

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	REV2022/0004
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<b>Responsible Officer:</b>	Hugh Halliwell (Consultant Planner – Mecone)
<b>Land to be developed (Address):</b>	Lot 111 DP 11936, 16 Bangaroo Street NORTH BALGOWLAH NSW 2093
<b>Proposed Development:</b>	Review of Determination of Application DA2021/0680 for alterations and additions to an existing dwelling house and use as a centre based childcare facility
<b>Zoning:</b>	Warringah LEP 2022 – Land zoned sR2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	N/A
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Kellie Maree Gielis Craig Stephen Gielis
<b>Applicant:</b>	William Fleming

<b>Application Lodged:</b>	07/04/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Other
<b>Notified:</b>	1 <sup>st</sup> Notification: 19/05/2022 – 2/06/2022 2 <sup>nd</sup> Notification: 12/08/2022 – 26/08/2022
<b>Advertised:</b>	12/08/2022
<b>Submissions Received:</b>	163
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$129,030
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### EXECUTIVE SUMMARY

This application involves the review of a determination of development application DA2021/0680. This DA was refused by LPP on 17 November 2021 on the following grounds:

- Concerns regarding the proposal's lack of compliance in relation to the clause 3.23 of the SEPP (Transport and Infrastructure) and Child Care Planning Guideline,
- Concerns relating to the provision of suitable traffic and parking arrangements, and
- Impacts on residential amenity.

The subject s8.2A application has been made to address the above matters. However, it is determined that the application has not satisfied the above matters.

The application involves the change of use of a dwelling house to a child care centre. Other works include the widening of the existing driveway crossing along the southern boundary to accommodate an additional parking space, internal works and associated landscaping within the rear setback. The child care centre proposes to accommodate 12 children, a total of 3 staff and has provision for 3 car parking spaces.

Council is not satisfied with the traffic generation coupled with the lack of any-on-site turning area resulting in a greater frequency of vehicles reversing across the footpath. This is likely to result in an unacceptable impact on pedestrians and other vehicles. Further concern is raised in relation to appropriate sight lines at the property boundary, and insufficient detail provided on the plans with regards to parking dimensions. The proposal relies upon vehicular parking which is partly beyond the property boundary, which is non-compliant.

Concern has been raised in relation to the proposed acoustic mitigation measures and acoustic impacts associated with the proposed centre. A peer review of the acoustic assessment has been undertaken which has raised concern in relation to the acoustic report methodology and results. Council's Building Assessment officer has noted concern regarding the ability of the proposal to comply with Clause D1.10 of the BCA in relation to external access and egress.

The application was notified in accordance with Council's Community Participation Plan and one hundred and sixty-three (163) submissions were received, all of which oppose the application. The issues that have been raised in the submissions include traffic and parking, pedestrian safety risks, and amenity impacts.

As more than 10 unique submissions by way of objection were received, the application is referred to the Northern Beaches Local Planning Panel for determination.

For the reasons outlined above and within this assessment report, the proposed development is recommended for refusal.

## **PROPOSED DEVELOPMENT IN DETAIL**

The application seeks alterations and additions to an existing dwelling house to facilitate the change of use of the premises to a child care facility. In particular, the application includes:

- Internal alterations to accommodate the change of use of a dwelling house to a child care facility to accommodate 12 children aged between 3 and 5 years of age and a total of 3 staff.
- Hours of operation 8:30am to 4:00pm Monday to Friday.
- A new crossover and parking area located along the southern elevation.
- Off-street parking to accommodate three cars. Two cars in a tandem arrangement along the southern boundary with a third car space located towards the centre of the site.
- Child proof gate measuring 1.2m high
- Landscaping within the backyard

### **Ground floor**

- Meeting room
- Library
- Kitchen
- 2 x WC's
- Storeroom
- Laundry
- Activity Area No. 1
- Activity Area No. 2

### **First Floor**

- 2 x store rooms
- Staff room

- Office
- Staff WC

This Review of Determination involves the following changes to the application which was refused:

- Reduction to child numbers from twenty (20) to twelve (12), and
- Amended documentation, including traffic impact assessment and acoustic assessment have been submitted in support of the proposal and reduced child numbers on traffic and acoustic grounds.

## 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 Development Control Plan - A.5 Objectives  
 Warringah Development Control Plan - B7 Front Boundary Setbacks  
 Warringah Development Control Plan - C2 Traffic, Access and Safety  
 Warringah Development Control Plan - C3 Parking Facilities  
 Warringah Development Control Plan - D3 Noise  
 Warringah Development Control Plan - D20 Safety and Security

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 111 DP 11936 , 16 Bangaroo Street NORTH BALGOWLAH NSW 2093
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the western side of Bangaroo Street.</p> <p>The site is regular in shape with a frontage of 12.105m along Bangaroo Street and a depth of 42.67m. The site has a surveyed area of 514.17m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two storey dwelling with a driveway crossover located along the southern boundary and does not provide a garage or carport, with hard stand parking located along the southern side to accommodate two cars.</p>

	<p>The site is relatively flat sloping gently from the northern side boundary to the southern side boundary.</p> <p>A low masonry retaining wall is located along the front boundary of the site with a garden bed located along the eastern and northern boundary of the front setback and a turfed area within the front setback.</p> <p>The backyard consists of a turfed area with planting located along the northern, western and southern boundaries consisting of small to medium sized trees.</p> <p>The site is not identified as a Heritage Item.</p> <p>The site is not identified as bushfire prone land.</p> <p>Adjoining and surrounding development is characterised by residential dwellings of a similar size and scale. A three (3) storey residential flat building is located along the western (rear) boundary with access provided from Worrobil Street.</p>
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Map:



## SITE HISTORY

The site is subject to two prior development applications, as follows:

1. **DA2020/1397** - Alterations and additions to a dwelling house and use of premises as a childcare centre. This DA was withdrawn on 21 January 2021.
2. **DA2021/0680** - Alterations and additions to an existing dwelling house and use as a centre-based childcare facility. This DA was reported before the NBLPP and refused on 17 November 2021 for the following reasons:
  1. *The proposal is inconsistent with Clause 23 of the SEPP Educational Establishments and Child Care Facilities.*
  2. *The proposed development is inconsistent with the provisions of Clause A.5 Objectives of the Warringah Development Control Plan in that it fails to respond to the*



*characteristics of the site and the neighbourhood, is not able to be a good neighbour, and does not provide a high level of access to and within the development in a safe manner.*

- 3. The proposed development is inconsistent with the provisions of Clause C2 Traffic, Access and Safety of the Warringah Development Control Plan 2011 in that the proposed access arrangements will give rise to an unsafe environment for pedestrians and vehicles and their occupants. In particular, of concern is the reversing of vehicles onto the footpath and the road carriageway when leaving the car park, the reliance on stacked car parking which exacerbates safety concerns, proximity of a bus stop, proximity of a major roundabout, and the volume of vehicles in the road network at peak periods.*
- 4. The proposed development is inconsistent with the provisions of Clause C3 Parking Facilities of the Warringah Development Control Plan in that it fails to provide compliant off-street parking arrangements for the child care centre.*
- 5. The proposed development is inconsistent with the provisions of Clause D20 Safety and Security of the Warringah Development Control Plan.*
- 6. Pursuant to Section 4.15 (1) (b) and (c) of the Environmental Planning and Assessment Act 1979 the proposed development is unsuitable for the site due to neighbourhood amenity and public safety outcomes.*
- 7. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.*

## **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)**

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

### **Section 8.3 of the Act**

In accordance with Section 8.3 of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Section 8.3 (2) of the Act, the request for the review must be made and determined within 12 months after the date of determination of the development application. The application was determined on 17 November 2021. The review was lodged on 7 April 2022 and is to be considered by the Northern Beaches Local Planning Panel on 5 October 2022 which is within 12 months of the date of determination.

Section 8.3 (3) provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Proposed Development in Detail' section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the 8.3 review) and the nature of the intended land use remains the same. Accordingly, it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 8.3 (3) of the Act

## **NOTIFICATION & SUBMISSIONS RECEIVED**

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 163 submission/s from:

<b>Name:</b>	<b>Address:</b>
Ms Janice Anne Hunter	15 A Serpentine Crescent NORTH BALGOWLAH NSW 2093
Mr Christopher Paul Smith	12 Winsome Avenue NORTH BALGOWLAH NSW 2093
Mark Ian Langley	96 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Honnie Bustos	13 St Pauls Road NORTH BALGOWLAH NSW 2093
Caroline Jane Harman	82 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Rowena Helen Casper	4 A Winsome Avenue NORTH BALGOWLAH NSW 2093
Ms Ann Cherie Bolton	40 Baringa Avenue SEAFORTH NSW 2092
Mrs Catherine Anne Gunton	52 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Christie Melanie Peck	106 Bangaroo Street NORTH BALGOWLAH NSW 2093
William Gregory Skelly	5 / 133 - 137 North Steyne MANLY NSW 2095
Mrs Susan Clare Kilbey	26 Tottenham Street NORTH BALGOWLAH NSW 2093
Mrs Kelly Nadine Drew	23 A Mons Road NORTH BALGOWLAH NSW 2093
Ms Brooke Louise Midson	6 Bardoo Avenue NORTH BALGOWLAH NSW 2093
Ms Saskia Margaret Emanuel	1 / 1 St Pauls Road NORTH BALGOWLAH NSW 2093
Ms Kirsty Jean Bonser	8 Brook Road SEAFORTH NSW 2092
Miss Lyndsay Barbara Steadman	30 Myrtle Street NORTH BALGOWLAH NSW 2093
Ms Michaela Utesena	22 Worroobil Street NORTH BALGOWLAH NSW 2093
Ms Caroline Leckey	20 Woodbine Street NORTH BALGOWLAH NSW 2093
Mrs Carla Rocio Castro Conde	50 Eileen Street NORTH BALGOWLAH NSW 2093
Mrs Christine Anne Boys	34 Warringah Street NORTH BALGOWLAH NSW 2093
Mr Mark Andrew O'Sullivan	15 Hunter Street NORTH BALGOWLAH NSW 2093
Mrs Sarah West	27 Eileen Street NORTH BALGOWLAH NSW 2093
Elizabeth Diamond	125 Clontarf Street SEAFORTH NSW 2092
Miss Sarah Kelly Stewart	22 Woodbine Street NORTH BALGOWLAH NSW 2093
Mrs Amy Victoria Black	74 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Carl Edward Stanfield	4 Eureka Avenue NORTH BALGOWLAH NSW 2093
Ms Alison Jane Mace	12 Winsome Avenue NORTH BALGOWLAH NSW 2093
Mr Paul Robert O'Brien	44 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Joseph Alexander Parkes Ward	10/45 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Dean James Linden	27 St Pauls Road NORTH BALGOWLAH NSW 2093
Mrs Samantha Jane Smith	26 Boyle Street BALGOWLAH NSW 2093
Anne Fairley Beaton Ottey	35 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Nicole Lee Lawrence	27 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Bryan Lawrence	27 Bangaroo Street NORTH BALGOWLAH NSW 2093
Ms Rebecca Josephine Bose	71 Bangaroo Street NORTH BALGOWLAH NSW 2093

Mark Joseph Sharman	38 Eileen Street NORTH BALGOWLAH NSW 2093
Mrs Tanya Vicki Boicheski	48 Fromelles Avenue SEAFORTH NSW 2092
Mrs Koreen Sumn-See White	29 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Mr Kim Reginald Peacock-Smith	18 Worroobil Street NORTH BALGOWLAH NSW 2093
Mr Sinan Kaya	18 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Timothy McDonald Dawson	41 Eileen Street NORTH BALGOWLAH NSW 2093
Brent Davies	50 Woodbine Street NORTH BALGOWLAH NSW 2093
Jennifer Anne Turner	45 Bangaroo Street NORTH BALGOWLAH NSW 2093
Ester Josefin Lobb	12 St Pauls Road NORTH BALGOWLAH NSW 2093
Mr Andrew Clifford Hinton	50 Eileen Street NORTH BALGOWLAH NSW 2093
Ms Lyna Ung	13 Hunter Street NORTH BALGOWLAH NSW 2093
Mrs Lorelle Abigail Gina	21 St Pauls Road NORTH BALGOWLAH NSW 2093
Mr Simon John Hartley	26 Woolgoolga Street NORTH BALGOWLAH NSW 2093
Mr Graham Edward Bruce	9 Hunter Street NORTH BALGOWLAH NSW 2093
Mrs Cerry Johnette Kean	C/- Crystal Pools Pty Ltd Po Box 271 PENNANT HILLS NSW 1715
Ms Georgina Greer	7 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Ms Maxine Kay Peacock-Smith	18 Worroobil Street NORTH BALGOWLAH NSW 2093
Mr Julio Cruces	26 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Therese Maree Ravell	59 Woodbine Street NORTH BALGOWLAH NSW 2093
Selwyn Basil Montgomery Garwell	68 Serpentine Crescent BALGOWLAH NSW 2093
Mrs Dorota Asigno	16 Worroobil Street NORTH BALGOWLAH NSW 2093
Mr Kenneth Leslie Churcher	25 Bangaroo Street NORTH BALGOWLAH NSW 2093
Adrian Boyle	Address Unknown
Clare Francis Turner	59 Woolgoolga Street NORTH BALGOWLAH NSW 2093
Mrs Carolyn Margaret Bruce	9 Hunter Street NORTH BALGOWLAH NSW 2093
Oliver Mace Smith	Address Unknown
Alison Fiona Fisher	6 Florence Court NORTH BALGOWLAH NSW 2093
Mr Kieren Christopher Hutchings	38 Bangaroo Street NORTH BALGOWLAH NSW 2093
Geraldine Onas Hall	12 David Road COLLAROY PLATEAU NSW 2097
Mr Steven Jon Hopkins	19 A Eileen Street NORTH BALGOWLAH NSW 2093
Mrs Robyn Rae Bathgate	1 Coramba Street NORTH BALGOWLAH NSW 2093
Mr Jamie Raymond Lobb	12 St Pauls Road NORTH BALGOWLAH NSW 2093
Eva Lobb	12 St Pauls Road NORTH BALGOWLAH NSW 2093
Ms Victoria Helena Mackay	1 / 2 Worroobil Street NORTH BALGOWLAH NSW 2093
Shelley Wright	64 Woolgoolga Street NORTH BALGOWLAH NSW 2093
Mrs Shelagh Mary Brigid Lubbock	39 Woolgoolga Street NORTH BALGOWLAH NSW 2093
Mrs Sarah Silverthorne	4 Urunga Street NORTH BALGOWLAH NSW 2093
Ms Julie Gay Hodder	4 Sandy Bay Road CLONTARF NSW 2093
Ms Jin Hee Lucy Olney	3 Winsome Avenue NORTH BALGOWLAH NSW 2093

Andrew Warrington Thompson	3 Coramba Street NORTH BALGOWLAH NSW 2093
Adam Iezzi	Address Unknown
Ms Judy Anne Masters	6 / 2 Worroobil Street NORTH BALGOWLAH NSW 2093
Ms Claudia Tsiamis	10 Brook Road SEAFORTH NSW 2092
Mr Christopher James Shaw	7 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Mr Matthew Brian Higgs	5 Worroobil Street NORTH BALGOWLAH NSW 2093
Graham Kirk Thomson	6 Bangaroo Street NORTH BALGOWLAH NSW 2093
Shirley Frances Thomson	6 Bangaroo Street NORTH BALGOWLAH NSW 2093
Simon Hall	6 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Gordon Robert Soling	17 A Bangaroo Street NORTH BALGOWLAH NSW 2093
Patricia Ann Soling	17 A Bangaroo Street NORTH BALGOWLAH NSW 2093
Ms Christina Lee Parks	60 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Helen Anita McMahan	C/- Ray White Real Estate 45 Sydney Road MANLY NSW 2095
Ms Eliza Jane Kirkby	32 Worroobil Street NORTH BALGOWLAH NSW 2093
Ms Susan Mary Lumb	4 Burringbar Street NORTH BALGOWLAH NSW 2093
Ms Fiona Isabel Smith	44 A Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Janette Hall	43 Bangaroo Street NORTH BALGOWLAH NSW 2093
Johanna May Ferguson	5 / 2 Worroobil Street NORTH BALGOWLAH NSW 2093
Ms Lee Purches	35 Woodbine Street NORTH BALGOWLAH NSW 2093
Mr Robert Michael Weddepohl	41 Bangaroo Street NORTH BALGOWLAH NSW 2093
Ms Sophie Kathryn Swan	73 Woodbine Street NORTH BALGOWLAH NSW 2093
Mr Dirk Verwohlt	17 Gloucester Street NORTH BALGOWLAH NSW 2093
Adrienne Opal Taylor Weddepohl	41 Bangaroo Street NORTH BALGOWLAH NSW 2093
Ms Jade Kimberley Cerfontyne	2 Kitchener Street BALGOWLAH NSW 2093
Jacqueline Alice Daley	15 A Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Corina Francis Crowe	50A Fromelles Avenue SEAFORTH NSW 2092
Mrs Ingrid Louise Chapman	8 Taree Avenue NORTH BALGOWLAH NSW 2093
Mr Malcolm Phillip Morris	29 Bangaroo Street NORTH BALGOWLAH NSW 2093
Ms Michele Mary Percival	14 A Bangaroo Street NORTH BALGOWLAH NSW 2093
Ms Antonia Bossi	14 B Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Angela Lentidoro	51 Woodbine Street NORTH BALGOWLAH NSW 2093
Rein Vanem	22 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Jonathan Harris	32 The Corso MANLY NSW 2095
Yvonne Mary Bowyer	55 Woodbine Street NORTH BALGOWLAH NSW 2093
Mrs Josephine Iacobbe	PO Box 4031 BALGOWLAH HEIGHTS NSW 2093
Mrs Camilla Rosemary Schroder	9 Fromelles Avenue SEAFORTH NSW 2092
Ms Amanda Margaret Magarey	3 / 2 Worroobil Street NORTH BALGOWLAH NSW 2093
Mrs Helene Lorna Morris	29 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Mark Patrick Flynn Teresa Flynn	48 Eileen Street NORTH BALGOWLAH NSW 2093
Mr Adam William Keam	25 Serpentine Crescent NORTH BALGOWLAH NSW 2093



Mr Alexander Dino Asigno	16 Worrobil Street NORTH BALGOWLAH NSW 2093
Mrs Genevieve Margaret Brock	9 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Mrs Karen Marosa	13 Worrobil Street NORTH BALGOWLAH NSW 2093
Mrs Anita McMahon	26 Bangaroo Street NORTH BALGOWLAH NSW 2093
Nathan Reid	11/34 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Fiona Dick	Address Unknown
Mrs Lisa Maurice	6 / 14 Malvern Avenue MANLY NSW 2095
Mr Bradley James Maurice	12 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Sasha Dimovski	19 A Bangaroo Street NORTH BALGOWLAH NSW 2093
Dympna Baker	2 St Pauls Road NORTH BALGOWLAH NSW 2093
Gisela Elisabeth Moser	20 Coramba Street NORTH BALGOWLAH NSW 2093
Ms Abigail Louise Sweet	4 Yamba Street NORTH BALGOWLAH NSW 2093
David John O'Neill	31 / 2 A Campbell Parade MANLY VALE NSW 2093
David George Perks	1 Worrobil Street NORTH BALGOWLAH NSW 2093
Mrs Kathryn Alison Jerman	50 Baringa Avenue SEAFORTH NSW 2092
Mrs Kelly Bartholomew	246 / 117 Old Pittwater Road BROOKVALE NSW 2100
Mrs Amanda Ann Longmore	4 Worrobil Street NORTH BALGOWLAH NSW 2093
Katherine Ellen Dunne	4 / 2 Worrobil Street NORTH BALGOWLAH NSW 2093
Timothy John Concannon	24 Bangaroo Street NORTH BALGOWLAH NSW 2093
Miss Katie Louise Ward	14 Breakers Place MOUNT COOLUM NSW 4573
Mrs Joy Nicola Perks	1 Worrobil Street NORTH BALGOWLAH NSW 2093
Duncan McPherson	6 Worrobil Street NORTH BALGOWLAH NSW 2093
Mrs Ulla Kofoed Krause	7 Worrobil Street NORTH BALGOWLAH NSW 2093
Ms Jennifer Gardiner	23 Yatama Street SEAFORTH NSW 2092
Mr Martin Alwyn Parry	13 A Bangaroo Street NORTH BALGOWLAH NSW 2093
Maree Hanson	2 / 62 - 64 Bangaroo Street NORTH BALGOWLAH NSW 2093
Miss Irena Zezelj	2 / 2 Worrobil Street NORTH BALGOWLAH NSW 2093
Withheld Adam Lezzi	NORTH BALGOWLAH NSW 2093
Withheld Adam Lezzi	2 / 2 Worrobil Street NORTH BALGOWLAH NSW 2093
Mrs Karis Nicola Khatchadourian	15 Penrose Place FRENCHS FOREST NSW 2086
Lisa Mozes	20 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Kerry Anne Bennet	67 Fromelles Avenue SEAFORTH NSW 2092
Ms Julie Elizabeth Flowers	2 / 12 James Street MANLY NSW 2095
Withheld	NORTH BALGOWLAH NSW 2093
Mrs Nathalie Michele Spanos	9 Coramba Street NORTH BALGOWLAH NSW 2093
Louise Pamela Moore	2 / 32 Poulton Parade FRENCHS FOREST NSW 2086
Mr Julie Elizabeth Livingstone	1 / 9 Marlee Street NORTH BALGOWLAH NSW 2093
Mr Bernd Johannes Krause	7 Worrobil Street NORTH BALGOWLAH NSW 2093
Matthew Robert Longmore	4 Worrobil Street NORTH BALGOWLAH NSW 2093
Blackwattle Planning	Address Unknown
Noise & Sound Services	Spectrum House 3 Cassandra Avenue ST IVES NSW 2075
Ms Elizabeth Fiona Dick	10/45 Bangaroo Street NORTH BALGOWLAH NSW 2093
Cinzia Iezzi	3 / 22 Pavilion Street QUEENSCLIFF NSW 2096

Mr Calvin Dunne	13 Birkley Road MANLY NSW 2095
Mrs Camilla Mary Pattison Stewart	7 Gloucester Street NORTH BALGOWLAH NSW 2093
Mr David Richards	53 Bangaroo Street NORTH BALGOWLAH NSW 2093
Karen Maric	25 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Sandra Jenner	50 Woodbine Street NORTH BALGOWLAH NSW 2093
Mr Phillip John Bird	3 Florence Court NORTH BALGOWLAH NSW 2093
David Zoltan Mozes	C/- Denis Smith Level1 1073 Pittwater Road COLLAROY NSW 2097

The Development Application was publicly exhibited in accordance with Council's Community Participation Plan. The Development Application was first notified from 19/05/2022 – 2/06/2022, then followed by a renotification period from 12/08/2022 – 26/08/2022 due to amended information being received. As a result of the public exhibition and advertising, 163 submissions were received in objection to the proposal.

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

- **Traffic impacts and insufficient off-street parking**

Comment: A number of submissions were received with regards to the traffic impacts of the child care centre on Bangaroo Street and surrounding streets. Neighbouring residents highlighted that there are existing concerns regarding safety due to existing traffic congestion, vehicles exceeding the speed limit, limited sight lines and the limited number of on-street parking spaces. The Subject site is located within close proximity to bus stops which also results in traffic congestion along Bangaroo Street. Concern is also raised in regard to the use of the proposed crossover in close proximity to the busy intersection located to the south at Bangaroo Street and Worribol Street.

Concerns were also received regarding the insufficient number of off-street parking spaces proposed on site and the impact that will have on the number of on-street parking available in the surrounding streets, in particular Worribol Street. In particular, issues were raised with regards to the appropriateness and safety of accessing the off-street parking spaces and the inability to enter and exit the site in a forward direction. The submissions noted the high pedestrian activity along Bangaroo Street given the close proximity to bus stops, Seaforth Public School and the shops located north along Woodbine Street and raise concern that the a child care centre in this location will only add to increased pedestrian activity. The submissions raise grave concern for the safety of pedestrians, in particularly children when entering and existing the centre.

Council's Traffic Engineer has considered the submitted Traffic and Parking Impact Assessment and subsequent peer review. Concerns have been raised in relation to the proposal from a traffic perspective. Detailed comments in this regard are provided in this report under the "Referrals" section. See also discussion under Clause C2 Traffic, Access and Safety and C3 Parking Facilities of the WDCP for further discussion.

- **Pedestrian safety risks**

Comment: Issues were raised with regards to risk of accident or injury to local residents and people accessing the centre who utilise the Bangaroo Street footpath directly in front of the site. Concerns were expressed as to the volume of vehicles crossing the pedestrian path as well as the resulting flow on implications. Council's Traffic Engineer has considered the submitted Traffic and Parking Impact Assessment and peer review. Detailed comments in this regard are provided in this report under the "Referrals" section.

- **Noise pollution**

Comment: Many submissions raise concern with regard to the noise generated from the development, as a result of increased traffic and children. The same submissions have noted the

propose acoustic barrier measuring 1.8m to 3m in height will be undesirable, including having a visual impact on neighbouring properties. As discussed below, Council's Environmental Health Officer has reviewed the proposal in relation to acoustic impacts and raises concern regarding the submitted documentation in light of a peer review and response process. This process raises some doubts in relation to the efficacy of proposed mitigation measures in addition to the acoustic modelling and results. Recommendations are made for a further assessment to be undertaken.

- **Neighbourhood character / land use clash**

Comment: It is noted that several submissions have raised concern in relation to the centre not fitting within the character of the area, leading to undesirable impacts, including noise, waste and traffic. Further impacts on residential amenity are noted. Child care centres are a permitted land use within the R2 zone, but are to be sited, designed and operated in a manner that is commensurate with the objective of the zone and character of the area that does not conflict with adjoining and nearby land. To this end, the proposal is considered to result in undesirable impacts on traffic and acoustic privacy.

- **Fire safety and regulation / emergency egress**

Comment: The concerns raised in relation to fire safety and emergency egress are acknowledged. Council's Building Assessment Officer has reviewed the proposal and has requested clarification on compliance with egress requirements under the BCA. Insufficient detail is provided to demonstrate compliance with the above.

- **Fencing**

Comment: Concern is raised in relation to proposed fencing and associated maintenance costs. Proposed acoustic barriers are located 0.5m within the property boundary. Any responsibility for the ongoing maintenance is that of the owner/operator of the centre.

- **Operations and management**

Comment: Several submissions have noted concern regarding impact of services associated with commercial use, e.g., waste collection and deliveries. Were the proposal to be supported, a detailed and thorough operational plan of management would need to be prepared detailing how such services would be dealt with by the centre. While the application is supported by a OPoM, this would need to be amended to ensure all detail is provided.

- **Insufficient details and missing documentation**

Comment: There are submissions which have highlighted inconsistencies between plans and reports, and insufficient detail on plans, including dimensions. A thorough review of the supporting documentation has been undertaken. Concerns on inconsistencies and accuracy of reports is noted. Peer reviews have been undertaken of the acoustic and traffic assessments to ensure a thorough assessment. It is also noted that many plans do not provide sufficient detail, including dimensions to make a proper assessment. This has been raised with the applicant.

- **Property devaluation**

Comment: Property devaluation is not a matter for consideration under s4.15 of the EP&A Act and cannot be considered as part of this assessment.

- **Crime levels**

Comment: There is no evidence to suggest a child care centre will lead to new criminal activity in the area.

- **Stormwater run-off**

Comment: Council's Development Engineer has reviewed the proposal from a stormwater perspective and is supportive of the proposal, subject to conditions.

## REFERRALS

Internal Referral Body	Comments
Traffic	<p><b>Not Supported</b></p> <p>I have reviewed the amended plans and the applicant's response to peer review of the traffic impact assessment.</p> <p>The amended plans do not appear to have been adjusted at all to address concerns or provide clarification with regard to issues raised in the previous traffic referral comments.</p> <p><b>Parking</b></p> <ol style="list-style-type: none"> <li>1. Although requested, the amended plans have no dimensions for the driveway and parking area, and it is therefore not possible to confirm if the parking spaces and driveway are sized in accordance with Australian Standards. The applicant's traffic consultant has asserted that there is sufficient space to accommodate the owner's small car and a sedan however the Australian Standard for off-street parking requires that even a small car space must be no less than 2.3m wide (plus 0.3m addition clearance on each obstructed side) and 5.0m in length while a standard parking space must be no less than 5.4m in length. The size of the vehicle currently driven by the owner is irrelevant. As noted in the previous traffic referral comments the surveyed dimensions suggest that there is only 2.27m width between the existing southern fence and the building's wall. This is inadequate to meet the Australian Standard even for a small car space and the amended plans and reporting have provided no information to refute the above. Fully dimensioned plans reflecting surveyed dimensions for the parking area to clarify available lengths and widths for each off-street parking space are required.</li> <li>2. The applicant's traffic consultant has also asserted that it is okay for a vehicle to park partly outside the property boundary provided it does not encroach on the footpath (pg. 14). Any vehicles parking in such a manner would be illegally parked and could receive a parking infringement. There appears to be insufficient space for two B85 vehicles to park nose to tail along the southern boundary without either preventing access to/from the side gate and preventing access to the waste/recycling area and/or encroaching on the footpath area. Dimensioned plans consistent with surveyed dimensions are required to confirm the area available for off-street parking. All parking spaces must be entirely contained within the property boundaries.</li> </ol>



Internal Referral Body	Comments
	<p>3. The surveyed dimensions suggest that there is 5.07m between the front boundary of the site and the patio. The front boundary of the site currently has a rendered wall running along it which further reduces the width. It is understood that a portion of the rendered wall is to be removed to allow parking however the patio level is well above the parking space level so overhang of a parked vehicle onto the patio will not be possible. The applicant's response to the peer review of the traffic report asserts on page 15 that there is a 5.35m length available between the front boundary and the patio/balcony. This is inconsistent with the surveyed dimensions and there is concern that not enough space is available for a B85 vehicle to park without encroaching on the nature strip area. Dimensioned plans consistent with surveyed dimensions are required. All parking spaces shown on the plans must be entirely contained within the property boundaries and spaces designated for drop off and pick up purposes must be sized in accordance with user class 3 in AS2890.1 Fig 2.2.</p> <p><b><u>Traffic Generation</u></b></p> <p>The previous traffic referral comments had requested that the site's traffic generation be revised to reflect traffic generation arising from the operation of a preschool (which most closely resembles the centre's proposed operating hours). The applicant's response to the peer review of the traffic report has acknowledged that they have underestimated the traffic generation from the site (pg. 8). Using the rates for a Preschool the AM peak hour traffic generation rate would increase from 8 trips per hour to 17 trips per hour. The amended PM peak traffic would have also been revised up from 7 trips per hour to 10 trips per hour. The PM peak traffic would occur between 2:30pm and 4:00pm rather than coinciding with general traffic peak which occurs later in the evening. The PM peak traffic would however correspond with the after-school period when children would be walking along the footpath. There is concern that this revised traffic generation coupled with the lack of any on-site turning area results in a greater frequency of vehicles reversing back across the footpath. This is in an area within close to proximity to a bus stop and within 400m of Seaforth Public School and it is therefore likely that vehicles reversing from the site will regularly encounter pedestrians. Measures to ensure the safety of pedestrians are required.</p> <p><b><u>Additional issues</u></b></p> <p><b><u>Pedestrian sight lines at boundary</u></b></p> <p>AS2890.1 Fig 3.3 requires that sight line triangles 2.5m x 2.0m in size should be available at the point where the driveway meets the property boundary. There is an existing dividing wall along the southern boundary of the site which prevents a complaint site line triangle from being created on</p>

Internal Referral Body	Comments
	<p>the south side of the driveway. A compliant sight line triangle will however be required on the north side of the driveway particularly as vehicles will be reversing rather than exiting forwards from the site. The absence of pedestrian crash history (as outlined on page 10 of the applicant's response to the peer review of their traffic assessment) although noted is not significant justification to overcome the need for adequate sight lines to pedestrians. Measures to overcome the absence of a sight line triangle to the south should be proposed by the applicant.</p> <p>Amended plans are required to address the concerns raised above and as detailed in the previous traffic referral comments.</p>
<p>Environmental Health – Industrial Use</p>	<p><b>Not Supported</b></p> <p>Environmental Health previously made comment and provided proposed conditions of any approval.</p> <p>For this review, the applicant has provided expert response to questions raised about the supporting acoustic report methodology and results and the peer reviewer still has some concerns (letter to Council 20 July 2022) summarised here for clarity to the reader.</p> <p>We note that, as well as a response to the peer review, RWDI are now suggesting significant changes to the proposed childcare. These include the proposed number of children, the proposed hours of use and hence, a proposed higher noise emission criterium for the outdoor play. Furthermore, RWDI have accepted that the additional noise monitoring conducted at the backyard ground floor (L02) and rear balcony (L03) between 26 and 29 June 2020 did not occur during periods within the proposed operating hours of the childcare centre. Note: Wilkinson Murray were taken over by RWDI. Directors S.A. Scannell, K. Scannell MSc., MAAS, &amp; M. J. Scannell BA MAAS. Hence, we respectively suggest that RWDI produce an updated noise assessment report which addresses all of the proposed changes. This can then be assessed by Council and peer reviewed by an AAAC acoustical consultancy.</p> <p>The updated report should also include revised background noise monitoring and an assessment of the new Council requirements for mechanical ventilation systems from kitchen and toilets (see Northern Beaches Environmental Health Referral Response - commercial use, dated 22/06/2022). This due to the limited possible locations of this plant other than at close proximity to the neighbouring properties.</p> <p>Environmental Health acknowledges that the basis of any assessment report; should changes be made, such as an increase in child numbers, hours or whether a 3m acoustic wall can or cannot be built near the property boundary, as well as mechanical ventilation requirements; needs to be</p>

Internal Referral Body	Comments
	<p>reflected in an up-to-date acoustic review by the applicant and taking into consideration the above reviewers' comments.</p> <p>Changes to site or operational plans can impact on potential noise nuisance outcomes. These assessments are theoretical until finally confirmed at occupation stage under real life circumstances. Significantly objection to and failure to build the proposed significant 3m wall the length of the rear boundary will have a significant impact on the acoustic recommendations.</p> <p>If a 3m wall set in 500mm from and the length of the rear boundary is unacceptable to Council, then the proposal cannot be currently supported. (Also, how and who maintains the 500mm wide inaccessible land strip created also needs addressing). Dividing fences are generally 1.8m high on or near the boundary.</p> <p>Whilst no guarantee can be given, noise control measures can usually be provided to comply (for example - if child numbers and hours are reduced, or plans amended). Childcare facilities are a source of complaint to Council mainly due to crying or screaming children and a robust Plan of Management is also critical incorporating any acoustic recommendations.</p> <p>If the 3m acoustic barrier wall is supported by Council, child numbers and hours confirmed in the acoustic report as proposed as assessed, Environmental Health could in these circumstances support the proposal and then require an acoustic review at the time of occupation to assess the noise criteria in operation, including mechanical ventilation/plant and equipment (any potential changes/modifications necessary being carried out within 30 days).</p> <p>The proposal is therefore unsupported.</p>
Environmental Health – Commercial Use	<p><b>Supported</b></p> <p>No significant changes relating to the food area/s. No changes to the Environmental Health referral comments or recommended conditions from 22 June 2022.</p>
Landscape	<p><b>Supported</b></p> <p>The proposal for alterations and additions to the existing dwelling and use as a centre-based childcare facility under this review application is assessed by an alternate Landscape Officer to DA2021/0680.</p> <p>As outlined in the Statement of Environmental Effects the changes, for review, to DA2021/0680 are mainly related to traffic issues and children capacity limits. There are no changes to the information provided regarding the landscape.</p> <p>No Arboricultural Impact Assessment is included as part of the application however the Statement of Environmental Effects provided in DA2021/0680 indicated no trees were to</p>

Internal Referral Body	Comments
	<p>be removed for the proposed works; "The proposal does not require the removal of any flora or fauna". As outlined in the Landscape Referral for DA2021/0680 some vegetation to the southern side of the front yard will need to be removed to accommodate the new parking area. All other trees and vegetation shall be retained and protected subject to the imposed conditions. Landscape Referral notes that the two mature Magnolia trees to the rear of the dwelling shall be retained and protected and all works within the tree protection zone of these trees shall be supervised by a Project Arborist subject to the imposed conditions.</p> <p>A new 3-metre-high fence is proposed 500mm off the rear boundary. All fencing works in the tree protection zone of the existing trees shall be under the advice and supervision of the Project Arborist. Landscape Referral raises no other concerns subject to the imposed conditions.</p> <p>The proposal is therefore supported.</p>
Waste	<p><b>Supported</b></p> <p>I note that the location of the bin storage has not changed on the amended plans.</p> <p>Waste Services had no objection to this location on the original plans and still has no objections.</p> <p>As an alternative the bins could be stored in the grassed area at the front of the property with suitable screening around the bins. This location provides better access for emptying the bins.</p>
Building Assessment	<p><b>Not Supported</b></p> <p>The amended plans have been reviewed resulting in (2) additional conditions relating to access and egress (external) and access for disabled (internal).</p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><b>Further Review</b></p> <p>Concern has been raised regarding the additional condition relating to access and egress (external) and the ability of the proposal to comply with Clause D1.10 of the BCA.</p> <p>In this regard the applicant is to provide details as to how the requirements for a 1m wide unobstructed path of travel from the rear external exit door to the street, as required by D1.10 of the BCA, can be achieved. The details need to include the location, width of the pathway and any measures on how to overcome obstructions and still maintain the required width.</p>



External Referral Body	Comments
Ausgrid	The proposal was referred to Ausgrid. A response was received by Council from Ausgrid stating that "decision not required". Therefore, it is assumed that no objections are raised and no conditions are recommended.

## 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 (Transport and Infrastructure) 2021

Clause 3.23 of State Environmental Planning Policy (Transport and Infrastructure) 2021 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 is for the establishment of a centre-based child-care facility.

As per the provisions of Clause 3.23, 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: Consistent

The existing dwelling remains substantially the same with the façade not being dramatically altered other than the introduction of a 1.2m high child proof fence within the front setback. The provision of hard standing car parking within the front setback to create three (3) parking spaces does not comply with B7 Front Boundary Setbacks control as stipulated in the Warringah Development

Control Plan (WDCP). This control does not support car parking within the front setback. The development proposes to increase the number of car parking spaces from two (2) to three (3). Notwithstanding the non-compliance, the additional parking space is not considered to impact on the character with the low-density residential character of the surrounding streetscape given no parking structures are proposed and the stacked parking arrangement will minimise the appearance of the third parking space along the southern boundary closer to the building. The front setback will maintain 50% of the area as landscaped open space and will be generally free of any structures (other than the child proof gate) to maintain a sense of openness.

## **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: Consistent

The overall scale, bulk and height of the proposed childcare centre is consistent with that of the largely low-density residential character along Bangaroo Street and the surrounding area. As above, the proposal will breach the front setback control within the WDCP, however this is considered minor and will not impact on the building particularly when viewed from the public domain of Bangaroo Street. Given the design of the building is not substantially changing, it is not considered to dominate the streetscape or the existing built environment along Bangaroo Street.

## **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: Inconsistent

The design of the proposed childcare centre does not deliver learning spaces and an acceptable level of amenity for both children and staff when assessed against the applicable requirements of the Child Care Planning Guideline (refer below for a detailed assessment). Concurrence to the NSW Department of Education – Early Childhood Education Directorate was not identified to be necessary at the time of lodgement, nevertheless the development would need to meet clauses 107 and 108 which relate to the indoor and outdoor space requirements of the Education and Care Services National Regulations 2011. Should the application be approved, conditions can be imposed in this regard.

## **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: Inconsistent

There is concern that the proposed layout is not conducive to providing for a positive sustainable outcome, specifically in relation to sunlight and passive thermal design. The proposal seeks to retain the existing dwelling layout, resulting in learning spaces, in particular 'Activity Area No 1' being located to the southern side of the ground floor. As such, there is no ability for this space to receive sufficient sunlight. The proposed layout of the centre is not considered suitable to provide for a sustainable development.

### **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: Consistent

The development proposes an appropriately designed landscaped open space area within the rear setback. This area complies with the minimum requirement for an unencumbered space for the children to enjoy and provides a selection of low to medium height trees and shrubs to ensure the landscape character of the development is maintained within the immediate vicinity. The outdoor learning environment for children is therefore considered acceptable.

### **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: Inconsistent

As previously discussed, the proposed design of the centre, including internal and external spaces, is not considered to provide for a positive experience with amenity, staff and neighbours not being appropriately considered. As noted, the internal layout of the ground floor is not conducive to a positive learning environment. The outdoor learning spaces do not provide suitable shading for children. While the reliance upon a 3m high acoustic barrier is not appropriate in this instance. Further, there remains unresolved concerns in relation to the potential acoustic impacts generated by the centre (refer to Referral section above for acoustic assessment).

### **Principle 7: Safety**

*Well-designed childcare 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 childcare 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 childcare facilities incorporate passive surveillance and Crime Prevention Through Environmental Design (CPTED).*

#### Comment: Consistent

The proposed childcare centre is considered to achieve consistency with the need to provide safe and secure learning spaces as well as appropriate supervision of children. The entries are also clearly defined and allow for controlled access for members of the community. The following table is an assessment against the criteria of the 'Child Care Planning Guideline' as required by State Environmental Planning Policy (Transport and Infrastructure) 2021.



The following table is an assessment against the criteria of the 'Child Care Planning Guideline' as required by State Environmental Planning Policy (Transport and Infrastructure) 2021.

## MATTERS FOR CONSIDERATION

Objectives	Criteria/Guidelines	Comments
<b>3.1 Site selection and location</b>		
<p><b><i>C1 To ensure that appropriate zone considerations are assessed when selecting a site</i></b></p>	<p>For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> <li>• the acoustic and privacy impacts of the proposed development on the residential properties</li> <li>• the setbacks and siting of buildings within the residential context</li> <li>• traffic and parking impacts of the proposal on residential amenity.</li> </ul>	<p><b>Inconsistent</b></p> <p>The application is accompanied by an acoustic report to address the proposed childcare centre. A peer review of this acoustic assessment has also been undertaken raising concern regarding the acoustic methodology and results. The report makes recommendations regarding acoustic walls and treatments to mitigate adverse noise impacts to adjoining properties. The proposal is considered unacceptable as it relies upon a 3m high acoustic barrier, with uncertainty regarding the efficacy of the barrier. There remain unresolved acoustic matters, therefore the proposal cannot be supported on acoustic grounds.</p> <p>The additional vehicular and pedestrian traffic generated by the proposed childcare centre is likely to adversely impact upon safety in the street. Further, the proposal provides for insufficient parking dimensions leading to an unacceptable parking arrangement. This is discussed in detail further in this report.</p>



	<p>When selecting a site, ensure that:</p> <ul style="list-style-type: none"><li>• the location and surrounding uses are compatible with the proposed development or use</li><li>• the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards</li><li>• there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed</li><li>• the characteristics of the site are suitable for the scale and type of development proposed having regard to:<ul style="list-style-type: none"><li>• size of street frontage, lot configuration, dimensions and overall size</li><li>• number of shared boundaries with residential properties</li><li>• the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas</li></ul></li><li>• where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use</li><li>• there are suitable drop off and pick up areas, and off and on street parking</li><li>• the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use</li><li>• 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.</li></ul>	<p><b>Inconsistent</b></p> <p>The site is considered safe from risks associated with natural hazards.</p> <p>The additional vehicular and pedestrian traffic generated by the proposed childcare centre is likely to adversely impact upon safety in Bangaroo Street. Further, the proposal provides for insufficient off-street parking of appropriate dimensions, in particular with drop-off/pick-up locations and an unacceptable parking arrangement. This is discussed in detail further in this report.</p> <p>The proposed childcare centre is not located closely to any known incompatible social activities/uses.</p>
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<p><b>C3 To ensure that sites for child care facilities are appropriately located</b></p>	<p>A child care facility should be located:</p> <ul style="list-style-type: none"> <li>• near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship</li> <li>• near or within employment areas, town centres, business centres, shops</li> <li>• with access to public transport including rail, buses, ferries</li> <li>• in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.</li> </ul>	<p><b>Consistent</b></p> <p>The proposed child care facility is located close to Seaforth Public School, but is not near to any employment areas, town centres, business centres or shops. The nearest shops are Woodbine Street, North Balgowlah, some 350m towards the north of the site. Access to public transport (buses) are nearby along Bangaroo Street adjacent to the subject site and pedestrian connectivity is available via existing footpaths</p>
<p><b>C4 To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazard</b></p>	<p>A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> <li>• proximity to: <ul style="list-style-type: none"> <li>○ heavy or hazardous industry, waste transfer depots or landfill sites</li> <li>○ LPG tanks or service stations</li> <li>○ water cooling and water warming systems</li> <li>○ 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</li> </ul> </li> </ul>	<p><b>Consistent</b></p> <p>The proposed childcare centre is not located in proximity to sites known to incur risks from environmental, health or safety hazards</p>
<p><b>3.2 Local character, streetscape and the public domain</b></p>		

<p><b>C5 To ensure that the child care facility is compatible with the local character and surrounding streetscape</b></p>	<p>The proposed development should:</p> <ul style="list-style-type: none"> <li>• contribute to the local area by being designed in character with the locality and existing streetscape</li> <li>• reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> <li>• recognise predominant streetscape qualities, such as building form, scale, materials and colours</li> <li>• include design and architectural treatments that respond to and integrate with the existing streetscape</li> <li>• use landscaping to positively contribute to the streetscape and neighbouring amenity</li> <li>• integrate car parking into the building and site landscaping design in residential areas.</li> </ul>	<p><b>Consistent</b></p> <p>The proposed childcare centre does not dramatically change the built form of the existing building in character with the locality and existing streetscape. The existing building does reflect the predominant form of the surrounding low density residential context.</p> <p>Whilst the additional off-street car parking does reduce the landscaped open space within the front setback, the openness of the site is retained.</p>
<p><b>C6, C7, C8 To ensure clear delineation between the child care facility and public spaces</b></p>	<p>Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> <li>• fencing to ensure safety for children entering and leaving the facility</li> <li>• 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</li> <li>• integrating existing and proposed landscaping with fencing.</li> </ul>	<p><b>Consistent</b></p> <p>Existing windows towards Bangaroo Street ensure that these requirements are capable of being achieved, particularly when accounting for regulatory procedures that would need to be undertaken by the Early Childhood Education Directorate prior to any childcare centre becoming operational.</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><b>Consistent</b></p> <p>The proposed childcare centre is a single building with a primary entry point via the Bangaroo Street frontage. As previously mentioned, these requirements are capable of being achieved, particularly when accounting for regulatory procedures that would need to be undertaken by the Early Childhood Education Directorate prior to childcare centre becoming operational.</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> <ul style="list-style-type: none"> <li>• clearly defined street access, pedestrian paths and building entries</li> <li>• low fences and planting which delineate communal/ private open space from adjoining public open space</li> <li>• minimal use of blank walls and high fences.</li> </ul>	<p><b>N/A</b></p> <p>The Site does not adjoin any public parks, open space, or bushland.</p>
<p><b>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.</b></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>	<p><b>Consistent</b></p> <p>The application proposes a child proof gate/fence within the front setback. The gate will measure 1.2m in height and will be located 1.2m from the front boundary. The gate will be constructed of visually permeable materials as to reduce the visual impact when viewed from Bangaroo Street.</p>
	<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><b>N/A</b></p> <p>Bangaroo Street is a local road and therefore would not require high fencing that would otherwise be necessary along a classified road.</p>
<p><b>3.3 Building orientation, envelope, and design</b></p>		



<p><b>C11 To respond to the streetscape and site, while optimising solar access and opportunities for shade</b></p>	<p>Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> <li>• ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by:</li> <li>• facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties</li> <li>• placing play equipment away from common boundaries with residential properties</li> <li>• locating outdoor play areas away from residential dwellings and other sensitive uses</li> <li>• optimise solar access to internal and external play areas</li> <li>• avoid overshadowing of adjoining residential properties</li> <li>• minimise cut and fill</li> <li>• ensure buildings along the street frontage define the street by facing it</li> <li>• ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.</li> </ul>	<p><b>Inconsistent</b></p> <p>The proposed childcare centre is located within a R2 Low Density Residential area which is characterised by residential dwellings.</p> <p>It is considered that the design of the building layout does not allow for suitable solar access and shading. Internal activity areas, specifically 'Activity Area No 1' is not suitably located to ensure sufficient solar access. While shading to the external play areas is not provided.</p> <p>An acoustic report and a subsequent peer review has been submitted with the development application which was reviewed by Council's Environmental Health (Industrial) Section. The review confirms shortcomings in the acoustic report methodology and results. The peer reviewer has ongoing concerns, particularly in relation to the reliance upon a 3m high acoustic barrier.</p> <p>As noted above, there remains ongoing concerns in relation to general amenity to within the site and to nearby residential properties. Therefore, the proposal cannot be supported.</p>
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<p><b>C12 To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised</b></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"> <li>• building height should be consistent with other buildings in the locality</li> <li>• building height should respond to the scale and character of the street</li> <li>• setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility</li> <li>• setbacks should provide adequate access for building maintenance</li> <li>• setbacks to the street should be consistent with the existing character.</li> </ul>	<p><b>Consistent</b></p> <p>The existing building is consistent with the height and setbacks of other buildings in the locality and responds positively to the scale and character of the street.</p>
<p><b>C13, C14 To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context</b></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><b>Consistent</b></p> <p>The front building line of the dwelling is not altered as a result of the proposal.</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><b>Consistent</b></p> <p>No changes proposed to the existing side and rear setbacks.</p>
<p><b>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</b></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"> <li>• respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage</li> <li>• contributes to the identity of the place</li> <li>• retains and reinforces existing built form and vegetation where significant</li> <li>• considers heritage within the local neighbourhood including identified heritage items and conservation areas</li> <li>• responds to its natural environment including local landscape setting and climate</li> <li>• contributes to the identity of place.</li> </ul>	<p><b>Consistent</b></p> <p>The built form of the proposed childcare centre is seen to respect and respond to its adjacent built form, the character of the neighbourhood or streetscape.</p>
<p><b>C16 To ensure that buildings are designed to create safe</b></p>	<p>Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> <li>• located to allow ease of access, particularly</li> </ul>	<p><b>Consistent</b></p> <p>The entry to the childcare centre is limited to one secure point and is consistent with the requirements of this guideline.</p>

<p><b>environments for all users</b></p>	<p>for pedestrians</p> <ul style="list-style-type: none"> <li>• directly accessible from the street where possible</li> <li>• directly visible from the street frontage</li> <li>• easily monitored through natural or camera surveillance</li> <li>• not accessed through an outdoor play area.</li> <li>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ul>	
<p><b>C17 To ensure that child care facilities are designed to be accessible by all potential users</b></p>	<p>Accessible design can be achieved by:</p> <ul style="list-style-type: none"> <li>• providing accessibility to and within the building in accordance with all relevant legislation</li> <li>• 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</li> <li>• 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</li> <li>• minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</li> </ul> <p><b>NOTE:</b> <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><b>Consistent</b></p> <p>The proposal provides an accessible design for wheelchairs and prams and a continuous path of travel to and within the building including access between the street entry and car parking and main building entrance.</p>
<p><b>3.4 Landscaping</b></p>		
<p><b>C18, C19 To provide landscape design that contributes to the streetscape and amenity</b></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"> <li>• reflecting and reinforcing the local context</li> <li>• incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.</li> </ul>	<p><b>Consistent</b></p> <p>The proposed landscape arrangement includes perimeter native screen plantings along both side boundaries for the site. These plantings have not been included in calculations of unencumbered outdoor space.</p>

	<p>Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> <li>• planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</li> <li>• taking into account streetscape, local character and context when siting car parking areas within the front setback</li> <li>• using low level landscaping to soften and screen parking areas.</li> </ul>	<p><b>Consistent</b></p> <p>The proposed parking area along the southern side of the site within the front setback will provide for three (3) off street parking spaces. Landscaping is proposed along the northern side of the site within the front setback which will assist in softening the car hard stand parking spaces.</p>
<p><b>3.5 Visual and acoustic privacy</b></p>		
<p><b>C20, C21 To protect the privacy and security of children attending the facility</b></p>	<p>Open balconies in mixed use developments should not overlook facilities nor overhang 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"> <li>• appropriate site and building layout</li> <li>• suitably locating pathways, windows and doors</li> <li>• permanent screening and landscape design.</li> </ul>	<p><b>N/A</b></p> <p>The proposal is not a mixed-use development.</p> <p><b>Consistent</b></p> <p>Indoor rooms and outdoor play spaces of the proposed childcare centre are located away from public areas. This has been achieved through largely incorporated these areas internally and towards the rear of the site.</p>
<p><b>C22 To minimise impacts on privacy of adjoining properties</b></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"> <li>• appropriate site and building layout</li> <li>• suitable location of pathways, windows and doors</li> <li>• landscape design and screening.</li> </ul>	<p><b>Inconsistent</b></p> <p>The proposal does not minimise direct overlooking towards adjoining residential properties from a first floor balcony.</p>

**C23, C24 To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments**

A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:

- provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence).
- ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.

**Inconsistent**

The Development Application is supported by a detailed Acoustic Assessment, prepared by Wilkinson Murray, dated 21 April 2021, which was followed by a Peer Review and subsequent response to the Peer Review, undertaken by Noise and Sound Services, dated April 2022 and RWDI Australia, respectively.

The report prepared by Wilkinson Murray details a 1.8m high noise barrier is to be constructed along part of the southern boundary adjacent to the open space at the rear of the site with a 2.4m high noise barrier constructed along the southern boundary adjacent to the building. A 2.4m high noise barrier is proposed along the northern boundary with a 3.0m high noise barrier proposed along the western (rear) boundary.

The Peer Review, prepared by Noise and Sound Services notes concerns regarding noise generated from the outdoor play areas, particularly the residential receivers, in the elevated six units at 2 Worrobil Street. The peer review also notes the general unacceptability of the 3m high acoustic barrier to neighbours, while also having reservations regarding the height being suitable to meet the noise goals of background noise plus 5dB. The review concludes that the site remains unsuitable for use as a childcare centre. A response to this peer review, prepared by RWDI Australia has responded to the matters raised by Noise and Sound





		<p>Services. RWDI acknowledge inconsistencies and shortfalls in the original assessment and modelling, and provides clarification and further detail in this regard. The response by RWDI states that the proposal remains satisfactory and supportable from an acoustic perspective. However, a new acoustic assessment would be required to be undertaken and reassessed by Council.</p> <p>Council's Environmental Health (Industrial) Officer acknowledges the above and is not in a position to support the proposal due to the shortcomings in the original assessment, and requests an updated noise assessment report.</p>
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	<p>A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> <li>• identify an appropriate noise level for a child care facility located in residential and other zones</li> <li>• determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use</li> <li>• determine the appropriate height of any acoustic fence to enable the noise criteria to be met.</li> </ul>	<p><b>Inconsistent</b></p> <p>Refer to above for discussion on acoustic assessment and impacts generated by the proposed childcare.</p>
<p><b>3.6 Noise and air pollution</b></p>		
<p><b>C25, C26</b></p>	<p>Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> <li>• creating physical separation between buildings and the noise source</li> <li>• orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> <li>• using landscaping to reduce the perception of noise</li> <li>• limiting the number and size of openings facing noise sources</li> <li>• using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)</li> <li>• using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits</li> <li>• locating cot rooms, sleeping areas and play areas away from external noise sources</li> </ul>	<p><b>Inconsistent</b></p> <p>The DA proposes acoustic barriers measuring from 1.8m – 3m in height to the northern, southern and western boundaries. A Peer Review of Murray Wilkinson’s acoustic assessment undertaken by NSS has raised reservations regarding the acceptability of the proposal and the assessment undertaken by MW. As previously noted above, there are concerns regarding the efficacy of the proposed barriers, as highlighted by the peer review conducted by NSS. In order for the proposal to be considered, a further noise assessment report is to be provided for assessment.</p>



	<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 childcare facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"><li>• on industrial zoned land</li><li>• where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000</li><li>• along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li><li>• on a major or busy road</li><li>• other land that is impacted by substantial external noise.</li></ul>	<p><b>Inconsistent</b></p> <p>As above, the application is to be supported by a revised noise assessment report taking in the findings and conclusions in RWDIs response to the peer review. Upon receipt of an updated assessment, Council will determine the acceptability of the proposal in relation to noise levels for sleeping areas and other non-play areas.</p>
<p><b><i>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</i></b></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><b>N/A</b></p> <p>The proposed childcare centre is not located near 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"> <li>• 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</li> <li>• using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway</li> <li>• incorporating ventilation design into the design of the facility.</li> </ul>	<p><b>N/A</b></p> <p>As above, the proposed childcare centre is not close to major roads or industrial developments.</p>
<b>3.7 Hours of operation</b>		
<p><b>C29, C30 To minimise the impact of the child care facility on the amenity of neighbouring residential developments</b></p>	<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>	<p><b>Consistent</b></p> <p>The hours of operation for the proposed childcare centre are to be 8:30am to 4:00pm Monday to Friday.</p>
	<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>	<p><b>N/A</b></p> <p>The proposed childcare centre is not located within a mixed use area or predominantly commercial area.</p>
<b>3.8 Traffic, parking and pedestrian circulation</b>		

<p><b>C31, C32, C33 To provide parking that satisfies the needs of users and demand generated by the centre</b></p>	<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"> <li>• 1 space per 10 children</li> <li>• 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space.</li> </ul> <p>In other areas:</p> <ul style="list-style-type: none"> <li>• 1 space per 4 children.</li> </ul> <p>A reduction in car parking rates may be considered where:</p> <ul style="list-style-type: none"> <li>• the proposal is an adaptive re-use of a heritage item</li> <li>• the site is in a B8 Metropolitan Zone or other high density business or residential zone</li> <li>• the site is in proximity to high frequency and well connected public transport</li> <li>• 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)</li> <li>• there is sufficient on street parking available at appropriate times within proximity of the site.</li> </ul>	<p><b>Inconsistent</b></p> <p>The Warringah DCP requires that 1 space per employee of the child care centre be provided on site and provision for drop off and pick up points. The proposed child care facility is to accommodate for 12 children and a total of 3 staff. The application provides for a total of three (3) spaces, with one (1) space dedicated for staff and two (2) dedicated for parents/carers. While the supporting plans suggest the site will accommodate 3 spaces, due to insufficient detail being provided on the plans, it is unclear whether the spaces are appropriately dimensioned, therefore satisfying the minimum parking requirements.</p> <p>Council's Traffic Engineer has reviewed the Traffic and Parking Impact Assessment with regards to parking and notes the lack of detail on the plans in relation to dimensions, and finds the proposal lacking in this regard.</p> <p>See detailed comments within this report.</p>
	<p>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.</p>	<p><b>N/A</b></p> <p>The proposed childcare centre is not located within a commercial or industrial zone and does not form part of a mixed use development.</p>





	<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"><li>• the amenity of the surrounding area will not be affected</li><li>• there will be no impacts on the safe operation of the surrounding road network.</li></ul>	<p><b>Inconsistent</b></p> <p>A Traffic and Parking Impact Assessment has been provided with the development application. Council's Traffic Engineer has reviewed this report and considers the development will impact on pedestrian and vehicle safety, during the intense drop off and pick up times in association with the close location of a bus stop and a busy intersection.</p>
<p><b>C34, C35 To provide vehicle access from the street in a safe environment that does not disrupt traffic flows</b></p>	<p>Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"><li>• a classified road</li><li>• roads which carry freight traffic or transport dangerous goods or hazardous materials.</li></ul> <p>The alternate access must have regard to:</p> <ul style="list-style-type: none"><li>• the prevailing traffic conditions</li><li>• pedestrian and vehicle safety including bicycle movements</li><li>• the likely impact of the development on traffic.</li></ul>	<p><b>N/A</b></p> <p>The Site is not located on a classified road or a road which carries freight traffic or transport dangerous goods or hazardous materials.</p>
	<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>	<p><b>N/A</b></p> <p>The Site is not located within a cul-de-sac.</p>

<p><b>C36, C37, C38 To provide a safe and connected environment for pedestrians both on and around the site</b></p>	<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"> <li>• separate pedestrian access from the car park to the facility</li> <li>• defined pedestrian crossings included within large car parking areas</li> <li>• separate pedestrian and vehicle entries from the street for parents, children and visitors</li> <li>• pedestrian paths that enable two prams to pass each other</li> <li>• delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</li> <li>• 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</li> <li>• vehicles can enter and leave the site in a forward direction.</li> </ul>	<p><b>Inconsistent</b></p> <p>A Traffic and Parking Impact Assessment has been provided with the development application. Council's Traffic Engineer has reviewed this report and considers that the additional vehicle and pedestrian traffic generated by the childcare centre is likely to adversely impact upon safety in the street and pedestrians.</p>
	<p>Mixed use developments should include:</p> <ul style="list-style-type: none"> <li>• driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks</li> <li>• 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</li> <li>• parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</li> </ul>	<p><b>N/A</b></p> <p>The proposed development does not form part of a mixed use development.</p>

	<p>Car parking design should:</p> <ul style="list-style-type: none"> <li>• include a child safe fence to separate car parking areas from the building entrance and play areas</li> <li>• provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards</li> <li>• include wheelchair and pram accessible parking.</li> </ul>	<p><b>Consistent</b></p> <p>The application has not demonstrated that the design of all car parking bays will allow for full opening of all doors, nor that drop off/pick up spaces are compliant in width against relevant Australian Standards.</p>
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#### APPLYING THE NATIONAL REGULATIONS TO DEVELOPMENT PROPOSALS

Regulation	Design Guidance	Comments
<b>4.1 Indoor space requirements</b>		
<p><b>Regulation 107 Education and Care Services National Regulation</b></p>	<p><i>The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child.</i></p>	<p><b>Consistent</b></p> <p>The proposed development 39m<sup>2</sup> requires at least of indoor space.</p>

<p>Every child being educated and cared for within a facility must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.</p> <p>Unencumbered indoor space excludes any of the following:</p> <ul style="list-style-type: none"> <li>• passageway or thoroughfare (including door swings) used for circulation</li> <li>• toilet and hygiene facilities</li> <li>• nappy changing area or area for preparing bottles</li> <li>• area permanently set aside for the use or storage of cots</li> <li>• area permanently set aside for storage</li> <li>• area or room for staff or administration</li> <li>• kitchens, unless the kitchen is designed to be used predominately by the children as part of an educational program e.g. a learning kitchen <ul style="list-style-type: none"> <li>• on-site laundry</li> <li>• other space that is not suitable for children.</li> </ul> </li> </ul> <p>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.</p> <p>When calculating indoor space requirements, the area required for any</p>	<p>Verandahs as indoor space</p> <p>For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space.</p> <p>Storage</p> <p>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:</p> <ul style="list-style-type: none"> <li>• a minimum of 0.3m<sup>3</sup> per child of external storage space</li> <li>• a minimum of 0.2m<sup>3</sup> per child of internal storage space.</li> </ul> <p>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.</p> <p>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.</p>	<p>The proposal provides for 106.4m<sup>2</sup> of indoor space.</p> <p>The proposal requires 3.6m<sup>3</sup> of external storage space.</p> <p>The proposal provides for 4.7m<sup>3</sup> of external storage space.</p> <p>The proposal requires 2.4m<sup>3</sup> of internal storage space.</p> <p>The proposal provide for 25.9m<sup>3</sup> of internal storage space.</p> <p>An internal laundry is accommodated on the ground floor.</p>
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<p>additional child may be waived when the child is 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 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.</p> <p>Development applications should indicate how these needs will be accommodated.</p> <p>Verandahs may be included when calculating indoor space with the written approval from the regulatory authority.</p>		
<b>4.2 Laundry and hygiene facilities</b>		



<p><b>Regulation 106 Education and Care Services National Regulation</b></p> <p>There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children.</p> <p>Child care facilities must also comply with the requirements for laundry facilities that are contained in the National Construction Code.</p>	<p><b><i>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.</i></b></p> <p>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.</p> <p><b>On site laundry</b> On site laundry facilities should contain:</p> <ul style="list-style-type: none"> <li>• a washer or washers capable of dealing with the heavy requirements of the facility</li> <li>• a dryer</li> <li>• laundry sinks</li> <li>• adequate storage for soiled items prior to cleaning</li> <li>• an on site laundry cannot be calculated as usable unencumbered play space for children.</li> </ul> <p><b>External laundry service</b> 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>	<p><b>Consistent</b></p> <p>An on-site laundry has been provided on the ground floor contain the appropriate facilities required. Such requirements are considered to be capable of being achieved, particularly when accounting for regulatory procedures that would need to be undertaken by the Early Childhood Education Directorate prior to childcare centre becoming operational.</p>
<p><b>4.3 Toilet and hygiene facilities</b></p>		

<p><b>Regulation 109 Education and Care Services National Regulation</b></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><b><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></b></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"> <li>• junior toilet pans, low level sinks and hand drying facilities for children</li> <li>• a sink and handwashing facilities in all bathrooms for adults</li> <li>• direct access from both activity rooms and outdoor play areas</li> <li>• windows into bathrooms and cubicles without doors to allow supervision by staff</li> <li>• external windows in locations that prevent observation from neighbouring properties or from side boundaries</li> </ul>	<p><b>Consistent</b></p> <p>The proposed childcare centre appears to contain adequate toilet, washing and drying facilities inclusive of the relevant design considerations. As previously highlighted, these requirements are considered to be capable of being achieved, particularly when accounting for regulatory procedures that would need to be undertaken by the Early Childhood Education Directorate prior to childcare centre becoming operational.</p>
<p><b>4.4 Ventilation and natural light</b></p>		
<p><b>Regulation 110 Education and Care Services National Regulation</b></p> <p>Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children.</p> <p>Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the</p>	<p><b><i>The proposed development includes indoor spaces to be used by children that:</i></b></p> <ul style="list-style-type: none"> <li>• <b><i>will be well ventilated; and</i></b></li> <li>• <b><i>will have adequate natural light; and</i></b></li> <li>• <b><i>can be maintained at a temperature that ensures the safety and well-being of children.</i></b></li> </ul> <p><b>Ventilation</b></p> <p>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.</p>	<p><b>Inconsistent</b></p> <p>The proposal is not found to provide suitable access to natural light, particularly 'Activity Area No 1', which is located on the southern side of the building. This is considered to impact on general amenity and wellbeing of students and staff. Due to the above, it is considered the proposal would be reliant upon artificial lighting, which is considered undesirable.</p>

<p><i>National Construction Code.</i> Ceiling height requirements may be affected by the capacity of the facility.</p>	<p>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.</p> <p><b>Natural light</b> 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:</p> <ul style="list-style-type: none"> <li>• providing windows facing different orientations</li> <li>• using skylights as appropriate</li> <li>• ceiling heights.</li> </ul> <p>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.</p>	
<b>4.5 Administrative space</b>		
<p><b>Regulation 110 Education and Care Services National Regulation</b></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</p>	<p><b><i>The proposed development includes an adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations.</i></b></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</p>	<p><b>Consistent</b></p> <p>The proposed childcare centre appears to include adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations.</p>

<p>conducting private conversations.</p>	<p>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>As previously highlighted, these requirements are considered to be capable of being achieved, particularly when accounting for regulatory procedures that would need to be undertaken by the Early Childhood Education Directorate prior to childcare centre becoming operational.</p>
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**4.6 Nappy change facilities**

<p><b>Regulation 112 Education and Care Services National Regulations</b></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><b><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></b></p> <p>In circumstances where nappy change facilities must be provided, design considerations could include:</p> <ul style="list-style-type: none"> <li>• properly constructed nappy changing bench or benches</li> <li>• a bench type baby bath within one metre from the nappy change bench</li> <li>• the provision of hand cleansing facilities for adults in the immediate vicinity of the nappy change area</li> <li>• a space to store steps</li> <li>• positioning to enable supervision of the activity and play areas.</li> </ul>	<p><b>Consistent</b></p> <p>The proposed childcare centre appears to include adequate area or areas for the purposes of nappy changing.</p> <p>As previously highlighted, these requirements are considered to be capable of being achieved, particularly when accounting for regulatory procedures that would need to be undertaken by the Early Childhood Education Directorate prior to childcare centre becoming operational.</p>
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**4.7 Premises designed to facilitate supervision**

<p><b>Regulation 115 Education and Care Services National Regulations</b></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><b><i>The proposed development (including toilets and nappy change facilities) are 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></b></p> <p>Design considerations should include:</p> <ul style="list-style-type: none"> <li>• solid walls in children’s toilet cubicles (but no doors) to provide dignity whilst enabling supervision</li> <li>• locating windows into bathrooms or nappy change areas away from view of visitors to the facility, the public or neighbouring properties</li> <li>• avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children</li> <li>• 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</li> </ul>	<p><b>Inconsistent</b></p> <p>The proposed children’s toilet and change facilities do not contain windows in appropriate locations to ensure supervision.</p>
<p><b>4.8 Emergency and evacuation procedures</b></p>		

<p><b>Regulations 97 and 168 Education and Care Services National Regulations</b></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"> <li>• instructions for what must be done in the event of an emergency</li> <li>• an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit</li> <li>• a risk assessment to identify potential emergencies that are relevant to the service.</li> </ul>	<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"> <li>• 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</li> <li>• 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.</li> </ul> <p>An emergency and evaluation plan should be submitted with a DA and should consider:</p> <ul style="list-style-type: none"> <li>• the mobility of children and how this is to be accommodated during an evacuation</li> <li>• the location of a safe 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</li> <li>• 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.</li> </ul>	<p><b>Consistent</b></p> <p>The Development Application is supported by a detailed emergency and evacuation plan contained within the Operational Plan of Management.</p>
<p><b>4.9 Outdoor space requirements</b></p>		
<p><b>Regulation 108 Education and Care Services National Regulations</b></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 7.0m<sup>2</sup> of unencumbered outdoor space. If this requirement is not met,</p>	<p><b><i>The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child.</i></b></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><b>Consistent</b></p> <p>The proposed childcare centre requires at least 84m<sup>2</sup> of outdoor open space.</p> <p>The proposed childcare 173.8m<sup>2</sup> centre provides for of unencumbered outdoor space.</p>





<p>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"><li>• pathway or thoroughfare, except where used by children as part of the education and care program</li><li>• car parking area</li><li>• storage shed or other storage area</li><li>• laundry</li><li>• other space that is not suitable for children.</li></ul>	<p><b>Verandahs as outdoor space</b></p> <p>Where a covered space such as a verandah is to be included in outdoor space it should:</p> <ul style="list-style-type: none"><li>• be open on at least one third of its perimeter</li><li>• have a clear height of 2.1 metres</li><li>• have a wall height of less than 1.4 metres where a wall with an opening forms the perimeter</li><li>• have adequate flooring and roofing</li><li>• be designed to provide adequate protection from the elements</li></ul> <p><b>Simulated outdoor environments</b></p> <p>Proponents should aim to provide the requisite amount of unencumbered outdoor space in all development applications. 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>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>	
<p>When calculating outdoor space requirements, the area required for any additional child may be waived when the child is 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)</p>	<ul style="list-style-type: none"><li>• 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</li><li>• skylights to give a sense of the external climate</li><li>• 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</li><li>• sand pits and water play areas</li><li>• furniture made of logs and stepping logs</li></ul>	

<p>and (6) of the National Regulations. 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>	<ul style="list-style-type: none"> <li>• dense indoor planting and green vegetated walls</li> <li>• climbing frames, walking and/or bike tracks</li> <li>• vegetable gardens and gardening tubs.</li> </ul>	
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#### 4.10 Natural Environment

<p><b>Regulation 113 Education and Care Services National Regulations</b></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><b><i>The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.</i></b></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> <ul style="list-style-type: none"> <li>• are known to be poisonous, produce toxins or have toxic leaves or berries</li> <li>• have seed pods or stone fruit, attract bees, have thorns, spikes or prickly foliage or drop branches</li> </ul>	<p><b>Consistent</b></p> <p>The proposed landscape arrangement has been reviewed by Council's Landscape Officer as acceptable, subject to conditions.</p> <p>The outdoor space areas have been designed to comply with the relevant requirements of this criteria.</p>
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	<p>The outdoor space should be designed to:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• assist supervision and minimise opportunities for bullying and antisocial behaviour</li> <li>• enhance outdoor learning, socialisation and recreation by positioning outdoor urban furniture and play equipment in configurations that facilitate interaction.</li> </ul>	
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**4.11 Shade**

<p><b>Regulation 114 Education and Care Services National Regulations</b></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><b><i>The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</i></b></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><b>Solar access</b> 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"> <li>• 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.</li> <li>• 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</li> <li>• have evenly distributed shade structures over different activity spaces.</li> </ul>	<p><b>Consistent</b></p> <p>The proposed childcare centre provides for at least 30% of the outdoor open space as uncovered areas with solar access available during the day. The proposed childcare centre has less than 60% of the outdoor space covered.</p>
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	<p><b>Natural shade</b> Natural shade should be a major element in 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.</p> <p>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:</p> <ul style="list-style-type: none"> <li>• placing appropriately scaled trees near the eastern and western elevations</li> <li>• providing a balance of evergreen and deciduous trees to give shade in summer and sunlight access in winter.</li> </ul> <p><b>Built shade structures</b> Built structures providing effective shade include:</p> <ul style="list-style-type: none"> <li>• permanent structures (pergolas, sails and verandahs)</li> <li>• demountable shade (marquees and tents)</li> <li>• adjustable systems (awnings)</li> <li>• shade sails.</li> </ul> <p>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.</p> <p>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.</p>	<p><b>Consistent</b></p> <p>The proposal provides sufficient natural shade within the rear yard located adjacent to the outdoor play area.</p> <p><b>Inconsistent</b></p> <p>The proposal does not provide any form of built shade structures within the rear outdoor play space for children.</p>
<p><b>4.12 Fencing</b></p>		

<p><b>Regulation 104 Education and Care Services National Regulations</b></p> <p>Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.</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><b><i>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.</i></b></p> <p>Fencing at child care facilities must provide a secure, safe environment for children and minimise access to dangerous areas.</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"> <li>• prevent children climbing over, under or through fences</li> <li>• prevent people outside the facility from gaining access by climbing over, under or through the fence</li> <li>• not create a sense of enclosure.</li> </ul> <p>Design considerations for side and rear boundary fences could include:</p> <ul style="list-style-type: none"> <li>• being made from solid prefinished metal, timber or masonry</li> <li>• having a minimum height of 1.8 metres</li> <li>• having no rails or elements for climbing higher than 150mm from the ground.</li> </ul> <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>	<p><b>Consistent</b></p> <p>The proposed outdoor space to be used by children will be enclosed with fencing of an appropriate height and design to ensure that children preschool age or under cannot go through, over or under it. It should be noted that regulatory procedures would need to be undertaken by the Early Childhood Education Directorate prior to the childcare centre becoming operational.</p>
<p><b>4.13 Soil Assessment</b></p>		

<p><b>Regulation 25 Education and Care Services National Regulations</b></p> <p>Subclause (d) of regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval.</p> <p>With every service application one of the following is required:</p> <ul style="list-style-type: none"> <li>• a soil assessment for the site of the proposed education and care service premises</li> <li>• if a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken</li> <li>• 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</li> </ul>	<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"> <li>• the application is to alter or extend the premises</li> <li>• the alteration or extension requires earthworks or deep excavations (exceeding a depth of one metre)</li> <li>• 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</li> <li>• a soil assessment has not been undertaken at the children's service.</li> </ul> <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"> <li>• Stage 1 - Preliminary investigation (with or without soil sampling)</li> <li>• Stage 2 - Detailed site investigation</li> <li>• Stage 3 - Site specific human health risk assessment.</li> </ul>	<p><b>Consistent</b></p> <p>No excavation is proposed as part of the proposal and therefore an assessment of the soil is required.</p> <p>Council's Environmental Health Officer has also reviewed the proposal and has raised no objection.</p>
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### Conclusion

The proposed child care centre fails to comply with Clause 3.23 of the SEPP Transport and Infrastructure 2021. The application has failed to address reasons for refusal provided under the DA, specifically those relating to traffic and acoustic matters. A detailed assessment of the proposal finds that the child care centre is inconsistent with the traffic and parking requirements of the SEPP. The proposal fails to provide the required dimensions to determine the suitability of the three (3) off-street parking spaces for the centre and given the location and configuration of the three (3) spaces provided, does not allow for vehicles to enter and exit the site in a forward motion.



Vehicles will be required to reverse over the existing footpath on Bangaroo Street which is considered to adversely impact the safety of pedestrians. The close proximity to bus stops and a busy intersection raises concern regarding the suitability of the site as a child care centre. The proposal is considered to raise significant traffic and parking issues which will significantly impact on the surrounding residential amenity.

Further issue has been raised in relation to the general design and layout of the centre. These primarily relate to the provision of shade structure, natural light, and supervision. Ensuring acoustic privacy is provided to surrounding properties remains a concern that has not been resolved.

For the reasons stated above, the proposed child care centre is considered inconsistent with the SEPP and is therefore recommended for Refusal.

### **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.

### **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	8.5m	7.6m	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

### **WARRINGAH DEVELOPMENT CONTROL PLAN**

#### Built Form Controls

Built Form Control	Requirement	Proposed	Proposed %Variation	Complies
B1 Wall Height	7.2m	5.2m	N/A	Yes
B3 Side Boundary Envelope	N: 4m	No change	N/A	Yes
	S: 4m	No change	N/A	Yes

Built Form Control	Requirement	Proposed	Proposed %Variation	Complies
B5 Side Boundary Setbacks	N: 0.9m	1.2m	N/A	Yes
	S: 0.9m	2.5m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Hard stand parking area	100%	No
B9 Rear Boundary Setbacks	6m	20m	N/A	Yes
D1 Landscape Open Space (LOS) and Bushland Setting	40%	42.7%	N/A	Yes

\*Note: The percentage variation is calculated on the overall numerical variation (i.e.: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	No
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	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	No	No
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
E10 Landslip Risk	Yes	Yes

### Detailed Assessment

## A.5 Objectives

A detailed assessment of the proposal has found that the day care centre is not consistent with the following provisions of the WDCP 2011:

- *To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome*

The proposal has not sufficiently demonstrated that it is able to provide for a development that does not unreasonably impact on the amenity of neighbouring properties, specifically in relation to acoustic privacy. A peer review of the acoustic assessment was undertaken which raises concern that the proposed development will result in amenity impacts to neighbouring properties. Council's Environmental Health Officer has reviewed the proposal, including the acoustic assessment and peer review. They have also raised doubts regarding the ability of the development to appropriately mitigate acoustic impacts on surrounding properties.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objective of this Clause and is not supported in this particular instance.

- *Provide a high level of access to and within development.*

The proposal fails to provide a high level of access to and within the site. The proposal does not offer a compliant off-street car parking in accordance with WDCP. There is lack of detail surrounding the practical and safe access to the development with issues such as parking activity within No Stopping Zones or across driveways, restricted sightlines due to parked vehicles and congested conditions at drop off and pick up times. A bus stop is located in front of the subject site which will also generate pedestrian activity, along with children being dropped and picked up at the centre. Vehicles will also be reversing onto the road in close proximity to a busy intersection. The Traffic Report does not sufficiently address these issues and is not supported by Council's Traffic Engineer.

The proposed development is not considered to sufficiently respond to the characteristics of the site which is evident in the number of non-compliance's relating to traffic, access and safety and the number of objections raised.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of this Clause and is not supported in this particular instance.

## B7 Front Boundary Setbacks

### Description of non-compliance

The development proposes three (3) hard stand car parking spaces, two of which are located adjacent to each other and are readily visible from Bangaroo Street. The third space is located as part of a stacked parking arrangement and is located closer to the building. The control states that the front boundary setback area is to be landscaped and generally free of any structures, basements, carparking or site facilities other than driveways, letter boxes, garbage storage areas and fences. All three (3) hard stand spaces located within the front setback and are non-compliant with this control.

The development proposes a 1.2m high child proof gate located 1.2m to the front boundary, however the control stipulated this is permitted within the front setback.

### Merit consideration:

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

- *To create a sense of openness.*

Comment:

The development does not propose any parking structures i.e. a garage or carport within the front setback. Whilst the development proposes to widen the existing crossover located along the southern boundary to allow for an additional parking space, approximately 50% of the front setback will remain landscaped with landscaping located to the north of the hardstand area. The stacked parking arrangement along the southern boundary will reduce the visibility of the third car on site, so it does not visually prominent, while not contributing to an over development of the site. The absence of any car parking structures will ensure a sense of openness is maintained.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The proposal maintains sufficient landscaping within the front setback consistent with surrounding properties. Parking within the front setback is not inconsistent with the surrounding area with the property to the north at 18 Bangaroo Street providing a carport structure within the setback area. The property offers sufficient landscaping to the north, similar to the subject site.

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

Comment:

The proposal will protect and enhance the visual quality of the streetscape of Bangaroo Street and the hard standing parking spaces will not alter the appearance of the development within the streetscape to an unreasonable extent. As noted above, parking structures, including carports are not untypical of the surrounding area with evidence of parking structures within the streetscape, therefore the proposed hardstand area is not considered to detract from the visual quality of the streetscape.

- *To achieve reasonable view sharing.*

Comment:

The proposed alterations to the existing dwelling are designed and sited to as not to obstruct any views to or from the subject site or adjacent and nearby sites.

Having regard to the above assessment, the proposed development is consistent with the objectives of this clause and is supported in this particular instance.

## **C2 Traffic, Access, and Safety**

### Merit consideration

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

- *To minimise traffic hazards.*

Comment:

The WDCP does not specify the size of the required drop off and pick up area, however the RMS Guide to Traffic generating developments require that parking be supplied at a rate of one space for every four children, i.e., 3 spaces. The development proposes three (3) off-street spaces.

While the submitted plans illustrate three (3) spaces being provided, which satisfy the minimum parking requirements under WDCP, the plans fail to provide dimensions for the parking area. Therefore, it is not possible to determine whether the proposal provides appropriately dimensioned and compliant parking spaces. Council's Traffic Engineer indicates that the proposed spaces do not provide compliant dimensions and the development relies on vehicles parking across nature strip area beyond the private property. This would create a shortfall in off-street parking, in turn creating potential traffic hazards.

Given the location and configuration of the proposed off-street parking spaces, vehicles are unable to exit the site in a forward motion therefore creating safety concerns for pedestrians accessing the footpath along the western side of Bangaroo Street. The proposed day care centre is within close proximity to bus stops, a busy intersection to the south and there will be a movement of children on the footpath accessing the centre. It is therefore concluded that the proposed arrangement will likely exacerbate traffic hazards within the immediate vicinity.

- *To minimise vehicles queuing on public roads.*

Comment:

The Traffic Report states that there is adequate on-street parking to accommodate the increase in cars required to stop at pick and drop off times. Whilst the Traffic and Parking Impact Assessment provides data to suggest there is ample parking available in the surrounding streets, a development should not rely on this entirely and should provide the minimum number of parking spaces as required for the proposed use. Given the busy activity associated with Bangaroo Street and the close proximity to shops, bus stops and Seaforth Primary School, it is anticipated that at pick up and drop off times, traffic congestion may arise given the lack of off-street parking.

- *To minimise the number of vehicle crossings in a street.*

Comment:

The development proposes to widen the existing crossover on Bangaroo Street. This is in keeping with the character of the surrounding neighbourhood.

- *To minimise traffic, pedestrian and cyclist conflict.*

Comment:

The development proposes three (3) off street car parking spaces which satisfies the minimum off-street car parking requirement for 12 children. However, as noted above, it is unclear whether the dimensions of each space are compliant. These spaces are provided by a stacked parking arrangement and an additional space within the front setback. The day care centre provides space for 12 children, and it is anticipated this will result in a number of reversing manoeuvres across the footpath at pick up times. Given the close proximity to bus stops and a busy intersection located south of the site (Worrobil Street and Bangaroo Street), it is expected this will give rise to an unsafe environment for pedestrians. Cars being able to enter and exit in a forward motion is encouraged however given the site restraints, this is not possible.

- *To minimise interference with public transport facilities.*

Comment:

The proposed child care centre is not anticipated to interfere with the public transport facilities.

- *To minimise the loss of "on street" kerbside parking.*

Comment:

As it has not been demonstrated that the site can provide three (3) compliant car spaces, it is not unreasonable to expect that vehicles might rely upon on-street kerbside parking. Relying upon on-street kerbside parking due to non-compliant off-street parking is unreasonable and the site should provide a minimum of three (3) off-street car parking spaces.

Having regard to the above assessment, the proposed development is not consistent with the objectives of this clause and is not supported in this particular instance.

### C3 Parking Facilities

#### Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

#### Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Child care centre	1 space / 4 children	3	3	0
<b>Total</b>		<b>3</b>	<b>3</b>	<b>0</b>

The WDCP parking rate is 1 space per four (4) children. The RMS guide to traffic generating development requires that parking be supplied at a rate of one space for every four children i.e. 3 spaces. The development proposes three (3) off-street spaces including one (1) stacked space. The existing crossover along the southern elevation is proposed to be widened to accommodate the existing two off-street stacked spaces and to allow the construction of an additional off-street space.

Council's review of the proposed development indicates that the proposal is unable to provide the minimum dimensions for each space, impacting on the proposal's ability to provide a compliant number of spaces, contrary to the supporting documentation. Without the plans being dimensioned, it is not possible to ascertain the exact dimensions of each space, therefore compromising the proposal's ability to provide a minimum 3 spaces, as per the table above.

The lack of suitably dimensioned off-street parking will also result in significant safety issues for passing pedestrians which includes the movement of children and their carer's accessing the centre. The configuration of the car parking spaces results in a number of reversing manoeuvres across the footpath. The location of the crossover servicing the centre is approximately 18m north of a busy intersection at Worribol Street and Bangaroo Street which along with a no stopping sign and bus stops within close proximity to the site, the availability of parking within close proximity to the site is reduced which gives rise to parking activity in restricted areas.

Council's Traffic Engineer has considered the submitted Traffic and Parking Impact Assessment and subsequent peer review and is not in supportive of the proposed development. Detailed comments in this regard are provided earlier in this report under the "Referrals" section.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

#### Comment:

The development proposes three (3) off-street parking spaces, two (2) in a tandem arrangement and additional space within the front setback towards the centre of the site. The development proposes



to widen the existing crossover along the southern side of the side to accommodate the additional parking space. The widened crossover is does not detract from the visual quality of the street frontage. The proposal does not include any structures (garage or carport). It is noted other car parking structures are located within the front setback, including at No 18 Bangaroo Street to the north.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The proposed hardstand parking area will not detract from the visual quality of the street frontage or any other nearby public place. The proposal retains suitable landscaped area to the north to soften any perceived visual impact of the parking area.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the objectives of this clause and this assessment finds that the proposal is not supported, in this particular circumstance.

### **D3 Noise**

An Acoustic Report prepared by Wilkinson Murray dated 21 April 202 for the proposed child care. A peer review of this report was undertaken by Noise and Sound Services, dated April 2022. A response to this peer review was undertaken by RWDI Australia dated 19 May 2022. Council's Environmental Health Officer has reviewed the submitted acoustic report and peer review and is not satisfied that noise can be mitigated and result in an acceptable outcome for surrounding development. Due to uncertainty in relation to the above raised within the peer review, Council's Environmental Health Officer cannot support the proposal and requires a further assessment to be completed. Detailed comments in this regard are provided earlier in this report under the "Referrals" section.

### **D20 Safety and Security**

The proposed childcare centre does not satisfy the requirements that seek to ensure the safety and security of all residents, occupants and visitors of various ages and abilities. A number of submissions including those received from neighbouring residents, have raised concern that the Development Application has not addressed the pedestrian safety outcomes, in particular the risk to pedestrians who utilise the Bangaroo Street footpath. It should also be noted that the pedestrian footpath begins along eastern side of Bangaroo Street directly adjacent the site, which in turn results in a particularly high usage of the footpath directly in front of Site at the drop-off/pick-up periods associated with the bus stop south of the intersection of Bangaroo Street and Worrobbil Street. Council's Traffic Engineer in reviewing the proposal has also raised concern with the level of impact on pedestrian and vehicular safety in the street, observing that the development in its current form is an over development of the site in this location.

Based on the above, the proposed development is inconsistent with this clause in relation the safety objectives and is recommended for refusal on this basis.

### **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 2021**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$ 645 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 129,030.

### **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 2021;
- 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, and results in an unreasonable impact on surrounding, adjoining, adjacent and nearby properties.

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
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

The proposed child care centre has failed to resolve any of the reasons for refusal. As such, the previous reasons for refusal remain. Further, the proposal fails to comply with Clause 3.23 of the SEPP Transport and Infrastructure. The proposal fails to achieve compliance with C2 Traffic, Access and Safety and C3 Parking Facilities of the Warringah Development Control Plan 2011. The parking and access arrangement is not supported by Council's Traffic Engineer with the justification of the reliance on on-street parking spaces outlined in the Traffic Report unable to be relied on. The configuration of spaces provided on site results in vehicles unable to enter and exit the site in a forward motion resulting in numerous reversal manoeuvres over the existing footpath on Bangaroo Street. Given the busy nature of Bangaroo Street, along with the close proximity to bus stops and the busy intersection of Bangaroo Street and Worribol Street to the south, the pedestrian safety of people is at risk.

The proposal is unable to resolve outstanding acoustic issues in relation to the methodology and reporting requirements. A peer review undertaken notes the unacceptability of the proposal on the subject site and raises doubts in relation to the proposed mitigation measures. In this regard, the proposal is considered unreasonable.

In summary, the revised development is considered unsuitable and is recommended for Refusal. It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

### **RECOMMENDATION**

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority confirm its decision to refuse to grant consent to the Review of Determination Application No. DA2021/0680 for the Alterations and additions to an existing dwelling house and use as a centre-based child care facility on land at Lot 111 DP 11936, 16 Bangaroo Street, NORTH BALGOWLAH, for the reasons outlined as follows:

1. The proposal is inconsistent with Clause 3.23 of the SEPP Transport and Infrastructure.
2. The proposed development is inconsistent with the provisions of Clause A.5 Objectives of the Warringah Development Control Plan in that it fails to respond to the characteristics of the site and the neighbourhood, is not able to be a good neighbour, and does not provide a high level of access to and within the development in a safe manner.
3. The proposed development is inconsistent with the provisions of Clause C2 Traffic, Access and Safety of the Warringah Development Control Plan 2011 in that the proposed access arrangements will give rise to an unsafe environment for pedestrians and vehicles and their occupants. In particular, of concern is the reversing of vehicles onto the footpath and the road carriageway when leaving the car park, the reliance on stacked car parking which exacerbates safety concerns, proximity of a bus stop, proximity of a major roundabout, and the volume of vehicles in the road network at peak periods.
4. The proposed development is inconsistent with the provisions of Clause C3 Parking Facilities of the Warringah Development Control Plan in that it fails to provide compliant off-street parking arrangements for the child care centre.
5. The proposed development is inconsistent with the provisions of Clause D20 Safety and Security of the Warringah Development Control Plan.
6. Pursuant to Section 4.15 (1) (b) and (c) of the Environmental Planning and Assessment Act 1979 the proposed development is unsuitable for the site due to neighbourhood amenity and public safety outcomes. 7. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Hugh Halliwell (Consultant Planner – Mecone)

In submitting this assessment report to Council, I declare that I do not have any conflicts of interest.