ATTACHMENT 6

Auburn Local Environmental Plan (LEP) 2010

The relevant objectives and provisions of Auburn LEP 2010 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 Auburn Local Environmental Plan 2010.	\boxtimes			
1.1 AA Commencement				
This Plan commences on the day on which it is published on the NSW legislation website.	\square			The plan was gazetted on 29 October 2010.
1.2 Aims of Plan				
 This Plan aims to make local environmental planning provisions for land in Auburn in accordance with the relevant standard environmental planning instrument under section 33A of the Act. The particular aims of this Plan are as follows: 				
 a. to establish planning standards that are clear, specific and flexible in their application, b. to foster integrated, sustainable development that contributes to Auburn's environmental, social and physical well being 	\boxtimes			
 physical well-being, c. to protect areas from inappropriate development, d. to minimise risk to the community by restricting development in sensitive areas, e. to integrate principles of ecologically sustainable development into land use 	\boxtimes			The proposed development is considered to be satisfactory with regard to the aims of this plan. The proposal is an appropriate development for the land and its context.
controls, f. to protect, maintain and enhance the natural ecosystems, including watercourses, wetlands and riparian land,				
g. to facilitate economic growth and	\bowtie			
 employment opportunities within Auburn, h. to identify and conserve the natural, built and cultural heritage, 				
i. to provide recreational land, community facilities and land for public purposes.				
1.3 Land to which Plan applies				
(1) This Plan applies to the land identified on the Land Application Map.	\boxtimes			The plan applies to the site.
Note. Part 23 of Schedule 3 to the State Environmental Planning Policy (Major				

Clause	Yes	No	N/A	Comment
Development) 2005 applies to certain land identified on the Land Application Map.				
(2) Despite subclause (1), this Plan does not apply to the land identified on the Land Application Map as "Deferred matter".			\boxtimes	
1.6 Consent authority				
The consent authority for the purposes of this Plan is (subject to the Act) the Council.	\square			
1.9 Application of SEPPs and REPs				
(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.	\boxtimes			SEPP (Affordable Rental Housing) is relevant to the development application and is considered in a separate assessment.
(2) The following State environmental planning policies (or provisions) do not apply to the land to which this Plan applies:			\boxtimes	The state policies specified in subclause (2) are not relevant to this application.
State Environmental Planning Policy No 1— Development Standards.				
Sydney Regional Environmental Plan No 24 Homebush Bay Area.				
1.9A Suspension of covenants, agreements and instruments				
 (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 carrying out of that development does not apply to the extent necessary to serve that purpose. 				
 (2) This clause does not apply: (a) to a covenant imposed by the Council or that the Council requires to be imposed, or (b) to any prescribed instrument within the meaning of section 183A of the <i>Crown Lands Act 1989</i>, or (c) to any conservation agreement within the meaning of the <i>National Parks and Wildlife Act 1974</i>, or (d) to any Trust agreement within the meaning of the <i>Nature Conservation Trust Act 2001</i>, or (e) to any property vegetation plan within the meaning of the <i>Native Vegetation Act 2003</i>, or (f) to any biobanking agreement within the meaning of Part 7A of the <i>Threatened Species Conservation Act 1995</i>, or 				

Cla	Clause		No	N/A	Comment
	(g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.				
(3)	This clause does not affect the rights or interests of any public authority under any registered instrument.			\boxtimes	
(4)	Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).			\boxtimes	
	2 Permitted or prohibited development				1
2.1	Land use zones				
В	usiness Zones				
B4	4 Mixed Use				The land is zone B4 Mixed Use. Boarding houses, retail premises and food and drink premises are permitted with consent on land so zoned.
2.2 2	Zoning of land to which Plan applies				
	the purposes of this Plan, land is within zones shown on the Land Zoning Map.	\boxtimes			
2.3	Zone objectives and land use table				
(1)	The Table at the end of this Part specifies for each zone:				
	(a) the objectives for development, and				The zone objectives have been considered during the assessment of the development application.
	(b) development that may be carried out without consent, and				
	(c) development that may be carried out only with consent, and				
	(d) development that is prohibited.				
(2)	(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.				
(3)	In the Table at the end of this Part:				
	 (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 				
	(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.				
(4)	This clause is subject to the other provisions of this Plan.				

Clause	Yes	No	N/A	Comment
Notes.				
1. Schedule 1 set out additional permitted uses for particular land.			\boxtimes	
2. Schedule 2 sets out exempt development (which is generally exempt from both Parts 4 and 5 of the Act). Development in the land use table that may be carried out without consent is nevertheless subject to the environmental assessment and approval requirements of Part 5 of the Act or, if applicable, Part 3A of the Act.				
3. Schedule 3 sets out complying development (for which a complying development certificate may be issued as an alternative to obtaining development consent).				
4. Clause 2.6 requires consent for subdivision of land.				
5. Part 5 contains other provisions which require consent for particular development.				
6. Part 6 contains local provisions which require consent for particular development.2.4 Unzoned land				
 Development may be carried out on unzoned land only with consent. 			\boxtimes	Not applicable as the land is zoned.
(2) Before granting consent, the consent authority:			\square	
 (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 				
(b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.				
2.6 Subdivision—consent requirements				
(1) Land to which this Plan applies may be subdivided, but only with consent.			\square	Subdivision is not proposed under this application.
Notes:-				
1 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.				
2 Part 6 of State Environmental Planning Policy (Exempt and Complying				

Clause	Yes	No	N/A	Comment			
Development Codes) 2008 provides that the strata subdivision of a building in certain circumstances is complying development .							
(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.							
2.7 Demolition requires consent The demolition of a building or work may be							
carried out only with consent. Note. If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this plan or <i>State</i>				Consent for demolition is sought by this Development Application.			
<i>Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> as exempt development, the Act enables it to be carried out without development consent.							
Land Use Table							
Note. A type of development referred to in the Land Use Table is a reference to that type of development only to the extent it is not regulated by an applicable State environmental planning policy. The following State environmental planning policies in particular may be relevant to development on land to which this Plan applies:							
 State Environmental Planning Policy No 55—Remediation of Land State Environmental Planning Policy No 64—Advertising and Signage State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 							
Zone B4 Mixed Use							
 1 Objectives of zone To provide a mixture of compatible land uses. To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. To encourage high density residential development. To encourage appropriate businesses that contribute to economic growth. To achieve an accessible, attractive and safe public domain. 				The proposed development meets the relevant objectives of the zone by providing an affordable high density residential development which is integrated with commercial activities in proximity to the Auburn public transport hub.			
2 Permitted without consent							

Clause		No	N/A	Comment
 3 Permitted with consent Backpackers' accommodation; <u>Boarding</u> <u>houses;</u> Business premises; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hostels; Hotel or motel accommodation; Information and education facilities; Office premises; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; <u>Retail premises;</u> Roads; Self-storage units; Seniors housing; Serviced apartments; Shop top housing; Warehouse or distribution centres; Any other development not specified in item 2 or 4 4 Prohibited Agriculture; Air transport facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Electricity generating works; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Coren stations; Residential accommodation; Rural industries; Sewerage systems; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Waste or resource management facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies				The proposed development is permissible with consent in the B4 Mixed Use zone, including the boarding house component and the retail premises component. boarding house means a building that— (a) is wholly or partly let in lodgings, and (b) provides lodgers with a principal place of residence for 3 months or more, and (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment. retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling items are goods or materials (or whether also sold by wholesale), and includes any of the following; (c) food and drink premises, (l) shops
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 				Further subdivision is not proposed.
 (b) to ensure that subdivision of land is capable of supporting a range of development types. (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 				

Clause		Yes	No	N/A	Comment
	this Plan.				
(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.			\boxtimes	
(3A)	Despite subclause (3), the minimum lot size for dwelling houses is 450 square metres.				
(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.				
(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:				
	(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,				
	(c) multi dwelling housing - 170 square metres for each dwelling,				
	(d) attached dwellings - 170 square metres.				
(4)	This clause does not apply in relation to the subdivision of any land:				
(a)	by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or				
(b)	by any kind of subdivision under the Community Land Development Act 1989				
4.3	Height of buildings				
(1)	The objectives of this clause are as follows:	\boxtimes			The maximum height of buildings specified on the map is 38 metres.

Clause			No	N/A	Comment
	(a) to establish a maximum building height to enable appropriate development density to be achieved, and				
	(b) to ensure that the height of buildings is compatible with the character of the locality				
(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.				The development proposes a height of 37m.
(2A)	Despite subclause (2), the maximum height of office premises and hotel or motel accommodation is:				
	 (a) if it is within the Parramatta Road Precinct, as shown edged orange on the Height of Buildings Map—27 metres, 				
	(b) if it is on land within Zone B6 Enterprise Corridor within the Silverwater Road Precinct, as shown edged light purple on the Height of Buildings Map—14 metres.				
4.4	Floor space ratio				
(1)	The objectives of this clause are as follows:				
	To establish a maximum floor space ratio to enable appropriate development density to be achieved, and				The prescribed floor space ratio is 5.0:1. The proposed development also benefits from a FSR bonus under Clause 29(1)(c)(ii) of the ARH SEPP of an additional 20%.
	To ensure that development intensity reflects its locality.				As a result, the available FSR is 6:1.
(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.				The development has a total GFA of 5,630m ² over a site area of 944m ² which results in an FSR of 5.97:1.
(2A)	Despite subclause (2), the maximum floor space ratio for development for the purpose of multi dwelling housing on land other than land within the Former Lidcombe Hospital Site, as shown edged black on the Floor Space Ratio Map, is as follows:				
	(a) for sites less than 1,300 square metres—0.75:1,				
	(b) for sites that are 1,300 square metres or greater but less than 1,800 square metres—0.80:1,				
	(c) for sites that are 1,800 square metres				

Clause		No	N/A	Comment
or greater—0.85:1.				
(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 				
(b) 3:1 for office premises and hotel or motel accommodation.				
(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:				
 (a) 1.5:1 for bulky goods premises, entertainment facilities, function centres and registered clubs, and 				
(b) 2:1 for office premises and hotel or motel accommodation.				
(2D) Despite subclause (2), the maximum floor space ratio for retail premises on land in Zone B6 Enterprise Corridor within the Commercial Precinct, as shown edged green on the Floor Space Ratio Map is 1.5:1.				
4.5 Calculation of floor space ratio and site area				
(1) Objectives				
The objectives of this clause are as follows:				
(a) to define <i>floor space ratio</i> ,	\square			Noted.
 (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: 				
 (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and 				
(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				
(iii) require community land and public places to be dealt with separately.				
(2) Definition of "floor space ratio"				

Clause	Yes	No	N/A	Comment
The <i>floor space ratio</i> of buildings on a site is the ratio of the gross floor area of all buildings within the site area.				
(3) Site area				
In determining the site area of proposed development for the purpose of applying a floor space ratio, the <i>site area</i> is taken to be:	\boxtimes			
 (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.				Only the lots affected by the development are included in the floor space ratio calculation.
(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			\square	

Clause	Yes	No	N/A	Comment
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 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.				
(9) Covenants to prevent "double dipping"				
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.				
(10) Covenants affect consolidated sites				
If: (a) a covenant of the kind referred to in subclause (9) applies to any land (<i>affected land</i>), and			\boxtimes	
(b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,				
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.				
(11) Definition				
In this clause, <i>public place</i> has the same meaning as it has in the <i>Local Government Act</i> 1993.				

4.6	Exceptions to develo	pment standards			
(1)	The objectives of this	s clause are:			
	 (a) to provide an ap flexibility in development sta development, an 	applying certain andards to particular		\square	No Clause 4.6 variation is required.
	(b) to achieve better from developm flexibility in partic				
(2)	Consent may, subject granted for develop the development we development standa or any other envir instrument. However not apply to a develop is expressly excluded of this clause.	oment even though yould contravene a rd imposed by this ronmental planning r, this clause does opment standard that			
(3)	Consent must not development that development stand consent authority written request from seeks to justify the development standar	contravenes a dard unless the has considered a in the applicant that contravention of the			
	(a) that complia development unreasonable or circumstances o	standard is unnecessary in the			
		are sufficient planning grounds to ing the development			
(4)	Consent must not development that development standar	contravenes a			
	(a) the consent au that:	uthority is satisfied			
	has adequa matters	nt's written request ately addressed the required to be ed by subclause (3),			
	be in th because it is objectives standard an developmen which the	ed development will e public interest s consistent with the of the particular ad the objectives for th within the zone in development is be carried out, and			

	(b) the concurrence of the Director- General has been obtained.			
(5)	In deciding whether to grant concurrence, the Director-General must consider:			
	 (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and 		\boxtimes	
	 (b) the public benefit of maintaining the development standard, and 			
	(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.			
(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:			
	(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		\square	
	(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.			
(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).			
(8)	This clause does not allow consent to be granted for development that would contravene any of the following:			
	(a) a development standard for complying development,			
	(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 State Environmental Planning Policy			

	(Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,			
Part	(c) clause 5.4. 5 Miscellaneous provisions			
	Architectural roof features			
(1)	The objectives of this clause are:		\boxtimes	
	(a) To ensure that any decorative roof element does not detract from the architectural design of the building, and			
	(b) To ensure that prominent architectural roof features are contained within the height limit.			
(2)	Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with consent.			
(3)	Development consent must not be granted to any such development unless the consent authority is satisfied that:		\boxtimes	
	(a) the architectural roof feature:			
	(i) comprises a decorative element on the uppermost portion of a building, and			
	(ii) is not an advertising structure, and			
	 does not include floor space area and is not reasonably capable of modification to include floor space area, and 			
	(iv) will cause minimal overshadowing, and			
	(b) 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.			
5.9 I	Preservation of trees or vegetation			
(1)	The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.			No trees are situated on the land.
(2)	This clause applies to species or kinds of trees or other vegetation that are		\boxtimes	

prescribed for the purposes of this clause by a development control plan made by the Council.			
Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.			
(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:			
(a) development consent, or (b) a permit granted by the Council.		\boxtimes	
(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.			
(5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.			
(6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.		\boxtimes	
(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:			
(a) that is or forms part of a heritage item, or that is within a heritage conservation area, or (b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance, unless the Council is satisfied that the proposed activity:		\boxtimes	
(c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area,			
(d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.		\boxtimes	
Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.			

(8) This clause does not apply to or in respect of:			
(a) the clearing of native vegetation:		\boxtimes	
(i) that is authorised by a development consent or property vegetation plan under the <i>Native Vegetation Act 2003,</i> or			
(ii) that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or			
(b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the <i>Native Vegetation Act</i> 2003) that is authorised by a development consent under the provisions of the <i>Native</i> <i>Vegetation Conservation Act</i> 1997 as continued in force by that clause, or			
(c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the <i>Forestry Act 1916</i> , or		\boxtimes	
(d) action required or authorised to be done by or under the <i>Electricity Supply Act 1995</i> , the <i>Roads Act 1993</i> or the <i>Surveying and Spatial</i> <i>Information Act 2002</i> , or			
(e) plants declared to be noxious weeds under the <i>Noxious Weeds Act</i> 1993.		\boxtimes	
Note. Permissibility may be a matter that is determined by or under any of these Acts.			
(9) Not adopted			
5.9AA Trees or vegetation not prescribed by development control plan			
(1) This clause applies to any tree or other vegetation that is not of a species or kind prescribed for the purposes of clause 5.9 by a development control plan made by the Council.			No tree removal is required by this development application. Minor vegetation is proposed to be removed.
(2) The ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted without development consent.			

5.10 Heritage conservation			
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.			
(1) Objectives			
The objectives of this clause are as follows:		\boxtimes	The subject land is not affected by an item of
(a) to conserve the environmental heritage of Auburn,			environmental heritage. There are no items of environmental heritage
(b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views,			within proximity of the subject land.
(c) to conserve archaeological sites,			
(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.			12 Miller
(2) Requirement for consent			
Development consent is required for any of the following:		\square	Note: Item I8 is situated across the railway line which physically and visually separates Kerr Parade from North Parade.
(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):			
(i) a heritage item,			
(ii) an Aboriginal object,			
(iii) a building, work, relic or tree within a heritage conservation area,			
(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,			
(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,			
(d) disturbing or excavating an Aboriginal place of heritage significance,			
(e) erecting a building on land:		\bowtie	
(i) on which a heritage item is located or that is			

within a heritage conservation area, or			
(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,			
(f) subdividing land:			
(i) on which a heritage item is located or that is within a heritage conservation area, or			
(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.			
(3) When consent not required			
However, development consent under this clause is not required if:			
(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:			
(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 building, work, relic, tree or place within the heritage conservation area, and			
(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or			
(b) the development is in a cemetery or burial ground and the proposed development:			
(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			
(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			
(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			
(d) the development is exempt development.			
(4) Effect of proposed development on heritage significance			
The consent authority must, before granting consent under this clause, in respect of a		\boxtimes	

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).			
(5) Heritage assessment			
The consent authority may, before granting consent to any development:		\boxtimes	
(a) on land on which a heritage item is located, or			
(b) on land that is within a heritage conservation area, or			
(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),		_	
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.			
(6) Heritage conservation management plans			
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.			
(7) Archaeological sites			
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):		\boxtimes	
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			
 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): (a) notify the Heritage Council of its intention 			
 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): (a) notify the Heritage Council of its intention to grant consent, and (b) take into consideration any response received from the Heritage Council within 28 			

of development in our Aleximinal place of			
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 (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 (b) notify the local Aboriginal communities, in		\boxtimes	
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.			
(9) Demolition of nominated State heritage items			
The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:			
(a) notify the Heritage Council about the application, and		\boxtimes	
(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.			
(10) Conservation incentives		\boxtimes	
The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:			
(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and		\boxtimes	
(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and			
(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and		\boxtimes	
(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of			

heritage significance, and (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.			
Part 6 Additional local provisions	1	1	1
 6.1 Acid sulfate soils (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. 			The land is given a Class 5 rating however is not within 500m of land with a higher classification.
(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.			
Class Works of land			
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		\boxtimes	

-				
	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.			
(•	 Despite subclause (2) Development consent is not required under this clause for the carrying out of works if: 		\boxtimes	
(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 works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):			
(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, 			
(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), 			
(minor work, being work that costs less than \$20,000 (other than drainage work).			
(b) Despite subclause (2), development consent is not required under this clause to carry out any works if:		\boxtimes	
(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 			
(b) the works are likely to lower the water table.			

6.2 Earthworks			
(1) The objectives of this clause are as follows:	\boxtimes		Earthworks (excavation for the basement) are proposed as part of the development application.
 (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, 			
(b) to allow earthworks of a minor nature without separate development consent.			
(2) Development consent is required for earthworks, unless:	\square		
(a) the work does not alter the ground level (existing) by more than 600 millimetres, or			
(b) the work is exempt development under this Plan or another applicable environmental planning instrument, or			
(c) the work is ancillary to other development for which development consent has been given.			
(3) Before granting development consent for earthworks, the consent authority must consider the following matters:		_	
 (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality, 			
(b) the effect of the proposed development on the likely future use or redevelopment of the land,			
(c) the quality of the fill or of the soil to be excavated, or both,			
(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,			
(e) the source of any fill material and the destination of any excavated material,			
(f) the likelihood of disturbing relics,			
(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.			
Note. The <i>National Parks and Wildlife Act</i> 1974, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.			

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,		\square	The subject land is not mapped as a flood planning lot.
(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		\square	
(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</i> <i>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.			
<i>Flood Planning Map</i> means the Auburn Local Environmental Plan 2010 Flood Planning Map.			
6.5 Essential Services(1) Development consent must not be			Services are provided to the site.
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: (a) the supply of water,			
(b) the supply of electricity,			
(c) the disposal and management of			
sewage. (d) stormwater drainage or on-site conservation,			
(e) suitable road access.			
(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.			
6.6 Particular dual occupancy subdivisions			
must not be approved			
(1) Development consent must not be granted for a subdivision that would create separate titles for each of the two dwellings resulting from a dual occupancy development.			Not applicable.
(2) This clause does not apply in relation to the subdivision under either of the following Acts:		\square	
(a) The Community Land Development Act 1989.			
(b) The Strata Schemes (Freehold Development Act 1973).			
6.8 Arrangements for contributions to designated State public infrastructure (Carter Street Priority Precinct)			
 (1) The objective of this clause is to require assistance towards the provision of designated State public infrastructure to satisfy needs arising from intensive development for residential accommodation and commercial purposes on the land identified as "Carter Street Priority Precinct" on the Priority Precinct Map (Carter Street Priority Precinct land). (2) This clause applies to development for residential accommodation) on Carter Street Priority Precinct land. (3) Development consent must not be granted for development to which this clause applies unless the Secretary has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the 			The land is not within the Carter Street Precinct.

	provision of designated State public infrastructure in relation to that			
	development.			
(4)	This clause does not apply to the			
(2)	granting of development consent if: the development will not result in an			
(a)	increase in the floor space for residential			
	accommodation and commercial			
	purposes provided on Carter Street			
	Priority Precinct land, or			
(b)	the whole or any part of the land on			
	which the development is to be carried out is in a special contributions area (as			
	defined by section 93C of the Act).			
(5)	In this clause, <i>designated State public</i>			
	infrastructure means public facilities or			
	services that are provided or financed by			
	the State (or, if provided or financed by the private sector, to the extent of a			
	financial or an in-kind contribution by the			
	State) of any of the following kinds:			
	State and regional roads,			
(b)	land required for social infrastructure and			
	facilities (such as land for schools, hospitals, emergency services and			
	justice purposes).			
	Development in the Commercial Precinct			
(1)	This clause applies to the land known as	 		
	the Commercial Precinct, as shown		\square	The land is not within the Commercial Precinct on
	edged dark blue and marked "Commercial Precinct" on the Key Sites			the Key Sites Map.
	Map.			
(2)	Despite any other provision of this Plan,			
	retail premises are permissible with			
	development consent on land to which			
	this clause applies in Zone B6 Enterprise Corridor.			
6.10	Development of certain land at			
	Nentworth Point			
(1)	This clause applies to land at Wentworth			
(1)	Point, identified as "Wentworth Point		\square	The land is not within the Wentworth Point
	Maritime Precinct" on the <u>Key Sites Map</u> .			Maritime Precinct.
(2)	Despite any other provision of this Plan,			
	development of the land to which this			
	clause applies for any of the following purposes is permissible with			
	development consent:			
(a)	boat building and repair facilities,			
(b)	boat launching ramps,			
	boat sheds,			
	marinas. edule 1 Additional permitted uses "Nil"]	
Cont	Autoria permitted uses Mil			

Summary of Non-Compliances/Variations to the Auburn Local Environmental Plan 2010

Clause & Details of Standard	Comment
N/A	No variations to prescribed development standards are sought by the proposed development.