

TO: Sydney Central City Planning Panel

SUBJECT: 46 Ferndell Street SOUTH GRANVILLE

APPLICATION No: DA2023/0695 / PPSSCC-523

Application lodged	19 December 2023.
Applicant	Mr G Al Ali (Ghazi Al Ali Architect Pty Limited).
Owner	Mr M Issa, Mr Y Issa, Mr Z Issa, Ferndell Street Pty Ltd and Granview Pty Limited.
Application No.	DA2023/0695 / PPSSCC-523.
Description of Land	46 Ferndell Street South Granville. Lot 2 in DP 847254.
Proposed Development	Demolition of existing structures and construction of a warehouse complex comprising of 96 units, a 110 place centre-based child care facility, and at-grade car parking.
Site Area	2.657 hectares.
Zoning	E4 General Industrial.
Disclosure of political donations and gifts	Nil disclosure.
Cost of works	\$46,809,143.00.
Heritage	The subject site is not a heritage item and is not located within the heritage conservation area.
Principal Development Standards	FSR Permissible: 1:1. Proposed: 0.72: 1 (19,205.87 sq.m). Height of Buildings. Permissible: 12 metres. Proposed: 12 metres (RL30.97-EGL18.97).
Issues	Nil.

SUMMARY

1. Development Application DA2023/0695 was lodged on the 19 December 2023 for the demolition of existing structures and construction of a warehouse and industrial complex comprising of 96 units, a 110 place centre-based child care facility, and at-grade car parking.
2. The application was publicly notified to occupants and owners of the adjoining properties for a period of 14 days between 8 February 2024 and 22 February 2024. In response, no submissions were received.
3. The subject site is not a heritage item and is not located within the heritage conservation area in the Cumberland Local Environmental Plan 2021. The subject site

is located within the vicinity of a local heritage item identified under Schedule 5, Part 1 as 7-11 Ferndell Street, South Granville known as 'Acrow building' I240.

4. The development application was modified (on the 20th of May 2024) to a development encompassing the demolition of existing structures and construction of a warehouse complex comprising of 96 units, a 110 place centre-based child care facility, and at-grade car parking.
5. The variations are as follows:

Control	Required	Provided	% variation
Part G3 - Traffic, Parking, Transport & Access (Vehicle). Sub-part 4.5, C4.	In open parking areas, 1 shade tree per 10 spaces shall be planted within the parking area. 6 shade trees required.	5 shade trees provided.	16.67%.

6. The application is referred to the Panel as the proposal as per Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 constitutes 'Regional Development' as it has a Capital Investment Value (CIV) of \$46,809,143 which exceeds the \$30 million threshold.
7. The application is recommended for approval subject to the conditions as recommended in the Council's assessment report.



Figure 2 – Aerial view of subject site

Photos from a recent site inspection are provided below.



Figures 3-5 – Street view of subject site

DESCRIPTION OF THE DEVELOPMENT

Council has received a development application for demolition of existing structures and construction of a warehouse complex comprising of 96 warehouse units, a 110 place centre-based child care facility, and at-grade car parking.

A detailed breakdown of the proposal is as follows:

Warehouse component

- 96 x warehouse units in total and broken into a:
 - Three storey primary warehouse (unit 96) addressing Ferndell Street. Unit 96 is allocated 21 car parking spaces.
 - Units 1-95 consisting of a ground floor and mezzanine floor area. Each unit is provided with a car space.
 - The hours of operation for the warehouses are:
 - Monday to Friday 6:00am-6:00pm.
 - Saturday 7:00am - 2:00pm.

Centre Based Child Care facility - Ground Floor

- 3 x Indoor playrooms.
- 1 x outdoor play area.
- Waiting area, visitors water closet and reception area.
- Office meeting room.
- File storage room.
- Kitchen.
- Cleaner's/bin room.
- Laundry room.
- 2 x Lifts and stairs.
- Rear entry lobby area and reception with waiting area.
- 2 x water closets.
- Retractable shade sails.

Indoor play area

<i>Indoor playroom</i>	<i>Child age ratio/staff Nos</i>	<i>Unencumbered Floor area (sqm)</i>
Playroom 1	0-2 years (11 children) (3 staff)	62.91sqm
Playroom 2	2-3 years (20 children) (4 staff)	100.7sqm
Playroom 3	2-3 years (20 children) (4 staff)	95.7sqm

Outdoor play area

<i>Outdoor play area</i>	<i>Child age ratio</i>	<i>Unencumbered Floor area (sqm)</i>
Outdoor play area	0-3 years (51 children)	425.5 square metres

Centre Based Child Care facility - First Floor

- 2 x Indoor playrooms.
- 2 x Outdoor play areas.
- Staff room.
- 2 x Lifts and stairs.

Indoor play area

<i>Indoor playroom</i>	<i>Child age ratio/staff Nos</i>	<i>Unencumbered Floor area (sqm)</i>
Playroom 1	3-6 years (30 children) (3 staff)	101.4sqm
Playroom 2	3-6 years (29 children) (3 staff)	93.5sqm

Outdoor play area

<i>Outdoor play area</i>	<i>Child age ratio</i>	<i>Unencumbered Floor area (sqm)</i>
Outdoor play area 1	3-6 years (30 children)	211.20sqm
Outdoor play area 2	3-6 years (29 children)	203.55sqm

- The hours of operation for the centre based childcare centre is:
 - Monday to Friday 7:00am-6:30pm (excluding public holidays).
- Nineteen (19) staff proposed to service the centre based childcare centre.
- A total of 38 car parking spaces for the childcare centre including 4 drop off/temporary delivery parking zones in-front of the building.

A total of 154 car parking spaces will service the entire development.

Signage does not form part of this application.

HISTORY

Several development applications, modification application and a pre-lodgement have been lodged to Council for the subject site. The most relevant and applicable to this development is:

PL2023/0017 for mixed use development under CLEP 2021 with the following uses:

1. Warehouse and Distribution Centre including 96 individual units.
2. Two storey Child Care Facility, catering to 128 children was finalised on 2 May 2023.

APPLICANTS SUPPORTING STATEMENT

The applicant has provided an addendum Statement of Environmental Effects prepared by Think Planners dated 27 May 2024 and was received by Council on 20 May 2024 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 and therefore can be supported subject to recommended conditions of consent.

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. A Targeted Detailed Site Investigation (TDSI) prepared by Geotechnical consultants Australia Pty Ltd dated 20th May 2024 Document No E23131-1-Rev A was submitted. The report identified some data gaps regarding the materials within the structures and land beneath the structures in the western portion of the premises. The report recommends that a Data Gap Investigation be conducted after the demolition of the existing structures.

Council's EHU has reviewed the TDSI and raised no objections subject to conditions and provided that the recommendations of the report are undertaken and the results of a post demolition additional data gap investigation.

The EHU team raised no further objections subject to recommended conditions of consent.

Tree Management Officer

The development application was referred to Council's Tree Management Officer 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.

EXTERNAL REFERRALS

Transport for New South Wales (TfNSW)

The application was referred to TfNSW on two occasions for comment in accordance with section 2.122 - Traffic generating development of the State Environmental Planning Policy (Transport and infrastructure) 2021. TfNSW has reviewed the submitted application and notes that the proposed development will not have a detrimental impact to the surrounding classified road network, and such has no further comment. It is noted that no conditions are provided for any consent that may be issued.

Sydney Water


No objections raised subject to conditions.

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 affected by the following State Environmental Planning Policies:

State Environmental Planning Policies (SEPPs)	Relevant Clause(s)	Compliance with Requirements
<ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021. 	<p>Chapter 2 - Vegetation in non Rural Areas.</p>	<p>The development application does not involve the removal of any trees.</p> <p>The subject site (marked with a blue dot) does not contain any critical habitats as confirmed by the Biodiversity Values Map reproduced below.</p>  <p>Figure 6 - Biodiversity Values Map and Threshold Tool.</p> <p>Therefore, the proposal will not exceed the biodiversity offsets scheme threshold and does not have any direct impact on the biodiversity value and will not</p>

		trigger any Biodiversity Offset Schemes (BOS).
	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.
<ul style="list-style-type: none"> • 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 3.	Potentially hazardous or potentially offensive development. Potentially hazardous or potentially offensive development does not apply to the development and a preliminary hazard analysis was not required in this instance.
	Chapter 4 - Remediation of Land. Part 4.6.	<p>Part 4.6 - Contamination and remediation to be considered in determining development application.</p> <p><u>Comments</u></p> <p>A Targeted Detailed Site Investigation (TDSI) prepared by Geotechnical consultants Australia Pty Ltd dated 20th May 2024 Document No E23131-1-Rev A was submitted. The report identified some data gaps regarding the materials within the structures and land beneath the structures in the western portion of the premises. The report recommends that a Data Gap Investigation be conducted after the demolition of the existing structures.</p> <p>Council's EHU has reviewed the TDSI and raised not objections subject to conditions and provided that the recommendations of the</p>

		<p>report are undertaken and the results of a post demolition additional data gap investigation.</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>
<ul style="list-style-type: none"> • 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.
<ul style="list-style-type: none"> • 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 2.122	<p>The application is subject to clause 2.122 as the proposal triggers the requirements for traffic generating developments listed in Schedule 3 of the SEPP.</p> <p><u>Comment:</u></p> <p>The application was referred to TfNSW on two occasions for comment. TfNSW has reviewed the submitted application and notes that the proposed development will not have a detrimental impact to the surrounding classified road network, and such has no further comment.</p>
	Chapter 3 - Education Establishments and Child Care Facilities.	<p>The application is subject to Chapter 3 Educational Establishments and Child Care Facilities.</p> <p>Part 3.3 Early Education and care facilities.</p> <p>A comprehensive assessment against the State Environmental Planning Policy (Transport and Infrastructure) 2021 and the Child Care Planning Guideline 2021 is provided at Appendix A.</p>
<ul style="list-style-type: none"> • State Environmental Planning Policy (Planning System) 2021 	Schedule 6.	Development of a type that is listed in Schedule 6 of Planning System SEPP is defined as 'regional significant development'. Such

		<p>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 \$46,809,143.00 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.</p>
<ul style="list-style-type: none"> • State Environmental Planning Policy (Sustainable Buildings) 2022 	Chapter 3 – Standards for non-residential development	<p>Chapter 3 of SEPP (Sustainable Buildings) 2022 applies to this development as it relates to non-residential and is for the erection of a new building and the development has a capital investment value of \$10 million or more.</p> <p>A NABERS assessment has been submitted that addresses the energy performance.</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 achieves compliance with the key statutory requirements of the Cumberland Local Environmental Plan 2021 and the objectives of the E4 General Industry zone.

(a) Permissibility:

The proposed development is defined as a 'Warehouse' and 'Centre based child care facility' and is permissible in the E4 General Industry 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)),*

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.*

warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made, but does not include local distribution premises.

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

Figure 7 – Cumberland LEP 2021 Compliance Table

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.3 Height of Buildings Max: 12 metres.	Yes	12 metres (Building D3 storey warehouse) - RL 30.97- EGL 18.97.
4.4 Floor Space Ratio Max. 1:1.	Yes	0.72:1, based on a GFA of 19,205.87square metres.

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

No proposed planning instruments applicable.

The provisions of any Development Control Plans (EP&A Act 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 A – Introduction and General Controls.
- Part D – Development in Industrial Zones.
- Part E – Other Land Use Based Development Controls.
- Part G – Miscellaneous Development Controls.

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

Figure 8 – Cumberland DCP 2021 - Compliance Table.

Control	Required	Provided	% variation
Part G3 - Traffic, Parking, Transport & Access (Vehicle). Sub-part 4.5, C4.	In open parking areas, 1 shade tree per 10 spaces shall be planted within the parking area. 6 shade trees required.	5 shade trees provided.	16.67%.

The departure occurs to the rear of the proposed centre based child care centre and larger warehouse unit (unit 96) provides a total of 55 car spaces which would require 5.5 (6) trees, the proposal provides 5 shade trees in this space, in lieu of 6.

As indicated in the compliance table above, the proposed development departs from the Part G3, sub-part 4.5 Development in industrial zones, C4 provisions of the Cumberland Development Control Plan 2021.

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

The objectives of the car park design are as follows:

Objectives

- *Sufficient car parking is provided on-site to satisfy the likely peak parking demands of the development.*
- *Parking is integrated with site planning and landscaping and is of adequate dimensions to facilitate convenient and safe usage.*
- *To ensure that at grade car parking on sites does not dominate the streetscape and the public domain.*

Comment:

As stated above, the departure occurs to the rear of the proposed centre-based child-care centre and larger warehouse unit (unit 96). The third objective above is to ensure that at grade car parking does not dominate the streetscape and public domain. The car parking will not be visible from the public domain as its located to the rear of the buildings that front Ferndell Street. The proposal implements shade trees across the at grade car parking which will soften this space and help reduce the heat island effect. Irrespective of the departure,

the overall site meets the minimum landscape area and provides additional trees throughout the development and therefore in this instance is considered acceptable on merit.

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))

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

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 Regulation 2021* (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 (Website) ☒ Mail ☒ Sign ☒ Not Required ☐

In accordance with Council's Notification requirements contained within Cumberland Development Control Plan, the proposal was publicly notified for a period 14 days between 8 February 2024 and 22 February 2024. The notification generated no submissions in respect of the proposal.

The amended plans did not require re-notification as stipulated under Part A, sub-part 2.6.1 of the CDCP 2021 as the proposal was not considered to have an additional environmental impact or impact the development on adjoining or nearby land and development. The height and setbacks remained generally consistent with the originally notified plans and the number of children to the centre based child care centre was reduced from 121 to 110.

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.

In accordance with the Contribution Plan a contribution is payable, pursuant to Section 7.12 of the EP&A Act, calculated on the cost of works. A total contribution of \$472,553.00 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 HPC of \$63,326.79 would be payable prior to the issue of a Construction Certificate.

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*, the relevant environmental planning instruments including the Cumberland Local Environmental Plan 2021 and Cumberland DCP and is considered to be satisfactory subject to conditions.

The proposed development is appropriately located within the E4 General Industrial Zone under the relevant provisions of the Cumberland Local Environmental Plan 2021. The proposal is consistent with all statutory and non-statutory controls applying to the development. A minor non-compliance 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. DA2023/0695 for Demolition of existing structures and construction of a warehouse complex comprising of 96 units, a 110 place centre-based child care facility, and at-grade car parking on land at 46 Ferndell Street South Granville be approved subject to conditions listed in the attached schedule.**

ATTACHMENTS

1. Draft Notice of Determination.
2. Architectural Plans.
3. Landscape Plans.
4. Plan of Management (CCC).
5. Acoustic Report.
6. Air Quality Report.
7. Targeted Detailed Site Investigation.
8. Appendix A - SEPP Assessment tables.
9. Appendix B - Cumberland LEP Assessment table.
10. Appendix C Cumberland DCP Assessment tables.