



Land and Environment Court New South Wales

Medium Neutral Citation:

Raad Property Acquisition No 10 Pty Ltd v Cumberland Council [2026] NSWLEC 1007

Hearing dates:

Conciliation conference held on 19 December 2025

Date of orders:

07 January 2026

Decision date:

07 January 2026

Jurisdiction:

Class 1

Before:

Espinosa C

Decision:

The Court orders:

- (1) The appeal is upheld.
- (2) The Applicant is to pay the Respondent's costs as a consequence of the amendments pursuant to section 8.15(3) of the *Environmental Planning and Assessment Act 1979* (NSW), as agreed at \$7,000 within 28 days of the date of these orders.
- (3) Development Application DA 2023/0775 for the demolition of existing structures, construction of a mixed use development for specialised six retail premises, high technology industries, light industries, office premises, health services facility, recreation facility (indoor), food and drink premises, centre-based child care facility and an animal boarding facility at 2 Bachell Avenue, Lidcombe is determined by the grant of development consent subject to the conditions at Annexure A.

Catchwords:

DEVELOPMENT APPEAL – mixed use development – conciliation conference – agreement between the parties – orders

Legislation Cited:

Environmental Planning and Assessment Act 1979 (NSW), ss 4.16, 8.15, 8.7
Fisheries Management Act 1994 (NSW)
Land and Environment Court Act 1979 (NSW), s 34
Water Management Act 2000 (NSW)

Cumberland Local Environmental Plan 2021, cll 2.7, 4.3, 4.4, 4.6, 5.1, 5.1A, 5.10, 5.21, 6.1, 6.3, 6.4, 6.5, 6.6, 6.7, 6.9, 6.10, 6.12, 6.14, 6.16

Environmental Planning and Assessment Regulation 2021(NSW), s 38

State Environmental Planning Policy (Biodiversity and Conservation) 2021, Ch 6, ss 6.6, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 6.13, 6.14, 6.60

State Environmental Planning Policy (Industry and Employment) 2021, Ch 3, ss 3.1, 3.6, 3.7, 3.11, Pt 3.3, Sch 5

State Environmental Planning Policy (Resilience and Hazards) 2021, s 4.6

State Environmental Planning Policy (Sustainable Buildings) 2021, ss 3.1, 3.2, 3.3, Sch 3, cll 1, 2

State Environmental Planning Policy (Transport and Infrastructure) 2021, ss 2.48, 2.99, 2.100, 2.122

Texts Cited:

Department of Urban Affairs and Planning and Environment Protection Authority, Managing Land Contamination: Planning Guidelines (August 1998)

Category:

Principal judgment

Parties:

Raad Property Acquisition No 10 Pty Ltd (Applicant)
Cumberland Council (Respondent)

Representation:

Counsel:

A Epstein (Solicitor) (Applicant)

C McFadzean (Solicitor) (Respondent)

Solicitors:

Messenger Cole Solicitors (Applicant)

Cumberland Council (Respondent)

File Number(s):

2025/224419

Publication restriction:

Nil

JUDGMENT

- 1 **COMMISSIONER:** This is a Class 1 Development Appeal pursuant to s 8.7 of the *Environmental Planning and Assessment Act* 1979 (NSW) (EPA Act) being an appeal against the refusal of Development Application DA 2023/0775 seeking consent for the demolition of existing structures, construction of a mixed use development for specialised six retail premises, high technology industries, light industries, office

premises, health services facility, recreation facility (indoor), food and drink premises, centre based child care facility and an animal boarding facility (Proposed Development) at 2 Bachell Avenue, Lidcombe legally described as Lot 2 in DP 219413 (the Site).

- 2 The Court arranged a conciliation conference under s 34(1) of the *Land and Environment Court Act* 1979 (NSW) (LEC Act) between the parties, which has been held on 19 December 2025. I presided over the conciliation conference.
- 3 The parties' experts agree that all Contentions raised in the Statement of Facts and Contentions filed on 5 August 2025 (SOFAC) have been resolved by the preparation of the:
 - (1) amended plans and documents; and
 - (2) agreed conditions of consent.
- 4 At the conciliation conference, the parties reached agreement as to the terms of a decision in the proceedings that would be acceptable to the parties. This decision involved the Court upholding the appeal and granting development consent to the development application subject to conditions.
- 5 Under s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties' decision if the parties' decision is a decision that the Court could have made in the proper exercise of its functions. In making the orders to give effect to the agreement between the parties, I was not required to, and have not, made any merit assessment of the issues that were originally in dispute between the parties.
- 6 The parties' decision involves the Court exercising the function under s 4.16 of the EPA Act to grant consent to the development application.
- 7 There are jurisdictional prerequisites that must be satisfied before this function can be exercised. The parties identified the jurisdictional prerequisites of relevance in these proceedings to be the terms of cl 4.6 of the Cumberland Local Environmental Plan

2021 (CLEP) to justify the contravention of development standards. The parties explained how the jurisdictional prerequisites have been satisfied in a jurisdictional statement provided to the Court.

8 The owner of the Site is the Applicant in these proceedings.

9 The Site is zoned E3 Productivity Support pursuant to the CLEP and the parties set out the following characterisations:

- (1) The proposed recreation facilities (indoor) / gymnasium is permissible with consent in the zone, as are the specialised retail premises, high technology industries (as a sub-set of light industries), the centre-based child care facility and the office premises;
- (2) The proposed 'dog daycare' falls within the definition of an 'animal boarding or training establishment' and is permissible with consent in the zone;
- (3) The proposed 'workspaces' nominated on the ground floor and level 1 plans are elsewhere described in the application as 'light industries'. Light industries are permissible with consent in the zone;
- (4) Each of artisan food and drink industries, as a sub-set of light industries, food and drink premises and take away food and drink premises are permitted with consent in the zone; and
- (5) The 'health and community facility' nominated on the level 2 plan is elsewhere described in the application as a 'health services facility' and is permissible on the basis of not being shown elsewhere in the zoning table as being permitted without consent or prohibited.

10 Demolition is permissible with consent under cl 2.7 of the CLEP.

11 The Proposed Development was notified from 2 to 30 May 2024, with amended plans re-notified between 24 and 31 October 2024. One response was received in relation to each notification period and the matters raised have been considered by the parties.

12 The Site is not marked on the following maps which would otherwise attract jurisdictional prerequisites pursuant to the CLEP:

- (1) the Land Reservation Acquisition Map (cll 5.1 and 5.1A);
- (2) the Foreshore Building Line Map (cl 6.3), although the parties note that the

Foreshore Building Line Map does include the immediately adjoining land ;

- (3) the Biodiversity Map (cl 6.5);
- (4) the Riparian Land and Watercourses Map (cl 6.6);
- (5) the Salinity Map (cl 6.9);
- (6) the Site Specific Provisions Map (cl 6.10);
- (7) the Design Excellence Map (cl 6.14); or
- (8) the Key Sites Map (cl 6.16).

- 13 The Site does not contain a heritage item, is not within a heritage conservation area and is not within close proximity to a heritage item: cl 5.10, CLEP.
- 14 The Council's flood mapping, based upon a 500mm freeboard, shows in red, portions of the Site affected by the 1% annual exceedance probability and in grey greater parts affected by the flood planning level: cl 5.21, CLEP. The Applicant provided a Flooding response letter as part of the amended package which included existing and proposed channel cross sections, rating curves and the flood levels, velocities and impacts at the

Council's requested various points of interest. The provided information confirms that the proposal is appropriate and acceptable. Accordingly, in relation to cl 5.21(2) of the CLEP:

- (1) the development is compatible with the flood function and behaviour on the land;
- (2) the development is compatible with and will not have an adverse impact on the flood function and behaviour of the land that will result in detrimental increases in potential flood affectation of other development or properties;
- (3) the development 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;
- (4) the development incorporates appropriate measures to manage risk to life in the event of a flood; and
- (5) subject to conditions for sediment and erosion control measures during demolition and construction works, the development will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

15 In relation to cl 5.21(3) of the CLEP, the parties provide the following response to the listed considerations:

- (1) impacts of the development on projected changes to flood behaviour as a result of climate change are negligible and non-determinative;
- (2) the design and scale of the building in the context of flood planning is satisfactory;
- (3) the development incorporates measures to minimise the risk to life and to ensure the safe evacuation of people in the event of a flood; and
- (4) flooding impacts and coastal erosion do not warrant the ability to modify, relocate or remove the proposed building.

16 The Site is mapped as Class 5 land on the Acid Sulfate Soils map. Development consent is not required under cl 6.1 of the CLEP because the Site is more than 500 metres (m) away from Class 1, 2, 3, or 4 land.

17 The Council is satisfied that water supply, electricity supply, sewage disposal, stormwater drainage and suitable vehicle access are available or can be made available: cl 6.4, CLEP.

18 In relation to stormwater management, cl 6.7(2) of the CLEP has been addressed as the proposal:

- (1) is designed to maximise the use of water permeable surfaces where possible;
- (2) the development incorporates a rainwater tank; and
- (3) significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters will not arise and to the extent of any impact, can

be mitigated by the provision of sediment and erosion controls during the earthworks and construction stages.

- 19 In relation to Urban Heat considerations for commercial premises, industries or residential accommodation, cl 6.12 (2) of the CLEP has been addressed as follows:

“(a) the building facades and paved surfaces have been designed to reduce adverse effects of solar heat on surrounding land. In particular, brick paving where provided and light coloured walls will both result in the absorbing of solar heat. The roofing material is predominantly light coloured ballast covering waterproofed concrete slab.

(b) Awning protection is available, albeit not complete so as to concurrently afford solar amenity, to the open internal walkway area at various levels. The parties’ position is that sufficient shelter from the sun and public comfort towards street level is provided.

(c) The height of the building readily allows for exhausts from heating, ventilation and air conditioning systems to directed away from the public domain. There are no immediately adjoining areas of private open space.

(d),(e) Green infrastructure is defined to mean the network of green spaces, natural systems and semi-natural systems that support sustainable communities and includes waterways, bushland, tree canopy and green ground cover, parks and open spaces. On a development site of the size proposed in an established urban environment, the respondent’s expectations for green infrastructure are confined to a satisfactory provision of soft landscaping. On that (more confined) criteria, the respondent’s (and the parties’) position is that sufficient green infrastructure and landscaping is proposed to assist with urban cooling.

(f) The building facade includes some elements such as bricks and sandstone cladding that help achieve passive thermal performance.”

Justification of contravention of development standards

- 20 The Proposed Development contravenes two development standards as follows:

- (1) Clause 4.3 of the CLEP imposes a maximum height of building (HOB) development standard of 18m along the road frontage and 32m for the majority of the Site. Within the 18m area, the maximum proposed height is 22.39m. Within the 32m area, the maximum proposed height is 33.07m.
- (2) Clause 4.4 of the CLEP imposes a maximum floor space ratio (FSR) of 3:1. The proposed FSR ratio is uncertain but calculated by the Council to be in the range of 4.15:1 to 4.3:1. The Applicant advances the proposed FSR as 3.36:1.

- 21 Clause 4.6 of the CLEP permits the contravention of an applicable development standard where the consent authority is satisfied that the Applicant has demonstrated that:

- (1) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- (2) there are sufficient environmental planning grounds to justify the contravention of the development standard.

- 22 A Clause 4.6 HOB Report, prepared by Think Planners dated 3 July 2025 was submitted by the Applicant to justify the contravention of the HOB development standard. The Clause 4.6 HOB Report demonstrates that:

- (1) It is unreasonable and unnecessary to comply with the development standard in

this instance;

- (2) The proposal complies with the objectives of the zone and building height standards;
- (3) There are sufficient environmental planning grounds to justify the contravention of the development standard;
- (4) The proposal meets the intent of the height control;
- (5) The proposal is consistent with the objectives of cl 4.3 in that the facilitation of the variation will deliver better outcomes for and from the development; and
- (6) The proposal is consistent with the desired density and intensity of the Site, that is its future character.

23 A Clause 4.6 FSR Report, prepared by Think Planners dated 13 November 2025 was submitted as part of the amended package to justify the contravention of the FSR development standard. The Clause 4.6 FSR Report demonstrates that compliance with the FSR standard is unreasonable and unnecessary in the context of the Proposed Development and its unique circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard because:

- (1) The proposal is consistent with the objectives of cl 4.4, despite the contravention of the FSR.
- (2) The bulk and scale of the Proposed Development is compatible with the scale anticipated on the Site under the site specific planning controls. It is therefore consistent with the envisioned density.
- (3) The proposal is consistent with the desired density and intensity, that is the future character of the area with the FSR breach not noticeable.
- (4) An enhanced urban design outcome is achieved through the additional height and therefore FSR, which creates a people focused place with high level of amenity for occupants and visitors, along with enhanced sustainability outcomes.
- (5) The Proposed Development:
 - (a) Complies with solar and daylight access requirements to surrounding properties.
 - (b) Does not lead to unacceptable sunlight loss or overshadowing as shown in the shadow diagrams.
 - (c) Will not result in an unreasonable or unacceptable visual or acoustic privacy impacts due to setbacks, landscaping, overall built form and separation from neighbours.

24 Accordingly, the Court is satisfied that the Applicant's written requests seeking to justify the contravention of the development standards in cl 4.3 and 4.4 of the CLEP have adequately addressed the matters required to be demonstrated by cl 4.6(3) of the

CLEP.

- 25 The development is proposed within 5m of an overhead electricity power line and accordingly, written notice of the application was given to Ausgrid under s 2.48(1)(b)(iii) and 2.48(2) of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP) and comments were received from Ausgrid raising no objection.
- 26 The concurrence of the rail authority, being Transport for NSW (TfNSW), has been obtained due to excavation of more than 2m being proposed within 25m a rail corridor: s 2.99(3), Transport and Infrastructure SEPP. Written notice was also given to TfNSW in regard to traffic generating development pursuant to s 2.122 of the Transport and Infrastructure SEPP, and regard was had to their response which deferred intersection upgrade and local road traffic impacts to the Council as the local roads' authority.
- 27 In relation to the impact of rail noise or vibration on non-rail development, s 2.100 of the Transport and Infrastructure SEPP applies to development for a centre-based child care facility that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration. The Applicant relies on an acoustic assessment submitted as part of the Class 1 Application. The parties do not consider that the child care centre will be adversely affected by rail noise or vibration.
- 28 The parties have considered whether the Site is contaminated pursuant to s 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP) because a dry cleaning business is known to have been carried out on the Site, with that form of business listed in Table 1 to the contaminated land planning guidelines. Section 4.6(2) of the Resilience and Hazards SEPP provides that before granting consent for a change of use for land specified in s 4.6(4), a preliminary investigation of the land must be considered.
- 29 A preliminary contamination assessment, stage 2 detailed site investigation and a remediation action plan were lodged with the Class 1 Application. The assessments recognise the proposed child care use amongst other commercial / retail activities and concluded that the Site would be suitable for the Proposed Development subject to managing localised surface soil impacts of hydrocarbons and asbestos identified and include minor surface oil impacts, with a remediation action plan.

Sydney Harbour catchment considerations - State Environmental Planning Policy (Biodiversity and Conservation) 2021

- 30 Chapter 6 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP) applies because the Site is within the Sydney Harbour Catchment area. The parties explain how the various provisions within Ch 6 are satisfied as set out below.
- 31 In relation to the considerations listed in s 6.6(1), the parties explain as follows:
- (1) the development will have a neutral impact;
 - (2) the development will not have an adverse impact on water flow in a natural waterbody;
 - (3) increases to stormwater runoff can be adequately mitigated by the provision of appropriately designed and constructed on-site detention;
 - (4) the development incorporates on-site stormwater retention;
 - (5) the development is unlikely to impact on the level and quality of the water table;
 - (6) cumulative environmental impacts from the development on the regulated catchment are negligible; and
 - (7) the development makes adequate provision to protect the quality and quantity of ground water.
- 32 In relation to the considerations listed in s 6.6(2), the parties explain as follows:
- (1) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral; and
 - (2) the development has negligible and satisfactory water flow impacts for a natural waterbody.
- 33 In relation to the considerations listed in s 6.7(1), the parties explain as follows:
- (1) to the extent of any direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation, the impact is minor;
 - (2) the development does not involve the clearing of riparian vegetation;
 - (3) the development will not involve sedimentation of a natural waterbody or erosion of land abutting a natural waterway;
 - (4) the development will not have an adverse impact on wetlands;
 - (5) the development will not impact aquatic ecology and therefore does not require safeguards and rehabilitation measures; and
 - (6) the site does not adjoin a natural waterbody.
- 34 In relation to the criteria listed in s 6.7(2), the parties explain as follows:
- (1) any direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the

carrying out of the development;

- (2) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves;
- (3) no approval or permit is required under the *Water Management Act 2000* (NSW) or the *Fisheries Management Act 1994* (NSW);
- (4) the development will have a negligible and satisfactory impact upon natural waterbodies; and
- (5) there will be no adverse impact on wetlands.

35 In relation to s 6.8(1) considerations, the parties explain that the development will have no impact on periodic flooding that benefits wetlands and other riverine ecosystems. In relation to s 6.8(2) criteria, the development:

- (1) will not result in a release of pollutants in the event of a flood; and
- (2) will not have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.

36 In relation to the considerations listed in s 6.9(1), the parties explain as follows:

- (1) the development will have no impact on recreational land uses in the Sydney Harbour catchment; and
- (2) the development has no impact on public access to and around foreshores.

37 In relation to the criteria listed in s 6.9(2), the parties explain as follows:

- (1) the development has no impact on public access to and from natural waterbodies for recreational purposes;
- (2) the development does not involve new or existing points of public access to natural waterbodies; and
- (3) the land does not form part of the foreshore of a natural waterbody.

38 In relation to s 6.10, the parties explain that the development will not have an adverse environmental impact for adjacent and downstream local government areas.

39 In relation to s 6.11, the parties explain that the development is not within 100m of a natural waterbody. The nearest natural waterbody is Haslams Creek, some 1.6km generally north-west.

40 The site is not within a riverine scenic area (s 6.12), a Hawkesbury-Nepean conservation area sub-catchment (s 6.13) or the Sydney Drinking Water Catchment (s 6.60) and does not involve temporary use of land (s 6.14).

Other jurisdictional matters

- 41 As signage is proposed, the provisions of Ch 3 of the State Environmental Planning Policy (Industry and Employment) 2021 (Industry and Employment SEPP) require satisfaction. In particular, ss 3.6 and 3.11(1) of the Industry and Employment SEPP provide that a consent authority must not grant consent to signage unless:
- (1) the signage is consistent with the objectives as set out in s 3.1(1)(a); and
 - (2) the signage satisfies assessment criteria specified in Sch 5.
- 42 The proposed signage is consistent with the assessment criteria specified in Sch 5 and the objectives set out at s 3.1(1)(a) in that it is:
- (1) compatible with the desired amenity and visual character of an area in terms of its siting, size and form;
 - (2) sited in suitable locations along the building and is capable of providing effective communication, subject to conditions addressing the appropriate content of signs; and
 - (3) capable of comprising high quality design and finish, subject to conditions, including conditions going to the content and non-illumination of signs.
- 43 The proposed type 2 and type 4 signs are business identification signs and as a result of s 3.7(1)(a), Pt 3.3 of Industry and Employment SEPP does not apply.
- 44 The parties agree that Sch 5 criteria are satisfied and also rely on the assessment table at paragraph 45 of the SOFAC filed on 5 August 2025.
- 45 The cost of works of the Proposed Development exceed the threshold at s 3.1 of the State Environmental Planning Policy (Sustainable Buildings) 2021 (Sustainable Buildings SEPP). Section 3.2(2) of the Sustainable Buildings SEPP provides that development consent must not be granted unless the consent authority is satisfied that embodied emissions attributable to the development have been quantified. An updated embodied emissions materials form and embodied emissions calculations was provided as part of the amended package which quantifies the emissions.
- 46 The development satisfies the definition of 'large commercial development' on the basis that the office premises have a net lettable area or at least 1,000m²: s 3.3, Sustainable Buildings SEPP. Section 3.3(2) provides that development consent must not be granted to large commercial development unless the consent authority is satisfied the development is capable of achieving the standards for energy and water use specified in Sch 3, while s 3.3(3) provides that for the purpose of s 3.3(2), development is capable of achieving a standard specified in Sch 3 if there is a NABERS commitment agreement in place to achieve the standard. Schedule 3 clauses 1(1) and 2 sets a 5.5

NABERS energy rating and a 3 star NABERS water rating for the proposal. An updated NABERS Commitment was submitted as part of the amended package which meets the requirements of Sch 3.

47 I am satisfied that the parties' decision is one that the Court could have made in the proper exercise of its functions, as required by s 34(3) of the LEC Act. I adopt the reasons given by the parties as set out in this judgment.

48 As the parties' decision is a decision that the Court could have made in the proper exercise of its functions, I am required under s 34(3) of the LEC Act to dispose of the proceedings in accordance with the parties' decision.

Notations:

49 The Court notes that:

- (1) Cumberland Council as the relevant consent authority for the purposes of section 38(1) of the Environmental Planning and Assessment Regulation 2021 (NSW) approves the amendment to the Development Application DA 2023/0775 to rely on the following amended plans and documentation:

Plan Ref	Date	Description	Issue
Architectural Plans Prepared by Two Form Architecture + Interior			
000	3.11.25	COVER SHEET	D
001	3.11.25	DRAWING SCHEDULE	D
010	3.11.25	LOCATION PLAN	D
011	3.11.25	CONTEXT PLAN	D
020	3.11.25	SITE ANALYSIS	D
030	3.11.25	DRAIN SECTION	D
040	3.11.25	DEMOLITION PLAN	D
050	3.11.25	NOTIFICATION PLANS - ROOF PLAN	D
051	3.11.25	NOTIFICATION PLANS - ELEVATIONS	D
100	3.11.25	BASEMENT 2 FLOOR PLAN	D

101	3.11.25	BASEMENT 1 FLOOR PLAN	D
102	3.11.25	LOWER GROUND FLOOR PLAN	D
103	3.11.25	GROUND FLOOR PLAN	D
104	3.11.25	LEVEL 1 FLOOR PLAN	D
105	3.11.25	LEVEL 2 FLOOR PLAN	D
106	3.11.25	LEVEL 3 FLOOR PLAN	D
107	3.11.25	LEVEL 4 FLOOR PLAN	D
108	3.11.25	LEVEL 5 FLOOR PLAN	D
109	3.11.25	LEVEL 6 FLOOR PLAN	D
110	3.11.25	LEVEL 7 FLOOR PLAN	D
111	3.11.25	LEVEL 8 FLOOR PLAN	D
112	3.11.25	ROOF PLAN	D
200	3.11.25	ELEVATION - NORTHWEST	D
201	3.11.25	ELEVATION- EAST	D
202	3.11.25	ELEVATION- SOUTH	D
220	3.11.25	ELEVATION DETAILS - D9 & D11	D
221	3.11.25	ELEVATION DETAILS - D12 & D14	D
222	3.11.25	ELEVATION DETAILS - D13 & D15	D
251	3.11.25	CHILDCARE LAYOUT	D
252	3.11.25	CHILDCARE CENTRE EVACUATION PLAN	D
253	3.11.25	CHILDCARE LAYOUT - KITCHEN	D

254	3.11.25	CHILDCARE LAYOUT LIGHT & VENTILATION	D
321	3.11.25	SECTION X	D
322	3.11.25	SECTION Y	D
350	3.11.25	SECTION DETAIL - D1	D
351	3.11.25	SECTION DETAIL - D2	D
352	3.11.25	SECTION DETAIL - D3	D
353	3.11.25	SECTION DETAIL - D4	D
354	3.11.25	SECTION DETAIL - D5	D
355	3.11.25	SECTION DETAIL - D6	D
356	3.11.25	SECTION DETAIL - D7	D
357	3.11.25	SECTION DETAIL - D8	D
358	3.11.25	SECTION DETAILS - D10 & D3B	D
359	3.11.25	SECTION DETAIL - D16	D
360	3.11.25	SECTION DETAIL - D17	D
361	3.11.25	SECTION DETAIL - D18	D
430	3.11.25	RAMP LONGITUDINAL SECTIONS	D
500	3.11.25	SHADOW DIAGRAMS	D
501	3.11.25	SHADOW DIAGRAMS	D
502	3.11.25	SHADOW DIAGRAMS	D
550	3.11.25	HEIGHT PLANE	D
551	3.11.25	HEIGHT PLANE	D

600	3.11.25	MATERIALS AND FINISHES	D
650	3.11.25	SIGNAGE ZONES	D
700	3.11.25	GFA CALCULATION SHEET 1	D
701	3.11.25	GFA CALCULATION SHEET 2	D
702	3.11.25	GFA CALCULATION SHEET 3	D
703	3.11.25	GFA CALCULATION SHEET 4	D
750	3.11.25	LOADING PLAN	D
810	3.11.25	VISUALISATIONS	D
811	3.11.25	VISUALISATIONS	D
812	3.11.25	VISUALISATIONS	D
813	3.11.25	VISUALISATIONS	D
814	3.11.25	VISUALISATIONS	D
815	3.11.25	VISUALISATIONS	D
Clause 4.6 FSR Report prepared by Think Planners dated 4 November 2025			
Stormwater and Flooding Letter prepared by Kozarovski and Partners dated 20 October 2025			
Stormwater Plans prepared by Kozarovski and Partners dated 20 October 2025			
C-3732-01	29.09.25	Basement 2	13
C-3732-02	29.09.25	Basement 1	13
C-3732-03	29.09.25	Lower Ground Floor	13
C-3732-04	29.09.25	Ground floor	13

C-3732-05	29.09.25	Level 1	13
C-3732-06	29.09.25	Level 2	13
C-3732-07	29.09.25	Level 3	13
C-3732-08	29.09.25	Level 4	13
C-3732-09	29.09.25	Level 5	13
C-3732-10	29.09.25	Level 6	13
C-3732-11	29.09.25	Level 7	13
C-3732-12	29.09.25	Level 8	13
C-3732-13	29.09.25	Roof	13
C-3732-14	29.09.25	Culvert Re-Location	13
C-3732-15	29.09.25	Sediment & Erosion Control Plan	13
C-3732-16	29.09.25	WSUD Schematic	13

NABERS Commitment to Rate Letter dated 13 October 2025

Embodied Emissions Calculations, revision 2 dated 7 October 2025

Embodied Emissions Materials Form (NSW SEPP)

Traffic & Parking Assessment Letter prepared by CJP Consulting Engineers dated 23 October 2025

Revised Plan of Management dated 22 October 2025

Net Zero Statement prepared by SLR Consulting Australia dated 8 October 2025

Roundabout Response prepared by Road Delay Solutions October 2025

Roundabout Drawings prepared by Road Delay Solutions, sheets 1-8, revision C, dated 8 October 2025

Updated parking assessment calculations

Orders:

50 The Court orders:

- (1) The appeal is upheld.
- (2) The Applicant is to pay the Respondent's costs as a consequence of the amendments pursuant to section 8.15(3) of the *Environmental Planning and Assessment Act* 1979 (NSW), as agreed at \$7,000 within 28 days of the date of these orders.
- (3) Development Application DA 2023/0775 for the demolition of existing structures, construction of a mixed use development for specialised six retail premises, high technology industries, light industries, office premises, health services facility, recreation facility (indoor), food and drink premises, centre-based child care facility and an animal boarding facility at 2 Bachell Avenue, Lidcombe is determined by the grant of development consent subject to the conditions at Annexure A.

E Espinosa**Commissioner of the Court**

[Annexure A \(498 KB, .pdf\)](#)

[Architectural Plans_Part1 \(31.0 MB, .pdf\)](#)

[Architectural Plans_Part2 \(13.0 MB, .pdf\)](#)

[Plan of Management \(2.53 MB, .pdf\)](#)

[Stormwater & Flooding Response + Stormwater Plans \(11.1 MB, .pdf\)](#)

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Decision last updated: 07 January 2026