

**COUNCIL ASSESSMENT REPORT**  
LIVERPOOL LOCAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSSWC-662 – DA-390/2025
<b>PROPOSAL</b>	Demolition of existing structures, construction of a multi-use community center, including a place of public worship, a 118 children’s center-based childcare facility, an educational establishment, and an indoor recreational facility. The proposal consists of a total of 202 parking spaces with ancillary development, including a canteen, storage, and office space
<b>ADDRESS</b>	315 Fourteenth Avenue, Austral NSW 2179 Lot 6 DP 30409
<b>APPLICANT</b>	PLANZONE Pty Ltd
<b>OWNER</b>	AUSTRAL PROPERTY 1 PTY LTD
<b>DA LODGEMENT DATE</b>	2 September 2025
<b>APPLICATION TYPE</b>	Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 5(b), Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Private infrastructure and community facilities over \$5 million – development for the purposes of child care centres, community facilities, educational establishments, or places of public worship.
<b>CIV</b>	\$11,256,577.20 (excluding GST)  Pursuant to Planning Circular PS 10-008 CIV “ <i>includes all costs necessary to establish and operate the project...other than...(d) GST</i> ”.
<b>CLAUSE 4.6 REQUESTS</b>	Nil.
<b>KEY SEPP/LEP</b>	State Environmental Planning Policy (Planning Systems) 2021; State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy (Biodiversity and Conservation) 2021; State Environmental Planning Policy (Sustainable Buildings) 2022; State Environmental Planning Policy (Transport and Infrastructure) 2021;

	State Environmental Planning Policy (Precincts – Western Parkland City) 2021.
<b>TOTAL &amp; UNIQUE SUBMISSIONS ISSUES SUBMISSIONS</b>	A total of 25 submissions in objection (total & unique). Key issues include traffic congestion, road safety, inadequate existing road infrastructure, noise pollution, scale, site suitability and social impact.
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	<ul style="list-style-type: none"> <li>• Attachment A: Draft Reasons for Refusal</li> <li>• Attachment B: Tables of Compliance</li> <li>• Attachment C: Architectural Plans – 299529.2025</li> <li>• Attachment D: Landscape DA Report – 299544.2025</li> <li>• Attachment E: Landscape Plans (Childcare Centre) – 299545.2025</li> <li>• Attachment F: Civil Engineering Plan – 299557.2025</li> <li>• Attachment G: Stormwater Plan – 299526.2025</li> <li>• Attachment H: Survey Plan – 299536.2025</li> <li>• Attachment I: Statement of Environmental Effects – 299532.2025</li> <li>• Attachment J: Arborist Report – 299551.2025</li> <li>• Attachment K: Acoustic Report – 299550.2025</li> <li>• Attachment L: Odour Assessment – 299546.2025</li> <li>• Attachment M: Traffic Impact Assessment – 299538.2025</li> <li>• Attachment N: Stormwater Management Report – 299533.2025</li> <li>• Attachment O: Section J Report – 299527.2025</li> <li>• Attachment P: Plan of Management (Place of Public Worship) – 299524.2025</li> <li>• Attachment Q: Plan of Management (Childcare Centre) – 299508.2025</li> <li>• Attachment R: Access Report (Childcare Centre)– 299519.2025</li> <li>• Attachment S: Access Report (Offices)– 299513.2025</li> <li>• Attachment T: Access Report (Tuition Centre)– 299519.2025</li> <li>• Attachment U: Access Report (Mosque)– 299501.2025</li> <li>• Attachment V: Flood Impact Assessment – 299511.2025</li> <li>• Attachment W: Demolition Management Plan – 299505.2025</li> <li>• Attachment X: Waste Management Plan – 299528.2025</li> <li>• Attachment Y: Stage 1 Preliminary and Stage 2 Site Investigation – 299497.2025</li> <li>• Attachment Z: Remedial Action Plan – 299499.2025</li> </ul>
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>	YES
<b>HOUSING PRODUCTIVITY CONTRIBUTION</b>	NO

<b>RECOMMENDATION</b>	Refusal
<b>DRAFT CONDITIONS TO APPLICANT</b>	NO
<b>SCHEDULED MEETING DATE</b>	9 March 2026
<b>PLAN VERSION</b>	23 June 2025 - Revision O (Architectural Set)
<b>PREPARED BY</b>	Ben Paterson
<b>DATE OF REPORT</b>	19 February 2026

## **1. EXECUTIVE SUMMARY**

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### **1.1 The proposal**

The development application seeks consent for the demolition of existing structures, construction of a multi-use community centre, including a place of public worship, a 118 children’s centre-based childcare facility, an educational establishment, and an indoor recreational facility. The proposal consists of a total of 202 parking spaces with ancillary development, including a canteen, storage, and office space.

### **1.2 The Site**

The subject site known as 315 Fourteenth Avenue, Austral (‘the site’), and is legally referred to as Lot 1 in DP 30409 within the Liverpool Local Government Area.

The site is regular in shape and has a total area of 20,230m<sup>2</sup> (2.023 ha) with a street frontage to Fourteenth Avenue of 134.44m. The site slopes gradually from the east to the west, falling from RL 59.90m in the north-eastern corner to RL 58.02m on the western boundary.

The site is currently occupied by a single storey brick residence, vegetation, and riparian corridor associated with a Strahler tributary extending from Kemps Creek.

### **1.3 The Issues**

The key issues identified with the proposal include, but are not limited to, the following:

**1.1.1 Insufficient Information** – The application in its current form, contains multiple non-compliances, omissions and/or insufficient information that prevents a complete and proper assessment of the proposal.

**1.1.2 Design Excellence** – The proposal was reviewed by the Liverpool City Council Design Excellence Panel (DEP) at its meeting held on 13 November 2025. The DEP did not support the proposal and recommended that it be returned for further consideration. The Panel identified numerous significant design issues which remain unresolved.

**1.1.3 Flood Affected Land** – The land is heavily flood-affected, with approximately 80% situated within the floodway of Tributary 2 of Kemps Creek. Until Basin 17 and its associated trunk drainage system are completed, the site will remain within the

active floodway of Tributary 2. Consequently, no filling or development can proceed prior to their construction.

**1.1.4 Site Remediation** – Concerns are raised regarding the appropriateness of the selected remediation strategies in particular, for reuse of soil contaminated with bonded asbestos on site, when a childcare centre is proposed.

**1.1.5 Characterisation of Use and Zone Objectives** – The application is not clear as to which characterisation the proposed Youth Centre is being applied under. It is described as an Office, Community Facility, a Canteen & Storage area, and an Indoor Recreational Facility in various sections and reports. If the youth centre is to be considered a Community Facility it must be demonstrated that the centre operates entirely independently with no reliance upon the Mosque, Tuition Building or Childcare Centre. Furthermore, it has not been adequately demonstrated that the proposed uses are consistent with the Zone objectives.

**1.1.6 Access to the Adjoining Site** – The submitted Civil Engineering plans illustrate a proposed 6m wide driveway layback and footway crossing with associated signage on adjoining land at 295 Fourteenth Avenue, Austral, legally known as Lot 5 in DP 30409. As this involves physical works on adjoining land, not only is adjoining land owners' consent required, but the neighbouring site is required to be identified as part of the development application. Council cannot determine development on land not identified in the development application. This also generates a number of considerations under the Liverpool Growth Centres Precincts DCP 2021 with regards to the Indicative Layout Plan and temporary access that have not been addressed.

**1.1.7 Childcare Centre Design and Operation** – The proposal in its current form, presents several inconsistencies with both the Child Care Planning Guideline and Education and Care Services National Regulations. Additional information is required to enable Council to assess its suitability, operational functionality and design.

**1.1.8 Car Parking** – Insufficient information has been provided to demonstrate that the proposed car park has been adequately designed to meet operational requirements, nor has a sufficient number of car parking spaces been provided to meet demand or compliance with the relevant planning controls

**1.1.9 Site Suitability** – Despite the site's size, it is not considered suitable for the proposed development due to a combination of zoning, environmental and infrastructure constraints. A substantial portion of the land is constrained by a riparian corridor identified as a Native Vegetation Retention Area and zoned SP2, significantly reducing the effective developable area and intensifying development on the remaining land. The balance of the site is zoned C4 – Environmental Living, which is intended for low-intensity development compatible with environmentally sensitive and semi-rural settings, and does not support the scale and intensity of a multi-use community facility and a 202-space car park. Further, the proposal relies on temporary access arrangements, with permanent access contingent on the future construction of Buwura Crescent under a separate development application, creating uncertainty regarding long-term site access and infrastructure capacity. In this context, the development is incompatible with the current character and infrastructure of the area and is considered premature.

**1.1.10 External Agencies** – Insufficient information has been provided to enable several agencies to complete their assessment, and as such are refusing to issue General Terms of Approval. This includes WaterNSW, Department of Planning and Environment-Water, and NSW Rural Fire Service.

#### 1.4 Exhibition of the Proposal

The application was notified in accordance with the Liverpool City Council Community Engagement Strategy 2022 between 18 September 2025 and 17 October 2025. Twenty-five (25) unique objections were received. The concerns raised in the submissions and the response to the concerns raised are detailed in Section 5.3 of the report.

#### 1.5 Reasons for the Report

Previously, the Sydney Western City Planning Panel would have been the determining body as the development has a CIV of more than \$5 million for the purposes of a child care centres, community facilities, educational establishments, and places of public worship, pursuant to Schedule 6 of the *State Environmental Planning Policy - SEPP (Planning Systems) 2021*.

As of 16 January 2026, the *Environmental Planning and Assessment Amendment (Regionally Significant Development) Regulation 2025* has come into effect. The amendment relates to **Section 275 Functions exercisable by council on behalf of Sydney district or regional planning panel** of the EP&A Regulation 2021. This amended has been designed to shift decision-making functions previously requiring Sydney district or regional planning panel determination so that they must now be exercised by councils where a Local Planning Panel has been constituted for the area.

In effect, applications lodged on or after 16 January 2026 will be determined by the Local Planning Panel under the council's consent authority role, rather than being referred to a regional panel.

Furthermore, pursuant to Section 275 (3A) a council must not determine a development application on behalf of a Sydney district or regional planning panel if the application is of a kind specified in the *Instruction on functions not exercisable by council on behalf of Sydney district or regional planning panels—certain regionally significant development applications* (the Instruction).

The Instructions, specifically note that council is not to determine a development application on behalf of a Sydney district or regional planning panel if the application was lodged before 4 September 2024. Given that the subject application was lodged 2 September 2025, the Local Planning Panel is the consent authority.

#### 1.6 Conclusion

The application has been assessed pursuant to the provisions of the *Environmental Planning and Assessment Act 1979*. Based on the assessment of the application and consideration of the abovementioned key issues, it is recommended that the application be refused.

## 2. THE SITE AND LOCALITY

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### 2.1 The Site

The address of the subject site is known as 315 Fourteenth Avenue, Austral and is legally referred to as Lot 6 in DP 30409 within the Liverpool Local Government Area. The land parcel comprises approximately 20,230m<sup>2</sup> (2.023 ha) and is zoned primarily C4 – Environmental Living and partially SP2 – Infrastructure under the State Environmental Planning Policy (Precincts—Western Parkland City) 2021.

The subject site consists of one frontage, with approximately 134.44m to Fourteenth Avenue on the southern boundary. In accordance with the Austral and Leppington North Indicative Layout Plan, the site will benefit from an additional eastern frontage to a future road located on neighbouring Lot 5 DP 30409, which is yet to be constructed.

The site has a significant slope towards the northwestern corner which is the low point at RL 50.18. The high point on the site is located in the northeastern corner where the survey level is RL 59.90. The site is currently used for residential purposes with a single storey brick residence, shed, water channel, swamp and dam located on site.

A desktop analysis of the site indicates that the site is heavily flood-affected, contains Bushfire Prone Land (Vegetation Category 3 and Buffer 100m and 30), contains both 'existing-certified' and 'existing no-certified' land under the BC Act, and a riparian corridor traverses the western sided of the site in the form of a first order Strahler tributary extending from Kemps Creek.



**Figure 1:** Aerial Image of the subject site



**Figure 2: Locality Map**

## 2.2 The Locality

The immediate locality to the west of the site is predominantly semi-rural in nature and is zoned RU6 – Transition under State Environmental Planning Policy (SEPP) (Precincts – Western Parkland City) 2021. Due to approved and executed subdivision developments in the immediate vicinity, the Site and surrounds are considered land in transition. Land immediately to the north, east and further south is zoned R2 – Low Density Residential and consists of predominantly semi-rural and residential properties, with multiple greenhouse developments also in the vicinity.

## 3. THE PROPOSAL AND BACKGROUND

### 3.1 The Proposal

The development application seeks consent for the demolition of existing structures, construction of a multi-use community centre, including a place of public worship, a 118 children’s centre-based childcare facility, an educational establishment, and an indoor recreational facility. The proposal consists of a total of 202 parking spaces with ancillary development, including a canteen, storage, and office space.

#### 3.1.1 Demolition:

- Demolition of the existing dwelling and associated sheds;
- Demolition of existing gravel and bitumen driveway;
- Removal of three (3) trees.

#### 3.1.2 Earthworks:

- Site levelling.

### 3.1.3 Parking, Access and Roads:

- Central car park accommodating 204 car spaces;
- 5 accessible car parking spaces included in this total;
- 7 bicycle parking spaces;
- 7 motorcycle parking spaces;
- 2 Small Rigid Vehicle bays;
- Vehicular access to the site is proposed via Buwuru Crescent, a proposed local road, which will be constructed as a part of the neighbouring subdivision to the east (based on the TIA).

### 3.1.4 Landscaping:

#### Proposed Landscaping:

- The design includes a variety of flexible open spaces to accommodate different user needs. A generous open turf area serves as a multi-purpose space for children's sports and recreational activities;
- A dedicated picnic and outdoor dining zone encourages social interaction and family gatherings, while comfortable seating areas and an outdoor firepit create relaxed, communal spaces;
- Play equipment and natural landscaping features is provided to the Childcare Centre.

#### Existing Riparian Zone:

- The existing Riparian Zone consists primarily of exotic riparian vegetation interspersed with some native species associated with the Cumberland Red Gum Riverflat Forest;
- A Vegetation Management Plan (VMP) has been prepared and incorporated within the landscape plans, identifying suitable replacement tree species and detailing appropriate management strategies for this zone;
- The southern boundary of this zone is impacted by debris and fill deposits requiring removal. Priority weeds, such as *Carduus nutans* (Nodding Thistle) and *Senecio madagascariensis* (Fireweed), are also present, highlighting the need for targeted weed management efforts within this area;
- As noted within the Biodiversity Development Assessment Report, Plant Community Types (PCT) identified within the site include Coastal Valleys Riparian Forest. This vegetation was in low condition and highly modified. No threatened species have been confirmed;
- As noted within the Vegetation Management Plan, the site contains Exotic dominated vegetation (degraded Cumberland Red Gum Riverflat Forest). One Riparian Management zone has been assigned (Figure 3). Revegetation and fencing requirements apply, such as the illustrated 1.2m rural fence;
- As noted within the Bushfire Assessment Report, potential bush fire fuels must be minimised with an APZ. The development is to be managed as an Inner Protection Area (IPA) requiring maximum canopy covers, tree and shrub areas.



**Figure 3: Riparian Management Zone (Extract from VMP)**

**3.1.5 CHILDCARE CENTRE:**

Ground Floor:

- Foyer, Reception & Office;
- Childcare rooms 2-3yr & 4-5yr;
- Toilet & Nappy Change;
- Kitchen;
- Laundry, Storage & Bin room;

- External Storage room;
- Outdoor play area.

First Floor:

- Wait & Consultation rooms;
- Staff Room, WC, Laundry & Pram storage;
- Childcare rooms 0-2yr, 1-2yr & 2-3yr;
- Toilets & Nappy Change;
- Cot room and Bottle room;
- Sheltered outdoor play area.

Operational Management:

- Hours of Operation: Monday to Friday: 7:00am – 7:00pm (based on PoM)
- Operational Capacity: 118 Children
- Staff: 23 Educators, 1 admin/director & 1 cook.

Noise Mitigation:

- The Childcare Centre operating hours are 7am-6pm (based on Acoustic Report);
- Acoustically Rated Solid fencing and balustrades proposed;
- All façade glazing, light-weight external walls and roof systems to comply with the minimum specifications outlined within the Acoustic Report;
- Only one set of proposed sliding doors for the playrooms can remain open during indoor play;
- All doors and windows shall be closed in the event of a music performance;
- Signs shall be posted in the carpark to turn off engines during idling.

**3.1.6 MOSQUE:**

Ground Floor:

- Entry Foyer;
- Prayer Hall;
- Male Ablution, WC & Showers;
- Office space x3.

First Floor:

- Reception, Office space x5, Interview room x2, Administration room, Staff room & WC;
- Fitness space;
- Recording studio;
- Sitting room & Prayer Hall;
- Female Ablution & WC.

Operational Management (based upon the PoM):

Hours of operation

- Operation 1:00pm – 10:00pm 7 days per week;  
(These hours are extended during special events – refer to tables below)

Prayer Times (Monday-Thursday and Saturday-Sunday) to be held between:

Prayer	Time	Maximum Attendance
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		<i>(includes staff)</i>
Midday Prayer	1:00pm to 1:30pm	15 <b>20*</b>
Afternoon Prayer	4:00pm to 4:30pm	15 <b>20*</b>
Dusk Prayer	5:30pm to 6:00pm	15 <b>20*</b>
Evening Prayer	8:30pm to 10pm	60 <b>40*</b>

Prayer Times (Friday) to be held between:

<b>Prayer</b>	<b>Time</b>	<b>Maximum Attendance (includes staff)</b>
Midday Prayer	1:00pm to 2:00pm <b><i>12:00pm to 2:00pm*</i></b>	120 <b>700*</b>
Afternoon Prayer	4:00pm to 4:40pm	15 <b>20*</b>
Dusk Prayer	5:30pm to 6:00pm	15 <b>20*</b>
Evening Prayer	8:30pm to 10pm	60 <b>40*</b>

- **Note:** There are inconsistencies within the provided plan of management (PoM). The above times and maximum attendances are based on Part 8.1 Table 1 of the PoM. Part 9.1 Table 2 of the PoM suggests that Friday Midday Prayer is from 12:00-2:00pm with a maximum attendance of 700 patrons. Inconsistencies are identified in bold and italic in the above table.
- **Note:** The operational hours and prayers time noted within the PoM are inconsistent with the Statement of Environmental Effects (SEE). The SEE appears to suggest four separate prayers times from 5:00am through to 10:00pm
- **Note:** The operational hours and prayers times noted within the PoM are inconsistent with the Acoustic Report. The Acoustic Report appears to suggest five separate prayer times with operational hours of 7:00am to 10:00pm. Furthermore, the Acoustic Report notes a maximum capacity of only 200 patrons.
- **Note:** The operational hours and prayers times noted within the PoM are inconsistent with the Traffic Impact Assessment (TIA). The TIA appears to suggest five separate prayer times from 5:00am through to 10:00pm.
- During prayer periods, all other activities on-site cease and all people onsite attend the prayer service.

Special Events (Monday-Sunday) to be held between:

<b>Event</b>	<b>Frequency</b>	<b>Time</b>	<b>Maximum Attendance (includes staff)</b>
Eid Morning Prayer	Twice per year	7:00am to 9:00am	700
Ramadan Evening Prayer	Daily for the month of Ramadan	7:00pm to 9:00pm	700

- Note: The day of which Eid and Ramadan occur vary each year;

- Separate approval is to be obtained for one off special events that are not accounted for within the Plan of Management.

Additional Services:

- Youth group activities will include religious and doctrine instruction, as well as general socialising associated with the formal activities of the Youth Group;
- Youth Counselling is to take place within the premises. No counselling services is to be provided on Fridays;
- Fitness studio to operate 8:00am to 7:00 pm Monday to Saturday. Up to 5 patrons at one time with 1 staff member on site.

Noise Mitigation:

- The Imam will recite the Quran to fellow worshippers. While the Imam's voice will be projected through the PA system to ensure that worshippers on both the ground and first floors can hear. This is the loudest activity that occurs within the Mosque;
- Out of five daily prayers, 3 prayers (early morning prayer, sunset prayer and prayer before 10pm) have Imam's recitation projected over the PA system. The other two prayers (prayers during the day) are silent;
- the prayer sessions will occur inside the hall and does not involve in playing of music, singing, or chanting;
- All windows are to be kept closed during the prayer sessions. The window/door glazing is to be at least Rw 32 glazing assembly.

3.1.7 YOUTH CENTRE:

Ground Floor:

- Entry foyer;
- Toilets;
- Canteen, Staffa area, Kitchen;
- Information room;
- Storage;
- Indoor Recreation.

First Floor:

- Youth Indoor area;
- Terrace garden.

Operational Management:

- Hours of Operation: Monday to Saturday: 4:00pm – 9:00pm
- Operational Capacity: 80 visitors
- Staff: 4 staff.

3.1.8 TUITION CENTRE:

Ground Floor:

- Entry foyer, Reception & Sitting area;
- Class room x6;
- Workshop;
- WC & Storage.

First Floor:

- Staff room, Office & WC;
- Sitting area & Storage;
- Class room x4;
- Workshop.

Operational Management (based on the SEE):

- Hours of Operation and maximum number of patrons:

<b>Day</b>	<b>Hours of Operation</b>	<b>Maximum Attendance</b>
Monday - Friday	9:00am to 2:00pm	10
	4:00pm to 9:00pm	80 <b><i>150* based on the TIA</i></b>
Saturday	9:00am to 3:00pm	80 <b><i>150* based on the TIA</i></b>

- Maximum number of patrons at one given time: 150 patrons;
- Staff: 13 staff.

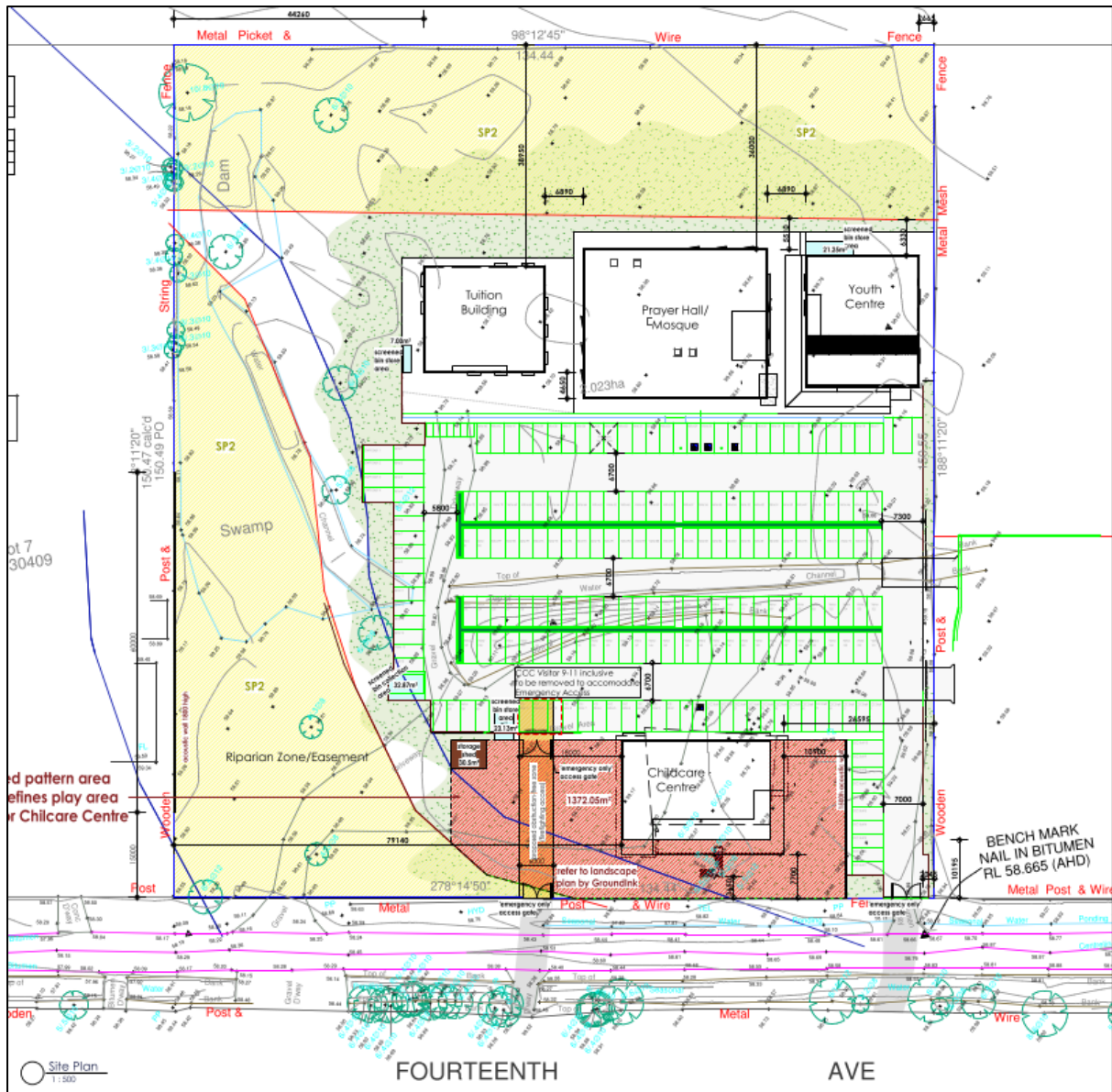
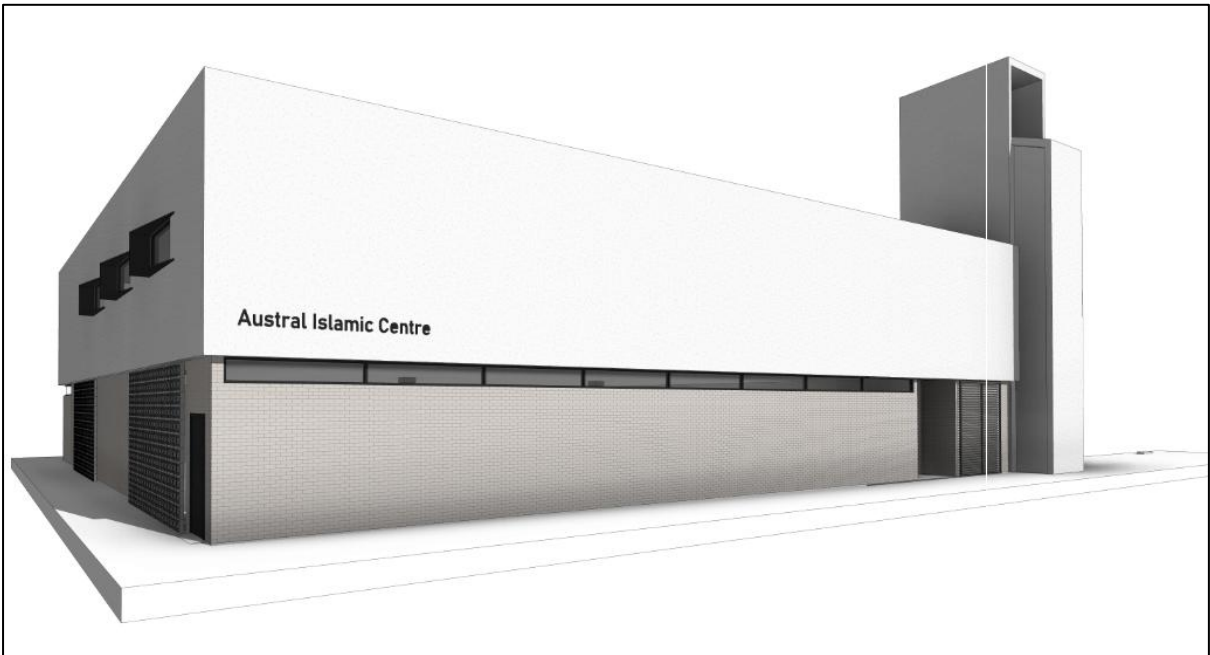


Figure 4: Site Plan.



**Figure 5: Childcare Centre Perspective**



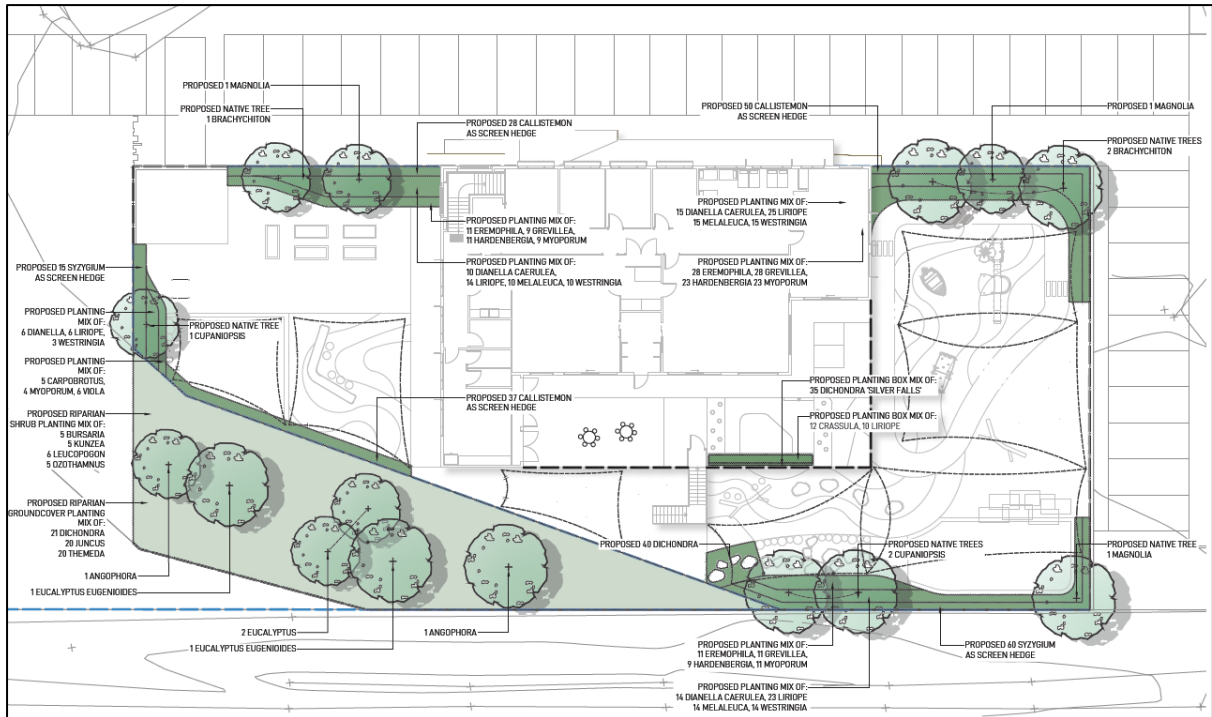
**Figure 6: Mosque Perspective**



**Figure 7:** Youth Centre Perspective



**Figure 8:** Tuition Centre Perspective



**Figure 9: Childcare Centre Landscape Plan**



**Figure 10: Landscape Masterplan**

### 3.2 Site History

The site holds multiple prior development consents. The following are previous development applications lodged and considered on the subject site.

**Table 2: Chronology of site history**

<b>DA Number</b>	<b>Proposal/Details</b>	<b>Status</b>
NO-382/2022	Lodged 29 March 2022: <u>Emergency Stop Work Order</u> relating to: <ul style="list-style-type: none"> <li>• Vegetation clearing</li> <li>• Importation of fill</li> <li>• Modification to existing watercourse</li> </ul>	Completed
NO-522/2022	Lodged 16 May 2022: <u>Notice of Entry</u>	Site Inspected 24 May 2022
NO-573/2022	Lodged 19 June 2022: <u>Stop use and demolish works order</u> relating to: <ul style="list-style-type: none"> <li>• Excavation and earthworks</li> <li>• Modification to existing watercourse</li> <li>• Transport Depot</li> <li>• Greenhouses</li> <li>• Concrete Slabs</li> </ul>	Completed
PL-92/2023	Pre-DA request lodged 2 January 2024: Multi use community centre, childcare centre, place of public worship and recreational place outdoor.	Advice provided 6 March 2024
DA-345/2025 <b>Neighbouring site: 295 Fourteenth Avenue, Austral</b>	Lodged 4 August 2025: Subdivision of the subject site into 22 lots (20 residential and 2 residue lots) over four stages. Includes demolition of all existing structures and pavements, clearing of approximately 41 trees and vegetation, and associated earthworks, civil works, and landscaping	<i>Currently Under Assessment</i>
DA-390/2025 <b>Subject Application</b>	<i>Lodged 2 September 2025: Demolition of existing structures, construction of a multi-use community centre, including a place of public worship, a 118 children’s centre-based childcare facility, an educational establishment, and an indoor recreational facility. The proposal consists of a total of 202 parking spaces with ancillary development, including a canteen, storage, and office space</i>	<i>Currently Under Assessment</i>

The subject development application was lodged on **2 September 2025**. A chronology of the development application since lodgement is outlined below including any Panel involvement (briefings, deferrals etc) with the application:

**Table 3: Chronology of the DA**

<b>Date</b>	<b>Event</b>
<b>2 September 2025</b>	DA lodged

<b>12 September 2025</b>	DA referred to internal departments and external agencies
<b>18 September 2025</b>	Advertising and notification of the application commenced
<b>17 October 2025</b>	Advertising and notification of the application concluded (25 unique submissions in opposition received)
<b>13 November 2025</b>	DEP Meeting
<b>27 January 2026</b>	The DA was appealed to the Land & Environment Court
<b>9 March 2026</b>	Local Planning Panel (LPP) to convene.

### 3.3 Design Excellence

In accordance with Council's adopted Design Excellence Panel Charter, the proposal is required to be reviewed by the Design Excellence Panel. The Charter forms part of Council's assessment framework for achieving high-quality design outcomes and informs Council's consideration of the application under section 4.15 of the EP&A Act 1979.

The application was referred to the Liverpool Design Excellence Panel (DEP). At its meeting 13 November 2025 the DEP noted that the proposal is **not supported** and must return to the panel with all feedback incorporated or addressed. Refer to **Attachment B - Tables of Compliance** for a comprehensive assessment of the DEP minutes.

## 4. STATUTORY CONSIDERATIONS

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When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iiia) *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, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*  
*that apply to the land to which the development application relates,*

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

#### 4.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

##### (a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Sustainable Building) 2022*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Precincts – Western Parkland City) 2021*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 4** and considered in more detail below.

**Table 4: Summary of Applicable Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Planning Systems) 2021	<u>Chapter 2:</u> State and Regional Development Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 5(b) of Schedule 6 as the development involves Private infrastructure and community facilities over \$5 million – development for the purposes of a child care centres, community facilities, educational establishments, and places of public worship/	Y
State Environmental Planning Policy (Resilience & Hazards)	<u>Chapter 4:</u> Remediation of Land Section 4.6 – The application is supported with a document titled Stage 1 Preliminary, Stage 2 Detailed Site Investigation, and Remedial Action Plan (RAP) prepared by Sydney Environmental Group.	N



<p>(Transport and Infrastructure) 2021</p>	<ul style="list-style-type: none"> <li>The proposal demonstrates compliance with Clause 2.122 in relation to traffic-generating development. The application was referred to TfNSW who raised no objection.</li> </ul> <p><u>Chapter 3: Educational Establishments and Child Care Facilities</u>  <u>Part 3.3: Early Education and Care Facilities – Specific development controls</u></p> <ul style="list-style-type: none"> <li>This proposal does not satisfy Clause 3.23, in that the provisions of the Child Care Planning Guideline (CCPG) have not been adequately addressed.</li> <li>This proposal does not satisfy Clause 3.23, in that the provisions of the Education and Care Services National Regulations 2011 have not been adequately addressed as required by the CCPG.</li> </ul> <p><u>Parts 3.4 - 3.7: Schools, Universities &amp; TAFE</u></p> <ul style="list-style-type: none"> <li>Insufficient information has been provided to establish whether the proposed Tuition Building is characterised as a school, tertiary institution, university or TAFE establishment, as such a full and comprehensive assessment against Parts 3.4 to 3.7 cannot be completed.</li> </ul> <p><u>Part 3.7: General Development Controls</u></p> <ul style="list-style-type: none"> <li>The proposal demonstrates compliance with Clause 3.58 in relation to traffic-generating development. The application was referred to TfNSW who raised no objection.</li> </ul>	<p>Y</p> <p>N</p> <p>N</p> <p>Y</p>
<p>State Environmental Planning Policy (Industry and Employment) 2021</p>	<p><u>Chapter 3: Advertising and signage</u></p> <ul style="list-style-type: none"> <li>The proposal demonstrates consistency with the required Section 3.1(1)(a).</li> <li>The application satisfies the assessment criteria specified in Schedule 5.</li> </ul>	<p>Y</p>
<p>State Environmental Planning Policy (Precincts – Western Parkland City) 2021</p>	<p><u>Appendix 4 – Liverpool Growth Centres Precinct Plan</u>  <u>Section 4.3: Height of Buildings</u></p> <ul style="list-style-type: none"> <li>While the proposed building heights may be consistent with the prescribed maximum building height, the provided elevations lack adequate information to verify the accuracy of these dimensions.</li> </ul> <p><u>Section 5.9: Preservation of trees and vegetation</u></p> <ul style="list-style-type: none"> <li>While Council is generally supportive of the proposed retention of trees and the proposed Vegetation Management Plan, Trees 6 &amp; 7 are identified as Category A being worth of constraint. These trees do not impede the location of the Childcare Centre, and the</li> </ul>	<p>N</p> <p>N</p>

	<p>applicant is encouraged to explore options for their retention.</p> <p><u>Section 5.10: Heritage Conservation</u></p> <ul style="list-style-type: none"> <li>The application is supported by an Archaeological Due Diligence Assessment. While Council is generally supportive of the report and its findings, the archaeological survey section of the report needs to be amended to include site photos of the survey as identified in the Due Diligence requirements.</li> </ul>	N
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Consideration of the relevant SEPPs is outlined below.

**State Environmental Planning Policy (Biodiversity and Conservation) 2021**

- Chapter 2 – Vegetation in non-rural Areas

While the C4 Zone area functions in a similar context when land is not urbanised to that of the rural area, it is not part of the standard Rural zone and as such Chapter 2 applies.

It is noted that only a small portion (21.%) of the north-eastern part of the site has biodiversity certification.

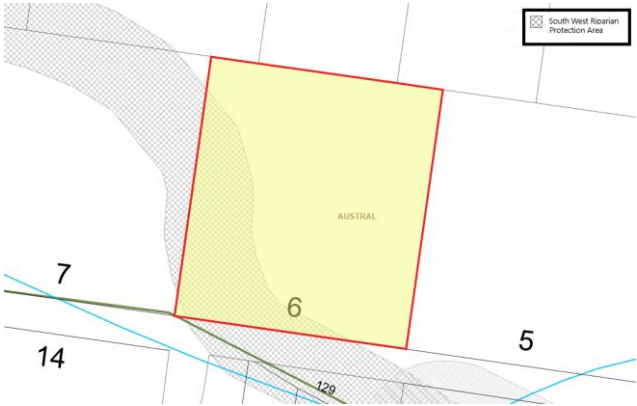
The proposal does not exceed the biodiversity offsets scheme threshold, however, it involves the removal of three (3) trees to accommodate the proposed childcare centre. The application is supported by an Arborist Report which indicates that trees T6 and T7 are identified as Category A, being worthy of constraint. These trees do not impede the location of the Childcare Centre, and the applicant is encouraged to explore options for their retention

Furthermore, the application has been referred to Department of Planning and Environment-Water who have notes that the application involves the realignment of mapped watercourses and encroachment into prescribed Vegetated Riparian Zones without demonstrating avoidance, minimisation or adequate protection of riparian vegetation. The required minimum VRZ widths are not provided, inner VRZ areas are impacted by built works, and no adequate Vegetation Management Plan or justification has been submitted to address these impacts in accordance with the SEPP and as such cannot be supported in its current form.

- Chapter 6 – Water Catchments

The subject land is located within the Hawkesbury-Nepean River catchment and as such Part 6.2 – Development in regulated catchments applies to the application. The relevant clauses are as follows:

Clause	Comment
6.6 Water quality and quantity	<p><b>Non-Compliance – Additional Information Required</b></p> <p>The application is supported by a Stormwater Management Plan prepared by Colliers. The proposed</p>

	<p>works for stormwater management includes construction of biofiltration beds, and a pit and pipe drainage network to discharge runoff into an existing drainage line within the site, which ultimately drains to Kemps Creek. This site is located at the immediate downstream end of the Basin 17 catchment and it is proposed to construct a trunk drainage path through the northern portion of the site as part of the regional basin works.</p> <p>Given the site's location within an active floodway and the absence of sufficient supporting stormwater, water quality and flood impact modelling, Council cannot be satisfied that the proposal would achieve neutral or beneficial water quality outcomes or minimise impacts on water flows within the regulated catchment until the requirements set out in Part 6.8 below are addressed.</p> <p>Furthermore, Council's recent records confirm that unauthorised filling and construction have been undertaken within the site's floodway area. These works adversely impact the existing water catchment and neighbouring properties.</p> <p>The application was reviewed by Council's Land Development Engineer who....</p>
<p>6.7 Aquatic ecology</p>	<p><b>Non-Compliance – Additional Information Required</b></p> <p>A First order - Strahler tributary extending off Kemps Creek traverses the site. The south west Riparian protection area extends through the western and southern sides of the site. No tree removal or clearing of riparian vegetation is proposed within this area.</p>  <p>However, the proposal has the potential to result in direct and cumulative impacts on aquatic and riparian ecology through filling, altered flows and sedimentation. Therefore, Council cannot be satisfied that the proposed development would not result in any adverse impacts on aquatic ecology until an amended Stormwater Management Plan is provided in accordance with the requirements set out in Part 6.8 below.</p>
<p>6.8 Flooding</p>	<p><b>Non-Compliance – Additional Information Required</b></p>

	<p>Council cannot be satisfied that the proposed development would not result in a release of pollutants in the case of a flood. In the absence of the constructed regional drainage infrastructure, the proposal may impede the natural recession of floodwaters and increase the risk of pollutant impact during flood events.</p> <p>The application has been reviewed by Councils Floodplain Engineer who noted the land is heavily flood-affected, with approximately 80% situated within the floodway of Tributary 2 of Kemps Creek (KC08). To enable development within the Austral and Leppington North precincts, Council has prepared designs for regional basins and trunk drainage systems. These works are expected to reduce flood impacts at the subject site, particularly once Regional Basin 17 (proposed immediately west of the site) is constructed.</p> <p>However, until Basin 17 and its associated trunk drainage system are completed, the site will remain within the active floodway of Tributary 2. Consequently, no filling or development can proceed prior to their construction. This advice has previously been provided to the applicant during the Pre-DA meeting and in Pre-DA correspondence dated 21/02/2024.</p> <p>Council's recent records confirm that unauthorised filling and construction have been undertaken within the site's floodway area. These works adversely impact the existing flood regime and neighbouring properties. All unauthorised works must be removed, and the site restored to pre-fill levels before any development application can be considered. Evidence of rectification, including pre- and post-work survey plans, must be submitted to Council.</p> <p>Following the completion of Basin 17 and its trunk drainage system, the site may be developed in accordance with its C4 zoning. Development on C4 land is restricted, with filling generally limited to building pads and driveways. Any loss of floodplain storage below the 1% AEP level must be fully compensated. Cut-and-fill volume calculations must be based on the site's pre-unauthorised natural landform.</p> <p>Under the Liverpool LEP 2008, childcare centres are classified as sensitive and hazardous uses. Such facilities are not permitted in high and medium flood risk areas within the 1% AEP flood extent.</p>
6.9 Recreation and public access	<p><b>Not Applicable</b> No impact proposed to recreational land uses within the regulated catchment.</p>
6.10 Total catchment management	<p><b>Non-Compliance – Additional Information Required</b></p>

	Council cannot be satisfied that the proposed development will not have an adverse environmental impact on the existing stormwater management system of neighbouring LGAs until an amended Stormwater Management Plan is provided in accordance with the requirements set out in Part 6.8 above.
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Based on the above assessment, the proposed development does not satisfactorily satisfy the requirements of Chapter 6 and is not considered to be consistent with the SEPP (Biodiversity and Conservation) 2021.

**State Environmental Planning Policy (Resilience and Hazards) 2021**

(a) Chapter 4: Remediation of Land

The proposal has been assessed under the relevant provisions of SEPP (Resilience and Hazards) 2021, specifically Chapter 4 – Remediation of Land.

The objectives of SEPP (Resilience and Hazards) 2021 are:

- *to provide for a statewide planning approach to the remediation of contaminated land.*
- *to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

The application is supported with a document titled Stage 1 Preliminary and Stage 2 Detailed Site Investigation prepared by Sydney Environmental Group. The report notes that soil sampling was undertaken on 17 October 2023. A total of thirty-one (31) test pits (TP01 to TP30 and TP39) were advanced across the site. Councils Environmental Health officer notes that whilst the number of samples were generally consistent with the minimum number of sampling locations specified within the Environment Protection Authority Sampling design part 1 - application Contaminated Land Guidelines 2022, the samples were taken 2 years ago and may not be an adequate reflection of the current status of the site.

Notwithstanding, the report recommends a Remedial Action Plan is to be prepared by a suitably qualified environmental consultant detailing the steps required to delineate and remediate identified surficial asbestos and Benzo(a)pyrene impacts.

The application is supported by a Remedial Action Plan (RAP) prepared by Sydney Environmental Group. The potential list of remediation options associated with impacted soil is extensive. Consequently, only relevant remediation strategies that have been considered which include the following:

- On-site treatment and beneficial reuse; and
- Off-site landfill disposal – excavation / removal and disposal.

The preferred remediation option will comprise of a combination of ‘on-site treatment (in-situ / ex-situ raking / picking)’ and ‘off-site removal / disposal’ as it will be consistent the ultimate end land use of the site. Table 8.3.1 summarises the preferred remediation strategies with regards to the identified contamination within the site.

Concerns are raised regarding the appropriateness of the selected remediation strategies outlined in Table 8.3.1, in particular, for AEC02, reuse of soil contaminated with bonded asbestos on site, when a childcare centre is proposed. In this regard, Council is able to request that a B2 Site Audit Statement and associated report/s are provided to verify that the information provided by the proponent adheres to appropriate standards, procedures and guidelines.

### EPA Site Audit Statement

A Site Auditor accredited under the Contaminated Land Management Act 1997 must be engaged to issue a Section B2 Site Audit Statement in accordance with the Contaminated Land Management Act 1997 and approved Guidelines made thereunder including the 'Guidelines for the NSW Site Auditor Scheme' (3rd Edition) published by the NSW Environment Protection Authority dated October 2017.

The Site Audit Statement and Site Audit Report must certify the suitability of the land for the use. The Section B2 Site Audit shall determine the appropriateness of the investigation plan (combined PSI and DSI document) and the remediation plan documents supporting this application. The Statement and Site Audit Report must be submitted to Liverpool City Council for review.

Clause 4.6(1) prescribes the contamination, and remediation matters that must be considered by Council before determining the development application. Specifically, Council must consider:

- whether the land is contaminated; and
- if the land is contaminated, the Council must be satisfied that the land is suitable in its contaminated state (or will be suitable after remediation); and
- if the land requires remediation to be made suitable, Council is satisfied that the land will be remediated before it is used.

Pursuant to Clause 4.6(1) the following shall be addressed:

Clause	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless—	
(a) It has considered whether the land is contaminated, and	As noted above, the provided PSI and DSI have identified surficial asbestos and Benzo(a)pyrene impacts.
(b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	As noted above, the land in its current contaminated state is not considered suitable for the purpose of the development.  While remediation option have been considered, Council raises concerns regarding the appropriateness of the selected remediation strategies outlined in Table 8.3.1, in particular, for AEC02, reuse of soil contaminated with bonded asbestos on site, when a childcare centre is proposed.  It is therefore, requested that a Site Audit Statement (SAS) is provided to determine the appropriateness of the investigation plan (combined PSI and DSI document) and the

	remediation plan documents supporting this application.
(c) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	Council cannot be satisfied that the land will be remediated before the land is used until the remediation measures have been confirmed by a Site auditor in a SAS.

Based on the above assessment, the proposal in its current form does not adequately satisfy the requirements of Chapter 4 and is not considered to comply with the SEPP (Resilience and Hazards) 2021.

### **State Environmental Planning Policy (Sustainable Buildings) 2022**

SEPP (Sustainable Buildings) 2022 (SEPP Sustainable Buildings) was made in August 2022 and came into effect on 1 October 2023 and applies to both residential and non-residential development. The aims of the SEPP encourage design and construction of more sustainable buildings across NSW. The standards prescribed by the SEPP ensure the general sustainability measures incorporated into the building design including but not limited to water usage, energy consumption and thermal performance as well as the monitoring of embodied energy used within building materials.

#### **(a) Chapter 3: Standards for non-residential development**

Chapter 3 applies to development, other than development for the purposes of residential accommodation, that involves-

- *the erection of a new building, if the development has a capital investment value of \$5 million or more, or*
- *alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10 million or more.*

The proposal involves the erection of a new non-residential building with a CIV of greater than \$5 million, therefore the requirements set out within Chapter 3 of the SEPP apply.

A Section J Report, prepared by Efficiency Assessments, has been provided. The report confirms the proposed meets the energy efficiency requirements of Section J of the NCC using deemed-to-satisfy methods subject to the implementation of specific measures.

Pursuant to Clause 3.2(1), all impacted non-residential development must report on the general sustainability measures incorporated into the scheme for the consent authority's consideration. As outlined within the Planning Circular PS 23-001, "It is not critical that all general provisions are incorporated into the development, however the applicant should show due consideration. In some cases, there may be sound reasons why some or all measures are not achieved."

An assessment against Clause 3.2 is provided in the table below.

Objective	Comment
<b>3.2 Development consent for non-residential development</b>	
(1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—	
(a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,	<b>Non-Compliance</b> The report does not specifically address this item.  The application is also supported by a Waste Management Plan, prepared WPS, however this does not specifically address reuse.
(b) a reduction in peak demand for electricity, including through the use of energy efficient technology	<b>Additional Information Required</b> The report touches on minimum energy efficiency AC equipment requirements, energy saving lift performance, lighting timers, and a requirement checklist for Energy Efficiency etc.
(c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,	<b>Additional Information Required</b> While the report touches on artificial lighting and mechanical heating via AC systems. It also references skylight controls and light-coloured roofing which support passive cooling.
(d) the generation and storage of renewable energy,	<b>Non-Compliance</b> The report does not specifically address this item.
(e) the metering and monitoring of energy consumption,	<b>Additional Information Required</b> The report touches on timed electronic devices.
(f) the minimisation of the consumption of potable water.	<b>Non-Compliance</b> The report does not specifically address this item.
3.2 (2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.	<b>Non-Compliance</b> The report does not specifically address this item.  A NABERS Embodied Emissions Material Form should be provided to demonstrate that the embodied emissions attributable to the development have been quantified
<b>3.3 Other considerations for large commercial development</b>	
This section contains standards in relation to large commercial development.	<b>Not Applicable</b> The proposal is not considered to be large commercial development.
<b>3.4 Other considerations for certain State significant development</b>	
This section contains standards in relation to State Significant Development.	<b>Complies</b> The proposal does not meet the trigger for State Significant Development.

It is noted that the SEPP requires additional sustainability measures and reporting beyond the provided Section J Report, which only addresses energy efficiency compliance in relation to the NCC. Additional information, such as an ESD Report or a NABERS Embodied Emissions Material Form if applicable should be provided to demonstrate that Chapter 3, Clause 3.2 of SEPP (Sustainable Buildings) 2022 has been addressed in full.

### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

This proposal has been assessed under the provisions of *SEPP (Transport and Infrastructure) 2021*, specifically Chapter 2 – Infrastructure.

## Chapter 2 – Infrastructure: Part 2.3 Development Controls

### Division 17 Roads and Traffic

#### i. Clause 2.122 Traffic-generating development

The proposed development constitutes Traffic-generating development in accordance with Column 1 of the Table to Schedule 3 as the proposal generates 200 or more motor vehicles per hour. The application was referred to TfNSW who advised that the proposal traffic generation will unlikely impact the surrounding classified road network and that no further comment was required.

## Chapter 2 – Infrastructure: Part 2.3 Development Controls

### Part 3.3 Early Education and Care Facilities – Specific development controls

This proposal has been assessed under the provisions of *SEPP (Transport and Infrastructure) 2021*, specifically Chapter 3 – Educational establishments and child care facilities (previously known as *SEPP (Educational Establishments and Child Care Facilities) 2017*). The key controls are discussed in the following table:

This proposal has been assessed under the provisions of *SEPP (Transport and Infrastructure) 2021*, specifically Chapter 3 – Educational establishments and child care facilities (previously known as *SEPP (Educational Establishments and Child Care Facilities) 2017*). The key controls are discussed in the following table:

<b>State Environmental Planning Policy (Transport and Infrastructure) 2021</b>			
<b>Chapter 3 – Educational Establishments and child care facilities</b>			
<b>Part 3.3 Early education and care facilities – specific development controls</b>			
<b>Clause</b>	<b>Requirements</b>	<b>Proposed</b>	<b>Comment</b>
<b>3.22</b> - Centre-based child care facility— concurrence of Regulatory Authority required for certain development	This clause applies to development for the purpose of a centre-based child care facility if:  (a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the <i>Education and Care Services National Regulations</i> , or	Regulations 107 and 108 of Educational and Care Services National Regulation specifies the following:  <ul style="list-style-type: none"> <li>Indoor - 3.25m<sup>2</sup> per child</li> <li>Outdoor - 7.0m<sup>2</sup> per child</li> </ul> <b>Required Indoor:</b> (118 x 3.25sqm) = 383.50m <sup>2</sup>  <b>Provided Indoor:</b> 0-2 Years Rm – 38.64m <sup>2</sup>  1-2 Years Rm – 53.07m <sup>2</sup>  2-3 Years Rm A – 63.05m <sup>2</sup>  2-3 Years Rm B – 63.90m <sup>2</sup>  2-3 Years Rm C – 82.60m <sup>2</sup>  4-5 Years Rm – 81.86m <sup>2</sup>	<b>Complies</b>

		<b>Total proposed indoor</b> = 383.12m <sup>2</sup>	
	(b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations	<b>Required outdoor:</b> (118 x 7) = 826m <sup>2</sup> <b>Provided Outdoor:</b> 0.5-3 Years – 160.22m <sup>2</sup> 2-3 Years – 326.78m <sup>2</sup> 4-5 Years – 612.45m <sup>2</sup> <b>Total proposed outdoor</b> = 1,099.45m <sup>2</sup>	<b>Complies</b>
<b>23</b> - Centre-based child care facility—matters for consideration by consent authorities	Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development	The assessment of the proposed is in accordance with the Child Care Planning Guidelines. As demonstrated in part (ii) of this report, multiple non-compliances have been identified.	<b>Non-Compliance</b>
<b>24-</b> Centre-based child care facility in Zone IN1 or IN2—additional matters for consideration by consent authorities	To minimise land use conflicts with existing industrial development	The Childcare centre is located within the C4-Environmental Living area of the site and is not located in proximity to industrial development.	<b>Complies</b>
<b>25</b> - Centre-based child care facility—floor space ratio	FSR in zone R2 – Low Density Residential is not to exceed 0.5:1 unless specified elsewhere.	The Childcare centre is located within the C4-Environmental Living area of the site.	<b>N/A</b>
<b>26</b> - Centre-based child care facility—non-discretionary development standards	To identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters. –  a) the development may be located at any distance from an existing or proposed early education and care facility  b) indoor and outdoor space complies with regulation 107 and 108 of the Education and Care Services National Regulations	Noted  Complies as per Clause 3.22 above.	<b>Complies</b>

	<p>c) the development may be located on a site of any size and have any length of street frontage or any allotment depth,</p> <p>d) the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</p>	<p>Noted</p> <p>Noted. The site is not a State or local heritage item.</p>	
<b>27</b> - Centre-based child care facility— development control plans	<p>(1) A provision of a development control plan that specifies a requirement, standard or control does not apply in relation to</p> <p>a) Operational or management plans or arrangements (including hours of operation)</p> <p>b) Demonstrated need or demand for child care services</p> <p>c) Proximity of facility to other early education and care facilities</p> <p>d) Any matter in relation to development for the purpose of a centre-based child care facility contained in design principles set out in Part 2 of the <i>Child Care planning Guideline</i> or matter for consideration set out in Part 3 of the requirements set out in Part 4 of Guideline other than height, side and rear setback or car parking rates</p>	<p>The assessment is accompanied by a PoM. The core hours of operation are Monday to Friday: 7:00am to 7:00pm. Closed Saturdays, Sundays, and Public Holidays</p> <p>The application is supported by a Social Impact Assessment that suggests a demand for child care services.</p> <p>The nearest childcare centre is approximately 1.5km south-east of the site.</p> <p>Noted.</p>	<p><b>Noted</b></p> <p><b>Noted</b></p> <p><b>Noted</b></p> <p><b>Noted</b></p>

Pursuant to Clause 3.23 before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the *Child Care Planning Guideline*, in relation to the proposed development.

In accordance with the Child Care Planning Guideline (CCPG) 2021, Chapter 4 of the *Education and Care Services National Regulations 2011* (the Regulations) are to be applied.

The proposal is not considered to be consistent with the CCPG and the Regulations. A full assessment of the development against the requirements of CCPG and the Regulations is provided in **Attachment B**. The below is a summary of proposed non-compliance's.

#### **i. Fencing**

- Pursuant to Regulation 104 Fencing:

*(1) The approved provider of an education and care service must ensure that any outdoor space used by children at the education and care service premises is enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.*

- Pursuant to the Child Care Planning Guideline 2021:

C6:

*Create a threshold with a clear transition between public and private realms, including:*

- *fencing to ensure safety for children entering and leaving the facility*

C9:

*Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.*

C10:

*High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary.*

C37:

*Car parking design should:*

- *include a child safe fence to separate car parking areas*

Council cannot be satisfied that the outdoor space is enclosed by a fence of a suitable height and design that ensures children cannot go through, over or under it as a fencing plan with detailed sections and elevations has not been provided.

Furthermore, there are inconsistencies between plans as to the proposed fencing throughout. The provided Landscape Plan illustrates a 1.2m rural fence to the south-western perimeter of the outdoor unencumbered space and a privacy fence to the southern perimeter. This conflicts with the provided Statement of Environmental Effects (SEE) in which it is stated that a 2.1m timber lapped and capped boundary fence is proposed around the outdoor play area. The Acoustic Report also makes recommendations for 1.5m fencing that is not illustrated on the relevant Landscape or Site Plans.

While acoustic fencing is suitably setback from the boundary Council recommends reviewing the child care configuration for an improved site layout which can envelop the child play areas and preclude the use of acoustic fencing, particularly to possible eastern residential uses.

No detail has been provided as to the fence separating the car parking area from the play area along the northern boundary of the Childcare Centre. No detail has been provided as to the front fence of the site along Fourteenth Avenue. The Landscape plans indicate a 1.2m rural fence running along the Riparian corridor and acoustic fencing to parts of the Childcare Centre, but no detail is provided on the proposed front or boundary fence.

A separate Fencing Strategy Plan should be submitted. The plan should identify the location, height, material, and level of transparency of all fences. Detailed sections and elevations should also accompany the plan.

## ii. Outdoor Unencumbered Space

- Pursuant to Regulation 108 Space requirements – outdoor space:

*(2) The approved provider of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 7 square metres of unencumbered outdoor space.*

- Pursuant to the Chapter 3 of SEPP (Transport and Infrastructure) 2021:

3.22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development:

*(1) This section applies to development for the purpose of a centre-based child care facility if—*

*(b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.*

While the overall total unencumbered outdoor space is consistent with the requirements under Regulation 108, individual outdoor spaces do not meet the minimum requirements for the number of children associated with that space. For instance, the first floor outdoor play area does not provide sufficient outdoor space for 48 children on the first floor.

Furthermore, the ground floor outdoor area does not comply with Regulation 108 given the proposed 6m wide obstruction-free zone for firefighting access purposes. Unencumbered outdoor play area cannot be located within this area, nor can structures be provided within this area. This has not been considered within the Landscaping, architectural plans or associated operations of the childcare centre.

## iii. Outdoor Space

- Pursuant to the Child Care Planning Guideline 2021:

Principle 3 – Adaptive learning spaces:

*Good facility design delivers high quality learning spaces and achieves a high level of amenity for children and staff, resulting in buildings and associated infrastructure that are fit-for-purpose, enjoyable and easy to use. This is achieved through site layout, building design, and learning spaces' fit-out.*

The proposed outdoor play area has been divided based on the age groups which may not be ideal for social cohesion. Council's research suggests; a central play area encourages

interaction and social skills development among children of different ages. However, it may pose safety concerns, especially with younger children near more active older children. Alternatively, separated or partially separated play areas provide safer environment for younger children and facilitates more focused supervision and individualized care. Though Children may have less opportunity to interact with children outside their age group which generates potential for isolation. If space is limited, a central, shared space with careful zoning and supervision may be the best option. Council recommends reviewing the proposed layout for an alternative design solution to maximise safety and inclusiveness.

Furthermore, the location of the outdoor play areas within the front setback area is largely the result of the high number of children spaces (118-place) proposed by the childcare centre, effectively maxing out the site and pushing outdoor play to the street frontage. This has the potential to set an undesired precedent for future child care centres. It is considered that this presents a compromised amenity outcome for the children's play areas, being susceptible to traffic noise and air pollution. Locating the outdoor play area within the front setback would trigger a requirement for 1.8m high fencing to address safety issues. This is in contrast to Council standard preference for 1.2m high front fencing to the street frontage and has the potential to create inconsistency with the prevailing character of the area.

#### **iv. Supervision**

- Pursuant to the *Education and Care Services National Regulations 2011*:

*Regulation 109 Toilet and hygiene facilities:*

*The approved provider of an education and care service must ensure that—*

- (a) adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and*
- (b) the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.*

*Regulation 112 Nappy change facilities:*

*(4) The approved provider of the service must ensure that nappy change facilities are designed, located and maintained in a way that prevents unsupervised access by children.*

*Regulation 115 Premises design to facilitate supervision:*

*The approved provider of a centre-based service must ensure that the education and care service premises (including toilets and nappy change facilities) are designed and maintained in a way that facilitates supervision of children at all times that they are being educated and cared for by the service, having regard to the need to maintain the rights and dignity of the children.*

The safe use of the toilet and nappy change facilities adjacent to each playroom cannot be guaranteed as adequate supervision of these areas has not been demonstrated. While the plans appear to illustrate an opening to each toilet and nappy change room, the provided Door & Window Schedule (Page 2.6) does not provide information on the opening.

Furthermore, the first floor 'Ages 0-2' room does not have a toilet or nappy change area associated with it. Confirmation on how the educator of this room would supervise children using toilet facilities while maintaining supervision of the class room must be provided.

## v. Solar Access

- Pursuant to Regulation 114 Outdoor space - shade:

*The approved provider of a centre-based service must ensure that outdoor spaces provided at the education and care service premises include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.*

- Pursuant to the Child Care Planning Guideline 2021:

### 4.11 Shade:

*Outdoor play areas should:*

- *have a minimum of 2 hours of solar access between 8.00am and 4.00pm during winter months, for at least 30% (or 2.1m<sup>2</sup>) of the 7.0m<sup>2</sup> of outdoor space per child required.*
- *adequate shade for outdoor play areas is to be provided in the form of natural shade such as trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area*
- *have evenly distributed shade structures over different activity spaces.*

### C11:

*Orient a development on a site and design the building layout to:*

- *optimise solar access to internal and external play areas*

While the provided Shadow Diagrams (Page 8 -10) appear to illustrate a minimum of 2 hours of solar access to at least 30% of the outdoor space, the plans do not take into account level changes, fencing, canopy tree and shade sails. These considerations must be included to ensure an accurate depiction of overshadowing.

Furthermore, the provided Shadow Diagrams illustrate that the Level 1 outdoor play area (0.5-3 age) will receive almost no direct solar access. This is further exacerbated by the 1.5 high balustrade recommended in the Acoustic Report. The 4-5 age group play area will also be largely shaded in winter afternoons by the child care facility itself.

## vi. Educators

- Pursuant to Regulation 123 Educator to child ratios – centre-based services:

*(1) The minimum number of educators required to educate and care for children at a centre-based service is to be calculated in accordance with the following ratios—*

- (a) for children from birth to 24 months of age—1 educator to 4 children;*
- (b) for children over 24 months and less than 36 months of age—1 educator to 5 children;*
- (c) for children aged 36 months of age or over (not including children over preschool age)—1 educator to 11 children; (It is noted that 1 to 10 educators are required pursuant to NSW Specific provisions Regulation 271)\**
- (d) for children over preschool age, 1 educator to 15 children.*

According to the provided SEE there is no educator/staff provision for any children in the 3-4 year (36 – 48 months) age group. This should be confirmed, and the staff calculations revised accordingly if any change is proposed.

		TOTAL:	396.42M <sup>2</sup>	118 CHILDREN	
STAFFING:	AGE GROUP	CAPACITY	STAFF: CHILD	STAFF	
ROOM 1:	2-3 year old Room	20 children	1:5	4	
ROOM 2:	2-3 year old Room	25 Children	1:5	5	
ROOM 3:	4-5 year old Room	25 children	1:11	2.5	
ROOM 4:	0-2 year old Room	12 children	1:4	3	
ROOM 5:	1-2 year old Room	16 Children	1:4	4	
ROOM 6:	2-3 year old Room	20 Children	1:5	4	
1x staff proposed as chef on site, 1x staff proposed as admin/manager					
* Regulation 123 contains NSW specific provisions			TOTAL:	25	

**Figure 11:** Extract from Statement of Environmental Effects (Source: SEE page 13)

Furthermore, the provided Plan of Management (PoM) contains a staff roster that suggests a total of 14 educators to cover the 0-2 and 2-3 age groups, however, this is inconsistent with the 20 educators required as per Regulation 123. Additional information should be provided to illustrate how the proposed roster will work in operation.

**TABLE 1: SUMMARY OF STAFF TO CHILD RATIOS**

4.4 The Centre shall roster staff as follows:

ROOM	QUALIFICATION	ARRIVE TIME	DEPARTURE TIME
0 - 2 years and 2-3 years	Diploma x3	7:00am	6:00pm
	ECT x3	8:30am	4:30pm
	Cert III x4	7:00am	3:30pm
	Trainee x4	9:00am	5:00pm
3 - 5 years	Diploma x4	7:00am	3:30pm
	Cert III x4	10:00am	6:00pm
	ECT x3	8:30am	4:30pm

**TABLE 2: PROPOSED STAFF ROSTER**

**Figure 12:** Extract from Plan of Management (Source: PoM page 2)

## vii. Visual Amenity

- Pursuant to the Child Care Planning Guideline 2021:

**C1:**

*For proposed developments in or adjacent to a residential zone, particularly if that zone is for low density residential uses consider:*

- *visual amenity impacts (e.g. additional building bulk and overshadowing, local character)*

**C5:**

*The proposed development should:*

- *contribute to the local area by being designed in such a way to respond to the character of the locality and existing streetscape*

The location and bulk of the Childcare Centre is not considered suitable within the local context. The child care facility provides for an upper-level outdoor play space. Given the proximity with surrounding neighbours and the impacts on amenity and fencing due to noise sources, and also the site area availability, Council does not support the need for the child care facility to be two storeys given the land available on the site.

Furthermore, there is a separate Development Application (DA-345/2025) by the same applicant for the subdivision of the neighbouring lot to the east (295 Fourteenth Avenue) into 22 lots (20 residential and 2 residue lots) over four stages. Council recommends greater integration between the two developments by the same owner. The positioning of the child care facility can establish a corner on the proposed new street on the adjacent development, while providing for an area of children outdoor play area secluded from Fourteenth Avenue.

### **viii. Drop-off and Pick-up**

- Pursuant to the Child Care Planning Guideline 2021:

#### C5:

*The proposed development should:*

- *use landscaping to positively contribute to the streetscape and neighbouring and neighbourhood amenity*

#### C6:

*Create a threshold with a clear transition between public and private realms, including:*

- *integrating existing and proposed landscaping with fencing.*

#### C17:

*Appropriate planting should be provided along the boundary integrated with fencing.*

*Use the existing landscape where feasible to provide a high quality landscaped area by:*

- *reflecting and reinforcing the local context incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.*

The landscape plan mentions a mix dianella caerulea, lirioppe, melaleuca, westringia with additional syzgium and callistemon as a screen hedging along the various boundaries. However, screen planting should be provided to all boundaries, particularly those adjacent to car parking areas. It is recommended that screen planting species be reviewed to incorporate screen planting of a suitable height for privacy.

The provided Arborist Report and Demolition Plan indicate the removal of Trees T29, T6 & T7. The Arborist Report indicates that T6 and T7 are identified as Category A, being worthy of constraint. These trees do not impede the location of the Childcare Centre, and the applicant is encouraged to explore options for their retention.

It is also noted that buildings should be set back a minimum of 3 metres from existing trees. Council requires clarification of the tree retention and recommends the trees to be retained

and if not, for a replacement ratio of 3 new trees per tree removed to be applied, consistent with the requirements of the Liverpool Tree Management Strategy.

Further, Council recommends the use of low fences and planting to delineate communal and private and open spaces from adjoining public open space, namely through the Riparian Zone at the front of the site to Fourteenth Avenue. For the child care facility, appropriate planting should be provided along the boundary, integrated with fencing. The proposal does not include a provision for edge planting along internal fences.

## **ix. Landscaping**

- Pursuant to the Child Care Planning Guideline 2021:

### C3:

*A child care facility should be located:*

- *there are suitable and safe drop off and pick up areas, and off and on street parking*
- *near or within employment areas, town centres, business centres, shops*

### C15:

*Entry to the facility should be limited to one secure point which is:*

- *directly accessible from the street where possible*
- *directly visible from the street frontage*

### C35:

*The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:*

- *separate pedestrian and vehicle entries from the street for parents, children and visitors*

The proposed drop off and pick up areas are not considered to be optimal. Consideration should be given to pick up and drop off areas for parents directly from the local road, without needing for vehicles to access the central car park. Council recommends revising the layout of the facility to allow for direct accessibility and visibility from existing and proposed streets adjacent to the site.

## **x. Entry**

- Pursuant to the Child Care Planning Guideline 2021:

### C7:

*On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.*

### C11:

*Orient a development on a site and design the building layout to:*

- *ensure buildings along the street frontage define the street by facing it*

### C15:

*Entry to the facility should be limited to one secure point which is:*

- *directly accessible from the street where possible*

- *directly visible from the street frontage*
- *in a mixed-use development, clearly defined and separate from entrances to other uses in the building.*

The site design is dominated by the central car park. The pedestrian entrance to the separate facilities is poorly distributed on the site, with the Childcare Centre turning its back to the street frontage, while the mosque is facing the youth centre, and turning its side to the car park and its rear to the tuition building. The entrance to the mosque should be celebrated as an arrival place, with a spacious forecourt able to accommodate a large group of people.

The application should be supported by an urban design report with exploration of different options for the placement of each facility on the site including the childcare centre, and the determination of a preferred option. These options should consider the site and its adjacent context, including the development of DA-345/2025. The siting of facilities should take in consideration the needs of the several users of the site from the perspective of the pedestrian movement, and the large groups expected to use the site at different times.

#### **xi. Cut and Fill**

- Pursuant to the Child Care Planning Guideline 2021:

C11:

*Orient a development on a site and design the building layout to:*

- *minimise cut and fill*

While it appears that only minor cut and fill is proposed, the provided engineering cross section indicates vertical changes in level at the main frontage to Fourteenth Avenue (sections 1 and 2) and also across the site (section 3). This is inconsistent with the landscape plan, which does not indicate retaining walls are required. If retaining walls are required these must be illustrated on plans and elevations with additional detail section illustrating materiality and height.

The engineering, the landscape design and architectural sections should be coordinated to ensure cut and fill is clear and consistent. Level changes are required to be detailed and precisely identified in the engineering package.

#### **xii. Upper Floor**

- Pursuant to the Child Care Planning Guideline 2021:

C11:

*Orient a development on a site and design the building layout to:*

- *ensure where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.*

- Pursuant to the Liverpool Growth Precincts DCP:

4.4.3 Child Care Centres

*1. The following controls apply to child care centres in residential zones:*

Max no. of storeys: *1 storey building or ground floor for children's rooms only*

The upper floor outdoor area plan is annotated as being 'sheltered'; however, the roof outline indicates that this area will be open to the elements. A separate Roof Plan including the location of any proposed shade sails should be provided.

While it is accepted that the balustrade height may assist in terms of wind protection, inconsistencies between plans make an accurate assessment difficult. For instance, the architectural plans illustrate a 1.4m glass balustrade, the acoustic report a 1.5m high balustrade.

The proposal is for a 2 storey building, with children's rooms located on both ground and first floor. While this may be consistent with the maximum height permitted under the relevant SEPP, it is inconsistent with both the DCP and CCPG. Council does not support the need for the child care facility to be two storeys given the land available on the site. Council recommends the overall site design be revised to consider alternative options for the placement of facilities based on their specific requirements and number of users.

### **xiii. Internal Privacy**

- Pursuant to the Child Care Planning Guideline 2021:

#### C20:

*Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:*

- *appropriate site and building layout*
- *suitably locating pathways, windows and doors*
- *permanent screening and landscape design.*

There is potential for direct overlooking of the indoor ground floor Childcare 2-3yrs Rm adjacent to the car park. Two awning-fixed-windows face directly onto the public walkway. The provided window schedule does not indicate any specialised glazing to improve privacy. The location of the car park pathways is not suitably separated from the windows of the childcare facility.

A separate Fencing Plan should be provided to confirm the proposed fence type and height around the outdoor play areas. The plans illustrate a 1.5m acoustic fence to the eastern boundary which does not adequately minimise overlooking. No information has been provided detailing the type of fencing facing Fourteenth Avenue, or the northern boundary adjacent to the car park area. While screen planting is proposed on the northern boundary the callistemon hedge only reaches 1.2m in height.

### **xiv. Acoustic Amenity**

- Pursuant to the Child Care Planning Guideline 2021:

#### C22:

*A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:*

- *ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.*

C23:

*A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:*

- *determine the appropriate height of any acoustic fence to enable the noise criteria to be met.*

Mechanical Plant equipment has not been selected at this stage; however, indicative locations should be identified on plans to ensure amenity will not be compromised.

An Acoustic Assessment prepared by Renzo Tonnin & Associates Pty Ltd, has been submitted. The report contains predictive modelling based on worst-case assumption (that being 98 of the 118 children are within the outdoor play area at one time). 1.8m high acoustic fencing is recommended along the Western boundary, 1.5m acoustic balustrade is recommended to the first floor, and 1.5m acoustic fencing to the eastern boundary. If these recommendations are implemented the predicted noise emissions meet the required childcare centre targets mitigating impact on nearby residential properties. Notwithstanding, Council recommends reviewing the child care configuration for an improved site layout which can envelop the child play areas and preclude the use of acoustic fencing, particularly to possible eastern residential uses

### ***State Environmental Planning Policy (Industry and Employment) 2021***

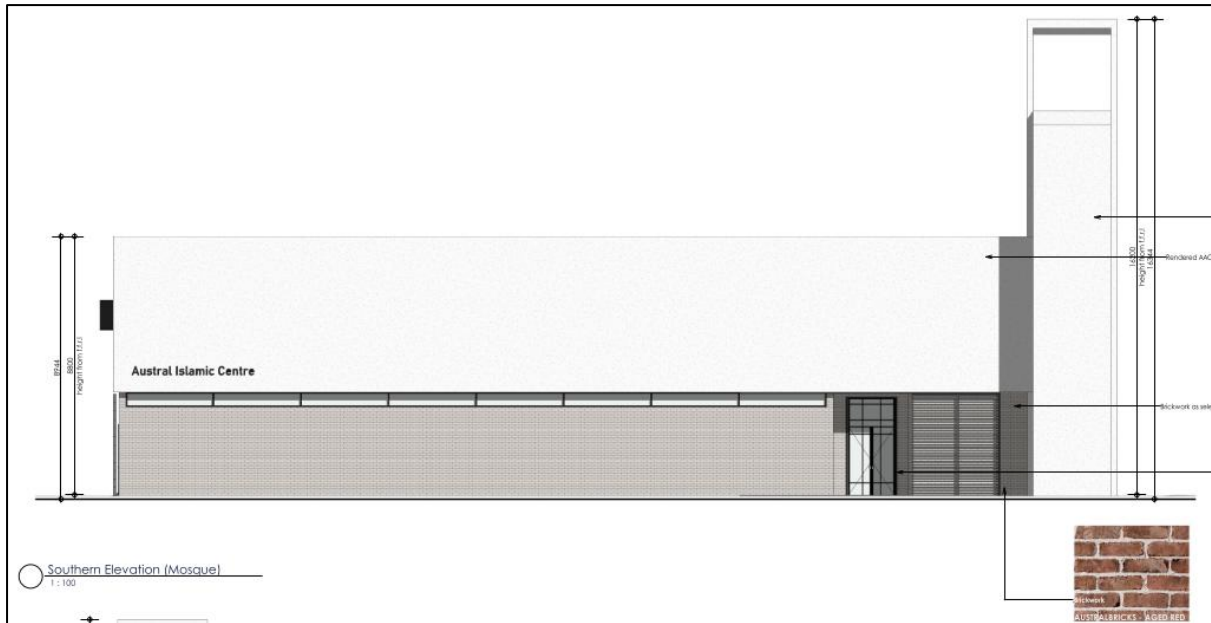
This proposal has been assessed under the provisions of *SEPP (Industry and Employment) 2021*, specifically Chapter 3 – Advertising and signage.

#### Chapter 3 – Advertising and signage

The only signage indicated on the Architectural Plans relates to the Mosque, in which business identification signage states “Austral Islamic Centre”.

***signage*** means all signs, notices, devices, representations and advertisements that advertise or promote any goods services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage and includes—

- (a) building identification signs, and*
- (b) **business identification signs**, and*
- (c) advertisements to which Part 3.3 applies,*



**Figure 13:** Proposed signage along southern elevation.

Pursuant to Clause 3.6 a consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied—

- (a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.

(i) Consistency with section 3.1(1)(a)

Consistency with the objectives of SEPP (Industry and Employment) 2021 as set out in clause 3.1(1)(a):

- (a) to ensure that signage (including advertising)—
  - (i) is compatible with the desired amenity and visual character of an area, and
  - (ii) provides effective communication in suitable locations, and
  - (iii) is of high quality design and finish, and

The proposed signage is compatible with the desired amenity and visual character of the area by being integrated with the building architecture, scaled down appropriately for a place of Public Worship and limited in number to avoid visual clutter. The signage effectively communicates the building identification and is suitably located on the southern elevation fronting the main car park. It is noted that the sign is of a high-quality prefabricated form. The trim cap will be painted black while the back will be painted white.

The proposal is consistent with the criteria specified in Schedule 5 of the SEPP. A full assessment of the development against these requirements is provided in **Attachment B**.

## State Environmental Planning Policy (Precincts – Western Parkland City) 2021

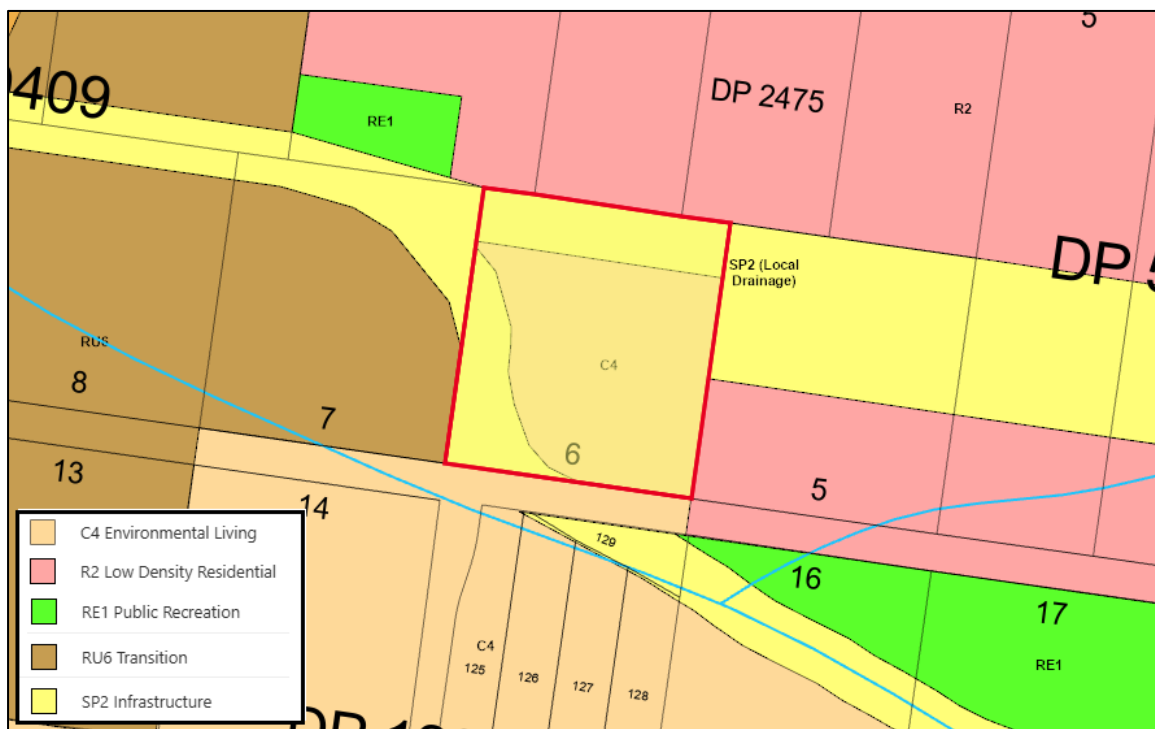
The relevant local environmental plan applying to the site is the *State Environmental Planning Policy (Precincts – Western Parkland City) 2021*. Pursuant to Appendix 4 Liverpool Growth Centres Precinct Plan (the Precinct Plan) the aims of the Precinct Plan include the following:

- to make development controls that will ensure the creation of quality environments and good design outcomes,
- to protect and enhance environmentally sensitive natural areas and cultural heritage,
- to provide for recreational opportunities,
- to provide for multifunctional and innovative development that encourages employment and economic growth,
- to promote housing choice and affordability,
- to provide for sustainable development,
- to promote pedestrian and vehicle connectivity.

The proposal is considered to be inconsistent with these aims as a result of the multiple non-compliances identified throughout this report.

### Zoning and Permissibility (Part 2)

The site is primarily zoned C4 – Environmental Living with the northern and western portion of the site partially zoned SP2 - Infrastructure pursuant to SEPP (Precincts – Western Parkland City) 2021.



**Figure 14: Zoning map**

The SEPP (Precincts – Western Parkland City) 2021 Land Use Table for the zones C4 and SP2 are replicated below:

## **Zone E4 Environmental Living**

### **1 Objectives of zone**

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*

### **2 Permitted without consent**

*Home-based child care; Home occupations*

### **3 Permitted with consent**

*Bed and breakfast accommodation; **Centre-based child care facilities**; Community facilities; Drainage; Dual occupancies; Dwelling houses; **Educational establishments**; Environmental facilities; Environmental protection works; Extensive agriculture; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Horticulture; **Places of public worship**; Recreation areas; Roads; Secondary dwellings; Waterbodies (artificial)*

### **4 Prohibited**

*Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3*

**Comment:** All development is located within the E4 area of the site:

- Childcare Centre:  
**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)),*

Permitted with consent: Yes

Consistency with objectives of the zone: The Childcare Centre provides a low-intensity community service that supports family households in a growing area, while being capable of being designed and operated to avoid adverse impacts on ecological and environmental values through appropriate siting, scale and landscaping. Additional information is required to demonstrate how the Childcare Centre would provide low-intensity community service that supports family households in a growing area. Given it accommodates 118 children it is not considered to be of a low-impact domestic scale.

- Tuition Building:  
**Educational establishment** means *a building or place used for education (including teaching), being—*  
(a) *a school, or*

*(b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.*

Permitted with consent: Yes

Consistency with objectives of the zone: The tuition buildings is a relatively a small-scale, low-impact educational use that supports the needs of family households, and can be designed to operate at a domestic scale with limited hours, traffic and built form impacts, ensuring no adverse effect on the environmental values of the zone. The SEE is silent on the operational detail of the Tuition Building. Additional information is required as to the operation of the tuition building, and how it meets the required objectives.

- Mosque:

***Place of public worship*** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

Consistency with definition: Additional Information Required.

The above definition permits additional ancillary uses for “counselling, social events, instruction or religious training”.

The proposed Mosque includes Youth Counselling services, however, beyond stating that this occurs on Friday no additional information has been provided.

The proposed Mosque includes Youth Group activities, however, beyond stating that “Youth group activities will include religious and doctrine instruction, as well as general socialising associated with the formal activities of the Youth Group” no additional information has been provided.

The proposed Mosque includes a Fitness Studio, however, beyond stating that this studio is to operate 8:00am to 7:00pm Monday to Saturday with up to 5 patrons and one staff member, no additional information has been provided.

It must be demonstrated how each of these uses are consistent with the permitted “counselling, social events, instruction or religious training”. Any ancillary uses must be clearly described. Without detail on the scale, frequency, hours of operation and occupancy of these activities, Council is unable to properly assess potential amenity, traffic, parking and cumulative impacts, or confirm that the proposal remains consistent with the approved land use definition.

Permitted with consent: Yes

Consistency with objectives of the zone: The mosque supports the social and cultural needs of the surrounding population. However, additional information is required to confirm how it is designed and managed to limit built form, traffic, noise and environmental impacts, particularly during peak religious festival days. In its current form it is not considered to provide for low-impact residential development.

- Youth Centre:

The Statement of Environmental Effects (SEE) is not clear in its characterisation of the Youth Centre. It is described as an Office, Community Facility, a Canteen & Storage area, and an Indoor Recreational Facility.

**Office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

**Recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

**Community facility** means a building or place—

(a) owned or controlled by a public authority or non-profit community organisation, and  
(b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

The characterisation as an **Office premises** cannot be supported as it is not permitted within the zone.

The characterisation as a **Recreation facility (indoor)** cannot be supported as it is not permitted within the zone.

The characterisation as a **Community facility** cannot be supported as the SEE itself describes it as an ancillary development. Therefore, it is considered to be an ancillary development to both the Tuition Building (educational establishment) or Mosque (place of public worship) which does not meet the definition of a Community Facility.

The proposal must make clear under which characterisation the proposed Youth Centre is being applied under. If the youth centre is to be considered a Community Facility it must be demonstrated that the centre operates entirely independently with no reliance upon the Mosque, Tuition Building or Childcare Centre.

Furthermore, it must be demonstrated that the proposed use is consistent with the objectives of the zone.

## **Zone SP2 Infrastructure**

### **2 Objectives of zone**

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

**2 Permitted without consent**  
Roads

**3 Permitted with consent**

*The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose*

**4 Prohibited**

*Any development not specified in item 2 or 3*

**Comment:**

No development is proposed within the SP2 zone. Preservation measures are outlined with the provided Vegetation Management Plan, prepared by Narla Environmental, with regards to the Riparian corridor traversing the SP2 zone.

Principal development standards, Miscellaneous provisions and Additional local provisions (Part 4, 5 and 6)

The controls relevant to the proposal are considered in the **Table** below.

**Table 1: Consideration of the SEPP - Appendix 4 Controls**

Clause	Provision	Proposed
<b>Part 2 Permitted or prohibited development</b>		
<b>2.7 Demolition requires consent</b>	The demolition of a building or work may be carried out only with development consent.	<b>Complies</b> The proposed demolition works are detailed in the submitted Demolition Plan. Conditions of consent could be imposed to ensure demolition is carried out safely.
<b>Part 4 Principal development standards</b>		
<b>4.3 Height of Buildings (as per HOB Map)</b>	9m (E4 Zone)	<b>Additional Information Required*</b>  While the Architectural Plans illustrate the below maximum building heights:  <u>Childcare Centre:</u> 8.999m  <u>Mosque:</u> 8.944m <u>Minaret:</u> 16.344m (see Clause 5.6 below)*  <u>Youth Centre:</u> 8.084m  <u>Tuition Building:</u> 7.712m  While the above heights may be consistent with the prescribed maximum building height, the provided elevations lack adequate information to verify the accuracy of these dimensions. Elevations must illustrate the Natural Ground Line (existing) based upon the Survey (AHD) and RLs at the highest point of the structure.

<b>4.4 Floor Space Ratio</b>	No FSR control for this site.	<b>N/A</b>
<b>4.6 Exceptions to development standards</b>	Development consent may, subject to this section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this section does not apply to a development standard that is expressly excluded from the operation of this section.	<b>N/A</b> The proposal complies with the maximum building height prescribed under Clause 4.3, with the overall building envelope remaining below the applicable height limit. The only elements exceeding this control are architectural roof features that are ancillary to the building and permissible under Clause 5.6. As these elements do not constitute additional storeys, habitable space, or an increase in building bulk, the development does not contravene Clause 4.3 and a Clause 4.6 variation is not required.
<b>Part 5 Miscellaneous provisions</b>		
<b>5.1 Relevant Acquisition Authority</b>	Land to be acquired as identified on the Land Reservation Acquisition Map	<b>Noted</b> The SP2 land is zoned for acquisition (Local Drainage) in which Council is the authority of the State. Any future subdivision of the land would require separate lots created for the SP2 zoned land.
<b>5.6 Architectural Roof Features</b>	Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by section 4.3 may be carried out, but only with consent.	<b>Noted</b> The proposal incorporates a tower-like form (referred to as a “column/pillar” in the SEE) that is regarded to be a minaret.  The proposed minaret is considered to be an architectural roof form integrated into the mosque.  A minaret is a tower form traditionally used to call people to prayer, however in this instance it is a decorative roof form only.  The minaret structure is 16.344m high and exceeds building height controls specified under section 4.3.  Minaret towers are considered to be architectural roof features as determined in <i>Coptic Orthodox Church – Saint Mary, Saint Kosman and Saint Demian Church v Hills Shire Council [2022] NSWLEC 1295</i> .
	Development consent must not be granted to any such development unless the consent authority is satisfied that—  (a) the architectural roof feature— (i) comprises a decorative element on the uppermost portion of a building, and	<b>Complies</b> The proposed minaret is considered to be a decorative element that will not be used as floor space.  The proposed minaret is not used as an advertising structure.  The proposed minaret does not include floor space area, and conditions of consent could be imposed

	<p>(ii) is not an advertising structure, and  (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and  (iv) will cause minimal overshadowing, and</p>	<p>to ensure that it is not capable of being modified to include floor space area.</p> <p>The submitted shadow diagrams affirm that the minaret will cause minimal overshadowing, with the impact being limited to a small portion of the neighbouring site after 3pm.</p>
	<p>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><b>N/A</b>  No building identification signage or equipment proposed.</p>
<p><b>5.9 Preservation of trees and vegetation</b></p>	<p>The objective of this section is to preserve the amenity of the area through the preservation of trees and other vegetation.</p>	<p><b>Additional Information Required</b>  The proposal preserves all trees located within the Riparian Corridor and is supported by a Vegetation Management Plan.</p> <p>The provided Demolition Plan and Arborist Report indicate the removal of Trees 29, 6 &amp; 7.</p> <p>Trees 6 &amp; 7 are identified as Category A being worth of constraint. These trees do not impede the location of the Childcare Centre, and the applicant is encouraged to explore options for their retention.</p> <p>Tree 29 is a Category ZZ and not worthy of being a constraint.</p>
<p><b>5.10 Heritage conservation</b></p>	<p>Conservation of environmental heritage and consent requirements</p>	<p><b>Additional Information Required</b>  The application is supported by an Archaeological Due Diligence Assessment. The application was referred to Council's Heritage officer who was generally supportive, however, The archaeological survey section of the report needs to be amended to include site photos of the survey as identified in the Due Diligence requirements.</p> <p>Furthermore, it is recommended that the Landscape plan be amended to remove Olea Europaea (European Olive) and replace with an appropriate native. The Olea Europaea is an identified weed <a href="https://weeds.dpi.nsw.gov.au/Weeds/Feralolive">https://weeds.dpi.nsw.gov.au/Weeds/Feralolive</a> and while not as problematic as Olea Cuspidata (African Olive), it is still recognised as a plant species which can impact native biodiversity, overrun landscapes and become difficult to control.</p>

		Alternatives can include Olea Paniculata, Grevillea olivacea and Photinia x fraseri Red Robin.
<b>5.11 Bushfire Hazard Reduction</b>	Bush fire hazard reduction work authorised by the <i>Rural Fires Act 1997</i> may be carried out on any land without consent.	<p><b>Noted.</b> The site is mapped as Bushfire prone land Vegetation Category 3 and Vegetation Buffer 100m and 30m.</p> <p>The proposal is for a Special Fire Protection Purpose and is accompanied by a Bush Fire Assessment Report, prepared by Bushfire Consulting Services, the report makes several recommendations and concludes that the proposal can comply with the objectives of Planning for Bush Fire Protection (PFBP) 2022.</p> <p>The application was referred to NSW Rural Fire Services who was unable to support the application as it is uncertain whether the proposed buildings are able to meet the 10 kW/m<sup>2</sup> requirement for APZ as per Table A1.12.1 of PBP 2019 due to lack of information on management of land within SP2 zoned land.</p>
<b>Part 6 Additional local provisions</b>		
<b>6.1 Public Utility Infrastructure</b>	The consent authority must not grant development consent to development on land to which this Precinct Plan applies unless it is satisfied that any public utility infrastructure (supply of water, electricity and disposal/management of sewage) that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required	<p><b>Complies</b> The site has existing access to water, electricity and sewage infrastructure.</p>
<b>6.2 Development controls – native vegetation retention areas</b>	The objective of this section is to prevent the clearing of certain native vegetation.	<p><b>Complies</b> Pursuant to South West Growth Centre Native Vegetation Protection Map Sheet NVP_007 the site contains Native vegetation retention area. No vegetation removal is proposed in this area. The application is further supported by a Vegetation Management Plan.</p>
<b>6.3 Development Controls –</b>	The consent authority must not grant development consent to development on land to	<p><b>N/A</b> The site is not identified as containing Existing native vegetation areas.</p>

<b>Existing Native Vegetation</b>	which this clause applies unless it is satisfied that the proposed development will not result in the clearing of any existing native vegetation (within the meaning of the relevant biodiversity measures under Part 7 of Schedule 7 to the Threatened Species Conservation Act 1995)	
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The proposal in its current form is not considered to consistent with Appendix 4 of SEPP (Precincts – Western Parkland City) 2021, additional information is required with regards to Part 4.3, 5.9 & 5.10. A full assessment of the development against the requirements of Appendix 4 is provided in **Attachment B**.

**(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are no proposed instruments which have been the subject of public consultation under the EP&A Act and are relevant to the proposal.

**(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

- ***Liverpool Development Growth Centre Precincts Development Control Plan 2021 ('the DCP')***

The following sections are applicable to the development:

Liverpool Growth Centre Precincts DCP 2021:

- Part 2.0 - Precinct Planning Outcomes
- Part 3.0 - Neighbourhood and Subdivision Design
- Part 4.0 – Development in the Residential Zones
  - 4.4.3 Child Care Centres
  - 4.4.4 Educational Establishments and Places of Public Worship

Schedule 1 – Austral & Leppington North Precincts:

- Part 3 - Town Centre Structure

A full assessment of the development against the requirements of the DCP is provided in **Attachment B**. The below is a summary of proposed non-compliances:

**i. Mosque – Hours of Operation**

- Pursuant to Liverpool Growth Centre Precincts DCP 2021:

*4.4.4 Educational establishments and place of public worship  
13. The general hours of operation for places of public worship and educational establishments are between 7am and 9pm.*

The proposed hours of operation appear to be 7am – 7pm, 7 days per week, which is consistent with the DCP, however, the additional prayer hours of 5am – 10pm are not. The extended operating hours would result in increased evening and early-morning activity, including vehicle movements, lighting and general patron activity, which would adversely affect residential amenity, expectations of quiet enjoyment and the intended low-intensity function of the surrounding local road network.

Furthermore, the hours of operation, number of prayers and maximum number of patrons varies between report as detailed below. Consistency must be provided to allow an accurate assessment.

- Plan of Management (PoM): Part 8.1 Table notes four prayers times with operational hours of 1:00pm – 10:00pm 7 days per week with a maximum attendance of 120 patrons. However, Part 9.1 Table suggests four prayers times with operational hours of 12:00pm – 10:00pm 7 days per week with a maximum attendance of 700 patrons.
- Statement of Environmental Effects (SEE): The SEE appears to suggest four separate prayers times from 5:00am through to 10:00pm.
- Acoustic Report: The Acoustic Report appears to suggest five separate prayer times with operational hours of 7:00am to 10:00pm. Furthermore, the Acoustic Report notes a maximum capacity of only 200 patrons.
- Traffic Impact Assessment (TIA): The TIA appears to suggest five separate prayer times from 5:00am through to 10:00pm.

## ii. Mosque – Acoustic Amenity

- Pursuant to Liverpool Growth Centre Precincts DCP 2021:

### 4.4.4 Educational establishments and place of public worship

*3. In assessing applications, Council will consider the following:*

- *the privacy and amenity of adjoining developments;*
- *the need and adequacy for provision of buffer zones to surrounding residential development;*
- *urban design;*
- *location;*
- *the size of the land where the development is proposed;*
- *traffic generation and the impacts of traffic on the road network and the amenity of nearby residents;*
- *the availability of parking;*
- *the scale of buildings and their capacity; and*
- *hours of operation and noise impacts.*

The provided Acoustic Report notes that three daily prayers (early morning prayer, sunset prayer and prayer before 10pm) will be projected through the PA system. It is considered that this will have a detrimental impact on surrounding amenity, particularly given the rural residential nature of surrounding development.

## iii. Youth Centre – Visual Privacy

- Pursuant to Liverpool Growth Centre Precincts DCP 2021:

### 4.2.9 Visual and acoustic privacy

- 1. Direct overlooking of main habitable areas and the private open spaces of adjoining dwellings should be minimised through building layout, window and balcony location and design, and the use of screening, including landscaping.*
- 3. Balconies are not permitted on the first floor of the side and / or rear portion of the dwelling except where the balcony faces a public road, or land zoned for public recreation or drainage.*

The two-storey Youth Centre is located approximately 2.6m from the eastern boundary. While this is greater than the side setback required for residential development (1.5m) and no windows are located on the first floor, it is noted that balconies are not permitted on the side of first floor dwellings. Additional privacy mitigation measures should be explored to prevent overlooking from the balcony level.

#### **iv. Childcare Centre – Car Parking**

- Pursuant to Liverpool Growth Centre Precincts DCP 2021:

##### 4.4.3 Child Care Centres

*1. The following controls apply to child care centres in residential zones:*

*Car parking spaces: 1 car parking space per employee (reduced rates of provision may apply where the child care centre is within walking distance of a bus stop or train station). 1 of the car parking spaces shall be designed for people with a disability.*

*Visitor Car Parking: 1 space per 6 children.*

The proposed Childcare Centre includes 25 staff members, comprised of 23 educators, 1 admin/manager, and 1 cook, resulting in a requirement of 25 car parking spaces. The architectural plans illustrate a total of 24 staff car parking spaces, a deficiency of 1 car space. The proposed Childcare Centre accommodates 118 children, resulting in a requirements of 20 visitor parking spaces. The architectural plans illustrate a total of 11 staff car parking spaces, a deficiency of 9 spaces, however, 3 of these spaces are marked to be removed for emergency access resulting in a deficiency of 12 car spaces.

#### **v. Mosque – Car Parking**

- Pursuant to Liverpool Growth Centre Precincts DCP 2021:

##### 4.4.4 Educational Establishments and Place of Worship

*6. Car parking spaces shall be provided on site in accordance with Table 4-11 unless the applicant can demonstrate to the satisfaction of Council that lower rates of parking are reasonable for the particular development.*

*Places of Public Worship: 1 space per 6 seats, plus 1 bicycle and 1 motorcycle space per 25 car parking spaces in excess of the first 25 car parking spaces*

Noting that the peak usage (1 month = approx. 30 days) will be expected to cater for 1000 patrons per day:

- Patrons:  $1000 / 6 = 166.7 = 167$  car spaces required.
- Bicycle and Motorcycle:  $167 / 25 = 6.68 = 7$  bicycle and motorcycle spaces each required.

The proposal makes a provision for 117 car parking spaces, a deficiency of 50 car parking spaces.

#### **vi. Youth Centre / Tuition Building – Car Parking**

- Pursuant to Liverpool Growth Centre Precincts DCP 2021:

*4.4.4 Educational Establishments and Place of Worship*

*6. Car parking spaces shall be provided on site in accordance with Table 4-11 unless the applicant can demonstrate to the satisfaction of Council that lower rates of parking are reasonable for the particular development.*

*Schools:*

*1 space per staff member*

*Plus*

*1 space per 100 students*

*Plus*

*1 space per 5 students in Yr 12 (based on estimated capacity for year 12 students to be specified in the Development Application)*

*A pick up / drop off facility of sufficient size to accommodate the forecast demand identified through a traffic and parking report. The resultant layout of the facility to be to the satisfaction of Council.*

*Tertiary and Adult Educational Establishments:*

*1 space per 5 seats*

*Or*

*1 space per 10m<sup>2</sup> of floor area (whichever is greater)  
parking spaces*

The consultant has referred to first principle analysis, however Council does not agree with the assumptions put forward. The applicant should undertake a comprehensive study of a similar development, in a similar area to ascertain appropriate parking requirements.

#### **vii. Overflow Car Parking**

- Pursuant to Liverpool Growth Centre Precincts DCP 2021:

*4.4.4 Educational Establishments and Place of Worship*

*6. For certain uses, the provision of overflow parking may be necessary particularly where such developments incorporate halls used for social gatherings. Overflow parking areas could be provided on open grassed areas and need not be formally sealed or line-marked. Proposed overflow parking areas are to be clearly shown on plans submitted with the Development Application.*

Provisions for overflow parking have not been incorporated. This should be illustrated where practicable. Furthermore, no allowance has been made for coach parking. Given that the proposal consists of a Mosque (accommodating up to 700 patrons) and Tuition Centre (up to 150 patrons) amongst other uses the heavy reliance on all patrons driving themselves to the site is not considered to be sufficient.

#### **viii. Overall Traffic Impact**

The accumulative impact of the proposal on traffic is not considered acceptable. Concerns are raised regarding the ongoing efficiency of the intersection of Fourth Avenue and Fourteenth Avenue. The applicant would be required to upgrade the intersection (Turning lanes, Roundabout, signals, etc) where applicable.

The traffic report identifies a period between 10:45-11:45 where 386 vehicles are anticipated to arrive to the site with no departures. This appears to be a typical use. Noting that 386 vehicles are anticipated to arrive, the parking provisions should reflect suitable accommodations to ensure no parking spill onto the local roads. The First principle approach to parking should address this arrival considering that it is anticipated as a semi-frequent occurrence. Further, the modelling should assess all identified peak movements, with comparison of existing and ex+dev for each scenario.

The applicant should determine the capacity of the existing road in its current form and assess its ability to cater for the development traffic, and if required, determine appropriate mitigations to cater for future traffic levels.

Council's cannot support the proposal in its current form as there is a significant shortfall in parking, the traffic and access is not deemed to have been assessed appropriately, and further clarification is required on some of the assumptions made, whilst a more robust First Principle assessment needs to be undertaken.

#### **ix. Access to the Adjoining Site**

- Pursuant to Liverpool Growth Centre Precincts DCP 2021:

##### 2.2 The Indicative Layout Plan (ILP)

- 1. All development applications are to be generally in accordance with the Indicative Layout Plan.*
- 2. When assessing development applications, Council will consider the extent to which the proposed development is consistent with the Indicative Layout Plan.*
- 3. Any proposed variations to the general arrangement of the Indicative Layout Plan must be demonstrated by the applicant, to Council's satisfaction, to be consistent with the Precinct Planning vision in the relevant Precinct Schedule.*

##### 3.3.1 Street network layout and design

- 6. The locations and alignments of all roads are to be generally in accordance with the locations shown on the Precinct road hierarchy figure in the relevant Precinct Schedule.*

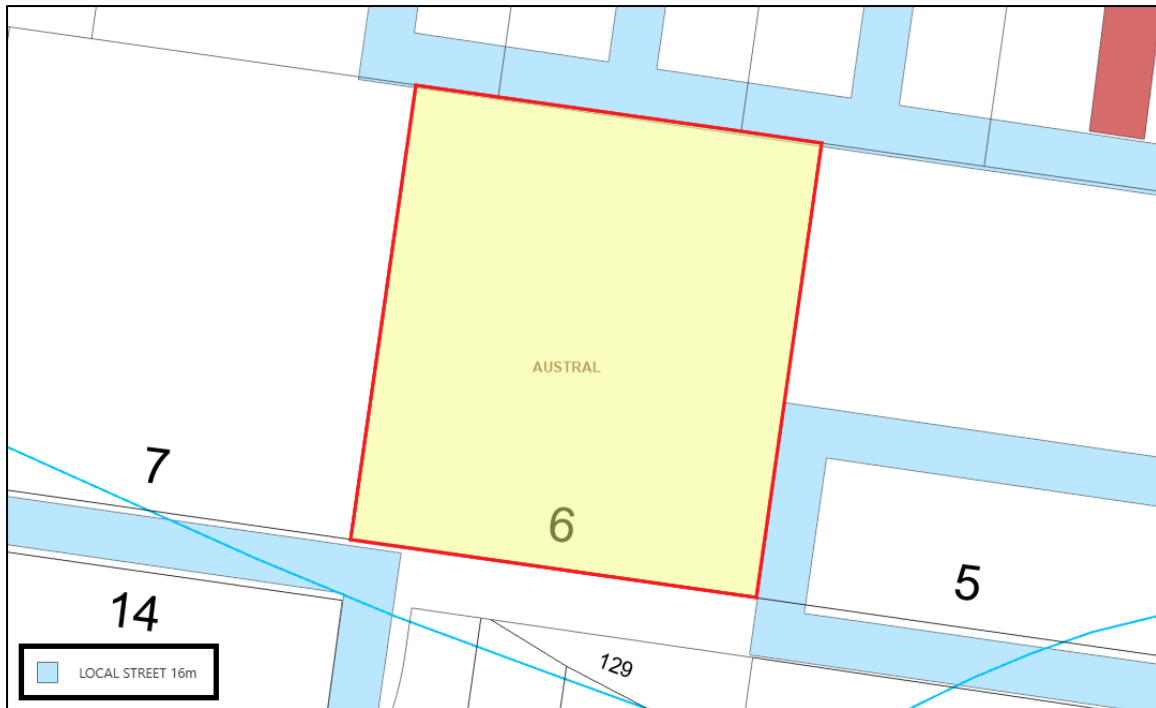
##### 3.3.7 Temporary vehicular access

###### Objectives

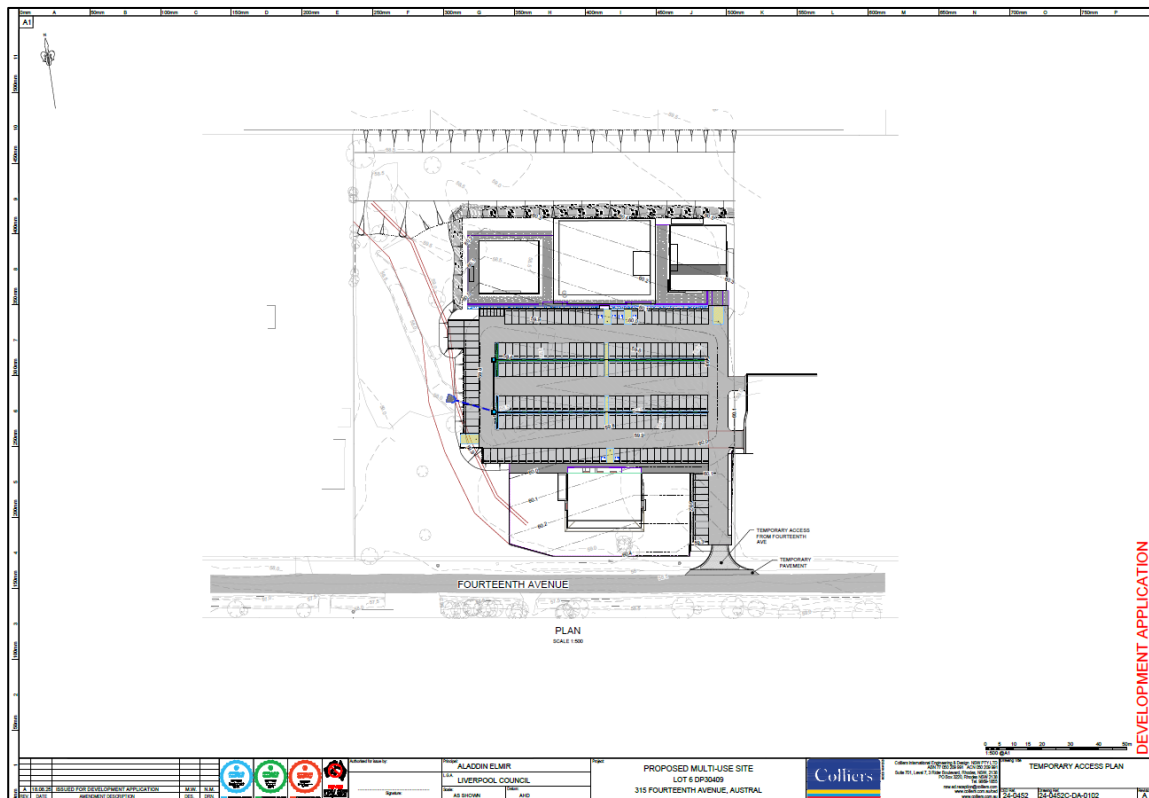
- b. To ensure that appropriate vehicular access to properties is provided and maintained at all times during the development of the Precincts;*
- c. To ensure that temporary vehicular access arrangements do not compromise safety and the efficient operation of the road network.*

The submitted Civil Engineering plans, illustrate two vehicle crossovers to the neighbouring site to the east, being 295 Fourteenth Avenue, Austral. The DCP Indicative Layout Plan (ILP) indicates an east-west future Local Street (identified as Buwura Crescent in the provided Traffic Impact Assessment) on the neighbouring site. The connection between the proposed

crossover locations and Buwura Crescent is inconsistent with the ILP, and it has not been demonstrated that the proposal is consistent with the Precinct Planning vision for Austral & Leppington North. Furthermore, the application relies on the provision of this future street which is the subject of a separate, undetermined, development application (DA-345/2025).



**Figure 15: DCP Road Network - Indicative Layout Plan (Source: Geocortex)**



**Figure 16: Extract of Temporary Access Plan (Source: Colliers)**

The submitted Civil Engineering plans, indicate that access from Fourteenth Avenue is to be 'temporary' with the existing driveway identified for demolition. Given that access from the site to the east is not yet available this access is not considered temporary. Access from Fourteenth Avenue may be retained as the primary entry point with the connection to the neighbouring site the subject of a future development application or deferred commencement condition.

**(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

**(e) Section 4.15(1)(a)(iv) - Provisions of Regulations**

The plans and supporting reports submitted with the application are inadequate and lack sufficient detail to satisfy the requirements of the Environmental Planning and Assessment Regulation 2021, thereby preventing a proper and informed assessment under Section 4.15 of the Act

**4.2 Section 4.15(1)(b) - Likely Impacts of Development**

The significant likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPP and DCP controls outlined above and the Key Issues section below.

The consideration of significant impacts on the natural and built environments includes the following:

**i. Natural Environment**

The assessment of environmental impacts is inadequate, as the submitted plans and reports fail to sufficiently address potential flooding impacts or the potential impacts of the proposed development on the adjoining riparian corridor and Native Vegetation Retention Area, including indirect impacts arising from increased the intensification of use and previously mentioned unauthorised filling and construction that has been undertaken in the sites floodway area.

**ii. Built Environment**

The submitted plans and supporting documentation do not adequately address the likely impacts of the proposed development on the built environment, particularly in relation to building scale, bulk and intensity of use, traffic and parking demand, and the compatibility of

a large multi-use community facility with the existing and emerging low-density character of the surrounding area.

### iii. Social Impact

The proposal fails to adequately address the social and amenity impacts arising from the intensity of use and peak operational periods of the development, including potential effects on local residents' use and enjoyment of the area, as identified through public submissions.

### iv. Economic Impact

The development is likely to have a positive economic impact through short-term construction employment and ongoing employment associated with the operation of the facilities.

Accordingly, it is considered that the proposal may result in significant adverse impacts on the locality and is not supported in its current form.

## **4.3 Section 4.15(1)(c) - Suitability of the site**

Despite the site's size, it is not considered suitable for the proposed development due to a combination of zoning, environmental and infrastructure constraints. A substantial portion of the land is constrained by a riparian corridor identified as a Native Vegetation Retention Area and zoned SP2, significantly reducing the effective developable area and intensifying development on the remaining land. The balance of the site is zoned C4 – Environmental Living, which is intended for low-intensity development compatible with environmentally sensitive and semi-rural settings, and does not support the scale and intensity of a multi-use community facility and a 202-space car park. Further, the proposal relies on temporary access arrangements, with permanent access contingent on the future construction of Buwura Crescent under a separate development application, creating uncertainty regarding long-term site access and infrastructure capacity. In this context, the development is incompatible with the current character and infrastructure of the area and is considered premature.

## **4.4 Section 4.15(1)(d) - Public Submissions**

These submissions are considered in Section 5 of this report.

## **4.5 Section 4.15(1)(e) - Public interest**

On balance the proposal is not considered to be in the public interest, as reflected in the public submissions, as it is not consistent with the relevant planning controls in its current form.

# **5. REFERRALS AND SUBMISSIONS**

## **5.1 Agency Referrals and Concurrence**

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined in the below table.

There are several outstanding issues arising from these concurrence and referral requests that must be addressed.

**Table 2: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements</b> (s4.13 of EP&A Act)			
<b>Referral/Consultation Agencies</b>			
Transport for NSW (TfNSW)	s2.122 and s3.58 - <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	No objection.	Y
Endeavour Energy	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	No objection subject to conditions of consent.	Y
Sydney Water Corporation	Section 78 – <i>Sydney Water Act 1994</i>	No objection subject to conditions of consent.	Y
Design Review Panel	<i>Any development deemed by the Manager Development Assessment and/or Manager City Planning to have a potentially significant impact on the amenity of the locality or region.</i>	The proposal is not supported by the DEP and must return to the panel, with all feedback incorporated or addressed	N
<b>Integrated Development</b> (S 4.46 of the EP&A Act)			
Department of Planning and Environment - Water	<i>Water Management Act 2000 s91 controlled activity</i>	Additional information relevant to issuing General Terms of Approval is required: <ul style="list-style-type: none"> <li>The mapped 1st order watercourse has been proposed to be realigned/relocated in the north of the site; however. No Vegetated Riparian Zone (VRZ) or Vegetation Management Plan (VMP) has been proposed, and no justification for the realignments has been provided in the application. In accordance with guidelines, a 10-metre VRZ must be provided on both sides of the 1st order watercourse. Therefore, an updated civil plan and VMP that clearly includes the 10-metre VRZ on both sides must be submitted.</li> <li>The mapped 2nd-order watercourse has been proposed to be realigned, and the proposed parking area encroaches into the inner VRZ. It is noted that a VMP has been proposed. In accordance with guidelines, a 20-metre VRZ must be provided on</li> </ul>	N

		<p>both sides of the 2nd watercourse, with the inner 50% of the VRZ fully protected and vegetated. Accordingly, all structures or works currently within this zone must be relocated outside it. Any encroachment into the outer VRZ must be offset with an equivalent area connected to the riparian corridor within the site. An updated civil plan must be submitted clearly showing the VRZ on both sides (10m for the 1st-order and 20m for the 2nd-order watercourse) and identifying any encroachments and corresponding offsets in accordance with the Department's Guidelines for Riparian Corridors.</p>	
WaterNSW	<i>Water Management Act 2000 s90(2) water management work approval</i>	<p>WaterNSW has reviewed the documents provided for the above integrated referral and advises that, under the provisions of section 91A of the Environmental Planning &amp; Assessment Act 1979 (EPA Act), WaterNSW intends to refuse to issue General Terms of Approval under the Water Management Act 2000 (WM Act).</p> <p>Our assessment indicates that adequate arrangements are not in place to ensure no more than minimal harm will be done to any water source or waterfront land as a consequence of the carrying out the proposed work or activity.</p>	N
NSW Rural Fire Service	Rural Fires Act - S.100B	<p>Additional information relevant to issuing General Terms of Approval is required:</p> <ul style="list-style-type: none"> <li>The Traffic and Parking Impact Assessment has identified Fourteenth Avenue as a Local Street with a 16m wide road reserve, which will likely include the widening of the road carriageway and kerbside parking being available on both sides of the road. The Austral &amp; Leppington North Precincts Indicative Layout lan shows this road as a dead end road with only one connection to the north with Fifteenth Avenue which will be provided by future residential subdivisions. Until then, the Council needs to ascertain that</li> </ul>	N

		<p>the traffic movement of 700 to 1000 patrons on Fourteenth Avenue can provide safe access/ egress for firefighting vehicles while occupants are evacuating. The subject site is constrained on the northern and western aspects due to SP2 zoned land, thus, Fourteenth Avenue being the only point of access and egress.</p> <ul style="list-style-type: none"> <li>• The bushfire consultant has identified an asset protection zone (APZ) of 38m on the adjoining eastern lot all along the eastern site boundary. 295 Fourteenth Avenue is partially zoned SP2, which means the regional detention basin will be on public land which will not permit an easement. The easement to be established on the residential zoned land on 295 Fourteenth Avenue will require a written consent provided by the landowner of the lot. In this regard, only the childcare building may have the required APZ as per Table A1.12.1 of Planning for Bush Fire Protection (PBP) 2019, unless the SP2 zoned land is managed to the standards of an inner protection area.</li> <li>• The bushfire consultant has considered grassland hazard on the western aspect, excluding the riparian corridor due to moisture factor. Additional information is required on the SP2 corridor that will continue further west and southeast, specifically in terms of revegetation considering the environmental overlay as per Austral &amp; Leppington North Precincts Indicative Layout Plan. This riparian corridor will need to be assessed for APZs based on proposed revegetation.</li> <li>• Similarly, additional information is required on management of SP2 zoned land Drainage Line to the north of Tuition building, Youth centre/canteen/ storage building &amp; Mosque/ Prayer Hall for consideration of the proposed APZ on this aspect.</li> </ul>	
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**5.2 Council Officer Referrals**

The development application has been referred to various Council officers for technical review as outlined in the table below.

**Table 3: Consideration of Council Referrals**

<b>Officer</b>	<b>Comments</b>	<b>Resolved</b>
Building	No objection, subject to conditions of consent.	Y
Community Planning (Social)	<p>Not supported.</p> <ul style="list-style-type: none"> <li>Proposed development has a potential to support the local community. However, due to the site constraints, this may not be an ideal location for the development of a key social infrastructure.</li> <li>Community Planning does not have any objection to the proposal if can address the site constraints and safety risks adequately. The opportunities of the proposal should not outweigh the risk of community safety and increased vulnerability.</li> </ul>	N
Land Development Engineering	<p>Not supported.</p> <ul style="list-style-type: none"> <li>As per Councils Flood Engineering comments, no filling or development can proceed until the regional basin and associated trunk drainage system is constructed.</li> <li>All comments provided by Council in the pre-development application advice (PL-92/2023), dated 6/3/2024 shall be addressed/complied with.</li> </ul>	N
Economic Development	No objection.	Y
Environmental Health	<p>Not supported. Additional information required:</p> <ul style="list-style-type: none"> <li><u>Stage 1 Preliminary and Stage 2 Detailed Site Investigation</u> - Environmental Health notes that whilst the number of samples were generally consistent with the minimum number of sampling locations specified within the Environment Protection Authority Sampling design part 1 - application Contaminated Land Guidelines 2022, the samples were taken 2 years ago and may not be an adequate reflection of the current status of the site.</li> <li><u>Stage 3 – Remedial Action Plan</u> - Concerns are raised regarding the appropriateness of the selected remediation strategies outlined in Table 8.3.1, in particular, for AEC02, reuse of soil contaminated with bonded asbestos on site, when a childcare centre is proposed. In this regard, Council is able to request that a B2 Site Audit Statement and associated report/s are provided to verify that the information provided by the proponent adheres to appropriate standards, procedures and guidelines.</li> <li><u>EPA Site Audit Statement</u> - A Site Auditor accredited under the Contaminated Land Management Act 1997 must be engaged to issue a Section B2 Site Audit Statement in accordance with the Contaminated Land Management Act 1997 and approved Guidelines made thereunder including the 'Guidelines for the NSW Site Auditor Scheme' (3rd Edition) published by the NSW Environment Protection Authority dated October 2017.</li> </ul> <p>The Site Audit Statement and Site Audit Report must certify the suitability of the land for the use. The Section B2 Site Audit shall determine the appropriateness of an investigation plan (combined PSI and DSI document) and the remediation plan</p>	N

	<p>documents supporting this application. The Statement and Site Audit Report must be submitted to Liverpool City Council for review.</p> <ul style="list-style-type: none"> <li>• <u>Plan of Management Centre Based Child Care Facility</u> - The Operational Plan of Management does not align with the requirements of the acoustic report in relation to the outdoor play schedule. The PoM shall include, but not be limited to: <ul style="list-style-type: none"> <li>- Capacity of the centre</li> <li>- Staffing numbers and arrangements</li> <li>- Hours of operation</li> <li>- Arrivals and departures</li> <li>- Car park arrangements and procedures</li> <li>- Schedule of all indoor and outdoor activities for each room/age group</li> <li>- Outdoor activities and supervision</li> <li>- Food arrangements and menus for children</li> <li>- After hours events</li> <li>- Cleanliness, waste management and maintenance</li> <li>- Fire safety and emergency</li> <li>- Noise management plan</li> <li>- Insurances</li> <li>- Any other relevant policy or procedure</li> </ul> </li> <li>• <u>Construction Details – Childcare Facility and Canteen</u> - To ensure compliance with the relevant standards and requirements, the following details are to be submitted for approval. Detailed floor and section plans of a suitable scale (e.g. 1:50) are to be submitted for all kitchens, bottle preparation areas, nappy change areas, bathrooms, laundries and sleeping rooms demonstrating the proposed floor layout as well as compliance with the following: <ul style="list-style-type: none"> <li>- AS4674-2004 – Design, construction and fit-out of food premises</li> <li>- Food Standards Code (Australia)</li> <li>- Building Code of Australia</li> <li>- Education and Care Services National Regulation 2011</li> <li>- Department of Planning, Industry and Environment Child care planning guideline 2021</li> <li>- Sydney Water Corporation - Trade Waste Section.</li> </ul> </li> <li>• <u>Waste Storage</u> - The garbage/waste storage area shall be clearly identified on the site plan and be located within the proposed building. The designated garbage/waste storage area shall comply with the following requirements: <ol style="list-style-type: none"> <li>a) The room shall be fully enclosed and provided with a concrete floor, and with concrete or cement rendered walls coved to the floor;</li> <li>b) The room shall have a floor waste which is to consist of a removable basket within a fixed basket arrestor and is to comply with Sydney Water requirements; and</li> <li>c) The door to the room must be tight-fitting, self-closing and fitted with mechanical ventilation.</li> </ol> <p>Please refer to AS4674-2004 Design, construction and fit out of food premises and Liverpool Development Control Plan 2008 for further information regarding the construction standards for waste storage areas</p> </li> </ul>	
Fire Safety	No objection.	Y
Flood Engineering	Not supported.	N

	<ul style="list-style-type: none"> <li>The land is heavily flood-affected, with approximately 80% situated within the floodway of Tributary 2 of Kemps Creek (KC08). To enable development within the Austral and Leppington North precincts, Council has prepared designs for regional basins and trunk drainage systems. These works are expected to reduce flood impacts at the subject site, particularly once Regional Basin 17 (proposed immediately west of the site) is constructed.</li> </ul> <p>However, until Basin 17 and its associated trunk drainage system are completed, the site will remain within the active floodway of Tributary 2. Consequently, no filling or development can proceed prior to their construction. This advice has previously been provided to the applicant during the Pre-DA meeting and in Pre-DA correspondence dated 21/02/2024.</p> <ul style="list-style-type: none"> <li>Council's recent records confirm that unauthorised filling and construction have been undertaken within the site's floodway area. These works adversely impact the existing flood regime and neighbouring properties. All unauthorised works must be removed, and the site restored to pre-fill levels before any development application can be considered. Evidence of rectification, including pre- and post-work survey plans, must be submitted to Council.</li> <li>Following the completion of Basin 17 and its trunk drainage system, the site may be developed in accordance with its C4 zoning. Development on C4 land is restricted, with filling generally limited to building pads and driveways. Any loss of floodplain storage below the 1% AEP level must be fully compensated. Cut-and-fill volume calculations must be based on the site's pre-unauthorised natural landform.</li> <li>Under the Liverpool LEP 2008, childcare centres are classified as sensitive and hazardous uses. Such facilities are not permitted in high and medium flood risk areas within the 1% AEP flood extent.</li> </ul>	
Heritage	<p>No objection, however additional information is required:</p> <ul style="list-style-type: none"> <li>The archaeological survey section of the report needs to be amended to include site photos of the survey as identified in the Due Diligence requirements.</li> <li>The Water NSW map for the area identifies an Order 1 stream cutting through the site and an Order 2 stream running along the alignment identified.</li> <li>The landscape plan should be amended so that the consultant removes <i>Olea Europaea</i> (European Olive) and replace with an appropriate native. The <i>Olea Europaea</i> is an identified weed <a href="https://weeds.dpi.nsw.gov.au/Weeds/Feralolive">https://weeds.dpi.nsw.gov.au/Weeds/Feralolive</a> and while not as problematic as <i>Olea Cuspidata</i> (African Olive), it is still recognised as a plant species which can impact native biodiversity, overrun landscapes and become difficult to control.</li> </ul>	N
Natural Environment – Flora & Fauna	No objection, subject to conditions of consent.	Y
Natural Environment - Landscape	<p>Not supported. Additional information required:</p> <ul style="list-style-type: none"> <li>The following proposed species of trees, <i>Euc eugenioides</i>, <i>olea europaea</i> &amp; <i>Phoenix dactylifera</i> are not supported. Please find preferred species on our public council website.</li> </ul>	N

Property Services	No objection.	Y
Public Art	<p>Additional information required:</p> <ul style="list-style-type: none"> <li>Public Art is recommended to support delivery of Part 1 2 (d), (h), and Appendix 8 section 1.2 (a), (d) of the SEPP Western Sydney Parkland City 2021 – Sydney Region Growth Centre (South West).</li> <li>Council notes public art will also support Design Quality Principles 1, 2, 3, 5, 6 and 7 identified in the State Environmental Planning Policy for Educational Establishments and Child Care Facilities. The delivery of public art will also support sections 1.2.4, 4.4.4c and e of the Liverpool Growth Centre Precincts Development Control Plan. In addition, the inclusion of public art would support items identified in the Government Architects Design Guide for Schools.</li> <li>In line with Liverpool Growth Centre Precincts DCP – Schedule 1 Council notes the site is identified as having high Aboriginal Cultural Heritage sensitivity. As such, Council recommends a collaboration with a local First Nations artist to embed public art into the softfall design and integrated into other landscape elements to provide active intergenerational engagement, curiosity and learning opportunities with First Nations culture for future users of the space. Council recommends the local artist selected collaborate with Local Dharug Traditional Knowledge Holders and/or Elders to develop accessible narratives and storytelling opportunities.</li> </ul>	N
Traffic & Transport	<p>Not supported. Additional information required:</p> <ul style="list-style-type: none"> <li><u>Childcare Centre</u>: 41 car parking spaces required. 35 proposed, which represents a shortfall of 6 spaces.</li> <li><u>Place of Public Worship</u>: 167 car parking spaces, 7 bicycle &amp; 7 motorcycle spaces required. 117 car spaces proposed, which represents a shortfall of 50 spaces.</li> <li><u>Youth Centre</u>: The consultant has referred to first principle analysis, however Council does not agree with the assumptions put forward. The applicant should undertake a comprehensive study of a similar development, in a similar area to ascertain appropriate parking requirements.</li> <li><u>Tuition Centre</u>: The applicant has proposed 45 spaces. Traffic &amp; Transport have no objection.</li> <li><u>Access</u>: <ul style="list-style-type: none"> <li>Further clarification is required for the 'Temporary' access to Fourteenth Avenue. Confirmation as to why the applicant is seeking access to Buwara Crescent.</li> <li>DCP also refers to the potential need for overflow parking, which has not been demonstrated on any plans. The applicant should illustrate where, if practicable, overflow can be provided.</li> <li>Concerns are raised regarding the ongoing efficiency of the intersection of Fourth Avenue and Fourteenth Avenue. The applicant would be required to upgrade the intersection (Turning lanes, Roundabout, signals, etc) where applicable.</li> </ul> </li> <li><u>Traffic</u>: <ul style="list-style-type: none"> <li>The traffic report identifies a period between 10.45-11.45 where 386 vehicles are anticipated to arrive to the site with no departures. This appears to be a typical use. Noting that 386 vehicles are anticipated to arrive, the parking provisions should reflect suitable accommodations to ensure no</li> </ul> </li> </ul>	N

	<p>parking spill onto the local roads. The First principle approach to parking should address this arrival considering that it is anticipated as a semi-frequent occurrence.</p> <ul style="list-style-type: none"> <li>- Further, the modelling should assess all identified peak movements, with comparison of existing and ex+dev for each scenario.</li> <li>- The applicant should determine the capacity of the existing road in its current form and assess its ability to cater for the development traffic, and if required, determine appropriate mitigations to cater for future traffic levels.</li> </ul> <p>Based on the above, Council's Traffic Team cannot support the proposal in its current form as there is a significant shortfall in parking, the traffic and access is not deemed to have been assessed appropriately, and further clarification is required on some of the assumptions made, whilst a more robust First Principle assessment needs to be undertaken.</p> <ul style="list-style-type: none"> <li>• Note: Proposed Vehicular access into the development site via future Buwuru Crescent local residential street - Not supported.</li> <li>• Applicant to consider vehicular access into the development via the adjacent Fourth Avenue to avoid high traffic volume in the residential subdivision.</li> <li>• Applicant to construct Fourth Avenue full length along the frontage of the site.</li> <li>• The applicant is to be requested to prepare detailed design drawings of the proposed road widening demonstrating that the design has been carried out in accordance with the DCP/ILP, and submit to Council's Development Engineering Section for approval, prior to the issue of Construction Certificate.</li> <li>• Applicant to submit Traffic Operation Management Plan to cater for additional traffic during special events. Plan showing overflow parking spaces.</li> <li>• Vehicular access including driveway, and all car parking spaces to be designed to comply with the design standards of the 2890.1, AS2890.2, AS2890.6 and Council's Development Control Plan.</li> <li>• All vehicles to always enter and exit the site in a forward direction.</li> </ul>	
<p>Urban Design &amp; Public Domain</p>	<p>Not supported. Additional information required:</p> <p><u>1. Context</u></p> <p>1.1. The subject site distances 1.2km from the nearest strategic centre at the intersection of Edmondson Avenue and Fourteenth Avenue. It is placed on the western edge of Austral and separated from future development to the west of Kemps Creek. Further, it is unknown if the site is located near sources of odour, or agricultural spraying activities, which is a concern specific to the Child Care Planning Guidelines. CDPD has concerns with the proposed location of the community centre. CDPD requests the strategic merit of the placement of the community centre in this location be further justified by the applicant in the form of an urban design/master plan report.</p> <p>1.2. There is a separate Development Application (DA-345/2025) by the same applicant for the subdivision of the neighbouring lot to the east (295 Fourteenth Avenue) into 22 lots (20 residential and 2 residue lots) over four stages. CDPD recommend greater integration</p>	<p>N</p>

between the two developments by the same owner. The positioning of the child care facility can establish a corner on the proposed new street on the adjacent development, while providing for an area of children outdoor play area secluded from Fourteenth Avenue.

1.3. The proposal results in a place of worship facing onto a internal car park accessible from a local road. The requirements from the LGC DCP indicate that places of worship are preferably to be located on land with frontage to a collector road. CDPD recommends the preparation of a combined 'mini' master plan for both development parcels, for assessment of the full development proposal in its context. Such master plan should consider the positioning of the facilities in relation to their site context and the specific user requirements and number of users for each facility.

1.4. Pedestrian access to the proposed facilities is only provided from the proposed local road with DA-345/2025. The proposed street (Road 01) in DA-345/2025 should consider the need for pedestrian access onto the proposed development DA 390/2025. CDPD recommends the provision of pedestrian access to the site from and along Fourteenth Avenue.

1.5. Consideration should be given to pick up and drop off areas for parents directly from the local road, without needing for vehicles to access the central car park. Consideration should also be given to vehicle movements doing right turn movements from Fourteenth Avenue to access the site. CDPD recommends the design to include consideration of upgrades to the intersection of Fourteenth Avenue and coordinated with the proposed Road 01 from DA-345/2025.

1.6. The access to the central car park can be consolidated to one single driveway, to maximise the opportunity to establish pedestrian paths along the entrance to the site. CDPD recommends the provision of pedestrian paths along the western side of Road 01 from DA-345/2025.

## 2. Built Form + Scale

2.1. The proposed engineering cross section indicates vertical changes in level at the main frontage to Fourteenth Avenue (sections 1 and 2) and also across the site (section 3). The landscape plan does not indicate retaining walls are required nor does it provide for details of their materiality. The proposed landscape plan indicates the presence of retaining walls approximately 0.5m tall, west of the tuition building, framing the turfed area for multipurpose activities. These changes in levels are not reflected in the civil engineering drawings. CDPD recommends the applicant to provide further information regarding the anticipated treatment of retaining walls for assessment. The engineering and the landscape design should be coordinated. Also level changes to be further detailed and precisely identified in the engineering package - current changes in levels between 1 and 1.2m. Refer to LGC DCP Sections 2.6.6 to 2.6.9.

2.2. The child care facility provides for an upper-level outdoor play space. Given the proximity with surrounding neighbours and the impacts on amenity and fencing due to noise sources, and also the site area availability, CDPD questions the need for the child care facility to be two storeys given the land available on the site. CDPD recommends the site design be revised to consider alternative

options for the placement of facilities based on their specific requirements and number of users.

2.3. The site design is dominated by the central car park. The pedestrian entrance to the separate facilities is poorly distributed on the site, with the mosque facing the youth centre, and turning its side to the car park and its rear to the tuition building. The entrance to the mosque should be celebrated as an arrival place, with a spacious forecourt able to accommodate a large group of people. CDPD recommends the preparation of an urban design report with exploration of different options for the placement of facilities on the site, and the determination of a preferred option. These options should consider the site and its adjacent context, including the development of DA-345/2025. The siting of facilities should take in consideration the needs of the several users of the site from the perspective of the pedestrian movement, and the large groups expected to use the site at different times.

### 3. Sustainability

3.1. The proposed facilities have large roof areas which provide opportunities for Ecologically Sustainable Development such as:

- o implementing total water cycle management by including measures that reduce consumption of potable water for non-potable uses, minimise site run-off and promote water harvesting and re-use
- o Implementing renewable energy initiatives (solar panels) which can offset operational costs.

3.2. CDPD suggests the implementation of such strategies for a more sustainable development. For further information refer to the LGC DCP part 6.5.

3.3. Consideration should be given to the provision of end of trip facilities, bike racks and showers and change rooms to support the use of the recreational facility.

### 4. Landscape

4.1. The Arborist Report indicates that there are trees within the site for the child care facility which can be retained. The landscape design for the children play areas does not seem to allow for the tree retention. Also note that buildings should be set back a minimum of 3 metres from existing trees. CDPD requires clarification of the tree retention and recommends the trees to be retained and if not, for a replacement ratio of 3 new trees per tree removed to be applied, consistent with the requirements of the Liverpool Tree Management Strategy. Refer to Liverpool Growth Centres DCP Parts 2.3.5.1 to 2.3.5.5.

4.2. The measure of total play area shown in the site plans includes area within the riparian corridor easement. The landscape plans show that this area is to fenced off with a 1200mm fence. This area should not be counted towards the total play area requirements. The proposal has not allowed for car parking to encroach onto the easement. The children play area should not encroach to the easement either. CDPD recommends an alternative scheme be provided where the outdoor play area is not encumbered by easements.

4.3. The landscape architecture documentation designates 'boundary fences' and 'privacy fences'. It is unclear the extent and height of each type of fence, and to which boundary they are applicable. The front fences and walls within the front setback should be constructed of visually permeable materials and treatments. The proposed 1800mm solid privacy fence facing Fourteenth Avenue is not supported. CDPD recommends reviewing the design of fencing and further information regarding the extent and type of fences in a form of diagram for assessment, or a legend to be included in the landscape plans. Further, CDPD recommends the use of low fences and planting to delineate communal and private and open spaces from adjoining public open space, namely through the Riparian Zone at the front of the site to Fourteenth Avenue. Refer to the Child Care Planning Guidelines section 3.2.

4.4. The 4-5 age group play area will be largely shaded in winter afternoons by the child care facility itself. The same will occur with the level 1 play area. CDPD recommends an alternative positioning and layout of the child care facility to enable solar access in winter and shade in summer. Preference would be to provide for a single storey facility. Refer to objective C11 of the Child Care Planning Guidelines.

4.5. For the child care facility, appropriate planting should be provided along the boundary integrated with fencing. The proposal does not include provision for edge planting along internal fences. CDPD recommends this to be included. Note that Screen planting should not be included in calculations of unencumbered outdoor space. Refer to Child Care Guidelines item C17.

4.6. Shade trees should be provided in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings. CDPD recommends reviewing the design for the car park to provide for adequate tree canopy. The car park will be required to be appropriately planted with suitable, broad spreading shade trees, demonstrating a reasonable prospect of achieving a minimum of 30% canopy cover to the area of the site applied as an open-air, at-grade car park. Refer to Child Care Guidelines item C18 and Liverpool Tree Management Strategy Direction 10, action 10.8.

#### 5. Safety

5.1. The proposed facilities 'turn their backs' onto the surrounding landscape around the riparian zone and the SP2 area north of the site. CDPD recommends reviewing the siting of the facilities to promote the visibility and active surveillance of the surrounding landscaped areas. Refer to LGC DCP section 2.5.2.

5.2. The child care facility is accessed from the internal car park and provides the play areas facing Fourteenth Avenue. CDPD recommends revising the layout of the facility to allow for direct accessibility and visibility from existing and proposed streets adjacent to the site. Refer to Child Care Planning Guidelines item C15.

5.3. For the child care facility, the rooms on ground floor can be directly looking into from the adjacent car park. CDPD recommends providing greater separation, screening or reviewing the layout of

	<p>the facility to minimise direct overlooking of indoor rooms from public areas.</p> <p>5.4. Defined pedestrian crossings and defined/separate paths should be included within large car parking areas and the surrounding streets accessing the site. Further pedestrian paths should be wide enough to enable two prams to pass each other. CDPD recommends the car parking layout be revised to allow for pedestrian paths between parking bays, at intervals and connecting all the four facilities on the site.</p> <p>5.5. Delivery, loading and vehicle turnaround areas should be located away from the main pedestrian access to the building and in clearly designated. CDPD recommends the assessment of swept paths for trucks (deliveries and waste collection) accessing the central car park and delivering goods to each of the facilities, where needed. This will have implications for the number of car bays provided on site and the circulation parameters used for the design of curving kerb lines. Refer to Child Care Guidelines item C35.</p> <p>5.6. For the child care facility, consideration should be given to drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly. Further, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site. CDPD recommends reviewing the design with consideration for child care pick up and drop off areas which are not included or overlapping with the central car park. Refer to Child Care Guidelines item C36.</p> <p>5.7. The design of the pedestrian paths accessing the child care centre should consider the movement of prams and the need for pram ramps. Similarly, the design of the car park adjacent to the remaining facilities should have consideration for universal access requirements. CDPD recommends detailing and indication of where pram ramps will be located along the edges of the car park.</p> <p>Note: Consideration should be given to the lighting of the car parking area at night time, and Development is to provide a CPTED report and illustrate what initiatives are being considered for crime risk (CPTED) assessment as part of the EP&amp;A Act 1979.</p> <p><u>6. Amenity</u></p> <p>6.1. The Landscape Plan indicates a forecourt is provided for the tuition building, shaded by cultural date palms, however, the facility which will attract the greatest number of patrons is the mosque. CDPD recommends revising the site plan and the landscape to provide a hierarchy of outdoor spaces which is reflective of the use of each facility. Also, the level of shade between each facility should be carefully considered, as well as opportunities for seating while waiting for services, or for meeting acquaintances prior to entering the facilities.</p> <p>6.2. An Acoustic Report has been prepared demonstrating the fence approach based on the existing conditions on site. CDPD recommends the report be reviewed with consideration for possible residential development on the neighbouring property to the east. CDPD also recommends reviewing the child care configuration for an improved site layout which can envelop the child play areas and</p>	
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preclude the use of acoustic fencing, particularly to possible eastern residential uses.

Note: Conflicting information provided. The acoustic report mentions 200 patrons. The Planning Assessment mentions 700 patrons for the Mosque.

7. Housing Diversity and Social Inclusion

7.1. NIL

8. Aesthetics

8.1. The material selection is sound, however, the distribution of the materials through the four facilities would gain from a greater level of integration and composition of materials. The proposal would benefit from reducing the number of buildings on the site and combining two or more of the facilities. CDPD suggests the site design to be consolidated to allow for greater restraint and a more careful consideration of the placement of materials and composition of the building facades.

Below is a sketch which is intended to inform the consideration of the site plan and illustrates how small alterations in the positioning of the facilities can provide a better outcome for the proposal.

The following are the key elements illustrated by the sketch plan:

1. Consideration of vehicle access at the intersection with Fourteenth Avenue, as shown in DA 345/2025, and consider pedestrian footpaths and pedestrian crossings (subject to traffic and transport advice).
2. Provision of footpaths along the western side of the Road 01 proposed in DA 345/2025, with potential for parent pick-up and drop-off parking bays along the street. Also provide for footpaths and on street parking bays along Fourteenth Avenue.
3. Consideration for a consolidated driveway for access to the central car park. Provision for a secure gate to be considered, for enclosure after hours.
4. Provision for tree planting at the edge of Road 01, shown in DA 345/2025
5. Adjust the location of the child care centre, and its internal layout, to provide a corner building at the intersection of Fourteenth Avenue and Road 01. Provide for front setback and a front yard facing each side of the building. The setback facing Fourteenth Avenue should be consistent with the residential setback on the residential subdivision to the east.
6. Provide one unencumbered outdoor play area for the child care centre. Noise and separation concerns are addressed by the proposed positioning of the child care centre facility which would act as a buffer to the neighbours to the east.
7. Tree retention of existing trees adjacent to the lot boundary on Fourteenth Avenue within the child care centre play area.
8. Tree canopy to be provided on the central car park. The sketch has taken the approach of providing 1 tree planter bed for each 5 car bays. The planter beds would be the same size as a car bay itself, enabling plant and tree growth.
9. The mosque is located to the northwest corner of the site, which allows for the establishment of an arrival forecourt east of the mosque. It also allows for the full car park to be utilised as an

overflow praying area, to the east of the preacher, in case of large religious events.

- 10.** Arrival forecourt with cultural date palm planting, or other shade trees. Also allow for seating and other amenities (bike parking, water bubbler, small play equipment).
- 11.** Youth centre is positioned centrally within the site to allow for greater separation of the residential area to the southeast of the site.
- 12.** Tuition facility is relocated to the east of the site, closer to the quieter residential areas.
- 13.** Smaller forecourt provided to youth centre and tuition building. Can also provide an overflow area for patrons of the mosque.
- 14.** Footpaths along the edge of the car park allow for pedestrian access from Fourteenth Avenue to the facilities positioned at the back of the site.
- 15.** Youth Centre and Tuition Building can be established as one single facility. This would depend on the intended staging of development.

These recommendations are illustrated by the numbered items in **Figure A** below.



**Figure A:** Sketch plan of an alternative option for the placing of facilities at 315 Fourteenth Avenue.

### 5.3 Community Consultation

The application was notified in accordance with the Liverpool City Council Community Engagement Strategy 2022 between 18 September 2025 and 17 October 2025. The Council received twenty-five (25) submissions in objection. A brief summary of the issues raised in

these submissions are listed in the table below.

These objections have not been sufficiently addressed by the applicant. It is recommended that the applicant lodge a GIPA request to obtain copies of all submissions received in relation to the proposal and provide a written response addressing each matter.

**Table 4: Community Submissions**

<b>Issue</b>
<p><b><u>Issue 1: Traffic Congestion</u></b>            A high intensity, high traffic-generating development such as the proposed will only exacerbate existing traffic congestion in the area.</p> <p>There are a number of existing vehicle “choke” points in the area, including at the intersection of Fifteenth Avenue and along Edmondson Avenue which may not cope with additional traffic load.</p> <p>The area is several limited in public transport options creating a reliance on vehicular arrival.</p>
<p><b><u>Issue 2: Visual Amenity</u></b>            Concerns are raised regarding the suitability of a “mega” structure given the proposals size and scale.</p> <p>Austral is a semi-rural area. The scale of the proposed development is not consistent with the existing character of the area.</p>
<p><b><u>Issue 3: Social Impact and Suitability</u></b>            Numerous concerns are raised regarding the suitability of the development within its rural residential context.</p> <p>Concerns are raised over the suitability of the proposed development, given its proximity to multiple similar existing developments.</p>
<p><b><u>Issue 4: Inadequate Infrastructure</u></b>            The existing local infrastructure is inadequate to accommodate the additional traffic load. The rural roads in Austral are in urgent need of repair if they are to support development of this size.</p> <p>The area needs safe roads, footpaths, parks and access to other amenities to support the influx of visitors resulting from the development.</p>
<p><b><u>Issue 5: Acoustic Impact</u></b>            Not only is construction noise of concern, but the ongoing impact to acoustic amenity by the constant traffic to and from the site, and calls to prayers will be disruptive.</p>
<p><b><u>Issue 6: Wildlife</u></b>            The clearing of land and native flora will pose a risk to native wildlife.</p>
<p><b><u>Issue 7: Drainage &amp; Flooding</u></b>            The area experience water pooling and flooding, the additional development will place greater strain on existing drainage infrastructure.</p>

## **6. DEVELOPMENT CONTRIBUTIONS**

Development contributions are applicable to the subject modification application as outlined in the table below.

**Table 9: Development Contributions**

<b>Contribution</b>	<b>Comments</b>
7.11 Contributions	Liverpool Contributions Plan 2021 – Austral & Leppington North is applicable to the subject DA.  If consent were granted, a condition of consent would be imposed requiring the relevant contributions to be paid prior to the issue of a Construction Certificate.
Special Infrastructure Contribution (SIC)	The site is located within the Western Sydney Growth Area. If consent were granted, a condition of consent requiring a SIC be made prior to subdivision certificate would be imposed.
Housing Productivity Contribution (HPC)	The land falls within the excluded area – Western Sydney Growth Area and Aerotropolis SCAs, therefore the HPC does not apply.

## 7. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

- 7.1.1 Insufficient Information** – The application in its current form, contains multiple non-compliances, omissions and/or insufficient information that prevents a complete and proper assessment of the proposal.
- 7.1.2 Design Excellence** – The proposal was reviewed by the Liverpool City Council Design Excellence Panel (DEP) at its meeting held on 13 November 2025. The DEP did not support the proposal and recommended that it be returned for further consideration. The Panel identified numerous significant design issues which remain unresolved.
- 7.1.3 Flood Affected Land** – The land is heavily flood-affected, with approximately 80% situated within the floodway of Tributary 2 of Kemps Creek. Until Basin 17 and its associated trunk drainage system are completed, the site will remain within the active floodway of Tributary 2. Consequently, no filling or development can proceed prior to their construction.
- 7.1.4 Site Remediation** – Concerns are raised regarding the appropriateness of the selected remediation strategies in particular, for reuse of soil contaminated with bonded asbestos on site, when a childcare centre is proposed.
- 7.1.5 Characterisation of Use and Zone Objectives** – The application is not clear as to which characterisation the proposed Youth Centre is being applied under. It is described as an Office, Community Facility, a Canteen & Storage area, and an Indoor Recreational Facility in various sections and reports. If the youth centre is to be considered a Community Facility it must be demonstrated that the centre operates entirely independently with no reliance upon the Mosque, Tuition Building or Childcare Centre. Furthermore, it has not been adequately demonstrated that the proposed uses are consistent with the Zone objectives.

**7.1.6 Access to the Adjoining Site** – The submitted Civil Engineering plans illustrate a proposed 6m wide driveway layback and footway crossing with associated signage on adjoining land at 295 Fourteenth Avenue, Austral, legally known as Lot 5 in DP 30409. As this involves physical works on adjoining land, not only is adjoining land owners' consent required, but the neighbouring site is required to be identified as part of the development application. Council cannot determine development on land not identified in the development application. This also generates a number of considerations under the Liverpool Growth Centres Precincts DCP 2021 with regards to the Indicative Layout Plan and temporary access that have not been addressed.

**7.1.7 Childcare Centre Design and Operation** – The proposal in its current form, presents several inconsistencies with both the Child Care Planning Guideline and Education and Care Services National Regulations. Additional information is required to enable Council to assess its suitability, operational functionality and design.

**7.1.8 Car Parking** – Insufficient information has been provided to demonstrate that the proposed car park has been adequately designed to meet operational requirements, nor has a sufficient number of car parking spaces been provided to meet demand or compliance with the relevant planning controls

**7.1.9 Site Suitability** – Despite the site's size, it is not considered suitable for the proposed development due to a combination of zoning, environmental and infrastructure constraints. A substantial portion of the land is constrained by a riparian corridor identified as a Native Vegetation Retention Area and zoned SP2, significantly reducing the effective developable area and intensifying development on the remaining land. The balance of the site is zoned C4 – Environmental Living, which is intended for low-intensity development compatible with environmentally sensitive and semi-rural settings, and does not support the scale and intensity of a multi-use community facility and a 202-space car park. Further, the proposal relies on temporary access arrangements, with permanent access contingent on the future construction of Buwura Crescent under a separate development application, creating uncertainty regarding long-term site access and infrastructure capacity. In this context, the development is incompatible with the current character and infrastructure of the area and is considered premature.

**7.1.10 External Agencies** – Insufficient information has been provided to enable several agencies to complete their assessment, and as such are refusing to issue General Terms of Approval. This includes WaterNSW, Department of Planning and Environment-Water, and NSW Rural Fire Service.

## **8. CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is recommended that the application be refused.

Based on the assessment against the relevant planning considerations, it is deemed that the site is not suitable for the proposed development, and it is considered that the key issues as outlined in **Section 7** have not been adequately resolved.

## 9. RECOMMENDATION

That the Development Application DA-390/2025 for the demolition of existing structures, construction of a multi-use community centre, including a place of public worship, a 118 children's centre-based childcare facility, an educational establishment, and an indoor recreational facility. The proposal consists of a total of 202 parking spaces with ancillary development, including a canteen, storage, and office space at 315 Fourteenth Avenue, Austral be **REFUSED** pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979*.

The following attachments are provided:

- Attachment A: Draft Reasons for Refusal
- Attachment B: Tables of Compliance
- Attachment C: Architectural Plans – 299529.2025
- Attachment D: Landscape DA Report – 299544.2025
- Attachment E: Landscape Plans (Childcare Centre) – 299545.2025
- Attachment F: Civil Engineering Plan – 299557.2025
- Attachment G: Stormwater Plan – 299526.2025
- Attachment H: Survey Plan – 299536.2025
- Attachment I: Statement of Environmental Effects – 299532.2025
- Attachment J: Arborist Report – 299551.2025
- Attachment K: Acoustic Report – 299550.2025
- Attachment L: Odour Assessment – 299546.2025
- Attachment M: Traffic Impact Assessment – 299538.2025
- Attachment N: Stormwater Management Report – 299533.2025
- Attachment O: Section J Report – 299527.2025
- Attachment P: Plan of Management (Place of Public Worship) – 299524.2025
- Attachment Q: Plan of Management (Childcare Centre) – 299508.2025
- Attachment R: Access Report (Childcare Centre)– 299519.2025
- Attachment S: Access Report (Offices)– 299513.2025
- Attachment T: Access Report (Tuition Centre)– 299519.2025
- Attachment U: Access Report (Mosque)– 299501.2025
- Attachment V: Flood Impact Assessment – 299511.2025
- Attachment W: Demolition Management Plan – 299505.2025
- Attachment X: Waste Management Plan – 299528.2025
- Attachment Y: Stage 1 Preliminary and Stage 2 Site Investigation – 299497.2025
- Attachment Z: Remedial Action Plan – 299499.2025