

Minutes of the Extraordinary Cumberland Local Planning Panel Meeting held at Merrylands Administration Building, 16 Memorial Avenue, Merrylands on Thursday 20 June 2019.

PRESENT:

Stuart McDonald, Michael Ryan, Chris Young and Paul Moulds AM.

IN ATTENDANCE:

Monica Cologna, Glenn Weekley, Esra Calim and Olivia Shields.

NOTICE OF LIVE STREAMING OF CUMBERLAND LOCAL PLANNING PANEL MEETING

The Chairperson advised that the Cumberland Local Planning meeting was being streamed live on Council's website and members of the public must ensure their speech to the Panel is respectful and use appropriate language.

The meeting here opened at 12:31p.m.

DECLARATIONS OF INTEREST:

Mr Stuart McDonald declared an interest in relation to Item 044/19 - Auburn and Lidcombe Town Centres Planning Controls Strategy, as he is acting for Council in regards to a development site in Northumberland Road, Auburn, within Precinct 18 of the study area, which is subject to an appeal to the Land and Environment Court. In consultation with Council's solicitors, Mr Stuart McDonald has determined to have no involvement in the Panel's consideration of Precinct 18 and Mr Chris Young will Chair this part of the meeting.

Mr Paul Moulds AM declared an interest in relation to Item 044/19 - Auburn and Lidcombe Town Centres Planning Controls Strategy as he manages a building and programs on a site that lies in one of the Precincts in Auburn considered in this application, the Salvation Army located at 199-170 South Parade, Auburn. Mr Paul Moulds AM will not participate in the Panels consideration of this particular precinct being Precinct 6.

ADDRESS BY INVITED SPEAKERS:

The following persons had made application to address the Cumberland Local Planning Panel meeting:

<u>Speakers</u>	<u>Item No. Subject</u>
Rev Graham Guy	Auburn and Lidcombe Town Centres Planning Controls Strategy

Kerryn Stanton	Auburn and Lidcombe Town Centres Planning Controls Strategy
Tony Oldfield	Auburn and Lidcombe Town Centres Planning Controls Strategy
Matthew Daniel	Auburn and Lidcombe Town Centres Planning Controls Strategy
Peter Smith	Auburn and Lidcombe Town Centres Planning Controls Strategy
James Matthews	Auburn and Lidcombe Town Centres Planning Controls Strategy
Stephen Earp	Planning Proposal for an Additional Permitted use of Educational Establishment at 2 Percy Street, Auburn.

The Chairperson enquired to those present in the Gallery as to whether there were any further persons who would like to address the Panel and no further persons presented themselves.

The open session of the meeting here closed at 1:26p.m.

The closed session of the meeting here opened at 1:27p.m.

In relation to Precinct 6 Auburn Paul Moulds AM took no part in the discussion and consideration. In relation to Precinct 18 Auburn, Stuart McDonald took no part in the discussion and consideration. Chris Young Chaired the Panel's consideration of Precinct 18.

Against: Nil.

ITEM LPP045/19 - PLANNING PROPOSAL FOR AN ADDITIONAL PERMITTED USE OF EDUCATIONAL ESTABLISHMENT AT 2 PERCY STREET, AUBURN

RECOMMENDATION:

1. The Panel advises the Council as follows:

- a. That Council's attention be drawn to the proposed use being inconsistent with the objectives of the current IN2 Light Industrial zone.
- b. The proposed student population together with teachers and support staff appears to be an excessive scale of development given the size and constraints of the site and the locality.
- c. An educational establishment may be an acceptable land use on the site and recognises the demand for such a facility within the community subject to the above.

2. The Panel recommends that the Council consider the above advice, and in particular items 1a and 1b when determining the form of the Planning Proposal in achieving the objective of the proposed educational establishment on the site.

For: Stuart McDonald (Chairperson), Michael Ryan, Chris Young and Paul Moulds AM

Against: Nil.

The closed session of the meeting here closed at 4:40p.m.

The open session of the meeting here opened at 4:41p.m. The Chairperson delivered the Cumberland Local Planning Panel's resolutions to the Public Gallery.

The meeting terminated at 4:45p.m.

Signed:



Stuart McDonald
Chairperson

Item No: ELPP045/19

PLANNING PROPOSAL FOR AN ADDITIONAL PERMITTED USE OF EDUCATIONAL ESTABLISHMENT AT 2 PERCY STREET, AUBURN

Responsible Division: Environment & Planning
Officer: Manager Strategic Planning
File Number: PP-2/2017

Lodged	May 2017
Proponent	Gallipoli Education Solutions Limited
Site	2 Percy St Auburn
Zoning	IN2 Light Industrial (no change proposed)
Proposal	<ul style="list-style-type: none"> Seeks to introduce 'educational establishment' as an additional permitted use. Original proposal sought to increase FSR from 1:1 to 1.2:1; however the proponent has chosen not to proceed and there will be no change to the FSR control. Site has no maximum height under Auburn LEP 2010, and proposal does not seek a change to this.
Previous report to Panel	9 August 2017 (C029/17) Cumberland Independent Hearing and Assessment Panel
Previous reports to Council	6 September 2017 (Item 154/17) 3 October 2018 (Item C10/18-190)
Gateway Determination	20 February 2018
Heritage	The site is not heritage listed. It adjoins Wyatt Park (across Percy St), which is heritage listed. It is also in the vicinity of Auburn Gallipoli Mosque.
Disclosure of political donations and gifts	Nil

SUMMARY:

The purpose of this report is to provide the Cumberland Local Planning Panel (CLPP) with an update on the planning proposal for 2 Percy St, Auburn, that sought to include 'educational establishment' as an additional permissible use for the site. This matter was previously reported to the Cumberland Independent Hearing and Assessment Panel (CIHAP) in August 2017.

In February 2018, a Gateway Determination was issued that required a number of conditions to be addressed prior to proceeding to public exhibition. In October 2018, an update on the proposal was provided to Council, with a resolution to receive feedback from Transport for NSW and Roads and Maritime Services (RMS) on the proposal.

Council has worked with the applicant and State agencies to address the conditions of the Gateway Determination and resolution from Council. This has included completion of relevant studies and amendments to the planning proposal to address the issues raised. Roads and Maritime Services (RMS) has also determined that the traffic study undertaken for this area is unlikely to identify road upgrades that would have any direct impact or land dedication requirement for the site.

As the conditions of the Gateway Determination have been addressed and feedback received from transport agencies in accordance with Council's resolution, advice is sought from the Panel to support the progression of the planning proposal to public exhibition. Following consideration of the proposal by the Panel, the proposal will be considered by Council.

REPORT:

Background

A planning proposal for land at 2 Percy Street, Auburn, was lodged with Council in May 2017. This proposal sought to introduce 'educational establishment' as an additional permissible use, via an amendment to Schedule 1 of the *Auburn Local Environmental Plan 2010* (Auburn LEP 2010). An increase in the maximum Floor Space Ratio (FSR) from 1:1 to 1.2:1 was also sought, though the proposal was changed to 1:1 at the time Council considered the matter previously at the meeting of 3 October 2018. No change to the zone (IN2 Light Industrial) was requested.

The status of the planning proposal is outlined in Figure 1.

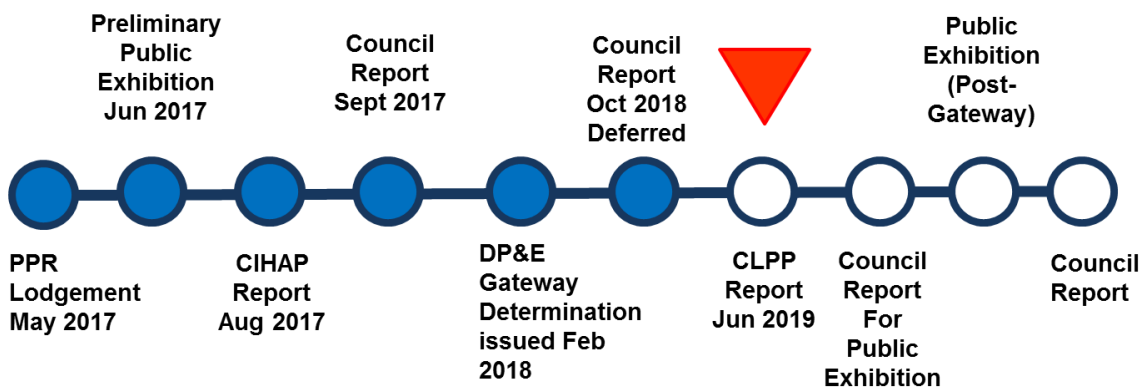


Figure 1: Status of Planning Proposal

Cumberland IHAP Meeting – 9 August 2017

The planning proposal was first reported to the Cumberland Independent Hearing and Assessment Panel (CIHAP) on 9 August 2017 (Attachment 1), with the CIHAP recommending the following:

1. The proponent be required to submit the following additional information:

- *a revised Flood Impact Assessment, to the satisfaction of Council engineers, that specifically addresses the proposed use of the site for a school, and that addresses the Flood Risk Management controls in Auburn Development Control Plan 2010;*
 - *a revised development concept and additional information that shows that adequate open/play space can be provided on site. This may require a reduction in student and staff numbers;*
 - *a revised Transport Impact Assessment incorporating further modelling taking into account the increased FSRs that resulted from LEP Amendment 8 to Auburn LEP 2010 and taking into account any revisions to the planning proposal request and Councils Traffic modelling undertaken for the Draft Auburn and Lidcombe Town Centre Strategy; and*
 - *if mitigation measures such as intersection upgrades are required as a result of recommendation c), a Letter of Offer for a Planning Agreement to provide the required improvements is also to be submitted and discussed with Council staff.*
2. *The proponent amend the planning proposal request originally submitted for 2 Percy Street, Auburn to reflect the revised FSR amendment to 1:1 as agreed by the proponent.*
 3. *The proponent may also submit information to support a particular maximum building height exceeding 10m, up to 12m, including graphic view line analysis, demonstrating that the amended maximum height would not have an adverse impact on important views to the Gallipoli Mosque and its surrounds.*
 4. *The matter be reported back to Cumberland IHAP if the information submitted by the proponent is considered unsatisfactory by Council officers, outlining the reasons why the information was considered unsatisfactory. If the information is satisfactory, Council officers proceed with the preparation of a planning proposal for 2 Percy St, Auburn (PP-2/2017) on the following basis:*
 - *permit 'educational establishment' as an additional permitted use under Schedule 1 of Auburn LEP 2010;*
 - *add the site to the Additional Permitted Uses Map;*
 - *amend the Height of Buildings Map to provide for a maximum building height for the site of 10m, or up to 12m height if adequately justified by information provided under recommendation 3;*
 - *incorporate any revisions required that result from the revised Flood Impact Assessment; and*
 - *incorporate any revisions that result from the revised traffic and transport assessment, including a Letter of Offer for a Planning Agreement if appropriate.*

5. *Following the completion of the Traffic Assessment and prior to submission of the Planning Proposal for Gateway Determination, the proponent submit a letter of offer to enter into a Planning Agreement to contribute towards traffic movement and access works, including any land acquisitions in the locality to accommodate any necessary works, associated with a potential school on the subject site.*
6. *The planning proposal, prepared in accordance with recommendation 5, be forwarded to the Department of Planning and Environment for a Gateway Determination.*

Council Meeting – 6 September 2017

Following the CIHAP meeting, the planning proposal was reported to Council on 6 September 2017 (see Attachment 2). The Administrator moved and declared that Council require the proponent for the planning proposal request for 2 Percy Street, Auburn to provide the following additional information, as recommended by the Cumberland IHAP, to the satisfaction of the General Manager:

- a) *a revised Flood Impact Assessment, that specifically addresses the proposed use of the site for a school, and that addresses the Flood Risk Management controls in Auburn Development Control Plan 2010;*
- b) *a revised planning proposal concept and additional information that demonstrates that adequate open/play space for the proposed student population can be provided primarily within the subject site;*
- c) *a revised Transport Impact Assessment including further modelling which takes into account:*
 - *the increased FSRs resulting from LEP Amendment 8 to Auburn LEP 2010;*
 - *any revisions to the planning proposal request; and*
 - *Council's traffic modelling undertaken for the Draft Auburn and Lidcombe Town Centre Strategy;*
- d) *If mitigation measures such as intersection upgrades are required as a result of recommendation c), a Letter of Offer for a Planning Agreement to provide the required improvements is to be submitted and discussed with Council;*
- e) *Require the proponent to amend the planning proposal request originally submitted for 2 Percy Street, Auburn, to reflect the revised FSR of 1:1;*
- f) *Require the proponent to submit specific justification, including a view line analysis, should the proponent wish to exceed the maximum building height of 10m (but no greater than maximum building height of 12m) for the site, to demonstrate that the proposed maximum building height would not have an adverse impact on important views to the Gallipoli Mosque and its surrounds;*

- g) *Following the completion of the revised Traffic Assessment and prior to submission of the Planning Proposal for a Gateway Determination, require the proponent to submit a letter of offer to enter into a Planning Agreement to contribute towards traffic movement and access works, including any land acquisitions in the locality to accommodate any necessary works, associated with a potential school on the subject site;*
- h) *Require the matter be reported back to Cumberland IHAP if the information submitted by the proponent is considered unsatisfactory by the General Manager, outlining the reasons why the information was considered unsatisfactory;*
- i) *On receipt of all required information to the satisfaction of the General Manager, proceed with the preparation of a planning proposal for 2 Percy St, Auburn (PP-2/2017) on the following basis:*
- *permit 'educational establishment' as an additional permitted use under Schedule 1 of Auburn LEP 2010;*
 - *add the site to the Additional Permitted Uses Map;*
 - *amend the Height of Buildings Map to provide for a maximum building height for the site of 10m, or up to 12 m height if adequately justified by information provided under recommendation 3;*
 - *incorporate any revisions required that result from the revised Flood Impact Assessment;*
 - *incorporate any revisions that result from the revised traffic and transport assessment, including a Letter of Offer for a Planning Agreement, if appropriate; and*
 - *the General Manager be requested not to sub delegate this matter.*

Gateway Determination – 20 February 2018

Following the receipt of the additional information from the proponent, a Gateway Determination was sought, with this being issued by the Department of Planning and Environment in February 2018. The Gateway Determination (Attachment 4) required Council address a number of conditions before it could proceed to formal (post-Gateway) community consultation. The conditions include:

- 1(a) Amend the planning proposal to provide more justification regarding the proposed additional permitted use rather than applying a land use zone that permits educational facilities;
- 1(b) Prepare a Phase 1 – Preliminary Site Contamination Investigation Study for the site in accordance with the Managing Land Contamination Planning Guidelines (Environment Protection Authority, 1998);

- 1(c) review/consider proposed FSR control of 1.2:1;
- 1(d) complete the Gelibolu Precinct traffic study and update the Planning Proposal in accordance with the study findings/recommendations Final draft completed;
- 1(e) refer the Planning Proposal to TfNSW and the RMS, and to subsequently amend it in response to comments received in progress. Final draft precinct traffic study has been referred to TfNSW and RMS for comment; and
- 1(f) confirm local and state infrastructure requirements (including traffic improvements, parking, transport, recreation and community uses to support the additional use).

Council Meeting – 3 October 2018

This matter was reported to Council on 3 October 2018 (Attachment 3) to provide an update on the progress in addressing the conditions of the Gateway Determination, as well as to seek a resolution on the Floor Space Ratio of the Proposal. The report also presented Council with the relevant findings if the strategic traffic modelling and view line analysis work undertaken for the surrounding Gelibolu Precinct.

Council officers presented the recommendation to:

1. Proceed with a proposed FSR of 1.2:1 for the Planning Proposal for 2 Percy Street, Auburn;
2. Seek cost estimates for the two intersection upgrades identified in Council's draft Traffic Study of the Gelibolu Precinct;
3. Hold discussions with the proponent in relation to the offer of a VPA and seek a proportional contribution toward the costs associated with the two intersection upgrades which are required to service a school as well as planned development in the Gelibolu Precinct; and
4. Following the satisfaction of Gateway conditions and any amended offer, proceed to formal community consultation.

This matter was deferred pending receipt of feedback from Transport for NSW and Roads and Maritime Services (RMS) following the draft traffic study conducted in relation to the Gelibolu Precinct.

Response to Gateway Conditions and Council Resolution

Council has worked with the applicant and State agencies to address the conditions on the Gateway Determination. This has included completion of relevant studies and amendments to the planning proposal to address the issues raised. A summary of these outcomes is outlined in Table 1.

Gateway Condition	Response
1(a) Amend the planning proposal to provide more justification regarding the proposed additional permitted use rather than applying a land use zone that permits educational facilities.	The planning proposal has been updated to address this condition.
1(b) Prepare a Phase 1 – Preliminary Site Contamination Investigation Study for the site in accordance with the Managing Land Contamination Planning Guidelines (Environment Protection Authority, 1998)	A Phase 1 - Preliminary Site Contamination Investigation Study has been submitted by the proponent.
1(c) Review and consider the proposed floor space ratio control should the proponent be able to demonstrate through urban design testing to Council's satisfaction that additional floor space can be supported at the site.	The planning proposal no longer seeks to amend the FSR from the current development standard of 1:1.
1(d) Complete the updated traffic study for the Gelibolu precinct and update the planning proposal in accordance with the findings/recommendations of the study. and 1(e) On completion of condition 1(d), the planning proposal is to be referred to Transport for NSW and the Roads and Maritime Services, and amended in accordance with any comments received; and	Roads and Maritime Services no longer require Conditions 1(d) and 1(e) to be addressed, as they have determined that the Gelibolu Study is unlikely to identify road upgrades that would have any direct impact or land dedication requirement for the 2 Percy Street site. As the Church Street link is not part of the amended proposal, Transport for NSW and Sydney Trains objection is no longer relevant as there is no impact on their land. The proponent has updated their traffic study to address bus access and turnaround areas.
1(f) Confirm local and State infrastructure requirements (including improvements for traffic, parking, transport, recreation and community facilities) to support the additional use.	This condition will be addressed through negotiations of a Voluntary Planning Agreement between Council and the proponent. However, this condition does not place a restriction on Council to publicly exhibit the proposal.

Table 1: Response to Gateway Conditions

In response to the Council resolution of October 2018, Roads and Maritime Services have determined that the traffic study undertaken for this area is unlikely to identify road upgrades that would have any direct impact or land dedication requirement for the 2 Percy Street site. As the Church Street link is no longer part of the proposal, the concerns of Transport for NSW and Sydney Trains on the use of this land have been addressed.

Next Steps

As the conditions of the Gateway Determination and Council resolution have now been addressed, advice is sought from the Panel to support the progression of the

planning proposal to public exhibition. Following consideration of the proposal by the Panel, the proposal will be considered by Council.

CONCLUSION:

The planning proposal for 2 Percy St, Auburn, seeks to include 'educational establishment' as an additional permissible use for the site.

Council has worked with the applicant and State agencies to address the conditions on the Gateway Determination and resolution from Council. As the conditions of the Gateway Determination have been addressed and feedback sought from transport agencies in accordance with Council's resolution, advice is sought from the Panel to support the progression of the planning proposal to public exhibition. Following consideration of the proposal by the Panel, the proposal will be considered by Council.

CONSULTATION:

The proposal needs to be publicly exhibited for a period of 28 days to satisfy the conditions of the Gateway Determination.

FINANCIAL IMPLICATIONS:

There are no financial implications for Council associated with this report.

POLICY IMPLICATIONS:

The planning proposal will result in an amendment to the Auburn LEP 2011, should it proceed to finalisation. Following community consultation to be undertaken as part of the Gateway Determination, the matter will be reported back to Council for final consideration of the planning proposal.

COMMUNICATION / PUBLICATIONS:

The final outcome of this matter will be notified in the newspaper. The objectors will also be notified in writing of the outcome.





REPORT RECOMMENDATION:

That:

- 1. The Panel supports the planning proposal progressing to public exhibition, having addressed the conditions of the Gateway Determination and feedback sought from transport agencies in accordance with Council's resolution**

ATTACHMENTS

1. Cumberland IHAP Report & Minutes - 9 August 2017 [↓](#) 

2. Council Report & Minutes - 6 September 2017 [↓](#) 
3. Council Report & Minutes - 3 October 2018 [↓](#) 
4. Gateway Determination - 6 September 2018 [↓](#) 
5. E-mail Response from RMS - 23 May 2019 [↓](#) 
6. Letter from the Proponent addressing the Gateway Determination Conditions [↓](#)
