

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/0680
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<b>Responsible Officer:</b>	Penny Wood
<b>Land to be developed (Address):</b>	Lot 111 DP 11936, 16 Bangaroo Street NORTH BALGOWLAH NSW 2093
<b>Proposed Development:</b>	Alterations and additions to an existing dwelling house and use as a centre-based child care facility
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<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>	02/06/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Other
<b>Notified:</b>	16/06/2021 to 20/07/2021
<b>Advertised:</b>	21/06/2021
<b>Submissions Received:</b>	152
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 129,030.00
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### EXECUTIVE SUMMARY

The application involves the change of use of a dwelling house to a day 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 20 children, a total of 3 staff and has provision for 3 car parking spaces.

Council is not satisfied with the reliance on on-street parking spaces to facilitate the number of drop-off/pick-up spaces, nor the shortfall off-street parking space provided and the inability to enter and exit

the site in a forward motion . The additional vehicular and pedestrian traffic generated by the childcare centre is also expected to adversely impact upon safety in Bangaroo Street. The location of the child care centre within close proximity to bus stops and a busy intersection at Bangaroo Street and Worrobil Street to the south is also expected to impact on the traffic expected within the surrounding area, in particular at drop off and pick up times.

The application was notified in accordance with Council's Community Participation Plan and one hundred and fifty one (151) submissions were received, all of which oppose the application. The issues that were 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 20 children aged between 3 and 5 years of age and a total of 3 staff.
- Hours of operation 8:00am to 4:00pm Monday to Friday. The Plan of Management (PoM) states that between 8:00am and 8:30am will be allocated as the drop off time for parents and will enter into an agreement with the child care provider allocating a specific drop off time to ensure the drop off's are staggered.
- A new crossover 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
- Landcaping within the backyard.

### Ground floor

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

### First Floor

- 2 x store rooms
- Staff room
- Office
- Staff WC

## 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>

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.

The backyard consists of a turfed area with planting located along the northern, western and southern boundaries consisting of small to medium sized trees.

The site is not identified as a Heritage Item.

The site is not identified as bushfire prone land.

#### **Detailed Description of Adjoining/Surrounding Development**

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.

Map:



#### **SITE HISTORY**

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- DA2020/0087 - Withdrawn on 23 February 2021 given the issues raised by Council's referral bodies. The application was not supported due to traffic and pedestrian safety issues, shortfall of off-street car parking spaces, and an unsupported second crossover along Bangaroo Street.

PLM2020/0087 - Notes were provided for the proposal of a child care centre on 19 June 2020. The notes provided the following advice:

- A detailed acoustic assessment report recommended given the close proximity to residential receivers;
- A detailed Plan of Management (PoM) outlining the operation of the centre around issue on addressing noise, number of children, mechanical plant, vehicle noise, the use of food;
- Traffic concerns in relation to the shortfall of off-street parking space. This would only be supported provided the number of children was heavily reduced to a maximum of 8 - 10 children on site.
- Requirement of a traffic and Parking Study.

#### DA2021/0680

The subject development application has addressed some of the concerns raised within the PLM notes and the issues raised by Council's internal referral bodies provided in DA2020/1397 (withdrawn). The application has removed the second cross over and proposes to widen the existing crossover along the southern boundary. The number of off-street car parking spaces have also been reduced from five (5) to three (3). Whilst the development has accommodated some of the recommendations provided by Council outlined in PLM2020/0087 and DA2020/1397, Council's Traffic Engineer does not support the proposal.

Council's Development Engineer raised no concerns with the subject proposal given the removal of the second crossover and conditions imposed regarding stormwater disposal

#### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

<b>Section 4.15 Matters for Consideration'</b>	<b>Comments</b>
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.  <u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to the Statement of Environmental Effects (SEE) and Plan of Management (PoM) submitted with the development application. The hours of operation in the SEE and PoM were identified as being inconsistent. An email was sent to the applicant requesting both documents be updated to reflect the proposed hours of the daycare centre. This information was received on 11 June 2021 and given the level of community interest and submissions received, the application was re-notified with the notification closing on 20 July 2021.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in	See discussion on “Notification & Submissions Received” in this report.

<b>Section 4.15 Matters for Consideration'</b>	<b>Comments</b>
accordance with the EPA Act or EPA Regs	
Section 4.15 (1) (e) – the public	This assessment has found the proposal to be contrary to the requirements of the Manly DCP and will result in a development which will create an undesirable precedent, an unreasonable impact to the surrounding lands with regard traffic and parking as well as being contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

## **EXISTING USE RIGHTS**

Existing Use Rights are not applicable to this application.

## **BUSHFIRE PRONE LAND**

The site is not classified as bush fire prone land.

## **NOTIFICATION & SUBMISSIONS RECEIVED**

The subject development application has been publicly exhibited from 16/06/2021 to 20/07/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 152 submission/s from:

<b>Name:</b>	<b>Address:</b>
Adam Iezzi	
Ms Michele Mary Percival	14 A Bangaroo Street NORTH BALGOWLAH NSW 2093
Ms Antonia Bossi	14 B Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Sinan Kaya	18 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Andrew Clifford Hinton	50 Eileen Street NORTH BALGOWLAH NSW 2093
Mr Alan Michael Johnson	4 Grandview Grove SEAFORTH NSW 2092
Mahtabsadat Aghaeymaybody	35 A Gurney Crescent SEAFORTH NSW 2092
Mrs Nicola Fell	4 Prince Edward Road SEAFORTH NSW 2092
Maree Hanson	Address Unknown
Mark Ian Langley	96 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Kieren Christopher Hutchings	38 Bangaroo Street NORTH BALGOWLAH NSW 2093
Brigitta Marie Hatting Merchant	9 Burringbar Street NORTH BALGOWLAH NSW 2093
Mrs Elizabeth Maree Van Vliet	32 Alto Avenue SEAFORTH NSW 2092
Matthew Robert Longmore	4 Worroobil Street NORTH BALGOWLAH NSW 2093
Guy Carrington Fisher Alison Fiona Fisher	6 Florence Court NORTH BALGOWLAH NSW 2093

<b>Name:</b>	<b>Address:</b>
Mr Peter Neil O'Sullivan	7 / 62 - 64 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Rowena Helen Casper	4 A Winsome Avenue NORTH BALGOWLAH NSW 2093
Daniel Trevor	98 Old Pittwater Road BROOKVALE NSW 2100
Lisa Mozes	20 Bangaroo Street NORTH BALGOWLAH NSW 2093
Ms Lisa Yvette Galea	19 A Serpentine Crescent NORTH BALGOWLAH NSW 2093
Mrs Kelly Bartholomew	246 / 117 Old Pittwater Road BROOKVALE NSW 2100
Mrs Kelly Nadine Drew	23 A Mons Road NORTH BALGOWLAH NSW 2093
Mr Matthew Brian Higgs	5 Worroobil Street NORTH BALGOWLAH NSW 2093
Robyn Joy Heath	7 / 32 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Ms Michaela Utesena	22 Worroobil Street NORTH BALGOWLAH NSW 2093
Mr Michael Iacobbe	31 Bangaroo Street NORTH BALGOWLAH NSW 2093
Melissa Lindsay-Edwards	8 Winsome Avenue NORTH BALGOWLAH NSW 2093
Michael Anathony Bowyer	11 Worroobil Street NORTH BALGOWLAH NSW 2093
David George Perks	1 Worroobil Street NORTH BALGOWLAH NSW 2093
Mrs Amanda Ann Longmore	4 Worroobil Street NORTH BALGOWLAH NSW 2093
Yvonne Bennett	Address Unknown
Mrs Elizabeth Wendy Webb	77 Bangaroo Street NORTH BALGOWLAH NSW 2093
Miss Reanne Scope	18 Worroobil Street NORTH BALGOWLAH NSW 2093
Ms Eliza Jane Kirkby	32 Worroobil Street NORTH BALGOWLAH NSW 2093
Mr Alexander Simon Timothy Jones	C/- Crystal Pools Pty Ltd Po Box 271 PENNANT HILLS NSW 1715
Mrs Catherine Anne Gunton	52 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Stephen Polkinghorne	7 Winsome Avenue NORTH BALGOWLAH NSW 2093
Nikki Gunton	Address Unknown
Mrs Karis Nicola Khatchadourian	15 Penrose Place FRENCHS FOREST NSW 2086
Mr Darren Scott Parkinson	15 Bangaroo Street NORTH BALGOWLAH NSW 2093
Timothy Stephen Hartrick	67 Woodbine Street NORTH BALGOWLAH NSW 2093
Ross Henderson	Address Unknown
Mrs Lynne Greenwood	23 A Woodbine Street NORTH BALGOWLAH NSW 2093
Mr Carl Edward Stanfield	4 Eureka Avenue NORTH BALGOWLAH NSW 2093
Gisela Elisabeth Moser	20 Coramba Street NORTH BALGOWLAH NSW 2093
Withheld	NORTH BALGOWLAH NSW 2093
Mr Kim Reginald Peacock-Smith	18 Worroobil Street NORTH BALGOWLAH NSW 2093
Ms Lucy Thorpe	4 Judith Street SEAFORTH NSW 2092
Mr David Richards	53 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Gordon Robert Soling	17 A Bangaroo Street NORTH BALGOWLAH NSW 2093
Ms Victoria Ruth Simpson	12 Kempbridge Avenue SEAFORTH NSW 2092
Mrs Georgia Ann Godley	1 / 2 Worroobil Street NORTH BALGOWLAH NSW 2093
Mr Aidan Cameron Webb	77 Bangaroo Street NORTH BALGOWLAH NSW 2093



<b>Name:</b>	<b>Address:</b>
Mrs Camilla Mary Pattison Stewart	7 Gloucester Street NORTH BALGOWLAH NSW 2093
Mrs Carla Rocio Castro Conde	50 Eileen Street NORTH BALGOWLAH NSW 2093
Ms Julie Hodder	4 Sandy Bay Road CLONTARF NSW 2093
Mr Stephen Michael Tilston	12 Coramba Street NORTH BALGOWLAH NSW 2093
Ms Nicole Maree Marusic	12 Coramba Street NORTH BALGOWLAH NSW 2093
Kim Salter	4 / 2 Worroebil Street NORTH BALGOWLAH NSW 2093
Mrs Michelle Skold	2 Garraween Avenue NORTH BALGOWLAH NSW 2093
Mrs Dorota Asigno	16 Worroebil Street NORTH BALGOWLAH NSW 2093
Mr Jaco Jonker	8 Kalauai Street NORTH BALGOWLAH NSW 2093
David John O'Neill	31 / 2 A Campbell Parade MANLY VALE NSW 2093
Ms Sophie Kathryn Swan	73 Woodbine Street NORTH BALGOWLAH NSW 2093
Mrs Sarah West	27 Eileen Street NORTH BALGOWLAH NSW 2093
Mr Richard Anthony John Higgins	70 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Anonymous	N/A
Mr Bernd Johannes Krause	7 Worroebil Street NORTH BALGOWLAH NSW 2093
Ms Margaret Sharman	38 Eileen Street NORTH BALGOWLAH NSW 2093
Ms Claudia Tsiamis	10 Brook Road SEAFORTH NSW 2092
Rein Vanem	22 Bangaroo Street NORTH BALGOWLAH NSW 2093
Janice Anne Hunter	15 A Serpentine Crescent NORTH BALGOWLAH NSW 2093
Nathan Reid	11/34 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Mr Mark Andrew O'Sullivan	15 Hunter Street NORTH BALGOWLAH NSW 2093
Andrew Warrington Thompson	3 Coramba Street NORTH BALGOWLAH NSW 2093
Mrs Anita McMahon	26 Bangaroo Street NORTH BALGOWLAH NSW 2093
Peter Valentine	31 St Pauls Road NORTH BALGOWLAH NSW 2093
Adam Young	20 Baringa Avenue SEAFORTH NSW 2092
Jayd Naidoo	6 Soldiers Avenue FRESHWATER NSW 2096
Mr Christopher Paul Smith	12 Winsome Avenue NORTH BALGOWLAH NSW 2093
Ms Alison Jane Mace	12 Winsome Avenue NORTH BALGOWLAH NSW 2093
Adrienne Opal Taylor Weddepohl	41 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Genevieve Margaret Brock	9 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Ms Brooke Louise Midson	6 Bardoo Avenue NORTH BALGOWLAH NSW 2093
Patricia Mary Edna Nugent	10 Eurella Avenue NORTH BALGOWLAH NSW 2093
Selwyn Basil Montgomery Garwell	68 Serpentine Crescent BALGOWLAH NSW 2093
Joanne Alana Cleary	6 Worroebil Street NORTH BALGOWLAH NSW 2093
Mrs Shelagh Mary Brigid	39 Woolgoolga Street NORTH BALGOWLAH NSW 2093

<b>Name:</b>	<b>Address:</b>
Lubbock	
Mr Christopher Lachlan Nielson	3 Kimo Street NORTH BALGOWLAH NSW 2093
Mr Kenneth Leslie Churcher	25 Bangaroo Street NORTH BALGOWLAH NSW 2093
Jackie Masters	Address Unknown
Mr Bryan Lawrence	27 Bangaroo Street NORTH BALGOWLAH NSW 2093
Miss Irena Zezelj	2 / 2 Worroebil Street NORTH BALGOWLAH NSW 2093
Mr Phillip John Bird	3 Florence Court NORTH BALGOWLAH NSW 2093
Mr Barry Keith McLean	2 Wonga Street NORTH BALGOWLAH NSW 2093
Mrs Nicole Lee Lawrence	2/46 Jackson Street BALGOWLAH NSW 2093
Mr Julie Elizabeth Livingstone	1 / 9 Marlee Street NORTH BALGOWLAH NSW 2093
Mr Anthony John Bostock	1 Marlee Street NORTH BALGOWLAH NSW 2093
Corona Projects Pty Ltd	PO Box 1749 BONDI JUNCTION NSW 1355
David Chedburn	1 / 2 Worroebil Street NORTH BALGOWLAH NSW 2093
Timothy John Concannon	24 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Daniel Scott Butchart	4 / 567 Sydney Road SEAFORTH NSW 2092
Ms Rita Caruana	32 Frenchs Forest Road SEAFORTH NSW 2092
Ms Susan Mary Lumb	4 Burringbar Street NORTH BALGOWLAH NSW 2093
Mrs Louise Pamela Boccanfuso	33 Gurney Crescent SEAFORTH NSW 2092
Mrs Margaret Joy Holt	104 Clontarf Street NORTH BALGOWLAH NSW 2093
Mr Timothy McDonald Dawson	41 Eileen Street NORTH BALGOWLAH NSW 2093
Mrs Linda Diane Whitely	36 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr David Timothy Gorman	13 B Woodbine Street NORTH BALGOWLAH NSW 2093
Jacqueline Alice Daley	15 A Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Karen Marosa	13 Worroebil Street NORTH BALGOWLAH NSW 2093
Mrs Honnie Bustos	13 St Pauls Road NORTH BALGOWLAH NSW 2093
Ms Maxine Kay Peacock-Smith	18 Worroebil Street NORTH BALGOWLAH NSW 2093
Mrs Josephine Iacobbe	PO Box 4031 BALGOWLAH HEIGHTS NSW 2093
Mrs Christie Melanie Peck	106 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Carolyn Grace Leis	23 Hope Street SEAFORTH NSW 2092
Mrs Charmain Nancy Ellis	22 Eileen Street NORTH BALGOWLAH NSW 2093
Ms Jin Hee Lucy Olney	2 / 53 Ethel Street SEAFORTH NSW 2092
Nadine Hazel Blayney	72 Frenchs Forest Road SEAFORTH NSW 2092
David Duke-Smith	15 Kalau Street NORTH BALGOWLAH NSW 2093
Mr Peter William Goodenough	1 Illalong Avenue NORTH BALGOWLAH NSW 2093
Miss Lyndsay Barbara Steadman	30 Myrtle Street NORTH BALGOWLAH NSW 2093
Mrs Katie Ward	17 Carlton Street MANLY NSW 2095

<b>Name:</b>	<b>Address:</b>
Mrs Kathryn Alison Jerman	50 Baringa Avenue SEAFORTH NSW 2092
Anne Fairley Beaton Ottey	35 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Anna Marie Chrysiliou	31 Hunter Street NORTH BALGOWLAH NSW 2093
Mrs Susan Marie Chrysiliou	802 / 9 - 15 Central Avenue MANLY NSW 2095
Mr Paul Robert O'Brien	44 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr John Robson Gregory	2 Water Reserve Road NORTH BALGOWLAH NSW 2093
Ms Jade Kimberley Cerfontyne	2 Kitchener Street BALGOWLAH NSW 2093
Ms Saskia Margaret Emanuel	1 / 1 St Pauls Road NORTH BALGOWLAH NSW 2093
Mr Dean James Linden	27 St Pauls Road NORTH BALGOWLAH NSW 2093
Noise & Sound Services	Spectrum House 3 Cassandra Avenue ST IVES NSW 2075
Peter John Foley	8 Water Reserve Road NORTH BALGOWLAH NSW 2093
Adrian Boyle	Address Unknown
Ms Christina Lee Parks	60 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Bradley James Maurice	12 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mr Daniel Paul Remblance	29 Prince Edward Road SEAFORTH NSW 2092
Mrs Ulla Kofoed Krause	7 Worroobil Street NORTH BALGOWLAH NSW 2093
Hugo Fraser Stegmann	76 Bangaroo Street NORTH BALGOWLAH NSW 2093
Mrs Cerry Johnette Kean	C/- Crystal Pools Pty Ltd Po Box 271 PENNANT HILLS NSW 1715
Ms Amanda Margaret Magarey	3 / 2 Worroobil Street NORTH BALGOWLAH NSW 2093
William Gregory Skelly	5 / 133 - 137 North Steyne MANLY NSW 2095
Mr Malcolm Phillip Morris	29 Bangaroo Street NORTH BALGOWLAH NSW 2093
Dympna Baker	2 St Pauls Road NORTH BALGOWLAH NSW 2093
Miss Rebecca Kate Engel	3 Brisbane Street FAIRLIGHT NSW 2094
Ms Jennifer Gardiner	23 Yatama Street SEAFORTH NSW 2092
Ms Louise Elizabeth Ashley Williams	42 Baringa Avenue SEAFORTH NSW 2092
Mr Sasha Dimovski	19 A Bangaroo Street NORTH BALGOWLAH NSW 2093
Duncan McPherson	6 Worroobil Street NORTH BALGOWLAH NSW 2093
Mr Benjamin Roy Forrest	17 Carlton Street MANLY NSW 2095
Clare Francis Turner	59 Woolgoolga Street NORTH BALGOWLAH NSW 2093

The Development Application was publicly exhibited in accordance with Council's Community Participation Plan. The Development Application was notified from 4 June 2021 to 23 June 2021. The application was re-notified and advertised from 1 July 2021 to 20 July 2021 due to a discrepancy within the Plan of Management (PoM) and the Statement of Environmental Effects (SEE) regarding the hours of operation proposed for the child care centre. As a result of the public exhibition and advertising, 151 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 childcare 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 exiting the centre.

Council's Traffic Engineer has considered the submitted Traffic and Parking Impact Assessment and does not concur with the position or recommendations presented. 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 does not concur with the position or recommendations presented. Detailed comments in this regard are provided in this report under the "Referrals" section.

- Non-compliance to the front setback

Comment: Regarding the non-compliance to the front setback concerns were expressed as to the resulting streetscape and amenity impacts on surrounding properties. The development proposes a 1.2m high child proof fence 1.2m from the front boundary. A detailed discussion has been undertaken further in this report under B7 Front Boundary Setbacks of the WDCP. The non-compliance is considered reasonable in this instance.

- Privacy impacts

Comment: Concerns were raised regarding the visual and acoustic privacy impacts to the

surrounding properties in particular the dwelling located along the northern and southern boundaries and the residential flat building located along the western (rear) boundary. The submissions raised concern with the recommendations of the acoustic report requiring only eight (8) children to be allowed in the play area at one time, the need for noise barriers and the requirement of doors and windows to be closed during times where more noise is generated i.e singing. This was viewed as indicating that the proposed location for the child care centre was incompatible with the residential nature of the area. Concern is raised with the removal of trees along the western (rear) boundary of the subject site and the high level of visibility from the residential flat building into the play area of the proposed child care centre. The development proposes landscaping along the rear and side boundaries, however inadequate detail of the proposed planting has been provided. No objections have been raised by Council's Landscape Officer.

- Noise impacts

Comment: A number of concerns were raised with regards to the noise impacts associated with the operation of the proposed child care centre on the amenity of the surrounding area. Concern has been raised in the submissions regarding the details outlined in the acoustic report and the Plan of Management (PoM) around managing any noise generated by children within the child care centre. The acoustic report has been reviewed by Council's Environmental Health (Industrial) Officer and is supported subject to conditions which include updating the PoM to limit the maximum number of children to eight in the playground at any one time and to provide the contact phone number of the centre's director to be made available to neighbours.

- Access and Emergency and Evacuation Plan

Comment: Concerns have been raised as to acceptability of the child care centre being designed to be accessible for all potential users. The Development Application was also not supported by an Emergency and Evacuation Plan as required under Sections 97 and 168 of the Education and Care Services National Regulations. This is discussed within the the SEPP Educational Establishments and Child Care Facilities 2019, within the report. The proposed development is recommended for refusal in this regard.

- Waste Management

Comment: Concerns were raised as to the waste/garbage management associated with the proposed childcare centre. In this regard, consideration has been given that conditions can be applied to the PoM to ensure waste collection is appropriately managed by a private operator to limit amenity impacts as well as obstruction of footpaths and roads particularly at peak times.

- Construction Management

Comment: Given the nature of the proposed works, no conditions are recommended relating to construction management.

- Need/demand for a childcare centre

Comment: The proposed use as a childcare centre is permitted with consent within R2 Low Density Residential zone. Issues relating to the need, demand or financial viability of the

proposed development are not a matter of consideration for the consent authority.

- Impact upon neighbouring property values.

Comment: The proposed use as a childcare centre is permitted with consent within R2 Low Density Residential zone. Concerns specifically relating to any resulting impact on the value of surrounding properties are not relevant as a reason for this development application to be refused.

- Non-compliance with SEPP (Educational Establishments and Child Care Facilities) 2017

Comment: The proposed childcare centre is found to be inconsistent with the provisions of Clause 23 of SEPP (Educational Establishments and Child Care Facilities) 2017 and is recommended for refusal on this basis.

- Stormwater details

Comment: The proposed stormwater arrangement has been reviewed by Council's Development Engineer and has been found to be acceptable, subject to conditions.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Industrial)	<p><b>No objection with conditoins</b></p> <p><b>General Comments</b></p> <p>Application is for alterations and additions to an existing dwelling and change of use to a childcare centre.</p> <p>The childcare centre will cater for a maximum of 20 children aged 3-5 and operate 8.00am to 4pm, Monday to Friday.</p> <p>The applicant has provided an Acoustic Report by Wilkinson Murray Pty Limited dated 17 May 2021 (reference: Report No. 20194 Version C) that includes a number of recommendations.</p> <p>The applicant has also provided an Operation Plan of Management for the centre that includes a Noise Management Policy Section. The Plan of Management however, will need to be updated to include the recommendations from the Acoustic Report including but not limited to:</p> <ul style="list-style-type: none"> <li>• Allowing only a maximum of eight children to play outside in the play area.</li> <li>• Contact phone number of the centre's director to be made available to neighbours.</li> </ul>

Internal Referral Body	Comments
Environmental Health (Food Premises, Skin Pen.)	<p><b>No objection with conditions</b></p> <p><b>General Comments</b></p> <p>Application is for alterations and additions to an existing dwelling and change of use to a childcare centre.</p>
Landscape Officer	<p><b>No objection with conditions</b></p> <p>The application proposes alterations and additions to the existing dwelling and the use of the ground floor as a child care centre.</p> <p>Councils Landscape Referral section has considered the application against the Warringah Local Environment Plan, and the following Warringah DCP 2011 controls:  I D1 Landscaped Open Space and Bushland Setting  I E1 Preservation of Trees or Bushland Vegetation</p> <p>The SEE indicates that no trees are to be removed to accommodate the proposed works. It is evident that some vegetation will be removed on the southern side of the front yard to accommodate the new driveway and parking area, however vegetation on the northern side can be retained to provide softening of the built form in the streetscape.</p> <p>The Plans indicate that existing retaining walls in the rear yard are to be retained, which enables retention of trees in the rear of the site.</p> <p>In view of the above, no objections are raised with regard to landscape issues subject to conditions.</p>
NECC (Development Engineering)	<p><b>No objection with conditions</b></p> <p>The proposed increase in impervious area for the proposal is negligible and as such OSD is not required. The proposed minor driveway widening is acceptable.</p> <p>No objection to approval, subject to conditions as recommended.</p>
Traffic Engineer	<p><b>Not supported</b></p> <p>The development proposes to create a child care centre serving up to 20 children and with a staffing level of 3. To cater for this use it is proposed to widen the existing vehicle crossing to provide access to 3 off-street parking spaces including one stacked space.</p> <p><b>Traffic:</b></p> <p>In terms of traffic generation the development will generate 0.8 trips per child in the am peak and 0.7 trips per child in the pm peak. i.e 16</p>

Internal Referral Body	Comments
	<p>am peak trips and 14 pm peak trips. The traffic impact assessment report advises that pm peak traffic generation from the centre will not coincide with the broader general peak traffic period and the impact of the centre at this time will therefore be minimal. While that may be true the centre will still generate volumes of 14 vehicles in the afternoon pick up period.</p> <p>Despite the above, the traffic generation from the developed site is however acceptable and considered unlikely to significantly impact on conditions in the surrounding road network.</p> <p><b>Parking:</b></p> <p>The DCP parking rate is one space for every four children. This also reflected in the RMS guide to traffic generating development which also requires that parking be supplied at a rate of one space for every four children i.e 5 spaces</p> <p>The development proposes to provide 3 offstreet spaces including one stacked space. These spaces are provided by widening the existing driveway (which provides access to two existing off-street stacked spaces) and constructing an additional offstreet space. The Traffic Report suggests that there is ample on-street parking to cater for any overflow parking however it is inappropriate to rely on on-street parking for the parking needs generated by a development and the required parking should be accommodated on site.</p> <p>The level of parking provision is considered unacceptable and the DCP parking requirement of 5 offstreet spaces (as a minimum) should be provided without the reliance on a second vehicle crossing or loss of on-street parking.</p> <p>The applicant's traffic consultant references other childcare centre developments which rely upon on-street parking for drop off and pick up related parking and claims that this causes no safety issues. This is incorrect. Complaints have been received with regard to at least two of the referenced childcare centres regarding parking activity in No Stopping zones or across driveways, restricted sightlines due to parked vehicles and congested conditions at drop off and pick up periods. If this centre were approved without adequate off-street parking similar issues are anticipated.</p> <p><b>Pedestrian Impact:</b></p> <p>The development will generate a number of reversing manoeuvres across the footpath during drop off and pick up times. The development is also sited near bus stops (generating pedestrian activity) and there will be movement of children along the footpath accessing the centre. Vehicles will also be reversing onto the road in close proximity to a busy intersection. These arrangements are not considered ideal and would be improved if there was provision for forwards entry and exit to/from the site.</p>



Internal Referral Body	Comments
	<p>Summary:</p> <p>The development is considered unsuitable as it provides a net increase of only 1 parking space when compared to the existing situation. This is considered insufficient to cater for the increased parking demands generated by the development. The reliance upon only three offstreet parking spaces all of which will require reversing either onto or off the site will also impact negatively on pedestrian safety in this location.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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 Educational Establishments and Child Care Facilities 2017**

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

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

As previously outlined this application is for the establishment of a centre-based child-care facility.

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

## **DESIGN QUALITY PRINCIPLES**

### **Principle 1: Context**

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

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

*Well-designed child care facilities take advantage of its context by optimising nearby transport, public facilities and centres, respecting local heritage, and being responsive to the demographic, cultural and socio-economic makeup of the facility users and surrounding communities.*

Comment: Consistent

The proposed development does not dramatically alter the appearance of the building other than the erection of a 1.2m high child proof fence within the front setback. The introduction of additional 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) and whilst this is non-compliant with the control, it is argued that on merit, 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 of Bangaroo Street. As highlighted 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 dramatically 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: Consistent

The design of the proposed child care centre appears to 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*. 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: Consistent

The proposed child care centre appears to be well designed in that it provides sufficient amenity for the children. The proposal generously complies with the required minimum unencumbered area as stipulated within the SEPP. The overall landscape design as it relates to the outdoor learning environment for children is considered acceptable

#### **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 a well 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. In the event that the development is approved, a condition imposed from Council's Environmental Health Section limits the number of children permitted outdoors at any one time to eight (8) which will ensure there is more than adequate area for this area to function sufficiently. 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: Consistent

The design of the proposed childcare centre appears to 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.

**Principle 7: Safety**

*Well-designed child care facilities optimise the use of the built and natural environment for learning and play, while utilising equipment, vegetation and landscaping that has a low health and safety risk, and can be checked and maintained efficiently and appropriately.*

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

Comment: 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 (Educational Establishments and Child Care Facilities) 2017.

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

**MATTERS FOR CONSIDERATION**

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Objectives	Criteria/Guidelines	Comments
<b>3.1 Site selection and location</b>		
<p><b>C1 To ensure that appropriate zone considerations are assessed when selecting a site</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. The report makes recommendations regarding acoustic walls and treatments to mitigate adverse noise impacts to adjoining properties. The proposal is acceptable with regards to noise, subject to conditions.</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 off street parking and 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</li> </ul> </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, in particular with drop-off/pick-up locations and an unacceptable</p>

	<p>environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas</p> <ul style="list-style-type: none"> <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>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>
<p><b><i>C3 To ensure that sites for child care facilities are appropriately located</i></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><i>C4 To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazard</i></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><i>C5 To ensure that the child care facility is</i></b></p>	<p>The proposed development should:</p> <ul style="list-style-type: none"> <li>• contribute to the local area by being</li> </ul>	<p><b>Consistent</b></p>

<p><b>compatible with the local character and surrounding streetscape</b></p>	<p>designed in character with the locality and existing streetscape</p> <ul style="list-style-type: none"> <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>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</p>	<p><b>N/A</b></p>

	<p>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>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 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: <ul style="list-style-type: none"> <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> </ul> </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</li> </ul>	<p><b>Consistent</b></p> <p>The proposed child care centre is located within a R2 Low Density Residential area which is characterised by residential dwellings. Given the location of the site, the outdoor play area is located adjacent to the private open space of residential dwellings.</p> <p>An acoustic report has been submitted with the development application which was reviewed by Council's Environmental Health (Industrial) Section supporting the recommendations outlined in</p>



	areas are protected from wind and other climatic conditions.	the report. A condition is also recommended to allow a maximum of eight children in the playground at one time.
<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>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>
<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>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>
<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>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>
<b>C16 To ensure that buildings are designed to create safe</b>	<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</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>childcare centre is limited to one secure point and is consistent with the requirements of this guideline.</p>
<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>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</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><b>Consistent</b></p> <p>The proposed parking area along the southern side of the site within the front setback</p>

	<p>buildings</p> <ul style="list-style-type: none"> <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>will provide for three (3) off street parking spaces.</p> <p>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>
<b>3.5 Visual and acoustic privacy</b>		
<b>C20, C21 To protect the privacy and security of children attending the facility</b>	Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.	<b>N/A</b> The proposal is not a mixed use development.
	<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>	<b>Consistent</b>  The 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.
<b>C22 To minimise impacts on privacy of adjoining properties</b>	<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>	<b>Consistent</b>  The proposal does not minimise direct overlooking towards adjoining residential properties. The acoustic report does recommend solid boundary fencing measuring 1.8 - 3.0m along the northern, southern and western boundaries which would assist in protecting the amenity of the neighbouring properties.
<b>C23, C24 To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments</b>	<p>A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> <li>• 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).</li> <li>• 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.</li> </ul>	<b>Consistent</b>  Submitted with the Development Application, the DA Noise Assessment, (Report No. 20194 Version C, dated May 2021 prepared by Day Design Pty Ltd) 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. Subject to compliance with relevant recommendations and conditions placed by Council's Environmental Health Officer, the relevant acoustic requirements are considered to be capable of being achieved.

A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:

- identify an appropriate noise level for a child care facility located in residential and other zones
- determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use
- determine the appropriate height of any acoustic fence to enable the noise criteria to be met.

**Consistent**

The submitted DA Noise Assessment details that for the development of the subject child care centre in a residential area, the background noise level requirement ranges from 44 dB(A) to 49 dB(A). The report states that to ensure compliance with the and to protect the amenity of the surrounding receivers, a maximum of eight children are allowed within the outdoor play area at one time.

The report recommends a noise barrier along the northern, western and southern boundaries measuring 1.8m - 3.0m in height to ensure the noise criteria is met.

The DA Noise Assessment also details noise emission calculations for the indoor and outdoor play areas, car parks and mechanical plant which factor reductions provided by the fence heights.

**3.6 Noise and air pollution**

<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>Consistent</b></p> <p>Submitted with the Development Application, the Environmental Noise Assessment, makes recommendations for measures to mitigate noise impacts. Subject to compliance with relevant recommendations and conditions placed by Council's Environmental Health Officer, the relevant acoustic requirements are considered to be capable of being achieved.</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 child care 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>Consistent</b></p> <p>Submitted with the Development Application, the Environmental Noise Assessment, consideration has been given that indoor play areas and sleeping areas, the internal noise levels will comply with the Association of Australasian Acoustical Consultants' internal noise limit for Child Care Centres. Subject to compliance with relevant recommendations and conditions placed by Council's Environmental Health Officer, the relevant acoustic requirements are considered to be capable of being achieved</p>
<p><b>C27, C28 To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as</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</p>

<p><b>major roads and industrial development</b></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>development.</p> <p><b>N/A</b></p> <p>As above, the proposed childcare centre is not close to major roads or industrial developments.</p>
<p><b>3.7 Hours of operation</b></p>		
<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 8:00am 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>
<p><b>3.8 Traffic, parking and pedestrian circulation</b></p>		
<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><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 20 children</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>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/carer's. In accordance with the Warrngah DCP, the proposal seeks to vary the required number of staff parking by two (2) off street parking spaces as a minimum and should be provided without the reliance on a second vehicle crossing or loss of on-street parking.</p> <p>Council's Traffic Engineer has reviewed the Traffic and Parking Impact Assessment with regards to parking, commenting that the proposed number of off-street car spaces is considered insufficient to cater for the increased parking demands generated by the development</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, in particular during the</p>

		intense drop off and pick up times in association with the close location of a bus stop and a busy intersection.
<b>C34, C35 To provide vehicle access from the street in a safe environment that does not disrupt traffic flows</b>	<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>
<b>C36, C37, C38 To provide a safe and connected environment for pedestrians both on and around the site</b>	<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>The Development Application has not demonstrated pedestrian paths that enable two prams to pass each other, nor has it demonstrated vehicular manoeuvring paths to demonstrate that all vehicles can enter and depart the site in a forward direction.</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</li> </ul>	<p><b>N/A</b></p> <p>The proposed development does not form</p>



	<p>trucks</p> <ul style="list-style-type: none"> <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>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 Development 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. Council's Traffic Engineer has reviewed the submitted Traffic and Parking Impact</p>

#### 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>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</p>	<p><i>The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child.</i></p> <p>Verandahs as indoor space For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space.</p> <p>Storage Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing</p>	<p><b>Inconsistent</b></p> <p>The proposed development 65m<sup>2</sup> requires at least of indoor space.</p> <p>The proposal provides for 106.4m<sup>2</sup> of indoor space.</p> <p>The proposal requires 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 4m<sup>3</sup> of internal storage space.</p>

space excludes any of the following:

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

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

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

and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:

- a minimum of 0.3m<sup>3</sup> per child of external storage space
- a minimum of 0.2m<sup>3</sup> per child of internal storage space.

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

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

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

The proposal provide for 25.9m<sup>3</sup> of internal storage space.

An internal laundry in accommodated on the ground floor.

The proposed external storage space falls 1.3m<sup>2</sup> short of the requirement. Whilst this is a non-compliance, the level of internal storage space greatly exceeds the requirement and therefore can be used in the event of this shortfall.

<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>		
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**4.2 Laundry and hygiene facilities**

<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</p>	<p><b>Consistent</b></p> <p>The on-site laundry located on the ground floor appears to 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>
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	facilities must make external laundering arrangements. Any external laundry facility providing services to the facility needs to comply with any relevant Australian Standards.	
<b>4.3 Toilet and hygiene facilities</b>		
<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 ageappropriate 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 on-site laundry located on the ground floor appears to 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>
<b>4.4 Ventilation and natural light</b>		
<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>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</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>	<p>Education Directorate prior to childcare centre becoming operational.</p>
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**4.5 Administrative space**

<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>
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<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</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</li> </ul>	<p><b>Consistent</b></p> <p>The proposed children’s toilet and change facilities appear to contain windows in appropriate locations to ensure supervision, whilst being located away from view of visitors to the facility, the public or neighbouring properties.</p>
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<p>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>change areas away from view of visitors to the facility, the public or neighbouring properties</p> <ul style="list-style-type: none"> <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>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 the childcare becoming operational.</p>
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#### 4.8 Emergency and evacuation procedures

<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>Inconsistent</b></p> <p>The Development Application was not supported by an emergency and evacuation plan.</p>
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#### 4.9 Outdoor space requirements

<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, 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>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) and (6) of the National Regulations.</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>Verandahs as outdoor space</b> 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> Proponents should aim to provide the requisite amount of unencumbered outdoor space in all development applications.</p> <p>A service approval will only be granted in exceptional circumstances when outdoor space requirements are not met. For an exemption to be granted, the preferred alternate solution is that indoor space be designed as a simulated outdoor environment.</p> <p>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><b>Consistent</b></p> <p>The proposed childcare centre requires at least 140m<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>
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<p>Applicants should also note that regulation 274 (Part 7.3 NSW Provisions) states that a centre-based service for children preschool age or under must ensure there is no swimming pool on the premises, unless the swimming pool existed before 6 November 1996. Where there is an existing swimming pool, a water safety policy will be required.</p> <p>A verandah that is included within indoor space cannot be included when calculating outdoor space and vice versa.</p>	<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> <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>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</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 appear to have been designed to comply with the relevant requirements of this criteria.</p>
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	<p>natural environment</p> <ul style="list-style-type: none"> <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>	
<b>4.11 Shade</b>		
<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></p> <p>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>Natural shade</b></p> <p>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</p>	<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>

so they don't obstruct supervision. Pruning shrubs on the underside may create shaded play nooks underneath. Planting for shade and solar access is enhanced by:

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

**Built shade structures**

Built structures providing effective shade include:

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

Shade structures should not create safety hazards. Support systems such as upright posts should be clearly visible with rounded edges or padding. Vertical barriers at the sides of shade structures should be designed to prevent children using them for climbing. Shade structures should allow adults to view and access the children's play areas, with a recommended head clearance of 2.1 metres. The floor area underneath the structure should be of a sufficient size and shape to allow children to gather or play actively.

**4.12 Fencing**

**Regulation 104 Education and Care Services National Regulations**

Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.

This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including

***Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.***

Fencing at child care facilities must provide a secure, safe environment for children and minimise access to dangerous areas. Fencing also needs to positively contribute to the visual amenity of the streetscape and surrounding area. In general, fencing around outdoor spaces should:

- prevent children climbing over, under or through fences
- prevent people outside the facility from gaining access by climbing over, under or through the fence
- not create a sense of enclosure.

**Consistent**

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>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>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>	
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**4.13 Soil Assessment**

<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</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> </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 Development Application and has raised no objection subject to conditions.</p>
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<p>applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children</p>	<ul style="list-style-type: none"> <li>• Stage 3 - Site specific human health risk assessment.</li> </ul>	
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Conclusion

The proposed child care centre fails to comply with Clause 23 of the SEPP Educational Establishments and Child Care Facilities 2017. 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 five (5) 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 jeopardise 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 raises significant traffic and parking issues which will significantly impact on the surrounding residential amenity.

The Development Application was not supported by an emergency and evacuation plan which is inconsistent with 4.8 Emergency and evacuation procedures of Clause 23 of the SEPP.

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

**SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use as a child care centre.

**SEPP (Infrastructure) 2007**

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the

electricity infrastructure exists).

- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

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

**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	% 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
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 Landscaped Open Space (LOS) and Bushland Setting	40% (205.67sqm)	42.7% (219.5sqm)	N/A	Yes
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**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: 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	Yes
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:

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

Comment:

The proposal fails to demonstrate compliance with the required number of 5 off-street spaces without the reliance on a second vehicle crossing or loss of on-street parking. 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. It is also anticipated that the development will generate a number of reversing manoeuvres across the footpath during 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 these spaces are located adjacent to each other and are readily visible from Bangaroo Street with the third space 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 the



front setback will remain landscaped. The stacked parking arrangement along the southern boundary will reduce the visibility of the third car on site and will not contribute 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.

- *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.

- *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 proposal fails to provide the required number of off-street car parking space for the proposed daycare centre. 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 5 spaces. The development proposes three off-street space which is not supported by Council's Traffic Engineer. 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 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 falls short of the required five (5) spaces required for the proposed day care centre. These spaces are provided by a stacked parking arrangement and an additional space within the front setback. The daycare centre provides space for 20 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 anticipated 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 location of the proposed day care centre is not anticipated to interfere with the public transport facilities.

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

Comment:

It is suggested in the Traffic Report (Prepared by Transport and Traffic Planning Associates, Ref: 20035, dated April 2021, Issue F) that there is ample on-street parking to cater for the overflow of parking associated with the proposed child care centre. However this is not supported by Council's Traffic Engineer who states that it is inappropriate to rely on the availability of on-street car parking spaces and that any proposed works should comply with the required number of off-street parking spaces as required for the use.

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	5	3	-2
<b>Total</b>		5	3	-2

The WDCP parking rate is 1 space per four (4) children. The DCP does not specify the required drop off and pick up area. The RMS guide to traffic generating development requires that parking be supplied at a rate of one space for every four children i.e 5 spaces. The development proposes three (3) off-street spaces including one (1) stacked space which is a shortfall of two (2) spaces. 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 will fall short of the required five (5) car parking spaces providing three (3) off street parking spaces.

A Traffic and Parking Impact Assessment (Prepared by Transport and Traffic Planning Associates, dated April 2021) was submitted with the development application. The report states that the day care centre will generate volumes of 14 vehicles in the afternoon pick up period which is considered unlikely to significantly impact on conditions in the surrounding road network. The report stated that there are a total of 247 on-street spaces provided within the surrounding streets which was surveyed on 2 June 2020. Whilst this number of spaces may be available, it is inappropriate to rely on on-street parking for the parking needs generated by a development and that any parking required should be accommodated on the site.

The lack of adequate 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 on-street 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 is not in supportive of the proposed development. Detailed comments in this regard are provided earlier in this report under the "Referrals" section

- An assessment of the parking provisions having regard to the requirements under the Warringah Development Control Plan (WDCP) 2011 and the RMS Guide to Traffic Generating Development

Comment:

The parking rate outlined for child care centres in the WDCP is one (1) space per four (4) children. As outlined above, the development therefore requires five (5) spaces given the centre proposes to cater for a maximum of 20 children. The RMS Guide to Traffic Generating Development proposes the same rate. The WDCP does not specify the required drop off and pick up area. The RMS states that convenient and safe on-street parking should be available and if not, the number of parking spaces should be reduced. In the case that on-street parking is required, such parking should not impact on the amenity of the surrounding area. An assessment of the required parking rate along with the number of submissions raising concern regarding the safety of pedestrians, finds the non-compliance unreasonable and is therefore not supported.

- *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 an 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 site to accommodate the additional parking space. The subject site does not currently provide a garage or carport with the proposal providing three (3) spaces as hard stand spaces.

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

Comment:

Given the development does not propose any car parking structures on the site, the hard stand car parking spaces are not considered to dominate the street frontage or other public spaces. The tandem arrangement will also reduce the visibility of three cars parked within the site.

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 Acoustics and Air Dynamics dated May 2021 for the proposed child care centre was received by Council on 27 May 2021. Council's Environmental Health Officer has reviewed the submitted acoustic report and is satisfied that noise can be mitigated and result in an acceptable outcome for surrounding development, subject to compliance with the recommendations of the report.

### **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 Worroobil 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 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- 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 fails to provide compliance with C2 Traffic, Access and Safety and C3 Parking Facilities of the Warringah Development Control Plan 2011. The proposal also fails to comply with Clause 23 of the SEPP Educational Establishments and Child Care Centres. The three (3) off-street parking spaces proposed fail to comply with the five (5) spaces required under the required car parking rates outline in Appendix 1 of the WDCP 2011 for child care centres. The shortfall of spaces 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. As a result of the shortfall of off-street parking spaces, 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.

In summary, the 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 REFUSE Development Consent to Development 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 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.