



Statement of Environmental Effects

Change of use to a Child Care Centre

Lot 1 Lawrence Street, Freshwater
Lot 1 DP 864459

**Prepared by Willowtree Planning Pty Ltd on behalf
of Girl Guides NSW, ACT & NT**

September 2020

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PART A PRELIMINARY

1.1 INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared by Willowtree Planning on behalf of Girl Guides NSW, ACT AND NT (Girl Guides), and is submitted to Northern Beaches Council (Council) to support a Development Application (DA) for a change of use of the existing building to a **child care centre** at Lot 1 Lawrence Street, Freshwater (the Site), legally described as Lot 1 DP864459.

The proposal seeks consent for a change of use of the existing building to a child care centre that will cater for 20 children. The proposed child care centre will operate within an existing community hall that is currently operated and used by Girl Guides. The existing community use of the Site for Girl Guides will be maintained and the proposed child care centre will operate at separate times ensuring that there is no overlap between the two uses.

By way of background, Harbord Kindergarten currently operate from two (2) sites which include the Harbord Literary Institute located at the adjacent property to the west of the Site and the Harbord Diggers Waves building located at 23 Oliver Street, Freshwater. The Harbord Diggers Waves building currently occupies 20 children for a kindergarten which was granted Development Consent under **DA. 83/384**. As a result of the current uncertainty surrounding the future of the existing Harbord Diggers Waves building, Harbord Kindergarten seek to cease the kindergarten operation within the Harbord Diggers Waves building and relocate to the Site.

It is important to note that the proposal seeks to cater for only 20 children, in line with the current arrangement of the existing Kindergarten at 23 Oliver Street. Therefore, given the proposal will maintain the status quo in relation to child care/kindergarten services, it is not anticipated that it would result in any measurable change in traffic generation or car parking demand within the Site or the immediate surrounds.

The proposal involves minor alterations to raise the height of the balustrading in order to comply with BCA requirements. Importantly, the proposal does not seek consent to change the existing building envelope. Therefore, the existing bulk and scale of the building will be maintained.

The proposal would be permissible with consent in the RE1 Public Recreation zone pursuant to *Warringah Local Environmental Plan 2011* (WLEP2011). The proposal would provide a positive contribution to the area by providing a valuable piece of social infrastructure that benefits the surrounding community whilst remaining commensurate to the character of the area.

This SEE has been prepared pursuant to Section 4.12 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Clause 50 and Part 1 of Schedule 1 of the *Environmental Planning and Assessment Regulations 2000* (EP&A). Assessment against the relevant matters for consideration under Section 4.15(1) of the EP&A Act has also been carried out.

Based on the assessment undertaken, it is recommended that favourable consideration to the approval of the DA be given.

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1.2 PRE-LODGEEMENT CONSULTATION

A Pre-Lodgement Meeting was held with Council on **23 July 2020** with the following attendees from Council:

- Steven Findlay – Manager of Development Assessment
- Renee Ezzy – Principal Planner
- Angus Crichton – Environmental Health

Notes were provided by Council on 17 September 2020 (see **Appendix 2**). The applicant's commentary has been provided against each matter raised in in **Table 1** below:

Table 1. Pre-Lodgement Notes	
Council Comments	Applicant Response
<p><i>The International Agency for Research on Cancer has classified Extremely Low frequency (ELF) magnetic fields as possibly carcinogenic to humans.</i></p> <p><i>Given its proximity to the substation at Lot 202/ Lawrence Street FRESHWATER, a site specific Electromagnetic Field (EMF) Survey will need to be provided as part of the development application to determine whether EMF emissions meet guideline limits for human exposure. The Survey is to be prepared by a suitably qualified person and include actual measurements of ELF EMF.</i></p> <p><i>Findings from the report should be provided to Ausgrid so they can make comment on any recommendations to mitigate the risk of ELF EMF where required. The applicant must also engage Ausgrid for comment on any other requirements to protect public health and assets e.g. blast wall</i></p>	<p>A letter was prepared by Ausgrid and provided at Appendix 9 which provides detail on the Electric and Magnetic Fields (EMF) associated with Ausgrid's Harbord zone substation. The letter found that the highest readings were along the southern boundaries of the substation property which indicated readings of between 11.7mG near the corner of the substation building and 8.9mG at the southern western corner of the Site. It concluded that all EMF readings are well below the recommended 2000mG guideline for public exposure.</p> <p>In addition, Ausgrid provided a desktop review in respect of the potential impacts in the event of a catastrophic failure (see Appendix 9). The review concluded the following:</p> <p><i>"The AFLC room houses oil filled equipment. In the unlikely event of a catastrophic failure of this equipment, this compartment may sustain significant damage. Given the configuration of the cross walls of the amenities on the eastern side of the division wall the AFLC room that offer bracing to this compartment it is expected that the overpressure would be directed eastward toward the switchyard and not westward.</i></p> <p><i>The nearest transformer bay is at least 30m away from the boundary to the Girl Guides Facility. In the unlikely event of a catastrophic failure of the power transformer which may result in a confined transformer oil pool fire, the thermal radiation incident on this boundary is not expected to exceed thresholds stipulated in the Building Codes for fire safety egress. The control/switch room building in between will also have a shielding effect."</i></p>

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	Accordingly, based on the findings above the existing substation located to the east of the Site would not result in adverse impacts to public health and assets.
<p><i>Moving the 20 children (patrons) to the less insulated hall has potential to impact on the acoustic amenity of nearby residents, commercial offices and retail businesses.</i></p> <p><i>An Acoustic Assessment is to be provided as part of the development assessment addressing sound generated by patrons, employees and the use of vehicles during pick-up/drop off.</i></p>	<p>Although the Site is not located adjacent to sensitive land uses, an Acoustic Report has been prepared by Waves Consulting and is provided in Appendix 3 which carried out an assessment of the proposal against the <i>NSW Noise Policy for Industry 2017</i> and the <i>Association of Australasian Acoustical Consultants Guideline for Child Care Centre Acoustic Assessment 2013</i> (AAAC).</p> <p>The report concluded that the predicted noise emissions from the Site to the surrounding environment are 'low'. The proposal satisfies all the AAAC noise targets for child care centres at all nearby noise-sensitive receptors. As a result, there are no operational mitigation measures required.</p>
<p><i>The application is for modification of the existing site and relocation of the child care numbers from within the existing space within No.23 Oliver Street which is to the north of the site on the opposite side of the Council carpark.</i></p> <p><i>It does not appear to be increasing the usable floor space, only providing a cover for a previously exposed area.</i></p> <p><i>Any development application should provide an Operational Plan of Management for the child care centre which provides a clear plan for how safe movement of children and parents will be facilitated between the carpark and the new premises. Traffic raise no objections to the application subject to adequate supporting documentation.</i></p>	<p>An Operational Management Plan has been prepared by Harbord Kindergarten and provided at Appendix 6 which provides detail in relation to pick up and drop off.</p>

PART B SITE ANALYSIS

2.1 SITE LOCATION AND CHARACTERISTICS

The Site consists of one (1) allotment located on the northern side of Lawrence Street and the eastern side of Oliver Street (adjacent to the Council carpark) which is identified as Lot 1 Lawrence Street, Freshwater.

The Site is regular in shape with a frontage of 15.11m along the Council carpark (off Oliver Street) and a depth of 32.33m. The Site has an area of approximately 488m² and is located within the RE1 Public Recreation zone and accommodates an existing Girl Guides Hall.

The Site comprises existing pedestrian access from Council's carpark via a gate located at the northern boundary of the Site. There is also access available via a pedestrian walkway located along the eastern boundary of the Site which provides access to the main building entry located at the eastern façade of the building.



Figure 1: Cadastral Map (SIX Maps, 2020)

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Figure 2: Aerial Map (SIX Maps, 2020)

2.2 SITE CONTEXT

The Site is located approximately 12.4km north east of the Sydney CBD and it is situated within the Freshwater Village.

The adjoining and surrounding development is characterised by a mix community and commercial uses such as Harbord Literary Institute, Harbord Diggers Waves building, public carpark and an electricity substation. There are also residential land uses in the form of dwelling houses located along Oliver Street.

The Site is serviced by public transport, including bus stops along Lawrence Street with services connecting to Chatswood, Sydney CBD and Manly. Major road infrastructure servicing the Site includes Oliver Street, with connections to Pittwater Road.

The local context is shown in **Figure 3**.

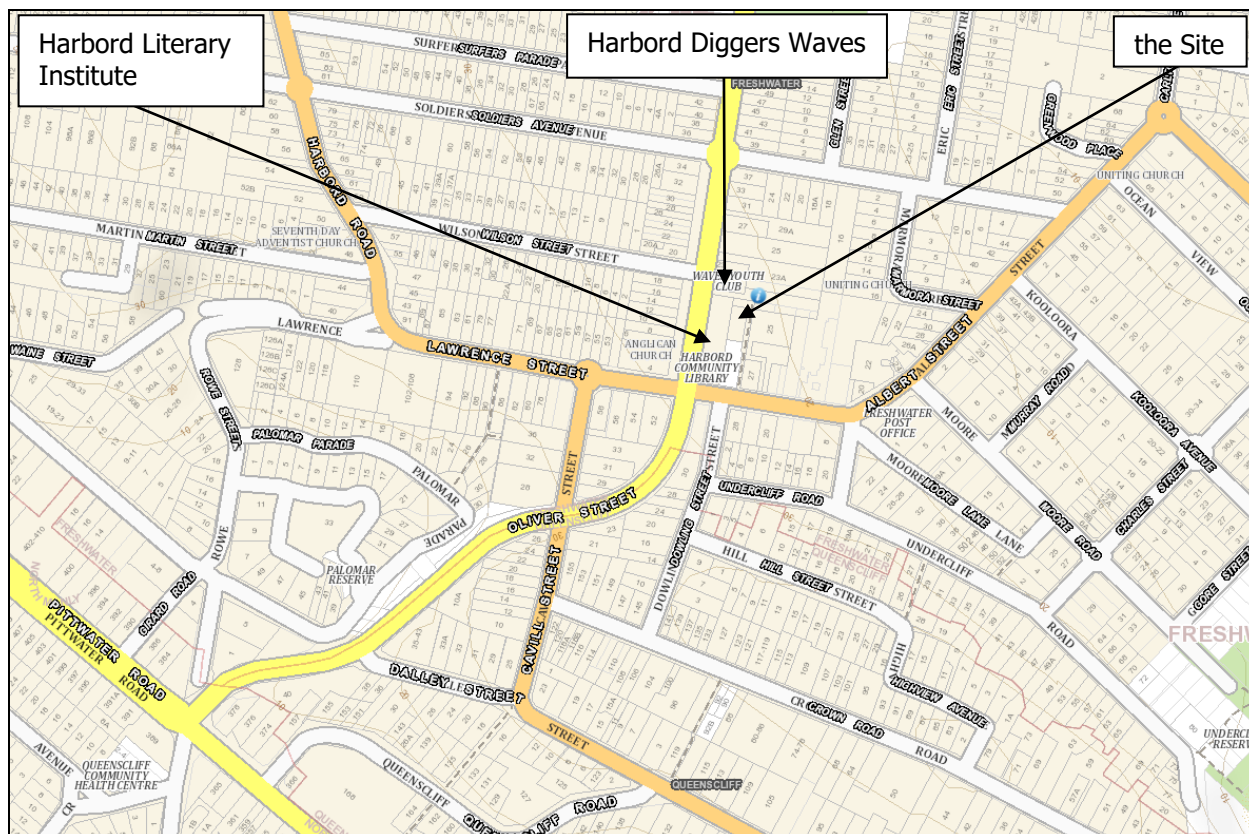


Figure 3: Context Map (Google Maps, 2020)

2.3 DEVELOPMENT HISTORY

The Site is subject to a number of previous developments consents which are considered to be relevant to the proposed use of the Site. A summary of the previous development consents has been outlined below:

2.3.1 DA2018/0587

Development consent (**DA2018/0587**) was granted on 27/08/2018 for alterations and additions to the existing community facility (Girl Guides Hall) to increase the enclosed floor area by enclosing the existing area to the north of the building and adding a new terrace to the eastern part of the site. Additional upgrades include:

- Construct new roofed deck and access ramps;
- Install new kitchen;
- Refurbish toilets and construct a disabled toilet; and
- Storage area.

A review of the Council Officers report did not reveal any key issues with the proposal, particularly in regard to traffic and parking.

2.3.2 MOD2020/0005

A Section 4.55(1a) modification to development consent (**DA2018/0587**) was granted on 11/02/2020 for modifications to the existing fencing. There were no items in this application that were considered relevant for the proposed development.

PART C PROPOSED DEVELOPMENT

3.1 AIMS AND OBJECTIVES

The following objectives have been identified as forming the basis of the proposed child care centre:

- Provide important social infrastructure to meet the demand generated by a growing local workforce and residential population;
- Make productive use of a Site within an established urban area;
- Support uses that generate employment and provide services for the local community;
- Minimise the environmental and amenity impacts associated with development and its ongoing operation; and
- Ensure development is compatible with surrounding development and the local context.

The proposal is considered to meet the objectives of the project as it provides a functional layout for the proposed child care centre whilst maintaining a community benefit in immediate proximity to established residential catchments and employment bases.

3.2 OVERVIEW

The proposal seeks consent for a change of use of the existing building to a child care centre that will cater for 20 children and would be operated by The Harbord Kindergarten.

As aforementioned, Harbord Kindergarten currently operate from two (2) sites which include the Harbord Literary Institute located at the adjacent property to the west of the Site and the Harbord Diggers Waves building located at 23 Oliver Street, Freshwater. The Harbord Literary Institute currently facilitates 40 children but benefits from a Service Approval from the NSW Department of Education and Communities to provide education and care to a maximum of 60 children (see **Appendix 4**). The Harbord Diggers Waves building currently occupies 20 children for a kindergarten which was granted Development Consent under **DA. 83/384**.

As a result of the current uncertainty surrounding the future of the existing Harbord Diggers Waves building, Harbord Kindergarten seek to cease the existing kindergarten operation within the Harbord Diggers Waves building and relocate to the Site. The proposed Child Care Centre will operate within an existing community hall that is currently operated and used by Girl Guides. The existing community use for Girl Guides will be maintained and the proposed Child Care Centre will operate at separate times ensuring that there is no overlap between the two uses. The proposal does not seek to alter the internal layout of the existing building and as such no demolition or construction works are proposed.

In respect of outdoor space, the proposal seeks to use the adjoining outdoor play area associated with the Harbord Kindergarten at the Harbord Literary Institute. The landscaped open space area at the northern portion of the Site (fronting Council's car park) is utilised by Girl Guides and therefore, it is not sought to alter the existing outdoor area to make it suitable for a children's play area. The existing playground at the Harbord Literary Institute comprises landscaping, outdoor play equipment and shading which is necessary to create a safe and enjoyable environment for children.

The access arrangement to the Harbord Literary Institute outdoor space area would be facilitated by an existing gate located at the western boundary of the Site which provides access to the playground. It is understood that both the Site and Harbord Literary Institute are located on Crown Land. In respect of the Harbord Literary Institute. The Minister administering the Local Government Act 1993 is responsible for the management of the site. Owners' consent for the proposal has been obtained from the Department of Planning, Industry and Environment.

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Figure 4: Proposed Location Plan (Interlock Construction, 2020)

The nature of the operations associated with the proposed child care centre are detailed in **Section 3.4** below as well as the Operational Management Plan provided at **Appendix 6**.

The proposal involves minor alterations to raise the height of the balustrading to 1.2m in order to comply with BCA requirements. It is important to note that there would be no changes to the existing building envelope. Therefore, the proposal will maintain the existing bulk and scale of the building.

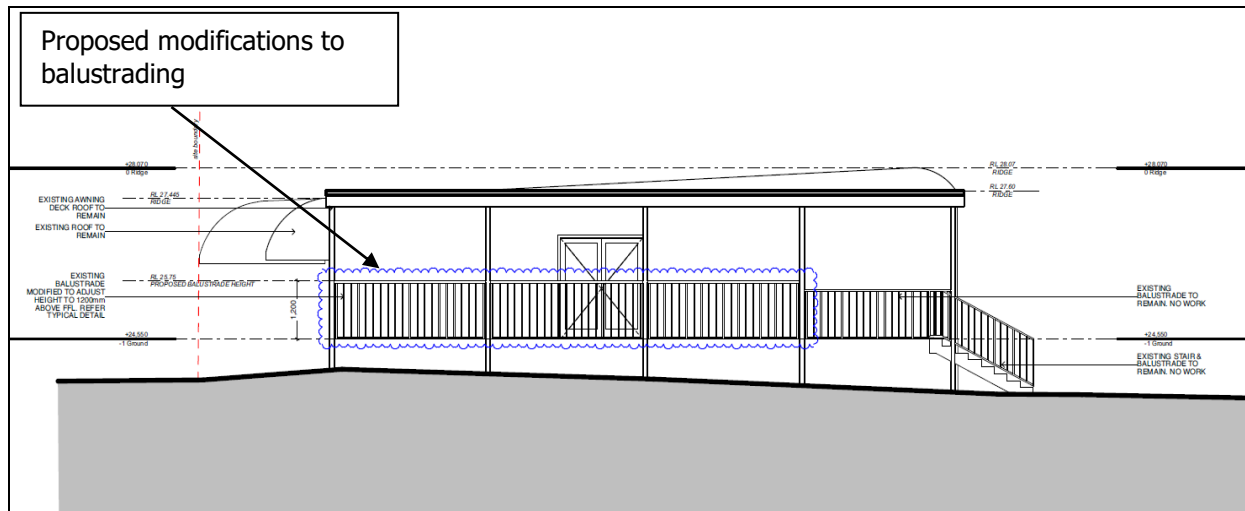


Figure 5: Proposed Eastern Elevation (Interlock Construction, 2020)

The architectural plans illustrate the existing and proposed layout plan of the Site which have been provided in **Appendix 1**.

3.3 DEVELOPMENT STATISTICS

Table 2 summarises the development statistics associated with the proposed child care centre.

Table 2. Development Statistics	
Component	Proposed
Site Area	488.1m ²
Building Type	Community facility (child care centre)
Internal Floor Space	125.65m ² (existing)
Floor Space Ratio	0.24:1
Veranda area	37m ² (existing)
Balustrading	Raise the height of the balustrading on the veranda to 1.2m in order to comply with BCA.
Landscaped open space area	203m ² (Approx.)
Building Height	4.6m (existing.)
Number of Storeys	Single storey
Car Parking	No car parking is provided on-site
Cost of Works	\$5,276

3.4 OPERATIONAL DETAILS

Table 3 summarises the operations of the proposed child care centre.

Table 3. Operational Details	
Component	Proposed
Nature of the proposed use	<p>The proposed child care centre would be operated by Harbord Kindergarten which is a community based, not for profit pre-school providing education and care for children aged between 3-5 years in the local Freshwater community.</p> <p>Further detail in relation to the nature of services provided by Harbord Kindergarten has been provided at Appendix 6.</p>

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Hours of operation	<p>The opening hours for the proposed use are:</p> <ul style="list-style-type: none">Monday to Wednesday: 8.00am to 3.00pmThursday to Friday: 7.30am to 3.45pm <p>The existing operating hours for Girl Guides are:</p> <ul style="list-style-type: none">Monday: 5.00pm to 8.00pmTuesday: 3.30pm to 4.30pmWednesday: 4.30pm to 6.00pm
Number of staff	Three (3) staff members
Number of children and age	20 Children aged between 3 – 5 years.
Outdoor Play Area	<p>A calculation of the outdoor play area at the rear of the Harbord Literary Institute has been carried out by Interlock Construction and provided at Appendix 1. The outdoor open space at the Harbord Literary Institute has a total area of 1,024m² (approx.).</p> <p>It is noted that Harbord Kindergarten has a Service Approval for 60 children however, to ensure the safety and highest quality of care, there will only be a maximum of 40 children in the playground area at any given time. Further detail has been provided in the Operational Management Plan provided at Appendix 6.</p>
Car parking	<p>The Site does not incorporate off-street car parking for the proposed child care centre. However, it is understood that the existing kindergarten within the Harbord Diggers Waves building relies on car parking within Council's car park located at the rear of the Site.</p> <p>As aforementioned, Harbord Kindergarten seek to cease the kindergarten operation within the Harbord Diggers Waves building and relocate to the Site, it is not considered to result in an intensification of car parking demand within Council's car park, therefore it would be maintaining the status quo.</p> <p>Despite the non-compliance, the proposal would maintain the arrangement and utilisation of the Council car park located to the north of the Site, it will continue to provide adequate car parking provisions, in line with the current arrangement.</p> <p>Further detail in respect of car parking has been provided in Section 5.2.1 of this SEE.</p>
Pick up and drop off	<p>The proposal would adopt the following management measures in respect of pick-up and drop off:</p> <ul style="list-style-type: none">Drop off on Monday to Wednesday normally occurs between the hours of 9.00am to 9.30am in the morning and pick up between the hours of 2.30pm to 3.00pm in the afternoons.Drop off on Thursday and Friday normally occurs between the hours of 8.00am to 9.00am in the morning and pick up between 3.00pm to 3.30pm in the afternoons. <p>Further detail in respect of pick up and drop off has been provided in the Operational Management Plan provided at Further detail in respect of car parking has been provided at Appendix 6.</p>

PART D LEGISLATIVE AND POLICY FRAMEWORK

4.1 STATUTORY PLANNING FRAMEWORK OVERVIEW

This Part of the SEE addresses and responds to the legislative and policy requirements relevant to the proposed development at the Site in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act). The planning framework relevant to the proposed development at the Site includes:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*
- *Education and Care Services National Regulations*
- *Child Care Planning Guideline*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *Warringah Local Environmental Plan 2011 (WLEP 2011)*
- *Warringah Development Control Plan 2011 (WDCP 2011)*

4.2 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

The EP&A Act is the principle planning and development legislation in New South Wales. Pursuant to Part 4, the proposal is considered local development.

4.2.1 Section 4.15(1) of the EP&A Act

Section 4.15(1) of the EP&A Act specifies the matters which a consent authority must consider when determining a DA. The relevant matters for consideration under Section 4.15(1) of the EP&A Act are provided in **Table 4** below.

Table 4. Section 4.15(1)(A) Considerations	
Section	Response
Section 4.15(1)(a)(i) any environmental planning instrument, and	An assessment against the relevant planning instruments have been carried out in Sections 4.4, 4.5, 4.6 and 4.9 of this SEE.
Section 4.15(1)(a)(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	There is no relevant proposed instrument that is or has been under public consultation.
Section 4.15(1)(a)(iii) any development control plan, and	The applicable development control plan is then <i>Willoughby Development Control Plan</i> (WDCP) 2011. An assessment against the relevant controls under the WDCP 2011 have been carried out in Section 4.11 of this SEE.
Section 4.15(1)(a)(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	No planning agreement or draft planning agreement has been entered into under Section 7.4 of the EP&A Act.
Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	Refer to Section 4.3 of this SEE.
Section 4.15(1)(b)-(c)	Refer to Part E of this SEE which assess the impacts

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of the proposed development.

4.2.2 Section 4.46 of the EP&A Act – Integrated Development

Section 4.46 of the EP&A Act defines 'integrated development' as matters which require consent from Council and one or more authorities under related legislation. In these circumstances, prior to granting consent, Council must obtain from each relevant approval body their General Terms of Approval (GTA) in relation to the development.

The proposed development is not integrated development under any of the applicable statutes pursuant to Section 4.46 of the EP&A Act.

4.3 ENVIRONMENTAL PLANNING & ASSESSMENT REGULATION 2000

The proposal has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation). Clause 50 and Part 1 of Schedule 1 of the EP&A Regulation stipulates how a DA must be "made". This DA satisfies the relevant criteria of the Regulation as follows:

- Clause 50(1)(a) - The required development application documentation is provided within the Appendices of this SEE.

Further, the proposed change of use is not 'Designated Development' pursuant Schedule 3 of the EP&A Regulation.

4.4 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Among other functions, State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) repeals the former State Environmental Planning Policy No. 11 – Traffic Generating Development and provides for certain proposals, known as Traffic Generating Development, to be referred to NSW Roads and Maritime Services (RMS) (formally the Roads and Traffic Authority) for concurrence.

Clause 45 Development near electricity transmission or distribution networks

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:

Referral may be required to the electricity supply authority in the case that the development involves the following:

- (1) *This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—*
 - (b) *development carried out—*
 - (i) ***within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or***
 - (ii) *immediately adjacent to an electricity substation, or*
 - (iii) *within 5m of an exposed overhead electricity power line,*

The Site is located adjacent to an existing sub-station located to the east of the site therefore, referral will be made to Ausgrid for comment.

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Clause 104 Traffic-generating development

Under Clause 104 of SEPP Infrastructure, referral may be required for 'Traffic Generating Development' Schedule 3 lists the types of development that are defined as 'Traffic Generating Development'.

Referral may be required for the erection of new premises, or the enlargement or extension of existing premises, where their size or capacity satisfy certain thresholds. Schedule 3 lists the types of development that are defined as Traffic Generating Development. No referral thresholds are identified specifically for childcare centres and therefore the referral thresholds for 'any other purpose' would be applicable:

- 200 or more motor vehicles per hour; or
- 50 or more motor vehicles per hour, for a site with access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road).

The proposed childcare centre is for 20 children which would not generate traffic in the order of 200 motor vehicles per hour. Additionally, the proposal is not considered to generate 50 or more vehicles per hour via Oliver Street which is designated as a classified road. Accordingly, referral to RMS would therefore not be required.

4.5 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

Clause 7(1) of *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55) requires that a consent authority must not grant development consent on land unless:

- a) *it has considered whether the land is contaminated, and*
- b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

As aforementioned, the Site has previously been approved for community facility and the proposal does not involve any earthworks or modifications the existing built form on the Site. Any required site investigations or necessary remediation work would have been carried out prior to the existing community use being established.

Accordingly, the requirements under SEPP 55 are not applicable in this instance and the proposal is considered to be suitable for the Site.

4.6 STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES) 2017

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (E-SEPP) aims to facilitate the effective delivery of educational establishments and early education and care facilities across the state.

Part 3 of the E-SEPP outlines specific development controls for centre-based childcare facilities. Of key relevance, Clause 23 requires the consent authority to take into consideration any applicable provisions of the *Child Care Planning Guideline* ('the Guideline'). Further consideration to the Guideline is offered in **Section 4.8** of this SEE below.

Clause 25 prescribes non-discretionary development standards, meaning that, if complied with, the consent authority cannot require more onerous standards for those matters. The non-discretionary development standards are summarised and addressed below.

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Table 5. E-SEPP Non-Discretionary Development Standards (Clause 25)	
Non-Discretionary Standard	Assessment
<p>(a) <i>Location – The development may be located at any distance from an existing or proposed early education and care facility.</i></p>	<p>The Site is surrounded by two existing Kindergartens that are currently operated by Harbord Kindergarten which include the Harbord Literary Institute located at the adjacent property to the west of the Site and the Harbord Diggers Waves building located at 23 Oliver Street, Freshwater.</p> <p>As a result of the current uncertainty surrounding the future of the existing Harbord Diggers Waves building, Harbord Kindergarten are seeking to cease the kindergarten operation within the Harbord Diggers Waves building and relocate to the Site.</p> <p>The Site is considered to be appropriately located for a childcare centre given its immediate proximity to established residential catchments and employment bases.</p>
<p>(b) <i>Indoor or outdoor space –</i></p> <p>(i) <i>For development to which Regulations 107 or 108 of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or</i></p> <p>(ii) <i>For development to which Clause 28 of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause.</i></p>	<p>The <i>Education and Care Services National Regulations</i> ('National Regulations') apply to the proposed childcare centre, and Sections 107 and 108 establish the following minimum requirements for indoor and outdoor space:</p> <ul style="list-style-type: none"> ▪ 3.25m² unencumbered indoor space per child; and ▪ 7m² unencumbered outdoor space per child. <p>The proposal would require 65m² of unencumbered indoor space. The proposed childcare centre complies with the National Regulations as it provides 91m² unencumbered indoor space which equates to 4.55m² per child and exceeds the minimum indoor area requirement.</p> <p>In respect of the outdoor play area, the proposal would utilise the existing outdoor play space located at the Kindergarten located at the Harbord Literary Institute. It is noted that Harbord Kindergarten has a Service Approval for 60 children however, to ensure the safety and highest quality of care, there will only be a maximum of 40 children in the playground area at any given time.</p> <p>As such, based on 40 children, there is a requirement of 280m² of outdoor space. The outdoor open space at the Harbord Literary Institute has a total outdoor area of 1,024m² (Approx.) which exceeds the minimum outdoor area requirements.</p>

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Table 5. E-SEPP Non-Discretionary Development Standards (Clause 25)	
Non-Discretionary Standard	Assessment
	Accordingly, the proposal complies with the non-discretionary development standards for minimum indoor and outdoor space requirements.
<i>(c) Site area and dimensions – The development may be located on a site of any size and have any length of street frontage or any allotment depth.</i>	The proposed child care centre would be accommodated within an existing building.
<i>(d) Colour of building materials or shade structures – The development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</i>	The site is not a local or State heritage item and is not within a conservation area. Notwithstanding, the proposal does not involve any changes to the existing building materials.

Further, Clause 26 states that Development Control Plans (DCPs) do not apply in relation to the following matters for centre-based childcare facilities:

- (a) operational or management plans or arrangements (including hours of operation);*
- (b) demonstrated need or demand for child care services;*
- (c) proximity of facility to other early education and care facilities;*
- (d) any matter relating to development for the purpose of a centre-based child care facility contained in—*
 - i) the design principles set out in Part 2 of the Child Care Planning Guideline; or*
 - ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).*

Accordingly, by virtue of Clauses 25 and 26 of the E-SEPP, any provisions contained in the WDCP2011 would no longer be relevant. The WDCP2011 does not prescribe development controls in relation to child care centres, therefore the proposed development has been assessed against the requirements specified under the *Child Care Planning Guideline*.

4.7 EDUCATION AND CARE SERVICES NATIONAL REGULATIONS

The *Education and Care Services National Regulations* ('National Regulations') prescribe additional requirements for childcare centres.

Sections 107 and 108 establish minimum space requirements for indoor and outdoor space, summarised as follows:

- 3.25m² unencumbered indoor space per child; and
- 7m² unencumbered outdoor space per child.

The proposed childcare centre complies with the National Regulations as it provides 4.55m² unencumbered indoor space which complies with the minimum space requirements specified under Section 107.

The proposal would utilise the existing outdoor play space located at the Kindergarten located at the Harbord Literary Institute. Given the outdoor space area will be restricted to 40 children, it would provide 25.6m² of unencumbered outdoor space per child which exceeds the minimum space requirements.

4.8 CHILD CARE PLANNING GUIDELINE

The *Child Care Planning Guideline* ('the Guideline') establishes the assessment framework to deliver consistent planning outcomes and design quality for centre-based child care facilities in NSW.

Part 2 of the Guidelines establishes a series of Design Quality Principles relating to context, built form, adaptive learning spaces, sustainability, landscape, amenity and safety.

Part 3 outlines Matters for Consideration which support the Design Principles and must be considered by the consent authority as part of any DA. Matters for consideration include:

- Site selection and location
- Local character, streetscape and the public domain interface
- Building orientation, envelope and design
- Landscaping
- Visual and acoustic privacy
- Noise and air pollution
- Hours of operation
- Traffic, parking and pedestrian circulation

Part 4 of the Guideline relates to applying the National Regulations to development proposals, including with respect to the internal and external environment. A National Quality Framework Assessment Checklist is also included.

Detailed consideration to these matters is provided in the Assessment Table at **Appendix 7**.

4.9 WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011

The *Warringah Local Environmental Plan 2011* (WLEP 2011) is the primary environmental planning instrument that applies to the Site. The relevant provisions of the WLEP 2011 as they relate to the Site are considered in the ensuing sections of this report.

The Site is zoned **RE1 Public Recreation** under the WLEP 2011 as outlined in **Figure 6**.

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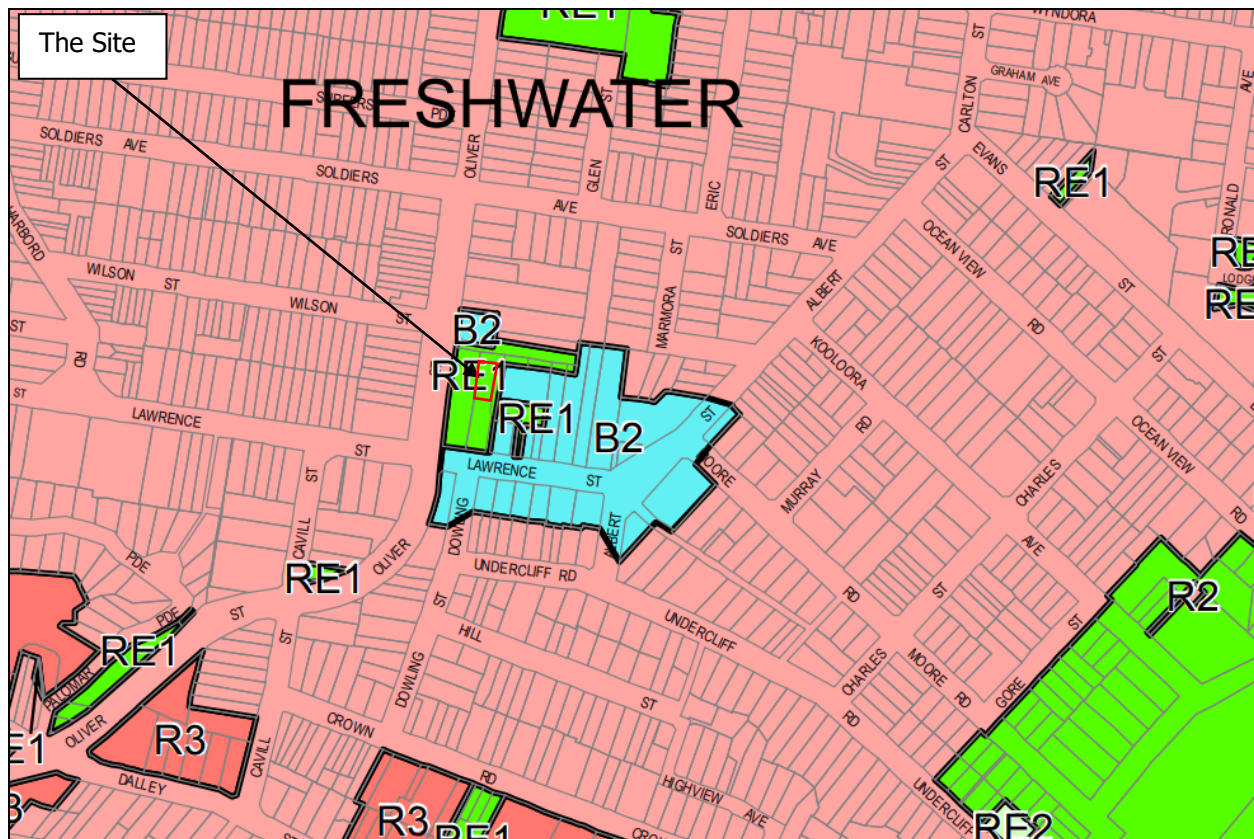


Figure 6: WLEP2011 Land Zoning Map (Source: NSW Legislation, 2020)

Table 6 outlines the developments consistency and compliance with the relevant development standards and controls under WLEP2011.

Table 6. Warringah Local Environmental Plan 2011– General LEP Clauses	
Requirement	Application to Subject Site
Clause 2.3 – Zone Objectives and Land Use Table	(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
RE1 Public Recreation	
Zone RE1 – Public Recreation – objectives of the zone	<ul style="list-style-type: none"> To enable land to be used for public open space or recreational purposes. To provide a range of recreational settings and activities and compatible land uses. To protect and enhance the natural environment for recreational purposes. To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value. To prevent development that could destroy, damage or otherwise have an adverse effect on those values <p>The proposal is consistent with the objectives of the RE1 zone as it will contribute to providing a land use that provides a community benefit to the locality. Furthermore, the proposal would not result in adverse impact on ecological, scientific, cultural or aesthetic values of the Site and will also result in minimal environmental impact to the surrounding area.</p>
Permitted without Consent	<i>Environmental facilities; Environmental protection works; Roads</i>
Permitted with Consent	<i>Aquaculture; Boat building and repair facilities; Boat sheds; Building identification signs; Business identification signs; Car parks; Centre-based child care</i>

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	<p>facilities; Community facilities; Emergency services facilities; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Water recreation structures.</p> <p><i>A Centre-based child care facilities is defined by the WLEP 2011 as the following:</i></p> <p>(a) <i>a building or place used for the education and care of children that provides any one or more of the following—</i></p> <p>(i) <i>long day care,</i></p> <p>(ii) <i>occasional child care,</i></p> <p>(iii) <i>out-of-school-hours care (including vacation care),</i></p> <p>(iv) <i>preschool care, or</i></p> <p>(b) <i>an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),</i></p> <p>Note.</p> <p><i>An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.</i></p> <p><i>But does not include—</i></p> <p>(c) <i>building or place used for home-based child care or school-based child care, or</i></p> <p>(d) <i>an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or</i></p> <p>(e) <i>a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or</i></p> <p>(f) <i>a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or</i></p> <p>(g) <i>a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or</i></p> <p>(h) <i>a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.</i></p> <p>The proposed childcare facility will be used for the education and care of children which is in accordance with the definition of a centre-based child care facility. As such, the proposed child care centre is permitted with consent in the RE1 Public Recreation zone.</p>
Prohibited	Any development not specified in item 2 or 3
Development Standards	
Clause 4.3 – Height of Buildings	The subject site is not identified with a maximum building height by the WLEP 2011. Notwithstanding this, the proposal does not seek to increase the height of the existing building.
Clause 4.4 – Floor Space Ratio (FSR)	The subject site is not identified with a maximum FSR by the WLEP 2011. Notwithstanding this, the proposal does not seek to increase the gross floor area existing building.
Miscellaneous Provisions	
Clause 5.10 – Heritage	The subject site is not identified as a heritage item or located within a conservation area. However, the adjoining sites at 29 Lawrence Street (Lot 2 DP

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Conservation	864459) and the building located at the corner of Lawrence Street and Oliver Street (Lot 374 DP 752038) are identified as heritage items. Given the proposal only involves a change of use, there will not be any adverse built form impacts on the adjoining heritage items and therefore a heritage report is not considered to be required to support the proposal.
Clause 6.3 – Flood Planning	The Site is not subject to flood related development controls.
Clause 6.4 – Development on sloping land	The Site is identified as being located within 'Area A' of the Landslip Risk Map, therefore Clause 6.4 of the WLEP 2011 is applicable in this instance. Given the proposal does not involve any form of development, there will not be any risks associated with landslides.

4.10 NON-STATUTORY PLANNING FRAMEWORK OVERVIEW

The relevant non-statutory planning framework has been addressed below.

4.11 WARRINGAH DEVELOPMENT CONTROL PLAN 2011

The *Warringah Development Control Plan 2011* (WDCP 2011) supplements the WLEP2011 and provides more detailed provisions to guide development. The WDCP2011 does not prescribe development controls in relation to child care centres, therefore the proposed development has been assessed against the requirements specified under the *Child Care Planning Guideline*.

Notwithstanding the above, the proposal has been assessed against the car parking requirements specified for child care centre under Part C of the WDCP2011.

Table 8 outlines the relevant development controls that apply to the proposed development.

Table 8. Warringah Development Control Plan 2011 (WDCP2011)															
Control	Application to Proposed Development														
C3 Parking Facilities <i>Objectives:</i> <ul style="list-style-type: none">To provide adequate off street carparking.To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces. <p>(2). Off street parking is to be provided within the property demonstrating that the following matters have been taken into account:</p> <ul style="list-style-type: none">the land use;the hours of operation;the availability of public transport;the availability of alternative car parking; and	For childcare centres, WDCP2011 requires 1 space/4 children. This would result in the following parking requirements for the proposed childcare centre: <table><tr><th>DCP Rate</th><th>Parking</th><th>No. Children/Staff</th><th>Parking Requirement</th></tr><tr><td>1 space/4 children</td><td></td><td>20 children</td><td>5 spaces</td></tr><tr><td colspan="3">Total</td><td>5 spaces</td></tr></table> <p>The Site does not incorporate off-street car parking for the proposed child care centre. It is understood that the existing kindergarten within the Harbord Diggers Waves building relies on car parking within Council's car park located at the rear of the Site.</p> <p>As aforementioned, Harbord Kindergarten seek to cease the kindergarten operation within the Harbord Diggers Waves building and relocate to the Site, it is not considered to result in an intensification of car parking demand within Council's car park, therefore it would be maintaining the status quo.</p> <p>Despite the non-compliance, the proposal would</p>			DCP Rate	Parking	No. Children/Staff	Parking Requirement	1 space/4 children		20 children	5 spaces	Total			5 spaces
DCP Rate	Parking	No. Children/Staff	Parking Requirement												
1 space/4 children		20 children	5 spaces												
Total			5 spaces												

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<ul style="list-style-type: none">▪ <i>the need for parking facilities for courier vehicles, delivery / service vehicles and bicycles.</i>	maintain the arrangement and utilisation of the Council car park located to the north of the Site, it will continue to provide adequate car parking provisions, in line with the current arrangement.
<p><i>(4). Carparking is to be provided in accordance with Appendix 1 which details the rate of car parking for various land uses. Where the carparking rate is not specified in Appendix 1 or the WLEP, carparking must be adequate for the development having regard to the objectives and requirements of this clause. The rates specified in the Roads and Traffic Authority's Guide to Traffic Generating Development should be used as a guide where relevant.</i></p> <p><i>Child care centre</i></p> <p><i>1 space for every 4 children, having regard to the maximum number of children authorised to be cared for at any particular time.</i></p>	<p>Accordingly, the proposal is considered to maintain adequate off street car parking within Council's carpark which is in accordance with the objective of the control. Address objectives of control here</p> <p>Further detail regarding carparking is provided in Section 5.2.1.</p>

PART E LIKELY IMPACTS OF THE DEVELOPMENT

This section identifies and assesses the impacts of the development with specific reference to the heads of consideration under Section 4.15(1) of the EP&A Act.

5.1 CONTEXT AND SETTING/BUILT FORM

The proposed change of use would support the introduction of a child care centre at the Site which would be capable of suitably co-existing with the current community use of the Site (Girl Guides). The proposal would also provide an employment generating land use and it would complement surrounding employment-generating and community uses as well as nearby residential catchments, by delivering essential childcare services.

As aforementioned, the only external works relate to modifications to existing balustrading to comply with BCA requirements. The proposal does not seek consent to change the existing building envelope. Therefore, the proposal will maintain the existing bulk and scale of the building and the proposal would preserve the existing built form character of the Site.

The proposed childcare centre is located within Freshwater Village which is characterised by commercial land uses and it is not located adjacent to residential land uses. Notwithstanding, the proposal has aptly considered the relevant environmental and amenity matters for consideration of the surrounding residential development which are discussed in the ensuing sections.

5.2 TRAFFIC & TRANSPORT

5.2.1 Carparking

It is acknowledged that the WDCP2011 specifies that five (5) car parking spaces are required for the proposed child care centre.

While the Site does not incorporate off-street car parking for the proposed child care centre within the Site, the existing kindergarten within the Harbord Diggers Waves building relies on car parking within Council's car park located at the rear of the Site. As aforementioned, Harbord Kindergarten seek to cease the kindergarten operation within the Harbord Diggers Waves building and relocate to the Site.

The Harbord Diggers Waves building is located approximately 30m to the north of the Site, on the opposite side of Council's car park. As the proposal only seeks to relocate 20 children from the Harbord Diggers Waves Building to the Site, it is not considered to result in an intensification of car parking demand within Council's car park, therefore it would be maintaining the status quo.

Furthermore, it is not considered feasible to modify the existing outdoor space located at the rear of the Site for the purpose of providing on-site car parking, given it is required for the existing community use (Girl Guides).

Despite the on-site provisions not satisfying the numerical standard for car parking, the arrangement and utilisation of the Council Car Park located to the north of the Site will continue to provide adequate car parking provisions, in line with the current arrangement.

5.2.2 Traffic

The proposal only seeks to cater for 20 children, in line with the current arrangement of the existing Kindergarten at 23 Oliver Street. Therefore, given the proposal will maintain the status quo, it is not anticipated that it would result in any change in traffic generation.

Accordingly, the proposal would not have a material impact on the operation of the surrounding road networks.

5.3 ELECTRIC AND MAGNETIC FIELDS

A letter was prepared by Ausgrid and provided at **Appendix 9** which provides detail on the Electric and Magnetic Fields (EMF) associated with Ausgrid's Harbord zone substation. The letter found that the highest readings were along the southern boundaries of the substation property which indicated readings of between 11.7mG near the corner of the substation building and 8.9mG at the southern western corner of the Site. It concluded that all EMF readings are well below the recommended 2000mG guideline for public exposure.

In addition, Ausgrid provided a desktop review in respect of the potential impacts in the event of a catastrophic failure (see **Appendix 9**). The review concluded the following:

"The AFLC room houses oil filled equipment. In the unlikely event of a catastrophic failure of this equipment, this compartment may sustain significant damage. Given the configuration of the cross walls of the amenities on the eastern side of the division wall the AFLC room that offer bracing to this compartment it is expected that the overpressure would be directed eastward toward the switchyard and not westward."

"The nearest transformer bay is at least 30m away from the boundary to the Girl Guides Facility. In the unlikely event of a catastrophic failure of the power transformer which may result in a confined transformer oil pool fire, the thermal radiation incident on this boundary is not expected to exceed thresholds stipulated in the Building Codes for fire safety egress. The control/switch room building in between will also have a shielding effect."

Accordingly, based on the findings above the existing substation located to the east of the Site would not result in adverse impacts to public health and assets.

5.4 STORMWATER & EROSION & SEDIMENT CONTROL

The proposal does not involve demolition and construction works, including earthworks or landscaping works that would have adverse impacts on stormwater, erosion or sediment control. As such, further consideration is not considered necessary.

5.5 CONTAMINATION

As aforementioned, the Site has previously been approved for community facility and the proposal does not involve any earthworks or modifications the existing built form on the Site. Any required site investigations or necessary remediation work would have been carried out prior to the existing community use being established.

Accordingly, the requirements under SEPP 55 are not applicable and the proposal is considered to be suitable for the Site.

5.6 NOISE

The Site is not located adjacent to residential land uses however, there are residential properties in the form of dwelling houses located approximately 70m to the West of the Site across Oliver Street. The Site is surrounded by commercial land uses to the north, east and south. Additionally, the existing kindergarten at the Harbord Diggers Waves building located at 23 Oliver Street, Freshwater which is located approximately 30m to the north of the Site, on the opposite side of the Council carpark (see **Figure 7**).

Although the Site is not located adjacent to sensitive land uses, an Acoustic Report has been prepared by Waves Consulting and is provided in **Appendix 3** which carried out an assessment of the proposal against the *NSW Noise Policy for Industry 2017* and the *Association of Australasian Acoustical Consultants Guideline for Child Care Centre Acoustic Assessment 2013* (AAAC).

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It is noted in the report that an attended noise logging measurement was carried out on 2 September 2020 and the testing found that the environmental noise in the area is typically dominated by road traffic from nearby local road, mechanical services noise from the existing commercial businesses and distant flora and fauna noise. It is also noted in the report that the outdoor playground associated with the Harbord Literary Institute is dominated by the sound of children playing in the playground.

The report concluded that the predicted noise emissions from the Site to the surrounding environment are 'low'. The proposal satisfies all the AAAC noise targets for child care centres at all nearby noise-sensitive receptors. As a result, there are no operational mitigation measures required.

Accordingly, the proposal complies with the acoustic criteria stipulated in the relevant codes and guidelines and the impact on the adjacent properties will be minimal.

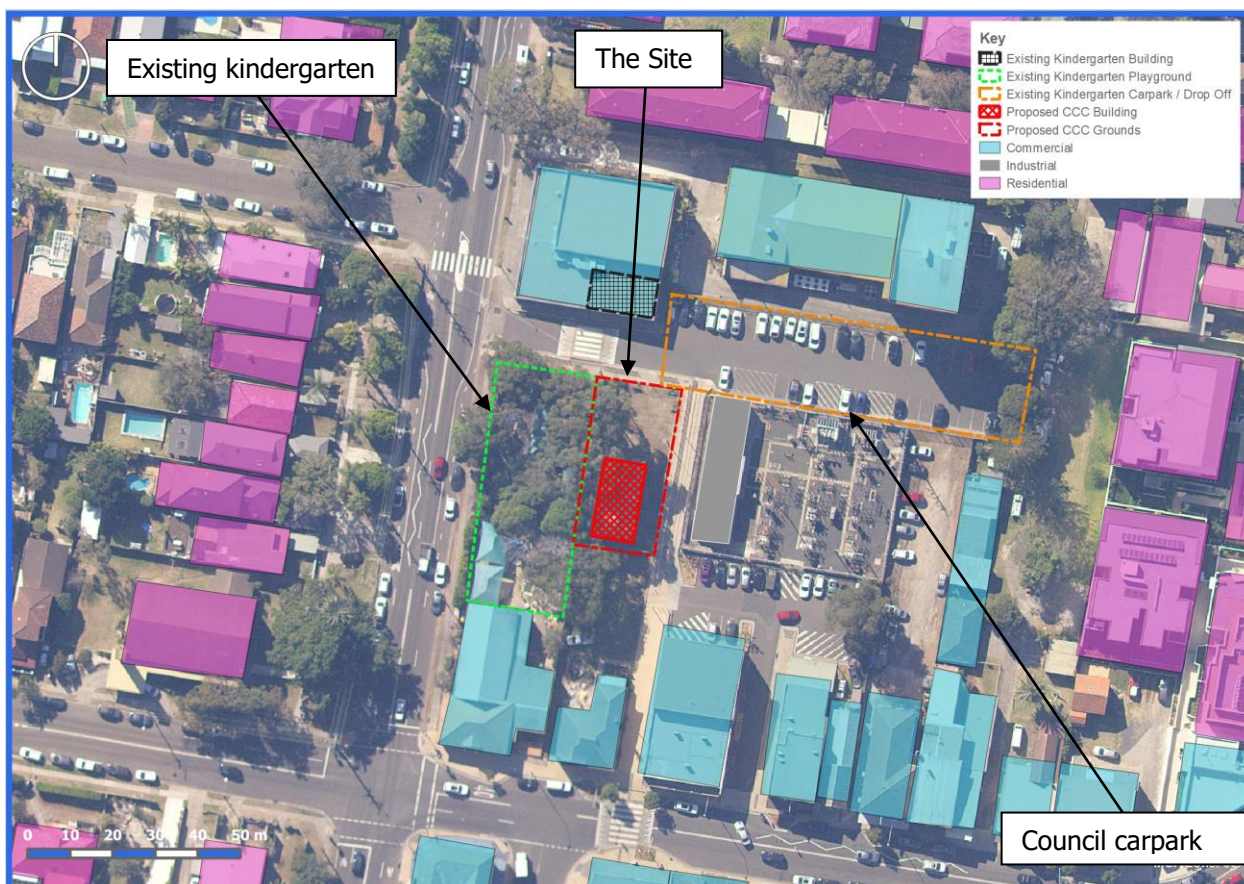


Figure 7: Surrounding Land Uses (Waves Consulting, 2020)



Residential



Commercial

5.7 WASTE

A Waste Management Plan (WMP) has been prepared and is provided in **Appendix 8**. The WMP details the proposed methods of waste storage and collection during the construction and operational phases of the development. The details have been prepared in accordance with the WDCP 2011.

5.8 BUILDING CODE OF AUSTRALIA

A Building Code of Australia Assessment (BCA) compliance report has been prepared by MBC Group and is provided at **Appendix 5**. The findings of the BCA report indicated that subject to the documentation of the performance solution for sanitary facilities for younger children, compliance is readily achieved with NCC-BCA 2019-Amd 1.

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In relation to the abovementioned departure for sanitary facilities for younger children, a BCA Performance Solution Report was prepared by Design Confidence and provided at **Appendix 10**. The report concluded that the proposed Performance Solution satisfies Performance Requirement FP2.1 of the BCA, subject to the implementation of the following recommendation:

- *The toileting and bathroom procedures document referenced in Appendix 1 is to be implemented by the childcare operator to ensure that employees are made aware of the sanitary facilities provisions for children whilst attending the childcare centre. This incorporates the use of portable steps to toilets and handwashing facilities.*

Accordingly, the proposal complies with the relevant BCA requirements.

5.9 SUITABILITY OF SITE FOR DEVELOPMENT

The proposed would be facilitated within an existing building that is suitably accommodated to cater for a child care centre and it would be capable of suitably co-existing with the current community use of the Site (Girl Guides). The proposal would complement surrounding land uses as well as nearby residential catchments, by delivering essential childcare services.

While the existing outdoor area at the rear of the Site would be maintained for Girl Guides, the proposal utilises an existing outdoor area at the Harbord Literary Institute which comprises landscaping, outdoor play equipment and shading that is necessary to create a safe and enjoyable environment for children.

Additionally, the proposal seeks to cater for only 20 children, in line with the current arrangement of the existing Kindergarten at 23 Oliver Street. Therefore, given the proposal will maintain the status quo, it is not anticipated that it would result in any change in traffic generation or car parking demand. The proposal will also maintain the existing building envelope which would preserve the existing built form character of the Site whilst providing for a new land use which will benefit the broader community.

Furthermore, the proposal complies with the relevant acoustic criteria stipulated by the relevant codes and guidelines and it would have minimal impact on the surrounding residential development in relation to potential amenity impacts.

In light of the above, it is considered that the proposed use is capable of existing harmoniously with the surrounding environment whilst remaining commensurate to the character of the area.

5.10 SUBMISSIONS

Following notification of the DA the applicant is willing to address any submissions, should they be received by Council.

5.11 THE PUBLIC INTEREST

As aforementioned, the proposal is considered to provide a positive contribution to the area by providing an essential childcare service that would benefit the surrounding community. The proposal would maintain the existing building envelope and it would not result in any adverse amenity impacts to existing sensitive land uses in the surrounding area.

Accordingly, the proposed development is considered to be in the public interest.

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PART F CONCLUSION

The purpose of this SEE has been to present the proposed a change of use of the existing building to an child care centre involving minor external works at Lot 1 Lawrence Street, Freshwater and to assess its potential impacts having regards to Section 4.15(1) of the EP&A Act.

The proposal has been prepared after taking into consideration the following key issues:

- The development history of the site;
- The context of the site and locality;
- The relevant heads of consideration under Section 4.15(1) of the EP&A Act;
- The aims, objectives and provisions of the relevant statutory and non-statutory planning instruments; and
- The pre-lodgement advice received from Northern Beaches Council.

The proposal is considered to warrant a favourable determination for the following reasons:

- The proposed change of use would support the introduction of a childcare centre on the Site which would be capable of suitably co-existing with the current community use of the Site (Girl Guides).
- The proposal would provide an employment generating land use and it would complement surrounding employment-generating uses as well as nearby residential catchments, by delivering essential childcare services.
- The proposal is permitted with consent in the RE1 Public Recreation zone pursuant to WLEP 2011;
- The proposal would comply with the WLEP2011 development standards and other relevant provisions.
- The childcare centre is considered satisfactory pursuant to the provisions of the E-SEPP, National Regulations and the Guideline. In particular, the proposal achieves compliance with the National Regulations with respect to the amount of unencumbered indoor and outdoor space per child.
- The proposal is not anticipated to result in any change in traffic generation or car parking demand.
- Result in minimal environmental and amenity impact.

As stipulated previously in this Report, the matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* have been satisfactorily addressed.

In light of the merits of the proposed development and in absence of any significant environmental impact, the proposed development warrants support by Council.