



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

## APPLICATION DETAILS

Application No.:	DA23/0516
Modification No.:	N/A
Council File No.:	D/2023/0516
Date of Lodgement:	04/10/2023
Applicant:	B Dransfield 346 Woollooware Road BURRANEER NSW 2230
Proposal:	Change of use to a centre based childcare facility (72 children) with associated alterations and additions and revised car-park layout
Description of Modification:	N/A
Development Cost:	\$792000
Assessment Officer:	Amanda Gray
Determination Body:	Officer Delegation 7.39
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	20 October - 3 November 2023
Advertising:	20 October - 3 November 2023
Owner's Consent Provided:	yes
Location:	On the northern side of Hardy Avenue approximately 75 metres to the west of the junction with Harrison Avenue.

## SITE DETAILS

Subject Land:	25-27 Hardy Ave WAGGA WAGGA NSW 2650 Lot 42 DP 619677
Owner:	Latimers In Oz Pty Ltd

## REPORT

### Description of Development

This application is for a new child-care centre with associated car-parking. The development proposes the change of use of an existing 2-storey building on site (existing medical consulting rooms). The works will consist of minor demolition works for the rearranging of room layouts to create the proposed playrooms and the installation of a lift for access to the first floor. A rear addition on the north western side of the building is proposed that will provide additional playroom space and also an outdoor deck area linking to the main play space.

The centre will have a maximum of 72 children catering for 30 x 0-2 years, 19 x 2-3 years and 23 x 3-6 years, split between three separate playrooms. All of the childcare facility is contained on the ground floor of the building including the playrooms, two cot rooms, laundry, bathrooms and reception area. Two of the playrooms will link to the new external deck and a large play area to the rear and sides of the building. The third playroom will link to an outdoor play space at the front of the property. On the first floor will be staff facilities including a kitchen, offices and additional toilets.

The existing carparking on the site will be rearranged to provide a total of 18 carparking spaces at the front of the site. This will include 3 spaces in a stacked arrangement that will be designated for staff parking only. Overall, 10 spaces will be allocated for staff parking and 8 spaces for visitors/customers. The existing dual entry and exit driveways servicing the site will be modified to provide a single entry and exit driveway to Hardy Avenue.

A new pedestrian access gate, entry gazebo and pathway will be provided from Hardy Avenue to provide a defined pedestrian access to the main building entry. Existing landscaping and fencing will be retained to the front of the site. An existing sign structure on the front boundary of the site will be utilised for business identification signage.

Existing side and rear boundary fencing will be either retained, replaced or adjusted to provide appropriate acoustic and privacy treatment as discussed later in this report.

The centre is proposed to operate from 6.30am to 6pm Monday to Saturdays. The centre will employ up to a maximum of 15 staff members on any given day.

### The Site and Locality

The subject site is legally identified as Lot 42 in DP619677 and is known as 25-27 Hardy Avenue. The land parcel is on the northern side of Hardy Avenue approximately 75 metres to the west of the junction with Harrison Avenue.

The lot is irregular in shape extending to 1697sq.m

The property consists of one two storey detached building that was last in use as a medical centre, there is a driveway to the western boundary of the site with landscaping to the rear predominantly within the north-eastern part of the site. Car-parking is laid out to the front and side of the property. The building is currently vacant.

There are residential properties directly to the north, east and west of the site. To the south of the site is Calvary Hospital.

### Easements and Covenants

There are no known easements or covenants that would prevent the development from being determined.

### Previous Development Consents

DA12/0591 - Change of use of a dwelling to a Medical Centre and signage. Approved 9.4.2013.

## 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 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 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**

5.22 - Special flood considerations

This clause applies as the site contains land that is located between the flood planning area (FPA) and the probable maximum flood (PMF) and early education and care facilities are identified as sensitive development for the purpose of this clause.

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority has considered whether the development:

- (a) will affect the safe occupation and efficient evacuation of people in the event of a flood,*

Comment - The area of the site affected by the PMF will be a small section of the outdoor play area within the north western corner of the site which will experience shallow inundation which will not threaten occupants. Flooding will not impact on the building or the parking area at the front of the site. Access routes for pedestrians and vehicles to Hardy Avenue will be unaffected. It is satisfied that the development will not affect the safe occupation or efficient evacuation of people from the site during a flood.

- (b) incorporates appropriate measures to manage risk to life in the event of a flood*

Comment - Given the limited impact of flooding on the site, it is satisfied that the building and the access provided to both the building and the site, will adequately manage any risk posed by flooding.

- (c) will adversely affect the environment in the event of a flood.*

Comment - Given the limited impact of flooding on this site, it is satisfied that the development will not adversely affect to environment during a flood.

There are no other miscellaneous provisions that apply to the application.

## **Part 6 Urban Release Areas**

The subject site is not within an Urban Release Area.

## **Part 7 Additional Local Provisions**

### **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:

##### 3.1 Site selection and location

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

C1 The site is in a residential zone and the assessment of the application, detailed within this report, has considered acoustic and privacy impacts, setbacks, visual amenity impacts and traffic and parking impacts.

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

C2 The site is zoned R1 General Residential, a centre based childcare facility is permissible in the zone. The site is surrounded by predominantly single detached residential dwellings to the north, east and west. Calvary Hospital is located to the south and a number of medical centre uses exist within the wider area.

The site has previously been in use for residential purposes and a medical centre and therefore no concerns in regard to potential contamination are raised. There are no other risks, including flooding or bushfire.

The development provides a safe drop off and pick up area and off street parking. Hardy Avenue is a low-speed environment and is not a heavy vehicle route.

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.*

C3 The site is located in a residential area and within the health and knowledge precinct which is a primary employment area within the city. The site is accessible to public transport and has good pedestrian connectivity to the surrounding area and beyond.

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

C4 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.*

C5 The development is proposed within the existing residential area which coincides with the health and knowledge precinct. The area is predominantly characterised by the adjacent Calvary Hospital, medical centres within the surrounding area and residential properties. The applicant proposes the conversion of the existing medical centre building (former dwelling) to the childcare centre with existing landscaping and carparking across the front of the site being retained. The site currently contributes positively to the area and will continue to do so based on the current proposal.

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

C6 The site will retain the existing fencing to Hardy Avenue. Vehicle access will be consolidated and a defined and secure pedestrian access will be provided to the street. The centre includes windows facing the street to provide passive surveillance and connection with the community. It is satisfied that clear delineation will be provided.

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

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

*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.*

C9 The site will retain the existing fencing to Hardy Avenue. The fence is visually permeable and existing landscaping will not hinder visibility.

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

### 3.3 Building orientation, envelope and design

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

C11 The development will retain the existing building and will utilise the site area surrounding the building for outdoor play areas. Existing landscaping will be retained including shade trees and additional landscaping will be provided which will assist in

buffering adjoining properties.

Playrooms will be provided on the ground floor with windows opening onto the adjacent outdoor play areas. Existing/proposed fencing and landscaping will ensure privacy to adjoining properties.

As detailed in this report, an acoustic assessment of the development has recommended alterations to some of the existing boundary fencing.

Shadow diagrams have been prepared that identify that the development will have negligible additional impact with respect to the existing development on the site. 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.*

C12 The existing 2 storey building will be retained on the site and therefore will not result in any change with regard to impact on adjoining buildings. Further to this, the proposed ground floor addition will not result in any negligible impact on adjoining properties.

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

C13 The existing building will be retained including the front setback to Hardy Avenue.

C14 Existing side and rear setbacks will be retained and are consistent with surrounding properties. The proposed ground floor addition will adopt similar setbacks to the existing building.

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

C15 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.*

C16 The centre has been designed as accessible for all users including outdoor play spaces. A lift servicing the first floor staff area is also proposed. Accessible bathrooms and accessible carparking is proposed. 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.*



C17 A detailed landscape plan has been provided in support of the application and will improve the overall amenity of the site and the surrounding area. The landscaping contributes to the streetscape by supplementing existing landscaping and shade trees to be retained. Landscaping will be provided to all play areas and boundary landscaping will assist in providing buffers to adjoining properties.

C18 The existing carparking area and the existing landscaping will be retained at the front of the site. Existing trees will be retained that provide shading to the carpark. Additional landscaping will improve the existing setback and reduce the visual impact of the hardstand area when viewed from Hardy Avenue.

### 3.5 Visual and acoustic privacy

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

C19 Not relevant as there is no overlooking of the play areas from a mixed-use development.

C20 Indoor rooms and outdoor play areas are protected from overlooking by the proposed fencing and landscaping.

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

C21 Boundary fencing and landscaping will minimise impacts on adjoining properties. The child care centre will not directly overlook main internal living areas of adjoining development.

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

C22 An Acoustic Report has been submitted with the application. Acoustic fencing and treatment are provided per recommendations to the northern, southern and western boundaries as recommended in the submitted acoustic report. Refer to discussion later in this report.

C23 An acoustic report was submitted with the application as stated above. Refer to discussion later in this report.

### 3.6 Noise and air pollution

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

C24 An acoustic report was submitted with the application as stated above. Refer to discussion later in this report.

C25 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.*

C26 - C27 The subject site is not subject to external sources of air pollution and these controls are not applicable.

### 3.7 Hours of operation

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

C28 The Guideline recommends core hours of operation in residential areas of 7am - 7pm weekdays. The hours of operation of the centre are 6:30am - 6:00pm (Monday to Saturday). The area surrounding the subject site has a mix of land uses including the Calvary Hospital. Having regard to the other land uses in the area, the proposed hours of operation are considered appropriate.

C29 is not applicable as the site is not within a mixed use development.

### 3.8 Traffic, parking and pedestrian circulation

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

C30 Car parking has been assessed under Section 2.2 of DCP2010 later in this report.

C31 Not applicable as the site is not within an industrial or commercial area.

C32 A Traffic and Parking Impacts report was prepared by the applicant. The report demonstrates that the amenity of the surrounding area will not be affected and that there will be no adverse impacts on the safe operation of the surrounding road network. This is addressed in detail later in this report.

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

C33 not applicable as the site does not front a classified road or a road that carries freight including dangerous goods or hazardous materials.

C34 Not relevant. The subject site is not located within a cul-de-sac or narrow street.

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

C35 There is a defined pedestrian entry point proposed into the centre from the footpath along Hardy Avenue. The proposal includes a secure access at the front of the building for parents and visitors.

C36 Not relevant as the proposal is not a mixed-use development.

C37 An internal safety gate is provided within the entrance foyer to ensure the parking area is separated from play areas. Accessible parking has been provided at the front of the building with easy access to the entrance of the centre.

#### 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 234.4sq.m of unencumbered indoor space that equates to an average of 3.25sq.m. The specific breakdown for each room is included in the table below showing compliance with this control across all spaces.

<b>Description of Indoor area</b>	<b>Unencumbered area (sq.m)</b>	<b>No. of children in this area</b>	<b>Unencumbered area per child</b>
Playroom 1	97.6	30	3.25
Playroom 2	62.0	19	3.26
Playroom 3	74.8	23	3.25

##### 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 506.9sq.m of unencumbered outdoor space that equates to an average of 7.04sq.m per child.

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.*

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.*

The application is recommended for approval as it has demonstrated compliance with relevant standards.

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.

### **State Environmental Planning Policy (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 prior to being changed to a medical centre. 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 application was advertised and notified to adjoining neighbours from 20 October to 3 November 2023 in accordance with the provisions of the DCP. There were 16 submissions received in objection to the 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.*

The current medical centre development contains an entry and exist driveway to Hardy Avenue. The existing exit driveway will be removed and replaced with a pedestrian access. The existing entry driveway will be widened to 5.7m to provide a single entry/exit access from Hardy Avenue. Hardy Avenue is a non-arterial road.

*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 has been prepared and submitted in support of the application. The report includes an analysis of the local road network and survey results. The report concludes that the development is fully supportable in terms of its traffic and parking impacts. Specifically, the report identifies:

- The proposal includes the provision of 18 car parking spaces (10 for staff use and 8 for visitor use) satisfying DCP 2010 parking requirements. The parking areas of the site have been assessed against the relevant sections of AS2890.1:2004 and AS2890.6:2022 and have been found to satisfy the objectives of each standard. A swept path analysis has also been providing demonstrating that vehicles are able to enter and leave the site from parking area in a forward direction.
- Traffic generation for the proposed development has been estimated to be 58 trips in the AM peak period (29 in, 29 out) and 50 trips in the PM peak period (25 in, 25 out). The impacts of the traffic generation have been modelled with the results identifying that there will be no adverse impact to the performance of the intersections as a result of the generated traffic.

Having regards to the finding of the traffic assessment report, it is satisfied that the existing road network (including intersections) is capable of servicing the proposed development and that the development will not result in detrimental traffic impacts.

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

The proposed carpark provides for a 2-way entry to the site and an on-site turning bay within the carparking area. As identified above, a swept path analysis has also been providing demonstrating that vehicles are able to enter and leave the site from parking area in a forward direction.

*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. The proposed use is not 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 draft management plan has been provided that requires the coordination of any deliveries so as not to coincide with peak pick-up and drop-off times. A condition of consent has secured the provision of a final management plan including this provision, 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 Hardy Avenue does not raise any concerns.

## 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 72 children, this results in a requirement of 18 spaces. The layout plan for the site shows 18 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 15 staff on site at anyone time. Ten of the eighteen 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 parking restrictions to the northern side of Hardy Avenue and the precinct does experience high demand for parking during the day due to the hospital and other land uses. Notwithstanding, the number of off-street parking spaces required as a result of the development is compliant.

*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.*

A swept path analysis has been providing demonstrating that vehicles are able to enter and leave the site from parking area in a forward direction. Car parking will be required to be set out to meet the requirements for general parking and this will be secured by condition.

The applicant proposes to provide 6 of the 18 proposed carparking spaces in a tandem format (spaces 11 - 13 and 16 - 18). The 3 constrained spaces (spaces 16 - 18) are proposed to be allocated to staff so their use can be appropriately managed. This will entail staff accessing the parking spaces prior to the arrival of children during the morning peak whereby visitors/customers will be provided with access to the 3 remaining 3 tandem spaces (spaces 11 - 13).

Tandem parking is generally not supported, however given that the restricted spaces will be allocated to staff use only and given that the use of these spaces can be controlled by management, the arrangement is considered appropriate. It is recommended that a condition of any consent requires details to be provided on how the tandem spaces will be managed to ensure their ongoing use within a final plan of management for the centre, prior to operation.

*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.*

Parking numbers have been addressed within the traffic and parking impacts report discussed under Section 2.1 above. The report identifies that parking requirements for the proposed centre are compliant with the requirements of the DCP 2010, as confirmed under Control C1 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>.*

The development proposes the use of an existing hardstand parking area at the front of the site. The existing front setback area also includes 2 large shade trees that will be retained, whilst further landscaping is proposed to supplement the existing landscaped areas surrounding the carpark. Whilst the 2 trees alone will not fully satisfy the ratio of trees to parking spaces required under this control, the existing arrangements are considered adequate given the established nature of this landscaping and the limited opportunity to provide additional large trees surrounding the retained hardstand area.

### 2.3 Landscaping

A detailed landscape plan has been provided in support of the application and will improve the overall amenity of the site and the surrounding area. The landscaping contributes to the streetscape by supplementing existing landscaping and shade trees to be retained. Landscaping will be provided to all play areas and boundary landscaping will assist in providing buffers to adjoining properties.

### 2.4 Signage

The application proposes the use of the existing business identification sign for the medical centres which will. The sign was approved under ADA13/0140 (modification of DA12/0591) for the change of use from the original dwelling to the medical centre. The sign is located behind the front fence on Hardy Avenue and has a sign area of 1200mm by 600mm. The sign is post supported with an overall height of 2.1 metres. The content of the existing sign will be modified to reflect the proposed use as a child care centre.

The signage proposal is considered satisfactory given that it is for the modification of an existing post supported sign originally assessed as being appropriate within the



context of the site and the location under ADA13/0140. No further assessment is required under this section of the DCP.

## 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 foyer within the entry of the building provides a secure, safe space between the carparking area and the internal play areas of the facility. The outdoor play areas are designed with fencing to separate them from the parking area and provide safe and secure activity spaces.

There are no blank walls along the Hardy Avenue 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 will directly monitor the entry to the building.

The proposed acoustic fencing will not result in solid barriers across the front of the site. Existing permeable fencing will be maintained to allow visibility from the street across the parking area and to the entry of the building.

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

### 3.2.4 Development in the vicinity of a heritage item

The site is not within the conservation area and is not identified as a heritage item. Calvary Hospital and Chapel is located opposite the site in Hardy Avenue and is a listed item of Environmental Heritage (I272) under Clause 5.10 and Schedule 5 of the LEP 2010.

The objective of this clause is to encourage development in the vicinity of a heritage item to be designed and sited to protect the significance of the heritage item. Control C2 requires development in the vicinity of a heritage item is to minimise the impact on the setting of the item by:

- a) *Providing an adequate area around the heritage item to allow its interpretation.*
- b) *Retaining original or significant landscaping associated with the heritage item.*
- c) *Protecting and allowing the interpretation of archaeological features associated with the heritage item.*
- d) *Retaining and respecting significant views to and from the heritage item.*

The proposed development is located on the opposite side of Hardy Avenue. In addition to this, the proposal will retain the existing building and its setback to the street. The proposal will ensure that adequate separation remains to the item and that

no impact will occur on any significant vegetation on the Calvary Hospital site. This will ensure views to the item and interpretation of the item will be unaffected.

#### **Section 4 - Environmental Hazards and Management**

The subject site is not mapped as bush fire and is not subject to flooding.

##### 4.2 Flooding

This section of the DCP applies as part of the site is impacted by a probable maximum flood (PMF) event. As identified earlier in this report, the site contains a small area located within the north western corner of the site that is affected by the PMF.

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.*
  - ...
  - ...

Council has determined a number of development applications for childcare centres within areas impacted by a PMF event. Discussions and conclusions within these applications has identified 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.

Furthermore, the assessment of the development under Clause 5.22 of the LEP2010 earlier in this report, identified that:

*The area of the site affected by the PMF will be a small section of the outdoor play area within the north western corner of the site which will experience shallow inundation which will not threaten occupants. Flooding will not impact on the building or the parking area at the front of the site. Access routes for pedestrians and vehicles to Hardy Avenue will be unaffected. It is satisfied that the development will not affect the safe occupation or efficient evacuation of people from the site during a flood.*

For these reasons, it is satisfied that the development is appropriate despite the provisions of Control C2 identifying child care centres as critical infrastructure.

## 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 at the front of the site 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 proposed car parking will utilise the existing hard stand parking area at the front of the site which is visible from Hardy Avenue. 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 existing landscaped front setback to the carparking area will be retained and supplemented with additional plantings as outlined in the submitted landscape plan. The landscaped front setback exceeds the minimum 2m width required under this control.

Landscaping to the side boundaries will also be maintained and supplemented.

*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, side and front of the building and are clearly visible from internal areas and will be supervised by staff. The rear play area is to the west and north of the building with shading structures and landscaping proposed. The play area to the south (front) of the site also includes shading and landscaping to provide protection from climatic conditions.

*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 play areas will be contained by appropriate and secure fencing.

*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.

*C7 Design outdoor play areas to include a range of opportunities for developmental play.*

The landscape plan identifies a range of treatments and features that will offer a 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. Proposed landscaping will supplement the retention of existing landscaping, including established trees, on the site.

*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 exact details of play equipment within the rear play space are unknown but given the layout of the landscaped areas, the placement of play equipment is likely to be located away from the side and rear boundaries.

*C10 Use vegetation that is non-allergenic and sensitive to water restrictions.*

With regard to these matters, no concerns have been identified with respect to the detail provided in the submitted landscaping plan.

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 that also incorporates Calvary Hospital and other land uses associated with the health and knowledge precinct. The development will result in the redevelopment of an existing medical centre that was previously a residential dwelling. The development will maintain the existing character of the area and will offer a service to residents living in the area and employees working in this area.

## **Streetscape**

The proposal will result in minimal change to the existing streetscape. The existing building will be retained including the carparking area and landscaping within the front setback to Hardy Avenue. Alterations are proposed to the existing vehicular driveway to the site which will allow for the introduction of a pedestrian entry and pergola structure and additional landscaping will be provided to supplement the existing landscaping. The childcare business will utilise the existing signage previously approved on this site for the former medical centre. All these elements will contribute positively to the current streetscape of Hardy Avenue.

## **Access, transport and traffic**

The vehicle access and parking arrangements have been described earlier in the report. The 2 existing driveways will be consolidated to a single entry and exit driveway and the proposed number of on-site car-parking spaces are compliant. Tandem parking spaces are proposed in the development and have been discussed earlier in this report. Otherwise, the car-park layout is consistent with the relevant Australian Standards.

The application is supported by a traffic study the details of which were discussed earlier in the report. The study identified that:

- The proposal includes the provision of 18 car parking spaces (10 for staff use and 8 for visitor use) satisfying DCP 2010 parking requirements. The parking areas of the site have been assessed against the relevant sections of AS2890.1:2004 and AS2890.6:2022 and have been found to satisfy the objectives of each standard. A swept path analysis has also been provided demonstrating that vehicles are able to enter and leave the site from parking area in a forward direction.
- Traffic generation for the proposed development has been estimated to be 58 trips in the AM peak period (29 in, 29 out) and 50 trips in the PM peak period (25 in, 25 out). The impacts of the traffic generation have been modelled with the results identifying that there will be no adverse impact to the performance of the intersections as a result of the generated traffic.

## **Noise and vibration**

During Construction

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

#### During operation

The childcare centre has the potential to generate noise from within the centre and from the outdoor play areas. Noise will also be apparent from the vehicle movements to and from the site each day and also mechanical plant such as air conditioning units. An acoustic report was submitted with the application that reviewed existing ambient noise levels and modelled the noise levels associated with the development from the sources identified above.

Project specific noise goals for noise emission arising from the use of the proposed centre were derived from the following documents for the purpose of the assessment:

- Environmental Protection Authority (EPA) NSW Noise Policy for Industry 2017 (NPI)
- NSW Department of Planning - Development near Rail Corridors or Busy Roads - Interim Guideline
- Association of Australasian Acoustical Consultants Guideline for Child Care Centre Acoustic Assessment 2020 (the AAAC Guideline).

To minimise noise impacts, the acoustic report recommends the following works and management processes:

- Adoption of construction standards for the building works relating to glazing, external doors, external walls and roof/ceiling.
- Adoption of minimum heights and construction standards to be adopted for all boundary fences enclosing the outdoor play areas.
- Restriction on the maximum number of children inside the centre at any given time (72 children).
- Restrictions on the number and ages of children using the differing outdoor play areas at any given time.
- Excluding any use of the outdoor play areas before 7am or after 6pm.
- Excluding the use of music systems in outdoor play areas.
- Various management controls relating to instruction signage, staff training, supervision and complaints management.
- Restrictions on hours of operation of mechanical plant.

The acoustic report concludes that if the recommendations presented in the report (as summarised above) are adopted, the proposal is capable of maintaining the acoustic amenity of both the occupants of the proposed centre and surrounding receivers and that internal noise levels and noise emission targets for the development will comply with the relevant acoustic requirements.

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

## **Privacy**

Alterations to sections of boundary fencing and additional landscaping will reduce opportunities for overlooking from external play areas.

With the exception of the proposed lift installation, no works will occur to the upper level of the existing building. The upper floor will continue to be used for office and staff facilities which is similar to the previous use of this area within the previous medical centre. No additional privacy impacts are therefore expected.

## **Hours of Operation**

The proposed hours of operation are Monday to Saturday between 6.30am and 6pm. The proposed hours are comparable with many other similar centres located within residential areas across the city and raise no concerns. A condition of consent is proposed that limits the use of any outdoor play spaces prior to 7am on any day.

## **Services**

All utilities are connected and available to the site.

## **Heritage**

The site is not within the conservation area but is within proximity to a listed item, the Calvary Hospital. Refer to discussion under Clause 5.10 of the LEP 2010 and Section 3 of the DCP 2010.

## **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 LEP2010 and DCP2010. The subject site contains an area that is subject to special flood considerations as it is impacted by the PMF event. An assessment of the flood risks was included earlier in the report under Clause 5.22 of the LEP 2010 and section 4.2 of the DCP 2010.

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. The potential for contaminated land is addressed under State Environmental Planning Policy (Resilience and Hazards) 2021 earlier in this report.

## **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 be an employment generating use providing new jobs 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 residential areas 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.

## **Waste**

Appropriate facilities are proposed on the site that will allow for the enclosed storage of waste bins. Waste will be collected using standard Council services. The use will not generate other waste types that are unable to be collected by this service.

## **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 20 October - 3 November 2023 in accordance with the provisions of the DCP.

##### Notification

The application was notified to adjoining neighbours from 20 October - 3 November 2023 in accordance with the provisions of the DCP.

In response to the notification and advertising, sixteen submissions were received in objection to the development. The grounds of the submissions are summarised below:-

1. *Traffic congestion, the development will result in cars having to queue on Hardy Avenue as they wait to drop off children, vehicle numbers will increase and the intersection with Docker Street will become more busy.*

Comment: Refer to assessment of traffic impacts under Section 2.1 of DCP 2010 earlier in this report. It is satisfied that the existing road network (including intersections) is capable of servicing the proposed development and that the development will not result in detrimental traffic impacts.

2. *Insufficient number of car-parking spaces based on staff and child numbers and lack of any overflow parking on nearby streets. There are 10 car parking spaces assigned for staff which will result in a significant shortfall.*

Comment: Refer to assessment of traffic impacts under Section 2.1 of DCP 2010 earlier in this report. The development complies with the requirements of DCP 2010 with respect to the provision of off-street carparking.

3. *The limited parking and busy streets create an unsafe environment for children being dropped off and picked up. The development will add to the existing congestion.*

Comment: The internal provision for the drop-off and pick-up of children has been provided within the site. Refer to previous discussion in this report with respect to this provision. In addition, separated pedestrian access is provided from Hardy Avenue. A secure foyer and entry are provided at the front of the building which will be monitored by reception staff.

4. *Concern that emergency access to the hospital will be hindered by vehicles using Hardy Avenue*

Comment: As identified above, it is satisfied that the existing road network (including intersections) is capable of servicing the proposed development and that the development will not result in detrimental traffic impacts.

5. *Increased number of service vehicles such as waste collection and food deliveries will risk blocking the street and free flow of vehicles in this busy location.*

Comment: As identified above, it is satisfied that the existing road network (including intersections) is capable of servicing the proposed development and that the development will not result in detrimental traffic impacts.

Waste collection will continue to occur from the street as is the case for the existing medical centre (negligible additional impact).

As identified earlier in this report, the car parking area will serve for the purpose of delivery parking. A management plan has been prepared that requires delivery activities to not coincide with peak pick-up and drop-off times. The implementation of a final approved management plan has been including in recommended conditions.

6. *The roads are very narrow and any increase in vehicles will be very dangerous particularly as the entry is so close to the hospital entry.*

*Comment:* As identified above, it is satisfied that the existing road network is capable of servicing the proposed development and that the development will not result in detrimental traffic impacts. Sufficient separation to avoid conflict will exist between the main entry to Calvary Hospital and the entry to the proposed development (approximately 40 metres).

7. *Impact upon safety of pedestrians many of whom are elderly and frail having to cross over the busy roads whilst cars are looking to regularly stop and park.*

*Comment:* No pedestrian impacts have been identified with respect to the proposed development. The proposal will include the removal of an existing driveway which will reduce potential conflict points with the existing footpath in Hardy Avenue. The development also provides for a dedicated pedestrian access to the site to ensure conflict with the proposed driveway to the carpark in minimised.

8. *Increased noise disturbance from outdoor play areas to be used by 72 children. This will disturb residents many of whom work shifts at the hospital and need their rest.*

*And*

9. *Impact upon patients at the hospital who deserve a calm and peaceful environment when in hospital.*

*Comment:* Noise impacts have been addressed earlier in this report. As discussed earlier, an acoustic report has been prepared examining the impacts of noise from within the centre, from the outdoor play areas, from the vehicle movements to and from the site each day and from mechanical plant such as air conditioning units.

The acoustic report concludes that, subject to recommendations, the proposal is capable of maintaining the acoustic amenity of both the occupants of the proposed centre and surrounding receivers and that internal noise levels and noise emission targets for the development will comply with the relevant acoustic requirements. The various recommendations include construction standards and management practices which have been addressed in recommended conditions of consent.

10. *This is a much-needed facility in totally the wrong place.*

*Comment:* Based on the overall assessment outlined in this report, is satisfied that the site is suitable for the proposed development. The development will provide for an important service that will cater for the community including the many families that live in the area and also the many workers who are employed in the various businesses that operate in this area including both the Calvary Hospital and the Base Hospital.

*11. There is a drug rehabilitation centre nearby (Emblem Street) making this an inappropriate location for a childcare centre.*

Comment: The submission refers to the Riverina Drug and Alcohol Centre which forms part of the Calvary Hospital campus and is located on the corner of Emblem Street and Meurant Avenue, approximately 250 metres from the proposed childcare centre. There are no anticipated risks posed by this Drug and Alcohol Centre that would cause the child care development to be inappropriate in this location when compared with the range of other land uses occurring within the immediate area, particularly when compared to the range of services afforded by both the Calvary Hospital and the Wagga Base Hospital.

Despite the existence of other land uses within the surrounding area, the child care centre will provide a secure space for the care of children, many of whom will be the children of employees who work in the surrounding facilities and businesses, potentially including the drug and alcohol centre. The design of the child care centre provides clear delineation between private and public spaces and allows for staff to easily control access and to monitor the entry to the development.

*12. Disturbance from construction work and workers associated with the redevelopment.*

Comment: Whilst certain impacts will be inevitable during construction, these will occur over a limited period. Construction hours will be restricted and have been addressed as a condition of consent.

*13. Impact upon the valuation of private dwellings*

Comment: Impact on property values is not a relevant matter for consideration. The impacts of the development which are relevant and which may influence property values, have been appropriately considered as part of this assessment report.

#### **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 neighbouring property owners and others familiar with the locality. 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 submissions have been fully addressed and on balance the proposed childcare centre is one that is considered as acceptable. The overarching character of the area that is currently a mix of residential and non-residential uses is not adversely impacted and a new facility is provided for the benefit of residents in the city.

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 that includes dwellings, medical practices and 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 \$792,000 and therefore the following contribution is payable.

$$\$792,000 \times 1\% = \$7920.$$

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 72 places and 15 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:

$$\begin{aligned} \text{Section 64 Sewer (base)} &= (0.1\text{ET} \times 87) - 2\text{ET} \\ &= 6.7 \times \$3538 \\ &= \$23,705 \end{aligned}$$

$$\begin{aligned} \text{S64 Sewer CPI} &= \$23,705 \times 130.9/100.5 \\ &= \$30,875. \end{aligned}$$

### Stormwater

Section 64 Stormwater calculations are charged in accordance with the Implementation Guide Development Servicing Plan Stormwater May 2022. The Section 64 Stormwater infrastructure contribution is based on the increased area of hardstand.

There are no increased areas of hardstand and therefore no contribution is payable.

## Other Approvals

None required

## Conclusion

The development is considered to be satisfactory based on the foregoing assessment. The proposal complies with the requirements of the Environmental Planning and Assessment Act 1979 and Council Policies.

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## RECOMMENDATION

It is recommended that application number DA23/0516 for Change of use to a centre based childcare facility (72 children) with associated alterations and additions and revised car-park layout be approved, subject to the following conditions:-

## CONDITIONS OF CONSENT FOR APPLICATION NO.

### 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
2866-01	Site/Roof Plan	Innovate	B	November 2023
2866-02	Floor Plans	Innovate	B	November 2023
2866-03	Elevations, materials and Finishes	Innovate	B	November 2023
2866-04	Sections and Fence Elevations	Innovate	B	November 2023
2866-05	Shadow Diagrams	Innovate	B	November 2023
2866-06	Calculations & Acoustic Provisions	Innovate	B	November 2023
2866-SA	Site Analysis & Construction Management Plan	Innovate	B	November 2023
L-01 D	Cover Sheet	Site Design + Studios	D	23/11/2023
L-02 D	Landscape Plan 1/4	Site Design + Studios	D	23/11/2023
L-03 D	Landscape Plan 2/4	Site Design + Studios	D	23/11/2023
L-04 D	Landscape Plan 3/4	Site Design + Studios	D	23/11/2023
L-05 D	Landscape Plan 4/4	Site Design + Studios	D	23/11/2023
L-06 D	Planting Details	Site Design + Studios	D	23/11/2023
L-07 D	Existing Tree	Site Design + Studios	D	23/11/2023
L-08 D	Notes	Site Design + Studios	D	23/11/2023
L-09 D	Specification	Site Design + Studios	D	23/11/2023
M230227	Plan of Management - Child Care Centre	Planning Ingenuity	-	27/09/2023
M230227	Statement of Environmental Effects	Planning Ingenuity	-	27/09/2023
20230686.1	Childcare Noise Impact Assessment	Acoustic Logic	1	23/11/2023

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 an 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 Council's 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 \$7,920 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 \$23,705.

The Section 64 Sewer contribution (updated by the CPI of 130.9/100.5) required to be paid is \$30,875.

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.
  - 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 release of the Construction Certificate, the applicant shall provide revised plans detailing the incorporation of all building construction noise mitigation recommendations contained in the approved Childcare Noise Impact Assessment (Revision 1 dated 23/11/2023) prepared by Acoustic Logic. The revised plans shall be submitted to Council and shall be to the satisfaction of the General Manager or their delegate.
- C.8 Stormwater discharge to the kerb in Hardy Avenue shall be limited to 20 l/s in the 10% AEP. If necessary, On-Site Detention shall be designed to restrict discharge to the kerb.
- C.9 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.10 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.11 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.12 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.13 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.14 Final details of the proposed business identification sign shall be provided to Council for approval prior to the replacement of the existing post supported sign panel at the front of the site. No additional signage is approved under this consent.

C.15 The existing Street trees fronting the property shall be retained and protected from the proposed development. A Tree Protection Zone (TPZ) shall be constructed for all existing trees fronting the development in accordance with Australian Standards - AS 4970-2009 Protection of Trees on Development Sites. Construction of Tree Protection Zone's, shall be completed and 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.

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

C.16 A Section 68 Approval must be obtained by a Licensed Plumber and Drainer prior to any sewer or stormwater work being carried out on the site. Plans must be supplied for assessment and approval as part of the s68 application and must indicate that pipe and pit sizing meets the requirements of AS3500 and the Plumbing Code of Australia.

Further, a final inspection must be carried out upon completion of plumbing and drainage work prior to occupation of the development.

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.17 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.

NOTE:

i) 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.

ii) Works are to be carried out by a Council approved concrete contractor. Please contact Council's Activities in Road Reserves Officer on 1300 292 442 for a list of approved contractors.

**Requirements during construction or site works**

- C.18 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.
- C.19 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.20 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.21 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.22 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.
- C.23 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.24 Prior to issue of occupation certificate the redundant kerb layback in Hardy Avenue fronting the proposed pedestrian entry shall be replaced with conventional barrier kerbing, and Council's footway rehabilitated, in accordance with Council's Engineering Guidelines for Subdivisions and Developments.
- C.25 Prior to the issue of an Occupation Certificate, vehicular access within the road reserve must be constructed to Council standards, at full cost to the developer, by a Council approved concreter. A list of Council approved concreters who hold a 138 permit can be found on Council's website. Driveway design and grades shall comply with AS2890.1: 2004 (or as amended) and Council's Engineering Guidelines for Subdivisions and Developments.
- C.26 Prior to the release of the Occupation Certificate, all boundary fencing shall be installed in accordance with the plans approved under condition C7 of this consent and in accordance with noise mitigation recommendations contained in the approved Childcare Noise Impact Assessment (Revision 1 dated 23/11/2023) prepared by Acoustic Logic.
- C.27 Prior to the release of the Occupation Certificate, a revised Plan of Management shall be submitted for approval of the General Manager or their delegate. The plan shall incorporate the following additional provisions:
- All operational noise mitigation recommendations contained in the approved Childcare Noise Impact Assessment (Revision 1 dated 23/11/2023) prepared by Acoustic Logic.
  - Management of tandem carparking spaces to ensure that the restricted tandem spaces are occupied by staff prior to the use of other staff parking spaces on the site and to ensure that the unrestricted tandem spaces are always available for customer use.
- C.28 Prior to the release of the Occupation Certificate a detailed site plan shall be prepared and submitted to Council by an appropriately qualified person showing that the existing internal sewer services are located wholly within the subject lot. If works are required to relocate sewer services within the lot they will be subject to a SECTION 68 (PRIVATE) approval.

- C.29 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.30 Prior to the release of the Occupation Certificate the Food Business Premise and the current Food Safety Supervisor must be notified to the appropriate regulatory authority.
- C.31 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.32 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.33 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.34 No more than 72 children may be in attendance at the centre at any one time.
- C.35 The approved use must only be conducted on Mondays to Saturdays, inclusive between the hours of 6.30 am and 6.00 pm. The outdoor play areas must not be used prior to 7am on any day.



C.36 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.37 The child care centre shall operate at all times in accordance with the provisions of the approved Management Plan approved under condition C27 of this consent including all management recommendations contained within the approved Childcare Noise Impact Assessment (Revision 1 dated 23/11/2023) prepared by Acoustic Logic. The approved Management Plan must be made available to all staff, parents and carers.

C.38 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.39 A minimum of 18 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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