

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2023/0154
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Responsible Officer:	Nick England
Land to be developed (Address):	Lot 3 SP 96349, 1 / 50 Glen Street BELROSE NSW 2085 Lot CP SP 74152, 50 Glen Street BELROSE NSW 2085
Proposed Development:	Modification of Development Consent DA1994/0772 granted for a Child Care Centre (with attached residence) to accommodate 18 children
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	The Owners of Strata Plan 74152
Applicant:	Keeplan Pty Ltd

Application Lodged:	29/03/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	06/04/2023 to 20/04/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application is made pursuant to Section 4.55(1A) of the Environmental Planning & Assessment Act 1979 and seeks to modify the existing development 95/122 for "A Child Care Centre (with attached residence) to accommodate 18 children".

Specifically, the modification seeks to increase the number of approved children on the site from 18, to 20.

Condition No.27 of the existing consent states:

"The maximum number of children that are to be accommodated at the centre at any time shall not exceed 18."

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - C3 Parking Facilities

SITE DESCRIPTION

Property Description:	Lot 3 SP 96349 , 1 / 50 Glen Street BELROSE NSW 2085 Lot CP SP 74152 , 50 Glen Street BELROSE NSW 2085
Detailed Site Description:	The subject site consists of a Strata title allotment located on the northern side of Glen Street, Belrose. The site is regular in shape with an approximate area of 701m². The site is located within the R2 Low Density Residential zone of Warringah LEP 2011 and accommodates a two-storey building, which houses a child care centre on the ground floor and a dwelling on the first floor. The site has a northerly aspect with a gentle slope falling down towards the rear boundary of the site. The site has no significant vegetation or natural features. Adjoining and surrounding development is characterised by dwellings to the north and east. The Lionel Watts Sports and Community fields are to the south and the Glenrose Village shopping centre is to the west.

Map:



SITE HISTORY

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

95/122: Development consent granted for "A Child Care Centre (with attached residence) to accommodate 18 children" on 2 March 1995. Condition No.27 of the consent states:

"The maximum number of children that are to be accommodated at the centre at any time shall not exceed 18."

Condition No.28 of the consent states:

"The three open car spaces adjacent to the front property boundary shall remain open. No structures shall be permitted over these spaces."

This consent is the subject of the proposed modification.

131/2004: Strata (subdivision) certificate issued by Anthony Allen (certifier) on 23 September 2004. This created two (2) allotments, each for the child care centre and the attached dwelling.

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 DA1994/772 (development consent no 95/122), in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
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 proposed modification is of minimal environmental impact, and	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons: • the number of children to added to the existing approved number is relatively minor (10% increase); • the additional extent of impact to adjoining residential propoerties (by way of additional traffic generation, noise and waste management) will be very minor in the context of the existing approved use; and • the additional impact in context of other surrounding land uses (the adjoining sports fields, community centres and retail shopping centre) will be negligible.
(b) 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	The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under 95/122 for the following reasons: • the extent of the numerical increase on the existing provision (10%) is substantially the same; and • the actual increase in the number of children from 18 to 20, which is substantially the same as the approved development.

Section 4.55(1A) - Other Modifications	Comments
(c) 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	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(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.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) 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 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These equivalent matters have been addressed via a condition of the original consent. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional

Section 4.15 'Matters for Consideration'	Comments
	information was requested in this case. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. <u>Clauses 62</u> and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This equivalent matter has been addressed via a condition of the original consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental 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 development application has been publicly exhibited from 06/04/2023 to 20/04/2023 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Industrial)	General Comments The modified proposal seeks to alter the maximum number of children places for operation from eighteen (18) places to twenty (20). Recommendation SUPPORT - no conditions
Traffic Engineer	The modification seeks to increase the number of children at the centre from the current approved maximum of 18 children to a new capacity for 20 children. The existing development provides 5 offstreet parking spaces. Under the Warringah DCP child care centres are required to provide 1 parking space for each 4 children. i.e the proposed maximum of 20 children would require 5 parking spaces. The existing parking supply is therefore still adequate to meet DCP requirements and there are no traffic engineering concerns relating to the modification

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 modification to the approved capacity of existing 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 modification does not involve any significant design changes to the existing child care facility. As such, the development will remain a responsive, small scale childcare centre that fits within the low density residential context of the local area.

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:

Not applicable, as the proposed modification does not seek to alter the built form.

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 approved indoor and outdoor play areas are appropriately sized for the increased capacity of children.

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:

The approved design will remain unaltered by this proposal.

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:

Not applicable, as the proposed modification does not seek to alter the built form.

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 proposed modifications will result in only 20 children on site, in contrast to the approved 18. These factors will reasonably protect the amenity of the neighbouring properties.

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:

Not strictly applicable, as the proposed modification does not seek to alter the built form. Ongoing licensing requirements will enhance the safety of

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
3.1 Site selection and location		
C1 To ensure that appropriate zone considerations are assessed when selecting a site	For proposed developments in or adjacent to a residential zone, consider: - the acoustic and privacy impacts of the proposed development on the residential properties - the setbacks and siting of buildings within the residential context - traffic and parking impacts of the proposal on residential amenity.	Based on the very minor increase in the number of children on the site (2), there is unlikely to be adverse impacts on adjoining residences.
C2 To ensure that the site selected for a proposed child care facility is suitable	When selecting a site, ensure that: the location and	The existing approved use has operated on the site for a significant period of time

for the use

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| <p>surrounding uses are compatible with the proposed development or use</p> <ul style="list-style-type: none"> the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed the characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> size of street frontage, lot configuration, dimensions and overall size number of shared boundaries with residential properties the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use there are suitable drop off and pick up areas, and off and on street parking the type of adjoining road (for example classified, | <p>(approximately 27 years) without adverse incident. The proposed modification will result in a negligible change in the characteristics of the existing approved development. In this regard, the site is considered suitable for the proposed modification.</p> |
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	arterial, local road, cul-de-sac) is appropriate and safe for the proposed use it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.	
C3 To ensure that sites for child care facilities are appropriately located	A child care facility should be located: - near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship - near or within employment areas, town centres, business centres, shops - with access to public transport including rail, buses, ferries - in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.	As stated above, the existing operation is appropriately sited and no substantial change is proposed.
C4 To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazard	A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from proximity to: - heavy or hazardous industry, waste transfer depots or landfill sites - LPG tanks or service stations - water cooling and water warming systems - odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses	No change to the existing development is proposed in this regard.
3.2 Local character, streetscape and the public domain		

C5 To ensure that the child care facility is compatible with the local character and surrounding streetscape	The proposed development should: • contribute to the local area by being designed in character with the locality and existing streetscape • reflect the predominant form of surrounding land uses, particularly in low density residential areas • recognise predominant streetscape qualities, such as building form, scale, materials and colours • include design and architectural treatments that respond to and integrate with the existing streetscape • use landscaping to positively contribute to the streetscape and neighbouring amenity • integrate car parking into the building and site landscaping design in residential areas.	No change to the existing development is proposed in this regard.
C6, C7, C8 To ensure clear delineation between the child care facility and public spaces	Create a threshold with a clear transition between public and private realms, including: • fencing to ensure safety for children entering and leaving the facility • windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community • integrating existing and proposed landscaping with fencing.	No change to the existing development is proposed in this regard.
	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.	Not applicable to the subject site.
	Where development adjoins public	The site adjoins the Lionel

	parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions: • clearly defined street access, pedestrian paths and building entries • low fences and planting which delineate communal/ private open space from adjoining public open space • minimal use of blank walls and high fences.	Watts Sporting Centre to the south. No adverse impact is likely.
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.	Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.	No change to the existing development is proposed in this regard.
	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	Not applicable to the subject site.
3.3 Building orientation, envelope and design		
C11 To respond to the streetscape and site, while optimising solar access and opportunities for shade	Orient a development on a site and design the building layout to: • ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: - facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties - placing play equipment away from common boundaries with	Not applicable, as no works are proposed.

	residential properties - locating outdoor play areas away from residential dwellings and other sensitive uses • optimise solar access to internal and external play areas • avoid overshadowing of adjoining residential properties • minimise cut and fill • ensure buildings along the street frontage define the street by facing it • ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.	
C12 To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised	The following matters may be considered to minimise the impacts of the proposal on local character: • building height should be consistent with other buildings in the locality • building height should respond to the scale and character of the street • setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility • setbacks should provide adequate access for building maintenance • setbacks to the street should be consistent with the existing character.	Not applicable, as no works are proposed.
C13, C14 To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the	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	Not applicable, as no works are proposed.

immediate context	two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.	
	On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.	Not applicable, as no works are proposed.
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	The built form of the development should contribute to the character of the local area, including how it: • respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage • contributes to the identity of the place • retains and reinforces existing built form and vegetation where significant • considers heritage within the local neighbourhood including identified heritage items and conservation areas • responds to its natural environment including local landscape setting and climate • contributes to the identity of place.	Not applicable, as no works are proposed.
C16 To ensure that buildings are designed to create safe environments for all users	Entry to the facility should be limited to one secure point which is: • located to allow ease of access, particularly for pedestrians • directly accessible from the street where possible • directly visible from the street frontage • easily monitored through natural or camera surveillance • not accessed through an outdoor play area. • in a mixed-use development, clearly defined and separate from	Not applicable, as no works are proposed.

	entrances to other uses in the building.	
C17 To ensure that child care facilities are designed to be accessible by all potential users	Accessible design can be achieved by: • providing accessibility to and within the building in accordance with all relevant legislation • linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry • providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible • minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath. Note: 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.	Not applicable, as no works are proposed.
3.4 Landscaping		
C18, C19 To provide landscape design that contributes to the streetscape and amenity	Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by: • reflecting and reinforcing the local context • incorporating natural features of the site, such as	Not applicable, as no works are proposed.

	trees, rocky outcrops and vegetation communities into landscaping.	
	Incorporate car parking into the landscape design of the site by: - planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings - taking into account streetscape, local character and context when siting car parking areas within the front setback - using low level landscaping to soften and screen parking areas.	Not applicable, as no works are proposed.
3.5 Visual and acoustic privacy		
C20, C21 To protect the privacy and security of children attending the facility	Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.	No changes are proposed to the existing 1st floor dwelling that is above the existing ground floor child care centre.
	Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through: - appropriate site and building layout - suitably locating pathways, windows and doors - permanent screening and landscape design.	Not applicable, as no works are proposed.
C22 To minimise impacts on privacy of adjoining properties	Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through: - appropriate site and building layout - suitable location of pathways, windows and doors - landscape design and screening.	Not applicable, as no works are proposed.
C23, C24 To minimise the impact of child care facilities on the acoustic privacy of neighbouring	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	Not applicable, as no works are proposed.

residential developments	accommodation should: • provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence). • ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.	
	A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters: • identify an appropriate noise level for a child care facility located in residential and other zones • determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use • determine the appropriate height of any acoustic fence to enable the noise criteria to be met.	An acoustic report has been provided with this application,
3.6 Noise and air pollution		
C25, C26	Adopt design solutions to minimise the impacts of noise, such as: • creating physical separation between buildings and the noise source • orienting the facility perpendicular to the noise source and where possible buffered by other uses • using landscaping to reduce the perception of noise • limiting the number and size of openings facing noise sources	The acoustic report establishes that the increase in noise would be "imperceptible" and hence no design solutions are necessary.

	• using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) • using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits • locating cot rooms, sleeping areas and play areas away from external noise sources	
	An acoustic report should identify appropriate noise levels for sleeping areas and other non play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations: • on industrial zoned land • where the ANEF contour is between 20 and 25, consistent with AS 2021 - 2000 • along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007 • on a major or busy road • other land that is impacted by substantial external noise.	Not applicable to the subject site.
C27, C28 To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and industrial development	Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.	The existing location is not constrained by any adjoining sources of adverse impact.
	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. The air quality assessment report should evaluate design considerations	Not applicable to the proposed modification.

	to minimise air pollution such as: • creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution • using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway • incorporating ventilation design into the design of the facility.	
3.7 Hours of operation		
C29, C30 To minimise the impact of the child care facility on the amenity of neighbouring residential developments	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.	No change is proposed to the hours of operation.
	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.	Not applicable to the subject site.
3.8 Traffic, parking and pedestrian circulation		
C31, C32, C33 To provide parking that satisfies the needs of users and demand generated by the centre	Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land. Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates: Within 400 metres of a metropolitan train station:	A detailed discussion on the parking requirements that apply to the proposed modification under the Warringah DCP 2011 is provided elsewhere in this report.

	• 1 space per 10 children • 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space. In other areas: • 1 space per 4 children. A reduction in car parking rates may be considered where: • the proposal is an adaptive re-use of a heritage item • the site is in a B8 Metropolitan Zone or other high density business or residential zone • the site is in proximity to high frequency and well connected public transport • the site is co-located or in proximity to other uses where parking is appropriately provided (for example business centres, schools, public open space, car parks) • there is sufficient on street parking available at appropriate times within proximity of the site.	
	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.	Not relevant to the subject site.
	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:	A traffic and parking study was not provided, however the application was referred to Council's Traffic Engineer, who has no objection to the proposed development.

	- the amenity of the surrounding area will not be affected - there will be no impacts on the safe operation of the surrounding road network.	
C34, C35 To provide vehicle access from the street in a safe environment that does not disrupt traffic flows	Alternate vehicular access should be provided where child care facilities are on sites fronting: - a classified road - roads which carry freight traffic or transport dangerous goods or hazardous materials. The alternate access must have regard to: - the prevailing traffic conditions - pedestrian and vehicle safety including bicycle movements - the likely impact of the development on traffic.	No change to the existing access from Glen Street is proposed.
	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.	Not relevant to the subject site.
C36, C37, C38 To provide a safe and connected environment for pedestrians both on and around the site	The following design solutions may be incorporated into a development to help provide a safe pedestrian environment: - separate pedestrian access from the car park to the facility - defined pedestrian crossings included within large car parking areas - separate pedestrian and vehicle entries from the street for parents, children and visitors - pedestrian paths that enable two prams to pass each other - delivery and loading areas	Not applicable, as no works are proposed.

	located away from the main pedestrian access to the building and in clearly designated, separate facilities • in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas • vehicles can enter and leave the site in a forward direction.	
	Mixed use developments should include: • driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks • drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or maneuvering areas used by vehicles accessing other parts of the site • parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.	Not applicable, as no works are proposed.
	Car parking design should: • include a child safe fence to separate car parking areas from the building entrance and play areas • provide clearly marked	Not applicable, as no works are proposed.

	accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards include wheelchair and pram accessible parking.	
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APPLYING THE NATIONAL REGULATIONS TO DEVELOPMENT PROPOSALS

Regulation	Design Guidance	Comments
4.1 Indoor space requirements		
Regulation 107 Education and Care Services National Regulation Every child being educated and cared for within a facility must have a minimum of 3.25m² of unencumbered indoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP. Unencumbered indoor space excludes any of the following: - passageway or thoroughfare (including door swings) used for circulation - toilet and hygiene facilities - nappy changing area or area for preparing bottles - area permanently set aside for the use or storage of cots - area permanently set aside for storage - area or room for staff or administration - kitchens, unless the kitchen is designed to be used predominately by the children as part of an educational program e.g. a	The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child. Verandahs as indoor space For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space. Storage Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide: - a minimum of 0.3m³ per child of external storage space - a minimum of 0.2m³ per child of internal storage space. Storage does not need to be in a separate room or screened, and there should be a mixture of safe shelving and storage that children can access independently. Storage of items such as prams, bikes and scooters should be located adjacent to the building entrance. Where an external laundry service is used, storage and collection points for soiled items should be in an area with separate external access, away from children. This will prevent	At 20 children, at least 65m² of indoor space is required. 65.189m² is provided consistent with this requirement.

- learning kitchen - on-site laundry - other space that is not suitable for children. All unencumbered indoor spaces must be provided as a secure area for children. The design of these spaces should consider the safe supervision of children. When calculating indoor space requirements, the area required for any additional child may be waived when the child is being cared for in an emergency circumstance as set out in regulation 123(5) or the child is being educated or cared for in exceptional circumstances as set out in regulation 124(5) and (6) of the National Regulations. 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.	clothes being carried through public areas and reduce danger to children during drop off and collection of laundry.	
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	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	The centre includes a laundry.

and maintained in a way that does not pose a risk to children. Child care facilities must also comply with the requirements for laundry facilities that are contained in the National Construction Code.	accommodated. On site laundry On site laundry facilities should contain: • a washer or washers capable of dealing with the heavy requirements of the facility • a dryer • laundry sinks • adequate storage for soiled items prior to cleaning • an on site laundry cannot be calculated as usable unencumbered play space for children. External laundry service 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.	
4.3 Toilet and hygiene facilities		
Regulation 109 Education and Care Services National Regulation 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. Child care facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code.	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. Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants. Design considerations could include: • junior toilet pans, low level sinks and hand drying facilities for children • a sink and handwashing facilities in all bathrooms for adults • direct access from both activity rooms and outdoor play areas • windows into bathrooms and cubicles without doors to allow supervision by staff • external windows in locations that prevent observation from neighbouring properties or from side boundaries	Adequate toilet, washing and drying facilities are provided.
4.4 Ventilation and natural light		
Regulation 110	The proposed development includes indoor	No change to

Education and Care Services National Regulation

Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children.

Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the National Construction Code. Ceiling height requirements may be affected by the capacity of the facility.

spaces to be used by children that:

- **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.**

the existing approved development is proposed in this regard.

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.	
4.5 Administrative space		
Regulation 110 Education and Care Services National Regulation 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.	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. Design considerations could include closing doors for privacy and glass partitions to ensure supervision. 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. 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.	Administration areas are provided in the existing approved centre.
4.6 Nappy change facilities		
Regulation 112 Education and Care Services National Regulations 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. Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.	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. In circumstances where nappy change facilities must be provided, design considerations could include: - properly constructed nappy changing bench or benches - a bench type baby bath within one metre from the nappy change bench - the provision of hand cleansing facilities for adults in the immediate vicinity of the nappy change area - a space to store steps - positioning to enable supervision of the activity and play areas.	No change to the existing approved development is proposed in this regard.
4.7 Premises designed to facilitate supervision		
Regulation 115 Education and Care Services	The proposed development (including toilets and nappy change facilities) are designed in a	No change to the existing

National Regulations 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. Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the National Construction Code.	way that facilitates supervision of children at all times, having regard to the need to maintain the rights and dignity of the children. Design considerations should include: • solid walls in children's toilet cubicles (but no doors) to provide dignity whilst enabling supervision • locating windows into bathrooms or nappy change areas away from view of visitors to the facility, the public or neighbouring properties • avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children • avoiding multi-level rooms which compromise, or require additional staffing, to ensure proper supervision. If multilevel spaces are proposed, consideration should be given to providing areas that can be closed off and used only under supervision for controlled activities	approved development is proposed in this regard.
4.8 Emergency and evacuation procedures		
Regulations 97 and 168 Education and Care Services National Regulations Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including: • instructions for what must be done in the event of an emergency • an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit • a risk assessment to identify potential emergencies that are	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. Multi-storey buildings with proposed child care facilities above ground level may consider providing additional measures to protect staff and children. For example: • 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 • a safe haven or separate emergency area where children and staff can muster during the initial stages of a fire alert or other emergency. This would enable staff to account for all children prior to evacuation. An emergency and evaluation plan should be submitted with a DA and should consider:	No change to the existing approved development is proposed in this regard.

relevant to the service.	- the mobility of children and how this is to be accommodated during an evacuation - the location of a safe congregation/assembly point, away from the evacuated building, busy roads and other hazards, and away from evacuation points used by other occupants or tenants of the same building or of surrounding buildings - how children will be supervised during the evacuation and at the congregation/assembly point, relative to the capacity of the facility and governing child-to- staff ratios.	
4.9 Outdoor space requirements		
Regulation 108 Education and Care Services National Regulations An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m² of unencumbered outdoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP. Unencumbered outdoor space excludes any of the following: - pathway or thoroughfare, except where used by children as part of the education and care program - car parking area - storage shed or other storage area - laundry - other space that is not suitable for children. When calculating outdoor space requirements, the area required for any additional child may be waived when the child is being cared for in	The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child. 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. When new equipment or storage areas are added to existing services, the potential impact on unencumbered space calculations and service approvals must be considered. Verandahs as outdoor space Where a covered space such as a verandah is to be included in outdoor space it should: - be open on at least one third of its perimeter - have a clear height of 2.1 metres - have a wall height of less than 1.4 metres where a wall with an opening forms the perimeter - have adequate flooring and roofing - be designed to provide adequate protection from the elements Simulated outdoor environments Proponents should aim to provide the requisite amount of unencumbered outdoor space in all development applications. A service approval will only be granted in	240m² of outdoor space is provided, which is adequate for the proposed 20 children.

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 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. A verandah that is included within indoor space cannot be included when calculating outdoor space and vice versa.	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. Simulated outdoor space must be provided in addition to indoor space and cannot be counted twice when calculating areas. 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: • more access to natural light and ventilation than required for an internal space through large windows, glass doors and panels to enable views of trees, views of the sky and clouds and movement outside the facility • skylights to give a sense of the external climate • a combination of different floor types and textures, including wooden decking, pebbles, mounds, ridges, grass, bark and artificial grass, to mimic the uneven surfaces of an outdoor environment • sand pits and water play areas • furniture made of logs and stepping logs • dense indoor planting and green vegetated walls • climbing frames, walking and/or bike tracks • vegetable gardens and gardening tubs.	
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4.10 Natural Environment		
Regulation 113 Education and Care Services National Regulations The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.	The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment. 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. Shrubs and trees selected for the play space must	No change to the existing approved development is proposed in this regard.

	be safe for children. Avoid plant species that risk the health, safety and welfare of the facility's occupants, such as those which: • are known to be poisonous, produce toxins or have toxic leaves or berries • have seed pods or stone fruit, attract bees, have thorns, spikes or prickly foliage or drop branches The outdoor space should be designed to: • provide a variety of experiences that facilitate the development of cognitive and physical skills, provide opportunities for social interaction and appreciation of the natural environment • assist supervision and minimise opportunities for bullying and antisocial behaviour • enhance outdoor learning, socialisation and recreation by positioning outdoor urban furniture and play equipment in configurations that facilitate interaction.	
4.11 Shade		
Regulation 114 Education and Care Services National Regulations 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.	The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun. 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. Solar access Controlled exposure to daylight for limited periods is essential as sunlight provides vitamin D which promotes healthy muscles, bones and overall well-being. Outdoor play areas should be provided with controlled solar access throughout the year. Outdoor play areas should: • 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. • provide shade in the form of trees or	No change to the existing approved development is proposed in this regard.

built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area

- have evenly distributed shade structures over different activity spaces.

Natural shade

Natural shade should be a major element in outdoor play areas. Trees with dense foliage and wide-spreading canopies provide the best protection. Existing stands of trees, particularly in rear setbacks, should be retained to provide shaded play areas. Species that suit local soil and climatic conditions and the character of the environment are recommended.

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:

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

Built shade structures

Built structures providing effective shade include:

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

Shade structures should not create safety hazards. Support systems such as upright posts should be clearly visible with rounded edges or padding. Vertical barriers at the sides of shade structures should be designed to prevent children using them for climbing. Shade structures should

	allow adults to view and access the children's play areas, with a recommended head clearance of 2.1 metres. The floor area underneath the structure should be of a sufficient size and shape to allow children to gather or play actively.	
4.12 Fencing		
Regulation 104 Education and Care Services National Regulations Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including a family day care venue where all children are over preschool age. Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the National Construction Code	Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. Fencing at child care facilities must provide a secure, safe environment for children and minimise access to dangerous areas. Fencing also needs to positively contribute to the visual amenity of the streetscape and surrounding area. In general, fencing around outdoor spaces should: • prevent children climbing over, under or through fences • prevent people outside the facility from gaining access by climbing over, under or through the fence • not create a sense of enclosure. Design considerations for side and rear boundary fences could include: • being made from solid prefinished metal, timber or masonry • having a minimum height of 1.8 metres • having no rails or elements for climbing higher than 150mm from the ground. 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.	No change to the existing approved development is proposed in this regard.
4.13 Soil Assessment		
Regulation 25	To ensure consistency between the development	Not relevant

Education and Care Services National Regulations 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. With every service application one of the following is required: • a soil assessment for the site of the proposed education and care service premises • 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 • 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	consent and the service approval application, a soil assessment should be undertaken as part of the development application process. 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: • the application is to alter or extend the premises • the alteration or extension requires earthworks or deep excavations (exceeding a depth of one metre) • 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 • a soil assessment has not been undertaken at the children's service. 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. An assessment of soil for a children's service approval application may require three levels of investigation: • Stage 1 - Preliminary investigation (with or without soil sampling) • Stage 2 - Detailed site investigation • Stage 3 - Site specific human health risk assessment.	to the proposal, as no works are proposed.
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SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential / commercial (child care centre) purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential / commercial (child care centre) land use.

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
5.21 Flood planning	Yes

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

C3 Parking Facilities

Merit consideration

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

- To provide adequate off street carparking.

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Child Care Centre	1 space for every 4 children,	0.5 (1) car	Nil	1 car space

	having regard to the maximum number of children authorised to be cared for at any particular time. 2 additional children are proposed			
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There are approximately three (3) car spaces on the subject site, two (2) for the use of the child care centre on the ground floor and one (1) for the use of the attached dwelling on the 1st floor. The proposed modification will in effect require the provision of one (1) additional car space on the site, however no additional car space has been provided. The application was referred to the Traffic Engineer for comment, who has advised that the existing provision of parking on the site will be adequate to meet the needs of the proposed modification. Hence, the proposal can meet this objective.

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

Comment: Not applicable to the proposed development.

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

Comment: Not applicable to the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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. Mod2023/0154 for Modification of Development Consent DA1994/0772 granted for a Child Care Centre (with attached residence) to accommodate 18 children on land at Lot 3 SP 96349,1 / 50 Glen Street, BELROSE, Lot CP SP 74152,50 Glen Street, BELROSE, subject to the conditions printed below:

A. Modify Condition 27 to read as follows:

The maximum number of children that are to be accommodated at the centre at any time shall not exceed 20.

Reason: To ensure a reasonable level of amenity for the surrounding area.

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

Signed



Nick England, Planner

The application is determined on 09/05/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments