

Attachment A – Compliance Assessment

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15.1 State Environmental Planning Policies

i. State Environmental Planning Policy No. (Resilience and Hazards) 2021

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

Contamination and remediation have been considered and approved under the parent development application DA-19/2023, subject to consent conditions. The subject modification application raises no further matters for consideration regarding site contamination or remediation.

ii. State Environmental Planning Policy No. (Biodiversity and Conservation) 2021

Chapter 2: Vegetation in non-rural areas

The proposal does not exceed the biodiversity offsets scheme threshold.

Chapter 6: Water Catchments

The subject land is located within the Georges River catchment and as such State Environmental Planning Policy (Biodiversity and Conservation) 2021 is applicable, in particular Part 6.2 – Development in regulated catchments. Part 6.2 of the SEPP generally aims to protect the environment of water catchments by ensuring that impacts of future land uses are considered in a state, regional, and local context.

It is considered that the proposed development as modified would not conflict with the objectives of Chapter 6 of the SEPP which seeks to promote the protection of the Georges River Catchment. It is considered that conditions of consent can be amended relating to erosion and sediment control and storm water management.

iii. State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 – Infrastructure

Clause 2.119 – Development with frontage to a classified road

Clause 2.120 – Impact of road noise or vibration on non-road development

Whilst the development has frontage to a Classified, all vehicular and pedestrian is via Lachlan Street. In this regard, there is no impact to the operation of the Classified Road.

The proposed development is however of a type that is sensitive to traffic noise and vehicle emissions. As such, an acoustic report and air quality assessment was considered and found satisfactory under the parent application approval (Refer to Attachment G for LEC judgement). As such, the subject modification application raises no further matters for consideration regarding the above.

Chapter 3 – Educational establishments and child care facilities

Whilst now forming part of the Transport and Infrastructure SEPP, the aim of the Educational establishments and child care facilities SEPP introduced in 2017 was to make it easier for child-care providers, schools, TAFEs and universities to build new facilities and improve existing ones by streamlining the planning process to save time and money and deliver greater consistency across NSW.

Compliance with the relevant provisions of **Chapter 3** is outlined in the Table below.

Educational establishments and child care facilities			
Clause	Required	Provided	Complies
Part 3.3 Early education and care facilities—specific development controls			
3.22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development	(1) This section applies to development for the purpose of a centre-based child care facility if—		
	(a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the <i>Education and Care Services National Regulations</i> , or (b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.	Development continues to comply with Regulation 107. See assessment below under Part 4 of the CCPG. Development as modified continues to comply with Regulation 108. See assessment below under Part 4 of the CCPG.	Y Y
3.23 Centre-based child care facility—matters for consideration by consent authorities	Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the <i>Child Care Planning Guideline</i> , in relation to the proposed development.	Compliance with the relevant requirements of the <i>Child Care Planning Guideline</i> is provided in the next table below.	Refer to next table.
3.26 Centre-based child care facility—non-discretionary development standards	(1) The object of this section is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.	Noted	

	(2) The following are non-discretionary development standards for the purposes of section 4.15(2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility— (a) location—the development may be located at any distance from an existing or proposed early education and care facility, (b) indoor or outdoor space (i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the <i>Education and Care Services National Regulations</i> applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or (ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the <i>Children (Education and Care Services) Supplementary Provisions Regulation 2012</i> applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,	Noted As above.	Yes
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	(c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth, (d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area. (3) To remove doubt, this section does not prevent a consent authority from— (a) refusing a development application in relation to a matter not specified in subsection (2), or (b) granting development consent even though any standard specified in subsection (2) is not complied with.	Noted Noted – the site is not identified as a state or local heritage item, nor is the site located within a heritage conservation area. Noted	Yes
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Compliance with Child Care Planning Guideline (September 2021)

The Guideline establishes the assessment framework to deliver consistent planning outcomes and design quality for centre-based child care facilities in NSW. Consent Authorities must consider Parts 2, 3 & 4 of the Guideline.

An assessment against Parts 2, 3 & 4 of the Guideline is provided in the tables below:

Part 2 – Design quality principles
The design quality principles establish the broad design context guide of all new proposals for child care facilities, regardless of whether they are stand alone, part of a mixed-use development, modifications or retrofits of existing buildings or seeking to occupy premises without incurring new building works. Good design is integral to creating sustainable and liveable communities. There is growing appreciation of the significant role that good design can play in education with increasing evidence that learning outcomes are closely related to the quality of learning environments.

Factors such as air quality, ventilation, natural lighting, thermal comfort and acoustic performance have been shown to have a profound impact on learning, engagement, social interactions and competencies. They also contribute to wellbeing through creating a sense of belonging, self-esteem and confidence.

Comment:

The 7 design quality principles are considered in detail within the Part 3 assessment below, entitled *Matters for consideration*. The proposed development as modified under the subject modification application is considered to have been designed having regard to the 7 design quality principles and is considered satisfactory.

Part 3 – Matters for consideration

The *Matters for consideration* give guidance to applicants on how to design a high-quality proposal that takes account of its surroundings and any potential environmental impacts the development may cause and to be mindful of potential impacts that may arise from existing uses and conditions within a locality.

The matters support the design principles and must be considered by the consent authority when assessing a DA for a child care facility. Child care facilities can be developed in a broad range of locations and need to be flexible in how they respond to the requirements and challenges this brings.

Criteria	Provided	Compliance
3.1 Site selection and location		
C1 For proposed developments in or adjacent to a residential zone, consider: - the acoustic and privacy impacts of the proposed development on the residential properties - the setbacks and siting of buildings within the residential context - traffic and parking impacts of the proposal on residential amenity.	Acoustic impacts considered under parent DA and remains unchanged. Building siting and setbacks remain unchanged, with the exception of the added fire egress stairs on the 1st-3rd levels to the north. Whilst the stairwell protrudes out slightly, only towards the classified road, the overall building bulk, especially on the ground floor, remains substantially the same. Building separation to the eastern adjoining properties remain the same, and visual privacy should be maintained for dwelling to east. Traffic and parking provisions as approved under DA-19/2023 remain unchanged. Whilst layout changes are proposed within the basement levels, these changes improve the overall functionality and safety of the basement area, and car parking and access arrangements remain unchanged.	Yes Yes Yes

For proposed developments in commercial and industrial zones, consider: - potential impacts on the health, safety and wellbeing of children, staff and visitors with regard to local environmental or amenity issues such as air or noise pollution and local traffic conditions - the potential impact of the facility on the viability of existing commercial or industrial uses.	Not applicable – development is not located in commercial or industrial zone.	N/A
C2 When selecting a site, ensure that: - the location and surrounding uses are compatible with the proposed development or use - the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards - there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed - the characteristics of the site are suitable for the scale and type of development proposed having regard to: - o length of street frontage, lot configuration, dimensions and overall size - o number of shared boundaries with residential properties - the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas. - where the proposal is to occupy or retrofit an existing premises, the	This is a modification application to the approved development under DA-19/2023. The site location remains unchanged.	N/A

interior and exterior spaces are suitable for the proposed use. Where the proposal relates to any heritage item, the development should retain its historic character and conserve significant fabric, setting or layout of the item. - there are suitable drop off and pick up areas, and off and on street parking. - the characteristics of the fronting road or roads (for example its operating speed, road classification, traffic volume, heavy vehicle volumes, presence of parking lanes) is appropriate and safe for the proposed use. - the site avoids direct access to roads with high traffic volumes, high operating speeds, or with high heavy vehicle volumes, especially where there are limited pedestrian crossing facilities. it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises. A child care facility should be located: - near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship. - near or within employment areas, town centres, business centres, shops. - with access to public transport including rail, buses, ferries - in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.		
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C4 A child care facility should be located to avoid environmental conditions arising from: - proximity to: - o heavy or hazardous industry, waste transfer depots or landfill sites - o Liquefied Petroleum Gas (LPG) tanks or service stations - o water cooling and water warming systems - o odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses or extractive industries, intensive agriculture, agricultural spraying activities. - any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site.	There are no known land uses of this nature in close proximity to the site. Site contamination and remediation matters were considered under the approval of DA-19/2023 and continues to apply.	N/A
3.2 Local character, streetscape and the public domain interface		
C5 The proposed development should: - contribute to the local area by being designed in such a way to respond to the character of the locality and existing streetscape - build on the valued characteristics of the neighbourhood and draw from the physical surrounds, history and culture of place - reflect the predominant form of surrounding land uses, particularly in low density residential areas - recognise and respond to predominant streetscape qualities, such as building form, scale, materials and colours - include design and architectural treatments that respond to and	The development as modified would continue to comply with these requirements, as the overall built form and design remains unchanged. Landscaping would still be incorporated to contribute positively to the streetscape and neighbourhood amenity.	Yes

integrate with the existing streetscape and local character - use landscaping to positively contribute to the streetscape and neighbouring amenity - integrate car parking into the building and site landscaping design in residential areas.		
C6 Create a threshold with a clear transition between public and private realms, including: - fencing to ensure safety for children entering and leaving the facility - windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and a connection between the facility and the community - integrating existing and proposed landscaping with fencing. C9 Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.	The centre will continue to provide adequate security fencing throughout the site so that children are unable to leave the premises without adult supervision. Raised garden bed planter boxes for the landscaping treatments have been proposed along the front street setback, which eliminates the requirement for any fencing along the street frontage.	Yes Yes
3.3 Building orientation, envelope and design		
C11 Orient a development on a site and design the building layout to: - ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by - o facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties - o placing play equipment away from common boundaries with residential properties	The overall building orientation and siting remains unchanged. The proposed modification raises no further matters for consideration.	N/A

○ locating outdoor play areas away from residential dwellings and other sensitive uses - optimise solar access to internal and external play areas - avoid overshadowing of adjoining residential properties - minimise cut and fill - ensure buildings along the street frontage define the street by facing it - ensure where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.		
C12 The following matters may be considered to minimise the impacts of the proposal on local character: - building height should be consistent with other buildings in the locality - building height should respond to the scale and character of the street - setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility - setbacks should provide adequate access for building maintenance - setbacks to the street should be consistent with the existing character. Where a Local Environmental Plan or Development Control Plan do not specify a floor space ratio for the R2 Low Density Residential zone, a floor space ratio of 0.5:1 is to apply to a child care facility in the R2 zone.	The proposed modifications to the approved development remains consistent with other multi-storey buildings in the locality. The building height remains unchanged, and building setbacks also remain unchanged, with the exception of added fire egress stairs on the 1st-3rd levels to the north. Whilst the stairwell protrudes out slightly, only towards the classified road, the overall building bulk, especially on the ground floor, remains substantially the same. FSR specified under the LLEP and remains compliant (see assessment below).	Yes Yes
C13 Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is	The Liverpool DCP 2008 (see assessment below) requires a setback of 8m to the Hume Highway, which is considered appropriate in the circumstances (i.e. rear boundary). The proposed modification remains consistent regarding setbacks to that which was approved under DA-19/2023,	Yes

required for the predominant adjoining land use	with the exception of the added fire egress stairs on the 1st-3rd levels to the north. Whilst the stairwell protrudes out slightly on the upper floors, the overall building bulk, especially on the ground floor, remains substantially the same.	
C15 Entry to the facility should be limited to one secure point which is: - located to allow ease of access, particularly for pedestrians - directly accessible from the street where possible - directly visible from the street frontage - easily monitored through natural or camera surveillance - not accessed through an outdoor play area. - in a mixed-use development, clearly defined and separate from entrances to other uses in the building.	No changes proposed to the existing approved access to the facility, except for the additional fire egress gate facing the rear classified road boundary. The main entryway to the facility from Lachlan Street remains unchanged.	Yes
C16 Accessible design can be achieved by: - providing accessibility to and within the building in accordance with all relevant legislation - linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry - providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible - minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.	The entryway access as approved under DA-19/2023 remains unchanged. Additional fire egress stairs and access points have been proposed under the subject modification to ensure adequate compliance with relevant legislation and BCA requirements.	Yes
3.4 Landscaping		
C17		

Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by: - reflecting and reinforcing the local context - incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.	Boundary landscaped planting has been provided, which is excluded from the calculations for unencumbered outdoor areas.	Yes
C18 Incorporate car parking into the landscape design of the site by: - planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings - taking into account streetscape, local character and context when siting car parking areas within the front setback - using low level landscaping to soften and screen parking areas.	N/A – basement level parking approved for the development and remains unchanged.	N/A
3.5 Visual and acoustic privacy		
C20 Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through: - appropriate site and building layout - suitably locating pathways, windows and doors - permanent screening and landscape design. C21 Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through: - appropriate site and building layout - suitable location of pathways, windows and doors - landscape design and screening.	No changes proposed to the visual privacy treatments on site (i.e screens and building layout). Acoustic assessment and treatments on site have also been considered under the approval of DA-19/2023 and remain unchanged. The subject modification raises no further matters for consideration.	N/A

C22 A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should: - provide an acoustic fence along any boundary where the adjoining property contains a residential use. An acoustic fence is one that is a solid, gap free fence - ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure. C23 A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters: - identify an appropriate noise level for a child care facility located in residential and other zones - determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use - determine the appropriate height of any acoustic fence to enable the noise criteria to be met		
3.6 Noise and air pollution		
C24 Adopt design solutions to minimise the impacts of noise, such as: - creating physical separation between buildings and the noise source - orienting the facility perpendicular to the noise source and where possible buffered by other use - using landscaping to reduce the perception of noise - limiting the number and size of openings facing noise sources - using double or acoustic glazing, acoustic - louvres or enclosed balconies (wintergardens)	Acoustic assessment and treatments on site have already been considered under the approval of DA-19/2023 and remain unchanged. The subject modification raises no further matters for consideration.	N/A

- using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits - locating cot rooms, sleeping areas and play areas away from external noise sources. C25 An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations: - on industrial zoned land - where the ANEF contour is between 20 and 25 - along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007 - on a major or busy road - other land that is impacted by substantial external noise. C26 Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development. C27 A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution such as: - creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor		N/A Air quality assessment and the appropriate treatments on site have already been considered under the approval of DA-19/2023 and remain unchanged. The subject modification raises no further matters for consideration.
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areas should be as far as practicable from the major source of air pollution using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway - incorporating ventilation design into the design of the facility.		
3.7 Hours of operation		
C28 Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses. C29 Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.	The hours of operation for the proposed child care centre remain unchanged. The subject modification raises no further matters for consideration.	N/A
3.8 Traffic, parking and pedestrian circulation		
C30 Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land. C32 A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses to optimise the safety and convenience of the parking area(s) and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that: • the amenity of the surrounding area will not be affected	Car parking provision and traffic impact assessment was considered under the approved development, and remains unchanged. The subject modification raises no further matters for consideration.	N/A

there will be no impacts on the safe operation of the surrounding road network.		
C35 The following design solutions may be incorporated into a development to help provide a safe pedestrian environment: - separate pedestrian access from the car park to the facility - defined pedestrian crossings and defined/separate paths included within large car parking areas - separate pedestrian and vehicle entries from the street for parents, children and visitors. - pedestrian paths that enable two prams to pass each other. - delivery, loading and vehicle turnaround areas located away from the main pedestrian access to the building and in clearly designated, separate facilities - minimise the number of locations where pedestrians and vehicles cross each other - in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas - vehicles can enter and leave the site in a forward direction - clear sightlines are maintained for drivers to child pedestrians, particularly at crossing locations.	Safe and accessible pedestrian access remains unchanged from the approval under DA-19/2023. Additionally, the basement layout has been amended to enhance safe manoeuvrability and access for vehicles and pedestrians.	Yes
C37 Car parking design should: - include a child safe fence to separate car parking areas from the building entrance and play areas - provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards - include wheelchair and pram accessible parking.	Car parking provision was considered under the approved development and remains unchanged and compliant. The subject modification raises no further matters for consideration.	N/A

Part 4 – Applying the National Regulations to development proposals			
Criteria	Required	Provided	Compliance
4.1 Indoor space requirements			
(Regulation 107) Min. 3.25sqm of unencumbered indoor space per child	113 x 3.25sqm = 367.25m²	GF – 136.3 m ² L1 – 96.72 m ² L2 – 154.63 m ² Total = 386.41 m ²	Yes
4.4 Ventilation and natural light			
(Regulation 110)	Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the National Construction Code. Ceiling height requirements may be affected by the capacity of the facility. Designers should aim to minimise the need for artificial lighting during the day, especially in circumstances where room depth exceeds ceiling height by 2.5 times. It is recommended that ceiling heights be proportional to the room size, which can be achieved using raked ceilings and exposed trusses, creating a sense of space and visual interest.	Ventilation and natural light into indoor spaces remain unchanged, with windows provided as per the original approval under DA-19/2023.	N/A
4.7 Premises designed to facilitate supervision			

(Regulation 115)	A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity. Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the National Construction Code.	Design of rooms and facilities remain relatively unchanged and would continue to provide adequate supervision of children.	Yes
4.8 Emergency and evacuation procedures			
(Regulation 97 & 168)	Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including: • instructions for what must be done in the event of an emergency • an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit • a risk assessment to identify potential emergencies that are relevant to the service.	Emergency and evacuation procedures were provided with the approved Plan of Management.	Yes
4.9 Outdoor space requirements			
(Regulation 108)	Min. 7sqm of unencumbered outdoor space per child. 113 x 7sqm = 791 sqm	878.58m² of unencumbered area provided. (251.5 + 215.7 + 139.7 + 271.6 m²)	Yes

	Where a covered space such as a verandah is to be included in outdoor space it should: • be open on at least one third of its perimeter • have a clear height of 2.1 metres • have a wall height of less than 1.4 metres where a wall with an opening forms the perimeter • have adequate flooring and roofing • be designed to provide adequate protection from the elements	No changes proposed to the outdoor verandah areas on the upper floors in terms of enclosure and the level of openness. Modifications are only proposed on play equipment and landscaping configuration, and replacement of the synthetic grass with soft fall material.	
4.10 Natural environment			
(Regulation 113)	The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.	The proposed landscape plan (ground floor) allows children to explore and experience the natural environment.	Yes
4.11 Shade			
(Regulation 114)	Controlled exposure to daylight for limited periods is essential as sunlight provides vitamin D which promotes healthy muscles, bones and overall wellbeing. Outdoor play areas should be provided with controlled solar access throughout the year. Outdoor play areas should: • have a minimum of 2 hours of solar access between 8.00am and 4.00pm during winter months, for at least 30% (or 2.1m²) of the 7.0m² of outdoor space per child required. • adequate shade for outdoor play areas is to be provided in the form of natural shade such	Covered / enclosed outdoor spaces are orientated to the east and would achieve minimum solar access requirements during the day, whilst also providing for shaded areas in the afternoon.	Yes

	as trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area • have evenly distributed shade structures over different activity spaces.		
4.12 Fencing			
(Regulation 104)	Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	No changes proposed to the fencing under the subject modification.	N/A
4.13 Soil Assessment			
Regulation 25	To ensure consistency between the development consent and the service approval application, a soil assessment should be undertaken as part of the development application process. Where children will have access to soil the regulatory authority requires a preliminary investigation of the soil.	Site investigations and contamination assessments were considered and approved under DA-19/2023. The subject modification raises no further matters for consideration.	N/A

15.2 Liverpool Local Environmental Plan 2008

As identified in Figure 1 below, the site is zoned R4 High Density Residential pursuant to the Liverpool Local Environmental Plan 2008.

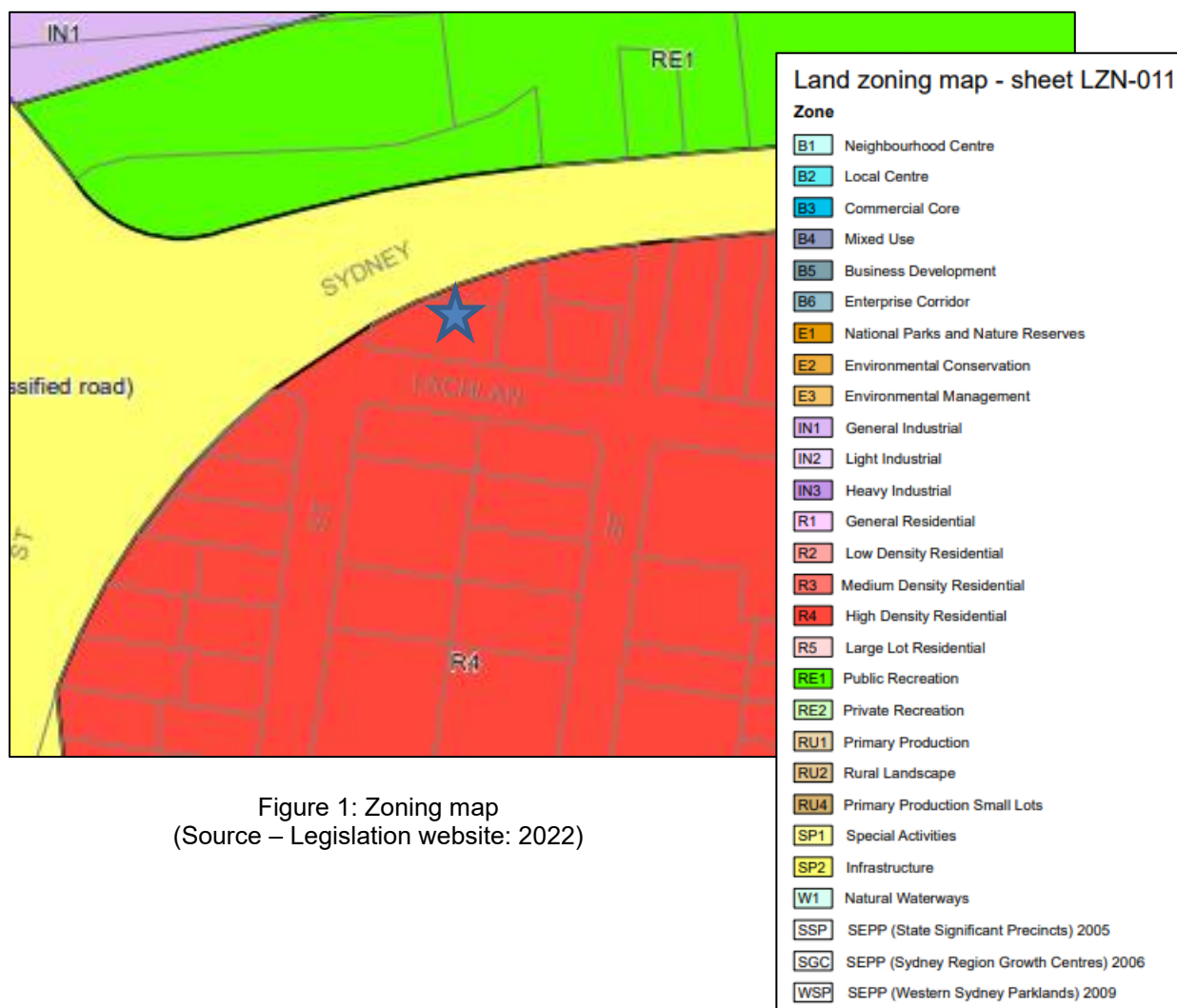


Figure 1: Zoning map
(Source – Legislation website: 2022)

The Liverpool Local Environment Plan 2008 Land Use Table for the R4 High Density Residential zone is replicated below:

Zone R4 High Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a high concentration of housing with good access to transport, services and facilities.
- To minimise the fragmentation of land that would prevent the achievement of high density residential development.

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Kiosks; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation areas; Residential care facilities; Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Serviced apartments; Shop top housing

4 Prohibited

Any other development not specified in item 2 or 3

Comment:

The site is zoned R4 High Density Residential under the provisions of the Liverpool Local Environmental Plan 2008. The approved centre-based child care remains permitted within the zone and continues to meet the objectives of the zone as it provides a facility that would serve the needs of people who live in the area.

Note: Only the relevant provisions of the Liverpool LEP 2008 is outlined in the Table below. The provisions which are not applicable to the proposed modification are not included.

Compliance with Liverpool LEP 2008

LIVERPOOL LEP 2008			
Clause	Required	Provided	Complies
Part 4 Principal development standards			
4.3 Height of buildings	(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. - Max. 35 metres (V)	The overall height of building remains unchanged at 14.8m (i.e. max. ridge height RL 26.38 minus NGL 11.58m). Proposed modification still results in a height significantly lower than the maximum height permitted.	Yes
4.4 Floor space ratio	(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. - Max. 2.0:1 (T)	FSR for the development as modified is calculated as follows: Site area = 1,150.6m ² Proposed GFA = 290 + 219.1 + 280.5 + 60 = 850.54 m ²	Yes

		FSR (850.54m ² / 1,150.6m ²) = 0.74:1	
4.6 Exceptions to development standards	(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating: (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and (b) that there are sufficient environmental planning grounds to justify contravening the development standard.	No changes or contraventions to any development standard proposed.	N/A
Part 7 Additional local provisions			
Division 1 Liverpool city centre provisions			
7.1 Objectives for development in Liverpool city centre	Before granting consent for development on land in the Liverpool city centre, the consent authority must be satisfied that the proposed development is consistent with such of the following objectives for the redevelopment of the city centre as are relevant to that development.	No changes are proposed under the subject modification that would impact on the objectives under this clause. The subject modification raises no further matters for consideration.	N/A
7.4 Building separation in Liverpool city centre	(1) The objective of this clause is to ensure minimum sufficient separation of buildings for reasons of visual appearance, privacy and solar access. (2) Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings	No changes are proposed to the approved building separation setbacks under DA-19/2023. The subject modification raises no further matters for consideration.	Yes

	and between separate towers, or other separate raised parts, of the same building is at least— (a) 9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished) on land in Zone R4 High Density Residential, and ...		
7.5 Design excellence in Liverpool city centre	(1) The objective of this clause is to deliver the highest standard of architectural and urban design. (2) Development consent must not be granted to development involving the construction of a new building or external alterations to an existing building in the Liverpool city centre unless the consent authority considers that the development exhibits design excellence. (3) In considering whether development exhibits design excellence, the consent authority must have regard to the following matters— (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain, (c) whether the proposed development detrimentally impacts on view corridors,	The parent application DA-19/2023 was approved by the NSW LEC, where the judgement issued by the Commissioner stated that the development has complied with clause 7.5 and exhibits design excellence. With regard to the matters listed under clause 7.5(3), the proposed modification is considered to still achieve design excellence given that the overall built form, building bulk and design remain relatively unchanged, with the exception of certain material finishes along the elevations and minor increase in site coverage. Whilst this is mostly acceptable, a condition of consent (as modified) is recommended to be imposed to ensure the use of black coloured cladding on the ground floor elevation is reduced to improve the design and visual amenity of the streetscape. The overall built form site coverage and deep soil	Yes

	(d) whether the proposed development detrimentally overshadows Bigge Park, Liverpool Pioneers' Memorial Park, Apex Park, St Luke's Church Grounds and Macquarie Street Mall (between Elizabeth Street and Memorial Avenue), (e) any relevant requirements of applicable development control plans, (f) how the proposed development addresses the following matters— (i) the suitability of the site for development, (ii) existing and proposed uses and use mix, (iii) heritage issues and streetscape constraints, (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, (v) bulk, massing and modulation of buildings, (vi) street frontage heights, (vii) environmental impacts such as sustainable	area provisions remain relatively the same, with a minor increase of 9.7m² or 0.8%. This site coverage increase was required to incorporate the additional space for shoring reinforcements for the basement and the dry wall next to the fire stairs along the eastern side boundary. This is considered acceptable in this case and is not considered to contravene with the matters listed under clause 7.5(3).	
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	design, waste and recycling infrastructure, overshadowing, wind and reflectivity, (viii) the achievement of the principles of ecologically sustainable development, (ix) pedestrian, cycle, vehicular and service access, circulation and requirements, (x) the impact on, and any proposed improvements to, the public domain.		
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15.3 Liverpool Development Control Plans 2008

The Liverpool Development Control Plan (DCP) 2008 supports the Liverpool Local Environmental Plan 2008 by setting additional development controls for development located in the established areas of Liverpool.

Note: Only the relevant provisions of the Liverpool DCP 2008 are outlined in the Table below. The provisions which are not applicable to the proposed modification are not included.

Compliance with Liverpool Development Control Plan 2008

Liverpool Development Control Plan 2008			
Clause	Required	Provided	Complies
Part 1 General Controls for all Development			
3. Landscaping and Incorporation of Existing Trees			
	Incorporate existing trees where appropriate.	All vegetation is proposed to be removed. Additional landscaping will be provided to complement the proposed development. Refer to submitted landscape plan.	Yes
6. Water Cycle Management			
	Consideration shall be given to the impacts associated with stormwater.	The modifications to the stormwater design and relocation of the OSD has been reviewed by Council's Development Engineering Section, who has raised no objections, subject to conditions.	Yes

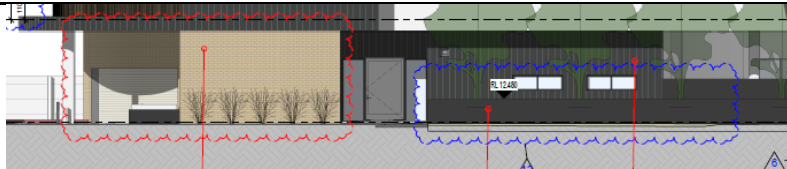
20. Car Parking and Access			
Off-Street - Car Parking Provision other than Liverpool City Centre	Off street car parking provision and service and loading provision shall be provided in accordance with Table 11. <u>Child Care Centres</u> 1 space per staff member and 1 space per 10 children (Stack parking of employees cars, maximum 2 deep, will be considered if there is good design for flow-through of short term car parking) Pick up and set down of children must address their safety	No changes or reduction proposed to the already approved car parking facilities, with an additional accessible car space proposed.	Yes
23. Reflectivity			
	New buildings and facades must not result in glare that causes discomfort or threatens safety of pedestrians or drivers.	The proposed amendments to the external façade materials do not propose any materials that cause glare or light reflection.	Yes
27. Social Impact Assessment			
	Child care centres with 20 or more children required to undertake a Social Impact Comment, as per the proforma provided in Council's Social Impact Policy 2022.	A reduction in the total number of children is proposed under the subject modification, and as such the Social Impact Assessment under the original approval remains satisfactory.	N/A
29. Safety and Security			
	Address 'Safer-by-Design' principles in the design of public and private domain, and in all developments including the NSW Police 'Safer by Design' Crime Prevention Through Environmental Design (CPTED) principles	It is considered that the main principles of CPTED have been satisfactorily incorporated into the building design. The subject modification does not propose changes to the overall safe access design of the premises to that which was previously approved.	Yes
30. Additional Uses			
30.4 Child Care Centres			
Landscaping	1. A landscape plan must be submitted to Council with the development	The amended landscape planting proposed retains a similar level of landscaped treatment across the site, with	Yes

	application. Refer to Part 1 of the DCP. 2. Areas of grass are to be limited to play areas. Other landscaped areas are to be planted. 3. Trees adjacent to/or within the play area, are to provide shade and allow winter sun entry. Trees adjacent to private open space areas and living rooms should provide summer shade and allow winter sun entry. 4. Landscaping species must be appropriate to prevent injury to children. No toxic, spiky or other hazardous plant species. 5. If there are setback areas these are to be utilised for canopy tree planting. The landscape design for all development must include canopy trees that will achieve a minimum 8m height at maturity within front and rear setback areas. Any tree with a mature height over 8m should be planted a minimum distance of 3m from the building or utility services. 6. Landscape planting should principally comprise of native species to maintain the character of Liverpool and provide an integrated streetscape	various plantings proposed on the upper play areas as well. The setback area to the Hume Highway still remains the same and features canopy tree plantings. Tree species have been selected in line with the Liverpool City Centre Public Domain Master Plan Technical Guidelines, and are predominantly native species.	
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	appearance. Council will consider the use of deciduous trees in small private open space areas such as courtyards for control of local microclimate and to improve solar access. 7. Tree and shrub planting alongside and rear boundaries should assist in providing effective screening to adjoining properties. The minimum height of screening to be provided is 2.5m to 3m at maturity. 8. Landscaping on any podium level or planter box shall be appropriately designed and irrigated. See ADG Planting on Structures.		
Car Parking and Access			
	Access for the disabled including those with prams is to be provided from the car parking area to the building.	Access to the building for the disabled and parents with prams remains unchanged via lifts, which are proposed to be larger in size.	Yes
Part 4 - Liverpool City Centre			
4.2 Controls for Building Form			
4.2.7 Street Alignments and Street Setbacks			
Controls	1. Buildings are to comply with the front setbacks as set out in Figures 4-12. 2. Buildings with a boundary to the Hume Highway have a minimum setback of 8m. 6. Pave the land in the set-back zone to match the paving in	The development, as approved under DA-19/2023, has a variable setback to the Hume Highway of 3.2m to 6m. The proposed modification retains the same building footprint as previously already approved to ensure the setbacks to Hume Highway remain unchanged. No changes proposed to the pavement treatments already approved.	Yes N/A

	the public street so that it provides a seamless and level ground plane. 7. Ensure that no columns, blade walls or other building elements encroach the ground level of the front setback.	No structural changes to the building front setback. Only additional separate fire hydrant facilities proposed.	
4.2.8 Side and rear boundary setbacks			
	1. All residential and commercial buildings must comply with the separation distances in SEPP 65 and the ADG unless otherwise agreed with Council in an approved concept development application.	For buildings up to 4 storeys in height, the ADG requires the following separation distances: Up to four storeys (approximately 12m): • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms The building is sufficiently setback from the eastern side boundary and remains unchanged under the subject modification.	Yes
4.2.9 Minimum Floor to Ceiling Heights			
	The minimum floor to ceiling heights are: 1. Ground floor: 3.6m. 2. Above ground level: a) Commercial office 3.3m. b) Capable of adaptation to commercial uses 3.3m. c) Residential 2.7m. d) Active public uses, such as retail and restaurants 3.6m. 3. Car Parks: Sufficient to cater to the needs of all vehicles that will access the car park and, if aboveground, adaptable to another use, as above.	No changes proposed to floor to ceiling heights of the approved development.	N/A
4.2.11 Deep Soil Zones and Site Cover			

	1. The maximum permitted site coverage for development is specified in Table 4-2. All other zones (commercial & mixed use): - 60%	Area approved for site coverage for DA-19/2023: 801.6 m² 801.6/1150 = 69.7% Deep soil area previously approved = 30.3 % Proposed modified site coverage: 811.3 m² 811.3/1150 = 70.5 % Proposed modified deep soil area = 29.5% There is a minor increase in the site coverage for the building by only 0.8%, which is required to incorporate the additional space for shoring reinforcements for the basement and the dry wall added next to the fire stairs along the eastern side boundary.	Considered acceptable
4.3.8 Building Design and Public Domain Interface			
	3. Articulate façades to address the street, proportion the building, provide 'depth' in the street wall when viewed obliquely along the street and add visual interest. 4. Use high quality robust finishes and avoid finishes with high maintenance costs, and those susceptible to degradation due to a corrosive environment. Large expanses of rented concrete finish is discouraged. 5. Select lighter-coloured materials for external finishes including roofs and avoid the use of darker-coloured materials (e.g. black, charcoal) to reduce the urban heat island effect.	The front façade remains articulated to provide depth and will continue to add visual interest to the street. The external materials and finishes for the building remain relatively unchanged, except for the replacement of the approved stacked stone tile finish with a lighter coloured face brick and black cladding. This is considered an improvement to the external finishes, except for the increase in dark cladding along the Lachlan Street frontage only (see figure below). A condition of consent can be imposed to amend the finishes along Lachlan Street to face brick only.	Yes

		
4.4 Traffic and Access		
4.4.2 On Site Parking		
	1. All required car parking is to be provided on site in an underground (basement) carpark except to the extent provided below: a) On Fine Grain and Midrise sites, a maximum of one level of surface (at grade) parking may be provided where it is fully integrated into the building design; and b) A maximum of one level of surface (at grade) and one additional level of above ground parking may be provided where it is fully integrated into the building design and not visible from the public domain.	Car parking is all provided within the basement below. Yes
4.5.2 Noise		
	1. Design development on sites adjacent to road and rail noise sources identified in Figure 4-16, in a manner that shields any residential development from the noise source through the location and orientation of built form on the site, supported by an appropriate acoustic report as required by the State Environmental Planning Policy (Infrastructure) 2007.	Site adjacent to Hume Highway, a classified road identified as a road noise source. Matters regarding acoustics were considered under parent application DA-19/2023 and relevant conditions of consent imposed will still apply. Yes