

TO: Sydney Central City Planning Panel

SUBJECT: 86-96 Station Street Wentworthville

APPLICATION No: DA2024/0732 / PPSSCC-646

Application lodged	17 December 2024.
Applicant	Mr C De Angelis.
Owner	S96 Pty Ltd & MA Beani Pty Ltd.
Application No.	DA2024/0732 / PPSSCC-646.
Description of Land	86-96 Station Street Wentworthville. Lot 101 in DP 1262440.
Proposed Development	Demolition of existing structures and construction of a part seven (7), part fifteen (15) storey mixed use building comprising a childcare centre catering for 120 children, two commercial units, 59 residential apartments pursuant to State Environmental Planning Policy (Housing) 2021 over basement parking, Torrens title subdivision and associated landscaping and civil works.
Site Area	Pre-land dedication: 1,622 square metres. Post Land dedication: 1,304 square metres.
Zoning	E1 Local Centre.
Disclosure of political donations and gifts	Nil disclosure.
Cost of works	\$30,742,670 (excluding GST).
Heritage	Not a heritage item nor with a heritage conservation area. The subject site is located within the vicinity of a local heritage item identified as St Andrew's Presbyterian Church, Federation Carpenter Gothic Church, Circa 1923 (I1278).
Principal Development Standards	<u>FSR</u> <i>Permissible:</i> 2.8:1 under the CLEP 2021 plus 30% under s.16(1) of SEPP (Housing) 2021 = 3.64:1. <i>Proposed:</i> 4.165:1. <u>Height of Building</u> <i>Permissible:</i> Part 30m and Part 20m under the CLEP 2021. Part 39m and Part 26m under s.16(3) of SEPP (Housing) 2021. <i>Proposed:</i> Part 51.33m in the portion of site that allows 39m.

	Part 51.33m in the portion of site that allows 26m.
Issues	Floor space ratio. Height of Building. SEPP (Housing) 2021 non-compliances. ADG non-compliances. DCP non-compliances. Submissions.

SUMMARY

1. Development Application 2024/0732 was lodged on the 17 December 2024 for the demolition of existing structures and construction of a part seven (7), part fifteen (15) storey mixed use building comprising a childcare centre catering for 120 children, two commercial units, 59 residential apartments pursuant to State Environmental Planning Policy (Housing) 2021 over basement parking, Torrens title subdivision and associated landscaping and civil works.
2. The application was publicly notified to occupants and owners of the adjoining properties for a period of 14 days between 23 January 2025 to 6 February 2025. In response, four (4) submissions were received.
3. On the 2nd of June 2025, the applicant lodged amended plans and documentation in response to Council's request for information. The amended plans were publicly notified to occupants and owners of the adjoining properties including those who made a submission in the first round of notification for a period of 7 days between 12 June 2025 to 19 June 2025. In response, two (2) submissions were received.
4. On the 15th of August 2025, the applicant lodged amended plans and documentation in response to Council's request for information. The amended plans did not require re-notification as the environmental impact is insignificant.
5. The subject site is located within the vicinity of a heritage item pursuant to Schedule 5, Part 1 of the Cumberland Local Environmental Plan 2021. The heritage item is identified as the St Andrew's Presbyterian Church, Federation Carpenter Gothic Church, Circa 1923 (I1278).
6. The variations are as follows:

Control	Required	Provided	% variation
Chpt 2, Part 2, Division 1, Section 16(1). FSR.	2.8:1 under the CLEP 2021 plus 30% under s16(1) of SEPP (Housing) 2021 = 3.64:1.	4.165:1.	14.42%
Chpt 2, Part 2, Division 1, Section 16(3). HoB.	Part 39m Part 26m	Part 51.33m. Part 51.33m.	31.62% 97.42%

Chpt 2, Part 2, Division 1, Section 19(2)((b)(ii) SEPP (Housing) 2021. Landscaped area.	30% of the site area to be landscaped area, this is equivalent to 486.6 sqm.	31.5 sqm	93.6%.												
Chpt 4, Section 148(2)(c) SEPP (Housing) 2021. Ceiling Heights.	3.3 m (First Floor).	3.2m (First Floor)	3.03%												
Part 3F-1 Apartment Design Guide. Visual Privacy.	Separation between windows and balconies to ensure visual privacy is achieved. Minimum required separation distances are as follows: <table><tr><td></td><td>Habitable rooms and balconies</td><td>Non habitable rooms</td></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping.		Habitable rooms and balconies	Non habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<u>East elevation:</u> Level 1 & 2 (3rd & 4th storey) - 8.042metres Levels 3-5 (5th-7th storey)- 8.042m. <u>South elevation:</u> Levels 8-14 (9th-15th storey) - 4.5m. <u>North elevation:</u> Levels 3-5 (5th-7th storey)- 6.6m. <u>Communal open space:</u> Level 6 (8th storey) North elevation - 9.5-6.6m.	10.64% 32.98% 25% 26.67% 0%-26.67%
	Habitable rooms and balconies	Non habitable rooms													
up to 12m (4 storeys)	6m	3m													
up to 25m (5-8 storeys)	9m	4.5m													
over 25m (9+ storeys)	12m	6m													

		East elevation - 8.042m-11.6m.	32.98%-3.33%
Sub-part 2.2, C1. Housing Mix Part B5 Adaptable Hosing and Housing Mix CDCP 2021.	Minimum 10% 1 bedroom/studio units (i.e. 6 units).	2 x 1 bedroom units.	66.66%
Sub-part 2.2, C1. Side setbacks Part E1 Centre based childcare facilities CDCP 2021.	Minimum 2m side setbacks.	Nil (North boundary)	100%
Sub-part 3.13, C2. Solar access Part C Development in Business Zones CDCP 2021.	Living rooms and private open spaces for at least 70% of dwellings on neighbouring sites shall receive a minimum of 3 hours of direct sunlight between 8am and 4pm in midwinter.	53 out of 80 units - 66.25%.	5.36%
Sub-part 2.5, C1 and Sub-part 3.2 Building setbacks/Station Street East & Lane Street precinct Part F2-14 Wentworthville Town Centre CDCP 2021.	2m rear setback plus new 8m laneway. 3m Street edge setback	8.042m (levels Ground -L5) 1.4m	19.58% 53.33%
Sub-part 2.8, C1 Upper level setbacks Part F2-14 Wentworthville	A 3m upper level setback applies across the Centre for buildings above 20m (5 storeys)	2.4m-3metres.	20%

Town Centre CDCP 2021.			
Sub-part 3.7, C1. Collection vehicle requirements Part G8 Waste Management CDCP 2021.	Heavy Rigid Vehicle (HRV) for all waste collection.	Medium Rigid Vehicle (MRV)	100%

7. The application is referred to the Panel as the development is identified as being Regionally Significant Development pursuant to Schedule 6, Section 2 of the State Environmental Planning Policy (Planning Systems) 2021 as the development has a development cost of more than \$30 million.
8. The application is recommended for approval subject to the conditions as recommended in the Council's assessment report.

REPORT

Subject Site and Surrounding Area

The site is legally known as Lot 101 in DP 1262440 being 86-96 Station Street, Wentworthville. The subject site has a frontage to Station Street (western frontage) and abuts land to the immediate south that is zoned SP2 for use as a “local road”.

There is a twelve (12) storey mixed-used development to the immediate south of that land zoned SP2. The site has a total site area of 1,622 square metres and has a frontage to Station Street of 32.26 metres.

The site is not located within a Heritage Conservation Area and is not identified as a heritage item. A Heritage Item is located within the vicinity of the subject site identified as I278 in the CLEP 2021, known as St Andrew’s Presbyterian Church, Federation Carpenter Gothic Church, Circa 1923.

The subject site is located within the Wentworthville Town Centre and the Wentworthville Railway Station is situated 290 metres to the north of the subject site.

The site the subject of the development application is situated within the vicinity of a range of mixed-use development and a place of public worship. To the north-west of the site is Friend Park. To the rear of site are residential apartment buildings varying in height from 3 storeys to 4 storeys.

The location of the site is shown below edged in red.



Figure 1 - Locality Plan of subject site

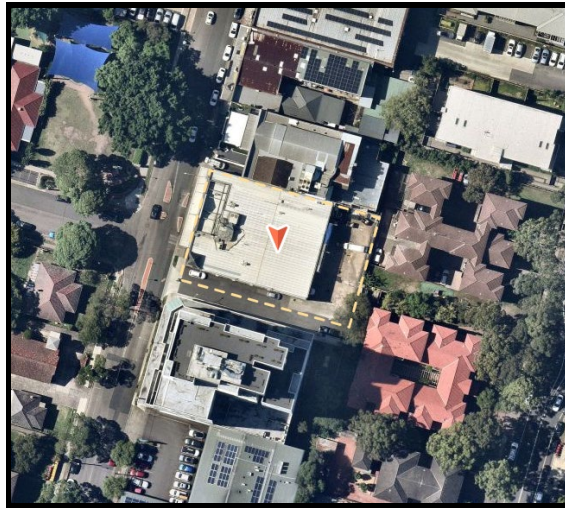


Figure 2 - Aerial view of subject site (Source: Nearmaps)

Photos of the site are shown below.



Figures 3 and 4 - Street view of subject site

Description of The Development

The development application proposes the demolition of existing structures and construction of a part seven (7), part fifteen (15) storey mixed use building comprising a childcare centre catering for 120 children, two commercial units, 59 residential apartments pursuant to State Environmental Planning Policy (Housing) 2021 over basement parking, Torrens title subdivision and associated landscaping and civil works.

Torrens title subdivision of the site is proposed to separate the development site and proposed road dedication. Land dedication to Council is proposed at the rear (east) and side (south) of the site. The land dedication to the east is the most substantial, spanning a width of 8m along the eastern boundary to facilitate a future laneway (Station Lane).

Lot 1 would comprise the site with an area of 1,304sqm whilst Lot 2 would comprise the area to be dedicated to Council for the purpose of public laneway, with an area of 318sqm.

A detailed breakdown of the proposal is as follows:

- Demolition of existing structures.

Basement Level 04

- 32 residential car parking spaces (including 2 accessible space).
- Storage spaces.
- Fire stairs.
- 2 lifts.

Basement Level 03

- 32 residential car parking spaces (including 2 accessible space).
- Storage spaces.
- Fire stairs.
- 2 lifts.

Basement Level 02

- 30 car parking spaces (residential, visitor, retail and child care/staff and including 2 accessible spaces).
- Storage spaces
- 14 resident bicycle spaces.
- Fire Stairs.
- 2 lifts.

Basement Level 01

- 20 child care car parking spaces (including 2 accessible spaces).
- Storage spaces.
- 11 resident bicycle spaces.
- 10 staff bicycle spaces.
- Accessible bathrooms.
- Fire Stairs.
- 3 lifts.
- Lobby.
- Waste and loading bay turn table.
- Services room.
- Waste rooms (residential, commercial and bulky waste).
- Bin tug and waste chute room.

Ground Floor

- 2 x commercial tenancies.
- Centre based child care centre and associated facilities.
- Entry foyer for commercial.
- Entry foyer for residential.
- 3 lifts.
- Bicycle storage in forecourt area.
- Fire egress.
- Service and pump rooms.
- Amenities.

Level 1

- Centre based child care centre and associated facilities.
- Fire Stairs.
- 1 lift access.

Levels 2-4

- 6 x 2 bedroom units.
- 2 x 3 bedroom units.
- Waste room.
- Fire Stairs.
- 2 lifts.

Level 5

- 5 x 2 bedroom units.
- 2 x 3 bedroom units.
- Waste room.
- Fire Stairs.
- 2 lifts.

Level 6

- 1 x 2 bedroom units.
- 2 x 3 bedroom units.
- Communal open space.
- Waste room.
- Fire Stairs.

Level 7

- 2 x 1 bedroom units.
- 1 x 2 bedroom units.
- 1 x 3 bedroom units
- Waste room.
- Fire Stairs.

Levels 8-14:

- 1 x 2 bedroom units.
- 2 x 3 bedroom units.
- Communal open space.
- Waste room.
- Fire Stairs.

Other aspects of the DA

- Dedication of portion of the land to Council and undertake the construction of a laneway on the southern and eastern sides of the subject site. These works are to align with the objectives for the Wentworthville Town Centre, as set out in Part F2-14 of the Cumberland Development Control Plan (DCP) 2021 as part of a Planning Agreement.
- Child care centre to cater for 120 children and will operate from 7am to 6pm Monday to Friday.
- 12 units will be dedicated for affordable housing for 15 years in accordance with the State Environmental Planning Policy (Housing) 2021.
- 12 units are nominated as being adaptable.

History

A pre lodgement application PL2023/0027 was finalised by Council on the 08 August 2023 for the:

- Demolition of existing structures.
- 11 Storey mixed-use development comprising of:
 - 3 levels of basement car parking.
 - 2 x commercial tenancies on the ground floor.
 - A childcare centre on the ground and first floor.
 - 50 x residential apartments.
- Preliminary Planning Agreement offer:
 - *“The offer involves the dedication of land that will be required for the partial construction of future laneways within the Wentworthville town centre identified in Part F2 Cumberland Development Control Plan 2021”.*

Vehicular access to the site will be provided via the rear of the site.

Applicants Supporting Statement

The applicant has provided a Statement of Environmental Effects prepared by Planning Ingenuity dated 13 December 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 Senior Development Engineer for comment who has advised that the development proposal is satisfactory and therefore can be supported subject to recommended conditions of consent.

Environmental Health

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

Planning Systems

The applicant's Letter of Offer to enter into a Planning Agreement to the Council for endorsement was reported to council. At its meeting of 27 August 2025, the Council provided in-principle endorsement of the letter of offer provided by the applicant.

Under the terms of the proposed Planning Agreement, the applicant would dedicate land at no cost to Council and undertake the construction of a laneway on the southern and eastern sides of the subject site. These works are to align with the objectives for the Wentworthville Town Centre, as set out in Part F2-14 of the Cumberland Development Control Plan (DCP) 2021.

In accordance with section 7.7(3) of the *Environmental Planning and Assessment Act 1979*, prior to the release of a Construction Certificate, a planning agreement must be entered into that is consistent with the offer to enter into a planning agreement. An appropriate condition has been included in the draft consent to ensure compliance.

Design Excellence Panel

The development application was reported to the Cumberland Design Excellence Panel on the 12 February 2025 for discussion. This occurred as the building exceeds a height of 25 metres. The Panel's comments are attached to the assessment report at Attachment 12 for Panel consideration.

Following from the comments provided by the Panel, the applicant has provided a response to each matter raised as demonstrated below. The applicant's and Council's response is also attached as Attachment 13 for Panel consideration.

External Referrals

Endeavour Energy

The development application was referred to Endeavour Energy pursuant to s2.48 of the SEPP (Transport and Infrastructure) 2021. Endeavour Energy in its correspondence received on the 5th of February 2025 did not raise any objections to the proposal, subject to conditions. The conditions provided by Endeavour Energy will form part of any consent granted for this application

Sydney Water

The development application was referred to Sydney Water pursuant to s78 of the Sydney Water Act 1994. Sydney Water in its latest correspondence dated 21 March 2025, provided conditions of consent.

The conditions provided by Sydney Water in its correspondence will form part of any consent granted for this this application.

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
State Environmental Planning Policy (Biodiversity and Conservation) 2021.	Chapter 2 - Vegetation in non Rural Areas.	The development application does not include the removal of any trees across the site. As such, there are no issues raised in relation to Chapter 2 and no assessment is required.
	Chapter 6 - Water Catchments. Sydney Harbour Catchment.	It is determined that given the location of the site, 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 provisions that came into effect on 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 undertaken for the development and a report prepared by CEC Geotechnical reference ER24037A dated 12 December 2024. Samples and ground water monitoring wells resulted in below accepted levels of heavy metal contamination.

		The consultants also recommend that a de-watering plan be developed, so the standard condition for dewatering off site will also be conditioned. As such, it is considered that the development application is satisfactory under Part 4.6 of Chapter 4 of the State Policy.
• 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	<u>Chapter 2 - Infrastructure.</u> Determination of development applications (Subpart (2) - Give written notice to electricity providers and take account of responses received within 21 days. <u>Comment</u> The development application was referred to Endeavour Energy pursuant to s2.48 of the SEPP (Transport and Infrastructure) 2021. Endeavour Energy in its correspondence received on the 5th of February 2025 did not raise any objections to the proposal, subject to conditions. The conditions provided by Endeavour Energy will form part of any consent granted for this this application.
	Chapter 3 - Education Establishments and Child Care Facilities.	Chapter 3 Educational Establishments and Child Care Facilities is applicable to this development. The proposal is found to comply with this chapter and a detailed assessment of this chapter is contained in Attachment 9.
• 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

		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. The proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) of \$30,742,670.00 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.
• State Environmental Planning Policy (Sustainable Buildings) 2022	Chapter 2 Standards for residential Development - BASIX Chapter 3 - Standards for non-residential development	BASIX Certificate number 1766559M has been submitted. It is shown that the proposal will meet the required target for Water, Thermal Performance and Energy. The BASIX Certificate is determined as being acceptable for approval. 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 development with a cost of \$5 million or more. However, as per s3.1 (3), this chapter does not apply to development to which Chapter 2 applies.
• State Environmental Planning Policy (Housing) 2021 (SEPP (Housing) 2021)	Chapter 2, Part 2. Division 1 - Infill affordable housing	The development is In-fill affordable housing pursuant to Chapter 2, Division 1. The proposal generally complies with Chapter 2 with the exception of Section 16(1), Section 16(3) and Section 19(2)((b)(ii) relating to the maximum floor space ratio, additional building height and landscape area respectively. Refer to discussion following this table.

		A detailed assessment of the relevant sections is contained in Attachment 7.
	Chapter 4 - Design of residential apartment development	Chapter 4 of SEPP (Housing) 2021 applies to the development as the building is 3 storeys or more and contains more than 4 dwellings. A design statement addressing the design quality principles prescribed by Chapter 4 SEPP (Housing) 2021 was prepared by the project architect. Integral to Chapter 4 of SEPP (Housing) 2021 is the Apartment Design Guide (ADG) which sets benchmarks for the appearance, acceptable impacts and residential amenity of the development. Refer to discussion following this table and Attachment 8 for a detailed compliance table assessment.

(a) State Environmental Planning Policy (Housing) 2021 - Chapter 2 Affordable housing and Chapter 4 Design of residential apartment development

Following a detailed assessment of the proposal against the provisions of Chapter 2 and Chapter 4 of SEPP (Housing) 2021 and Apartment Design Guide, it is considered the proposal is generally compliant with the exception of the maximum floor space ratio, additional building height, landscaped area, ceiling height and building separation. The variations are discussed below:

Control	Required	Provided	% variation
Chpt 2, Part 2, Division 1, Section 16(1). FSR.	2.8:1 under the CLEP 2021 plus 30% under s16(1) of SEPP (Housing) 2021 = 3.64:1.	4.165:1.	14.42%
Chpt 2, Part 2, Division 1, Section 16(3). HoB.	Part 39m Part 26m	Part 51.33m. Part 51.33m.	31.62% 97.42%
Chpt 2, Part 2, Division 1, Section 19(2)(b)(ii) SEPP (Housing) 2021.	30% of the site area to be landscaped area, this is equivalent to 486.6 sqm.	31.5 sqm	93.6%.

Landscaped area.															
Chpt 4, Section 148(2)(c) SEPP (Housing) 2021.	3.3 m (First Floor)	3.2m (First Floor)	3.03%												
Ceiling Heights.															
Part 3F-1	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	<u>East elevation:</u>													
Apartment Design Guide.		Level 1 & 2 (3 rd & 4 th storey) - 8.042metres.	10.64%												
Visual Privacy.		Levels 3-5 (5 th -7 th storey) - 8.042m.	32.98%												
		<u>South elevation:</u>													
		Levels 8-14 (9 th -15 th storey) - 4.5m.	25%												
	<table><tr><td></td><td>Habitable rooms and balconies</td><td>Non habitable rooms</td></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>		Habitable rooms and balconies	Non habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<u>North elevation:</u>	
	Habitable rooms and balconies	Non habitable rooms													
up to 12m (4 storeys)	6m	3m													
up to 25m (5-8 storeys)	9m	4.5m													
over 25m (9+ storeys)	12m	6m													
	Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping.	Levels 3-5 (5 th -7 th storey)- 6.6m.	26.67%												
		<u>Communal open space:</u>													
		Level 6 (8 th storey)	0%-26.67%												
		North elevation - 9.5-6.6m.	32.98% - 3.33%												
		East elevation - 8.042m - 11.6m.													

Chapter 2, Part 2, Division 1, Section 16(1) and Section 16(3) - Maximum floor space ratio and Height of Building.

Given the non-compliance to the maximum floor space ratio and height of building is a development standard under the SEPP (Housing) 2021 this is addressed in detail under the heading 'Clause 4.6 - Exceptions to development standards' of this report.

Chapter 2, Part 2, Division 1, Section 19(2)((b)(ii) - Landscaped area

- (2) *The following are non-discretionary development standards in relation to the*
- (b) *a minimum landscaped area that is the lesser of—*

- (i) 35m² per dwelling, or
- (ii) 30% of the site area,

Based on a site area of 1622 square metres, the proposal requires a landscaped area of 486.6 square metres however, the proposal provides 31.5 sqm of 'landscaped area' as defined under the SEPP (Housing) 2021 as follows:

“landscaped area means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area”.

Given the non-compliance to the landscaped area is to a non-discretionary development standard under the SEPP (Housing) 2021 this is addressed in detail under the heading 'Clause 4.6 - Exceptions to development standards' of this report.

Chapter 4, Section 148(2)(C) - ceiling heights

Given the non-compliance to the first floor ceiling height is a non-discretionary development standard under the SEPP (Housing) 2021 this is addressed in detail under the heading 'Clause 4.6 - Exceptions to development standards' of this report.

Apartment Design Guide, Part 3F-1 - Visual Privacy

The building provides for separation distances less than the requirements stated in the ADG. In this regard, a building separation of 9-12m metres is required along the eastern boundary. As the property to the east of the subject site is within a different zone that permits a lower density residential development an additional 3 metres is required as per design criteria 1 of the ADG. The north and south requires a separation of 6-12 metres, the proposed building however provides a separation ranging from 4.5m to 9.5m.

The southern side of the building is separated by a laneway and with the addition of the half the laneway, the residential component will have compliant building separation. A condition has been recommended that full height louvres be placed on the balconies (along the eastern side of building and the balcony of unit 504 on the northern elevation) to obscure any views onto adjoining properties.

The communal open space provides for on structure planting along the north, east and south side that will provide for screening. For these reason, the proposal is satisfactory.

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

(a) Permissibility:

The proposed development is defined as a 'shop-top housing' and 'Centre-based childcare facility' which is permissible in the E1 local Centre with consent.

shop top housing means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

Note.

Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

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.

- (c) 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.

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 10.

Figure 5 - Cumberland LEP 2021 - Compliance Table

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.3 Height of Buildings Part 30 metres. Part 20 metres. Plus 30% bonus pursuant to Chapter 2, Division 1, Clause 16 of the Housing SEPP 2021 - part 39 metres and part 50.7 metres respectively.	No	The highest breach to the height of building to the part of the site that permits 39m is 51.33 metres, which exceeds the standard by 12.33 metres or 31.62%. The portion of the site that permits 26 metres at the highest point is 51.33 metres which exceeds the standard by 25.33 metres or 97.42%. The application is accompanied by a Clause 4.6 Variation request.
4.4 Floor Space Ratio 2.8:1 under the CLEP 2021 plus 30% bonus pursuant to Chapter 2, Division 1, Clause 16 of the Housing SEPP 2021 equates to 3.64:1 as the proposed	No	The proposed GFA is 6,756 sqm which equates to a FSR of 4.165:1. The proposal results in a variation to the 30% affordable housing bonus of 852 sqm or 14.43%.

development provides a minimum of 15% affordable housing. The total area of the site to be dedicated to Council is 318 sqm. An additional 890 sqm (318 sq m x 2.8) has be applied to the permitted GFA/FSR which reflects the material benefit associated with the dedication of land. In total, if adding the permitted FSR under CLEP (2.8:1) + 30% bonus (3.64:1) + land dedication (890m²) this is an FSR of 4.19:1 or 6,794.1 sq m.		The application is accompanied by a Clause 4.6 Variation request.
4.6 Exceptions to Development Standards	Yes	Refer to detailed assessment below.

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 and non-discretionary development standard to the maximum floor space ratio, maximum building height, landscaped area and ceiling height under Chapter 2, Division 1, Sections 16(1), 16(3) and 19(2)(b)(ii) and Chapter 4, Section 148 of the State Environmental Planning Policy (Housing) 2021 respectively.

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.

Section 16(1) Maximum Floor Space Ratio

The maximum FSR permitted is 2.8:1 under the CLEP 2021 plus 30% bonus pursuant to Chapter 2, Division 1, Clause 16 of the Housing SEPP 2021 equates to 3.64:1. The proposed GFA is 6,756 sqm which equates to an FSR of 4.165:1, or variation of 14.43%.

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

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.

Applicant's justification: The applicant relies on the first way in Wehbe and is summarised below.

"The objective of division 1 of part 2, chapter 2 of SEPP (Housing) 2021 is as follows:

"The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households".

The proposed development will facilitate the delivery of new in-fill affordable housing which will meet the needs of very low, low and moderate income households. To request strict compliance and require deletion of the additional levels will adversely reduce the provision of affordable residential accommodation in the Wentworthville town centre which is contrary to the above objective. The proposed distribution of floor space above the height limit is the most appropriate response to the site constraints (primarily topography), relationship to neighbouring properties and the public domain.

The additional gross floor area has been demonstrated to not cause significant burden in terms of environmental and amenity impacts. Adequate solar access and cross ventilation is achieved, minimal opportunities for overlooking and overshadowing are created and traffic and parking and acoustic impacts are appropriately mitigated".

Planner's comments

- The applicant has placed emphasis on the floor area towards the front of the site to minimise impacts to the adjoining properties.
- Sufficient solar access is maintained to surrounding developments based on the sun shadow diagrams which show no significant loss to the extent of shadow cast over these properties.
- Council has received a Letter of Offer from the applicant to enter into a Planning Agreement. The Letter of Offer is consistent with the Cumberland Planning Agreements Policy, as it will provide a public benefit through the construction of new laneway and dedication of land to Council. The location of the laneway to be constructed and dedicated to Council is identified in the Cumberland DCP 2021, Part F2-14 Wentworthville Town Centre Subpart 3.5 Vehicular Access and Laneways. The gross floor area from the portion of land to be dedicated to Council has been distributed on to the portion of site being re-developed.

This has been calculated as the permitted FSR under CLEP (2.8:1) + 30% bonus (3.64:1) SEPP Housing 2021+ land dedication (890sqm) which equates to an FSR of 4.19:1 or 6,794.1sqm.

(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:

The following planning grounds are submitted to justify contravening the maximum FSR:

1. *The proposed FSR is a result of the land dedication which removes a 1.4 metre wide strip of land along the southern boundary and an 8 metres wide strip to the eastern boundary, totalling 318m² to be dedicated to Council to extend and create a public laneway in accordance with Part F-2 of CDGP 2021 (refer to **Figure 9**). This land dedication will deliver a significant benefit to the community but requires the relocation and redistribution of building mass, reducing the building envelope and resultingly increasing building height.*
2. *The proposed variation results in a built form which is contextually responsive and appropriate with regard to the future anticipated character and development at No. 108 Station Street.*
3. *The FSR breach facilitates an arrangement of floor space on the site in a manner that is effective in providing high levels of amenity to occupants of the development. The non-residential component (1,128 sq m) equates to a substantial portion of the proposed variation which is important to provide additional services and community facilities that are not present in the employment zones.*
4. *It is considered that there is an absence of any significant material impacts attributed to the breach on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality.*

Specifically:

- a) *The extent of the additional FSR creates no significant adverse overshadowing impacts to adjoining development or public domain when compared to a compliant FSR envelope. That is, although the proposal results in a minor degree of overshadowing, this will not adversely impact the amenity of the neighbouring developments or public domain. As such, the increase to overshadowing caused by the non-compliant elements would be insignificant.*
- b) *The FSR breach results in limited additional privacy impacts. The elements that breach the FSR largely relate to the pencil-like tower that fronts Station Street.*

Levels 6-14 will have extremely limited adverse privacy impacts. The separation distances of the Apartment Design Guide are adhered to on these upper floors with the exception of a single bedroom window on each level (between Levels 6-14). All private open space areas and apartments are orientated to the Station Street frontage associated with the tower, ensuring privacy and passive surveillance.

- c) *The FSR breach will not result in any significant view loss as the subject site does not contain any significant views across or from the public domain.*
5. *The proposed development meets the objectives of the development standards and meets the objectives of the Zone E1 Local Centre zone as follows:*
- a) *The proposal provides for a range of business and community uses including the provision of two commercial tenancies and a 120 place childcare centre.*
- b) *The proposed would boost employment opportunities associated with the commercial units and childcare centre.*
- c) *The proposed shop top housing is consistent with the objectives of the Wentworthville Centre Revitalisation Planning Proposal in providing increased densities and housing opportunities (including affordable) in centres in close proximity to public transport.*
- d) *Non-residential uses are proposed on the ground and first floor. An active street frontage is proposed to Station Street. In addition, land dedication is proposed to the south and the east to facilitate two (2) public laneways as required by Council's DCP.*

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 Wentworthville Town Centre.

- There will be no adverse impacts on the existing and future streetscape and character of the locality.
- 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.

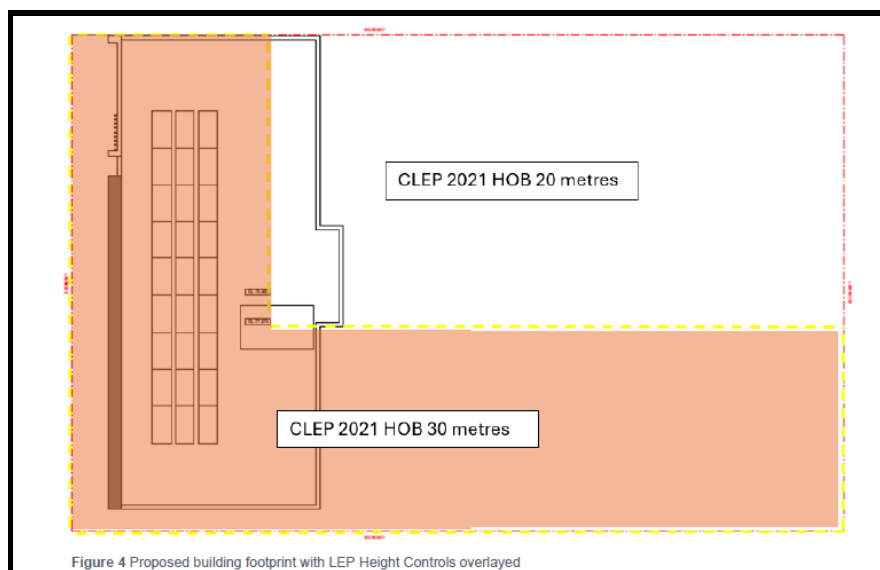
Conclusion

As the applicant's justification has satisfied the test under clause 4.6, the application is capable of being approved, subject to a satisfactory merit assessment under clause 4.6.

Section 16(3) Additional building height

Location of height breach	Clause 4.3 CLEP 2021	Proposed	Variation to the CLEP 2021	s.16 SEPP Housing 2021	Variation to SEPP Housing 2021
Part of Lift overrun	30m	51.33m	21.33m or 71.1%	39m	12.33 m or 31.62%

Uppermost parapet edge, addressing Station Street	30m	50.21m	20.21m or 67.37%	39m	11.21m or 28.7%
Part of Lift overrun	20m	51.33m	31.33 metres or 156.65%	26m	25.33m or 97.42%
Part of Uppermost parapet edge on eastern side of building and portion of several floors below eastern side of building.	20m	50.21 metres	30.21 metres or 151%	26m	24.21m 93%



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

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.

Applicant's justification: The applicant relies on the first way in Wehbe, claiming that:

The proposed distribution of floor space above the height limit is the most appropriate response to the site constraints (primarily topography), relationship to neighbouring properties and the public domain.

Furthermore, for completeness and given there is only a single objective for Clause 16(3) of the Housing SEPP, the objectives under Clause 4.3 of CLEP 2021 have been addressed, below.

Objective (a)

The proposed development exceeds the height of building development standard by up to 12.33 metres measured to the lift overrun. Only the western most extent of the built form contravenes the development standard to such a degree, given the optimal orientation toward Station Street and lack of amenity impacts.

Objective (b):

Objective (b) seeks to ensure that buildings are of a scale that is compatible with adjoining development and the character of the street and locality in which the building is located. It is noted that objective (b) refers to being 'compatible' with the above-mentioned elements. The subject site is in transition to higher density development reflective of the applicable planning controls and the recently constructed development immediately to the south. The proposed development, even with the height variation, is considered to be compatible with the height, bulk and scale of the recently approved and emerging character of the locality.

Objective (c):

Objective (c) seeks to ensure that the visual impact of development is minimised. The height breach does seek to minimize the visual impact by providing a 3 metres setback from Level 5 upwards to assist in the articulation of the building and to ensure the building doesn't appear visually jarring. The bulk and scale of the proposed building is comparable to the neighbouring mixed use building at No. 108 Station Street

While the proposed development exceeds the height development standard it is contemplated by the DCP control. which requires the dedication of 318m² of the site for the purpose of public laneways.

Objective (d):

This objective seeks to ensure sufficient solar access and privacy for neighbouring properties. It is noted that the word "sufficient" is used in the objective.

The proposal has been designed to ensure a reasonable solar outcome for neighbouring properties, noting they have benefited from the underdeveloped nature of the existing double-storey commercial building. Accordingly, the proposed development will result in

additional overshadowing of residential apartments at Nos. 25-27 & 31-33 Lane Street and No. 108 Station Street.

In order to determine if sufficient solar access is provided to neighbouring sites, reference should be made to the solar access controls of CDCP 2021. The controls of CDCP 2021 require a minimum 70% of living and private open space areas on neighbouring sites to achieve three (3) hours of sunlight during mid-winter from 8:00am to 4:00pm. It is a further requirement that no public places be unsuitably overshadowed.

The proposal has been designed so the bulk and scale in terms of building height is focused on Station Street. This assists in mitigating overshadowing impacts to the tower at No. 108 Station Street. The front portion of the building at 108 Station Street is overshadowed at 8:00am however by 12:00pm, there is no overshadowing to this extent of the building. In the afternoon between 12:00pm and 4:00pm, minor overshadowing occurs to the rear portion of the building. It can be concluded that whilst some extents of the building are overshadowed, they would remain to receive three (3) hours of sunlight during mid-winter.

With regard to the three-storey residential flat buildings to the east, both Nos. 25-27 and 31-33 receive no overshadowing impact between 8:00am and 12:00pm during mid-winter. Therefore, these buildings would maintain at minimum three (3) hours of solar access.

The site is not in close proximity to any schools or public parks, with the exception of Friend Park on the opposite side of Station Street. The proposed development would have no overshadowing impact on Friend Park between 8:00am and 4:00pm.

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 includes the lift over-run and parapet to the part of the site that allows up to 39m. The area in breach on the portion allowing 26 metres includes the lift overrun, parapet and portion of the units located in the eastern corner of the taller tower. The areas of non-compliances are located towards the northern part of the site and setback from the front boundary, to minimise impacts in particular to the properties to the east and south.
- The development is consistent with the objectives of the development standard and the objectives of the zone.
- The development supports the Wentworthville Town Centre in which employment opportunities are being created close to public transport services.
- 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

The proposed variation results in a built form which is contextually responsive and appropriate with regard to the future anticipated character and development at 108 Station Street. As discussed above, the site to the south is afforded a greater maximum building height of 29 metres for podium and 41 metres for tower. It is understood that a site specific planning proposal to increase density at 108 Station Street was sought and is now reflected in the CLEP 2021 controls.

The proposed development is fundamentally a six (6) storey building, with the exception of the tall, pencil-like tower that faces Station Street. In particular, the bulk and scale located centrally and to the rear of the site is limited to six (6) storeys and rooftop communal open space. Considerable additional built form could have been focused along the southern boundary as envisaged by the CLEP 2021 height control (30 metres). However, this would have resulted in unfavourable amenity impacts to the residential apartments at 108 Station Street and No. 29-33 Lane Street.

It is considered that there is an absence of any significant material impacts attributed to the breach on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality. Specifically:

- a) The extent of the additional height creates no significant adverse overshadowing impacts to adjoining development or public domain when compared to a compliant development. A compliant floor plate would result in a continuous built form of 39 metres along the southern boundary creating both privacy and solar access implications. Although the additional height results in a minor degree of overshadowing, this will not adversely impact the amenity of the neighbouring developments or public domain. As such, the increase to overshadowing caused by the non-compliant elements would be insignificant.*
- b) The height breach does results in limited additional privacy impacts. It is the compliant parts of the building being the windows below would have the same or greater impact on overlooking. As such, the loss of privacy caused by the non-compliant elements would be insignificant; and*
- c) The height breach will not result in any significant view loss as the subject site does not contain any significant views across or from the public domain. The maximum height non-compliance is limited to the tower fronting Station Street and consistent with the future intended building height of the surrounding locality. As such, the extent of view loss caused by the non-compliant element would be insignificant.*

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 the land dedication.

- To offer modern facilities and reasonable amenity for the end users of the commercial portion of the building.
- The breach to the building height does not create any adverse overshadowing impacts.

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 item 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.

Conclusion

As the applicant's justification has satisfied the test under clause 4.6, the application is capable of being approved, subject to a satisfactory merit assessment.

Section 19(2)(b)(ii) Landscaped area

The site has an area of 1,622 square metres. Clause 19(2)(b)(ii) requires 30% of the site as landscaped area for in-fill affordable housing and this is equivalent to 486.6 square metres, the proposal provides 31.5 square metres which is a variation of 455.10 square metres or 93.5%.

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

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.

Applicant's justification

It is noted that there are no specific objectives related to Clause 18(2)(b)(c) of the Housing SEPP. However, Clause 20 of the Housing SEPP states:

“Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65) to residential development to which this Division applies.”

The proposal is for shop top housing containing affordable in-fill housing and as such SEPP 65 (Chapter 4 of the Housing SEPP) applies to this development. Chapter 4 of the Housing SEPP does contain some specific objectives regarding landscaping.

The proposed landscaping at ground level will be visible from the streetscape and directly contribute to the amenity of the public domain. This landscaped area will feature outdoor and outdoor bicycle racks to further engage with the public domain.

In the absence of any specific objectives for deep soil zones and landscaped area in the Housing SEPP and acknowledging the applicability of Chapter 4 of the Housing SEPP to the development, we contend that the above objectives can be considered ‘assumed objectives’ for Clause 18(2)(b)(c) of the Housing SEPP. As detailed above, the proposal is compatible with these assumed objectives. On this basis, the requirements of Clause 4.6(3)(a) are satisfied.

Planner’s comments

The applicant’s discussion is fully supported given that the site is located within a town centre environment. The planning controls applicable to the site encourage a built form development focussing on a commercial a centre based childcare centre on floor plates across the lower levels.

The building observes nil street setbacks consistent with the planning controls with no changes occurring.

It is identified that the applicant has successfully established that compliance with the Clause is unreasonable and unnecessary in the circumstances of the case.

(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

1) *The non-compliance is reasonably anticipated in a commercial centre.*

The breach of the deep soil and landscaped area requirement is a direct result of the subject sites location in the Wentworthville Town centre. The subject site is zoned E1 - Local Centre, with the proposed development incorporating a variety of land uses including a childcare centre, commercial units and shop top housing. The relevant planning controls in CDCP permit nil setbacks to the northern side boundary and front boundary (Station Street) and a 2m rear setback and 3m setback to the south. In light of the setbacks prescribed under CDCP, this does not provide sufficient allowance for ground floor landscaping and deep soil planting.

A considerable portion of the site (318sqm) is to be dedicated to Council for the purpose of public laneways. This comprises a 1.4m wide strip along the southern boundary and 8m wide strip along the western boundary as well as a splay corners between these two (2) strips.

2) The ADG acknowledges deep soil planting and ground level landscaping cannot be achieved on all sites.

Part 3E - Deep Soil Zones of the ADG provides design guidance that acknowledges deep soil planting and ground floor landscaping cannot always be achieved in non-residential uses are proposed at ground level.

The proposed development is within a town centre and consists entirely of non-residential uses at ground level, preventing the provision of ground floor landscaping and deep soil planting.

3) The non-compliance is supported by case law confirming above ground landscaping can be considered an open-air recreation facility.

Planner's comments

Adequate grounds do exist to support the applicant's explanation. In this regard:

- The site is located within the E1 Local Centre zone which is a town centre environment. Ground level deep soil zone and landscaping is not supported by the applicable planning controls.
- The proposal provides a communal open space as required by the Apartment Design Guide.
- The works sought do not have an adverse impact on the amenity of adjoining properties located within the commercial centre.

Therefore, it would be unreasonable and unnecessary to seek compliance with the standard, given the above and that the subject site is located within the Wentworthville Town Centre. It is successfully demonstrated that there are sufficient site-specific environmental planning grounds to justify a variation in the circumstances of the case.

Conclusion

As the applicant's justification has satisfied the test under clause 4.6, the application is capable of being approved, subject to a satisfactory merit assessment.

Chapter 4, Section 148 Ceiling height

The proposal is required to provide for ceiling heights that are equal to or greater than the recommended minimum specified in the *Apartment Design Guide (ADG)*. For level 1 of the proposed development, the Part 4C of the ADG recommends a minimum of ceiling height of 3.3 metres.

The proposal involves a floor to floor height of 3.6 metres which would provide a ceiling height on Level 1 of approximately 3.2 metres based on an assumed slab thickness of 0.4 metres. This is a variation of 0.1 metres or expressed as a percentage 3.03%.

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

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.

Applicant's justification

The proposal seeks to vary clause 148(2)(c) of State Environmental Planning Policy (Housing) 2021. With regard to clause 148(2), the relevant objective is as follows:

(1) The object of this section is to identify development standards for particular matters relating to residential apartment development that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

This objective provides reasons why these matters are non-discretionary development standard but not the objectives for the requirements themselves. For this the ADG provides guidance. The ADG objective is:

"Ceiling height achieves sufficient natural ventilation and daylight access"

The proposed development is capable of providing an acceptable level of natural ventilation and daylight access to level 1 despite the minor non-compliance with the ADG requirement through both the availability of openable windows and doors on level 1 and the additional benefit of mechanical ventilation to these habitable areas.

Planner's comments

The proposal has provided a ceiling heights on the first floor of less than 3.3m from the FFL -FCL, although non-compliant with the ADG, 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 but no limited to air-conditioning.

Based on the above, the proposal is considered to allow for flexibility for other permissible uses to fit-out these spaces in the future. The proposal also achieves the ADG objective of achieving sufficient natural ventilation and daylight access, therefore the 100mm variation in this instance is supported.

(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

The assessment of this numerical non-compliance is also guided by the decisions of the NSW LEC in Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 whereby Justice Pain ratified the decision of Commissioner Pearson. On the above basis, the following environmental planning grounds are submitted to justify contravening the minimum ceiling height:

- 1. The proposed ceiling height on level 1, being 3.2 metres, would continue to achieve the ADG objective of providing for sufficient natural ventilation and daylight access to the spaces (comprising four large internal play areas) that will have abundant access to natural light and air movement. As indicated below these internal play areas will have levels of amenity for occupants due to their configuration and location close to the building's external perimeter.*
- 2. The use of level 1 of the building being for the purpose of a childcare centre is suitable for a minor reduction in ceiling height. The occupants will not experience any material reduction in amenity due to the very minor non-compliance with the recommended ceiling height.*
- 3. The reduction in ceiling height on level 1 will have no negative impacts external to the site in terms of occupants of adjoining developments or the users of the nearby public domain.*

Planner's comments

The applicant's justification above is supported. The variation to the ceiling height is minor being a 100 mm variation. The objective of the ADG is achieved in that the first floor will have sufficient natural ventilation and daylight access. Greater than the minimum ceiling

heights are encouraged for commercial floors to promote flexibility of use. The proposed 3.2m ceiling height on the first floor is consistent with the Natural Construction Code and will also allow for flexibility to this space should the use change from a childcare centre to a commercial or office/retail use.

Conclusion

As the applicant's justification has satisfied the test under clause 4.6, the application is capable of being approved, subject to a satisfactory merit assessment.

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 was carried out between the 4 March 2025 to 17 April 2025.

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 17 December 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 development has been assessed using the following chapters:

- Part A1 Introduction.
- Part A3 Site Amalgamation and Isolated Sites.
- Part B Development in Residential Zones.
 - Part B3 Residential Flat Building.
 - Part B5 Adaptable Housing and Housing Mix.
- Part C Development in Business Zones.
- Part F2-14 Wentworthville Town Centre.
- Part E1 Centre Based Childcare Facilities.
- Part G1 Advertising and Signage.
- Part G3 Traffic, Parking, Transport and Access (Vehicles).
- Part G4 Stormwater and Drainage.
- Part G5 Sustainability, Biodiversity and Environmental Management.
- Part G7 Tree Management and 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 2.2, C1. Housing Mix Part B5 Adaptable Hosing and Housing Mix.	Minimum 10% 1 bedroom/studio units (i.e 6 units).	2 x 1 bedroom units.	66.66%
Sub-part 2.2, C1. Side setbacks Part E1 Centre based childcare facilities.	Minimum 2m side setbacks.	Nil (North boundary)	100%
Sub-part 3.13, C2. Solar access Part C Development in Business Zones.	Living rooms and private open spaces for at least 70% of dwellings on neighbouring sites shall receive a minimum of 3 hours of direct sunlight between 8am and 4pm in midwinter.	53 out of 80 units (66.25%)	5.36%
Sub-part 2.5, C1 and Sub-part 3.2 Building setbacks/Station Street East & Lane Street precinct Part F2-14 Wentworthville Town Centre.	2m rear setback plus new 8m laneway. 3m Street edge setback.	8.042m (levels Ground -L5) 1.4m	19.58% 53.33%
Sub-part 2.8, C1 Upper level setbacks Part F2-14 Wentworthville Town Centre.	A 3m upper level setback applies across the Centre for buildings above 20m (5 storeys).	2.4m - 3m.	20%
Sub-part 3.7, C1. Collection vehicle requirements Part G8 Waste Management.	Heavy Rigid Vehicle (HRV) for all waste collection.	Medium Rigid Vehicle (MRV)	100%

As indicated in the compliance table above, the proposed development departs from the housing mix, side setback, solar access, building setbacks/Station Street East & Lane Street precinct, upper level setbacks and collection vehicle requirements provisions of Council's

Development Control Plan 2021. A full DCP assessment is contained under Attachment 11 of this report.

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 2.2, Housing Mix (C1) Part B5 Adaptable Housing and Housing Mix

The objectives for this control are:

- O1 *Provide a range of residential dwelling types and size, which cater for different household requirements now and in the future.*
- O2 *The residential dwelling type mix is distributed to suitable locations within the building/development.*

Applicant's comment:

Our design approach has been shaped by recent market data and direct experience with comparable developments in the immediate area. A key reference point for us has been the adjacent project at 108 Station Street, Wentworthville ('The Adrian'). Despite a comprehensive sales campaign, four of the one-bedroom apartments in that development remain unsold. This lack of buyer interest underscores a clear and ongoing trend: the local market is not responding strongly to one-bedroom configurations.

In contrast, all of the three-bedroom apartments in 'The Adrian' sold out within the first few months of the sales campaign. This demand pattern clearly indicates that local purchasers, particularly owner-occupiers and families, are prioritizing larger residences with more functional living space.

Our intent behind the proposed apartment mix in DA/2024/0732 is to respond directly to this market reality. We believe an overrepresentation of one-bedroom apartments would result in potential vacancies and a product that does not align with current or anticipated community needs.

Planning comment:

In addition to the applicant's statement above, the development also provides for 'affordable housing' that is to be maintained for 15 years. The development provides for adaptable housing that will also for flexibility in the design to suit the changing lifecycle housing needs of residents' overtime. Control C2 of sub-part 2.2 of the CDCP also states where an equal mix cannot be provided a minimum of 10% of dwellings shall be three bedrooms plus. The proposal provides 25 out of 59 units as 3 bedrooms, being 42.4% of the residential component. Therefore, the variation to the 1 bedroom apartments in this instance is acceptable.

Sub-part 2.2, Sub-part 2.2 (C1) Side setbacks Part E1 Centre based childcare facilities

The objectives for this control are:

- O1 *Promote child care centre building forms that are compatible with the character of existing surrounding residential development.*
- O2 *Ensure the privacy of surrounding properties is maintained and protected from any potential overlooking.*
- O3 *Protect the visual and acoustic privacy needs of children using the child care centres, staff and other users.*

Planning comment:

The subject site is located within a E1 Local Centre and the Wentworthville Town Centre. The side setbacks. Part F2-14 and Part C of the DCP prevail where there is an inconsistent in the provisions. The development is designed with a nil setback to the northern boundary and is considered acceptable for a town centre development. The building form is consistent with the character of the E1 Local Centre zone, maintains privacy, and acoustic privacy needs of children using the childcare centre, staff and occupants of neighbouring properties.

Sub-part 3.13, (C2) Solar access Part C Development in Business Zones

The objectives for this control are:

- O1 *Ensure development does not hinder the obtainment of adequate daylight access to habitable rooms of other dwellings.*
- O2 *Provide public open spaces that receive adequate daylight access for the enjoyment of all users.*
- O3 *New buildings are designed to protect solar amenity for the public domain and residents.*

Planning comment:

The CDCP requires living rooms and private open spaces for at least 70% of dwellings on neighbouring sites shall receive a minimum of 3 hours of direct sunlight between 8am and 4pm in midwinter. As a result of the proposed development 53 out of 80 units (66.25%) to the adjoining properties will receive a minimum of 3 hours of direct sunlight between 8am and 4pm in midwinter.

The proposal is subject to increased building height and FSR, which has been designed to distribute the higher tower element towards Station Street to minimise overshadowing impacts to the building located to the south of the subject site. The CLEP allows for 30 metres along the front portion of the site and the southern side of the site, the development is also seeking a height and FSR bonus under the SEPP (Housing) 2021 given a portion of the gross floor area is dedicated for affordable housing. Therefore, the applicant has concentrated the development towards the front portion of the site to minimise the impacts to the north facing apartments at 108 Station Street.

Furthermore, the building separations along the southern side of the building are compliant with the Apartment Design Guide, therefore given the orientation of the site it is unavoidable that the lower units in 108 Station Street will be impacted.

Sub-part 2.5, (C1) and Sub-part 3.2 Building setbacks/Station Street East & Lane Street precinct Part F2-14 Wentworthville Town Centre

The objectives for this control are:

- O1 *Enhance the character of the Centre through consistent and uniform alignment of building facades and streetscape.*
- O2 *Reinforce strong definition of streets and public spaces in the Centre.*
- O3 *Provide a transition in built form to the lower scale residential areas adjoining the Centre.*

Applicant's comments:

Justification for this stems from the requirements for land dedication which consumes 318 sq m or 19.6% of the site. This is a significant portion of land that effects the feasibility of development and building envelope.

It should be noted that if this land dedication was not required, a rear setback of 8m and southern setback varying from 1.4m-4.7m would be provided and largely be in excess of the minimum requirement.

The proposal to build the podium to the southern (side) boundary has minimal implications given a laneway adjoins that separates No. 108 Station Street and the site. This would remain to provide approximately 6m in building separation.

The upper residential levels have been setback in line with the ADG. To the east (rear) the site adjoins 2-3 storey residential flat buildings. These neighbouring properties would be separated from the site by a minimum of 8m, given the intended construction of Station Lane.

We request Council consider the significant burden to the site associated with land dedication and lack of amenity impacts as a result of the setback non-compliances to the east and south. We feel it is therefore suitable for nil setbacks to be provided to all site boundaries.

Planning comment:

The variation to the rear setback is from levels ground to Level 5, when viewed from the rear and given the fall of the site from west to east, 'Basement Level 01' is setback in line with the DCP being 8m plus 2 metres, the upper levels are setback 8.042m.

The proposal also does not meet the 3m street edge setback along the southern boundary. The proposal in part provides a 1.4m setback at 'Basement Level of the building.

The proposal has provided a Letter of Offer to dedicate part of the site for the extension of the lane in line with the CDCP requirements. The variation to the setbacks is supported given the rear setback on 'Basement Level 01' meets the 10 m setback and provides for vehicular access into the development with no reliance along Station Street.

The variation to the southern elevation provides for fire service and entry onto the site for waste collection.

Sub-part 2.8, C1 Upper level setbacks Part F2-14 Wentworthville Town Centre

The objectives for this control are:

- O1 *Create well-proportioned and human scale streets.*
- O2 *Reduce the visual impact of upper storeys.*
- O3 *Support building separation requirements and facilitate built form articulation.*
- O4 *Maintain adequate sunlight access to the Dunmore Street plaza at times of peak usage.*

Planning comment:

The subject site is located within a E1 Local Centre and the Wentworthville Town Centre. The building form is consistent with the character of the E1 Local Centre zone. The upper levels of the building facing Station Street have elements encroaching the 3m setback, these are more decorative and articulation features, the built form to the upper levels is setback 3 m in line with the requirements of the CDCP. The minor building elements that are forward of the 3m setback are considered acceptable and provides articulation to the building.

Sub-part 3.7, (C1) Collection vehicle requirement Part G8 Waste Management

The objective for this control is:

- O1 *Provide for the adequate accessibility, manoeuvrability and operability of waste collection vehicles within all developments.*

Planning comment:

The applicant has provided a traffic statement that concludes:

The previously presented internal loading bay arrangement, complete with mechanical turntable, ensures that the subject development is able to be serviced without relying on the development situated on the southern side of the laneway. With regard to the above, a series of swept path plans have been prepared by this Practice to demonstrate the service of the site by vehicles up to and including MRVs. The swept paths indicate that the proposed turntable would sufficient be able to accommodate Council's waste vehicles. Therefore, on this basis the variation is supported.

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))

The developer has offered to enter into a Planning Agreement associated with the subject Development Application.

Council has considered the offer at its meeting of 27th of August 2025 and resolved to endorse in principle the Letter of Offer regarding the dedication of land for the purpose of constructing laneway.

In accordance with section 7.7(3) of the *Environmental Planning and Assessment Act 1979*, prior to the release of a Construction Certificate, a planning agreement must be entered into that is consistent with the offer to enter into a planning agreement, this will form part of any consent issued for this 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 Cumberland Development Control Plan, the proposal was publicly notified for a period of fourteen (14) days between 23 January 2025 and 6 February 2025. The notification generated four (4) submissions in respect of the proposal with none disclosing a political donation or gift.

The amended plans received on 2 June 2025, were publicly notified to occupants and owners of the adjoining properties and those who made a submission on the first round of notification for a period of 7 days between 12 June 2025 and 19 June 2025. In response, two (2) submissions were received.

On 15 August 2025, the applicant lodged amended plans and documentation in response to Council's request for information letter. The amended plans did not require re-notification as the environmental impact is insignificant.

The issues raised in the public submissions are summarised and commented on as follows:

Figure 7 - Submissions summary table

Issue	Planner's Comment
Loss of solar access.	The site is subject to increased building height and FSR which has been designed to distribute the higher tower element towards Station Street and to minimise overshadowing impacts on the adjoining properties. Shadow diagrams submitted with the development indicate that overshadowing in mid-June from the proposed development will not adversely affect adjoining properties between 9am and 3pm.
Block natural light and airflow.	As stated above, the higher tower element has been concentrated towards Station Street to minimise impacts to the property to the south and east of 86-96 Station Street. The proposal is not considered to adversely impact natural light and airflow to adjoining properties.
Loss of Privacy.	The proposal does not pose any privacy concerns, the setbacks and building separations are generally compliant

	with the SEPP (Housing) 2021 and Cumberland Development Control Plan 2021. The variations to the setbacks and building separation have been addressed under the heading 'The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))'.
No sunlight to Friends Park.	Shadow diagrams submitted with the application indicate that the development will not overshadow 'Friends Park'.
Construction of this building will increase traffic chaos in the area. The childcare and parents dropping and picking up kids will lead to chaotic traffic conditions.	The application was accompanied by a traffic report and statement and all required car parking to service the development is provided on site. Council's Senior Development Engineer did not raise any matters of concern relating to traffic.
Use of side road (laneway) will further exacerbate existing problems and increase chances of road accidents.	The extension of the side road (laneway) is consistent with the controls in Part F2-14 'Wentworthville Town Centre' of the CDCP 2021 which seeks to extend and widen Station Lane. The CDCP seeks an 8m Station Lane 'proposed extension' and the development seeks to dedicate land to Council for this to occur in accordance with the requirements in the CDCP 2021. This will also allow access to the site to occur from the rear of the site in lieu of having vehicular access along Station Street.
Construction projects also tend to generate huge amounts of waste.	A waste management plan has been provided detailing how the waste will be managed or reused from demolition, excavation, construction and ongoing stages of the development.
There's enough land available in Wentworthville, where Cumberland Council should consider and request builders to bring a high rise.	Council is unable to request developers where to construct within the Local Government Area. The Cumberland Local Environmental Plan 2021 and State Policies provide legislation as to the type of development that may be constructed in certain areas however, it is up to landowners to initiate development on their land.
Dust from demolition and construction Noise from the demolition and construction. Impacts to those working from home.	Construction noise and dust from building work, are matters that are dealt with by way of conditions of consent.
These questions were addressed to the writer via phone call from the assessing officer:	The matters raised in the email were addressed via a phone call to the writer to clarify the queries and provide them an opportunity to understand the proposal to allow the writer to make a further submission if they wish. The writer did not provide any further submissions.

• <i>Does this demolition affect me as a resident of Wentworthville?</i> • <i>What potential impact should I expect as a resident in close proximity?</i> • <i>As I am an IT professional and regularly works from home, should I anticipate any disruptions?</i>	
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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 s7.11 of the EP&A Act. A total contribution of \$1,134,355 (plus CPI) 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 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 Planning Policy (Housing) 2021, State environmental Planning Policy (Transport and Infrastructure) 2021, Cumberland Local Environmental Plan 2021 and Cumberland DCP.

The proposed development is appropriately located within the E1 Local Centre under the relevant provisions of the Cumberland LEP, however variations in relation to the height of building, floor space ratio, landscaping and ceiling height under the State Environmental Planning Policy (Housing) 2021 and variations to the Apartment Design Guide and Cumberland Development Control Plan are also 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 residents. 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 section 16(1) maximum floor space ratio development standard, pursuant to the State Environmental Planning Policy (Housing) 2021 be supported.
2. That the Clause 4.6 variation request to contravene section 16(3) Additional building height development standard, pursuant to the State Environmental Planning Policy (Housing) 2021 be supported.
3. That the Clause 4.6 variation request to contravene section 19(2)(b)(ii) landscaped area non-discretionary development standard, pursuant to the State Environmental Planning Policy (Housing) 2021 be supported.
4. That the Clause 4.6 variation request to contravene section 148 ceiling height non-discretionary development standard, pursuant to the State Environmental Planning Policy (Housing) 2021 be supported.
5. That Development Application 2024/0732 for demolition of existing structures and construction of a part seven (7), part fifteen (15) storey mixed use building comprising a childcare centre catering for 120 children, two commercial units, 59 residential apartments pursuant to State Environmental Planning Policy (Housing) 2021, over basement parking, Torrens title subdivision and associated landscaping and civil works on land at 86-96 Station Street Wentworthville be approved subject to conditions listed in the attached schedule.
6. 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. Clause 4.6 Variation Request - HoB & FSR.

5. Clause 4.6 Variation Request - Landscaping.
6. Clause 4.6 Variation Request - Ceiling height.
7. State Environmental Planning Policy (Housing) 2021 - Chapter 2, Division 1 - Infill Affordable Housing assessment.
8. State Environmental Planning Policy (Housing) 2021 – Chapter 4 Design of residential apartment development & ADG assessment.
9. State Environmental Planning Policy (Transport and Infrastructure) 2021 Chapter 3- Education and Child Care Facilities and Child Care Planning Guide assessment.
10. Cumberland LEP 2021 assessment.
11. Cumberland DCP 2021 assessment.
12. Cumberland Design Excellence Minutes.
13. Response to Design Excellence Minutes.
14. Redacted submissions.