

TO: Sydney Central City Planning Panel

SUBJECT: 58-62 Railway Parade, Granville NSW 2142

APPLICATION No: DA2023/0753 / PPSSCC-517

Application accepted	15 January 2024.
Applicant	A Soliman C/- The Planning Hub.
Owner	Mr A Soliman & Mrs H Soliman.
Application No.	DA2023/0753 / PPSSCC-517.
Description of Land	58-62 Railway Parade, Granville. Lot 1 and Lot 2 in DP 1196456, Lot 3 in DP 174492.
Proposed Development	Demolition of the existing structures, retention of existing heritage dwelling (item I78) and construction of a three (3) storey mixed-use development comprising of a medical centre and retail space at ground floor level and a 115 place centre based childcare centre on the first and second floor level, including basement parking, landscaping, associated site and infrastructure works and lot consolidation.
Site Area	1,667.9 square metres.
Zoning	E1 Local Centre.
Disclosure of political donations and gifts	Nil disclosure.
Cost of works	\$5,290,934.00 (CIV).
Heritage	Yes. <ul style="list-style-type: none"> Heritage Item I78 (Single storey residence) within the property boundary, local significance. Within the vicinity of a heritage item I79 ('Wendover'), local significance. The subject site is located within a Heritage Conservation Area ('Granville Conservation Area—Civic Precinct' (C3)).
Principal Development Standards	Floor Space Ratio (FSR) 0.8:1. Proposed: 0.87:1 Height of Building: 10 metres. Proposed: 10.67 metres.
Issues	Height, FSR and Development Control Plan variations

- | Control | Required | Provided | % variation |
|---|---|---|---|
| Clause 4.3
Cumberland Local Environmental Plan 2021.

Height of Building. | Maximum 10 metres. | 10.67 metres. | 0.67 metres,
or 6.7%. |
| Clause 4.4
Cumberland Local Environmental Plan 2021.

Floor Space Ratio. | Maximum 0.8:1
(1,334.4 sqm). | 0.87:1 (1,452.29 sqm). | 117.89 sqm,
or 8.83%. |
| Sub-part 3.8, C1.

Part C Development in Business Zones Chapter Cumberland Development Control Plan 2021 (CDCP 2021). | The minimum finished floor level (FFL) to finished ceiling level (FCL) in a commercial building,

• 3.3 metres for all commercial/retail levels above ground level. |

<u>First floor</u> –
3.1 metres FFL - FCL.

<u>Second floor</u> –
2.8 metres FFL - FCL. |

0.2 metres,
or 6.06%.

0.5 metres,
or 15.15%. |
| Sub-part 2.1, C12.

Part F2-2 Granville | Development up to 4 storeys (12 metres) in height are to be | <u>Ground level</u> non habitable –
0.9metres. | 0.6 metres,
or 40%. |

Town Centre Chapter in CDCP 2021.	setback a minimum of 1.5 metres from the lane where there are non-habitable rooms and setback a minimum 3 metres where there are habitable rooms.	<u>First Floor</u> Solid wall – 1 metre <u>Second floor</u> is the outdoor area serving the centre based child care facility – 1 metre.	0.5 metres, or 33.33% 2 metres, or 66.66%
Sub-part 2.2, C29. Part G2 – Heritage Chapter in CDCP 2021.	The height of new buildings shall not exceed that of the original heritage building. RL 22.05 (Heritage Item).	Height of the new building is higher than the heritage item. Proposed RL of new building RL 25.4.	3.35 metres, or 15.19%.
Sub-part 2.5.2, C9. Part G2 – Heritage Chapter in CDCP 2021.	40% of the site be retained for garden area. Based on a total site area of 1,668 sqm, 667.2 sqm of garden area is required.	The proposal provides a total of 385.64 sqm of garden area (23.11%).	281.56 sqm, or 42.2%.
Sub-part 2.5.2, C19. Part G2 – Heritage Chapter in CDCP 2021.	The maximum wall height is 7.2 metres.	Wall heights ranging at the highest between 7.4 metres - 9.2 metres.	A variation of 0.2 metres -2 metres, or 2.77%-27.77% respectively.
Sub-part 4.3, C2. Part G3 – Traffic, Parking, Transport & Access (Vehicle) Chapter in CDCP 2021.	Basement parking shall be located within the building footprint.	Basement projects outside the building footprint along the north, east and western side.	100%.

6. The application is referred to the Sydney City Central Planning Panel as the proposal has a capital investment value (CIV) over \$5 million and is for private infrastructure and community facilities pursuant to Schedule 6, Section 5(b) of the State Environmental Planning Policy (Planning System) 2021 (Planning System SEPP 2021).
7. The application is recommended approval subject to the conditions as recommended in the Council's assessment report.

REPORT

SUBJECT SITE AND SURROUNDING AREA

The subject sites are identified and known as 58 – 62 Railway Parade, Granville. A local heritage item is identified at 62 Railway Parade, Granville. The subject site has a frontage to Railway Parade with a total frontage width of 44.58 metres. The site also has access via a rear lane with a secondary frontage width of 15.24 metres. The combined site area is 1,667.9 square metres.

An existing single storey medical centre occupies 58 Railway Parade, 60 Railway Parade is a vacant allotment and used for at grade car parking to service the medical centre and 62 Railway Parade is being used as a clinic.

The subject site/s are zoned E1 Local Centre under the Cumberland Local Environmental Plan 2021. An item of local heritage significance (I78) is located on the site at 62 Railway Parade and the subject sites is located within the Granville Conservation Area – Civic Precinct (C3). The subject site is located within the Granville Town Centre.

Neighbouring properties to the site consist of single storey heritage listed dwelling to the west at 64 Railway Parade, Granville (item no. I79) being 'The Wendover' and a three storey Police station is located to the south of the site. Directly adjacent to the east is Granville Train Disaster Memorial Park, which is a Council owned land. Two storey mixed use developments are located to the east of Carlton Street. The subject site is located within the vicinity of a railway corridor.

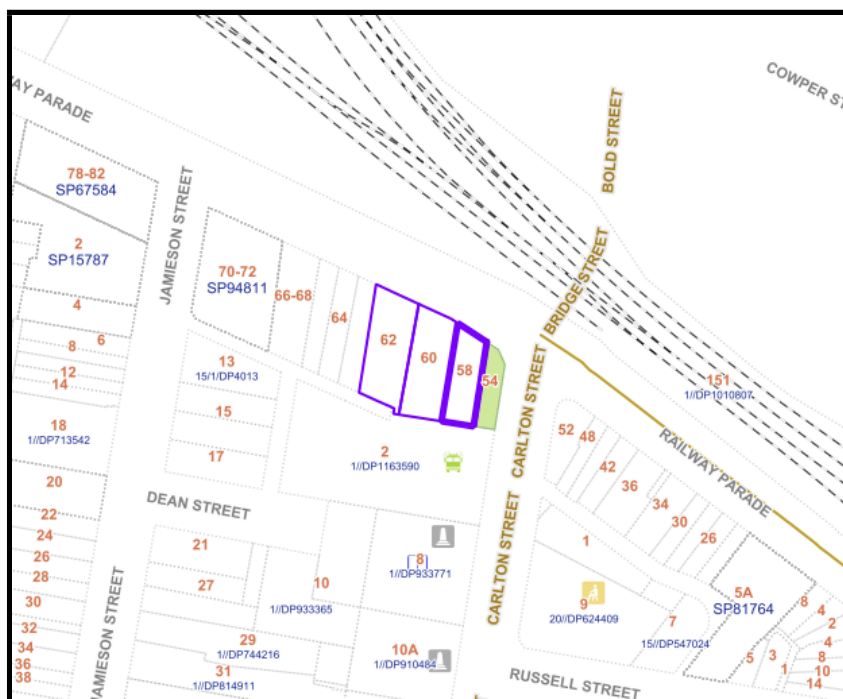


Figure 1 – Locality Plan of subject site (Source: Cumberland Council Intramaps)



Figure 2 – Aerial view of subject site outlined in purple (Source: Nearmaps)



Figure 3 – Street view of subject site

DESCRIPTION OF THE DEVELOPMENT

Council has received a development application on 15 January 2024 for the demolition of the existing structures, retention of existing heritage dwelling (item I78) and construction of a three (3) storey mixed-use development comprising of a medical centre and retail space at ground floor level and a 115 place centre based childcare centre on the first and second floor level, including basement parking, landscaping, associated site and infrastructure works and lot consolidation.

A detailed breakdown of the proposal is as follows:

Basement 2

- 25 car parking spaces.
 - 23 x medical centre (including 2 accessible car spaces).
 - 2 x retail tenancy.
- Turning bay.
- A pump and service room.
- A lift to service the medical centre.
- Stairs.

Basement 1

- 25 Childcare spaces.
 - 12 x Staff.
 - 13 x Parent/visitor (including 3 accessible spaces).
- Services room.
- A lift to service the child-care centre.
- Turning bay.
- Stairs.

Ground Floor

- The heritage item (at 62 Railway Parade) will continue with the existing use of a clinic (cosmetic medical practice).
- Commercial/retail tenancy.
 - Retail area (50 sqm),
 - Accessible toilet,
 - Bin storage area.
- Medical Centre.
 - Reception.
 - Admin area.
 - 4 x consulting rooms.
 - Change room.
 - Cleaning room.
 - Sterilisation room.
 - Storage room.
 - Medical disposal room.
 - Medical equipment room.
 - Procedure and scrub area.
 - 3 x bathroom facilities.
- Hydrant fire booster.
- Main lobby entry to child care lift and entry into medical centre.
- Commercial and child care centre waste room.

- Medical waste room.
- Mechanical fan room.
- Waste truck loading bay.
- Associated landscape works.
- Vehicular access to basement via Railway Parade and waste truck access is via Jamieson Lane.

Level 1

- Centre based child care centre.
 - Administration/reception area.
 - 4 x amenities water closets (including 1 x accessible water closet, 1 x ambulant water closet and 2 x junior water closets).
 - Kitchen.
 - 2 x cot rooms and bottle preparation area in playroom 2.
 - 4 x storage areas (2 x internal and 2 x outdoor).
 - Temporary bin storage cupboard.
 - Stairs and lift access.

Level 2

- Centre based child care centre
 - Director's room.
 - Meeting room.
 - Laundry room.
 - Staff room.
 - 4 x ambulant water closets (including 1 x accessible water closet, 1 x ambulant water closet and 2 x junior water closets).
 - 4 x storage rooms (2 x internal and 2 x outdoor).

Other aspects of the DA

- Demolition of an existing structure at 58 Railway Parade and the retention of the Heritage Item (I78) at 62 Railway Parade.
- The consolidation of three (3) lots into one (1).
- Proposed hours of operation are outlined below:

Commercial/Retail

Monday to Friday – 7am to 6pm.

Saturday – 8am to 3pm.

Sunday and Public Holidays – 8am to 12pm.

Medical Centre

Monday to Friday – 8am to 6pm.

Saturday – 9am to 12pm.

Sunday – Closed.

Child Care Centre

Monday to Friday – 7am to 6pm.

Saturday – Closed.

Sunday – Closed.

As a consequence of the first and second floor setback along the western boundary being increased in accordance with the recommendation made by Council's Heritage Consultant, this has resulted in a reduction to the unencumbered outdoor play area to the Centre

Based Child Care Facility. As per Regulation 108 of the Education and Care Services National Regulations, 7sqm of outdoor unencumbered space requirements per child is required. Therefore, the total number of children will be reduced by 5 to 115, in order to meet the requirements of the Regulations.

HISTORY

58 Railway Parade

DA97/735 for the use of the existing building for the purposes of a medical centre was approved under delegated authority on 20 January 1998.

60-62 Railway Parade

DA95/00628 for the use the existing premises for the purposes of a community health centre for the treatment of mental illness was approved under delegated authority on 2 November 1995.

58-62 Railway Parade

PL2021/0082 for retention of a heritage listed building and use as a medical centre and construction of a three-storey mixed use development comprising of a centre based child care facility, food and drink premises and office premises with associated basement parking was concluded on 13 October 2021.

58-62 Railway Parade

PL2023/0035 for demolition of an existing structure and retention of a dwelling house (Heritage Item I78) and construction of a three (3) storey mixed-use development over two-levels of basement parking. The ground floor to comprise of a medical centre and cafe and the first and second floor level contain a centre based child care centre was concluded on 31 August 2023.

APPLICANTS SUPPORTING STATEMENT

The applicant has provided a Statement of Environmental Effects prepared by The Planning Hub dated 14 December 2023 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 Engineering

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

Environment and Health

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

Tree Management

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

Heritage Advisor

The development application was referred to a consultant Heritage Advisor for comment who has advised that if the development is to be supported, that conditions are to be imposed to manage the separation of the new works from the heritage item on site and the adjacent property as well as to the privacy to the adjacent heritage item being 64 Railway Parade, Granville. Appropriate conditions are imposed in the draft notice of determination which are contained in Attachment 1.

Waste Management

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

Heritage Committee

The development application was referred to Council's Heritage Committee. No submission was received.

EXTERNAL REFERRALS

Transport for New South Wales (Sydney Trains)

Given the proximity to the railway to the south-west the application was referred to TfNSW pursuant to Sections 2.98(2) and 2.99 of the SEPP (Transport and Infrastructure) 2021. TfNSW has reviewed the application and has provided conditions of consent.

Endeavour Energy

The application was referred to the Endeavour Energy pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021. As per the correspondence dated 21 January 2024, the development is determined as being acceptable subject to conditions.

Sydney Water

The application was referred to Sydney Water pursuant to Section 78 of the *Sydney Water Act 1994*. Sydney Water has reviewed the application and has provided conditions of consent.

NSW Police - Cumberland Police Area Command

The development application was referred to the New South Wales Police Cumberland Police Area Command for a CPTED Assessment. As per the correspondence dated 22 February 2024, the development is determined as being acceptable subject to conditions.

PLANNING COMMENTS

The provisions of any Environmental Planning Instruments (EP&A Act 1979 s4.15 (1)(a)(i))

State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

State Planning Policies (SEPPs)	Relevant Clause(s)	Compliance with Requirements
State Environmental Planning Policy (Biodiversity and Conservation) 2021.	Chapter 2 - Vegetation in non Rural Areas.	The proposal will result in the removal of one tree. Therefore, the proposed vegetation removal is considered acceptable and will not exceed the biodiversity offset.
	Chapter 6 - Water Catchments. Sydney Harbour Catchment.	It is determined that given location, a detailed assessment is not required given that there is no direct impact upon the catchment and no direct impact upon watercourses. As such, the development is acceptable under the new provisions that came into effect on Monday 21 November 2022.
State Environmental Planning Policy (Resilience and Hazards) 2021.	Chapter 2 - Coastal Management.	The subject site is not identified as a coastal wetland or 'land identified as "proximity area for coastal wetlands" or coastal management area.
	Chapter 4 - Remediation of Land. Part 4.6.	Part 4.6 - Contamination and remediation to be considered in determining development application. <u>Comments</u> A preliminary site Investigation has been carried out for the development and a report prepared by eiaustralia with reference E26168.E01_Rev1 dated 14 December 2023. The report concluded that there is a low potential for contamination to exist on the site. The site is suitable for the proposed development, and a Hazardous materials survey must be carried out prior to demolition of existing

		<p>structures – this has been prepared and submitted, Council's Senior Environmental Health Officer did not raise any objections to the proposal.</p> <p>As such, it is considered that the development application is satisfactory under Part 4.6 of Chapter 4 of the State Policy.</p>
State Environmental Planning Policy (Industry and Employment) 2021.	Chapter 3 - Advertising and Signage.	No signage is proposed as part of the development application and thus no assessment of signage is required.
State Environmental Planning Policy (Transport and Infrastructure) 2021.	Chapter 2 - Infrastructure.	State Environmental Planning Policy (Transport and Infrastructure) 2021 is relevant to the development application as follows.
	Clause 2.48	<p>Determination of development applications (Subpart (2) - Give written notice to electricity providers and take account of responses received within 21 days.</p> <p><u>Comment</u> The development application has been referred to Endeavour Energy for assessment. As per correspondence of 21 January 2024, the development application is supported subject to conditions.</p>
	Clause 2.99	<p>The application is subject to clause 2.99 of the SEPP as the proposed redevelopment of the site involves excavation to a depth of at least 2m below ground level (existing), on land within, below or above a rail corridor, or within 25m (measured horizontally) of a rail corridor.</p> <p><u>Comment</u> Sydney Trains has reviewed the application and has provided conditions of consent. These conditions form part of the draft notice of determination is contained in Attachment 1.</p>
	Chapter 3 - Education Establishments and Child Care Facilities. Part 3.3	<p>As outlined earlier in the report, as per the recommendation made by Council's Heritage Consultant, requiring an increase setback along the western boundary has resulted in a reduction to the unencumbered outdoor areas on levels 1 and 2 of the child care centre. In order to meet the requirements of</p>

		<p>Regulation 108 of the Education and Care Services National Regulations, which requires 7sqm per child, the total number of children will be reduced by 5, to a total child care placements to 115.</p> <p>A comprehensive SEPP assessment is contained in Attachment 10.</p>
State Environmental Planning Policy (Precincts Central River City) 2021	Chapter 6 Urban renewal precincts.	<p>Part 6.2 Potential urban renewal project, sub-part 6.8 Development in potential precincts applies to the site as the development cost is more than \$5 million and is not exempt or complying development.</p> <p>A comprehensive SEPP assessment is contained in Attachment 10.</p>
State Environmental Planning Policy (Planning System) 2021	Schedule 6.	<p>Development of a type that is listed in Schedule 6 of Planning System SEPP 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.</p> <p>The proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) of \$5,290,934.00 which exceeds the \$5 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.</p>
State Environmental Planning Policy (Sustainable Buildings) 2022	Chapter 3 – Standards for non-residential development	<p>Chapter 3 of SEPP (Sustainable Buildings) 2022 applies to development other than residential and involves the erection of a new building with an estimated cost of more than \$5 million. Chapter 3 of SEPP (Sustainable Buildings) 2022 applies to the site.</p> <p>A comprehensive SEPP assessment is contained in Attachment 10.</p>

Local Environmental Plans

Cumberland Local Environmental Plan 2021

The provision of the Cumberland Local Environmental Plan 2021 is applicable to the development proposal. It is noted that the development generally complies with the key

statutory requirements of the Cumberland Local Environmental Plan 2021 and the objectives of the E1 Local Centre zone.

(a) Permissibility:

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.

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)),*

Note—

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.
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.*

Note—Centre-based child care facilities are a type of **early education and care facility**—see the definition of that term in this Dictionary.

Medical centre means-

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.

Note—

*Medical centres are a type of **health services facility**—see the definition of that term in this Dictionary.*

Commercial premises means any of the following-

- (a) *business premises,*
- (b) *office premises,*
- (c) *retail premises.*

The relevant matters to be considered under the Cumberland Local Environmental Plan 2021 and the applicable clauses for the proposed development are summarised below. A comprehensive LEP assessment is contained in Attachment 11.

Figure 4 – Cumberland LEP 2021 Compliance Table

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.3 Height of Buildings max.10 metres	No	Proposed: 10.67 metres at the highest point being the lift over run, a variation of 6.7%. Refer to detailed assessment below.
4.4 Floor Space Ratio max. 0.8:1	No	Proposed: 0.87:1 or 1,452.29 square metres, variation of 8.83%. Refer to detailed assessment below.
4.6 Exceptions to Development Standards	Yes	Refer to detailed assessment below.
5.10 Heritage Conservation	Yes	<p>A heritage impact statement was submitted with the application. The application was also referred to a Consultant Heritage Advisor for comment who raised concerns with the amended scheme and reduced setback along the western boundary.</p> <p>The Consultant Heritage Advisor advised that the above heritage concerns can be addressed with the imposition of conditions.</p> <p>The conditions would relate to setting back the western extent of the building and a different materiality of the western 'annexe' of the new building materials to make it a more lightweight and recessive structure assisting in reducing impacts to the heritage items.</p> <p>The draft notice of determination in Attachment 1 contains conditions to address the matters raised by the Consultant Heritage Advisor.</p>

Clause 4.6 aims to achieve better design outcomes for and from development by allowing an appropriate degree of flexibility to development standards if particular circumstances are satisfied.

The application seeks to vary the development standards for the maximum building height and floor space ratio under clauses 4.3 and 4.4 respectively of the Cumberland Local Environmental Plan 2021.

Consent may only be granted upon the consent authority being satisfied that the applicant has demonstrated in a document submitted with the application that (a) compliance with the development standard is unreasonable or unnecessary in the circumstances and (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

The decision of *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827, affirmed in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 set out five common and non-exhaustive ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary. They were that:

- (i) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*
- (ii) *the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
- (iii) *the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
- (iv) *the development standard has been virtually abandoned or destroyed by the Council's decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable.*
- (v) *the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary.*

Clause 4.3 CLEP 2021 - Height of Buildings

The proposal seeks to contravene the Height of Building Development Standard under Clause 4.3 of the CLEP 2021 that requires that the height of building is not to exceed 10m on the subject site.

The proposed development seeks a maximum height of 10.67m from the existing ground level which equates to variation of 6.7% to the CLEP 2021 development standard as depicted below:

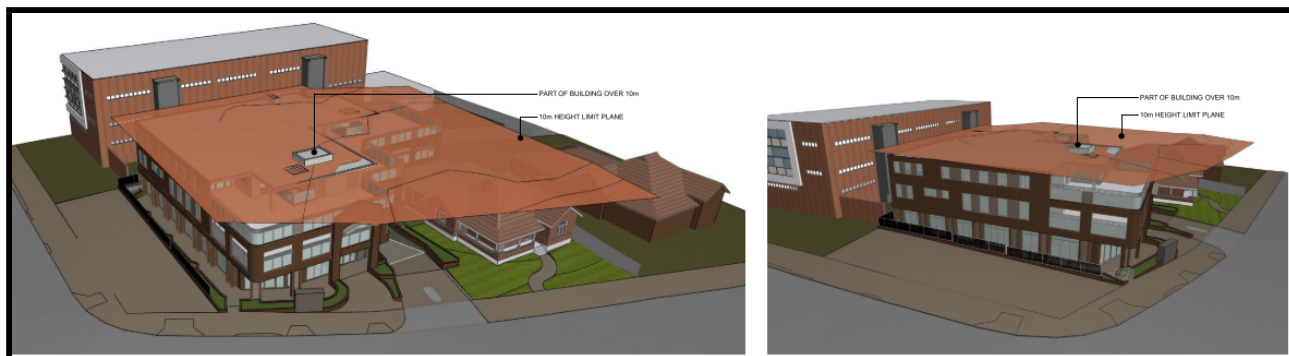


Figure 5 – The areas that breach the height of building (HoB) are depicted above (Source: Zhinar Architects Pty Ltd)

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances,

Applicant's justification:

The proposal provides a built form that successfully capitalises on the potential of the subject site whilst respecting the heritage item located at 62 Railway Parade, Granville. The subject site represents an opportunity for a new building to improve the transition between the bulky rectilinear police station and the heritage items on Railway Parade and the interface to higher buildings along Railway Parade to the east of the site.

In light of the opportunity the subject site presents, a superior urban design outcome can be achieved with a stepped form that achieves a better transition between the lower rise heritage buildings along Railway Parade, including the heritage item on the western part of the site, and the bulkier police station building to the south. The proposed development attempts to provide a modulated and layered built form massing that responds favourably to its setting between heritage listed dwellings and the larger form of the Granville Police Station.

The numeric increase in building height for the proposed development is 10.67m. The proposed height exceedance is deemed to be reasonable as it involves a minimal percentage of the building volume, only relating to a small portion of the roof including the lift overrun, roof parapet and mechanical riser and it does not result in adverse impacts on surrounding development.

The proposed development, including the proposed building elements that exceed the height limits, will continue to achieve the objectives of the standard. It is therefore considered that the objectives of the development standard are met notwithstanding the breach of the height of buildings standard.

Planner's comments:

It is considered appropriate to support the development under the stated heading on the following grounds:

- The non-compliances to the Height of Building include the lift over-run, a small portion of the front parapet and roof, skylight and mechanical riser as seen in figure 5 above. The area of non-compliances are located well back from the front

boundary, with the closest non-compliance being the parapet wall at 12.4 metres from the front boundary.

- The development is consistent with the objectives of the development standard and the objectives of the zone.
- The development supports the Granville Town Centre in which employment opportunities are being created close to public transport services.
- The new building will not adversely impact the heritage significance of the heritage item located with the vicinity of the subject site.
- There are no adverse shadowing or privacy issues being created.

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

In respect of there being sufficient environmental planning grounds to justify the contravention of the development standard, Initial Action found that although the phrase 'environmental planning' is not defined, it would refer to grounds that relate to the subject matter, scope and purpose of the *Environmental Planning and Assessment Act 1979*, including the objects in s.1.3. To be sufficient, the environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248.

Applicant's justification:

It is our opinion that there are sufficient environmental planning grounds to justify contravening the building height standard in this instance. These are as follows:

- *The proposed development is consistent with the objectives of the zone and the objectives of the building height control.*
- *The proposal does not result in any adverse impacts on adjoining properties.*
- *The height variation only includes a minor portion of the building located away from adjoining properties;*
- *The area of exceedance does not contribute to the visual bulk of the development and is not readily apparent from the public domain; and*
- *The area of exceedance only consists of a small portion of the roof including the lift overrun, roof parapet and mechanical riser and does not contain any habitable floor space.*

The proposed subject site is somewhat constrained as a result of the heritage item located on the site. The result of this is a reduction in the developable area of the site due to the retention of this heritage item. The retention of the heritage item will undoubtedly result in a material public benefit for the area but has meant that a minor building height variation is required to deliver a commercially viable development on the remainder of the site.

Planner's comments:

Contravention of the development standard would result in a more satisfactory environmental planning outcome. The breach to the height of building standard is unavoidable due to the following reasons:

- The area of site that can be re-developed is constrained as a result of maintaining the heritage item on site.
- To offer modern facilities and reasonable amenity for the end users of the commercial building.
- The breach to the building height does not create any adverse overshadowing impacts.
- There is no habitable floor space that will breach the height of building plane.

It is noted that the development as proposed does not result in an unreasonable amenity impact by way of privacy, overshadowing or visual impact to the immediately surrounding properties. Furthermore, the new building will not result in an unacceptable impact on the heritage conversation area, heritage item on site or heritage items within the vicinity of the subject site.

It is considered that the non-compliance with the building height can be supported in the circumstance of the case, as there are sufficient environmental planning grounds for contravening the development standard.

Clause 4.4 CLEP 2021 – Floor Space Ratio (FSR)

The proposal seeks to contravene the Floor Space Ratio Development Standard under Clause 4.4 of the CLEP 2021 that requires a maximum floor space ratio of 0.8:1 on the subject site.

The proposed development seeks a floor space ratio of 0.87:1 a variation of 8.83%, or 117.89sqm to the CLEP 2021 development standard.

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances,

Applicant's justification:

The development maintains and enhances the amenity derived from the built and natural environment by providing a design that is well considered and of a high standard and enhances Granville's urban environment by promoting the cultural, environmental, and aesthetic attributions of the locality. This is achieved through the preservation of the heritage item on site.

Furthermore, the proposed development does not result in any significant loss of amenity, privacy, or sunlight for any of the neighbouring properties and provides a compatible built form that is consistent with emerging development in the area and complements the surrounding area. Thus, the proposed new mixed-use development will not pose any adverse effects to the streetscape as it is setback from Railway Parade so as not visually dominate to the heritage item and is adequately screened by the proposed landscaping.

Planner's comments:

Council considers that there are sufficient environmental planning grounds to justify contravening the development standard noting the following:

- The heritage item on site is being retained and the new building is sympathetic to its siting on the site.
- The new building is setback from Railway Parade and the heritage item on site and therefore reduces the perceived scale and bulk.
- Sufficient solar access is maintained to surrounding development based on the sun shadow diagrams which show no significant loss to the extent of shadow cast over these properties.

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Applicant's justification:

The proposed development involves the retention and use of a heritage item onsite whilst also providing improved built form on the sider site area that provides for additional commercial and social infrastructure to cater to the needs of the community within the E1 Local Centre.

The minor variation to the maximum FSR control applying to the subject site will not result in adverse environmental planning impacts. Measures have been taken to mitigate any potential environmental impacts that may arise as a result of the FSR variation including the proposed landscaping which is of particular importance on the subject site given the heritage item located at 62 Railway Parade, Granville.

....Shadow diagrams demonstrate that the proposal will not reduce sunlight to less than 3 hours between 8am and 4pm on 21 June.

Whilst the built form exceeds the FSR control applicable to the site, it is considered that the proposed design does not unreasonably detract from the amenity of adjacent residents or the existing quality of the environment.

There are sufficient environmental grounds to justify contravening the floor space ratio standard in this instance. These are as follows:

- *The proposed development is consistent with the objectives of the zone and the objectives of the floor space ratio control as the development provides an appropriate density and intensity of development that appropriately retains and complements the heritage item onsite .*
- *The proposal does not result in any adverse impacts on adjoining properties.*
- *The area of exceedance is minor in nature does not contributes to the visual bulk or scale of the development.*
- *Strict compliance would result in a de elopement with reduced contribution to the desired future character of the local centre.*

Planner's comments:

The proposal is consistent with the objectives of Clause 4.4 of the Cumberland Local Environmental Plan 2021 and the development is appropriately located within the Granville Town Centre.

- The non-compliance to the gross floor area will not significantly alter the character of the heritage item to be retained and provides a building separation from the Heritage item on site.
- There will be no adverse overshadowing impacts onto the adjoining buildings to the east, south and west.
- There will be no adverse visual privacy impacts onto adjoining properties subject to conditions.
- There will be no adverse impacts on the existing streetscape or built character of the locality.
- The new building is sympathetic to the Granville Conservation Area—Civic Precinct and Heritage Item I78 located on the subject site being a ‘single storey residence’. The subject site adjoins a heritage item identified as I79 (‘Wendover’).

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).

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

The provisions of any proposed instrument that is or has been the subject (EP&A Act 1979 s4.15 (1)(a)(ii))

No proposed planning instruments applicable to the application or site.

The provisions of any Development Control Plans (EP&A Act 1979 s4.15 (1)(a)(iii))

The Cumberland Development Control Plan 2021 is relevant to the development proposal.

The development has been assessed using the following chapters:

- Part C – Development in Business Zones
- Part E1 – Centre-based child care centres
- Part F2 – Business Site Specific
 - o Part F2-2 Granville Town Centre
- Part G2 - Heritage
- Part G3 – Traffic, Parking, Transport & Access (Vehicle)
- Part G4 – Stormwater & Drainage
- Part G5 – Sustainability, Biodiversity & Environmental Management
- Part G7 – Tree Management & Landscaping
- Part G8 – Waste Management

The development is found to comply with the relevant provisions except for the following:

Figure 6 – Cumberland DCP 2021 - Compliance Table.

Control	Required	Provided	% variation
Sub-part 3.8, C1. Part C Development	The minimum finished floor level (FFL) to finished ceiling level		

in Business Zones Chapter Cumberland Development Control Plan 2021 (CDCP 2021).	(FCL) in a commercial building, <ul style="list-style-type: none">3.3 metres for all commercial/retail levels above ground level.	<u>First floor</u> – 3.1 metres FFL - FCL. <u>Second floor</u> – 2.8 metres FFL - FCL.	0.2 metres, or 6.06%. 0.5 metres, or 15.15%.
Sub-part 2.1, C12. Part F2-2 Granville Town Centre Chapter in CDCP 2021.	Development up to 4 storeys (12 metres) in height are to be setback a minimum of 1.5 metres from the lane where there are non-habitable rooms and setback a minimum 3 metres where there are habitable rooms.	<u>Ground level</u> non habitable – 0.9metres. <u>First Floor</u> Solid wall – 1 metre <u>Second floor</u> is the outdoor area serving the centre based child care facility – 1 metre.	0.6 metres, or 40%. 0.5 metres, or 33.33% 2 metres, or 66.66%
Sub-part 2.2, C29. Part G2 – Heritage Chapter in CDCP 2021.	The height of new buildings shall not exceed that of the original heritage building. RL 22.05 (Heritage Item).	Height of the new building is higher than the heritage item. Proposed RL of new building RL 25.4.	 3.35 metres, or 15.19%.
Sub-part 2.5.2, C9. Part G2 – Heritage Chapter in CDCP 2021.	40% of the site be retained for garden area. Based on a total site area of 1,668 sqm, 667.2 sqm of garden area is required.	The proposal provides a total of 385.64 sqm of garden area (23.11%).	281.56 sqm, or 42.2%.
Sub-part 2.5.2, C19. Part G2 – Heritage Chapter in CDCP 2021.	The maximum wall height is 7.2 metres.	Wall heights ranging at the highest between 7.4 metres - 9.2 metres.	A variation of 0.2 metres -2 metres, or 2.77%-27.77% respectively.
Sub-part 4.3, C2. Part G3 – Traffic, Parking, Transport & Access (Vehicle) Chapter in CDCP 2021.	Basement parking shall be located within the building footprint.	Basement projects outside the building footprint along the north, east and western side.	100%.

As indicated in the compliance table above, the proposed development departs from the ceiling height requirements, rear setback, height, garden area and wall height provisions of Council's Cumberland Development Control Plan 2021.

Irrespective of these departures, it is considered that the proposal performs adequately from an environmental planning viewpoint and may be supported for the reasons discussed below:

Sub-part 3.8 Ceiling height (C1) - Part C Development in Business Zones

The objectives for this control are:

Objectives

- O1 Ensure an acceptable level of amenity and future flexibility is provided for new commercial and residential developments.*
- O2 Encourage articulation of the façade of the building by variation in the ceiling heights of the various floors, which gives the building a top, middle and base.*

The proposal results in a variation to the finished floor level (FFL) to finished ceiling level (FCL) on the first and second floor of the building. This control is to allow for future flexibility of these spaces as well as encouraging articulation of the façade.

The proposal is for a three-storey building within the vicinity of two heritage items, therefore any new building needs to complement the heritage items and not create a scale and bulk that would overwhelm the heritage items. The proposal has provided ceiling heights on the first and second floor that are less than 3.3m from the FFL -FCL, although non-compliant with the CDCP the proposal will still be compliant with the requirements to the National Construction Code (NCC) and would still be able to accommodate services to this levels such as air-conditioning. Given, the heritage constraints of the site, the proposed ceiling heights on the first and second floor are considered acceptable in this instance.

Based on the above, the proposal is considered to allow for flexibility for other permissible uses to fit-out these spaces in the future.

Sub-part 2.1 Setbacks (C12) - Part F2-2 Granville Town Centre

6 metre wide lanes

- C12 Development up to 4 storeys (12 metres) in height are to be setback a minimum of 1.5 metres from the lane where there are non-habitable rooms and setback a minimum 3 metres where there are habitable rooms.*

The relevant objectives for this control are:

Objectives

- O3 Ensure that new development responds well to existing heritage items.*
- O6 New pedestrian connections, roads and laneways should be provided in accordance with Figure 2. Where a development provides for public access*

connections, a variation to Council's floor space ratio control may be considered, subject to the objectives of this part.

- O10 *New pedestrian links are to improve through block connections and provide better links to and from Granville Railway Station.*
- O11 *New pedestrian connections are to have a minimum width of 3 metres and are to be consistent in width for their full length.*

The rear setback from the laneway varies from 0.9 metre – 1 metre from the laneway, variation between 40% - 66.6%. Given the location of the heritage item on site, and the requirement to provide a building separation and stepping back the upper levels from the Heritage Item, the new building has been located further to the rear of the site, which has resulted in a non-compliance to the setbacks. The reduced setbacks are not considered to impact the privacy or amenity of adjoining properties. The proposal has solid – high walls along the rear elevation and the Police station (to the rear of the site) has high sill windows along its side walls this will prevent overlooking between the two buildings. Furthermore, the ground floor allows for service vehicles to enter and exit the subject site in a forward direction. Therefore, the rear setback proposed is considered satisfactory.

The subject site has also been identified as an area for a 'desired new pedestrian link' as seen in figure 7 below and circled in red. If this connection was to be pursued, this would result in a pedestrian link leading into the garden bed of the adjacent Granville Train Disaster Memorial Site. Given the significance of the Granville Train Disaster Memorial Site, the pedestrian link was not explored.

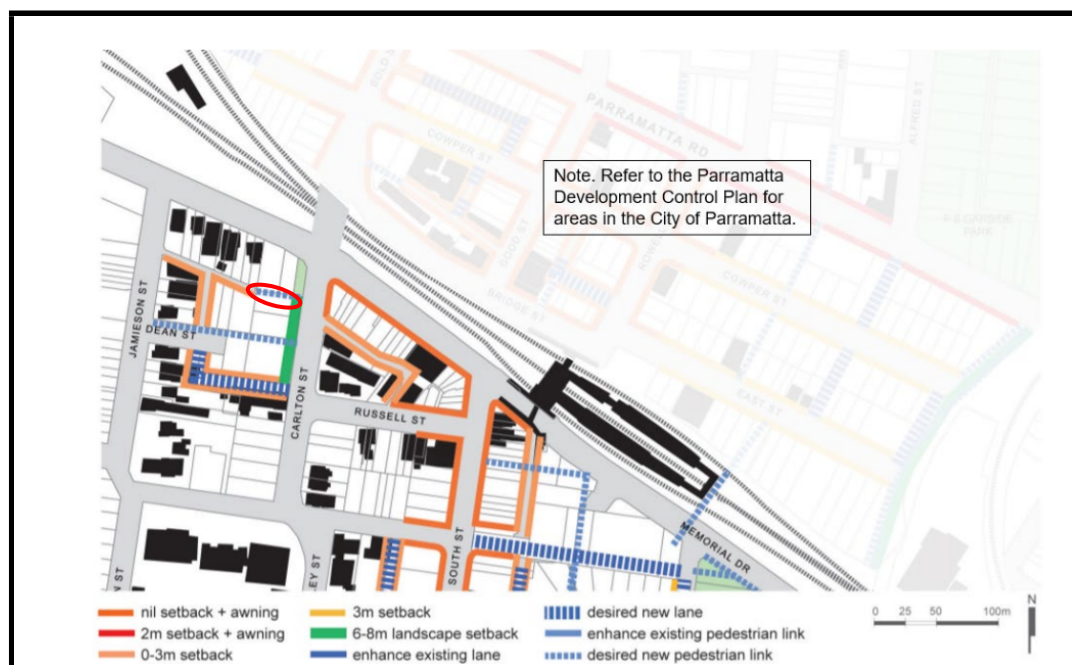


Figure 7 – Building setbacks, pedestrian links and laneways
(Source: Cumberland DCP 2021)

Sub-part 2.2 Conservation and development works on heritage items (C29) - Part G2 Heritage

C29 The height of new buildings shall not exceed that of the original heritage building.

Objectives

- O1 *Ensure that development does not damage the heritage item or heritage conservation area.*
- O2 *Ensure development reinforces the established character of the item/conservation area through appropriate built form and design.*
- O3 *Allow heritage items to be adaptively reused with minimal and acceptable changes to building fabric, with a proposal that shall incorporate the use of unobtrusive and well-designed signage, lighting and external treatments.*

The height of the new building is higher than the heritage item by 3.35 metres. The new building is generally in keeping with other developments in the locality. This includes the Granville Police Station and the three storey unit building at the rear of 70-72 Railway Parade.

The application was also reviewed by Council's Heritage Consultant who acknowledged the new building is higher than the heritage item, however no objection to the height of the new building was raised, with the matter of importance being the building separation of the new building from the heritage item on site. Therefore, it is considered that the proposed development is considered acceptable in this instance.

Sub-part 2.5.2 Granville Civic and Residential Precincts (C9) and (C19) - Part G2 Heritage

- C9 For commercial areas, 40% of the site be retained for garden area and 50% for residential areas.
- C19 The maximum wall height of new buildings in the Civic Precinct Conservation Area is 7.2 metres, provided that there is no competition in presentation with existing significant buildings.

Objectives

- O1 *Retain all the attributes that contribute to the heritage value and character of the Granville Civic and Residential Precincts.*

Based on a total site area of 1,668 sqm, the site requires 667.2 sqm of garden area. The proposal provides for 385.64 sqm of garden area, which equates to 23.11%, a variation of 42.2%. The existing site currently does not comply with this control, as a result of the proposed works, the proposal will maintain the majority of the deep soil area within the curtilage of the heritage item and accommodate a new garden area along the eastern side of the new building.

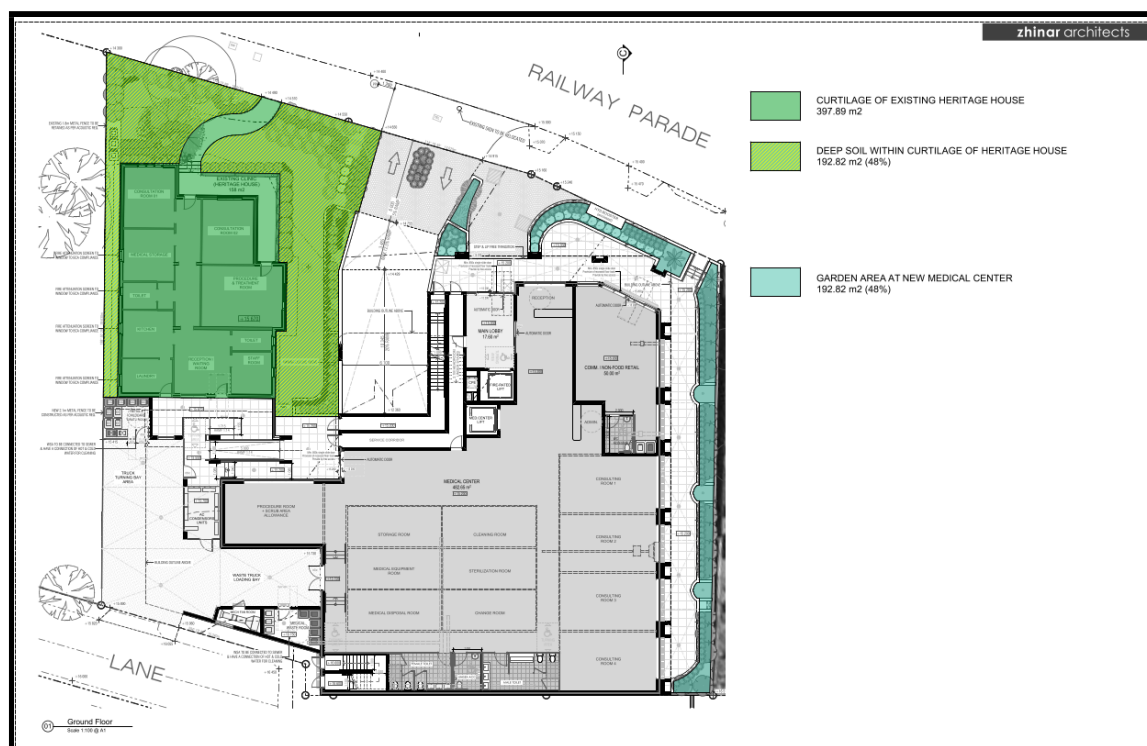


Figure 8 - Deep soil and Landscape areas (Source: Zhinar Architects Pty Ltd)

The new building provides maximum wall heights ranging from 7.4 metres - 9.2 metres. Despite the numerical non-compliance, the proposal is generally consistent with the height of other surrounding development. As stated above, the building separation being with the matter of importance of the new building from the heritage item on site. Therefore, it is considered that the proposed development is considered acceptable in this instance subject to conditions, with emphasis on the western side setback of the new building to be increased to 4.765 metres, in lieu of 3.085 metres.

Sub-part 4.3 Part G3 – Traffic, parking, Transport & Access (C2)

C2 Basement parking shall be located within the building footprint.

The relevant objective is outlined below:

Objective

O2 Integrate design of access and parking facilities to minimise visual and environmental impacts.

The proposed basement projects outside the new building footprint along the north, east and western sides. The site is constrained with the heritage item being retained onsite. Therefore, the location of the basement has been set away from the heritage item to ensure the preservation of the heritage item. The basement entry is setback from Railway Parade, and is located beneath the existing ground level, therefore there will be minimal visual impact from surrounding properties.

The proposal provides for on-slab landscaping along the north-eastern and eastern side of the new building which will provide visual relief to the site. Given, the commercial nature of the site and retention of the heritage item, the non-compliance of the basement location being outside the building footprint is considered acceptable in this regard.

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 1979 s4.15(1)(a)(iia))

There is no draft planning agreement associated with the subject Development Application.

The provisions of the Regulations (EP&A Act 1979 s4.15 (1)(a)(iv))

The proposed development raises no concerns as to the relevant matters arising from the *Environmental Planning and Assessment Regulation 2021* (EP&A Reg).

The Likely Environmental, Social or Economic Impacts (EP&A Act 1979 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 1979 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 EP&A Act 1979 or EP&A Regulation 2021 (EP&A Act 1979 s4.15 (1)(d))

Advertised (Website) ☒ Mail ☒ Sign ☒ Not Required ☐

In accordance with Council's Notification requirements contained within the Cumberland Development Control Plan, the proposal was publicly notified for a period of 14 days between 29 January 2024 and 12 February 2024. The notification generated no submissions.

An email was also sent to the Secretary, Granville Train Disaster Association as the subject site adjoins the Granville Train Disaster Memorial Site. Council did not receive any submission or response in return.

The public interest (EP&A Act 1979 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.

In accordance with the Contribution Plan a contribution is payable, pursuant to Section 7.12 of the *EP&A Act 1979*, calculated on the cost of works. A total contribution of \$59,352.00 would be payable prior to the issue of a Construction Certificate

HOUSING AND PRODUCTIVITY CONTRIBUTION (HPC)

In accordance with s7.24, s7.26 and s7.28 of the *Environmental Planning and Assessment Act 1979* the proposed development is subject to the (Housing and Productivity Contribution) Act 2023, and subject to the payment of the Housing and Productivity Contribution (HPC).

A condition of consent has been imposed on the development consent in accordance with s7.28 of the EP&A Act 1979 requiring the payment of the HPC.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

The applicant and 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 Environmental Policies, Cumberland Local Environmental Plan 2021 and Cumberland DCP 2021 and is considered to be satisfactory subject to conditions.

The proposed development is appropriately located within the E1 Local Centre zone under the relevant provisions of the Cumberland Local Environmental Plan 2021, however variations in relation to the height of building and floor space ratio development standards under the Cumberland Local Environmental Plan 2021 and departures from the ceiling height requirements, rear setback, height, garden area and wall height provisions of Council's Cumberland Development Control Plan 2021 are sought.

Having regard to the assessment of the proposal from a merit perspective, Council may be satisfied that the development has been responsibly designed and provides for acceptable levels of amenity for future occupants. It is considered that the proposal successfully minimises adverse impacts on the amenity of neighbouring properties. Hence the development, irrespective of the departures noted above, is consistent with the intentions of Council's planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

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 the Clause 4.6 variation request to contravene the Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio development standard, pursuant to the Cumberland LEP 2021, be supported.**

2. **That Development Application No. DA2023/0753 for Demolition of an existing structures, retention of existing heritage dwelling (item I78) and construction of a three (3) storey mixed-use development comprising of a medical centre and retail space at ground floor level and a 115 place centre based childcare centre on the first and second floor level, including basement parking, landscaping, associated site and infrastructure works and lot consolidation on land at 58-62 Railway Parade, Granville NSW 2142 be approved subject to conditions listed in the attached schedule.**

ATTACHMENTS

1. Draft Notice of Determination
2. Architectural Plans
3. Landscape Plans
4. Stormwater/Engineering Plans
5. Clause 4.6 Variation request – FSR
6. Clause 4.6 Variation request – Height of Buildings
7. Acoustic report
8. Operational Plan of Management Childcare Centre
9. Heritage Impact Statement
10. Appendix A State Environmental Planning Policies
11. Appendix B Cumberland LEP 2021 Assessment
12. Appendix C Cumberland DCP 2021 Assessment