

SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

Panel Reference	2018SNH070
DA Number	DA2018/1924
LGA	Northern Beaches
Proposed Development	Alterations and additions to the Forest Way shopping centre including a childcare centre, medical centre, shops, restaurant/cafes, recreation facility (indoor), office premises and basement car parking.
Street Address	Lot 20 DP 1209801, Forest Way FRENCHS FOREST NSW 2086
Applicant/Owner	Are Chemin De La Foret Pty Ltd Are Chemin De La Foret Pty Ltd
Date of DA lodgement	05/12/2018
Number of Submissions	101
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	The proposal has a capital investment value of more than \$30 million.
List of all relevant s4.15(1) (a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy Educational Establishments and Child Care Facilities 2017 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Remediation of Land (and draft) • Warringah Local Environmental Plan 2011 • Warringah Development Control Plan 2011
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1: Architectural and Subdivision Plans • Attachment 2: Pre-Lodgement meeting notes • Attachment 3: Applicant's Clause 4.6 • Attachment 4: Transport for NSW Concurrence • Attachment 5: NSW Rural Fire Service General Terms of Approval • Attachment 6: Landscape Plans • Attachment 7: Draft conditions of consent
Clause 4.6 requests	Yes – Clause 4.3 Height of Buildings (a variation of 41.5%)
Summary of key submissions	<ul style="list-style-type: none"> • Traffic • Pedestrian Safety • Loss of existing trees • Excavation and damage to neighbouring buildings • Construction impacts • Conflict with Hospital Structure Plan • Parking • Noise • Economic impacts on Glenrose Shopping Centre
Report prepared by	David Auster, Principal Planner
Report date	3 December 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **YES**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **YES**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **YES**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions **Not Applicable**

Conditions

Have draft conditions been provided to the applicant for comment? Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report **YES**

EXECUTIVE SUMMARY

The proposal involves a major refurbishment and increase in commercial floor space of the existing Forest Way Shopping Centre, located near the intersection of Forest Way and Warringah Road, in Frenchs Forest. The development includes two basement levels of parking, an additional roof top parking level, and two floors of commercial floor space. The proposal includes supermarkets, childcare centre, health centre, gym, restaurants, and specialty retail shops.

The application was received by Council in December 2018, and since this time the application has been amended a number of times, primarily as a result of attempts by the applicant to obtain the concurrence from Transport for NSW (TfNSW, formerly the RMS).

The major issue throughout the assessment process has been access to and from Forest Way, the arterial road which runs along the eastern frontage of the site. The application originally proposed a signalised intersection on Forest Way, allowing for entry and a two lane exit from the site, allowing for both left and right turns out of the site onto Forest Way, and south bound right turns from Forest Way into the site.

The ultimate outcome of discussions and assessment by Transport for NSW over nearly a 2 year period, is that concurrence was eventually granted subject to conditions of consent. These conditions include having no exit from the site directly onto Forest Way, no right turns into the site from Forest Way, and further, banning any right turns out of Russel Avenue (the road adjacent to the site to the north) onto Forest Way. This in turn means that all traffic exiting the centre would need to exit via either Russel Avenue or Grace Avenue to the west, and all south bound traffic would be forced into the local road networks for a significant distance in either a north or south direction before being able to gain access back onto either of the nearby arterial roads (Forest Way and Warringah Road).

The local roads to the south of Grace Avenue are a noted 'rat run', and are already the subject of traffic calming measures to deal with existing high levels of traffic. Given these factors, Council's Transport & Civil Infrastructure department have recommended refusal of the amended application, due to the impacts of the significant increase in traffic to the local road network – despite TfNSW issuing concurrence to the application. The application is also not supported on the basis of a shortfall in on-site parking.

One of the other concurrence requirements of TfNSW is that the applicant will be required to dedicate land from the Forest Way frontage for use as a deceleration lane to enter the site, and a future bus lane on Forest Way. The amended application, whilst showing the land to be dedicated, has not provided a sufficient setback of the proposed development from the land to be dedicated. This results in a poor amenity and design outcome, due to the reduced front setback area to Forest Way, minimal pedestrian circulation available in front of the development and in the area of the bus stop. Accordingly, the revised scheme is not supported by Council's Urban Designer.

Significant community concern has been raised in relation to the amended development, and the vast majority of submissions received by Council focus on traffic impacts to the local road network to the west of the site. These submissions are supported by Council's traffic engineers, and the application is recommended for refusal based on this issue.

The applicant has submitted a subdivision plan for the land required to be dedicated by TfNSW. A separate draft Voluntary Planning Agreement (VPA) offer was submitted by the applicant in November 2020. This is intended to provide a legal mechanism to facilitate the dedication of land along the Forest Way frontage of the site, should the application be approved. A deferred commencement condition would be required, requiring the VPA to be endorsed and approved by Council prior to commencement of the consent, as insufficient time was available for Council to properly consider the VPA offer prior to the determination of this application.

Given the community concerns raised in relation to traffic impacts, including concerns raised by Councillors and the local MP - Member for Davidson, certainty of any future approval of the VPA is reduced.

The proposal is reliant upon a variation to the maximum building height development standard prescribed by clause 4.3 of WLEP 2011, with a maximum variation of 41.5%. The proposal is consistent with the objectives of the standard and the applicant has satisfactorily established that the proposed variation is appropriate in the circumstance. The height of the development is not perceived to create unreasonable levels of impacts to adjoining properties. The applicant has successfully demonstrated that strict compliance with the development standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravening the development standard. It is considered that the Clause 4.6 variation request is well founded and has addressed the matters that are required to be addressed within Clause 4.6(3). Therefore, the application is not recommended for refusal based on this issue.

With regard to Clause 7 of SEPP 55 - Remediation of Land, Council is satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out subject to conditions of consent, should the application be approved.

The assessment of the application has found that the proposal will create unacceptable impacts with regard to traffic in particular, will fall short of parking requirements, and also provides an inadequate front setback to the Forest Way frontage of the site (if land dedication occurs). For these reasons refusal of the application is recommended. Further, given the access issues to and from the site from the adjacent arterial road, the application has not demonstrated that the site is suitable for the extent of development proposed, due to the likely high impacts on the surrounding local roads. Approval of the application is not considered to be in the public interest.

PROPOSED DEVELOPMENT IN DETAIL

The development application has been amended a number of times since lodgement. The application as originally submitted involved the following (amendments to the application are described later in the report):

- Partial demolition of the existing retail centre.
- 12,016sqm net increase to Gross Lettable Area (GLA) (from 9,577sqm to 21,593sqm), including demolition and additions to the existing facility to enable the following new facilities:
 - Ground level retail including two enlarged supermarkets, two mini majors and spec
 - Level 1 retail level comprising restaurants, gymnasium, allied health, commercial o
 - A passive recreation Skypark available to the community
- Two levels of basement car parking and one upper level of car parking at Level 2 providing 741 spaces (increase of 313spaces) and also including a car wash facility. The application states it will also utilise a further 100 car spaces in the public domain, in Sorlie Place and along Grace Avenue.
- Consolidated loading area from Grace Avenue for Aldi and specialty retail and Woolworths loading remaining in existing position. A light loading zone is located in the B2 basement.
- New signalised intersection and crossing on Forest Way
- Pedestrian access points include a centralised entrance along the Forest Way frontage, new entry square near corner of Forest Way and Russell Street, access adjacent to Forestway vehicle entrance and access from Sorlie Place.
- Ancillary amenities, landscaping and infrastructure.

Proposed Uses

The following land uses form part of the proposed development:

- Retail (supermarkets, mini majors, speciality retail, kiosks);
- Restaurants/cafes;
- Commercial office;
- Allied health;
- Child care;
- Gymnasium;
- Car wash; and
- Passive recreation area at the rooftop

Demolition

The proposal seeks consent for the demolition of the two-storey car parking structure, part of the eastern end of the retail centre and two single storey pad sites on Russell Avenue.

Basement B2

The proposed works at this level include:

- 291 car parking spaces
- Light loading area in the south eastern corner
- A large back of house storage area in the south eastern corner as well as along Forest Way edge and adjacent to Aldi
- Water tank and other plant is also located at this level

Basement B1

The proposed works at this level include:

- 208 car parking spaces
- Storage in underutilised corners of the basement
- Water tank and other plant is located at this level

Level 1

The proposed uses and works at this level include:

- Larger restaurant tenant (1,794sqm) at the corner of Grace Avenue and Russell Avenue
- Publicly accessible sky park, approximately 2,194sqm in size, fronting Grace Avenue with open stair access
- 1,415sqm GLA Allied health area and pharmacy
- 1,509sqm child care centre with outdoor area fronting the adjoining primary school
- 828sqm commercial office on the boundary with the adjoining primary school
- 1,619sqm gymnasium fronting Forest Way, to the south of the site and assisting in sleeving the ramp to the upper level car park
- 685sqm of food and beverage
- 1,627sqm of specialty retail and kiosks

Level 2 car park

The proposed uses and works at this level include:

- 242 car parking spaces
- Central plant area as well as plant in the underutilised corners of the site
- Car wash facility on the Sorlie Place edge, with a small office of 118sqm in size

Vehicular Access

In terms of vehicle access arrangements:

- Existing access from Forest Way retained.
- The existing pedestrian signals on Forest Way will be modified to provide traffic signal controlled access (left in, left out and right out) to/from the centre. The new signalized access will allow right turns out of the site (as well as left in/left out). The lanes from the centre are proposed as:
 - One access driveway
 - Three egress lanes
- Grace Avenue access to both the basement levels and rooftop car park level. This has two egress lanes and one ingress.

Parking

As described above, car parking is provided in two basement levels and one roof top car parking level. Sorlie Place public carpark, although outside the site boundary, retains the existing 80 car spaces.

Service vehicle access and loading

Consolidation of loading in the area of the current loading zone on Grace Avenue for specialty shops, reconfiguration of Aldi loading and mini-major loading. Woolworths loading is retained adjacent to Sorlie Place car park. Light loading is also provided at B2 basement carpark

Pedestrian Access

Direct and improved pedestrian access from outside the shopping centre into the development will be provided at these locations:

- Forest Way entrance: adjacent to bus stop, improving the legibility of the centre and connection with public transport and future green link to the east.
- Russell Avenue, Forest Way end: through the new plaza area which has hard and soft landscaping and activated by many restaurant and cafes opening onto the space.
- Grace Avenue, near corner of Russell: the pedestrian access leading up open stairs to the Level 1 Sky park.
- Sorlie Place: a new entrance on eastern side of Sorlie generally adjacent to the Woolworths tenancy.

Landscaping, tree removal and public domain

Tree removal is sought for 19 trees on Forest Way, Russell Avenue and at Sorlie Place and as denoted in the drawing set and on the landscape plans. Landscaping works are proposed as part of the proposed development. The main landscaping elements include:

- Street frontage planting – setback and street tree planting.
- Signature planting at ground floor plaza – at main entry nodes fronting corner restaurant plaza on Russell Avenue to be planted with a *Ficus rubiginosa* tree to define this location with a recognisable landscape element.
- Skypark – Provision of an elevated local park that comprises artificial lawn, raised planters with tree and shrub planting, green wall, indicative play with nature play elements and arbour walkway.

Signage

Signage is not proposed as part of this development application and will be addressed through a separate application to Council at a later date.

Materials and Finishes

Materials include plain and perforated concrete panels, perforated metal panel, stone feature walls façade glazing with black mullions, timber fins and colourbond in shale grey.

Operational Hours of Use

Centre Trading Hours

- Monday: 9am - 5.30pm
- Tuesday: 9am - 5.30pm
- Wednesday: 9am - 5.30pm
- Thursday: 9am - 8pm
- Friday: 9am - 5.30pm
- Saturday: 9am - 5pm
- Sunday: 9am - 5pm

Woolworths Supermarket

- Monday: 7.00am - 10pm
- Tuesday: 7.00am - 10pm
- Wednesday: 7.00am - 10pm
- Thursday: 7.00am - 10pm
- Friday: 7.00am - 10pm
- Saturday: 7.00am - 10pm
- Sunday: 7.00am - 10pm

Aldi Supermarket

- Monday: 8.30am - 8pm
- Tuesday: 8.30am – 8pm
- Wednesday: 8.30am – 8pm
- Thursday: 8.30am – 9pm
- Friday: 8.30am – 8pm
- Saturday: 8.30am – 7pm
- Sunday: 8.30am – 7pm

Restaurants and Skypark

- Monday: 7.00am - 11pm
- Tuesday: 7.00am - 11pm
- Wednesday: 7.00am - 11pm
- Thursday: 7.00am - 11pm
- Friday: 7.00am - 11pm
- Saturday: 7.00am - 11pm
- Sunday: 7.00am - 11pm

Sorlie Place Restaurants

- Monday: 6:30am – 9pm
- Tuesday: 6:30am – 9pm
- Wednesday: 6:30am – 9pm
- Thursday: 6:30am – 10pm
- Friday: 6:30am – 10pm
- Saturday: 6:30am – 10pm
- Sunday: 7:30am – 9pm

Child care Centre

- Mon – Friday: 6:30am – 7:30pm
- Sat and Sun: potential to operate from 8am - 6:00pm

Site Management Principles

Skypark

- Security: CCTV will be installed to monitor the space and it will be patrolled in a similar manner to the rest of the centre.
- The Skypark will be gated at top of stairs from Grace Ave and will be locked after hours.
- Appropriate lighting is proposed to be installed to ensure safety and security after dark. Lighting will be downlit (including catenary lighting) up to closing and then low-level security lighting after close.

Child care

- Child care centre parking is proposed in dedicated spaces at B1, B2 & L2 and can be dedicated spaces as required. Access and egress to child care is via the associated travelators and lifts. The carparking will be open for childcare, supermarkets and café operators that open earlier than the centre core hours.
- A proposed evacuation route for the child care centre is via fire stairs on southern boundary or alternatively fire stairs fronting Forest Way to the east.
- A detailed operation and management plan will be prepared by the end operator and submitted with the DA which seeks approval for the operational and fit out characteristics of the child care centre.

Loading Docks

Management

Access to the loading docks is to be blocked by chains or bollards. These barriers are to be erected outside of the prescribed hours (see below) to ensure that vehicles cannot access the dock outside of the approved hours. The servicing of the premises by waste vehicles/ garbage trucks is restricted to between 7:00am until 9:00pm, seven days per week.

Woolworths:

- Dock will accommodate up to 19m articulated vehicles
- Hours of operation 7am to 9pm
- Frequency – daily 19m trucks with various smaller rigid vehicle deliveries

ALDI:

- Dock will accommodate up to 19m articulated vehicles
- Hours of operation 7am to 9pm
- Frequency – daily 19m trucks with various smaller rigid vehicle deliveries

Specialty:

- Dock will accommodate up to 14m rigid vehicles
- Hours of operation 7am to 9pm
- Frequency – many smaller deliveries throughout the day

Loading Dock Signage

Signage is to be provided at each of the loading docks indicating the approved hours of operation for standard truck deliveries as well as the hours of operation for waste vehicles. These signs will also provide a contact number for the after-hours security should there be a delivery outside of the approved operating hours.

Substation

The proposed development will require the installation on one new substation. The existing substation remains on site. It is proposed to locate the new substation proximate to the Forest Way frontage, near the southern boundary. The specific details of the route will be design and constructed in consultation with AUSGRID.

Construction Staging

The Construction Management Plan prepared by the project builder, Hutchinson Builders at Appendix T provides details on proposed construction staging which is summarised below:

- Phase 1 - Early works - Site Establishment, Remediation, Demolition and Excavation.
- Phase 2 –Structure
- Phase 3 – Façade
- Phase 4 – Fitout
- Phase 5 - External Works and Landscaping

The construction period is expected to take 36 months and operate under the following hours of work:

- Monday to Friday – 7am to 7pm
- Saturday – 7am to 5pm
- Sunday and Public Holidays – No Work

Amendments to the Application

The application has been amended a number of times throughout the assessment process. However, the granting of concurrence by Transport for NSW, and the conditions attached to this concurrence, meant that the plans were amended for the final time in October 2020. These amendments were re-notified and re-advertised from 12 October 2020 to 4 November 2020. Council received approximately 60 additional submissions in response to the final exhibition. As a result of the final amendments, the application as assessed in this report includes the following changes to what is described above:

<u>Original Application</u>	<u>Final Amendments</u>
Total 21,593sqm gross leasable floor space	Total gross leasable floor space increased to 21,599sqm
741 car spaces	Parking reduced to 715 on-site car spaces
Single lane entry off Forest Way and three lane signalised exit (two turning right and one turning left). Also right turns into the site from south bound on Forest Way.	Vehicular exit from site onto Forest Way removed. Single entry with deceleration lane for north bound traffic. No south bound entry available from Forest Way.
No change to Russel Avenue	Right turn out of Russel Avenue onto Forest Way banned
No subdivision or dedication of land to Council	Subdivision proposed in two stages to enable dedication of land to Council along Forest Way frontage
Existing vehicular entry/exit to Russel Avenue DA2018/1924	demolished

Exit/entry from Basement 1 to Russel Avenue in approximate location of existing Russel Avenue exit (to be made only exit

if/when Russel Avenue is closed in accordance with Hospital Precinct Structure Plan)

Two lane exit to Grace Avenue and one lane entry to Basement Level 1 in north western corner of site

Unchanged

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- ▮ An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- ▮ A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- ▮ Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- ▮ A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- ▮ A review and consideration of all documentation provided with the application (up to the time of determination);
- ▮ A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Local Environmental Plan 2011 - 6.2 Earthworks
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - B6 Merit Assessment of Side Boundary Setbacks
 Warringah Development Control Plan - B8 Merit assessment of front boundary setbacks
 Warringah Development Control Plan - B10 Merit assessment of rear boundary setbacks
 Warringah Development Control Plan - C2 Traffic, Access and Safety
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - C4 Stormwater
 Warringah Development Control Plan - D3 Noise
 Warringah Development Control Plan - F1 Local and Neighbourhood Centres

SITE DESCRIPTION

Property Description:	Lot 20 DP 1209801, Forest Way FRENCHS FOREST NSW 2086
Detailed Site Description:	The site is located in the suburb of Frenchs Forest in the Northern Beaches Local Government Area (LGA). Frenchs Forest is approximately 13kms from the Sydney CBD and is identified as a Planned health and education Precinct in the North District Plan. The site is situated near to the junction of Warringah Road and Forest Way, which has recently been undergoing significant roadwork infrastructure largely undertaken to service the new Northern Beaches Hospital and in the future a greater intensity of development including residential uplift. The existing character is however predominately low-density residential west of Forestway. The broader area is interspersed by National Park and public reserves as well as commercial development on Bantry Bay Road and Warringah Road.



The site itself is a large irregularly shaped parcel of land with a legal description of Lot 20 DP1209801. The site is bound to the north by Russell Avenue, with business premises across the road and low-density housing further northwards, Grace Avenue to the west and a row of housing and bushland further westward, Frenchs Forest Public School and Sorlie Place to the south, and Forest Way to the east, with generally low density housing further eastward. There is also a Council owned Youth Centre adjoining the site to the south eastern corner, which is accessed via right of way over the subject site. Sorlie Place is Council owned and currently accommodates a public carpark. A locally listed heritage item is located on the northern side of Russell Avenue.

The site area is approximately 2.041 hectares. The site is elevated with land falling away substantially on the western side of Grace Avenue behind the row of dwellings. The site has a gradual natural slope that falls to the east of the site by up to 2m and contains limited vegetation, with the only substantial planting located along the northern street frontages of the site. Two storey deck car parking is located along the Forest Way frontage of the site. Vehicle access to the site is currently available from the southern part of the site from Forest Way, from Russell Avenue and from Grace Avenue.

The site is occupied by Forestway Shopping Centre, a multi-tenancy commercial/retail development that originally opened in 1964. The centre is anchored by an Aldi and Woolworths supermarkets and contains approximately 45 specialty stores. The centre provides local convenience shopping with associated banks, services, limited food offering and speciality retail and has an existing gross leasable area (GLA) of 9,577sqm.

The built form comprises a single level retail centre with double storey open car park structure on Forest Way. Separate car wash and drive through liquor retail outlets are in separate buildings fronting Russell Avenue to the north.

The current operating hours are:

- Monday: 9am - 5.30pm
- Tuesday: 9am - 5.30pm
- Wednesday: 9am - 5.30pm
- Thursday: 9am - 8pm
- Friday: 9am - 5.30pm
- Saturday: 9am - 5pm
- Sunday: 10am - 4pm

The car park is open 24 hours.

Existing pedestrian access is provided at the following locations:

- Off Forest Way to the north of the existing signalised crossing. A walkway through the car park leads to one of the three centre entrances;
- Off Russell Avenue, east of the car wash and then through to the centre entrance to the east of Aldi;
- Off Sorlie Place, to the north of the circular roadway.

The subject site is bounded by pedestrian footpaths along the edges of Forest Way, Russell Avenue and Sorlie Place however, pedestrian access into the shopping centre site is currently only accessible through car park or traversing internal accessways.

Existing vehicular access into the site is provided at three locations; one from Forest Way in the south, one from Russell Avenue and one from Grace Avenue. Public Transport access to the site is provided by way of a main bus stop on Forest Way. Routes by Sydney Buses and Forest Coach Line service the site from Sydney's CBD, North Sydney, Northern Beaches, and Lower North Shore.

Hospital Precinct Structure Plan

The site falls within the area identified for the Frenchs Forest Hospital Precinct Structure Plan (HPSP). Council's Strategic Planning Department provided the following comments:

Council has adopted the Hospital Precinct Structure Plan (HPSP) to guide future land use planning decisions in Frenchs Forest over the next 20 years. Whilst this is not a statutory document, Council is working with the NSW Department of Planning and Environment to implement Phase 1 of the HPSP into the statutory planning framework as part of the Frenchs Forest Planned Precinct project.

The subject site is identified for uplift in Phase 3. Phase 3 is dependent on the delivery of significant regional infrastructure such as The Beaches Link Tunnel and/or an east-west bus rapid transit system from Chatswood to Dee Why.

The site is identified in the plan to be rezoned as R3 Medium Density Residential, with a potential height limit of up to 40 metres. Other works identified in the plan include upgrades to Grace Avenue, and other road works to the north and south to facilitate greater traffic capacity. These works include land acquisition to enable extension of Naree Road to the north of the site, and closure of Russel Avenue.

However, as discussed above, it should be noted that all these works are identified as part of Phase 3 of the plan, which is the longest term part of the plan (identified as not happening for at least 10 years), with the least certainty of ever coming to fruition.

Widening of Forest Way (south of Naree Road and Frenchs Forest Road West) is however identified in the plan as work required for short term development.

Map:



SITE HISTORY

The site has been used for the current purposes of a shopping centre since 1964. All recent application history on Council records is for various shop fit outs and signage. There is no particularly relevant application history to the current application for a major refurbishment of the shopping centre. The application does not rely on existing use rights, nor on any existing non-compliances.

Application History

03/07/2018 – Pre-lodgement meeting held (PLM2018/0140). The pre-lodgement meeting notes stated:

The proposal is not acceptable and requires redesign prior to submission/further consideration.

There are fundamental concerns raised regarding the access and parking arrangements for the proposed development. The Roads and Maritime Service (RMS) is investing heavily in infrastructure in the immediate vicinity of the subject site. The proposal seeks to introduce new access arrangements including an additional traffic movement onto Forest Way which is inconsistent with the works currently being undertaken by the RMS. This will require detailed consideration and you are strongly encouraged to discuss the access arrangements as a whole with the RMS prior to lodging a development application.

05/12/2018 - Application lodged with Council, exhibited and referrals sent including concurrences.

21/03/2019 - Additional information received in relation to submissions received and internal referral comments, including plans and consultant reports.

10/10/2019 - Council requests applicant to withdraw application due to significant outstanding issues with traffic that could not be resolved, and in particular access to and from Forest Way and TfNSW concerns.

25/10/2019 - Amended plans and traffic reports provided to address concerns. These amendments were re-notified and advertised.

19/12/2019 - TfNSW requests further information in relation to traffic counts and other issues.

26/02/2020 - Sydney North Planning Panel briefed on the application.

03/03/2020 - Council requests applicant to withdraw application due primarily to outstanding traffic and access concerns.

30/03/2020 - Application is amended, including plans and other reports including traffic report.

10/06/2020 - TfNSW provides response stating that concurrence will not be granted.

23/07/2020 - Applicant again requested to withdraw application due to unresolved traffic and access concerns.

21/08/2020 - In response to further amendments and reporting from the applicant, TfNSW again refuses to provide concurrence.

25/09/2020 - As a result of discussions with the applicant and proposed amendments, TfNSW provides concurrence to the proposal, subject to conditions. The conditions include the following requirements:

- A deceleration lane to allow entry from Forest Way,
- No exit from the site onto Forest Way,
- Relocation of bus stop to the north,
- Dedication of land to provide for deceleration lane (3.5m wide) and a future extra lane (3.2m wide) on Forest Way,
- Banning of right turns out of Russel Avenue onto Forest Way

12/10/2020 - Applicant provides amended plans and reports, including subdivision plan, to address TfNSW conditions. The application is re-notified and advertised.

02/11/2020 - Applicant submits draft proposed Voluntary Planning Agreement offer to Council, to provide legal mechanism to dedicate land along the Forest Way frontage of the site in accordance with the TfNSW requirements for extra lanes on Forest Way.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site was previously used for a service station near the northern end of the site, which has resulted in some contamination. The reports provided by the applicant have been assessed by Council's Environmental Health team, who are satisfied that contamination will be adequately managed, subject to conditions of consent should the application be approved.

Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters can be addressed via a condition of consent should the application be approved.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter can be addressed via a condition of consent should the application be approved.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter can be addressed via a condition of consent should the application be approved.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter can be addressed via a condition of consent should the application be approved.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. In summary, the proposal will have significant and unacceptable impacts on the local road network to the west of the site, falls short of the required amount of on site parking, and has not provided adequate setback to the Forest Way frontage to allow sufficient room for pedestrian circulation and landscaping. As such, the proposal is recommended for refusal based on these environmental impacts.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	<p>The site is considered suitable for the refurbishment of the existing shopping centre, however, as discussed in this report, the proposed development gives rise to unacceptable impacts, particularly with regard to traffic impacts on the local road network, that are not supported by Council’s traffic engineers and forms a reasons for refusal of the application.</p> <p>In order to obtain concurrence from Transport for NSW, the application has had to discard any exit from the site onto Forest Way, discard direct south bound entry from Forest Way, and further restrict access to Forest Way by banning right turns out of Russel Avenue. As such, a large proportion of traffic exiting the site (all south bound traffic and some north bound) will be funneled into the local road network to the west, and southbound traffic wishing to enter the site is also likely to increase on local roads.</p> <p>The application has not demonstrated that the local road network as it currently stands can accommodate such increases. As such, and given the restrictions imposed by TfNSW with regard to Forest Way access, forcing increased reliance on the local road network, the application has also failed to demonstrate that the site is necessarily suitable for the extent of increased floor space proposed.</p>
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report. Council received a large number of community submissions focussing on traffic impacts to the local road network to the west of the site, as well as other issues raised as discussed.
Section 4.15 (1) (e) – the public interest	This assessment has found the proposal to be contrary to the relevant requirement(s) of the Warringah Development Control Plan in relation to traffic, parking and front setback requirements, and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land and the proposed development includes a special fire protection purpose (childcare centre) under Section 100B of the Rural Fires Act 1997. As such, the proposal is integrated development and requires a bush fire safety authority from the NSW Rural Fire Service.

The application was referred to the NSW RFS as integrated development. The NSW RFS issued a bush fire safety authority, subject to conditions. The recommendations of the Bush Fire Report , along with the conditions from the NSW RFS as part of the bush fire safety authority, will be included as part of the recommended conditions of consent should approval be granted.

NOTIFICATION & SUBMISSIONS RECEIVED

The development application has been publicly exhibited 3 times since lodgement. The latest amendments were exhibited from 14/10/2020 to 04/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Council's Community Participation Plan. As a result of the latest exhibition process council received approximately 60 new submissions, making a total of 101 submissions.

The following issues were raised in the submissions and each have been addressed below:

- Traffic
- Pedestrian Safety
- Loss of existing trees
- Excavation and damage to neighbouring buildings
- Construction impacts
- Conflict with Hospital Structure Plan
- Parking
- Noise
- Economic impacts on Glenrose Shopping Centre

The matters raised within the submissions are addressed as follows:

- **Traffic**

The vast majority of the submissions raised traffic impacts as a concern, and more specifically the impacts on Grace Avenue, and the local roads to the south and north. For most of these submissions traffic was the only concern raised. These concerns were magnified upon amendment of the plans to comply with the TfNSW requirements to have no exit from the site onto Forest Way, and to ban right turns onto Forest Way from Russel Avenue. Further, access to the site from southbound on Forest Way has been removed. These amendments mean that south bound traffic exiting the shopping centre would be highly likely to turn left onto Grace Avenue, and be funnelled into the local road network to the south, and in particular the existing 'rat run' from Grace Avenue through Altona Avenue, Deakin Avenue, and Bentley Avenue onto Brown Street, where there are traffic lights enabling a safe right turn onto Warringah Road. Traffic would also increase significantly in the local road network to the north along Grace Avenue. The limited right turn lane into Russel Avenue from Forest Way would mean that traffic from the north wishing to access the shopping centre may also be likely to approach through the local road network.

Comment:

The resident concerns are generally supported, and the application is recommended for refusal on this basis. Council's Traffic Engineers have assessed the proposal (see Referrals section of this report), and recommended refusal based on the increased traffic volumes to the local road network. It should be noted that the road network to the south of Grace Avenue is already a noted 'rat run', which has been the subject of traffic calming measures including one way access at certain times of the day. The amended proposal will result in the addition of a further 130 vehicles per hour during peak flow to the south along Grace Avenue, and up to an additional 180 vehicles per hour during peak to the north along Grace Avenue. The proposal is not considered acceptable in relation to the impacts on the local roads in this regard.

- **Pedestrian Safety**

Concerns were raised in relation to pedestrian safety in the proposed crossing of Forest Way, with particular regard to the area for waiting on the western side of the road. More concerns were raised in relation to Grace Avenue and Russel Avenue.

Comment:

The pedestrian crossing location on Forest Way has been amended since the submission was made with regard to the Forest Way crossing, and the western path way area is significantly increased. In relation to pedestrian impacts in general surrounding the rest of the site, the application has been assessed by Council's Traffic Engineers, and by TfNSW, who are both satisfied with this aspect of the proposal. The application is therefore considered generally acceptable in this regard. However, as noted above, the application is recommended for refusal based on the increased traffic load to the local road network.

The application is also recommended for refusal based on the front setback of the development to the Forest Way frontage, due to the minimal pedestrian area available, particularly in the region of the bus stop (see Urban Design referral response in this report). It should be noted that the dedication of land along the Forest Way frontage shown on the subdivision plan lodged with the latest amendments, indicates almost no setback of the building to the new front boundary. The application has not demonstrated sufficient and safe pedestrian circulation area will remain along the Forest Way frontage.

- **Loss of existing trees**

Concerns were raised with regard to loss of existing trees.

Comment:

Council's Landscape Officer has assessed the proposal, and is generally satisfied with the proposed tree replacement planting. The landscape plan includes planting of various levels, including canopy trees situated along all three frontages. The application is considered generally acceptable in this regard.

- **Excavation and damage to neighbouring buildings**

Concerns were raised with the extent of excavation required and possible damage to neighbouring buildings.

Comment:

The application includes a Geotechnical report which includes recommendations for the management of excavation should the development be approved. This includes requiring assessment of the potential impacts of excavation induced vibrations being considered as part of the detailed design and excavation planning. The Construction Management Plan provided with the application also includes the requirement to carry out dilapidation reports on the surrounding property. Conditions would be recommended to ensure all recommendations of this report were followed, and that dilapidation reports of surrounding property be carried out, if the application is approved.

- **Construction impacts**

Concerns were raised with regard to noise, dust and general disruption caused by the construction of the development.

Comment:

Some level of disruption to the local area is inevitable during construction (if the application is approved). The application includes a Construction Management Plan (CMP), which provides detailed plans for carrying out the development. Work will remain generally within the site boundaries, and disruption to the local area will be limited as much as possible. If approved, a condition will be recommended requiring the development to be constructed in accordance with the CMP.

- **Conflict with Hospital Precinct Structure Plan**

Concerns were raised that the proposal would be in conflict with the Hospital Precinct Structure Plan, specifically with regard to the ability to allow future residential towers on site.

Comment:

Council's Strategic Planning department assessed the proposal and raised this concern also. As a result, the applicant provided structural engineer certification that the development would be constructed to cater to future upward development of the site, strong enough to allow for heights of up to 40 metres, as envisaged by the Structure Plan. This issue is considered to be reasonably satisfied in this regard.

- **Parking**

Concerns were raised with respect to parking, and specifically that no dedicated commuter parking was provided for, and the use of Sorlie Place in the applicant's parking calculations.

Comment:

Council's Traffic Engineers have assessed the proposal, and remain unsatisfied with the amount of on-site parking provided (see Referrals section of this report), including not allowing for public parking in Sorlie Place to contribute to parking calculations. As such, this is a recommended reason for refusal. With respect to providing for commuter parking, this is not a public site, and it is not considered a reasonable request to require the shopping centre to provide dedicated commuter parking in the absence of any applicable planning controls requiring this.

- **Noise**

Concerns were raised with respect to noise impacts to residents of Grace Avenue from the restaurant hours proposed and setbacks of outdoor dining areas to the Grace Avenue frontage.

Comment:

The application includes an acoustic report which includes assessments of noise impacts from the proposed Skypark, outdoor dining areas, child care centre, parking, traffic, mechanical plant, and loading docks. Council's Environmental Health team have reviewed this report, and recommended approval of the application, without any changes to the development, including the proposed outdoor seating.

The acoustic report has found that the proposal will not result in noise impacts beyond the relevant requirements, subject to requiring sound barriers to be constructed at various points (these form part of the proposed plans). However, it is noted that this assessment only assessed the impacts from the outdoor eating areas up to 10pm, and states that should any of the premises be licensed, further acoustic assessment would be required. The application has generally proposed operating hours of up to 11pm for the restaurants and skypark, but up to only 10pm for the Sorlie Place restaurants. Given the assessment carried out, if the application is approved, a condition would be recommended limiting operational hours of restaurants and outdoor seating areas to 10pm in accordance with the acoustic report. All other recommendations of the acoustic report would also be required to be carried out as part of the consent.

The proposed outdoor seating is located adjacent to the north western and north eastern edges of the site, and centrally adjacent to the skypark at first floor level, and a small amount at ground level adjacent to Sorlie Place. The acoustic report has recommended a 1.5m high barrier for the sky park (as shown on the plans). The elevations indicate that the first floor restaurant will be generally enclosed, with a terrace facing towards the north, generally directing noise away from the residences located along Grace Avenue to the west (noting that the neighbours across Russel Avenue to the north are business premises). The acoustic report has found that the noise from this source will be within acceptable limits.

Subject to the conditions discussed above, the proposal is supported.

- **Economic impacts on Glenrose Shopping Centre**

Concerns were raised with respect to the increased floor space proposed, and the potential economic impacts on Glenrose Shopping Centre, consistency with the Hospital Precinct Structure Plan (including impacts on the local road network, and inconsistency with proposed future zoning), and consistency with relevant planning controls, including the objectives of the zone.

Comment:

The application was referred to Council's Strategic Planning department, who were generally satisfied that the amount of commercial floor space proposed was consistent with the Hospital Precinct Structure Plan (HPSP), and generally well within Council projections for expected demand for retail floor space in the greater area. As such, it is not considered that approval of the application would have unreasonable impacts on the general viability of the Glenrose Shopping Centre.

The submission further raised concerns that the HPSP called for the future zoning of the site to be R3 medium density residential land, and should not therefore be considered for expansion of the existing shopping centre on site. The subject site falls under proposed 'phase 3' of the HPSP, and as such any future development in accordance with the HPSP is likely to be long into the future, and there is a relatively high degree of uncertainty whether such rezoning and development would ever take place at all. The current application must be assessed on its merits against the current applicable planning controls. As such, the proposal for alterations and additions to the existing shopping centre is a permissible use in the B2 zone, and has been assessed in this regard.

The proposal has been assessed against all relevant planning matters in this report, and found to be generally acceptable, with the exceptions of the impacts to the local road network, parking, and the front setback to the Forest Way frontage of the site. As such, the application is recommended for refusal based on those matters.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	No objections subject to conditions to ensure compliance with the Building Code of Australia (BCA). It is noted that the proposed development does not fully comply with some requirements of the Building Code of Australia however these matters may be readily determined at Construction Certificate Stage including by way of a 'Alternate Solution' Design where required.

Internal Referral Body	Comments
Environmental Health (Industrial)	<p>General Comments</p> <p>We have reviewed the relevant information including acoustic, contamination and amended plans.</p> <p>It is noted that there is a proposed change to the traffic (flow) in the form of: entry via Forest Way, exit via Russell Avenue. That may impact conclusions made with regard to (future) traffic noise in Russell Avenue. However, as this is an existing access point for the mall, we predict no significant change in traffic noise levels.</p> <p>Those comments and recommendations made in previous referrals are suffice.</p> <p>Recommendation</p> <p>APPROVAL - without conditions</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>Environmental Health have reviewed the amended plans and conclude that existing recommended conditions can be held.</p> <p>Recommendation</p> <p>APPROVAL - without further conditions</p>
Landscape Officer	<p><u>Amended Plans Comment 5/11/2021</u></p> <p>Amended plans indicating additional traffic lane on Forest Way are noted.</p> <p>The result reduces that available area for landscape at the front of the building and provides for no future embellishment opportunities.</p> <p>However, the plans indicate tree planting where possible on the Forest Way frontage.</p> <p>Conditions previously provided are still relevant to the amended plans if the proposal is to be approved.</p> <p><u>Amended plans Comment 08/04/2020</u></p> <p>Amended Plans submitted are noted. No new issues are raised with regard to the amended plans. Conditions as provided are still relevant if consent is to be granted.</p>

Internal Referral Body	Comments
	<p><u>Amended Plans comment 29/11/2019</u> Amended Landscape Plans submitted are noted. The plans as amended address previous comments and are considered satisfactory with regard to landscape and streetscape issues. No objections are raised to approval subject to conditions as recommended.</p> <p><u>Original comment</u> Amended Plans in response to submissions and other comments are noted.</p> <p>The plans indicate a significant amount of landscape works in the road reserves surrounding the site.</p> <p>The landscape concepts provided in the amended General Arrangement Plan ATP-20003 are supported in principle, however as works are proposed in the public domain, amended Landscape Plans should be provided to ensure that proposed works in the road reserve will be viable, in keeping with Council standards and meet public liability risks to an acceptable level. Such plans should also be reviewed by Council's Roads Asserts and Public Trees sections as the responsible asset managers for these areas.</p> <p>It is recommended at this stage that amended Landscape Plans be provided to enable assessment of the implications of the public domain works proposed.</p>
NECC (Development Engineering)	<p>Updated Comments 5/11/2020 The applicant has not submitted the previous further information as requested including the CCTV review/condition report of the western Council downstream drainage network. Additionally the applicant has not provided the minimum information as required by clause 3.1.3 of Councils "On site detention technical specification" which includes detailed stormwater drainage plans and the DRAINS model so Council can review the determination of the post development flows. However as requested by Development Assessment deferred commencement conditions will be drafted to address the above issues.</p> <p>Comments 27/4/20 Downstream drainage impacts. The amended stormwater management as prepared by TTW has been reviewed and the requested report on the condition of the Council downstream eastern drainage infrastructure ie Council</p>

Internal Referral Body	Comments
	<p>drainage lines SPI 06153 (375mm RCP) and SPI 11916 (600mm RCP) has not been provided.</p> <p>This is critical to the connection of the proposed drainage infrastructure within Sorlie Place and Grace Avenue and the site drainage and whether the downstream system is functional and able to handle the additional flows.</p> <p>A CCTV video inspection of the downstream lines including a detailed condition report is required together with confirmation of their locations to complete the referral assessment.</p> <p>Site stormwater/OSD detention.</p> <p>The applicant has not provided the minimum information as required by clause 3.1.3 of Councils "On site detention technical specification" which includes detailed stormwater drainage plans and the DRAINS model so Council can review the determination of the post development flows.</p> <p>Comments 31/12/19 There has been no further stormwater drainage information submitted as requested previously. The application is not supported by Development Engineering. Please see previous referral comments .</p> <p>Comments 24/5/19 There has been no further stormwater drainage information submitted as requested previously. The application is not supported by Development Engineering.</p> <p><u>Original Comments</u></p> <p>The proposed alterations to the existing shopping centre are not supported because of the following reasons:</p> <p>As also advised at the Pre lodgement meeting :</p> <p>The condition of the western Council downstream drainage networks are to be condition assessed by CCTV and engineers report .Where the structural condition of these lines are poor they will need to be replaced or relined in accordance with Councils technical specifications.</p> <p>Gross pollutant traps are to be incorporated into the stormwater drainage design in accordance with Councils stormwater management policy.</p> <p>Site works/excavation of the car parking basements. In accordance with the Sydney Coastal councils " Ground water management handbook" the basement will need to be fully tanked if</p>

Internal Referral Body	Comments
	<p>groundwater is encountered. Any proposed dewatering of the site is to comply with the handbook and Northern Beaches Council requirements.</p>
NECC (Water Management)	<p>Referral comments 21 October 2020 No changes based on revised engineering drawings for driveway alterations.</p> <p>Referral comments 23 April 2020 The revised civil plans, stormwater layout and response to the comments below provided by the applicant have satisfactorily responded to the need to provide a more water sensitive design. The applicant has provided rainwater tanks, which will be used to supply water for landscaping and the green wall. While further effort to increase pervious surfaces would be well regarded, the solution provided will be acceptable. Conditions have been provided.</p> <p><u>Referral comments: 20 December 2019</u></p> <p>The application has been assessed under Warringah DCP 2011 C4 – Stormwater Warringah DCP 2011 C5 – Erosion and Sedimentation Warringah Council PL 850 Water Management Policy Northern Beaches Council Public Domain Design Guidelines</p> <p>The proposed method for treating stormwater runoff is the use of SPEL hydrosystems. While these effectively treat all flows up to the designed bypass, they are not considered water sensitive urban design and do not meet the objectives of Northern Beaches Council for significant developments such as this.</p> <p>The subject site is located in an area marked as Phase 3 of the Frenchs Forest Precinct Development. A significant objective of this precinct is the incorporation of water sensitive urban design elements into building design. This is also a significant objective of Council's current Water Management Policy. Council's policy includes the following principles: <i>"Integrate water sensitive urban design measures into the built form to maximise amenity"</i> <i>"Encourage the reuse of water and alternative water sources"</i> <i>"Align development controls with the objectives of the Water Sensitive Warringah Strategic Plan".</i></p> <p>SPEL Hydrosystem filers do not reduce the quantity of runoff, and therefore do not minimise the impacts of increased flows or extended</p>

Internal Referral Body	Comments
	<p>periods of flows (due to detention facilities). By using green infrastructure such as bio-filtration, permeable paving and green walls to treat stormwater runoff, additional water will infiltrate and evaporate, thus reducing the quantity of runoff and therefore reducing erosion of the downstream catchment. The proposal includes the use of green walls, however they have missed an opportunity for treatment by irrigating them with the potable water supply.</p> <p>Council's Public Domain Guidelines B.1.14-18 Street Trees, WSUD and Landscape Treatments recommend that street tree surrounds be designed to incorporate WSUD to receive water runoff, WSUD treatments be incorporated in public spaces, and planted or turf verge treatments used to reduce paved surfaces and provide separation between the footpath and roadway (to reduce runoff to the gutter). There is sufficient landscaped areas around the perimeter of the development to incorporate these recommendations. Plantings in bio-filters do not need to be specifically directed at water treatment; there are many suitable native ornamentals that may be considered (see https://waterbydesign.com.au/wsud-plant-database/bioretenion-plants).</p> <p>The applicant must:</p> <ol style="list-style-type: none"> 1. Provide a MUSIC model for the development (.sqz file) 2. Revise the stormwater treatment strategy to incorporate additional green infrastructure (WSUD) elements rather than relying entirely on filter devices. Using the proposed green walls to reuse stormwater, and incorporating tree pits, infiltration strips and permeable paving is strongly encouraged.
Parks, reserves, beaches, foreshore	Council reserve abuts the south eastern corner of the subject site. This reserve contains a community building and landscaped area. The proposed development does not impact on the reserve area, noting that the existing driveway access to the community building will be maintained.
Property Management and Commercial	The Property Team has no issues with the proposal as submitted. Any new development must retain the existing entry and exit access over part of the site for the adjoining Council Youth Centre facility.
Road Reserve	16/11/2020 - Most of our concerns are covered by Traffic Engineers. Any proposal to concentrate traffic on local roads by modifying existing access points, require strengthening of road pavement to cater for increased traffic condition. Pedestrian and other traffic facilities also require improvement to cater additional pedestrian and vehicle traffic.

Internal Referral Body	Comments
	<p>1/6/2020 - no details of shelter for bus passengers on Forest Way show on plans</p> <p>Provision for bus passengers is to be noted on the plans including the location of Council's bus shelters. The works shall not impact on Council's DA approved bus shelters at the Forest Way bus shelter, noting that Council is in receipt of a revenue stream from advertising panels (pending installation). Council approval to be sought for any works impacting on Council's street furniture.</p> <p>Earlier Comments:</p> <p>In reviewing plans dated 17 December 2019, the number of road infrastructure impacts are noted although not considered significant although RMS will need to approve any works on Forest Way.</p> <p>The impacts of changes can be conditioned by Council's Development Engineering and Certification Team should the proposed development be approved, noting that Council has an Development Consent for advertising bus shelters on Forest Way. Any impact on Council's bus transport infrastructure on Forest Way will need a Road Act Consent and similarly for any changes to infrastructure on adjacent local roads.</p>
Strategic and Place Planning	<p>ADDITIONAL INFO RECEIVED – 11/09/2020</p> <p>The amended plans dated October 2020 demonstrates revised vehicular access arrangements to the subject site. Access arrangements include Forest Way (left in), Russell Avenue (entry/exit) and Grace Avenue (entry/exit). The new access arrangements off Russell Avenue are proposed to be in the same position as existing access.</p> <p>As part of the Hospital Precinct Structure Plan, it is proposed to close Russell Avenue and extend Naree Road through to Grace Avenue. Comment from Council's Traffic Engineers would be required on the Russell Avenue access and whether this is considered appropriate given future closure of the intersection.</p> <p>The proposal is supported provided concurrence is received from RMS and Council's Traffic Engineer on the traffic and transport matters.</p>

Internal Referral Body	Comments
	<p>ADDITIONAL INFO RECEIVED - 16/03/2020</p> <p>The amended plans include an amended Structural Engineering Statement dated 12 March 2020 which reflects the current architectural plans and confirms that the structural design can accommodate future residential apartments as identified in Council's Hospital Precinct Structure Plan. Strategic Planning is satisfied that the Statement provided verifies that the design is able to allow for future growth.</p> <p>In regards to the urban design of the south-eastern corner, Council's Urban Design comments is to be referred to.</p> <p>The proposal is supported provided concurrence is received from RMS and Council's Traffic Engineer on the traffic and transport matters.</p> <p>ADDITIONAL INFO RECEIVED - 30/01/2020</p> <p>The amended plans dated October 2019 demonstrate a number of changes in response to Council's previous referral comments. Of note is the provision of a 3.5m setback and readjusted property boundary along Forest Way to accommodate future road widening as discussed at the meeting on 23 August 2019. This is supported.</p> <p>The amended plans are also supported by a Structural Engineering Statement prepared by a qualified Structural Engineer which verifies that provision will be made in the design of the structure (footings and columns) to accommodate residential towers located above the shopping centre to a maximum height of 40m. However, further information is required in the Statement to confirm that this advice reflects the current architectural plans dated October 2019.</p> <p>In regards to the south-eastern corner, the comments by Council's Urban Designer (16/01/20) are supported. Further improvement can be accommodated should a major re-design be required (if RMS concurrence is not granted) by shifting the main pedestrian entrance further south where the HPSP indicates a pedestrian/cyclist overpass and a Green Link along Holland Crescent. Primary vehicular egress/exit would be focused towards the rear of the site at Grace Avenue. This would be supported by the proposed traffic infrastructure upgrades identified as part of the HPSP work. Despite the above comments, the proposal can be supported if concurrence from RMS and Council's Traffic Engineers is granted.</p>

Internal Referral Body	Comments
	<p data-bbox="531 315 1038 344">PREVIOUS COMMENTS - 16/01/2019</p> <p data-bbox="531 360 1075 389">STRATEGIC PLANNING ASSESSMENT</p> <p data-bbox="531 398 987 427">Discussion of reason for referral</p> <p data-bbox="531 510 1374 611">The application has been referred as the subject site is identified within Phase 3 of the Hospital Precinct Structure Plan (2017), adopted by Council on 1 August 2017.</p> <p data-bbox="531 651 1390 752">The site is currently zoned B2 Local Centre under Warringah LEP 2011 and development consent is required for the partial redevelopment and expansion of the Forestway Shopping Centre.</p> <p data-bbox="531 831 1390 898">Hospital Precinct Structure Plan and Frenchs Forest Planned Precinct</p> <p data-bbox="531 976 1406 1178">Council has adopted the Hospital Precinct Structure Plan (HPSP) to guide future land use planning decisions in Frenchs Forest over the next 20 years. Whilst this is not a statutory document, Council is working with the NSW Department of Planning and Environment to implement Phase 1 of the HPSP into the statutory planning framework as part of the Frenchs Forest Planned Precinct project.</p> <p data-bbox="531 1223 1406 1357">The subject site is identified for uplift in Phase 3. Phase 3 is dependent on the delivery of significant regional infrastructure such as The Beaches Link Tunnel and/or an east-west bus rapid transit system from Chatswood to Dee Why.</p> <p data-bbox="531 1435 935 1464">Consideration of Application</p> <p data-bbox="531 1514 1406 1749">The Application is for the partial redevelopment and expansion of the Forestway Shopping Centre. In particular, the development proposes to expand the existing retail gross leasable area (GLA) from 9,577sqm to 21,593sqm (additional 12,016sqm), increase the number of car spaces from 348 to 741 spaces (additional 393 spaces) and provide a new signalised intersection and revised egress/ingress to Forest Way.</p> <p data-bbox="531 1794 1142 1823">Matters for consideration are discussed below.</p> <p data-bbox="531 1861 663 1890"><u>Land Use</u></p> <p data-bbox="531 1899 1406 2063">No issues are raised with the proposed land uses and expansion of the retail GLA. As part of the HPSP, an economic impact assessment demonstrated that the proposed additional GLA could be accommodated alongside the future town centre with no major impacts to the Frenchs Forest trade catchment.</p> <p data-bbox="531 2107 1406 2136">It is considered that the expansion of this local shopping centre is a</p>

Internal Referral Body	Comments
	<p>logical response to a growing population and changing consumer demands. The proposal includes a restaurant/recreation precinct, child care, medical, office and gym components, in addition to increased retail floor space. The proposal creates a wider range of non-retail uses that will widen employment opportunities and services.</p> <p>With regards to the future residential outcomes for the site envisaged in the HPSP, the proposal incorporates structural elements (appropriately sized columns etc.) to allow for future residential towers above. Council's Strategic and Place Planning Team cannot support the application in its current form without the submission of a Structural Engineers Report (prepared by a suitably qualified Engineer) in order to verify that the proposed building design can accommodate residential towers above (as specified in the HPSP – maximum building height of 40m, maximum 2.2:1 FSR).</p> <p><u>Vehicular Access</u> Vehicular access and associated roadworks will need to be resolved with Council's Traffic Engineers and Roads and Maritime Services.</p> <p>The development proposes a new signalised entrance on Forest Way to the north of the existing vehicle access comprising one access driveway and three egress lanes, with left-in/left-out and right out traffic movements. Vehicular access is also proposed at Grace Avenue comprising a single entry and two exit lanes.</p> <p>In relation to the HPSP, Council is proposing the closure of Russell Avenue, upgrades to Grace Avenue and the extension of Naree Road across Forest Way to facilitate Phase 2 and 3 developments. This has been modelled extensively and is considered to be the most appropriate traffic solution for the broader transport network. The proposed new signalised intersection at Forest Way would compromise this arrangement and is inconsistent with the HPSP. Council's Strategic and Place Planning Team cannot support the application in its current form without concurrence from RMS and Council's Traffic Engineers on the proposal's traffic arrangement.</p> <p><u>Pedestrian Access</u> Pedestrian connectivity to the future town centre should be maximised. The design of the shopping centre should optimise future pedestrian connectivity to the town centre, and the most direct route would seem to be where the existing crossing is and where the HPSP indicates a pedestrian/cyclist overpass and a Green Link along Holland Crescent.</p> <p>The proposal does not offer a good design outcome in terms of this future connectivity. The main pedestrian entries to the shopping centre from surrounding footpaths are located off Russell Ave (near the intersection with Forest Way) and around the back off Sorlie</p>

Internal Referral Body	Comments	
	<p>Place. Only a minor entry via a convoluted path that passes by services, ramps, and the side wall of Woolworths is provided at the site's south-eastern corner to Forest Way. In addition, there is the potential for conflicts between pedestrians and vehicles, particularly as this access point is at a high volume traffic area, being Forest Way. The design could be improved by allowing for a more legible, outward-looking pedestrian entry to the shopping centre with a well-defined, convenient and separated pathway connecting to and across Forest Way to the future town centre.</p> <p>Council's Strategic and Place Planning Team cannot support the application in its current form unless the proposal is redesigned to maximise pedestrian connectivity and safety at Forest Way to the future town centre.</p> <p>In conclusion, the application cannot be support in its current form unless the following matters are addressed:</p> <ol style="list-style-type: none"> 1. The provision of a Structural Engineer's Report (prepared by a suitably qualified Engineer) in order to verify if the proposed building design can accommodate residential towers above (as specified in the HPSP – maximum building height of 40m, maximum 2.2:1 FSR); 2. Concurrence from RMS and Council's Traffic Engineers on the proposal's traffic arrangement; and 3. Re-designing the south-eastern corner to maximise pedestrian connectivity and safety at Forest Way to the future town centre. 	
	Other/Further Strategic Investigations	
Greater Sydney Region Plan	Y	The proposal provides additional jobs, goods and services in the Frenchs Forest Strategic Centre.
North District Plan	Y	The proposal provides new businesses, diversifies the range of activities to support a future health and education precinct and reinforces the centre as an employment hub, which addresses Action 29, 35 and 36.
Northern Beaches Hospital Precinct Structure Plan	N	The proposal is inconsistent with the R3 Medium Density Residential zone proposed for the site, which would prohibit commercial premises.
	Further Comments	
	COMPLETED BY: Maxine Szeto, Principal Planner	

Internal Referral Body	Comments	
	<p>DATE: 16 January 2019</p>	
<p>Strategic and Place Planning (Heritage Officer)</p>	<p>HERITAGE COMMENTS</p>	
	<p>Discussion of reason for referral</p>	
	<p>This application has been referred as it is within the vicinity of listed heritage items, being: <i>Item I59 - Dental Surgery - 45 Grace Avenue, Frenchs Forest,</i> and <i>Item I58 - Former Methodist Church - 21A Forest Way (corner with Naree Road)</i> which are both listed in Schedule 5 of Warringah Local Environmental Plan 2011.</p>	
	<p>Details of heritage items affected</p>	
	<p>Details of the heritage items in the vicinity, as included in the Warringah Heritage Inventory are: <i>Item I59 - Dental Surgery - 45 Grace Avenue, Frenchs Forest</i> <u>Statement of Significance</u> An excellent representative example of the inter-war functionalist style, designed to exploit its prominent corner location. Displays high integrity with substantial original fabric (including fence).Historically, one of the earliest houses in the area. <u>Physical Description</u> Substantial single storey dwelling designed to address corner. Rendered masonry walls with high parapet. Symmetrical design with angled curved bays and projecting entry bay centrally located. Strong string courses above & below metal windows. Original fence. <i>Item I58 - Former Methodist Church - 21A Forest Way (corner with Naree Road)</i> <u>Statement of Significance</u> Built in 1918, the former Methodist church is of historical significance as one of the first churches built in Frenchs Forest. It is however, only moderately intact. <u>Physical Description</u> Modest brick church of simple design with steep pitched metal gabled roof. Additions to rear of building. Original facade was replaced with a matching brick wall in the 1950's when the building was shortened.</p>	
<p>Other relevant heritage listings</p>		
<p>Sydney Regional</p>	<p>No</p>	<p>Comment if applicable</p>

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	Environmental Plan (Sydney Harbour Catchment) 2005	
	Australian Heritage Register	No
	NSW State Heritage Register	No
	National Trust of Aust (NSW) Register	No
	RAIA Register of 20th Century Buildings of Significance	No
	Other	No
Consideration of Application		
<p>This application is for substantial alterations and additions to the existing Forest Way shopping centre. These comments have also reviewed the amended plans provided in March 2020.</p> <p>The heritage item at 45 Grace Avenue is close to the proposed development, being located on the opposite corner of Russell and Grace Avenues. The proposal involves demolishing the existing buildings on this corner and constructing a new 2 storey building above car parking, as part of an extension and revitalisation of the existing shopping centre. The proposal will increase the scale of development on the opposite side of Russell Avenue, but will not materially affect the heritage item, nor interfere with any views of the heritage item from the public domain. This heritage item is located on a prominent corner, set back and designed to address this corner site. However, it is considered that the proposal will not impact upon the setting of this heritage item, nor its visibility from the public domain. The heritage item will actually gain greater visibility from the proposed new development, given the design which features glazing on the Russell Ave facade.</p> <p>Therefore it is considered that the proposal will not have an adverse impact upon the heritage significance of the heritage item at 45 Grace Ave.</p> <p>The other heritage item in the vicinity is the former Methodist church on Forest Way (cnr Naree Road). This item is located 80 metres away from the development site and on the opposite site of Forest Way. Because of this separation, there will be no material or visual impact on this heritage item as a result of this proposal.</p> <p>In conclusion, no objections are raised on heritage grounds and no conditions are required.</p> <p>Consider against the provisions of CL5.10 of WLEP 2011 Is a Conservation Management Plan (CMP) Required? No Has a</p>		

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	<p>CMP been provided? N/A Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? N/A</p> <p>Further Comments</p> <p>COMPLETED BY: Janine Formica, Heritage Planner DATE: 6 March 2020 (revised 2 April 2020)</p>
Strategic and Place Planning (Urban Design)	<p>URBAN DESIGN REFERRAL 29/10/2020 - ADDITIONAL INFORMATION RECEIVED 11/09/2020</p> <p>The revised drawings received in October 2020 document changes to the road carriageway in response to requirements for future proofing the traffic network in accordance with the requirements of RMS. Urban Design comments seek to address only the urban design issues that are a consequence of the additional carriageway not the carriageway itself.</p> <p>It is noted that an additional carriageway running north/south on Forestway has been extended further to the west boundary alignment of the Forestway elevation. Comments and amendments in previous referrals sought an increase in the provision of adequate circulation spaces along this frontage, noting that in the future this will be a key circulation node for the centre.</p> <p>The additional lane to the road carriageway will reduce pedestrian circulation and pathways to the Forestway frontage. Without any further relative set back of the building line, this reduces the pedestrian paths and circulation zone to a minimum standard; that which we sought to rectify in previous referral comments.</p> <p>The fact that this will be a major bus set down with many pedestrians both alighting and waiting and circulating along this zone demonstrates little consideration to the development holistically. The road carriageway amended in isolation to the frontage and precinct as a whole is ill considered with little thought given to the projected future pedestrian activity or good urban design outcomes.</p> <p>The significantly reduced pedestrian paths, circulation zones and landscape treatments along the Forestway frontage will result in a hostile environment. The reduction in planting to the Forestway Russell street alignment have all been significantly reduced to the</p>

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	<p>point one would question the ability to achieve any buffering, significant tree canopy or relatively decent interface between building, circulation and roadway. This is not a small building and will be a significant community space into the future. Further forethought and consideration of a good design outcome should be acknowledged and demonstrated in the documentation.</p> <p>Urban Design would seek to have the previous dimensions and layout of the forecourt frontage running along Forestway and moving around the corner into Russell Street; pedestrian paths, planting beds and circulation zone re-instated to the previous planning layout arrangement and dimensions shown on comparative analysis drawings by way of pulling the building line back to accommodate the previous public realm scheme and layout. Refer dot point 1 below which refers to an 8m minimum setback comprising 3.5 pedestrian paths, 3.4m planting bed with a residual 1m which would allow for varying alignments and clearance from building edges.</p> <p>END</p> <p><u>Planners Comment:</u> The front setback to the Forest Way frontage has been included as a recommended reason for refusal, in accordance with the comments above. It should be further noted that the subdivision plan provided by the applicant to comply with the TfNSW requirements appears to leave no future room for any front setback along Forestway, and very minimal landscaping.</p> <p>URBAN DESIGN REFERRAL 13/04/2020</p> <p>The revised drawings submitted have addressed the previous Urban Design Officer comments as follows;</p> <p>1. Pedestrian Entry off Forestway Resolved entry sequence rationalising the accommodation/tenancy envelopes with widening of the pinch point at the top of the disabled ramp can be supported. However it would seem with the widening of the pedestrian path and pushing back into the boundary and a slight adjustment of tenancy floor areas to the north eastern sector of the development, the north south pedestrian axis internal to the site has reduced by about 3m; down from 11m to 8m approx. Whilst less circulation space here is not ideal it can be seen that the amendments to the general planning demonstrating an increased amenity for the entry square and consolidation of the internal planning edges and circulation are resolved and can be supported.</p> <p>2. Facade Treatment With the front facade now hard up to the pedestrian path and circulation paths to the streetscape of Forestway careful consideration should be given to the treatment and potential finer grain detail of the platform/podium face to the streetscape, the platform/podium being a result of the change in levels from street to the centre proper. The presentation to the street at this level is important as it relates to the</p>

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	<p>user experience of the centre. Blank hard walls that present at this scale should be avoided so as not to encourage graffiti, loitering or other such behaviours.</p> <p>The finer grain detail needs to address the human scale along this very prominent street edge condition.</p> <p>3. Overhead Pedestrian Connection to New Frenchs Forest Town Centre</p> <p>It is noted that precedent images in the Report by Urbis reference the suggested future overhead connection on Forestway between the two development centres. Whilst it is referenced as a potential treatment it does not demonstrate the connection/contextual relationship with the proposed design and as such cannot be commented upon in the context of this DA. There are several different typologies of overhead bridges in the vicinity of the locality, both good and bad. It is acknowledged that the reference is of a higher design standard with more attention paid to the user experience through the design outcomes. Further development of the design of this element of the Forestway centre would require to be assessed independently of this DA and ideally would be based upon drawings that demonstrate the actual context of the resolved Forestway design.</p> <p>END COMMENTS</p> <p>URBAN DESIGN REFERRAL 16/01/2020</p> <p>As previously noted the proposed development can generally be supported. However revisions to amend issues that have not as yet been adequately addressed will require amendments to satisfy the urban design officer.</p> <p>Pedestrian Entry off Forest Way</p> <p>Previous comments provided (see dot point 6 below) are still unresolved in the current drawings. Whilst there have been some amendments the entrance to the centre from Forest Way is still lacking in adequate circulation coming off the ramp from the street into the complex/centre. The tenancy on the southern side of the entrance encroaches into the top of the ramp circulation zone leaving very little room for the quantum of pedestrians entering the centre. Deletion of this tenancy will allow for the creation of an adequate circulation zone for both access and egress.</p> <p>The significance of the entry gesture to this street frontage cannot be understated. The length of frontage to the Forest Way elevation in terms of scale and proportion is significant enough to warrant additional circulation area, opening up the centre to provide a more generous entry sequence and street address that is identifiable.</p> <p>END COMMENTS 16/01/2020</p>

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	<p>PREVIOUS COMMENTS REFERENCED IN CURRENT REFERRAL ABOVE (COPIED HERE FOR EASE OF REFERENCE)</p> <p>6. Forest Way Pedestrian Access and Entry As the site is bounded by street frontages, all with different methods of approach, scale, permeability and pedestrian access, careful consideration of each of the entrances and their relative adjacent roads and edge conditions is required to address the context and user amenity at the pedestrian scale.</p> <p><i>STATEMENT OF ENVIRONMENTAL EFFECTS - URBIS</i> <i>The building is orientated towards the street frontages, however the key improvement from the existing is the interface with Forest Way; a prominent road within the LGA. The orientation of the built form to this street frontage:</i></p> <ul style="list-style-type: none"> <i>– Reflects the retail nature of the use allowing high visual exposure;</i> <i>– Increases glazing and natural surveillance from the ground level retail and level 1 gymnasium; and</i> <i>– Increases activation of the local area through the transformation of a currently uninspiring and monolithic frontage and providing a pedestrian through link into the centre (and accommodated a future link to the east to the new Frenchs Forest town centre)</i> <p>RESPONSE There is a pedestrian access point to the centre off Forest Way which will provide access for pedestrians utilising the public transport connection on Forest Way and peripheral links surrounding the centre. The entrance gesture provided demonstrates little wayfinding tactics in the planning and design, and is not clearly delineated as a major entry point from the full length glazed façade at the lower level. A more generous treatment to the entrance on this street frontage is recommended so as to provide a clearer wayfinding treatment and welcome gesture to the entrance off Forest Way. Pedestrians accessing the centre from Forest Way are met with BOH, blank walls, circulation stairs and lifts that feed into an enclosed lobby. Whilst signage may direct pedestrians, preference would be to open this access to the internal light filled courtyard/atrium of the centre, providing visual and through site links and a more open and welcoming entry gesture to the centre. The lift and circulation can be maintained but further incorporation into the overall planning at a fine grain level of detail is required. They are not major changes but a more sympathetic approach to the planning of the entrance off this street is required.</p> <p>The opportunity to open up the internal experience to the greater landscape should be considered with planting that provides green links and through site visual connections. The build to line street edge interface needs further consideration and design detail to address pedestrian legibility, sense of arrival and pedestrian scale issues. Attention to these details will be required to be submitted prior to approval.</p> <p>Visual and Pedestrian permeability as discussed in the architectural design statement nominates all entrances to have a visual and</p>

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	<p>pedestrian permeability to the central shopping zones.</p> <hr/> <p>PREVIOUS COMMENTS</p> <p>The revised drawings submitted in response to the Urban Design com Officer. The amended development proposal can be supported. END COMMENTS</p> <p>The proposed development is partial demolition and extensions to the</p> <p>The proposed development in its current form cannot be supported for</p> <p>URBAN DESIGN SUMMARY</p> <p>The current Development Application was subject to a pre-lodgement Design Officer review and comment on the urban design implications o in relation to urban design, built form and planning to be addressed in s The following comments address previous issues that have been satisf form, material and planning issues that, through the provision of further supported.</p> <p>General Comments Pre-Lodgement</p> <p>1. WLEP Building Height <i>Statement of Environmental Effects</i> <i>Lift overrun on Forest Way: +12m</i> <i>Built form: +12m (projections above height plane include shade sails, li</i> <i>Variable range from 1.97m to 4.98m above the 12m standard</i></p> <p>RESPONSE</p> <p>The pitched roof form's exceedance of the building height can be supp typology through its reflection and contemporary expression of the clus residential context. The architectural form and style does not present a with its unique expression.</p> <p>The roof typology sits relatively sympathetically with the surrounding st that reflects the bulk and scale of the adjacent low rise development an</p> <p>The increased 2m setback to address the street activation and permea Similarly the northern segment of Sorlie Place activation with the use c as a welcoming gesture whilst providing a fine grain approach to the ec This is a less harsh environment than the Forest Way elevation and as landscape and hard surface edge activation and treatment further arou</p> <p>Forest Way elevation requires further development to activate the grou The current planning at this street interface cannot be supported. See f</p> <p>Pedestrian Access</p> <p>Incorporating existing laneways, arcades and new cross-block links int vibrancy of a development. These spaces increase opportunities for co</p> <p>3. Sorlie Place</p> <p>The Sorlie Place treatment at the pedestrian and building interface is s pedestrian street interface is required as follows.</p>

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	<p>General Entrance Sorlie Place Sorlie place is a secondary entrance and provides a more pedestrian scale interface to the shopping centre, with local residents being the more likely the predominant users of this entry point. Currently the landscape treatment at the edge condition is broken up by some car spaces that sit directly in front of the centre's entrance. Building lines, in particular the 'back of house Woolworths façade and the post boxes are silent on the contribution to the public domain at this point with token landscape treatment provided and 2 metre wide pedestrian path at the building line. A continuous and connected trellis treatment as with the northern segment of Sorlie Place would assist this public interface to read as a holistic response, thus creating a more legible pedestrian zone. Widening of the 2 metre pedestrian path will be required to be demonstrated on the drawings.</p> <p>A more generous response that treats the whole arc of the bounding area to the carpark should be further explored. The opening up of the Woolworths façade as a second entry would provide enhanced convenience for the rapid shopper wishing to gain entry at this point rather than having to enter the entire facility. Similarly the other building edges on this arc are hard up to the edges and rectilinear in form and provide no sense of entry or welcoming gesture. This could be resolved by increasing the width of the pedestrian path/zone and pulling back the building lines.</p> <p>The northern segment of this arc with restaurant and Chargrill Charlies has a narrow doglegged corridor that resembles a back of house corridor to access the centre rather than an access point to the central shopping zone and atrium area. Further amendments to the design should consider the arcade typology providing a more generous and accessible entry to the main shopping complex; a secondary arcade in the hierarchy of pedestrian through site links and access to the central shopping atrium.</p> <p>Landscape Treatment Sorlie Place The bold line and curve radii of the landscape edge condition and planter beds is generally supported for its consideration of pedestrian scale and the provision of informal seating for centre users. Material selections are supported for their robust simplicity and consideration of occupation and circulation movement creating a more permeable pedestrian scale to this zone of the centre.</p> <p>4. Grace Avenue The proposed green walls along the Grace Avenue elevation which serve to both mask the back of house services and access zones and also provide acoustic attenuation can be supported. Strategies that ensure drought tolerance species are represented in the final construction along with the extent of the coverage of the green walls are recommended.</p> <p>5. Russell Avenue and Forest Way The permeable treatment of the Russell Street and Forest Way corner</p>

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	<p>provides for a welcoming approach to the centre. Visual cues to the urban context of low rise residential responds to the predominant building typology sympathetically. The architectural design intent is supported. The removal of driveways on Russell Avenue activating the pedestrian permeability and retail edge is also supported. Similarly the treatment and material response of the façade on Forestway responds to the harsh context by way of material selections and articulation which is generally supported. However further design resolution and details will need to be provided by way of further information to support the proposed development.</p> <p>6. Forest Way Pedestrian Access and Entry</p> <p>As the site is bounded by street frontages, all with different methods of approach, scale, permeability and pedestrian access, careful consideration of each of the entrances and their relative adjacent roads and edge conditions is required to address the context and user amenity at the pedestrian scale.</p> <p><i>STATEMENT OF ENVIRONMENTAL EFFECTS - URBIS</i></p> <p><i>The building is orientated towards the street frontages, however the key improvement from the existing is the interface with Forest Way; a prominent road within the LGA. The orientation of the built form to this street frontage:</i></p> <ul style="list-style-type: none"> <i>– Reflects the retail nature of the use allowing high visual exposure;</i> <i>– Increases glazing and natural surveillance from the ground level retail and level 1 gymnasium; and</i> <i>– Increases activation of the local area through the transformation of a currently uninspiring and monolithic frontage and providing a pedestrian through link into the centre (and accommodated a future link to the east to the new Frenchs Forest town centre)</i> <p>RESPONSE</p> <p>There is a pedestrian access point to the centre off Forest Way which will provide access for pedestrians utilising the public transport connection on Forest Way and peripheral links surrounding the centre. The entrance gesture provided demonstrates little wayfinding tactics in the planning and design, and is not clearly delineated as a major entry point from the full length glazed façade at the lower level. A more generous treatment to the entrance on this street frontage is recommended so as to provide a clearer wayfinding treatment and welcome gesture to the entrance off Forest Way. Pedestrians accessing the centre from Forest Way are met with BOH, blank walls, circulation stairs and lifts that feed into an enclosed lobby. Whilst signage may direct pedestrians, preference would be to open this access to the internal light filled courtyard/atrium of the centre, providing visual and through site links and a more open and welcoming entry gesture to the centre. The lift and circulation can be maintained but further incorporation into the overall planning at a fine grain level of detail is required. They are not major changes but a more sympathetic approach to the planning of the entrance off this street is required.</p>

Internal Referral Body	Comments
	<p>The opportunity to open up the internal experience to the greater landscape should be considered with planting that provides green links and through site visual connections. The build to line street edge interface needs further consideration and design detail to address pedestrian legibility, sense of arrival and pedestrian scale issues. Attention to these details will be required to be submitted prior to approval.</p> <p>Visual and Pedestrian permeability as discussed in the architectural design statement nominates all entrances to have a visual and pedestrian permeability to the central shopping zones. However the drawings demonstrate there is still minimal permeability to the Forest Way entrance as well as hard back of house edges to the Sorlie Place elevations demonstrated in the hard edge line of the Woolworths elevation along with the post boxes and other circulation elements. Efforts to address a more amenable design the express the sequence of entry and enhanced visual and pedestrian through connectivity will be required.</p> <p>6. Façade Materials Forest Way</p> <p>A question around the use of 'perforated concrete' is raised in that pre-cast concrete panels are typically reinforced. Further details are required to ensure that what is approved can be represented in the final built form. What is implied by the drawings and material palette is that a Cemintel or similar fc or other perforated type panel treatment that is typically applied as a panelised system is inferred. Confirmation of the actual materiality and construction methodology is required in order to accurately assess the building in the context life expectancy of the built form; expressed joints and fixing system details should be identified in the final façade expression if it is a panelised application system. Or if it is a reinforced concrete panel system, how the perforation is achieved. There is no indication of the materiality of the blank panels to the elevation on the Forest Way proper. A perspective drawing shows one of the panels as being designed with an etched panel design. Confirmation that the whole façade will receive the same treatment is required in order to confirm what is assessed and approved will be constructed across the entire façade system in the final built form and not just the single panel as indicated in the perspective drawing.</p> <p>Refer Statement of Environmental Effects (SEE) Figure 11, Page 43.</p> <p>Built Form Controls</p> <p>7. WLEP 2011</p> <p>Height of Buildings - Non Compliances</p> <p>The exceedance of the building height control nominated in the SEE of between 1.97 – 4.98m is generally supported in view of potential future uplift in the area. Noting that the exceedance exists by virtue of the parapet / upstand wall to the carpark area on the roof and the unique gable roof design the exceedance is considered minor and thus supported.</p> <p><i>STATEMENT OF ENVIRONMENTAL EFFECTS - URBIS</i> <i>Portions of the proposed development do not comply with the 12metre</i></p>

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	<p><i>height standard with the greatest exceedance and maximum building height of 16.89 metres to the top of the lift overrun adjacent to the Forest Way frontage. The areas of non-compliance relate to the lift overruns, roof plant, shade sails, car park upstand and pitched architectural roof forms. Importantly the building, including any areas of GFA are below the 12m building height.</i></p> <p>RESPONSE</p> <p>It was noted in the pre-lodgement meeting the height exceedance needed to be addressed. Subsequent drawings received with the development application clearly further develops the architectural intent and design through articulated and reduced massing and bulk and materials strategies revealing a further height exceedance with no reduction in the lift overrun.</p> <p>The height exceedance can be supported when considering the articulation of the exaggerated gable roof form in that there are points of the angled roof form/valley gutters that fall equally below the maximum allowable building height. The expressed form of the roof and it's relation to context outweighs the non-compliance and can be supported.</p> <p>Grace Avenue elevation shows a greyed out building form behind the treated elevations.. Further developed drawings need to indicate/ annotate accordingly if this mass of building is part of the proposed development or other buildings in the background and heights of these buildings annotated accordingly.</p> <p>8. WDCP 2011 Setbacks</p> <p>The provision of the increased setback as outlined in the SEE is supported. However as discussed in regards pedestrian access on Forest Way, the further increase of a setback zone to the building line or a splayed/chamfered edge to the entrance off Forest Way is recommended to increase the circulation, pedestrian amenity, clear wayfinding strategies /welcome address and through site links into the centre proper.</p> <p>Similarly further setbacks of the building line on Sorlie Place to increase footpath widths is required to be demonstrated on drawings.</p> <p>9. Pedestrian Connection to Future Frenchs Forest Town Centre</p> <p><i>STATEMENT OF ENVIRONMENTAL EFFECTS-URBIS</i></p> <p><i>The design allows for incorporation of a possible future residential scenario as envisaged in NBHSP structure plan, including provision of 600-900mm columns, flexibility in leases and workable orientation and design which could have the ability to comply with the ADG. The design also allows for connection to the potential for future green link. It is noted that there is no certainty at this stage or any amendments to controls exhibited or gazetted, so a residential outcome is speculative at best as this stage.</i></p> <p>RESPONSE</p>

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	<p>Strategic Planning has provided a response to the adopted Frenchs Forest Hospital Precinct Structure Plan (HPSP). It was noted in the pre-lodgement response from Council's Urban Design Officer that the proposed development should consider the future connections to the HPSP to provide connections to the new Frenchs Forest Town Centre. The SEE notes that <u>'design also allows for connection to the potential for future green link'</u>.</p> <p>Opportunities to address the potential future link and how this is addressed in the design needs to be demonstrated through analysis of the context showing how the building/ground plane might adapt to address this connection. Demonstration that minimal construction changes to the proposed DA would render some parts of the current development redundant or result in substantial changes to the approved DA.</p> <p>We note that drawings still show no indication of how this will be achieved.</p> <p>Consideration of the potential inclusion of this link in the future to connect pedestrians and cyclists is to at least consider the impacts on the proposed DA.</p> <p>Refer to the Strategic Planning comments regarding future connectivity to the Frenchs Forest New Town Centre.</p> <p>The current design and lack of details demonstrating future connectivity to the future town centre needs to be reconsidered in the design outcomes for the proposed development. Design revisions demonstrating how the current design addresses future connectivity should be demonstrated on the drawings and resolved as a holistic response to the desired future character and the HPSP.</p> <p>10. Southern Elevation Woolworths Building Adjacent School Open Space</p> <p>There is an opportunity to address the open space adjacent to the Frenchs Forest Primary School through the use of detailed panel systems, public art or other strategy to provide a civic response to the public space and urban realm. The wall currently reads as a blank wall that turns its back to the open space.</p> <p>Further details providing options to treat this façade will be required. Northern Beaches Draft Arts and Creative Strategy 2019 outlines the vision and outcomes to enhance wellbeing and build social cohesion; Better Places and Spaces.</p> <p>Urban Design, Architecture and Public Art has a 40% participation rate demonstrating the opportunities for the contribution to the urban realm is driven by the population of the local government areas' residents.</p> <p>11. Sustainability</p> <p>The sustainability report submitted with the DA indicates the proposed developments' targets meet with the minimum requirements of the NCC for sustainable development. Whilst the feasibility of Green Star Certification is not a requirement design and systems demonstrating best practice Green Star achievement for the centre is highly recommended to be demonstrated. Some of the strategies associated</p>

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	<p>with passive design have been addressed in the current design however further strategies to increase a sustainable response to the whole of site include, but are not limited to;</p> <ul style="list-style-type: none"> - Layered facades, operable windows, natural ventilation - Building setbacks, glazing, light wells and skylights - Laneways and cross block links <p>CONCLUSION: The proposed development in its current form cannot be supported. Design amendments in the form of further information are required to address the planning and Design concerns raised herein.</p> <p>FURTHER INFORMATION REQUIRED ;</p> <ol style="list-style-type: none"> 1. Design amendments to the Forest Way entrance at pedestrian level to provide through site connections to the central atrium of the centre proper. 2. Design consideration of future pedestrian connectivity to the new Frenchs Forest town centre demonstrating pedestrian and cycle connectivity can be achieved from Forest Way. Drawings showing connections to new town centre Green Streets. 3. Report from structural engineer indicating structural systems are designed to consider retrofit of future uplift as per the strategic planner's comments. 4. Design and feasibility consideration to address the Woolworths blank wall through public art or treated façade articulation addressing the public realm/open space. 5. Elevational drawings showing extents of façade concrete ornamental treatments will be required.

Internal Referral Body	Comments
Traffic Engineer	<p>Parking:</p> <p>The applicant shall not consider the parking available in Sorlie Place as part of the overall numbers. Application of the RMS parking rates for a 21,599m² GLA would require approximately 929 parking spaces. The assumptions stated by the applicant's consultant are not considered sufficient. The rates adopted by the RMS are based on parking rates of multiple surveys for multiple shopping centre locations. As such, the rate adopted by RMS of 4.3 spaces/100m² is considered the required amount. Any deviation from this will require RMS concurrence.</p> <p>All parking provisions required must be accommodated onsite and, where sufficient evidence can be provided a discount based on the convenience centre usage as described. Currently there is approximately a 290 vehicle space shortfall.</p> <p>The parking in Sorlie Place is deemed public parking and currently cater for the adjoining school pick up and drop off usage and provides bus facilities for students in both the morning and afternoon.</p> <p>Access:</p> <p>The applicant has not considered Council's Pre-lodgement Meeting notes indicating that access onto Forest Way would not be desirable. A further review of the access arrangements must be undertaken. The proposed changes to access points to the site are generally supported, however the need for further work on the network connections to the south and east of the site is required.</p> <p>TfNSW has provided ongoing commentary on the access to and from the centre, noting the crash history of the Russell Avenue and Forest Way intersection and have proposed to ban the right turn from Russell Avenue south toward Warringah Road. This will result in all traffic wanting to head to the southern residential catchment of the centre needing to use the local road network, which is not designed to carry the increased volumes. Traffic Report provided by the applicant shows that there is an increase in peak flow of 130 vehicles an hour heading south along Grace Avenue. This projected increase will substantially affect the residential properties along Grace Avenue to both the North and South of the site as traffic filters through to the access to the main roads.</p> <p>The traffic volume assumptions are satisfactory. Upon review of the access arrangements, the applicant will be required to re-assess the impact of the traffic on the local network approaching the state road.</p> <p>This will need to also take into account the eventual reconfiguration of the intersection of Forest Way and Russell Avenue potentially further north to connect at signals at Naree Road. This will result in the closure of Russell Avenue at the current location. Signalising the Russell Avenue intersection was reviewed and not supported on the impact to network operations and the effect on the right turn operation into Naree Road.</p>

Internal Referral Body	Comments
	<p>The previously proposed reconstruction of the pedestrian mid block crossing to an all movements intersection access to the site was also not supported on the grounds of the impact to through traffic on Forest Way and the potential for queuing to extend back on to Warringah Road as well.</p> <p>The applicant has indicated that there is a potential for a VPA to dedicate land along the Forest Way frontage of the subject site for future road widening and transport service provision, which meets the intent of the Frenchs Forest Structure Plan.</p> <p>Council's Transport Network Team cannot support the application in its current form with the issues still needing to be addressed.</p> <p><u>Planning Comment:</u> Traffic and Parking are included in the recommended reasons for refusal of the application, in accordance with the comments above.</p>
Waste Officer	<p>This development does not contain any residential dwellings so should not have been referred to waste services.</p> <p>Note: a prior referral response was completed in Dec 2018 at <u>Trim 2018/776371</u> which is still relevant for the DA</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p>
Integrated Development – NSW Rural Fire Service - Rural Fires Act (s100B Subdivisions and Special Fire Protection Purposes under)	<p>The RFS issued general terms of approval on 16 January 2019. The conditions require a separate Bush Fire Emergency Management and Evacuation Plan to be prepared for the childcare centre and the shopping centre facility.</p>
Concurrence – NSW Roads and Maritime Services - SEPP Infrastructure (cl 100 Development on proposed classified road)	<p>Transport for NSW (formerly the RMS) granted concurrence on 23 September 2020. The concurrence included a number of conditions, including the requirements that no exit from the site onto Forest Way is to be permitted, provision of a deceleration lane to enter the site from Forest Way, dedication of a 3.5m wide strip of land along Forest Way to Council, an additional 3.2m wide strip of land to cater for a future bus lane, and the banning of right turns out of Russel Avenue onto Forest Way. The applicant agreed to these conditions and subsequently amended the application to cater to the requirements.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP Educational Establishments and Child Care Facilities 2017

Clause 23 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 stipulates that:

Before determining a development application for development for the purposes of a centre-based child-care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.

As previously outlined this application includes a centre-based child-care facility. However, the current application seeks approval for the use only, and the operational aspects (including number of places and mix, staff ratios etc) as well as the fit out of the tenancy and compliance with the National Quality Framework (Part 4 of the Guidelines) will be subject to a further DA once the operator is secured

As per the provisions of Clause 23, the provisions of the SEPP and the *Child Care Planning Guideline* are applicable.

DESIGN QUALITY PRINCIPLES

Principle 1: Context

Good design responds and contributes to its context, including the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Well-designed child care facilities respond to and enhance the qualities and identity of the area including adjacent sites, streetscapes and neighbourhood.

Well-designed child care facilities take advantage of its context by optimising nearby transport, public

facilities and centres, respecting local heritage, and being responsive to the demographic, cultural and socio-economic makeup of the facility users and surrounding communities.

Comment:

The proposed child care centre is to be located on the first floor of the shopping centre, and will not be readily visible from off site. The location of the centre within the shopping centre is generally consistent with the above principle. There is relatively easy access to public transport, and the location of the shopping centre generally surrounded by residential area means the location is likely to attract local families.

Principle 2: Built Form

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the surrounding area.

Good design achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Good design also uses a variety of materials, colours and textures.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Contemporary facility design can be distinctive and unique to support innovative approaches to teaching and learning, while still achieving a visual appearance that is aesthetically pleasing, complements the surrounding areas, and contributes positively to the public realm.

Comment:

The childcare centre is located on the first floor of the shopping centre, and will not be readily visible from off site. The built form will form part of the overall development of the shopping centre, which is considered generally acceptable as discussed throughout this report (with the exception of the front setback to Forest Way, which does not affect the child care centre).

Principle 3: Adaptive Learning Spaces

Good facility design delivers high quality learning spaces and achieves a high level of amenity for children and staff, resulting in buildings and associated infrastructure that are fit-for-purpose, enjoyable and easy to use. This is achieved through site layout, building design, and learning spaces fit-out.

Good design achieves a mix of inclusive learning spaces to cater for all students and different modes of learning. This includes appropriately designed physical spaces offering a variety of settings, technology and opportunities for interaction.

Comment:

The proposed space for the childcare centre provides a large area, including outdoor play area. Detailed fitout of the space would be assessed in a future development application.

Principle 4: Sustainability

Sustainable design combines positive environmental, social and economic outcomes.

This includes use of natural cross ventilation, sunlight and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and re-use of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.

Well-designed facilities are durable and embed resource efficiency into building and site design, resulting in less energy and water consumption, less generation of waste and air emissions and reduced operational costs.

Comment:

The proposed child care space on the first floor of the shopping centre includes outdoor area with shade structure and planting. It is considered generally consistent with the principle.

Principle 5: Landscape

Landscape and buildings should operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Well-designed landscapes make outdoor spaces assets for learning. This includes designing for diversity in function and use, age-appropriateness and amenity.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.

Comment:

The childcare centre includes planting along the southern edge of the area, and further planting in the outdoor play area. Detailed design will be assessed in a future application for fitout of the area.

Principle 6: Amenity

Good design positively influences internal and external amenity for children, staff and neighbours. Achieving good amenity contributes to positive learning environments and the well-being of students and staff.

Good amenity combines appropriate and efficient indoor and outdoor learning spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, service areas and ease of access for all age groups and degrees of mobility.

Well-designed child care facilities provide comfortable, diverse and attractive spaces to learn, play and socialise.

Comment:

The space includes outdoor play area, shade structure, and planting. Satisfactory amenity is considered to be achievable for future fitout of the child care centre.

Principle 7: Safety

Well-designed child care facilities optimise the use of the built and natural environment for learning and

play, while utilising equipment, vegetation and landscaping that has a low health and safety risk, and can be checked and maintained efficiently and appropriately.

Good child care facility design balances safety and security with the need to create a welcoming and accessible environment. It provides for quality public and private spaces that are inviting, clearly defined and allow controlled access for members of the community. Well-designed child care facilities incorporate passive surveillance and Crime Prevention Through Environmental Design (CPTED).

Comment:

Detailed internal fitout of the space provided will be assessed in a future development application. The area provided allows for security of access.

The following table is an assessment against the criteria of the 'Child Care Planning Guideline' as required by State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

MATTERS FOR CONSIDERATION

Objectives	Criteria/Guidelines	Comments
3.1 Site selection and location		
<p>C1 To ensure that appropriate zone considerations are assessed when selecting a site</p>	<p>For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> • 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. <p>OR</p> <p>For proposed developments in commercial and industrial zones, consider:</p> <ul style="list-style-type: none"> • 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. 	<p>The site is zoned B2, but is also adjacent (across roads) to residential areas. The child care centre is located on the first floor of the shopping centre, generally towards the centre of the building, but on the southern boundary adjacent to the neighbouring school.</p> <p>The acoustic report states that acoustic protections will be readily achievable (more detailed assessment will be required at fit out stage in the future). Dedicated parking for the child care will be included within the shopping centre parking.</p> <p>The child care centre is considered to be a generally consistent use with the overall use of the site, and will provide a convenient location for residents in the surrounding area.</p> <p>No issues have been identified with respect to the matters for consideration.</p>

<p>C2 To ensure that the site selected for a proposed child care facility is suitable for the use</p>	<p>When selecting a site, ensure that:</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> - size of street frontage, lot configuration, dimensions and overall size - 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 interior and exterior spaces are suitable for the proposed use • there are suitable drop off and pick up areas, and off and on street parking • the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use • 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. 	<p>The site and surrounds are considered compatible with a child care centre, as discussed above.</p> <p>The application was referred to the NSW RFS as integrated development, due to the child care centre being a special fire protection purpose. The RFS provided general terms of approval.</p> <p>The location of the child care within the centre is adjacent to the school to the south, and located away from residential properties to the east and west.</p> <p>Drop off and pick up areas are to be incorporated into the carparking areas within the shopping centre.</p>
<p>C3 To ensure that sites for child care facilities are appropriately located</p>	<p>A child care facility should be located:</p> <ul style="list-style-type: none"> • 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. 	<p>The child care is to be located in the local shopping centre, with good access to public transport and pedestrian connectivity, and adjacent to the school to the south.</p>
<p>C4 To ensure that sites for child care facilities do not incur</p>	<p>A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising</p>	<p>The location of the centre is not likely to give rise to any risks.</p>

<p>risks from environmental, health or safety hazard</p>	<p>from:</p> <ul style="list-style-type: none"> • proximity to: <ul style="list-style-type: none"> - heavy or hazardous industry, waste transfer depots or landfill sites - LPG tanks or service stations - water cooling and water warming systems - 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 	
<p>3.2 Local character, streetscape and the public domain</p>		
<p>C5 To ensure that the child care facility is compatible with the local character and surrounding streetscape</p>	<p>The proposed development should:</p> <ul style="list-style-type: none"> • contribute to the local area by being designed in character with the locality and existing streetscape • reflect the predominant form of surrounding land uses, particularly in low density residential areas • recognise predominant streetscape qualities, such as building form, scale, materials and colours • include design and architectural treatments that respond to and integrate with the existing streetscape • use landscaping to positively contribute to the streetscape and neighbouring amenity • integrate car parking into the building and site landscaping design in residential areas. 	<p>The child care centre will form part of the overall development, and will not be readily visible from the public domain.</p>
<p>C6, C7, C8 To ensure clear delineation between the child care facility and public spaces</p>	<p>Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> • 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 connection between the facility and the community • integrating existing and proposed landscaping with fencing. 	<p>The child care facility will have a defined space within the shopping centre, with security of access easily achievable.</p>
	<p>On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	<p>The child care centre will have one entry.</p>
	<p>Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p>	<p>N/a</p>

	<ul style="list-style-type: none"> • clearly defined street access, pedestrian paths and building entries • low fences and planting which delineate communal/ private open space from adjoining public open space • minimal use of blank walls and high fences. 	
<p>C9, C10 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.</p>	<p>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.</p>	N/a
	<p>High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary</p>	<p>Acoustic requirements will be assessed in detail in a future application for the fitout of the child care centre. The acoustic report provided indicates that adequate acoustic protections will be readily achievable.</p>
<p>3.3 Building orientation, envelope and design</p>		
<p>C11 To respond to the streetscape and site, while optimising solar access and opportunities for shade</p>	<p>Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> • ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> - facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties - placing play equipment away from common boundaries with residential properties - 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 that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions. 	<p>The childcare centre is located on the first floor, with outdoor play area and shade structure above. Detailed fit out of the centre will be assessed in a future application.</p>
<p>C12 To ensure that the scale of the child care facility is compatible with adjoining development and the</p>	<p>The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> • building height should be consistent with other buildings in the locality 	<p>The childcare forms part of the overall shopping centre development. The location on the southern side of the building, adjacent to the</p>

<p>impact on adjoining buildings is minimised</p>	<ul style="list-style-type: none"> • 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. 	<p>school, is unlikely to have any unreasonable impacts on surrounding neighbours.</p>
<p>C13, C14 To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context</p>	<p>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 required for the predominant adjoining land use.</p>	<p>The setback will be consistent with the shopping centre.</p>
	<p>On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p>N/A</p>
<p>C15 To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character</p>	<p>The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> • respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage • contributes to the identity of the place • retains and reinforces existing built form and vegetation where significant • considers heritage within the local neighbourhood including identified heritage items and conservation areas • responds to its natural environment including local landscape setting and climate • contributes to the identity of place. 	<p>The childcare centre forms part of the overall development, and will not be readily visible from the public domain.</p>
<p>C16 To ensure that buildings are designed to create safe environments for all users</p>	<p>Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> • 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. 	<p>The child care centre will be easily accessible within the shopping centre. Access will be limited to one secure point. It will be located on the first floor, and maintain its own space within the shopping centre, clearly defined and separate from other uses.</p>

<p>C17 To ensure that child care facilities are designed to be accessible by all potential users</p>	<p>Accessible design can be achieved by:</p> <ul style="list-style-type: none"> • 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. <p>NOTE: <i>The National Construction Code, the Discrimination Disability Act 1992 and the Disability (Access to Premises – Buildings) Standards 2010 set out the requirements for access to buildings for people with disabilities.</i></p>	<p>The child care centre is on the first floor level, and accessible by elevator. The entire shopping centre will be consistent with the National Construction Code, the Discrimination Disability Act 1992 and the Disability (Access to Premises – Buildings) Standards 2010.</p>
<p>3.4 Landscaping</p>		
<p>C18, C19 To provide landscape design that contributes to the streetscape and amenity</p>	<p>Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space.</p> <p>Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> • reflecting and reinforcing the local context • incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping. <p>Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> • 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. 	<p>Some landscaping is proposed along the southern edge of the childcare centre, adjacent to the southern boundary. This planting is at the first floor level.</p> <p>N/A</p>
<p>3.5 Visual and acoustic privacy</p>		
<p>C20, C21 To protect the privacy and</p>	<p>Open balconies in mixed use developments should not overlook facilities nor overhang</p>	<p>The child care centre will be readily secured from the rest</p>

<p>security of children attending the facility</p>	<p>outdoor play spaces.</p> <p>Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ul style="list-style-type: none"> • appropriate site and building layout • suitably locating pathways, windows and doors • permanent screening and landscape design. 	<p>of the shopping centre.</p> <p>No direct overlooking of the child care centre is likely to occur.</p>
<p>C22 To minimise impacts on privacy of adjoining properties</p>	<p>Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> • appropriate site and building layout • suitable location of pathways, windows and doors • landscape design and screening. 	<p>The child care centre is adjacent to the school site to the south, and will not cause any unreasonable privacy impacts.</p>
<p>C23, C24 To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments</p>	<p>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:</p> <ul style="list-style-type: none"> • 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. <p>A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> • 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. 	<p>The acoustic report submitted indicates acoustic treatments will be readily achievable. The extent of any treatments required will be assessed as part of a future application for fitout.</p> <p>To be carried out in a future application for fit out.</p>
<p>3.6 Noise and air pollution</p>		
<p>C25, C26</p>	<p>Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> • creating physical separation between buildings and the noise source • orienting the facility perpendicular to the noise source and where possible buffered by other uses • using landscaping to reduce the perception of noise 	<p>To be assessed and carried out as part of a future application for fit out.</p>

	<ul style="list-style-type: none"> • limiting the number and size of openings facing noise sources • using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) • 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 	
	<p>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:</p> <ul style="list-style-type: none"> • on industrial zoned land • where the ANEF contour is between 20 and 25, consistent with AS 2021 - 2000 • 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. 	<p>To be carried out in a future application for fit out.</p>
<p>C27, C28 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</p>	<p>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.</p> <p>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.</p> <p>The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> • creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor 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 	<p>The child care centre is located away from the arterial road to the west, and will be largely shielded by other parts of the shopping centre from the road.</p> <p>This can be carried out as part of a future application for the fit out. The location of the child care within the shopping centre is away from the arterial road to the west, and adjacent to the school site to the south.</p>

	<p>improving aesthetics and minimising visual intrusion from an adjacent roadway</p> <ul style="list-style-type: none"> • incorporating ventilation design into the design of the facility. 	
3.7 Hours of operation		
C29, C30 To minimise the impact of the child care facility on the amenity of neighbouring residential developments	<p>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.</p>	To be assessed at future fit out stage.
	<p>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.</p>	To be assessed at future fit out stage.
3.8 Traffic, parking and pedestrian circulation		
C31, C32, C33 To provide parking that satisfies the needs of users and demand generated by the centre	<p>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.</p> <p>Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates:</p> <p>Within 400 metres of a metropolitan train station:</p> <ul style="list-style-type: none"> • 1 space per 10 children • 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space. <p>In other areas:</p> <ul style="list-style-type: none"> • 1 space per 4 children. <p>A reduction in car parking rates may be considered where:</p> <ul style="list-style-type: none"> • the proposal is an adaptive re-use of a heritage item • the site is in a B8 Metropolitan Zone or other high density business or residential zone • the site is in proximity to high frequency and well connected public transport • the site is co-located or in proximity to other uses where parking is appropriately provided (for example business centres, schools, public open space, car parks) 	<p>The application states that <i>"The proposed car park will provide dedicated child care spaces, signed and with a safe path of travel to the centre"</i>.</p> <p>No details have been provided at this stage, and this is an issue to be assessed in a future application for fitout including staff and child numbers. However, the overall current application is recommended for refusal based on a short fall in parking across the entire shopping centre, as discussed in this report.</p>

	<ul style="list-style-type: none"> • there is sufficient on street parking available at appropriate times within proximity of the site. 	
	In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.	To be assessed at future fit out stage.
	<p>A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> • the amenity of the surrounding area will not be affected • there will be no impacts on the safe operation of the surrounding road network. 	To be assessed at future fit out stage.
C34, C35 To provide vehicle access from the street in a safe environment that does not disrupt traffic flows	<p>Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"> • a classified road • roads which carry freight traffic or transport dangerous goods or hazardous materials. <p>The alternate access must have regard to:</p> <ul style="list-style-type: none"> • the prevailing traffic conditions • pedestrian and vehicle safety including bicycle movements • the likely impact of the development on traffic. 	N/A
	<p>Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	N/A
C36, C37, C38 To provide a safe and connected environment for pedestrians both on and around the site	<p>The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> • separate pedestrian access from the car park to the facility • defined pedestrian crossings 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 and loading areas located away 	Access from the internal car parking areas to the child care centre without conflicting with truck circulation will be readily achievable.

	<p>from the main pedestrian access to the building and in clearly designated, separate facilities</p> <ul style="list-style-type: none"> • 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. 	
	<p>Mixed use developments should include:</p> <ul style="list-style-type: none"> • driveway access, maneuvering areas and parking areas for the facility that are separate to parking and maneuvering areas used by trucks • drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or maneuvering areas used by vehicles accessing other parts of the site • parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility. 	<p>No details have been provided at this stage. Dedication of an area within the internal parking areas is likely to be readily achievable.</p>
	<p>Car parking design should:</p> <ul style="list-style-type: none"> • 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. 	<p>To be assessed at future fit out stage.</p>

APPLYING THE NATIONAL REGULATIONS TO DEVELOPMENT PROPOSALS

Regulation	Design Guidance	Comments
4.1 Indoor space requirements		
<p>Regulation 107 Education and Care Services National Regulation</p> <p>Every child being educated and cared for within a facility must have a minimum of</p>	<p><i>The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child.</i></p> <p>Verandahs as indoor space For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during</p>	<p>No child numbers or detailed fit out has been proposed at this stage. This will be the subject of a future application should the overall proposal be approved.</p>

3.25m² of unencumbered indoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.

Unencumbered indoor space excludes any of the following:

- passageway or thoroughfare (including door swings) used for circulation
- toilet and hygiene facilities
- nappy changing area or area for preparing bottles
- area permanently set aside for the use or storage of cots
- area permanently set aside for storage
- area or room for staff or administration
- kitchens, unless the kitchen is designed to be used predominately by the children as part of an educational program e.g. a learning kitchen
- on-site laundry
- other space that is not suitable for children.

All unencumbered indoor spaces must be provided as a secure area for children. The design of these spaces should consider the safe supervision of children.

When calculating indoor space requirements, the area required for any additional child may be waived when the child is being cared for in an emergency

inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space.

Storage

Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:

- a minimum of 0.3m³ per child of external storage space
- a minimum of 0.2m³ per child of internal storage space.

Storage does not need to be in a separate room or screened, and there should be a mixture of safe shelving and storage that children can access independently.

Storage of items such as prams, bikes and scooters should be located adjacent to the building entrance.

Where an external laundry service is used, storage and collection points for soiled items should be in an area with separate external access, away from children. This will prevent clothes being carried through public areas and reduce danger to children during drop off and collection of laundry.

circumstance as set out in regulation 123(5) or the child is being educated or cared for in exceptional circumstances as set out in regulation 124(5) and (6) of the National Regulations.

Applicants should also note that regulation 81 requires that the needs for sleep and rest of children at the service be met, having regard to their ages, development stages and individual needs.

Development applications should indicate how these needs will be accommodated.

Verandahs may be included when calculating indoor space with the written approval from the regulatory authority.

4.2 Laundry and hygiene facilities

Regulation 106 Education and Care Services National Regulation

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

The proposed development includes laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering.

Laundry and hygiene facilities are a key consideration for education and care service premises. The type of laundry facilities provided must be appropriate to the age of children accommodated.

On site laundry

On site laundry facilities should contain:

- a washer or washers capable of dealing with the heavy requirements of the facility

To be assessed at future fit out stage.

<p>children.</p> <p>Child care facilities must also comply with the requirements for laundry facilities that are contained in the National Construction Code.</p>	<ul style="list-style-type: none"> • 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. <p>External laundry service A facility that does not contain on site laundry facilities must make external laundering arrangements. Any external laundry facility providing services to the facility needs to comply with any relevant Australian Standards.</p>	
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4.3 Toilet and hygiene facilities

<p>Regulation 109 Education and Care Services National Regulation</p> <p>A service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for 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.</p> <p>Child care facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code.</p>	<p><i>The proposed development includes adequate, developmentally and age appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service.</i></p> <p>Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants. Design considerations could include:</p> <ul style="list-style-type: none"> • junior toilet pans, low level sinks and hand drying facilities for children • a sink and handwashing facilities in all bathrooms for adults • direct access from both activity rooms and outdoor play areas • windows into bathrooms and cubicles without doors to allow supervision by staff • external windows in locations that prevent observation from neighbouring properties or from side boundaries 	<p>To be assessed at future fit out stage.</p>
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4.4 Ventilation and natural light

<p>Regulation 110 Education and Care Services National Regulation</p> <p>Services must be well ventilated, have adequate natural light,</p>	<p><i>The proposed development includes indoor spaces to be used by children that:</i></p> <ul style="list-style-type: none"> • <i>will be well ventilated; and</i> • <i>will have adequate natural light; and</i> • <i>can be maintained at a temperature that ensures the safety and well-being of children.</i> 	<p>To be assessed at future fit out stage. However, it is noted that the space for child care includes an outdoor area with shade structure.</p>
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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.

Ventilation

Good ventilation can be achieved through a mixture of natural cross ventilation and air conditioning. Encouraging natural ventilation is the basis of sustainable design; however, there will be circumstances where mechanical ventilation will be essential to creating ambient temperatures within a facility.

To achieve adequate natural ventilation, the design of the child care facilities must address the orientation of the building, the configuration of rooms and the external building envelope, with natural air flow generally reducing the deeper a building becomes. It is recommended that child care facilities ensure natural ventilation is available to each indoor activity room.

Natural light

Solar and daylight access reduces reliance on artificial lighting and heating, improves energy efficiency and creates comfortable learning environments through pleasant conditions. Natural light contributes to a sense of well-being, is important to the development of children and improves service outcomes. Daylight and solar access changes with the time of day, seasons and weather conditions. When designing child care facilities consideration should be given to:

- providing windows facing different orientations
- using skylights as appropriate
- ceiling heights.

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.

4.5 Administrative space		
Regulation 110 Education and Care Services National	<i>The proposed development includes an adequate area or areas for the purposes of conducting the administrative</i>	To be assessed at future fit out stage.

<p>Regulation</p> <p>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.</p>	<p><i>functions of the service; and consulting with parents of children; and conducting private conversations.</i></p> <p>Design considerations could include closing doors for privacy and glass partitions to ensure supervision.</p> <p>When designing administrative spaces, consideration should be given to functions which can share spaces and those which cannot. Sound proofing of meeting rooms may be appropriate where they are located adjacent to public areas, or in large rooms where sound can easily travel.</p> <p>Administrative spaces should be designed to ensure equitable use by parents and children at the facility. A reception desk may be designed to have a portion of it at a lower level for children or people in a wheel chair.</p>	
<p>4.6 Nappy change facilities</p>		
<p>Regulation 112 Education and Care Services National Regulations</p> <p>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.</p> <p>Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.</p>	<p><i>(To be completed only if the proposed development is for a service that will care for children who wear nappies).</i></p> <p><i>The proposed development includes an adequate area for construction of appropriate hygienic facilities for nappy changing including at least one properly constructed nappy changing bench and hand cleansing facilities for adults in the immediate vicinity of the nappy change area.</i></p> <p>In circumstances where nappy change facilities must be provided, design considerations could include:</p> <ul style="list-style-type: none"> • properly constructed nappy changing bench or benches • a bench type baby bath within one metre from the nappy change bench • the provision of hand cleansing facilities for adults in the immediate vicinity of the nappy change area • a space to store steps • positioning to enable supervision of the activity and play areas. 	<p>To be assessed at future fit out stage.</p>
<p>4.7 Premises designed to facilitate supervision</p>		
<p>Regulation 115 Education and Care</p>	<p><i>The proposed development (including toilets and nappy change facilities) are</i></p>	<p>To be assessed at future fit out stage.</p>

<p>Services National Regulations</p> <p>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.</p> <p>Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the National Construction Code.</p>	<p><i>designed in a way that facilitates supervision of children at all times, having regard to the need to maintain the rights and dignity of the children.</i></p> <p>Design considerations should include:</p> <ul style="list-style-type: none"> • solid walls in children’s toilet cubicles (but no doors) to provide dignity whilst enabling supervision • locating windows into bathrooms or nappy change areas away from view of visitors to the facility, the public or neighbouring properties • avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children • avoiding multi-level rooms which compromise, or require additional staffing, to ensure proper supervision. If multilevel spaces are proposed, consideration should be given to providing areas that can be closed off and used only under supervision for controlled activities 	
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4.8 Emergency and evacuation procedures

<p>Regulations 97 and 168 Education and Care Services National Regulations</p> <p>Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation.</p> <p>Regulation 97 sets out the detail for what those procedures must cover including:</p> <ul style="list-style-type: none"> • 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 	<p>Facility design and features should provide for the safe and managed evacuation of children and staff from the facility in the event of a fire or other emergency.</p> <p>Multi-storey buildings with proposed child care facilities above ground level may consider providing additional measures to protect staff and children. For example:</p> <ul style="list-style-type: none"> • independent emergency escape routes from the facility to the ground level that would separate children from other building users to address child protection concerns during evacuations • a safe haven or separate emergency area where children and staff can muster during the initial stages of a fire alert or other emergency. This would enable staff to account for all children prior to evacuation. <p>An emergency and evaluation plan should be submitted with a DA and should consider:</p> <ul style="list-style-type: none"> • the mobility of children and how this is to be accommodated during an evacuation • the location of a safe 	<p>To be assessed at future fit out stage. The current application was referred to the NSW Rural Fire Service, who provided General Terms of Approval. These terms included the requirement for <i>A separate Bush Fire Emergency Management and Evacuation Plan shall be prepared for 1. The Childcare Centre and 2. The Shopping Centre facility.</i></p>
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<p>position near each exit</p> <ul style="list-style-type: none"> • a risk assessment to identify potential emergencies that are relevant to the service. 	<p>congregation/assembly point, away from the evacuated building, busy roads and other hazards, and away from evacuation points used by other occupants or tenants of the same building or of surrounding buildings</p> <ul style="list-style-type: none"> • how children will be supervised during the evacuation and at the congregation/assembly point, relative to the capacity of the facility and governing child-to-staff ratios. 	
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<p>4.9 Outdoor space requirements</p>		
<p>Regulation 108 Education and Care Services National Regulations</p> <p>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 SEPP.</p> <p>Unencumbered outdoor space excludes any of the following:</p> <ul style="list-style-type: none"> • pathway or thoroughfare, except where used by children as part of the education and care program • car parking area • storage shed or other storage area • laundry • other space that is not suitable for children. <p>When calculating outdoor space requirements, the area required for any additional child may be waived when the child is</p>	<p><i>The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child.</i></p> <p>Calculating unencumbered space for outdoor areas should not include areas of dense hedges or plantings along boundaries which are designed for landscaping purposes and not for children's play.</p> <p>When new equipment or storage areas are added to existing services, the potential impact on unencumbered space calculations and service approvals must be considered.</p> <p>Verandahs as outdoor space Where a covered space such as a verandah is to be included in outdoor space it should:</p> <ul style="list-style-type: none"> • 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 <p>Simulated outdoor environments Proponents should aim to provide the requisite amount of unencumbered outdoor space in all development applications.</p> <p>A service approval will only be granted in exceptional circumstances when outdoor space requirements are not met. For an exemption to be granted, the preferred alternate solution is that indoor space be designed as a simulated outdoor environment.</p>	<p>To be assessed at future fit out stage.</p>

<p>being cared for in an emergency circumstance as set out in regulation 123(5) or the child is being educated or cared for in exceptional circumstances as set out in regulation 124(5) and (6) of the National Regulations.</p> <p>Applicants should also note that regulation 274 (Part 7.3 NSW Provisions) states that a centre-based service for children preschool age or under must ensure there is no swimming pool on the premises, unless the swimming pool existed before 6 November 1996. Where there is an existing swimming pool, a water safety policy will be required.</p> <p>A verandah that is included within indoor space cannot be included when calculating outdoor space and vice versa.</p>	<p>Simulated outdoor space must be provided in addition to indoor space and cannot be counted twice when calculating areas.</p> <p>Simulated outdoor environments are internal spaces that have all the features and experiences and qualities of an outdoor space. They should promote the same learning outcomes that are developed during outdoor play. Simulated outdoor environments should have:</p> <ul style="list-style-type: none"> • more access to natural light and ventilation than required for an internal space through large windows, glass doors and panels to enable views of trees, views of the sky and clouds and movement outside the facility • skylights to give a sense of the external climate • a combination of different floor types and textures, including wooden decking, pebbles, mounds, ridges, grass, bark and artificial grass, to mimic the uneven surfaces of an outdoor environment • sand pits and water play areas • furniture made of logs and stepping logs • dense indoor planting and green vegetated walls • climbing frames, walking and/or bike tracks • vegetable gardens and gardening tubs. 	
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<p>4.10 Natural Environment</p>		
<p>Regulation 113 Education and Care Services National Regulations</p> <p>The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.</p>	<p><i>The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.</i></p> <p>Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space.</p> <p>Shrubs and trees selected for the play space must be safe for children. Avoid plant species that risk the health, safety and welfare of the facility's occupants, such as those which:</p>	<p>To be assessed at future fit out stage. The proposal includes a large area of open outdoor space, including shade structure and planting.</p>

	<ul style="list-style-type: none"> • are known to be poisonous, produce toxins or have toxic leaves or berries • have seed pods or stone fruit, attract bees, have thorns, spikes or prickly foliage or drop branches <p>The outdoor space should be designed to:</p> <ul style="list-style-type: none"> • provide a variety of experiences that facilitate the development of cognitive and physical skills, provide opportunities for social interaction and appreciation of the natural environment • assist supervision and minimise opportunities for bullying and antisocial behaviour • enhance outdoor learning, socialisation and recreation by positioning outdoor urban furniture and play equipment in configurations that facilitate interaction. 	
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4.11 Shade

<p>Regulation 114 Education and Care Services National Regulations</p> <p>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.</p>	<p><i>The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</i></p> <p>Providing the correct balance of sunlight and shade to play areas is important for the health and well-being of children and staff. Combining built and natural shade will often be the best option.</p> <p>Solar access Controlled exposure to daylight for limited periods is essential as sunlight provides vitamin D which promotes healthy muscles, bones and overall well-being. Outdoor play areas should be provided with controlled solar access throughout the year. Outdoor play areas should:</p> <ul style="list-style-type: none"> • have year-round solar access to at least 30 per cent of the ground area, with no more than 60 per cent of the outdoor space covered. • provide shade in the form of 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. <p>Natural shade Natural shade should be a major element in</p>	<p>To be assessed at future fit out stage. The proposal includes a large area of open outdoor space, including shade structure and planting.</p>
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outdoor play areas. Trees with dense foliage and wide-spreading canopies provide the best protection. Existing stands of trees, particularly in rear setbacks, should be retained to provide shaded play areas. Species that suit local soil and climatic conditions and the character of the environment are recommended.

Dense shrubs can also provide shade. They should be planted around the site perimeter so they don't obstruct supervision. Pruning shrubs on the underside may create shaded play nooks underneath. Planting for shade and solar access is enhanced by:

- placing appropriately scaled trees near the eastern and western elevations
- providing a balance of evergreen and deciduous trees to give shade in summer and sunlight access in winter.

Built shade structures

Built structures providing effective shade include:

- permanent structures (pergolas, sails and verandahs)
- demountable shade (marquees and tents)
- adjustable systems (awnings)
- shade sails.

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 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

Outdoor space that will be used by children will 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.

Fencing at child care facilities must provide a secure, safe environment for children and minimise access to dangerous areas.

To be assessed at future fit out stage. The child care centre at first floor level will be wholly enclosed.

<p>and design that children preschool age or under cannot go through, over or under it.</p> <p>This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including a family day care venue where all children are over preschool age. 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</p>	<p>Fencing also needs to positively contribute to the visual amenity of the streetscape and surrounding area. In general, fencing around outdoor spaces should:</p> <ul style="list-style-type: none"> • prevent children climbing over, under or through fences • prevent people outside the facility from gaining access by climbing over, under or through the fence • not create a sense of enclosure. <p>Design considerations for side and rear boundary fences could include:</p> <ul style="list-style-type: none"> • 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. <p>Fencing and gates should be designed to ensure adequate sightlines for vehicles and pedestrian safety in accordance with Australian Standards and Roads and Maritime Services Traffic Management Guidelines. Gates should be designed to prevent children leaving/entering unsupervised by use of childproof locking systems.</p>	
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<p>4.13 Soil Assessment</p>		
<p>Regulation 25 Education and Care Services National Regulations</p> <p>Sub-clause (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.</p> <p>With every service application one of the following is required:</p> <ul style="list-style-type: none"> • a soil assessment for the site of the proposed education and care service premises • if a soil assessment for 	<p>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.</p> <p>Where children will have access to soil the regulatory authority requires a preliminary investigation of the soil. This includes sites with or without buildings and existing approved children’s services where:</p> <ul style="list-style-type: none"> • the application is to alter or extend the premises • the alteration or extension requires earthworks or deep excavations (exceeding a depth of one metre) • the works are going to take place in an area used for children’s outdoor play or will be used for children’s outdoor play after the work is completed • a soil assessment has not been undertaken at the children’s service. 	<p>To be assessed at future fit out stage. Any soil accessible to children will be imported given the location at first floor level.</p>

<p>the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken</p> <ul style="list-style-type: none"> • 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 	<p>Minor landscaping, creation of sand pits, movement of play equipment and so on do not qualify as earthworks and do not require a soil assessment.</p> <p>An assessment of soil for a children's service approval application may require three levels of investigation:</p> <ul style="list-style-type: none"> • Stage 1 - Preliminary investigation (with or without soil sampling) • Stage 2 - Detailed site investigation • Stage 3 - Site specific human health risk assessment. 	
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Conclusion

The proposal is generally consistent with the matters for consideration under the SEPP, subject to future consideration of a more detailed application for fitout of the childcare centre (including staff and child numbers), should the overall shopping centre application be approved.

SEPP 55 - Remediation of Land

Clause 7(1)(a) of SEPP 55 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of the SEPP, the applicant has submitted a Soil Assessment and Groundwater Monitoring Event Report, both dated July 2018 and prepared by Prensa. These reports found some evidence of contamination in the vicinity of a former service station on site (near the northern end of the site). These reports include recommendations for the management of contamination in relation to construction of the development.

Clause 7(1)(b) stipulates that "*if the land is contaminated, it [Council] 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*".

Council's Environmental Health team have assessed the application and made the following comments:

"This referral pertains to ground water and soil contamination by petroleum-based products on the site. Environmental Health has considered the available information with aim of placing conditions on the development for managing and/or disposing any contaminants appropriately to reduce the potential impacts on human health.

A brief summary:

- *contamination (below human screening levels) of ground water at 2-4 m below ground surface level*

- *excavation to 6 m below ground service levels*
- *Environmental Protection Agency were managing the site until "remediation works were completed in 2017"*
- *soil and ground water testing have been done*
- *contamination levels are generally decreasing with time, though there may still be accumulations occurring due to current land uses as a car park and car wash*
- *human contact with liquid chemicals not a major concern*
- *vapour inhalation and soil disposal are the major concerns*
- *the applicant has provided some recommendations for appropriate management of contaminated land, but no overall management plan thus far*

Our conclusion is to recommend that prior to CC the applicant provide an environmental contamination management plan to be reviewed and approved by Council".

Clause 7(1)(c) stipulates that "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".

Given the comments above, Council is satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigations will be included as conditions of consent, should the application be approved.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- ┆ within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- ┆ immediately adjacent to an electricity substation.
- ┆ within 5.0m of an overhead power line.
- ┆ includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Roads and Maritime Service (RMS)

Clause 101 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment:

The proposal was referred to RMS, who have granted concurrence subject to conditions (see Referrals section of this report).

Clause 102 - Impact of road noise or vibration on non-road development states:

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,

(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Comment:

The proposal is a commercial development, and is not noise sensitive development.

Clause 104 and Schedule 3 of the SEPP requires that the following development(s) are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Apartment or residential flat building	300 or more dwellings	75 or more dwellings
Commercial premises	10,000m ² in area	2,500m ² in area
Commercial premises and industry	15,000m ² in area	4,000m ²
Drive-in take away food outlets	200 or more motor vehicles	Any size of capacity

Educational establishments	50 or more students	Not applicable
Hospital	200 or more beds	100 or more beds
Industry	20,000m ² in area	5,000m ² in area
Land fill, recycling facilities, waste transfer station	Any size or capacity	Not applicable
Motor showrooms	200 or more motor vehicles	50 or more motor vehicles
Parking	200 or more motor vehicles	50 or more motor vehicles
Places of assembly or places of public worship	200 or more motor vehicles	50 or more motor vehicles
Premises licensed under the <i>Liquor Act 1982</i> or the <i>Registered Clubs Act 1976</i>	200 or more motor vehicles	50 or more motor vehicles
Refreshment rooms	200 or more motor vehicles	300m ²
Service stations (including service stations which have retail outlets)	200 or more motor vehicles	Any size or capacity
Shops	2,000m ²	500m ²
Shops and commercial premises	4,000m ²	1,000m ²
Subdivision of land	200 or more allotments where the subdivision includes the opening of a public road	50 or more allotments
Tourist facilities, recreation facilities, showgrounds or sportsgrounds	200 or more motor vehicles	50 or more motor vehicles
Transport terminals, bulk stores, container depots or liquid fuel depots	8,000m ²	Not applicable
Any other purpose	200 or more motor vehicles	

Note: Under Clause 104(2) of the SEPP, 'relevant size of capacity' is defined as meaning:

“(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road - the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection - the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.”

Comment:

The proposal was referred to TFNSW (RMS), who have granted concurrence subject to conditions (see Referrals section of this report).

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	12m	16.98m	41.5%	No

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	12m
Proposed:	16.98m
Percentage variation to requirement:	41.5%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular

circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

(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.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (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,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

- 1 As stated above, the site falls marginally from north-east to south-west and (in part) causes the breach. Providing a chamfered building design or alternate roof at the corner of Russell Ave and Grace adds to the architectural interest that is embodied in the development plans*
- 2 The breach in building height of the car park upstand and shade sails provide essential safety and amenity elements for visitors to the centre. The lift overrun and plant are also vital part of any development and readily seen at the roofline of retail developments. Importantly the lift overrun assists in facilitating the identification the building entrance on Forest Way.*
- 3 A lowering of the development to meet compliance would likely mean reduced floor to floor heights of the retail levels which would not facilitate a superior retail centre with a sense of openness and air. An alternative would be to adopt a flat roof form which would otherwise result in a more monolithic build form and mass. It is noted that there is no FSR control and the scale of the centre is supportable on economic grounds.*
- 4 The current design, including the height breaches make a positive contribution to the streetscape, providing a superior planning outcome that would otherwise be seen if a flat, long elevation was proposed for the centre elevations. The varying heights proposed and the design of individual building blocks, particularly at the corners assist in breaking up and modulating the*

facades and increasing the compatibility of the established residential pattern surrounding the site.

- ▮ *There is not attributable GFA resulting from the beaches, with the exception of the lift lobby, meaning the exceedances do not increase the intensity of the development.*
- ▮ *The addition of up to a maximum of 4.8m (from the WLEP 2011 control of 12m) does not give rise to any consequential environmental impacts (e.g. shadowing, view loss or visual impacts).*

These arguments are considered to be generally reasonable and are concurred with in the circumstances of the site. The proposed non-compliances with the height of buildings control will have no unreasonable impacts on the surrounding area, and the proposed height of the development will not prevent the proposal from achieving the objectives of both the zone and clause 4.3 Height of buildings. The proposed height non-compliance does not significantly alter the amount of floor space or development yield. Removal of the upper elements which breach the height limit would not necessarily result in a 'better' development, as for the most part, these features provide architectural and visual interest to the development.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the B2 Local Centre zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2011 are:

(1) The objectives of this clause are as follows:

- a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Comment:

The applicant's written request has argued that

"The proposed minor additional height reflects the gentle slope on site (a 1:79 westerly fall on Russell, 1:77 northerly fall on Grace towards Russell and 1:89 fall from Forestway to the west in the centre of the site), as well as provides architectural expression, improves vehicle safety and shading. The built form does not substantially depart from the prevailing character of the locality. The architectural design provides pitched roof forms drawing reference to the pitched forms of the residential context and to provide interest to retail centre".

While it is not necessarily agreed that a non-compliance of up to 41.5% above the height limit is 'minor', it is noted that the non-compliances are confined generally to various roofing elements, which do not significantly increase the density of development (as they do not contribute directly to gross floor area). As noted by the applicant, these roofing elements include pitched roof areas, designed to reflect the residential nature of much of the surrounding development. They also serve to provide visual interest to the building. Further, many of the non-compliant elements are set back towards the centre of the site, where they will not significantly contribute to the overall bulk and scale of the development as viewed from the surrounding area. The overall scale of the development is considered to be within general expectations for a shopping centre on the site, and not incompatible with the height and scale of the surrounding and nearby development in the circumstances of the site.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The applicant's written request argues that:

"The site does not form part of any view lines of significance. The Grace Avenue dwellings are partially below the level of the road, consists of a single row of houses whose amenity is significantly influenced by outlook directly across Gadigal National Park that extends to their rear boundaries. The area of the greatest non-compliance is concentrated centrally and extending towards Forest Way, away from the more sensitive interface to the north and west."

Shadow drawings are submitted with the DA submission, particularly showing there is a negligible impact on the playing fields of the school and the front gardens of the residential properties on Grace Avenue. The private open space of the residential dwellings only experience the shadow for approximately 45minutes between 9am and 10am.

These arguments are concurred with. The proposal will not result in any unreasonable visual impact, disruption of views, loss of privacy or loss of solar access.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The applicant's written request argues that:

"There will be no impact on the scenic quality of the area, including views from surrounding residential developments to the west towards the National Park as a result of the proposal."

This statement is accepted and concurred with. No unreasonable adverse impacts are likely to occur as a result of the height of the development on the scenic quality of Warringah's coastal and bush environments.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment:

The applicant's written request argues that:

"The variation in height is primarily concentrated centrally and extending towards Forest Way, i.e. the eastern portion away from the residential interface and the school land. The non-compliances will not have an adverse impact when viewed from public places.

This additional height is proposed to be incorporated into the built form and would be consistent with the LEP objective".

This argument is accepted and concurred with. No unreasonable visual impacts have been identified as a result of the proposed height of the development or breaches to the Height of Buildings development standard from any public places.

Zone objectives

The underlying objectives of the B2 Local Centre zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Comment:

The applicant's written request argues that:

"The expanded centre will provide a broader range of retail convenience, food and lifestyle offerings to serve the needs of the Frenchs Forest community".

This is concurred with. The redevelopment of the site will continue to serve the local community, and includes various different uses that would provide a wide range of valued services.

- *To encourage employment opportunities in accessible locations.*

Comment:

The applicant's written request argues that:

"As a consequence, the proposal generates approximately 459 direct and indirect jobs. This includes a number of youth employment opportunities with retail developments generally employing a large number of younger staff. Additional height does not derogate from this objective noting again the point that the additional height does not give rise to additional floor area that would contribute to job generation".

This is concurred with. The redevelopment will provide expanded employment opportunities compared to the existing shopping centre on site, and the site is highly accessible being located

at the intersection of two arterial roads.

- *To maximise public transport patronage and encourage walking and cycling.*

Comment:

The applicant's written request argues that:

"The site is well located on a major bus routes on Forest Way. The additional height does not derogate from this objective".

This is concurred with. There will be bus stops directly adjacent to the site, and residents in the nearby area will continue to be able to access the centre on foot.

- *To provide an environment for pedestrians that is safe, comfortable and interesting.*

Comment:

The applicant's written request argues that:

"The design of the centre enhances areas of natural surveillance through glazing and enhanced activation on all three frontages of the development".

This argument is concurred with. The removal of the existing carpark on the Forest Way frontage will enable a far more visually interesting development to be constructed on site. The development as proposed will maintain large areas of glazing that will enable casual surveillance of the area.

- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Comment:

The applicant's written request argues that:

"The built form is designed as a series of individual buildings to reduce mass and with pitched roof forms, both assisting in the compatibility of the surrounding residential area. The design also provides increased activation to all frontages to engage with the adjoining development".

This argument is generally accepted and concurred with. Council's Urban Designer has assessed the proposal and is generally satisfied with the overall design and scale of the development in relation to the height of the proposal (notwithstanding other issues raised with respect to the width of footpath area, that does not relate to the overall height of the proposal).

- *To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential landuses.*

Comment:

The applicant's written request has argued that:

"The height exceedances are largely contained within the site. The most notable exceedances that are closest to street boundaries are largely architectural features that provide a significant

enhancement in streetscape presentation and overall visual appeal".

This argument is concurred with. As discussed above, Council's Urban Designer is generally satisfied in relation to the proposed height and scale of the proposal. Further, the proposal is not considered to have any unreasonable impacts on the surrounding zones, particularly in relation to the nearby residential areas. The application demonstrates that no unreasonable amenity impacts will occur in terms of privacy, solar access, view loss or similar impacts that might be caused by the overall height.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the B2 Local Centre zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Sydney North Planning Panel.

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- (b) to allow earthworks of a minor nature without requiring separate development consent.*

In this regard, before granting development consent for earthworks, Council must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality*

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

- (b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

- (c) the quality of the fill or the soil to be excavated, or both*

Comment: The excavated material will be processed according to the Construction Management Plan for the development. A condition will be recommended requiring any fill to be of a suitable quality should the application be approved.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions will be recommended to limit impacts during excavation/construction should the application be approved.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Construction Management Plan for the development. A condition will be recommended requiring any fill to be of a suitable quality should the application be approved.

(f) the likelihood of disturbing relics

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development

Engineers in relation to stormwater. The Engineers are not satisfied with the information provided, but have provided Deferred commencement conditions in relation to drainage in this regard. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers are not satisfied with the information provided, but have provided Deferred commencement conditions in relation to drainage in this regard. Therefore, Council is satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Number of storeys	3	3	N/A	Yes
B6 Merit Assessment of Side Boundary Setbacks	Merit	Varied	N/A	Yes - See discussion in report
B8 Merit assessment of front boundary setbacks	Merit	Varied	N/A	No - See discussion in report
B10 Merit assessment of rear boundary setbacks	Merit	No rear boundary	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B2 Number of Storeys	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B8 Merit assessment of front boundary setbacks	No	No
B10 Merit assessment of rear boundary setbacks	N/A	N/A
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No
C4 Stormwater	No	No
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

Detailed Assessment

B6 Merit Assessment of Side Boundary Setbacks

The site is considered to have side boundaries to the south, adjacent to the Youth Centre on Council land and Frenchs Forest Public School. A nil setback will be maintained to the side boundary adjacent to the school, with a setback a minimum of 1.256m to the (west facing) boundary with the Council owned land, and a greater setback of minimum 7.6m to the north facing boundary of the Council land.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- i *To provide ample opportunities for deep soil landscape areas.*

Comment:

The proposal generally maintains existing setbacks to the south, and given there is an existing nil setback to the school, and the area to the north of the youth centre is occupied by driveway, there is no opportunity in this area. Other landscaping is proposed along the front boundaries. There is no minimum requirement for landscaped area or deep soil area under the DCP for this site.

- 1 *To ensure that development does not become visually dominant.*

Comment:

The southern side setbacks will generally maintain existing setbacks, and the proposal is not considered to be unreasonably visually dominant.

- 1 *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The proposed bulk and scale is considered to be generally acceptable, and generally in line with expectations for development of a large shopping centre on the site. Height non-compliances are proposed. However, as discussed under Clause 4.6 in this report, the proposal is supported in this regard.

- 1 *To provide adequate separation between buildings to ensure a reasonable level of amenity and solar access is maintained.*

Comment:

The site does not border residential land to the south, and does not unreasonably impact on amenity or solar access.

- 1 *To provide reasonable sharing of views to and from public and private properties.*

Comment:

No unreasonable view loss has been identified.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B8 Merit assessment of front boundary setbacks

The application as amended proposes a varied front setback along the frontages to Forest Way to the east (nil to 2m), Russel Avenue to the north (1.89m - 14.8m), and Grace Avenue and Sorlie Place to the west (nil to 3.2m). The amendments to the application have been made to comply with the conditions imposed by TfNSW in relation to dedication of land for a deceleration lane and future extra lane on Forest Way. The amendments have resulted in a reduction in the front setback and landscaped area along the Forest Way frontage. The subdivision plan provided with the amended application appears to indicate a nil or almost nil front setback will be maintained for much of the development, once compliance with TfNSW conditions is carried out.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- 1 *To create a sense of openness.*

Comment:

Council's Urban Designer (see Referrals section of this report) has raised particular concern with respect to the setback of the development from the Forest Way frontage, and specifically with regard to the ability to provide acceptable footpath widths, particularly in front of the bus stop. These concerns are considered valid, and a greater front setback should be provided. Given these comments, the proposal is not considered to achieve this objective on the Forest Way frontage.

- 1 *To provide opportunities for casual surveillance of the street.*

Comment:

The proposal will enable ample casual surveillance of the street.

- 1 *To provide opportunities for deep soil landscape areas and aesthetic improvements.*

Comment:

There is no minimum requirement for deep soil landscaping for the site, however, Council's Urban Designer has raised concerns with the setbacks to the Forest Way frontage, and reduction in landscaped area, and the subsequent ability to provide sufficient planting for aesthetic improvements as required by the objective. The landscape plan provided indicates 8 Spotted Gums along the Forest Way frontage, with an indicative height of 20m-30m, and spread of 10m-20m. However, Council's Landscape Officer has also noted the reduction in landscaped area at the Forest Way Frontage and noted it enables no room for future landscape or planting embellishment opportunities.

Further to this, the subdivision plan provided with the amendments to achieve the TfNSW conditions for dedication of land, appears to leave little to no front setback along Forest Way.

Given these comments, the proposal is not considered to adequately satisfy the objective.

- 1 *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

As discussed above, the amendments to the plans have resulted in reductions to footpath width and landscaping along the Forest Way frontage, and are not considered conducive to adequately enhancing the visual quality of the streetscape and public space.

- 1 *To achieve reasonable viewsharing.*

Comment:

No unreasonable view loss has been identified.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the

Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B10 Merit assessment of rear boundary setbacks

The site is not considered to have a rear boundary. As such, this control is not applicable.

C2 Traffic, Access and Safety

The application has been the subject of significant community concerns in relation to traffic impacts, particularly with regard to the impacts on the local road network to the north and south of Grace Avenue. These concerns were magnified by the most recent amendments to the plans, which included removing direct exit onto Forest Way from the plans, and removing right turns out of Russel Avenue onto Forest Way. This in turn means that all southbound traffic from the centre would exit onto Grace Avenue or Russel Avenue, and be likely to use the rat run to the south through local roads, as opposed to first heading north on Grace Avenue, through Prince Charles Parade, and then Adams Street to then be able to turn right onto Forest Way to head south.

The local roads to the south of Grace Avenue down to Brown Street (where traffic lights enable safe right turns onto Warringah Road) are already a noted rat run, and have already been the subject of traffic calming measures implemented by Council, including one way access during peak times. According to the traffic report provided by the applicant, the amended proposal, would result in an extra 130 vehicles per hour during peak hours heading south along Grace Avenue, and an even greater number (up to 180) heading north along Grace Avenue. There is currently between 830 – 845 vehicles per hour in each direction on Grace Avenue during peak flows.

Further, the inability to access the site easily when approaching from the South on Forest Way (no direct access is available on the final amended plans), is likely to force traffic from the north wishing to access the centre into the local road network also, given the limited turning lane into Russel Avenue from Forest Way.

Council's Traffic Engineers have reviewed and accepted the calculations in the traffic report provided, and recommended refusal of the application as a result of the increase in traffic on the local road network (see referrals section of this report). Whether traffic turns north or south on Grace Avenue, there will be significantly increased and unacceptable impacts on the local road network, including in an area (to the south) that has already been the subject of traffic measures to attempt to cope with a noted rat run.

The application is recommended for refusal on this basis.

C3 Parking Facilities

Council's Traffic Engineer (see Referrals section of this report) has recommended refusal of the application based on inadequate parking being provided. Based on the proposed floor space, the proposal requires on-site parking for 929 vehicles. The application provides 715 spaces (a short fall of 214 spaces) within the boundaries of the site. The applicants have also relied on a further 100 spaces within Sorlie Place and on Grace Avenue, which are not counted in the calculations above, as they are not on site spaces as required, and are shared public spaces, not for the exclusive use of the shopping centre.

The application is for a significant increase in gross leasable floor space, and this increase has not been matched by a commensurate increase in the amount of on-site parking. Amendments to the plans during the assessment process have increased the floor space slightly, while reducing the amount of on site parking proposed. This is likely to result in significant overflows in parking to the surrounding local roads, and Sorlie Place, and will add to the other issues identified with respect to traffic impacts

on the local road network to the west of the site.

As such, refusal of the application is recommended on this basis.

C4 Stormwater

Council's Development Engineer is not satisfied that the information provided adequately demonstrates compliance with provisions for storm water (see Referrals section of this report). As such, a deferred commencement condition is recommended in relation to storm water, if the application is approved.

D3 Noise

The control allows for waste collection and delivery vehicles to operate between 6am and 10pm. The proposed use of the loading docks are confined to between 7am to 9pm, which complies with the control.

The application includes an acoustic report, which concludes that noise emissions impacts to the surrounding residential areas are capable of complying with noise emission criteria under EPA and Council guidelines. A condition of consent will require the recommendations of this report to be followed should the application be approved.

F1 Local and Neighbourhood Centres

The control requires the following:

15. Forestway Shops

(a) At Forestway Shops, expansion or alteration to the existing approved buildings is to address the relationship of the development with the adjoining residential area and pedestrian and vehicular access and circulation.

(b) Parking and access arrangements are to minimize conflicts between pedestrians and vehicles. Additional vehicular access from streets other than Forest Way is preferred.

The applicant's Statement of Environmental Effects states the following:

The amenity of the adjoining residential area is paramount and has been addressed by providing enhanced vehicle access on Forest Way (and in turn potentially reducing Grace Ave), providing a 'lid' on the loading, creating a dining and gathering plaza distanced from the west and ensuring mitigating measures are proposed as recommended by the acoustic report. The form and functioning of the development is largely unchanged providing shared access from Forest Way and Grace Avenue.

The arrangement of the land uses and potentially 'noisy' activities are located away from the residential interface (such as the plaza and child care) or have incorporated appropriate mitigation measures (such as acoustic barrier and of the Skypark). The acoustic report has assessed the likely operational noise including traffic noise and the development can comply subject to the stated recommendations.

There is no adverse overshadowing on neighbouring properties as a result of the proposal, complying with the solar access requirements in the DCP.

The proposal has been amended since the SEE was prepared, and access arrangements have been altered. This is dealt with in other parts of this report in relation to traffic impacts, and in relation to the front setback to Forest Way and resulting pedestrian circulation (and is recommended for refusal for these reasons). The traffic impacts to Grace Avenue are not considered acceptable, and the setback of the building to Forest Way does not allow adequate room for Pedestrian circulation. Otherwise, in general, the design of the development is considered generally consistent with the control in relation to impacts on residential neighbours, subject to conditions requiring noise impacts to be managed in accordance with the acoustic report should the application be approved.

However, given the comments of Council's Urban Designer in relation to pedestrian circulation at the Forest Way frontage, particularly in the region of the bus stop, the proposal is not considered to comply with the requirements of this control.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- 1 *To encourage good design and innovative architecture.*

Comment:

The overall design of the development has been generally supported by Council's Urban Designer. As discussed under Clause 4.6 of the WLEP in this report, the proposed height non-compliances are also considered acceptable in the circumstances.

- 1 *To provide a safe and comfortable environment for pedestrians*

Comment:

The proposal provides inadequate setbacks to Forest Way, which mean pedestrian circulation area, particularly in the area of the bus stop, is inadequate. This is not conducive to a safe and comfortable environment adjacent to the arterial road. The proposal is not considered to achieve this objective.

- 1 *To provide a range of small-scale shops and business uses at street level with offices or low-rise shop-top housing to create places with a village-like atmosphere.*

Comment:

The proposed alterations and additions to the existing shopping centre are considered generally acceptable in relation to this objective.

- 1 *To enhance the established scale and pattern of development and the continuity of existing streetscapes.*

Comment:

The shopping centre is inconsistent with surrounding development, which is generally low

density housing. However, the proposal will result in a dramatic streetscape improvement compared to the existing Forest Way frontage in particular, and is considered generally acceptable in relation to this objective.

- 1 *To enhance the public domain.*

Comment:

As discussed above, the public footpath area to the Forest Way frontage is considered insufficient.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

If the application is approved, a monetary contribution of \$1,143,590 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$114,358,968.

DRAFT VOLUNTARY PLANNING AGREEMENT OFFER

The concurrence provided by Transport for NSW required land along the Forest Way frontage to be dedicated to Council to provide for the deceleration lane into the site, and to provide for a future bus lane along Forest Way. To facilitate this dedication, a VPA is required as a legal mechanism to transfer the land to Council. The Hospital Precinct Structure Plan (HPSP) calls for a widened Forest Way, and the required dedication of land is generally consistent with this plan.

Also part of the HPSP is the upgrading of Grace Avenue, and works to the north and south to facilitate greater traffic flows. However, these works generally fall into the medium to long term category, and there is not a high level of certainty that these works will ever take place.

The process to assess and determine a VPA offer ordinarily takes a minimum of 6 months. This would mean that if the application is to be approved, a deferred commencement condition would be required, requiring the VPA to be accepted and entered into by Council and the applicants prior to the consent becoming operative. The VPA offer has not been reported to Council nor has Council commenced an assessment of the offer. This poses a risk to the applicant if consent was issued.

SUBDIVISION PLAN

As part of the final amendments lodged to address the TfNSW requirements, a subdivision plan was included in response to conditions 3 and 4, which read as follows:

3. The applicant is required to dedicate 3.5 meter wide land along full length of the deceleration lane as public road at no cost to Council and TfNSW prior to release of any construction certificate and commencement of road works.

4. An additional 3.2m wide land along the full frontage to Forest Way is required to ensure provision of a future fourth lane/bus lane on Forest Way. Any new buildings or structures, together with any improvements integral to the future use of the site, are to be erected clear of the land required for road. The land required for the future road shall be identified as a separate lot in any plan of development.

The subdivision plan provided is unclear in how it achieves the requirements of conditions 3 and 4 of the TfNSW Concurrence. The applicant has indicated that the dedication / subdivision would happen in two stages, one in relation to this application, and a second stage in the future for if or when the Hospital Precinct Structure Plan is carried out.

However, the TfNSW conditions would apply in full to this current application if approved. No staging is envisaged by these conditions. Further, the plan provided is not clear in how it achieves those conditions.

As such, the subdivision plan has not been included in the list of approved plans in the draft conditions, should the Panel wish to approve the application. The TfNSW conditions are included, and if the application is approved, the applicants would need to demonstrate that these conditions are achieved prior to completion of the project. This is an issue that may be dealt with as part of the proposed voluntary planning agreement.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and

b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

The proposal has taken considerable time to resolve long standing issues raised by TfNSW and for them to grant concurrence to the application. It is apparent, that amendments that have been made to the scheme that have enabled concurrence from TfNSW to be issued, have resulted in unacceptable outcomes for the local road network and in the reduced setback to the proposed building to Forestway. The proposal also falls short of the required parking numbers which is unacceptable.

Further, the proposal also relies on Council entering into a future voluntary planning agreement, the outcome of which is uncertain at this stage – given the late submission of the offer.

Accordingly, the application is recommended for refusal.

RECOMMENDATION

THAT Sydney North Planning Panel, as the consent authority REFUSE Development Consent to Development Application No DA2018/1924 for the Alterations and Additions to the Forest Way shopping centre including a childcare centre, medical centre, shops, restaurant/cafes, recreation facility (indoor), office premises and basement car parking. on land at Lot 20 DP 1209801, Forest Way, FRENCHS FOREST, for the reasons outlined in Attachment 1.

ATTACHMENT 1

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979.
2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B8 Merit Assessment of Front Boundary Setbacks of the Warringah Development Control Plan.
3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C2 Traffic, Access and Safety of the Warringah Development Control Plan.
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C3 Parking Facilities of the Warringah Development Control Plan.
5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause F1 local and Neighbourhood Centres of the Warringah Development Control Plan.
6. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.