



Hawkesbury City Council

hawkesbury
local
planning
panel
meeting
business
paper

date of meeting: 15 April 2021
location: audio-visual link
time: 9:30 a.m.

HAWKESBURY LOCAL PLANNING PANEL MEETING

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SECTION 2 – Reports for Determination

Item: 001 **CP - DA0233/20 - Lot 17 DP 255010 Vol 13443 Fol 141, 6 Keda Circuit
NORTH RICHMOND NSW 2754-(141707, 144588, 95498)**

Directorate: **City Planning**

DEVELOPMENT INFORMATION

Application Number: DA0233/20

Date Received: 5/08/2020

Proposal Details: Centre Based Child Care Facility - Demolition of Existing Structures, Construction of a 58 Place Centre-Based Child Care Facility, Outdoor Play Areas, Basement Car Parking and Landscaping

Estimated Cost: 1,800,000.00

Legal Description: Lot 17 DP 255010 Vol 13443 Fol 141

Property Address: 6 Keda Circuit NORTH RICHMOND NSW 2754

Area: 1005.00 Square Metres

Zoning: R3 Medium Density Residential under *Hawkesbury Local Environmental Plan 2012*.

Applicant: Baini Design

Owner: Keda Property Investments Pty Limited

Exhibition Dates: 3/09/2020 – 17/09/2020
22/10/2021 – 5/11/2021
20/01/2021 - 3/02/2021

Submissions: 66

Key Issues: ♦ Compliance of the development with childcare regulations
♦ Acoustic impact
♦ Constraints of the proposed plan of management
♦ Suitability of the site for the development
♦

Recommendation: Refusal

EXECUTIVE SUMMARY:

Reason for Consideration by Local Planning Panel

- Contentious Development – The application has received **66** unique submissions by way of objection.

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Proposal

The application seeks approval for the demolition of an existing dwelling and construction of a 58 place centre-based child care facility, outdoor play areas, basement car parking for 20 vehicles, construction of acoustic barriers, landscaping and removal of one tree located in Council reserve.

Permissibility

The site is zoned R3 Medium Density Residential under Hawkesbury Local Environmental Plan 2012 under which a centre-based child care facility is permissible with consent. Under Hawkesbury Local Environmental plan 2012 (LEP 2012) the definition of centre-based child care facility is:

centre-based child care facility means—

(a) a building or place used for the education and care of children that provides any one or more of the following—

- (i) long day care,
- (ii) occasional child care,
- (iii) out-of-school-hours care (including vacation care),
- (iv) preschool care, or

(b) an approved family day care venue (within the meaning of the [Children \(Education and Care Services\) National Law \(NSW\)](#)),

Note—

An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the [Children \(Education and Care Services\) National Law \(NSW\)](#)) is provided.

but does not include—

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the [Children \(Education and Care Services\) National Law \(NSW\)](#)), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

Accordingly, the construction of a centre-based child care facility is permissible with consent.

Consultation

The application was notified three times, for a period of 14 days during each time, in accordance with Council's DCP 2002. The reasons for the notifications are outlined later. As a result of this notification an overall amount of 66 unique submissions were received. It is noted that Council has received 65 submissions during the first notification, 13 submissions during second notification and 19 submissions during third notification.

It is noted that during the second notification only one submission came from a new objector, the remaining 12 objectors responded during the first notification as well.

During the third notification, all 19 objectors also responded to the first notification as well. No new objections were received.

Key Issues

The key issues of the development application are:

- Compliance of the development with childcare regulations
- Whether acoustic impact of the development is reasonable
- Constraints of the proposed plan of management
- Suitability of the site for the development

Recommendation

It is recommended that DA0233/20 be refused.

REPORT:

Detailed Description of Proposal

The original development application included the following components:

- Demolition of existing structures
- Removal of one tree located in Council verge in front of the site
- Construction of a two storey childcare centre comprising 78 child places with basement car parking for 20 vehicles
- Ground floor - Use of three indoor playrooms at ground level for eight children (0-2 years of age), 20 children (2-3 years of age) and 30 children (3-4 years of age), and outdoor play areas for 58 children.
- First level - Use of two indoor play rooms for 20 children (4-5 years of age) and the first level terrace area as outdoor play area
- Installation of acoustic fencing

Amended plans were submitted reducing the number of child places from 78 to 58. The first floor indoor playrooms for 20 child places and terrace outdoor play area were excluded from the proposal. The amended proposal is subject to this assessment.

Therefore, the construction of a two-storey child care centre accommodating a maximum of 58 children is proposed with the amended application. The amended plans prepared in support of the application indicates the following break-down of child numbers:

- 0-2 Years: 8 children;
- 2-3 Years: 20 children;
- 3-5 Years: 30 children.

Operating hours of 7:00am to 6:00pm Monday to Friday are proposed for the child care centre.

Educator numbers are proposed as per the following;

- 0-2 Years: 2 educators;
- 2-3 Years: 4 educators;
- 3-5 Years: 3 educators.

The proposed ground floor of the building is to consist of a foyer, reception, three playrooms, one cot room, two toilets with a nappy change facility, one accessible toilet and a storeroom. The first floor of the building has a foyer, lift, stairwell, one office/meeting room, one staff room, kitchen, toilet, and laundry. The roof terrace area will not be made accessible. The child care centre building is to be constructed of brickwork, with rendered elements to the facade. A lift and stairwell are to be installed to provide access between the two levels of the building and the basement.

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Vehicular access and the entrance to the child care centre is to be provided from Keda Circuit. Vehicle access to the child care centre is proposed via a double width vehicle crossover, driveway and graded ramp to the basement level, located towards the western portion of the site via Keda Circuit. A total of 20 car spaces, including one accessible space, is to be provided at the basement level. The submitted basement plan indicates that 8 car spaces are allocated for staff use and 12 car spaces including one accessible space are allocated for the purpose of drop-off and pick-up of children. In addition to the car spaces the basement level also include one lift core, stairwell, garbage bin storage area, comms room and general storage area.

Direct pedestrian access to the site is via a pedestrian pathway from Keda Circuit, including ramps that provides access to the primary entry point to the proposed child care facility.

It is proposed to install; 2.2m high with 45° angle, 1.8m high and 1.2m high solid acoustic barriers along the north eastern, south eastern and south western boundaries. No signage is proposed as part of the application.

Figure 1, 2, 3 and 4 shows the proposed development.

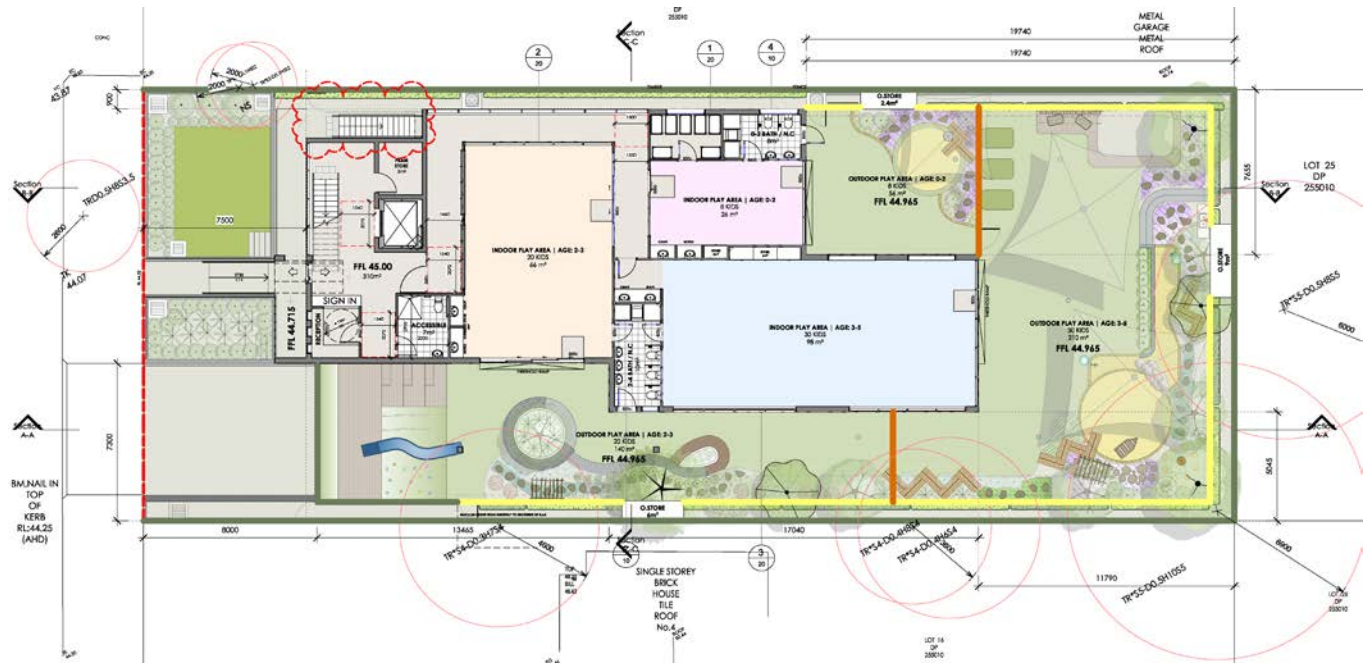


Figure 1: Ground floor of the proposed childcare centre

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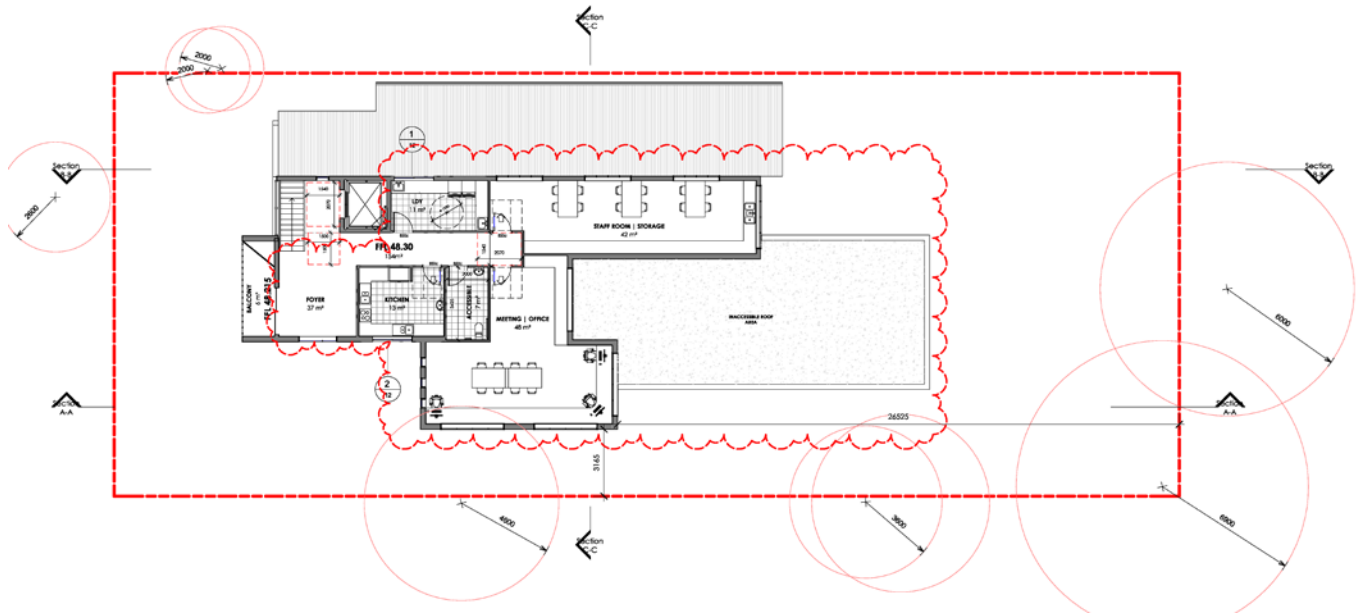
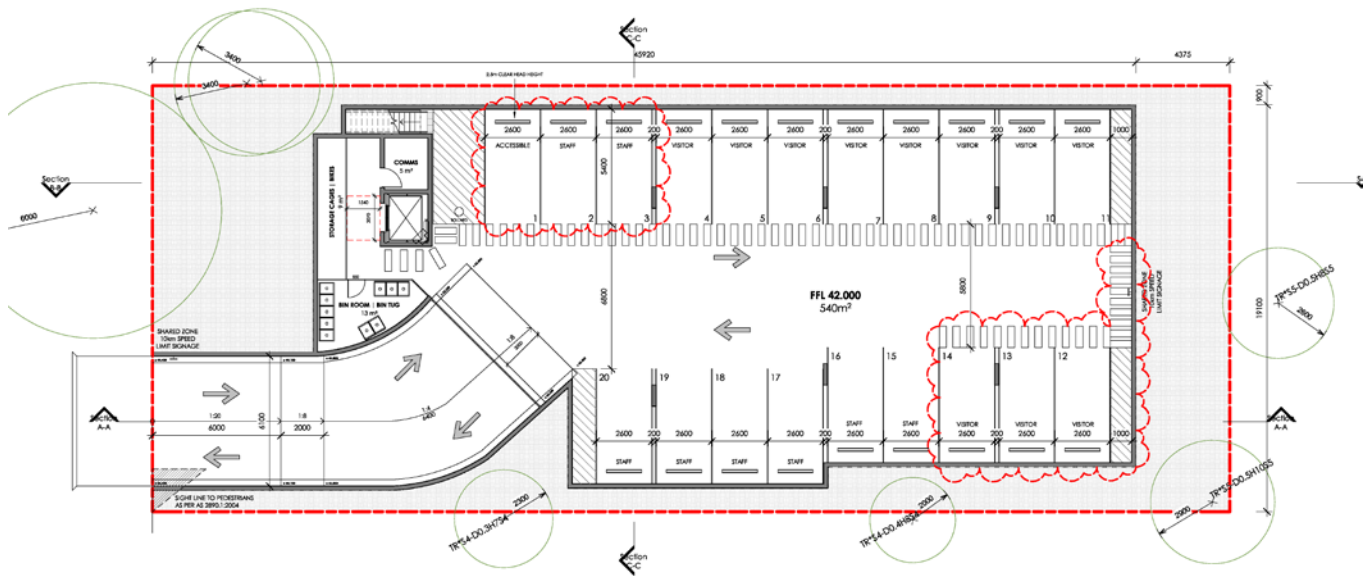


Figure 2: First floor of the proposed childcare centre



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Figure 3: Basement level of the proposed childcare centre



Figure 4: Front elevation of the proposed childcare centre

The application is supported by the following;

- Statement of Environmental Effects, prepared by Think Planners and dated 10 July 2020
- Noise Impact Assessment, prepared by Rodney Stevens Acoustic Pty Ltd and dated 26 November 2020
- Traffic & Parking Impact Assessment, prepared by Hemanote Consultants Pty Ltd and dated July 2020
- Addendum Traffic & Parking Statement, prepared by Hemanote Consultants Pty Ltd and dated 10 December 2020 and 17 September 2020
- Access Report, prepared by Vista Access Architects and dated 1 December 2020
- Preliminary Site Investigation prepared by Geotechnical Consultants Australia and dated 3 June 2020
- Preliminary Acid Sulphate Soils Investigation Report, prepared by Geotechnical Consultants Australia and dated 14 December 2020
- Arboricultural Impact Assessment and Tree Management Plan, prepared by Horticultural Management services and dated 6 October 2020
- Daily Routines of 0-2 years old, 2-3 years old and 3-6 years old
- Waste Management Plan

Site Description

The subject site is known as 6 Keda Circuit North Richmond (Lot 17 DP 255010). The site is a regular shaped mid-block allotment and relatively flat having approximately 0.5m fall from the south to the north of the site.

The subject site has the following area and dimensions:

Area - 1005.00 Square Metres

Frontage and rear boundary – 20 metres

North eastern and South western boundary – 50.295 metres

The site is zoned R3 Medium Density Residential. The surrounding properties are also zoned R3 Medium density Residential.

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The subject site currently accommodates a single storey dwelling, attached double carport and detached small outbuilding. The site is located within an established residential area bounded by Keda Circuit. The location of the site is at the middle end part of the suburb in close proximity to the Hawkesbury River and natural reserve.

Keda Circuit is a loop road which joins with Matheson Avenue. It is a quiet local street with no through traffic and minimal vehicle movements. The one and only access route from Grose Vale road to the development site is via Sunnyside Crescent.

The built form character around Keda Circuit is dominated by older style single storey dwellings interspersed by two storey dwellings.

Previous Application History

B0211/81 The erection of a dwelling

DA0579/18 Multi dwelling housing and strata subdivision – demolition of existing structures and construction of multi dwelling housing consisting of four units, car parking, manoeuvring, landscaped area and four lot strata subdivision (approved on 2 December 2019)

PD0015/20 Child care centre

Pre-DA Lodgement PD0015/20

A pre-DA meeting was requested by the applicant to review the concept plans for a proposed child care centre for 78 child places. No face to face or virtual meeting was conducted with the Council Officers as the applicant requested to have an advice letter only. An advice letter dated 8 April 2020 based on the review of the concept plans as submitted was provided to the applicant. The following is a summary of issues identified within the pre-lodgement advice letter.

- A detailed assessment of the proposal against the provisions of the Educational Establishments and Child Care Facilities SEPP, Child Care Planning Guideline 2017 and relevant sections of the Education and Care Services National Regulations and the Children (Education and Care Services) Supplementary Provisions Regulation 2012 must be provided.
- The proposed development shall outline compliance with section 25(2) of the Educational Establishments and Child Care Facilities SEPP's non-discretionary development standards with respect to location, indoor and outdoor space, site area and dimensions, and the colours of the building.
- The design of the building shall fit comfortably with other development within an established residential area. The building shall comply with the front setback and building height plane requirements of the residential chapter of the DCP.
- The internal floor plan shall be revised to provide passive surveillance to the street as a safety measure and connection between the facility and the community as per section 3.2 of the Child Care Planning Guideline 2017.
- Outdoor play area as proposed on the first floor is not supported due to potential acoustic, privacy and overlooking issues to the neighbouring residential properties.
- Concern was raised about the availability to adequate solar access to the two internal play rooms located to the south western part of the site and the entire outdoor play area on the southern part of the site.
- Side setback should be increased to minimise amenity impact including acoustic and privacy.
- The proposed fencing (including high acoustic fencing) shall take into consideration the context of the immediate locality and impact of solar accessibility to the internal playrooms at the ground floor and any overshadowing impact on the adjoining properties.
- A plan of management is to be provided outlining operational details is consistent with any recommendations of the acoustic report.
- An acoustic report is to be provided demonstrating the cumulative impact of noise from all proposed activities on nearby residential properties in compliance with NSW Industrial Noise Policy.

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- A Traffic and Parking report must be provided demonstrating pick up and drop-off arrangements, staff parking areas, location and design of the vehicular crossings, car park design and safety, and the performance and function of Keda Circuit.
- The basement car parking area incorporating a long blind aisle was not supported as it has not provided a safe and functional design.
- No suitable standing areas or turning bays were provided in the basement parking to allow for vehicles to queue should it be required in peak time.
- An Accessibility Report is to be provided in compliance with BCA and Disability (Access to Premises – Buildings) Standards 2010.
- The proposed location of the garbage collection area in the basement is not considered functional.
- Arboricultural assessment is to be provided to determine the potential impacts of the proposal on existing trees on the land, on Council reserve, and on neighbouring properties.
- A detailed landscape plan is to be provided.
- The past history of the land shall be detailed to establish the contamination status of the land.
- The extent and area of any earthworks to be clearly detailed on the plan including any existing and proposed retaining walls.
- A Stormwater Drainage Plan is to be submitted in accordance with Council's DCP.

Background and History

- 5/08/2020 Development Application was lodged.
- 18/08/2020 Application was placed on public exhibition from 21/08/2020 to 4/09/2020. Neighbour notification letters were sent to nine adjoining properties.
- 27/08/2020 Due to a large number of enquiries from the locality the application was again placed on public exhibition from 3/09/2020 to 17/09/2020. Neighbour notification letters were sent to a wider range of properties covering 27 properties in the immediate locality. Council received 65 submissions.
- 31/08/2020 Initial review letter was sent to the applicant requesting to address the following;
- a) *Car parking and access:*
- Need to consider the short-term nature of vehicle parking
 - Basement car parking with blind aisle access arrangement and potential for vehicle conflict having regard to vehicle manoeuvring is considered unsatisfactory.
 - Does not provide parking in a convenient location that is visible from the adjacent roadways.
 - Shared pedestrian pathway along the centre of the access driveway is considered unsatisfactory.
- b) *Architectural plans* need to demonstrate compliance with relevant development controls
- c) *Acoustic Barrier Walls, Fences and Landscape Plan:*
- Proposed acoustic barrier fence and landscape concept plans are considered significantly compromised having regard to viability and ongoing maintenance purpose.
 - Dense vegetation is proposed between the 900mm area of 1.8m high boundary fence and 2.4m high acoustic fence which is unable to be maintained in the long term due to lack of accessibility.
 - The screening to the upper outdoor play areas, located at the outer edge of the building being on the outside of the acoustic barrier walls will be unable to be maintained.

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- d) *Building Height Plane – non compliance*: the current design will have an unacceptable impact having regard to bulk and scale and the variation sought will not be supported. Given the development is located within a residential area Hawkesbury DCP building height plane requirements will apply.
- e) *Arborist report*: the site contains a number of trees that are proposed to be removed. Trees are also located in close proximity to the proposed building footprint/access driveway. An arborist report is to be provided.
- f) A detailed *landscape plan* to be provided.

22/09/2020

The applicant requested an extension of time to provide the requested information which was granted till 9 October 2020.

9 October 2020

The applicant submitted an amended design and additional supporting information in response to the initial review letter issued by Council which included the following;

- Revised architectural plans
- Revised stormwater plans
- Revised landscaping plans
- Traffic statement
- Revised access report
- Revised acoustic assessment
- Arborist report

The applicant responded that;

- The first level of the building was redesigned to comply with the building height plane requirement.
- A separate statement prepared by Hemanote Consultants justified that the provision of 11 visitor car spaces is capable of accommodating the drop-off and pick-up of up to 66 children per hour during the morning and afternoon peak periods given that it usually takes 7 minutes per child. The allocated car spaces for visitors will be line marked and sign posted. The applicant further justified, *'It should also be noted that Clause 36 of the Child Care Planning Guidelines does not state that a pedestrian footpath 'should' be separated from parking area, but rather states that it 'may' be incorporated into a development to help provide a safe pedestrian environment. The provision of pedestrian markings within traffic aisles has been previously approved and implemented in existing car parks for developments that even have mixed uses, such as within the existing car park for the Hills Council, located at 3 Columbia Court, Norwest, which is shared with parking for the existing 'Young Scholars' childcare centre.'*
- It is proposed to provide for a climbing species in between the acoustic barrier and boundary fencing for easy maintenance purpose. The landscape planters on the first floor will be maintained via a ladder from the ground floor and a drip irrigation system will be provided.

16/10/2020

The amended design of the proposed development was placed on public exhibition from 22/10/2020 to 5/11/2020. Council received 13 submissions. It is noted that one new objector submitted a submission during the second notification, the other 12 objectors responded to the first notification as well.

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11/11/2020

A detailed assessment letter was sent to the applicant requesting to address the following issues;

a) Context & setting and built form:

- The bulk and scale of the proposed two storey child care facility with basement car parking is inconsistent with the existing and desired residential character of the locality. The site is not considered suitable for this scale and design of the development.
- The commercial nature of the development, basement car parking, outdoor play area at first floor level, high acoustic fence around the property do not fit with the existing low scale residential character of the locality.

b) Acoustic Impact – recommendation of noise impact assessment report

- Only 50% of children will be permitted to play outside – one hour in the morning and one hour in the afternoon which is not considered reasonable or practical.
- The number of children should be reconsidered.
- It is recommended to close all windows for indoor play rooms when they are in use. This will have an adverse impact on natural ventilation.
- The report demonstrated noise levels of around 1dB(A) above the noise criteria which is a non-compliance.
- The report did not take into consideration the potential noise generation for the special events usually organised by the centre.
- No assessment of the cumulative impact of all noise sources occurring at the same time – both outdoor spaces operating in combination with mechanical plants and vehicles arriving/departing.

c) Traffic, access and parking

- The submitted traffic report was not supported due to lack of information to address the parking facilities for the development and traffic impact on the road network within the locality.
- The proposed basement parking will unlikely provide convenient parking that is visible from the roadway and parents will likely park on street during peak periods. The proposed basement car parking is not supported.
- The traffic report did not consider the traffic impact at the Grose Vale Road/Sunnyside Crescent intersection due to the additional traffic generated by this development.
- The traffic report did not consider the cumulative impact of traffic generation caused by other child care centres, multi dwelling housing at Sunnyside Crescent and Richmond North public school.
- The traffic report did not take into consideration to additional traffic generation by special events organised by the centre.
- Car space no.s 1, 2 and 3 are considered to be non-functional. The basement parking layout did not provide safe parents/carers access while utilising visitor car spaces.
- entry/exit swept path analysis to be provided for car space no.s 11 and 12.

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- d) Overshadowing
- The building design is against the Child Care Planning guidelines which requires to optimise solar access to internal and external play areas
 - Two indoor play rooms and one outdoor play area at the ground floor are located at the south western side and will be under shadow for most of the daytime during winter.
- e) Visual impact:
- No visual assessment has been undertaken for the proposed bulk and scale of the development including the first floor outdoor play area, 1.6m high acoustic wall around the first floor outdoor play area, 2.4m high acoustic wall around the property, shale shade structures and planter boxes on the northern elevation.
 - Cumulatively all these elements further accentuate the bulk and scale of the built form.
- f) Operation plan:
- No Plan of management has been provided.
- g) Emergency and evacuation plan:
- The submitted evacuation plan does not provide details how it complies with Child Care Planning Guideline section 4.8.
- h) Landscaping
- Submitted architectural plan and landscaping plan are inconsistent to each other.
 - Details of materials, colours and finishes of the fence have not been provided
 - Details of planter boxes have not been provided
- i) Proposed tree removal:
- The submitted arboricultural impact assessment and tree management plan, demolition plan and landscaping plan do not correspond with each other with regards to the exact number of trees to be removed.
- j) Acid Sulfate Soil assessment
- Should the basement car parking arrangement still be pursued, an Acid Sulfate Soil assessment report is to be submitted.
- k) Kitchen layout:
- Further details are to be provided clarifying that the food will be prepared and cooked on the premises and served to the children.
 - Details of hand wash basin, mechanical ventilation and refrigeration to be provided.

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- l) Waste management plan:
- Waste management plan describes incorrect children number and location of bin area
 - The garbage collection area in the basement level is not considered functional.
- m) Submissions:
- Applicant was requested to respond to the matters raised in 65 submissions.
- n) Determining authority: During As the proposal
- Applicant was advised that the application will be determined by Local Planning Panel due to the number of submissions received being more than 10.

7/12/2020 The applicant requested an extension of time to provide the requested information which was granted till 18 December 2020.

18/12/2020 The applicant submitted an amended design and additional supporting information in response to the detailed letter issued by Council which included a request for the following information;

- Revised architectural plans
- Revised arboricultural impact assessment and tree management plan
- Revised Access Report
- Addendum traffic & parking statement
- Revised waste management plan
- Daily routines
- Revised stormwater plan
- Preliminary acid sulphate soil assessment report
- Revised acoustic report

The applicant responded to the issues raised by Council as below;

- a) Context, setting and built form: *The bulk and scale of the development has been significantly reduced and adhered to a more traditional scheme, adopting pitched roof structures and further setbacks to the first floor. This in turn has resulted in the modification of children number.*
- b) Acoustic impact: *Acoustic measures have been adjusted to suit the reduction in kids. The engineers have accounted for special events and cumulative noise impacts from all sources. Engineers to provide solutions for silence air to natural ventilation.*
- c) Traffic: *Additional counts were made and the report was updated accordingly with minor architectural changes.*
- d) Overshadowing/visual impact: *the bulk and scale of the development has been significantly reduced and adhered to a more traditional scheme, adopting pitched roof structures and further setbacks to the first floor. Acoustic barriers on first floor as well as shade sails being removed alleviates this point.*
- e) Operational management plan: *included*
- f) Emergency evacuation plan: *included*
- g) Landscaping: *landscaping amended as per RFI*
- h) Architecturals amended to suit arboricultural Impact Assessment and Tree Management Plan
- i) Acid sulfate assessment: *submitted*

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- j) Kitchen layout: amended as per RFI
- k) Waste management plan: amended as per RFI

It is noted that no updated landscaping plan was submitted to Council and no written responses have been provided to the submissions received during notification.

13/01/2021 The amended design was placed in public exhibition from 20/01/2021 to 3/02/2021. Council received 19 submissions. It is noted that all these 19 objectors responded to the first notification as well.

Submissions

The application was notified three times, firstly between 3/09/2020 and 17/09/2020, secondly between 22/10/2020 and 5/11/2020, and thirdly between 20/01/2021 and 3/02/2021, in accordance with chapter three of the Hawkesbury Development Control Plan 2002 (HDCCP), Notification of Development Applications.

It is noted that Council received 65 submissions during the first notification, 13 submissions during the second notification and 19 submissions during the third notification.

The application was originally notified between 3/09/2020 and 17/09/2020 proposing demolition of the existing structures and construction of 78 child places child care centre with basement car parking for 20 vehicles. 65 unique submissions were received in response to the proposal and are considered under the public submission section of this report below. It is noted that two submissions were received from one household with exactly the same wording. These two submissions have been considered as one unique submission.

Following the initial review of the application an initial review letter was sent to the applicant requesting to address a number of issues in relation to car parking and access, architectural plans, acoustic barrier, building height plane, arborist report and detailed landscaped plan. On 9 October 2020 the applicant chose to amend the design to address the initial review letter. Subsequently the application was re-notified between 22/10/2020 and 5/11/2020 in accordance with the DCP. Council received 13 submissions in response to the re-notified proposal. It is noted that two submissions were received from one household with exactly the same wording. These two submissions have been considered as one unique submission. It is also noted that one new objector submitted his submission during the second notification, the other 12 objectors responded to the first notification as well.

Following the submission of the amended design, a detailed assessment of the proposal has been undertaken and number of issues were identified as non-compliant which have been listed in the section above in this report. A detailed assessment letter was sent to the applicant requesting to address those issues. On 18 December 2021 the applicant chose to submit an amended design which reduced the number of the children by 20 places and excluded the first level indoor play rooms and outdoor play area. Subsequently the application was re-notified between 20/01/2021 and 3/02/2021 in accordance with the DCP. Council received 19 submissions in response to the re-notified proposal. It is noted that all these 19 objectors responded to the first notification as well.

Overall 66 unique submissions by way of objections have been received and the issues identified are outlined in the matters for consideration under Section 4.15.

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Consultation

Internal Consultation	
Building Surveyor	Council's Building coordinator raised no objections to the proposed development.
Development Engineer	<p>The following comments were made by Council's Development Engineer;</p> <ul style="list-style-type: none">- The proposal complies with required car parking rate,- The proposed stormwater drainage concept design is satisfactory,- The basement car parking does not provide a dedicated turning bay to allow vehicles to enter and exit in a forward direction in the case that all spaces are occupied.- The proposed parking design has not specified a designated loading and unloading area.- No details have been submitted how the car parking area would be managed to avoid queuing which may adversely affect vehicles travelling on local road network. No dedicated standing bay or turning bay is provided.- The application does not provide a report prepared by an appropriately qualified and practising structural engineer certifying the structural adequacy of structures on neighbouring lot No.s 8 Keda Circuit and 4 Keda Circuit to withstand the proposed excavation required for the development. This can be conditioned, were the application to be supported.- The current traffic congestion situation at the intersection of Sunnyside Crescent and Grose Vale Road has been discussed with Council's Infrastructure Section. It was advised that a new roundabout is due to be constructed at that location in a few months' time which will likely resolve the current congestion.
Environmental Health Officer	<p>The following comments were made by Council's Environmental Health Officer;</p> <ul style="list-style-type: none">- It is considered that Association of Australasian Acoustic Consultants Guideline for Child Care Centre Acoustic Assessment, version 3.0, September 2020, is the appropriate standard for the assessment of any acoustic impacts arising from the development.- The submitted Noise Impact Assessment report, dated 26 November 2020 and prepared by Rodney Stevens Acoustic, quotes the version 3 document on page 9, but it is considered that the criteria for noise from child's play has been calculated differently on page 10.- On page 5 of the AAAC guideline, it talks about Base Criteria – <i>'with the development of child care centres in residential areas, the background level within these areas can at certain times, be low. Thus, a base criterion of a contributed $L_{eq,15min}$ 45 dB(A) for the assessment of outdoor play is recommended in locations where the background level is less than 40 dB(A).'</i>

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Internal Consultation

- The base criterion is considered the correct criterion to apply as the child care centre is in a residential area and the noise report shows that background noise levels of 36,32 and 30 dB(A) LA90 were measured in the day, evening and night. Therefore, the noise criteria of 45dB(A) should be applied to the proposed premises.
 - Looking at Table 5.4 on page 13 of the Noise Impact Assessment Report the predicted outdoor play levels of 47, 46 and 47 at residential receiver R2, R3 and R4 do not comply with this new criterion (which is recommended by the AAAC).
 - EHO considers that the carpark will be used at night time. As the centre operates at 7am, it is considered likely that the carpark will be used before 7am, which is considered to be night time on all days of the week. In the night time, a criteria of 35dB(A) should be used. The predicted car park activity noise at neighbouring residential premises will comply with the criteria.
 - The proposed child care centre plans to cater for up to 58 children between the ages of 0 -5 years of age. The number of children and their age groups are as follows:
 - 0-2 years old – 8 children
 - 2-3 years old – 20 children
 - 3-5 years old – 30 children
- However, four children between the ages of 0 and 2 with total sound power level of 76 dB(A), 10 children between the ages of 2 and 3 with total sound power level of 87dB(A) and 15 children between the ages of 3 and 5 with total sound power level of 92 dB(A) will be playing in the proposed outdoor play areas' which have been modelled.
- The Plan of Management (daily routines) shows that 2-3 YO's and 3-5YO's will be playing together in groups in the afternoon. That's a cohort of 50 children to play within a two hour window. It is also likely that children will play with other children in their own age bracket. It is highly possible that the noise will exceed the noise that has been modelled.
 - Council is unaware of what the proposal is for the outdoor play area. The noise reports give a different scenario to the Plan of Management (Daily routines).
 - The Preliminary ASS report as submitted shows that potential ASS and Acid Sulfate Soils do not exist at the site despite proximity to the river. This has been ascertained through the sampling of four holes. Despite the conclusions of the report, some recommendations are within part 4.4 of the report, and should be considered within any consent issued.
 - The Preliminary Site Investigation Report concludes that the site is suitable for the proposed development. this is what we would expect from a residential property that is surrounded by residential development.

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Internal Consultation

Parks Officer

The following comments were made by Council's Parks Officer;

- The submitted Arboricultural Impact Assessment recommends the retention of one individual tree on the subject site, six individual trees on the adjoining allotments, and one individual street tree along the Keda Circuit verge. The assessment also recommends the removal of one individual street tree located along the Keda Circuit verge.
- The location of the new driveway, crossover and basement ramp excavation will necessitate the removal of one high retention value Council street tree (Tree 1- Brush Box) which will result in a high level of impact to the landscape and streetscape character. This tree was observed to be significant within the landscape and streetscape and a priority for retention however no consideration has been given to minimising impacts to this tree. Removal to facilitate widening the driveway crossover is not supported given the negative visual impacts to be sustained and loss of canopy cover within the street verge.
- The proposed perimeter walling associated with the OSD basin will result in a major and unsustainable impact on the neighbouring trees (identified at Trees 3 & 4 within the arborist report). The proposed incursion into the Tree Protection Zones (TPZ) has been calculated at 43.21% for Tree 3, and 38.10% for Tree 4. These incursions are deemed too severe to enable the trees retention with the current design proposal. As such, the proposal cannot be supported in its current form given it will result in severe impact to neighbouring vegetation.
- The proposal fails to comply with Part 4.9 - Outdoor Space Requirements of the Child Care Centre Guideline 2017 which requires that a minimum of 7m² of unencumbered outdoor play space be provided for each child at the centre. As demonstrated below, when using the definitions contained within the Child Care Centre Guideline, the area of unencumbered outdoor play spaces for each age group are non-compliant. When excluding acoustic walls, raised veggie gardens, perimeter screen planting areas and other spaces that are not suitable for children (refer diagram below), the proposed development has been calculated to include the following areas of unencumbered outdoor space for each child, per user age group:
 1. 0-2 year old: 6.25m² per child (non-compliant)
 2. 2-3 year old: 6.33m² per child (non-compliant)
 3. 3-5 year old: 5.95m² per child (non-compliant)

Given the above, the proposal cannot be supported in its current form.

Internal Consultation



Figure 3: Area of unencumbered outdoor space (shown in green)

- The proposal fails to provide soft landscaping within the front open space that is consistent with the existing streetscape character and commensurate with the scale of the built form. The location of the OSD within the front setback combined with hard paving required for the basement driveway and pedestrian circulation precludes establishment of any meaningful landscaping which is capable of softening the built form and providing an open space design that is consistent with the prevailing character of the street. As such, the proposal cannot be supported in its current form.
- The landscape scheme has not given any consideration to the location of proposed tree planting and conflicts that will arise with the acoustic fence. Specifically, the awning above associated with the 2.2m high acoustic fence will impede the natural form and structure of the proposed trees seeing them unable to reach full dimensions and a form typical for the species. As such, the proposed tree planting cannot be supported in its current form.
- The maintenance pathway to the perimeter of the outdoor play spaces does not facilitate suitable access to facilitate regular maintenance of the proposed screen planting. The pathway is impeded by outdoor storage areas just beyond the gated entry precluding access and maintenance as described on the landscape plans. In addition, retaining walls and existing trees are located within the pathway further impeding access. In this regard, the proposed maintenance pathways are not considered functional and not supported.

Council Policies, Procedures and Codes to which the matter relates

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP No. 55)
 State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure)
 State Environmental Planning Policy (Educational Establishment and Child Care Facilities) 2017
 Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2 - 1997) (SREP No. 20)
 Hawkesbury Local Environmental Plan 2012 (HLEP 2012)
 Hawkesbury Development Control Plan 2002 (HDCP 2002)

Guidelines

Child Care Planning Guideline August 2017

Matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

a) The provisions (where applicable) of any:

i. Environmental Planning Instrument:

State Environmental Planning Policy No. 55—Remediation of Land (SEPP No. 55)

Clause 7(1) of SEPP No. 55 outlines a consent authority "must not consent to the carrying out of any development on land unless:

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

The subject site has a history of residential use with no evidence of any other use found in Council's records that may have caused contamination. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

A preliminary Site investigation Report prepared by Geotechnical Consultants Australia and dated 3 June 2020 was submitted in support of the application. The report concludes as below;

GCA considers that the potential for significant contamination of soil and groundwater within the site to be low. Therefore, based on this assessment, GCA finds that the site is suitable for the proposed development and land use, providing the recommendations within Section 12 below are implemented during the Construction Certificate (CC) stage.

Council's Environmental Health officer has reviewed the report and considered it to be satisfactory.

State Environmental Planning Policy (Infrastructure) 2007

The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

The application is not subject to clause 45 of the SEPP as the development does not propose works within the vicinity of electricity infrastructure. The application is not subject to clause 101 of the SEPP as the site does not have a frontage to a classified road. The application is not subject to clause 102 of the SEPP as the average daily traffic volume of Keda Circuit is less than 20,000 vehicles.

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State Environmental Planning Policy (Educational Establishment and Child Care Facilities) 2017
Section 5 of the Educational Establishments and Child Care Facilities SEPP provides the following definition for centre-based child care facilities:

centre-based child care facility means:

(a) a building or place used for the education and care of children that provides anyone or more of the following:

- (i) long day care,*
- (ii) occasional child care,*
- (iii) out-of-school/-hours care (including vacation care),*
- (iv) preschool care, or*

(b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),

Note: An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.

but does not include:

- (c) a building or place used for home-based child care or school-based child care, or*
- (d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or*
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or*
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or*
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or*
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.*

The proposed development would satisfy this definition of a centre-based child care facility.

The Educational Establishments and Child Care Facilities SEPP does not establish permissibility controls for child care centres. The subject proposal is instead reliant on the Hawksbury LEP 2012 for permissibility. However, the Educational Establishments and Child Care Facilities SEPP establishes matters for consideration and development standards. The Policy references the Education and Care Services National Regulations, Children (Education and Care Services) Supplementary Provisions Regulation 2012 and the Child Care Planning Guideline.

The Childcare Guideline referenced at Clause 23 of the Childcare SEPP is the Childcare Planning Guideline issued by the Department of Environment and Planning dated August 2017.

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An assessment of the proposal against these provisions is undertaken below;

Compliance Table – State environmental planning Policy (Education and Child Care Facilities) 2017	
Part 3 Early Education and Care Facilities – Specific Development Controls	Compliance / Comment
22. Centre-based child care facility – concurrence of Regulatory Authority required for certain development	
<p>(1) This clause applies to development for the purpose of a centre-based child care facility if:</p> <p>a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or</p> <p>b) (the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.</p> <p>(2) The consent authority must not grant development consent to development to which this clause applies except with the concurrence of the Regulatory Authority.</p>	<p>No.</p> <p>The proposal complies with indoor space requirements under the regulations (as calculated in accordance with the definition of indoor unencumbered space requirements).</p> <p>However, the proposal does not meet the outdoor space requirements under the regulations (as calculated in accordance with the definition of outdoor unencumbered space requirements). Were this application to be approved, concurrence would be required from the regulatory authority.</p>
23. Centre-based child care facility—matters for consideration by consent authorities	
<p>Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the <i>Child Care Planning Guideline</i>, in relation to the proposed development.</p>	<p>The applicable provisions of the Child Care Planning Guideline have been considered and an assessment against the matters for consideration are provided in the table below.</p>
25. Centre-based child care facility—non-discretionary development standards	
<p>(2) The following are non-discretionary development standards for the purposes of section 4.15(2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility—</p> <p>(a) location—the development may be located at any distance from an existing or proposed early education and care facility,</p> <p>(b) indoor or outdoor space</p> <p>(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the <i>Education and Care Services National Regulations</i> applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or</p> <p>(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of</p>	<p>The non-discretionary development standards subject to this clause including location, indoor and outdoor space are in excess of the regulations, site area and dimensions. Building materials and finishes have not been used as a basis for refusal of this application.</p> <p>The proposal does not comply with the regulations pertaining to unencumbered outdoor play space requirements. When excluding walls, raised veggie gardens, perimeter screen planting areas and other spaces that are not suitable for children, the proposed outdoor play area for 0 to 2 years, 2 to 3 years, and 3 to 5 years old does not meet the required 7m² per child requirement and therefore forms a recommended reason for refusal.</p>

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Compliance Table – State environmental planning Policy (Education and Child Care Facilities) 2017	
Part 3 Early Education and Care Facilities – Specific Development Controls	Compliance / Comment
<p>the <i>Children (Education and Care Services) Supplementary Provisions Regulation 2012</i> applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,</p> <p>(c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,</p> <p>(d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</p> <p>(3) To remove doubt, this clause does not prevent a consent authority from—</p> <p>(a) refusing a development application in relation to a matter not specified in subclause (2), or</p> <p>(b) granting development consent even though any standard specified in subclause (2) is not complied with.</p>	
26 Centre-based child care facility—development control plans	
<p>(1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility—</p> <p>(a) operational or management plans or arrangements (including hours of operation),</p> <p>(b) demonstrated need or demand for child care services,</p> <p>(c) proximity of facility to other early education and care facilities,</p> <p>(d) any matter relating to development for the purpose of a centre-based child care facility contained in—</p> <p>(i) the design principles set out in Part 2 of the <i>Child Care Planning Guideline</i>, or</p> <p>(ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).</p> <p>(2) This clause applies regardless of when the development control plan was made.</p>	<p>Hawkesbury Development Control Plan 2002 does not have any specific design provisions for child care centres.</p>

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Child Care Planning Guideline August 2017

The SEPP requires consideration of the provisions contained within the Child Care Planning Guideline. An assessment is provided below.

Part 3 – Matters for Consideration	Comments
3.1 Site selection and location	
<p>C1 For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none">• the acoustic and privacy impacts of the proposed development on the residential properties• the setbacks and siting of buildings within the residential context• traffic and parking impacts of the proposal on residential amenity.	<p>No.</p> <p>The subject site is located within a residential zone with single dwellings surrounding the site. While the proposal complies with front setback and building height plane as per HDCP – residential requirements, the development will have unacceptable acoustic impacts on adjoining residential properties.</p> <p>While this guideline states that acoustic measures are to be implemented, no details in relation to acceptable acoustic measures is provided as a matter for consideration. The proposed acoustic measures are not considered adequate to minimise impacts.</p> <p>Keda Circuit is a quiet local street with no through traffic and minimal vehicle movements. The provision of car parking wholly within a basement will unlikely provide convenient parking that is visible from the roadway and parents will be likely to park on street during peak periods.</p>

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Part 3 – Matters for Consideration	Comments
<p>C2 When selecting a site, ensure that:</p> <ul style="list-style-type: none"> • the location and surrounding uses are compatible with the proposed development or use • 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"> a) size of street frontage, lot configuration, dimensions and overall size b) number of shared boundaries with residential properties the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas • where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use • there are suitable drop off and pick up areas, and off and on street parking • the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use • it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises. 	<p>The site is free from bush fire affectation, land slip and flooding.</p> <p>There are no potential environmental hazards or contaminants on the site that would compromise the safety of occupants.</p> <p>No. The characteristics of the site are unsuitable for the scale of the development proposed evidenced by unacceptable acoustic impacts to adjoining residential properties.</p> <p>Not applicable.</p> <p>No. The pick-up and drop off areas are proposed to be located wholly within the basement car parking. However, there is no standing bay or turning bay proposed within the basement so that potential on-street queuing can be avoided during the peak period. It is considered that the provision of car parking wholly within a basement will unlikely provide convenient parking that is visible from the roadway and parents will likely park on street during peak period.</p> <p>Yes. The site adjoins a local road which is suitable for the proposed development.</p> <p>N/A. The site is not in proximity to incompatible social activities.</p>
<p>C3 A child care facility should be located:</p> <ul style="list-style-type: none"> • near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship • near or within employment areas, town centres, business centres, shops • with access to public transport including rail, buses, ferries • in areas with pedestrian connectivity to the local community, businesses, shops, services and the like. 	<p>No. The proposal is not located in close proximity to any school or educational establishment rather is located in a quiet street of a residential suburb. The locality has very limited public transport services. Very limited footpath infrastructure exists along the road network within the suburb.</p>

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Part 3 – Matters for Consideration	Comments
<p>C4 A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental condition arising from:</p> <ul style="list-style-type: none"> • proximity to: <ul style="list-style-type: none"> a) heavy or hazardous industry, waste transfer depots or landfill sites; b) LPG tanks or service stations; c) water cooling and water warming systems; d) odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses. 	<p>Yes. The site is not in proximity to land uses that are likely to present environmental risks to children, staff or visitors.</p>
<p>3.2 Local character, streetscape and the public domain interface</p>	
<p>C5 The proposed development should:</p> <ul style="list-style-type: none"> • contribute to the local area by being designed in character with the locality and existing streetscape • reflect the predominant form of surrounding land uses, particularly in low density residential areas • recognise predominant streetscape qualities, such as building form, scale, materials and colours • include design and architectural treatments that respond to and integrate with the existing streetscape • use landscaping to positively contribute to the streetscape and neighbouring amenity • integrate car parking into the building and site landscaping design in residential areas. 	<p>No. The proposed development is incompatible with the existing built form character of the locality in terms of scale and architectural treatments (including acoustic treatments, basement car parking, OSD at the front setback) which do not respond to or integrate with the existing streetscape.</p> <p>No. It is proposed to remove one matured tree located in the nature strip, front of the property. No replacement of a mature tree is proposed. Further, the proposed design (driveway, pathway, OSD area, stormwater pit location) limits the opportunity for adequate landscaping within the front setback area and is considered to be contrary to the streetscape. Inadequate landscaping is provided to contribute to the streetscape and soften the bulk of the building.</p> <p>Yes. Car parking is integrated into the built form.</p>

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Part 3 – Matters for Consideration	Comments
<p>C6 Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> • fencing to ensure safety for children entering and leaving the facility • windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community • integrating existing and proposed landscaping with fencing. 	<p>Yes. The proposal complies.</p>
<p>C7 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>N/A. Multiple entries are not proposed.</p>
<p>C8 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"> • 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. 	<p>N/A. The development does not adjoin a public park, open space or bushland.</p>
<p>C9 Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.</p>	<p>N/A. No front fencing is proposed. the site does not adjoin a heritage item and is not located within a heritage conservation area.</p>
<p>C10 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. The site does not adjoin a classified road.</p>

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Part 3 – Matters for Consideration	Comments
3.3 Building orientation, envelope and design	
<p>C11 Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> • ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> - facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties - placing play equipment away from common boundaries with residential properties - locating outdoor play areas away from residential dwellings and other sensitive uses • optimise solar access to internal and external play areas • avoid overshadowing of adjoining residential properties • minimise cut and fill • ensure buildings along the street frontage define the street by facing it • ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions. 	<p>No. The proposal will have adverse noise impacts as play equipment is located adjacent to common boundaries of residential properties. This is evidenced by the ‘predicted outdoor play activities noise emission’ data as provided by the submitted Noise Impact Assessment Report dated 26 November 2020. Three of the adjoining residential properties (R2, R3 & R4) will be affected by excessive noise emission above the criteria. Outdoor play areas are located in proximity to private open space areas of adjoining residential properties. As such the development and building layout has not been appropriately located and designed.</p> <p>No. The majority of the indoor and outdoor play areas are oriented to the south. The indoor and outdoor play areas for 2-3 years age group are oriented towards south west which will be under shadow most of the daytime during winter. The indoor and outdoor areas for 3-5 years age group are facing south-east and south west. The proposed building keeps very minimal setback distance along the northern boundary.</p> <p>Yes. No significant overshadowing to adjoining properties.</p> <p>No. the proposal involves approximately 3m excavation to provide basement carparking.</p> <p>Yes. The building is facing the street. No indoor play rooms and outdoor play area are proposed at the first level.</p>
<p>C12 The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> • building height should be consistent with other buildings in the locality • building height should respond to the scale and character of the street • setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility • setbacks should provide adequate access for building maintenance • setbacks to the street should be consistent with the existing character. 	<p>Yes. The building complies with the building height controls. 900mm setback is provided along north eastern boundary between the building and the boundary fence. 1m setback is provided between 1.8m acoustic fence on the boundary and 2.2m acoustic fence.</p>

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Part 3 – Matters for Consideration	Comments
<p>C13 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>Hawkesbury DCP has 7.5m front setback for residential areas. The proposed building complies with the setback controls. It is noted that the porch at the ground floor and first level balcony encroached the setback by 1m. These minor encroachment in the articulation is acceptable.</p>
<p>C14 On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p>Yes. The proposal complies.</p>
<p>C15 The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> • respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage • contributes to the identity of the place • retains and reinforces existing built form and vegetation where significant • considers heritage within the local neighbourhood including identified heritage items and conservation areas • responds to its natural environment including local landscape setting and climate • contributes to the identity of place. 	<p>No.</p> <p>The design of the subject building does not relate well to the adjacent residential buildings in terms of its bulk and the length of the facades, and it has the appearance rather than being a residential building within the area, of one that is more institutional or commercial.</p> <p>The location of the new driveway, crossover and basement ramp excavation will necessitate the removal of one high retention value Council street tree (Tree 1- Brush Box) which will result in a high level of impact to the landscape and streetscape character. This tree was observed to be significant within the landscape and streetscape and a priority for retention however no consideration has been given to minimising impacts to this tree.</p> <p>The proposal provides a 7.5m front setback which is numerically consistent with the required front setback within a residential area facing a local street. However, all of this front setback area is taken up with infrastructure and hard stand area which is not compatible or complimentary to the streetscape.</p> <p>It is noted that whole of the front setback is proposed to be utilised for an OSD basin and driveway to the basement parking area. 600mm high retaining wall is proposed around the OSD area. This area is unable to contain any mature tree and medium-height landscaping to screen and soften the bulk of the building.</p>

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Part 3 – Matters for Consideration	Comments
<p>C16 Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> • located to allow ease of access, particularly for pedestrians • directly accessible from the street where possible • directly visible from the street frontage • easily monitored through natural or camera surveillance • not accessed through an outdoor play area. • in a mixed-use development, clearly defined and separate from entrances to other uses in the building. 	<p>Yes. The proposal complies.</p>
<p>C17 Accessible design can be achieved by:</p> <ul style="list-style-type: none"> • providing accessibility to and within the building in accordance with all relevant legislation • linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry • providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible • minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath. 	<p>Yes. The proposal complies.</p>
<p>3.4 Landscaping</p>	
<p>C18 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"> • reflecting and reinforcing the local context • incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping. 	<p>No. The submitted Landscape plan dated 9 October 2020 is inconsistent with the updated architectural plans dated 18 December 2020.</p> <p>Removal of one street tree is not supported as it will have adverse impact on the landscape and streetscape character.</p> <p>Perimeter screen planting is incorporated towards the rear of the site along the south eastern and south eastern boundaries. The applicant has included this screen planting in their calculations of outdoor space required under the National Regulations. When excluding the screen planting from the calculations of unencumbered outdoor place, the proposal is deficient of the area required under Regulation 108 of the National Regulations.</p>

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<p>C19 Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> • planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings • taking into account streetscape, local character and context when siting car parking areas within the front setback • using low level landscaping to soften and screen parking areas. 	<p>N/A. All car parking is proposed within a basement level.</p>
3.5 Visual and Acoustic Privacy	
<p>C20 Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</p>	<p>N/A. The development is not in a mixed use development.</p>
<p>C21 Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ul style="list-style-type: none"> • appropriate site and building layout • suitably locating pathways, windows and doors • permanent screening and landscape design 	<p>Yes. The proposal has been designed to minimise overlooking of indoor rooms and outdoor play areas from public areas.</p>
<p>C22 Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> • appropriate site and building layout • suitable location of pathways, windows and doors • landscape design and screening. 	<p>Yes. The proposal has been designed to minimise overlooking of internal areas and private open spaces of adjoining dwellings, however, adverse acoustic impacts from the development have not been mitigated in an appropriate manner for development within a residential area.</p>
<p>C23 A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> • provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence). • ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure. 	<p>Yes. An acoustic fence of maximum 2.2m with 45^o angle is proposed along the north eastern, south eastern and south western boundaries. While this control within the Guideline states that an acoustic fence must be provided where the adjacent land use is residential, details are not provided as to the acceptable heights of these fences and consideration of the potential impacts to adjoining properties as a result of these heights.</p>

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<p>C24 A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> • identify an appropriate noise level for a child care facility located in residential and other zones • determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use • determine the appropriate height of any acoustic fence to enable the noise criteria to be met. 	<p>No. An acoustic report was submitted with the Development Application detailing appropriate noise levels for a child care facility in a residential zone. It was revealed that the report did not assess the noise impact against the base criteria within residential area as per Association of Australasian Acoustic Consultants' Guideline for childcare centres.</p> <p>The submitted acoustic report shows that the background levels of 36, 32, and 30 dB(A) LA90 were measured in the day, evening and night. Therefore, the noise criteria of 45dB(A) should be applied to the proposed premises.</p> <p>The acoustic assessment shows predicted outdoor play activities noise emission of 47, 46 and 47 dB(A) at nearest residential receivers of R2, R3 and R4 which do not comply with the base level criteria and exceeds by 2d(B)A at two receivers and 1dB(A) at one receiver.</p> <p>Yes. The acoustic report recommends erecting solid acoustic fences of 2.2m, 1.8m and 1.2m high along the north eastern, south eastern and south western boundaries.</p>
3.6 Noise and air pollution	
<p>C25 Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> • creating physical separation between buildings and the noise source • orienting the facility perpendicular to the noise source and where possible buffered by other uses • using landscaping to reduce the perception of noise • limiting the number and size of openings facing noise sources • using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) • using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits • locating cot rooms, sleeping areas and play areas away from external noise sources. 	<p>The site is not located near major roads, rail lines or beneath flight paths.</p> <p>No. The acoustic impact of the development on adjoining properties is unacceptable as the acoustic measures are inappropriate given the site is located within a residential zone.</p>

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<p>C26 An acoustic report should identify appropriate noise levels for sleeping areas and other non play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"> • 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. 	<p>N/A. The site is not located on industrial land, where the ANEF contour is between 20 and 25, along a railway or mass transit corridor, on a major or busy road, or other land that is impacted by substantial external noise.</p>
<p>C27 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>N/A. The site is located in a residential area and is not in proximity of a major road.</p>
<p>C28 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"> • 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. 	<p>N/A. The site is not in proximity of a major road or industrial development.</p>
<p>3.7 Hours of operation</p>	
<p>C29 Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p>	<p>Yes. The proposal complies. The hours of operation for the proposed facility is from 7:00am to 6:00pm – Monday to Friday.</p>

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<p>C30 Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.</p>	<p>N/A. The site is not in a mixed use or commercial area.</p>
<p>3.8 Traffic, parking and pedestrian circulation</p>	
<p>C31 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"> • 1 space per 10 children • 1 space per 2 staff. Staff parking may be slack or tandem parking with no more than 2 spaces in each tandem space. <p>In other areas:</p> <ul style="list-style-type: none"> • 1 space per 4 children. <p>A reduction in car parking rates may be considered where:</p> <ul style="list-style-type: none"> • the proposal is an adaptive re-use of a heritage item • the site is in a B8 Metropolitan Zone or other high-density business or residential zone • the site is in proximity to high frequency and well-connected public transport • the site is co-located or in proximity to other uses where parking is appropriately provided (for example business centres, schools, public open space, car parks) • there is sufficient on street parking available at appropriate times within proximity of the site. 	<p>Yes. Car parking spaces are proposed within the basement which complies with this guideline.</p> <p>20 car parking spaces are provided which complies with the required car parking rate. However, it is noted that no dedicated loading-unloading area, standing bay and/or turning bay is provided.</p>
<p>C32 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. The site is not located within a commercial, industrial or mixed use zone.</p>

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<p>C33 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"> • the amenity of the surrounding area will not be affected • there will be no impacts on the safe operation of the surrounding road network. 	<p>Yes. A traffic report has been provided.</p> <p>No. The traffic study undertook a traffic survey at the Grose Vale Road and Sunnyside Crescent intersection for one day only which may not represent the actual traffic scenario. The traffic study does not detail management provisions of the basement car parking when all car spaces are occupied during peak period and will have potential queuing at the street.</p> <p>The report did not address additional traffic generation during special events. No details have been provided for management of service vehicles and loading-unloading.</p>
<p>C34 Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"> • a classified road • roads which carry freight traffic or transport dangerous goods or hazardous materials. • The alternate access must have regard to: <ul style="list-style-type: none"> • the prevailing traffic conditions • pedestrian and vehicle safety including bicycle movements • the likely impact of the development on traffic. 	<p>N/A. The site does not front a classified Road or a road which carries freight traffic or transports dangerous and hazardous materials.</p>
<p>C35 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>No. The proposed child care centre is not located within cul-de-sac or narrow lane, however, the one and only access route from Grose Vale Road to the development site is via Sunnyside Crescent. The residents of the locality experience significant delay during the peak period to exit or get access to /from Grose Vale Road. The exit from the suburb may be interrupted by the traffic congestion in the peak period in times of emergency.</p>

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<p>C36 The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> • separate pedestrian access from the car park to the facility, • defined pedestrian crossings included within large car parking areas, • separate pedestrian and vehicle entries from the street for parents, children and visitors pedestrian paths that enable two prams to pass each other, • delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities, • in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas, • vehicles can enter and leave the site in a forward direction. 	<p>No. The provision of a shared pedestrian pathway along the centre of the access driveway, that is not separated from vehicle access, manoeuvring and turning areas, is considered unsatisfactory having regard to child / pedestrian safety.</p> <p>Yes. Separate pedestrian entry from the street is provided.</p> <p>No. No designated loading-unloading area is provided.</p> <p>N/A. the development is not in a commercial zone.</p> <p>Yes. Vehicles can leave the site in a forward direction from the basement car parking from the parked car spaces. However, the basement car parking does not provide a dedicated turning bay to allow vehicles to enter and exit in a forward direction in the case that all spaces are occupied and the vehicle is unable to park.</p>
<p>C37 Mixed use developments should include:</p> <ul style="list-style-type: none"> • driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks, • drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site. 	<p>N/A. The development is not a mixed use development.</p>
<p>C38 Car parking design should:</p> <ul style="list-style-type: none"> • include a child safe fence to separate car parking areas from the building entrance and play areas • provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards • include wheelchair and pram accessible parking. 	<p>Yes. Car parking is provided in the basement level.</p> <p>No. The provision of a shared pedestrian pathway along the centre of the access driveway, that is not separated from vehicle access, manoeuvring and turning areas, is considered unsatisfactory having regard to child / pedestrian safety.</p> <p>Yes. The car park design provides accessible parking.</p>

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Part 4 - Applying the National Regulations to development proposals	Comments
4.1 Indoor space requirements	
<p>Regulation 107 Education and Care Services National Regulations</p> <p>Every child being educated and cared for within a facility must have a minimum of 3.25m² of unencumbered indoor space.</p> <p>Unencumbered indoor space excludes any of the following:</p> <ul style="list-style-type: none"> • passageway or thoroughfare (including door swings) used for circulation • toilet and hygiene facilities • nappy changing area or area for preparing bottle • area permanently set aside for the use or storage of cots • area permanently set aside for storage • area or room for staff or administration • kitchens, unless the kitchen is designed to be used predominately by the children as part of an educational program e.g. a learning kitchen • on-site laundry • other space that is not suitable for children. 	<p>Yes. The proposal complies with 3.25m² of unencumbered indoor space provided for each child.</p>
<p>Verandahs as indoor space</p> <p>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 (refer to Figure 1).</p> <p>Storage</p> <p>Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> • A minimum of 0.3m³ per child of external storage space; and • A minimum of 0.2m³ per child of internal storage space. 	<p>N/A. The verandah is not included as unencumbered indoor space.</p> <p>Yes. The proposal complies.</p>

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4.2 Laundry and hygiene facilities	
<p>Regulation 106 Education and Care Services National Regulations There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children.</p>	Yes. The proposal complies.
4.3 Toilet and Hygiene Facilities	
<p>Regulation 109 Education and Care Services National Regulations 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.</p>	Yes. The proposal complies.
4.4 Ventilation and Natural Light	
<p>Regulation 110 Education and Care Services National Regulations 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.</p>	<p>No. The indoor play rooms and cot room at ground floor lack natural ventilation. According to acoustic recommendations all the glazing should be closed when rooms are used for indoor play. Only 50% of the children will be allowed to play outside at any one time, therefore, the playrooms will always be occupied by children.</p> <p>Further, the indoor play room and outdoor play area for 2-3 years old are located to the south western side of the site and will be under shadow for the majority of the daytime during winter. The awning above the outdoor play area also contributes to overshadowing.</p>
4.5 Administrative Space	
<p>Regulation 111 Education and Care Services National Regulations 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>	Yes. The proposal complies.
4.6 Nappy Change Facility	
<p>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</p>	Yes. The proposal complies.

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<p>facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.</p>	
<p>4.7 Premises designed to facilitate supervision</p>	
<p>Regulation 115 Education and Care Services 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.</p>	<p>Yes. The proposal complies.</p>
<p>4.8 Emergency and Evacuation Procedures</p>	
<p>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:</p> <ul style="list-style-type: none"> • Instructions for what must be done in the event of an emergency • An emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit; and <p>A risk assessment to identify potential emergencies that are relevant to the service.</p>	<p>Yes. The proposal complies.</p>
<p>4.9 Outdoor Space requirements</p>	
<p>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.</p> <p>Unencumbered outdoor space excludes any of the following:</p> <ul style="list-style-type: none"> • Pathway or thoroughfare, except where used by children as part of the education and care program; • Car parking area; • Storage shed or other storage area; • Laundry; and • Other space that is not suitable for children. 	<p>No. When using the definitions contained within the Child Care Centre Guideline, the area of unencumbered outdoor play spaces for each age group is non-compliant. When excluding acoustic walls, raised veggie gardens, perimeter screen planting areas and other spaces that are not suitable for children (refer diagram in earlier section under internal consultation), the proposed development has been calculated to include the following areas of unencumbered outdoor space for each child, per user age group:</p> <ol style="list-style-type: none"> 1. 0-2 year old: 6.25m² per child (non-compliant) 2. 2-3 year old: 6.33m² per child (non-compliant) 3. 3-5 year old: 5.95m² per child (non-compliant)

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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.	
4.10 Natural Environment	
<p>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.</p>	<p>No. Facilities are proposed within the outdoor play area that allow children to explore and experience the natural environment. Notwithstanding, the area for outdoor play is deficient in accordance with Regulation 108 of the National Regulations. This is not supported.</p>
4.11 Shade	
<p>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.</p>	<p>Yes. Adequate shade is provided through elements including: shade sails, proposed deciduous tree plantings and existing evergreen neighbouring trees.</p>
4.12 Fencing	
<p>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.</p>	<p>Yes. Fencing is included to enclose outdoor spaces used by children and is provided at a height and design that children of pre-school age or under cannot go through, over or under it.</p>
4.13 Soil Assessment	
<p>Regulation 25 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</p> <ul style="list-style-type: none"> • 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; and 	<p>Yes. A Preliminary Site Investigation Report and Preliminary Acid Sulfate Soil Assessment Report were submitted in support of the application. The reports concluded that the site is suitable for the development of the proposed child care centre.</p>

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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.	

Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No. 2—1997) (SREP No. 20)

The aim of this Plan is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. The Plan includes strategies for the assessment of development in relation to water quality and quantity, scenic quality, aquaculture, recreation and tourism.

The site is located within an established residential area. The development is not expected to significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context. The property is not located within a scenic corridor and SREP No. 20 does not outline specific controls for child care centres.

Hawkesbury Local Environmental Plan 2012

Under Hawkesbury Local Environmental Plan 2012, the property is zones R3 Medium Density Residential and the proposed development is permissible with Council's consent.

The following is a summary of the development standards under HLEP 2012 applicable to the development.

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the provisions of the HLEP 2012.

Clause 2.3 - Zone Objectives and Land Use Table

The submitted documentation suggests that the application involves construction of a child care centre. Child care centres are permissible within the R3 Medium Density Residential zone.

The following definitions with the HLEP 2012's Dictionary are relevant to this proposal:

centre-based child care facility means:

(a) a building or place used for the education and care of children that provides anyone or more of the following:

- (i) long day care,
- (ii) occasional child care,
- (iii) out-of-school-hours care (including vacation care),
- (iv) preschool care, or

(b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),

Note: An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.

but does not include:

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or

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- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or*
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or*
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or*
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.*

Earthworks mean excavation or filling.

Clause 2.3(2) is very specific and states that the consent authority 'must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone'. The objectives for the R3 Medium Density residential zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide a wide range of housing choices in close proximity to commercial centres and railway stations.*
- *To ensure that development is sympathetic to the natural amenity and ecological processes of the area.*
- *To ensure that development does not create unreasonable demands for the provision or extension of public amenities or services.*

The proposed child care centre is not located in close proximity to any school or educational establishment rather is located in a quiet street of a residential suburb.

The proposed child care centre is seen to have adverse noise impacts on the adjacent residential properties. The submitted Noise Impact Assessment Report provides the predicted outdoor play activities noise emissions and cumulative noise emissions which exceed the recommended criteria. No detailed plan of Management has been provided demonstrating how the centre will be operated in accordance with the acoustic recommendations.

The proposed bulk and scale of the development is not considered to relate well with the existing residential characteristics of the locality. Appropriate landscaping is not provided to soften the bulk of the building. Proposed removal of one street tree will also have an adverse impact on the streetscape. The provision of car parking wholly within a basement is considered unsatisfactory in that the design concept does not provide parking in a convenient location that is visible from the adjacent public roadway that allows for the safe set-down/pick up and movement of children.

Further, the proposed child care development fails to comply with the unencumbered outdoor area requirement in accordance with Part 3 Clause 4.9 – Outdoor Space Requirements of the Child Care Planning Guideline 2017 and Regulation 108 of the education and Care Services National Regulations.

It is therefore considered that the proposed development is inconsistent with the zone objectives of R3 Medium Density Residential, as the land is not considered suitable to enable other land uses (child care centre) that provides facilities to meet the day to day needs of residents.

Clause 4.3 - Height of Buildings

Building height is defined in the planning instrument as meaning the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

Clause 4.3(1) states the following objectives;

- (a) to protect privacy and the use of private open space in new development and on adjoining land,*
- (b) to ensure that the bulk of development is not excessive and relates well to the local context,*
- (c) to nominate heights that will provide a transition in built form and land use intensity,*
- (d) to ensure an appropriate height transition between new buildings and heritage items.*

The design of the subject building does not relate well to the residential area in terms of its bulk, in terms of the length of the facades, and it has the appearance of rather than being a residential building within the area, one that is more institutional or commercial. Clearly the zoning does allow childcare centres and childcare centres should be accommodated where they can harmoniously co-exist in a built form and in terms of impacts that may be created.

Clause 4.3(2) of LEP 2012 states that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. In this instance, the Height of Buildings Map identifies a maximum height of 10m for any building on the subject site. The proposed development has a maximum building height of approximately 7m for the building.

It is acknowledged that whilst the development does not exceed the maximum 10 metre building height requirements specified under Clause 4.3(2) of Hawkesbury LEP 2012 the proposal does not meet the objectives under Clause 4.3(1).

Clause 5.10 Heritage Conservation

The site is not identified as a heritage item and is not within the vicinity of any heritage items identified under Schedule 5 of HLEP 2012.

Clause 6.1 Acid Sulfate Soils

The site has been identified containing Class 5 Acid Sulfate Soil. Clause 6.1(3) states, '*Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority*'.

A Preliminary Acid Sulfate Soils Investigation Report, prepared by Geotechnical Consultants Australia and dated 14 December 2020 was received. The report shows that potential acid sulfate soils do not exist at the site despite proximity to the river. This has been ascertained through the sampling of four boreholes.

Council's Environmental Health Officer (EHO) has reviewed the report and considered it to be satisfactory. Council's EHO provides comments that despite the conclusion of the report, some recommendations are within part 4.4 of the report, and should be considered should the application be approved.

Clause 6.2 Earthworks

Clause 6.2(3) requires Council to consider matters such as quality of fill, the impacts of the development, proximity to and potential for adverse impacts on waterways and the effect earthworks may have on soil stability, the future development of the land, drainage patterns and the likelihood of disturbing relics.

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The submitted documentation shows that approximately 3m cut will be involved to provide car parking at the basement level. The proposal has been assessed as acceptable having regard to the matters for consideration stipulated within the clause. Should the proposed development be supported, Council's standard conditions of consent will be imposed to ensure that erosion and sediment control is addressed during and after construction.

Clause 6.4 - Terrestrial Biodiversity

The land is not identified on the Hawkesbury Local Environmental Plan 2012 Terrestrial Biodiversity Map as having biodiversity significance.

ii. Draft Environmental Planning Instrument that is or has been placed on exhibition and details of which have been notified to Council:

There are no relevant Draft Environmental Planning Instruments for the subject site.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan 2002

The development has been considered against the provisions of the Hawkesbury Development Control Plan 2002:

Part A Chapter 3: Notification:

The application was notified three times, firstly between 3/09/2020 and 17/09/2020, secondly between 22/10/2020 and 5/11/2020, and thirdly between 20/01/2021 and 3/02/2021, in accordance with Chapter Three of the Hawkesbury Development Control Plan 2002 (HDCP), Notification of Development Applications.

66 unique submissions by way of objections have been received and the issues identified are outlined in the matters for consideration under Section 4.15. It is noted that Council received 65 submissions during the first notification, 13 submissions during the second notification and 19 submissions during the third notification.

However, during the second notification only one submission came from a new objector, the other 12 objectors responded during the first notification as well.

During the third notification, all 19 objectors responded to the first notification as well. No new objections were submitted.

Part C Chapter 1: Landscaping:

A landscaping plan has been submitted to satisfy the requirements of Part C Chapter 1 of the Hawkesbury DCP 2002. It is noted that an updated landscaping has not been submitted with the updated architectural plan. The submitted landscaping plan has been reviewed by Council's Park Officer and was not supported. The reasons behind not supporting the landscaping plan has been detailed in the earlier section under the heading of consultation.

Part C Chapter 2: Car Parking:

Part C Chapter 2 of the Hawkesbury DCP 2002 does not outline specific parking controls for child care centres.

The Transport for NSW 'Guide to Traffic Generating Development' recommends that off-street parking is provided at the rate of one space for every four children in attendance. This parking rate is also specified in Section C31 of the Child Care Planning Guideline. Based on a maximum of 58 children, this proposed development would require 15 onsite spaces.

The proposed childcare centre is to provide a total of 20 onsite spaces and therefore satisfies the numerical parking controls of the Guide to Traffic Generating Development and Child Care Planning Guideline.

Chapter 2 of Part C of HDCP 2002 contains the following relevant objectives and controls in relation to car parking areas:

“2.1 Car Parking Aims

This chapter aims to:

- *ensure that adequate and convenient off-street parking facilities are provided for all vehicles generated by new development;*
- *encourage the efficient flow of traffic through car parks and to minimise the potential for pedestrian/vehicle and vehicle/vehicle conflict;*
- *ensure minimum of interference to the flow of traffic on the street network; and*
- *ensure adequate traffic safety and management and to improve the amenity of car parking areas.*

...

2.4 Access Considerations

- *Vehicles should enter and leave the site in a forward direction. Ingress and egress to or from a site should be located where they will cause least interference with vehicular and pedestrian movement on public roads.*
- *The potential for on-street queuing should be eliminated by the provision of sufficient standing area for vehicles entering the car park and loading areas.*
- ...
- *Service vehicle areas should be provided off-street with convenient access. Service areas should operate independently of other areas, and enable vehicles to enter and leave the site in a forward direction.*
- *Parking areas shall incorporate rational circulation patterns. All parking bays shall be readily accessible and the provision of adequate space for the manoeuvring of vehicles, particularly rigid and articulated heavy vehicles, shall be considered.”*

The basement car parking area does not provide any dedicated turning bay to allow vehicles to enter and exit in a forward direction in the case that all spaces are occupied. It is considered that vehicles accessing the driveway will conflict with vehicles entering or existing the parking spaces, resulting in vehicles queuing on the driveway entry/exit and on the street. This will adversely affect vehicles travelling on the public road network.

Further, the provision of car parking wholly within a basement is considered unsatisfactory in that the design concept does not provide parking in a convenient location that is visible from the adjacent public roadway that allows for the safe set-down/pick up and movement of children. The provision of a shared pedestrian pathway along the centre of the access driveway, that is not separated from vehicle access, manoeuvring and turning areas, is considered unsatisfactory having regard to child / pedestrian safety.

The basement car parking does not provide any loading/unloading area to accommodate service vehicles to provide deliveries of food and other necessary supplies for the centre.

Whilst the proposed development met numerical compliance with parking number, the proposal failed to comply with the car parking aims and access considerations requirement of the DCP.

Part C Chapter 4 - Soil Erosion and Sediment Control

Should the proposed development be supported, Council's standard conditions of consent will be imposed to ensure that erosion and sediment control is addressed during and after construction.

iv. Planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4:

Not applicable.

v. Matters prescribed by the Regulations:

These matters have been considered in the assessment of this application. Should the application be supported, the EP&A Regulation 2000 outlines;

- that the development is to comply with the National Construction Code/Building Code of Australia (BCA) and Disability (Access to Premises - Building) Standards 2010.
- The proposal be levied against Council's Section 94A Development contributions Plan (where relevant).

An Access Report has been prepared in support of the application and indicates compliance with these requirements can be achieved at Construction Certificate stage.

Hawkesbury Council's Section 94A Contributions Plan 2015 came into effect on 17 December 2015. Subject to Section 2.7 of this Plan (i.e. exempted development), section 94A levies shall apply to development with a proposed cost of development of \$100,000.00 or more that is not otherwise subject to a section 94 contribution under this Plan. Section 2.7- Development exempted from contributions under this Plan lists a number of developments which are exempted from this contributions plan. Section 2.7 lists one of the exempted developments as follows:

'child care centres'

It is noted that the proposal has involved demolition of the existing structures and construction of a 58 place child care centre. The proposal is therefore exempt from contributions under Section 7.12 of the *Environmental Planning and Assessment Act 1979* or council's 94A Contributions Plan.

b) The likely impacts of that development, including environmental impacts on both the natural and built environments and the social and economic impacts in the locality:

Context and Setting

The objectives of the NSW Child Care Planning Guideline August 2017 require to consider the following when selecting a location of the child care centre;

- *To ensure that the child care facility is compatible with the local character and surrounding streetscape;*
- *to ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised;*
- *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.*

As mentioned above, the design of the subject building does not relate well to the residential area in terms of its bulk, in terms of the length of the facades, and it has the appearance rather than being a residential building within the area, of one that is more institutional or commercial. Clearly the zoning does allow childcare centres and childcare centres should be accommodated where they can harmoniously co-exist in a built form and in terms of impacts that may be created.

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The proposal should respect to the character of the locality. The appearance of the building is considered to be inconsistent with the established residential characteristics of the locality.

The proposal provides a 7.5m front setback which is numerically consistent with the required front setback within a residential area facing a local street. However, all of this front setback area is taken up with infrastructure and hard stand area which is not compatible or complimentary to the streetscape. The proposed design (driveway, pathway, OSD area, stormwater pit location) limits the opportunity for adequate landscaping within front setback area and is considered to be contrary to the streetscape, which is characterised by large landscaped treatments to the front and rear yard within areas of surrounding properties, also noting that majority of the properties contain mature trees.

It is noted that whole of the front setback is proposed to be utilised for OSD basin and driveway to the basement parking area. A 600mm high retaining wall is proposed around the OSD area. This area is unable to contain any mature tree and medium-height landscaping to screen and soften the bulk of the building. Furthermore, one of the street trees is proposed to be removed and no offset landscaping is proposed.

Noise Impact

The applicant has submitted a Noise Impact Assessment report prepared by Rodney Stevens Acoustic Consultants and dated 26 November 2020 in support of the application.

Council's Environmental Health Officer considers that the Association of Australasian Acoustic Consultants' Guideline for Child Care Centre Acoustic Assessment (the AAAC Guideline) is the appropriate standard for the assessment of any acoustic impacts arising from the development. This opinion is also established in the Land and Environment Court where Council refused an application for construction of a child care centre at 83 Gladstone Street North Parramatta; Force Way group Pty Ltd v City of Parramatta Council [2021] NSWLEC 1024.

Version 3.0 of AAAC Guideline dated September 2020 provides that,

Base Criteria - with the development of child care centres in residential areas, the background noise level within these areas can at certain times, be low. Thus, a base criterion of a contributed $L_{eq,15min}$ 45 dB(A) for the assessment of outdoor play is recommended in locations where the background noise level is less than 40 dB(A).

The submitted Noise Impact Assessment measured the background noise level as 36 dB(A), 32 dB(A) and 30 dB(A) $L_{A90(15 min)}$ at day, evening and night time. Therefore, the predicted outdoor play activities noise emission should be assessed against the base criteria of 45 dB(A) as per AAAC guideline.

Table 5-4, page 13 of the Noise Impact Assessment Report assessed noise emissions against 46dB(A), which is considered incorrect, and the predicted noise reveals as 47dB(A) which exceeds by 1dB(A) at the nearest residential receivers at R2 and R4. Should the noise emissions be assessed against the base criteria, it reveals that the noise emission exceeds by 1dB(A) at R3 and 2dB(A) at R2 and R4. These exceedance of noise emissions will have a significant adverse amenity impact on the adjacent residences.

Further, it is considered that car parking will start operating before 7:00am by staff vehicle and electric plants, air conditioners will likely start operating before 7:00am. The acoustic report did not take into consideration the night time (prior to 7:00pm) noise emission and their impact on the adjacent residences.

Table 5.5, page 15 of the Noise Impact Assessment also reveals that the predicted cumulative noise emission is 47 dB(A) at R2, R3 and R4 which exceeds the base criteria by 2dB(A).

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The submitted Noise Impact Assessment Report recommended the following to achieve compliance in playing outdoor and indoor area in association with noise barriers;

- Only 50% of the children can engage in outdoor play at a time
- No music is to be played in the outdoor areas
- All the windows of the indoor play areas facing outside are to remain closed. Windows can be opened when children are not involved in indoor play or sleeping to allow for natural ventilation.
- The windows to the cot room must remain closed
- Children must be supervised at all times

It is noted that the submitted Noise Impact Assessment Report considered the following in the noise modelling of the outdoor play areas noise impacts on the neighbouring residences;

*4 children between the ages of 0 and 2 with total sound power level of 76 dB(A),
10 children between the ages of 2 and 3 with total sound power level of 87dB(A) and
15 children between the ages of 3 and 5 with total sound power level of 92 dB(A) will be playing in the proposed outdoor play areas.*

The outdoor play schedule provided in the Noise Impact Assessment Report is complex. The schedule divides the children into (age) groups and then sub (age) groups in order to comply with the limit of 29 children outside at any one time. When there is proposed to have 30 children at the centre within the age group of 3-5 years old, only 15 children of this group can be outside, at any one time. The same pattern is provided for the 2-3 years old age group and 0-2 years old age group. Therefore, neither of the age groupings will play together outside at any time during the day.

The Noise Impact Assessment has been modelled based on the restrictions on the number of children playing outdoors at any one time in association with the noise barriers. It is considered that the proposed development will have adverse amenity impact on the adjacent residences as the predicted noise emissions exceeds the required criteria. It is highly possible that the noise will exceed that which has been modelled.

Plan of Management

The Applicant did not provide a detailed Plan of Management (PoM) satisfying the planning principles established in *Renaldo Plus 3 Pty Limited v Hurstville City Council* [2005] NSWLEC 315 and *Amazonia Hotels Pty Ltd v Council of the City of Sydney* [2014] NSWLEC 1247. The PoM will need to address specific operational issues including noise, operation of the centre as per acoustic report recommendations, traffic movements, parking and arrival of staff, waste management, delivery service vehicles and any other relevant matters.

The planning principle provides the following assessment;

Management Plans (or similarly named documents) provide further details on the operation of a particular use that may not necessarily be appropriate as conditions of consent. Management Plans are a well-known concept in environmental law (Transport Action Group Against Motorways Inc v Roads & Traffic Authority [1999] NSWCA 196 at par 122) and can be used in a range of different circumstances. Often, and is the case in this application, the contents of a Management Plan are critical to the decision of whether a development application should be approved or refused.

In considering whether a Management Plan is appropriate for a particular use and situation, the following questions should be considered:

1. *Do the requirements in the Management Plan relate to the proposed use and complement any conditions of approval?*
2. *Do the requirements in the Management Plan require people to act in a manner that would be unlikely or unreasonable in the circumstances of the case?*

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3. *Can the source of any breaches of the Management Plan be readily identified to allow for any enforcement action?*
4. *Do the requirements in the Management Plan require absolute compliance to achieve an acceptable outcome?*
5. *Can the people the subject of the Management Plan be reasonably expected to know of its requirements?*
6. *Is the Management Plan incorporated in the conditions of consent, and to be enforced as a condition of consent?*
7. *Does the Management Plan contain complaint management procedures?*
8. *Is there a procedure for updating and changing the Management Plan, including the advertising of any changes?*

It is considered that a Plan of Management is appropriate to be submitted for this proposed development. The Plan of Management would be greatly beneficial to understand the proposed child care centre development, likely impacts to be generated due to proposed operation and mitigation measures to minimise those environmental impacts. The Plan of Management will assist to monitor and regulate the operation and minimise any conflict if approved.

In this instance, the applicant did not submit a Plan of Management outlining all the proposed activities, likely impacts and mitigation measures, therefore a proper assessment of the proposal cannot be carried out.

The submitted daily routines cannot be considered as a Plan of Management. Further it is considered inadequate in compliance with the acoustic recommendation and unable to provide two hours active play for each child.

The applicant has submitted daily routines for 0-2 years old, 2-3 years old and 3-6 years old aged grouped children. It is noted in the daily routine that two time slots over the whole day have been allocated for outdoor play activities (outdoor supervised small group experiences) for all children which are as below;

- from 11:00am to 11:45am, and
- from 3:50pm to 5:00pm.

No such Plan of Management is submitted to detail the schedule of outdoor play to ensure all children at the centre have 'adequate' access and time in the outdoor space. No outdoor play schedule is provided that breaks up the age groups, and rotating the groups of children through the outdoor space in 30 to 60 minutes intervals throughout the day.

In the submitted daily routines, 45 minutes outdoor activity is allocated in the morning and 70 minutes outdoor activity is allocated in the afternoon for all children together at any one time. Where the acoustic recommendations are closely adhered to, the time allocated for each child will be limited to a maximum of 58 minutes (less than an hour) per day over the course of the day which is approximately 23 minutes in the morning and 35 minutes in the afternoon.

It is not considered that the time to be allocated for outdoor play for each child will be equivalent to the time the child will spend indoors at play. This very limited outdoor play time is considered insufficient to allow children to explore and experience the natural environment. In addition, it will create practical difficulties for the educators to supervise the children in rotating outdoor play activities and the need for educators to interrupt children at play may have negative impacts in their development.

The site is sensitive to noise. It is considered that the reliance on the Plan of Management is not realistic and/or practical for a 58 place child care centre to address the educational needs of all the children attending the centre.

No details have been provided how the service vehicles will operate to provide food and other necessary deliveries to the centre, how to avoid potential queuing on the local street if all the car

spaces are occupied during peak period, how the additional car parking is to be managed during the special events day usually organised by the centre and other relevant matters.

Access, Transport and Traffic

Keda Circuit is a quiet local street with no through traffic and minimal vehicle movements. The locality is serviced by poor bus services. Richmond Railway station is approximately 5km away. The one and only access route from Grose Vale Road to the development site is via Sunnyside Crescent.

An addendum traffic and parking statement prepared by Hemanote Consultants and dated 10 December 2020 was submitted. A traffic volume count was undertaken on Monday 7 December 2020, during the morning period (7:00am to 10:00am) and afternoon period (3:00pm to 6:00pm). The report provides that the proposed development with a total of 58 children places has a total estimated traffic generation as follows;

- 47 morning peak period vehicle trips (24 in and 23 out trips); and
- 41 afternoon peak period vehicle trips (20 in and 21 out trips).

The report concludes that *'the estimated traffic generation from the proposed development is considered to be satisfactory and acceptable and will not have adverse impacts on the current operational performance of the key intersection of Grose Vale Road / Sunnyside Crescent or surrounding roads, which will continue to operate at the current Levels of Services'*.

Council's infrastructure section has been consulted regarding any future infrastructure upgrade at the intersection as the residents are facing significant traffic congestion during peak periods. It is advised that a new roundabout is going to be erected at the intersection in few months' time.

The submitted traffic report did not analyse the cumulative impact of the traffic generation due to the proposed development on the road network taking into consideration the existing other developments within the locality namely other child care centres in the locality, Richmond North Public School, multi dwelling housings at Sunnyside Crescent etc.

The submitted traffic report did not take into account the potential traffic generation and parking demand on special events usually organised by Child Care Centres namely; mothers/fathers/grandparents day, easter, Christmas party, education week, graduation etc.

Waste

The submitted waste management plan states that:

'Waste service will be provided by a private waste contractor. Waste and recycling storage area is proposed on the ground level outdoors. The bin storage area is approximately 13m² which can accommodate all required bins of 2.6m². However, bins shall be placed to allow sufficient manoeuvring. The child care manager will take responsibility for transportation of mobile bins to the kerb side where they will be collected by the private waste contractor.'

This is inconsistent with the submitted architectural plans. The submitted plan shows that a waste storage area (13m²) will be located at the basement level. The proposed garbage collection areas at the basement level is not considered functional as it may conflict with the vehicle movement on the driveway.

Cumulative Impacts

The proposed child care centre is located within an established residential area and at the end part of the suburb. The bulk and scale of the development does not relate well with the existing established residential area. The suburb has only one access in and out to Grose Vale Road and the residents are currently facing significant traffic congestion at the intersection. The proposed child care centre is not located in close proximity to any school or educational establishment rather, it is located in a quiet

street of a residential suburb. The locality has very limited public transport services. Given the location of the proposed development at the end of the suburb, all existing residences on Sunnyside Crescent, Enfield Avenue, Matheson Avenue and Keda Circuit are likely to be impacted by increased traffic movements.

The proposed child care development fails to comply with the unencumbered outdoor area requirement in accordance with Part 3 Clause 4.9 – Outdoor Space Requirements of the Child Care Planning Guideline 2017 and Regulation 108 of the education and Care Services National Regulations.

The site is sensitive to noise. The development is considered to have adverse noise impacts on the adjacent residential properties. The outdoor play schedule in association with the acoustic barrier as provided in the Noise Impact Assessment Report is complex and hard to operate. It is considered that the reliance on the Plan of Management is not both realistic and practical for a 58 place child care centre to address the educational needs of all the children attending the centre.

In this regard it is considered that the proposed development in its current form will result in adverse cumulative impacts to the locality.

c) Suitability of the site for the development:

The site is not considered suitable for the proposed development.

The proposed child care development fails to comply with the unencumbered outdoor area requirement in accordance with Part 3 Clause 4.9 – Outdoor Space Requirements of the Child Care Planning Guideline 2017 and Regulation 108 of the education and Care Services National Regulations.

The acoustic issues raised by the application and the reliance on the Plan of Management (PoM) and the internal acoustic barrier as a means of mitigating the acoustic impacts demonstrate that the site is not suitable for the intensity of the proposed use.

The subject site is located within an established residential suburb with very limited public transport services. Most of the local streets within the suburb also lack footpath infrastructure. The one and only access route from Grose Vale Road to the development site is via Sunnyside Crescent. It is likely that majority of the children will be dropped off by car. The proposed basement parking will unlikely provide convenient parking that is visible from roadway and parent will be likely to park on street during peak period which will create adverse traffic impact on the local street.

It is also considered that the development will result in a significant change to the landscape character of the site, will impact upon the overall visual amenity of the surrounding locality and is inconsistent with the existing residential character and streetscape.

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d) Any submissions made in accordance with the Act or the Regulations:

Concern	Comment
<p>Adverse noise impact: Concerns are raised that the child care centre will impact the amenity of the neighbouring properties as;</p> <ul style="list-style-type: none"> - The predicted outdoor play area noise emissions exceed the criteria. - Only 50% kids are allowed to play outdoor at any one time, - The assessment does not take into account when all children will play outside together. - Noise report is based on best case scenario rather than worst case scenario - Noise report didn't take into account any special events – Christmas / easter / mothers day etc 	<p>As discussed in earlier sections of the report, the proposed development is considered to have unacceptable noise impacts to the adjacent residential properties.</p> <p>The acoustic report did not undertake noise assessment against 'base criteria' of 45dB(A) as per the recommendation of AAAC guideline.</p> <p>The acoustic assessment has been modelled having 50% of kids of every age group to be playing outdoors at any one time. The predicted noise level exceeds the criteria even with modelling of 50% kids.</p> <p>The acoustic management measures including restricting the number of children in the outdoor play area in association with construction of noise barriers are not practical and difficult to implement.</p> <p>The application is therefore recommended for refusal.</p>
<p>Increased traffic at local streets and lack of infrastructure: Concerns are raised that the proposed child care centre will impact the amenity of the locality as;</p> <ul style="list-style-type: none"> - The suburb has very limited footpath, in particular this section of Keda Circuit has no footpath infrastructure. - The development will generate additional traffic movements in local street network. - Keda Circuit has 9.1m width but Sunnyside Crescent has 7.9m width, hard to drive when cars parked on both sides. 	<p>It is acknowledged that Keda Circuit is a quiet residential local street. The proposed development is not in close proximity to any school or educational establishment, rather located at the end part of the suburb. The suburb has limited footpath infrastructure. If the proposed development is supported, the traffic movements will be increased throughout the suburb and will pose a risk to the safety of the residents.</p>
<p>Increased traffic congestion at the intersection: Concerns are raised that the proposed child care centre will exacerbate the existing condition of the intersection as;</p> <ul style="list-style-type: none"> - Grose Vale Road and Sunnyside Crescent is the only intersection to enter into the suburb. - Residents experiencing significant delay in turning right to Grose Vale Road - Increased traffic generation will contribute to more congestion. 	<p>The one and only access route from Grose Vale Road to the subject site is via Sunnyside Crescent. It is acknowledged that residents are experiencing significant traffic delays at this intersection. Council's infrastructure section advised that a new round-about will be erected in few months' time which will help in reducing the intersection congestion.</p>

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Concern	Comment
<p>Potential parking at local street: Concerns are raised that the proposed child care centre will have adverse impact on local street network as;</p> <ul style="list-style-type: none"> - Basement car parking is not enough during peak period, people will park on the street. - Basement car parking does not space for service vehicles. - Traffic report did not consider the parking demand for special programs such as graduations/ easter/ mothers' day / Christmas etc. 	<p>As discussed in an earlier section of this report, the proposed car parking arrangement within the basement is considered unsatisfactory in that the design concept does not provide parking in a convenient location that is visible from the adjacent public roadway that allows for the safe setdown/pickup and movement of children. Further, no Plan of Management has been provided detailing the management of the car park in peak period to avoid potential queuing when all car spaces in the basement level are occupied.</p>
<p>Cumulative adverse impact on traffic: Concerns are raised that proposed development will have adverse cumulative impact as;</p> <ul style="list-style-type: none"> - The suburb's road network is grid locked with only one entry/exit. - New town house development at Sunnyside Crescent and Enfield Avenue will contribute more traffic. - In case of emergency (flooding/bushfire) it is hard to evacuate due to traffic congestion at the intersection. 	<p>The submitted traffic report did not analyse the cumulative impact of the traffic generation due to the proposed development on the road network taking into consideration the existing other developments within the locality namely other child care centres in the locality, Richmond North public school, multi dwelling housings at Sunnyside Crescent etc.</p>
<p>Out of character & adverse impact on streetscape: Concerns are raised the proposed child care centre will have adverse impact on the streetscape as:</p> <ul style="list-style-type: none"> - The houses are built in 1970's and 1980's, the proposed design is out of character - Adverse visual impact due to 2.2m high acoustic wall and sale shade structure - The development appears as large and bulky commercial building. 	<p>As discussed in an earlier section of this report, the design of the subject building does not relate well to the residential area in terms of its bulk, the length of the facades, and it has the appearance of rather than being a residential building within the area, one that is more institutional or commercial. Clearly the zoning does allow childcare centres and childcare centres should be accommodated where they can harmoniously co-exist in a built form and in terms of impacts that may be created.</p> <p>The proposal should respect to the character of the locality. The appearance of the building is considered to be inconsistent with the established residential characteristics of the locality. The application is recommended for refusal.</p>
<p>Traffic and noise Impact and potential air pollution during construction stage</p>	<p>It is acknowledged that additional traffic and noise will be generated during the construction stage. Were the application be supported appropriate conditions will be imposed to minimise any adverse impact.</p>
<p>Negative impacts on the value of the property</p>	<p>The applicant has a right under the <i>Environmental & Planning assessment Act 1979</i> to the orderly and economic use and development of the land and possible variation in surrounding property values does not constitute reasonable grounds for refusal of a development application.</p>

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Concern	Comment
<p>Suitability of the land: Concerns are raised that the subject site is not suitable for the proposed development as;</p> <ul style="list-style-type: none">- The locality has more aging population & less young families,- The site has only one exit to Grose Vale Road which remain congested during peak time.- The site is not located in close proximity to any school or educational establishment.- Lack of public transport will require all children to be dropped off by car.- North Richmond has already three child care centre near the town centre.	<p>The matters raised in the submissions have been taken into consideration during the assessment. As discussed in an earlier section of the report, the acoustic issues raised by the application and the reliance on the Plan of Management (PoM) and the internal acoustic barrier as a means of mitigating the acoustic impacts demonstrate that the site is not suitable for the intensity of the proposed use.</p>

e) The Public Interest:

Having regard to the assessment contained in this report, it is considered that approval of the development is not in the public interest.

Development Contributions

Section 7.12 Fixed development consent levies (Hawkesbury Section 94A Contributions Plan 2015)

The development is for a child care centre and therefore is exempt from contributions under Section 7.17 of the *Environmental Planning and Assessment Act 1979* or Council's Section 94A Contributions Plan.

Conclusion

The matters in relation to Section 4.15 of the *Environmental Planning and Assessment Act 1979* have been considered. The application has not adequately demonstrated that the proposal will not have any detrimental environmental impacts both onsite and to the neighbouring properties.

Recommendation:

That development application DA0233/20 at Lot 17 DP 255010, 6 Keda Circuit NORTH RICHMOND NSW 2754 for Centre Based Child Care Facility - Demolition of Existing Structures, Construction of a 78 Place Centre-Based Child Care Facility, Outdoor Play Areas, Basement Car Parking and Landscaping be refused for the following reasons:

1. Insufficient useable outdoor space

The development application should be refused as it has not demonstrated that the proposed development complies with outdoor space requirements of the Child Care Planning Guideline.

Particulars:

The outdoor play areas are not provided in accordance with Part 3, Clause 4.9 – Outdoor Space Requirements of the Childcare Planning Guideline 2017 and Regulation 108 of the Education and Care Services National Regulations as the proposal provides approximately 6.25m² of useable outdoor play space per child for 0-2 years old group, approximately 6.33m² of useable outdoor play space per child for 2-3 years old group, and approximately 5.95m² of useable outdoor play space per child for 3-5 years old group respectively. The proposal is required to provide at least 7m² of useable outdoor play space per child.

2. Does not comply with Hawkesbury Local Environmental Plan 2012

The development application should be refused as it has not demonstrated that the proposed development complies with the requirements of Hawkesbury Local Environmental Plan 2012.

Particulars:

- a. The proposed development is inconsistent with the zone objectives of R3 Medium Density Residential, as the land is not considered suitable to enable other land uses (child care centre) that provides facilities to meet the day to day needs of residents.
- b. The proposed development is unsatisfactory because the proposal is inconsistent with the aims of Hawkesbury Local Environmental Plan 2012, in particular clause 4.3(1)(b) as the bulk of the development is excessive and does not relate well to the local context.

3. Does not comply with Hawkesbury Development Control Plan 2002

The development application should be refused as it has not demonstrated that the proposed development complies with the requirements of Hawkesbury Development Control Plan 2002.

Particulars:

- a) The proposal is inconsistent with the aims of Chapter 2 – Car Parking and Access of Hawkesbury Development Control Plan 2002, in particular Clause 2.1 as the proposal fails to minimise the potential for pedestrian/vehicle and vehicle/vehicle conflict.
- b) The proposal is inconsistent with the access considerations of Chapter 2 – Car Parking and Access of Hawkesbury Development Control Plan 2002, in particular Clause 2.4 as the proposal will have potential for on-street queuing. There is no standing area or dedicated turning bay provided for vehicles entering the basement car parking area. Vehicle accessing the driveway will conflict with vehicles entering or exiting parking spaces, resulting in vehicles queuing on the driveway and the local street.

4. Unacceptable amenity impact

The development application should be refused as the proposed development is likely to cause unacceptable amenity impact to the residents of the immediate locality.

Particulars:

- a) The proposed development will result in unacceptable noise impact on adjoining residential properties.
- b) The proposal relies on restricting the number of children during outdoor play in addition to installation of the acoustic fence to manage noise emissions. The proposed methods are not appropriate for the management of noise emissions and compromises the amenity and usability of the centre by the children.

- c) The acoustic walls proposed to manage the noise impacts of the development will result in an unacceptable visual impact to the adjoining properties.
- d) External windows and doors are required to be closed when children are involved in indoor play. Due to the restrictions on the number of children to be playing in the outdoor area at any one time, for the majority of the day the glazing will be closed. This will have an adverse amenity impact on the children due to lack of natural ventilation.
- e) The indoor playroom and outdoor play area for 2-3 years old children are located to the south western part of the site and will be under shadow for most of the daytime during winter.

5. Inadequate Plan of Management

The development application should be refused as the proposed development did not provide an adequate Plan of Management.

Particulars:

- a) The proposal has not provided an adequate Plan of Management (PoM) which fully details how the child care centre will operate in accordance with the recommendations of Acoustic Report.
- b) No details have been provided how the number of children of certain age groups will be managed to play outdoors at any one time.
- c) No details have been provided how the service vehicles will be managed to provide food and other necessary deliveries for the centre.
- d) No details have been provided how the car parking in the basement will be managed during peak periods when all the car spaces are occupied to avoid potential queuing on the local street.
- e) No details have been provided how the additional car parking will be managed during special event days usually organised by the child care centre.

6. Unacceptable impact on landscape

The development application should be refused as the proposed development is likely to cause unacceptable impact on landscape.

Particulars:

- a) The proposed removal of a Council street tree with high retention value will result in adverse impact to the landscape and streetscape character.
- b) The proposed OSD at the front setback combined with driveway and pathway precludes establishment of any meaningful landscaping which is capable of softening the built form in consistent with the existing streetscape.
- c) The proposed perimeter walling associated with the OSD basin will result in a major and unsustainable impact on the two neighbouring trees.
- d) The proposed 2.2m acoustic fence with 45° angle will impede the natural form and structure of the proposed trees to reach full dimensions and a form typical for the species.

HAWKESBURY LOCAL PLANNING PANEL MEETING

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- e) The pathway to the perimeter of the outdoor play area does not provide suitable access to facilitate regular maintenance of the proposed screen planting. The pathway is impeded by storage areas, retaining walls and existing trees.

7. Unsuitability of the site

The development application should be refused as it has failed to demonstrate that the subject site is suitable for the proposed development.

Particulars:

- a) The proposed development would have an adverse impact on the amenity of residents in the immediate locality in terms of noise, traffic and visual amenity.
- b) The proposed development is inconsistent with the established character of the locality.

8. Public Interest

In the circumstances, approval of the development may create an undesirable precedent for similar inappropriate development which would not be in the public interest.

ATTACHMENTS:

AT - 1 Location of the subject site.

AT - 2 Aerial image of the subject site.

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AT - 1 Location of the subject site



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AT - 2 Aerial image of the subject site



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