

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"> (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts, (a) to provide a comprehensive planning framework for the sustainable development of land in Cumberland, (b) to provide for a range of land uses and development in appropriate locations to meet community needs, (c) to facilitate economic growth and employment opportunities within Cumberland, (d) to conserve and maintain the natural, built and cultural heritage of Cumberland, (e) to provide for community facilities and services in Cumberland to meet the needs of residents, workers and visitors, (f) to promote development that is environmentally sustainable. <p><u>Comment:</u> It is considered that the aims of the plan are complied with. In particular, the following aims are achieved: Clause 1.2(2)(b), (d) and (f).</p>	Yes
2.3 Zone Objectives and Land Use Table	<p>The objectives of the R4 High Density Residential zone are:</p> <ul style="list-style-type: none"> • <i>To provide for the housing needs of the community within a high density residential environment.</i> • <i>To provide a variety of housing types within a high density residential environment.</i> • <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> • <i>To ensure that non-residential land uses are located in a setting that minimises impacts on the amenity of a high density residential environment.</i> • <i>To encourage residential development that maintains the amenity of the surrounding area.</i> <p><u>Comment:</u> The proposed building works relate to the R4 zone portion of the site. It is considered that all the relevant objectives of the R4 zone are complied with. The proposed development is defined as a residential flat building.</p> <p>A Residential flat building is defined as: “A <i>building containing 3 or more dwellings but does not include an attached dwelling or multi dwelling housing</i>”. A residential flat building is a permitted development with consent within the R4 High Density Residential zone</p>	Yes

	<p>being that part of the site where the development is to be constructed.</p> <p>The development is sited on the portion of site zoned R4 High Density Residential pursuant to the Cumberland Local Environmental Plan 2021 where residential flat buildings and shop top housing are permitted with consent. Furthermore, the development is also permissible under Chapter 3, Part 4 of the Housing SEPP 2021.</p>	
2.6 Subdivision-consent requirements	Subdivision is not proposed under this application.	N/A
2.7 Demolition requires development consent	The subject site is free of any structures, therefore no demolition works are proposed.	N/A
4.3 Height of Buildings	<p>(2) 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.</p> <p><u>Comment:</u> The height of a building is not to exceed:</p> <ul style="list-style-type: none"> • Part 54 metres for part of the site. • Part 39 metres for the remainder of the site. <p>The proposal is seeking a bonus to the height of building pursuant to Clause 16 of State Environmental Planning Policy (Housing) 2021 which allows for this increase providing that a compliant level of affordable housing is achieved within the development. In this case, the applicant is seeking a 30% height bonus, for providing 15% of the gross floor area for affordable housing. Therefore, the height of building including the 30% bonus equates to:</p> <ul style="list-style-type: none"> • Part 70.2 metres • Part 50.7 metres <p>The proposal will result in a height of building as follows:</p> <ul style="list-style-type: none"> • Building B – 74.76 metres, which exceeds the 70.2m development standard by 4.56m or 6.4%. • Building C – 55.71 metres, which exceeds the 50.7m development standard by 5.01m or 9.88%. • Building D – 55.92 metres, which exceeds the 50.7m development standard by 5.22m or 10.29%. 	No. A clause 4.6 has been submitted, refer to main body of the report for a detailed assessment.
4.4 Floor Space Ratio	<p>(2) 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.</p> <p><u>Comment:</u> The maximum floor space ratio (FSR) for a building on the site shall not exceed 5:1.</p> <p>The proposal is seeking a bonus to the FSR pursuant to Clause 16 of State Environmental Planning Policy</p>	Yes

	<p>(Housing) 2021 which allows for this increase providing that a compliant level of affordable housing is achieved within the development. In this case, the applicant is seeking a 30% FSR bonus, for providing 15% of the gross floor area for affordable housing.</p> <p>CLEP 5:1 plus 30% FSR bonus would allow for an FSR of 6.5:1. The proposal provides 40,012.38 square metres of gross floor area and therefore complies at 6.5:1.</p>	
4.6 Exceptions to development standards	<p>(3) 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:</p> <ul style="list-style-type: none"> (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and (b) that there are sufficient environmental planning grounds to justify contravening the development standard. <p><u>Comment:</u> A written request in accordance with Clause 4.6 of CLEP 2021 to vary the building height development standard was submitted.</p> <p>The exceedance in building height is supported in this instance, having regard to the circumstances of the case. Refer to the discussion in the body of the report.</p>	Yes. Refer to main body of report for assessment.
5.10 Heritage Conservation	The site is not identified as a heritage listed item and is not located within a heritage conservation area. The clause.	N/A
5.21 Flood planning	<p>(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—</p> <ul style="list-style-type: none"> (a) is compatible with the flood function and behaviour on the land, and (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 (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 (d) incorporates appropriate measures to manage risk to life in the event of a flood, and (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>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p>	Yes, subject to conditions.

	<ul style="list-style-type: none"> (a) the impact of the development on projected changes to flood behaviour as a result of climate change, (b) the intended design and scale of buildings resulting from the development, (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, (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion. <p><u>Comment:</u> Council's Senior Development Engineer review the proposal and did not raise any objections subject to conditions.</p>	
6.1 Acid Sulphate Soils	Development is not impacted by acid sulphate soils.	N/A
6.2 Earthworks	The proposed earthworks will not have a detriment ion effect on existing drainage patterns or soil stability. The original approval provided for six levels of basement, the subject application has reduced the number of basements to three.	Yes
6.4 Essential Services	<p>(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:</p> <ul style="list-style-type: none"> a) the supply of water, b) the supply of electricity, c) the disposal and management of sewage, d) stormwater drainage or on-site conservation, e) suitable vehicular access. <p><u>Comment:</u> These matters were addressed under DA 2022/0776 and the proposed amending DA does not alter that conclusion. The amending DA also includes a sub-station to service the development, therefore the supply of electricity is satisfactory.</p>	Yes
6.7 Stormwater management	<p>(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—</p> <ul style="list-style-type: none"> (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 (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and (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. 	Yes

	<p><u>Comment:</u> Compliance is achieved. Council Senior Development Engineer has not raised any objections to the proposal.</p>	
6.9 Salinity	<p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following—</p> <ul style="list-style-type: none"> (a) whether the development is likely to have an adverse impact on salinity processes on the land, (b) whether salinity is likely to have an impact on the development, (c) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <ul style="list-style-type: none"> (a) the development is designed, sited and will be managed to avoid a significant adverse environmental impact, or (b) if a significant adverse environmental impact cannot be avoided—the development is designed, sited and will be managed to minimise the impact, or (c) if a significant adverse environmental impact cannot be minimised—the development will be managed to mitigate the impact. <p><u>Comment:</u> The applicant submitted a Geotechnical Report prepared by Geotesta Pty Ltd which concludes “<i>The site soil is considered mild-saline and non-aggressive to concrete and steel. An exposure classification of A2 for concrete in saline soils, and an exposure classification of A1 for concrete and steel in sulphate soils should be adopted for preliminary design of proposed concrete structures.</i>”.</p>	Yes, subject to a condition.
6.12 Urban Heat	<p>In deciding whether to grant development consent for the purposes of commercial premises, industries or residential accommodation, the consent authority must consider whether—</p> <ul style="list-style-type: none"> (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 (b) the awnings and eaves of the building are designed to provide shelter from the sun and improve public comfort at street level, and (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 (d) the development maximises the use of green infrastructure that is strategically designed and 	Yes

	<p>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> A BASIX Certificate number 1346701M_03 has been submitted and determined as being acceptable for approval. The project score provides a pass to Water, Thermal Comfort and Energy.</p> <p>The proposed development is considered to be satisfactory with regard to the provisions of this clause.</p>	
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