



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.:	N/A
Council File No.:	D/2022/0460
Date of Lodgement:	04/08/2022
Applicant:	Money Aint Got No Owners Pty Ltd 22-24 Wassell Street MATRAVILLE NSW 2036
Proposal:	Two Storey Childcare Centre (46 Places), demolition of existing structures, carparking area and fencing
Description of Modification:	N/A
Development Cost:	\$894300
Assessment Officer:	Emma Molloy
Determination Body:	Council - DCP 1.11 Number of submissions received exceeds 10.
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	Yes, 16 to 30 August 2022
Advertising:	Yes, 16 to 30 August 2022
Owner's Consent Provided:	Yes
Location:	The site is located on the western side of Halloran Street, approximately 24 metres from the intersection of Halloran and Blamey Streets.

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

PLANNING CONTROLS / STATUTORY CLASSIFICATION

Pursuant to Part 4 (Division 1)

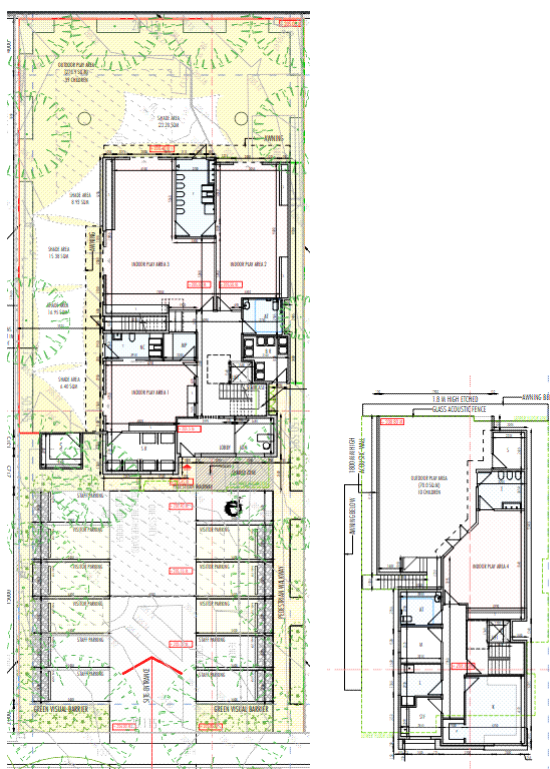
Description of Development

The proposed development seeks consent for a 46 place Centre Based Child Care Facility.

The development will comprise of:

- Demolition of the existing structures within the site;
- Construction of a two storey Child Care Facility that will care for children aged from 0 to 5 years in 4 separate rooms with a kitchen, laundry, reception area, office, meeting rooms, staff room and child and staff facilities;
- Outdoor play areas;
- Storage shed; and
- Carparking, vehicle movement area and landscaping.

The Centre will operate from 7am to 6pm Monday to Friday. Staff will be present on site from 6:30am to 6:30 pm each day. The centre will employ a total of 12 staff.



The Site and Locality



The subject site is legally identified as Lot 29 Section B, DP3733 located at 32 Halloran Street, Turvey Park. The site is located on the western side of Halloran Street, approximately 24 metres from the intersection of Halloran and Blamey Streets. The site is rectangular in shape and comprises of 1018m² in area. The site currently contains two existing dwellings and various outbuildings.

The surrounding locality is characterised as an established residential area. Built form is reflective of the boom in development and growth of the city after World War II with post war dwellings lining the western side of Halloran Street. The eastern side of Halloran Street contains Turvey Park Primary School.

Easements and Covenants

A sewer line is located along the western (rear) boundary. The proposed development is clear of Council's infrastructure therefore no impacts on the infrastructure are envisaged as part of the proposed development.

Previous Development Consents

- DA99/92 - Proposed strata subdivision of two existing dwellings
- DA91/92 - Land subdivision of two existing dwellings; and
- 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 WWLEP2010, the subject site is within the R1 General Residential zone.

The proposed development is defined 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)*)

The development is a long day care centre and therefore meets the definition.

A centre based childcare facility is permissible with consent in the R1 General Residential zone.

Part 2 Permitted or prohibited development Land Use

1 Objectives of zone

- 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 achieves the objectives of the zone by providing a service that meets the day to day needs of residents and by providing social infrastructure that benefits the immediate and broader community.

2.7 Demolition Requires Consent

The proposed development includes the demolition of the existing dwellings and outbuildings. By submitting the application the clause is satisfied.

Part 7 Additional Local Provisions

7.1A Earthworks

The objectives of this clause are to ensure that earthworks for which consent is required will not have a detrimental impact on environmental functions and processes and to allow earthworks of a minor nature without requiring separate development consent. Minor earthworks are expected as part of construction. The earthworks are not considered to have a detrimental impact on the subject site or adjoining land.

Additionally, conditions of consent will be imposed to ensure that adequate measures are put in place during construction to ensure that the proposed development will not have an adverse impact on the subject site or adjoining allotments.

7.6 Groundwater Vulnerability

The objective of this clause is to protect and preserve groundwater sources. The subject site is identified as “Groundwater” on the Water Resource Map. However, the proposed development is not specified for the purposes of this clause as such no further assessment is required.

7.9 Primacy of Zone B3 Commercial Core

The objectives of this clause are to maintain the primacy of Zone B3 Commercial Core as the principal business, office and retail hub of the Wagga Wagga city centre, to ensure that development does not conflict with the hierarchy of commercial centres, and to strengthen Wagga Wagga’s position as an eminent regional centre by creating employment opportunities for tourism, commerce, education, health care, culture and the arts. The proposed development is for a centre based child care facility in the R1 General Residential zone and therefore will not conflict with the commercial core.

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 development which does 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 play area and floor areas 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 below:

3.1 Site selection and location

C1 - For proposed developments in or adjacent to a residential zone, consider:

- ***the acoustic and privacy impacts of the proposed development on the residential properties***
- ***the setbacks and siting of buildings within the residential context***
- ***traffic and parking impacts of the proposal on residential amenity***

Objective: To ensure that appropriate zone considerations are assessed when selecting a site.

The site is in a residential zone and the applicant has considered the existing neighbouring properties in terms of privacy and acoustic impacts through design and acoustic treatments.

C2 - When selecting a site, ensure that:

the location and surrounding uses are compatible with the proposed development or use

the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards

there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed

the characteristics of the site are suitable for the scale and type of development proposed having regard to:

size of street frontage, lot configuration, dimensions and overall size - number of shared boundaries with residential properties

the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas

where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use there are suitable drop off and pick up areas, and off and on street parking the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.

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 is also in proximity to an existing primary school and therefore the proposed development is compatible with the surrounding land uses. The land was subdivided for a residential purpose in 1926 and is therefore suitable for the proposed development in terms of contamination. The proposed development is a smaller scale child care centre with 46 places and has been designed to address the constraints of the site which has resulted in a two storey development. The surrounding locality is predominantly low scale single storey development with the exception of Turvey Park Primary School (to the east of the development site) which contains two storey buildings setback off Halloran Street. Whilst the proposed development is uncharacteristic with the prevailing built form on the western side of the site, the area does not have any restrictions in terms of height therefore in considering the school the two storey component of the development is not uncharacteristic with the locality. The site does have a number of shared boundaries, the development has been designed to mitigate impacts by articulating the second storey and providing acoustic fencing. Suitable drop off and pick up areas have been incorporated into the development with a parking area located within the front setback area and a pedestrian walk way provided along the northern side of the carpark to separate cars and pedestrians accessing the site. Halloran Street itself is a local street with a relatively high volume of traffic for Wagga Wagga, this is largely due to the school. The proposed development provides a parking and vehicle movement area which provides two way travel into Halloran Street to mitigate impact to Halloran Street. It should also be noted that peak drop offs and pick ups for the proposed development are outside of peak hours for the school which generates a much larger traffic volume.

C3 - A child care facility should be located:

- ***near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship***

- *near or within employment areas, town centres, business centres, shops*
- *with access to public transport including rail, buses, ferries*
- *in areas with pedestrian connectivity to the local community, businesses, shops, services and the like*

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

The site is located across the road from Turvey Park Primary School. In addition, the site is in close proximity to Wagga's CBD and hospital precinct. Therefore, the facility is appropriately located in terms of accessibility.

C4 - A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:
proximity to:

- *heavy or hazardous industry, waste transfer depots or landfill sites*
- *LPG tanks or service stations - water cooling and water warming systems*
- *odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses*

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 prevent a risk to children.

3.2 Local character, streetscape and the public domain interface

C5 - The proposed development should:

- *contribute to the local area by being designed in character with the locality and existing streetscape*
- *reflect the predominant form of surrounding land uses, particularly in low density residential areas recognise predominant streetscape qualities, such as building form, scale, materials and colours*
- *include design and architectural treatments that respond to and integrate with the existing streetscape*
- *use landscaping to positively contribute to the streetscape and neighbouring amenity*
- *integrate car parking into the building and site landscaping design in residential areas.*

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

The development is within an established residential area. As discussed above the development has been designed to incorporate a two storey component which is uncharacteristic with the current single storey development on the western side of Halloran Street however when considering the wider context, the development reflects a similar built form of Turvey Park Primary School and therefore is not inconsistent with the locality. Also, it

should be noted that the site is not restricted in height therefore a two storey dwelling can be constructed within the site with similar impacts.

The development has been designed to provide visual interest through articulation and use of materials which is not reflective of the traditional nature of this portion of Turvey Park. There are no restrictions in this area and therefore the design can be considered on merit. The building itself has been well setback within the site and has been well designed in terms of bulk and scale including the use of heavier materials (face brick) on the ground floor to reflect the more traditional materials within the street. Lighter materials (cladding) have been used on the upper storey to lessen the appearance of building bulk. Landscaping has been used to soften the bulk of the building, play and carparking areas. It should also be noted that the development is not uncharacteristic of the types of materials and building forms that would be expected within the area as redevelopment occurs over time (i.e. not uncharacteristic of what might eventuate if one of the sites were to redevelop for residential purposes in the future).

C6 - Create a threshold with a clear transition between public and private realms, including:

- ***fencing to ensure safety for children entering and leaving the facility***
- ***windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community***
- ***integrating existing and proposed landscaping with fencing.***

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

The development presents a clear delineation between the facility and the street, with suitable fencing and landscaping. The facility includes windows facing the street to provide passive surveillance and connection with the community.

C7 Not applicable as there is only one building on the site.

C8 Not applicable as the site does not adjoin public open space.

C9 - Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.

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.

Fencing has been incorporated into the side setback areas to provide separation between service and storage areas and for the safety of children. Given the location of the proposed fences domination of the public domain is unlikely.

C10 The site is not on a classified road therefore this control is not applicable.

3.3 Building orientation, envelope and design

C11 - Orient a development on a site and design the building layout to:

- ***ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by:***
 - ***facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties***
 - ***placing play equipment away from common boundaries with residential properties***
 - ***locating outdoor play areas away from residential dwellings and other sensitive uses***
- ***optimise solar access to internal and external play areas***
- ***avoid overshadowing of adjoining residential properties***
- ***minimise cut and fill***
- ***ensure buildings along the street frontage define the street by facing it***
- ***ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.***

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

The building has been appropriately located in regards to the constraints of the site, play areas are located on the southern and western sides of the building and whilst this is not ideal shade devices have been included to provide shaded areas. The applicant has submitted an acoustic report to address potential impacts on the surrounding residential properties with a recommendation of higher fencing along all boundaries and the use of acoustic fence and wall on the upper storey. The acoustic fence and wall will also ensure the upper storey play area is protected from wind. A condition of consent will be recommended to ensure that requirements of the acoustic report are implemented prior to the issue of an Occupation Certificate. The development has taken overshadowing impacts to adjoining properties into consideration within the design by setting in and articulating the second storey. The submitted solar diagram shows the proposed development will overshadow the private open space to the adjoining dwellings to the south at 10 am. The overshadowing dissipates by 12 noon during the winter months. The plan does show the boundary fencing will impact on the private open space however the overshadowing does not impact on any north facing living areas given the design of the building.

C12 - The following matters may be considered to minimise the impacts of the proposal on local character:

- ***building height should be consistent with other buildings in the locality***
- ***building height should respond to the scale and character of the street***
- ***setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility***
- ***setbacks should provide adequate access for building maintenance***
- ***setbacks to the street should be consistent with the existing character***

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 development is non characteristic with the built form on the western side of Halloran Street however Turvey Park Primary School located on the eastern side of the street contains two storey development facing Halloran Street. The building itself is significantly setback within the site, this is mainly to provide a carpark and access however it does also mitigate the bulk of the two storey building on the street and impacts to adjoining development. Differing

materials have been used and articulation in the structure to lessen the impact on the street. Also the development not uncharacteristic of the types of materials and building forms that would be expected within the area as redevelopment occurs.

C13 - Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.

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

The building has a substantial setback from Halloran Street to provide a carparking area for use by the development and to decrease the impact of the building on the adjoining properties. The second storey is setback further on the western and southern elevations to mitigate impacts on the adjoining development to the south.

C14 - On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.

Objective: To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character.

The proposed side setbacks are not consistent with the requirements for a dwelling. If the proposed development was consistent, then the impacts on the adjoining properties would be greater and unreasonable as shown on the submitted plan set. The development has been designed to mitigate these impacts by being further setback within the site than the prevailing setback on the western side of Halloran Street.

C15 - The built form of the development should contribute to the character of the local area, including how it:

- ***respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage***
- ***contributes to the identity of the place***
- ***retains and reinforces existing built form and vegetation where significant***
- ***considers heritage within the local neighbourhood including identified heritage items and conservation areas***
- ***responds to its natural environment including local landscape setting and climate***
- ***contributes to the identity of place.***

Objective: To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character.

Whilst the built form differs from the prevailing built form on the western side of Halloran Street. The built form is reflective of Turvey Park School. Turvey Park is an older suburb with low scale development and tree lined streets. The proposed development is significantly setback within the site is well articulated in terms of design and is substantially landscaped. Therefore, the development is not considered to be incompatible with the character of the locality.

C16 - Entry to the facility should be limited to one secure point which is:

- *located to allow ease of access, particularly for pedestrians*
- *directly accessible from the street where possible*
- *directly visible from the street frontage*
- *easily monitored through natural or camera surveillance*
- *not accessed through an outdoor play area.*
- *in a mixed-use development, clearly defined and separate from entrances to other uses in the building.*

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

The main entry to the centre is easily identifiable located with access from Halloran Street and the proposed carpark. The entrance is located in proximity to the reception area and therefore easily monitored and not accessible from the outdoor play area.

C17 - Accessible design can be achieved by:

- *providing accessibility to and within the building in accordance with all relevant legislation*
- *linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry*
- *providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible*
- *minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.*

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

An Access Compliance Report was submitted on lodgement of the application. The building has been designed to incorporate differing needs including accessible carparking, bathrooms and an internal lift as specified in the National Construction Code and Australian Standard.

3.4 Landscaping

C18 - Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by:

- *reflecting and reinforcing the local context*
- *incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.*

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 activities throughout.

C19 - Incorporate car parking into the landscape design of the site by:

- *planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings*
- *taking into account streetscape, local character and context when siting car parking areas within the front setback*
- *using low level landscaping to soften and screen parking areas.*

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

The car parking area has been provided with an adequate amount of landscaping. Whilst the car parking area is within the front setback which is not consistent with the western side of Halloran Street the location and subsequent landscaping do soften the building and provide a transition space between Halloran Street and the proposed building. Smaller species of plants have been used in the transition space between the carpark and the street with the exception of seven larger trees which will aid in screening the development from the neighbouring residential properties.

3.5 Visual and acoustic privacy

C20 - Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.

There is no overlooking of play spaces by open balconies.

C21 - Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through: appropriate site and building layout

- *suitably locating pathways, windows and doors*
- *permanent screening and landscape design.*

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

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.

C22 - Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:

- *appropriate site and building layout*
- *suitable location of pathways, windows and doors*
- *landscape design and screening.*

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.

C23 - A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation

should:

- ***provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence).***
- ***ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.***

The proposed development provides a Colourbond fence on the northern, southern and western boundaries as recommended in the submitted acoustic report. The report recommended a 1.8 metre high fence on the northern boundary, a 2.4 metre high fence on the western boundary and a 2.4 metre high fence on the southern boundary which tapers down to 2.1 metres in the carpark at the front of the site. Whilst it should be noted that a front fence within a residential area is required to taper down to 1.2 metres forward of the building line. Therefore 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. 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 a obscure (etched) glazed acoustic fence.

C24 - A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:

- ***identify an appropriate noise level for a child care facility located in residential and other zones***
- ***determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use***
- ***determine the appropriate height of any acoustic fence to enable the noise criteria to be met.***

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

An acoustic report was submitted with the application, the report makes several recommendations and determines appropriate background noise levels for outdoor play areas. The recommendations included information in regard to acoustic fences and outdoor play will form part of the recommended conditions of consent.

3.6 Noise and air pollution

C25 - Adopt design solutions to minimise the impacts of noise, such as:

- ***creating physical separation between buildings and the noise source***
- ***orienting the facility perpendicular to the noise source and where possible buffered by other uses***
- ***using landscaping to reduce the perception of noise***
- ***limiting the number and size of openings facing noise sources***
- ***using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)***
- ***using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits***
- ***locating cot rooms, sleeping areas and play areas away from external noise sources.***

Recommendations were made in the submitted acoustic report, relevant recommendations will be imposed as condition of consent to ensure compliance and minimise impacts on surrounding dwellings. Internal of the building cot rooms and more sensitives uses within the service have been located away from play areas to minimise disturbance.

C26 - An acoustic report should identify appropriate noise levels for sleeping areas and other non play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:

- ***on industrial zoned land***
- ***where the ANEF contour is between 20 and 25, consistent with AS 2021 - 2000***
- ***along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007***
- ***on a major or busy road***
- ***other land that is impacted by substantial external noise.***

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

The subject site is within an established 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 C26 is not applicable to the assessment of the application.

C27 - C28 The subject site is not subject to external sources of air pollution and these controls are not applicable.

3.7 Hours of operation

C29 - Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.

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.

C30 is not applicable as the site is not within a mixed use development.

3.8 Traffic, parking and pedestrian circulation

C31 - Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.

Car parking is consistent with the DCP and will be assessed in section 2.2 of this report.

C32 Not applicable to this site.

C33 - A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:

- ***the amenity of the surrounding area will not be affected***
- ***there will be no impacts on the safe operation of the surrounding road network.***

The development does not seek to vary the required parking as specified in the DCP. A Traffic Impact Study was submitted by the applicant on lodgement of the application. The study took into account the existing school peak times and child care 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 in 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 than what is currently experienced as a result of the school.

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

C34 - Alternate vehicular access should be provided where child care facilities are on sites fronting:

- ***a classified road***
- ***roads which carry freight traffic or transport dangerous goods or hazardous materials. The alternate access must have regard to:***
 - ***the prevailing traffic conditions***
 - ***pedestrian and vehicle safety including bicycle movements***
 - ***the likely impact of the development on traffic.***

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

The Facility will be accessed via Halloran Street, which is considered appropriate in terms of the scale and location of the development. It should be noted that during peak afternoon pick up times for the school access may be impeded to the site. However considering that afternoon pick up for Childcare centres are outside that of the school this scenario would be the exception.

C35 Not relevant. The subject site is not located within a cul-de-sac or narrow street.

C36 - The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:

- ***separate pedestrian access from the car park to the facility***
- ***defined pedestrian crossings included within large car parking areas***
- ***separate pedestrian and vehicle entries from the street for parents, children and visitors***
- ***pedestrian paths that enable two prams to pass each other***
- ***delivery and loading areas located away from the main pedestrian access to***

- the building and in clearly designated, separate facilities*
- in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas • vehicles can enter and leave the site in a forward direction.*

There is a defined pedestrian entry point into the centre from the footpath along Halloran Street.

C37 - Is not relevant as the proposal is not a mixed-use development.

C38 - Car parking design should:

- include a child safe fence to separate car parking areas from the building entrance and play areas*
- provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards*
- include wheelchair and pram accessible parking.*

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

A gate is required between the building entrance and the carpark, it is unclear on the plans if this is provided. Therefore a condition of consent will be imposed in this respect. Accessible parking is provided in close proximity to the entrance 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 3.25m² of unencumbered indoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.

The proposal provides 164.5m² indoor floor space over two floors, providing 3.57m² per child (maximum 46 children). Adequate storage is also provided throughout the centre.

4.9 Outdoor space requirements

Regulation 108 - every child must have a minimum of 7.0m² of unencumbered outdoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.

The proposal provides 343.9m² of outdoor play area providing 7.47m² per child (maximum 46 children).

The application has been assessed against the relevant guideline and all matters for consideration have been considered in the assessment. It is determined that the proposal is

compliant with the planning requirements from this document.

Clause 25 of the SEPP relates to non-discretionary development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.

The following are non-discretionary development standards for the purposes of section 4.15 (2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility:

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

Comment: The facility will be the only childcare facility located within the immediate locality.

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.

Comment: 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,

Comment: 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.

Comment: 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.

Comment: The application is recommended for approval as it has demonstrated compliance with relevant standards. As detailed above, the standards specified in subclause 2 are satisfied.

26 Centre-based child care facility-development control plans

(1). A provision of a development control plan that specifies a requirement, standard or

control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility:

***(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).***

(2). This clause applies regardless of when the development control plan was made.

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

State Environmental Planning Policy No 55 - Remediation of Land

Clause 4.6 states that a consent authority must not grant consent unless it has considered whether the land is contaminated and if the land is contaminated, it is satisfied that the land is suitable in its current state for the purpose for which the development is proposed to be carried out. The subject site was subdivided for residential use in 1926 and is not identified on Council's contaminated land register. As such the subject site is considered to be suitable for the proposed development and no further investigation is deemed necessary.

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

No relevant planning instrument under this clause is currently the subject of public exhibition or comment.

Section 4.15(1)(a)(iii) - The provisions of any development control plan

Wagga Wagga Development Control Plan 2010

Proposed development complies with the development standards of the Wagga Wagga Development Control Plan 2010 as follows:

Section 1 - General

1.10 Notification of a Development Application

The proposed development was notified and advertised for a period of 14 days from 16 to 30 August 2022. 48 submissions were received during the notification period. The submissions will be addressed later in this report.

Section 2 - Controls that Apply to All Development

2.1 Vehicle Access and Movements

The proposed development will be accessed from a two way entrance off Halloran Street.

Vehicles will be able to enter and leave the site in a forward direction with adequate sight lines to Halloran Street. A Traffic Impact Study was submitted on lodgement of the application which provided information on the current road conditions and impacts from the existing school and the impacts from the proposed childcare centre. The study concluded that the existing road network is able to accommodate the proposed development and that whilst there will be an increase in traffic within the locality during peak times of the centre, these times are outside of the peak school times and therefore the development is unlikely to result in negative impacts on street operation. The development was referred to Council's Traffic Engineer whom did not raise any objection to the proposed development rather recommendations were made in regard to a turning circle within the site and a no parking zone on the eastern side of Halloran Street during school peak hours. It should be noted that the car park complies with the Australian Standard and there is currently a no parking zone within the street however changes to the current arrangement can possibly be explored by Council as a separate issue.

In addition loading and unloading facilities are provided within the proposed carpark which is considered appropriate in regard to the scale of development and is consistent with other centres within the City.

2.2 Off-street parking

Childcare centres are required to provide 1 space per 4 children in attendance. The proposed development proposed 46 places which equates to a parking requirement of 12 spaces. The submitted site plan makes provision for 12 carparks including staff parking and an accessible space which complies. The submitted operational management plans requires staff to park within the off-street parking only which is generally achievable given that staffing is staggered throughout the day. Trees and planting beds have been located appropriately to provide shade and to break up the bulk of the hardstand area in accordance with controls.

2.3 Landscaping

A Landscaping plan was provided on lodgement of the development application. The plan makes provision for both native species and species that have a proven performance in regard to Wagga's climate. Therefore, the landscape plan is considered acceptable and complies with the objectives and controls within this section.

2.4 Signage

The submitted Statement of Environmental Effects states that the application does not include any signage at this point in time. The submitted building plans do show a sign on the front façade. Both the sign and location are not generally supported by Council and therefore a condition will be recommended to this effect and require that signage either comply with the exempt provisions within State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or a separate application for signage will be required at a later date.

2.5 Safety and Security

The proposed development has been designed to clearly define public and private areas with a clearly visible entrance off Halloran Street. 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 application does include the provision of high fencing within the carpark area which is not ideal in regards to the both the streetscape and the safety and security of the site, 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

Conditions of consent will be imposed to ensure the proposed development does not have an adverse impact on the subject site and adjoining allotments.

Section 5 - Natural Resource and Landscape Management

5.4 Environmentally Sensitive Land

Environmental sensitivities have been previously assessed in Section 7.6 of this report.

Section 12 - Specific Uses and Developments

12.5 Childcare Centres

The proposed development provides adequate space for drop off and complies with the parking requirements as specified in section 2.2 of the DCP. The parking area is visible from Halloran Street and will be landscaped to maintain the amenity of the adjoining properties to the north and south. Outdoor play areas have been provided within the southern and western portions of the site. Whilst this is not ideal as it would be preferable that play area be within the eastern and northern portions of the site. Play areas have been located in the proposed locations to mitigate impacts to the neighbouring development from the proposed building itself. Shade devices have been proposed and a substantial amount of landscaping has been provided to give protection from the western sun. Landscaping is provided within the front setback area within the proposed car park has also been provided along boundaries to provide a buffer between the development and the adjoining dwellings. Fencing has been provided within the site and is considered to be of an acceptable height and design for the safety of children. Acoustic fencing using Colourbond has been proposed on the northern, southern and western boundaries which will provide an acoustic barrier to mitigate impacts on the adjoining dwellings. An amended landscaping plan was submitted that did illustrate play equipment within the rear play area being compliant with the exempt codes within the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. An adequate landscaping plan has been included with the application which is considered to be suitable in term of the scale and use of the proposed development. The development is considered to comply with the objectives and controls within this section.

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

No planning agreements have been made in regards to section 7.4.

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

92A Additional matters that consent authority must consider for Wagga Wagga

In determining a development application for development on land to which the Wagga Wagga LEP 2010 applies the consent authority must take into consideration whether the development is consistent with the Wagga Wagga Special Activation Precinct Master Plan published by the Department in April 2021.

The subject site is not located within the Special Activation Precinct, nor is it close enough to cause any impact that requires further assessment.

SECTION 4.15(1)(B) - LIKELY IMPACTS OF THAT DEVELOPMENT

	Satisfactory	Not Satisfactory	Not Relevant	Comment
Context & Setting	x			The proposed development differs from the predominantly one storey residential nature of the western side of Halloran Street. The eastern side of the street does contain Turvey Park Primary

				School which consists of predominantly two storey development facing Halloran Street. The structure is well setback within the site and contains a car park and vehicle movement area within the front setback area. This area will be extensively landscaped to mitigate the impact of the bulk of the structure. In addition articulation, changes in materials have also been used to mitigate the impact and provide visual interest in terms of the context and setting of the site. It should also be noted that high fencing is proposed on the side and rear boundaries which especially given the transition between the development and Halloran Street will impact on the character of the site therefore a condition of consent will be recommended to reduce the height forward of the building lines of the neighbouring dwellings to 1.2 metres to mitigate the impact.
Streetscape	x			The proposed development will alter the existing streetscape within this portion of Halloran Street. The street is tree lined with predominantly post war development. The development's built form is modern in nature with the lower floor being constructed of face brick to reflect the neighbouring development whilst the upper storey will be cladded to mitigate the appearance of building bulk on the street. The development does not however seek to mirror or copy the surrounding development. As discussed throughout the report the development will also be extensively landscaped this will mitigate the development's impact on the street itself and given that the school is across the street is not entirely inconsistent with the built form within the locality.
Traffic, access and parking	x			Two way vehicular access is provided from Halloran Street which is consistent with most Childcare centres throughout the city. Parking has been provided in accordance with requirements within the DCP. A Traffic Impact Study was submitted on lodgement of the application which looked at the existing traffic within the locality and the likely resultant traffic generated by the proposed development. The study concluded that traffic generated by the proposed development is different in nature to the school and generally peak pick up and drop off times are outside of those generated by the school. It should be acknowledged that the proposed development will increase traffic within this portion of Halloran Street and will impact on the traffic experienced during the peak times of the school. However, given that the school traffic itself is existing and that Childcare centres are inherently different in nature, the impact as supported by the submitted Traffic Impact Assessment it is not unreasonable. The development was referred to Council's Traffic Engineer whom raised no objections to the proposed development.
Public Domain	x			No adverse impacts identified.
Utilities	x			All services are connected and available to the site.

Heritage	x			The subject site is not within the Heritage Conservation Area or identified as an Aboriginal significant site or known to contain an Aboriginal significant object.
Other land resources	x			None identified.
Water Quality & Stormwater	x			The proposed development will be connected to the existing infrastructure. Relevant conditions of consent have been recommended.
Soils, soil erosion	x			Conditions of consent will be imposed to ensure the proposed development does not have an adverse impact on the subject site or adjoining allotments.
Air and microclimate	x			No adverse impacts have been identified.
Flora and Fauna	x			The proposal does not include the removal of any significant vegetation.
Waste	x			A waste management plan was submitted on lodgement of the application. The plan outlined waste management through various stages of the development including demolition, construction and the proposed use. Demolition and construction waste will be disposed of appropriately as specified in the plan. Conditions of consent will be recommended to ensure that materials be handled appropriately. The centre will be serviced by a private contractor with twice weekly pick ups for both recycling and general waste. A condition of consent will be recommended to ensure that waste services are to be conducted within the operating hours of the centre but outside peak school times to mitigate impacts on the adjoining dwellings and overall function of Halloran Street during the pick up and drop off periods.
Energy	x			No adverse impacts have been identified.
Noise & vibration	x			Noise is expected as part of the construction of the proposed development conditions of consent will be imposed to require works to be undertaken within acceptable hours. In addition given that the development is for a centre based childcare facility noise is expected from the development. An acoustic report was lodged as part of the application which made several recommendations in regards to noise mitigation measures including acoustic fencing for both the ground and upper story play areas and management of children's play times. These recommendations will form part of the condition of consent.
Hours of operation	x			The proposed hours of operation are Monday to Friday between 7am and 6pm. This is consistent with the Guideline and other childcare centres in Wagga Wagga.
Natural hazards - Flooding - Bushfire Prone Area map	x			The subject site is not identified as bushfire or flood prone.
Technological Hazards	x			None identified.
Safety, security and crime prevention	x			The proposed development has been designed to incorporate CPTED principles including passive surveillance of the street, limiting areas for concealment, differentiation between public and private areas, and wayfinding within the site including a clear entrance to the site.

Social impact in locality	x			The proposed development will provide additional childcare within an accessible location in proximity of Wagga's CBD and the Health Precinct.
Economic Impact in Locality	x			The proposed development will provide continued work for the construction and related industries.
Site design and internal design	x			The proposed development makes good use of the site and addresses the sites constraints and opportunities. Whilst the design of the building differs from that within the locality being two storey with as significant front setback. Design measures have been used to mitigate the impact of building bulk including articulation, changes in materials and landscaping.
Overlooking - overshadowing	x			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 render views both from the centre and into the centre not possible 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. 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 "setting in" the upper storey further within the site the impacts are limited to the private open space (as shown on the submitted solar diagram) on the neighbouring dwellings to the south. The proposed development is not shown to impact on any north facing living areas of the adjoining dwellings.
Landscaping	x			An adequate landscaping plan has been provided.
Construction	x			To comply with the BCA.
Private open space			x	Not applicable.
Cumulative Impacts	x			None identified.
Disabled access	x			The design makes provision for a lift, accessible facilities and car parking.
Signage			x	Not applicable.
Setbacks, Building Envelopes	x			The proposed front setback is significantly more than the neighbouring development. This is to allow for a car parking and vehicle movement area to service the development. This area is adequately landscaped to ensure that the presence of hardstand areas within the streetscape do not impact on the amenity of Halloran Street which is an established tree lined street.

Section 733 of the Local Government Act 1993

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.

Flooding Risk Assessment

The subject site is not identified as flood prone therefore no further assessment is required.

Bush Fire Risk Assessment

The subject site is not identified as prone to bushfire therefore no further assessment is 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 residential 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 subject land located at 32 Halloran Street, Turvey Park is considered to be suitable for the proposed development because the proposed development will provide to service to cater to the needs of the locality in a convenient and accessible location which is considered to comply with the provisions the relevant SEPPs, WWLEP and WWDCP.

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

Referrals - The proposal was referred to the relevant Council officers. No concerns were raised, standard conditions will be imposed.

Notification - Adjoining landowners were notified in accordance with Council policy for a period of 14 days from 16 to 30 August 2022. Forty-eight submissions were received.

Advertising - The proposed development was advertised in accordance with Council policy for a period of 14 days from 16 to 30 August 2022.

Public Submissions and those from public authorities

Forty-eight submissions were received during the notification period. All submissions received were in objection of the proposed development. Twenty-six key issues were identified and are addressed below:

- 1. Traffic within the locality is extremely congested especially during school drop off and pick up times. The development will only increase the amount of traffic within the area and will exacerbate already dangerous situations with children, buses and other vehicles.*

The proposed development will impact on the existing traffic within peak times for the school given that there will be additional traffic generated by the proposed development. However Childcare centres do have staggered drop off and pick up times which is different to the school. An independent traffic report was submitted by more than one submitter which addressed this issue but also stated that the traffic and in turn safety issues are generated from the school and that the proposed development will exacerbate this issue especially considering that the school bus zone is opposite from the entrance to the development site. Again, this is an existing issue and one that cannot be addressed by the proposed development. As noted previously drop off and pick up times for childcare centres are staggered. Parents and carers also must accompany children and sign children into the centre, this means that these children will be supervised at all times especially when navigating traffic. The development has not proposed any traffic measures as part of the subject development. A traffic management plan can be conditioned as part of consent and can be used to address some of the safety and overall functioning of the entry and existing of the carpark areas during peak times of the school. The development was referred to Council's Traffic Engineer whom did not raise any objection to the proposed development but did make some recommendations as discussed above. The proposed development will not result in detrimental traffic impacts as a result of the traffic generated by the proposed development.

- 2. The safety of children and the existing users should be a priority.*

The proposed development will impact on the existing situation as a result of school traffic however the impact is not unreasonable given that the drop off and pick up times are

staggered to that of the school and as stated above, a traffic management plan will be conditioned to allow the proposed use to mitigate the impacts during peak times of the school. The safety of the existing users of the site and future users are of upmost importance and these aspects can be managed and given that the children who attend the proposed development must be escorted and signed into the building this will ensure the safety of the new users within the locality. It should be noted that the safety of the current users within the locality is an existing issue and one that will need to be continually addressed but it is not the proposed development's responsibility to solve.

3. Traffic during school events was not taken into account in the submitted Traffic Impact Assessment.

School events such as the easter hat parade, assemblies, book week etc were not taken into account in the Traffic Impact Assessment as the events are not an everyday occurrence. The assessment took into account the average usage of the site. Events such as these do result in a greater than average traffic generation but these are outside of the times of peak drop off and pick up for the proposed development. The traffic generated during events will not impact on the proposed development nor will the proposed development impact on the events. This is supported by an additional traffic report submitted by the applicant in response to the submissions.

4. Entrance is across from the school's bus stop this is not an appropriate location and will cause traffic impacts in a locality that is already impacted by the school traffic.

The entrance of the proposed development will cause traffic impacts on Halloran Street at peak times for the school. These impacts can be mitigated (as discussed above) by requiring the submission of a traffic management plan.

5. Two storey development is not consistent with the prevailing character of the area which is single storey post war development.

As discussed throughout the report the development is not consistent with the development located on the western side of Halloran Street which is predominantly single storey post war in nature. Turvey Park School however does contain two storey development on Halloran Street which should not be dismissed when considering the character of the locality. The development has been setback within the site to mitigate the impact on the street. Amened landscape plans were also submitted in response to the submissions received which shows greater detail and proposes a substantial amount of landscaping which will further mitigate the impact of high fencing and building bulk of a two storey structure.

6. Impact on neighbouring properties of the high fencing recommended in the acoustic report.

The impact of high fencing in terms of overshadowing was illustrated on the submitted solar diagrams which did not impact on any north facing living areas. The fencing did impact on the private open space of the neighbouring development to the south however an adequate amount of solar access was maintained. The high fencing will impact on the streetscape as discussed above a condition of consent will be recommended to limit the height of the fencing 1.2 metres forward of the building line of the neighbouring dwellings to mitigate this impact. It should be noted that all neighbours to the development rejected the idea of higher fencing within the front setback which may cause problems in regard to the Dividing Fences Act and whilst approval of these fences is recommended, this

remains a civil matter between the landowners and one that the applicant will need to resolve irrespective of any development consent.

7. The two storey building will result in loss of privacy, overshadowing and adverse impacts to the area.

The western side of Halloran Street does not contain any two storey development on the western side of the street. The impact of a two storey structure has been mitigated by the design of the structure itself by placing the bulk of the structure within the northern portion of the site, articulating the upper storey from ground level and by “setting in” the upper storey further within the site. Privacy to both the proposed and surrounding development by providing mitigation measures including the use of a solid wall on the southern elevation and etched glass on the western elevation on the upper storey, and the use of high fencing and landscaping.

8. The noise from the childcare centre from both children and industrial air conditioning is unreasonable and will impact on the quiet enjoyment of the neighbouring development.

An acoustic report was prepared by a suitably qualified consultant was submitted on lodgement of the application. Additional information was then provided by the applicant in response to the submissions received. Several recommendations were made in regards to noise including the use of acoustic fencing and management of the number of children in the outdoor play areas at any one time. Mechanical plant was not something that was known on lodgement of the application and also the additional information was relatively silent on. The report did recommend a energy average sound pressure level (Leq) of 32 dBA when measured over a period of 15 minutes during the day time or evening periods and also stated that this could be further addressed during the Construction Certificate stage by way of a condition of consent.

9. The site is not suitable for the proposed development.

A childcare centre is permissible within the R1 General Residential zone. Impacts from the development have been mitigated by the design of the development as discussed within this report. The centre will provide care for 46 children which is a smaller centre than compared to other centres throughout the city. Impacts have been assessed in this report and conditions of consent have been recommended to mitigate the impacts on the surrounding development. The site is an existing urban site with connectivity to Wagga’s City Centre and Health Precinct. The development is across the road to an existing school which provides education for close to 400 students. The childcare centre will provide extra services within the area to benefit the school and wider community. Therefore the site is not considered to be unreasonable. It should be noted however that this style of service is not the norm when it comes to childcare services within the city and is reflective of a more urbanised environment which may become more present especially within older areas close to the city centre as the city grows.

10. The proposed development is inconsistent with the LEP, DCP and the Guideline.

The above assessment does demonstrate that the proposed development is generally consistent with the LEP, DCP and the guideline. There are however two controls within the DCP that have not been addressed by the proposed development. One is for childcare centres to be located on corner sites and the requirement for some outdoor space to be undercover to allow for these areas to be used in all weather. It should be noted that the Guideline does not contain any requirements to that effect therefore where

there is an inconsistency between the guideline and the DCP the guideline prevails. Therefore the application can be considered without complying with either of these controls.

11. Play areas face west and will be unusable during the summer months.

The play spaces are facing west, this is not ideal however shade devices have been implemented into the design including shade sails and landscaping to provide protection from the western sun.

12. Detailed landscaping is not shown on the submitted plans.

The applicant has provided amended plans to address the submissions received. The landscaping will screen the development and consists of species that have proven performance in Wagga's climate.

13. Light spill from the security lighting will impact on adjoining properties.

A condition of consent will be recommended that all outdoor lighting will be required comply with the Australian Standard. Compliance with the standard will ensure that outdoor lighting does not impact on the neighbouring properties.

14. Maintenance of the centre including gardening, rubbish collection will be outside of the proposed operating hours which will impact on nearby dwellings.

An Operational Management Plan was submitted on lodgement of the application. The Plan specified that these activities will be done outside of the operating hours, this is necessary to ensure that children attending the centre are safe. Conditions of consent will be recommended to ensure that waste collection and deliveries are conducted at an appropriate time to ensure any likely impact is reasonable. Garden maintenance is considered to be no more than what would be required for a standard residential use therefore the noise impacts from these are considered reasonable and just like construction or the use of power tools are to be in accordance with the Protection of the Environment Operations Act.

15. Proposed car parks are difficult to access and do not have adequate sight lines to the street. How will delivery vehicles access and exit the site in such a congested street?

The car park complies with the Australian Standards in terms of size of car parks, vehicle movement areas and driveway size and location. Goods will be delivered to the site after hours when there will be ample room to park and manoeuvre within the site. Timing of delivery vehicles will be conditions as discussed above to mitigate impacts on the surrounding development.

16. During construction of the centre vehicles accessing the site and delivering materials etc will impact on the safety and add to the congestion in the street.

A condition of consent will be recommended to require the submission of a construction management plan prior to the issue of a construction certificate. The management plan will include the how construction vehicles will enter and leave the site, parking of construction vehicles and location of waste and other storage areas within the site. All vehicles are required to park legally and not use the nature strip for parking or storing of materials.

17. Construction will impact on the students at the school by way of noise and create parking problems with street parking being used for the school during peak drop off and pick up times.

The construction of the development will have an impact on day to day activities. Conditions of consent will be recommended in regard to a construction management plan and appropriate hours of construction to mitigate this impact.

18. Stormwater and sewer infrastructure does not cope with the existing development. The proposed development will only add to the problem.

This is a known problem that does need to be addressed however this should not preclude further development within this portion of Turvey Park. Council's Subdivision Engineer has undertaken an assessment of the proposed development and has recommended conditions of consent in this regard. It should also be noted that Council collects developer contributions which can be used to upgrade infrastructure in the locality when required.

19. The development will result in a loss of housing supply.

The development includes the demolition of two dwellings within the site however a Childcare centre is permissible within the zone and the objectives of the zone is to enable other land uses that provide facilities or services to meet the day to day needs of residents. Therefore the centre will contribute an additional service to benefit the community. The loss in housing supply by demolishing two dwellings is negligible.

20. The development will increase the occurrences of vandalism and antisocial behaviour already experienced by the school.

The design of the site also offers passive surveillance to the street from the administration area and car park, clear definition between public and private areas, a clear entry and wayfinding within the site. It is assumed that other security measures will be implemented as part of the ongoing management of the building.

21. There are 6 existing childcare centres within Turvey Park with another one under construction. A developing area such as Boorooma, Gobbagombalin would be more suitable.

The land is suitably zoned for the proposed use. There are no planning considerations that limit how many Childcare centres there are in one locality.

22. Local community was not informed of the proposed development.

As discussed above the development was both advertised and adjoining owners notified in accordance with Council policy.

23. Decrease in property values in the vicinity of the proposed development.

Property values are not a planning consideration and therefore irrelevant to the assessment of the proposed development.

24. The proposed development is not in the public interest.

The proposed development will provide an additional Childcare service within an accessible location close to the CBD and the Health precinct. Childcare centres are needed within the city especially as the city grows. The development is in the public

interest.

25. The centre is proposed to 46 children and 12 staff, but only 12 car parks are provided where will everyone attending the centre park.

The carparking area within the front setback provides the required spaces. There are 5 staff car parking spaces, 6 visitor spaces and an accessible space. Drop off and pick ups are staggered and each visitor park is only used for a small amount of time. Staff also have staggered start and finish times however do use the carparking for longer periods of time. The submitted Operational Management Plan does specify that staff must park in the staff car park.

26. The smell from waste from the Childcare centre will impact on the amenity of surrounding houses.

A bin room has been provided on the southern side of the building, the room is not accessed from the inside of the centre but does have a door facing east away from neighbouring properties. This is considered acceptable to mitigate potential impacts on neighbouring development.

Section 4.15(e) - the public interest

The public interest is a broad consideration relating to many issues. Taking into account the full range of matters for consideration under Section 4.15 of the Environmental Planning and Assessment 1979 (as discussed within this report) it is considered that approval of the application is in the public interest.

Other Legislative Requirements

Section 1.7 of the Environmental Planning and Assessment 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)

Section 5AA 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)

There are a number of tests to determine whether the proposed triggers the NSW Biodiversity Offset Scheme under the NSW Biodiversity Conservation Act 2016 and results in the need for further assessments or offsets.

- 1. Is the subject site identified as an area of outstanding biodiversity value on the biodiversity values map?*

No

- 2. Does the amount of native vegetation being removed exceed the biodiversity offsets scheme threshold.*

No native vegetation is proposed to be removed.

- 3. Test of Significance - the test to determine whether the proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats.*

Given that no native vegetation is being removed and the absence of any recorded endangered flora or fauna on the site of the proposed development, is not anticipated to significantly affect threatened species or ecological communities or their habitats.

Based on the above assessment it is satisfied that the development will not trigger the Biodiversity Offset Scheme and no further evidence is required regarding the proposed vegetation removal.

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

Section 7.12

As the proposed development will cost \$813,000 and it increases the GFA of the building Section 7.12 contributions are required at a rate of 1%.

$$\text{Section 7.12} = 1\% \times \$813,000 = \$8,130$$

Section 64 Sewer

The proposed development is for a childcare centre with 46 places and 12 staff. DA18/0415 is a similar development in Turvey Park. This DA charged Section 64 sewer contributions based on staff numbers and place numbers and the rate included in the Water Directorate Guidelines of 0.1 per person. An ET credit was applied for the lot.

The calculation of Section 64 Sewer contributions is as follows:

$$\begin{aligned}\text{Section 64 Sewer (base)} &= ((46+12) \times 0.1 \times \$3,538) - 1\text{ET} \\ &= \$20,520 - \$3,538 = \$16,982\end{aligned}$$

$$\text{S64 Sewer CPI} = \$16,982 \times 121.6/100.5 = \$20,547$$

Section 64 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.

$$\begin{aligned}\text{Section 64 Stormwater} &= \text{area of new hardstand} / 800 \times \text{area of additional hardstand as a \% of the lot area} / 0.6 \times 1\text{ET} \\ &= 13/800 \times 0.012/0.6 \times \$3,007 \\ &= \text{under \$100 threshold - no Section 64 required}\end{aligned}$$

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

Referrals:

Building Surveyor: Yes, no concerns raised. Standard conditions imposed.

Subdivision Engineer: Yes, no concerns raised. Standard conditions imposed.

Environmental Officer: N/A

Parks & Recreation Officer: N/A

Other Approvals:

Nil

Conclusion:

An assessment of the application has resulted in the application being supported on the following grounds:

- The application is for Centre Based Childcare Facility in the R1 - General Residential Zone which is permitted with consent.
- The development complies with the requirements of the Environmental Planning and Assessment Act 1979 and will not compromise the outcomes sought within the Wagga Wagga Local Environmental Plan 2010.
- An assessment of the application against the relevant provisions within the State Environmental Planning Policy (Transport and Infrastructure)2021, Child Care Planning Guideline and the Wagga Wagga Development Control Plan 2010 demonstrates that the proposed development will not cause any unreasonable adverse impacts on the surrounding natural environment, built environment, infrastructure, community facilities or local character and amenity.

The application is subsequently recommended for approval, subject to conditions.
