



# Report of Development Application Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979

## APPLICATION DETAILS

Application No.:	DA22/0460
Modification No.:	DA22/0460.01
Council File No.:	D/2022/0460
Date of Lodgement:	18/07/2023
Applicant:	The Trustee For Only Spenders Unit Trust 22-24 Wassell Street MATRAVILLE NSW 2036
Proposal:	Review of Determination - Two Storey Childcare Centre, demolition of existing structures, carparking area and fencing
Description of Modification:	N/A
Development Cost:	\$894300
Assessment Officer:	Amanda Gray
Determination Body:	Council - In accordance with section 8.3 of the EPA Act <i>"The review of a determination or decision made by a council is to be conducted by the council and not by a delegate of the council."</i>
Other Approvals	Nil
Type of Application:	Review of Determination.
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	26 July - 9 August 2023.
Advertising:	26 July - 9 August 2023.
Owner's Consent Provided:	yes
Location:	On the western side of Halloran Street approximately 30m north of the junction with Blamey Street.

## SITE DETAILS

Subject Land:	32 Halloran St TURVEY PARK NSW 2650 Lot 29 Sec B DP 37333
Owner:	Money Aint Got No Owners Pty Ltd

## REPORT

Development Application DA22/0460 for a *Two Storey Childcare Centre (46 Places)*, *demolition of existing structures, carparking area and fencing* was determined by way of refusal at the Ordinary Meeting of Council held on 8 May 2023.

The reasons for refusal were as follows:-

1. Insufficient information regarding carpark design and compliance.
2. Concern in relation to movements within the carpark and to and from the car park, creating safety problems for both children and pedestrians and the travelling public.
3. Concern in relation to site constraints and insufficient information upon which to make a decision about carparking and other site layout issues, which may impact on building position and minimum requirements for child care centre play areas.
4. Concern in relation to existing stormwater flow impacts in the precinct and insufficient information upon which to make a decision that effective and practical storm water detention could be achieved on site.

It is noted that the Council decision was not unanimous and that the Council staff recommendation was to approve the development application subject to conditions.

The applicant has submitted an application to review the determination under Division 8.2 of the *Environmental Planning and Assessment Act 1979* (the Act). The review application has addressed the reasons for refusal by the submission of additional information and detailed reports.

The relevant provisions under Section 8.3 (of Division 2) of the Act are addressed below:

- (2) A determination or decision cannot be reviewed under this Division-*
- (a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or*
  - (b) after the Court has disposed of an appeal against the determination or decision.*

The determination of this review will be within the allowable period of six months.

- (3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.*

The review includes minor amendments to the proposed development as follows:-

1. Increase to floor height of building.

In response to concerns regarding stormwater management on site the design of the building has been amended to increase the finished ground floor level by 700mm from RL 205.5 to RL 206.2. The increase in ground level allows for improved management of stormwater as the below ground on site detention tank within the carpark is set at a lower level (RL205.9) than the building.

The increase to ground levels will not impact the overall height of the building which remains as RL213.50 at the roof pitch height. The additional height is accommodated within the building design by reducing the ceiling heights on each level. There will be a minor amendment to the roof pitch to accommodate the changes.

The amendments are shown on the two plan extracts below.

## 2. Stormwater Management

Changes to the proposed external storage space at the southern side of the building have been made to accommodate an elevated on-site detention tank. The location is highlighted on the plan extract below.

The new on-site detention (OSD) tank will have a capacity of 4m<sup>3</sup>. This OSD will collect rainwater from the roof of the building and subsequently discharge to the kerb at Halloran Street via a charged line.

A below ground OSD is provided for within the carpark with a capacity of 5.5m<sup>3</sup> that will capture run-off from the car-park area. Water from this tank will discharge to existing infrastructure at the rear of the block.

The introduction of two separate detention tanks on site will result in stormwater discharge being split between the front and rear and a subsequent reduction of stormwater flows to the existing inter allotment drainage system at the rear of the site. The proposed works will further ensure that post development flows do not exceed pre-development flows.

Original - DA22/0460



Amended - DA22/0460.01



### 3. Car-parking layout.

Although not originally proposed when the review application was received Council staff have sought further changes to the car park to improve manoeuvrability.

The key change to the car-park layout is the introduction of a turning bay that allows all vehicles to exit the carpark in a forward direction. The turning bay introduces a greater sense of security that cars entering the site can safely exit if there are no available spaces without the need to reverse out onto Halloran Street.

The turning bay results in the number of parking spaces on site being reduced to eleven. The required number of parking spaces for a 46 space childcare centre is 12 and the improved layout and subsequent reduction in car-parking spaces would have resulted in the number of spaces being non-compliant. The applicants therefore sought a further modification to reduce the maximum number of children at the centre from 46 to 44. The required number of spaces for 44 children is eleven and the amended layout is therefore compliant.

The revised car-parking layout is compliant with Australian Standards.

The amended proposal is substantially the same development that was the subject of the original application and therefore the review can be considered under this part of the Act.

*(6) The review of a determination or decision made by a council is to be conducted by the council and not by a delegate of the council.*

The review is to be conducted by the Council.

### Description of Development

This application is for a new child-care centre with associated car-parking. The development requires the demolition of all buildings and structures on site. There are two dwellings on site arranged in a tandem layout with driveway alongside the northern boundary of the block.

The child-care centre will be a detached two storey building with dimensions of approximately 23m in length and 10.5m in width. The building will be constructed of brick with elevations presenting a mix of two brick types and horizontal cladding material. The building will be set back approximately 17 metres from Halloran Street.

A new 6m wide central driveway is proposed that will access car-parking to the front of the site. There will be 11 off street car-parking spaces five of which will be reserved for staff parking and six for parent drop offs, including one accessible space adjacent to the entry. A pedestrian footpath is provided that runs parallel to the northern boundary of the site and connects to the existing footpath on Halloran Street.

The centre will have a maximum of 44 children catering for 8 x 0-2 years, 13 x 2-3 years and 23 x 3-5 years, split between four separate rooms. On the ground floor of the building there will be three playrooms for 0-2, 2-3 and 3-5-year-old children. There will also be a cot room, nappy change, milk preparation, administration area, toilets, bin store and lift. Two of the playrooms will link to an external deck at the rear of the property leading out to covered play spaces. On the first floor will be the fourth playroom that will also be for 3-5-year-olds, a kitchen, laundry, toilets, staff room, storage and lift. The upper playroom will connect to a partly covered external play area. The external deck will have 1.8m high acoustic barriers, the barriers will be a mix of solid wall (to the south) and glazing (to the west).

To the rear and side of the property are areas of open space to be utilised by the children. These spaces include walkways that lead to and from the building, shade sails, sand pits, play equipment and running track area. The upper floor outdoor area will have active and passive play zones with synthetic surface. A 2 metres wide landscaped area is proposed at the front of the site to soften the appearance of the front car-park. Landscaping areas are also proposed to both side boundaries and the rear.

The centre is proposed to operate from 7am to 6pm Monday to Fridays. The centre will employ up to 12 staff members on any given day.

### **The Site and Locality**

The subject site is legally identified as Lot 29, Sec B in DP37333 and is known as 32 Halloran Street. The lot is rectangular in shape extending to 1018sq.m and is located on the western side of Halloran Street approximately 30m to the north of the junction with Blamey Street.

The property consists of two dwellings with outbuildings arranged in a tandem layout with driveways to the north of the site serving each property.

There are residential properties to the north, south and west of the site. To the south there is a dual occupancy development with both units facing towards and accessed from Blamey Street and to the north and west are detached single dwellings. The property to the north has a large outbuilding and attached car-port to the rear alongside the northern boundary of the subject site.

Directly opposite the site to the east is Turvey Park public school. The school accommodates a large area and includes both single and two storey brick buildings as well as car-parking and open space areas. There is a large recreational space known as Gissing Oval and children's playground to the southern side of Blamey Street.

### **Easements and Covenants**

There is a sewer line located along the western (rear) boundary and a stormwater pit located within the same area to the western boundary of the site. The proposed development is clear of the above noted infrastructure.

### **Previous Development Consents**

DA99/92 - Proposed strata subdivision of two existing dwellings

DA115/85JG - To construct a two bedroom second dwelling and carport at the rear of the existing dwelling.

## **MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)**

### **Section 4.15(a)(i) - The provisions of any environmental planning instrument (EPI)**

#### **Wagga Wagga Local Environmental Plan 2010**

Under the provisions of the WWLEP 2010 the land is zoned R1 General Residential.

The objectives of the R1 zone are as follows:-

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure co-ordinated and cost-effective provision of physical, social and cultural infrastructure in new residential areas.*

The proposed development does not provide residential housing and therefore does not comply with the first two listed objectives. The proposal to provide a childcare centre is a land use that provides a service that meets the day to day needs of residents and is consistent with the third listed objective. A childcare centre has both social and cultural benefits and is an appropriate form of infrastructure within a residential area. The upgrades to physical infrastructure in the form of on-site detention tanks further address and satisfy the fourth listed zone objective.

The proposed land use is one that is common within both R1 and R3 zones where development is of an urbanised form with a greater density of dwellings and closer to places of work. In accordance with clause 2.3 of the WWLEP2010 the consent authority must have regard to the objectives for development in a zone when determining a development application. Based on the above assessment the development is consistent with the R1 zone objectives.

## Part 2 Permitted or prohibited development Land Use

The development proposes long day care and is defined within the WWLEP2010 as a **centre based child-care facility** which 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.*

A *centre-based child-care facility* is specifically listed as permitted with consent in an R1 zone.

Clause 2.7 states that demolition requires consent. The lodgement of the development application satisfies this clause.

### **Part 3 Exempt & Complying Development**

The proposed development is not Exempt or Complying Development. The application is seeking consent.

### **Part 4 Principal development standards**

There are no principal development standards that apply to the application.

### **Part 5 Miscellaneous provisions**

#### 5.21 Flood Planning

*The objectives of this clause are as follows-*

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.*

A small part of the site is identified within the flood planning area (FPA) for overland flood events and therefore this clause applies. The development proposes a raising of the finished floor level of the building and upgrades to stormwater management across the site. The impact of overland flooding in this location is negligible given its location and heights and therefore no further assessment against the MOFFs flood data is required against this clause.

### **Part 6 Urban Release Areas**

The subject site is not within an Urban Release Area.

### **Part 7 Additional Local Provisions**

#### 7.1A Earthworks

The proposed earthworks are of a minor nature and wholly related to the development. Earthworks will be required in association with the on-site detention tank in the car-park and establishing the raised finished floor level for the building. Appropriate conditions of consent relating to sediment and erosion controls are to be included. There are no significant detrimental impacts anticipated and the development is consistent with this section of the WWLEP.

#### 7.6 - Groundwater Vulnerability

Clause 7.6 of the WWLEP 2010 relates to groundwater vulnerability. The subject site is identified as sensitive on the Water Resources Map and as such this clause applies. The

objective of this clause is to protect and preserve groundwater sources. It is not anticipated that there will be any adverse impacts on groundwater as the use is not identified under this clause as impacting on groundwater sources.

### 7.9 - Primacy of Zone E2

Clause 7.9 states that development consent must not be granted to development on any land unless the consent authority is satisfied that the development maintains the primacy of Zone E2 Commercial Centre as the principal business, office and retail hub of Wagga Wagga. The development is for a child-care centre that could be accommodated within the CBD. However, as it is not a core commercial land use it is not anticipated that it will detract from the primacy of the E2 zone and therefore the control is satisfied.

## State Environmental Planning Policies (SEPPs)

### State Environmental Planning Policy (Transport and Infrastructure) 2021

#### Chapter 3 Educational Establishments and Child Centre Facilities

Subject to Clause 3.6 (1), if there is an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

#### Part 3.3 Early Education and Care Facilities - Specific Development Controls

Clause 3.22 applies to developments which do not comply with the floor area or outdoor space requirements specified in the Education and Care Services National Regulations. The proposed centre provides the minimum floor areas and outdoor space and therefore this clause does not apply.

Clause 3.23 requires the consent authority to consider any applicable provisions of the Child Care Planning Guideline before determining a development application. An assessment against the "Guideline" is included below:

#### NSW Child Care Planning Guidelines

##### 3.1 Site selection and location

*Objective: To ensure that appropriate zone considerations are assessed when selecting a site.* The site is in a residential zone and the assessment of the application, detailed within this report, has considered acoustic and privacy setbacks, setbacks, and visual amenity.

*Objective: To ensure that the site selected for a proposed child-care facility is suitable for the use.*

The site is zoned R1 General Residential, a centre based childcare facility is permissible in the zone. The site has previously been in use for residential purposes and therefore no concerns in regard to potential contamination are raised. The site is surrounded by residential development and opposite a school.

The development provides safe drop off and pick up areas and there is off and on street parking available. Halloran Street is a low-speed residential environment with low traffic volumes, it is not a heavy vehicle route and due to the school located opposite the site benefits from reduced speed school zone restrictions at certain times of the day. There are no incompatible social activities or uses within proximity to the subject site.



*Objective: To ensure that sites for child-care facilities are appropriately located.*

The site is located in a residential area near to compatible social uses such as schools, open spaces and parks. A local shopping centre is within walking distance and both the city centre and the hospital precinct are approximately five minute drives from the site. There is a public transport available to the site with buses to both Bourke Street and Heath Street. The facility is appropriately located in terms of accessibility.

*Objective: To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards*

The site is not near any industry, service stations or odour generating uses that would present a risk to children.

### 3.2 Local character, streetscape and the public domain interface

*Objective: To ensure that the child care facility is compatible with the local character and surrounding streetscape.*

The development is proposed within an established residential area that is characterised by single storey dwellings. The proposed two storey building does present a different form of development to that on the western side of Halloran Street but does relate to the two storey buildings at Turvey Park Primary School on the opposite side of the road.

There are no height restrictions within the area and a two-storey dwelling could be constructed on the subject site or any other residential lot within the locality in accordance with current legislation.

The building will incorporate a mix of materials that will present a more contemporary presentation to the street than many of the older properties within the locality. The building has a significant setback of 17 metres that will assist in minimising the impact of the building to the streetscape. The front setback area will contain parking and vehicle movement areas which will be adequately landscaped to soften the appearance of both the building and the car-park. Whilst the front parking area is not in keeping with the dominant streetscape character, if the parking was at the rear it would reduce the functionality of the site and result in a poor outcome with regard to a children's safe play space.

*Objective: To ensure clear delineation between the child care facility and public spaces.*

The development includes secure gated entry in and out of the building ensuring the safety of children. There is a defined pedestrian footpath into the site from the street and front landscaping provides a clear delineation between the facility and the street. The centre includes windows facing the street to provide passive surveillance and connection with the community.

*Objective: To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.*

The front of the site includes a 2m wide landscaped setback to the car-park. Planting within this area is predominantly shrubs and this will be limited in height to ensure visibility is maintained for all vehicles entering and exiting the site. The side fences will also be reduced in height within the 2m setback ensuring no domination of the existing public domain.

### 3.3 Building orientation, envelope and design

*Objective: To respond to the streetscape and site, while optimising solar access and opportunities for shade.*

The internal layout of the building has had regard to neighbouring properties with the placement of windows at the upper level. Windows that face south are to a laundry and a meeting room that will have minimal use and not lead to any significant loss of privacy. The upper balcony will be screened by 1.8m barriers to minimise any overlooking and to also assist in the buffering of noise from the outside play area.

The outdoor play areas are to the south and west of the site whilst not ideal this is dictated by the orientation of the site. Shading is proposed to all outdoor areas for protection during the summer months. The staff will manage the optimum use of these spaces at different times of the year in accordance with restrictions contained in the management plan relating to numbers of children.

An acoustic assessment of the development has recommended higher fencing along all boundaries of between 1.8m and 2.4m in height. The design of the acoustic fence will be solid colorbond up to a height of 1.8m with polycarbonate above. Fencing above the standard fence height of 1.8m is recommended to the rear (western) and southern boundaries.

Shadow diagrams have been prepared that do show some overshadowing to the properties to the south. The shadowing occurs to the property in the morning but is clear from the north facing windows by midday. Some overshadowing of the adjacent open space will occur from the proposed acoustic fence, but sufficient areas of open space are clear from shadowing after midday. The shadow diagrams also demonstrate that there is an acceptable amount of natural sunlight to the outdoor play areas during winter.

*Objective: To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised.*

The scale of the building does differ to adjoining developments as it is a two-storey development. The two storey element does respond to the building directly opposite however which is a primary school building. The impacts of the building are minimised by the significant setback from the street. The application includes a comparison of the way in which the site could be redeveloped for a complying development two-storey residential development. The envelope is greater in terms of both the building height and footprint.

*Objective: To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context.*

The setback to Halloran Street is approximately 17 metres allowing for on-site car parking and to reduce the impact of the building on the adjoining properties. The side setback is 1m to the north and 6m to the south, upper floor setbacks are increased further to minimise visual and amenity impacts. The building is set 9.8metres off the rear boundary. The setbacks are greater than those required for a dwelling house.

*Objective: To ensure that buildings are designed to create safe environments for all users.*

There is one clearly defined entrance that is visible from the street. The entry is easily monitored from the reception area and not accessible from the outdoor play area.

*Objective: To ensure that child care facilities are designed to be accessible by all potential users.*

The centre has been designed as accessible for all users and includes ramps to outdoor play spaces, a lift, accessible bathrooms and accessible carparking. The construction of the centre will have to apply with accessibility standards in accordance with the BCA.

### 3.4 Landscaping

*Objective: To provide landscape design that contributes to the streetscape and amenity.*

A detailed landscape plan has been provided in support of the application. The landscaping contributes to the streetscape and to the overall amenity of the site by providing differing play areas and planting to side and rear boundaries.

Carparking has been incorporated into the front setback area. The plans show landscaping treatments to the boundaries of this area including the provision of five trees.

### 3.5 Visual and acoustic privacy

*Objective: To protect the privacy and security of children attending the facility.*

Not relevant as there is no overlooking of the play areas from a mixed-use development.

Indoor rooms and outdoor play areas are protected from overlooking by the proposed fencing and landscaping and obscure glazing (within the upper storey play area) that will screen direct visibility into internal spaces.

*Objective: To minimise impacts on privacy of adjoining properties*

Boundary fencing landscaping and obscure glazing (for the upper storey play area) will minimise impacts on adjoining properties. The two upper floor side windows are to rooms that will have minimal activity (laundry and meeting room) and are therefore acceptable.

*Objective: To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments*

The proposed development includes acoustic fencing to the northern, southern and western boundaries as recommended in the submitted acoustic report. This fencing ranges from 1.8m to 2.4m in height. The submitted plan also shows fencing of the same heights forward of the building line. Given the residential streetscape where fencing is generally limited to 1.2 metres forward of the building a condition of consent will be recommended to reduce the height of the fencing forward of the building line of the neighbouring dwellings to mitigate the impact on the streetscape. It is not anticipated that a decrease in the height of fencing within this location would cause an adverse impact on the adjoining development given that this area contains the parking and vehicle movement area. A sound barrier will also be provided to the second storey play area in the form of a solid wall on the southern elevation and an obscure (etched) glazed acoustic fence to the western elevation.

An acoustic report was submitted with the application as stated above. The report was prepared by a suitably qualified acoustic professional.

### 3.6 Noise and air pollution

*Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels.*

The building is within a residential area with the nearest noise source the primary school located opposite the site. The significant setback creates physical separation and both existing street trees and new landscaping will contribute to the buffering of any noise disturbance. Internally sleeping areas are located away from outdoor play spaces to minimise disturbance.

The subject site is within a residential area and is not on industrial zoned land, where the ANF contour is between 20 and 25, along a railway or mass transit corridor, on a major road or on land that is impacted by substantial external noise. Therefore, C25 is not applicable to the assessment of the application.

*Objective: To ensure air quality is acceptable where child-care facilities are proposed close to external sources of air pollution such as major roads and industrial development.*

The subject site is not subject to external sources of air pollution from major roads or industries.

### 3.7 Hours of operation

*Objective: To minimise the impact of the child-care facility on the amenity of neighbouring residential developments.*

The Guideline recommends core hours of operation in residential areas of 7am - 7pm weekdays. The proposal is for opening hours of 7am to 6pm Monday to Friday. The proposed hours are therefore consistent with the Guideline.

### 3.8 Traffic, parking and pedestrian circulation

*Objective: To provide parking that satisfies the needs of users and demand generated by the centre.*

Car parking is consistent with the DCP and will be assessed in section 2.2 of this report. A Traffic and Parking Impacts report was prepared by the applicant. The study took into account the existing school peak times and childcare peak times. The study stated that peak drop off times for the school are between 8:30am and 9:15 and pick up times are between 15:00pm and 15:45pm. The childcare peak drop off and pick up times are outside of the peak times for the school and there are no days where they overlap. Therefore, the childcare centre is unlikely to have an additional impact above that currently experienced at the primary school. The report concludes that there will be no negative impacts on street network operation. The development does not seek to vary the required parking as specified in the DCP.

*Objective: To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.*

A central driveway is proposed that will access a car-park at the front of the site. The driveway replaces two separate driveways at the front of the site and is appropriate in terms of both scale and location. Halloran Street experiences peak traffic activity during the afternoon at the end of the school day, this peak school activity differs to peak collection times of an all day childcare centre. The access to and from the centre is not anticipated to disrupt traffic flows given the low vehicle numbers recorded on Halloran Street.

*Objective: To provide a safe and connected environment for pedestrians both on and around the site.*

There is a defined pedestrian entry point into the centre from the footpath along Halloran Street. A safety gate is provided between the entrance and the car park area. Accessible parking has been provided at the front of the building with easy access to the entrance of the centre and play areas are located to the rear of the building.

## Part 4. Applying the National Regulations to development proposals

Only those regulations with statutory implications are addressed in this report. Other regulations will be assessed by other regulatory authorities during the required accreditation process for the centre.

### 4.1 Indoor space requirements

*Regulation 107- every child must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.*

The centre provides 163.5sq.m of unencumbered indoor space that equates to an average of 3.72sq.m per child. The specific breakdown for each room is included in the table below showing compliance with this control across all spaces.

Description of Indoor area	Unencumbered area (sq.m)	No. of children in this area	Unencumbered area per child
Ground floor indoor play space 1 (0-2 years)	26.9	8	3.36
Ground floor indoor play space 2 (2-3 years)	44.8	13	3.45
Ground floor indoor play space 3 (3-5 years)	58.4	15	3.89
First floor indoor play space 4 (3-5 years)	33.4	8	4.17
<b>TOTAL</b>	<b>163.5</b>	<b>44</b>	<b>3.72</b>

#### 4.9 Outdoor space requirements

*Regulation 108 - every child must have a minimum of 7.0m<sup>2</sup> of unencumbered outdoor space. if this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.*

The centre provides 329.1sq.m of unencumbered outdoor space that equates to an average of 7.48sq.m per child. The specific breakdown for each area is included in the table below showing compliance with this control across all spaces.

Description of Outdoor area	Unencumbered area (sq.m)	No. of children in this area	Unencumbered area per child
Ground floor outdoor play space	267	36	7.41
First floor outdoor play space	62.1	8	7.76
<b>TOTAL</b>	<b>329.1</b>	<b>44</b>	<b>7.48</b>

The application has been assessed against the relevant guideline and all matters for consideration have been considered in the assessment. Based on the foregoing assessment it is determined that the proposal is compliant with the requirements of the Child Care Planning Guidelines prepared by NSW Department of Planning, Industry & Environment.

#### 3.26 Centre-based child care facility - non discretionary development standards

The SEPP identifies a number of non-discretionary development standards for particular matters that, if complied with, prevent the consent authority from requiring more onerous standards for those matters. These matters are:

*a) location- the development may be located at any distance from an existing or proposed early education and care facility.*

There are other child care facilities located within Turvey Park at Fernleigh Road, Coleman Street and Wade Street. The demand for childcare facilities across the city is high and there are no regulations that prevent or prohibit such centres within proximity to another.

*b) indoor or outdoor space*

*i. for development to which regulation 107 or 108 of the Education and Care Services National Regulations applies-the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or*

*ii. for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies-the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause.*

As outlined above the development satisfies the minimum indoor and outdoor floor space requirements.

*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,*

There are no minimum sizes or dimensions for the allotment and Council has not applied any standards in this regard.

*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.*

The site is not within a heritage conservation area and Council has not imposed any restrictions to building materials or colours.

*To remove doubt, this clause does not prevent a consent authority from refusing a development application in relation to a matter not specified above or granting development consent even though any standard specified above is not complied with.*

### 3.27 Centre-based child care facility-development control plans.

*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:*

- (a) operational or management plans or arrangements (including hours of operation),*
- (b) demonstrated need or demand for child care services,*
- (c) proximity of facility to other early education and care facilities,*
- (d) any matter relating to development for the purpose of a centre-based child care facility contained in:*

- (i) the design principles set out in Part 2 of the Child Care Planning Guideline, or*
- (ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).*

The WWDCP does not contain any requirements regarding the demonstrated need for childcare services or proximity to existing services. The WWDCP contains requirements for car parking and the Guideline defers to the DCP requirements in this instance.

### **SEPP (Resilience and Hazards) 2021**

Clause 4.6 of the SEPP requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use.

The site has historically been in residential use. There was no evidence of contaminating land activities on site and the land is not identified on Councils potentially contaminated land register. The site is considered suitable for the intended use in accordance with the SEPP.

**Section 4.15(1)(a)(ii) - Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority**

Nil

**Section 4.15(1)(a)(iii) - The provisions of any development control plan Wagga Wagga Development Control Plan 2010**

The proposed development has been assessed against the applicable objectives and controls of the Wagga Wagga Development Control Plan 2010 as follows:

**Section 1 - General**

**1.10 Notification of a Development Application**

The review application was advertised and notified to adjoining neighbours from 26 July - 9 August 2023 in accordance with the provisions of the DCP. The notification clarified that all submissions made to the original application would remain valid and that there was no requirement to re-submit letters. There were 20 submissions received in objection to the application, eight of these were from persons that had not made a submission to the original application.

The details of the objections are discussed under section (d) of this report.

**Section 2 - Controls that Apply to All Development**

**2.1 Vehicle access and movements**

*C1 Access should be from an alternative secondary frontage or other non-arterial road where possible.*

Access to the site is via a two-way, 6m wide, centrally located driveway from Halloran Street, which is a non-arterial road. The driveway replaces two existing driveways located side by side that provide access to the two existing dwellings on site.

*C2 A Traffic Impact Study may be required where adverse local traffic impacts may result from the development. The traffic impact study is to include the suitability of the proposal in terms of the design and location of the proposed access, and the likely nature, volume or frequency of traffic to be generated by the development.*

A traffic and parking impacts report was prepared in support of the original application and further supported by a response to traffic and parking concerns raised in submissions.

The report includes an analysis of the local road network and survey results. On-site surveys were carried out in relation to traffic counts and parking demand within proximity of the subject site.

The parking analysis showed that the morning peak demand occurred at 9.15 and the afternoon peak demand occurred at 15.20 which would be consistent with school drop off times. Throughout the day there were at least 39 spaces vacant (to a maximum of 95) within a 150m walking distance and at least 20 spaces vacant (to a maximum of 43) between a 150m-250m walking distance.

The report concluded that there are ample parking opportunities within walking distance of the site. Notwithstanding, as detailed below the provision of 11 car-parking spaces on site complies with legislative requirements for a child care centre and there is no reliance upon on-street parking.

The traffic counts identified that the morning peak occurred between 8.30 and 9.30 and the afternoon peak occurred between 15.00 and 16.00 again concurrently with school drop off and pick up times. The report noted that existing traffic volumes are very low and as such the intersections at either end of Halloran Street operate at a very good level of service with practically no delays. Both Halloran Street and Blamey Street, carry very low traffic, well below their traffic capacity. Even during the peak hours of school drop-offs and pick-ups, counted traffic volumes did not exceed 90 veh/h in Halloran Street. This is very low traffic by the definitions of the TfNSW (2002) Guide to Traffic Generating Developments (GTGD).

Traffic generation for the childcare centre was reviewed within the report and calculated as generating a maximum of 22 additional trips in and 13 additional trips out of the site during the morning peak hour. In the afternoon peak hour, the trip generation is estimated as an additional 11 trips in and an additional 19 trips out of the site. Studies of existing childcare centres elsewhere in the state confirm that the peak traffic generation at childcare centres both in the morning and the afternoon occurs outside of the peak school times and this is also anticipated in this location. The report concludes that the existing school pick-up and drop-off activities are not likely to create any capacity nor safety issues for the proposed child care centre, nor vice versa.

*C3 Vehicles are to enter and leave in a forward direction unless it can be demonstrated that site conditions prevent it.*

The proposed car-park design and layout allows for all vehicles to enter and exit in a forward direction. A turning bay is included to facilitate these vehicle movements.

*C4 Provide adequate areas for loading and unloading of goods on site. The loading space and facilities are to be appropriate to the scale of development.*

There is no dedicated loading area provided on site, but the proposed use would not be anticipated to receive a significant number of deliveries. It is critical that the car-park spaces are available for parents and staff and not blocked or utilised by delivery vehicles, therefore the centre would be expected to have a management plan that controls delivery times to not conflict with peak user times. A condition of consent has secured the provision of management plan prior to the centre being operational.

*C5 Access driveways are to be located in accordance with the relevant Australian Standard at the time of lodgement of an application.*

*C6 Ensure adequate sight lines for proposed driveways.*

The location of the driveway onto Halloran Street does not raise any concerns. The driveway replaces existing driveways that serve the existing two dwellings on site.



## 2.2 Off-street parking

*C1 Parking is to be provided in accordance with the table below. For uses not listed, similar land uses should be used as a guide in assessing car parking requirements.*

Child care centres require 1 parking space for every four children in the centre. With a capacity of 44 children, this results in a requirement of 11 spaces. The layout plan for the site shows 11 car parking spaces including one accessible space. The car-parking provision complies with this control.

The applicant states that there will be a maximum of 12 staff on site at any one time. Five of the eleven spaces are to be reserved for staff parking only. Staffing at childcare centres is staggered and there is the possibility that staff will also utilise on street parking. There are no parking restrictions to the western side of Halloran Street or Blamey Street therefore there is potential for some overflow parking to be accommodated.

*C2 The design and layout of parking is to be in accordance with the relevant Australian Standard at the time of lodgement of an application.*

Car parking will be required to be set out to meet the requirements for general parking and this will be secured by condition.

*C8 A traffic and parking study may be required for certain proposals, including but not limited to proposals for schools and other education uses including child care centres, business parks, hospitals, cinemas and gyms.*

A study was provided in accordance with this control, the details are discussed under section 2.1 above.

*C9 Provide trees within the parking area at a rate of 1 tree per 5 spaces in a row. Each tree to have a minimum mature spread of 5m and to be located in a planting bed with minimum width of 1.5m (between back of kerbs) and minimum area of 3.5m<sup>2</sup>.*

New trees are identified within the front and side setback areas. There are five trees in total that will assist in softening the impact of the car park. Existing street trees adjacent to the car-parking area will be protected during site works.

## 2.3 Landscaping

A detailed landscape plan has been provided with the application. The plan includes planting to the front and side boundaries of the site to soften the car-park. Additional trees and shrubs are proposed within the rear garden and parts of the outdoor play area will be turfed.

It is proposed to plant a variety of trees, shrubs and ground covers within the site. The plants have been selected to be appropriate and stimulating to a childcare environment.

## 2.4 Signage

No signage is proposed as part of this application.

## 2.5 Safety and security

The entrance to the childcare centre is clearly visible and faces towards both the car-park and the street. The gated entry into the building provides a secure, safe space between the cars and the entry/exit for all users of the facility. The outdoor play areas are located at the rear of the building and provide safe and secure activity spaces.

There are no blank walls along the Halloran Street frontage and rooms within the centre face out to the street to provide passive surveillance. The reception area is at the front of the building and entry into the building will be via a security tag system. Security tags will be issued to staff and parents.

The acoustic fencing does result in increased solid barriers that are required to address noise impacts. The inclusion of high fences at the front of the site creates hidden spaces when the centre is closed, and a condition will be recommended that the fencing be reduced in height forward of the neighbouring building lines to the north and south to 1.2 metres.

The proposed development is considered to comply with the objectives and controls within this section.

## 2.6 Erosion and Sediment Control Principles

Standard conditions of consent will be included.

## 2.7 Development adjoining open space

The development does not adjoin open space.

## Section 3 - Heritage Conservation

The site is not within the conservation area and is not identified as a heritage item. There are no cultural heritage items identified on or within proximity of the site.

## Section 4 - Environmental Hazards and Management

The subject site is not mapped as bush fire.

### 4.2 Flooding

This section of the DCP applies as the land is identified as flood prone land and is impacted by a PMF event. A PMF event is a probable maximum flood which in this case would relate to a significant rain event and flash flooding. However, the controls of this section are based on the Wagga Wagga Floodplain Risk Management Study 2009 that related to riverine flooding associated with the Murrumbidgee River and did not consider MOFFs.

This does not immediately conclude that the development is acceptable and the flood prone nature of the land means that the objectives of the LEP and DCP remain a relevant consideration.

The following objectives of this section of the DCP have been considered as well as control C2 as detailed below.

*O2 Minimise the risk of life during floods by encouraging construction and development that is “flood proofed” and compatible with the flood risk of the area.*

*O3 Ensure that development and construction are compatible with the flood hazard.*

*C2 Critical utilities are to be located on land above the PMF level in all precincts. For the purposes of this Section critical utilities include:*

- Child care centres.*
- Educational establishments.*

A flood risk management report was prepared in support of the development application. The report notes that for the 1% AEP flood event, flood depths are generally limited and less than 150mm, as such, a H1 hazard category applies to the site for storms up to and including the 1% AEP flood, which is generally considered safe for people, vehicles and buildings. During the PMF event, flood depths are estimated at approximately 800mm throughout the property, and as such, the flood hazard category during a PMF event is H4, which is generally considered unsafe for people and vehicles, however safe for purpose-built structures.

In response to the overland flood data the finished ground-floor level of the development has been set at 206.20m AHD which is at the upstream (southern) PMF flood level. No inundation of the development is anticipated for storms up to and including the PMF. A shelter-in-place approach has been adopted with respect to evacuation and hazard management for the proposed development as flood waters are anticipated to rise and rescind very quickly. As the building will provide protection of occupants for all storms up to and including the PMF event a condition shall be placed on the development, that if approved, a suitably qualified structural engineer shall certify the proposed childcare structure as able to withstand all forces associated with flooding up to the PMF level of 206.20m AHD.

Council have determined a number of development applications for childcare centres within areas impacted by a PMF event. Discussions and conclusions within these applications has confirmed that childcare centres (and particularly privately operated childcare centres) are not ‘critical utilities’. Their continued operation is not essential during a flood to ensure the ongoing functioning of the city, nor are they required to provide for emergency coordination and response to a flood event. They are entirely different to land uses such as hospitals and emergency service facilities which maintain critical operations and emergency response and therefore control C2 is not relevant for the purposes of this assessment.

Furthermore, it would be considered unreasonable to impose these controls as the impacts, such as the risk to life and property and the compatibility of development with the flood hazard, have the potential to be substantially different to those impacts in a riverine flood event.

The application has included flood control measures and is consistent with the zone objectives of this section of the DCP.

## **Section 5 - Natural Resource and Landscape Management**

This issue has been addressed under Clause 7.6 of the LEP above.

There are no applicable controls within Sections 6, 7, 8 of the WWDCP2010.

## Section 9 - Residential Development

The subject site is within a residential area. The controls within section 9 are for residential development and therefore are not applicable to this application.

There are no applicable controls within Sections 10 and 11 of the WWDCP2010.

## Section 12 - Specific Uses and Developments

### Section 12.5 - Child Care Centres

*C1 Provide adequate space to allow for drop off and parking requirements within the development site.*

Car parking is provided in accordance with the DCP to allow for parents to park safely whilst dropping off and collecting their children.

*C2 Design and locate set down, pick up and parking areas to be visible from the road but to maintain the amenity of adjoining properties.*

The car parking area is to the front of the building and visible from the road. Landscaping along the side boundaries will assist in maintaining amenity to neighbouring properties.

*C3 The front setback is to include a 2m landscape strip. Landscape buffer areas may be required to side boundaries.*

The front setback includes a 2m wide landscaping strip in accordance with this control. The landscaping will predominantly be shrubs and maintained at a height so that it does not impede the visibility of cars going in and out of the site. Landscaping to both side boundaries is a mix of plants and shrubs and new trees are to be planted along the rear boundary.

*C4 Design and locate outdoor activity areas to maximise the natural site features, including climate considerations such as avoiding afternoon sun but take advantage of cooling breezes in summer. All playgrounds must be capable of supervision at all times.*

The outdoor areas are to the rear and side of the building and clearly visible from internal areas. The rear play area is to the west, shade sails will be included to allow for protection during the summer months. The play area to the south includes walkways and sand pits and will also benefit from shaded areas for protection from weather extremes. The upper play area also faces west and includes shaded areas. Whilst it is acknowledged that an optimum play space location would be to the north and/or east both the site orientation and the potential for adverse impacts to neighbours do not allow for play areas on these sides of the site. The different outdoor play spaces will always be supervised by staff.

*C5 Outdoor play areas are to be fenced on all sides. The fencing is to be at least 1.8m in height, and to be equipped with child proof self locking mechanisms. The fence should be designed to prevent children scaling or crawling under.*

The rear play areas are secured by the boundary fencing to the site that ranges in height from 1.8m to 2.4m. The upper play area is enclosed by 1.8m barriers. Fencing and gates prevent children from being able to get out of the rear play area towards the front car-park area.

*C6 The outdoor play area is to include an undercover space that is large enough for use during wet weather and to provide protection from the sun.*

There are appropriate under-cover areas provided within the outdoor play spaces. They are to both the side and rear of the building and within parts of the upper balcony area.

*C7 Design outdoor play areas to include a range of opportunities for developmental play.*  
The landscape plan identifies a running track, play equipment, sand pits, hop-scotch and painting easels offering a variety of play options and developmental opportunities.

*C8 Landscaping, mounding and fencing treatments may be required where there is potential for adverse amenity impacts to adjoining properties. This could include using landscaping to contain outdoor play areas or lapped metal or masonry fencing.*  
Acoustic fencing is proposed to the rear and side boundaries to minimise adverse noise impacts from the development. New landscaping, including trees, once matured, will assist in softening the impact of noise from the play areas.

*C9 Locate play equipment such as cubby houses, trampolines and slides not to overlook neighbours properties. Shade structures should not be located where they will be elevated in relation to boundary fences where they could cause visual or shadow impacts.*  
The location of shade sails is not anticipated to cause visual or shadow impacts to the neighbouring properties. The proposed building is two storeys and will result in a degree of overshadowing during the winter. The exact details of play equipment within the rear play space are unknown but given the identified running track and landscaping areas any additional equipment is likely to be located away from the side and rear boundaries. SEPP (Exempt and Complying Development Codes) includes provisions for playground equipment. The standards are that the development must be no higher than 2.5m, located a minimum of 450mm from each boundary and be in the rear yard. It is anticipated that any proposed play equipment will comply with the noted exempt provisions.

*C10 Use vegetation that is non-allergenic and sensitive to water restrictions.*  
The proposed new landscaping has been selected to be appropriate and stimulating to a childcare environment.

There are no applicable controls within Sections 13, 14, 15 or 16 of the WWDCP2010.

#### **Section 4.15(1)(a)(iia) - Planning Agreements**

There is no draft or current planning agreement applicable to this application under Section 7.4 of the *Environmental Planning and Assessment Act 1979*.

#### **Section 4.15(1)(a)(iv) - any matters prescribed by the regulations**

There are no applicable matters prescribed by the regulations.

#### **Section 4.15(1)(b) - likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, development**

##### **Context and setting**

The subject site is set within an established residential suburb, the majority of the housing within proximity to the site consists of single storey detached dwellings. There are single storey dwellings to the north, west and south of the subject site. Further north along Halloran Street there is a greater variety of lot sizes and some multi-unit developments.

The western side of Halloran Street is dominated by single storey dwellings whereas the eastern side also includes some unit developments and a variety of lot sizes.

Directly opposite the subject site is Turvey Park public school. The school plays a dominant role in setting the context for the proposed development as it occupies a significant portion (67%) of the eastern street frontage to Halloran Street. The school is also important as it contributes to the context of activity in the area being one of young families dropping children to school each day both on the way to work and/or walking from neighbouring streets.

The introduction of a childcare centre is in keeping with the existing context and setting that consists of daily visits from young families going to and from school. It is anticipated that there could be many linked trips as families have children at both the school and the childcare centre and that many pre-school children would transition from the centre to the public school.

The large school site further contributes to the context and setting within which the development is proposed by the fact that there are significant times of the day and year when there is no activity. During school holidays and outside of school hours the activity at the school is minimal and this results in a road that has reduced numbers of vehicle movement, available on-street parking and quiet streets. A childcare centre also has significant times of no activity including every weekend and every night.

There is undoubtedly an increase in vehicle activity along Halloran Street at school peak times that contributes to the context within which the new centre is proposed. The way in which a childcare centre operates is different to a school in that there are staggered arrival times and staggered pick up times. Whilst some children may be dropped off and collected at school times many others will not be, resulting in a spread of vehicle movements between two likely peak times of 7am-9am and 4pm-6pm.

The school also partly consists of two storey buildings. There is a two-storey building directly opposite the subject site that must be considered when assessing the setting of the proposed two storey building. The childcare centre will clearly differ to the single storey dwellings on either side of the site but the significant set-back of more than 15m will assist in minimising the impact of the building within the existing context and setting and has a preferable functional outcome.

There are no current legislative restrictions that would prevent two storey residential development to any of the existing lots along Halloran Street. Subject to certain limitations a two-storey dwelling can be built as complying development and therefore be considered as appropriate within the existing context and setting.

The site cover of the proposed development is 28%. The DCP allows for site cover up to 40% for residential developments on a lot greater than 900sq.m in an R1 zone. The proposed building, the site layout and the land use are all considered appropriate within the existing context and setting as outlined above.

### Streetscape

The streetscape to the western side of Halloran Street is characterised by single storey detached dwellings with varying front setbacks of between 6-9 metres. The streetscape is further characterised by a 10m wide nature strip including a 2-metre-wide pedestrian footpath. There are mature street trees to both sides of the street.

The proposed childcare centre will be a two-storey building and will have a setback of approximately 17 metres. The footpath and nature strip will be as existing, and no street trees are impacted by the development. The setback of the building will reduce the impact to the streetscape as the front building line will be beyond the dwelling to the south and behind the

highest part of the dwelling to the north.

The childcare centre will be constructed of contemporary materials with a mix of brick types and horizontal cladding. Many of the buildings in the street are dominated by red brick, including the school, although the residential properties on either side of the subject site are painted in a lighter colour. It is not considered necessary to mimic existing designs or use of materials when redeveloping a site but rather have regard to the streetscape materials. The development does include red brick elements to the front façade and this, together with the introduction of additional more modern materials, is an acceptable design solution that does not detract from the streetscape.

The increased setback area will be laid out for car-parking. A pedestrian footpath is also proposed parallel to the northern boundary of the site and landscaping is proposed to the side and front boundaries. The 2 metres wide landscaping area at the front of the site will be maintained at a height of no greater than 1.2m to ensure that good visibility is maintained for vehicles entering and exiting the site. Equally the proposed acoustic fencing to the side boundaries will be reduced across the front 2m setback to be the same maximum height as the landscaped area. The significant area of hard-stand at the front of the site does differ to the predominant residential setbacks within the streetscape. However, the use of landscaping including new trees to all sides of the car-park will assist in softening the appearance of this area. As noted earlier the increased setback of the building allows for a reduced impact to the streetscape whilst still presenting an active façade to the street.

#### Access, transport and traffic

The vehicle access and parking arrangements have been described earlier in the report. The driveway replaces two existing driveways at the site and the proposed number of on-site car-parking spaces are compliant. The car-park layout is consistent with the relevant Australian Standards being *AS/NZS 2890.1:2004: Parking Facilities - Off-street car parking* and *AS 2890.6:2022: Parking Facilities - Off-street parking for people with disabilities*.

The application is supported by a traffic study the details of which were discussed earlier in the report. The study concluded that traffic generated by the proposed development is different in nature to that generated by the primary school located opposite the site and generally peak pick up and drop off times are outside of those generated by the school. The school traffic, including buses, is existing and as childcare centres are inherently different in nature, the impacts are concluded as acceptable with no detrimental impact to the local road network.

#### Noise and vibration

There will be noise and disturbance during clearance and construction works. The hours of demolition and construction will be controlled by standard conditions of consent, and this will be a short-term impact.

The childcare centre has the potential to generate noise from within the centre, from the outdoor play areas and balcony play space. Noise will also be apparent from the vehicle movements to and from the site each day. An acoustic report was submitted with the application that reviewed existing ambient noise levels and modelled the noise levels associated with the development.

Project specific noise goals for noise emission arising from the use of the proposed centre are derived from the EPA's Noise Guide for Local Government and the Association of Australasian Acoustical Consultants Guideline for Child Care Centre Acoustic Assessment (2013) (the

AAAC Guideline).

Noise sources associated with the operation of the childcare centre include children at play outdoors, children at play indoors, any mechanical plant servicing the centre and vehicle movements on the site. The acoustic report includes recommendations to reduce the level of noise emission from the childcare centre to within the design noise goals at all receptor locations. The recommendations include erecting sound barrier screens around the outdoor play areas and restricting the hours of outdoor play to a maximum combined total of 2 hours per day, or alternatively restricting the number of children permitted outside to play at any given time. A final assessment of mechanical plant noise emission will be undertaken prior to the issue of a construction certificate. The report concludes that subject to the recommendations being implemented and continually adhered to, the noise design goals will be met for this development.

The submitted plans identify acoustic barriers to the northern, western and southern boundaries. The fences consist of solid colorbond to a height of 1.8m with polycarbonate above to the varied heights of 2.1m and 2.4m. The use of polycarbonate in acoustic screens is common and offers a lighter more transparent material to reduce the visual impact. The report does recommend acoustic fencing to a height of 2.1m at the front of the site. A fence of this height will have a visual impact to the streetscape and limit visibility for vehicles the subject site and the property to the north. A condition is proposed to reduce the side boundary fence to a height of 1.2m forward of the building of both adjacent properties. The removal of the acoustic barrier in this location will have limited impact upon the acoustic assessment.

The recommendations of the acoustic report will be secured by condition and also included within a final plan of management for the centre.

#### Privacy

Given that the building is of two storey design there is potential for overlooking and overshadowing. The play area on the upper floor has been designed to incorporate mitigation measures including the use of a solid wall on the southern elevation and etched glass on the western elevation. This will prevent overlooking both from the centre and into the centre and ensure that privacy and safety of the children who attend the centre is maintained. Ground level play spaces are protected by the proposed boundary fencing. There are two upper floor windows to the centre which will serve a laundry and a meeting room. These rooms are unlikely to be constantly occupied and any loss of privacy will therefore be minimal.

Overshadowing impacts have been mitigated by the design of the centre. By placing the bulk of the structure within the northern portion of the site, articulating the upper storey from ground level and by stepping in the upper storey further within the site the impacts are limited to the private open space (as shown on the submitted shadow diagrams) on the neighbouring dwellings to the south. The north facing living areas of the adjoining dwellings maintain an adequate amount of access to natural light.

#### Hours of Operation

The proposed hours of operation are Monday to Friday between 7am and 6pm. The application indicates that one or two staff members will arrive and leave outside of these hours to manage opening and closing of the centre. The proposed hours are comparable with many other similar centres located within residential areas across the city and raise no concerns.



## Services

All utilities are connected and available to the site.

As noted above a new on-site detention (OSD) tank is proposed above the storage area that will have a capacity of 4m<sup>3</sup>. This OSD will collect rainwater from the roof of the building and subsequently discharge to the kerb at Halloran Street via a charged line.

A below ground OSD is provided for within the carpark with a capacity of 5.5m<sup>3</sup> that will capture run-off from the car-park area. Water from this tank will discharge to existing infrastructure at the rear of the block.

The introduction of two separate detention tanks on site will result in stormwater discharge being split between the front and rear and a subsequent reduction of stormwater flows to the existing inter allotment drainage system at the rear of the site. The proposed works will further ensure that post development flows do not exceed pre-development flows.

The provision of stormwater detention and the increased finished floor level of the building ensure that there are no adverse impacts from stormwater events up to the 100 year ARI event.

The calculations and designs have been reviewed and accepted by Council engineers.

## Heritage

The site is not within the conservation area and is not identified as a heritage item. There are no cultural heritage items identified on or within proximity of the site.

## Natural Hazards

Section 733 of the Local Government Act 1993 provides that Councils will not incur liability for decisions or omissions concerning flood liable land or land subject to the risk of bushfire have been considered. A risk assessment has been completed and Council will be able to demonstrate that it has acted appropriately in its decision making when defending claims in liability or in circumstances where administrative decisions are challenged.

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. The subject site is within the flood planning area as a result of overland flooding in the area. An assessment of the flood risks was included earlier in the report under the DCP section 4.2. Appropriate conditions regarding the finished floor level and the structural soundness of the building have been included.

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. A risk assessment is not required as the development is not mapped as bush fire prone land.

## Man-Made Hazards

The site is not subject to any known man-made hazards.

### Socio- Economic Impact in the Locality

The construction phase of any development would result in the employment of trades people for a set period. The development includes demolition, site works and the construction and fit-out of a building providing a positive economic impact for these industries. The new child-care centre would also contribute to increased employment opportunities for staff at the centre, as well as ancillary staff such as cleaners and maintenance personnel.

Child care centres are a valuable resource for families of young children providing not only secure care for young children but a place of social interaction for wider families where friendships and new relationships are formed. The proximity of centres to either places of work or home is critical to strengthening such friendships with those that live and work nearby. The centre is in an accessible location and close to both the central area and the hospital precinct both being significant employment hubs within the city.

### Site Design and internal design

The building is set back within the site which results in a setback that is greater than a standard residential setback. The increased setback allows for car parking to service the development with footpath and landscaping. Whilst the two-storey nature of the building differs from the predominant style within the area the centre has been specifically designed as a contemporary development presenting a mix of materials and architectural features. The design of the centre includes internal and external play areas in accordance with the NSW guidelines as well as accessible facilities including ramps, bathrooms and a lift. The entry to the building is easily accessed from either the car-park or via the footpath from the street, secure fencing is proposed at the entry to prevent young children from leaving the centre without supervision.

### Waste

A waste management plan was submitted with the application. The plan outlines waste management through the demolition and construction phase as well as during the operation of the childcare centre. Demolition and construction waste will be disposed of appropriately as specified in the plan and conditions of consent will be recommended to ensure that materials be handled appropriately. The centre will be serviced by a licensed private waste and recycling contractor and will take place from on street collection points. The services will be organised to take place in the operating hours of the centre but outside the peak hours of the school pick up and drop off times, to mitigate impacts on the adjoining dwellings and overall function of Halloran Street. There is a defined bin storage area on site with direct access to the pedestrian footpath allowing for ease of movement of the bins to and from the street as required.

### The Principles of Ecologically Sustainable Development

*The following are principles of ecological sustainability:*

#### *1 The precautionary principle*

*Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*

*In the application of the precautionary principle, public and private decisions should be guided by:*

*(a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*

*(b) an assessment of the risk-weighted consequences of various options.*

*The principle requires decision-making to give the environment the benefit of the doubt.*

## *2 Intergenerational equity*

*The present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations (that is, a partnership among all of the generations that may use or expect to benefit from the nation's resources).*

## *3 Conservation of biological diversity and ecological integrity*

*Conservation of biological diversity and ecological integrity should be a fundamental consideration.*

## *4 Improved valuation, pricing and incentive mechanisms*

*Environmental factors should be included in the valuation of assets and services:*

*(a) polluter pays (that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement), and*

*(b) the users of goods and services should pay prices based on the full cycle costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste, and*

*(c) environmental goals having been established should be pursued in the most cost-effective way by establishing incentive structures, including market mechanisms which enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

The proposed development will not result in any anticipated irreversible environmental damage, the proposal utilises an existing developed site and therefore is not considered to impact on biological diversity or ecological integrity. The proposal is consistent with the precautionary principle to the extent that all potential threats to the environment have been identified and assessed. Accordingly, the principles of ESD are considered to have been followed.

### **Section 4.15(c) - The Suitability of the site for the development**

The land is a developed urban block within an accessible location and the proposed childcare facility will assist in serving the needs of the local community. The development is consistent with relevant standards and complies with the provisions of the relevant SEPPs, WWLEP and WWDCP.

The subject land is considered to be suitable for the proposed development and is a permissible land use in an R1 zone.

### **Section 4.15(d) - any submissions made in accordance with the Act or the regulation**

#### Referrals

The application was referred to relevant internal referral groups. Recommended conditions of consent have been included.

#### Advertising

The application was advertised from 26 July - 9 August 2023 in accordance with the provisions of the DCP.

#### Notification

The application was notified to adjoining neighbours from 26 July - 9 August 2023 in accordance with the provisions of the DCP.

In response to the notification and advertising of the review application, 20 submissions were received in objection to the development, eight of these were from people who had not written in objection to the original application. The original application received a total of 48

submissions of objection and these letters all remain valid in determining the review.

The grounds of the submissions are summarised below:-

1. *Overdevelopment on an unsuitable site, the building is two storey and covers the maximum area. Both the location and the site size are a compromise for this development.*

Comment: As noted in the report a residential development of a larger footprint and building envelope has the potential to be built on site. The location is suitable for a child care centre and the areas of both indoor and outdoor space satisfy the requirements of the NSW planning guidelines.

2. *Safety of the car-park and the need to reverse out into the street as there is no room to turn around; what happens if a car tries to enter while one is leaving plus families walking across the car-park to the entrance whilst the difficult manoeuvring occurs.*

Comment: The car-park layout has been amended to address the concerns of both objectors and Council. A turning bay has been included to allow vehicles to manoeuvre and exit in a forward direction.

3. *The compliant car-parking layout is based on small cars only which is unrealistic as many people in Wagga drive large cars with tow bars etc.*

Comment: The Australian standards used to determine compliant car-parking standards apply to all car parks and the design has not been amended in anyway to reference small vehicles.

4. *Traffic concerns that will be created by the number of vehicle movements to and from the centre by both parents and staff. The development will result in an extra 100 vehicles a day at least trying to navigate a very busy road.*

Comment: The traffic report prepared in support of the application reviewed the likely traffic generation at the site and concluded that there is no detrimental impact to the local road network. The pick up and drop off patterns are staggered across the day and vary from day to day and are different to the peak school traffic times.

5. *Number of car parking spaces is not satisfactory given the required staff and parents as well as managers, receptionist and cleaning staff likely to be on site during the day. There is no option other than to park on the street which will add to the congestion in the area.*

Comment: As outlined earlier in the report the number of parking spaces provided complies with the legislative requirements of one space for every four children.

6. *Development is inconsistent with the LEP, DCP and the Guideline*

Comment: The report has assessed the development against the applicable legislative controls and found the development to be satisfactory.

7. *Risk to children attending Turvey Park primary school during pick up and drop-off periods due to existing congestion and the narrowness of the street. Children cross this road regularly and many children walk to school and this development will put these children at increased risk.*

Comment: There is no evidence of congestion from the traffic study and site observations and the street is of a standard width to include two-way traffic movements and parking to the western side. The peak time of school children being dropped off is different to that at the centre and is not anticipated to adversely affect the existing scenario of children crossing the road within proximity of the site.

*8. No considerations of cyclists and pedestrians.*

Comment: There is a defined pedestrian walkway into the site from Halloran Street. This path could also be used by cyclists if required.

*9. Regular waste vehicles and delivery vehicles adding to congestion and preventing two vehicles from passing.*

Comment: The waste management plan prepared in support of the development application states that all waste and recycling services will be provided by a licensed private waste and recycling collection contractor and that services will be organised to take place in the operating hours of the centre but outside the peak hours of the school pick up and drop off times, to ensure efficient and hassle-free waste collection. Based on this information the likelihood of bin collection vehicles adding to congestion in the street is low.

*10. The driveway is opposite the bus stop serving all of the school buses which will no doubt add to the chaos.*

Comment: Buses serving the school use both Halloran Street and Blamey Street. The traffic report notes that each bus stays at the bus stop for less than a minute on average. At most times (with the exception of a few minutes in total when buses drop off and pick up school students) the bus stop and the No Parking zone to the north of it create a de-facto unimpeded southbound traffic lane and safe and efficient two-way traffic conditions. Since the bus stop is across the road from the proposed child care centre, not on the same side, it does not impede the child care centre access or vice versa.

*11. Use of the walkway to access car-parking spaces is an accident waiting to happen.*

Comment: The pedestrian walkway into the site is separate to the car-park and provides a safe entry for those walking to and from the site. The practice of walking from a parked vehicle within a site to the entry is a common layout at childcare centres. Given the age of children that will be attending the centre, parents and carers will have to accompany them into the building and secure gates are provided at the entry point that prevent children being able to run out.

*12. The front setback all being used as a car parking is not in keeping with the area and detracts from the amenity of the streetscape.*

Comment: It is acknowledged that the car-parking setback differs to the dominant setbacks within the street. The use of landscaping around this area will assist in softening the impact.

*13. Proposed high fences are not in keeping with the neighbourhood and will present a poor outcome within this residential area.*

Comment: The design of the acoustic fences includes lightweight material above colorbond panels to minimise the visual impacts. The height of the acoustic fence at the front of the site is to be reduced to prevent a poor streetscape outcome.

*14. Building could end up being used as something else with additional impacts.*

Comment: If the application is approved the use of the site and the building will be as a centre based childcare facility only. Any alternate or different use of the site and the building would require a further development application.

*15. Solar orientation results in very poor outcomes with an upper floor west facing play area and south facing garden space.*

Comment: It is acknowledged in the report that the outdoor play spaces whilst not in the optimum locations are partly dictated by the site orientation and the location of the building that is sited to minimise overshadowing.

16. *The play areas do not allow free space for children to run, a larger site is needed with improved play spaces. This metro design is unlikely to be appealing to local families.*

Comment: A running track is included to the rear play area and the outdoor play spaces comply with NSW planning guidelines for childcare centres. There are not different requirements for metro and regional locations.

17. *Concerns with the process given that at the previous Council meeting it was stated that the only way the development could progress would be through the Land and Environment Court. Why has the DA been allowed back at Council via a different developer.*

Comment: The application is made in accordance with legislation as highlighted earlier in this report. The review application is made by the same owner and developer as the original application. The owner of the site is *Money Aint Got No Owners Pty Ltd* the trading name is *The Trustee for the Only Spenders Unit Trust*.

18. *Acoustic impacts*

Comment: Recommendations contained within the acoustic report will be secured by condition to minimise noise disturbance to neighbouring properties.

19. *The property has been significantly raised therefore the 1.1m high fencing will not prevent noise travelling and may also be too low to ensure the security of children.*

Comment: The building has been raised by 700mm but the play area and the carpark maintain existing ground levels therefore the proposed fence height that is intended to minimise noise disturbance from the outdoor play area is suitable.

20. *The two-storey design and the materials of the building are not in keeping with the surrounding area. The modern materials are totally out of character with the 1950s architecture that exists throughout this area.*

Comment: The building design includes two types of brick and horizontal cladding, the use of red brick at ground level responds to the predominant building material in the locality. It is not considered necessary to mimic the use of materials or design of buildings when redeveloping a site that is not in the heritage area.

21. *Do not believe that there is a demand for another childcare centre in Turvey Park. Although the use is permitted it is a residential area and should be kept for housing.*

Comment: It is not within the realms of planning legislation to determine the demand for any type of development, this is a decision made by the landowner/developer. It is not unusual for non-residential uses such as schools, medical centres and childcare centres to be located within residential areas.

22. *Unfair to introduce a commercial operation into a quiet suburban street.*

Comment: The land use is one that is permitted within consent in a residential area. Under the land use definitions contained within the WWLEP2010 the development would not be defined as commercial premises.

23. *Decrease in property values.*

Comment: Any impact upon property values as a result of a development is not a matter for consideration under s4.15 of the Environmental Planning and Assessment Act.

24. *If this goes ahead there will be a significant period of demolition and construction with heavy vehicles and tradespersons within the narrow, congested streetscape.*

Comment: A condition of consent is recommended that requires the preparation of a Construction Management Plan. Such a plan can be used to determine timing of deliveries,

vehicle movements, parking, plant storage etc and are regularly utilised within existing urban areas.

*25. Increased stormwater run-off will exacerbate existing problems on surrounding blocks. It is unclear how this has been addressed.*

Comment: Updated stormwater details were provided with the application. Two separate onsite detention tanks are proposed that will ensure post development flows do not exceed pre-development flows.

*26. No consideration of major events that are hosted by the schools such as Book Week parade or graduations at the child care centre.*

Comment: The school hold major events each year and the local road network accommodates the short-term additional demands of extra parking and pedestrian movements. An annual graduation event at the child care centre will be managed in the same way and it is likely to attract considerably less visitors than a primary school event.

*27. The two storey nature of the building results in unacceptable overshadowing and loss of privacy with the potential for negative impacts upon health and lifestyle.*

Comment: A shadow diagram prepared in support of the application shows that adequate natural light is maintained to the adjacent dwellings to the south. The centre will not be occupied in the evenings or at weekends therefore no disturbance or loss of privacy will occur at times when residents are more likely to be at home.

The submissions as detailed above are very similar to those raised in the objections to the original application. Some of the original submissions relate to matters that have subsequently been addressed in the review such as detailed landscaping plans, stormwater management design and carpark manoeuvrability. Conditions of consent are proposed to address concerns relating to construction management and an ongoing management plan for the centre.

#### **Section 4.15(e) - the public interest**

The public interest is best served by the consistent application of the requirements of the relevant planning controls and by Council ensuring that any adverse effects on the surrounding area and the environment are avoided.

The application has been the subject of local objection from many properties within the immediately surrounding streets. It is in the public interest that the principles of the R1 zoned areas are maintained and that the character of the area is not adversely impacted by new developments. Throughout the report the different impacts of the development and the matters raised in local submissions have been fully addressed and on balance the proposed childcare centre is one that is considered as acceptable. The overarching character of the R1 area is not adversely impacted and a new facility is provided for the benefit of residents.

Council has adopted a number of different plans and strategies regarding the future growth of the city and how to accommodate enough housing, employment, retail and recreational opportunities whilst balancing social, cultural and environmental impacts. One such plan that is considered to be of relevance to this application is the Community Strategic Plan 2040. One of the headings within this plan is 'Community Place and Identity' and one of the key strategies is to 'provide services that contribute to Wagga Wagga being family friendly.'

In order for families to successfully immerse themselves within the Wagga community there must be sufficient, appropriately located childcare facilities. It is not the role of Council to determine where demand is or where such centres must be located but it is in the public

interest for Council to determine the suitability and impacts of any such developments.

The overarching character of the R1 area is not adversely impacted and a new facility is provided for the benefit of residents. The provision of additional early childcare facilities within an accessible location, that is in close proximity to homes and workplaces is considered to have a positive public interest.

### Other Legislative Requirements

#### **Section 1.7 of the EPA Act 1979 and Part 7 of the *Biodiversity Conservation Act 2016* (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats)**

In accordance with the above listed legislation there are a number of tests to determine whether the proposed development results in the need for offsets.

Firstly, the test to determine whether the proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats (7.3). There is no vegetation being removed and the development is not anticipated to result in any adverse impacts upon ecological communities or habitats of threatened species.

Secondly whether the proposed removal of native vegetation exceeds the biodiversity offsets scheme threshold (7.4). There is no native vegetation proposed being removed and therefore the offsets scheme does not apply.

Thirdly whether the development is within a declared area of outstanding biodiversity value. The site does not contain any land declared as an Area of Outstanding Biodiversity Value declared under Part 3 of the BC Act 2017.

Based on the above assessment the proposal is unlikely to significantly affect threatened species and therefore does not require a Biodiversity Assessment Report and does not trigger the Biodiversity Offset Scheme. Relevant matters under the Biodiversity Conservation Act 2016 have been considered.

### Council Policies

None.

#### **Development Contributions - Section 7.11/7.12 Environmental Planning and Assessment Act 1979 & Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000**

The following contributions will be applicable if the development is approved.

Section 7.11/7.12 of the Environmental Planning and Assessment Act 1979 and the City of Wagga Wagga's Local Infrastructure Contributions Plan 2019-2034 enables Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. A Section 7.12 contribution applies to developments that have a value greater than \$100,000. The cost of development is \$813,000 and therefore the following contribution is payable.

$\$813,000 \times 1\% = \$8130.$



Section 64 of the Local Government Act 1993, Section 306 of the Water Management Act 2000 as well as the City of Wagga Wagga's Development Servicing Plan for Stormwater 2007 and/or City of Wagga Wagga Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges based on the increased demands that new development will have on sewer and/or stormwater.

### Sewer

The proposed development is for a childcare centre with 44 places and 12 staff. Section 64 sewer contributions are based on staff numbers and place numbers and the rate included in the Water Directorate Guidelines is 0.1ET per person. An ET credit was applied for the lot.

The calculation of Section 64 Sewer contributions is as follows:

$$\begin{aligned}\text{Section 64 Sewer (base)} &= ((44+12) \times 0.1 \times \$3,538) - 1\text{ET} \\ &= \$19,813 - \$3,538 \\ &= \$16,275\end{aligned}$$

$$\begin{aligned}\text{S64 Sewer CPI} &= \$16,275 \times 130.9/100.5 \\ &= \$21,198\end{aligned}$$

### Stormwater

Section 64 Stormwater calculations will be developed as per Section 2.1.2 of the Implementation Guide Development Servicing Plan Stormwater May 2022. The Section 64 Stormwater infrastructure contribution is based on the following formula.

area of new hardstand/800 x area of additional hardstand as a % of the lot area/0.6 x 1ET

{Area of hardstand as a % of the lot area =  $13\text{m}^2/1018\text{m}^2 = 0.012$ }

$$\begin{aligned}\text{Stormwater Calculation} &= 13/800 \times 0.012/0.6 \times \$3,007 \\ &= 0.98 \\ &= \text{under } \$100 \text{ threshold - therefore no Section 64 required}\end{aligned}$$

### **Other Approvals**

None required

### **Conclusion**

Following the Review of Determination under Division 8.2 of the Environmental Planning & Assessment Act 1979 it is recommended that the original determination be changed based on the supporting information that has been provided in response to the reasons for refusal.

The additional information provided in relation to the car park layout, movements in and out of the car-park and the management of stormwater on site have been detailed within the report and assessed as compliant and acceptable.

The review of determination includes a full re-assessment of the application and recommends that the application be approved subject to conditions.

## RECOMMENDATION

It is recommended that application number DA22/0460.01 for Review of Determination - Two Storey Childcare Centre, demolition of existing structures, carparking area and fencing be approved, subject to the following conditions:-

## CONDITIONS OF CONSENT FOR APPLICATION NO. DA22/0460.01

### A. SCHEDULE A – Reasons for Conditions

The conditions of this consent have been imposed for the following reasons:

- A.1 To ensure compliance with the terms of the Environmental Planning and Assessment Act 1979 and Regulation 2000.
- A.2 Having regard to Council's duties of consideration under Section 4.15 and 4.17 of the Act.
- A.3 To ensure an appropriate level of provision of amenities and services occurs within the City and to occupants of sites.
- A.4 To improve the amenity, safety and environmental quality of the locality.
- A.5 Having regard to environmental quality, the circumstances of the case and the public interest.
- A.6 Having regard to the Wagga Wagga Development Control Plan 2010.
- A.7 To help retain and enhance streetscape quality.
- A.8 Ensure compatibility with adjoining and neighbouring land uses and built form.
- A.9 To protect public interest, the environment and existing amenity of the locality.
- A.10 To minimise health risk to neighbouring residents and workers.

### B. SCHEDULE B – Deferred Commencement Conditions

N/A

### C. SCHEDULE C – Conditions

#### Approved Plans and Documentation

- C.1 The development must be carried out in accordance with the approved plans and specifications as follows.

Plan/DocNo.	Plan/Doc Title	Prepared by	Issue	Date
A01a	Demolition Plan	Archidrome		25.8.2023
A02	Ground floor plan	Archidrome	R02	25.8.2023
A03	Entry Plan	Archidrome	R00	30.8.2023
A04	First floor plan	Archidrome	R02	25.8.2023
A05	Roof plan	Archidrome	R01	25.8.2023
A06	Elevations - 01	Archidrome	R02	25.8.2023
A07	Elevations - 02	Archidrome	R02	25.8.2023

A08	Sections	Archidrome	R01	25.8.2023
A06	Elevations - 01	Archidrome	R02	25.8.2023
A06	Elevations - 01	Archidrome	R02	25.8.2023
A13	Material	Archidrome	R01	25.8.2023
030722-01	Stormwater Drainage Layout 1	VNK Consulting	D	22.8.2023
030722-01	Stormwater Drainage Layout 2	VNK Consulting	B	3.7.2023
L01	Ground Floor Landscape Plan	Archidrome	R03	18.9.2023
L02	First Floor Landscape Plan	Archidrome	R03	18.9.2023
	Landscape Schedule	Archidrome		No date
	Statement of Environmental Effects	Miletic-Mieler Development Consultants Pty Ltd	C	15.8.2023
22027	Traffic and Parking Impacts Report	TEF Consulting		10.7.2022
22027	Certificate of Design	TEF Consulting		10.8.2023
2204003E-R	Environmental Noise Assessment	Harwood Acoustics		18.7.2022
230593	Flood Risk Management Report	SDS Engineering	B	12.8.2023

The Development Application has been determined by the granting of consent subject to and as amended by the conditions of development consent specified below.

NOTE: Any modifications to the proposal shall be the subject of an application under Section 4.55 of the Environmental Planning and Assessment Act, 1979.

### Requirements before a Construction Certificate can be issued

- C.2 Prior to the issue of the Construction Certificate, written confirmation, on letter head, from the Council approved concreter installing the driveway is to be provided to Council or the Certifying authority. A list of Council approved concreters who hold a 138 permit can be found on Council's website.
- C.3 Prior to the issue of Construction Certificate the applicant must lodge a bond with Council of:-

\$2000 for security deposit on the kerb and gutter and footpath

Plus a non-refundable administration fee as per Council's Fees and Charges.

NOTE 1: Applicants will be required to complete the Kerb Guttering and Footpath bond form and return to Council to arrange a bond (BKG) number. This must be done PRIOR to making payment at Council's Customer Service desk. The form can be found at <[https://wagga.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0011/84188/Kerb-Guttering-and-Footpath-Bond-Form-Interactive.pdf](https://wagga.nsw.gov.au/__data/assets/pdf_file/0011/84188/Kerb-Guttering-and-Footpath-Bond-Form-Interactive.pdf)>.

- NOTE 2: In lieu of payment, the applicant can with written authorisation from their builder, utilise an ongoing bond should their builder hold and ongoing bond.
- NOTE 3: All monetary conditions are reviewed annually, and may change on 1 July each year.
- NOTE 4: Works in the form of driveways, kerb and gutter and footpath may require you to obtain a Section 138 Roads Act 1993 approval. Please contact Councils Road Reserve Officer on 1300 292 442 prior to undertaking such works.
- NOTE 5: Council will accept a once off security deposit for the kerb and gutter and footpath for applicants who lodge multiple DA's with council. If the applicant has security deposits held by Council for kerb and gutter and footpath at the time of Construction Certificate application, then Council may waive the need for an additional bond to be paid.
- NOTE 6: The bond held on the kerb and gutter and footpath is fully refundable upon completion of all works and upon inspection by Council to ensure that any damage to Council infrastructure has been repaired. The bond will not be refunded in the event that damage done to Council's infrastructure is not repaired to the satisfaction of Council. All damage is to be repaired at the full cost of the applicant
- C.4 Pursuant to s7.12 of the Environmental Planning and Assessment Act 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, a monetary contribution of \$8130 must be paid to Council, prior to the issuing of the Construction Certificate. The monetary contribution payable under this condition will be indexed in accordance with Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 from the endorsed date of this Development Consent until the date of payment.
- NOTE 1: Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 provides for Section 7.12 contributions to be indexed in accordance with annual movements in the March quarter Consumer Price Index (CPI) (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.
- NOTE 2: The monetary contribution identified above remains applicable if paid within the same financial year as the date of determination. If payment is to be made outside this period, you are advised to contact Council prior to payment being made to determine if CPI increases/decreases have occurred since the date of this consent. The applicable rate of CPI at the time of consent is 132.7.
- NOTE 3: A copy of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, is available for inspection at Council Chambers, corner Baylis and Morrow Streets, Wagga Wagga, or on Council's website.
- C.5 Prior to the release of Construction Certificate a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.

- NOTE 1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.
- NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development in the Council's area. An application for a compliance certificate must be made with Riverina Water. Additional fees and charges may be incurred by the proposed development - please contact Riverina Water to ascertain compliance certificate water supply related requirements. A copy of such a compliance certificate is required prior to release of Construction Certificate.
- NOTE 3: The Council is responsible for issuing compliance certificates and imposing requirements relating to sewerage, drainage and flood works for development in its area.
- NOTE 4: Under s306 of the Water Management Act 2000, Riverina Water or the Council, as the case requires, may, as a precondition to the issuing of a compliance certificate, impose a requirement that a payment is made or works are carried out, or both, towards the provision of water supply, sewerage, drainage or flood works.
- NOTE 5: The Section 64 Sewer base figure is \$16,275.  
The Section 64 Sewer contribution (updated by the CPI 130.9/100.5) required to be paid is \$21,198.
- NOTE 6: The Section 64 Stormwater base figure is nil.
- NOTE 7: Section 64 contributions shall be indexed in accordance with CPI annually at the commencement of the financial year.
- NOTE 8: The figures outlined in this consent are based on the current rate of CPI. Please be advised that CPI changes on a regular basis and you are advised to contact Council prior to payments being made, to ensure no further CPI increases/decreases have occurred since the date of this consent.
- C.6 Prior to the release of the Construction Certificate a Construction Management Plan (CMP) must be prepared to the satisfaction of the General Manager or delegate. The plan must include but is not limited to the following:
- Details of the project, time frames and dates.
  - Demolition Management Plan including confirmation that there will be no crushing of aggregate on site.
  - Traffic management measures (to include access arrangements, likely vehicle movements, loading/unloading areas, contractor parking etc)
  - Suitable delivery times to minimise the impact of deliveries on traffic and school zones.
  - Management of air, dust, stormwater, sediment, noise
  - Waste Management
  - Storage of materials
  - Details of appropriate signage and fencing to be installed and maintained to effect this plan.

- WHS measures
- Public safety and security
- Emergency contact name and number of project manager(s)

NOTE: This plan must be adhered to at all times during works.

- C.7 Prior to the issue of a Construction Certificate an assessment of all mechanical plant by a suitably qualified acoustical engineer must be submitted to Council for approval by the General Manager or their delegate as recommended in the Environmental Noise Assessment Proposed Child Care Centre by Harwood Acoustics dated 18 July 2022. Any additional mitigation measures must be identified on the construction certificate plans to the satisfaction of an acoustical engineer.
- C.8 Prior to the issue of a Construction Certificate, amended plans must be submitted to the satisfaction of the General Manager or their delegate illustrating that the height of the fence forward of the building line of the neighbouring dwellings be limited to a height of 1.2 metres.
- C.9 Prior to the issue of a Construction Certificate, engineer's certification shall be submitted to Council, to the satisfaction of the General Manager or delegate.
- The certification shall be from a qualified structural/civil engineer stating that the building if constructed in accordance with the plans and specifications to which the Construction Certificate relates, will not sustain structural damage from the force of flowing overland flow floodwaters or from impact of debris associated with the floodwaters in a PMF event.
- C.10 Prior to the release of the Construction Certificate, plans submitted with the Construction Certificate shall identify a minimum finished floor level of 206.2m AHD. The plans shall also detail how the building will be of flood compatible construction in accordance with Appendix F of the NSW Flood Plain Development Manual.
- C.11 Prior to issue of the Construction Certificate detailed plans and elevations of the food and drink preparation areas shall be submitted in accordance with the requirements of the Food Act 2003 and the Food Regulation 2015 and the Food Safety Standards Code. Plans shall include but not be limited to the floor, wall, ceiling covering, coving, exhaust canopy, personal and chemical storage areas.

#### **Requirements before the commencement of any works**

- C.12 Prior to works commencing on site, toilet facilities must be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
- a) a standard flushing toilet connected to a public sewer, or
  - b) if that is not practicable, an accredited sewage management facility approved by Council, or
  - c) if that is not practicable, any other sewage management facility approved by Council.

NOTE 1: The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced and the toilet facility must not be removed without the prior written approval of Council.

- NOTE 2: "Vicinity" in this condition is defined to mean within 50 metres of the subject building site.
- NOTE 3: The toilet facilities are to comply with all WORK COVER NSW requirements.
- C.13 A CONSTRUCTION CERTIFICATE must be obtained pursuant to Section 6.7 of the Environmental Planning and Assessment Act 1979, as amended from either Council or an accredited certifying authority certifying that the proposed works are in accordance with the Building Code of Australia PRIOR to any works commencing.
- NOTE 1: No building, engineering, excavation work or food premises fitout must be carried out in relation to this development until the necessary Construction Certificate has been obtained.
- NOTE 2: YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE, even if you made an application for a Construction Certificate at the same time as you lodged this Development Application.
- NOTE 3: It is the responsibility of the applicant to ensure that the development complies with the provision of the Building Code of Australia in the case of building work and the applicable Council Engineering Standards in the case of subdivision works. This may entail alterations to the proposal so that it complies with these standards.
- C.14 Prior to works commencing a container must be erected on site for the enclosure of all building rubbish and debris, including that which can be wind blown. The enclosure shall be approved by Council and be retained on site at all times prior to the disposal of rubbish at a licenced Waste Management Centre.
- Materials and sheds or machinery to be used in association with the construction of the building must not be stored or stacked on Council's footpath, nature strip, reserve or roadway.
- NOTE 1: No building rubbish or debris must be placed, or be permitted to be placed on any adjoining public reserve, footway, road or private land.
- NOTE 2: Weighbridge certificates, receipts or dockets that clearly identify where waste has been deposited must be retained. Documentation must include quantities and nature of the waste. This documentation must be provided to Council prior to application for an Occupation Certificate for the development.
- NOTE 3: The suitable container for the storage of rubbish must be retained on site until an Occupation Certificate is issued for the development.
- C.15 Prior to the commencement of works erosion and sediment control measures are to be established and maintained to prevent silt and sediment escaping the site or producing erosion. This work must be carried out and maintained in accordance with Council's:-
- a) Development Control Plan 2010 (Section 2.6 and Appendix 2)

- b) Erosion and Sediment Control Guidelines for Building Sites; and
- c) Soils and Construction Volume 1, Managing Urban Stormwater

Prior to commencement of works, a plan illustrating these measures shall be submitted to, and approved by, Council.

NOTE: All erosion and sediment control measures must be in place prior to earthworks commencing.

- C.16 Prior to the commencement of works, an application is required to be lodged for an Activity Approval under Section 68, Part B - 4, 5 and 6, of the Local Government Act 1993 for the following:

- i) upgrade of the existing sewer spur to 150mm diameter,

NOTE 1: Works carried out under an approved Section 68 prior to a Development Consent and/or Construction Certificate being issued are subject to change and are at the applicant's risk.

NOTE 2: Prior to the commencement of works a works bond may be required to be lodged with Council for public infrastructure works. Refer to Council's Section 68 Activity Approval Application Guide for detail.

- C.17 The existing street tree fronting the property shall be retained and protected from the proposed development. A Tree Protection Zone (TPZ) shall be constructed in accordance with Australian Standards - AS 4970-2009 Protection of Trees on Development Sites. Construction of the Tree Protection Zone shall be inspected by Council's Supervisor of Tree Planning and Management, prior to the commencement of any site works. TPZ fences shall remain in place until the end of construction.

All care shall be taken to minimise the impact to the root systems of the existing street tree during the construction of the driveway. Prior to the commencement of the driveway works a site inspection shall be carried out with Council's Tree Management Officer to determine the extent of impact to tree root systems.

Contact can be made by phoning 1300 292442 during normal business hours.

- C.18 A Section 68 Approval must be obtained from Council prior to any sewer or stormwater work being carried out on the site.

The licensed plumber must submit to Council, at least two (2) days prior to the commencement of any plumbing and drainage works on site a "Notice of Works".

NOTE: A copy of the Notice of Works form can be found on Council's website.

- C.19 Prior to works or activities commencing within the road reserve, approval under Section 138 of the Roads Act 1993 is required from Council.

A written application for Consent to Work on a Road Reserve is required to be submitted to and approved by Council. This shall include the preparation of a certified Temporary Traffic Management Plan (TTP) for the works.



It should be noted that work in the existing road reserve can only commence after the plan has been submitted and approved and then only in accordance with the submitted TTP. Please contact Council's Activities in Road Reserves Officer on 1300 292 442.

### **Requirements during construction or site works**

- C.20 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.
- C.21 The demolition must be carried out in accordance with the provisions of Australian Standard AS2601-2001: The Demolition of Structures.

Within fourteen (14) days of completion of demolition, the following information shall be submitted to Council for assessment and approval:

- a) an asbestos clearance certificate prepared by a competent person; and
- b) a signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with any Waste Management Plan approved with this consent. In reviewing such documentation Council will require the provision of actual weighbridge receipts for the recycling/disposal of all materials.

NOTE 1: Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

NOTE 2: Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".

NOTE 3: Competent Person (as defined under Safe Removal of asbestos 2nd Edition [NOHSC: 2002 (2005)]) means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill, for the safe performance of the specific work.

NOTE 4: A licence may be required for some of the tasks described in the document entitled Safe Removal of Asbestos 2nd Edition as requiring a competent person.

- C.22 The permitted construction hours are Monday to Friday 7.00am to 6.00pm and Saturday 7.00am to 5.00pm, excepting public holidays. All reasonable steps must be taken to minimise dust generation during the demolition and/or construction process. Demolition and construction noise is to be managed in accordance with the Office of Environment and Heritage Guidelines.
- C.23 All earthworks, filling, building, driveways or other works, must be designed and constructed (including stormwater drainage if necessary) so that at no time, will any ponding of stormwater occur on adjoining land as a result of this development.
- C.24 Any upgrades or alterations to existing Council infrastructure required as a result of the development shall be at the full cost of the applicant. Contact Council's Development Engineer to confirm what approval is required prior to commencing

work on any Council infrastructure. Such work includes (but is not limited to) upgrade or connection to sewer or stormwater mains, and alteration of stormwater pits and sewer manhole levels.

- C.25 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated “spoil” material.
- C.26 The construction and finished area used for the manufacture, preparation, storage, packing, carriage or delivery of food for sale shall be constructed and maintained in accordance with the Food Act 2003 and Food Regulations 2015 and the Food Safety Standards Code.

### **Requirements prior to issue of an Occupation Certificate or prior to operation**

- C.27 Prior to issue of occupation certificate the redundant kerb layback in Halloran Street shall be replaced with conventional barrier kerbing, and Council’s footway rehabilitated, in accordance with Council’s Engineering Guidelines for Subdivisions and Developments.
- C.28 Prior to the issue of Occupation Certificate, the paving of all vehicular movement areas must be either a minimum of 150mm thick flexible pavement and sealed or 150mm thick reinforced concrete.
- C.29 Prior to the issue of an Occupation Certificate, Works-As-Executed (WAE) plans of the constructed On-Site Detention system shall be submitted to Council. The WAE plans shall confirm the volume of constructed storage areas, installation of orifice plates, pipe and pit levels and surface levels of overland flow paths. Certification shall be provided by a practising Civil Engineer that the constructed On-Site Detention system will function as intended in accordance with the approved plans.
- C.30 Prior to the issue of an Occupation Certificate the kerb and gutter and nature strip shall be inspected by Council and any damage resulting from the development works rectified to Council's satisfaction.
- C.31 Prior to the issue of an Occupation Certificate the existing sewer spur shall be upgraded to the satisfaction of Council. These works will require a Section 68(PUBLIC) approval.
- C.32 Prior to the issue of the Occupation Certificate and subject to the modified details approved under condition C8 acoustic fencing must be installed to all site boundaries in accordance with the details contained within the “Environmental Noise Assessment Proposed Child Care Centre” prepared by Harwood Acoustics Acoustical Consulting dated 18 July 2022.
- C.33 Prior to the issue of the Occupation Certificate, recommendations (with the exception of fencing requirements secured under condition C32) contained within the “Environmental Noise Assessment Proposed Child Care Centre” prepared by Harwood Acoustics Acoustical Consulting, dated 18 July 2022 must be included to the satisfaction of an acoustical engineer.

- C.34 Prior to issue of an Occupation Certificate, a finalised Plan of Management must be prepared to the satisfaction of the General Manger or delegate, the plan shall include, as a minimum:
- i) Details of how the outdoor play areas will be managed and used to comply with the recommendations contained in the Environmental Noise Assessment Proposed Child Care Centre prepared by Harwood Acoustics Acoustical Consulting dated 18 July 2022.
  - ii) Delivery arrangements to the centre to avoid conflict with school zones and peak activity along Halloran Street.
  - iii) Garden maintenance and cleaning contract details specifying times of day and days of week when this activity can occur.
  - iv) Maintenance of landscaping to the front setback to no greater than 1.2 metres in height
  - iv) Car park management and staff parking practices.
  - v) Waste collection arrangements.
  - vi) Complaint management and out of hours contact details.

The approved Plan must be made available to all staff, parents and carers and the details of the plan must be implemented on site at all times.

- C.35 Prior to the issue of the Occupation Certificate and at a minimum two (2) days prior to the food business premises commencing trade, a health inspection must be conducted by Council's Environmental Health Officer in accordance with the Food Act 2003 and the Food Regulations 2015, Food Safety Standards Code. A satisfactory final fit out and construction approval must be obtained by Council's Environmental Health Officer prior to commencing trade.
- C.36 An Occupation Certificate must be obtained pursuant to Section 6.9 of the Environmental Planning and Assessment Act 1979, from either Council or an accredited certifying authority, prior to occupation of the building.

In order to obtain this, the "Final Occupation Certificate" form must be completed and submitted to Council with all required attachments - failure to submit the completed Occupation Certificate Application form will result in an inability for Council to book and subsequently undertake Occupation Certificate inspection.

NOTE: The issuing of an Occupation Certificate does not necessarily indicate that all conditions of development consent have been complied with. The applicant is responsible for ensuring that all conditions of development consent are complied with.

- C.37 A final inspection must be carried out upon completion of plumbing and drainage work and prior to occupation of the development, prior to the issuing of a final plumbing certificate Council must be in possession of Notice of Works, Certificate of Compliance and Works as Executed Diagrams for the works. The works as Executed Diagram must be submitted in electronic format in either AutoCAD or PDF file in accordance with Council requirements.

All plumbing and drainage work must be carried out by a licensed plumber and drainer and to the requirements of the Plumbing and Drainage Act 2011.

NOTE: Additional fees for inspections at the Plumbing Interim Occupancy / Plumbing Occupation stage may apply. This will depend on the number of inspections completed at this stage of the work/s.

- C.38 Prior to the issue of an Occupation Certificate a Water Plumbing Certificate from Riverina Water County Council shall be submitted to Council.

NOTE 1: The applicant is to obtain a Plumbing Permit from Riverina Water County Council before any water supply/plumbing works commence and a Compliance Certificate upon completion of the works. Contact Riverina Water County Council's Plumbing Inspector on 6922 0618. Please be prepared to quote your Construction Certificate number.

### **General requirements**

- C.39 No more than 44 children may be in attendance at the centre at any one time.
- C.40 The approved use must only be conducted on Mondays to Fridays, inclusive between the hours of 7.00 am and 6.00 pm.
- C.41 All exterior lighting associated with the development must be designed and installed so that no obtrusive light will be cast onto any adjoining property.
- NOTE: Compliance with Australian Standard AS4282.2019 "Control of the Obtrusive Effects of Outdoor Lighting" will satisfy this condition.
- C.42 No signage is approved as part of the application, no signs or advertising material (other than those classed as exempt development) shall be erected on or in conjunction with the proposed occupation of the site without a subsequent application being approved by Council.
- C.43 All building debris and material associated with the approved demolition shall be removed from the site within 3 months of the completion of the demolition to the satisfaction of the General Manager or delegate.
- C.44 All play equipment must comply with the exempt provisions contained within State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Alternatively, a Development Application is required for any proposed equipment that does not meet the exempt provisions.
- C.45 The owner must submit to Council and the NSW Fire Brigade an Annual Fire Safety Statement, each 12 months, commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

A minimum of 11 car parking spaces must be made available on site at all times. The car park and all associated facilities must be laid out in accordance with Australian Standards AS2890.1.2004, AS2890.2 2002 and AS/NZS2890.6.2009.

## **D. SCHEDULE D – Activity Approval Conditions (Section 68)**

N/A

## **E. SCHEDULE E – Prescribed Conditions**

Conditions under this schedule are prescribed conditions for the purposes of section 4.17 (11) of the Environmental Planning and assessment Act 1979.

- E1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 (clause 69 EP&A Reg 2021)

- (1) It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.
- (2) It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.
- (3) It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with the Building Code of Australia, Volume 1, Part B1 and NSW Part I5.
- (4) In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the relevant date.
- (5) In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.
- (6) This section does not apply-
  - (a) to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or
  - (b) to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.
- (7) In this section -  
relevant date has the same meaning as in the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, section 19.

E2 Erection of signs (clause 70 EP&A Reg 2021)

- (1) This section applies to a development consent for development involving building work, subdivision work or demolition work.
- (2) It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out-
  - (a) showing the name, address and telephone number of the principal certifier for the work, and
  - (b) showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the work site is prohibited.

- (3) The sign must be-
  - (a) maintained while the building work, subdivision work or demolition work is being carried out, and
  - (b) removed when the work has been completed.
- (4) This section does not apply in relation to-
  - (a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
  - (b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

E3 Notification of Home Building Act 1989 requirements (clause 71 EP&A Reg 2021)

- (1) This section applies to a development consent for development involving residential building work if the principal certifier is not the council.
- (2) It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following-
  - (a) for work that requires a principal contractor to be appointed-
    - i. the name and licence number of the principal contractor, and
    - ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,
  - (b) for work to be carried out by an owner-builder-
    - i. the name of the owner-builder, and
    - ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989-the number of the owner-builder permit.
- (3) If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.
- (4) This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

E4 Entertainment venues (clause 72 EP&A Reg 2021)

- (1) The requirements specified in this section are conditions of development consent for the use of a building as an entertainment venue.
- (2) During a stage performance at an entertainment venue, there must be at least 1 suitably trained person in attendance in the stage area at all times for the purpose of operating, if necessary, a proscenium safety curtain, drencher system and smoke exhaust system.
- (3) If a proscenium safety curtain is installed at an entertainment venue, there must be no obstruction to the opening or closing of the curtain and the curtain must be operable at all times.

- (4) When a film is being screened at an entertainment venue, there must be at least 1 person in attendance at the entertainment venue who is trained in-
  - (a) the operation of the projectors being used, and
  - (b) the use of the fire fighting equipment in the room in which the projectors are installed (the projection room).
- (5) If the projection room is not fitted with automatic fire suppression equipment and a smoke detection system, in accordance with the Building Code of Australia, the person required by subsection (4) to be in attendance must be in the projection suite in which the projection room is located during the screening of a film.
- (6) A member of the public must not be present in the projection suite during the screening of a film.
- (7) An entertainment venue must not screen a nitrate film.
- (8) An emergency evacuation plan must be prepared, maintained and implemented for a building, other than a temporary structure, used as an entertainment venue.
- (9) The emergency evacuation plan must specify the following-
  - (a) the location of all exits, and fire protection and safety equipment, for the part of the building used as an entertainment venue,
  - (b) the number of fire safety officers that must be present during performances,
  - (c) how the audience will be evacuated from the building if there is a fire or other emergency.
- (10) A fire safety officer appointed to be present during a performance must have appropriate training in evacuating persons from the building if there is a fire or other emergency.
- (11) In this section-  
exit has the same meaning as in the Building Code of Australia.

**E5 Maximum capacity signage (clause 73 EP&A Reg 2021)**

- (1) This section applies to a development consent, including an existing development consent, for the following uses of a building, if the development consent contains a condition specifying the maximum number of persons permitted in the building-
  - (a) an entertainment venue,
  - (b) a function centre,
  - (c) a pub,
  - (d) a registered club,
  - (e) a restaurant or cafe.
- (2) It is a condition of the development consent that a sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in the development consent, that are permitted in the building.

E6 Shoring and adequacy of adjoining property (clause 74 EP&A Reg 2021)

- (1) This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.
- (2) It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense-
  - (a) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and
  - (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.
- (3) This section does not apply if-
  - (a) the person having the benefit of the development consent owns the adjoining land, or
  - (b) the owner of the adjoining land gives written consent to the condition not applying.

E7 Fulfilment of BASIX commitments (clause 75 EP&A Reg 2021)

It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled-

- (a) BASIX development,
- (b) BASIX optional development, if the development application was accompanied by a BASIX certificate.

E8 Deferred commencement consent (clause 76 EP&A Reg 2021)

- (1) A development consent with a deferred commencement, as referred to in the Act, section 4.16(3), must be clearly identified as a "deferred commencement" consent, whether by using the expression, referring to that section or otherwise.
- (2) A deferred commencement consent must clearly distinguish between-
  - (a) conditions that relate to matters about which the consent authority must be satisfied before the consent can operate (the relevant matters), and
  - (b) other conditions.
- (3) A consent authority may specify the period within which the applicant must produce sufficient evidence to the consent authority to enable it to be satisfied about the relevant matters.
- (4) If the applicant produces evidence in accordance with this section, the consent authority must notify the applicant whether it is satisfied about the relevant matters.
- (5) If the consent authority does not notify the applicant within 28 days after the applicant produces the evidence, the consent authority is taken to have



notified the applicant, on the day on which the period expires, that it is not satisfied about the relevant matters.

- (6) Subsection (5) applies for the purposes of the Act, section 8.7 only.

E9 Conditions for ancillary aspects of development (clause 77 EP&A Reg 2021)

- (1) If a consent authority grants development consent subject to a condition referred to in the Act, section 4.17(2) in relation to an ancillary aspect of the development, the consent authority may specify the period within which the ancillary aspect must be carried out to the satisfaction of the consent authority or a person specified by the consent authority.
- (2) The applicant may produce evidence to the consent authority, or to the person specified by the consent authority, sufficient to enable the consent authority or the person to be satisfied in relation to the ancillary aspect of the development.
- (3) For the purposes of the Act, section 4.17(3), the relevant period is the period of 28 days after the applicant's evidence is produced to the consent authority or a person specified by the consent authority.

E10 Conditions for State significant development (clause 78 EP&A Reg 2021)

A development consent may be granted subject to a condition referred to in the Act, section 4.17(4A) or (4B) only if the development is State significant development.

E11 Review conditions-the Act, s 4.17(10C) (clause 79 EP&A Reg 2021)

- (1) A development consent that is granted subject to a reviewable condition may, as referred to in the Act, section 4.17(10B), be granted subject to a further condition (a review condition) if the development consent relates to the following kinds of development-
  - (a) an entertainment venue,
  - (b) a function centre,
  - (c) a pub,
  - (d) a registered club,
  - (e) a restaurant or cafe.
- (2) A development consent that is subject to a review condition must contain the following-
  - (a) a statement that the development consent is subject to the review condition and the purpose of the review condition,
  - (b) a statement that the consent authority will carry out the reviews,
  - (c) when, or at what intervals, the reviews must be carried out.
- (3) The consent authority must give written notice to the operator of a development that is subject to a review condition at least 14 days before carrying out a review.

- (4) The consent authority may notify other persons of the review as it considers appropriate.
- (5) The consent authority must take into account submissions that are received from any person within 14 days after notice of a review is given to the person.

**F. SCHEDULE F – General Terms of Approval (Integrated Development)**

N/A

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