

## Sydney Western City Planning Panel Briefing Report

<b>Panel Reference</b>	PPSSWC-319
<b>DA Number</b>	DA-19/2023
<b>LGA</b>	Liverpool City Council
<b>Proposed Development</b>	Demolition of existing structures and construction of a three-storey centre based childcare centre over basement car parking accommodating 124 children
<b>Street Address</b>	73 Lachlan Street Warwick Farm
<b>Applicant</b>	FLDC Architects
<b>Owners</b>	Ben Nicholas Clint Biggs Robert Noyes
<b>Number of Submissions</b>	2 objections (1 containing a petition with 4 signatures)
<b>Regional Development Criteria (Schedule 6 of the SEPP) Planning System) 2011</b>	Private infrastructure and community facility over \$5 million – childcare centre
<b>Prepared by</b>	Nelson Mu Fineline Planning & Design on behalf of Liverpool Council

### 1. The Site

The site comprises two separate allotments, identified as Lots 1 & 2 in DP 1058859, with a total site area of 1,150m<sup>2</sup>. It is known as 73 Lachlan Street, Warwick Farm and currently accommodates a 2-storey weatherboard/fibro clad residence, a single storey rendered building and 2 detached garages. There is also a swimming pool at the rear of the site.

The site is almost a triangular shaped allotment fronting Lachlan Street and backs onto the Hume Highway. It has frontages of approximately 47.6m to Lachlan Street and 55.2m to the Hume Highway and an eastern side boundary of 37m.

It is surrounded by residential properties. The immediate eastern adjoining property contains a single storey dwelling house and the properties to its east are 2 single storey dwelling houses. The property on the opposite side of Lachlan Street contains multi-level residential apartment buildings. The area is zoned R4 High Density Residential under the Liverpool LEP 2008 and is being transformed from one and two-storey detached dwelling houses to multi-level residential apartment buildings as envisaged for the area.



Figure 1: Locality plan showing the site, highlighted with red outline, and its surrounding context (source: Six Maps)

## 2. Background

<b>DA-19/2023 lodged</b>	11 January 2023
<b>Design Excellence Panel</b>	11 May 2023
<b>RFI</b>	Preliminary assessment completed and RFI is being prepared.
<b>Zone</b>	R4 High Density Residential under Liverpool LEP 2008
<b>Building Height</b>	35m
<b>FSR</b>	2:1
<b>Lot Size</b>	1,150m <sup>2</sup>

## 3. Proposed Development

The Applicant seeks consent for the following works:

Demolition of existing structures and the construction of a 3-storey centre based childcare centre over basement carpark accommodating 124 children. The facility will cater for the following number of children in care:

- 24 children: 0-2 years old
- 40 children: 2-3 years old
- 60 children: 3-6 years old

The general building arrangement of the proposal is detailed in Figures 2- 9 below:

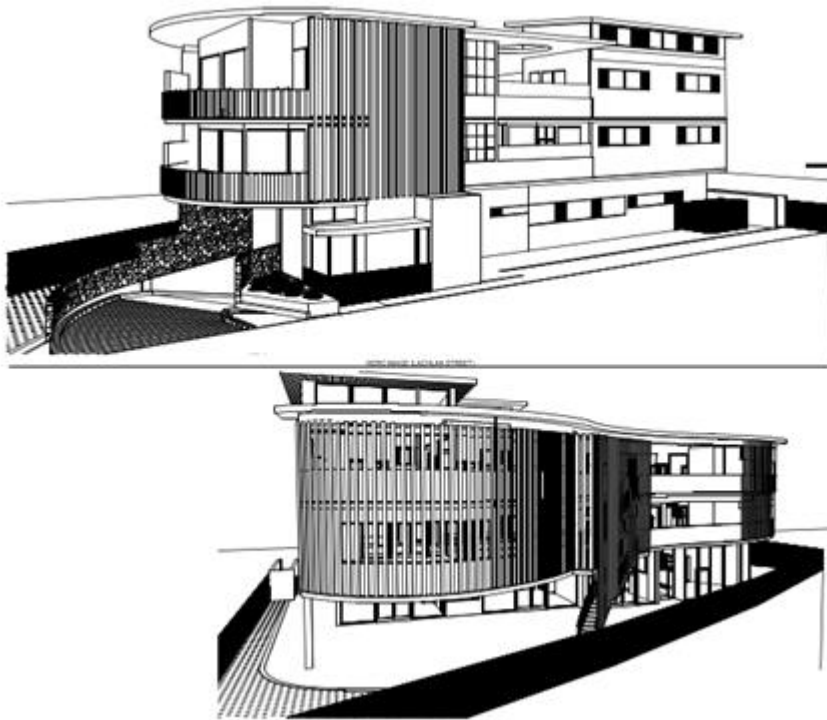


Figure 2 – Perspective drawings of the proposal as seen from Lachlan Street and Hume Highway.

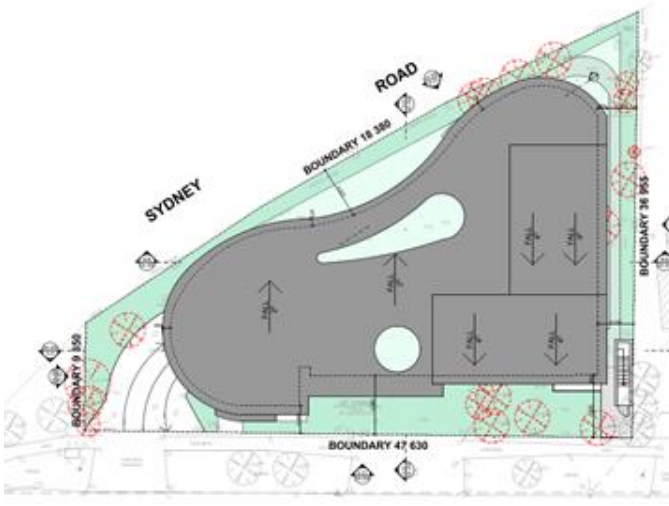


Figure 3 – Site plan showing the proposed building and landscaped area including deep soil zone.

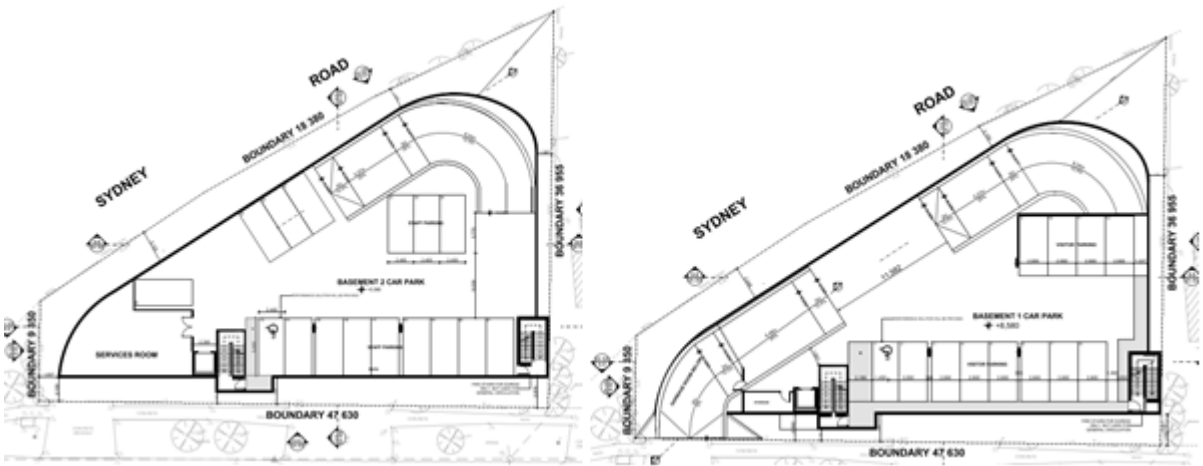


Figure 4 – 2 levels of basement carpark



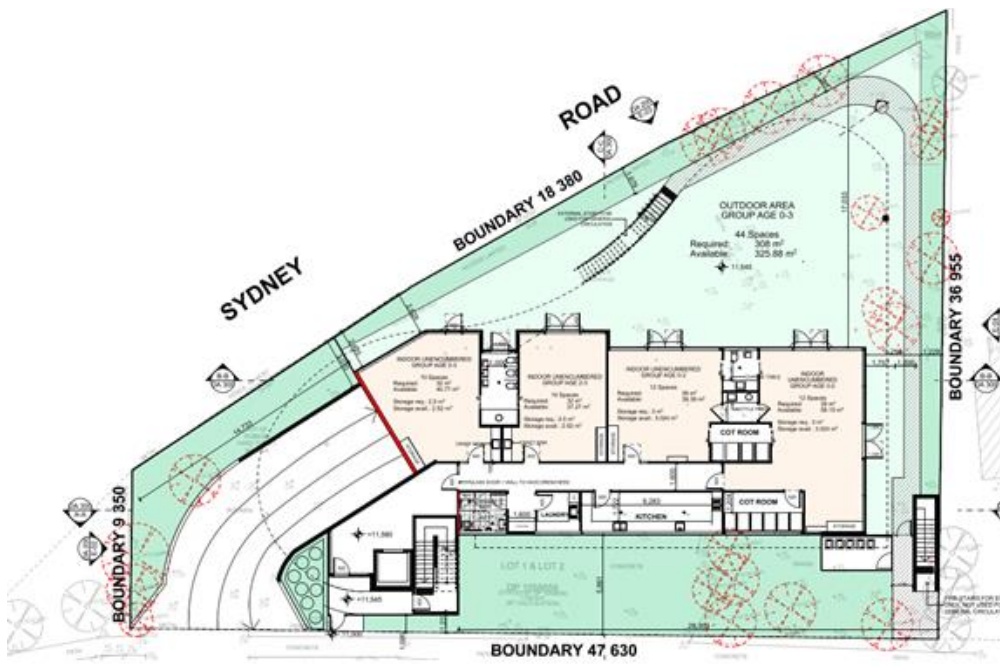


Figure 5 – Ground floor plan (outdoor children play area for aged group 0-3 is fully undercover)

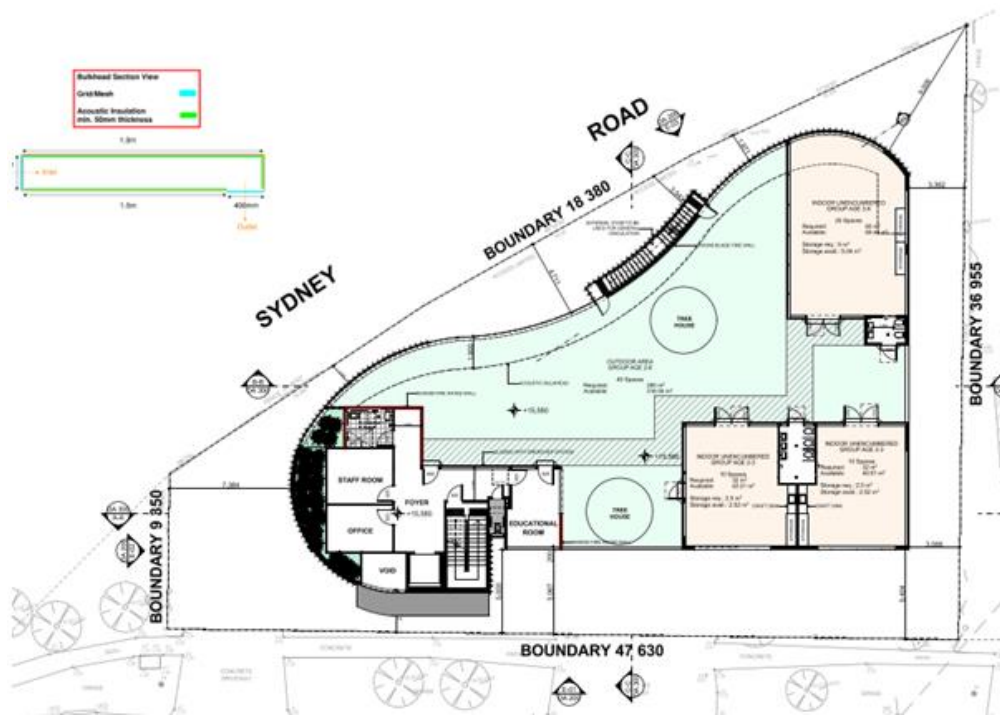


Figure 6 – First-floor plan (outdoor children play area for 2-6 years old is fully enclosed)



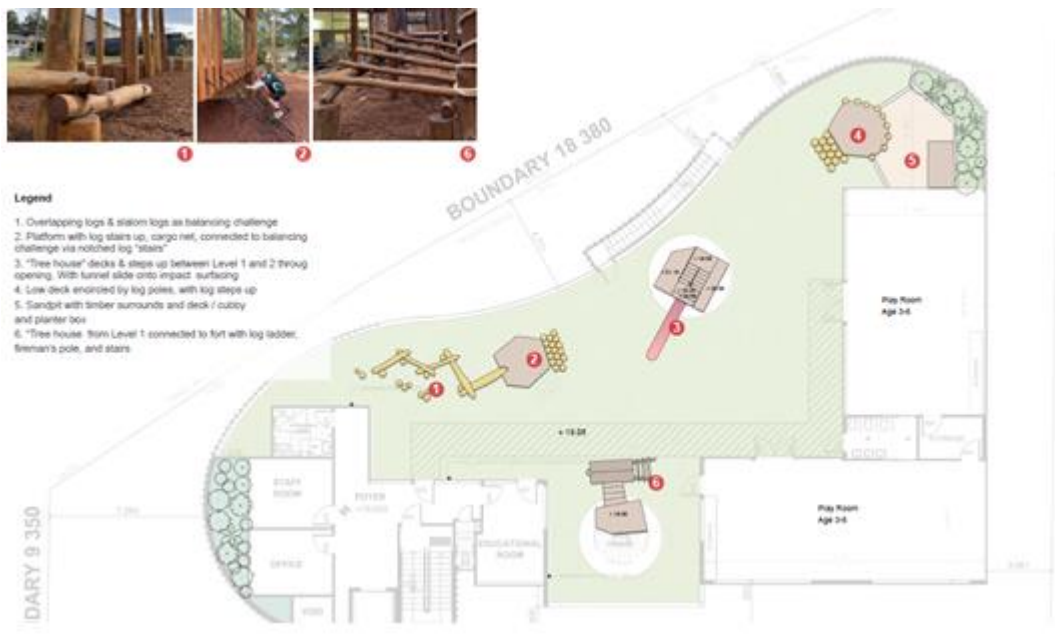


Figure 8 – Ground and rooftop landscaped areas

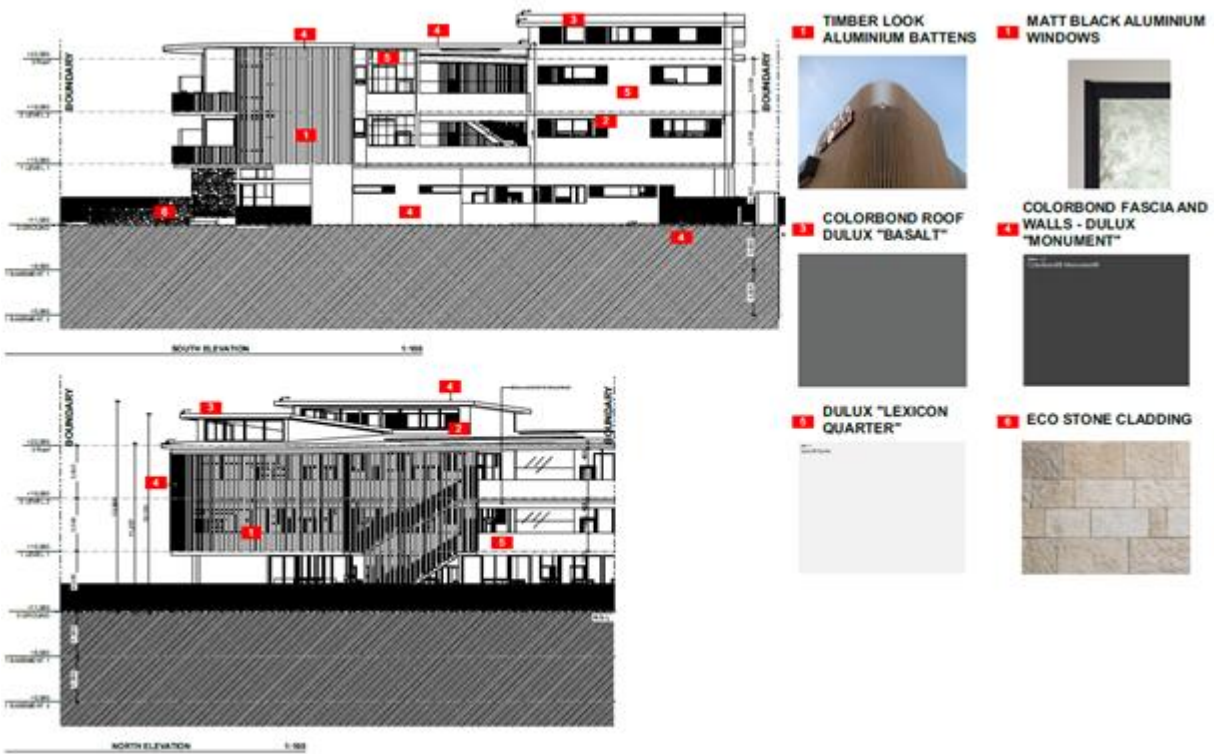


Figure 9 – Schedule of colours and finishes

#### 4. Notification / Advertising

The development application was exhibited between 22 March 2023 and 6 April 2023. A total of 2 individual submissions have been received to date, one of which contains a petition with 4 signatures. The submissions predominantly object to the development on the grounds: visual and acoustic privacy, traffic and parking impacts, flooding and waste collection.

## 5. Referrals

External referrals	Comments
Transport for NSW	No objection to the proposal
Internal referrals	Comments
Traffic Engineer	The Transport Management Team recommends deferral of the application to address the parking provision shortfall and provide 33 car parking spaces (13 for visitors and 20 for staff) and 4 bicycle parking spaces, as required by the DCP. The shared space width adjacent the accessible parking space is also to comply with the AS2890.1 requirement of 2.4m. Please note that the 20 staff are required to meet National Regulations – this does not include any ancillary staff which need to be accounted for.
Land Development Engineering	<ul style="list-style-type: none"> <li>• Vehicular crossing location within the Council reserve shall be shown on the plans and required minimum clearances provided to existing services.</li> <li>• CBD paving shall be shown on the plans (stormwater, landscape and architectural) for the full site frontage including Sydney Road frontage.</li> </ul>
Community Planning	<ul style="list-style-type: none"> <li>• Has requested for the submission of a SIA analysing local needs and potential impacts of the proposed development on community. Details of the SIA requirements are in LCC SIA Policy &amp; Guidelines (updated March 2023).</li> <li>• The applicant needs to demonstrate how the proposed development fulfill the requirements of DCP and Childcare Planning Guidelines.</li> <li>• s 3.6 c27 of NSW Childcare Planning Guideline refers, <i>locate childcare facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</i></li> <li>• The site location and surrounding development do not support the 'exceptional circumstances' evidence to justify the simulated upper floor outdoor play area. Are there any alternate designs?</li> </ul>
Tree Removal	<ul style="list-style-type: none"> <li>• Tree removal proposed, however, no arborist report submitted. Comments from Council's Landscaping section required.</li> </ul>
Environmental Health	<ul style="list-style-type: none"> <li>• The Applicant must arrange for the submitted Detailed Site Investigation Report to be peer reviewed 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.</li> <li>• The Applicant must arrange for the submitted acoustic report to be peer reviewed by a suitably qualified acoustic consultant who is a member of the Australian Acoustical</li> </ul>

	<p>Society or employed by an Association of Australasian Acoustical Consultants (AAAC) member firm.</p> <ul style="list-style-type: none"> <li>• The Applicant must arrange for the Air-Quality Impact Assessment to be peer reviewed 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).</li> <li>• The submitted Plan of Management shall be peer reviewed by a suitably qualified acoustic consultant to ensure that it is consistent with the recommendations of the submitted acoustic report.</li> </ul>
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## 6. Assessment Issues

The following is summary of the key issues that will need to be further examined and require further information or amended plans.

### SEPP (Transport and Infrastructure) 2021

The proposal requires concurrence from the Regulatory Authority (acecqa) as the outdoor children play areas are undercover and not an outdoor space (Section 3.22 of SEPP (Transport and Infrastructure) 2021).

### LLEP 2008

- cl 7.4 (2)(a) – Building Separation
  - o The building exceeds 12m in height and is only provided with a 3m setback from the eastern side boundary. A minimum of 9 metres building separation is required to be provided, but only approximately 5m building separation is provided between the proposal and the eastern adjoining dwelling.
- cl 7.17A – Hospital helicopter airspace
  - o The subject site is located within the helicopter flight path as shown on the Key Sites Map. Referral is required to the Chief Executive of the Local Health District for concurrence/comments.

### Liverpool DCP 2008 (Part 1 and Part 4)

- The dimension of the boundary to Sydney Road is to be corrected on all of the plans to reflect the survey, as the 18.38m dimension is incorrect. The actual dimension should be 55.15m.
- Parking
  - o Shortfall of 5 spaces
  - o Manoeuvrability for a number of spaces is questionable.
  - o 1 accessible space may not be compliant with width required for shared area
  - o Space for service van / delivery vehicle turning area not provided  
NB - The parking shortfall is purely on the staff required by the teacher to age group requirement and does not include any ancillary staff. This needs to be clarified in the relevant reports and plan of management for assessment.
- Main Setbacks (front and rear)  
The proposal does not comply with the following minimum required setbacks.



- Required setbacks:
- Hume Highway = 8m landscaped area
- Lachlan Street = 4.5m landscaped area

- Proposed setbacks:
- Hume Highway = 1.3m to 4.7m

The variation requested for the Hume Highway is not consistent with the DCP controls or the requirements of the Liverpool City Centre Public Domain Master Plan, which require the 8m setback to provide for mature height trees to provide a consistent green edge to the Liverpool city centre.

- Lachlan Street = 1.2m to 6m

- Side Setbacks

- Whilst a 3m setback to the eastern boundary might be considered appropriate having regard to ADG building separation and solar access requirements, it is noted that the LEP (cl 7.4) requires a 9m separation between buildings.

The LEP (cl.7.4) provision is deemed to be a development standard therefore a Clause 4.6 variation request is to be provided for consideration.

- A zero setback is proposed for the fire stair located on the eastern boundary. Whilst this might be acceptable from a visual perspective (only 2.2m in height and would be mostly covered by a 2.1m high fence,) an easement for maintenance purposes would then need to be created, which would require the consent of the neighbouring property owner. It is recommended that this structure be relocated clear off the boundary.

- Deep soil zones and Site Cover
  - Max site coverage is 60% = 690m<sup>2</sup>

- Basement level:
  - 842m<sup>2</sup> / 1,150m<sup>2</sup> = 73%
  - The extent of site coverage proposed provides for minimal area for mature height trees to be planted in the development especially within the Hume Highway setback area.

### Child Care Planning Guideline

Having regard to noise attenuation recommendations provided within the acoustic report, the proposed outdoor space is required to be fully enclosed at Levels 1 & 2, and thus may not constitute outdoor space. In this regard, the outdoor space on these levels would constitute 'simulated outdoor environment'. Whilst this may be appropriate in the circumstances, particularly given that access to unencumbered outdoor space at ground level is available, concurrence from the Regularly Authority (acecqa) would be required in accordance with Part 3.22 of SEPP (Transport and Infrastructure) 2021.

### National Regulations

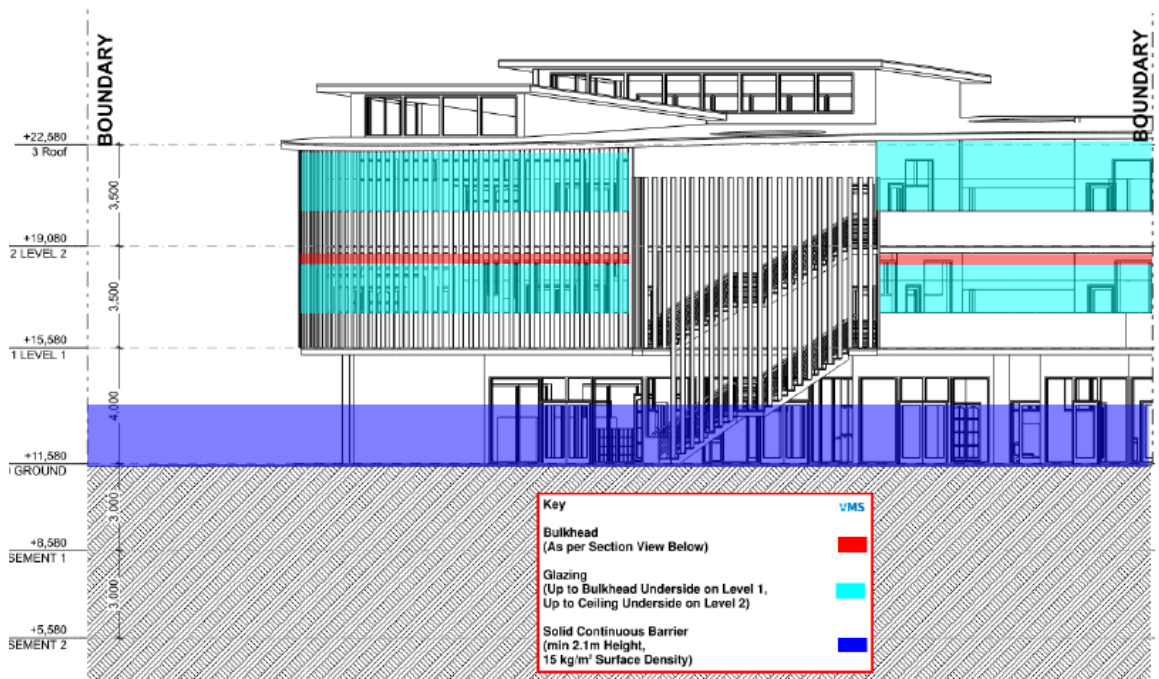
- Child to staff ratios:
  - 0-2 = 24 6 staff
  - 2-3 = 40 8 staff
  - 3-6 = 60 6 staff
  - 20 staff required, and parking for only 18 staff provided.

### Site Isolation

Cl. 7.14(2)(b) of the LLEP 2008 requires a minimum street frontage of 24m for any building greater than 2 storeys on land in the R4 High Density Residential zone. The adjacent site to the east (71 Lachlan Street) has a frontage of 21.37m to Lachlan St tapering to approximately 14.2m at the rear. Development of the childcare centre potentially causes 71 Lachlan Street to be isolated between a 3-storey childcare and 2 houses to its east, unless it is amalgamated with its eastern adjoining lots. In this instance, as the eastern adjoining sites only contain houses and are yet to be re-developed, there is potential for these 3 allotments to be amalgamated for the re-development into some form of an RFB as envisaged for the zone. Nonetheless, and given the inability of the proposal to provide the required 8m setback from the Hume Highway, it is recommended that the applicant entertains consolidating the site with the eastern adjoining site at 71 Lachlan Street so as to enable a development that is capable of complying with the Council's DCP requirements.

### Acoustic Barrier

The acoustic report provided with the application requires a 2.1m continuous barrier along the boundary to Sydney Road which would present poorly to the approximately 55m street. This continuous fencing should be further articulated with landscaped areas to break up the blank barrier. Consideration of alternative designs for 2.1m acoustic fencing between the site to the east to reduce any amenity impacts.



## **7. Request for information**

A Request for Information letter has been sent to the applicant containing the above information and the minutes of the Liverpool Design Excellence Panel of 11 May 2023. Given the significant departure from the Council's requirements relating to 8m landscaped setback to the Hume Highway, it is recommended that the application be withdrawn.

## **8. Class One Appeal**

Council has received notification that the applicants have lodged a Class 1 Appeal on the application with the matter being listed for directions on 25 July 2023.

## **9. Activity since the last SWCPP Briefing.**

Since the last briefing to the Panel, the applicants have provided Council with a set of plans that they hold address Council's concerns for a without prejudice review. Following a review of the amended plans, the applicant was advised, on the 20 October 2023, that the proposal did not adequately resolve the contentions in the proceedings for the following reasons:

- 1. The proposal still does not comply with the required setbacks to Sydney of 8m and 4.5m to Lachlan St. Here, the proposal provides a setback of 3.89m - 4.7m to Sydney Road and 1m to Lachlan Street. It is noted that one or two newer buildings along Sydney Road may have setbacks less than 8m from Sydney Road, there are still a large number of undeveloped lots that back onto Sydney Road that are yet to be re-developed. Accordingly, if Council were to allow a reduction of setbacks to Sydney Rd and Lachlan St, it may compromise on the Council's ability to achieve the required setbacks articulated in the DCP.*
- 2. The revised scheme has re-positioned the children outdoor play areas to the Lachlan Street frontage of the site and utilises the building as a barrier to ameliorate the hostile environment of Sydney Road for the children play areas. However, the children play areas, the majority of which, are now located on the southern side of the site and their ability to receive good solar access is questionable. In addition, the elevated outdoor children play areas are likely to result in the overlooking of the eastern adjoining sites.*
- 3. The required landscaped area and deep soil zones remain deficient and do not comply, given that no changes are proposed to the basement carpark.*
- 4. A reduction in the number of children to be cared for by the child care centre may assist in resolving some of the issues.*

Since that time no further action has taken place to progress the Section 34 conference.