

ATTACHMENT 14: DRAFT REASONS FOR REFUSAL

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following environmental planning instruments:
 - a) Section 3.22 of State Environmental Planning Policy (Transport and Infrastructure) 2021 requires the concurrence of the Regulatory Authority where outdoor space requirements do not comply with Regulation 108 of the Education and Care National Regulations. The concurrence of the Regulatory Authority has not been obtained.
 - b) Clause 7.4 of the Liverpool Local Environmental Plan 2008 requires a separation distance from neighbouring buildings of 9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished) on land in Zone R4 High Density Residential. A separation of only 5 metres to the eastern-adjoint building has been provided.
 - c) A variation request under clause 4.6 has not been submitted for assessment of the above variations. Therefore the variations cannot be supported.
2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the Liverpool Development Control Plan 2008 in the following:
 - a) Part 1, Section 20 (Table 11), requires the following car parking spaces to be provided on site:
 - i. Child Care Centres
1 space per staff member and 1 space per 10 children (Stack parking of employees cars, maximum 2 deep, will be considered if there is good design for flow-through of short term car parking). Pick up and set down of children must address their safety.
 - ii. Services and Loading
Service facilities for a van
 - b) Part 1, Section 20 (Table 12), requires the provision of at least two (2) accessible car parking spaces.
 - c) Part 4, Section 4.2.7 (Figure 4-10 Street Setbacks) requires that all new development along the Hume Highway is to provide an 8 metre landscaped setback to the highway corridor, and a landscaped front setback of 4.5 metres to Lachlan Street.
 - d) Part 4, Section 4.2.11 permits a maximum site cover of 60%.
3. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development has not adequately demonstrated the likely impacts of the

development, and otherwise, based on the information submitted, it is considered that the development is likely to have an adverse impact in terms of the following:

- a) Built Environment – As determined by the Design Excellence, it is considered that the proposal, in its current form and configuration, does not meet the standards or architecture, urban design, landscape design and amenity expected for achieving design excellence for a childcare centre within the Liverpool local government area.
 - b) Site isolation – The proposed development has the potential to isolate the adjoining site to the east (No. 71 Lachlan Street), as the development would leave the adjoining site with a width of only 21.37m, which would not meet the required 24m as per Cl. 7.14(2)(b) of the LLEP 2008 for any building greater than 2 storeys on land in the R4 High Density Residential zone.
4. Pursuant to Sections 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted to determine whether the development is likely or otherwise to result in adverse social or environmental impacts in the locality in terms of the following:
- a) A Social Impact Assessment has not been undertaken to address the following minimum requirements:
 - i. Analysis of local needs and potential impacts of the proposed development on the community.
 - ii. Suitability of the site in close proximity to a classified state road with respect to child safety, pedestrian access and air quality.
 - iii. Public transport access to the site.
 - iv. Safety and security of children accessing the centre through the basement car park.
 - v. Fire safety and evacuation risk.
 - vi. The adequacy and appropriateness of providing a 'simulated outdoor space' as opposed to a 'natural environment outdoor space'.
 - b) The application does not resolve the following development engineering requirements:
 - i. A water quality device has not been provided, as per Part 6.5 of the LDCP 2008.
 - ii. The stormwater outlet that is connecting to the existing kerb inlet pit is conflicting with the existing power pole and telecommunications pit.
 - iii. A minimum 1% fall has not been provided between all surface pits proposed.
 - iv. Additional surface pits are likely to be required within the rear setback to collect stormwater from this area.
 - v. Details of the vehicular crossing within the Council reserve have not been provided, which would include minimum clearances to existing services.
 - vi. CBD paving has not been illustrated on the plans (stormwater, landscape and architectural) for the full site frontage including Sydney Road (Hume Highway) frontage.
 - c) Site Contamination Assessment

The submitted Detailed Site Investigation Report prepared by Neo Consulting dated 8 February 2023, does not appear to be prepared or reviewed and certified by a suitably qualified environmental consultant who is certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.

d) Acoustic Assessment

The submitted acoustic prepared by VMS Australia Pty Ltd dated 23 November 2022, does not appear to be prepared or peer reviewed by a suitably qualified acoustic consultant who is a member of the Australian Acoustical Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.

e) Air Quality Assessment

The submitted air quality assessments prepared by Airsafe dated 24 October 2022, does not appear to have been prepared or reviewed and certified by a suitably qualified environmental consultant who is a Certified Air Quality Professional under the CAQP Scheme administered by the Clean Air Society of Australia and New Zealand (CASANZ) or Certified Environmental Practitioner under the CEnvP Scheme administered by the Environment Institute of Australia and New Zealand (EIANZ).

f) Plan of Management

The submitted Plan of Management prepared by Ology dated does not identify and implement strategies to minimise noise from the proposed development and incorporate: approaches for promoting noise awareness by patrons and staff; training procedures; a complaint lodgment procedure to ensure that members of the public and local residents are able to report noise issues; an ongoing review process and a plan for responding to noise complaints.

The Noise Management Plan does not clearly specify the responsibilities of site personnel in managing noise or include a detailed list of steps taken to manage potential noise impacts. Management measures that may be incorporated in the Noise Management Plan are outlined in the Association of Australasian Acoustical Consultants (AAAC) Guideline for Child Care Centre Acoustic Assessment.

The Plan of Management has not been peer reviewed by a suitably qualified acoustic consultant to ensure that it is consistent with the recommendations made within the of the acoustic report prepared by VMS Australia Pty Ltd, dated 23 November 2022.

g) Fencing

The architectural plans do not illustrate the full extent of boundary fencing. The plans as submitted show a 1.8m high open-type fence (presumably timber or metal picket). However, this is inconsistent with the acoustic report, which

requires the erection of a 2.1m erected along the northern and eastern boundaries. A 2.1m high continuous barrier erected along the boundary to Sydney Road (Hume Highway) for a distance of approximately 55 metres would present poorly to the street frontage.

h) Tree Removal

The application proposes the removal of a number of trees, however, an arborist report has not been undertaken to support the removal of these trees.

i) Easement for support

The application proposes a zero setback along the eastern boundary to accommodate a fire stair, which would require the creation of an easement for support over the wall. The creation of an such an easement would require the consent of the neighbouring property owners, which has not been provided.

5. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development, despite being a permissible use, has not adequately demonstrated the suitability of the site for the development.
6. Pursuant to Section 4.15(1)(d) & (e) of the Environmental Planning and Assessment Act 1979, the proposal is not considered to be in the public interest, having regard to the above reasons of refusal.