

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2024/0233
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<b>Responsible Officer:</b>	Thomas Prosser
<b>Land to be developed (Address):</b>	Lot 1 DP 1305286, 727 Warringah Road FORESTVILLE NSW 2087 Lot 2 DP 1305286, 725 Warringah Road FORESTVILLE NSW 2087 Lot 3 DP 1305286, 723 Warringah Road FORESTVILLE NSW 2087
<b>Proposed Development:</b>	Modification of Development Consent DA2018/0697 granted for Demolition works and construction of a centre-based child care facility for a maximum of 146 children including an increase in capacity to 152 children
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Napla Forestville Pty Limited
<b>Applicant:</b>	Minto Planning Services Pty Ltd

<b>Application Lodged:</b>	07/05/2024
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	16/05/2024 to 30/05/2024
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to modify the Development Consent (DA2018/0697) granted for demolition works and construction of a centre-based child care facility for a maximum of 146 children. Specifically, the modification seeks to increase the maximum number of children from 146 to 152 children.

### ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 1305286 , 727 Warringah Road FORESTVILLE NSW 2087 Lot 2 DP 1305286 , 725 Warringah Road FORESTVILLE NSW 2087 Lot 3 DP 1305286 , 723 Warringah Road FORESTVILLE NSW 2087
<b>Detailed Site Description:</b>	The site, in its consolidated form, has a combined frontage to Warringah Road of 40.675m with an eastern side boundary length of 94.38m, a western side boundary length of 99.675m, a rear boundary width of 40.385m and a total area of 3,933m <sup>2</sup> . The site is located within the R2 Low Density Residential zone under the provisions of Warringah Local Environmental Plan 2011. Adjoining development in the locality consists of residential dwellings to the east, west and north and Forestville Public School adjacent the southern boundary of the site. Forestville Shopping Centre is located approximately 200m to the south-west of the site.

Map:



## SITE HISTORY

Development Consent DA2018/0697 was issued by the NSW LEC on 3 May 2019, following the lodgement of a Class 1 Appeal against the deemed refusal of the application.

**MOD2020/0575** - Modification of Development Consent DA2018/0697 granted for demolition works and construction of a centre-based childcare facility for a maximum of 146 children. (Approved 2 February 2021)

**MOD2021/0859** - Modification of Development Consent DA2018/0697 granted for demolition works and construction of a centre-based childcare facility for a maximum of 146 children. (Approved 8 March 2022)

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

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

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

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the

Assessment Report for DA2018/0697 and Mod2021/0859, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.56- Other Modifications	Comments
(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2018/0697.</p> <p>In particular , the increase in capacity of 6 additional children equates to a 4% total increase which is relatively minor. Further, there are no changes to the approved built form.</p>
(b) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.</p>
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	<p>Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of DA2018/0697.</p>

Section 4.56- Other Modifications	Comments
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on “Notification & Submissions Received” in this report.

### Section 4.15 Assessment

In accordance with Section 4.56 of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental</p>

Section 4.15 'Matters for Consideration'	Comments
	economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

### EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

### BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

### NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 16/05/2024 to 30/05/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Ms Maria Corinna Lynam	18 / 640 - 644 Warringah Road FORESTVILLE NSW 2087

The following issues were raised in the submissions, and are addressed below:

- **Query as to what is proposed under this application**

A submission raised concerns that this application may be applying for another child care centre in this location.

Comment:

The application is a proposal to modify the existing consent for a childcare centre, by increasing capacity of children by 6. No new centre is proposed under this application

- **Traffic and Parking**

Concern was raised with impact on traffic and parking, if another child care centre were to be

built.

Comment:

As above, no new child care centre is proposed under this application. Further, the proposal complies with the requirements for indoor space, outdoor space, and car parking based on the increase in capacity. For the reasons further discussed in this report, the increased capacity is reasonable.

**REFERRALS**

Internal Referral Body	Comments
<p>Environmental Health (Industrial)</p>	<p><b>General Comments</b></p> <p>This application is seeking consent to increase the number of children approved to attend the childcare centre from 146 to 152 places. An acoustic assessment has been provided by NG Child &amp; Associates dated 26 April 2024, reference number CA/24/229-1001.</p> <p>The acoustic report concluded:</p> <p><i>The assessment presented in this report indicates that the proposed increase from 146 to 152 in the maximum number of children at the centre will have no significant impact on the acoustic performance or impact of the centre, and that the proposed variation will result in no adverse or non-compliant acoustic impacts. Accordingly, the proposed variation is supported in acoustic terms.</i></p> <p>No additional acoustic measures have been provided as it was found the additional 6 children to the centre will not cause an adverse noise impact, therefore Environmental Health recommends approval.</p>
<p>Traffic Engineer</p>	<p>The modification proposal is for an increase in childcare places at the approved childcare centre. The number of childcare spaces is proposed to increase from 146 to 152. This would require 38 parking spaces for compliance with Warringah DCP parking requirements. It is noted that the existing approved development provides 38 parking spaces, including 7 dedicated staff spaces, 2 accessible parking spaces, 28 visitor spaces and one service bay. The developer proposes to reassign the service bay as visitor bay that is to be made available for servicing needs outside of peak drop off and pick up hours i.e 11am-2pm. The plans approved under Mod2021/0859 show space No.22 as the service bay however the Plan of Management lodged with Mod2024/0233 references parking bay 38 as the delivery bay. As that bay is also designated a staff parking bay it is likely to be occupied at times when needed throughout the day so the service bay should be designated as space 22. This requires and amendment to section 9.5 of the Plan of Management.</p> <p>It is noted that the bin room doors open outwards into parking bay 22 which would mean that a waste collection vehicle would need to park partly in the circulation aisle to enable the removal of bins. This would</p>

Internal Referral Body	Comments
	<p>impede circulation of traffic through the carpark. For this reason, collection of waste is considered best undertaken outside of the childcare care centre operational hours when the waste collection vehicle would have access to its choice of parking bays. As suggested by the applicant's traffic consultant, deliveries should occur at times when bay 22 is not needed for drop off and pick up activity. This will need to be signposted</p> <p>Noting the above, it is considered that the proposed modification can be supported on traffic engineering grounds subject to conditions requiring amendment to the plan of management, signposting of parking bay No.22 to define that it is for deliveries between 11am and 2pm and drop off/pick up at other times and that waste collection is to occur outside of approved childcare centre operating hours.</p>

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

#### SEPP (Transport and Infrastructure) 2021

Section 3.23 of Chapter 3 SEPP (Transport and Infrastructure) 2021 stipulates that:

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

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

As per the provisions of Section 3.23, the provisions of Chapter 3 and the Child Care Planning Guideline are applicable.

### DESIGN QUALITY PRINCIPLES

#### Principle 1: Context

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



economic, health and environmental conditions.

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

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

Comment:

The context of the childcare centre was considered acceptable under the original application. There is no change to the built form under this application, and as discussed later, the existing approved form allows for suitable parking, indoor and outdoor space for the increased capacity.

**Principle 2: Built Form**

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

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

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

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

Comment:

There are no changes to the built form under this application.

**Principle 3: Adaptive Learning Spaces**

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

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

Comment:

The proposal retains a variety of indoor and outdoor learning spaces, and provides a total floor area for indoor and outdoor play that is consistent with the requirements in this policy (having regard to increased capacity).

**Principle 4: Sustainability**

Sustainable design combines positive environmental, social and economic outcomes.

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

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

Comment:

Suitable cross ventilation, sunlight and design for sustainability is retained as part of the proposed modification application.

**Principle 5: Landscape**

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

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

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

Comment:

There is no change to the approved landscape outcome.

**Principle 6: Amenity**

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

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

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

Comment:

The proposal maintains suitable amenity by providing the same design and maintaining compliant indoor and outdoor space for proposed capacity.

**Principle 7: Safety**

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

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

Comment:

The approved design provides a suitable outcome for safety.

**MATTERS FOR CONSIDERATION**

The following table is an assessment against the criteria of the 'Child Care Planning Guideline' as required by Chapter 3 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

Objectives	Criteria/Guidelines	Comments
<b>3.1 Site selection and location</b>		
<p><b>C1 To ensure that appropriate zone considerations are assessed when selecting a site</b></p>	<p>For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> <li>• the acoustic and privacy impacts of the proposed development on the residential properties</li> <li>• the setbacks and siting of buildings within the residential context</li> <li>• traffic and parking impacts of the proposal on residential amenity.</li> </ul> <p><b>OR</b></p> <p>For proposed developments in commercial and industrial zones, consider:</p> <ul style="list-style-type: none"> <li>• potential impacts on the health, safety and wellbeing of children, staff and visitors with regard to local environmental or amenity issues such as air or noise pollution and local traffic conditions</li> <li>• the potential impact of the facility on the viability of</li> </ul>	<p>The site selection was considered under the original application, and a minor increase to the capacity does not derogate from this.</p>

existing commercial or industrial uses.

**OR**

For proposed developments in public or private recreation zones, consider:

- the compatibility of the proposal with the operations and nature of the community or private recreational facilities
- if the existing premises is licensed for alcohol or gambling
- if the use requires permanent or casual occupation of the premises or site
- the availability of on site parking
- compatibility of proposed hours of operation with surrounding uses, particularly residential uses
- the availability of appropriate and dedicated sanitation facilities for the development.

**OR**

For proposed developments on school, TAFE or university sites in Special Purpose zones, consider:

- the compatibility of the proposal with the operation of the institution and its users
- the proximity of the proposed facility to other uses on the site, including premises licensed for alcohol or gambling
- proximity to sources of noise, such as places of entertainment or mechanical workshops
- proximity to odours, particularly at agricultural institutions
- previous uses of a premises such as scientific,

	<p>medical or chemical laboratories, storage areas and the like.</p>	
<p><b>C2 To ensure that the site selected for a proposed child care facility is suitable for the use</b></p>	<p>When selecting a site, ensure that:</p> <ul style="list-style-type: none"> <li>• the location and surrounding uses are compatible with the proposed development or use</li> <li>• the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards</li> <li>• there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed</li> <li>• the characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> <li>- size of street frontage, lot configuration, dimensions and overall size</li> <li>- number of shared boundaries with residential properties</li> <li>- the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas</li> </ul> </li> <li>• where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces</li> </ul>	<p>The site selection was considered under the original application, and a minor increase to the capacity does not derogate from this.</p>

	<p>are suitable for the proposed use</p> <ul style="list-style-type: none"> <li>• there are suitable drop off and pick up areas, and off and on street parking</li> <li>• the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use</li> <li>• it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.</li> </ul>	
<p><b>C3 To ensure that sites for child care facilities are appropriately located</b></p>	<p>A child care facility should be located:</p> <ul style="list-style-type: none"> <li>• near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship</li> <li>• near or within employment areas, town centres, business centres, shops</li> <li>• with access to public transport including rail, buses, ferries</li> <li>• in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.</li> </ul>	<p>The site selection was considered under the original application, and a minor increase to the capacity does not derogate from this.</p>
<p><b>C4 To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazard</b></p>	<p>A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from proximity to:</p> <ul style="list-style-type: none"> <li>• heavy or hazardous industry, waste transfer depots or landfill sites</li> <li>• LPG tanks or service stations</li> </ul>	<p>The site selection was considered under the original application, and a minor increase to the capacity does not derogate from this.</p>

	<ul style="list-style-type: none"> <li>• water cooling and water warming systems</li> <li>• odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses</li> </ul>	
<b>3.2 Local character, streetscape and the public domain</b>		
<b>C5 To ensure that the child care facility is compatible with the local character and surrounding streetscape</b>	<p>The proposed development should:</p> <ul style="list-style-type: none"> <li>• contribute to the local area by being designed in character with the locality and existing streetscape</li> <li>• reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> <li>• recognise predominant streetscape qualities, such as building form, scale, materials and colours</li> <li>• include design and architectural treatments that respond to and integrate with the existing streetscape</li> <li>• use landscaping to positively contribute to the streetscape and neighbouring amenity</li> <li>• integrate car parking into the building and site landscaping design in residential areas.</li> </ul>	<p>The proposal does not involve any change to the built form, and will not have any unreasonable impact on character.</p>
<b>C6, C7, C8 To ensure clear delineation between the child care facility and public spaces</b>	<p>Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> <li>• fencing to ensure safety for children entering and leaving the facility</li> <li>• windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and</li> </ul>	<p>There is no change to fencing, windows and landscaping proposed.</p>

	<p>connection between the facility and the community</p> <ul style="list-style-type: none"> <li>integrating existing and proposed landscaping with fencing.</li> </ul>	
	<p>On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	<p>The entry location is unchanged from the original development application.</p>
	<p>Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> <li>clearly defined street access, pedestrian paths and building entries</li> <li>low fences and planting which delineate communal/private open space from adjoining public open space</li> <li>minimal use of blank walls and high fences.</li> </ul>	<p>The access and fencing is unchanged from the original development application.</p>
<p><b>C9, C10 To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.</b></p>	<p>Front fences and walls within the front setback should be constructed of visually permeable materials and treatments.</p> <p>Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.</p>	<p>N/A</p>
	<p>High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary</p>	<p>N/A</p>
<p><b>3.3 Building orientation, envelope and design</b></p>		
<p><b>C11 To respond to the streetscape and site, while optimising solar access</b></p>	<p>Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> <li>ensure visual privacy and minimise potential noise</li> </ul>	<p>There is no change to the building orientation, envelope or built form under this application.</p>



<p><b>and opportunities for shade</b></p>	<p>and overlooking impacts on neighbours by:</p> <ul style="list-style-type: none"> <li>- facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties</li> <li>- placing play equipment away from common boundaries with residential properties</li> <li>- locating outdoor play areas away from residential dwellings and other sensitive uses</li> </ul> <ul style="list-style-type: none"> <li>• optimise solar access to internal and external play areas</li> <li>• avoid overshadowing of adjoining residential properties</li> <li>• minimise cut and fill</li> <li>• ensure buildings along the street frontage define the street by facing it</li> <li>• ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.</li> </ul>	
<p><b>C12 To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised</b></p>	<p>The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> <li>• building height should be consistent with other buildings in the locality</li> <li>• building height should respond to the scale and character of the street</li> </ul>	<p>There is no change to the building orientation, envelope or built form under this application.</p>

	<ul style="list-style-type: none"> <li>• setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility</li> <li>• setbacks should provide adequate access for building maintenance</li> <li>• setbacks to the street should be consistent with the existing character.</li> </ul>	
<p><b>C13, C14 To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context</b></p>	<p>Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p>	<p>There is no change to the building orientation, envelope or built form under this application.</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>There is no change to the building orientation, envelope or built form under this application.</p>
<p><b>C15 To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character</b></p>	<p>The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> <li>• respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage</li> <li>• contributes to the identity of the place</li> <li>• retains and reinforces existing built form and vegetation where significant</li> <li>• considers heritage within the local neighbourhood including identified heritage items and conservation areas</li> <li>• responds to its natural environment including local landscape setting and climate</li> </ul>	<p>There is no change to the building orientation, envelope or built form under this application.</p>

	<ul style="list-style-type: none"> <li>• contributes to the identity of place.</li> </ul>	
<p><b>C16 To ensure that buildings are designed to create safe environments for all users</b></p>	<p>Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> <li>• located to allow ease of access, particularly for pedestrians</li> <li>• directly accessible from the street where possible</li> <li>• directly visible from the street frontage</li> <li>• easily monitored through natural or camera surveillance</li> <li>• not accessed through an outdoor play area.</li> <li>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ul>	<p>There is no change to the building orientation, envelope or built form under this application.</p>
<p><b>C17 To ensure that child care facilities are designed to be accessible by all potential users</b></p>	<p>Accessible design can be achieved by:</p> <ul style="list-style-type: none"> <li>• providing accessibility to and within the building in accordance with all relevant legislation</li> <li>• linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry</li> <li>• providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible</li> <li>• minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</li> </ul>	<p>There is no change to the building orientation, envelope or built form under this application.</p>

	<p><b>Note:</b> The National Construction Code, the Discrimination Disability Act 1992 and the Disability (Access to Premises – Buildings) Standards 2010 set out the requirements for access to buildings for people with disabilities.</p>	
<b>3.4 Landscaping</b>		
<p><b>C18, C19 To provide landscape design that contributes to the streetscape and amenity</b></p>	<p>Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space.</p> <p>Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> <li>• reflecting and reinforcing the local context</li> <li>• incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.</li> </ul>	<p>There is no change to the landscaping under this application.</p>
	<p>Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> <li>• planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</li> <li>• taking into account streetscape, local character and context when siting car parking areas within the front setback</li> <li>• using low level landscaping to soften and screen parking areas.</li> </ul>	<p>There is no change to the landscaping under this application.</p>
<b>3.5 Visual and acoustic privacy</b>		
<p><b>C20, C21 To protect the privacy and security of children attending the facility</b></p>	<p>Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</p>	<p>There is not change to the design or location of play spaces under this application.</p>

	<p>Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitably locating pathways, windows and doors</li> <li>• permanent screening and landscape design.</li> </ul>	<p>There is no change to the design for privacy under this application.</p>
<p><b>C22 To minimise impacts on privacy of adjoining properties</b></p>	<p>Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitable location of pathways, windows and doors</li> <li>• landscape design and screening.</li> </ul>	<p>There is no change to the design for privacy under this application.</p>
<p><b>C23, C24 To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments</b></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"> <li>• provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence).</li> <li>• ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.</li> </ul>	<p>The design for acoustic privacy is maintained, and the proposed number of children can be expected given the numerical requirements for indoor and outdoor space are met.</p>
	<p>A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> <li>• identify an appropriate noise level for a child care</li> </ul>	<p>Existing suitable acoustic solutions are retained.</p>

	<p>facility located in residential and other zones</p> <ul style="list-style-type: none"> <li>• determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use</li> <li>• determine the appropriate height of any acoustic fence to enable the noise criteria to be met.</li> </ul>	
<p><b>3.6 Noise and air pollution</b></p>		
<p><b>C25, C26</b></p>	<p>Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> <li>• creating physical separation between buildings and the noise source</li> <li>• orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> <li>• using landscaping to reduce the perception of noise</li> <li>• limiting the number and size of openings facing noise sources</li> <li>• using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)</li> <li>• using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits</li> <li>• locating cot rooms, sleeping areas and play areas away from external noise sources</li> </ul>	<p>Further acoustic measures are not warranted as part of this modification, given the fact capacity complies with the numerical requirements for indoor and outdoor space.</p>
	<p>An acoustic report should identify appropriate noise levels for sleeping areas and other non play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</p>	<p>The site selection was considered under the original application.</p>

	<ul style="list-style-type: none"> <li>• on industrial zoned land</li> <li>• where the ANEF contour is between 20 and 25, consistent with AS 2021 - 2000</li> <li>• along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li> <li>• on a major or busy road</li> <li>• other land that is impacted by substantial external noise.</li> </ul>	
<p><b>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</b></p>	<p>Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p>	<p>The site selection was considered under the original application.</p>
	<p>A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines.</p> <p>The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> <li>• creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution</li> <li>• using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway</li> <li>• incorporating ventilation design into the design of</li> </ul>	<p>The site selection was considered under the original application.</p>

	the facility.	
<b>3.7 Hours of operation</b>		
<b>C29, C30 To minimise the impact of the child care facility on the amenity of neighbouring residential developments</b>	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.	N/A
	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.	N/A
<b>3.8 Traffic, parking and pedestrian circulation</b>		
<b>C31, C32, C33 To provide parking that satisfies the needs of users and demand generated by the centre</b>	<p>Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.</p> <p>Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates:</p> <p>Within 400 metres of a metropolitan train station:</p> <ul style="list-style-type: none"> <li>• 1 space per 10 children</li> <li>• 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space.</li> </ul> <p>In other areas:</p> <ul style="list-style-type: none"> <li>• 1 space per 4 children.</li> </ul> <p>A reduction in car parking rates may be considered where:</p> <ul style="list-style-type: none"> <li>• the proposal is an adaptive re-use of a heritage item</li> <li>• the site is in a B8 Metropolitan Zone or other</li> </ul>	<p>1 space for ever 4 children required.</p> <p>152 children = 38 spaces proposed</p> <p>The proposal provides 38 spaces, and Council's Traffic officer has provided suitable conditions relating to the allocation of these spaces.</p>



	<p>high density business or residential zone</p> <ul style="list-style-type: none"> <li>the site is in proximity to high frequency and well connected public transport</li> <li>the site is co-located or in proximity to other uses where parking is appropriately provided (for example business centres, schools, public open space, car parks)</li> <li>there is sufficient on street parking available at appropriate times within proximity of the site.</li> </ul>	
	<p>In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.</p>	<p>N/A</p>
	<p>A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> <li>the amenity of the surrounding area will not be affected</li> <li>there will be no impacts on the safe operation of the surrounding road network.</li> </ul>	<p>The proposed traffic report is acceptable and the parking complies. Relevant conditions are also provided.</p>
<p><b>C34, C35 To provide vehicle access from the street in a safe environment that does not disrupt traffic flows</b></p>	<p>Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"> <li>a classified road</li> <li>roads which carry freight traffic or transport dangerous goods or hazardous materials.</li> </ul> <p>The alternate access must have regard to:</p>	<p>Access considered under original application. No change to access.</p>

	<ul style="list-style-type: none"> <li>• the prevailing traffic conditions</li> <li>• pedestrian and vehicle safety including bicycle movements</li> <li>• the likely impact of the development on traffic.</li> </ul>	
	<p>Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	<p>Site suitability assessed under original application.</p>
<p><b>C36, C37, C38 To provide a safe and connected environment for pedestrians both on and around the site</b></p>	<p>The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> <li>• separate pedestrian access from the car park to the facility</li> <li>• defined pedestrian crossings included within large car parking areas</li> <li>• separate pedestrian and vehicle entries from the street for parents, children and visitors</li> <li>• pedestrian paths that enable two prams to pass each other</li> <li>• delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</li> <li>• in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas</li> <li>• vehicles can enter and leave the site in a forward direction.</li> </ul>	<p>Site access is unchanged as a result of the proposed modifications.</p>

	<p>Mixed use developments should include:</p> <ul style="list-style-type: none"> <li>• driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks</li> <li>• drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or maneuvering areas used by vehicles accessing other parts of the site</li> <li>• parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</li> </ul>	<p>As above, site access is unchanged as a result of the proposed modifications.</p>
	<p>Car parking design should:</p> <ul style="list-style-type: none"> <li>• include a child safe fence to separate car parking areas from the building entrance and play areas</li> <li>• provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards</li> <li>• include wheelchair and pram accessible parking.</li> </ul>	<p>No changes proposed.</p>

## APPLYING THE NATIONAL REGULATIONS TO DEVELOPMENT PROPOSALS

Regulation	Design Guidance	Comments
4.1 Indoor space requirements		

<p><b>Regulation 107 Education and Care Services National Regulation</b></p> <p>Every child being educated and cared for within a facility must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.</p> <p>Unencumbered indoor space excludes any of the following:</p> <ul style="list-style-type: none"> <li>• passageway or thoroughfare (including door swings) used for circulation</li> <li>• toilet and hygiene facilities</li> <li>• nappy changing area or area for preparing bottles</li> <li>• area permanently set aside for the use or storage of cots</li> <li>• area permanently set aside for storage</li> <li>• area or room for staff or administration</li> <li>• kitchens, unless the kitchen is designed to be used predominately by the children as part of an educational program e.g. a learning kitchen</li> <li>• on-site laundry</li> <li>• other space that is not suitable for children.</li> </ul> <p>All unencumbered indoor spaces must be provided as a secure area for children. The</p>	<p><b>The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child.</b></p> <p><b>Verandahs as indoor space</b> 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><b>Storage</b> Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> <li>• a minimum of 0.3m<sup>3</sup> per child of external storage space</li> <li>• a minimum of 0.2m<sup>3</sup> per child of internal storage space.</li> </ul> <p>Storage does not need to be in a separate room or screened, and there should be a mixture of safe shelving and storage that children can access independently.</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>	<p>Total unencumbered indoor space = 503.8sqm</p> <p>146 children x 3.25sqm = 494sqm</p> <p>Proposal compliant with the minimum requirement of 494sqm of indoor space for 152 children. Storage area was not included as part of calculation.</p> <p>This calculated area does not incorporate the following:</p> <ul style="list-style-type: none"> <li>• passageway or thoroughfare (including door swings) used for circulation</li> <li>• toilet and hygiene facilities</li> <li>• nappy changing area or area for preparing bottles</li> <li>• area permanently set aside for the use or storage of cots</li> <li>• area permanently set aside for storage</li> <li>• area or room for staff or administration</li> <li>• kitchens, unless the kitchen is designed to</li> </ul>
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design of these spaces should consider the safe supervision of children.

When calculating indoor space requirements, the area required for any additional child may be waived when the child is being cared for in an emergency circumstance as set out in regulation 123(5) or the child is being educated or cared for in exceptional circumstances as set out in regulation 124(5) and (6) of the National Regulations.

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

Development applications should indicate how these needs will be accommodated.

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

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.

The proposal is compliant with this clause.

#### 4.2 Laundry and hygiene facilities

##### **Regulation 106 Education and Care Services National Regulation**

There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children.

Child care facilities must also comply with the requirements

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

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

##### **On site laundry**

On site laundry facilities should contain:

The proposed development retains satisfactory facilities including a laundry.

<p>for laundry facilities that are contained in the National Construction Code.</p>	<ul style="list-style-type: none"> <li>• a washer or washers capable of dealing with the heavy requirements of the facility</li> <li>• a dryer</li> <li>• laundry sinks</li> <li>• adequate storage for soiled items prior to cleaning</li> <li>• an on site laundry cannot be calculated as usable unencumbered play space for children.</li> </ul> <p><b>External laundry service</b> A facility that does not contain on site laundry facilities must make external laundering arrangements. Any external laundry facility providing services to the facility needs to comply with any relevant Australian Standards.</p>	
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**4.3 Toilet and hygiene facilities**

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

<p><b>Regulation 110 Education and Care Services National Regulation</b></p>	<p><b>The proposed development includes indoor spaces to be used by children that:</b></p>	<p>Suitable natural ventilation is retained.</p>
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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 National Construction Code. Ceiling height requirements may be affected by the capacity of the facility.

- **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.**

### **Ventilation**

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

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

### **Natural light**

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

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

Designers should aim to minimise the need for artificial lighting during the day, especially in circumstances where room depth exceeds ceiling height by 2.5 times. It is

	recommended that ceiling heights be proportional to the room size, which can be achieved using raked ceilings and exposed trusses, creating a sense of space and visual interest.	
<b>4.5 Administrative space</b>		
<p><b>Regulation 110 Education and Care Services National Regulation</b></p> <p>A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.</p>	<p><b>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.</b></p> <p>Design considerations could include closing doors for privacy and glass partitions to ensure supervision.</p> <p>When designing administrative spaces, consideration should be given to functions 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>An area for administration is maintained for the childcare on level 1 and 2.</p>
<b>4.6 Nappy change facilities</b>		
<p><b>Regulation 112 Education and Care Services National Regulations</b></p> <p>Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children.</p> <p>Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.</p>	<p>(To be completed only if the proposed development is for a service that will care for children who wear nappies).</p> <p><b>The proposed development includes an adequate area for construction of appropriate hygienic facilities for nappy changing including at least one properly constructed nappy changing bench and hand cleansing facilities for adults in the immediate vicinity of the nappy change area.</b></p> <p>In circumstances where nappy change facilities must be provided, design considerations could include:</p> <ul style="list-style-type: none"> <li>properly constructed nappy changing bench or benches</li> <li>a bench type baby bath within one metre from the nappy</li> </ul>	<p>Nappy changes facilities are retained.</p>



	<ul style="list-style-type: none"> <li>change bench</li> <li>the provision of hand cleansing facilities for adults in the immediate vicinity of the nappy change area</li> <li>a space to store steps</li> <li>positioning to enable supervision of the activity and play areas.</li> </ul>	
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**4.7 Premises designed to facilitate supervision**

<p><b>Regulation 115 Education and Care Services National Regulations</b></p> <p>A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity.</p> <p>Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the National Construction Code.</p>	<p><b>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.</b></p> <p>Design considerations should include:</p> <ul style="list-style-type: none"> <li>solid walls in children’s toilet cubicles (but no doors) to provide dignity whilst enabling supervision</li> <li>locating windows into bathrooms or nappy change areas away from view of visitors to the facility, the public or neighbouring properties</li> <li>avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children</li> <li>avoiding multi-level rooms which compromise, or require additional staffing, to ensure proper supervision. If multilevel spaces are proposed, consideration should be given to providing areas that can be closed off and used only under supervision for controlled activities</li> </ul>	<p>The approved floor plan maintains opportunity for appropriate supervision.</p>
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**4.8 Emergency and evacuation procedures**

<p><b>Regulations 97 and 168 Education and Care Services National Regulations</b></p> <p>Regulation 168 sets out the list of procedures that a care service must have, including</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</p>	<p>There is no change to emergency and evacuation measures.</p>
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<p>procedures for emergency and evacuation.</p> <p>Regulation 97 sets out the detail for what those procedures must cover including:</p> <ul style="list-style-type: none"> <li>instructions for what must be done in the event of an emergency</li> <li>an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit</li> <li>a risk assessment to identify potential emergencies that are relevant to the service.</li> </ul>	<p>consider providing additional measures to protect staff and children. For example:</p> <ul style="list-style-type: none"> <li>independent emergency escape routes from the facility to the ground level that would separate children from other building users to address child protection concerns during evacuations</li> <li>a safe haven or separate emergency area where children and staff can muster during the initial stages of a fire alert or other emergency. This would enable staff to account for all children prior to evacuation.</li> </ul> <p>An emergency and evaluation plan should be submitted with a DA and should consider:</p> <ul style="list-style-type: none"> <li>the mobility of children and how this is to be accommodated during an evacuation</li> <li>the location of a safe congregation/assembly point, away from the evacuated building, busy roads and other hazards, and away from evacuation points used by other occupants or tenants of the same building or of surrounding buildings</li> <li>how children will be supervised during the evacuation and at the congregation/assembly point, relative to the capacity of the facility and governing child-to-staff ratios.</li> </ul>	
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**4.9 Outdoor space requirements**

<p><b>Regulation 108 Education and Care Services National Regulations</b></p> <p>An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m<sup>2</sup> of unencumbered outdoor space. If this requirement is not met, the concurrence of the</p>	<p><b>The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child.</b></p> <p>Calculating unencumbered space for outdoor areas should not include areas of dense hedges or plantings along boundaries which are designed for landscaping purposes and not for children’s play.</p> <p>When new equipment or storage areas are added to existing services, the potential</p>	<p>1064sqm of outdoor living area required for 146 children.</p> <p>The proposed development has a total unencumbered outdoor play area of 1071sqm.</p> <p>This calculated area does not incorporate</p>
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<p>regulatory authority is required under the SEPP.</p> <p>Unencumbered outdoor space excludes any of the following:</p> <ul style="list-style-type: none"> <li>• pathway or thoroughfare, except where used by children as part of the education and care program</li> <li>• car parking area</li> <li>• storage shed or other storage area</li> <li>• laundry</li> <li>• other space that is not suitable for children.</li> </ul> <p>When calculating outdoor space requirements, the area required for any additional child may be waived when the child is being cared for in an emergency circumstance as set out in regulation 123(5) or the child is being educated or cared for in exceptional circumstances as set out in regulation 124(5) and (6) of the National Regulations.</p> <p>Applicants should also note that regulation 274 (Part 7.3 NSW Provisions) states that a centre-based service for children preschool age or under must ensure there is no swimming pool on the premises, unless the swimming pool existed before 6 November 1996. Where there is an existing swimming pool, a water safety policy will be required.</p> <p>A verandah that is included within indoor space cannot be included when calculating outdoor space and vice versa.</p>	<p>impact on unencumbered space calculations and service approvals must be considered.</p> <p><b>Verandahs as outdoor space</b> Where a covered space such as a verandah is to be included in outdoor space it should:</p> <ul style="list-style-type: none"> <li>• be open on at least one third of its perimeter</li> <li>• have a clear height of 2.1 metres</li> <li>• have a wall height of less than 1.4 metres where a wall with an opening forms the perimeter</li> <li>• have adequate flooring and roofing</li> <li>• be designed to provide adequate protection from the elements</li> </ul> <p><b>Simulated outdoor environments</b> Proponents should aim to provide the requisite amount of unencumbered outdoor space in all development applications.</p> <p>A service approval will only be granted in exceptional circumstances when outdoor space requirements are not met. For an exemption to be granted, the preferred alternate solution is that indoor space be designed as a simulated outdoor environment.</p> <p>Simulated outdoor space must be provided in addition to indoor space and cannot be counted twice when calculating areas.</p> <p>Simulated outdoor environments are internal spaces that have all the features and experiences and qualities of an outdoor space. They should promote the same learning outcomes that are developed during outdoor play. Simulated outdoor environments should have:</p> <ul style="list-style-type: none"> <li>• more access to natural light and ventilation than required for an internal space through large windows, glass doors and panels to enable views of trees, views of the sky and clouds and movement outside the facility</li> <li>• skylights to give a sense of the external climate</li> </ul>	<p>the following:</p> <ul style="list-style-type: none"> <li>• pathway or thoroughfare, except where used by children as part of the education and care program</li> <li>• car parking area</li> <li>• storage shed or other storage area</li> <li>• laundry</li> <li>• other space that is not suitable for children.</li> </ul> <p>The proposal is compliant with this clause.</p>
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	<ul style="list-style-type: none"> <li>• a combination of different floor types and textures, including wooden decking, pebbles, mounds, ridges, grass, bark and artificial grass, to mimic the uneven surfaces of an outdoor environment</li> <li>• sand pits and water play areas</li> <li>• furniture made of logs and stepping logs</li> <li>• dense indoor planting and green vegetated walls</li> <li>• climbing frames, walking and/or bike tracks</li> <li>• vegetable gardens and gardening tubs.</li> </ul>	
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**4.10 Natural Environment**

<p><b>Regulation 113 Education and Care Services National Regulations</b></p> <p>The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.</p>	<p><b>The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.</b></p> <p>Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space.</p> <p>Shrubs and trees selected for the play space must be safe for children. Avoid plant species that risk the health, safety and welfare of the facility’s occupants, such as those which:</p> <ul style="list-style-type: none"> <li>• are known to be poisonous, produce toxins or have toxic leaves or berries</li> <li>• have seed pods or stone fruit, attract bees, have thorns, spikes or prickly foliage or drop branches</li> </ul> <p>The outdoor space should be designed to:</p> <ul style="list-style-type: none"> <li>• provide a variety of experiences that facilitate the development of cognitive and physical skills, provide opportunities for social interaction and appreciation of the natural environment</li> <li>• assist supervision and minimise opportunities for bullying and antisocial behaviour</li> </ul>	<p>Landscape area and outdoor space remains suitable for children.</p>
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	<ul style="list-style-type: none"> <li>enhance outdoor learning, socialisation and recreation by positioning outdoor urban furniture and play equipment in configurations that facilitate interaction.</li> </ul>	
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**4.11 Shade**

<p><b>Regulation 114 Education and Care Services National Regulations</b></p> <p>The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p>	<p><b>The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</b></p> <p>Providing the correct balance of sunlight and shade to play areas is important for the health and well-being of children and staff. Combining built and natural shade will often be the best option.</p> <p><b>Solar access</b> Controlled exposure to daylight for limited periods is essential as sunlight provides vitamin D which promotes healthy muscles, bones and overall well-being. Outdoor play areas should be provided with controlled solar access throughout the year.</p> <p>Outdoor play areas should:</p> <ul style="list-style-type: none"> <li>have year-round solar access to at least 30 per cent of the ground area, with no more than 60 per cent of the outdoor space covered.</li> <li>provide shade in the form of trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area</li> <li>have evenly distributed shade structures over different activity spaces.</li> </ul> <p><b>Natural shade</b> Natural shade should be a major element in outdoor play areas. Trees with dense foliage and wide-spreading canopies provide the best protection. Existing stands of trees, particularly in rear setbacks, should be retained to provide shaded play areas. Species that suit local soil and climatic conditions and the character of the</p>	<p>Existing shade sails within the outdoor play area are to remain as part of this application. Suitable shade is provided to the outdoor play areas on both level 1 and 2</p>
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	<p>environment are recommended.</p> <p>Dense shrubs can also provide shade. They should be planted around the site perimeter so they don't obstruct supervision. Pruning shrubs on the underside may create shaded play nooks underneath. Planting for shade and solar access is enhanced by:</p> <ul style="list-style-type: none"> <li>• placing appropriately scaled trees near the eastern and western elevations</li> <li>• providing a balance of evergreen and deciduous trees to give shade in summer and sunlight access in winter.</li> </ul> <p><b>Built shade structures</b> Built structures providing effective shade include:</p> <ul style="list-style-type: none"> <li>• permanent structures (pergolas, sails and verandahs)</li> <li>• demountable shade (marquees and tents)</li> <li>• adjustable systems (awnings)</li> <li>• shade sails.</li> </ul> <p>Shade structures should not create safety hazards. Support systems such as upright posts should be clearly visible with rounded edges or padding. Vertical barriers at the sides of shade structures should be designed to prevent children using them for climbing. Shade structures should allow adults to view and access the children's play areas, with a recommended head clearance of 2.1 metres. The floor area underneath the structure should be of a sufficient size and shape to allow children to gather or play actively.</p>	
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**4.12 Fencing**

<p><b>Regulation 104 Education and Care Services National Regulations</b></p> <p>Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot</p>	<p><b>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.</b></p> <p>Fencing at child care facilities must provide a secure, safe environment for children and minimise access to dangerous areas.</p>	<p>No changes to fences proposed.</p>
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<p>go through, over or under it.</p> <p>This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including a family day care venue where all children are over preschool age.</p> <p>Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the National Construction Code</p>	<p>Fencing also needs to positively contribute to the visual amenity of the streetscape and surrounding area. In general, fencing around outdoor spaces should:</p> <ul style="list-style-type: none"> <li>• prevent children climbing over, under or through fences</li> <li>• prevent people outside the facility from gaining access by climbing over, under or through the fence</li> <li>• not create a sense of enclosure.</li> </ul> <p>Design considerations for side and rear boundary fences could include:</p> <ul style="list-style-type: none"> <li>• being made from solid prefinished metal, timber or masonry</li> <li>• having a minimum height of 1.8 metres</li> <li>• having no rails or elements for climbing higher than 150mm from the ground.</li> </ul> <p>Fencing and gates should be designed to ensure adequate sightlines for vehicles and pedestrian safety in accordance with Australian Standards and Roads and Maritime Services Traffic Management Guidelines. Gates should be designed to prevent children leaving/entering unsupervised by use of childproof locking systems.</p>	
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**4.13 Soil Assessment**

<p><b>Regulation 25 Education and Care Services National Regulations</b></p> <p>Subclause (d) of regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval.</p> <p>With every service application one of the following is required:</p>	<p>To ensure consistency between the development consent and the service approval application, a soil assessment should be undertaken as part of the development application process.</p> <p>Where children will have access to soil the regulatory authority requires a preliminary investigation of the soil. This includes sites with or without buildings and existing approved children’s services where:</p> <ul style="list-style-type: none"> <li>• the application is to alter or extend the premises</li> </ul>	<p>Existing outdoor areas including area soft open spaces remain changed. Soil assessment was previously considered under the original application.</p>
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<ul style="list-style-type: none"> <li>• a soil assessment for the site of the proposed education and care service premises</li> <li>• if a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken</li> <li>• a statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children</li> </ul>	<ul style="list-style-type: none"> <li>• the alteration or extension requires earthworks or deep excavations (exceeding a depth of one metre)</li> <li>• the works are going to take place in an area used for children's outdoor play or will be used for children's outdoor play after the work is completed</li> <li>• a soil assessment has not been undertaken at the children's service.</li> </ul> <p>Minor landscaping, creation of sand pits, movement of play equipment and so on do not qualify as earthworks and do not require a soil assessment.</p> <p>An assessment of soil for a children's service approval application may require three levels of investigation:</p> <ul style="list-style-type: none"> <li>• Stage 1 - Preliminary investigation (with or without soil sampling)</li> <li>• Stage 2 - Detailed site investigation</li> <li>• Stage 3 - Site specific human health risk assessment.</li> </ul>	
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### Warringah Local Environmental Plan 2011

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

### Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

### Warringah Development Control Plan



### Built Form Controls

Standard	Requirement	Approved	Approved (second modification)	Complies
B1 Wall height	7.2m	N/A	East - 7.4m	No/ unaltered
		N/A	West - 7.2m	Yes
B3 Side Boundary Envelope	4m	Within envelope	Within envelope	Yes
B5 Side Boundary Setbacks	West - 0.9m	1.5m	Ground floor extension - 1.5m	Yes
	East - 0.9m	3.3m	Ground floor extension - 3.3m	Yes
B7 Front Boundary Setbacks	6.5m	46m	40.4m	Yes
B9 Rear Boundary Setbacks	6m	8.1m	41.3m	Yes
D1 Landscaped Open Space and Bushland Setting	40%	38.5%	No change	N/A

Note: No physical works are proposed under this application. This table shows the approved built form.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes

## THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

## POLICY CONTROLS

### Northern Beaches Section 7.12 Contributions Plan 2022

Section 7.12 contributions were levied on the Development Application.

## CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2024/0233 for Modification of Development Consent DA2018/0697 granted for Demolition works and construction of a centre-based child care facility for a maximum of 146 children including an increase in capacity to 152 children on land at Lot 1 DP 1305286,727 Warringah Road, FORESTVILLE, Lot 2 DP 1305286,725 Warringah Road, FORESTVILLE, Lot 3 DP 1305286,723 Warringah Road, FORESTVILLE, subject to the conditions printed below:

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN#432519 - MOD2024/0233	The date of this notice of determination	Modification of Development Consent DA2018/0697 granted for demolition works and construction of a centre-based childcare facility for a maximum of 146 children.  Add Condition 1B Add Condition 39B Add condition 39C
MOD2021/0859	8 March 2022	Modification of Development Consent DA2018/0697 granted for demolition works and construction of a centre-based childcare facility for a maximum of 146 children.  Add Condition 1 A Modify Condition 3 Add condition 17A Add Condition 39A Add Condition 17B Add Condition 17C
MOD2020/0575	2 February 2021	Modification of Development Consent DA2018/0697 granted for demolition works and construction of a centre-based childcare facility for a maximum of 146 children.  Add Condition 1A Amend Condition 20

## Modified conditions

### A. Add Condition No.1B - Modification of Consent - Approved Plans and supporting

**documentation, to read as follows:**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

<b>Approved Plans</b>				
<b>Plan Number</b>	<b>Revision Number</b>	<b>Plan Title</b>	<b>Drawn By</b>	<b>Date of Plan</b>
2000	6	Proposed Ground Floor	Liquid Design	24/04/2024
2001	6	Proposed Level 1	Liquid Design	24/04/2024
2002	7	Proposed Level 2	Liquid Design	24/04/2024

<b>Approved Reports and Documentation</b>			
<b>Document Title</b>	<b>Version Number</b>	<b>Prepared By</b>	<b>Date of Document</b>
Acoustic Assessment of Proposed Increase	-	NG Child and Associates	26/04/2024
Traffic Engineering Assessment	-	TEF Consulting	2/05/2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

**B. Add Condition 39B - Signage and Linemarking - Internal to read as follows:**

A plan demonstrating appropriate signage and marking of 7 parking bays dedicated for staff use, 2 bays for accessible parking and 29 bays for visitors, with parking bay 22 to be signposted/marked for delivery vehicle parking between 11am and 2pm and visitor parking at other times. Details to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: to ensure availability of parking for carpark users.

**C. Add Condition 39C- Amended Plan of Management to read as follows:**

That the Plan of Management be amended to reflect that:

1. Deliveries are to occur only between the hours of 11am and 2pm or before and after childcare centre operating hours
2. Waste collection is only to occur before and after childcare centre operating hours

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: to ensure availability of parking and minimise congestion during drop off and pick up ho

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Thomas Prosser, Principal Planner**

The application is determined on 25/06/2024, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**