

**APPENDIX A**  
**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>	Yes																		
<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> The proposed development is for a mixed use development with various land uses proposed and are permissible in the E3 Productivity Support zone with consent.</p> <table border="1"> <thead> <tr> <th colspan="3">Assessment of permissibility of proposed uses</th></tr> <tr> <th>Proposed use</th><th>Dictionary Classification</th><th>Permissibility</th></tr> </thead> <tbody> <tr> <td>Cafe /restaurant.</td><td>Food and drink premises;</td><td>Permitted with consent.</td></tr> <tr> <td>Childcare centre.</td><td>Centre-based childcare facilities.</td><td>Permitted with consent.</td></tr> <tr> <td>Neighbourhood shop</td><td>Neighbourhood shops</td><td>Permitted with consent.</td></tr> <tr> <td>Specialised retail uses.</td><td>Specialised Retail Premises.</td><td>Commercial premises are prohibited, including Retail Premises, however Specialised Retail Premises are permitted with consent.</td></tr> </tbody> </table>	Assessment of permissibility of proposed uses			Proposed use	Dictionary Classification	Permissibility	Cafe /restaurant.	Food and drink premises;	Permitted with consent.	Childcare centre.	Centre-based childcare facilities.	Permitted with consent.	Neighbourhood shop	Neighbourhood shops	Permitted with consent.	Specialised retail uses.	Specialised Retail Premises.	Commercial premises are prohibited, including Retail Premises, however Specialised Retail Premises are permitted with consent.	Yes
Assessment of permissibility of proposed uses																				
Proposed use	Dictionary Classification	Permissibility																		
Cafe /restaurant.	Food and drink premises;	Permitted with consent.																		
Childcare centre.	Centre-based childcare facilities.	Permitted with consent.																		
Neighbourhood shop	Neighbourhood shops	Permitted with consent.																		
Specialised retail uses.	Specialised Retail Premises.	Commercial premises are prohibited, including Retail Premises, however Specialised Retail Premises are permitted with consent.																		

	Office premises.	Office premises.	Permitted with consent.									
2.6 Subdivision-consent requirements	Subdivision is not proposed under this application.			N/A								
2.7 Demolition requires development consent	Consent is sought for the demolition of Buildings 4b, 5, 6, 7, and 8 and associated structures.			Yes								
4.3 Height of Buildings	(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. (2A) The maximum height of office premises and hotel or motel accommodation in the “Parramatta Road Precinct”, shown edged orange on the <a href="#">Height of Buildings Map</a> , is 27 metres.  <u>Comment:</u> The height of a building is not to exceed 27 metres.  The proposed development will result in a breach to the maximum height of building of 28.75 metres or 6.48% to the plant and roof services and 27.5 metres or 1.85% to the parapet.			No. Clause 4.6 lodged.								
4.4 Floor Space Ratio	(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: 1:1 Maximum 1.5:1 for specialised retail premises, entertainment facilities, function centres and registered clubs, 3:1 for office premises and hotel or motel accommodation.  The proposed FSR is as follows: <table><tr><th>FSR Maximum</th><th>Proposed FSR</th></tr><tr><td>1:1 Maximum</td><td>0.223:1</td></tr><tr><td>1.5:1 for specialised retail premises, entertainment facilities, function centres and registered clubs,</td><td>1.017:1</td></tr><tr><td>3:1 for office premises and hotel or motel accommodation.</td><td>1.118:1</td></tr></table>			FSR Maximum	Proposed FSR	1:1 Maximum	0.223:1	1.5:1 for specialised retail premises, entertainment facilities, function centres and registered clubs,	1.017:1	3:1 for office premises and hotel or motel accommodation.	1.118:1	Yes
FSR Maximum	Proposed FSR											
1:1 Maximum	0.223:1											
1.5:1 for specialised retail premises, entertainment facilities, function centres and registered clubs,	1.017:1											
3:1 for office premises and hotel or motel accommodation.	1.118:1											
4.6 Exceptions to development standards	(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 development standard was submitted.  The exceedance in building height is supported in this instance, having regard to the circumstances of the case. Refer to the discussion in the body of the report.			Yes								

<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. The clause.	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> <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>	Yes, subject to conditions.
<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 ion 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>6.4 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> <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 can be addressed by the imposition of conditions in any approval of the development.</p>	Yes
<b>6.7 Stormwater management</b>	(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—	Yes

	<p>(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</p> <p>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</p> <p>(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.</p> <p><u>Comment:</u> Council's Senior Development Engineer review the proposal and did not raise any objections subject to conditions.</p>	
<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> <p>(d) whether the development is likely to have an adverse impact on salinity processes on the land,</p> <p>(e) whether salinity is likely to have an impact on the development,</p> <p>(f) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <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> <p>(a) the development is designed, sited and will be managed to avoid a significant adverse environmental impact, or</p> <p>(b) if a significant adverse environmental impact cannot be avoided—the development is designed, sited and will be managed to minimise the impact, or</p> <p>(c) if a significant adverse environmental impact cannot be minimised—the development will be managed to mitigate the impact.</p> <p><u>Comment:</u> The development is not affected by Salinity.</p>	N/A
<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> <p>(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</p> <p>(b) the awnings and eaves of the building are designed to provide shelter from the sun and improve public comfort at street level, and</p> <p>(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</p> <p>(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</p> <p>(e) the development accommodates sufficient tree canopy, open space and deep soil zones to achieve urban cooling benefits, and</p> <p>(f) the building is designed to achieve high passive thermal performance.</p> <p><u>Comment:</u> A NABERS agreement for the office component, prepared by Raad Property Acquisition No 10 Pty Ltd has been submitted that addresses the requirements of</p>	Yes

	<p>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 Ecologically Sustainable Development Report.</p> <p>The proposed development is considered to be satisfactory with regard to the provisions of this clause.</p>	
<b>Schedule 1 Additional Permitted uses</b>	<p><b>25 Use of certain land in the Parramatta Road Precinct</b></p> <p>1) <i>This clause applies to land in Zone E3 Productivity Support, shown as "Parramatta Road Precinct" on the <a href="#">Floor Space Ratio Map</a> and shown as "25" on the <a href="#">Additional Permitted Uses Map</a>.</i></p> <p>2) <i>Development for the purposes of entertainment facilities and registered clubs is permitted with development consent.</i></p> <p><u>Comment:</u></p> <p>The proposal does not seek consent for an entertainment facility or a registered club. The additional permitted use is not applicable to this subject application.</p>	N/A