

DATE	Tuesday 28 April 2026 at 2.02 pm.
026	Meeting held at Council and also accessible via MS Teams

PANEL MEMBERS	Heather Warton (Chair), Brendon Beirne & Brian Kirk (Expert Members) and Suzana Apostolou (Community Representative)
APOLOGIES	Nil
DECLARATIONS OF INTEREST	Nil

REGISTERED SPEAKERS	ITEM 01: Applicant • Remon Abed Al-Mnaem, owner (granted permission to speak at the meeting). ITEM 02: Objectors: • James Lidis, planner for adjoining owner • Caroline Porter, adjoining owner • Kristopher Pasco, subject building resident (granted late permission to speak). Applicant: • Josh Jung, Aland • Josh Mitchell, Aland • Robert Varga, traffic consultant • Jonathan Wood, planner. ITEM 03: Applicant: • Ivan Kokotovic, planner.
----------------------------	---

MATTERS DETERMINED

ITEM 01. DA-334/2025 – Lot 363 & Lot 364 in DP 227167, known as 183 and 185 Hoxton Park Road Cartwright

Demolition of existing structures, construction of a five storey residential flat building comprising of nineteen units with six affordable housing units and one level of basement car parking, amalgamation of the two existing lots into one and associated landscaping and civil works.

PANEL CONSIDERATION AND DECISION

The Panel **refuses** development application DA 334/20925 at 183 and 185 Hoxton Park Road Cartwright for the demolition of existing structures, construction of a five storey residential flat building comprising of nineteen units with six affordable housing units and one level of basement car parking, amalgamation of the two existing lots into one and associated landscaping and civil works, for the following reasons:

1. No evidence has been provided that the site is within an *accessible area*, as defined in the Schedule 10 Dictionary of *State Environmental Planning Policy (Housing) 2021* (Housing SEPP). The bonus provisions under Chapter 2, Part 2, Division 1 In-fill affordable housing of the Housing SEPP therefore do not apply, as the development does not meet section 15(c)(i). In the absence of any written submissions to vary the maximum FSR and maximum building height under Liverpool LEP 2008, consent cannot be granted.
2. The development application does not sufficiently demonstrate consistency with Chapter 6 Water Catchments of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 as inadequate stormwater management plans and reports have been provided, pursuant to sections 4.15(1)(a)(i), 4.15(a)(iv), 4.15(1)(b) and 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).
3. Insufficient information has been submitted in relation to an Acoustic Report and Traffic Impact Assessment, including swept path diagrams, to sufficiently demonstrate consistency with section 2.119 and section 2.120 under *State Environmental Planning Policy (Transport and Infrastructure) 2021*, pursuant to sections 4.15(1)(a)(i), 4.15(a)(iv), 4.15(1)(b) and 4.15(1)(c) of the EP&A Act 1979.
4. Even if Chapter 2 of the Housing SEPP was applicable, the development application does not achieve satisfactory compliance with the controls stipulated under the Housing SEPP as follows:
 - Section 19 Non-discretionary development standards
 - Section 20 Design Requirements.
5. The development application does not achieve satisfactory compliance with the controls stipulated under Chapter 4 Design of Residential Apartment Development of the Housing SEPP as follows:

Schedule 9 Design Principles for residential apartment development:

- Design Principle 2 – Built form and scale
- Design Principle 4 – Sustainability
- Design Principle 5 – Landscape
- Design Principle 6 – Amenity
- Design Principle 8 – Housing Diversity and Social Interaction
- Design Principle 9 – Aesthetics.

Apartment Design Guidelines:

- 3D Communal and public open space

- 3E Deep soil zones
 - 3F Visual Privacy
 - 3J Bicycle and Car Parking
 - 4D Apartment size and layout
 - 4E Private Open space and Balconies
 - 4G Storage
 - 4H Acoustic Privacy
 - 4J Noise and Pollution
 - 4O Landscape Design
 - 4P Planting on Structures
 - 4V Water Management and Conservation.
6. Pursuant to sections 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the EP&A Act 1979, the proposed development application is inconsistent with the objectives of the R4 High Density Residential under the Liverpool Local Environmental Plan 2008, particularly the following objectives:
- To provide for the housing needs of the community within a high-density residential environment
 - To provide a variety of housing types within a high density residential environment.
5. The proposed development does not achieve satisfactory compliance with the controls stipulated in the Liverpool Development Control Plan 2008, in terms of the following development controls:
1. Part 1 General Controls for all Development:
 - Section 3 Landscaping and Incorporation of Existing Trees
 - Section 6 – Water Cycle Management
 - Section 20 – Car Parking and Access.
 2. Part 3.7 Residential Flat Buildings in the R4 zones:
 - Section 4 Site Planning
 - Section 5 Setbacks
 - Section 6 Apartment Diversity
 - Section 7 Amenity, Landscape, Deep Soil and Communal Open Space
 - Section 10 Site Services,

pursuant to sections 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the EP&A Act 1979.

6. The development will have adverse impact on the built environment and natural environment, and social impacts, pursuant to section 4.15(1)(a)(iv), 4.15(1)(b) and 4.15(1)(c) of the EP&A Act 1979.
7. The site is not suitable for the proposed development, pursuant to sections 4.15(1)(c) of the EP&A Act 1979.
8. The proposed development is not considered to be acceptable having regard to the concerns raised from the Design Excellence Panel and Council's internal referrals within Council, pursuant to the provision of section 4.15(1)(d) of the EP&A Act 1979.
9. In the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development, therefore the development is not in the public interest, pursuant to the provisions of section 4.15(1)(e) of the EP&A Act 1979.

The decision was unanimous

REASONS FOR DECISION

The Panel supports refusal of the Application for the reasons as above and as outlined in the Assessment Report. The Panel was provided with an Addendum Report dated 28 April 2026 with regard to the issue of whether the site is an *accessible area*, which concluded that no evidence had been submitted demonstrating that there are bus stops within the required 400m walking distance.

There were no public submissions. In the public meeting, the owner/applicant requested that the Panel defer the Application, to allow the issues identified in the assessment report to be addressed. The Panel is of the view that the issues with the Application are so substantive that a deferral is not justified.

ITEM 02. DA 373/2025 – Lot 2 in DP 1269091, known as 311 Hume Highway Liverpool

Fit out and use of an existing commercial tenancy to become a Childcare Facility.

PANEL CONSIDERATION AND DECISION

A. The Panel is satisfied that the Applicant's written statement justifying a variation to clause 7.38(3) of Liverpool LEP 2008 relating to the use of the ground floor of the building has demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case; and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

B. The Panel **approves** DA-373/2025, for fit out and use of an existing ground floor commercial tenancy for a childcare centre at Lot 2 DP 1269091 and Lot 1 in DP 1269091, known as 311 Hume Highway, Liverpool, subject to conditions in **Attachment A** of the Assessment Report, as amended as follows:

A. The following conditions are deleted, as they are not relevant to the proposal; and/or in light of the building and car park already having been approved and constructed:

- 4. Shoring and adequacy of adjoining property
- 6. Notification of Home Building Act 1989 Requirements
- 8. Soil Assessment
- 9. Housing and Productivity Contribution
- 16. Site Development Work
- 94. Car Parking Management System (but see Condition 10.6.)
- 97. Washing on balconies
- 105. Vehicle Access
- 111. Noise-Spruiking
- 123. Educational Establishment.

B. The following conditions are amended:

1. **Condition 10 Design Amendments** is to read:

Prior to the submission of a construction certificate to the Certifier, Council's Manager of Development Assessment is to approve the following amendments to the development. All changes must be shown on the construction certificate drawings, reflected in the specifications, and in the Plan of Management:

1. All glazing to the playroom and 'outdoor' area facing the Hume Highway and Hoxton Park Road are to have an attractive decorative treatment, providing adequate privacy for the centre users but that maximises activation and solar access. Full translucent treatment of these windows is not approved. The treatment shall be permanently affixed or preferably embedded in the glazing.

Reason: To ensure that there is visibility to the use of the space on the prominent road frontages but balanced with the need to ensure privacy for staff and children.

2. The location of the visitor parking spaces 07 and 08 are to be swapped with staff car parking spaces.

Reason: To ensure that the visitor car parking is as close as possible to the lift lobby.

3. Four bicycle spaces are to be provided, to be located with the tenanted space. If this results in a reduction in the unencumbered indoor or 'outdoor' space, the number of childcare places must be adjusted accordingly. The location/s is to be shown on the floor plans.

Reason: To satisfy the requirements of Liverpool DCP and encourage active transport use by staff.

4. Two of the visitors' spaces are to be signposted to indicate that they are to be used as loading spaces between the hours of 9.30am and 2.30pm. These loading spaces are to be indicated on the basement car parking plan.

Reason: To meet the requirements for delivery vehicles.

5. Pavement delineation is to be provided, indicating a path of safe pedestrian movement from the car parking spaces to the lift lobby. This is to be shown on the basement car park plan.

Reason: To ensure a visible safe path of travel in the car park for parents/carers and children.

6. A Parking and Vehicle Access Plan is to be prepared to regulate the traffic flow and safety of the car park ramp. This shall provide details of:

- Ground based parking sensors to be provided in the car spaces
- A "Child Car Centre Parking Spaces" sign, electronically indicating whether the child care visitor spaces are full or available, to be located at the car park entry.

Reason: To ensure the safety and amenity of car park users and surrounding residents is maintained.

7. Plans showing the unencumbered indoor and outdoor space, exclusive of all planters, access pathways, storage areas, service and access areas in front of sinks and storage, bicycle spaces and the like are to be provided. If the minimum areas are not met, the approved number of childcare places is to be reduced accordingly, and the final numbers referenced in the Plan and of Management.

Reason: To ensure all minimum area re met to meet the Child Cares Services National Regulation.

2. **Condition 25. Road Safety Audit** is amended to delete the words “on the proposed roadworks” in the first sentence.

Reason: To ensure that if required, works are installed to address the safety of vehicular movements at the entry/exit and on Gillespie Street and to address any queuing on Gillespie Street.

3. In **Condition 27. Access, Car Parking and Manoeuvring – Detail**, Point 2. and Point 4 are deleted - as no BDouble/Rigid/Medium Rigid Vehicles are proposed; and the car park ramp is as already approved and constructed.
4. **Condition 29. Waste Management Plan requirements** is amended to refer to the issue of the Construction Certificate and not a ‘Subdivision Works Certificate’ in the first sentence; and to refer to the “Certifier” and not the “Principal Certifier” – as there is no subdivision proposed; and a Certifier and not a Principal Certifier issues a construction certificate.
5. **Condition 93. Operational Plan of Management** is amended to read:

The approved Plan of Management (POM) referred to in Condition 1 is to be updated and amended:

- 1.To refer to the approved hours for service vehicle access and the location of the loading spaces as indicated in Condition 10 Subclause 4. (as amended);
- 2.To refer to the provision of a Noise and Traffic Complaints Register, referring to the requirements outlined in Condition 109. (as amended).
- 3.To refer to the details of the measure to be implemented, including an on-going communication strategy to ensure that all parents/carers and staff are aware of and abide by the following (which are to be started in the POM):
 - All carers/parents accessing the centre by vehicle are to park within the building in the designated car parking spaces
 - Only the applicable staff or visitor spaces are to be used
 - No on-street parking is permitted on Gillespie Street
 - No driveways in Gillespie Street are to be obstructed
 - No parking or waiting is to occur in the car park of the Collingwood Hotel
 - No double parking or waiting is to occur at the top of the car park entry ramp
 - To abide by the electronic car parking sign and leave the site entry if the childcare parking spaces are full
 - No vehicle is to wait or double park in Gillespie Street
 - Provide instructions on the use and security measures related to a fob which must be provided to all parents/carers, in order to access the security roller shutter door to the car park

The amended POM is to be submitted to the Council’s Manager of Development Assessment and to the Manager of the Transport Management Team prior to the issue of the Occupation Certificate and prior to the commencement of the use.

6. **Condition 107. Deliveries and waste collection times for food and drink and mixed-use developments** is amended to insert a new heading “**Waste removal times**”; and is amended to read

Waste collection for the childcare centre is to occur only between the hours of 7am to 10pm Monday to Friday.” Childcare centre waste removal is to occur outside the days of residential waste removal.

7. **Condition 109 Noise Complaints Register** is amended with a new heading: “**Noise, Traffic and Parking Complaints Register**” and a new first sentence is to be inserted to read:

The operator must keep a register of all complaints received from any nearby neighbouring premises, or residents within the building, or the general public regarding noise, traffic and parking. This will include any instances of reported nuisance or obstruction or unauthorised parking other than within the allocated spaces in the basement car park.

The remaining paragraph “The Complaints Register must record, but not necessarily be limited toeach complaint received” remains as in Draft Condition 109.

and the last sentence “The Industry...at all times” is deleted.

Reason: To record all complaints made regarding the premises and ensure that these are addressed and monitored

8. **Condition 114. Noise Management Plan** is amended to read “The noise attenuation measures in the Acoustic Report approved in Condition 1, and in the approved Plan of Management as amended by these conditions must be complied with at all times.

The decision was unanimous.

REASONS FOR DECISION

Approval is granted for the reasons as generally outlined in the Assessment Report. The Panel appreciates that the ground floor tenancies have been vacant since construction and use and activation of this space is a positive outcome.

The Panel relies on the legal advice provided by the Applicant and as agreed by the Council, that consent can be granted with the submitted clause 4.6 variation to clause 7.38 of Liverpool LEP 2008.

Representatives from the adjoining hotel addressed the Panel as objectors, raising concern about the possible use of the hotel car park for parking and access. Accessibility to the car park is an existing situation; and other than condition that the centre users are not to utilise that car park (as proposed), the Panel has no control over the security of another property. A resident of the building also addressed the Panel raising concern with the car parking and access – these matters, where relevant, have been conditioned. The Panel was also informed by the written submissions to the Application.

The Panel has deleted extraneous recommended conditions not relevant to the proposal and use within an existing building and car park. Conditions have been added/amended to ensure all car parking will occur within the car spaces allocated to the commercial tenancy in the building. Minor amendments to conditions were sought by the Applicant’s Traffic Engineer in the public meeting, which have been largely agreed to, as indicated in the above amendments to the conditions.

It is noted that the childcare centre car parking is compliant with Council's DCP requirements and exceeds the requirements that would have applied if the centre had been outside a mixed zone. After the meeting the Panel sought advice on some draft conditions from Council, and the final conditions are based on emails received from Council's Officers on 30 April 2026.

The Panel notes that concurrence was granted by the NSW Early Learning Commission for the use of simulated outdoor open space (Attachment 7 of the Assessment Report). The Application proposed 66 childcare spaces, but the Commission noted that there was insufficient information to determine the unencumbered open space, such that "...the maximum number of children will be confirmed when amended plans are submitted to the Commission as part of an application for service approval". The Panel is concerned with the suitability of the simulated outdoor space, and if the Commission had not provided concurrence and support for this aspect, the Application may not have been approved. A condition has been included to require verification of the unencumbered spaces, and hence centre places (which ultimately may be licenced to be fewer than the proposed maximum of 66).

ITEM 03 DA-320/2025 – Lot 2 in DP 1198178, Lot 51 in DP 1939907 and Lot 120 in DP18314, known as Lot 2 Stewart Avenue, 75A and 73 Stewart Avenue Hammondville

Demolition of existing structures, subdivision of three existing allotments into a community title subdivision of seventeen Torrens title residential lots, and one association lot (over which is located on-site detention and water quality infrastructure, and community title road), and associated road construction, and civil works.

PANEL CONSIDERATION AND DECISION

The Panel **refuses** DA-320/2025 at Lot 2 Stewart Avenue, 75A and 73 Stewart Avenue Hammondville for the demolition of existing structures, subdivision of three existing allotments into a community title at subdivision of seventeen Torrens title residential lots, and one association lot (over which is located on-site detention and water quality infrastructure, and community title road), and associated road construction, and civil works for the reasons in **Attachment 2** of the Assessment Report, (but without the reference to the date of the decision being 19 November 2025).

The decision was unanimous.

REASONS FOR DECISION

The Panel agrees that the Council has satisfactorily assessed the Application and supports the reasons for refusal as outlined in the Assessment Report.

The written submissions were considered. At the public meeting, the Panel was addressed by the Applicant's planner who provided background to the Application. The Panel notes that the Application is subject to a deemed refusal appeal to the Land and Environment Court and that the SOFAC was filed on 25 February 2026.

PANEL MEMBERS	
Heather Warton (Chair)	Brendon Beirne
Brian Kirk	Suzana Apostolou