

COUNCIL ASSESSMENT REPORT
SYDNEY WESTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSWC-345 – DA-398/2023
PROPOSAL	Demolition of the existing parish office and presbytery, and construction of a centre-based childcare facility for 76 children with associated business identification signage and landscaping.
ADDRESS	St Christophers Catholic Primary School Part Lot 1 DP 1241116 - 195 Heathcote Road, Holsworthy Lot 11 DP 1103006 - Lot 11 Heathcote Road, Holsworthy
APPLICANT	Sydney Catholic Early Childhood Services LTD
OWNER	Roman Catholic Church for Archdiocese
DA LODGEMENT DATE	07 July 2023
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 5, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> for development that has a capital investment value of more than \$5 million for the purpose of a child care centre.
CIV	\$7,024,260.10 (including GST)
CLAUSE 4.6 REQUESTS	N/A
KEY SEPP/LEP	State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Industry and Employment), Liverpool Local Environmental Plan 2008
TOTAL & SUBMISSIONS ISSUES SUBMISSIONS UNIQUE KEY IN	The application was publicly notified between 29 August 2023 to 13 September 2023. Seven (7) Submissions have been received objecting to the proposed development.

	<p>The submissions raise concerns in relation to the following:</p> <ul style="list-style-type: none"> - Traffic Impacts - Pedestrian Hazards - Insufficient Carparking Spaces - Noise Pollution - Waste Management - Contamination – Exposure to Asbestos - Environmental Sustainability - Air Pollution - Proximity of Existing Childcare Centres - Redundant Service - Environmental Impact – pollution impacting Flora and Fauna - Public Awareness – proposal lack credibility, needs scrutiny - Absent Social Impact Statement
<p>DOCUMENTS SUBMITTED CONSIDERATION</p> <p>FOR</p>	<p>422450.2023 - Site Analysis Plan 422448.2023 – Site Plans 422450.2023 – Locality Plans 422454.2023 – Architectural Plans - Roof Plan 422449.2023 - Demolition Plan 422458.2023 – Ground Floor Plan 422460.2023 – Elevations and Sections 1 (Part 1) 422459.2023 – Elevations and Sections 2 (Part 2) 422447.2023 – Sections Plan 422457.2023 – Kitchen Equipment Layout 422455.2023 – Landscape Plan 052699.2024 – Indicative Signage 422443.2023 – Mechanical Services Roof 422442.2023 – Mechanical Services 422440.2023 – Hydraulic Services 422438.2023 – Electrical Services Lighting Layout 422446.2023 – Shadow Diagrams 422438.2023 – Shadow Diagrams Shade Sails 422462.2023 – Civil Engineering Plan 036682.2024 - Traffic Impact Assessment 381973.2023 – SIDRA Model 222707.2023 – Statement of Environmental effects 222680.2023 – Acoustic Report 222704.2023 – Geotechnical Report 422436.2023 – Stormwater Management Report 422441.2023 – Waste Management Plan 222714.2023 - Air quality 222715.2023 – Arborist Report 222717.2023 – BCA Performance Requirements Compliance Statement</p>

	222721.2023 – Crime Prevention Design report 366748.2023 – Detailed Site Investigation Report 422435.2023 – Remediation Action Plan 422437.2023 – Operational Noise management Plan 222726.2023 – Social Impact Assessment 422453.2023 - SCECS Operational Management Plan 1 422451.2023 - SCECS Operational Management Plan 2
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	N/A
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	25 March 2024
PLAN VERSION	6 December 2023 Version No. - various revisions noted on plans
PREPARED BY	Eunice Pedrosa – Senior Development Planner
DATE OF REPORT	18 March 2024

1. EXECUTIVE SUMMARY

The Development Application (DA) **DA-398/2023** seeks consent for the demolition of the existing parish office and presbytery and construction of a centre-based childcare facility for 76 children with associated business identification signage and landscaping at Lot 11 Heathcote Road, Holsworthy and 195 Heathcote Road, Holsworthy.

Under the provisions of the Liverpool Local Environmental Plan 2008, the subject site is zoned as R3 Medium Residential Zone and the development is permissible with consent.

The application, as lodged was seeking consent for the demolition of the existing parish office and presbytery and construction of a centre-based childcare facility for 76 children and Parish Centre with associated business identification signage and landscaping. However, to increase the functionality of the centre-based childcare facility, the Parish Centre has been removed from the application. The applicant has amended the proposal and plans to reflect the removal of the Parish Centre.

The project is for the purpose of a child care facility that has a Capital Investment Value (CIV) greater than \$5 million. Under the provisions of the State Environmental Planning Policy (Planning Systems) 2021 the development is a Regionally Significant Development (RSD).

There were no concurrence requirements from agencies for the proposal and the application is not integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). A referral was sent to Transport for NSW (TfNSW) in order to address the provisions of clause 2.119 – Development with a frontage to a classified road of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP'). TfNSW raised no objections to the subject proposal.

The application was placed on public exhibition between the 29 August 2023 to 13 September 2023, with seven (7) submissions being received. The submissions raised concerns relate to site context, traffic impacts, social impacts, safety, waste management and environmentally sustainability. These issues are considered further in this report.

It is considered that the works are consistent with the public interest as the proposed development will deliver economic and social benefits to the broader community through the creation of job opportunities, both during and post construction, and will provide valuable support to vulnerable members of the community.

Council have assessed the proposed development in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979). This includes consideration of the submitted information and planning controls and requirements with the relevant environmental planning policies, Childcare Planning Guidelines 2021, Liverpool Local Environmental Plan 2008 (LLEP 2008) and Liverpool Development Control Plans 2008.

Overall, it is concluded that the impacts of the proposed centre-based childcare facility are considered appropriate to the educational establishment and the locality context. As such, the proposal is considered consistent with the objectives of the R3 Medium Density Residential zone and the assessment has concluded that the development achieves a suitable and satisfactory planning outcome.

Following a detailed assessment of the proposal, pursuant to Section 4.15(1)(a) of the EP&A Act 1979, DA-398/2023 is recommended for approval, subject to conditions contained within the draft development consent – attachment 1 of this report.

2. THE SITE AND LOCALITY

2.1. The Site

The subject site is known as St Christophers Catholic Primary School located on 295 Heathcote Road, Holsworthy and Lot 11 Heathcote Road, Holsworthy. It is legally known as Part 1 in DP 1241116 and Lot 11 in DP 1103006.

The development site is an irregular shaped allotment, with a total area of 39,264sqm, and is approximately 218m wide at the frontage to Heathcote Road. The site is an existing educational establishment, and has multiple detached buildings utilised for educational purposes and ancillary sporting facilities. In addition, an existing place of public worship is located approximately 12 metres from the proposed centre-based child care facility. It is considered that the proposed development will predominately be screened from the existing place of public worship, therefore will not have significant impacts to the character of the streetscape.

According to the submitted survey plan by Beyond Measure Surveys dated for 20 December 2022, the site has a fall from the south-east near the Heathcote Road frontage to the north-west (rear boundary of approximately 2.49 meters). The area in which the child care facility is located slopes approximately 0.61 meters from the northeast to the southwest.

The site is accessible from Heathcote Road and has a bus stop located at the entrance of the site.

The development will be visible to the adjoining property to the south. However, there are no negative impacts envisaged as the proposed centre-based childcare centre is single storey

Assessment Report: [title of Project]

2.2. The Locality

The land is zoned as R3 Medium Density Residential under the Liverpool LEP 2008 and is located in an established area. The surrounding built form comprises of residential accommodation, characterised as single and two storey dwelling houses to the north, west and east. To the southwest of the site is an Educational Establishment known as Moorebank Highschool.

Additionally, to the southwest of the site, separated by Heathcote Road, is a public reserve and Moorebank Sports Club.

The site is located approximately 1.1km from Wattle Grove Shopping village and 4km from the M5 South-west motorway.

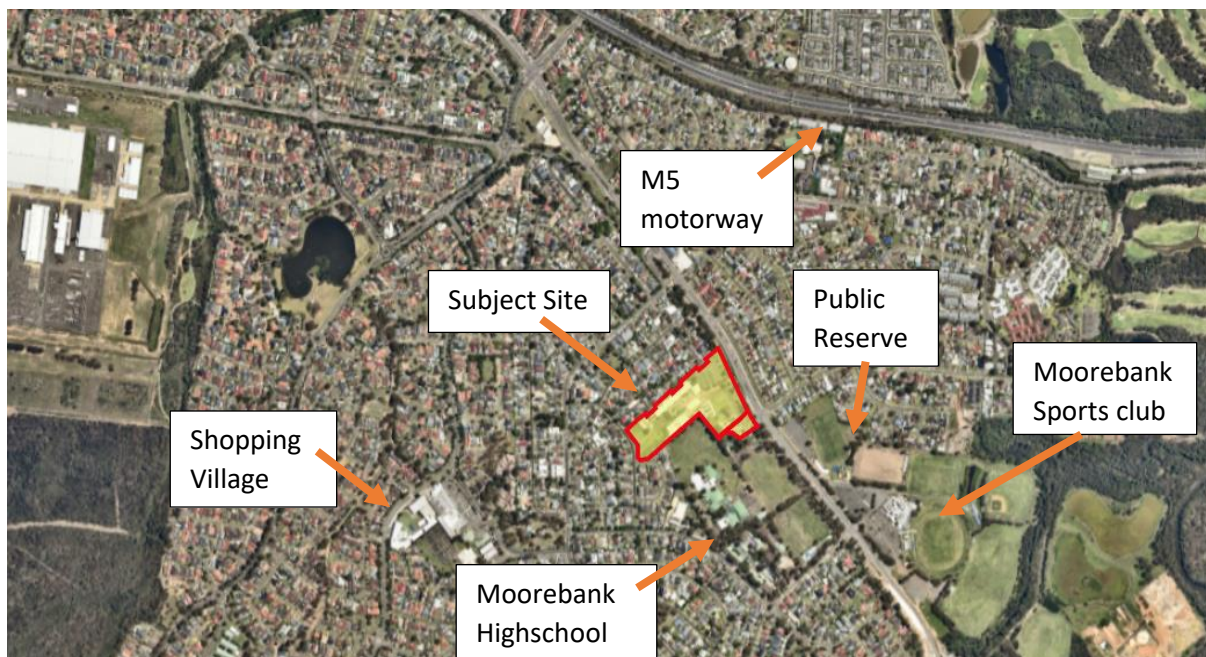


Figure 3: Locality Map

2.3. Site Constraints

<p>Are there any constraints or affectations on the site:</p> <ul style="list-style-type: none"> - Bushfire - Flooding - Heritage Items - Aboriginal Heritage - Environmental Significant Land - Threatened Species/ Flora/ Habitat/ Critical Communities - Acid Sulphate Soils - Aircraft Noise - Flight Paths - Railway Noise - Road Noise/ Classified Road - Significant Vegetation - Contamination - Salinity 	<ul style="list-style-type: none"> - Moderate Salinity Potential - Affected by Road Noise/ Classified Road - Jemena Gas Pipeline
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- Gas Pipeline	
Are there any restrictions on title?	<ul style="list-style-type: none"> - Right of Carriageway Easement, 18.29 metres wide - Easement to drain water 3.5 metres wide. - Easement for Padmount substation 2.75metres wide. - Easement for underground cable 1 metre wide. - Restriction(s) on the use of the land.

3. THE PROPOSAL AND BACKGROUND

3.1. The Proposal

The development application seeks approval for the demolition of the existing parish office and presbytery, and construction of a centre-based childcare facility for 76 children with associated business identification signage and landscaping. The proposal would specifically consist of the following:

Demolition:

The development proposed demolition of the existing parish office and presbytery building, and associated fence, driveway, and pedestrian pathway.



Figure 4: Extract of the demolition plan

Tree Removal:

Two (2) existing trees are proposed to be removed to accommodate the proposed development.

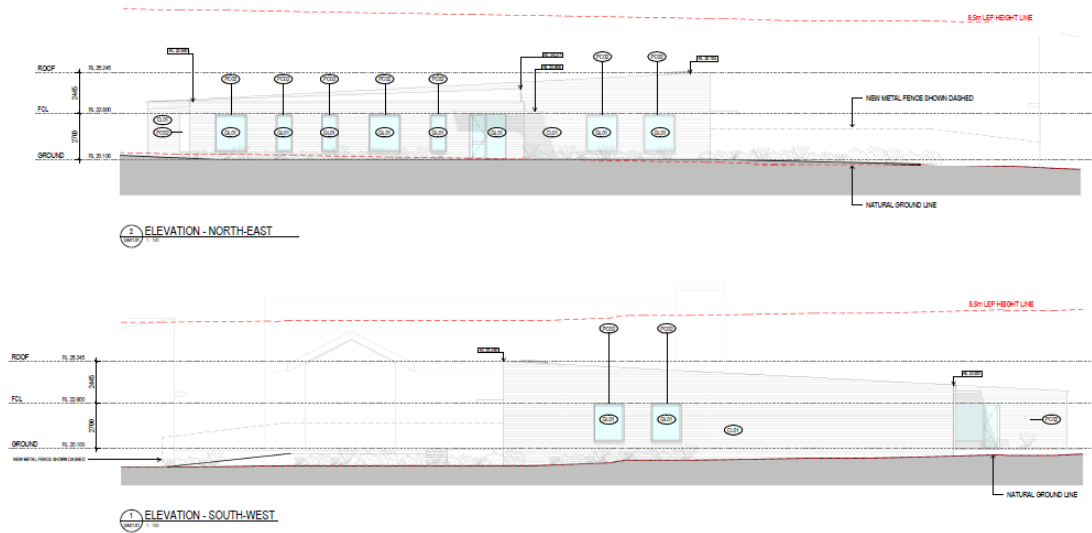


Figure 7: Extract of the North-east and South-west elevation

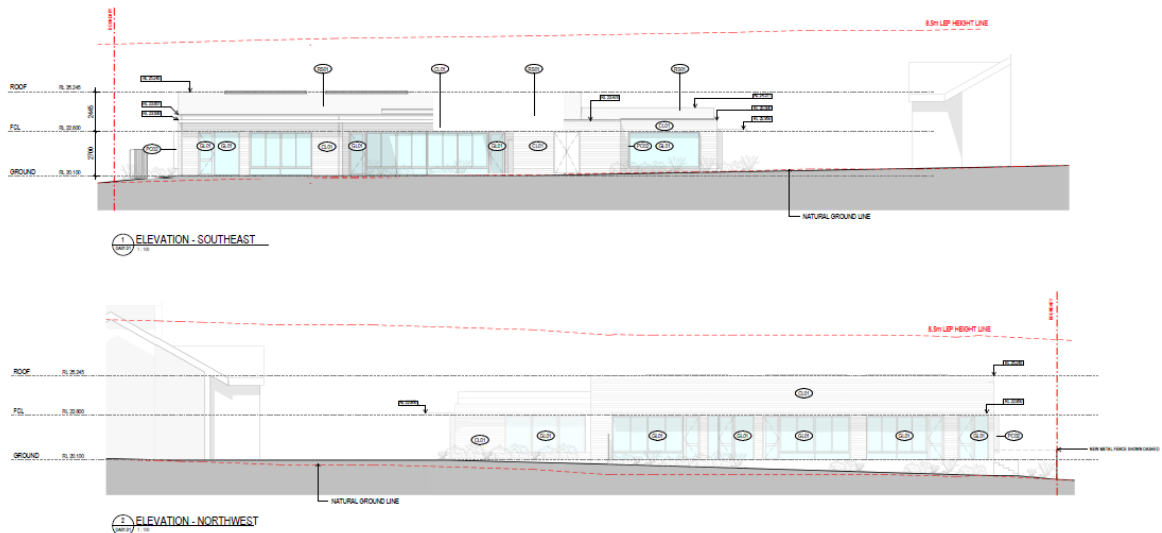


Figure 8: Extract of the southeast and northwest elevation

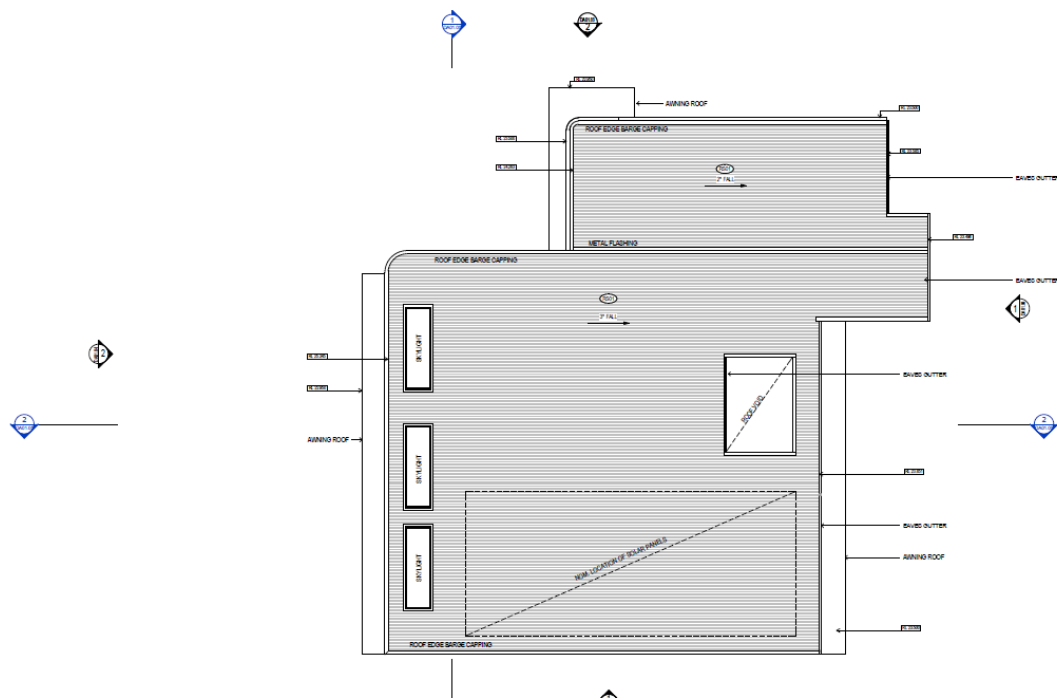


Figure 9: Extract of the roof

Signage:

Four business identification signs are proposed with the following dimensions:

- Signage 1 (2800mm (H) x 1000mm (W)): 2.8sqm
- Signage 2 (2800mm (H) x 600mm (W)): 1.68sqm (x2)
- Signage 3 (600mm (H) x 1000mm (W)): 0.6sqm



Figure 10: Extract of the location of signage

Operation Hours of the Centre-based Child Care:

Hours of Operation:

- Monday to Friday: 7am to 6pm
- Saturday, Sunday, and public holidays: No operation

Educators:

- Maximum of fourteen (14) staff to be onsite at any one time

Children:

- 0-2 years old: 16
- 2-3 years old: 20
- 3-5 years old: 40

Note: there are no changes to the operation of the existing educational establishment and place of public worship.

Vehicular Access and Car parking area:

- The site provides 172 car parking spaces onsite. No changes are made to the existing vehicle access and car parking area.

Table 1: Development Data

Control	Proposal
Site area	2514 + 36750 = 39, 264 sqm
GFA	Existing educational establishment: 6102sqm Existing Place of Public Worship: 315sqm Childcare: 723.9sqm
FSR (retail/residential)	7140.9 / 39, 264 = 0.18:1
Clause 4.6 Requests	Not applicable
No of apartments	Not applicable
Max Height	Centre-based Child care proposed a 5.8 metres maximum height of building.
Landscaped area	The site provides more than 25% landscaped area.
Car Parking spaces	There are 172 parking spaces onsite. No changes to the number of parking spots available.
Setbacks	The proposal provides the following setbacks: <ul style="list-style-type: none">• Front setbacks: 63.8 metres• Side setbacks: 4 metres• Rear setbacks: 4 metres

3.2. Background

A pre-lodgement meeting was held prior to the lodgement of the applicant on 29 March 2023 where various issues were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- Increase in traffic generation and internal car-parking arrangements.
- Contamination and Remediation
- Indicative Signage
- Operational Plan of Management
- Childcare Facilities

The development application was lodged on 07 July 2023. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
07 July 2023	DA lodged
29 August 2023	Exhibition of the application
20 July 2023	DA referred to external agencies
31 July 2023	Panel briefing
27 October 2023	Request for Information from Council to applicant
07 November 2023	Applicant – 28 day Extension Request
07 November 2023	Council – Extension Request Granted
07 December 2023	Amended plans lodged relating to design layout and a Revised Traffic Impact Assessment Report submitted dated 7 December 2023 accepted by Council under CI 38(1) of the <i>Environmental Planning and Assessment Regulation 2021</i> ('2021 EP&A Regulation') on 7 December 2023
06 February 2023	Request for Information from Council to applicant
21 February 2024	Amended plans lodged relating to Signage dated 21 February 2024 accepted by Council under CI 38(1) of the <i>Environmental Planning and Assessment Regulation 2021</i> ('2021 EP&A Regulation') on 21 February 2024.

3.3. History of the site

The relevant development history of the site is summarised in the following table:

Date	Development	Comment
OC-987/2021	New multi-purpose hall	Approval – 09 July 2021

4. STATUTORY CONSIDERATIONS

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.

4.2. 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 (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Liverpool Local Environmental Plan 2008*
- *Child Care Planning Guideline 2021*
- *Liverpool Development Control Plan 2008*
 - *Part 1 General controls for all Development 2008*
 - *Part 3.8 Non- Residential development in residential zones 2008*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 6: Water Catchments	Y
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development <ul style="list-style-type: none"> Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 5 of Schedule 6 as it comprises of a centre-based childcare facility with a capital investment value of more than \$5 million. 	Y
State Environmental Planning Policy (Resilience & Hazards) 2021	Chapter 4: Remediation of Land <ul style="list-style-type: none"> Section 4.6 - Contamination and remediation have been considered in the Contamination Report and the proposal is satisfactory subject to conditions. 	Y
State Environmental Planning Policy (Industry & Employment) 2021	Chapter 3 – Advertising and Signage <ul style="list-style-type: none"> 3.16 – Advertisements greater than 20 square metres and within 250 metres of, and visible from, a classified road Schedule 5 Assessment Criteria	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure <ul style="list-style-type: none"> Section 2.118(2) - Development with frontage to classified road. Section 2.119(2) Impact of road noise or vibration on non-road development Chapter 3: Educational Establishments <ul style="list-style-type: none"> Section 3.23 - Centre-based childcare facility—matters for consideration by consent authorities 	Y
<i>Education and Care Services National Regulation 2011</i>	Part 4.3 Physical Environment <ul style="list-style-type: none"> Division 1 Centre-based services and family day care services 	Y

	<ul style="list-style-type: none"> • Division 2 Additional requirements for centre-based services 	
Liverpool Local Environmental Plan 2008	<ul style="list-style-type: none"> • Clause 2.3 – Permissibility and zone objectives • Clause 4.3 – Height of buildings • Clause 4.4 – Floor Space Ratio • Clause 6.5 – Public Utility Infrastructure • Clause 7.7 – Acid Sulfate Soils • Clause 7.31 – Earthworks 	Y
Liverpool Development Control Plan 2008	<ul style="list-style-type: none"> • Part 1 General controls for all development • Part 3.8 Non-residential development in residential zones 	Satisfactory

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

The subject land is located within the Georges River Catchments and as such the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* – Chapter 6 Water Catchments applies to the application.

The (Biodiversity and Conservation) SEPP 2021 – Chapter 6 Water Catchments generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries. Chapter 6 Water Catchments, Division 2 controls on development generally Clause 6.6 Water Quality and Quantity, states the following:

“6.6 Water quality and quantity

- (1) *In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—*
 - (a) *whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,*
 - (b) *whether the development will have an adverse impact on water flow in a natural waterbody,*
 - (c) *whether the development will increase the amount of stormwater run-off from a site,*
 - (d) *whether the development will incorporate on-site stormwater retention, infiltration or reuse,*
 - (e) *the impact of the development on the level and quality of the water table,*
 - (f) *the cumulative environmental impact of the development on the regulated catchment,*
 - (g) *whether the development makes adequate provision to protect the quality and quantity of ground water.*
- (2) *Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures—*
 - (a) *the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and*
 - (b) *the impact on water flow in a natural waterbody will be minimised.”*

Based on the above, the application was referred to Council’s Land Development Engineer and Floodplain Engineer who reviewed the application and were supportive of the proposed development, subject to conditions.

Accordingly, the proposed development is considered to meet the objectives of the SEPP and is unlikely to have a negative impact on the environmental quality of the Georges River Catchment.

ii) State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 5 of Schedule 6 of the Planning Systems SEPP as the proposal is development for child care facilities. Accordingly, the Sydney Western City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

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

Chapter 4: Remediation of Land

The proposal has been assessed under the relevant provisions of the *State Environmental Planning Policy (Resilience and Hazards) 2021* – Chapter 4 Remediation of Land which applies to the DA.

The objectives of Chapter 4 of the SEPP are:

- *To provide for a state wide 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.*

Pursuant to Clause 4.6 of Chapter 4, SEPP (Resilience and Hazards) 2021, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

A Detailed Site Investigation (DSI) prepared by Reditus Consulting Pty Ltd, dated 30 May 2023 has been submitted in support of the application. The DSI considers that the site can be made suitable for the proposed centre based child care facility and parish centre.

Following the DSI, a Remedial Action Plan (RAP) was prepared by Reditus Consulting Pty Ltd, dated 7 December 2023. The RAP provides guidance regarding managing the contaminated material identified within the site, which will ensure the site can be made suitable for the proposed development. In addition, the application was referred to Council's Environmental Health section and raised no objections, subject to the imposition of conditions.

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of the Resilience and Hazards SEPP 2021 – Chapter 4 Remediation of Land, and the consent authority can be satisfied that the subject site is suitable for the proposed development.

iv) State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 – Advertising and Signage.

The proposal has been assessed with respect to Clause 3.16 of the *State Environmental Planning Policy (Industry and Employment) 2021*, as the proposed signage is located within 250 metres of a classified road (Heathcote Road). However, all proposed signage is not 20 square metres or greater. As such, the proposed signage was not required to be referred to TfNSW. Please refer to attachment 2 of this report.

Schedule 5 Assessment Criteria

The proposal has been assessed under the relevant provisions of the *State Environmental Planning Policy (Industry and Employment) 2021* – Schedule 5 Assessment Criteria, and the proposal is consistent with this Policy. Please refer to attachment 2 of this report.

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

Chapter 2 – Infrastructure

The application was supported by an Operational Noise Management Plan and Acoustic Assessment Report prepared by Cundall Johnston & Partners Pty Ltd.

The proposal has been assessed as satisfactory with respect to Clause 2.120 Impact of Road Noise or Vibration on Non-Road Development of the Transport and Infrastructure SEPP 2021, and the likely noise impacts from the classified road.

The application was referred to Transport for New South Wales (TfNSW) in accordance with Clause 2.119 Development on proposed classified road and Clause 2.120 Impact of road noise or vibration on non-road development. TfNSW reviewed the proposal and raised no objections.

Chapter 3 – Educational Establishments and Childcare Facilities

The proposed centre-based childcare facility has been assessed in accordance with the provisions of Chapter 3 under the Transport and Infrastructure SEPP 2021, and the proposal is consistent with this Policy. Please refer to attachment 2 of this report.

vi) *Liverpool Local Environmental Plan 2008*

The relevant local environmental plan applying to the site is the Liverpool Local Environmental Plan 2008 ('the LEP 2008'). The aims of the LEP 2008 include:

1.2 Aims of Plan

This Plan aims to make local environmental planning provisions for land in Liverpool in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.

The particular aims of this Plan are as follows—

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to encourage a range of housing, employment, recreation and services to meet the needs of existing and future residents of Liverpool,*
- (b) to foster economic, environmental and social well-being so that Liverpool continues to develop as a sustainable and prosperous place to live, work, study and visit,*
- (c) to provide community and recreation facilities, maintain suitable amenity and offer a variety of quality lifestyle opportunities to a diverse population,*
- (d) to strengthen the regional position of the Liverpool city centre as the service and employment centre for Sydney's south west region,*
- (e) to concentrate intensive land uses and trip-generating activities in locations most accessible to public transport and centres,*

- (f) to promote the efficient and equitable provision of public services, infrastructure and amenities,
- (g) to conserve, protect and enhance the environmental and cultural heritage of Liverpool,
- (h) to protect, connect, maintain and enhance the natural environment in Liverpool, and promote ecologically sustainable development which takes into account the environmental constraints of the land,
- (i) to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bush fires, by managing development in sensitive areas,
- (j) to promote a high standard of urban design that responds appropriately to the desired future character of areas,
- (k) to improve public access along waterways and vegetated corridors while ensuring the natural environmental values of riparian and bushland corridors and the habitat they provide are protected and enhanced,
- (l) to improve public transport accessibility, and facilitate the increased use of public transport, cycling and pedestrian activity,
- (m) to enhance the amenity and positive characteristics of established residential areas,
- (n) to ensure the agricultural production potential of rural land and prevent its fragmentation,
- (o) to encourage development opportunities for business and industry so as to deliver local and regional employment growth.

The proposal is consistent with these aims as the proposal promotes urban design and employment growth which will provide a high level of amenity and will contribute to the diversity of land uses within the residential area.

Zoning and Permissibility (Part 2)

The site is located within the R3 Medium Density Residential Zone pursuant to Clause 2.2 of the LEP 2008.

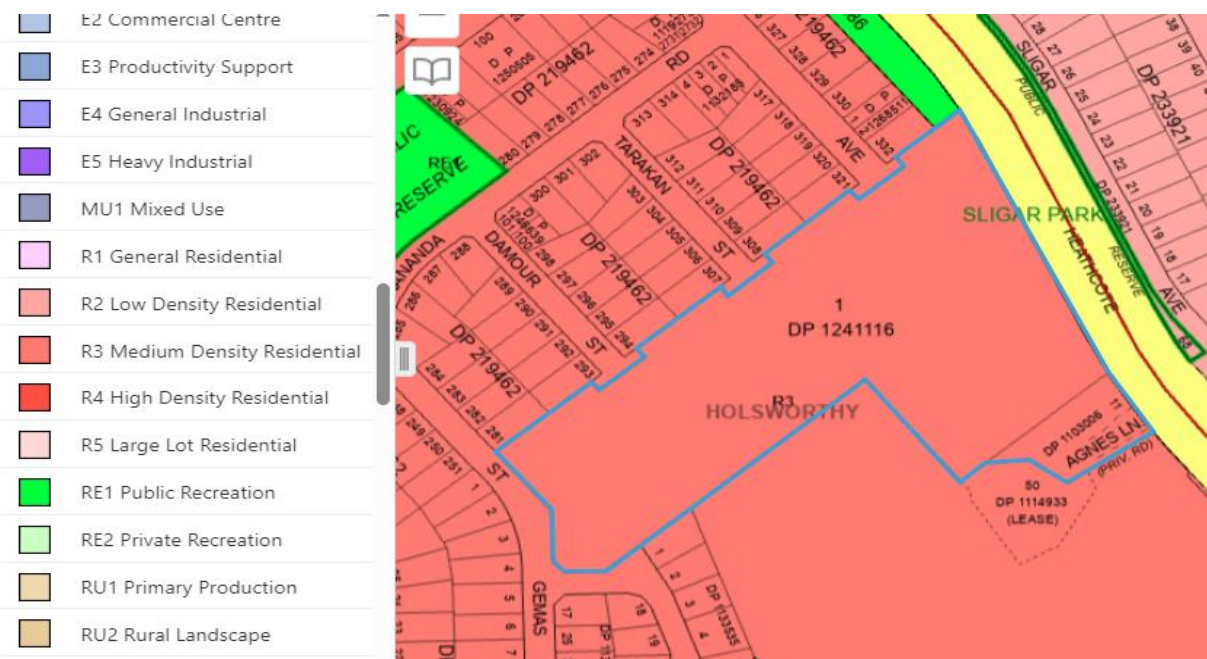


Figure 11: Extract of the Zoning Map (Source: Geocortex – Council's internal system)

According to the definitions in Clause 1.4, the proposal satisfies the definition of centre-based child care facility which is a permissible use with consent in the Land Use Table in Clause 2.3.

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)),*

Note—

An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.

but does not include—

- (c) *a building or place used for home-based child care or school-based child care, or*
- (d) *an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or*
- (e) *a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or*
- (f) *a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or*
- (g) *a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or*
- (h) *a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.*

Note—

*Centre-based child care facilities are a type of **early education and care facility**—see the definition of that term in this Dictionary.*

The R3 zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a concentration of housing with access to services and facilities.*
- *To provide for a suitable visual transition between high density residential areas and lower density areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposal centre-based child care facility is considered to be consistent with the zone objectives of the R3 Medium Density Residential as it is a facility which supports the viability of the local residents in the area and supports the well-being of the community with educational

and community activities for young children in a development compatible with the amenity of the medium residential zone.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions, and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Cl. 2.7 – Demolition requires development consent	Demolition works may only be carried out with consent.	The proposal includes the demolition of the existing parish office and presbytery.	Yes
Cl 4.1 - Minimum subdivision Lot size	The site is subject to a minimum lot size of 300sqm	No subdivision is sought as part of the application. However, the existing site area is approximately 39,264sqm.	Yes
Cl 4.3(2) - Height of buildings	The site has a maximum height of building 8.5m	The child care facility proposes a maximum height of 5.8 metres. Note: No changes are made to the height of the existing buildings onsite.	Yes
Cl 4.4(2) – Floor Space Ratio	The site has a maximum floor space ratio of 0.5:1	The proposal provides the following GFA: <ul style="list-style-type: none"> Existing Educational Establishment GFA: 6102sqm Existing Place of public worship GFA: 315sqm Proposed Centre-based Childcare facility: 723.9sqm Total GFA: 7140.9sqm FSR Calculation: $7140.9 / 39,264 = 0.18$ FSR = 0.18:1	Yes
Cl. 5.10 - Heritage Conservation	To protect and conserve existing items/ locations identified as containing significant heritage value.	The site is not identified or in close proximity to heritage significance items or areas.	N/A

Cl. 5.21 Flood Planning	Minimise the flood risk to life and property and allow for compatible land uses.	The site is not identified as flood prone land.	N/A
Cl. 6.5 Public Utility Infrastructure	Public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.	The site has accessed to existing Public Utility Infrastructure.	Yes
Cl. 7.7 Acid sulphate soils	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The site is not identified as containing acid sulphate soils.	N/A
Cl. 31 Earthworks	The objective of this clause is to ensure that the development will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	<p>The proposed development is consistent with these matters and is not anticipated to adversely affect existing drainage or soil stability in the area.</p> <p>In addition, the development will be undertaken in accordance with a sediment and erosion control plan which has been submitted with the application.</p>	Y

The proposal is considered to be generally consistent with the LEP.

4.3. 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, which may be relevant to the proposal.

4.4. Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The *Liverpool Development Control Plan 2008* (Liverpool DCP 2008) provides specific guidelines for development within the Liverpool Local Government Area (LGA), including the subject site. Section 4.15(3A) of the EP&A Act requires a consent authority to apply its DCP provisions flexibly and allow reasonable alternative solutions that achieve the objects of those standards.

The following Liverpool DCP 2008 is applicable to the proposed development:

- Liverpool Development Control Plan 2008 – Part 1 General Controls for all Developments
- Part 3.8 Non-Residential Development in Residential Zones

The proposed centre-based childcare facility has been assessed in accordance with the provisions of Liverpool DCP 2008 – Part 1 General Controls for all developments and Part 3.8 Non-residential development in residential zones, and the proposal is generally consistent with this Policy. Please refer to attachment 2 of this report.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *S 7.12 Development Contributions - Liverpool Contributions Plan 2018 – Established Areas*

This Contributions Plan has been considered and is included in the recommended draft consent conditions. Please find the breakdown of the required contribution in attachment 1 of this report.

4.5. 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.

4.6. Section 4.15(1)(a)(iv) - Provisions of Regulations

The *Environmental Planning and Assessment Regulation 2021* requires the consent authority to consider the provisions of the Building Code of Australia. Accordingly, appropriate conditions of consent will be imposed.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

4.7. Section 4.15(1)(b) - Likely Impacts of Development

(a) Natural and Built Environment

Built Environment

The proposed development has been assessed against the requirements of the relevant planning instruments and Development Control Plans. The proposal complies on merit with the standards as required SEPPs, with the objectives of the Liverpool LEP, and with the controls of Liverpool Development Control Plan 2008 and is consistent with the relevant principles for development in the medium density residential zone.

The design is generally in scale and within the desired height limit for the locality, provides for logical site location of buildings and play areas, and is setback appropriately to not cause an impact to any streetscape.

Natural Environment

The location of the centre-based childcare facility is considered to have little impact on the natural environment given the location of the site and the works proposed.

The proposed development requires the removal of two (2) trees which have been identified in a submitted arborist report as being insignificant. Moreover, based on the statements made in the submitted Arborist Report, the development is not anticipated to have a significant impact upon the long-term health of the retained trees within the site, providing the trees are protected in accordance with the AS 4970-2009 and appropriate Tree Protection Zones (TPZ) are implemented whilst construction works are occurring on site.

Further, a Landscape plan was submitted proposing ample trees and vegetation to be planted onsite, which is considered acceptable.

(b) Social Impacts and Economic Impacts

The proposal would result in a positive economic impact in the locality by accommodating the provision of additional employment and is unlikely to generate any identifiable detrimental social impacts, rather, functioning within the locality and community to provide education services within the local residential community and the existing educational establishment.

4.8. Section 4.15(1)(c) - Suitability of the site

The site is considered to be suitable for the proposed centre-based childcare facility. The site has sufficient area and dimensions for the proposed development and has existing access to the site from Heathcote Road. The Preliminary and Detailed Site Investigation submitted with the application concludes the site is suitable for the proposed development subject to remediation. There are no additional environmental constraints identified which would reduce the suitability of the site for the proposed development.

Further, the proposed development is located within an existing educational establishment. A Traffic Impact Assessment Report has been submitted concluding that the proposed development is unlikely to have adverse impacts to Heathcote Road and the surrounding road networks. Additionally, the existing carparking arrangements and children pickup/ drop-off areas, are capable of absorbing any additional traffic generate as a result of the proposed child care centre.

4.9. Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

4.10. Section 4.15(1)(e) - Public interest

The public interest is best served by the orderly and economic use of land for appropriate and permissible land uses. In this instance, the proposal represents a land use which is permissible in the R3 Medium Density Residential zone and is generally consistent with the relevant planning policy.

The subject land is an irregular L-shaped allotment, which has access to a classified road known as Heathcote Road. It is considered that the proposed development will be

appropriately setback from the classified road, existing buildings onsite and the adjoining allotments; therefore, will not have any significant impacts to the locality and other land uses.

The development is designed in a form which is responsive to the existing built form and the surrounding context of the area and incorporates a variety of exterior materials and finishes to create a good level of building articulation.

The development will deliver economic and social benefits to the broader community through the creation of job opportunities, both during and post construction, and will provide education services within the local residential community and the existing educational establishment. As such, it is considered that the proposal is in the public interest.

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 below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act) – Not applicable			
Referral/Consultation Agencies			
Sydney Water	Section 78 - <i>Sydney Water Act 1994</i>	Sydney Waters has reviewed the proposal and raised no objections to the proposal, subject to conditions.	Yes
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Determination of development applications – other development	Endeavour Energy has reviewed the proposal and raised no objections, subject to conditions.	Yes
Transport for NSW	Section 2.119 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development with frontage to classified road	TfNSW has reviewed the revised Traffic Impact Assessment and SIDRA model and provides no further comments.	Yes
Jemena	Section 2.77 – <i>State Environmental Planning Policy</i>	Jemena has no objection to this development application - it is	Yes

	(Transport and Infrastructure) 2021	noted that the nature of the works will not impact Jemena's assets.	
Integrated Development (S 4.46 of the EP&A Act) – Not applicable			

5.2. Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Land Development Engineer	Council's Engineering Officer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions.	Yes
Traffic Engineer	No significant concerns raised. Several conditions recommended to ensure compliance with AS2890.	Yes
Building Surveyor	No significant concerns raised. Conditions will be recommended on consent to ensure compliance with National Construction Code (NCC).	Yes
Environmental Health Officer	No significant concerns raised. Several conditions recommended to manage potential environmental impacts of the development both during construction and once the site is operational.	Yes
Floodplain Engineer	No significant concerns raised. Conditions recommended to ensure water quality treatment system is provided.	Yes
Landscaping Officer	Council's Landscaped Officer reviewed the Arborist Report and Landscape Plan, and raised no objections, subject to conditions.	Yes
Community Planning	Council's Community Planning officer raised no objections to the proposal.	Yes
Contributions	No concerns raised. Standard condition recommended.	Yes

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

5.3. Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 29 August 2023 until 13 September 2023. The notification included the following:

- Notification letters sent to properties located within 75m of the site.
- Notification on Liverpool City Council website (Application Tracker).

The Council received a total of seven (7) unique submissions, opposing the development. The issues raised in these submissions are considered in Table 7. A copy of the redacted submissions is included as Attachment 3.

Table 7: Community Submissions

Issue	Council Comments
Traffic Impacts	<p>The application was accompanied by a traffic impact assessment which was assessed by Council's Traffic Section and raised no objections.</p> <p>In addition, the traffic reports and models have been reviewed by TfNSW and raised no objections, upon considering the generated traffic from the existing educational establishment and classified roads.</p> <p>The application has been reviewed and supported by Council's Traffic Engineers, who investigated the impacts to the local street network in regard to both safety and operational issues associated with the proposed childcare centre, the existing educational establishment, and locality.</p> <p>The traffic engineer has provided conditions of consent ensuring that the development will comply with AS2890.</p> <p>As such, traffic generation associated with the proposal is considered acceptable for the locality based upon Council's Traffic engineers and TfNSW review.</p>
Pedestrian Hazards	<p>The proposed development is highly unlikely to promote any disregard of traffic laws, which may compromise the safety of pedestrians in the locality. Accordingly, parking and vehicle access associated with the proposal is considered acceptable for the locality. The childcare centre is permitted in the zone and has been designed a significant distance away from heavy traffic in particular Heathcote Road, therefore is considered to be an appropriate land use within a residential zone.</p>
Insufficient Carparking Spaces	<p>The development on the subject site requires a total of 170 car parking spaces in accordance with the provisions of Part 1 General Controls for all Development, Section 20 of the LDCP 2008 are required to be provided onsite.</p> <p>It is noted that the site encompasses three development types (proposed centred based child care, existing educational establishment and place of public worship). While the site requires 170 car parking spaces, the site provides a total of 172 car parking spaces. The additional parking capacity allotted for the church, which operates exclusively on Sundays, can effectively serve as an offset, ensuring that there are sufficient parking spaces available for the proposed centre-based childcare and the existing education establishment during their operation on weekdays. Therefore, the provision of 172 parking spaces adequately meets the site's parking requirement.</p> <p>In addition to this, it is reasonable to expect that any on-street parking associated with the development is unlikely to obstruct</p>

	<p>access to any dwelling in the locality where road users adhere to road rules. Non-compliance with the road rules is a matter for the NSW Police.</p> <p>Furthermore, the proposed development is highly unlikely to promote any disregard of traffic laws, which may compromise the safety of drivers within the locality. The application has been reviewed and supported by Council's Traffic Engineers, who investigated parking as well as impacts to the local street network.</p>
Noise Pollution	<p>The application was accompanied by an acoustic assessment which was reviewed by Council's Environmental Health Section. The assessment was prepared in general accordance with the Association of Australian Acoustical Consultants Guideline for Child Care Centre Acoustic Assessment (2013), the NSW EPA, Noise Policy for Industry (2017) and sections of the Road Noise Policy published by the Department of Environment, Climate Change and Water NSW. Council's Environmental Health officers assessed, the proposal, associated plans and acoustic assessment and have raised no objections to the development, subject to conditions of consent.</p> <p>It should be noted that the acoustic report provides recommendations about how the proposed development can be designed to assist in mitigating acoustic transfer between the subject site and the immediate locality which have been included within the conditions of consent. This acoustic mitigation was also supported by Council's Environmental Health officers.</p>
Waste Management	<p>A Waste Management Plan for demolition, construction and on-going use has been submitted with the application. Conditions will be implemented ensuring that the waste management plan are adhere to throughout the duration of the childcare centre.</p>
Contamination Exposure to Asbestos –	<p>A Detailed Site Investigation (DSI) prepared by Reditus Consulting Pty Ltd considers that the site can be made suitable for the proposed centre based child care facility.</p> <p>Following the DSI, a Remedial Action Plan (RAP) prepared by Reditus Consulting Pty Ltd, was submitted which provides guidance regarding managing the contaminated material identified within the site, ensuring that the site can be made suitable for the proposed development.</p> <p>In addition, the application was referred to Council's Environmental Health section who reviewed the reports and raised no objections, subject to the imposition of conditions.</p> <p>Furthermore, conditions relating to contamination will be imposed to ensure the development is carried out in accordance with the relevant Australian Standards; asbestos removal is carried out by appropriate personnel and that noise, dust and pollution is limited from the works.</p>

	<p>The Principal Certifying Authority for the development will be responsible for ensuring the development is compliant with the development consent if consent were granted and Council has the potential to investigate any concerns if they are raised during the demolition, construction, and post construction stages.</p>
Environmental Sustainability	<p>The proposed child care centre has been designed comply with the Building Code of Australia energy efficiency provisions contributing to the environmental sustainability of the proposal.</p> <p>The development is designed to contribute to sustainability via recycling bins, compost bins, solar panels, water tanks and vegetable gardens.</p> <p>In addition, Council will impose standard conditions of consent standardised construction management procedures to reduce air/ noise pollution and environmental management from the development.</p> <p>The implementation of additional environmentally sustainable strategies is a matter for the owner of the site.</p>
Air Pollution	<p>Council's standard conditions of consent will be imposed, reflecting standardised construction management procedures to reduce air pollution to the locality during work. Any breeches of conditions of consent will be handled by Council's compliance section. The contact details of the PCA must be displayed during works so that they can be contacted regarding any issues during construction.</p>
Proximity of Existing Childcare Centres - Redundant Service	<p>In accordance with clause 3.27 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 a provision of a development control plan that specifies a requirement, standard or control in relation to proximity of facility to other early education and care facilities does not apply to development for the purpose of a centre-based child care facility. Therefore, the proximity of existing childcare centres is not a planning consideration which can be made as part of the assessment by the consent authority in this case.</p>
Environmental Impact – pollution impacting Flora and Fauna	<p>Council's standard conditions of consent will be imposed, reflecting standardised construction management procedures to minimise environmental impact on site and the locality. Any breeches of conditions of consent will be handled by Council's compliance section. The contact details of the PCA must be displayed during works so that they can be contacted regarding any issues during construction.</p>
Public Awareness – proposal lack credibility, needs scrutiny	<p>In accordance with Liverpool's Community Participation Plan 2022, the proposal was required to be notified to the properties within 75m of the site.</p> <p>The revised proposal has been assessed against the requirements relevant planning instruments and Development</p>

	Control Plans. The proposed childcare centre is considered to be consistent with the relevant principles for the development in the medium density residential zone.
Absent Social Impact Statement	A Social Impact Statement had been submitted with the application. Council's Community Planning has reviewed the Social Impact Statement and raised no objections to the proposal.

6. 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 considered that the application can be supported.

It is considered that the key issues as outlined in Section 4.3 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment 1**.

7. RECOMMENDATION

That the Development Application DA-398/2023 for demolition of the existing parish office and presbytery, and construction of a centre-based childcare facility for 76 children with associated business identification signage and landscaping at Lot 11 Heathcote Road, Holsworthy and 195 Heathcote Road, Holsworthy be **APPROVED** pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent to this report at Attachment 1

The following attachments are provided:

- Attachment 1: Draft Conditions of Consent (094168.2024)
- Attachment 2: Tables of Compliance (094173.2024)
- Attachment 3: Community Submissions (086042.2024)
- Attachment 4: Determination Documents - Architectural Plans (085803.2024)
- Attachment 5: Supporting Reports – (085906.2024)