

TO: Sydney Central City Planning Panel

SUBJECT: 246-248 Woodville Road MERRYLANDS NSW 2160
256-258 Woodville Road MERRYLANDS NSW 2160
2-4 Lansdowne Street MERRYLANDS NSW 2160
8-16 Lansdowne Street MERRYLANDS NSW 2160
8A Lansdowne Street MERRYLANDS NSW 2160
19 Highland Street MERRYLANDS NSW 2160

APPLICATION No: DA2020/0493

Application lodged	28 August 2020
Applicant	Green Dior Holdings Pty Ltd
Owner	Green Dior Holdings Pty Ltd
Application No.	DA2020/0493
Description of Land	246-248 Woodville Road MERRYLANDS NSW 2160 256-258 Woodville Road MERRYLANDS NSW 2160 2-4 Lansdowne Street MERRYLANDS NSW 2160 8-16 Lansdowne Street MERRYLANDS NSW 2160 8A Lansdowne Street MERRYLANDS NSW 2160 19 Highland Street MERRYLANDS NSW 2160
Proposed Development	Demolition of existing structures/site improvements and construction of a mixed-use development, with a varying height of 5 to 9 storeys comprising commercial and retail premises, residential apartments/shop top housing (413 apartments), childcare centre, hotel accommodation/serviced apartments (95 rooms), public park and associated landscaping, road access, two levels of basement parking and associated site works (Integrated Development - s138 of the Roads Act 1993 and s90 of the Water Management Act 2000)
Site Area	27,332m ²
Zoning	B4 Mixed Use
Disclosure of political donations and gifts	Nil disclosure
Heritage	The subject site is not heritage listed and is not within a heritage conservation area. Adjoining the site to the south is an item of local heritage significance, the 'Granville South Public School' (1243)
Principal Development Standards	<u>FSR</u> Permissible: 2:1 Proposed: 2.04:1 <u>Height of Building</u> Permissible: 31m Proposed: Building C - 33.07m Building D – 31.22m

Issues	Variations to building height and FSR, submissions
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SUMMARY

1. *Development Application No. DA2020/0493 was received on 28 August 2020 for the demolition of existing structures/site improvements and construction of a mixed-use development, with a varying height of 5 to 9 storeys comprising commercial and retail premises, residential apartments/shop top housing (413 apartments), childcare centre, hotel accommodation/serviced apartments (95 rooms), public park and associated landscaping, road access, two levels of basement parking and associated site works.*
2. *The development is nominated integrated development pursuant to the provisions of s90 of the Water Management Act 2000.*
3. *The development is integrated development pursuant to the provisions of s138 of the Roads Act 1993.*
4. *The application was publicly notified to occupants and owners of the adjoining properties for a period of 21 days between 16 September 2020 and 14 October 2020. In response, ten (10) submissions were received, of which six (6) were unique submissions.*
5. *Adjoining the site to the south is the 'Granville South Public School' (I243) at 276 Woodville Road, Guildford, a heritage item of local significance. The application has been accompanied by a Heritage Impact Statement (HIS) which has assessed the potential impacts of the development on the heritage item and provided support for the proposed development on heritage grounds.*
6. *The development proposes a total gross floor area (GFA) of 55,167.17m², which equates to a total FSR of 2.02:1. An excess of 503.17m² GFA is provided, which results in a 0.92% variation to the development standard.*
7. *The development proposed building height exceedances of the development standard for Buildings C and D of 6.67% and 0.7%, respectively. The building components subject to the height breach comprise the balustrade and screening of rooftop communal open space and the lift/stair overrun.*
8. *The application is referred to the Panel as the proposal maintains a capital investment value in excess of \$30 million.*
9. *The application is recommended for conditional approval, subject to the conditions as provided in **Attachment 1**.*

REPORT

SUBJECT SITE AND SURROUNDING AREA

The subject site comprises a total of twenty-one (21) allotments as follows:

Property Address	Legal Description
246 Woodville Road, Merrylands	Lot B DP 379850 Lot C DP 379850
248 Woodville Road, Merrylands	Lot 2 DP 204284
256 Woodville Road, Merrylands	Lot 4 DP 128586 Lot 4 DP 128586 Lot 6 DP 128586 Lot DP 7128586 Lot 1 DP 433824
258 Woodville Road, Merrylands	Lot 2581 DP 803841 Lot 1 DP 382912
19 Highland Street, Guildford	Lot F DP 382911
2 Lansdowne Street, Merrylands	Lot A DP 418199 Lot 1 DP 204284
4 Lansdowne Street, Merrylands	Lot A DP 409259
8 Lansdowne Street, Merrylands	Lot F DP 364338 Lot 2 DP 385967
8A Lansdowne Street, Merrylands	Lot 1 DP 385967
10 Lansdowne Street, Merrylands	Lot D DP 364338
12 Lansdowne Street, Merrylands	Lot C DP 364338
14 Lansdowne Street, Merrylands	Lot A DP 344408
16 Lansdowne Street, Merrylands	Lot 81 DP 128805

The site has a total area of 27,332m² and maintains frontages to Woodville Road (150m), Lansdowne Street (144m) and Highland Street (117m).

Current improvements on the site include a warehouse building and associated hardstand which housed the former John Cootes Furniture warehouse, located in the southern portion of the site and a total of eight (8) dwellings along the northern portion of the site, fronting Lansdowne Street and Woodville Road. There are several trees scattered across the site.



Figure 1: Existing John Cootes building on the site

It is noted that the development site excludes 6 Lansdowne Street and 244 Woodville Road, Merrylands, resulting in these two (2) sites becoming isolated.

The Applicant has provided documentary evidence demonstrating genuine and reasonable attempts to acquire both properties, including independent valuations.

The Applicant has been unsuccessful with the offers made to the owners of 6 Lansdowne Street and 244 Woodville Road, Merrylands.

The Architectural Plans have included details of a potential building envelopes and built forms for 6 Lansdowne Street and 244 Woodville Road, Merrylands, to demonstrate that despite the issue of site isolation, the sites are capable of accommodating a future development.

Having regard to the above, the site isolation planning principles have been adequately addressed.

Adjoining the site to the south is the Granville South Public School, a 7 Eleven petrol station and Oporto take-away food premises. The site is adjoined to the north and west by existing low density residential development, along Lansdowne Street and Highland Street. Opposite the site to the east is existing low to medium density residential development.

The locality is characterised by a mix of low to medium density development to the north, east and west of the site, with the Granville Park located further north. There is an existing industrial precinct further west of the site, along Railway Terrace, this area is largely characterised by industrial warehouse buildings. Guildford Park is located to the south-west of the site. There is an existing group of retail and business premises to the south of the site,

along Woodville Road which includes a Cheesecake Shop, take-away food premises and Cosmetics shop.



Figure 2: Locality Map - subject site in red outline (Source: Nearmap, 2021)

DESCRIPTION OF THE PROPOSED DEVELOPMENT

Consent is sought for the demolition of all existing structures on the site and site preparation works, including tree removal, excavation, earthworks and civil works to facilitate the construction of a mixed use development.

The development includes the construction of a mixed-use centre comprising five (5) buildings ranging in height from 5 to 9 storeys, with two (2) levels of basement car parking including 930 car parking spaces, 56 motorcycle parking spaces and 300 bicycle parking spaces.

The ground level of the development comprises:

- 100 place child care centre (723.5m²) in the north-western corner, with frontages to Lansdowne Street and New Street 2.
- Supermarket (3,600m²) with a frontage to Woodville Road and liquor shop (200m²);
- Hotel/serviced apartment lobby, fronting Woodville Road in the south-eastern corner;
- 26 retail tenancies dispersed within the south and western portions of the development, totalling 3,988.4m² in area;

- A loading dock in the north-western corner of the site, with access provided off Lansdowne Street.

The following hours of operation are proposed for each of the above uses:

Proposed Use	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Child Care Centre	7am – 7pm	7am – 7pm	7am – 7pm	7am – 7pm	7am – 7pm	Closed	Closed
Supermarket	24 hour	24 hour	24 hour	24 hour	24 hour	24 hour	24 hour
Retail Tenancies	7am – 10pm	7am – 10pm	7am – 10pm	7am – 10pm	7am – 10pm	7am – 10pm	7am – 10pm
Hotel/Service Apartments	24 hour	24 hour	24 hour	24 hour	24 hour	24 hour	24 hour

Above ground level is a podium level comprising communal open space (5,544m²) and five (5) buildings:

Building	Description
A	<ul style="list-style-type: none"> • Seven (7) levels of residential dwellings.
B	<ul style="list-style-type: none"> • Seven (7) levels of residential dwellings, including a roof top garden on Level 6 and six (6) dwellings capable of being converted for 'home office' use
C	<ul style="list-style-type: none"> • Four (4) levels of hotel/service apartments, with provision for 95 rooms; • Four (4) levels of residential dwellings and rooftop communal open space
D	<ul style="list-style-type: none"> • Seven (7) levels of residential dwellings
E	<ul style="list-style-type: none"> • Four (4) levels of residential dwellings and rooftop communal open space



Figure 3: The proposed development (Source: marchese partners, 2021)

A total of 413 residential dwellings are provided across the 5 buildings, with a total unit breakdown of:

Type	Quantity	Percentage of Total (%)
1 Bed	128	31
1 Bed + Study	18	4
2 Bed	209	51
2 Bed + Study	7	2
3 Bed	51	12

The development includes the embellishment and subsequent dedication of a park, comprising 2,000m² in the western corner of the site.

A total of three (3) vehicular access points are proposed for access to the basement, these being one (1) via Lansdowne Street, one (1) via New Street 2 (between Lansdowne Street and Highland Street) and one (1) via the proposed roundabout on Highland Street. There is a separate vehicular access point for service vehicles off Lansdowne Street, which provides access to the at grade loading dock.

The development also includes the construction of a signalised intersection at the Woodville Road and Lansdowne Street intersection and associated upgrade works, in consultation with Transport for NSW (TfNSW).

The site is subject to a Voluntary Planning Agreement (VPA) which was executed on 2 October 2019. As part of this VPA there are several deliverables to be dedicated to Council, as follows:

- Eight (8) affordable housing units;
- Public park comprising 2,000m²;
- Embellishment of Green Setbacks Land; and
- Two (2) new streets, including land for road carriageways, parking bays, footpaths and road verges.

The 2 new streets are:

- New Street 1 - an east-west road located on the southern side of the site and connects the proposed New Street 2 to Woodville Road, with a left-out only onto Woodville Road.
- New Street 2 - a north-south road connecting to Lansdowne Street and traversing the western boundary of the site and connecting to New Street 1.

A condition of consent has been recommended to ensure that the development is carried out in accordance with the provisions of the executed VPA.

A roundabout is also proposed to be constructed at the intersection of Highland Street and New Street 2.

As part of the assessment of the application, Council's Traffic Engineers determined that a roundabout will also be required at the intersection Oxford St and Highland Street, to improve the operation of this intersection, due to increased traffic generated by the proposed development. A condition of consent has been recommended to ensure that this roundabout is delivered as part of the development, at no cost to Council.

HISTORY

In 2015, a Planning Proposal request was submitted to the Department of Planning, Industry & Environment (DPI&E), seeking to amend the Parramatta Local Environmental Plan 2011 (PLEP 2011) to facilitate the redevelopment of the site for a mixed-use development including a mix of commercial, shop-top housing, centre-based child care and public recreation land uses.

The PLEP 2011 Amendment no.38 was subsequently gazetted to amend the PLEP 2011 to:

- Amend the zoning of the land from Part B6 Enterprise Corridor and part R2 Low Density Residential to B4 Mixed Use;
- Amend the maximum building height from part 9 metres and part 12 metres to 31 metres, across the site; and
- Amend the maximum floor space ratio (FSR) from part 0.5:1 and part 1.5:1 to 2:1, across the site.

In making the plan, the DPI&E advised that it was also necessary to apply Clause 8.1 (Arrangements for designated State public infrastructure) of the PLEP 2011 to the site, *with the primary purpose being to ensure that the necessary roadworks to Woodville Road to support the proposed increase in density on the site are identified at the Development Application stage and provided at no cost to Government.*

Amendment no.38 was gazetted on 13 March 2020.

A site specific Development Control Plan (DCP) has also subsequently been adopted for the site.

The site is subject to a VPA which was executed on 2 October 2019.

The site is currently subject to a Planning Proposal which is encapsulated by the Draft Cumberland Local Environmental Plan (Draft CLEP), which is currently with the DPI&E, pending finalisation.

As part of the Draft CLEP, it is proposed to rezone the subject site part B2 Local Centre and Part RE1 Public Recreation. The proposed 2,000m² park (to be dedicated in accordance with the provisions of the VPA) will be subject to the RE1 land use zone, with the balance of the site to be zoned B2.

An increased FSR is proposed for the site under the Draft CLEP. The FSR is proposed to be increased from 2:1 to 2.2:1. The increase is proposed to address the loss of 2,000m² of site area, as a result of the rezoning of the public park to RE1. Having regard to building height, the Draft CLEP proposes to maintain the 31 metre maximum building height.

Refer to the Draft CLEP section of this report for a detailed discussion.

APPLICANTS SUPPORTING STATEMENT

The applicant has provided a Statement of Environmental Effects prepared by Knight Frank Town Planning dated 10 February 2021 and received by Council on 10 February 2021, in support of the application.

CONTACT WITH RELEVANT PARTIES

The assessing officer has undertaken a site inspection of the subject site and surrounding properties and has been in regular contact with the applicant throughout the assessment process.

INTERNAL REFERRALS

Development Engineer

The development application was referred to Council's Development Engineer for comment who has advised that the development proposal is satisfactory and therefore can be supported subject to recommended conditions of consent.

As part of the engineering assessment of the development, it has been determined by Council that a roundabout will be required at the intersection Oxford St and Highland Street, to improve the operation of this intersection due to increased traffic generated by the proposed development. A condition of consent has been recommended to ensure that this roundabout is delivered as part of the development, at no cost to Council.

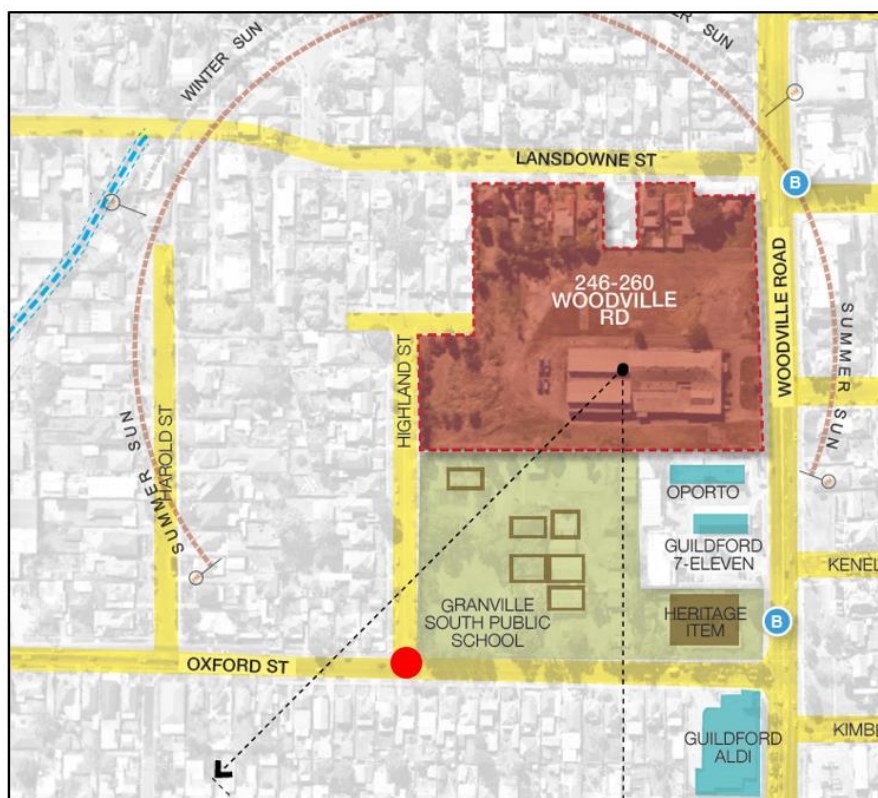


Figure 4: Location of roundabout required at the intersection of Highland Street and Oxford Street, denoted by red circle (Source: marchese partners, 2021)

Environment and Health

The development application was referred to Council's Environment and Health Officer for comment who has advised that the development proposal is satisfactory and therefore can be supported, subject to recommended conditions of consent.

Landscape Architect

The development application was referred to Council's Landscape Architect for comment who has advised that the development proposal is satisfactory and therefore can be supported, subject to recommended conditions of consent.

Waste Management

The development application was referred to Council's Waste Management Officer for comment who has advised that the development proposal is satisfactory and therefore can be supported, subject to recommended conditions of consent.

Design Excellence Panel

The development application was referred to the Cumberland Design Excellence Panel (CDEP) on 12 May 2020, prior to the lodgement of the application with Council. The CDEP provided comments for consideration by the Applicant, with the key issues raised as follows:

- *Exceedance of building height limit in the LEP amendment*
- *Exceedance of number of storeys limit contained in the DCP*
- *Lack of commercial use on first floor*
- *The importance of fine grain of streets and blocks*
- *Conflict between existing building lots that form part of the site*
- *Access to loading and parking*
- *Overshadowing of the adjoining school*
- *Building A street address and wayfinding*
- *Building articulation*
- *Setbacks*
- *Site isolation*
- *Covered access laneway*
- *Potential acoustic issues of external uses and surrounding existing residential neighbourhood*

The Panel notes that the Pre-DA design has merit and is generally in accordance with the LEP controls for height and FSR and site-specific controls contained in the DCP. The Panel recommends that the issues listed above and discussed in greater detail below are addressed as part of the design development of the Pre DA/DA documentation.

It is expected that the Application will need to be re-referred to the Panel at the DA stage (or earlier if the Applicant wishes) after the specific recommendations relating to the changes requested have been made to address the Panel's concerns.

Upon lodgement on the development application with Council, the application was re-referred to the CDEP for comment on 12 November 2020. The CDEP noted that *the majority*

of the Panel's recommended design changes following review of the Pre DA documentation have not been considered or incorporated as design modifications at the DA stage.

The Applicant provided an updated response to the 12 November 2020 comments and the application was subsequently electronically referred to the CDEP and reviewed on 18 December 2020. The CDEP concluded that *the Panel notes that while the DA design has merit, there are still variances from the LEP controls for height and FSR and site-specific controls contained in the DCP. The Panel again recommends that the issues listed above and discussed in greater detail in the table above are addressed as part of further design development of the submitted documentation.*

In response to the 18 December 2020 comments, the Applicant further amended the plans to address the matters raised. Refer to **Attachment 4** for copies of the CDEP correspondence and the Applicant's discussion of the amendments made to the plans to address the matters raised by the CDEP.

EXTERNAL REFERRALS

In accordance with the integrated development provisions of 4.46 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the development application was referred to both Transport for NSW (s. 138 *Roads Act 1993*) and Water NSW (s.90 *Water Management Act 2000*).

Transport for NSW

The development application was referred to Transport for NSW (TfNSW) for concurrence pursuant to Section 138 of the *Roads Act 1993* and as the development includes a proposed Traffic Control Signal (TCS) at the Woodville Road / Lansdowne Street intersection in accordance with Section 87 of the *Roads Act 1993*. The development application was also referred in accordance with Clauses 101 and 104 of State Environmental Planning Policy 2007.

On 27 November 2020, TfNSW granted concurrence subject to conditions of consent. The requested conditions have been included in the recommended conditions of consent at **Attachment 1** to this Report.

Water NSW

The development application was referred to Water NSW for concurrence in accordance with the provisions of Section 90 of the *Water Management Act 2000*.

On 23 December 2020, Water NSW granted concurrence and issued General Terms of Approval (GTA) for Water Supply Work. A condition of consent has been recommended requiring compliance with the GTAs.

Endeavour Energy

The development application was referred to Endeavour Energy in accordance with the provisions of Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. Comments have been received from Endeavour Energy which have informed the recommended conditions of consent, having regard to the supply of electricity.

Department of Planning, Industry and Environment

Clause 8.1 (Arrangements for designated State public infrastructure) of the PLEP 2011 to the site, *with the primary purpose being to ensure that the necessary roadworks to Woodville*

Road to support the proposed increase in density on the site are identified at the Development Application stage and provided at no cost to Government.

The works the subject of this clause comprise intersection upgrade works at the intersection of Woodville Road (State road) and Lansdowne Street.

The concurrence of TfNSW has been obtained as part of the development assessment process and advice has been received from the DPI&E confirming that satisfactory arrangements have been made in relation to Clause 8.1. Refer to **Attachment 15** for a copy of the Satisfactory Arrangements Certificate.

PLANNING COMMENTS

The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

State Environmental Planning Policies

The proposed development is not specifically affected by any relevant State Environmental Planning Policies.

(a) State Environmental Planning Policy (State and Regional Development) 2011 (State and Regional Development SEPP)

Development of a type that is listed in Schedule 7 of SEPP (State and Regional Development) 2011 is defined as 'regional significant development'. Such applications require a referral to a Sydney District Panel for determination as constituted by Part 3 of Schedule 2 under the *Environmental Planning and Assessment Act 1979*. The proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) which exceeds the \$30 million threshold. While Council is responsible for the assessment of the DA, determination of the Application will be made by the Sydney Central City Planning Panel (SCCPP).

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

Clause 7 of SEPP 55 requires Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. The matters listed within Clause 7 have been considered in the assessment of the development application.

Matter for Consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
In the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Matter for Consideration	Yes/No
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site listed on Council's Contaminated Land database?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site subject to EPA clean-up order or other EPA restrictions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the site been the subject of known pollution incidents or illegal dumping?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the site adjoin any contaminated land/previously contaminated land?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>A Preliminary Site Investigation (PSI) was prepared by EI Environmental (Report reference E24178.E01_Rev1, dated 6 August 2020) and has been reviewed by Council's Environmental Health Unit (EHU). The PSI involved a desktop study, which provided the following:</p> <ul style="list-style-type: none"> • The PSI makes reference to (and relies on information from) another environmental site investigation prepared by SGA (report reference 288558, dated 4 March 2016). The report prepared by SGA in March 2016, did not assess at the time the properties located at 2, 4, 8a and 10 Lansdowne Street Merrylands. • The residential properties located along Lansdowne Street are considered to be suitable for redevelopment as they have historically only been used for residential purposes. The risk of contamination is therefore low as per the consultant's advice. • The soils within the proposed basement parking excavation are to be managed under a waste management plan as per the consultant's advice. • A targeted investigation of site contamination is warranted within the public park open space areas to further characterise the soils and determine site suitability for the proposed use as a public park. • A hazardous materials survey is required to be prepared for structures to be demolished onsite. • Soil to be removed is to be classified as per the EPA waste classification guidelines. • Any material imported to the site must be validated. <p>In order to address data gaps for the sites that were not assessed as a part of the PSI by EI Environmental and the SGA Environmental Site Investigation, the Applicant has submitted an additional site investigation report for the sites located at</p>	

Matter for Consideration	Yes/No
<p>Lansdowne Street and Highland Road (report reference E24178.E03.Rev0, dated 2 September 2020). The following has been advised:</p> <ul style="list-style-type: none"> • 10 soil samples were collected and no exceedances on the adopted human/ecological health criteria were identified. This included the targeted investigation within the public park which was recommended in the PSI (sample locations from within this area can be seen in figure 2 of Appendix A). These samples were also compared against the results in the SGA report. • An inspection was completed on site to determine the presence of asbestos containing materials. No ACM fragments were observed at the time of the inspection. • The previous report prepared by SGA advised that some contamination was present on site and required further remediation however upon additional review by EI Environmental, they have advised that <i>“taking into account the proposed development, ecological exceedances by SGA are no longer of concern”</i>. This is for the following reasons: <ul style="list-style-type: none"> ○ The TP2 location (where contamination was present) in the SGA report is within the perimeter of deep soil excavation on site. It is therefore expected that any contamination on site will be removed and classified prior to disposal. ○ The TP10 location in the SGA report was further tested by EI Environmental with minimal contamination. It should be noted that this area will also be under the proposed roadway, exposure would therefore be minimal. <p>The information provided has been considered acceptable by Council's Environmental Health Unit having regard to the provisions of Clause 7 of SEPP 55 and standard conditions of consent relating to the implementation of a Hazardous Material Survey (HMS) and unexpected finds protocols have been included in the recommended conditions of consent.</p>	

(c) State Environmental Planning Policy No 64—Advertising and Signage (SEPP 64)

Signage envelopes are proposed for the supermarket and commercial/retail tenancies, including five (5) business identification signs and building identification signage along the Woodville Road, Lansdowne Street and New Street 2 frontages.

The signage proposed is consistent with the assessment criteria at Schedule 1 of SEPP 64. Refer to **Attachment 5** of this Report.

(d) Statement Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65)

SEPP 65 applies to the development as the building is 3 storeys or more, and contains more than 4 dwellings. A design statement addressing the design quality principles prescribed by SEPP 65 was prepared by the project architect. Integral to SEPP 65 is the Apartment Design Guide (ADG), which sets benchmarks for the appearance, acceptable impacts and residential amenity of the development.

The proposal is generally compliant with the provisions of SEPP 65 and the ADG, with the exception of building separation, visitor parking and the maximum number of apartments off a circulation core on a single level.

These variations are discussed below:

ADG Requirement	Variation Discussion	Supported?												
<p>Objective 3F-1 Visual Privacy</p> <p>Design Criteria Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="193 831 612 1003"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<p>The development provides compliant habitable room and balcony building separation distances between the five (5) buildings on site, with the exception of the below variations:</p> <ul style="list-style-type: none"> • Levels 4 & 5 – <ul style="list-style-type: none"> ○ Minimum 12m internal building separation between the northern and western facades of Building E (Level 4). ○ Minimum 12m separation provided between the southern façade of Building A and the northern façade of Building B (Levels 4 & 5). ○ Minimum 12m separation provided between the northern and eastern facades of Building D (Levels 4 & 5). <p>The above variations of the building separation distances, internal to the development, are considered acceptable, on the basis that treatment measures can be applied to the non-compliant balconies and habitable room windows, in the form of privacy screening and the like, to protect visual amenity within the development.</p>	<p>Yes</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												
<p>3J-1 Bicycle and Car Parking</p> <p>Design Criteria For development in the following locations:</p> <ul style="list-style-type: none"> • on sites that are within 800 metres of a railway station or 	<p>1 bed – $146 \times 0.6 = 87.6$ 2 bed – $216 \times 0.9 = 194.4$ 3 bed – $51 \times 1.4 = 71.4$ Total = 353.4 = 354 spaces required</p> <p>Visitor – $413 \times 0.2 = 83$ spaces required</p>	<p>Yes</p>												

<p>light rail stop in the Sydney Metropolitan Area; or</p> <ul style="list-style-type: none">on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre, <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <table><tr><th colspan="2">Control</th></tr><tr><td>1 bedroom spaces</td><td>0.6</td></tr><tr><td>2 bed</td><td>0.9 spaces</td></tr><tr><td>3 bed</td><td>1.4 spaces</td></tr><tr><td>4+ bed spaces</td><td>1.4</td></tr><tr><td>Visitor</td><td>0.2 spaces per dwelling</td></tr></table>	Control		1 bedroom spaces	0.6	2 bed	0.9 spaces	3 bed	1.4 spaces	4+ bed spaces	1.4	Visitor	0.2 spaces per dwelling	<p>439 residential spaces provided and 75 visitor spaces provided</p> <p>It is acknowledged that the development is short 8 visitor spaces, this variation is considered acceptable to Council, given that a surplus of 85 residential spaces are provided above the minimum residential space requirement.</p>	
Control														
1 bedroom spaces	0.6													
2 bed	0.9 spaces													
3 bed	1.4 spaces													
4+ bed spaces	1.4													
Visitor	0.2 spaces per dwelling													
<p>4F-1</p> <p>Common Circulation and Spaces</p> <p>Design Criteria</p> <p>The maximum number of apartments off a circulation core on a single level is eight.</p>	<p>Compliance with the design criteria is not achievable for buildings B, C and D, having more than 12 units per plate in some levels. This is due to the significant floor plate of the supermarket on the ground level, under the building footprint. A high level of amenity is provided within both buildings as per the design guidance with wider common lobbies at every floor plate in front of lifts and generous corridors, ample daylight and natural ventilation in common circulation spaces and a centralised location of the double lift core for a balance distribution of units resulting in 6.5 to 8 units per lift as an average for both buildings.</p>	<p>Yes</p>												

A comprehensive assessment against SEPP 65 and the ADG is contained in **Attachment 6** to this Report.

(e) State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The provisions of the ISEPP 2007 have been considered in the assessment of the development application.

Clause 45 - Development likely to affect an electricity transmission or distribution network

The subject development occurs within 5 metres of an overhead electricity power line. As such, the Consent Authority is required to give written notice to an electricity supply authority.

In accordance with the provisions of Clause 45, the development application was referred to Endeavour Energy for comment, who provided comments which have informed the recommended conditions of consent.

Clause 101 – Frontage to classified road

Woodville Road is identified as a classified road and the application was referred to TfNSW in accordance with the provisions of Clause 101 of the ISEPP. On 27 November 2020, TfNSW issued concurrence, subject to conditions. These conditions have been incorporated into the recommended conditions of consent.

Clause 102 – Impact of road noise or vibration on non-road development

The application has been accompanied by an Acoustic Report which has been assessed by Council's Environmental Health Unit which have deemed the report satisfactory. Conditions of consent have been recommended to ensure that the acoustic amenity of the residential and child care centre development is maintained.

Clause 104 – Traffic generation developments

The application is subject to Clause 104 of the ISEPP as the development involves traffic generating development as identified in Schedule 3 of the ISEPP. The development involves a car park with more than 50 spaces and more than 75 residential dwellings on the site which has access to Woodville Road. The application was referred to TfNSW in accordance with the provisions of Clause 104 of the ISEPP. On 27 November 2020, TfNSW issued concurrence, subject to conditions. These conditions have been incorporated into the recommended conditions of consent.

(f) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)

The proposal does not exceed the biodiversity offsets scheme threshold. Therefore, the proposed vegetation removal is considered acceptable.

(g) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)

BASIX Certificate 1063763M_02 dated 9 February 2021, prepared by BCA Energy has been submitted with Council and is satisfactory.

(h) State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)

The ARH SEPP contains provisions for in-fill affordable housing at Part 2 (New affordable rental housing) Division 1 (In-fill affordable housing). It is noted that, as per the executed VPA for the site, eight (8) of the 413 residential units will be dedicated to Council as affordable housing.

Clause 10(1) of Division 1 states that:

- (1) This Division applies to residential development if—*
 - (a) the development is permitted with consent under another environmental planning instrument, and*
 - (b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, an interim heritage order or on the State Heritage Register under the Heritage Act 1977, and*
 - (c) the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20%, and*
 - (d) for development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or part of the development is within an accessible area, and*
 - (e) for development on other land—all or part of the development is within 400 metres walking distance of land within Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to those zones.*

Having regard to Clause 10(c), it is acknowledged that the percentage of the gross floor area of the development that is to be used for the purpose of affordable housing is less than 20% of the total gross floor area, i.e. 8 of the 413 residential units. In this regard, the provisions of the ARH SEPP are not applicable to the proposed development.

It is noted that the 8 affordable rental housing units have been designed in accordance with the provisions of the executed VPA.

(i) State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP)

The Education SEPP sets out a new reform process for certain types of education and child care facilities to be determined under exempt and complying development that will make it easier for child-care providers, schools, TAFEs and universities to build new facilities and improve existing ones by streamlining the planning process to save time and money and deliver greater consistency across NSW.

The proposed development includes the provision of a child care centre on the ground level of Building E. Consent is sought as part of this application for the construction and use of the child care centre.

Having regard to the above, the application is identified as a 'centre based child care' and the provisions of Part 3 of the Education SEPP are applicable to this application. In this regard, the relevant provisions of Part 3 are contained in the Assessment Table at **Attachment 7** to this Report, with the key matters discussed below:

Requirement	Yes/No	Comments								
Part 3 Early education and care facilities—specific development controls										
<p>22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development</p> <p>(1) This clause applies to development for the purpose of a centre-based child care facility if:</p> <p>(a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the <u>Education and Care Services National Regulations</u>, or</p> <p>(b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.</p>	Yes	<p>The proposal complies with regulation 107 and 108 of the Education and Care Services National Regulations and therefore does not require concurrence from the Regulatory Authority.</p> <p>Complies. The proposal is consistent with these clauses as follows:</p> <p><u>Indoor</u></p> <table><tr><th>Required 3.25m² per child</th><th>Proposed</th></tr><tr><td>100 x 3.25 = 325m²</td><td>329.9m² (Across 3 Activity Rooms – 114.4m², 67.8m² & 147.7m²)</td></tr></table> <p><u>Outdoor</u></p> <table><tr><th>Required 7m² per child</th><th>Proposed</th></tr><tr><td>100 x 7 = 700m²</td><td>713.75m²</td></tr></table> <p>Indoor and outdoor space has been calculated in accordance with the requirements, i.e. only unencumbered space has been included towards the area calculations.</p>	Required 3.25m ² per child	Proposed	100 x 3.25 = 325m ²	329.9m ² (Across 3 Activity Rooms – 114.4m ² , 67.8m ² & 147.7m ²)	Required 7m ² per child	Proposed	100 x 7 = 700m ²	713.75m ²
Required 3.25m ² per child	Proposed									
100 x 3.25 = 325m ²	329.9m ² (Across 3 Activity Rooms – 114.4m ² , 67.8m ² & 147.7m ²)									
Required 7m ² per child	Proposed									
100 x 7 = 700m ²	713.75m ²									

The **Child Care Planning Guidelines** also list matters for consideration for this development application. This development application is considered to satisfactorily address those matters listed. A full assessment table is attached in **Attachment 8** to this Report.

Regional Environmental Plans

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

(a) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development raises no issues as no impact on the catchment is envisaged.

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

Local Environmental Plans

Parramatta Local Environmental Plan 2011 (PLEP 2011)

The provision of the Parramatta Local Environmental Plan 2011 (PLEP 2011) is applicable to the development proposal. It is noted that the development achieves compliance with the key statutory requirements of the PLEP 2011 and the objectives of the B4 Mixed Use land use zone.

(a) Permissibility:-

The proposed development is defined as a 'mixed use development' and is permissible in the B4 Mixed Use land use zone with consent.

The proposed development is defined as a "centre-based child care facility", "hotel or motel accommodation", "serviced apartments" and "shop top housing", all of which are permissible in the B4 land use zone with consent:

centre-based child care facility means—

- (a) a building or place used for the education and care of children that provides any one or more of the following—
 - (i) long day care,*
 - (ii) occasional child care,*
 - (iii) out-of-school-hours care (including vacation care),*
 - (iv) preschool care, or**
- (b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),*

but does not include—

- (c) a building or place used for home-based child care or school-based child care, or*
- (d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or*
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or*

- (f) *a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or*
- (g) *a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or*
- (h) *a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.*

hotel or motel accommodation means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that—

- (a) *comprises rooms or self-contained suites, and*
- (b) *may provide meals to guests or the general public and facilities for the parking of guests' vehicles,*

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

The relevant matters to be considered under the PLEP 2011 for the proposed development are detailed below and in the Table at **Attachment 9** to this Report.

DEVELOPMENT STANDARD	COMPLIES	DISCUSSION
4.3 Height of Buildings Maximum 31m	N	<p>Buildings A, B and E comply with the maximum building height.</p> <p>Building C maintains a maximum building height of 33.07 metres, which results in a building height exceedance of 2.07 metres, which equates to a building height variation of 6.67%. The building components subject to the height breach comprise the balustrade and screening of the rooftop communal open space and the lift/stair overrun.</p> <p>Building D maintains a maximum building height of 31.22 metres, which results in a building height exceedance of 0.22 metres, which equates to a building height variation of 0.7%. The building components subject to the height breach</p>

		<p>comprise the lift/stair overrun and plant machinery screening.</p> <p>The Applicant has submitted a Clause 4.6 Variation Request for the height exceedances of Buildings C and D. Refer to Attachment 10 of this Report.</p>
4.4 Floor Space Ratio (FSR) Maximum 2:1	N	<p>The development proposes a total gross floor area (GFA) of 55,167.17m², which equates to a total FSR of 2.02:1. An excess of 503.17m² gross floor area is provided, which results in a 0.92% variation to the development standard.</p> <p>The Applicant has submitted a Clause 4.6 Variation Request. Refer to Attachment 11 of this Report.</p>
4.6 Exceptions to development standards	Y	<p>The Applicant has submitted Clause 4.6 Variation Requests for the departures from the building height and FSR development standards. Refer to the discussion in the following section of this Report.</p>
5.10 Heritage conservation	Y	<p>The site is not identified as a heritage item and is not within a heritage conservation area.</p> <p>Adjoining the site to the south is the 'Granville South Public School' at 276 Woodville Road, Guildford, which is identified as an item of local significance (I243) in Schedule 5. The application has been accompanied by a Heritage Impact Statement (HIS) prepared by Urbis which relevantly concludes that:</p> <p><i>The main school building is physically and visually distanced from the subject site in views along Woodville Road, separated by the 7 Eleven Service Station (272 Woodville Road) and the small retail precinct (274 Woodville Road). In views from Oxford Street, the subject development will form part of a backdrop of medium density contemporary development, where the current site is largely open and underutilised.</i></p> <p><i>The subject proposal is supported on heritage grounds and the development application is therefore recommended to the consent authority for approval.</i></p>

		The development is considered acceptable having regard to the provisions of Clause 5.10(4).
6.1 Acid Sulfate soils Class 5	Y	Standard conditions of consent have been recommended to manage the acid sulfate soil affectation of the site.
6.21 Development of land at 244, 246, 248, 256 and 258 Woodville Road, Merrylands	Y	In accordance with this clause, the enclosed balconies of Buildings C and D fronting Woodville Road have been excluded from the calculation of floor space ratio.
8.1 Arrangements for designated State public infrastructure	Y	<p>As part of the Planning Proposal (Amendment no.38), which was gazetted on 13 March 2020, the DPI&E advised that it was necessary to apply Clause 8.1 (Arrangements for designated State public infrastructure) of the PLEP 2011 to the site, <i>with the primary purpose being to ensure that the necessary roadworks to Woodville Road to support the proposed increase in density on the site are identified at the Development Application stage and provided at no cost to Government.</i></p> <p>The works the subject of this clause comprise intersection upgrade works at the intersection of Woodville Road (State road) and Lansdowne Street.</p> <p>The concurrence of TfNSW has been obtained as part of the development assessment process and advice has been received from the DPI&E confirming that satisfactory arrangements have been made in relation to Clause 8.1. Refer to Attachment 15 for a copy of the Satisfactory Arrangements Certificate.</p>

(b) Clause 4.6 – Variation to Floor Space Ratio (FSR)

Clause 4.6 allows the consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The consent authority may grant the exception as the Secretary's concurrence can be assumed where clause 4.6 is adopted as per the Department of Planning Circular PS 18-003, dated 21 February 2018.

The applicant has submitted a written request to vary the development standards for maximum floor space ratio. Based on various case laws established by the Land and Environment Court of NSW such as *Four2five P/L v Ashfield Council [2015] NSWLEC 9*, *Randwick City Council v Micaul Holdings P/L [2016] NSW LEC7* and *Zhang and anor v Council of the City of Ryde [2016] NSWLEC 1179*, a 3 part assessment framework for a variation request proposed under clause 4.6 has been considered and an assessment of the proposed variance, following the 3 part test is discussed in detail below.

The 3 preconditions which must be satisfied before the application can proceed are as follows:

1. Is the proposed development consistent with the objectives of the zone?

Applicant's justification:

The development proposes a mix of appropriate land uses comprising residential dwellings, a supermarket, specialty retail shops, child-care centre and hotel. The development has been designed to allow for land uses to operate harmoniously. Separate lift access has been provided for the individual land uses to ensure user convenience. A high degree of connectivity is provided between the car parking areas and the individual land uses with residential uses and non-residential land uses separated.

Supporting this application is a Transport Impact Assessment prepared by GTA Consultants which has considered among other matters the level of service provided to the development under the current public transport infrastructure.

Located on the ground floor of the development are a range of commercial uses that will contribute towards a vibrant public domain. In the south-west corner of the site is a public park which provides pedestrian linkages with ground floor tenancies earmarked as 'eat-street'. It is intended that cafés and restaurants with outdoor dining will occupy this space consistent with Council's vision for the site.

Located to the south of the development site is a listed local heritage item under Parramatta LEP 2011. Supporting this application is a Heritage Impact Assessment prepared by Urbis which has considered the proposed development and the potential impact on the significance of the listed item.

Built form has been appropriately distributed throughout the site generally consistent with the area specific planning controls within the Parramatta DCP 2011.

Planner's comment:

The development provides a mix of compatible land uses that are permissible within the B4 Mixed Use zone of the site. The delivery of 2,000m² of park for public open space improves the public domain and the proposed vehicular and pedestrian links through the site contribute to the creation of an active, vibrant and sustainable neighbourhood. Despite the minor numerical departure from the maximum FSR development standard, the development remains consistent with the objectives of the B4 Mixed Use zone.

2. Is the proposed development consistent with the objectives of the development standard which is not met?

Applicant's justification:

The proposed variation represents a numerical exceedance of 503.17m² or 0.92%. which is a nominal variation from Council's development standard that does not result in a significant increase in the density of development within the zone. The distribution of development throughout the site remains generally consistent with the area specific planning controls for the Merrylands East Neighbourhood Centre Precinct.

The distribution of built form is detailed within the area specific Development Control Plan which provides indicative building form, building envelopes and number of storeys throughout the site with an emphasis on bulk and scale fronting Woodville Road, transitioning appropriately in scale towards the public school to the south and low density residential development along Lansdowne St and to the west.

Planner's comment:

The numerical departure from the development standard is considered to be minor, i.e. 0.92%. The development has been designed to have regard to the adjoining heritage item to the south and to respond to the existing character and scale of the surrounding low density residential area. The development provides a transition in built form across the site, responsive to the adjoining and surrounding development. The proposed departure from the development standard does not impact the density of development intended for the site, having regard to the generation of vehicular and pedestrian traffic. The development is considered to be consistent with the floor space ratio objectives of the PLEP 2011.

3. a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? And;

Applicant's justification:

Compliance with the FSR development standard in the Parramatta LEP is unreasonable and unnecessary as the zoning and FSR standard applying to the site is being repealed and replaced with a new zoning and FSR standard in the Draft Cumberland LEP which is certain and imminent and for which the proposed development complies. The proposed FSR complies with the 2.2:1 FSR standard in the Draft Cumberland LEP, and it is therefore unreasonable and unnecessary to comply with the 2:1 FSR in the Parramatta LEP. The proposed development is also consistent with the objectives of the FSR standards.

Planner's comment:

The proposed 0.92% departure from the maximum FSR development standard presents a very minor numerical departure from the FSR development standard. Given the minor nature of the non-compliance, coupled with the fact that the proposed FSR is compliant with the maximum FSR proposed for the site in the Draft CLEP, compliance with the development standard, in this instance, is considered to be unreasonable.

- b) Are there sufficient environmental planning grounds to justify contravening the development standard and therefore is the applicant's written justification well founded?

Applicant's justification:

In the circumstance of the case as set out in this submission, it is appropriate to apply a degree of flexibility in considering the development standard. The proposed development would result in an exceedance of the floor space ratio of 503.17m² or 0.92%. This is a minor variation to the development standard for a development consistent with the future desired character of the area and will not result in significant adverse effects upon adjoining development.

It is appropriate to apply a degree of flexibility as the zoning and FSR development standard applying to the site is being repealed and replaced with a new zoning and FSR standard in the Draft Cumberland LEP, which is certain and imminent, and for which the proposed development complies.

Planner's comment:

In the circumstances of the case, it is acknowledged that the 0.92% breach of the maximum FSR development standard presents a very minor departure from the maximum FSR in the PLEP 2011. The Applicant's written justification is considered to be well founded and is supported by Council.

Conclusion:

Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6 subclause (3). Council is further satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the floor space ratio development standard and the objectives for development within the B4 Mixed Use land use zone in which the development is proposed to be carried out.

It is the view of Council Officers that justification provided is satisfactory and having considered the application on its merit, the exception to the maximum floor space ratio development standard is considered acceptable in this instance.

(c) Clause 4.6 – Variation to Height of Building (HOB)

Clause 4.6 allows the consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The consent authority may grant the exception as the Secretary's concurrence can be assumed where clause 4.6 is adopted as per the Department of Planning Circular PS 18-003, dated 21 February 2018.

The applicant has submitted a written request to vary the development standards for maximum building height. Based on various case laws established by the Land and Environment Court of NSW such as *Four2five P/L v Ashfield Council* [2015] NSWLEC 9, *Randwick City Council v Micaul Holdings P/L* [2016] NSW LEC7 and *Zhang and anor v Council of the City of Ryde* [2016] NSWLEC 1179, a 3 part assessment framework for a variation request proposed under clause 4.6 has been considered and an assessment of the proposed variance, following the 3 part test is discussed in detail below.

The 3 preconditions which must be satisfied before the application can proceed are as follows:

4. Is the proposed development consistent with the objectives of the zone?

Applicant's justification:

The development proposes a mix of appropriate land uses comprising residential dwellings, a supermarket, specialty retail shops, child-care centre and hotel. The development has been designed to allow for land uses to operate harmoniously. Separate lift access has been provided for the individual land uses to ensure user convenience. A high degree of connectivity is provided between the car parking

areas and the individual land uses with residential uses and non-residential land uses separated.

Supporting this application is a Transport Impact Assessment prepared by GTA Consultants which has considered among other matters the level of service provided to the development under the current public transport infrastructure.

Located on the ground floor of the development are a range of commercial uses that will contribute towards a vibrant public domain. In the south-west corner of the site is a public park which provides pedestrian linkages with ground floor tenancies earmarked as 'eat-street'. It is intended that cafés and restaurants with outdoor dining will occupy this space consistent with Council's vision for the site.

Located to the south of the development site is a listed local heritage item under Parramatta LEP 2011. Supporting this application is a Heritage Impact Assessment prepared by Urbis which has considered the proposed development and the potential impact on the significance of the listed item.

Built form has been appropriately distributed throughout the site generally consistent with the area specific planning controls within the Parramatta DCP 2011.

Planner's comment:

The development provides a mix of compatible land uses that are permissible within the B4 Mixed Use zone of the site. The delivery of 2,000m² of park for public open space improves the public domain and the proposed vehicular and pedestrian links through the site contribute to the creation of an active, vibrant and sustainable neighbourhood. Despite the minor numerical departures from the maximum building height development standard, the development remains consistent with the objectives of the B4 Mixed Use zone.

5. Is the proposed development consistent with the objectives of the development standard which is not met?

Applicant's justification:

Buildings C and D are consistent with the maximum number of storeys in the DCP and have habitable floors lower than the LEP height limit, with minor parts of their roof elements breaching the height limit.

The exceedance of the height limit by the roof elements on Buildings C and D are minor and do not generate any significant environmental impact on views, privacy or solar access. These roof elements are barely visible from the surrounds, and their small shadows will fall mainly on the roofs. The roof balustrading is a translucent material through which filtered light passes and does not have a shadow impact. Shadows from the lift overruns, fire stairs and plant screen wall on the roofs of Buildings C and D largely fall on their respective roofs.

A substantial separation between the heritage item and the development is achieved. The materiality of the heritage item has been picked up in the podium of the proposed building through the use of masonry elements.

Planner's comment:

The portions of Buildings C and D subject to the height breach, i.e. balustrades and stair/lift overrun, do not have the potential to minimise the visual impact, disruption of views or the loss of privacy or solar access to existing development. The impact of the height breaches has been considered by the HIS which accompanies the development application and are supported on heritage grounds. The development is considered to be consistent with the building height objectives of the PLEP 2011.

6. a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? And;

Applicant's justification:

Compliance with the height of building development standard in the Parramatta LEP is unreasonable and unnecessary as the zoning and height of building development standard applying to the site in the Parramatta LEP are being repealed and replaced in the Draft Cumberland LEP which is certain and imminent and for which the proposed development complies. The proposal complies with the incentivised increase to height of building controls of 3.5m for the site (or total overall permitted building height of 34.5m) in the Draft Cumberland LEP, and it is therefore unreasonable and unnecessary to comply with the 31m height of building development standard in the Parramatta LEP. The proposed development is also consistent with the objectives of the standard being varied.

Planner's comment:

The building height exceedances of Buildings C and D do not comprise any habitable floor area, rather, the building components subject to the height breaches comprise balustrades and screening and the lift/stair overruns. The numerical variances sought, i.e. 6.67% for Building C and 0.7% for Building D are considered to be reasonable, in that they do not add any unnecessary bulk to the buildings, given the minor nature of the numerical departures. In the circumstances of the case, compliance with the development standard is unreasonable.

- b) Are there sufficient environmental planning grounds to justify contravening the development standard and therefore is the applicant's written justification well founded?

Applicant's justification:

There are unique circumstances to this case and sufficient environmental planning grounds specific to the development and subject site which warrant support, including:

- The development is closely aligned with Council's strategic direction for the proposed Merrylands East Neighbourhood Centre Precinct. The built form and distribution of bulk and scale throughout the development site is consistent with the area specific planning controls under the Parramatta DCP 2011. The number of storeys proposed for Buildings C and D are consistent with the distribution of the built form adjoining Woodville Road as envisaged by the DCP. On this point it is important to note that Building D proposes a built form of eight (8) storeys whereas the DCP allows for a built form of nine (9) storeys.*

- *The built form has been appropriately distributed throughout the site with the greater built form adjoining Woodville Road being the least sensitive to a greater building height and form. The development transitions in height and scale to the more sensitive fringes which comprise low density residential development and the Granville South Public School to the south. This decanting of height from the more sensitive fringes will improve amenity outcomes for the School and adjoining low density residential development with regard to visual impacts and improved privacy outcomes.*
- *Building C contains a high-quality community rooftop terrace on the uppermost level which provides amenities and open space for use by the residents to gather and socialise along with appropriate landscaping. The non-compliant elements of this building comprise only the stair/lift overrun and to a lesser extent the balustrade/screen which is to be constructed from translucent/transparent material.*
- *Despite the additional building height the scale of development remains consistent with the future desired character of the area by providing local services and facilities within walking distance of established neighbourhoods with good access to Woodville Rd and throughout the 'key site'.*

Planner's comment:

For the reasons detailed above, there are sufficient environmental planning grounds to justify contravening the development standard and the Applicant's written justification is well founded.

Conclusion:

Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6 subclause (3). Council is further satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the height of building development standard and the objectives for development within the B4 Mixed Use land use zone in which the development is proposed to be carried out.

It is the view of Council Officers that justification provided is satisfactory and having considered the application on its merit, the exception to the maximum building height development standard is considered acceptable in this instance.

The provisions of any proposed instrument that is or has been the subject (EP&A Act s4.15 (1)(a)(ii))

(a) Draft State Environmental Planning Policy (Environment) (Draft Environment SEPP)

The draft SEPP relates to the protection and management of our natural environment with the aim of simplifying the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. The changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development

- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The draft policy will repeal the above existing SEPPs and certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 117 Local Planning Directions where appropriate.

(b) Draft Cumberland Local Environmental Plan (Draft CLEP)

The Draft Cumberland Local Environmental Plan (Draft CLEP) has been prepared by Cumberland City Council to provide a single planning framework for the future planning of Cumberland City. The changes proposed seek to harmonise and repeal the three existing LEPs currently applicable to the Cumberland Local Government Area (LGA), those being:

- Holroyd Local Environmental Plan 2013,
- Parramatta Local Environmental Plan 2011, and
- Auburn Local Environmental Plan 2010.

As part of the Draft CLEP, it is proposed to rezone the subject part B2 Local Centre and Part RE1 Public Recreation. The proposed 2,000m² public park (to be delivered in accordance with the executed VPA), will be subject to the RE1 land use zone, with the balance of the site to be zoned B2. The development remains consistent with the objectives of the proposed land use zones.

Having regard to building height, the Draft CLEP proposes to maintain the existing 31 metre maximum building height applicable to the site under the PLEP 2011.

The Draft CLEP proposes an increase from the existing 2:1 FSR to a maximum FSR of 2.2:1. This increase is intended to address the loss of 2,000m² of site area as a result of the rezoning of the public park land to RE1.

The rezoning of the park will result in the site maintaining a total area of 25,332m², for the purpose of calculating the FSR of the development, in accordance with the provisions of the Draft CLEP.

The development maintains a total gross floor area (GFA) of 55,167.17m², which, utilising the B2 zoned land area (25,332m²), equates to a maximum FSR of 2.18:1. The proposed maximum FSR of 2.2:1 would facilitate compliance with the FSR development standard. Notwithstanding, as the Draft CLEP is yet to be gazetted, this development application has been accompanied by a Clause 4.6 variation request, to address the variation to the maximum FSR development standard in the PLEP 2011.

The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))

(a) Parramatta Development Control Plan 2011 (PDCP 2011)

The Parramatta Development Control Plan 2011 (PDCP 2011) provides guidance for the design and operation of development to achieve the aims and objectives of the PLEP 2011.

A comprehensive assessment and compliance table is contained in **Attachment 10** to this Report.

The following table highlights non-compliances with the DCP, which relate primarily to residential unit mix, car parking, provision of non-residential land uses, building height and setbacks and street wall height. The variations sought are considered satisfactory on merit in this instance:

CLAUSE	CONTROL	PROPOSED
3.4.4 Housing Diversity and Choice	<p>P1. The following mix is to be used as a guide for residential flat buildings, the residential component of mixed use developments:</p> <p>3 bedroom 10% - 20%</p> <p>2 bedroom 60% - 75%</p> <p>1 bedroom 10% - 20%</p> <p>This mix may be refined having regard to:</p> <ul style="list-style-type: none"> whether the development is for the purpose of public housing or the applicant is a community housing or non-profit organisation. 	<p>The following unit mix is proposed by the development:</p> <ul style="list-style-type: none"> 1 bedroom 146 dwellings (35.3%) 2 bedroom 216 dwellings (52.3%) 3 bedroom 51 dwellings (12.4%) <p>The proposed unit mix is providing a range of 1, 2 and 3 bedroom dwelling types to meet the needs of future residents of the area and the proposed mix is therefore supported by Council.</p>
3.6.2 Parking and Vehicular Access	<p>C.23 Vehicular access is not to be provided along the boundary adjacent to residential uses.</p> <p>C.24 Loading/manoeuvring areas are to be located within buildings or screened from adjacent residential uses.</p> <p>C.25 Residential and non-residential car parking spaces are to be physically separated.</p> <p>Car parking rates</p>	<p>Residential:</p> <p>146 x 1 = 146</p> <p>216 x 1.25 = 270</p> <p>51 x 1.5 = 77</p> <p>Total = 493 spaces</p> <p>Visitor:</p> <p>0.25 x 413 = 104 spaces</p> <p>Total Required = 597</p> <p>439 residential spaces have been provided and 75 visitor spaces provided</p>

	<p>Residential flat buildings, Multi dwelling housing or the residential component of Mixed Use development (not within 400 metres walking distance of a transitway bus stop with a service frequency of an average of 10 minutes or less during the morning peak hour (7am-9am) in either direction, or of a railway station)</p> <p>0.6 spaces per studio apartment 1 space per 1 bedroom unit 1.25 spaces per 2 bedroom unit 1.5 spaces per 3 bedroom unit 2 spaces per 4 bedroom unit</p> <p>Plus 0.25 space per dwelling for visitor parking</p> <p>A car wash bay which may also be a visitor space</p> <p>Retail Premises 1 space per 30sqm of gross floor area</p> <p>Child Care Centres 1 space for every 4 children in attendance</p>	<p>Total Provided = 514</p> <p>It is acknowledged that the development provides residential car parking spaces compliant with the requirements of the ADG, i.e. RMS Guide to Traffic Generating Developments. Given compliance with the SEPP 65 and ADG requirements, the proposed car parking for the residential component of the development is considered acceptable.</p> <p>The development is short 8 visitor spaces, in accordance with the RMS Guide to Traffic Generating Developments (RMS Guide) requirement for visitor parking. This is considered a minor variation and on this basis, is considered acceptable to Council.</p> <p><u>Retail:</u> Retail, Supermarket & Liquor Shop total GFA = 10,055.5sqm</p> <p>$10,055.5 / 30 = 335.1$ Total required = 336 spaces</p> <p>A total of 366 spaces are provided within Basement 1, in excess of the minimum requirement of the PDCP 2011.</p> <p><u>Child Care Centre:</u> 100 children total $100 / 4 = 25$ spaces required 25 spaces provided within Basement 1 in compliance with the minimum requirement of the PDCP 2011.</p> <p><u>Hotel:</u> It is acknowledged that the PDCP 2011 does not provide a car parking rate for hotel development. In the absence of a rate, the rates of the RMS Guide have been used.</p>
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		<p>The RMS Guide calls for 1 space per 4 bedrooms in 3 and 4 star hotels.</p> <p>The hotel component of the development provides a total of 95 rooms.</p> <p>$95 / 4 = 23.75$ Total required = 24 spaces</p> <p>A total of 25 spaces are provided for the hotel in Basement 1, consistent with the provisions of the RMS Guide for hotel development.</p>
<p>4.1.12 Merrylands East Neighbourhood Centre Precinct</p> <p>Structure, Form and Density</p>	<p>C.4 The ground floor and first floor of the proposed development on the key site are to be non-residential.</p>	<p>The development provides non-residential development across the entire ground floor. However, the development does not provide non-residential uses across the entirety of the first floor of the development, instead a four level hotel (excluding the lobby) is proposed contributing 5,784.24m² of GFA.</p> <p>The Applicant has cited operational reasons for having the hotel within the one building rather than spread across the entire first floor:</p> <p><i>It improves the car parking and access arrangement and patron movements through the lobby and elevators. In this form the development remains consistent with the objectives of the chapter.</i></p> <p>The proposed 'open' parapet design feature along the outer boundary of the podium level is intended to provide a similar visual outcome in terms of street wall height.</p> <p>An Economic Impact Assessment (EIA) was submitted in support of the Planning Proposal prepared by Hill PDA.</p> <p>This has considered the potential economic impact of the proposed</p>

		<p>scheme. It notes that extensive market research was undertaken by CBRE with regard to two levels of commercial/retail floor space:</p> <p><i>there was a lack of market interest in the first floor for commercial uses. Over a 12 month period CBRE found substantial interest and some commitment from prospective tenants for the ground level commercial & retail tenancies and interest for a hotel / serviced apartments building over four levels above ground. However there was no market interest or commitments for other commercial uses above the ground floor. If developed there would be a likely problem of long term vacancies on the first floor which would add further risk to securing the supermarket / anchor tenant.</i></p> <p>The EIA considered the forecast demand for retail space, noting that demand for shop front space in the locality by 2021 is estimated at 11,400m² Gross Leasable Area (GLA) and is expected to increase to almost 14,600m² by 2031. Some of the demand is already taken up with existing retailers including an ALDI store and around eight fast food premises (measuring approximately 2,200m²). It is acknowledged that the proposed development provides retail and supermarket uses with a net leasable area (NLA) of 7,788m², a childcare centre with 723.5m² of NLA and hotel/serviced apartments with a GFA of 5,784m².</p> <p>The report concludes that the proposed development, mix of land uses and quantum of non-residential floor space would:</p> <p><i>fill a gap in the local area, assist in meeting the undersupply of retail space (in particular supermarket space) and would absorb some of the growth in demand for retail</i></p>
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		<p><i>space without reducing the current trading levels currently being enjoyed by existing centres in the locality. The proposed development with ground level commercial retail uses and multi-storey hotel /serviced apartments has been designed to provide an optimal form of development to the extent that it has demonstrated sufficient interest in the market to ensure commercial viability without significantly impacting existing business centres.</i></p> <p>Having regard to the above, the proposed variation to this control is supported by Council.</p>
<p>4.1.12 Merrylands East Neighbourhood Centre Precinct Building Heights</p>	<p>C.1 Development shall not impact on solar access or create overshadowing of the playground or sporting fields of the Granville South Public School.</p>	<p>Having regard to the layout of the adjoining Granville South Public School to the south of the site, there is a basketball court along the school's northern boundary with the site, a sports court and sports field towards the western school boundary and a playground located centrally within the school site.</p> <p>The development will have overshadowing impacts on the basketball court, sports court and playground. The sports field is not overshadowed.</p> <p>The Applicant has provided hourly shadow diagrams from 9am to 3pm on 21 June, to demonstrate the overshadowing impacts generated by a fully compliant DCP built form and the proposed development scheme. These diagrams demonstrate that the proposed development has generally the same degree of overshadowing as a fully DCP compliant design.</p> <p>At 9am the development has an overshadowing impact on part of the sports court and playground and the entirety of the basketball court.</p>

		<p>Between the hours of 10am and 2pm, the overshadowing impact of the development is limited to part of the basketball court, with the area overshadowed gradually declining each hour. By 3pm the overshadowing impact of the development is limited to a small portion of the north-eastern corner of the court.</p> <p>Given the largely unimpeded solar access between the hours of 10am and 3pm on 21 June to the sports court, sports field and playground areas within the school, the proposed overshadowing is considered acceptable. The development provides compliant setbacks to the southern boundary of the site and it is acknowledged that the overshadowing impacts are influenced to a degree by the orientation of the site. It is considered that the development has been designed to minimise the overshadowing impact to the school, noting that the degree of overshadowing generated by the proposed scheme is consistent with the overshadowing that would be generated by a fully compliant DCP scheme.</p> <p>Having regard to the above, the variation to this control is supported by Council.</p>
	<p>C.2 The height of buildings is to be generally in accordance with Figure 4.1.12.6 Building Heights and all requirements of the ADG, particularly building separation.</p>	<p>Building heights have been distributed within the site generally in accordance with Figure 4.1.12.6.</p> <p>However, variations are sought with regard to the number of storeys as follows:</p> <ul style="list-style-type: none"> • Building E proposes a 5 storey built form adjoining Lansdowne Street rather than 4 storeys; • Building A proposes a 6-8 storey built form central to the site rather than 7 storeys; and

		<ul style="list-style-type: none"> • Building B proposes a 5-8 storey built form adjoining New Street 1 rather than 5-7storeys. <p>Having regard to the exceptions sought, the Applicant has noted the following points having regard to the Design Principles and Planning Controls within the PDCP 2011:</p> <ul style="list-style-type: none"> • The physical result of the non-compliance at these locations is an approximate half storey increase, which remains consistent with the envisaged bulk and scale for the neighbourhood centre. • The design form of buildings in the DA plans is consistent with the objectives, design principles and intent of the DCP and are consistent with the general DCP envelopes. This includes in particular the stepping down of building height from Woodville Road to the park and neighbouring residential zone to the west. • Appropriately, the greater built form adjoins Woodville Road, transitioning to the more sensitive fringes with established low density residential development generally to the north and west of the development site and the Granville South Public School to the south. • There is a distinct step down in building height along Lansdowne Street from 9 storeys to 5 storeys consistent with the objectives of the DCP. <p>Having regard to the above, the proposed variation to this control is supported by Council.</p>
4.1.12 Merrylands East Neighbourhood Centre Precinct	C.1 Minimum setbacks are to be in accordance with Figure 4.1.12.7 Setbacks (Please refer to Figures 4.1.12.8 to 4.1.12.15 for details).	The development is generally consistent with the setbacks required by Figure 4.1.12.7, with the exception of the following:

Setbacks		<p>Woodville Road Setback DCP Control = 10m Proposed scheme (building) = 10m (minor encroachment at north eastern corner) Proposed scheme (basement level) = 5m</p> <p>It is noted that there is a minor encroachment into the 10m setback requirement, with a minor portion of the ground floor setback 7.5m from the boundary. This reduced setback is required to facilitate a functional loading dock to allow for 20m articulated truck manoeuvring requirements.</p> <p>New Street 2 Setback DCP Control = 9.5m (from kerb) Proposed scheme (northern section) = 4m footpath + 4m colonnade</p> <p>There is a minor variation to the setback from New Street 2 at the northern section of the development. This variation is supported by Council as it forms only part of the length of the frontage to New Street 2, with the southern section remaining compliant. The variation is considered minor and is influenced by the alignment of the lot.</p>
<p>4.1.12 Merrylands East Neighbourhood Centre Precinct</p> <p>Street Wall Height</p>	<p>C.1 Street wall height for the mixed-use development should be two storeys with an upper level setback.</p>	<p>The proposed development comprises a single level of non-residential land uses at the ground floor and a mixture of residential and non-residential uses on the first floor.</p> <p>The Applicant has provided the justification that <i>the development has been designed to provide a continuation of the ground floor external wall, via a parapet feature, which presents as a second storey element with penetrations and landscaping. This design solution is considered to meet the objectives of the chapter by reinforcing the</i></p>

		<p><i>proposed uses on the ground floor, is of human scale at the street level and with a retail colonnade that provides a high degree of amenity for pedestrians.</i></p> <p>This justification is considered acceptable by Council.</p>
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The above non-compliances are considered acceptable on merit and are supported by Council.

The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s4.15(1)(a)(iia))

The site is subject to a VPA which was executed on 2 October 2019. As part of this VPA there are several deliverables to be dedicated to Council, as follows:

- Eight (8) affordable housing units;
- Public park comprising 2,000m²;
- Embellishment of Green Setbacks Land; and
- Two (2) new streets, including land for road carriageways, parking bays, footpaths and road verges.

The 2 new streets are:

- New Street 1 - an east-west road located on the southern side of the site and connects the proposed New Street 2 to Woodville Road, with a left-out only onto Woodville Road.
- New Street 2 - a north-south road connecting to Lansdowne Street and traversing the western boundary of the site and connecting to New Street 1.

The development has been proposed consistent with the provisions of the VPA. Compliance with the provisions of the VPA, including the dedication of land, has been addressed through the recommended conditions of consent.

A copy of the executed VPA is attached at **Attachment 12** to this Report.

The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))

The proposed development raises no concerns as to the relevant matters arising from the *Environmental Planning and Assessment Regulations 2000* (EP&A Reg).

The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))

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

The suitability of the site for the development (EP&A Act s4.15 (1)(c))

The subject site and locality is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. Accordingly, it is considered that the development is suitable in the context of the site and surrounding locality.

Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

Advertised ☒

Mail ☒

Sign ☒

Not Required ☐

In accordance with Council's notification requirements contained within the PDCP 2011, the proposal was publicly notified for a period of 21 days between 16 September 2020 and 14 October 2020. The notification generated a total of ten (10) submissions in respect of the proposal with none disclosing a political donation or gift. Of the 10 total submissions received, four (4) comprise form letters, resulting in a total of six (6) unique submissions received.

The issues raised in the public submissions are summarised and commented on as follows:

Issue	Response
<i>Excessive noise and traffic pollution in an already congested street</i>	The development application has been accompanied by an Acoustic Report which has been reviewed and supported by Council's Environmental Health Unit. A Traffic Report has also been reviewed by Council's Traffic Engineers and supported. Conditions of consent have been recommended to manage noise and amenity impacts for the duration of the demolition and construction works, as well as during the operation of the development.
<i>Increased traffic using Lansdowne Street and impact on safety of vehicles reversing out of driveways</i>	The development application has been accompanied by a Traffic Study, which has been assessed by Council's Traffic Engineers and supported.
<i>Delayed access to Highland Street for emergency services during the hours of 8am to 10am, 2.30pm to 6.30pm on weekdays</i>	The development application has been accompanied by a Traffic Study, which has been assessed by Council's Traffic Engineers and supported.
<i>413 units, 95 serviced apartments, shopping centre, child care and no residential parking in new site will not work</i>	A total of 439 residential car parking spaces are provided, in excess of the minimum number required by the ADG. It is also noted that the development provides commercial parking that is compliant with the provisions of the PDCP 2011.
<i>Access to Highland Street should be blocked from the development site</i>	The development application has been accompanied by a Traffic Study, which has been assessed by Council's Traffic Engineers and supported.
<i>A roundabout should be installed at the end of Highland Street and Oxford Street to</i>	This issue has been considered in the engineering assessment of the proposed development. A condition of consent has

<i>manage current traffic chaos and safety issues</i>	been recommended requiring the Applicant to deliver a roundabout at this location, at no cost to Council.
<i>Signal lights should be installed at the corner of Lansdowne Street and Woodville Road, leading on to Earl Street and Woodville Road</i>	Traffic control signals are proposed at the intersection of Woodville Road and Lansdowne Street. The concurrence of TfNSW has been obtained in relation to these works and conditions of consent have been recommended.
<i>The parking on either side of Woodville Road (Lansdowne Street and Earl Street) should be limited to 2 hours during the working hours of the commercial premises – 8am to 8pm Monday to Sunday</i>	The development application does not include any time restrictions to on-street parking along Woodville Road, Lansdowne Street or Earl Street. Woodville Road is a State road. Should parking restrictions be sought along Lansdowne Street or Earl Street in the future, this request would be subject to Council Traffic Committee approval.
<i>The signal light should be placed prior to construction taking place to avoid further congestion during construction and to facilitate a safe environment</i>	The timing of the delivery of the traffic control signal at the intersection of Woodville Road and Lansdowne Street is a matter for TfNSW, given Woodville Road is a State road.
<i>Parking should be changed to angled parking to increase the capacity of parking in the area in the streets</i>	The parking arrangement has been assessed by Council's Traffic Engineers and is considered acceptable.
<i>At least 25% of the proposed dwellings should have a corresponding visitor spot</i>	The development has provided a total of 75 residential visitor parking spaces, a deficit of 8 spaces from the ADG requirement for visitor parking. It is acknowledged that the development is short 8 visitor spaces, this variation is considered acceptable to Council, given that a surplus of 85 residential spaces are provided above the minimum residential space requirement.
<i>We oppose the mixed use of dwellings, specific to the potential of constructing a new medical centre – there are so many medical centres in the area</i>	The proposed land uses are permissible within the B4 Mixed Use zoning of the land.
<i>A restriction should be placed on the use of the commercial development to prevent Medical General practice or Dental practices from being constructed due to a conflict of interest – we are happy to allow an imaging centre</i>	A restriction of this kind is a condition that cannot legally be imposed by Council.
<i>The height of the buildings causes adverse overshadowing</i>	Due to the orientation of the development site, the development does not generate any overshadowing impacts on the existing development to the north, east and west of the site. The development does generate overshadowing impacts on the Granville

	South Public School site to the south of the site. Refer to the PDCP 2011 section of this Report for a discussion of these overshadowing impacts.
<i>The construction work will not allow my infant child to sleep during the day</i>	Standard conditions of consent have been recommended to manage construction hours.
<i>The population growth will increase demand for teaching spaces at Granville South Public School</i>	This has been considered at the Planning Proposal stage of the development.
<i>The proposal is likely to result in overshadowing of the school between 9am to 3pm on 21 June</i>	The development does result in overshadowing to a portion of the school between the hours of 9am and 3pm, refer to the discussion at the PDCP 2011 section of this Report for a discussion of the impact and reasons why the variation to the PDCP 2011 requirement for overshadowing is supported by Council.
<i>Building C currently exceeds the maximum height control for the site under the PLEP – the heights of Buildings B and C should be reduced to mitigate overshadowing impacts</i>	Buildings C and D exceed the maximum building height development standard. As part of the development assessment process, the height of Building D has been further reduced. Refer to the PLEP 2011 and Clause 4.6 variation request sections of this Report.
<i>The design of the development (particularly Buildings B and C) currently includes multiple balconies, windows and communal rooftop space that overlook portions of the school – additional screening should be provided</i>	It is noted that the proposed balconies of Buildings B and C are setback 23 metres from the southern property boundary with the school. Vertical louvres have been proposed to the balconies of Building B, which face the school, to assist with privacy mitigation to the outdoor play area (basketball court), in proximity to the school site's northern boundary.
<i>It is requested that the school be consulted and included during the design of the new roads – a condition of consent should be included to facilitate this</i>	Community consultation was undertaken as part of the preparation of the VPA for the land. The arrangements for New Road 1 and New Road 2 were identified at the VPA preparation stage. The design of these roads has been undertaken in accordance with the provisions of the VPA and the PDCP 2011.
<i>The highest impact construction works should be undertaken outside of school hours where possible and the school should be notified at least one week in advance of construction works that could cause considerable noise and/or vibration impacts</i>	Standard conditions of consent have been recommended to manage construction hours.
<i>A condition of consent should be imposed to ensure that construction vehicles do not enter and exit the proposed DA work site via</i>	A standard condition of consent has been recommended requiring the preparation of the Construction Traffic Management Plan.

<i>Highland Street during school drop-off and pick-up periods</i>	
<i>The development should incorporate more dedicated bicycle parking beyond the minimum rate required under the Parramatta Council Development Control Plan 2011</i>	The development provides compliant bicycle parking in accordance with the provisions of the PDCP 2011.

The public interest (EP&A Act s4.15(1)(e))

In view of the foregoing analysis it is considered that the development, if carried out subject to the conditions set out in the recommendation below, will have no significant adverse impacts on the public interest.

CUMBERLAND LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN 2020

The development would require the payment of contributions in accordance with Cumberland Local Infrastructure Contributions Plan 2020 (the Contribution Plan).

In accordance with Section 4.4 of the Contribution Plan, Council can only apply either a Section 7.11 (calculated on dwelling yield) or Section 7.12 (calculated on cost of works) to a mixed development application, not both. The applicable contribution is whichever generates the greater amount.

Council's Contributions Officer has calculated that the applicable contribution is Section 7.11, which is calculated based on the residential dwelling yield:

- 1 bedroom 146 dwellings
- 2 bedroom 216 dwellings
- 3 bedroom 51 dwellings

As at February 2021, the total contribution fee payable is **\$5,785,188.00**. This figure is subject to indexation as per the Contribution Plan.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

The Applicant has declared one (1) political donation.

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

CONCLUSION

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*, State and Regional Development SEPP, SEPP 55, SEPP 64, SEPP 65, ISEPP, Vegetation SEPP, BASIX SEPP, ARH SEPP, Education SEPP, SREP 2005, PLEP 2011, Draft Environment SEPP, Draft CLEP and PDCP 2011 and is considered to be satisfactory for approval, subject to conditions at **Attachment 1** of this Report.

The proposed development is appropriately located within the B4 Mixed Use zone under the relevant provisions of the PLEP 2011. The proposal is generally consistent with the statutory

and non-statutory controls applying to the development. The proposed departures from the maximum building height and floor space ratio development standards have been assessed pursuant to the provisions of Clause 4.6 of the PLEP 2011 and are supported. Minor non-compliances with Council's controls have been discussed in the body of this Report. The development is considered to perform adequately in terms of its relationship to its surrounding built and natural environment, particularly having regard to impacts on adjoining properties.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and the development may be approved subject to conditions.

RECOMMENDATION

- 1. That Development Application No. DA2020/0493 for the demolition of existing structures/site improvements and construction of a mixed-use development, with a varying height of 5 to 9 storeys comprising commercial and retail premises, residential apartments/shop top housing (413 apartments), childcare centre, hotel accommodation/serviced apartments (95 rooms), public park and associated landscaping, road access, two levels of basement parking and associated site works be approved subject to recommended conditions at Attachment 1.**
- 2. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.**

ATTACHMENTS

1. Draft Notice of Determination
2. Architectural Plans
3. Landscape Plans
4. CDEP Correspondence
5. SEPP 64 Assessment
6. ADG Compliance Table
7. Education SEPP Assessment
8. Childcare Planning Guideline Assessment
9. PLEP 2011 Assessment
10. Clause 4.6 Variation Request – HOB
11. Clause 4.6 Variation Request – FSR
12. PDCP 2011 Assessment
13. Executed VPA
14. Redacted Submissions
15. Satisfactory Arrangements Certificate