

20 July 2022

Northern Beaches Council
725 Pittwater Road,
DEE WHY, 2099

**RE: SECTION 8.2 REVIEW OF DETERMINATION
STATEMENT OF ENVIRONMENTAL EFFECTS: ALTERATIONS AND ADDITIONS
TO A DWELLING HOUSE & CHANGE OF USE TO A CENTRE BASED CHILD CARE
CENTRE
16 BANGAROO STREET, NORTH BALGOWLAH**

1.0 INTRODUCTION

On 17 November 2022 the development application (DA2021/0680) was refused by Local Planning Panel. This request for review is made pursuant to Section 8.2(1)(a) of the Act and is a further refinement of the child care centre most notably with the reduction in child numbers to ensure compliance with the off-street parking requirements.

The application was refused for the following reasons:

- 1. The proposal is inconsistent with Clause 23 of the SEPP Educational Establishments and Child Care Facilities.*
- 2. The proposed development is inconsistent with the provisions of Clause A.5 Objectives of the Warringah Development Control Plan in that it fails to respond to the characteristics of the site and the neighbourhood, is not able to be a good neighbour, and does not provide a high level of access to and within the development in a safe manner.*
- 3. The proposed development is inconsistent with the provisions of Clause C2 Traffic, Access and Safety of the Warringah Development Control Plan 2011 in that the proposed access arrangements will give rise to an unsafe environment for pedestrians and vehicles and their occupants. In particular, of concern is the reversing of vehicles onto the footpath and the road carriageway when leaving the car park, the reliance on stacked car parking which exacerbates safety concerns, proximity of a bus stop, proximity of a major roundabout, and the volume of vehicles in the road network at peak periods.*

4. The proposed development is inconsistent with the provisions of Clause C3 Parking Facilities of the Warringah Development Control Plan in that it fails to provide compliant off-street parking arrangements for the child care centre.

5. The proposed development is inconsistent with the provisions of Clause D20 Safety and Security of the Warringah Development Control Plan.

6. Pursuant to Section 4.15 (1) (b) and (c) of the Environmental Planning and Assessment Act 1979 the proposed development is unsuitable for the site due to neighbourhood amenity and public safety outcomes.

7. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

The reasons for refusal predominately related to the quantum of parking and safety concerns. The number of children has been reduced to 12 in that regard to ensure a compliant level of off-street parking is achieved.

Accordingly, we request that Council review its determination on the basis of the amended proposal and justification detailed in the submission and grant approval to the amended development as proposed.

2.0 SECTION 8.2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Section 8.2 of the Act, as it relates to the current application, provides that the applicant may request Council's review of its determination of a development application within 6 months of the date of determination, other than for complying development, designated development, integrated development or an application made by the Crown.

This application requests Council review a determination made on 17 November 2021. The State Government enacted changes to the appeal and review legislation in response to the Covid-19 pandemic which doubled the review of determination period from 6 months to 12 months. As such, this application has the ability to be assessed within 12 months of the refusal date. The development is not complying development, designated development, integrated development or made by the Crown.

There are no regulations associated with the review of determination other than the regulation relating to the prescribed fee.

Section 8.2 (4)(c) of the Act requires a consent authority to be satisfied the amended

submission is substantially the same development as referred to in the original application. The amendments have been made to address specific concerns raised by the Council in its reasons for refusal.

As such, Council can be satisfied that the amended submission is substantially the same as the development referred to in the original application. As such there is no statutory impediment to the making and determination of this application.

3.0 CLAIM FOR REVIEW

Having regard for the stated reasons for refusal of the application we respond as follows:

1. *The proposal is inconsistent with Clause 23 of the SEPP Educational Establishments and Child Care Facilities.*

Response: An emergency and evacuation plan has been provided within the Plan of Management.

Further assessment against clause 3.23 of the SEPP with regard to the Child Care Planning Guidelines (CCPG) is provided as an annexure to this statement.

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.*

Response: The development maintains the existing character of the dwelling within the streetscape with appropriate acoustic and visual privacy measures proposed. In that regard, the development is considered a 'good neighbour'. Access to and from the site has been resolved by virtue of the reduction in child numbers to 12 to meet the off-street car parking rates.

The reduction in numbers to meet the car parking rates was supported by Council's traffic engineers prior to the Local Planning Panel (LPP) meeting as evidenced in the memo (record number 2021/799932) sent to the LPP from the assessing officer. The memo was in response to our willingness to reduce the number of children to 12. The memo states that:

"The proposed reduction has been discussed with Council's Traffic Engineer, who has confirmed that suggested reduction would achieve compliance with the parking

requirements of WLEP 2011 and will assist in alleviating traffic and pedestrian safety concerns.”

Had we been afforded due process with the development application and given the opportunity to amend the application Council’s traffic engineers stated in the memo:

“However, at this point in time, the development application has not been amended and no additional information has been uploaded to the NSW Planning Portal.

Subject to the formal amendment of the application, it is likely that the application is in a position to be supported, subject to conditions of consent (which are yet to be prepared).”

The proposal is in a position to be supported with the safety concerns relating to traffic and parking alleviated by a compliant level of off-street parking being achieved.

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.*

Response: Again, we have addressed the concerns by reducing the number of children to have a compliant level of off-street parking. Council’s own traffic engineer do not raise any concerns regarding pedestrian safety provided the number of children is reduced, as evidenced in the memo referenced above.

The characterisation of this suburban street roundabout as a ‘major roundabout’ is excessive considering it is not a ‘major’ road. Council’s traffic engineers in the several referrals provided with both the withdrawn and refused DA’s said that:

“the traffic generation from the developed site is however acceptable and considered unlikely to significantly impact on conditions in the surrounding road network.”

With the reduction in the intensity of the use the impacts on the existing traffic networks and number of trips during peak periods will be further improved. Council’s own traffic engineers raise no safety concerns with the revised child numbers.

4. *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.*

Response: The parking rate is 1 space per 4 children. The child care centre proposes 12 children which would require 3 spaces. 3 off-street spaces are proposed for the centre. An updated traffic report is provided.

5. *5. The proposed development is inconsistent with the provisions of Clause D20 Safety and Security of the Warringah Development Control Plan.*

Response: The safety concerns relate to the traffic and parking concerns which are resolved with the reduction in child numbers. A 12 child centre is very small with regard to the intensity of the use. The traffic demand and drop off and pick up times can be managed by the staff. Again, Council's traffic engineers raise no safety concerns with the revised numbers.

6. *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.*

Response: Again, safety concerns have been addressed with the reduction in numbers to the child care centre.

7. *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.*

Response: The revised number of children and compliant level of off-street parking ensure the development is in the public interest. The reduction in numbers alleviates the safety concerns with reduced vehicle trips and easier management of the centre. The centre will provide the local community with child care opportunities within a small classroom setting. The proposal is permissible with consent in the zone and is considered to meet the planning requirements and regulations associated with the proposed use as they reasonably apply.

3.0 CONCLUSION

This submission demonstrates that the amended scheme appropriately address the reasons for refusal of the original application. Having given due consideration to the

relevant matters pursuant to section 4.15(1) of the Act it has been demonstrated that the proposed development, as amended, succeeds on merit and is appropriate for the granting of consent.

Please do not hesitate to contact me to discuss any aspect of this submission.

Yours sincerely
William Fleming
Planner

Boston Blyth Fleming Pty Limited

Annexure

State Environmental Planning Policy (Transport & Infrastructure) 2021:

Clause 3.23 – Child Care Planning Guidelines

| Objectives | Criteria/Guidelines | Comments |
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| 3.1 Site Selection & Location | | |
| <p>C1 To ensure that appropriate zone considerations are assessed when selecting a site</p> | <p>For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> • the acoustic and privacy impacts of the proposed development on the residential properties • the setbacks and siting of buildings within the residential context • traffic and parking impacts of the proposal on residential amenity. | <p>Council’s previous assessment with relation to noise impact found the proposal to be acceptable, subject to conditions. This review reduces the number of children to 12 which is will obviously result in less acoustic impact concerns. An acoustic report and a response to a peer review of that report is provided.</p> <p>As discussed previously, with relation to parking, the off-street parking requirement is satisfied. A plan of management details procedures for drop off and pick up to ensure the safety and security during those times. We note that Council provided a memo with the previous application prior to the Panel meeting that raised no objections with regard to safety provided compliance with the car parking rate is achieved. We ask Council to be consistent in this area.</p> |
| | <p>When selecting a site, ensure that:</p> <ul style="list-style-type: none"> • the location and surrounding uses are compatible with the proposed development or use | <p>The site is free from environmental constraints.</p> <p>The small scale nature of the development is unlikely to</p> |

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| | <ul style="list-style-type: none"> • the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards • there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed • the characteristics of the site are suitable for the scale and type of development proposed having regard to: - size of street frontage, lot configuration, dimensions and overall size - number of shared boundaries with residential properties - the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas • where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use • there are suitable drop off and pick up areas, and off and on street parking • the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use • it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling | <p>generate any substantial increase to the traffic network nor the safety of pedestrians in the area. Council traffic referrals have consistently agreed that impact to the traffic network would be negligible.</p> <p>The proposal provides compliant levels of parking for a 12 child centre. A plan of management has been provided detailing how drop off and pick up will be managed. Staff will supervise during these periods to ensure pedestrian safety and that the off-street parking spaces are available but limiting the time taken to drop off and pick up.</p> <p>The existing dwelling will be adapted for the child care use and interior/exterior spaces are of compliant dimensions.</p> <p>The proposed childcare centre is not located closely to any known incompatible social activities/uses.</p> |
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| | such as hotels, clubs, cellar door premises and sex services premises. | |
| C3 To ensure that sites for child care facilities are appropriately located | <p>A child care facility should be located:</p> <ul style="list-style-type: none"> • near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship • near or within employment areas, town centres, business centres, shops • with access to public transport including rail, buses, ferries • in areas with pedestrian connectivity to the local community, businesses, shops, services and the like. | <p>The 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> |
| C4 To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazard | <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"> • proximity to: <ul style="list-style-type: none"> - heavy or hazardous industry, waste transfer depots or landfill sites - LPG tanks or service stations - water cooling and water warming systems - odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses | <p>The proposed childcare centre is not located in proximity to sites known to incur risks from environmental, health or safety hazards</p> |
| 3.2 Local character, streetscape and the public domain | | |
| C5 To ensure that the child | The proposed development should: | The existing built form of the dwelling is largely retained and, |

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| <p>care facility is compatible with the local character and surrounding streetscape</p> | <ul style="list-style-type: none"> • contribute to the local area by being designed in character with the locality and existing streetscape • reflect the predominant form of surrounding land uses, particularly in low density residential areas • recognise predominant streetscape qualities, such as building form, scale, materials and colours • include design and architectural treatments that respond to and integrate with the existing streetscape • use landscaping to positively contribute to the streetscape and neighbouring amenity • integrate car parking into the building and site landscaping design in residential areas. | <p>as such, preserves the character of the streetscape.</p> <p>Landscaping features are retained at the front of the site and will preserve a sense of openness despite the proposed car parking area.</p> |
| <p>C6, C7, C8 To ensure clear delineation between the child care facility and public spaces</p> | <p>Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> • fencing to ensure safety for children entering and leaving the facility • windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community • integrating existing and proposed landscaping with fencing. <p>On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should</p> | <p>Existing front facing windows of the dwelling facilitate passive surveillance of the street. Proposed fencing and clearly defined entries provide clear transitions between public and private realms.</p> <p>The site is a single building with primary entry from the front.</p> |

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| | be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours. | |
| 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. | Where development adjoins public parks, open space or bushland, the facility should | N/A |
| | 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. | The application proposes a child proof gate/fence within the front setback. The gate will measure 1.2m in height and will be located 1.2m from the front boundary. The gate will be constructed of visually permeable materials as to reduce the visual impact when viewed from Bangaroo Street. |
| | 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 | Bangaroo Street is a local road. N/A |
| 3.3 Building orientation, envelope and design | | |
| C11 To respond to the streetscape and site, while optimising solar access and opportunities for shade | <p>Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> • ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> - facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties | <p>Outdoor play is limited to approximately 2.5 hours per day which is split between the mornings and afternoons. An acoustic report has been provided with this application.</p> <p>At no point during this assessment has Council raised concerns with the acoustic amenity of neighbours, subject to conditions. Acoustic screens are proposed.</p> |

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| | <ul style="list-style-type: none"> - placing play equipment away from common boundaries with residential properties - locating outdoor play areas away from residential dwellings and other sensitive uses • optimise solar access to internal and external play areas • avoid overshadowing of adjoining residential properties • minimise cut and fill • ensure buildings along the street frontage define the street by facing it • ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions. | <p>Internal and external play areas will receive excellent solar access. Activity area 1 includes large rear facing bifold and a south facing window. Activity area 1 includes a south facing window and a large front facing window to the adjoining library area that will achieve light into the activity area 1.</p> |
| <p>C12 To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised</p> | <p>The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> • building height should be consistent with other buildings in the locality • building height should respond to the scale and character of the street • setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility • setbacks should provide adequate access for building maintenance • setbacks to the street should be consistent with the existing character. | <p>The existing dwelling is retained and will remain consistent with the scale of development in the street.</p> |
| <p>C13, C14 To ensure that</p> | <p>Where there are no prevailing setback controls minimum</p> | <p>Existing front setback retained.</p> |

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| <p>setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context</p> | <p>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>On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house</p> | <p>Side and rear setbacks retained.</p> |
| <p>C15 To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character</p> | <p>The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> • respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage • contributes to the identity of the place • retains and reinforces existing built form and vegetation where significant • considers heritage within the local neighbourhood including identified heritage items and conservation areas • responds to its natural environment including local landscape setting and climate • contributes to the identity of place. | <p>The dwelling character of the building will be retained.</p> |
| <p>C16 To ensure that buildings are designed to create safe environments for all users</p> | <p>Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> • located to allow ease of access, particularly for pedestrians | <p>Single point of entry located at the front of the building.</p> |

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| | <ul style="list-style-type: none"> • directly accessible from the street where possible • directly visible from the street frontage • easily monitored through natural or camera surveillance • not accessed through an outdoor play area. • in a mixed-use development, clearly defined and separate from entrances to other uses in the building. | |
| <p>C17 To ensure that child care facilities are designed to be accessible by all potential users</p> | <p>Accessible design can be achieved by:</p> <ul style="list-style-type: none"> • providing accessibility to and within the building in accordance with all relevant legislation • linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry • providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible • minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath. <p>NOTE: The National Construction Code, the Discrimination Disability Act 1992 and the Disability (Access to Premises – Buildings)</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> |

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| | Standards 2010 set out the requirements for access to buildings for people with disabilities. | |
| 3.5 Visual and acoustic privacy | | |
| C18, C19 To provide landscape design that contributes to the streetscape and amenity | Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by: <ul style="list-style-type: none"> • reflecting and reinforcing the local context • incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping. | The application is accompanied by a landscape plan. Existing landscaping treatments will be retained and they provide the outdoor spaces with shade and amenity. The plantings have not been included in the calculations of unencumbered outdoor space |
| | incorporate car parking into the landscape design of the site by: <ul style="list-style-type: none"> • planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings • taking into account streetscape, local character and context when siting car parking areas within the front setback • using low level landscaping to soften and screen parking areas. | The carparking has been confined to the southern side of the front setback. This allows existing soft landscaping to be retained at the front of the site and achieves a softening of the hard stand car spaces. |
| C20, C21 To protect the privacy and security of children | Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces. | Not a mixed used development N/A |

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| <p>attending the facility</p> | | |
| | <p>Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ul style="list-style-type: none"> • appropriate site and building layout • suitably locating pathways, windows and doors • permanent screening and landscape design. | <p>The indoor and outdoor spaces are appropriately located so that no lines of sight are achieved into the centre from public spaces.</p> |
| <p>C22 To minimise impacts on privacy of adjoining properties</p> | <p>Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> • appropriate site and building layout • suitable location of pathways, windows and doors • landscape design and screening. | <p>All indoor and outdoor spaces are located on the ground floor and do not present any overlooking risks to neighbouring dwelling.</p> <p>Acoustic fences 1.8m high are proposed to the side boundaries and a 3m barrier to the rear boundary which is setback 500mm off the boundary. This will assist in protecting privacy.</p> |
| <p>C23, C24 To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments</p> | <p>A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> • provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence). • ensure that mechanical plant or equipment is screened by solid, gap free material and | <p>An acoustic report detailing the proposed acoustic barriers has been provided. We note that Councils environmental health team has consistently not raised objections to the proposal based on acoustic amenity impacts.</p> <p>Acoustic barriers are shown within the architectural set.</p> |

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| | constructed to reduce noise levels e.g. acoustic fence, building, or enclosure. | |
| | <p>A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> • identify an appropriate noise level for a child care facility located in residential and other zones • determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use • determine the appropriate height of any acoustic fence to enable the noise criteria to be met. | <p>An acoustic report and response to the peer review of that report is provided.</p> <p>The anticipated noise emissions are acceptable.</p> |
| 3.6 Noise and air pollution | | |
| C25, C26 | <p>Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> • creating physical separation between buildings and the noise source • orienting the facility perpendicular to the noise source and where possible buffered by other uses • using landscaping to reduce the perception of noise • limiting the number and size of openings facing noise sources • using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) • using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits • locating cot | <p>Again, the acoustic report and Council Environmental Health referrals conditions details that the acoustic requirements and minimisation of noise impacts can be achieved.</p> |

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| | rooms, sleeping areas and play areas away from external noise sources | |
| | 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: <ul style="list-style-type: none"> • on industrial zoned land • where the ANEF contour is between 20 and 25, consistent with AS 2021 - 2000 • along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007 • on a major or busy road • other land that is impacted by substantial external noise. | The acoustic report and subsequent response to the peer review show that the centre can comply with the Australian Standards for noise emissions for child care centres. Council's environmental health team also agrees. |
| C27, C28 To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and industrial development | 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. | The site is not near a source of any of this concerns. |
| | 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 | N/A |

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| | <p>accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> • creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution • using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway • incorporating ventilation design into the design of the facility. | |
| C29, C30 To minimise the impact of the child care facility on the amenity of neighbouring residential developments | <p>Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p> | Achieved |
| | <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> | N/A |
| 3.8 Traffic, parking and pedestrian circulation | | |

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| <p>C31, C32, C33 To provide parking that satisfies the needs of users and demand generated by the centre</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. Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates:</p> <p>Within 400 metres of a metropolitan train station: • 1 space per 10 children • 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space. In other areas:</p> <ul style="list-style-type: none"> • 1 space per 4 children. A reduction in car parking rates may be considered where: • the proposal is an adaptive re-use of a heritage item • the site is in a B8 Metropolitan Zone or other high density business or residential zone • the site is in proximity to high frequency and well connected public transport • the site is co-located or in proximity to other uses where parking is appropriately provided (for example business centres, schools, public open space, car parks) • there is sufficient on street parking available at appropriate times within proximity of the site. | <p>The development achieves a compliant level of off-street parking based on a parking rate of 1 space per 4 children.</p> <p>The centre proposed 12 kids with 3 off-street parking spaces in compliance with the control.</p> |
| <p>C34, C35 To provide vehicle</p> | <p>Alternate vehicular access should be provided where child</p> | <p>N/A</p> |

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| <p>access from the street in a safe environment that does not disrupt traffic flows</p> | <p>care facilities are on sites fronting:</p> <ul style="list-style-type: none"> • a classified road • roads which carry freight traffic or transport dangerous goods or hazardous materials. The alternate access must have regard to: <ul style="list-style-type: none"> • the prevailing traffic conditions • pedestrian and vehicle safety including bicycle movements • the likely impact of the development on traffic | |
| | <p>Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p> | N/A |
| <p>C36, C37, C38 To provide a safe and connected environment for pedestrians both on and around the site</p> | <p>The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> • separate pedestrian access from the car park to the facility • defined pedestrian crossings included within large car parking areas • separate pedestrian and vehicle entries from the street for parents, children and visitors • pedestrian paths that enable two prams to pass each other • delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities • in commercial or industrial zones and mixed use developments, the path of travel | <p>Prior to the last Local Planning Panel a memo was provided from Council’s traffic team that said they would raise no objections based on pedestrian safety with a compliant level of off-street parking being achieved.</p> <p>Compliant levels of parking have been achieved with this proposal. A plan of management is provided detailed how drop off and pick up will be managed and supervised. Pedestrian safety during the times will be expressed to parents as well as signage erected to that effect.</p> <p>The centre proposes only to accommodate children</p> |

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| | <p>from the car parking to the centre entrance physically separated from any truck circulation or parking areas • vehicles can enter and leave the site in a forward direction.</p> | <p>between the ages of 3 – 5. In this regard, there is no need for pram accessibility when all the children will be able to walk.</p> <p>A centre of this scale does not generate any significant additional traffic, which has been detailed in the traffic report and agreed with Council traffic referrals, that would increase risk to pedestrians.</p> |
| | <p>Mixed use developments should include:</p> <ul style="list-style-type: none"> • driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks • drop off and pick up zones that are exclusively available for use during the facility’s operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. <p>Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site</p> <ul style="list-style-type: none"> • parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility | <p>N/A</p> |
| | <p>Car parking design should:</p> <ul style="list-style-type: none"> • include a child safe fence to separate car parking areas from the building entrance and play areas | <p>This review 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</p> |

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| | <ul style="list-style-type: none"> • provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards • include wheelchair and pram accessible parking. | <p>compliant in width against relevant Australian Standards</p> |
| <p>4.1 Indoor space requirements</p> | | |
| <p>Regulation 107 Education and Care Services National Regulation</p> <p>Every child being educated and cared for within a facility must have a minimum of 3.25m² of unencumbered indoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP. Unencumbered indoor space excludes any of the following: • passageway or thoroughfare (including door swings) used for circulation • toilet and hygiene facilities • nappy</p> | <p>The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child.</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 areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> • a minimum of 0.3m³ per child of external storage space • a minimum of 0.2m³ per child of internal storage space. <p>Storage does not need to be in a separate room or screened,</p> | <p>The development requires 39m² of indoor space for 12 children.</p> <p>The proposal provides for 106.4m² of indoor space.</p> <p>3.6m² of external storage space is required.</p> <p>4.7m³ of external storage is provided.</p> <p>2.4m³ is required for internal storage</p> <p>25.9m³ is provided for internal storage.</p> <p>Internal laundry proposed on ground floor.</p> <p>Compliance is achieved.</p> |

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| <p>changing area or area for preparing bottles</p> <ul style="list-style-type: none"> • 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. <p>All unencumbered indoor spaces must be provided as a secure area for children. The design of these spaces should consider the safe supervision of children.</p> | <p>and there should be a mixture of safe shelving and storage that children can access independently.</p> <p>Storage of items such as prams, bikes and scooters should be located adjacent to the building entrance.</p> <p>Where an external laundry service is used, storage and collection points for soiled items should be in an area with separate external access, away from children. This will prevent clothes being carried through public areas and reduce danger to children during drop off and collection of laundry.</p> | |
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| 4.2 Laundry and hygiene facilities | | |
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| <p>Regulation 106 Education and Care Services National Regulation</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.</p> <p>The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children. Child care facilities must also comply with the requirements for laundry facilities that are contained in the National Construction Code.</p> | <p>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.</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. On site laundry On site laundry facilities should contain:</p> <ul style="list-style-type: none"> • a washer or washers capable of dealing with the heavy requirements of the facility • a dryer • laundry sinks • adequate storage for soiled items prior to cleaning • an on-site laundry cannot be calculated as usable unencumbered play space for children. | <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> |
| 4.3 Toilet and hygiene facilities | | |
| <p>Regulation 109 Education and</p> | <p>The proposed development includes adequate,</p> | <p>The on-site laundry will suitability service the centre</p> |

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| <p>Care Services National Regulation</p> <p>A service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.</p> <p>Child care facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code</p> | <p>developmentally and age appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service.</p> <p>Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants. Design considerations could include:</p> <ul style="list-style-type: none"> • junior toilet pans, low level sinks and hand drying facilities for children • a sink and handwashing facilities in all bathrooms for adults • direct access from both activity rooms and outdoor play areas • windows into bathrooms and cubicles without doors to allow supervision by staff • external windows in locations that prevent observation from neighbouring properties or from side boundaries | <p>with regard to cleaning clothes, amongst other things, when required to maintain high levels of hygiene.</p> <p>The toilet facilities are located at ground floor. It is easily accessed directly from the activity spaces. No doors are proposed to cubicles within the bathroom.</p> <p>With only 12 children, staff can monitor bathroom usage effectively from the doorway while also being in close proximity to internal play spaces. No external windows are provided to the bathroom.</p> <p>It is considered that compliance with the BCA can be achieved and details of which can be provided prior to the construction certificate being issued. We note that Environmental Health proposed conditions are to that effect.</p> |
| <p>4.4 Ventilation and natural light</p> | | |
| <p>Regulation 110 Education and Care Services</p> | <p>The proposed development includes indoor spaces to be used by children that:</p> | <p>The indoor spaces will receive high levels of solar access. Large windows to the side</p> |

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| <p>National Regulation Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the <i>National Construction Code</i>. Ceiling height requirements may be affected by the capacity of the facility.</p> | <ul style="list-style-type: none"> • will be well ventilated; and • will have adequate natural light; and • can be maintained at a temperature that ensures the safety and well-being of children. <p>Ventilation Good ventilation can be achieved through a mixture of natural cross ventilation and air conditioning. Encouraging natural ventilation is the basis of sustainable design; however, there will be circumstances where mechanical ventilation will be essential to creating ambient temperatures within a facility.</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>Natural light Solar and daylight access reduces reliance on artificial lighting and heating, improves energy efficiency and creates comfortable learning environments through pleasant conditions. Natural light</p> | <p>elevations and rear facing glass bifold will provide solar access to the internal spaces.</p> <p>The centre will be air conditioned. Natural cross ventilation can be achieved through the building via existing external openings.</p> <p>These requirements are capable of being achieved and will need to satisfy the Early Childhood Education Directorate in any case before the centre can be operational.</p> |
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| | <p>contributes to a sense of well-being, is important to the development of children and improves service outcomes. Daylight and solar access changes with the time of day, seasons and weather conditions. When designing child care facilities consideration should be given to: • providing windows facing different orientations • using skylights as appropriate • ceiling heights. Designers should aim to minimise the need for artificial lighting during the day, especially in circumstances where room depth exceeds ceiling height by 2.5 times. It is recommended that ceiling heights be proportional to the room size, which can be achieved using raked ceilings and exposed trusses, creating a sense of space and visual interest.</p> | |
| <p>4.5 Administrative space</p> | | |
| <p>Regulation 110 Education and Care Services National Regulation</p> <p>A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service,</p> | <p>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.</p> <p>Design considerations could include closing doors for privacy and glass partitions to ensure supervision.</p> | <p>The first floor will be used for administrative purposes and staff.</p> <p>A meeting room is proposed at ground floor level that can facilitate private conversations.</p> <p>Compliance will need to be satisfied by the Early Childhood Education Directorate before becoming operational</p> |

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| <p>consulting with parents of children and conducting private conversations.</p> | <p>When designing administrative spaces, consideration should be given to functions which can share spaces and those which cannot. Sound proofing of meeting rooms may be appropriate where they are located adjacent to public areas, or in large rooms where sound can easily travel.</p> <p>Administrative spaces should be designed to ensure equitable use by parents and children at the facility. A reception desk may be designed to have a portion of it at a lower level for children or people in a wheel chair.</p> | |
| <p>4.6 Nappy change facilities – NO CHILDREN WHO ARE STILL WEARING NAPPIES WILL BE ENROLED IN THE CENTRE. NO CHANGING FACILITIES ARE PROPOSED.</p> | | |
| <p>4.7 Premises designed to facilitate supervision</p> | | |
| <p>Regulation 115 Education and Care Services National Regulations</p> <p>A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces)</p> | <p>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.</p> <p>Design considerations should include:</p> <ul style="list-style-type: none"> • solid walls in children’s toilet cubicles (but no doors) to provide dignity whilst enabling supervision • locating windows into bathrooms or nappy change areas away from view of visitors | <p>The design of the activity spaces are open plan and achieve excellent supervision opportunities for staff to monitor the children.</p> <p>The 2 internal activity spaces can be closed off or opened when need be to control movement of the children for easier supervision.</p> <p>The bathroom is located away from view from visitors or the public domain.</p> <p>As previously highlighted, these requirements are</p> |

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| <p>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>to the facility, the public or neighbouring properties</p> <ul style="list-style-type: none"> • avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children • avoiding multi-level rooms which compromise, or require additional staffing, to ensure proper supervision. If multilevel spaces are proposed, consideration should be given to providing areas that can be closed off and used only under supervision for controlled activities | <p>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> |
| <p>4.8 Emergency and evacuation procedures</p> | | |
| <p>Regulations 97 and 168 Education and Care Services National Regulations</p> <p>Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation.</p> <p>Regulation 97 sets out the detail for what those</p> | <p>Facility design and features should provide for the safe and managed evacuation of children and staff from the facility in the event of a fire or other emergency.</p> <p>Multi-storey buildings with proposed child care facilities above ground level may consider providing additional measures to protect staff and children. For example:</p> <ul style="list-style-type: none"> • independent emergency escape routes from the facility to the ground level that would separate children from other building users to address child | <p>An emergency and evacuation plan is provided within the plan of management.</p> |

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| <p>procedures must cover including:</p> <ul style="list-style-type: none"> • instructions for what must be done in the event of an emergency • an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit • a risk assessment to identify potential emergencies that are relevant to the service. | <p>protection concerns during evacuations</p> <ul style="list-style-type: none"> • 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. An emergency and evaluation plan should be submitted with a DA and should consider: <ul style="list-style-type: none"> • the mobility of children and how this is to be accommodated during an evacuation • the location of a safe 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 • 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. | |
| <p>4.9 Outdoor space requirements</p> | | |
| <p>Regulation 108 Education and Care Services National Regulations</p> <p>An education and care service premises must provide for every</p> | <p>The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child.</p> <p>Calculating unencumbered space for outdoor areas should not include areas of dense hedges or plantings along boundaries which are designed</p> | <p>84m² of outdoor open space is required.</p> <p>173.8m² of outdoor space is provided.</p> <p>A mix of natural and artificial landscaping treatments is proposed with existing trees,</p> |

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| <p>child being educated and cared for within the facility to have a minimum of 7.0m² of unencumbered outdoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.</p> <p>Unencumbered outdoor space excludes any of the following:</p> <ul style="list-style-type: none"> • pathway or thoroughfare, except where used by children as part of the education and care program • car parking area • storage shed or other storage area • laundry • other space that is not suitable for children. | <p>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>Simulated outdoor environments</p> <p>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.</p> | <p>plants and shrubs to be retained.</p> <p>A sand pit is proposed. The large outdoor area in relation to the number of kids will facilitate exploration and opportunities for additional play equipment.</p> |
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| | <p>Simulated outdoor environments should have:</p> <ul style="list-style-type: none"> • more access to natural light and ventilation than required for an internal space through large windows, glass doors and panels to enable views of trees, views of the sky and clouds and movement outside the facility • skylights to give a sense of the external climate • a combination of different floor types and textures, including wooden decking, pebbles, mounds, ridges, grass, bark and artificial grass, to mimic the uneven surfaces of an outdoor environment • sand pits and water play areas • furniture made of logs and stepping logs • dense indoor planting and green vegetated walls • climbing frames, walking and/or bike tracks • vegetable gardens and gardening tubs. | |
| <p>4.10 Natural Environment</p> | | |
| <p>Regulation 113 Education and Care Services National Regulations</p> <p>The approved provider of a centre-based service must ensure that the outdoor spaces allow children to</p> | <p>The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.</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>A landscape plan is provided with this application. Existing landscape features are largely retained and safe for children.</p> <p>No concerns have been raised previously from Council's Landscape officers.</p> |

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| <p>explore and experience the natural environment.</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"> • are known to be poisonous, produce toxins or have toxic leaves or berries • have seed pods or stone fruit, attract bees, have thorns, spikes or prickly foliage or drop branches <p>The outdoor space should be designed to:</p> <ul style="list-style-type: none"> • provide a variety of experiences that facilitate the development of cognitive and physical skills, provide opportunities for social interaction and appreciation of the natural environment • assist supervision and minimise opportunities for bullying and antisocial behaviour • enhance outdoor learning, socialisation and recreation by positioning outdoor urban furniture and play equipment in configurations that facilitate interaction. | |
| <p>4.11 Shade</p> | | |
| <p>Regulation 114 Education and Care Services National Regulations</p> <p>The approved provider of a centre-based</p> | <p>The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p> <p>Providing the correct balance of sunlight and shade to play areas is important for the health and</p> | <p>At least 30% of the outdoor space will be uncovered with solar access achieved.</p> <p>Less than 60% of outdoor space is covered.</p> <p>Existing trees and vegetation will provide natural shade.</p> |

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| <p>service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p> | <p>well-being of children and staff. Combining built and natural shade will often be the best option.</p> | |
| <p>4.12 Fencing</p> | | |
| <p>Regulation 104 Education and Care Services National Regulations</p> <p>Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including a family day care venue where all</p> | <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • prevent children climbing over, under or through fences • prevent people outside the facility from gaining access by climbing over, under or through the fence • not create a sense of enclosure. <p>Design considerations for side and rear boundary fences could include:</p> | <p>The outdoor space will be enclosed by fencing of heights consistent with the requirements.</p> |

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| <p>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> | <ul style="list-style-type: none"> • being made from solid prefinished metal, timber or masonry • having a minimum height of 1.8 metres • having no rails or elements for climbing higher than 150mm from the ground. | |
| <p>4.13 Soil Assessment</p> | | |
| <p>Regulation 25 Education and Care Services National Regulations</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>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>No excavation is proposed. The site has only been used for residential purposes throughout its history which poses little risk to soil contamination.</p> <p>Council’s environmental health team has raised no objections also.</p> |

