

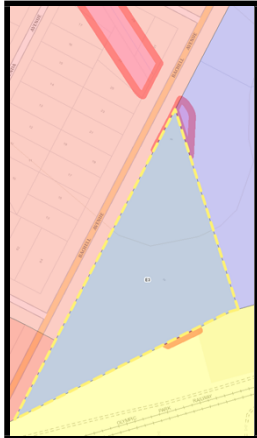
**APPENDIX B**  
**Cumberland Local Environmental Plan 2021**

Clause	Comments	Compliance
<b>1.2 Aims of Plan</b>	<p>The particular aims of this Plan are as follows:</p> <ul style="list-style-type: none"> <li>(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,</li> <li>(a) to provide a comprehensive planning framework for the sustainable development of land in Cumberland,</li> <li>(b) to provide for a range of land uses and development in appropriate locations to meet community needs,</li> <li>(c) to facilitate economic growth and employment opportunities within Cumberland,</li> <li>(d) to conserve and maintain the natural, built and cultural heritage of Cumberland,</li> <li>(e) to provide for community facilities and services in Cumberland to meet the needs of residents, workers and visitors,</li> <li>(f) to promote development that is environmentally sustainable.</li> </ul> <p><u>Comment:</u> The proposed mixed use development will provide for various different uses within the site which will provide for economic growth and employment opportunities. meeting aims (a), (b), (c), (e ) and (f) of the CLEP 2021.</p>	<p>Yes</p>
<b>2.3 Zone Objectives and Land Use Table</b>	<p>The objectives of the E3 Productivity Support zone are:</p> <ul style="list-style-type: none"> <li>• • <i>To provide a range of facilities and services, light industries, warehouses and offices.</i></li> <li>• • <i>To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.</i></li> <li>• • <i>To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.</i></li> <li>• • <i>To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.</i></li> <li>• • <i>To provide opportunities for new and emerging light industries.</i></li> <li>• <i>To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.</i></li> </ul> <p><u>Comment:</u></p>	<p>Yes</p>



<b>2.7 Demolition requires development consent</b>	Demolition of existing structures is sought as part of this application.	Yes
<b>4.1 Minimum subdivision lot size</b>	Required: 1500 square metres.  <u>Comment:</u> The subject site has an existing lot size of 8738 square metres, no changes are sought to the existing lot size.	Yes
<b>4.3 Height of Buildings</b>	(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.  <u>Comment:</u> The height of a building exceeds in part the height of building. In the 18 metre zone the proposal at its highest is 19.9 metres, a variation of 1.9metres or 10.55%.  In the 32 metre zone, the proposal at it highest is 33.08, a variation of 1.08 metres or 3.375%.	No. Refer to Clause 4.6 discussion in the main body of the report.
<b>4.4 Floor Space Ratio</b>	(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.  <u>Comment:</u> The maximum floor space ratio (FSR) for a building on the site shall not exceed 3.0:1  The proposal will breach the FSR at 3.24:1 or 28,272 square metres, a variation of 7.8%. According to Council's calculation, the FSR is 3.27:1 or 28,575.1 square metres a variation of 9%.	No. Refer to Clause 4.6 discussion in the main body of the report.
<b>4.6 Exceptions to development standards</b>	(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:  (g) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and (a) that there are sufficient environmental planning grounds to justify contravening the development standard.  <u>Comment:</u> A written request in accordance with Clause 4.6 of CLEP 2021 to vary the building height and floor space ratio development standard was submitted.	Yes, Height of buildings. No, Floor Space Ratio

	Refer to the discussion in the body of the report for a detailed discussion.	
<b>5.6 Architectural roof features</b>	<p>(2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.</p> <p>(3) Development consent must not be granted to any such development unless the consent authority is satisfied that—</p> <p>(a) the architectural roof feature—</p> <ul style="list-style-type: none"> <li>(i) comprises a decorative element on the uppermost portion of a building, and</li> <li>(ii) is not an advertising structure, and</li> <li>(iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and</li> <li>(iv) will cause minimal overshadowing, and</li> </ul> <p>(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.</p> <p><u>Comment:</u> The proposal does not include for an architectural roof feature. This clause is not applicable to this application.</p>	N/A
<b>5.10 Heritage Conservation</b>	The site is not identified as a heritage listed item and is not located within a heritage conservation area.	N/A
<b>5.21 Flood planning</b>	<p>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</p> <ul style="list-style-type: none"> <li>(a) is compatible with the flood function and behaviour on the land, and</li> <li>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</li> <li>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</li> <li>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</li> <li>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses.</li> </ul>	Yes

	<p>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <ul style="list-style-type: none"> <li>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</li> <li>(b) the intended design and scale of buildings resulting from the development,</li> <li>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</li> <li>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</li> </ul> <p><u>Comment:</u> Council's Senior Development Engineer review the proposal and did not raise any objections subject to conditions.</p>	
<b>6.1 Acid Sulphate Soils</b>	The development is impacted by Class 5 acid sulphate soils.	Yes
<b>6.2 Earthworks</b>	The proposed earthworks will not have a detriment on effect on existing drainage patterns or soil stability. The proposal will not affect the amenity of adjoining properties. The proposal is satisfactory subject to compliance with standard conditions.	Yes
<b>6.3 Limited development on foreshore area</b>	<p>This clause is not applicable as it is not on land shown as "foreshore Area", refer to extract below from NSW Planning Portal Spatial Viewer.</p> 	N/A
<b>6.4 Essential Services</b>	<p>(1) Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:</p> <ul style="list-style-type: none"> <li>a) the supply of water,</li> </ul>	No

	<ul style="list-style-type: none"> <li>b) the supply of electricity,</li> <li>c) the disposal and management of sewage,</li> <li>d) stormwater drainage or on-site conservation,</li> <li>e) suitable vehicular access.</li> </ul> <p><u>Comment:</u> These matters relating to OSD and stormwater have not been satisfactorily resolved. These form part of the reasons for refusal.</p>	
<b>6.7 Stormwater management</b>	<p>(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—</p> <ul style="list-style-type: none"> <li>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</li> <li>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</li> <li>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if the impact cannot be reasonably avoided, minimises and mitigates the impact.</li> </ul> <p><u>Comment:</u> Insufficient information has been provided to satisfy Council's Senior Development Engineer on the stormwater matters.</p>	No
<b>6.9 Salinity</b>	<p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following—</p> <ul style="list-style-type: none"> <li>(d) whether the development is likely to have an adverse impact on salinity processes on the land,</li> <li>(e) whether salinity is likely to have an impact on the development,</li> <li>(f) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</li> </ul> <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <ul style="list-style-type: none"> <li>(a) the development is designed, sited and will be managed to avoid a significant adverse environmental impact, or</li> <li>(b) if a significant adverse environmental impact cannot be avoided—the development is designed, sited and will be managed to minimise the impact, or</li> <li>(c) if a significant adverse environmental impact cannot be minimised—the development will be managed to mitigate the impact.</li> </ul> <p><u>Comment:</u></p>	N/A

		The subject site is not affected by Salinity.	
<b>6.12 Urban Heat</b>		<p>In deciding whether to grant development consent for the purposes of commercial premises, industries or residential accommodation, the consent authority must consider whether—</p> <ul style="list-style-type: none"> <li>(a) the facade and roof of the proposed building and paved surfaces are designed to reduce adverse effects of solar heat on the surrounding land, including private open space and the public domain, and</li> <li>(b) the awnings and eaves of the building are designed to provide shelter from the sun and improve public comfort at street level, and</li> <li>(c) the heating, ventilation and air conditioning systems of the building are designed to minimise the release of heat in the direction of private open space and the public domain, and</li> <li>(d) the development maximises the use of green infrastructure that is strategically designed and managed to support a good quality of life in an urban environment, and</li> <li>(e) the development accommodates sufficient tree canopy, open space and deep soil zones to achieve urban cooling benefits, and</li> <li>(f) the building is designed to achieve high passive thermal performance.</li> </ul> <p><u>Comment:</u>  A NABERS agreement for the office component, prepared by Raad Property Acquisition No 10 Pty Ltd has been submitted that addresses the requirements of Chapter 3 and Schedule 3 of SEPP (Sustainable Buildings) 2022 being a 5.5 star NABERS energy rating and 2 star NABERS water rating.</p> <p>The application was also accompanied by an Embodied Emissions Material Form prepared by Raad Property Acquisition No 10 Pty Ltd that quantifies the embodied emissions attributable to the development in accordance with Clause 3.2(2) of the SEPP.</p>	Yes
<b>Schedule 1 Additional Permitted Uses</b>	<b>1</b>	<p>13 Use of certain land at 2 Bachell Avenue, Lidcombe</p> <p><i>(1) This clause applies to Lot 2, DP 219413, 2 Bachell Avenue, Lidcombe, shown as “13” on the Additional Permitted Uses Map.</i></p>	Yes

<p><b>13 Use of certain land at 2 Bachell Avenue, Lidcombe.</b></p>	<p><i>(2) Development for the following purposes is permitted with development consent—</i></p> <ul style="list-style-type: none"> <li><i>(a) business premises,</i></li> <li><i>(b) office premises.</i></li> </ul> <p><i>(3) Development consent must not be granted under this clause if it would result in more than 7,000 square metres of gross floor area of all buildings on the land to which this clause applies being used for the purposes specified in subclause (2).</i></p> <p><u>Comment:</u> A total of 6,041 square metres of office space is proposed and therefore compliance.</p>	
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