b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.</p> <p>(4) This clause is subject to the other provisions of this Plan.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<p>2.4 Unzoned land</p> <p>(1) Development may be carried out on unzoned land only with consent.</p> <p>(2) Before granting consent, the consent authority:</p> <p>(a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and</p> <p>(b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Not applicable as the land is zoned.</p>
<p>2.6 Subdivision—consent requirements</p> <p>(1) Land to which this Plan applies may be subdivided, but only with consent.</p> <p><u>Notes:-</u></p> <p>1 <i>If a subdivision is specified as exempt development in an applicable environmental planning instrument, such as this Plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, the Act enables it to be carried out without development consent.</i></p> <p>2 <i>Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides that the strata subdivision of a building in certain circumstances is complying</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Subdivision is not proposed.</p>

<p>development.</p> <p>(2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="checked" type="checkbox"/>	
<p>2.7 Demolition requires consent</p> <p>The demolition of a building or work may be carried out only with consent.</p> <p>Note. If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this plan or <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> as exempt development, the Act enables it to be carried out without development consent.</p>	<input checked="checked" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Demolition was approved under the parent Development Application.
<p>Zone E1 Local Centre</p> <p>1 Objectives of zone</p> <ul style="list-style-type: none"> To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area. To encourage investment in local commercial development that generates employment opportunities and economic growth. To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. To promote active street frontages on the ground floor of buildings that attract pedestrian traffic and that facilitate active and vibrant centres with inviting public domain areas. <p>2 Permitted without consent</p> <p>Home occupations</p> <p>3 Permitted with consent</p> <p>Amusement centres; Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Entertainment facilities; Function centres; Group homes; Home industries; Hostels; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation facilities (indoor); Respite day care centres; Service stations; Shop top housing;</p>	<input checked="checked" type="checkbox"/> <input checked="checked" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<p>The proposed development meets the relevant objectives of the zone by providing community uses that serve the needs of the local community.</p> <p>The proposal contributes to local employment and economic growth of the centre. The facility contributes to the vitality of the centre.</p> <p>The facility maintains the active streetfront.</p> <p>The proposed development is permissible with consent in the E1 Local Centre zone as a <i>registered club</i>.</p>

<p>Tank-based aquaculture; Veterinary hospitals; Any other development not specified in item 2 or 4</p> <p>4 Prohibited</p> <p>Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Port facilities; Recreation facilities (major); Research stations; Residential accommodation; Rural industries; Sewerage systems; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities; Wholesale supplies</p>				
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Part 4 Principal development standards

<p>4.1 Minimum subdivision lot size</p>				
<p>(1) The objectives of this clause are as follows:</p> <p>(a) to ensure that lot sizes are able to accommodate development consistent with relevant development controls, and</p> <p>(b) to ensure that subdivision of land is capable of supporting a range of development types.</p> <p>(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.</p> <p>(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.</p> <p>(3A) Despite subclause (3), the minimum lot size for dwelling houses is 450 square</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	<p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>	<p>Subdivision is not proposed.</p>

<p>metres.</p> <p>(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.</p> <p>(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:</p> <p>(a) dwelling houses:</p> <p>(i) 350 square metres, or</p> <p>(ii) if a garage will be accessed from the rear of the property - 290 square metres, or</p> <p>(iii) if the dwelling house will be on a zero lot line - 270 square metres,</p> <p>(b) semi-detached dwellings - 270 square metres,</p> <p>(c) multi dwelling housing - 170 square metres for each dwelling,</p> <p>(d) attached dwellings - 170 square metres.</p> <p>(4) This clause does not apply in relation to the subdivision of any land:</p> <p>(a) by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or</p> <p>(b) by any kind of subdivision under the Community Land Development Act 1989.</p>				
<p>4.3 Height of buildings</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to establish a maximum height of buildings to enable appropriate development density,</p> <p>(b) to ensure that the height of buildings is compatible with the character of the locality,</p> <p>(c) to minimise the visual impact of development,</p> <p>(d) to ensure sufficient solar access and privacy for neighbouring properties.</p>				

<p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p> <p>(2A) The maximum height of office premises and hotel or motel accommodation in the “Parramatta Road Precinct”, shown edged orange on the Height of Buildings Map, is 27 metres.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The maximum height of buildings specified on the map is part 60 metres and part 38m.</p> <p>The development proposes a height of 18.98m.</p> <p>The land is not within any of those precincts.</p>
<p>4.4 Floor space ratio</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to establish a maximum floor space ratio to enable appropriate development density,</p> <p>(b) to ensure that development intensity reflects its locality.</p> <p>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The prescribed floor space ratio is part 5.0:1 and part 3.5:1.</p> <p>The proposed development provides a GFA of 13,183.42m² which results in an FSR of 0.63:1.</p>
<p>4.5 Calculation of floor space ratio and site area</p> <p>(1) Objectives</p> <p>The objectives of this clause are as follows:</p> <p>(a) to define floor space ratio,</p> <p>(b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to:</p> <p>(i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and</p> <p>(ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and</p> <p>(iii) require community land and public places to be dealt with separately.</p> <p>(2) Definition of “floor space ratio”</p> <p>The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site area.</p> <p>(3) Site area</p> <p>In determining the site area of proposed</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Noted.</p>

development for the purpose of applying a floor space ratio, the *site area* is taken to be:

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

(4) Exclusions from site area

The following land must be excluded from the site area:

- (a) land on which the proposed development is prohibited, whether under this Plan or any other law,
- (b) community land or a public place (except as provided by subclause (7)).

(5) Strata subdivisions

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.

Strata subdivision is not proposed by this application.

(6) Only significant development to be included

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.

(7) Certain public land to be separately considered

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.

(8) Existing buildings

The gross floor area of any existing or

<p>is expressly excluded from the operation of this clause.</p>				
<p>(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:</p> <p>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p> <p>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(4) Consent must not be granted for development that contravenes a development standard unless:</p> <p>(a) the consent authority is satisfied that:</p> <p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), 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> <p>(b) the concurrence of the Director-General has been obtained.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<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> <p>(b) the public benefit of maintaining the development standard, and</p> <p>(c) 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) Development consent must not be granted under this clause for a subdivision of land in Zone RUI Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:</p> <p>(a) The subdivision will result will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or</p> <p>(b) The subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</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> <p>(8) This clause does not allow consent to be granted for development that would contravene any of the following:</p> <p>(a) a development standard for complying development,</p> <p>(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> applies or for the land on which such a building is situated,</p> <p>(c) clause 5.4.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Part 5 Miscellaneous provisions				
5.6 Architectural roof features				
<p>(1) The objectives of this clause are:</p> <p>(a) To ensure that any decorative roof element does not detract from the architectural design of the building, and</p> <p>(b) To ensure that prominent architectural roof features are contained within the height limit.</p> <p>(2) Development that includes an architectural roof feature that exceeds, or</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

<p>causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with consent.</p> <p>(3) Development consent must not be granted to any such development unless the consent authority is satisfied that:</p> <p>(a) the architectural roof feature:</p> <p>(i) comprises a decorative element on the uppermost portion of a building, and</p> <p>(ii) is not an advertising structure, and</p> <p>(iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and</p> <p>(iv) will cause minimal overshadowing, and</p> <p>(a) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>5.10 Heritage conservation</p> <p>Note. Heritage items, if any are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.</p> <p>(1) Objectives</p> <p>The objectives of this clause are as follows:</p> <p>(a) to conserve the environmental heritage of Auburn,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p> <p>(2) Requirement for consent</p> <p>Development consent is required for any of the following:</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The subject site is not heritage listed and is not located within a heritage conservation area. The site is located within the vicinity of seven (7) heritage items, being:</p> <ul style="list-style-type: none"> - Item 31 – Hotel Lidcombe – John Street, Lidcombe; - Item 32 – Lidcombe Fire Station – 37 Church Street, Lidcombe; - Item 33 – Lidcombe Police Station – 11 John Street, Lidcombe; - Item 35 – Lidcombe Public School and Infants Department – Corner John Street, Doodson Avenue and Mill Street, Lidcombe; - Item 39 – St Joachims Catholic Church, Parish Hall and School – John Street and 7 Mary Street, Lidcombe. - Item 40 – Wyatt Park, Haslams Creek, Lidcombe Pool, Lidcombe Oval, Stormwater Drain – Park bounded by Olympic Drive and Boorea Street, Percy and Church Streets and

<p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):</p> <p>(i) a heritage item,</p> <p>(ii) an Aboriginal object,</p> <p>(iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</p> <p>(c) 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,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land:</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,</p> <p>(f) subdividing land:</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.</p> <p>(3) When consent not required</p> <p>However, development consent under this clause is not required if:</p> <p>(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 proposed development:</p> <p>(i) is of a minor nature, or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site, or a</p>				<p>- Item 41 – Stand of Eucalyptus Microcorys – Olympic Drive, Lidcombe.</p> <p>The proposed development is not envisaged to have any adverse impact on those heritage items.</p>
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

<p>building, work, relic, tree or place within the heritage conservation area, and</p> <p>(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or</p> <p>(b) the development is in a cemetery or burial ground and the proposed development:</p> <p>(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</p> <p>(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or</p> <p>(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</p> <p>(d) the development is exempt development.</p>				
<p>(4) Effect of proposed development on heritage significance</p> <p>The consent authority must, before granting consent under this clause, in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<p>(5) Heritage assessment</p> <p>The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

<p>(6) Heritage conservation management plans</p> <p>The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.</p>				
<p>(7) Archaeological sites</p> <p>The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):</p> <p>(a) notify the Heritage Council of its intention to grant consent, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(8) Aboriginal places of heritage significance</p> <p>The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance: 2010 No 616 Auburn Local Environmental Plan 2010 Clause 5.11 Miscellaneous provisions Part 5 Page 47</p> <p>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and</p> <p>(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate about the application and take into consideration any response received within 28 days after the notice is sent.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>(9) Demolition of nominated State heritage items</p> <p>The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:</p> <p>(a) notify the Heritage Council about the application, and</p> <p>(b) take into consideration any response</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

<p>the potential flood affectation of other development or properties, and (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and (d) incorporates appropriate measures to manage risk to life in the event of a flood, and (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> <p>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters— (a) the impact of the development on projected changes to flood behaviour as a result of climate change, (b) the intended design and scale of buildings resulting from the development, (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood, (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p> <p>(4) A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.</p> <p>(5) In this clause— <i>Considering Flooding in Land Use Planning Guideline</i> means the <i>Considering Flooding in Land Use Planning Guideline</i> published on the Department's website on 14 July 2021. <i>flood planning area</i> has the same meaning as it has in the <i>Floodplain Development Manual</i>. <i>Floodplain Development Manual</i> means the <i>Floodplain Development Manual</i>(ISBN 0 7347 5476 0) published by the NSW Government in April 2005.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
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Part 6 Additional local provisions

6.1 Acid sulfate soils

<p>(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The land is given a Class 5 rating and is within 500m of land with a higher classification.</p>
<p>(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Geotechnical matters were considered at the time the Development Application was considered and are unchanged by this modification.</p>

on the Acid Sulfate Soils Map as being of the class specified for those works.

Class	Works of land
1	Any works
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
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.
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.
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.

(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.

(4) Despite subclause (2) Development consent is not required under this clause for the carrying out of works if:

(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

(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.

(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following

<p>works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):</p> <p>(a) emergency work, being the repair or replacement of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,</p> <p>(b) routine management work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),</p> <p>(c) minor work, being work that costs less than \$20,000 (other than drainage work).</p> <p>(6) Despite subclause (2), development consent is not required under this clause to carry out any works if:</p> <p>(a) the works involve the disturbance of more than 1 tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins) or foundations, or flood mitigation works, or</p> <p>(b) the works are likely to lower the water table.</p>				
<p>6.2 Earthworks</p> <p>(1) The objectives of this clause are as follows:</p> <p>(a) to ensure that earthworks for which a development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features of the surrounding land,</p> <p>(b) to allow earthworks of a minor nature without separate development consent.</p> <p>(2) Development consent is required for earthworks, unless:</p> <p>(a) the work does not alter the ground level (existing) by more than 600 millimetres, or</p> <p>(b) the work is exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(c) the work is ancillary to other development for which development consent has been</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Earthworks were considered at the time the Development Application was considered. The modification deletes the extension of the basement carpark.</p>

<p>given.</p> <p>(3) Before granting development consent for earthworks, the consent authority must consider the following matters:</p> <p>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</p> <p>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or of the soil to be excavated, or both,</p> <p>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</p> <p>Note. The <i>National Parks and Wildlife Act 1974</i>, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<p>6.4 Essential Services</p> <p>(1) Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage.</p> <p>(d) stormwater drainage or on-site conservation,</p> <p>(e) suitable road access.</p> <p>(2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any essential service referred to in this clause.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Services are provided to the site.</p>
<p>66.7 Stormwater management</p> <p>(1) The objectives of this clause are as follows—</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Stormwater was considered under the original</p>

<p>(a) to minimise the impacts of urban stormwater on properties, native vegetation and receiving waters,</p> <p>(b) to avoid adverse impacts on soils and land stability,</p> <p>(c) to protect the environmental values of water identified for urban waterways in the Sydney Harbour and Parramatta River and Georges River catchments.</p> <p>(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if the impact cannot be reasonably avoided, minimises and mitigates the impact.</p>			<p>development application.</p>
<p>6.13 Ground floor development in Zones E1, E2 and MU1</p> <p>(1) The objective of this clause is to ensure that active uses are provided at the street level in certain business zones to encourage the presence and movement of people.</p> <p>(2) This clause applies to land in the following zones—</p> <p>(a) Zone E1 Local Centre,</p> <p>(b) Zone E2 Commercial Centre</p> <p>(c) Zone B4 Mixed Use.</p> <p>(3) Development consent must not be granted to development for the purposes of commercial premises, mixed use development that includes commercial</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	<p><input checked="" type="checkbox"/> The land is zoned E1 and as such this clause is applicable.</p> <p><input checked="" type="checkbox"/> The street front comprises active uses.</p>

