

TO: Sydney Central City Planning Panel – 10 April 2025

SUBJECT: 86-94 Kingsland Road and 61 Regent Street, Regents Park.

APPLICATION No: DA2024/0540/ PPSSCC-621

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| Application lodged | Friday 25 October 2024. |
| Applicant | C Furnass. |
| Owner | Christian Community School Limited. |
| Application No. | DA2024/0540. |
| Description of Land | 86-94 Kingsland Road and 61 Regent Street Regents Park. Lot 1 in DP 1212346 & Lot 1 in DP 610040. |
| Proposed Development | Demolition of two existing buildings, tree removal, staged construction of a two storey administration building for Regents Park Christian School including a new 11 space car parking area. |
| Site Area | 11,900 Square metres. |
| Zoning | R2 - Low Density Residential. RE2 - Private Recreation. |
| Disclosure of political donations and gifts | Nil disclosure. |
| Cost of works | \$14,365,000.00. |
| Heritage | Not Heritage Listed or located in a Heritage Conservation Area. |
| Principal Development Standards | <u>Floor Space Ratio</u> Not applicable in the R2 zone. Not applicable in the RE2 zone. <u>Height of Building</u> Permissible: 9m. Proposed: 11.6m. |
| Issues | Height of Building. Submission. |

SUMMARY

1. Development Application 2024/0540 was lodged on Friday 25 October 2024 for the demolition of two existing buildings, tree removal, staged construction of a two storey administration building for Regents Park Christian School including a new 11 space car parking area.
2. The application was publicly notified to occupants and owners of the adjoining properties for a period of 14 days between Thursday 14 November 2024 and Thursday 28 November 2024. In response Council received one submission. The application was re-notified for a period of 14 days between Monday 10 February 2025 and Monday

24 February to account for design changes to the development. In response, one additional submission was received.

3. The variations are as follows:

| Control | <i>Permissible</i> | Provided | % variation |
|------------------------------------|---------------------------|---|--------------------|
| Height of building. (CLEP 2021) | Maximum 9 metres. | 11.6 metres to the top of lift overrun. | 28.9%. |

4. The application is referred to the Sydney Central City Planning Panel as it is an educational establishment with an estimated development cost of more than \$5 million in value.
5. The application is recommended for approval subject to conditions as recommended in the Council's assessment report.

REPORT

SUBJECT SITE AND SURROUNDING AREA

The site forms Lot 1 in DP 1212346 and Lot 1 in DP 610040 and is commonly known as 86-94 Kingsland Road and 61 Regent Street, Regents Park. The site is on an irregular shaped parcel of land and has a total area of approximately 1.19 hectares. The site has a frontage of 61m to Regent Street to the west and 102m to Kingsland Road to the east.

The subject site is zoned R2 Low Density Residential and RE2 - Private Recreation Zone under the Cumberland Local Environmental Plan 2021. The portion of the site to be redeveloped is located along Regent Street and is zoned R2 Low Density Residential. The area of the site affected by the subject works include two existing dwellings (owned by the school) as well as a portable classroom.

Existing development on the site comprises various single and two storey buildings and structures including a multi-purpose church building, classroom buildings, administration building, school hall and a basketball court. The school operates as a co-educational institution for Kindergarten to Year 12 students. Vehicular access to the site is provided from Regent Street and via three access points from Kingsland Road.

The Regents Park locality is characterised by a mix of land uses including single and two storey detached residential dwellings, recreational facilities and open space. Directly to the north, there are single and double storey dwelling houses. Kingsland Road and detached residential dwellings are situated to the east. The Dooleys Regents Sports Club lies to the south and Guilfoyle Park is located on the western side of Regent Street.

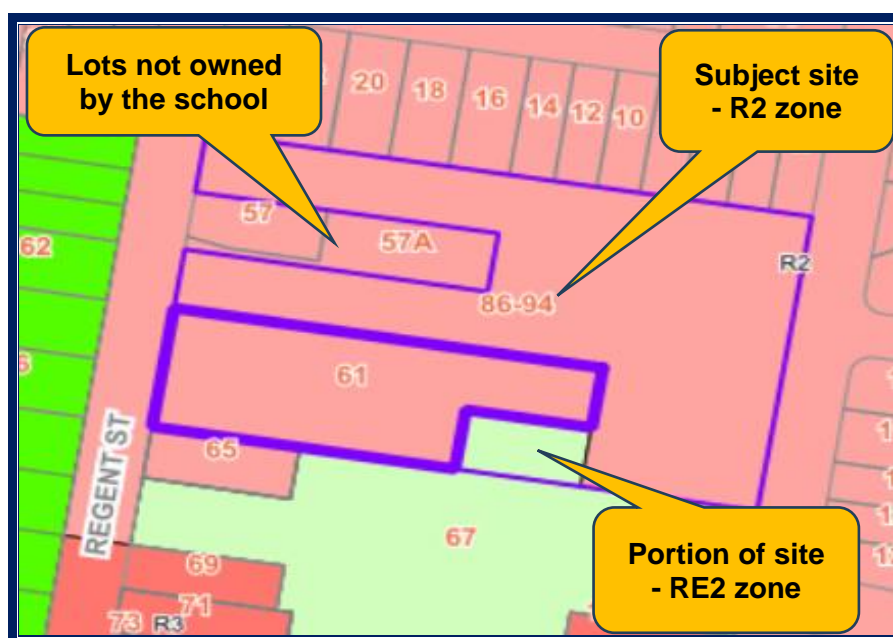


Figure 1 - Locality Plan of subject site edged in purple. Source: Council's IntraMaps.

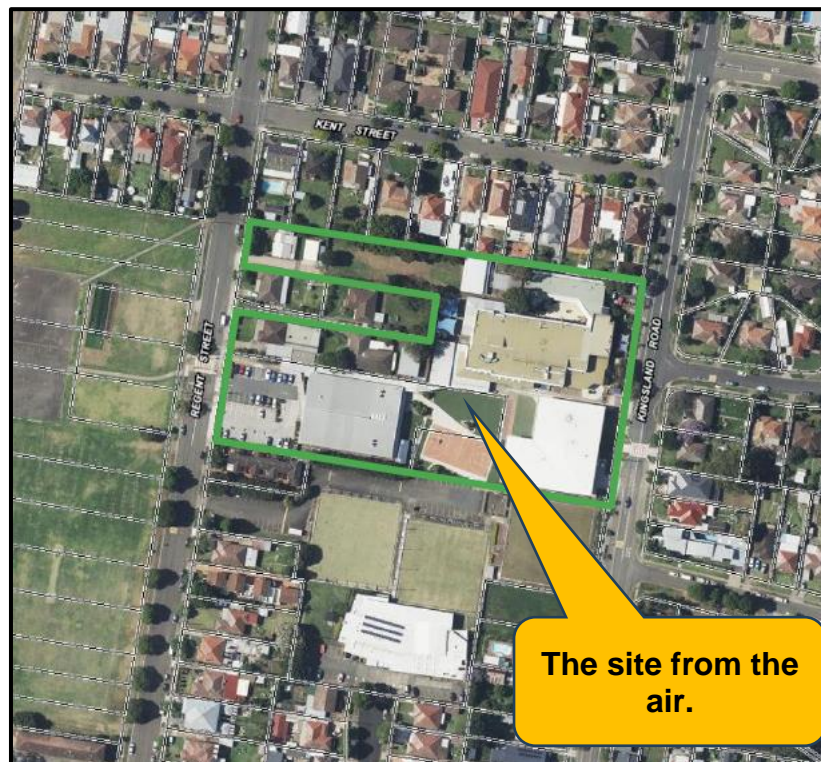


Figure 2 - Aerial view of subject site edged in green. Source: Council's IntraMaps.

Photos of the site taken during a site inspection are provided below:



DESCRIPTION OF THE DEVELOPMENT

Council has received a development application for the demolition of two existing buildings, tree removal and staged construction of a two storey administration building for the Regents Park Christian School including a new 11 space car parking area.

The application proposes the following works:

- Demolition of two former dwellings (that are currently used by the school for administration purposes).
- Demolition of a portable classroom.
- Removal of thirteen trees to facilitate the proposed works and replacement with new plantings.
- Minor works to the existing school building including adjustment to the eaves overhang along the northern elevation to suit new building, removal of metal awnings and removal of existing line marking and make good for new line marking within the existing car park.
- Construction of a 2 storey administration block comprising of the following facilities:
 - Ground floor - School reception, staff offices, meeting rooms, staff dining room, sick bay, amenities and the school archives.
 - First Floor - Staff Lounge, meeting rooms, Wellbeing Hub containing communal areas and offices, amenities and the school canteen.
 - Roof Terrace - The rear proportion of the building is proposed to contain a terrace which occupies an area of 494 sqm that will be utilised by students for outdoor education such as drama as well as for passive recreational space for recess and lunch breaks.
 - New link bridge/walkway from the roof terrace connecting to the secondary school learning areas.
- Additional 11 at grade car parking spaces within the front setback of Regent Street including 1 accessible car parking space.
- The development is proposed to be a staged construction including:
 - Stage 1 comprising of the construction of the administration building, the ground level carpark works and the fit out of the ground floor and the first floor uniform shop as well as the installation of the lift to service the first floor uniform shop; and
 - Stage 2 comprising the fitout of the remainder of level one, the extension of the lift and an associated lift overrun to service the rooftop common open space area as well as associated stairs, the provision of a walkway to the west and the use of the roof as an outdoor play area.

The new building will provide improved administrative, staff and support facilities for students at the site. It is noted that the school is not seeking to increase student numbers or staff as a result of the additional facilities.

HISTORY

| Application No. | Proposal | Status | Date |
|-----------------|----------|--------|------|
|-----------------|----------|--------|------|

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|--------------|--|----------|-----------------|
| DA164/1979 | Development application for the Christian Community High School. | Approved | 11 June 1979 |
| DA267/1958 | Development application for School building and playground. | Approved | 4 December 1985 |
| DA395/2014 | Development application for Alterations and additions to the school including the construction of a new library, new classrooms, additional car parking and amenities. | Approved | 7 July 2015 |
| DA75/2016 | Development application for change of use of a portion of land from registered club to educational establishment. | Approved | 15 August 2016 |
| DA2019/0473 | Development application for Increase maximum student numbers to 800. | Approved | 29 April 2020 |
| MOD2020/0276 | Modification Application - S4.55(1) to Modify Conditions 2 and 9 to correct minor misdescription or miscalculations. | Approved | 25 August 2020 |

APPLICANTS SUPPORTING STATEMENT

The applicant has provided a Statement of Environmental Effects prepared by Think Planners dated September 2024 and was received by Council on 3 October 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 Engineering

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

Building Surveying

The development application was referred to Council's Building Surveyor for comment who has advised that the development proposal is satisfactory subject to a condition addressing fire safety, access and building code compliance.

Environmental Health

The development application was referred to Council's Environment and Health Officer for comment who has advised that the development proposal is satisfactory as it satisfies Council's requirements in relation to contamination, noise/acoustics, sediment and erosion control and food/public health and therefore can be supported subject to conditions.

Tree Management

The development application was referred to Council's Tree Management Officer for comment who has advised that the development proposal is satisfactory with regard to the proposed landscaping/tree removal and therefore can be supported subject to conditions.

Waste Management

The development application was referred to Council's Waste Management Officer for comment who has advised that the development proposal is satisfactory as the Waste Management Plan meets the conditions of Council's DCP and may be supported subject to conditions.

EXTERNAL REFERRALS

Ausgrid

The development application was referred to Ausgrid for comment who has advised that the development proposal is satisfactory and therefore can be supported subject to conditions.

Sydney Water

The development application was referred to Sydney Water for comment who has advised that the development proposal is satisfactory and therefore can be supported 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:

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

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

| State Environmental Planning Policies (SEPPs) | Relevant Clause(s) | Compliance with Requirements |
|---|--------------------|------------------------------|
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| State Environmental Planning Policy (Biodiversity and Conservation) 2021. | Chapter 2 - Vegetation in non Rural Areas. | <p>The development application includes the removal of thirteen trees and replacement landscaping.</p> <p>The application was referred to Council's Senior Tree Management Officer who have assessed the proposal as acceptable subject to conditions.</p> <p>The proposal does not exceed the biodiversity offsets scheme threshold. Therefore, the proposed vegetation removal is considered acceptable.</p> |
| | <p>Chapter 6 - Water Catchments.</p> <p>Sydney Harbour Catchment.</p> | <p>The proposed development raises no issues as no impact on the catchment is envisaged.</p> <p>(Note: - the subject site is not identified in the relevant map as 'land within the 'Foreshores and Waterways Area' or 'Wetland Protection zone', is not a 'Strategic Foreshore Site' and does not contain any heritage items. Hence the majority of the State Policy is not directly relevant to the proposed development).</p> |
| State Environmental Planning Policy (Resilience and Hazards) 2021. | Chapter 2 - Coastal Management. | N/A - The subject site is not identified as a coastal wetland or 'land identified as "proximity area for coastal wetlands" or coastal management area. |
| | <p>Chapter 4 - Remediation of Land.</p> <p>Part 4.6.</p> | <p>Part 4.6 - Contamination and remediation to be considered in determining development application.</p> <p><u>Comments</u></p> <p>The following supporting site investigation and geotechnical reports have been provided:</p> <ul style="list-style-type: none"> • Preliminary Site Investigation for Contamination (PSI) - 225848.00, Rev 0 dated 25 January 2024; • Geotechnical Investigation – 225848.01.R.001. Rev0 dated 25 January 2024; • Detailed Site Investigation (the DSI) – P2410712JR01V01 dated 4 February 2025; • Hazardous material Survey Report – MP40-09-2522/HMS1/v1.Final dated 23 February 2024. <p>Council's Environmental Health Officer has reviewed the reports and determined that the</p> |

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| | | <p>site is suitable to support such a development subject to conditions.</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 (Transport and Infrastructure) 2021 | Chapter 2 - Infrastructure. | <p><u>Development likely to affect an electricity transmission or distribution network (Division 5, Subdivision 2, Clause 2.48)</u></p> <p>The application was referred to Ausgrid Energy for comment who raised no issue with the proposal subject to the inclusion of conditions into any consent for the development.</p> <p><u>Development with frontage to classified road (Division 17, Subdivision 2, clause 2.118 and 2.119)</u></p> <p>The site is not in proximity to a classified road and therefore no impact to a classified road is anticipated.</p> |
| | Chapter 3 – Educational establishments and childcare facilities | <p>The development application has been assessed under the relevant provisions of State Environmental Planning Policy (Transport and Infrastructure) 2021. A detailed assessment where relevant is at Appendix A. It is concluded that the proposed development is fully compliant with the relevant provisions of the State Policy.</p> <p>Clause 3.36(6)(a) of State Environmental Planning Policy (Transport and Infrastructure) 2021 requires Council to consider the design quality principles set out in Schedule 8 for any development application for a school or works within a school ground. The works have been assessed using the design quality principles and it is determined that the works are satisfactory with the relevant provisions. A detailed assessment is at Appendix A.</p> |
| State Environmental Planning Policy (Sustainable Buildings) 2022 | Chapter 3 – Standards for non-residential development | <p>Chapter 3 of the Sustainable Buildings SEPP 2022 is applicable to this development as the alterations, enlargement or extension of the existing building has a capital investment value of \$10 million or more.</p> <p>An Ecological and Sustainability Design Report, including a NABERS assessment, prepared by Partners Energy has been submitted that addresses the</p> |

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| | | <p>requirements of Chapter 3 and Schedule 3 of the SEPP.</p> <p>The information accompanying the application demonstrates that the development satisfies the requirements in Chapter 3 of SEPP (Sustainable Buildings) 2022 and accordingly, consent can be granted to the development.</p> |
| <ul style="list-style-type: none"> 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 is an educational establishment which has a Capital Investment Value (CIV) of \$14.365 million 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 by the Sydney Central City Planning Panel.</p> |

Local Environmental Plans

Cumberland Local Environmental Plan 2021

The provision of the Cumberland Local Environmental Plan 2021 is applicable to the development proposal. The subject site is zoned R2 Low Density Residential and RE2 – Private Recreation Zone. However, the portion of the site to be redeveloped is zoned R2 Low Density Residential and no works are proposed within the RE2 - Private Recreation Zone. The development achieves compliance with the key statutory requirements of the Cumberland Local Environmental Plan 2021 and the objectives of the R2 Low Density Residential zone with the exception of Clause 4.3 (height of building) as discussed further below.

a) Permissibility

The proposed development constitutes ancillary building works to an existing 'educational establishment' and is permissible in the R2 Low Density Residential zone with consent. The definition of the above land use within the Cumberland Local Environmental Plan 2021 is:

Educational establishment means a building or place used for education (including teaching), being—

- a) a school, or

- b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.*

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 Cumberland Local Environmental Plan 2021 assessment is contained in Appendix B.

| Development Standard | Compliance | Discussion |
|--|------------|--|
| Clause 4.3 Height of Buildings Max. 9m | No | <p>A maximum building height of 9 metres is specified for the site. The proposed building has a maximum height of 11.6m to the top of the lift overrun that is located towards the southern edge of the building. The remainder of the building complies with the height control.</p> <p>A Clause 4.6 request to contravene the height of building development standard was submitted with the application.</p> <p>The exceedance in building height is supported in this instance, having regard to the circumstances of the case. Refer to further discussion below.</p> |
| Clause 4.4 Floor Space Ratio The site is not subject to a maximum FSR under the LEP. | - | Not applicable. |
| Clause 4.6 Exceptions to Development Standards | Yes | <p>A written request in accordance with Clause 4.6 of the CLEP 2021 to vary the building height development standard has been submitted and is contained in Attachment 5.</p> <p>Refer to detailed assessment below.</p> |

(b) Clause 4.6 - Exceptions to development standards

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 standard for the maximum building height under clause 4.3 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 that requires that the height of building is not to exceed 9m on the subject site.

The proposed development seeks a maximum height of 11.6m from the existing ground level which equates to variation of 28.9% to the LEP development standard.

The applicant has submitted a Clause 4.6 variation request to the Height of Building prepared by Think Planners dated September 2024, as discussed below. An assessment of the relevant provisions of Clause 4.6 is as follows:

3. a) *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

Applicant's Justification

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as:

The underlying objectives of the control are satisfied, known as the first way in the decision of *Wehbe v Pittwater Council* (2007) 156 LGERA 446 as discussed below:

- The habitable areas of the building are compliant with the maximum building height limit, noting that the exceedance is limited to the lift overrun and stairwell. Given the nature of the variation, the development is considered to provide an appropriate development density.
- The development has no habitable floor space above the height limit and noting that the exceedance is limited to lift overruns and stairwells. The small portions of the building varying the building height are considered to have a minor impact on the

character and scale of the overall development, particularly when viewed from the public domain. As a whole, the height of the development is compatible with the locality and the variation will have a minimal visual impact. The development will not impact upon any significant views.

- The building has been located to minimise visual impact on surrounding buildings, relies upon the adequate landscaping that screens the new building and provides a pleasant, landscaped outlook from both within the site and for views into the site.
- The building incorporates acoustic absorbing materials and is appropriately setback from boundaries to reduce excessive noise transmission.
- The minor height departure does not unacceptably increase overshadowing impacts on the adjoining properties, noting that the site adjoins the existing school hall and carpark to the south. Refer to the architectural plan set for details.

On the basis of the above points, the development is consistent with the underlying objectives of the height control; and the numerical departure from the height control facilitates a positive design outcome on the site.

Planner's Analysis:

The applicant's justification can be supported as follows:

- a) The development proposal is consistent with the intent of the maximum height control and will provide a modest development that is site responsive and compatible with the streetscape.
- b) The additional height does not result in any appreciable increase in shadow impact on adjoining neighbours.
- c) The non-compliance is minor in nature with most of the building being compliant with the building height control. The structure associated with the service overruns are recessed and its impact to the streetscape is negligible and not identifiable at street level.

The applicant's justification is therefore considered to be well founded.

3. (b) Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

Applicant's justification:

Pain J held in *Four2Five vs Ashfield Council* [2015] NSWLEC 90 that to satisfy clause 4.6(3)(b), a clause 4.6 variation must do more than demonstrate that the development meets the objectives of the development standard and the zone – it must also demonstrate that there are other environmental planning grounds that justify contravening the development standard, being grounds that are specific to the site.

Pursuant to clause 4.6(3)(b) of the LEP, there are sufficient environmental planning grounds to justify the variation to the height development standard because:

- The areas exceeding the maximum building height are not habitable floor space. The lift and stairwell exceedances facilitate access to the upper level of the building as well as the rooftop outdoor play area for the school, improving the amenity and accessibility of the school.
- The minor variation is not considered to impact the compatibility of the development with the character of the locality, given that the majority of the proposed building form is contained below the maximum permitted height control, and the top level which exceeds the height control is recessed and will not be highly visible when viewing the building from the street given the separation distance.
- The additional height proposed does not result in detrimental environmental planning outcomes, as it does not give rise to adverse solar access, view loss or visual or acoustic privacy impacts on site, or to neighbouring properties.; and
- The departure to the height standard furthers the objects of the Environmental Planning and Assessment Act 1979 as set out below:
 - To promote the orderly and economic use and development of land.
 - To promote good design and amenity of the built environment.

Planner's comments:

The statement provided within the Clause 4.6 variation is generally supported given that the minor increase in height to the new administration building is not readily visible from the public space.

The development remains consistent with the use of the site as an educational establishment. The proposal will not increase the student population and will not have an adverse impact to the site or to adjoining sites. The structure associated with the service overruns are recessed and suitably setback to be screened from the street.

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.

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.

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). Council is further satisfied that the proposed development is consistent with the objectives of the development standard and the objectives for development within the zone in which it is proposed to be carried out.

The applicant's justification provided is satisfactory and having considered the application on its merit, the exception to the maximum height of building standard is considered acceptable in this instance.

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

Council has received a Gateway Determination (from the Department of Planning, Housing and Infrastructure for the Draft Woodville Road Corridor Planning Proposal. As part of this approval, public exhibition of the Draft Woodville Road Corridor Planning Proposal has commenced. The Public Exhibition period is from 4 March 2025 to 17 April 2025 inclusive.

The Draft Planning Proposal seeks to revitalise Woodville Road by amending planning controls in the Cumberland Local Environmental Plan (CLEP) 2021 for 31 sites located around the three (3) precincts of Woodville North, Merrylands East and Woodville South.

The subject application was received on Friday 25 October 2024 and the site does not fall within the Draft Woodville Road Corridor and therefore no further consideration is required.

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 following chapters are relevant to the development:

- Part B - Development in Residential Zones.
- Part E3 - Educational Establishment.
- Part G - Miscellaneous Development Controls:
 - G3 Traffic, Parking, Transport and Access (Vehicle).
 - G4 Stormwater and Drainage.
 - G8 Waste Management.

A comprehensive assessment and compliance table is contained in Appendix C attached to the report.

The relevant objectives and requirements of Part B (Development in Residential Zones) have been considered in the assessment of the development application given the subject site being located within the R2 Low Density Residential zone. Whilst Setbacks, Streetscape, Visual and Acoustic Privacy, Car Parking and Site Access can be applied to the proposal, the detailed development control requirements of the Plan refer specifically to residential developments only. This is outlined in Part 1.2 of the Plan. The proposed development does not incorporate any residential element and therefore, the specific controls are not applicable.

The relevant requirements and objectives of the Traffic, Parking, Transport and Access (Vehicle) part of the Cumberland Development Control Plan 2021 have been considered in the assessment of the development application. The parking rates prescribed by the DCP for educational establishments are based on student and staff numbers.

There are no proposed changes to student or staff numbers on site. The new area for 11 car parking spaces is to improve the overall functionality of the use.

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 the Cumberland DCP 2021, the proposal was publicly notified for a period of 14 days between Thursday 14 November 2024 and Thursday 28 November 2024. In response Council received one submission. The amended plans were further notified for a period of 14 days between Monday 10 February 2025 and Monday 24 February 2025. The notification generated 1 submission (from the same objector) in respect of the proposal. The issues raised in the public submissions are summarised and commented on as follows:

| Issue | Planner's Comment |
|---|---|
| <i>The proposed use of the right-of-way by the subject development application should not be supported.</i> | The design of the proposed development has been amended and no works are proposed within the adjacent neighbour's right of way including stormwater drainage and vehicle access. |
| <i>The proposed stormwater drainage should not be disposed on the adjoining land.</i> | <p>The stormwater design has been amended and is now to be directed to the existing stormwater system on Regents Road. The engineering plans have been assessed by Council's Development Engineers' who are satisfied with the proposed stormwater system.</p> <p>Further, appropriate conditions of consent have been imposed to ensure compliance of the subject development with the</p> |

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| | Cumberland Development Control Plan 2021 controls related to stormwater runoff thereby minimising any adverse impact of stormwater into the neighbouring properties. |
| <i>The development will result in increased traffic and the adjoining neighbour's driveway will be used for vehicles parking.</i> | <p>The intensity of use of the school including the expected student population or staff is not altered.</p> <p>In this regard, the proposed development will not generate any additional traffic.</p> <p>The matter for vehicles being parked on the adjoining driveway is not related to this application.</p> |
| <i>Damage to the existing services on the adjoining neighbours right of way by the vehicles.</i> | <p>As stated above, no works are proposed within the adjoining land.</p> <p>Notwithstanding, conditions have been imposed within the consent to ensure that all the works are carried out within the boundaries of the subject site.</p> |

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 \$157,902.00 would be payable prior to the issue of a Construction Certificate.

HOUSING AND PRODUCTIVITY CONTRIBUTION (HPC)

In accordance with Part 2(5) of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023, the proposed development does not trigger any HPC as it does not relate to residential, commercial, retail or industrial development.

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 Planning Policies, the Cumberland Local Environmental Plan 2021 and the Cumberland Development Control Plan 2021. The development is considered to be satisfactory.

The proposed development is permissible within the R2 zone (Low Density Residential) under the provisions of the Cumberland Local Environmental Plan 2021. A variation to the height of building under Clause 4.3 of the Cumberland Local Environmental Plan 2021 is sought and it is considered that the variation is reasonable given the scale of works that are proposed.

Having regard to the assessment of the proposal from a merit perspective, Council is satisfied that the development has been responsibly designed and provides for acceptable levels of amenity for the school. It is considered that the proposal successfully minimises adverse impacts on the amenity of neighbouring properties. Hence the development, irrespective of the departure 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 Height of Building development standard, pursuant to the Cumberland LEP 2021, be supported.**
2. **That Development Application 2024/0540 for demolition of two existing buildings, tree removal, staged construction of a two storey administration building for Regents Park Christian School including a new 11 space car parking area on land at 86-94 Kingsland Road and 61 Regent Street, Regents Park be approved subject to conditions as listed in the attached schedule.**
3. **Persons whom have lodged a submission in respect to the application be notified of the determination of the application.**

ATTACHMENTS

1. Draft Notice of Determination.
2. Architectural Plans.
3. Landscape Plans.
4. Stormwater/Engineering Plans.
5. Clause 4.6 Variation Request - Height of Building.
6. Appendix A State Environmental Planning Policy (Transport and Infrastructure) 2021.
7. Appendix B Cumberland LEP 2021 Assessment.
8. Appendix C Cumberland DCP 2021 Assessment.
9. Redacted submissions received.