

APPENDIX B
Cumberland Local Environmental Plan 2021

Clause	Comments	Compliance
1.2 Aims of Plan	<p>The particular aims of this Plan are as follows:</p> <ul style="list-style-type: none"> <i>(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,</i> <i>(a) to provide a comprehensive planning framework for the sustainable development of land in Cumberland,</i> <i>(b) to provide for a range of land uses and development in appropriate locations to meet community needs,</i> <i>(c) to facilitate economic growth and employment opportunities within Cumberland,</i> <i>(d) to conserve and maintain the natural, built and cultural heritage of Cumberland,</i> <i>(e) to provide for community facilities and services in Cumberland to meet the needs of residents, workers and visitors,</i> <i>(f) to promote development that is environmentally sustainable.</i> <p><u>Comment:</u> The proposal is suitably located within the E1 Local centre and is environmentally sustainable which minimises impacts to the adjoining properties. The proposal will conserve and maintain the heritage listed item on the site, therefore the proposal will satisfy the aims of Section 1.2 of the CLEP 2021.</p>	Yes
2.3 Zone Objectives and Land Use Table	<p>The objectives of the E1 Local Centre zone are:</p> <ul style="list-style-type: none"> <i>• To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.</i> <i>• To encourage investment in local commercial development that generates employment opportunities and economic growth.</i> <i>• To enable residential development that contributes to a vibrant and active</i> 	Yes

	<p><i>local centre and is consistent with the Council's strategic planning for residential development in the area.</i></p> <ul style="list-style-type: none"> <i>• To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</i> <i>• To promote active street frontages on the ground floor of buildings that attract pedestrian traffic and that facilitate active and vibrant centres with inviting public domain areas.</i> <p><u>Comment:</u> The proposed development is a mixed-use development and defined as a 'Centre based child care facility', 'Medical Centre' and 'Commercial premises' all of which are permissible in the E1 Local Centre with consent.</p> <p>Centre based child care facility means-</p> <ul style="list-style-type: none"> <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"> <i>(i) long day care,</i> <i>(ii) occasional child care,</i> <i>(iii) out-of-school-hours care (including vacation care),</i> <i>(iv) preschool care, or</i> <i>(b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),</i> <p>Note— <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></p> <ul style="list-style-type: none"> <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</i> 	
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	<p><i>(Education and Care Services National Law (NSW)), or</i></p> <p>(e) <i>a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or</i></p> <p>(f) <i>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</i></p> <p>(g) <i>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</i></p> <p>(h) <i>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.</i></p> <p>Note—Centre-based child care facilities are a type of early education and care facility—see the definition of that term in this Dictionary.</p> <p>Medical centre means-</p> <p><i>premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.</i></p> <p>Note— Medical centres are a type of health services facility—see the definition of that term in this Dictionary.</p>	
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	<p>Commercial premises means any of the following-</p> <p>(a) <i>business premises,</i> (b) <i>office premises,</i> (c) <i>retail premises.</i></p>	
2.6 Subdivision-consent requirements	Subdivision is not proposed under this application. However, consent is sought to consolidate the sites.	N/A
2.7 Demolition requires development consent	Demolition of existing structures (with the exception of the heritage item 178) is being sought as part of this application.	Yes, via conditions of consent.
4.3 Height of Buildings	<p>(2) <i>The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</i></p> <p><u>Comment:</u> The height of a building is not to exceed 10metres.</p> <p>The height of building proposed is at 10.67 metres at the height point being the lift over run, a variation of 6.7%.</p>	Refer to main body of report for Clause 4.6 assessment.
4.4 Floor Space Ratio	<p>(2) <i>The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</i></p> <p><u>Comment:</u> The maximum floor space ratio (FSR) for a building on the site shall not exceed 0.8:1.</p> <p>FSR proposed at 0.87:1 or 1,452.29 square metres, variation of 8.83%.</p>	Refer to main body of report for Clause 4.6 assessment.
4.6 Exceptions to development standards	<p>(3) <i>Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:</i></p> <p>(g) <i>that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i></p>	Yes

	<p><i>(a) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p> <p><u>Comment:</u> A written request in accordance with Clause 4.6 of CLEP 2021 to vary the building height and floor space ratio development standard was submitted.</p> <p>The exceedance in building height and floor space ratio is supported in this instance, having regard to the circumstances of the case. Refer to the discussion in the body of the report.</p>	
5.10 Heritage Conservation	<p>The site is listed as</p> <ul style="list-style-type: none"> • A Heritage Item 178 (Single storey residence), local significance. • Located within a Heritage Conservation Area identified as the 'Granville Conservation Area—Civic Precinct' (C3). • Within the vicinity of a heritage item identified as 179 ('Wendover'), local significance. <p>A heritage impact statement was submitted with the application. The application was also referred to a Consultant Heritage consultant for comment. The proposal is supported subject to conditions. Refer to main body of report for discussion.</p>	Yes
5.21 Flood planning	<p><i>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</i></p> <p><i>(a) is compatible with the flood function and behaviour on the land, and</i></p> <p><i>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</i></p> <p><i>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</i></p>	N/A

	<p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses.</p> <p>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p> <p>(b) the intended design and scale of buildings resulting from the development,</p> <p>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p> <p><u>Comment:</u> Council's Development Engineer reviewed the proposal and did not raise any objections subject to conditions.</p>	
6.1 Acid Sulphate Soils	<p>The site is impacted by acid sulphate soils, Class of land 5.</p> <p>The applicant submitted a Preliminary Acid Sulphate Soils assessment report prepared by Geotechnical Consultants Australia was submitted with the application which recommends an Acid Sulphate Soils Management Plan (ASSMP) be prepared for the subject site prior to construction. The Preliminary Acid Sulphate Soils Assessment Report will form part of the consent conditions.</p>	Yes, subject to conditions.
6.2	The proposed earthworks will not have a	Yes

Earthworks	detrimental effect on existing drainage patterns or soil stability. The proposal will not affect the amenity of adjoining properties. The proposal is satisfactory subject to compliance with standard conditions.	
6.4 Essential Services	<p><i>(1) Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:</i></p> <ul style="list-style-type: none"> <i>a) the supply of water,</i> <i>b) the supply of electricity,</i> <i>c) the disposal and management of sewage,</i> <i>d) stormwater drainage or on-site conservation,</i> <i>e) suitable vehicular access.</i> <p><u>Comment:</u> These matters can be addressed by the imposition of conditions in any approval of the development. The applicant has confirmed that a substation is not required to service the development. This will be conditioned accordingly.</p>	Yes
6.7 Stormwater management	<p><i>(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—</i></p> <ul style="list-style-type: none"> <i>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</i> <i>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</i> <i>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if the impact cannot be reasonably avoided, minimises and mitigates the impact.</i> <p><u>Comment:</u> Council's Development Engineer review the proposal and did not raise any objections subject to conditions.</p>	Yes

6.9 Salinity	<p><i>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following—</i></p> <ul style="list-style-type: none"> <i>(d) whether the development is likely to have an adverse impact on salinity processes on the land,</i> <i>(e) whether salinity is likely to have an impact on the development,</i> <i>(f) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i> <p><i>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</i></p> <ul style="list-style-type: none"> <i>(a) the development is designed, sited and will be managed to avoid a significant adverse environmental impact, or</i> <i>(b) if a significant adverse environmental impact cannot be avoided—the development is designed, sited and will be managed to minimise the impact, or</i> <i>(c) if a significant adverse environmental impact cannot be minimised—the development will be managed to mitigate the impact.</i> <p><u>Comment:</u> The site is not affected by Salinity.</p>	<p>N/A</p>
6.12 Urban Heat	<p><i>In deciding whether to grant development consent for the purposes of commercial premises, industries or residential accommodation, the consent authority must consider whether—</i></p> <ul style="list-style-type: none"> <i>(a) the facade and roof of the proposed building and paved surfaces are designed to reduce adverse effects of solar heat on the surrounding land, including private open space and the public domain, and</i> <i>(b) the awnings and eaves of the building are designed to provide shelter from the sun and improve public comfort at street level, and</i> 	<p>Yes</p>

	<p>(c) the heating, ventilation and air conditioning systems of the building are designed to minimise the release of heat in the direction of private open space and the public domain, and</p> <p>(d) the development maximises the use of green infrastructure that is strategically designed and managed to support a good quality of life in an urban environment, and</p> <p>(e) the development accommodates sufficient tree canopy, open space and deep soil zones to achieve urban cooling benefits, and</p> <p>(f) the building is designed to achieve high passive thermal performance.</p> <p><u>Comment:</u> The proposed development is considered to be satisfactory with regard to the provisions of this clause.</p>	
6.13 Ground floor development in Zones E1, E2 and MU1	<p>(1) The objective of this clause is to ensure that active uses are provided at the street level in certain employment and mixed use zones to encourage the presence and movement of people.</p> <p>(2) This clause applies to land in the following zones—</p> <p>(a) Zone E1 Local Centre, (b) Zone E2 Commercial Centre, (c) Zone MU1 Mixed Use.</p> <p>(3) Development consent must not be granted to development for the purposes of commercial premises, mixed use development that includes commercial premises or a change of use of a building to commercial premises on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building—</p> <p>(a) will not be used for the purposes of residential accommodation or serviced apartments, and</p> <p>(b) will not be used for a car park or to provide ancillary car parking spaces, and</p>	Yes

	<p><i>(c) will provide for uses and building design elements that encourage interaction between the inside of the building and the external public areas adjoining the building.</i></p> <p><i>(4) Subclause (3)(b) does not apply to a site that—</i></p> <ul style="list-style-type: none"> <i>(a) is greater than 60 metres in depth from all street frontages, or</i> <i>(b) has a gradient steeper than 15%, measured from boundary to boundary, or</i> <i>(c) is owned by a public authority and is to be used as a public or commuter car park.</i> <p><i>(5) Subclause (3)(c) does not apply to a part of a building that—</i></p> <ul style="list-style-type: none"> <i>(a) faces a service lane that does not require active street frontages, or</i> <i>(b) is used for one or more of the following purposes—</i> <ul style="list-style-type: none"> <i>(i) a lobby for a commercial, residential, serviced apartment or hotel part of the building,</i> <i>(ii) access for fire services,</i> <i>(iii) vehicular access.</i> <p><u>Comment</u></p> <p>The car parking to service the development is located within the proposed basement. The access via the rear lane is for the waste collection and any associated deliveries and is there consistent with subclause 5(a).</p> <p>The ground floor facing Railway Parade is considered to meet the objective of this clause as it provides for active uses on the ground floor and provides for the opportunity for the inside of the building with the external public spaces adjoining the building.</p>	
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