



Statutory Compliance Table

SSD-82160220 | Mixed Use Development

184 Fifth Avenue, Austral

Prepared by Colliers Urban Planning

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1.0 Federal Legislation

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Environmental Protection and Biodiversity Conservation Act 1999	
Section 139 Requirements for decisions about threatened species and endangered communities	
1) In deciding whether or not to approve for the purposes of a subsection of section 18 or section 18A the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with: (a) Australia's obligations under: i. the Biodiversity Convention; or ii. the Apia Convention; or iii. CITES; or (b) a recovery plan or threat abatement plan.	Refer to Section 6.0 of the EIS, and Biodiversity Certification Letter provided in Appendix NN.
2) If: a) the Minister is considering whether to approve, for the purposes of a subsection of section 18 or section 18A, the taking of an action; and b) the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community; the Minister must, in deciding whether to so approve the taking of the action, have regard to any approved conservation advice for the species or community.	Refer to Section 6.0 of the EIS, and Biodiversity Certification Letter provided in Appendix NN.

2.0 NSW State Legislation

Statutory Requirement	Response
Environmental Planning and Assessment Act 1979	
Section 1.3 – Objectives of the Act	
a. to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The proposed development will contribute towards the social and economic welfare of the community through the creation of generous publicly accessible open space, housing with close proximity to transport and services and employment generating activities. This development will not impact the State's natural resources.
b. to promote the supply, delivery and maintenance of housing, including affordable housing,	The proposed development involves the orderly delivery of housing, including affordable housing. The development is aligned with this objective of the Act.
c. to promote productivity through the development and management of the State and its resources,	The development promotes productivity through the development and management of land in a reasonable and expected manner. The development is aligned with this objective of the Act. The development will not impact the State's natural resources.
d. to protect the environment, including the conservation of threatened species of native animals and plants and ecological communities and their habitats,	The proposed development will not impact threatened species of native animals and plants and ecological communities and their habitats. The development will occur on biodiversity certified land, with the exception of minor works within the road reserve of Fifth Avenue that will not impact on native flora and fauna. Refer to further information in the Biodiversity Certification Letter.
e. to promote resilience to climate change and natural disasters through adaptation, mitigation, preparedness and prevention,	The proposed development supports resilience to climate change and natural disasters. The development has been designed accordingly to respond to the local flood characteristics. It also seeks to integrate a range of sustainability initiatives as outlined in the ESD Report provided in Appendix S .
f. to promote the sustainable management of built and cultural heritage, including Aboriginal cultural heritage,	The proposed development promotes the sustainable management of built and cultural heritage, including Aboriginal cultural heritage. The development is supported by an Aboriginal Cultural Heritage Assessment in Appendix AA and a Statement of Heritage Impacts in Appendix Z , demonstrating the development has adhered to proper due process to promote these items and will adhere to the recommendations of each report.
g. to promote good design, amenity and the proper construction and maintenance of built environments, including the protection of the health and safety of the occupants of buildings,	The proposed development has been carefully designed consistent with the design principles for residential development set out in Schedule 9 of the State Environmental Planning Policy (Housing) 2021 (Housing SEPP). The development is supported by a Construction Management Plan,

	demonstrating proper construction methods. There is not expected to be an unreasonable impact on the health and safety of occupants.
h. to provide opportunities for participation in environmental planning and assessment,	The proposed development has provided and will continue to provide the opportunity for the local community and stakeholders to participate in consultation of the development.
i. to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposed development has integrated the principles of ESD as set out in Section 9.3.2 of the Environmental Impact Statement and integrates positive economic, environmental and social impacts.
j. to promote a proportionate and risk-based approach to environmental planning and assessment,	The proposed development has proportionately considered all relevant environmental impacts and adheres to due process in undertaking a risk based assessment.
k. to promote the orderly and economic use and development of land.	The proposed development represents the orderly and economic use of the land, being a development that seeks to deliver a suitable quantum of market and affordable housing, and non-residential land uses within close proximity to public transport and services. The development is consistent with the overarching vision for the area as set through the relevant strategic planning controls.
Section 4.15 – Evaluation	
(1) Matters for consideration—general in determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—	This EIS has assessed the development in accordance with the relevant NSW Environmental Planning Instruments. The assessment demonstrates that the proposed development is in accordance with the relevant provisions and consistent with the relevant objectives of the instruments. Refer to this report and Section 6.0 of the EIS.
(a) the provisions of—	
(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	Not applicable.
(iii) any development control plan, and	An assessment has been undertaken against the relevant controls of the Draft Leppington Town Centre Development Control Plan (DCP) is provided in Appendix E .
(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	Not applicable.
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	This Report and the EIS considered the relevant provisions of the EP&A Regulations.

(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,	Having regard to the natural environment, built environment and economic and social impacts of the proposed development, the likely impacts of development are considered acceptable as outlined in the following sections. Refer to Section 6.0 and 8.0 of the EIS.
(c) the suitability of the site for the development,	Refer to Section 9.6 of the EIS.
(d) any submissions made in accordance with this Act or the regulations,	Any submissions received will be considered by the applicant following exhibition of the EIS.
(e) the public interest.	Refer to Section 9.7 of the EIS.
Section 4.41 Approvals etc legislation that does not apply	Refer to Section 6.3 of the EIS.
Section 4.42 Approvals etc legislation that must be applied consistently	Refer to Section 6.3 of the EIS.
Environmental Planning and Assessment Regulation 2021	
Part 3 Development Applications	
26 Information about affordable housing development	Refer to Community Housing Provider Letter of Support in Appendix RR .
(1) A development application for development to which <i>State Environmental Planning Policy (Housing) 2021</i>, Chapter 2, Part 2, Division 1, 2 or 5 applies must specify the name of the registered community housing provider who will manage— (a) for development to which Division 1 applies—the affordable housing component, or (b) for development to which Division 2 applies—the boarding house, or (c) for development to which Division 5 applies—the dwellings used for affordable housing.	
27 BASIX development	Refer to the BASIX Certificate in Appendix II .
(1) A development application for BASIX development must be accompanied by— (a) a relevant BASIX certificate for the development issued no earlier than 3 months before the day on which the development application is submitted on the NSW planning portal, and (b) the other matters required by the BASIX certificate. (2) If the development involves the alteration of a BASIX building that contains more than 1 dwelling, a separate BASIX certificate is required for each dwelling.	

28 Development applications relating to Biodiversity Conservation Act 2016 (1) A development application for biodiversity compliant development must contain the reason the development is biodiversity compliant development.	Evidence that the site is contained on biodiversity compliant land is provided in the Biodiversity Certification Letter provided in Appendix NN and UU.
29 Residential apartment development (1) A development application that relates to residential apartment development must be accompanied by a statement by a qualified designer. (2) The statement must— (a) verify that the qualified designer designed, or directed the design of, the development, and (b) explain how the development addresses— (i) the design principles for residential apartment development, and (ii) the objectives in Parts 3 and 4 of the Apartment Design Guide.	Refer to the Architectural Design Report in Appendix G.
35BA Embodied emissions for non-residential development under Sustainable Buildings SEPP (1) A development application for non-residential development under State Environmental Planning Policy (Sustainable Buildings) 2022 must— (a) disclose the amount of embodied emissions attributable to the development, and (b) describe the use of low emissions construction technologies in the development. (2) The amount disclosed under subsection (1)(a) must be determined using— (a) the form published on the NSW planning portal as in force from time to time, and (b) an itemised list of building materials for the development prepared by a quantity surveyor. (d) an assessor accredited under NABERS.	The NABERS Embodied Emissions Report is provided in Appendix U and quantifies the embodied emissions attributed to the development. Details of low emissions construction technologies are provided in the ESD Report in Appendix S.

Part 8 – Infrastructure and Environmental Impact Assessment

Part 8 of the Environmental Planning and Assessment Regulation 2021 include relevant statutory requirements under:

- Division 2 Environmental assessment requirements for State significant development, designated development and activities.
- Division 5 Environmental impact statements.

The EIS and SSDA has been prepared to address the relevant provisions under Part 8 of the Environmental Planning and Assessment Regulation 2021.

Biodiversity Conservation Act 2016

The site is certified under the Order to Confer Biodiversity Certification under the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Sydney Regional Growth Centres SEPP). Whilst the Sydney Regional Growth Centres SEPP is no longer in effect, section 35 of the Biodiversity Conservation (Savings and Transitional) Regulation 2017 provides that:

Biodiversity certification that was conferred on land under Part 7AA of the Threatened Species Conservation Act 1995 and that was in force on the repeal of that Act is taken to be biodiversity certification conferred on the land under Part 8 of the new Act.

Biodiversity certified land requires no further assessment of biodiversity values in accordance with Chapter 8 of the Biodiversity Conservation Act 2016 (BC Act).

The development predominately avoids works on non-certified land and therefore no further assessment is required for works on certified land under the BC Act. A small portion of works occur within the road reserve of Fifth Avenue which is non-certified land. The development will not result in the removal of vegetation on non-certified land.

In accordance with Section 7.9(2), this application will be referred to the Planning Agency Head and the Environment Agency Head for their determination that the proposed development is not likely to have any significant impact on biodiversity values.

Refer to further assessment in the Biodiversity Certification Letter provided in **Appendix NN** and **UU**.

3.0 State Environmental Planning Policies

Statutory Requirement	Response
State Environmental Planning Policy (Transport and Infrastructure) 2021	
2.120 Impact of road noise or vibration on non-road development (1) This section applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration— (a) residential accommodation, (b) a place of public worship, (c) a hospital, (d) an educational establishment or centre-based child care facility.	As set out in the Noise and Vibration Impact Assessment (Appendix M), the site adjoins Fifth Avenue which carries volumes less than 20,000 vehicles per day. As such, Section 2.120 is not relevant for consideration.
Section 2.122 – Traffic-generating development (1) This section applies to development specified in Column 1 of the Table to Schedule 3 that involves— (a) new premises of the relevant size or capacity, or (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity. (3) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this section applies that this Chapter provides may be carried out without consent unless the authority or person has— (a) given written notice of the intention to carry out the development to TfNSW in relation to the development, and (b) taken into consideration any response to the notice that is received from TfNSW within 21 days after the notice is given.	The proposed development is classified as ‘traffic generating development’ as it involves more than 300 residential dwellings. The consent authority is required to consider any response received from TfNSW within 21 days after providing written notice.

Statutory Requirement	Response
Section 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. (2) The consent authority must not grant development consent to development to which this section applies except with the concurrence of the Regulatory Authority.	The proposed development complies with Section 107 and 108 of the Education and Care Services National Regulations. Specifically, the development is required to provide 390m² of indoor unencumbered space and 840m² of outdoor unencumbered space. The development provides 398m² of indoor unencumbered space and 845m² of outdoor unencumbered space and therefore complies with the controls.
Section 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.	An assessment of the Child Care Planning Guideline is provided in Section 4.0 of this Report.
State Environmental Planning Policy (Industry and Employment) 2021	
Section 3.6 – Granting Consent to Signage (1) A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied— (a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.	This application does not seek approval for business or building identification signs. Any signs will be subject to a separate approval.
State Environmental Planning Policy (Resilience and Hazards) 2021	
Section 4.6 – Contamination and Remediation to be considered in determining development application (1) A consent authority must not consent to the carrying out of any development on land unless—	A Preliminary Site Investigation (PSI) has been prepared by EI Australia and is attached at Appendix Q. Based on the findings of the PSI, it was considered that gross or widespread contamination was not present within the site area, and that the site can be

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(a) it has considered whether the land is contaminated, and (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 (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. (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines. (3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.	made suitable for the proposed development subject to adoption of the relevant mitigation measures.
State Environmental Planning Policy (Housing) 2021	
Chapter 2 – In-fill affordable housing	
Section 15C – Developments to which this division applies (1) This division applies to development that includes residential development if— (a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5, Chapter 6 or another environmental planning instrument, and (b) the affordable housing component is at least 10%, and (c) all or part of the development is carried out— (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven or Port Stephens local government area—in an accessible area, or (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.	The development involves the construction of residential development that will be permissible with consent through the concurrent rezoning and offers 15% of the residential floor space as affordable housing. The site is located within the Six Cities Region and is located within an accessible area. Accordingly, the in-fill affordable housing controls apply.

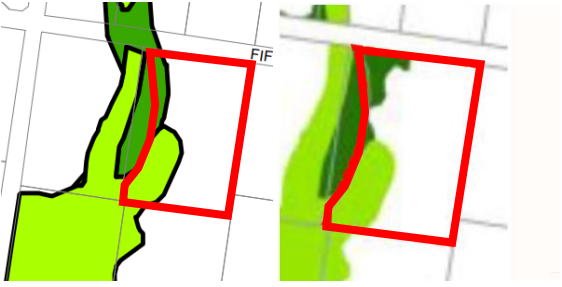
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Section 19 Non-discretionary development standards – the Act, s4.15 (2) The following are non-discretionary development standards in relation to the residential development to which this division applies— (a) a minimum site area of 450m2, ... (g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development	The proposal complies with the following non-discretionary standards which prevents the consent authority from requiring more onerous standards: • Minimum site area is greater than 450m2 • The internal areas of apartment dwellings is consistent with the ADG.
Section 22A Requirement to provide car parking Development consent must not be granted to development under this division unless— (a) the consent authority is satisfied the development will result in— (i) the following number of parking spaces for dwellings used for affordable housing— (A) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (B) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (C) for each dwelling containing at least 3 bedrooms— at least 1 parking space, and (ii) the following number of parking spaces for dwellings not used for affordable housing— (A) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (B) for each dwelling containing 2 bedrooms—at least 1 parking space, (C) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces, or (b) the consent authority has considered the Guide to Transport Impact Assessment published by Transport for NSW on 4 November 2024.	The proposed development is consistent with the minimum requirements set out in (a) as confirmed in the Transport Impact Assessment (Appendix L). The Transport Impact Assessment calculates that based on the minimum rates within the Housing SEPP, 419 carparking spaces are required. The proposal provides 423 residential carparking spaces and therefore satisfies this requirement.
Chapter 4 – Design of residential apartment developments	
Section 144 – Application of chapter (2) This chapter applies to the following— (a) development for the purposes of residential flat buildings, (b) development for the purposes of shop top housing, (c) mixed use development with a residential accommodation component that does not include boarding houses or co-living housing, unless a local environmental plan provides that	The development is for the purpose of a mixed-use development with a residential accommodation component that does not involve boarding houses or co-living, and therefore this section applies.

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mixed use development including boarding houses or co-living housing is residential apartment development for this chapter.	
Section 147 – Determination of development applications and modification applications for residential apartment development (1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following— (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9, (b) the Apartment Design Guide, (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel. (4) Subsection (1)(c) does not apply to State significant development.	The Architectural Design Report in Appendix G , addresses the design principles of Schedule 9 and the Apartment Design Guide.
State Environmental Planning Policy (Sustainable Buildings) 2022	
Chapter 2 – Standards for Residential Development - BASIX	A BASIX Certificate is provided in Appendix II , demonstrating compliance with the standards set out in Schedule 1 and 2
Chapter 3 – Standards for Non-residential Development	The proposed development achieves the relevant sustainability targets set out in Chapter 3. Refer to the ESD Report provided in Appendix S and the NABERS Embodied Emission Form in Appendix U .
State Environmental Planning Policy (Biodiversity and Conservation) 2021	
Chapter 4 – Koala Habitat Protection 2021	Per section 4.4(3)(c), Chapter 4 does not apply as the site is located on land certified under Part 8 of the Biodiversity Conservation Act 2016.
Chapter 6 – Water Catchment	
Section 6.1 Land to which Chapter applies This Chapter applies to land in the following catchments—	The site is located within the Hawkesbury-Nepean Catchment which is a regulated catchment under Chapter 6.

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(a) the Sydney Drinking Water Catchment, (b) the Sydney Harbour Catchment, (c) the Georges River Catchment, (d) the Hawkesbury-Nepean Catchment.	
Section 6.6 Water quality and quantity	The proposed development will have an acceptable effect on water quality. The proposed development will be treated during the interim until Council develop their precinct wide stormwater management system. This will include use of a 60,000L rainwater tank and a 414m ² bioretention basin as the main water quality treatment measure. Refer to further discussion in the Civil and Integrated Water Management Report.
Section 6.7 Aquatic ecology	The proposed development will not result in an adverse impact on terrestrial, aquatic or migratory animals or vegetation. The development does not require the clearing of riparian vegetation. Erosion will be managed during the construction and operational phase to ensure it will not adversely affect Scalabrini Creek.
Section 6.8 Flooding	The site is subject to flooding during the 1% and PMF event. The development will not result in the release of pollutants into a water body.
Section 6.9 Recreation and public areas	The development will not impact on existing recreational land uses in the catchment. The proposed development results in the creation of a new publicly accessible recreational place and will improve access to foreshore areas without adversely impacting on the surrounding natural waterbodies, watercourses, wetlands or riparian vegetation.
State Environmental Planning Policy (Western Parkland City) 2021	
Appendix 4 – Liverpool Growth Centres Precinct Plan	
Part 2– Permitted or prohibited development	
Section 2.3 - Zone objectives and Land Use Table (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	The site is zoned B5 Business Development and E2 Environmental Conservation. The development proposes the following land uses which are not permissible development in accordance with the land use table: • Residential flat building; • Retail premises; • Centre-based child care facility; and

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	• Recreation facility (indoor). With the above in mind, the site is currently subject to a concurrent rezoning proposal to rezone the land to R3 Medium Density Residential and RE1 Public Recreation, which would render the proposed development permissible with development consent. The proposal is consistent with the objectives of the concurrent rezoning for the following reasons: • The proposed development integrates various different land uses to create a mixed-use development that accommodates the needs of future visitors and residents of the site based on convenience and amenity. • The commercial floor space generates employment opportunities and will create a mutual benefit for the other services incorporated into the proposal, including the childcare centre. • The integration of the ground floor retail elements of the proposed development will activate the ground plane by inviting visitors into the public domain, therefore creating vibrancy. • The proposed development provides a substantial level of amenity through considered design to accommodate solar access, cross ventilation and communal open space while mitigating any adverse environmental impacts. • The proposed internal footpaths will allow people to move throughout the site while protecting the biodiversity value of the natural environment.
Section 2.7 Demolition The demolition of a building or work may be carried out only with development consent.	Development consent is sought for the demolition of existing structures on the site. A demolition plan is included within the architectural drawings in Appendix B .
Part 4 – Principal development standards	
Section 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 <i>Height of Buildings Map</i>	The current Height of Building Map applicable to the site (HOB_007) is 12m and is proposed to be amended through the concurrent rezoning to 55m. As the maximum building height of the proposed development is 54.5m, the proposal is compliant.
Section 4.4 Floor space ratio	The current Floor Space Ratio Map applicable to the site (FSR_007) is 0.75:1 and is proposed to be amended through the concurrent rezoning to 3.8:1. The proposed development has an FSR of 3.77:1 and is permissible with the proposed control.

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(2) The floor space ratio for a building on any land is not to exceed the maximum floor space ratio shown for the land on the <i>Floor Space Ratio Map</i> .	Notably, the FSR for the proposal has been calculated in accordance with Clause 4.5(4), which notes that land on which the proposed development is prohibited is excluded from site area.
Part 5 Miscellaneous provisions	
Section 5.1 Relevant acquisition authority (1) The objective of this section is to identify, for the purposes of section 3.15 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the <i>Land Acquisition (Just Terms Compensation) Act 1991 (the owner-initiated acquisition provisions)</i>.	Notwithstanding that the eastern boundary of the site is being reserved for the construction of a future road that will be dedicated to Council, no parts of the site are shown on the Land Reservation Acquisition Map. Therefore, section 5.1 is not relevant for consideration.
Section 5.10 Heritage conservation 5) Heritage assessment The consent authority may, before granting consent to any development— a) on land on which a heritage item is located, or b) on land that is within a heritage conservation area, or c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned. 8) Aboriginal places of heritage significance The consent authority must, before granting consent under this section to the carrying out of development in an Aboriginal place of heritage significance— a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.	The site and immediately neighbouring sites are not identified as containing any listed local or State heritage items. The closest heritage items to the site are Item 6 (280m) and Item 17 (100m), which are WV Scott War Memorial and Park and Bringelly Road – cultural landscape, respectively. Consideration of the impacts of the proposal on the heritage value and quality of the surrounding heritage items is provided in Section 8.14 of the EIS and Statement of Heritage Impact provided at Appendix AA. Additionally, an Aboriginal Cultural Heritage Report has been prepared and is provided at Appendix Z. An assessment of the impact of the proposed development on the Aboriginal sites within the study area is provided in Section 8.13 of the EIS. Ultimately, the ACHAR concludes that due to the extensive changes to the land which have severely impacted the significance of the broader site area, the site has low potential to retail archaeological objects.

Statutory Requirement	Response
Part 6 – Additional Local Provisions	
Section 6.1 Public utility infrastructure (1) The consent authority must not grant development consent to development on land to which this Precinct Plan applies unless it is satisfied that any 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.	An Infrastructure Delivery, Management and Staging Plan has been prepared by Neuron and is provided at Appendix OO. There is capacity for infrastructure to be upgraded where connection to the existing infrastructure is not available. Accordingly, infrastructure can be provided at a suitable time to accommodate the development.
Section 6.2 Development controls – native vegetation retention areas 6) Development consent under this section is not to be granted unless the consent authority is satisfied of the following in relation to the disturbance of native vegetation— - that there is no reasonable alternative available to the disturbance of the native vegetation, - that as little native vegetation as possible will be disturbed, - that the disturbance of the native vegetation will not increase salinity, - that native vegetation disturbed for the purposes of construction will be reinstated where possible on completion of construction, - that the loss of remnant native vegetation caused by the disturbance will be compensated by revegetation on or near the land to avoid any net loss of remnant native vegetation, - that no more than 0.5 hectare of native vegetation will be cleared unless the clearing is essential for a previously permitted use of the land.	The site is impacted by both existing (light green) and native (dark green) vegetation as shown in Figure 1 below, and therefore both Clause 6.2 and Clause 6.3 apply. Notably, the Native Vegetation Protection Map is proposed to be updated as indicated by the DPHI through the SARP rezoning.  Figure 1 Existing (left) vs Proposed (right) (under DPHI SARP rezoning) Native Vegetation Protection Map Source: Western Parkland City SEPP
Section 6.3 Development controls – existing native vegetation (4) The consent authority must not grant development consent for development on land to which this section applies unless it is satisfied that the proposed development will not result in the clearing of any existing native vegetation (within the meaning of the relevant biodiversity measures under Part 7 of Schedule 7 to the <i>Threatened Species Conservation Act 1995</i>).	A Biodiversity Certification Letter prepared by Ecological is provided at Appendix NN. The development is consistent with the requirements of Section 6.2(6) as no works are proposed within the existing vegetation zone. The only works proposed within the SARP native vegetation zone includes the bioretention basin Notwithstanding that this does not have statutory weight given the draft status of the rezoning, this area is the most appropriate for the location of the bioretention basin as it will need to be reconfigured in the future to connect to Council's stormwater system

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	along Fifth Avenue. Where the bioretention basin is proposed to be located, existing vegetation comprises a 0.08ha of Eucalyptus tereticornis (Forest Red Gum) which is well below the 0.5ha threshold in Section 6.2(6)(f). Despite this, the native vegetation removed will be replanted through landscaping measures, which involves the planting of species that are consistent with PCT 3320 Cumberland Shale Plains Woodland. The portion of existing native vegetation (shown in light green) is directly adjacent to the development footprint. No direct impacts to the existing native vegetation area are anticipated, however tree protection initiatives will be implemented as mitigation measures.

4.0 Child Care Planning Guideline

Component	Proposal	Compliance
Part 2: Design Quality Principles		
Principle 1 – Context	The development involves a high quality and well-designed childcare facility that is within proximity to walking nodes and active transport.	✓
Principle 2 – Built form	The bulk, scale and height of the proposed childcare facility have been designed consistent with the future character of the surrounding mixed-use precinct. The internal and external areas of the facility have been designed in a manner that provide a high degree of amenity and allows for innovative methods to teaching and learning, whilst still complementing adequate landscaping and aesthetically pleasing elements of the building façade.	✓
Principle 3 – Adaptive learning spaces	The proposed child-care facility has been designed to be ‘fit for purpose’ and offers a variety of settings and connectivity outcomes that aligns with the Child-care National Quality Framework Standards.	✓
Principle 4 – Sustainability	The proposed development will employ a high degree of sustainability techniques such as natural cross ventilation, solar amenity and use of solar energy systems.	✓
Principle 5 – Landscape	Outdoor areas will be embellished within the Level 1 area and offers a variety of different play experiences suited to various age groups and areas of development. Landscape has been designed as an integrated sustainable system for the development.	✓
Principle 6 – Amenity	The building design provides a high level of amenity through its distinctive architectural features which contributes to the positive learning environments and well-being of children and staff. The childcare fitout has been designed to support a variety of age groups by allowing for a range of indoor and outdoor experiences. These areas will receive a high degree of solar and natural ventilation.	✓
Principle 7 – Safety	Secure above-ground access is provided to the childcare centre. The childcare centre provides a safe and accessible environment for children and their carers within the internal and external areas of the development.	✓

Component	Proposal	Compliance
Part 3: Matters For Consideration		
3.1 Site selection and location		
Objective: To ensure that appropriate zone considerations are assessed when selecting a site.	The proposed development is consistent with the objectives of the zone proposed under the Planning Proposal and is appropriated located for the childcare centre use as the service will meet the day to day needs of families within the surrounding suburban residential area and it is in an accessible location within walkable distance and thus supports the health and wellbeing of the community.	✓
Objective: To ensure that the site selected for a proposed child care facility is suitable for the use.		
Objective: To ensure that sites for child care facilities are appropriately located.		
Objective: To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards.	The proposed childcare is not at risk from environmental risk, health or safety issue.	
3.2 Local character, streetscape and the public domain interface		
Objective: To ensure that the child care facility is compatible with the local character and surrounding streetscape.	The proposed childcare development is located on Level 1 of the northern building and has been effectively integrated into the overall development and is clearly delineated from public spaces.	✓
Objective: To ensure clear delineation between the child care facility and public spaces.		
Objective: To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.		

Component	Proposal	Compliance
3.3 Building orientation, envelope and design		
Objective: To respond to the streetscape and site, mitigate impacts on neighbours, while optimising solar access and opportunities for shade.	An assessment of the built form and scale is provided in the EIS and found that the development is consistent with the emerging streetscape of the area. The proposed built form has been designed with regards to orientation and window location to optimise solar access. Hardscaping and building form elements provide shading opportunities.	✓
Objective: To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised.	As reiterated above, the proposed development is compatible with the adjoining future land uses and the EIS demonstrates that impacts on adjoining lands are minimal and acceptable.	✓
Objective: To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context.	The proposal has been designed to provide sufficient setbacks to the adjoining development and is contextually fit within the immediate context.	✓
Objective: To ensure that buildings are designed to create safe environments for all users.	Entrance to the building will be restricted outside of staff arriving and departing from the site.	✓
Objective: To ensure that child care facilities are designed to be accessible by all potential users.	Compliant. Refer to Accessibility Report.	✓
3.4 Landscaping		
Objective: To provide landscape design that contributes to the streetscape and amenity.	The proposed buffer landscaping will contribute to the streetscape and amenity.	✓
3.5 Visual and acoustic privacy		
Objective: To protect the privacy and security of children attending the facility.	The childcare area will be elevated above the ground level and will be subject to secure access arrangements.	✓

Component	Proposal	Compliance
Objective: To minimise impacts on privacy of adjoining properties.	The childcare fronts the adjoining educational establishment and will not create an unreasonable privacy impact.	✓
Objective: To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.	The proposed development will have an acceptable impact on adjoining neighbours in terms of acoustic amenity. Refer to the Noise and Vibration Impact Assessment.	✓
3.6 Noise and air pollution		
Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels.	The Noise and Vibration Impact Assessment highlights that the anticipated external noise levels throughout the proposed childcare facility will be capable of being minimised to acceptable levels.	✓
Objective: To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and industrial development.	The proposed development is not located in close proximity to sources of air pollution.	✓
3.7 Hours of operation		
Objective: To minimise the impact of the child care facility on the amenity of neighbouring residential developments. C28 and C29 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. Within mixed use areas or predominantly commercial areas, the hours of operation for	Compliant. The standard hours of operation is 7am to 6pm, Monday to Friday. This is subject to refinement once the tenant is selected and separate approval is granted for their own operational requirements.	✓

Component	Proposal	Compliance
each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.		
3.8 Traffic, parking and pedestrian circulation		
Objective: To provide parking that satisfies the needs of users and demand generated by the centre and to minimise conflicts between pedestrians and vehicles.	Sufficient parking is provided for the childcare staff and visitors. Refer to Traffic and Accessibility Impact Assessment.	✓
Objective: To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.	Vehicle access will be provided to basement and podium parking and will not disrupt traffic flows.	✓
Objective: To provide a safe and connected environment for pedestrians both on and around the site.	Safe passage is provided within the around the site.	✓
Part 4: Applying the National Regulations to Development Proposals		
4.1 Indoor space requirements – Regulation 107 – Education and Care Services National Regulations		
Every child being educated and cared for within a facility must have a minimum of 3.25m ² of unencumbered indoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the Education SEPP.	120 Children @ 3.25m ² = 390m ² (required) The Architectural Design Report in Appendix C confirms that 398m ² of unencumbered indoor space is provided which exceeds the minimum requirement.	✓
It is recommended that a child care facility provide: a minimum of 0.3m³ per child of external storage space	Compliant. There is sufficient internal and external storage space to comply with this requirement. The development is required to provide 24m ³ of internal storage spaces and provides 24m ³ . The development is required to provide 36m ³ of outdoor storage area and provides 37m ³ .	✓

Component	Proposal	Compliance
a minimum of 0.2m³ per child of internal storage space.		
4.2 Laundry and hygiene facilities – Regulation 106 Education and Care Services National Regulations		
There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children.	A laundry room is provided and located/maintained in a way that does not pose a risk to children.	✓
Child care facilities must also comply with the requirements for laundry facilities that are contained in the National Construction Code.	The proposed laundry is compliant under Class 9b 'early childhood centre' of the National Construction Code (NCC) as the laundry facility comprises both a washtub and washing machine as well as the below:	
On site laundry facilities should contain: - a washer or washers capable of dealing with the heavy requirements of the facility - a dryer - laundry sinks - adequate storage for soiled items prior to cleaning - an on site laundry cannot be calculated as usable unencumbered play space for children	The onsite laundry area accommodates these requirements.	✓
4.3 Toilet and hygiene facilities – Regulation 109 Education and Care Services National Regulations		
A service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for	The childcare centre will provide sanitary facilities to meet the regulatory requirements.	✓

Component	Proposal	Compliance
use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.		
Child care facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code.	Compliant. Refer to BCA Report.	✓
Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants.	Toilet and hygiene facilities have been designed to demonstrate privacy, dignity and amenity.	✓
4.4 Ventilation and natural light – Regulation 110 Education and Care Services National Regulations		
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.	The proposed light and ventilation to the childcare centre are compliant under Class 9b ‘early childhood centre’ of the NCC. Natural light will be provided to all playrooms or the like for the use of children. Proposed full height glazing including windows and doors allows for abundant natural light. Sufficient openings will also be provided and appropriately distributed in a childcare centre. The proposed ceiling height is 3.5m, exceeding the required 2.7m for childcare centres that accommodate more than 100 persons.	✓
4.5 Administrative space – Regulation 111 Education and Care Services National Regulations		
A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.	The proposed development is compliant and includes, a staff room, reception area, planning room, and an office.	✓
4.6 Nappy change facilities – Regulation 112 Education and Care Services National Regulations		

Component	Proposal	Compliance
Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children.	Nappy change facilities are provided. Nappy change facilities will comply with all regulatory requirements.	✓
Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.	Nappy change facilities and bathing facility will comply with Class 9b 'early childhood centre'	✓
4.7 Premises designed to facilitate supervision – Regulation 115 Education and Care Services National Regulations		
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.	Children will be supervised at all times. All rooms and facilities have highlight windows to allow for supervision when doors are closed. Children's toilet cubicles have solid walls but no doors to provide dignity whilst enabling supervision. Windows into the children's toilets / nappy change areas are located away from view of visitors to the facility, the public or neighbouring properties. Refer to the Architectural Plans at Appendix B and the Urban Design Report in Appendix G.	✓
Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the National Construction Code.	The proposed supervision practices are compliant under Class 9b 'early childhood centre' of the NCC. As the kitchen facilities will facilitate supervision of children from inside the kitchen and will also be protected by a door with child proof latches to prevent unsupervised access by children.	✓
4.8 Emergency and evacuation procedures – Regulation 97 and 168 Education and Care Services National Regulations		
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:	It will be the responsibility of the childcare tenancy to prepare the emergency and evacuation plan. An emergency evacuation plan will be provided by a suitably qualified Specialist Fire Services Engineer as part of the application for a service order. This plan will outline the risks, potential emergencies and procedures in an event of an emergency and evacuation of the children within the centre.	✓

Component	Proposal	Compliance
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. The design and construction of new child care facilities must comply with the requirements of the National Construction Code.		
An emergency and evacuation plan should be submitted with a DA	Given the scale of the proposal and the intention to deliver an accurate and specific emergency and evacuation plan, the preparation of such plan is better suited to be prepared by the childcare tenant. As such, it is required that this is postponed prior to the issue of an occupation certificate.	✓
4.9 Outdoor space requirements – Regulation 108 Education and Care Services National Regulations		
An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m² of unencumbered outdoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the Education SEPP.	120 Children @ 7.0m² = 840m² (required) The Architectural Plans at Appendix B provide for 845m² of unencumbered outdoor space, exceeding the minimum requirement.	✓
4.10 Natural environment – Regulation 113 Education and Care Services National Regulations		
The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment. Creating a natural environment to meet this regulation includes the use of natural features	A high-quality external space is provided which integrates natural and soft features, promoting exploration.	✓

Component	Proposal	Compliance
such as trees, sand and natural vegetation within the outdoor space.		
4.11 Shade – Regulation 114 Education and Care Services National Regulations		
The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	The external area provides sufficient outdoor area that is capable of receiving shade.	✓
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 as trees or built shade structures giving protection from ultraviolet radiation to at least 30% of the outdoor play area. have evenly distributed shade structures over different activity spaces.	Compliant. Refer to Urban Design Report in Appendix G .	✓
Shade structures should not create safety hazards. Support systems such as upright posts should be clearly visible with rounded edges or padding. Vertical barriers at the sides of shade structures should be designed to prevent children using them for climbing. Shade structures should allow adults to view and access the children's play areas, with a recommended head clearance of 2.1 metres. The floor area underneath the structure should	No structures will create a safety hazards.	✓

Component	Proposal	Compliance
be of a sufficient size and shape to allow children to gather or play actively.		
4.12 Fencing – Regulation 104 Education and Care Services National Regulations		
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.	Children are not capable of going through, over or under the balustrade proposed.	✓
Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the National Construction Code.	The proposed fencing and protection of the outdoor playscapes is compliant under Class 9b 'early childhood centre' of the National Construction Code.	✓
Design considerations for side and rear boundary fences could include: • being made from solid prefinished metal, timber or masonry. • having a minimum height of 1.8 metres. • having no rails or elements for climbing higher than 150mm from the ground.	Not Applicable	N/A
4.13 Soil Assessment – Regulation 25 Education and Care Services National Regulations		
Subclause (d) of Regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required:	The site is located above ground and children will not be exposed to soil within the childcare centre. Nevertheless, the site as a whole can be made suitable in accordance with the PSI.	✓

Component	Proposal	Compliance
a soil assessment for the site of the proposed education and care service premises. if a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken. a statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.		
An assessment of soil for a children's service approval application may require three levels of investigation: • Stage 1 - Preliminary investigation (with or without soil sampling) • Stage 2 - Detailed site investigation • Stage 3 - Site specific human health risk assessment		