

I certify that the grounds of appeal are suitable for publication in accordance with paragraph 27 of Practice Note SC CA 01.



Philippa Clark, Solicitor
on behalf of Karen Smith, Crown Solicitor, solicitor for the Applicant

Form 105 (version 7)
UCPR 51.16, 51.18, 51.20

DRAFT NOTICE OF APPEAL

COURT DETAILS

Court	Supreme Court of New South Wales, Court of Appeal
Registry	Sydney
Case number	2025/

TITLE OF PROCEEDINGS

Appellant	Attorney General for New South Wales
Respondent	MM (a pseudonym), by his tutor Barbara Ramjan

PROCEEDINGS IN THE COURT BELOW

Title below	Attorney General for NSW v MM (a pseudonym) by his tutor Barbara Ramjan [2025] NSWSC 1074
Court below	Supreme Court of NSW, Common Law Division
Case number below	2025/188399
Date[s] of hearing	1 and 4 September 2025
Material date	19 September 2025
Decision of	Weinstein J

FILING DETAILS

Filed for	Attorney General for New South Wales , applicant
Legal representative	Karen Smith, Crown Solicitor for NSW
Legal representative reference	PCN: 24565 202502414 T01
Contact name and telephone	Emily Burstn (02) 9474-9221
Contact email	crownsol@cso.nsw.gov.au

HEARING DETAILS

This notice of appeal is listed for directions at

TYPE OF APPEAL

Section 109 of the *Constitution* – arising in application under specific New South Wales Act: *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*

DETAILS OF APPEAL

- 1 This appeal is brought under s 101(2)(e) of the *Supreme Court Act 1970* (NSW).
- 2 Leave to appeal was granted on [date].
- 3 The appellant has not filed a notice of intention to appeal.
- 4 The appellant appeals from the whole of the decision below.

APPEAL GROUNDS

- 1 The primary judge erred in finding that s 67G of the *National Disability Insurance Scheme Act* (Cth) (**NDIS Act**) applies to any document created or possessed by a registered NDIS provider (within the meaning of the NDIS Act) in the course of providing services and supports to a participant in the NDIS.

ORDERS SOUGHT

- 1 Appeal allowed.
- 2 Orders 1 and 7 of the court below be set aside.
- 3 Such other orders as the Court sees fit.

SIGNATURE OF LEGAL REPRESENTATIVE

This notice of appeal does not require a certificate under clause 4 of Schedule 2 to the [Legal Profession Uniform Law Application Act 2014](#).

I have advised the appellant that court fees will be payable during these proceedings. These fees may include a hearing allocation fee.

Signature of legal representative

Karen Smith, Crown Solicitor for NSW
Solicitor for the appellant

Capacity

Signed in my capacity as a solicitor
employed in the office of the said
Karen Smith

Date of signature

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NOTICE TO RESPONDENT

If your solicitor, barrister or you do not attend the hearing, the court may give judgment or make orders against you in your absence. The judgment may be for the orders sought in the notice of appeal and for the appellant's costs of bringing these proceedings.

Before you can appear before the court, you must file at the court an appearance in the approved form.

HOW TO RESPOND

Please read this notice of appeal very carefully. If you have any trouble understanding it or require assistance on how to respond to the notice of appeal you should get legal advice as soon as possible.

You can get further information about what you need to do to respond to the notice of appeal from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at www.lawaccess.nsw.gov.au.
- The court registry for limited procedural information.

Court forms are available on the UCPR website at www.ucprforms.nsw.gov.au or at any NSW court registry.

REGISTRY ADDRESS

Street address	Supreme Court of New South Wales, Court of Appeal Law Courts Building Queen's Square Level 5, 184 Phillip Street Sydney NSW 2000
Postal address	GPO Box 3 Sydney NSW 2001
Telephone	1300 679 272

PARTY DETAILS

A list of parties must be filed and served with this notice of appeal.