

COUNCIL ASSESSMENT REPORT
SYDNEY WESTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSWC-557- DA-240/2025
PROPOSAL	Construction of a childcare facility at 234 Edmonson Avenue, Austral.
ADDRESS	234 Edmondson Avenue, Austral
APPLICANT	Baini Design Pty Ltd
OWNER	P R Holdings (NSW) Pty Ltd
DA LODGEMENT DATE	19 May 2025
APPLICATION TYPE (DA, Concept DA, CROWN DA, INTEGRATED, DESIGNATED)	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 3, Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021: CIV over \$5 million
CIV	\$5,676,802.00 (including GST)
CLAUSE 4.6 REQUESTS	No Clause 4.6 has been submitted
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 (Precincts – Western City Parkland) 2021 Liverpool Growth Centre Precincts Development Control Plan 2021 Child Care Planning Guideline 2021
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	The application was notified from 28 th of May 2025 to the 19 th June 2025, and advertised from 11 th of June 2025 to the 30 th June 2025. No submissions were received.
DOCUMENTS SUBMITTED FOR CONSIDERATION	Attachment A – Refusal Notice Attachment B – Compliance Tables, SEPP (Precincts – Western Parkland City) and Liverpool Growth Centre Precincts DCP

SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	N/A
RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	N/A
SCHEDULED MEETING DATE	N/A
PLAN VERSION	N/A
PREPARED BY	Julia Ishak
DATE OF REPORT	2 September 2025

1. EXECUTIVE SUMMARY

1.1 The Proposal

Application seeks Development Consent for the Construction of a three storey childcare facility for 140 children with basement car parking at 234 Edmondson Avenue, Austral.

The subject site is known as 234 Edmondson Avenue, Austral, being legally known as Lot 14 DP 413602.

The site is currently a vacant lot and is located within R3 Medium Density Residential zone pursuant to Appendix 4 Liverpool Growth Centres Precinct Plan of the State Environmental Planning Policy (Precincts – Western Parkland City) 2021 (WPC SEPP).

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

The proposed development is identified as integrated development pursuant to Section 4.46 of the Environment Planning and Assessment Act 1979 (EP&A Act) as the site is identified as bushfire prone under S100B of the *Rural Fires Act 1997*. A referral was made to the NSW Rural Fire Service, which was rejected due to lack of payment by the applicant. As per Part 15, Division 1 Clause 256 of the Environmental Planning and Assessment Regulation 2021, the consent authority may refuse the application if fees are not paid.

The application was notified from 28th of May 2025 to the 19th June 2025, and advertised from 11th of June 2025 to the 30th June 2025. No submissions were received.

The proposed childcare centre raises several significant concerns which impact its suitability and compliance with planning controls. Key issues include insufficient information to demonstrate site suitability and compliance with environmental policies, particularly relating to water catchments, bushfire risk, and hazard resilience, which limits a succinct and thorough assessment under 4.15 of the EP&A Act. Additionally, the proposal does not meet relevant standards for childcare facilities, nor does it comply with development control provisions regarding bulk, scale, site coverage, and parking.

Further details are provided in the Key Issues section of this report.

A number of requests for further information was afforded to the applicant in but a response was not provided to Council during the allotted timeframes as demonstrated below:

- Application lodged with Council: 19 May 2025
- Notification and advertising period: 28 May 2025 to 30 June 2025
- RFI issued: 01 August 2025 – no response received from applicant
- RFI follow-up letter issued: 15 August 2025 - no response received from applicant

Following consideration of the matters under Section 4.15 (1) of the EP&A Act, the provisions of the applicable State Environmental Planning Policies, in particular to 4.15 (1)(a)(b)(c) and (e), the proposed development cannot be supported.

2. THE SITE AND LOCALITY

2.1 The Site

The subject site is identified as 234 Edmondson Avenue, Austral, legally known as Lot 14 in DP 413602. The site is currently vacant and forms part of a lot created through the parent subdivision DA-

The site is regular in shape with a frontage of 20.115m to Edmondson Avenue and a length of 80.16m; it has a total area of 1,612m² based on the submitted survey plan prepared by Baissline Surveying, dated 24 April 2025.



Figure 1: Subject Site (outlined in red)

The site is zoned R3 Medium Density Residential to the WPC SEPP.

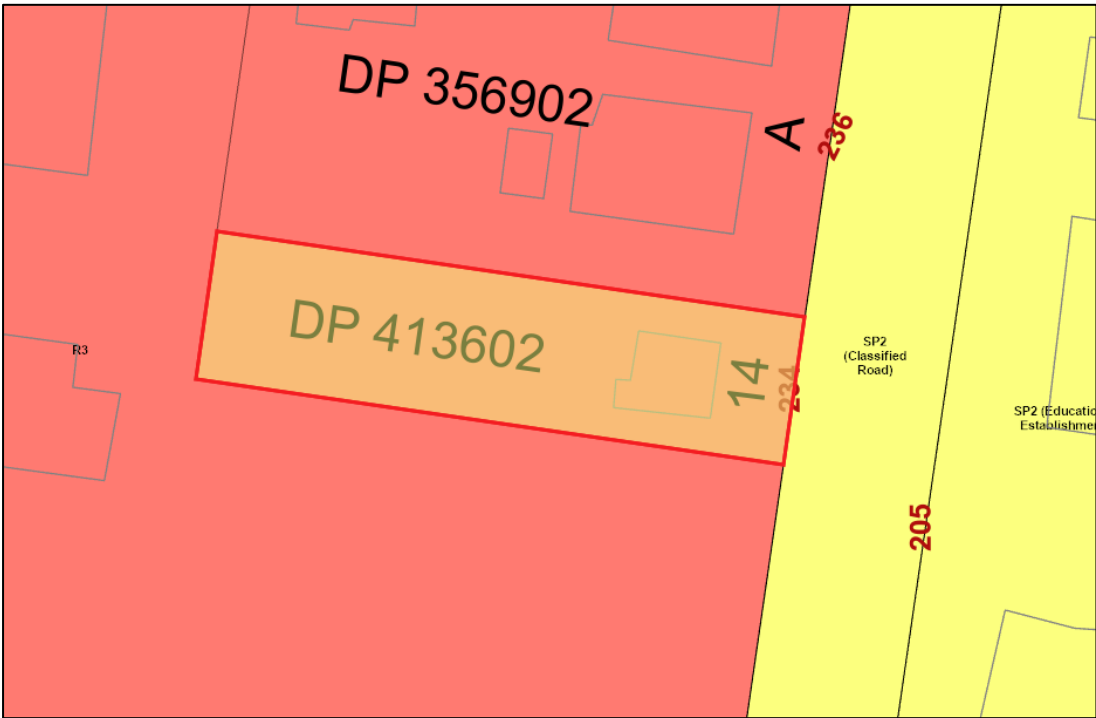


Figure 2: Zoning Map extract

Clause 4.3 prescribes maximum height of 12m pursuant to the WPC SEPP.

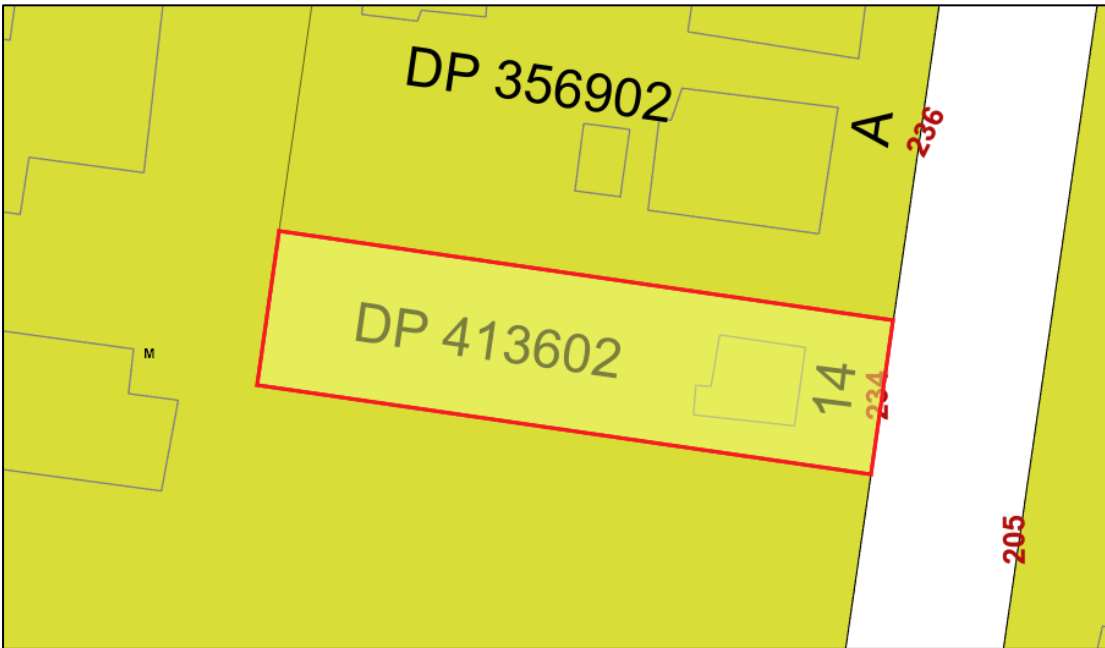


Figure 3: Height of Buildings

2.2 Site Constraints

Are there any constraints or affectations on the site: - Bushfire - Flooding	- Moderate Salinity Potential - Bushfire Fire Prone Land
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- 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 - Gas Pipeline	
Are there any restrictions on title?	Nil

3. THE PROPOSAL AND BACKGROUND

3.1 The Proposal

The application seeks Development Consent for the construction of a three-storey childcare centre for 140 children with basement car parking. The proposal would specifically consist of the following:

Childcare Centre:

The proposed childcare centre is a three-storey building, which accommodates 140 children and 22 staff, as per the following:

Basement level:

- Vehicle ramp access from Edmondson Avenue
- 36 car parking spaces (14 visitor spaces and 22 staff car spaces)
- Service rooms: one lift, bin room, service room, 5 bike storage spaces

Ground Floor:

- Main entrance from Edmondson Avenue
- Foyer
- Office
- Laundry facility
- Accessible bathroom
- Kitchen
- Storage areas
- Service areas: lift and two (2) sets of fire stairs
- 0-2 indoor play area with cot room
- 2-3 indoor play area with bathroom
- 2-3 indoor play area

- 0-3 bathroom
- 0-2 outdoor play area
- 2-3 outdoor play area

First Floor:

- Staff room
- Accessible bathroom
- Foyer
- Service areas: lift and two (2) sets of fire stairs
- 3-5 indoor play area with bathroom and storage area
- 3-5 indoor play area with bathroom and storage area
- 3-5 outdoor play area
- Outdoor storage area

Second Floor:

- Service areas: lift and two (2) sets of fire stairs
- Accessible bathroom
- 3-5 indoor play area with bathroom and storage area
- 3-5 indoor play area with bathroom and storage area
- 3-5 outdoor play area
- Outdoor storage area

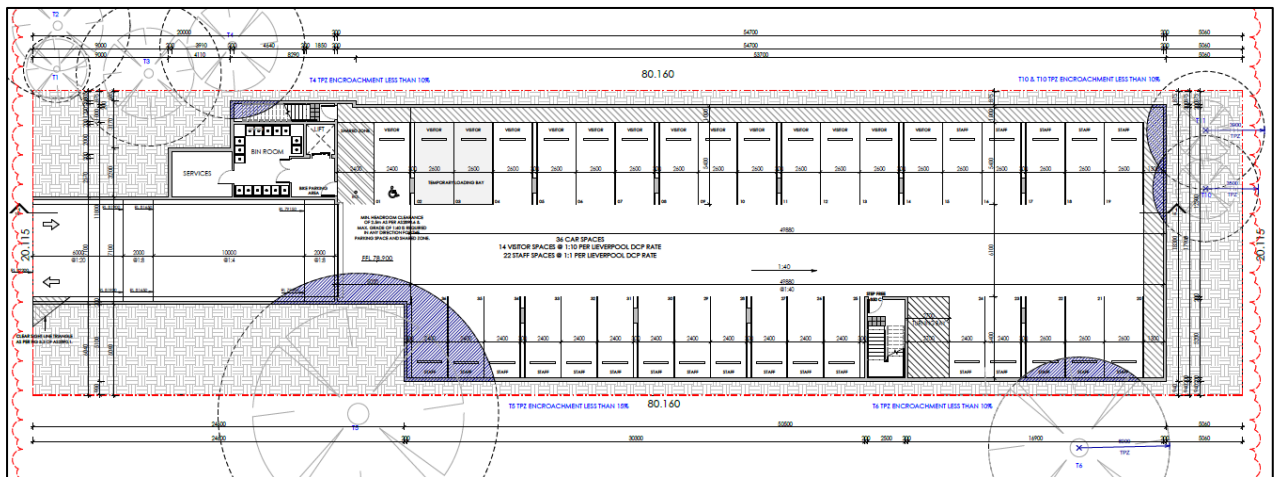
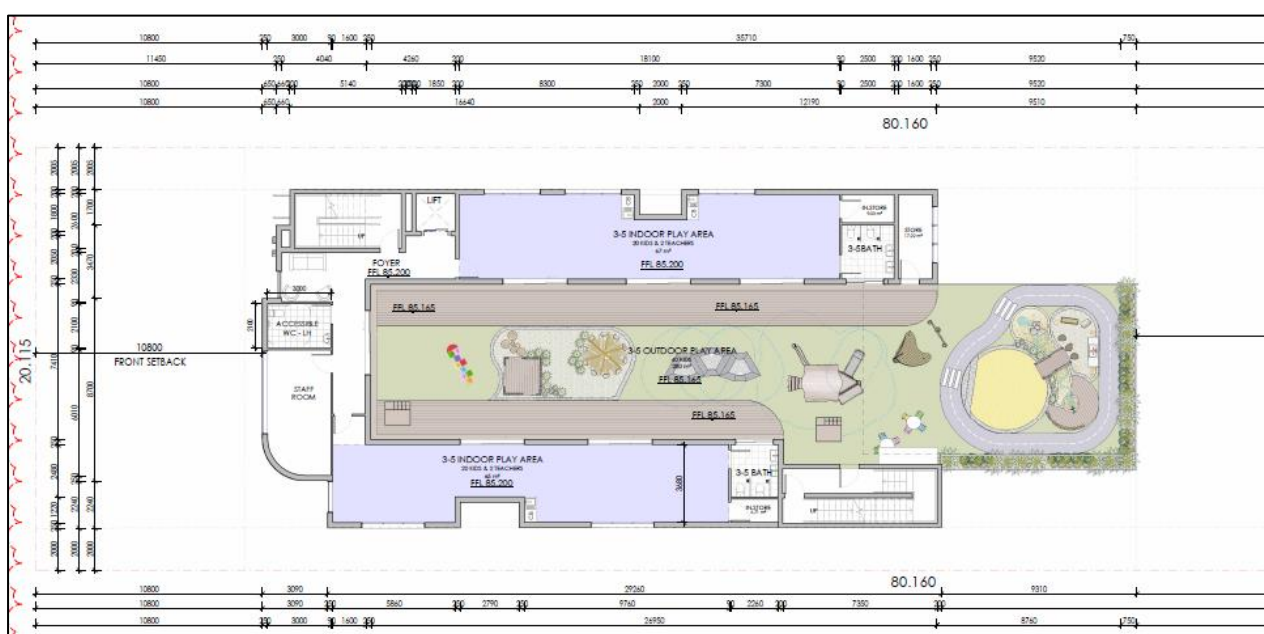
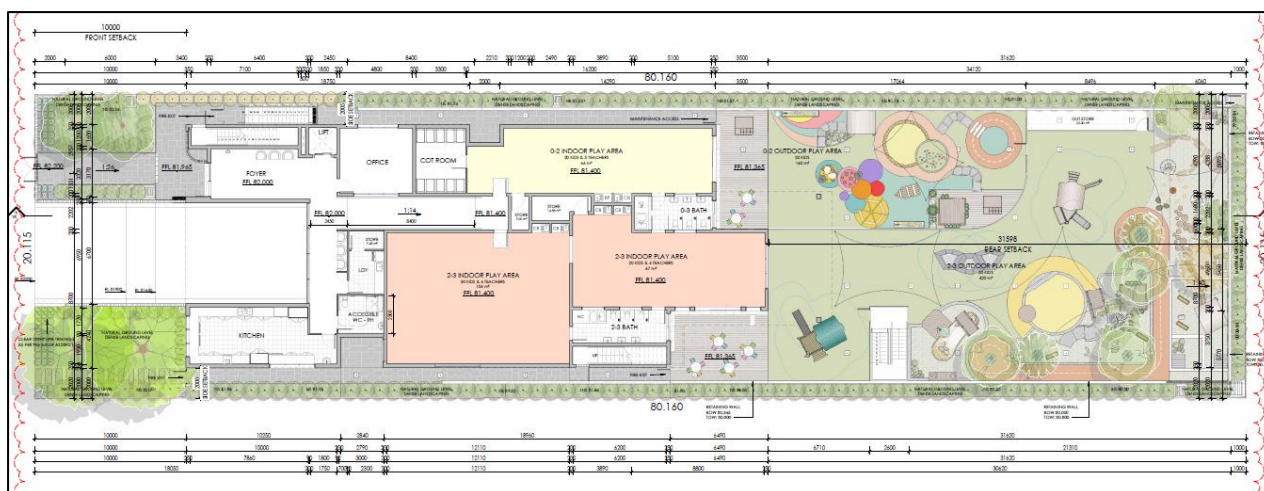


Figure 4: Proposed Basement Plan



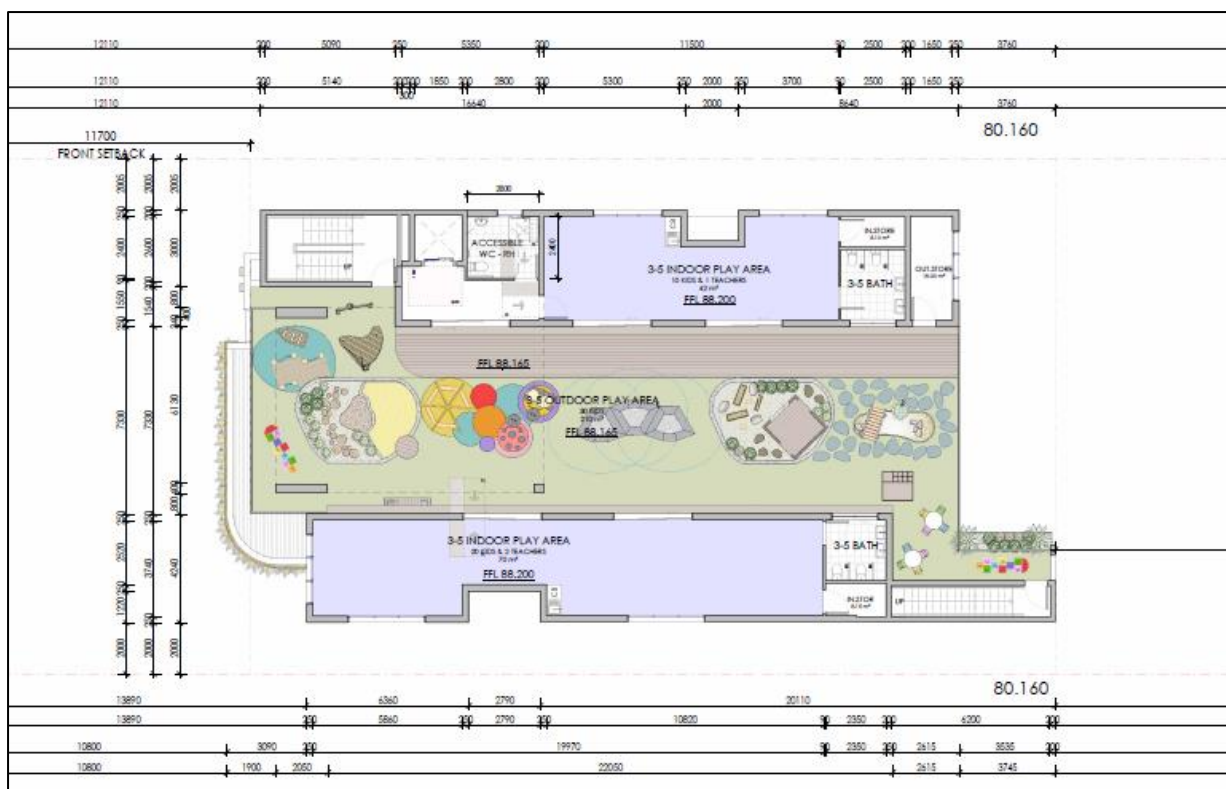


Figure 7: Proposed Second Floor Plan

Hours of Operation:

- Monday to Friday 7:00am to 6:00pm

Educators and number of children:

Age Group	Number of Children	Number of Educators	Educator Ratio
0-2 years	20	5	1:4
2-3 years	50	10	1:5
3-5 years	70	7	1:10

Vehicular Access and Car Parking:

- The site provides 36 car parking spaces within the basement (14 visitor spaces and 22 staff car spaces).

3.2 Background

The development application was lodged on **19 May 2025**. A chronology of the development application since lodgement is outlined below:

Table 1: Chronology of the DA

Date	Event
19 May 2025	DA lodged
11 June 2025	Exhibition of the application until the 19 th May 2025.
1 August 2025	Request for Additional Information pertaining to the following: - Amended plans - Deficiency in car parking spaces - Amended stormwater plans - Preliminary Site Investigation - Outstanding matters from Urban Design and Public Domain No response received.
15 August 2025	Request for Information 7 day follow up letter. No response received.
4 September 2025	Council received notification a deemed refused was lodged with Land and Environment Court.

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:

- Rural Fires Act 1997
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Precincts – Western City Parkland) 2021
- Liverpool Growth Centre Precincts Development Control Plan 2021
- Child Care Planning Guideline 2021

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 2** and considered in more detail below.

Table 2: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration (Brief summary)	Comply (Y/N)
Rural Fires Act 1997	S100B Bushfire safety authorities	N
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 6: Water catchments	N
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development • 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 • Section 4.6 - Contamination and remediation have been considered, and the proposal is not satisfactory.	N

State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 3: Educational Establishments Section 3.23 - Centre-based childcare facility—matters for consideration by consent authorities	N
Education and Care Services National Regulation 2011	Part 4.3 Physical Environment - Division 1 Centre-based services and family day care services - Division 2 Additional requirements for centre-based services	N
State Environmental Planning Policy (Precincts – Western Parkland City) 2021	- Clause 2.3 – Permissibility and zone objectives - Clause 2.7 Demolition - Clause 4.3 – Height of buildings - Clause 5.10 Heritage Conservation - Clause 5.11 Bush fire Hazard Reduction - Clause 6.1 – Public Utility Infrastructure	N
Liverpool Growth Centre Precincts Development Control Plan 2021	Part 4.4 – Other development in residential areas	N

The proposed development is considered to be inconsistent with a number of SEPPs, LEP and DCP, and therefore is not supported.

Consideration of the relevant SEPPs is outlined below:

4.2.1 Rural Fires Act 1997

The subject site is identified as bushfire-prone land, and the proposed development constitutes integrated development pursuant to Section 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act). As such, in accordance with Section 100B of the *Rural Fires Act 1997*, the development application was required to be referred to the NSW Rural Fire Service (RFS) for General Terms of Approval (GTA).

The application was duly referred to the RFS; however, the referral was not processed as the required application fee was not paid by the applicant. As a result, the RFS declined to assess the application and did not issue GTAs.

In accordance with Part 15, Division 1. Clause 256 of the *Environmental Planning and Assessment Regulation 2021*, it states that, where the relevant fees for an integrated development referral are not paid, the consent authority may refuse the development application on that basis.

Given the above, the application cannot proceed without the necessary assessment and approval from the RFS, and refusal of the application may be warranted due to the non-payment of the statutory referral fee.

4.2.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The subject land is located within the Hawkesbury 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 Hawkesbury Catchment 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 the Council's Land Development Engineer, who reviewed the application and was not supportive of the proposed development. Additional information was requested by the Land Development Engineer, requesting the applicant to amend the method of drainage and to ensure stormwater runoff is connected to the Council's drainage system. No response has been received by the applicant.

Therefore, it is considered that the proposal cannot satisfy the provisions of the Biodiversity SEPP, and the consent authority cannot be satisfied that the proposed development demonstrates potential impacts on the water quality and quantity, and aquatic ecology is reasonable, as expressed within the provisions.

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

- (a) Chapter 2: State and Regional Development**

The proposal is a 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 childcare facilities \$5m or greater. Accordingly, the Sydney Western City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

4.2.4 State Environmental Planning Policy (Resilience and Hazards) 2021

(a) Chapter 4: Remediation of Land

i. Clause 4.6 Contamination and remediation to be considered in determining development application

The proposal has been assessed under the relevant provisions of SEPP (Resilience and Hazards) 2021, specifically Chapter 4 – Remediation of Land, as the proposal involves the development of land to accommodate a change of use.

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

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

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

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

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

Table 3 – Clause 4.6 of Resilience and Hazardous SEPP

Clause 4.6 - Contamination and remediation to be considered in determining development application	Comment
	(1) A consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and	The submitted Preliminary Site Investigation states under Section 5.6 that no previous environmental investigation reports were provided or identified at the time of writing the report; however, Council's Environmental Health Officer has noted that prior DA consent identified that the land was contaminated and the site was subject to a PSI, DSI, and RAP. An updated PSI is required and has not been submitted by the applicant.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	Insufficient Information has been presented to ascertain the extent of contamination.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The land may require remediation.

Based on the above assessment, the application has failed to address the SEPP, and the consent authority is not satisfied that the site is suitable for the proposed use.

4.2.5 State Environmental Planning Policy (Transport and Infrastructure) 2021

(a) 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 not consistent with this Policy.

It cannot be demonstrated that the site is environmentally suitable for the proposed use, as it is affected by bushfire, and the required referral to the NSW Rural Fire Service was rejected due to non-payment of fees. In addition, the land has been identified as contaminated, and no remediation or investigation has been provided by the applicant to address this issue. While the proposed three-storey childcare centre complies with the numerical building height controls, its bulk and scale are inconsistent with the surrounding built form, which is generally of a smaller and less imposing character. The design also fails to respond appropriately to the existing streetscape and local context. Furthermore, not all outdoor play areas receive the minimum two hours of required solar access, and the proposal does not provide the required number of parking spaces, which may adversely impact the amenity of the surrounding neighbourhood. These deficiencies indicate the development is inconsistent with the objectives and provisions of the SEPP.

The application was referred to Transport for NSW (TfNSW) pursuant to Section 2.118 of the Transport and Infrastructure SEPP, as the subject site is located on Edmondson Avenue, which is identified as a classified road.

However, TfNSW subsequently advised that the specific section of Edmondson Avenue on which the site is located falls under the care and management of Liverpool City Council. As such, TfNSW determined that they are not the relevant road authority for this portion of the road and therefore declined to provide comment on the application.

4.2.6 Appendix 4 Liverpool Growth Centres Precinct Plan under the State Environmental Planning Policy (Precincts – Western Parkland City) 2021

The relevant environmental planning instrument (EPI) applying to the site is the State Environmental Planning Policy (Precincts – Western Parkland City) 2021, particularly Appendix 4 Liverpool Growth Centres Precinct Plan. The aims of Appendix 4 Precinct Plan include:

1.2 Aims of Plan

The aims of this Precinct Plan are as follows—

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

The proposal is not considered consistent with some of these aims, in particular, ‘the creation of quality environments’, as the development proposes a parking deficiency and overly massed building that is out-of-scale built form when compared to neighboring developments, that will lead to negative impacts on the nearby road network and amenity impacts on the nearby residents, school, and road network.

a) Zoning

The site is located within the R3 Medium Density Residential Zone pursuant to Clause 2.2 of Appendix 4 Liverpool Growth Centres Precinct Plan under the SEPP (Precinct – Western Parkland City) 2021.

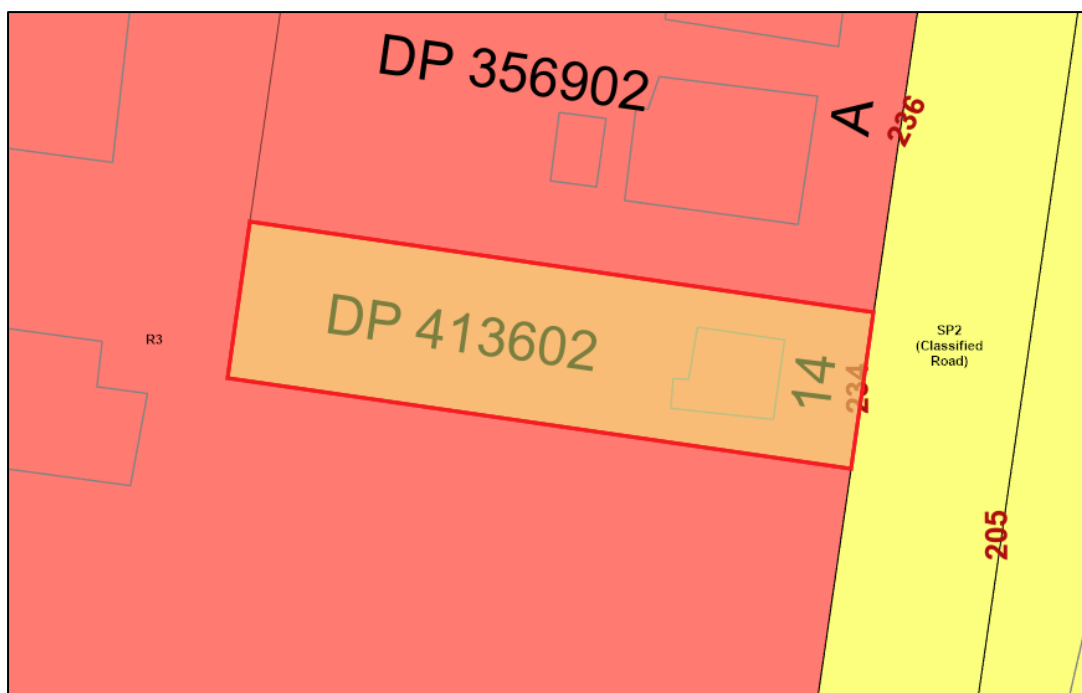


Figure 8: R3 Medium Density Residential under the Growth Centres Precinct SEPP 2021

In accordance with Clause 3.3 of the SEPP (Precincts – Western Parkland City) 2021, works used in this Chapter have the same meaning as in the Standard Instrument, unless defined in this Chapter.

Under the provisions of the Standard Instrument, a centre-based childcare facility is defined as follows:

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.*

b) Permissibility

In accordance with the definition under the Standard Instrument, the proposal satisfies the definition of a centre-based child care facility, which is a permissible use with consent in the Land Use Table in Clause 2.3 of the SEPP (Precincts – Western Parkland City) 2021.

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 support the well-being of the community by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a medium density residential environment.*

The proposed centre-based childcare facility is considered to be not be consistent with the zone objectives as it does not support the community due to the deficiency in parking, impacts to relocation of crossing for the existing school in which is incompatible with the amenity of the area.

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

Appendix 4 Liverpool Growth Centres Precinct Plan under SEPP (Precincts – Western Parkland City) 2021 contains controls relating to development standards, miscellaneous provisions, and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 1: Consideration of the SEPP Controls

Control	Requirement	Proposal	Comply
Cl. 2.7 – Demolition	Demolition works may only be carried out with consent.	No demolition is sought as part of the application.	Not Applicable
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.	Not Applicable

CI 4.3(2) - Height of buildings	The site has a maximum height of building = 12m	The child care facility proposes a maximum height of 11.9 metres.	Yes
CI 4.4(2) – Floor Space Ratio	No Floor Space Ratio is mapped for this site.	Not applicable	Not Applicable
CI. 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
CI 5.11 Bushfire Hazard Reduction	Relating to the carrying out of development on bushfire-prone land.	Bushfire Assessment Report prepared by Building Code & Bushfire Hazard Solutions Pty Ltd, dated 30 May 2024 was submitted with the application. The application was referred to NSW Rural Fire Services, who rejected the referral due to non-payment of fees by the applicant.	Does not Comply
CI. 6.1 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 access to existing Public Utility Infrastructure.	Yes

The proposal is considered to be generally inconsistent with Appendix 4 of the SEPP (Precincts – Western Parkland City) 2021

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 and are relevant to the proposal.

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

The *Liverpool Growth Centres Precincts Development Control Plan 2021* (Liverpool DCP 2021) 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 proposed centre-based childcare facility has been assessed in accordance with the provisions of Liverpool DCP 2021, and the proposal is not consistent with this Policy.

The applicant has failed to provide the Reduced Levels (RLs) of the basement, preventing Council from accurately assessing the extent of excavation and potential site impacts. The site has also been identified as contaminated, and despite Council's request, an amended Preliminary Site Investigation (PSI) report has not been submitted, leaving contamination risks unresolved. Additionally, the proposal exceeds the maximum permitted site coverage, with 62.9% proposed where a maximum of 60% is allowed under the DCP. The development also falls short of the required number of on-site parking spaces, providing only 36 spaces where 46 are required, which may result in increased parking pressure on surrounding streets. Collectively, these issues demonstrate a failure to satisfy key planning controls intended to ensure environmental suitability, amenity, and appropriate urban design outcomes.

4.4 Section 4.15(1)(a) (iia) – 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.

4.5 Section 4.15(1)(a)(iv) - Provisions of Regulations

The *Environmental Planning and Assessment Regulation 2021* (EP&A Regulations) requires the consent authority to consider the provisions of the National Construction Code. Accordingly, appropriate conditions could have been imposed if consent were granted.

4.6 Section 4.15(1)(b) - Likely Impacts of Development

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

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

1. Natural Environment:

- The proposal fails to comply with Chapter 6 – Water Catchments of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021*. The development has not demonstrated that it will appropriately manage potential impacts on the region's

water catchment systems, which is critical for the protection of downstream water quality and local ecosystems.

- The development is inconsistent with the provisions of the *State Environmental Planning Policy (Resilience and Hazards) 2021*, with insufficient information provided to satisfy the consent authority that the land is or will be suitable for the proposed use. This raises concerns about environmental risks such as flooding, bushfire vulnerability, or soil stability.
- The development does not comply with Clause 5.11 – Bushfire Hazard Reduction of the *SEPP (Precincts – Western Parkland City) 2021*, due to the applicant's failure to facilitate assessment under Section 100B of the Rural Fires Act 1997. As the referral to the NSW Rural Fire Service was rejected due to non-payment of fees, the potential bushfire risk to the site and its future occupants has not been adequately assessed or addressed.
- The proposal also does not demonstrate compliance with relevant provisions in the *Liverpool Growth Centre Precincts Development Control Plan 2021*, particularly in relation to salinity, sodicity, and soil aggressivity. Inadequate management of these factors may lead to long-term degradation of the natural environment and pose risks to the structural integrity of the building.

2. Built Environment:

- The proposed development does not comply with Part 4.4 of the Liverpool Growth Centre Precincts DCP 2021, particularly with respect to bulk, scale, site coverage, and building height, which are inconsistent with the surrounding built form. The three-storey structure presents a significant visual and physical departure from existing development in the area, resulting in adverse impacts on neighbourhood character and streetscape.
- The design fails to provide adequate car parking, contributing to potential traffic congestion and on-street parking pressures that may negatively impact the amenity and safety of the surrounding area.
- The proposal has not demonstrated compliance with Part 4.3 of the Education and Care Services National Regulation 2011, nor with Chapter 3 – Educational Establishments and Childcare Facilities of the *SEPP (Transport and Infrastructure) 2021*. The lack of information regarding operational and regulatory compliance raises concerns about the functionality and safety of the proposed facility.
- Furthermore, insufficient evidence has been provided to demonstrate that the site is suitable for the proposed use, as required under Section 4.15(1)(c). Critical assessments have not been completed or accepted by relevant authorities, further undermining confidence in the proposal's ability to integrate appropriately with the surrounding environment.

Accordingly, it is considered the proposal will result in potentially significant adverse impacts in the locality as outlined above.

4.7 Section 4.15(1)(c) - Suitability of the site

The proposal is a permissible form of development in the zone, however, due to the non-compliances with the relevant development standards, as detailed in this report, the subject site is not considered to be suitable for a development of this nature.

4.8 Section 4.15(1)(d) - Public Submissions

No submissions have been received.

4.9 Section 4.15(1)(e) - Public interest

The proposed development is considered not to be consistent with the applicable planning controls; furthermore, it is not consistent with the requirements under the applicable SEPP's and provisions under the EP&A Act in terms of a Concept Application.

Therefore, it is not considered to be 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.

Table 2: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Referral/Consultation Agencies			
Transport for NSW	SEPP (Transport and Infrastructure) 2021, s2.118	Rejected, referral not required.	Y
Integrated Development (S 4.46 of the EP&A Act)			
NSW Rural Fire Service	Section 100B of the Rural Fires Act 1997	Rejected due to non-payment of fees by the applicant.	N

5.2 Council Officer Referrals

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

Table 3: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Engineering Officer reviewed the submitted stormwater concept plan and raised the following issues: - Mechanical systems (pumps) are not accepted in onsite detention (OSD) systems. Stormwater discharge shall be via gravity from the OSD system. Refer to Councils OSD technical specifications for guidance. - Stormwater runoff shall be connected to Councils drainage system by gravity means. - Top of water (TWL) level for OSD is restricted by the intermediate overflow level. Amend accordingly.	N
Traffic	Council's Traffic Engineering Officer reviewed the proposal and raised concerns in car parking. The following comments were made: The proposal is short by 6 car parking spaces. The applicant is to provide 42 car parking spaces as per the DCP - 22 for childcare staff and 20 for childcare visitors. Arrangement for delivery vehicle parking to be made unless a designated parking space is provided. It is also to provide four (4) bicycle parking spaces (1 per 10 staff and 2 per centre).	N
Building	Supported, subject to conditions.	Y
Flooding	Supported, subject to conditions.	Y
Community Planning (Social Planning)	Supported, subject to conditions.	Y
Environmental Health	Council's Environmental Health team raised the following issues with the proposal: The submitted Preliminary Site Investigation states under Section 5.6 that no previous environmental investigation reports were provided or identified at the time of writing the report. Prior DA consent under DA-131/2019 identified contaminated land which was subject to a PSI, DSI & RAP. The Statement of Environmental Effects details only demolition has been carried out at the subject premise. The Environmental Consultant shall undertake a review of the Stage 1, 2 & 3 reports prepared by Martins Consulting, submitted and approved under DA-131/2019. The submitted PSI under this application must be updated to reflect these reports and any required changes to the conclusions drawn under the PSI must be updated to reflect this new information. Any altered conclusions that require further assessment must be carried out accordingly.	N
Public Art	Supported, subject to conditions.	Y
Urban Design and Public Domain	Council's Urban Design in Public Domain team raised the following issues with the proposal: 1. Context:	N

	1.1. The plans all have north down the page which is very difficult to read and not industry practice. 1.2. CDPD is supportive of this site as a good location for a child care centre, co-located with other related facilities such as the school and local shops. 2. Built Form + Scale 2.1. Planner to note – From an Urban Design perspective, in this context the built form of a flat roof is not as desirable but can be accepted, due to the large scale school across the road, the busy nature and size of Edmondson Avenue, becoming an urban street in future. If the proposal was on a quieter, smaller scale fine grain residential street, then a pitched roof form would be pressed more. 2.2. Setbacks: · Front setback is 10m, which is more than the minimum 6m DCP setback for Childcare centres. · Side Setbacks – 2m across a 3 storey building. This complies with the DCP 2m, however the DCP also says child care centres to be a single-storey building, so did not anticipate the 2m across 3 storeys. The development is in R3, and a 3-storey residential Flat Building could be proposed adjacent, and with the affordable housing bonus, potentially a 4-5 storey residential flat building in future. This potential development would only have 2m setback from the site boundary to the child care centre. CDPD has concerns for this amenity outcome, however refers to the planning officer on whether a greater setback can be requested., or ADG separation can be considered for a 3 storey child care centre in R3. · Rear setback is 31.5m well over the 4-8m DCP required. 3. Density 3.1. The proposal is for 140 place child care centre, which is a significantly sized centre. The Liverpool Growth Centre DCP states a maximum of 40 places. CDPD recognises this is not strictly applied, and greater numbered child care centres can be supported as long as they comply with the Child Care Guidelines. CDPD has the following issues with the design, which is a direct result of the child care centre being too large for this site. CDPD recommends all the below issues are addressed: 3.1.1. Room 2-3 Indoor Play Area at ground does not have direct connection to outside as required in the Child Care Planning Guideline (CCPD). This requirement is a key aspect of child care centre designs, connecting children to natural light, the natural environment and play, and must be adhered to. 3.1.2. The 2-3 Indoor Play area adjacent to the outdoor play area is not accessible from the foyer, people need to walk through the 0-2 indoor play area to reach it and drop of kids. This is a significant safety concern and is not a supported arrangement in child care centres. 3.1.3. The Level 1 Outdoor Play area is mostly undercroft – ‘covered outdoor space’, therefore should not be counted as outdoor play area. The Child Care Planning Guidelines 4.9 Outdoor space requirements – Verandahs should be referred to. This area is poorly ventilated and receives minimal solar access, will rely on artificial lighting all day and night, planting will not grow in this area, and it will generally be a poor space for children, lacking qualities of the outdoors. 3.1.4. The basement almost fills the sit with carparking, and as such there is very little deep soil on the site for such a large site. Deep soil has a key role in supporting trees to reach maturity. The areas that are indicated as deep soil are also not correct, the rear boundary has deep soil yet on the Stormwater Drawing a portion of this is OSD. CDPD notes	
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Diagram illustrating a sewerage system layout, including a sewer riser, underground tank area, and sewer chambers. Key components and dimensions are labeled:

- SEWER RISER WITH NON-RETURN VALVE**: Located at the top left.
- UNDERGROUND TANK AREA**: A large rectangular area in the center, labeled **CAPACITY TANK AREA DEPTH TO ORIFICE ORIFICE CL TWL**.
- UNDERGROUND 5 x 690mm CAR 4m² SF CHAMBER**: A smaller rectangular area at the bottom right.
- Dimensions and Annotations**:
 - RL 80.25 (Right Level)
 - RL 79.65 (Right Level)
 - FW 80.11 (Full Water Level)
 - FW 80.1 (Full Water Level)
 - NS 79.57 (Normal Surface)
 - NS 79.55 (Normal Surface)
 - NS 79.73 (Normal Surface)
 - NS 78.83 (Normal Surface)
 - NS 78.78 (Normal Surface)
 - NS 78.75 (Normal Surface)
 - NS 78.72 (Normal Surface)
 - NS 78.69 (Normal Surface)
 - NS 78.66 (Normal Surface)
 - NS 78.63 (Normal Surface)
 - NS 78.60 (Normal Surface)
 - NS 78.57 (Normal Surface)
 - NS 78.54 (Normal Surface)
 - NS 78.51 (Normal Surface)
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 - NS 7

4.1. Sustainability is an important part of all new developments, and directly impacts the comfort of the children in this environment. CDPD encourages the incorporation of ceiling fans, solar panels, Rain Water Tanks, and other ESD initiatives.

5.1. Public Domain

5.1.2. Public Domain Plan - (PLANNER TO CONFIRM WHETHER THIS SHOULD BE PROVIDED NOW OR PRIOR TO CC NOTING REF IS NEW AND DIFFERENT PATHWAY) CDPD requests a Public Domain Plan is provided demonstrating how the development interfaces with the public domain, and the works to be delivered as part of this project. Drawings and annotations should include:

- o Clarity as to what is being delivered as part of this project, what is existing and what is being upgraded
- o Existing and proposed pedestrian footpath upgrades and embellishment to Council specifications
- o Proposed street trees
- o Driveway and laybacks, including proposed finishes and gradients
- o Detailed treatments for the safe intersection of footpaths & driveways

	- o Connection paths, linking all pedestrian access points to the public footpath (where applicable) - o Existing / proposed kerb and gutter embellishment - o Removed existing driveway layback and crossovers no longer used - o Landscaping and turf - o All of the above to Council Specifications 5.1.3. CDPD recommends the current proposal and post road widening is included, to demonstrate how the proposal and public domain elements will be realigned and sit post road widening. 5.1.4. Street trees should be provided at 100L pot size, refer to Council's preferred species list for guidance. 5.1.5. CDPD requests the front fence be set in 500-1000m to enable a landscape buffer between the public domain and the fencing. 5.2. The Liverpool Growth Centre DCP Appendix A defines 'Landscaped Area' to not include rooftop gardens or undercroft areas. The proposal has included undercroft area at ground floor, and the landscape areas on the upper levels which should all be excluded. The Landscape area calculations should be revised accordingly. 5.3. The Liverpool area and in particular growth centres are experiencing significant urbanisation contributing to the Urban Heat Island Effect. Tree Canopy, deep soil to support trees and landscaping play a key role in ameliorating the effects. The following recommendations are to improve the amount of trees, landscaping in the proposed development: 5.3.1. As outlined in the Liverpool City Council Draft Tree Management Strategy, Liverpool has a canopy cover target by 2030, and to reach that target all new developments need to achieve prescribed canopy cover targets. The R3 zone states 20%. CDPD requests tree canopy diagrams and calculations demonstrating 20% can be achieved. Adequate soil volumes and depths should be demonstrated, that the trees proposed can thrive and reach maturity. Refer to the TMF for more guidance on soil volumes. 5.3.2. CDPD recommends several trees' pot sizes increased to 100L pot size 5.3.3. Connection to the natural environment is important in children's development. The children on the upper levels have no connection with trees. CDPD recommends trees be incorporated in the outdoor play area on the upper levels, and adequate soil volumes and depths demonstrated. 6. Safety 6.1. CDPD has safety concerns for the amount of people using this centre, all relying on 1 lift. In the case of a lift breaking down which can last for days, from the basement many families will have to walk up the driveway or fire stair with a pram, all around the same time. In addition there are going to be significant waiting times even when the lift is operational, and a likely build up of families in the foyers. CDPD recommends an additional lift is incorporated. 6.2. Further to the above CDPD suggests the foyer sizes be increased. 6.3. In the case of an emergency, the south stair will have 30 children plus 3 teachers evacuating, while the north stair will have 40 children and 4 teachers evacuating. This raises safety concerns this many children who are vulnerable and have difficulty with stairs, trying to evacuate a fire stair at the same time, and through a 3-storey building. Child Care centres	
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are typically not 3 storeys for this reason. CDPD refers to the Council Planning Officer, Building Officer for further advice on this matter and notes the NSW Department of Education may need to be consulted as follows:

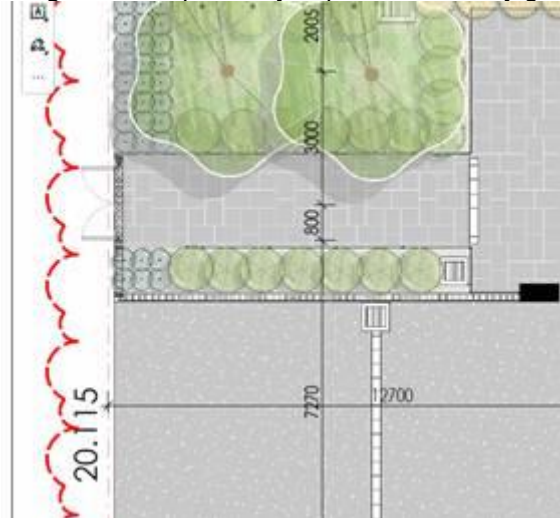
Child Care Planning Guideline 4.8 states:

'Risks associated with multi-storey buildings, including the appropriate child-to-staff ratios and emergency and evacuation plans, need to be assessed in the context of the service approval. These matters need to be considered by the Quality Assurance and Regulatory Services Directorate, Early Childhood Education on behalf of the Secretary of the NSW Department of Education.'

1.1. CDPD queries the safety issues around the above ground OSD also being located in the children's rear play area, creating safety concerns and useability from water when the OSD fills up in bad weather, particular in a child care centre. CDPD recommends the OSD is move to under the driveway, and Council's Engineers are consulted for safety advice for OSDs in a children's play area. It should also be noted CDPD does not support OSDs in the front setback (aside from driveway) as they impact landscaping and tree provisions, which are an important part of the streetscape.

1.2. The main pedestrian entry almost directly adjacent to the driveway is a compromised design outcome and safety issue. In developments generally pedestrian entries should be separated from entry driveways as much as possible. Currently families will be congregating at the front entry gate which is only 1-2m from vehicles turning into the driveway. CDPD encourages exploration of creating greater separation and safety between these entries, to prevent conflicts with families and the driveway.

Image of close proximity of pedestrian entry gate and driveway



1.3. The design of the upper levels indoor play area rooms have areas of poor surveillance. Refer to Child Care Guidelines 4.7. CDPD recommends the areas are revised to enable adequate surveillance, while still maintaining the building articulation. (For example reducing the depth of the building inset and/or using a material change).

7. Amenity

2.1. The solar access plans for 9am, 10am, 11am and 12pm are missing from the set and should be provided.

2.2. The Entry does not have a reception area that is separate from the office. Refer to the Child Care Guideline 4.5.

	8. Housing Diversity and Social Inclusion 3.1. NIL 9. Aesthetics 4.1. Recommendations covered under the heading 'Built Form and Scale'. 4.2. CDPD that there are too many different materials on the front façade, which could make the façade look too busy and complex when complete. CDPD suggests exploration of simplifying the material variation. 4.3. CDPD notes the materials shown appear of high quality, such as the brick types and the stone cladding; however, if substituted for a lower grade material, or if corner junctions and parapets are not detailed and resolved properly on site, the building could present very poorly. CDPD seeks the planning officer's advice on whether material selection and detailing can be conditioned or how substitutions are managed during construction.	
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The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

5.3 Community Consultation

The application was notified from 28th of May 2025 to the 19th June 2025, and advertised from 11th of June 2025 to the 30th June 2025. No submissions were received.

6 KEY ISSUES

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

1. **Unsuitability of the Site and Inadequate Environmental Assessment:** The proposal fails to demonstrate that the land is suitable for the intended use, as required under the *SEPP (Resilience and Hazards) 2021*. Insufficient environmental reporting, including a lack of adequate information regarding potential hazards and site constraints, has prevented a comprehensive assessment under Section 4.15(1)(c) of the Act.
2. **Water Catchment Impacts:** The development does not comply with Chapter 6 – Water Catchments of the *SEPP (Biodiversity and Conservation) 2021*. The proposal has not demonstrated how impacts on water quality and stormwater management will be appropriately addressed, raising concerns regarding broader environmental impacts.
3. **Non-Compliance with Childcare Facility Standards:** The proposal fails to meet the relevant design and operational requirements under Chapter 3 – Educational Establishments and Childcare Facilities of the *SEPP (Transport and Infrastructure) 2021*, and Part 4.3 of the

Education and Care Services National Regulation 2011. In both instances, insufficient information was submitted to verify compliance with essential safety, layout, and amenity provisions.

4. **Bushfire Risk and Failure to Meet Legislative Requirements:** The development could not be assessed under Section 100B of the Rural Fires Act 1997 due to the applicant's failure to pay the referral fee to the NSW Rural Fire Service. As a result, the proposal also fails to comply with Clause 5.11 – Bushfire Hazard Reduction of the *SEPP (Precincts – Western Parkland City) 2021*. This is a critical shortfall, given the location's identified bushfire risk.
5. **Built Form - Incompatibility and Non-Compliance with the DCP:** The proposal does not achieve satisfactory compliance with Part 4.4 of the Liverpool Growth Centre Precincts Development Control Plan 2021, particularly in relation to:
 - Excessive cut and fill
 - Salinity and soil aggressivity management
 - Excessive bulk, scale and height
 - Site coverage
 - Car parking provision

The scale and intensity of the development are inconsistent with the character of the surrounding area and are likely to result in adverse impacts on local amenity.

6. **Public Interest and Site Suitability:** The application has not adequately demonstrated that the site is suitable for a childcare centre, and due to the range of unresolved planning, environmental, and regulatory issues, the proposal is not considered to be in the public interest, as required under Section 4.15(1)(e) of the Act.

7 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 cannot be supported.

It is considered the key issues as outlined in Section 6 have not been resolved satisfactorily through amendments to the proposal and/or in the recommended refusal reasons found in **Attachment A**.

8 RECOMMENDATION

That the Development Application DA-240/2025 for the construction of a childcare facility at 234 Edmonson Avenue, Austral, be **Refused** pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, subject to reasons for refusal attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Reasons for Refusal – 299807.2025
- Attachment B: Compliance Tables- 299807.2025