

## Attachment 3 – Appendix B - Cumberland Local Environmental Plan 2021 Assessment

Clause	Comments	Compliance
Section 1.2 Aims of Plan.	<p>The particular aims of this Plan are as follows:</p> <ul style="list-style-type: none"> <li>(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,</li> <li>(a) to provide a comprehensive planning framework for the sustainable development of land in Cumberland,</li> <li>(b) to provide for a range of land uses and development in appropriate locations to meet community needs,</li> <li>(c) to facilitate economic growth and employment opportunities within Cumberland,</li> <li>(d) to conserve and maintain the natural, built and cultural heritage of Cumberland,</li> <li>(e) to provide for community facilities and services in Cumberland to meet the needs of residents, workers and visitors,</li> <li>(f) to promote development that is environmentally sustainable.</li> </ul> <p>The proposal is suitably located on a parcel of land and is environmentally sustainable which minimises impacts to adjoining properties and satisfies the aims of Section 1.2 of the CLEP 2021.</p>	Yes
Section 2.3 Zone objectives and Land Use Table	<p>The proposed development is defined as is defined as a 'centre-based child care facility' with associated 'business identification signage' and ground floor 'office premises' and/or 'business premises' which are permissible in the E3 Productivity Support zone with consent.</p> <p>The definition of the uses are:</p> <p><b>centre-based child care facility means—</b>  <i>(a) a building or place used for the education and care of children that provides any one or more of the following—</i>  <ul style="list-style-type: none"> <li><i>(i) long day care,</i></li> <li><i>(ii) occasional child care,</i></li> <li><i>(iii) out-of-school-hours care (including vacation care),</i></li> <li><i>(iv) preschool care, or</i></li> </ul> <i>(b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),</i></p> <p><b>Note—</b>  <i>An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.</i>  <i>but does not include—</i>  <i>(c) a building or place used for home-based child care or school-based child care, or</i>  <i>(d) an office of a family day care service (within the meanings of the Children (Education and Care</i></p>	Yes.

	<p>Services) National Law (NSW)), or</p> <p>(e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or</p> <p>(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</p> <p>(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</p> <p>(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.</p> <p><b>Note—</b> Centre-based child care facilities are a type of <b>early education and care facility</b>—see the definition of that term in this Dictionary.</p> <p><b>business identification sign</b> means a sign—</p> <p>(a) that indicates—</p> <p>(i) the name of the person or business, and</p> <p>(ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and</p> <p>(b) that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not contain any advertising relating to a person who does not carry on business at the premises or place.</p> <p><b>Note—</b> Business identification signs are a type of <b>signage</b>—see the definition of that term in this Dictionary.</p> <p><b>business premises</b> means a building or place at or on which—</p> <p>(a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or</p> <p>(b) a service is provided directly to members of the public on a regular basis, and includes funeral homes, goods repair and reuse premises and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.</p> <p><b>Note—</b> Business premises are a type of <b>commercial</b></p>	
--	--	--

	<p><b>premises</b>—see the definition of that term in this Dictionary.</p> <p><b>office premises</b> means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.</p> <p><b>Note—</b> Office premises are a type of <b>commercial premises</b>—see the definition of that term in this Dictionary.</p> <p>The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</p> <p>The objectives of E4 zone are:</p> <ul style="list-style-type: none"> <li>• To provide a range of facilities and services, light industries, warehouses and offices.</li> <li>• To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.</li> <li>• To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.</li> <li>• To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.</li> <li>• To provide opportunities for new and emerging light industries.</li> <li>• To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.</li> </ul> <p>The proposed development is consistent with the E3 zone objectives as the land uses are compatible with, but do not compete with, land uses in surrounding local and commercial centres and the child care facility and the office/business premises provides facilities and services for the community.</p>	
Section 2.5 Additional permitted uses for particular land	The subject site is shown as '24' on the additional permitted uses map and is located in the E3 Productivity Support zone within Westmead. However, shop-top housing development is not proposed therefore this section and schedule 1 is not applicable.	N/A.
Section 2.6 Subdivision – consent requirements	Subdivision is not proposed under this application. Consolidation of two (2) lots shall be conditioned.	N/A.
Section 2.7 Demolition requires development consent	The proposal seeks demolition of the existing on-site structures which is permissible with consent.	Yes, subject to conditions.
Section 4.3 Height of buildings	The permissible building height limit of <b>23 metres</b> applies to the approximate 30m southern portion of the site. The	Yes

	<p>proposed maximum building height to the southern portion of the development is approximately <b>22.915 metres</b> (northern lift overrun RL 57.595 to approximate NGL RL 34.68) which complies with Clause 4.3 of CLEP 2021.</p> <p>A permissible building height limit of <b>15 metres</b> applies to the approximate 6m northern portion of the site. The proposed maximum building height to the rear portion of the development is approximately <b>6.58 metres</b> (pergola-like structure over the driveway ramp RL 40.10 to approximate NGL RL 33.52) which complies with Clause 4.3 of CLEP 2021.</p>	
Section 4.4 Floor space ratio	<p>The maximum permissible FSR is <b>2:1 (1,994 square metres)</b> excluding the road widening and splay corner) under the CLEP 2021.</p> <p>The development provides a total gross floor area (GFA) of <b>1,965 square metres</b> which equates to a total FSR of <b>1.97:1</b>, which complies with the maximum FSR of 2:1 under Clause 4.4 of CLEP 2021.</p>	Yes.
Section 4.5 Calculation of floor space ratio and site area	<p>The proposal complies with the objectives of this clause which are as follows:</p> <p><i>a) to define floor space ratio,</i>  <i>b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to—</i>  <i>i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and</i>  <i>ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and</i>  <i>iii) require community land and public places to be dealt with separately.</i></p> <p>Pursuant to subclause Section 4.5(4) the road widening/footpath extension along Great Western Highway under the Cumberland DCP 2021 is excluded from the site area as it is community land.</p>	Yes.
Section 5.10 Heritage Conservation	<p>The site is not identified as a heritage listed item and is not located within a heritage conservation area. The site is located across the Great Western Highway from 2 heritage items under the Parramatta LEP 2023:</p> <ul style="list-style-type: none"> <li>- 'Mays Hill Cemetery' archaeological site number A03 of local heritage significance;</li> <li>- 'Boundary marker' item number I289 located at Lot 1 in DP 119247, Steele Street, corner of Great Western Highway of local heritage significance, and</li> <li>- 'Mays Hill Reserve, Fort Macquarie cannon and Mays Hill Cemetery', item number I287 located at Franklin Street and of local heritage significance.</li> </ul> <p>The proposed built form and its shadows are cast across the Great Western Highway and the north-western portions of the Mays Hill Reserve. The proposal does not adversely impact upon the nearby archaeological and heritage item sites and complies with this clause.</p>	Yes
Section 5.21 Flood Planning	Council's Senior Development Engineer reviewed the proposal and provided relevant flood mitigation conditions.	Yes.
Section 6.1 Acid Sulfate soils	The site is not identified as affected by acid sulfate soils.	N/A.

Section 6.2 Earthworks	Significant excavation up to 8 metres below the natural ground level is proposed for the basement car parking levels. The cut and landfill are not considered to be excessive or excessively beyond the building footprint. It is noted the northern adjoining property is used for vehicular access to the 6 and 7 storey development site at 102-108 Great Western Highway. The proposal has been assessed by Council's Senior Development Engineer and no objections were raised. Suitable earthwork-related conditions are imposed ensuring measures are made to satisfy the objectives of this clause.	Yes, subject to conditions
Section 6.4 Essential Services	Council is satisfied that adequate arrangements for the supply of water and electricity, the disposal and management of sewage, stormwater drainage and suitable vehicular access can be made available when required. Council's Senior Development Engineer and Endeavour Energy have reviewed the proposal and raised no objections subject to conditions.	Yes, subject to conditions.
Section 6.7 Stormwater Management	The proposal has been assessed by Council's Senior Development Engineer and no stormwater management objections were raised. Suitable stormwater management related conditions are imposed.	Yes, subject to conditions.
Section 6.9 Salinity	The site is identified as affected by 'moderate salinity potential'. Conditions are imposed ensuring measures are made to satisfy the objectives of this clause.	Yes, subject to conditions.
Section 6.12 Urban Heat	The proposed development incorporates landscape elements, given the limited opportunities for deep soil zones, along the northern and eastern areas of the site to mitigate urban heat. A Section J report was provided. The proposed development is considered to be satisfactory with regard to the provisions of this clause.	Yes.