

# AGENDA

of the  
**Local Planning Panel**  
held in  
**Council Chambers,**  
**Wingecarribee Shire Council Civic Centre,**  
**68 Elizabeth Street, Moss Vale**  
on

**Friday 5 July 2024**

The meeting will commence at **2:00 pm**

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FRIDAY 5 JULY 2024**

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## **Our Mission, Our Vision, Our Values**

### **OUR MISSION**

To create and nurture a vibrant and diverse community growing and working in harmony with our urban, agricultural and natural environments

### **OUR VISION**

**Leadership:** *'An innovative and effective organisation with strong leadership'*

**People:** *'A vibrant and diverse community living harmoniously, supported by innovative services and effective communication with Council'*

**Places:** *'Places that are safe, maintained, accessible, sympathetic to the built and natural environment, that supports the needs of the community'*

**Environment:** *'A community that values and protects the natural environment enhancing its health and diversity'*

**Economy:** *'A strong local economy that encourages and provides employment, business opportunities and tourism'*

### **OUR VALUES**

Integrity, trust and respect

Responsibility and accountability

Communication and teamwork

Service quality

## **Recording and Webcasting of Local Planning Panel Meetings**

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The meeting must not be recorded by others.

Please ensure that all electronic devices including mobile phones are switched to silent.

**The Council Chamber has 24 Hour Video Surveillance.**

## **1 OPENING OF THE MEETING**

The Chairperson opened the meeting and welcomed members of the public and the press.

## **2 ACKNOWLEDGEMENT OF COUNTRY**

The Chairperson acknowledged country:

“Wingecarribee Shire Council acknowledge the Gundungurra and Tharawal people as the traditional custodians of this land we now call the Wingecarribee Shire. I pay my respect to Elders both past, present and emerging. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today.”

## **3 APOLOGIES**

Nil at time of print.

## **4 DECLARATIONS OF INTEREST**

The provisions of Chapter 14 of the Local Government Act 1993 regulate the way in which nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest and the reasons for declaring such interest must be disclosed as soon as practicable after the start of the meeting.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions or voting on that matter and further require that the member vacate the meeting.

Council’s Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

## **5 PLANNING PROPOSALS**

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### **5.1 Draft Bowral Town Centre Master Plan**

**Report Author: Strategic Planner**

**Authoriser: Deniz Kilic**

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#### **PURPOSE**

The purpose of this report is to present the outcomes of the public exhibition of the Draft Bowral Town Centre Master Plan and seek Council endorsement of the revised Draft Bowral Town Centre Master Plan, Supporting Evidence Report and Engagement Outcomes Report.

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#### **OFFICER'S RECOMMENDATION**

**THAT:**

- 1. The revised Draft Bowral Town Centre Master Plan be adopted.**
- 2. The Supporting Evidence Report and Engagement Outcomes Report be endorsed.**
- 3. Council write to all persons who made a submission through the public exhibition period and advise them of the resolution.**

#### **BACKGROUND**

At the Ordinary Council Meeting of 16 March 2022, Council approved a works program of key strategic planning projects to implement the priority actions outlined in the Wingecarribee Local Strategic Planning Statement (LSPS) and Local Housing Strategy.

The Wingecarribee LSPS and Local Housing Strategy provide a long-term planning framework to meet the economic, housing, social and cultural needs of the community, and guide how and where growth will occur in the Shire over the next 20 years. The LSPS and the approved strategic works program commit Council to critical strategic planning projects over the coming years, including developing Master Plans for the three main centres of Bowral, Mittagong and Moss Vale, to provide a clear vision and strategic direction, and to act as a catalyst for new development and the revitalisation of the centres.

Bowral was identified as the first Town Centre to undergo this place-based planning process. At the Ordinary Council meeting of 16 November 2022, Council resolved to proceed with a Request for Quote (RFQ) to engage a suitably qualified consultant to prepare the Bowral Town Centre Master Plan. Following this, Council underwent a procurement process, with Studio GL being appointed as the consultants for the project in December 2022.

Since the commencement of the Bowral Town Centre Master Plan project in January 2023, extensive community consultation and engagement has been conducted at various stages. This valuable feedback from the community and stakeholders has directly informed the development of the Draft Master Plan. Following the resolution of the Ordinary Meeting of Council 13 December 2023, the Draft Bowral Town Centre Master Plan was formally placed on public exhibition for a

period of eight (8) weeks from Monday, 22 January to Sunday, 17 March 2024. During this time, a number of face-to-face and online engagement opportunities were available, and the outcomes of the exhibition period are detailed in **Attachment 2** of this report.

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## **REPORT**

### ***Introduction***

The Draft Bowral Town Centre Master Plan (Draft Master Plan) is a holistic, place-based plan that has been developed in partnership with the community and key stakeholders and provides a clear strategic direction for the Town Centre. The purpose of the Draft Master Plan is to ensure that the vision is reflective of the unique identity, function and rich character of Bowral.

Following the resolution of the Ordinary Meeting of Council 13 December 2023, the Draft Master Plan was formally exhibited for a period of eight (8) weeks from Monday, 22 January to Sunday, 17 March 2024. Further information regarding the exhibition period has been provided in the 'Community Consultation' section of the report. The feedback that was attained during the public exhibition period has informed the revision of the Draft Master Plan and an overview of post-exhibition amendments is detailed below in the 'Summary of Amendments'.

### ***Framework of the Draft Master Plan***

Through collaborative community consultation, the Draft Master Plan identifies a clear vision and six (6) urban design principles that collectively aim to ensure the continued success of Bowral as a vibrant, active and sustainable centre that has a rich cultural heritage. The six (6) urban design principles include:

- Celebrate Local Identity and Diverse Community
- Encourage Green and Sustainable Public Domain
- Improve Permeability and Connectivity
- Strengthen Economy and Opportunities
- Enhance Vibrancy and Attractiveness
- Promote Safety and Comfort

The Draft Master Plan is divided into four (4) separate themes, and they include:

- Access and Movement
- Built Form and Heritage
- Public Domain and Spaces
- Activation and Placemaking

Each theme is accompanied by a 'Spatial Framework' map and a set of 'Strategic Principles' which illustrate the high-level intent, potential opportunities and future direction for the Town Centre. Each theme also contains a series of numbered initiatives, and this relates to the 'Implementation Plan' which outlines the suggested steps towards their delivery.

**Figure 1** below provides a diagrammatic representation of the overall Spatial Framework structure of the Draft Master Plan.



**Figure 1- How to use the Master Plan.**

In addition, two (2) supplementary reports have been prepared to document the spatial analysis, strategic review and engagement process that was undertaken to develop the Draft Master Plan, and they include the Engagement Outcomes Report (**Attachment 2**) and Supporting Evidence Report (**Attachment 3**). The relationship between the three (3) documents is highlighted through **Figure 2**.







**Figure 2- Bowral Master Plan Process and Document Output.**

**Summary of Amendments**

Following the review of submissions made during the public exhibition period of the Draft Master Plan, a number of revisions have been made and a summary of key amendments is provided below.

Section of the Draft Master Plan	Amendment Overview
Engagement Outcomes Report	<p>An Engagement Outcomes Report (<b>Attachment 2</b>) has been provided which details the outcomes of each of the three (3) rounds of community and stakeholder engagement that were conducted during the life of the project:</p> <ul style="list-style-type: none"> <li>• Round One (1) - Initial place check</li> <li>• Round Two (2) - Testing of emerging initiatives.</li> <li>• Round Three (3) - Public exhibition of the Draft Master Plan.</li> </ul> <p>By providing an accompanying engagement report that is separate to the ‘Supporting Evidence Report’, improves readability and responds to feedback from the community.</p>
Executive Summary	<p>An Executive Summary has been added to the start of the Draft Master Plan to enable enhanced readability and understanding of the document. This accompanies the illustrative Draft Master Plan which was previously located at the end of the document.</p> <p>The Executive Summary better outlines the overall purpose of the Draft Master Plan and presents the Vision and Design Principles that will guide the future of the Town Centre.</p>
Public Domain and Spaces	Feedback received during the public exhibition informed several

	<p>amendments in the Public Domain and Spaces theme. Examples of amendments that have been reflected in the Draft Master Plan include:</p> <p>a) Figure 12 has been amended to remove illustrated kerbing and a tree adjacent to the loading dock, allowing for a greater consideration of the functioning of Wingecarribee Street.</p>  <p>Figure 12 Extension of Corbett Plaza with shared zone and improved street experience along Wingecarribee St between Bendooley St and Bong Bong St</p> <p>b) Initiative PS02 has been amended to recommend that the existing one-way direction of Wingecarribee Street (west) is to be retained (p. 28).</p> <p>c) Initiative PS03 - Street Trees has been amended to add reference to Council’s Street Tree Master Plan, requirements when installing new street trees and permeable surfaces.</p> <p>d) Feedback has informed the addition of text and imagery to address pedestrian access at the Southern Gateway of Bowral Town Centre (PS07).</p>  <p>Example of pedestrian refuge with safety rail and low level landscaping</p>
<p>Built Form and Heritage</p>	<p>Examples of amendments that have been reflected in the Draft Master Plan include:</p> <p>a) The previous indicative colour palette featured in initiative BF02 Facades and Shopfronts/Materials has been amended to better reflect a Bowral specific colour palette.</p> <p>b) Initiative BF04 - Building Heights has been amended to include reference to the Housing SEPP 2021 and current maximum Floor Space Ratios.</p> <p>c) Additional reference to the significance of the Camellias and Pin Oaks included in initiative BF01 text.</p>
<p>Access and Movement</p>	<p>Examples of amendments that have been reflected in the Draft Master Plan include:</p>

	<p>a) Figure 34 - Access and Movement Framework Diagram amended to include potential future electrical vehicle charger destination.</p> <p>b) Initiative AM01 Green Links and Orbital was amended to provide recommendation for bike racks throughout the Town Centre.</p> <p>c) Initiative AM05 amended to include reference for the design of future wayfinding/signage to take into consideration those in the community with dementia or low vision.</p>
Activation and Placemaking	<p>Following feedback received during the public exhibition stage, supplementary imagery and text has been provided to enhance the Activation and Placemaking theme.</p> <p>For example, initiative A01 Temporary Activation has been amended to include additional text that identifies Station Street Carpark as a potential venue for future activation opportunities and markets.</p>

A more detailed overview of the outcomes of the exhibition period and the amendments that have been implemented in the Draft Master Plan are available through the Engagement Outcomes Report (**Attachment 2**).

## CONSULTATION

### ***Development of the Draft Bowral Town Centre Master Plan***

The Draft Master Plan was developed through a collaborative process with the community and key stakeholders in order to ensure that the Draft Master Plan identifies a clear vision for Bowral that is reflective of the unique identity and function of the Town Centre. Valuable feedback was gained during two rounds of engagement, and this has directly informed the development of a Draft Master Plan that was later placed on public exhibition. The table below outlines a timeline of previous engagement opportunities.

Consultation	When?	Description
<i>Round 1: Place Check</i>		
Your Say Wingecarribee (YSW) Community Survey	February to March 2023	Participants were asked to provide their ideas and comments about the future of Bowral Town Centre. Approximately 286 survey responses were received.
YSW Community Interactive Map	February to March 2023	Participants were able to place a marker on a map of the study area to identify key opportunities and current constraints. Approximately 44 people made 107 comments on the interactive map activity.
Community Drop-in Sessions	Wednesday, 8 March 2023 and	Two community drop-in sessions were organised in Corbett Plaza to encourage the community to ask questions and provide their feedback. An estimated total of 65-70 people

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	Saturday, 11 March 2023	gave their input during these sessions.
External Stakeholder Workshop	Wednesday, 8 March 2023	A community workshop was hosted at the Bowral Public School Hall providing participants with the opportunity to ask questions and provide insights into the strengths, opportunities and key constraints within Bowral Town Centre. Approximately 30 community members participated in the workshop.
Drawing Activity	March 2023	Students from Bowral Public School participated in consultation by completing a drawing to share their vision for the Bowral Town Centre. Approximately 50 drawings were received.
<b>Round 2: Master Plan</b>		
YSW Community Survey	May to June 2023	Participants were asked to provide their feedback on a series of preliminary ideas for the Draft Master Plan. Approximately 75 responses were received.
YSW Community Interactive Map	May to June 2023	Participants were able to place a marker on a map of the study area to provide their comments on the preliminary ideas for the Master Plan. Approximately 30 submissions were received through the interactive map.
Community Drop-in sessions	Tuesday, 9 May 2023 and Saturday, 13 May 2023	Two community drop-in sessions were organised in Corbett Plaza to encourage the community to ask questions and provide their feedback on the series of preliminary ideas.
Community Workshop	Tuesday, 9 May 2023	A community workshop was hosted at Bowral Public School Hall providing participants with the opportunity to ask questions and provide feedback on the preliminary ideas for the Bowral Town Centre Master Plan. Approximately 35 community members participated in the workshop.

Key ideas and opportunities that were raised by the community during the two (2) rounds of initial consultation included, but were not limited to:

- Improved connectivity to community attractors, such as Bong Bong Street, Bowral Library and Corbett Gardens.
- Enhancing the existing character and celebrating the rural charm of Bowral.
- Encouraging night-time economy.
- Improved parking in the Town Centre by making it more accessible and visible.
- Enhancing gateway entries into the Town Centre.
- Retaining sight lines out to rural landscapes.
- Introducing more landscaping to “green” the streets of the Town Centre.
- Introducing public art, street furniture and interactive play opportunities that reflect the unique character of Bowral.

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A more detailed overview of the various engagement opportunities mentioned above, and the outcomes of each community consultation activity is provided in the Engagement Outcomes Report, which forms **Attachment 2** of this report.

**Public Exhibition** *Type text*

Following the resolution of the Ordinary Meeting of Council 13 December 2023, the Draft Master Plan was formally exhibited for a period of eight (8) weeks from Monday, 22 January to Sunday, 17 March 2024. During the exhibition period, the Draft Master Plan was accessible online via the 'Document Library' on Participate Wingecarribee and hard copies were available at Customer Service at Council's Civic Centre, Wingecarribee Mobile Library Service and Bowral, Mittagong and Moss Vale Library. In addition, a number of face-to-face and online engagement sessions and activities were conducted to encourage further collaboration with the community and stakeholders. The following table provides a summary of participation opportunities.

Consultation	When?	Description
Round 3: Public Exhibition		
Participate Wingecarribee Online Survey	January to March 2024	Participants were asked to provide their feedback through a series of questions based on the Draft Master Plan. Approximately 71 responses were received.
Participate Wingecarribee Community Interactive Map	January to March 2024	Participants were able to place a marker, comment or vote on an idea on a map of the study area. This enabled feedback on key initiatives within the Draft Master Plan. Approximately 93 submissions were received.
Participate Wingecarribee Share your Thoughts activity	January to March 2024	Participants could make a short submission and share their thoughts in 100 words or less about the Draft Master Plan. Approximately 40 contributions were received.
Community Drop-in Session	Thursday, 15 February 2024, 5:30-7:30pm.	A community drop-in session was held at the Henrietta Rose Room in Bowral to encourage the community to ask questions and provide their feedback on the Draft Master Plan through a 'dotmocracy' activity in which green dots represented an idea that was liked and red dots represented an idea that was disliked. Approximately 55 green dots, 20 red dots and 32 comments were recorded.
Bowral Markets	Saturday, 10 February 2024	Council attended Bowral Markets to promote the Draft Master Plan and receive feedback from the local community. Approximately 20 comments were recorded.
Community Reference Panel (CRP)	Thursday, 22 February	Council presented the Draft Master Plan at a joint CRP session, welcoming feedback and thoughts through a 'dotmocracy' activity in which green dots represented an idea that was liked and red dots represented an idea that was disliked. Approximately 68 green dots, 29 red dots and 68 comments were recorded.
Written Submissions	January to March 2024	Participants were able to make a written submission to <a href="mailto:Strategic.Outcomes@wsc.nsw.gov.au">Strategic.Outcomes@wsc.nsw.gov.au</a> and share their thoughts on the Draft Master Plan. Approximately 16 written submissions were received.

As an overview, a summary of the key themes raised as part of the public exhibition period included, but were not limited to:

- Retaining and enhancing Bowral's unique identity.
- Preserving heritage and character buildings.
- Ensuring pedestrian safety and connectivity.
- Opportunities to incorporate Bowral's history, both First Nations and post settlement.
- Improving vibrancy and evening activation.
- Street trees and greening the town centre.

All feedback received during the public exhibition period has directly informed the post-exhibition review of the Draft Master Plan (**Attachment 1**). A more detailed overview of the various engagement opportunities mentioned above, and the outcomes of the consultation process is provided in the Engagement Outcomes Report, which forms **Attachment 2** of this report.

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## **SUSTAINABILITY ASSESSMENT**

- **Environment**

The community identified environment and sustainability as a key priority through community consultation, therefore, one (1) of the six (6) the overarching urban design principles, as well as a number of proposed initiatives in the Draft Master Plan, responds to encouraging a green and sustainable public domain.

- **Social**

The Draft Master Plan was developed in collaboration with the community and aims to celebrate this strong sense of community in the Town Centre. This is intended to be achieved through initiatives that seek to enhance social activity through the promotion of access, safety, character and economy.

- **Broader Economic Implications**

Bowral is recognised as having a significant economic and cultural function in the Shire. The Draft Master Plan therefore identifies initiatives that seek to celebrate and enhance the economic activity in the centre, in order to support the continued success of Bowral into the future.

The Draft Master Plan supports Council's transition to a better place-based planning framework and will form part of a suite of Master Plans for the three (3) Town Centres, being Bowral, Mittagong and Moss Vale, to stimulate economic activity and guide growth and change in the Shire.

- **Culture**

The Draft Master Plan has been prepared through a collaborative community engagement process to ensure that the Draft Master Plan is reflective of the aspirations and desires of the local community.

- **Governance**

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This report has been prepared to seek the advice of the Local Planning Panel. A report will later be presented to Council to seek the adoption of the Draft Master Plan and the endorsement of the Engagement Outcomes Report and Supporting Evidence Report, which forms **Attachments 2 and 3** to the report.

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### **COUNCIL BUDGET IMPLICATIONS**

The development of the Bowral Town Centre Master Plan is being delivered at a cost of \$139,458.00 and this funding was allocated in 2022 as part of Council's non-recurrent budget.

The Draft Master Plan identifies infrastructure upgrades and local improvements which will require funding through Council, grants or developer contributions. Where possible, they may also be considered in Council's future budget allocations.

In addition to this, the Draft Master Plan makes recommendations for Transport for NSW led initiatives. Council will therefore continue to advocate and collaborate with Transport for NSW to guide the delivery of these agency led interventions. Council will additionally need to continue to work with the State Government to seek additional funding opportunities to implement the Draft Master Plan.

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### **RELATED COUNCIL POLICY**

The Draft Master Plan has been prepared in response to priority actions identified in the Wingecarribee Local Strategic Planning Statement (LSPS) and Planning Priority 1 of the Local Housing Strategy, specifically:

LSPS –

- Planning Priority 6.1 (i) - Adopt a place-based approach to planning in local towns and villages to ensure that their special character is preserved.
- Planning Priority 6.1 (iv) - Undertake a review of the Town Centre Master Plans for Bowral, Mittagong and Moss Vale and ensure the outcomes of the Master Plan reviews are reflected in the Development Control Plans.

Local Housing Strategy –

- Planning Priority 1 – Promote infill development and increased densities in appropriate locations and facilitate a greater mix of housing types to ensure our housing stock is reflective of the needs of our community.

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### **CONCLUSION**

The Draft Bowral Town Centre Master Plan is a holistic place-based Master Plan that provides a clear vision and strategic direction for the Town Centre. The Draft Master Plan was developed through a collaborative engagement process with the community and key stakeholders, in order to ensure that the proposed initiatives guide the growth of the Town Centre in a way that respects and enhances the unique character and function of Bowral.

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Valuable community and stakeholder feedback was received through the public exhibition period of the Draft Master Plan and amendments have been made in accordance with the consideration of the submissions. The purpose of this report is, therefore, to seek the endorsement of the Draft Bowral Town Centre Master Plan, Supporting Evidence Report and Engagement Outcomes Report to enable the progression to the implementation phase.

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**ATTACHMENTS**

1. Draft Bowral Town Centre Master Plan [**5.1.1** - 94 pages]
2. Engagement Outcomes Report - Draft Bowral Town Centre Master Plan [**5.1.2** - 66 pages]
3. Supporting Evidence Report - Draft Bowral Town Centre Master Plan [**5.1.3** - 52 pages]



## **5.2 Draft Review of Low-Density Residential Development Controls**

**Report Author:**

**Senior Strategic Planner**

**Authoriser:**

**Executive Manager Strategic Outcomes**

### **PURPOSE**

The purpose of this report is to present the outcomes of the public exhibition of the Draft Review of Low-Density Residential Development Controls and seek the adoption of the revised Draft Low-Density Residential Development Controls Review and endorsement of the Compliance Checklist and Development Application Submission Checklist.

### **OFFICER'S RECOMMENDATION**

#### **THAT:**

- 1. The Draft Low-Density Residential Development Control Review be adopted.**
- 2. The Compliance Checklist and Development Application Submission Checklist for Low-Density Residential Development be endorsed.**
- 3. Following the adoption of the Draft Low-Density Residential Development Control Review, Council makes the relevant amendments to the Low-Density chapter of the existing Development Control Plans.**

#### **BACKGROUND**

Following the approval of grant funding from the then NSW Department of Planning - Project Delivery Unit, Council commenced a review of the existing Low-Density Residential Development Controls in May 2022. The Review aligns with the priority actions identified in the Wingecarribee Local Strategic Planning Statement (LSPS) and Local Housing Strategy (LHS), as it is intended to streamline the development application and assessment process and help reduce development assessment timeframes, for low-density residential developments in the Shire.

The Draft Low Density Residential Development Review (Draft Review) supports Council's transition to a better place-based planning framework and is one of the many ways that Council is implementing the priority actions of the LHS. The proposed development controls will apply to all low-density residential development types, regardless of the land zoning, where low-density residential type development is permitted, including any alterations or additions to existing low-density development. It is also noted that the Draft Review includes controls for non-habitable and habitable ancillary development. It is noted that no rezoning or Local Environmental Plan (LEP) amendments are proposed as part of this Draft Review.

The Draft Review was presented to the Wingecarribee Local Planning Panel 03 May 2023 and the Ordinary Meeting of Council 21 June 2023 and was subsequently placed on public exhibition for a period of four (4) weeks from Friday 03 May 2024 to Monday 03 June 2024. The outcomes of the public exhibition are detailed in the 'Summary of Written Submissions' and 'Summary of Amendments' sections of this report.

**REPORT**

***Introduction***

In May 2022, Locale Consulting were engaged by Council to undertake a review of existing Low-Density development controls. As part of the Review, internal staff, community and industry engagement was conducted by the consultants in order to understand the barriers in the existing low-density development controls and to identify potential opportunities for improvements. This consultation directly informed the Draft Review of the existing low-density residential development controls.

The aim of the Draft Review is to simplify the low-density residential development controls; and provide a clear planning framework for low density residential and ancillary development, that is easy to use, understand and implement; without undermining the local character of our towns and villages. The Draft Development Control Plan (DCP) provisions and supporting material are intended to simplify the planning and application process, streamline the assessment and approval process and assist in reducing assessment timeframes.

The Draft DCP provisions are supported by a separate Compliance Checklist, provided as **ATTACHMENT 2** to this report. The Compliance Checklist is intended to be used by applicants as a template Statement of Environmental Effects, further simplifying the application process and making it easier for the assessment of Development Applications.

The Draft DCP provisions were prepared to form part of a next generation Comprehensive DCP, which will address all development types in the Shire. However, in the interim, the controls will be included in the existing DCPs. The Draft Review does not go into detail regarding controls applicable to Heritage Conservation areas and Heritage items. Hence, existing controls related to the Heritage Conservation Areas and items in the existing DCPs, will be applicable where necessary. The new controls will not override the existing controls related to Heritage Conservations Areas and items.

The amended Draft Low-Density Housing DCP provisions are provided as **ATTACHMENT 1** to this report. The Draft Review was placed on public exhibition for a period of four (4) weeks from Friday, 03 May 2024 to Monday, 03 June 2024. The feedback received and the outcomes of the public exhibition period are detailed in the 'Summary of Written Submissions' and 'Summary of Amendments' sections below.

***Summary of Written Submissions***

Written submissions received during the Public Exhibition period have been summarised in the below table. Two (2) written submissions were received during the public exhibition period.

<b>Name</b>	<b>Submission</b>	<b>Staff Response</b>
P. Edwards	The DCP should include the requirements of the LEP and the requirements of the SEPPs which override the LEP or DCP.	The DCP controls are applicable to development applications lodged under the provisions of WLEP 2010. If an application is lodged under the State Environmental Planning Policy (Housing) 2021, within the prescribed zones, the application shall be assessed against the development standards specified in the SEPP (Housing) 2021.

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	<p>The draft DCP should state which parts of the existing DCPs will be deleted and which will be retained.</p>	<p>The Explanation of Intended Effect, accessible via Participate Wingecarribee or as an attachment to the LPP Report provides a summation of the amendments that are being made, additionally supported by the Comparison of existing and proposed DCP provisions document. This highlights what will be amended and retained within each DCP.</p>
	<p>Incomplete paragraphs "This chapter of the Wingecarribee DCP must be read in conjunction with ... add other chapters of the DCP as required". Also on P. 29 clause 1.8.1 Open Space- Explanation and Ancillary Development.</p>	<p>References to other chapters of the DCP throughout the DCP Review Chapter depicts where the chapter will be embedded within existing DCPs. A separate body of work will be undertaken in the near future, working towards one comprehensive DCP. The Low-Density Residential DCP Review will contribute to the comprehensive review of all DCPs.</p>
	<p>Boarding Houses section should note that under WLEP are still a prohibited use in the R2 Low Density Residential zone but are permissible in certain circumstances under SEPP (Housing) and SEPP (Exempt and Complying Development).</p>	<p>The Draft DCP Review is relevant to all Low-Density Residential Development, regardless of the land zoning. Boarding Houses are a permissible use in some zones. A separate body of work will be undertaken, in the near future, working towards one comprehensive DCP, which will capture specific controls for Boarding Houses where permissible.</p>
	<p>Secondary Dwellings section should note that under WLEP are still a prohibited use in the R2 Low Density Residential zone but are permissible in certain circumstances under SEPP (Housing) and SEPP (Exempt and Complying Development, Part 3).</p>	<p>Secondary Dwellings are permitted as low-density housing in RU1, RU2, RU4 zones. The DCP is a guideline for all proposed permitted development as prescribed in WLEP 2010.</p>
	<p>The headings in the table presumably refer to Lot areas but "Lot Area" is not stated in the heading.</p>	<p>Noted and amended.</p>
	<p>There is no clear definition of what is meant by "articulation zone". It is not adequate that it can only be interpreted from the diagrams on page 11. Is this term equivalent to "front setback" and "frontage line setback" that are included in "Height of fences" in table on P. 5?</p>	<p>Please refer to the note under Table 1, regarding setbacks for reference to articulation zones. Figure 1 also provides diagrammatic representation of articulation zone.</p>
	<p>"Minimum setbacks for detached garages, carports, sheds and other</p>	<p>Noted and amended.</p>

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	outbuildings" does not include the word "front" before "setback".	
	1.2 Building Heights - clause 1.2.1 and 1.2.2 refers reader to residential building heights in LEP, but at present the LEP does not show building heights for residential areas.	Noted and amended. A separate body of work will ensue to prepare a Planning Proposal, following the adoption of the Medium Density Study, to include building heights in the LEP.
	"Room-in-roof" should be retained from the existing DCP for steeply sloping sites and as a means of reducing building bulk.	Please refer to controls within 1.2.3 and 1.3.3, control (j).
	What is the "desired streetscape character"? Suggestion: delete "desired" or adopt the form of clause 1.3.2 "provide a consistent character along the streetscape".	Desired streetscape character refers to maintaining existing streetscape. The DCP is a guideline, and if required, the development application will be assessed based on its merit.
	Roof Forms 1.3.2- (b) change "emphasis" to "emphasise".	Noted and amended.
	Controls 1.4.3- who determines the primary frontage? How is it determined or prescribed other than by the setbacks in the table?	Please refer to Figure 1 of the Draft DCP. Primary and Secondary frontages are typically determined by either orientation of the lot or the frontage of the proposed dwelling.
	Control 1.4.3- (vi): Substitute "National Construction Code" for "Building Code of Australia".	Noted and amended.
	Front setbacks - Make the front setbacks 7 metres for all lots up to 2500m <sup>2</sup> in the R2 zone. The 3-metre minimum side setback from public reserves should also apply to sites that have neighbouring heritage-listed properties.	Noted. No change has been proposed to the front and side setbacks as compared to the existing DCPs. Development Assessments within draft or adopted Heritage Conservation Areas/ Heritage Items will be based on merit and existing DCP controls.
	Side setbacks should be not less than 2m, notwithstanding the minimum 900mm in the Building Code.	Noted. No change has been proposed to side setbacks as compared to the existing DCPs. If required, Development Assessments on sloping sites will be based on merit.
	Minimum side setback should adopt the recommendations in the Studio GL Report for Medium Density Zones. A setback of less than 2 metres exacerbates crowding.	Recommendations made in the Studio GL Report are for medium-density developments. The Draft DCP Review is relevant to low-density developments.
	The prescriptions for side setback in draft DCP are different to those in the Codes SEPP for Complying Development of Dwelling Houses and Attached Development.	The DCP controls are applicable to development applications lodged under the provisions of WLEP 2010. If an application is lodged under the Code SEPP, for Complying Development of

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		Dwelling Houses and Attached Development, the application shall be assessed against the development standards specified in the Code SEPP.
	A side setback that includes a driveway and landscaping should be a minimum of 4.5 metres wide with a minimum of 1.5 metres wide area for landscaping.	Noted. Additional controls for landscaping and minimum setbacks for driveways are included in sections 1.8 and 1.11 of the Draft Low-Density DCP Review.
	Rear setbacks should be at least 6 metres OR stipulate a minimum area for rear yards. This section should adopt the recommendations in the StudioGL report for the Medium Density Zone.	Recommendations made in the Studio GL Report are for medium-density developments. The Draft DCP Review is relevant to low-density developments.
	"Verendah's" does not need an apostrophe.	Noted and amended.
	1.6.3 Controls, subclause (a) is misleading especially in the absence of any guidance. There are no floor space ratios shown on LEP maps for R2.	Noted and amended. A separate body of work will be completed to prepare a Planning Proposal, following the adoption of the Medium Density Study, to include Floor Space Ratio in the LEP.
	Note under Table 2 should not exclude basement, awnings eaves etc. These exclusions do not coincide with the inclusions of Open Space in clause 1.8.3.	These are excluded to be consistent with the definition of Site Coverage as prescribed in the Wingecarribee Local Environmental Plan 2010.
	Hard and non-absorbent surfaces such as roadways and paths should be included in site coverage.	These areas are included in Open Space area but excluded from landscaped area calculation. Site Coverage is built form of the proposed building.
	Clause d) 1 metre of cut and fill is excessive. Should refer to clause 7.3 Earthworks in the LEP which requires development consent for cut and fill exceeding 600mm (in Bowral DCP).	The control specifies a maximum of 1 metre cut and fill. Control 1.6.3 (c) also requires stepping of the development where possible. If required, Development Assessments including cut and fill will be based on merit.
	Open Spaces 1.8.3 (d) - The requirement for verendahs to be elevated above ground is unrealistic because most new dwellings will have slab-on-ground construction so verendahs will be at or slightly below the main ground floor level and close to ground level.	Noted and amended.
	Open Space 1.8.3 (e) - the term "depth" needs to be changed to "length" to avoid confusing with	Noted and amended. Figure 4 and 5 provide a diagrammatic representation of landscaping controls

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	depth in subclause (f). Surface treatment of deep soil areas must be permeable.	in 1.8.3. Deep Soil Area, as shown in Figure 5, is permeable.
	Open Space 1.8.3- (g) inclusion of "Prioritise Indigenous plants" contradicts objective 1.8.2 "To preserve and contribute to visual amenity of character of the property..." in areas or streets where non-native trees and shrubs are already in place.	DCP is a guideline, any proposal outside the controls will be assessed on the basis of its merit.
	1.9.3 Controls "Rural low density residential zones" should be explained and clarified. Rural Lands DCP should stand alone and (c) could be deleted? There should be an off-street area of at least 6 metres between front boundary line and vehicle gate so as to take a vehicle off the footpath and road while the gate is opened and closed.	This Draft Review is relevant to all Low-Density Residential Development, regardless of the land zoning, as specified in the Introduction. Control 1.9.3 (c) is relevant for development within rural zoned land. The Low-Density Residential DCP Review will contribute to the comprehensive review of all DCPs in the future. 1.9.3 (c) iii. specifies a setback of 20 metres from the road for gates, for the purpose of taking a vehicle off the road while the gate is opened and closed.
	1.11 Access and Parking - two garages facing the street do not necessarily require a double width driveway, especially if preservation of on-street parking is a priority, two car spaces usually result in a double garage door facing the street which is less desirable than no garage door facing the street or a single garage door facing the street.	Noted. The controls do not encourage a double width driveway. Controls 11.3 (j), (k), (l), and (m) provide further details about garage width and double garages, depending on the size of the lot.
	1.12 Preservation of Views and Privacy- Delete "some form of" before "screening" in order to strengthen this requirement.	Noted. Control 1.12.3(d) i-vi provide controls for visual screening required. Figure 7 also provides additional diagrammatic representation for preservation of views and privacy and types of screening options.
	1.13 The DCP should clearly prohibit the use of shipping containers as permanent buildings.	Part A of the existing DCPs prohibits installation of shipping containers unless Council approval has been granted. Example, section A1.7 and A7.5 of Bowral Town DCP.
	1.14.1 Explanation add permissibility or otherwise of Torrens Title and Strata subdivision of dual occupancies as done in 1.15 for consistency. Also add references to	The WLEP 2010 provides development standards for various types of subdivisions under Part 4. Any development application including subdivision will be assessed under the

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	Code SEPP relating to Attached and detached development, rural housing code and the Housing SEPP. Section should also refer to Manor Houses and Terraces as allowable.	provisions provided in Part 4 of the WLEP 2010.
	1.15 Additional Controls for Secondary Dwellings - This section should note that under the WLEP 2010, Secondary Dwellings are still a prohibited use in the R2 Zone but are permissible in certain circumstances under SEPP (Housing and Exempt and Complying Development, Part 3).	The DCP controls are applicable to development applications lodged under the provisions of WLEP 2010. If an application for a secondary dwelling is lodged under the Housing SEPP, the application shall be assessed against the development standards specified in the Housing SEPP.
	Figure 10 would benefit by identifying the principal street and secondary street or lane, to prevent a garage from being built in front of a house.	Noted and amended.
	1.18.3 (a) should be qualified to add that the 1.2m separation is only accessible through approved swimming pool gates and shall not include climbable vegetation to prevent children from climbing over the swimming pool fence into the pool area.	Control 1.18.3(a) vii specifies that swimming pools must comply with relevant legislation which includes safety barriers and non-climbable pool fences.
K. Barnsley	General comments- Requests clarification on which zones this DCP applies to and questions whether RU and C zones are included.	This Draft Review is relevant to all Low-Density Residential Development, regardless of the land zoning, as specified in the Introduction. Relevant sections of the DCP Review provide additional controls for rural zoned land, which includes C zones.
	Questions why the objectives are only applicable to a 'draft' heritage area?	Noted and amended.
	Summary of numerical controls- Questions if the table is an oversimplification, perhaps unnecessary? Within table- (min setbacks) does this mean all detached buildings need to be 6m from ALL boundaries? (building height) Why Berrima, Exeter and Burrawang in Particular? Clause 1.2.3 also includes Renwick?	Noted and amended. The table is a summary of the controls, as a reference. A Development Application will be assessed against all sections of the DCP.
	1.2 Building Heights Controls- Are you really precluding 2 storey buildings throughout the whole shire	A 2-storey building is only precluded from the locations outlined in controls 1.2.3 (a) i.

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	except in roof spaces?	
	1.2.3 Building Heights- (e) if 2 storey buildings are prohibited except in roof spaces, do mandatory shadow diagrams make sense? Shouldn't these be at the discretion of the assessor?	Shadow diagrams must be submitted for all developments proposing two (2) storey buildings, as stated in control 1.2.3 (e) and Submission Requirements (1.19.6)
	1.3 Roof Forms Controls- (e) colourbond does not have a 'u' in it. g) Now that BASIX has been increased in compliance, it may be difficult for some homes to comply with this.	Noted and amended. The DCP is a guideline. Any proposal outside the controls will be assessed on the basis of its merit.
	1.4 Setbacks- Does this include R5 Zones or only RU and C zones? And doesn't this conflict with the 15 m setback in this table for front setbacks over 2,500 sqm?	Noted. No Change has been proposed in the numerical controls of Setbacks, as compared to existing DCPs, to maintain consistency. R5 (Large Lot Residential) Zone is a Residential Zone.
	1.5 Dwellings on a corner lot - (vii) in some areas solid fencing may be required due to traffic, noise etc.	Noted. The DCP is a guideline. Any proposal outside the controls will be assessed on the basis of its merit.
	1.6.3(d) A blanket 1m for cut and fill, is too restrictive, many sites have slopes that will make this impossible to comply with, perhaps this should be softened with "exceptions might be granted at the discretion of Council".	The control specifies a maximum of 1 metre cut and fill. Control 1.6.3 (c) also requires stepping of the development where possible. If required, Development Assessments including cut and fill will be based on merit.
	1.8 Open Space Controls table - these are completely different from the summary table.	Noted and amended in the summary table (Table 1).
	1.8 Open Space (c)- if a landscape plan is not required what does this clause go on to describe a site plan that shows the landscaping?	Control 1.8.3(c) states where a landscape plan is not required. In such cases, only an outline of landscaped areas are required in the Site Plan.
	1.8 Open Space (h) - is this for all projects? Including alterations and additions or only new dwellings?	The Draft Low-Density Review is applicable to all new development proposals, once adopted. DCP is a guideline, any proposal outside the controls will be assessed on the basis of its merit.
	1.9 Fencing, Retaining Walls, Gates and Letterboxes- (b)(iii) Over 50% open for side and rear fences, what about privacy? (c) Is this R5 zones and/or RU and C zones?	1.9 (b)(iii) This control is consistent with the existing DCP controls for fencing for low-density development. (c) R5 zone is a residential zone. Rural zones are RU and C zones.
	1.12 Preservation of views and	Screening solutions are required,



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	privacy - (d) is this from second storey windows only? (iv) All windows within 3 metres of a boundary? On small blocks in tight subdivisions no one will be able to see out most of the windows in a house.	particularly on upper floors, where windows, decks or balconies of dwellings are within 9 metres of windows or balconies of adjacent dwellings. Any proposal outside the controls will be assessed on the basis of its merit, unless there is a site-specific DCP for the subdivision, e.g. Renwick.
	1.13 Building Design and Building Materials- (d) colour chart is desperately out of date.	Noted. A separate body of work to prepare a comprehensive review of all the DCPs will be undertaken in the near future, which will include a review of colours as well. The Low-Density Residential DCP Review will contribute to the comprehensive review of all DCPs. The DCP is a guideline.
	1.17 Detached building - non habitable (a) is this practical for sheds, garages etc particularly for rear setbacks.	Noted and amended.
	Submission requirements - site plans and elevations (g) What does a building footprint schedule mean?	A schedule for development footprint is similar to providing calculations for site coverage, open areas, landscaped areas, deep soil areas, private open space etc.
	Landscape Plan - Is this required for every single project?	A landscape plan is not required for every DA Application. Section 1.8.3 (b) & (c) of the Draft Low-Density DCP Review specifies when a Landscape Plan is required. Submission Requirements state what is expected in a landscape plan, when required.

***Summary of Amendments***

Following the public exhibition period of the Draft Low-Density Residential Development Controls, all submissions were reviewed, and amendments were subsequently implemented. A summary of the amendments is provided below.

<b>Section of the DCP Review</b>	<b>Amendment Overview</b>
General Low-Density DCP	<ul style="list-style-type: none"> <li>Additional text has been provided to better reference the heritage value of a site.</li> </ul>
Summary of Numerical/Quantitative Controls	<ul style="list-style-type: none"> <li>A heading has been added to the first column in the table.</li> <li>Minimum area of open space has been amended.</li> <li>Setbacks for non-habitable ancillary development have been omitted from</li> </ul>

	the summary table.
Sections 1.2 Building Heights and 1.4 Setbacks	<ul style="list-style-type: none"><li>• Reference made to the Building Code of Australia have been amended to 'National Construction Code'.</li></ul>
1.8 Open Space	<ul style="list-style-type: none"><li>• Control (d) has been omitted.</li><li>• Control (e) amended to replace reference to 'depth' with 'length'.</li></ul>
1.13 Building Design and Building Materials	<ul style="list-style-type: none"><li>• Control (d) amended to reference colour palettes as a guide.</li></ul>
1.17 Detached Building- Non-habitable	<ul style="list-style-type: none"><li>• Control (a) amended to provide to table for rear setbacks.</li></ul>

An internal submission from Council's Development Assessment team was additionally received for consideration as part of the exhibition period and identified that there were no controls proposed in the Draft DCP review relating to battle-axe allotments. The existing DCP does not provide controls specific to battle-axe allotments. As this is beyond the project scope, Council is seeking 'In Principle' support from the Local Planning Panel to develop additional controls for battle-axe allotments, which are intended to be incorporated in the next generation Comprehensive DCP review scheduled for commencement in financial year 2024/25, subject to funding. This will ensure sympathetic development within battle-axe allotments throughout the Shire and align with the purpose of the Low-Density Review, to provide a clear planning framework for low-density residential and ancillary development.

## **COMMUNICATION AND CONSULTATION**

### ***Development of the Draft Low-Density Development Control Review***

Locale Consulting conducted internal and external consultations with Council staff, industry representatives and the community in order to identify potential barriers in the existing controls.

Two (2) community and industry consultation workshops were held on 28 July 2022 with approximately 50 participants in attendance. The aim of the engagement sessions were to gain an understanding of what changes are required, what should be retained and identify any other concerns. Feedback received from the community and industry representatives provided insight into the inconsistencies in the existing development controls, repetition of controls, lack of diagrammatic representation and the lack of clarity in the text provided in the existing DCPs.

Internal consultation with Council representatives from the Strategic Outcomes and Development Assessment sections of Council was additionally undertaken during the preparation of the Draft Review. A summary of key discussion topics that formed part of the internal consultation included, but were not limited to:

- Lack of diagrams.
- Excessive use of repetitive and drawn-out paragraphs.
- The need for clear and concise controls.

- The lack of controls for swimming pools and tennis courts.

All feedback directly informed the Draft Low-Density Residential Development Controls prior to public exhibition.

### ***Public Exhibition***

Following the resolution of Ordinary Meeting of Council 21 June 2023, the Draft Review of Low-Density Residential Development Controls was placed on public exhibition for a period of four (4) weeks from Friday, 03 May 2024 to Monday, 03 June 2024. The various components of the Draft Review that were available during the exhibition period included:

- The Draft Review of Low-Density Residential Development Controls
- Comparison of Existing and Proposed DCP Provisions
- Compliance Checklist
- DA Submission Checklist
- Explanation of Intended Effect

During the public exhibition, the Draft Review and supporting documents were available to be viewed via the 'Document Library' on the Participate Wingecarribee project page. Hard copies of all documents were also accessible at the Customer Service Desk at Council's Civic Centre, Bowral, Moss Vale and Mittagong Libraries and the WSC Mobile Library.

Community and industry representatives were additionally encouraged to provide written feedback via email to the Strategic Outcomes inbox. Council received a total of two (2) detailed written submissions. A detailed summary of the comments raised in the submissions is provided above in the 'Summary of Written Submissions' section of the report.

Further internal consultation was conducted as part of the exhibition of the Draft Review and one (1) submission was received from Council's Development Assessment team. The submission referred to the absence of controls relating to battle-axe allotments and a response has been provided in the 'Summary of Amendments' section of this report.

All feedback received during the public exhibition period directly informed the post-exhibition review of the Draft Low-Density development controls. A summary of the submissions received, and the subsequent amendments that have been implemented in the Draft Review, are provided above in the 'Summary of Submissions' and 'Summary of Amendments' sections of this report.

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## **SUSTAINABILITY ASSESSMENT**

- **Environment**  
The proposed draft controls address the principles of Ecologically Sustainable Development (ESD), refer to the retention of significant trees, where possible, planting of more trees and ways in which environmental impacts can be minimised.
  - **Social**  
The provisions in the draft controls address the principles of urban design and amenity to achieve key social objectives. Proposed draft controls additionally seek to ensure that new low-density residential development maximises opportunities for visual and social interaction and enables passive surveillance to the street.
  - **Broader Economic Implications**  
There are no broader economic implications in relation to this report.
-

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

This report has been prepared to seek the advice of the Local Planning Panel. A report will later be presented to Council to seek the adoption of the Draft Review, as amended.

The Draft Low-Density Residential Development Controls will be processed in accordance with the relevant legislation.

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### **COUNCIL BUDGET IMPLICATIONS**

The Draft Review has been developed using a grant funding received from the then NSW Department of Planning - Project Delivery Unit. Implementation of the proposed controls will be conducted by Council staff, therefore there are no budget implications.

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### **RELATED COUNCIL POLICY**

The Draft Review of the low-density development controls aligns with the implementation of the Wingecarribee Local Strategic Planning Statement (LSPS) and Local Housing Strategy (LHS), specifically:

LSPS -

- Planning Priority 4.1 (ix) Review Council's LEP and DCP provisions and remove any unnecessary barriers to achieving our planning priorities.

LHS -

- Actions within Planning Priority 1: Promote infill development and increased densities in appropriate locations, and facilitate a greater mix of housing types to ensure our housing stock is reflective of the needs of our community.

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### **CONCLUSION**

The review of the Low-Density Residential Development Controls addresses priorities identified in the Wingecarribee Local Strategic Planning Statement and Local Housing Strategy. The Draft Review and supporting documents, therefore provide a clear planning framework that is easy to use, understand and implement, while achieving high quality, consistent outcomes which maintain the local character of our towns and villages.

The purpose of this report is, therefore, to seek the adoption of the Draft Low-Density Development Controls Review, which is intended to be embedded within the existing Development Control Plans. The Draft Review will later inform the next generation Comprehensive Development Control Plan review, which is scheduled to commence in 2024/25 financial year, subject to funding.

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### **ATTACHMENTS**

1. Amended Draft Low Density Housing Chapter - post exhibition [5.2.1 - 40 pages]
2. SEE Checklist [5.2.2 - 2 pages]

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### **5.3 Draft Voluntary Planning Agreements Policy**

**Report Author:** Coordinator Strategic Policy  
**Authoriser:** Executive Manager Strategic Outcomes

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#### **PURPOSE**

The purpose of this report is to seek the Panel's advice for the *Draft Voluntary Planning Agreements Policy* to proceed to public exhibition. The draft Policy (Attachment 1) will be placed on public exhibition for a period of 28 days, with the outcomes of the exhibition period to be reported back to the Panel and then Council for consideration and adoption of the Policy at the conclusion of the exhibition period.

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#### **OFFICER'S RECOMMENDATION**

##### **THAT:**

- 1. Endorse the *Draft Voluntary Planning Agreements Policy* for public exhibition for a period 28 days.**
- 2. Consider a further report at the conclusion of the exhibition period.**

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#### **REPORT**

Planning Agreements governed under Part 7 of the *Environmental Planning and Assessment Act 1979* are utilised by council as a mechanism to provide local infrastructure to support development and the broader community. Planning Agreements are able to be negotiated in support of a Planning Proposal or Development Application. It is considered best practice to publish policies and procedures concerning the use of planning agreements to guide the negotiation, administration and making of Planning Agreements.

Council's current policy (Planning Agreements Policy) was adopted by Council on 28 June 2006 and does not reflect the new reporting and accounting requirements for infrastructure contributions and planning agreements introduced into the *Environmental Planning and Assessment (EP&A) Regulation* on 12 February 2021 through the *EP&A Assessment Amendment (Development Contributions) Regulation 2021*. These changes implement recommendations outlined in the 'Review of Governance in NSW Planning System' (Kaldas review) which called for greater transparency and accountability in the way infrastructure contributions are collected and spent<sup>1</sup>.

The Regulation amendments are part of a package of improvements to the contributions system exhibited from April to June 2020. They contribute to the NSW Government's commitment to fix the uncertainty in the infrastructure contributions system to boost investment. They are consistent with recommendations in the NSW Productivity Commission's report on the review of the infrastructure contributions system in NSW to increase transparency and accountability<sup>2</sup>.

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<sup>1</sup> NSW Government, DPPI, 2021, *Planning Circular PS21-002 Reporting and accounting requirements for infrastructure contributions*, 12 February 2021

<sup>2</sup> NSW Productivity Commission, 2020, [Infrastructure Contributions Review](#)

## **BACKGROUND**

A Planning Agreement is a legal agreement entered into by a planning authority such as Council or the Department of Planning, Housing and Infrastructure (the Department), and a developer. Under an agreement, a developer may agree to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of the above, to be used towards a public purpose. Council can use Planning Agreements in addition to, or in lieu of, monetary contributions collected under Section 7.11 of the *EP&A Act 1979*.

Councils are encouraged to publish policies and procedures concerning their use of planning agreements. Best practice principles, policies and procedures should be implemented as safeguards to protect the public interest and the integrity of the planning process.

### **The Draft Policy**

The draft Voluntary Planning Agreements Policy (the Policy) outlines Council's requirements for the negotiation, preparation and procedures relating to the use of Planning Agreements. An updated Policy is required to reflect changes that have been implemented since the former Policy was created in 2005:

- Updated references to the *Environmental Planning and Assessment Regulation 2021*
- Planning Agreements Practice Note (February 2021) (DPHI)
- Planning Circular PS21-002 Reporting and accounting requirements for infrastructure contributions

The draft Policy has been developed through reviewing Council's existing policy against the Practice Note and against voluntary planning agreements policies from other Councils which are considered to be best practice.

The purpose of draft Policy is to establish a framework, policies and procedures which Council will apply to guide the use and negotiation of Planning Agreements by Wingecarribee Shire Council, in keeping with the provisions of the Act, the *EP&A Regulation 2021* and the Practice Note.

This Policy applies to Planning Agreements that Council might enter into, with a person which requests changes to an environmental planning instrument or has made or proposes to make a development application or application for a complying development certificate, within the Wingecarribee local government area (the Developer). The person may or may not be the landowner, and a Planning Agreement can be entered into with a person who has an arrangement with the Developer.

The proposed Policy will replace the *Planning Agreements Policy 2005*, following its adoption.

The Policy will be reviewed every 2 years, following the election of a new Council, or as required by legislation.

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## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

It is proposed to publicly exhibit the draft Planning Agreement Policy for a period of not less than 28 days. Council will provide an opportunity for submissions to the exhibition period through the Participate Wingecarribee Engagement Platform.

**Internal Communication and Consultation**

Internal consultation will be undertaken with relevant Council staff, including staff from the Planning and Regulatory Services, Governance, Finance and Assets Teams.

**External Communication and Consultation**

No external consultation was undertaken in the review of and development of the draft Policy. This report seeks to exhibit the draft Policy for a period of 28 days.

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**SUSTAINABILITY ASSESSMENT**

**Environment**

The draft Policy will guide good environmental outcomes for Council through negotiation and management of Planning Agreements for the provision of local infrastructure including shared pathways, parks and reserves and playing spaces.

**Social**

There are no social issues in relation to this report.

**Broader Economic Implications**

The draft Policy will guide good economic outcomes for Council through negotiation and management of Planning Agreements for a broad range of local infrastructure as identified as appropriate.

**Culture**

There are no cultural issues in relation to this report.

**Governance**

The draft policy provides improved governance outcomes and parameters for the guidance of planning agreement negotiation and management.

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**COUNCIL BUDGET IMPLICATIONS**

The draft Policy was prepared by consultants. Funds obtained through the operation of VPAs contribute to Council's financial resource base and thereby positively impact budget.

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**RELATED COUNCIL POLICY**

No other Council Policies are affected by this Planning Proposal.

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**CONCLUSION**

It is considered best practice for Council to have a Voluntary Planning Agreement Policy in place to guide the organisation's decision-making process regarding the use of these agreements and to create positive outcomes for the local community.

The Policy is a safeguard to protect against the misuse of planning discretions and processes, which may undermine good planning outcomes and public confidence in the planning system. The Policy

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will ensure that planning decisions are made openly, honestly and freely in any given case and fairly and consistently across the board.

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**ATTACHMENTS**

1. Draft Voluntary Planning Agreement Policy



## **6 DEVELOPMENT APPLICATIONS**

### **6.1 24/0673 - Demolition of Existing Dwelling and Associated Structures and Construction of Centre-based Child Care Facility (96 Place) - 22 Rosemary Crescent, Bowral**

**Report Author: Senior Development Assessment Planner**

**Authoriser: Manager development Assessment & Regulation**

#### **PURPOSE**

The purpose of this report is to present Development Application No. 24/0673 for the Panel's consideration and recommends determination by APPROVAL.

<b>Applicant</b>	Reitsma Constructions Pty Ltd
<b>Landowner</b>	The Blue House & Co Pty Ltd
<b>Zoning</b>	R2 Low Density Residential
<b>Date Lodged</b>	23 November 2023
<b>Proposed Development</b>	Demolition of Existing Dwelling and Associated Structures and Construction of Centre-based Childcare Facility (96 Children / Places) and Associated Landscaping, Stormwater and Car Parking Works
<b>Estimated Cost of Development</b>	\$2,185,000
<b>Notification Period</b>	First Notification: 6 December 2023 to 25 January 2024 Second Notification: 17 April 2024 to 1 May 2024
<b>Number of Submissions</b>	First Notification: 72 in objection (none in support) Second Notification: 35 in objection (none in support)
<b>Political Donations</b>	None declared
<b>Reason for Referral to Panel</b>	Development that is the subject of 10 or more unique submissions by way of objection

#### **OFFICER'S RECOMMENDATION**

- 1. THAT the Local Planning Panel approve Development Application No. 24/0673 for Demolition of Existing Dwelling and Associated Structures and Construction of Centre-based Childcare Facility (96 Children / Places) and Associated Landscaping, Stormwater and Car Parking Works, at 22 Rosemary Crescent, Bowral, subject to the conditions detailed in Attachment 1 of this report.**
- 2. THAT Council advise those who made written submissions of the Panel's decision.**

## **EXECUTIVE SUMMARY**

### **1 Executive summary**

Development application (DA) No 24/0673 seeks development consent for the demolition of an existing dwelling and associated structures and construction of a centre-based child care facility at 22 Rosemary Crescent, Bowral.

The new facility is proposed to have capacity for a maximum of 96 children, with 313.5sqm of indoor space and 674.2sqm of outdoor space, associated landscaping works and a total of 32 onsite car parking spaces.

The DA has been referred to several officers within Council, including the Environmental Health Officer, Development Engineers, Accredited Certifier and Trees & Vegetation Section. The DA has also been referred externally to Water NSW and Endeavour Energy.

The owners of adjoining and affected neighbouring properties were notified of the proposed development in accordance with Council's Community Engagement Strategy. The first notification period was from 6 December 2023 to 25 January 2024 (50 days) and the second notification period from 17 April 2024 to 1 May 2024, following amendment to the development design. A total of 107 submissions were received from the notification / advertising process (i.e. 72 in objection from the first notification period and 35 in objection from the second notification period, with none in support).

The proposal has been assessed using the heads of consideration listed in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is considered satisfactory for approval subject to conditions as listed in **Attachment 1**.

### **2 Site Description and Locality.**

- The subject site is legally described as Lot 769 DP 1007318 and known as 22 Rosemary Crescent, Bowral.
- The subject site is an irregularly shaped lot with a total area of 1,970sqm.
- The subject site contains a single dwelling house and shed with some ornamental plantings.
- The subject site is zoned R2 Low Density Residential.
- The subject site is identified as flood prone land.
- The subject site has frontage to Rosemary Crescent.
- The subject site is serviced by reticulated sewer and water.
- The subject site adjoins land zoned R2 Low Density Residential and RE1 Public Recreation.
- Along its southern boundary is a public pedestrian pathway which is part of the integrated pedestrian / bike path system that services the residential areas of East Bowral. This path links to the residential area to the rear of the site and the major pathway system that runs adjacent to the Old South Road.

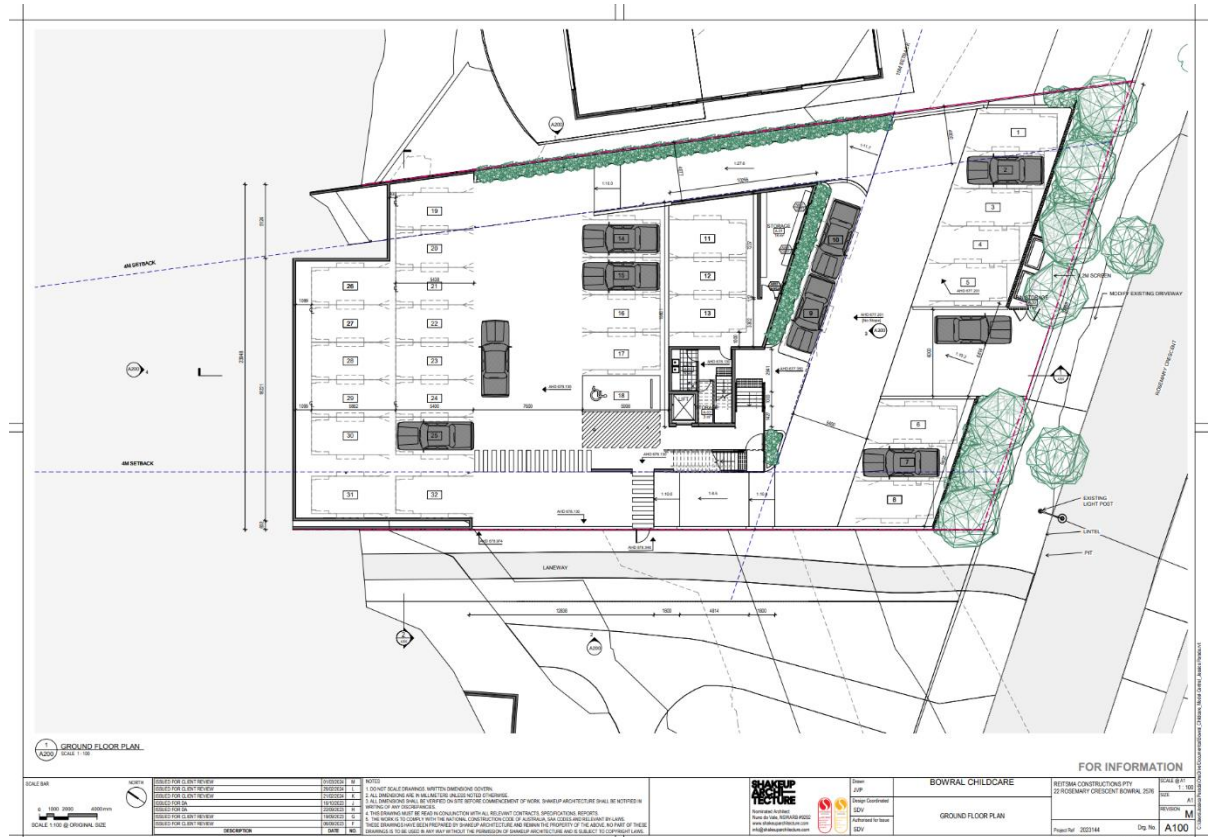


**Figure 1: Aerial Image**

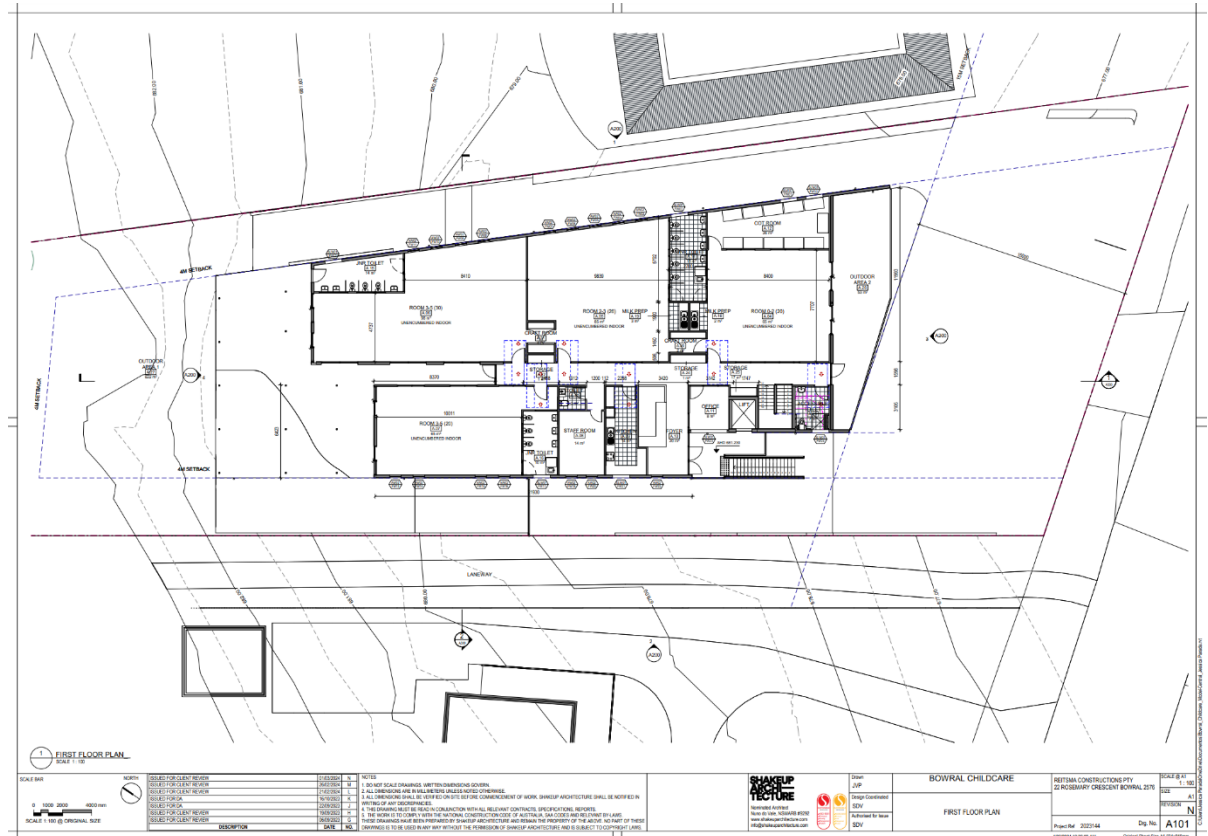




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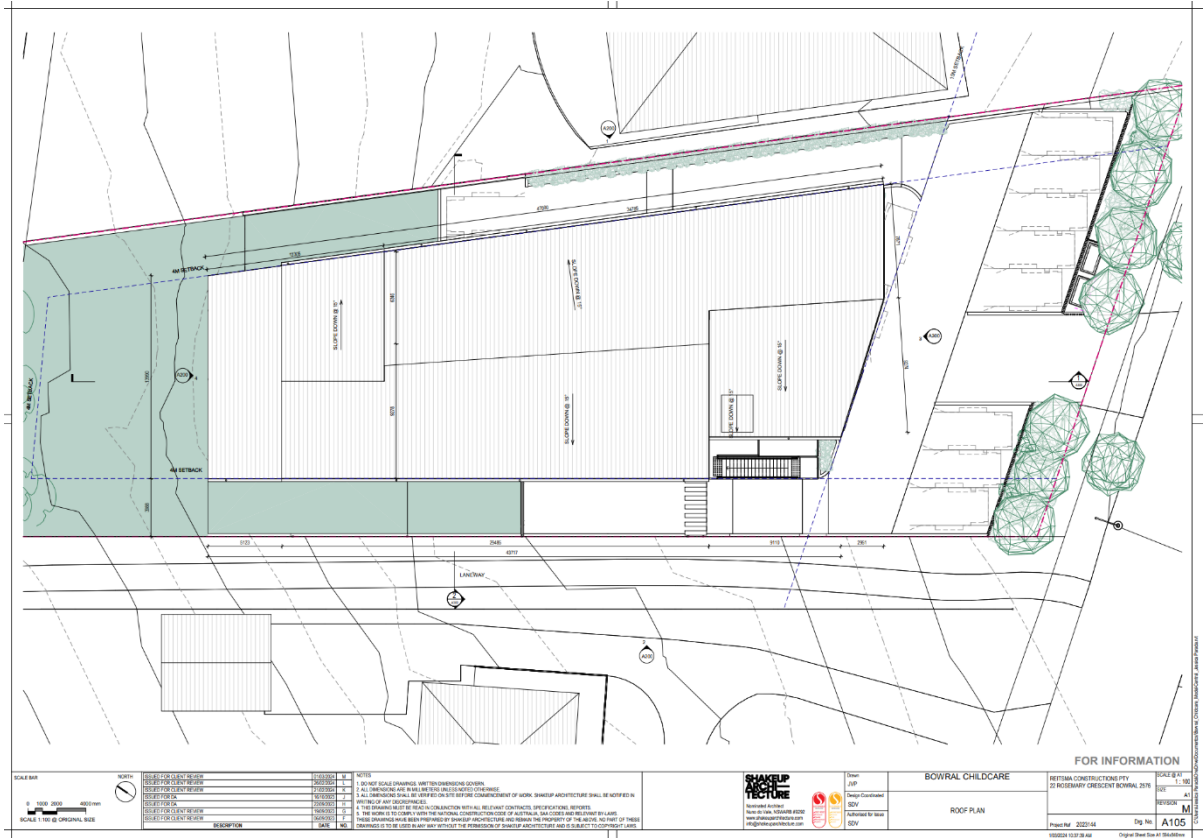


**Figure 4: Ground Floor Plan**

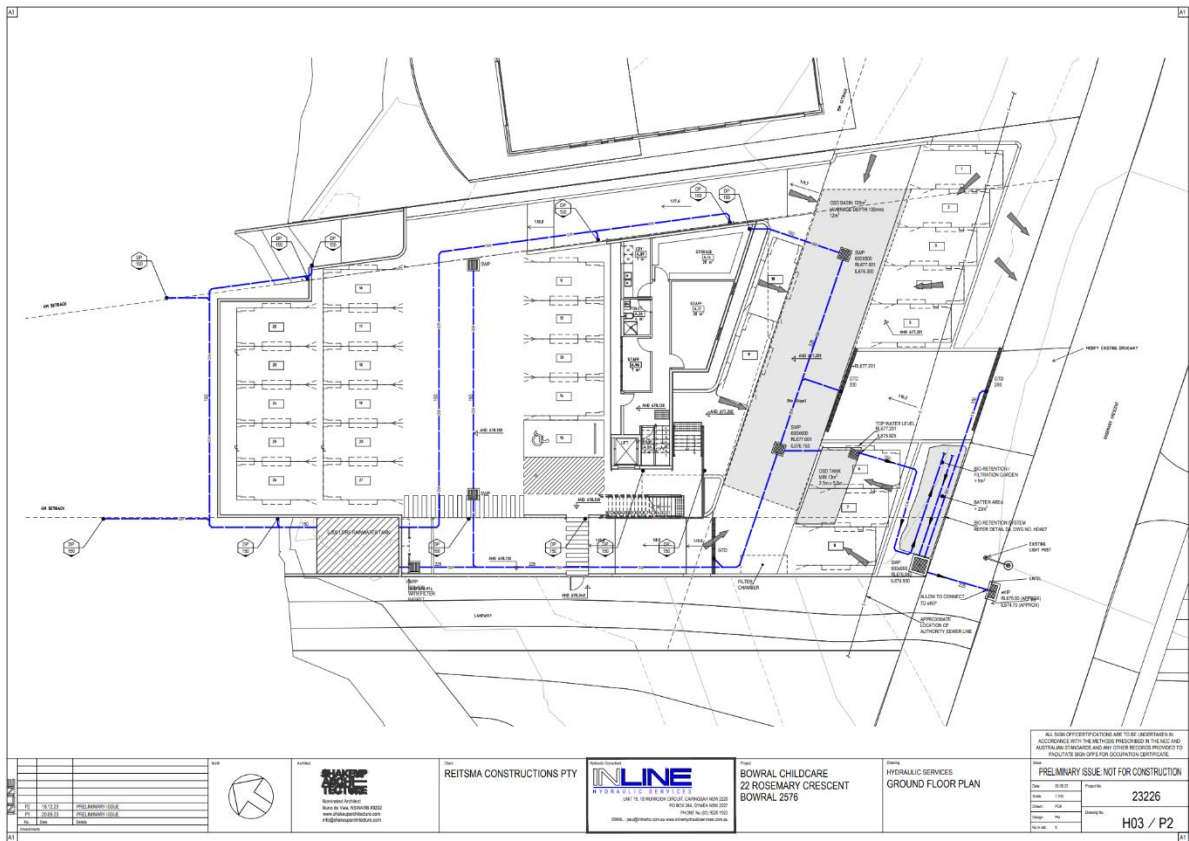


**Figure 5: First Floor Plan**

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**Figure 6: Roof Plan**



**Figure 7: Hydraulic Services Plan**



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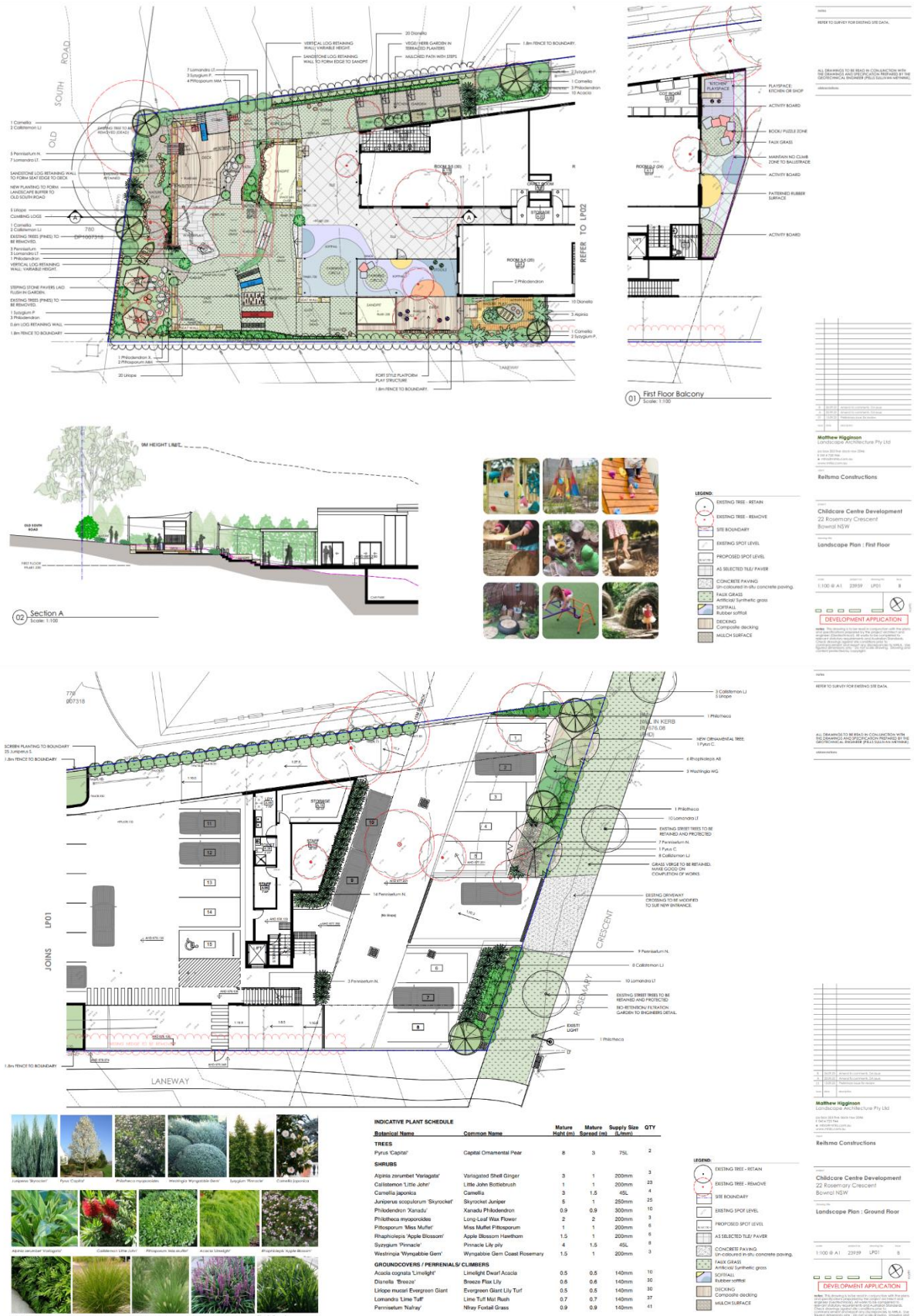


Figure 8: Landscape Plans

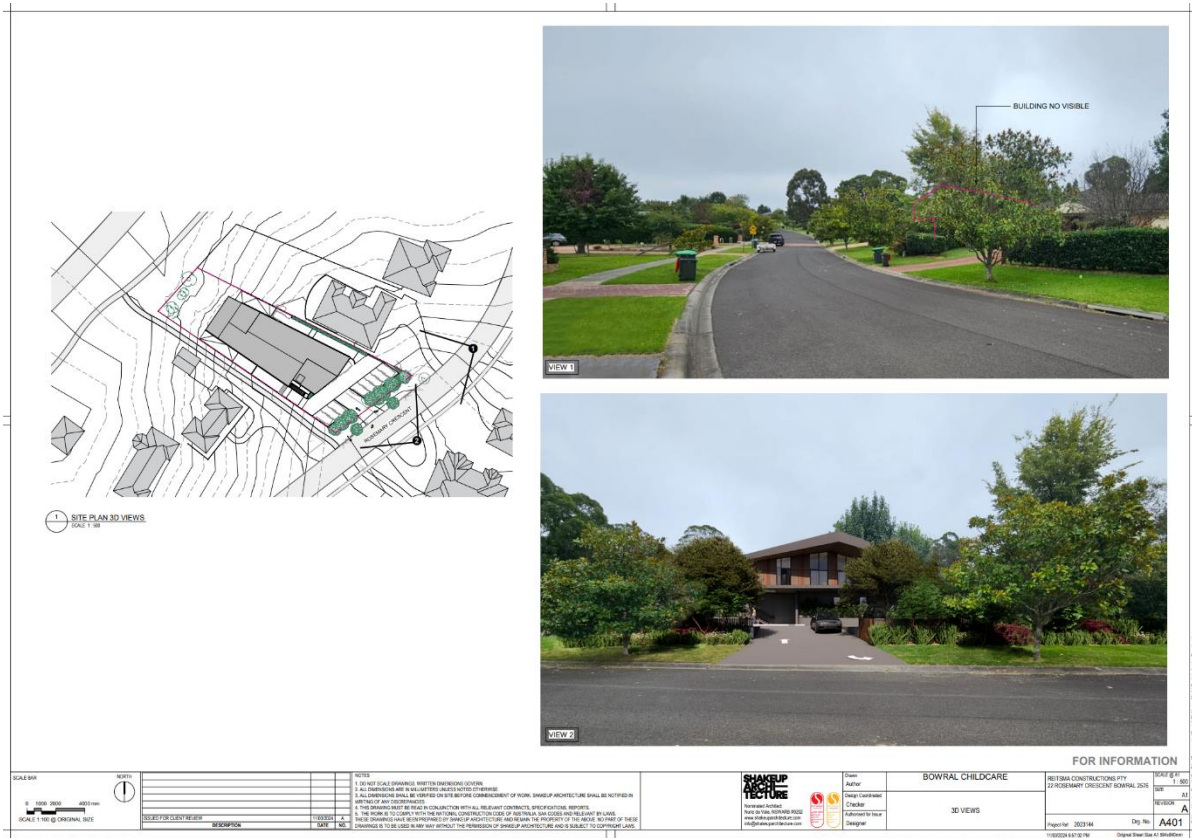
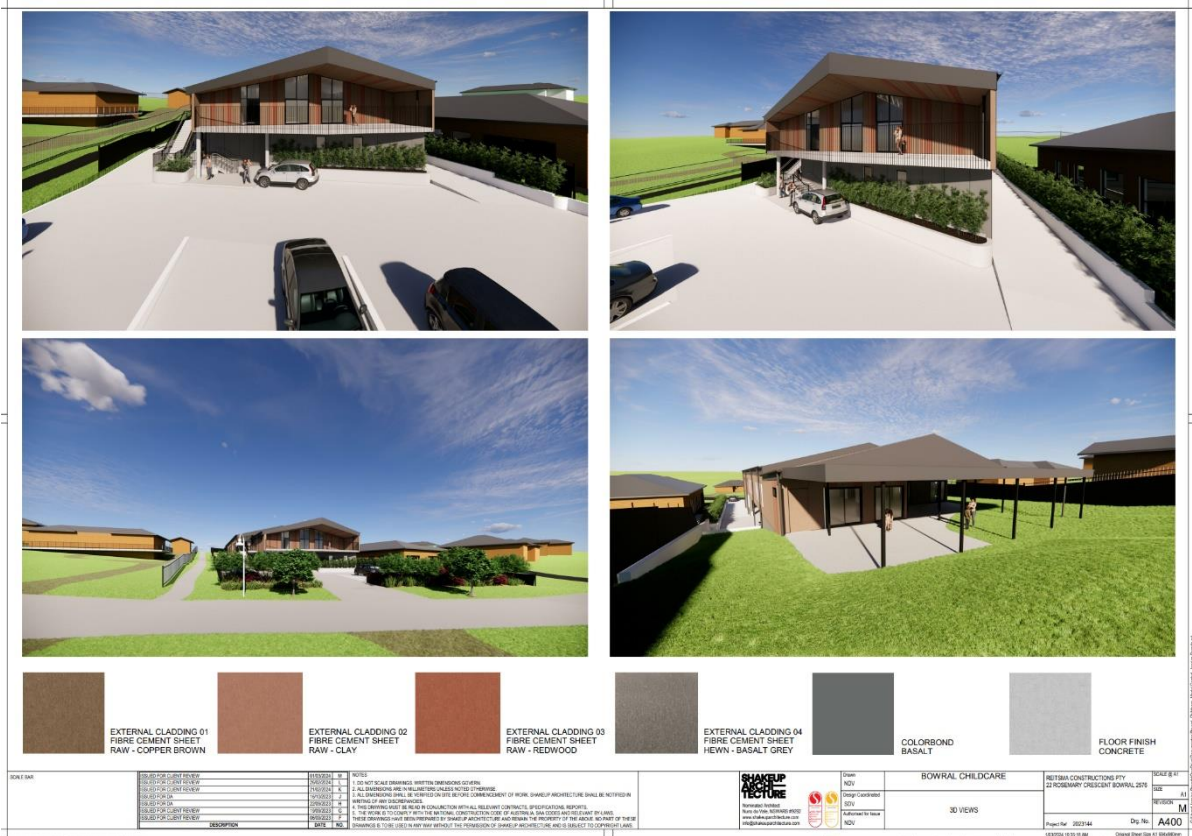


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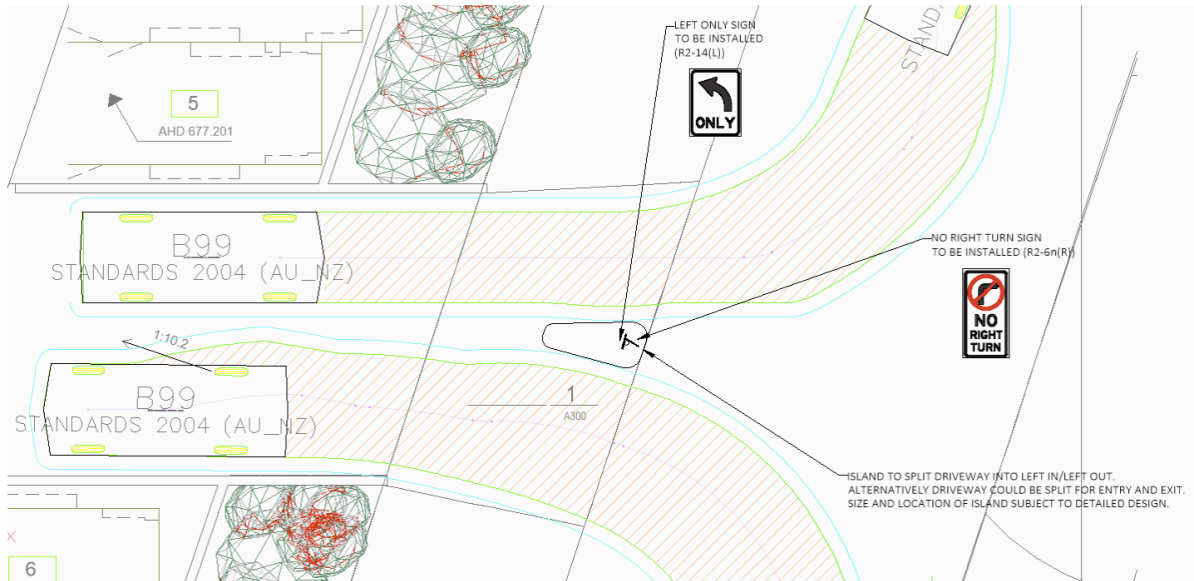


**Figure 9: Elevations**

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**Figure 10: 3D Views**



**Figure 11: Traffic Concept Plan**

**3 Background**

<b>Date(s)</b>	<b>Action(s)</b>
23/11/2023	Development Application (DA) lodged with Council.
29/11/2023 30/11/2023	<p>&amp; Council referred the DA to:</p> <ul style="list-style-type: none"> <li>▪ Accredited Certifier</li> <li>▪ Development Engineer</li> <li>▪ Water &amp; Sewer Engineer</li> <li>▪ Environmental Health Officer</li> <li>▪ Trees &amp; Vegetation</li> <li>▪ Endeavour Energy</li> <li>▪ Water NSW</li> </ul> <p><u>Note:</u> Refer to Section 9 of this report for final referral comments.</p>
06/12/2023 25/01/2024	<p>– The DA was advertised in accordance with Council’s Community Engagement Strategy for a period of 50 days. This included notifying the owners of adjoining and affected neighbouring properties, an advertisement on Council’s website and a sign on the development site in a prominent location.</p>

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<i>Date(s)</i>	<i>Action(s)</i>
15/12/2023	<p>Additional information requested:</p> <ul style="list-style-type: none"> <li>▪ A cross-section of the stormwater drainage line from the OSD to the proposed bio-retention basin with associated RLs in order to show direction of flow, as requested by Water NSW in advice dated 6 December 2023.</li> </ul>
18/12/2023	Additional information provided by applicant and issued to Water NSW.
23/01/2024	Water NSW provided concurrence.
15/02/2024	<p>Additional information requested including Council's Development Engineer requirements:</p> <ul style="list-style-type: none"> <li>▪ Written confirmation as to the number of staff and age brackets of the children to be accommodated (noting the submitted Statement of Environmental Effects only indicates their age ranges from 0-6 years).</li> <li>▪ Written clarification in relation to the proposed ingress and egress to be left in / left out and how this will be managed, especially for the left-in movement.</li> <li>▪ Amended plans that: <ul style="list-style-type: none"> <li>(a) provide sufficient parking spaces, considering spaces for permanent staff. The onsite parking space requirement, as per C13.5.2(o) of the Bowral Township Development Control Plan (BTDCP), is 1 space per 4 children plus spaces for permanent staff. The required number of spaces is 25 plus the spaces required for permanent staff. The number of parking spaces provided is only 26, which falls short of the requirement of the BTDCP.</li> <li>(b) nominate a separate space for waste bins or provide clarification. The location of waste bins within the carpark results in a reduction of parking spaces, which is not supported.</li> </ul> </li> <li>▪ A detailed Flood Assessment Statement that outlines Council's flooding prescriptive controls as per the BTDCP. The subject site is located within a Low and Medium Flood Risk Precinct and during 1% AEP event, the peak flood depth is &lt;0.15m.</li> <li>▪ Review and response to the issues raised in public submissions as part of the response to the items above.</li> </ul>

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<b><i>Date(s)</i></b>	<b><i>Action(s)</i></b>
06/03/2024	<p>Further additional information requested including Council's Accredited Certifier requirements:</p> <ul style="list-style-type: none"> <li>▪ Details are required showing Fire Resistance Levels (FRLs) of each building element of the proposed child care facility.</li> <li>▪ A schedule / plan indicating proposed fire safety measures by a competent fire safety practitioner / designer.</li> </ul> <p>It is noted that no design details for fire safety measures have been included as part of the application however this can be addressed at any Construction Certificate stage.</p>
14/03/2024	<p>Additional information provided by applicant.</p> <p>It is noted the maximum number of children to be enrolled in the facility was reduced from 100 to 96.</p>
21/03/2024	<p>Council re-referred the DA to:</p> <ul style="list-style-type: none"> <li>▪ Development Engineer</li> <li>▪ Water NSW</li> </ul> <p><u>Note:</u> Refer to Section 9 of this report for final referral comments.</p>
17/04/2024 01/05/2024	<p>– The DA was re-notified to the affected owners following amended documentation submitted by the applicant.</p>
30/04/2024	<p>Additional information requested:</p> <ul style="list-style-type: none"> <li>▪ Clarification as to how exactly the left in turn and right turn can be prevented. This is currently not clear. It is noted that you have proposed deploying signage, orientation for new parents, and regular emails to communicate with parents / guardians to implement the clockwise direction circulation scheme so as to address the ingress / egress issue.</li> <li>▪ As previously requested, a detailed Flood Assessment Statement that outlines and addresses Council's flooding prescriptive controls as per the Bowral Township Development Control Plan for the works within the medium flood risk precinct.</li> </ul>
02/05/2024	<p>Additional information provided by applicant.</p>
16/05/2024	<p>Council re-referred the DA to:</p> <ul style="list-style-type: none"> <li>▪ Development Engineer</li> </ul> <p><u>Note:</u> Refer to Section 9 of this report for final referral comments.</p>

**4 Proposed Development**

The proposal seeks to demolish an existing dwelling and associated structures and construct a centre-based child care facility to accommodate a total of 96 children, ranging in age from 0-6 years.



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The proposed facility is to operate standard long day care hours of 7.30am until 6pm Monday to Friday. The permanent number of staff to be employed at the facility is to be five (5), however, eight (8) parking spaces are to be available for use by staff.

A total of 32 onsite car parking spaces is proposed, with 8 allocated to staff and 24 for visitors.

As indicated in the submitted Traffic & Parking Impact Assessment, the following assumptions have been made in the staff parking demand analysis (based on the original number of 100 children proposed):

1. *Staff arrival and departure are distributed over the peak periods depending on children arrival rates while maintaining staff-children ratio of 15:100 as proposed.*
2. *Children arrival rates are based on TfNSW Guide. The trip rates in the TfNSW Guide are said to occur over two-hour periods and are assumed to be exclusive of staff movements for more conservative calculations.*
3. *The number of children delivered per vehicle trip equates to the average number reported in the TfNSW validation survey.*
4. *When cumulative arrival and cumulative departure of children during the two-hour morning and two-hour afternoon peak periods do not reach 100 (no. of proposed children licenses), movements related to the rest of the children and corresponding staff requirements are assumed to occur in the following and preceding hour, respectively. Otherwise, the number of children arrivals or departures in one of the two hours during the peak period is reduced such that the cumulative number of children in the centre is 100. The reduction is applied in the hour with lower staff parking requirement to consider higher parking requirement in the other hour.*
5. *Children pick-up/drop-off parking requirement adopts the average length of stay recorded in the TfNSW validation survey in the assumption of uniform arrival within the peak hour.*

*The above assumptions result to the calculations presented in table below.*

Time Period	Trip Rate	No. of Vehicles	Average Children per delivery	Number of Children delivered	Cumulative Number of children in the Centre	Staff Parking Requirement	Child Pick-Up/ Drop-off Parking	Total Parking Required
7:00-8:00am	0.8	40	1.32	47*	47	7	5	12
8:00-9:00am	0.8	40	1.32	53	100	15	5	20
3:00-4:00pm	0.7	35	1.29	10	100	15	4	19
4:00-5:00pm	0.7	35	1.29	45	90	13	4	17
5:00-6:00pm	0.7	35	1.29	45	45	7	4	11

*\*Number of children reduced as discussed in Section 4.1.1 Item 4.*

*Table 6: Parking Sufficiency Calculations*

Access onto the site from Rosemary Crescent is to be with a left in / left out system implemented for the access driveway. Once on the site, movements are to be a one-way circulation scheme, following a clockwise direction through the car park area. Appropriate signage is to be deployed. Given users of the carpark are to be regular (i.e. either staff or parents / caregivers), management and enforcement of such arrangements is not considered to be difficult.

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The existing pedestrian access ways, including the formed pathways to the west and south of the site, are to provide accessible pathways for those arriving on foot and a pedestrian access gate is provided on the southern boundary that would minimise any potential conflict between pedestrians and vehicles.

The proposed layout is to comprise of the following rooms:

- Reception / Entry foyer / circulation spaces
- Four principal learning rooms
- Cot rooms and baby change rooms
- Craft rooms
- Staff room
- Kitchen
- Laundry
- Children’s and staff toilets, including an accessible toilet
- Storage rooms
- Milk preparation rooms’
- Outdoor areas

Landscaping is to incorporate replacement plantings to both the front and rear yard areas including around the common boundaries with the site’s neighbours to the north.

The proposed development is to also include the installation of 2.1m high acoustic fencing, being solid barriers (i.e. to be comprised of a solid, imperforate construction with all holes and gaps acoustically sealed and constructed from 12mm thick plywood, 9mm thick fibre cement sheeting, plexiglass or equivalent) along both the northern boundary and along the southern boundary, shared with the public pathway. Due to the topography of the site the ground level of the site is lower than that of the adjoining land. Therefore, the required barriers would read as the full 2.1m height from within the site but present as a standard 1.8m fence height when viewed from outside the site. Along the rear boundary, a 1.5m solid barrier is proposed as recommended by the submitted acoustic assessment.

**5 Notification**

The owners of adjoining and affected neighbouring properties were notified of the proposed development in accordance with Council’s Community Engagement Strategy. The first notification period was from 6 December 2023 to 25 January 2024 and the second notification period from 17 April 2024 to 1 May 2024, following amendment to the development design. A total of 107 submissions were received from the notification / advertising process (i.e. 72 in objection from the first notification period and 35 in objection from the second notification period).

The following main issues were raised in the submissions:

Issue	Comment
Traffic impacts in terms of volume and safety.	<p><u>Applicant:</u></p> <p><i>The submitted Traffic and Parking Assessment has properly assessed the traffic generation of the development.</i></p> <p><i>Traffic generation in both the total volume and the distribution of the movements across the morning drop off and then afternoon/evening pickup, are not so significant as to cause the types of traffic management issues stated in the submissions.</i></p> <p><i>The locality is a low speed environment, which</i></p>

	<p><i>is appropriate for child care centres (refer to concerns of pedestrian safety).</i></p> <p><i>Rosemary Crescent links to Alice Ave, a larger collector road, to both the north and south of the site. With the proposed left in/left out arrangement for the centre, visitors will approach the site from the south and then leave the area heading north. Alice Ave links onto both Emily Cres and Lavis Road, that provides routes in all directions, facilitating both safe and efficient access to the site through the local road network.</i></p> <p><i>The Traffic and Parking Impact Assessment report prepared by Headway Traffic and Transport Traffic has properly considered these concerns.</i></p> <p><u>Council:</u></p> <p>No objection has been raised in this regard with the final design by Council's Development Engineer, subject to conditions being imposed on any consent granted, particularly noting Condition 20 (Section 138 Roads Act 1993 Approval) in the attached draft determination.</p> <p>The applicant has proposed to introduce an additional traffic island to direct the traffic left out only while exiting from the site. Council's Senior Traffic Engineer has confirmed this is satisfactory.</p> <p>The concept access plan (shown in Figure 11) has been conditioned. The median is to be designed to be more of a deterrent for the right turn into / out of the site.</p> <p>Approval would also be required from the Local Traffic Committee.</p>
<p>Inadequate provision of onsite parking.</p>	<p><u>Applicant:</u></p> <p><i>The submitted Traffic and Parking Assessment has properly assessed the parking demand.</i></p> <p><i>Amendments proposed will reduce the number of children to 96, an improvement to the ratio of car spaces per child. A total of 32 on site car parking spaces will be provided, with 8 allocated to staff and 24 for visitors, at the rate of 1 space per 4 children. This is the appropriate number of spaces required by Council. Refer to the updated Traffic and Parking Impact Assessment, specifically Section 4 of that report.</i></p> <p><i>The submissions received are not based on any factual analysis, rather a sense that the development will change the current situation in an adverse manner.</i></p>



	<p><i>Some parents may choose on road parking at drop off and pick up times although the development has provided parking spaces in excess of requirements to directly address these concerns.</i></p> <p><u>Council:</u></p> <p>No objection has been raised in this regard with the final design by Council's Development Engineer, subject to conditions of consent being granted.</p> <p>Refer to the following conditions in the attached draft determination:</p> <ul style="list-style-type: none"> <li>▪ Condition 25 (Accessible Car Parking Spaces)</li> <li>▪ Condition 26 (Off Street Parking Provision)</li> </ul>
<p>Inconsistency with established residential character of the locality noting the non-residential land use and the proposed built form (i.e. bulk, scale, height, design).</p>	<p><u>Applicant:</u></p> <p><i>The proposed development complies with required boundary setbacks, building height, Floor Space Ratio and landscape areas, which are the common planning controls that are utilized to manage bulk and scale of buildings and to maintain appropriate balance of the built form in the residential areas.</i></p> <p><i>The Bowral Township Development Control Plan includes Part C Section 13 to deal specifically with child care centres. It includes objectives and controls for new buildings which generally seek compatibility of new buildings with the bulk, scale and height of existing development. It also seeks to avoid any adverse impact on adjoining properties from overshadowing, privacy, excess noise and loss of views. None of these potential adverse impacts result from the proposed development.</i></p> <p><i>The DCP seeks to ensure that a proposed child care centre to "look like a residential dwelling". Measured against the DCP criteria, the proposed centre achieves a residential scale.</i></p> <p><i>In this case there is open air, at grade parking in front of the building. These spaces will be set behind a densely landscaped area, running across the site width either side of the central driveway. This is a common approach to site frontages across residential areas of the Shire.</i></p> <p><i>A significant design element of any child care centre will inevitably be the car park area and this would be the case wherever a child care centre is proposed in a residential location. This is specifically because of the need to match Council's on site car parking requirements.</i></p> <p><i>The remaining spaces are undercroft spaces</i></p>

	<p><i>with the building above, giving the building the resultant two storey front elevation. However, this allows the classroom level to open onto the rear open play space that is at existing ground level.</i></p> <p><i>To comply with the DCP parking requirement, the approach taken by the proposed development (car parking below, classrooms above opening out onto the rear yard) is appropriate. This is a common design approach for dwelling houses on sites that rise up from the street level to the rear.</i></p> <p><i>To support the contention of the applicant that the development will not have an adverse impact upon the streetscape character of the locality, some additional images have been presented within the architectural drawing package. These images emphasise the residential scale of the development and its place within the Rosemary Crescent streetscape.</i></p> <p><u>Council:</u></p> <p>The design of the proposed facility has been amended by the applicant and is generally consistent with and generally reflects the residential form, character and use of the locality, as defined by surrounding dwelling houses.</p> <p>Landscaping is proposed that will complement the existing streetscape and surrounding locality.</p> <p>It is noted the proposed land use is permissible within the zone and the design is compliant with the relevant environmental planning instruments and Council's Development Control Plan.</p>
<p>Not supportive of a child care centre in this locality / on this site.</p>	<p><u>Applicant:</u></p> <p><i>There are two ways to read the submissions on this issue. Firstly, the authors simply would prefer if the Centre was somewhere else; this can be categorized as the "not in my back yard" response. There is also some inference in these submissions that Council can dictate where this centre should be located and that it is not needed in this part of Bowral.</i></p> <p><i>That leads to the second perspective expressed in the submissions which is that many people are unaware that non residential land uses are permissible in residential areas.</i></p> <p><i>The development is permissible in the R2 Low Density Residential zone under the State Planning Policy (Transport and Infrastructure), as well as the Wingecarribee Local</i></p>

	<p><i>Environmental Plan 2010.</i></p> <p><i>The proposal is permissible in the residential zone; it is not inconsistent with objective of the zone that relates to providing non residential uses to meet the needs of the community; and it is within a location that a large proportion of the intended users can readily access.</i></p> <p><i>It is also noted that the State Policy (Chapter 3 Part 3.3 Clause 3.27) does not allow the consent authority to enforce any controls that may require the applicant to provide information in relation to the demonstrated need for the facility (a question of demand) or have regard to the proximity of any other existing centre (a question of competition).</i></p> <p><i>Notwithstanding, the applicant maintains that the proposed child care centre is both well located and demand for child care spaces is strong. The overall childcare market in Bowral is 288 places for a market of 668 children aged 0 to 5 years inclusive (a ratio of 2.32 children per total childcare places). Average occupancy at existing centres in the area is 100% and have almost no vacancies, even beginning in 2025. There are limited enrolments for centres in 2025, and centres are generally considering new enrolments for 2026.</i></p> <p><i>According to the most recent census data, the population growth expected in Bowral between 2024 and 2029 would increase the number of children in the 0- 5 age group to approximately 775 children. With current child-care supply in Bowral this would represent a ratio of 2.7 children per total childcare places in Bowral. This would be put a huge amount of pressure on an already under supplied and over-loaded childcare system in Bowral.</i></p> <p><i>This centre will go a long way at fulfilling this desperate need for more child care spaces in Bowral.</i></p> <p><u>Council:</u></p> <p>As noted earlier, the design of the proposed facility has been amended by the applicant and is generally consistent with and generally reflects the residential form, character and use of the locality, as defined by surrounding dwelling houses.</p> <p>It is also noted the proposed land use is permissible within the zone and the design is compliant with the relevant environmental planning instruments and Council's Development Control Plan.</p> <p>No objections have been raised by Council's</p>
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	<p>technical officers or by external agencies with regard to the design and site suitability, subject to conditions of consent being granted to minimise potential impacts from the facility.</p>
<p>Potential noise impacts.</p>	<p><u>Applicant:</u></p> <p><i>The submitted acoustic report has properly assessed both the potential noise impacts on neighbours emanating from the centre, as well as the exposure of the centre to offensive noise sources.</i></p> <p><i>There is no reason to question the veracity of the report findings or the suitability of the recommendations made in that report. The applicant reiterates its contention that there will be no adverse acoustic impacts arising from the development.</i></p> <p><u>Council:</u></p> <p>No objections have been raised by Council's Environmental Health Officer with regard to the submitted noise assessment, subject to conditions being imposed as part of any consent granted.</p> <p>Refer to the following conditions in the attached draft determination:</p> <ul style="list-style-type: none"> <li>▪ Conditions 30, 75, 79 &amp; 80 (Noise Control Measures &amp; Operational Noise Levels)</li> </ul>
<p>Pedestrian safety.</p>	<p><u>Applicant:</u></p> <p><i>There is a pedestrian pathway on the eastern side of Rosemary Crescent. There is traffic calming infrastructure (speed hump) in front of the subject site, that aligns with the public pathway that runs along the sites southern boundary, where it crosses Rosemary Cres and continues eastward.</i></p> <p><i>The design of the road network throughout the locality is to inhibit the speed of vehicles and encourage speeds compatible with the residential environment. Some parking on the street, that happens now and is not restricted, further slows vehicle speeds.</i></p> <p><u>Council:</u></p> <p>No objections have been raised by Council's Development Engineer with regard to pedestrian safety, subject to conditions being imposed as part of any consent granted.</p> <p>Refer to the following conditions in the attached draft determination:</p> <ul style="list-style-type: none"> <li>▪ Condition 20 (Section 138 Roads Act 1993 Approval)</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Condition 21 (Construction Management Plan)</li> <li>▪ Condition 34 (Fencing of the Construction Site)</li> </ul>
<p>Inadequate servicing – sewer and waste.</p>	<p><u>Applicant:</u></p> <p><i>Adequate waste collection has been indicated on the architectural plans.</i></p> <p><u>Council:</u></p> <p>No objections have been raised by Council’s Engineers with regard to servicing, subject to conditions being imposed as part of any consent granted.</p> <p>Council is satisfied that any public utility infrastructure that is essential for the proposed development is available.</p>
<p>Negative impact on property values.</p>	<p><u>Applicant:</u></p> <p><i>Generalised concern that the development will be a negative influence on property values. This is not an issue relevant to the consent authority’s consideration of the compliance and merits of the development proposal.</i></p> <p><u>Council:</u></p> <p>Impact of development on property values is not a matter for consideration under section 4.15(1) of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>There is no available evidence to suggest that the proposed development will impact (positively or negatively) on property values.</p>
<p>Adverse impacts on wildlife.</p>	<p><u>Applicant:</u></p> <p><i>It appears these concern relate primarily to ducks.</i></p> <p><i>It is not considered that this concern is substantiated or requires the submission of any additional information or amendments to the development proposal.</i></p> <p><u>Council:</u></p> <p>No objection has been raised by Council’s Trees &amp; Vegetation Section to the findings and recommendations in the submitted Arboricultural Impact Assessment subject to recommended condition/s of consent.</p> <p>The site is located in a residential zone and the proposal is generally compliant with the relevant environmental planning instruments and Council’s Development Control Plan.</p>

## **6 Relevant Environmental Planning Instruments**

### **6.1 State Environmental Planning Policy (Resilience and Hazards) 2021**

#### Chapter 4 Remediation of land

The aim of Chapter 4 of SEPP (Resilience and Hazards) 2021 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

Chapter 4 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use.

The submitted Statement of Environmental Effects addressed the provisions of section 4.6 of this SEPP.

The application has been referred to the Council's Environmental Health Officer, who confirmed the following and that the site is suitable for the proposed use from a contaminated land perspective and that no further investigation into site contamination is required or warranted.

- The land use history for the site in question is pastoral followed by residential. Land contamination matters were considered back in 1999 during the DA process for the applicable residential subdivision (DA 0443/97), i.e. contamination investigation was undertaken by a duly qualified environmental consultancy and reviewed by the EPA, following which Council's Manager Env & Health accepted that '*no sites subject of the subdivision are required to be noted in respect of potential contamination*'.
- Also, with reference to the submitted landscape plan, children are very unlikely to have contact with the onsite soil because the outdoor play areas are going to predominantly have the following surfaces: faux grass, decking, pavers and mulch. Imported topsoil, compost and mulch are most likely going to be used in the vegie garden and landscaped areas indicated on the plan.
- Accordingly, based on the available information Council can be satisfied that the site in question is suitable for the proposed development from a contaminated land perspective. Requiring the applicant to submit a PSI and/or DSI in this case would be likely to be perceived as a rather onerous request.
- Taking into account that the existing building proposed to be demolished is likely to have been built before 1990, it is likely to contain Asbestos Containing Material (ACM) and is to be addressed by a condition of any consent granted.

Therefore, the Council is satisfied that the land is not a site of possible contamination and that no further assessment of contamination is required.

### **6.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021**

#### Chapter 2 Vegetation in non-rural areas

Chapter 2 of SEPP (Biodiversity and Conservation) 2021 contains provisions replacing the former SEPP (Vegetation in Non-Rural Areas), and the aims are (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. This Chapter includes Parts relating to Clearing Vegetation in Non-Rural Areas (Part 2.2); Council Permits for Clearing Vegetation in Non-Rural Areas (Part 2.3); and Approval of Native Vegetation Panel for Clearing Native Vegetation in Non-Rural Areas (Part 2.4).

The application was accompanied by an Arboricultural Impact Assessment and Tree Protection Plan, prepared by Tree Live, dated 6 October 2023. Council's Trees and Vegetation Section raised no objection to the proposed tree removal subject to compliance with the recommendations of this report including requirements relating to the establishment of tree protection zones and installation of fencing around those trees to be retained.

Chapter 6 Water catchments

The site is also within the Sydney Catchment and therefore this SEPP is applicable to the assessment of the application. The application is a Module 5 development for the purposes of the Neutral or Beneficial Effect on Water Quality Assessment Guideline and therefore required referral for Water NSW concurrence. Water NSW issued concurrence on 23 January 2024 subject to conditions.

Water NSW noted the Bowral Sewage Treatment Plant (STP) is at capacity. However, Water NSW did not provide additional conditions on wastewater in this advice for the following reasons:

- majority of the wastewater loading from the daycare will be generated during the daytime off-peak hours.
- wastewater loading is relatively small, equivalent to 1-2 residential dwelling based on Water NSW's calculation, and
- the STP is being upgraded.

In subsequent advice on 26 April 2024, Water NSW confirmed that as there is no change in the submitted stormwater plan or increase in impervious area, there is no objections with the proposed amendment to the design and the concurrence advice dated 23 January 2024 still applies.

**6.3 State Environmental Planning Policy (Transport and Infrastructure) 2021**

Chapter 2 Infrastructure

In accordance with the provisions of section 2.48 of this SEPP, the application was referred to Endeavour Energy due to the development being carried out within 5m of an exposed overhead electricity power line.

Endeavour Energy raised no objections with the proposed development in advice dated 29 November 2023 subject to conditions in relation to the following:

- *Before commencing any underground activity the applicant must obtain advice from the Before You Dig service.*
- *Applicants will need to submit an appropriate application based on the maximum demand for electricity for connection of load.*
- *Low voltage service conductors and customer connection points must comply with the 'Service and Installation Rules of NSW'.*

It is noted that the applicant will need to submit an appropriate application based on the maximum demand for electricity for connection of load prior to the issue of a Construction Certificate.

Chapter 3 Educational establishments and childcare facilities

Section 3.22 of the SEPP specifies the following:

- '1) This section applies to development for the purpose of a centre-based child care facility if—*
- (a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or*
  - (b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.'*

Comment:

Section 107 of the *Education and Care Services National Regulations* requires the provision of 3.25 square metres of unencumbered indoor space, equating to a minimum of 312sqm for the proposed child care facility for 96 children.

Approximately 313.5sqm of unencumbered indoor space is to be provided as indicated on the architectural drawings accompanying the application.

Section 108 of the *Education and Care Service National Regulations* states there is a requirement for the provision of 7sqm of unencumbered outdoor space equating to a minimum of 672sqm for the proposed 96 children.

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Approximately 674.2sqm of unencumbered outdoor play area is to be provided as indicated on the architectural drawings accompanying the application.

In this regard, the proposed development complies with the minimum requirements of the Regulations.

Section 3.23 of the SEPP specifies the following:

*'Before determining a development application for development for the purpose of a centre-based childcare facility, the consent authority must take into consideration any applicable provisions of the Childcare Planning Guideline, in relation to the proposed development.'*

The following table is an assessment of the proposed childcare facility against the criteria of the 'Childcare Planning Guideline' as required by the SEPP.

<b>Objectives</b>	<b>Criteria/Guidelines</b>	<b>Comments</b>
<b>3.1 Site selection and location</b>		
C1 To ensure that appropriate zone considerations are assessed when selecting a site	<p>For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> <li>the acoustic and privacy impacts of the proposed development on the residential properties</li> <li>the setbacks and siting of buildings within the residential context</li> <li>traffic and parking impacts of the proposal on residential amenity.</li> </ul>	<p><b>Consistent</b></p> <p>The proposed child care facility has considered acoustic and privacy impacts, setbacks and siting of the building, and traffic and parking impacts.</p> <p>These have been reviewed by relevant Council officers and no objections have been raised subject to conditions of consent being granted to minimise potential impacts from the facility.</p>
C2 To ensure that the site selected for a proposed childcare facility is suitable for the use	<p>When selecting a site, ensure that:</p> <ul style="list-style-type: none"> <li>the location and surrounding uses are compatible with the proposed development or use</li> <li>the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards</li> <li>there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed</li> <li>the characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> <li>size of street frontage, lot configuration, dimensions and overall size</li> <li>number of shared boundaries with residential properties</li> <li>the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas</li> </ul> </li> <li>where the proposal is to occupy or retrofit an existing premises, the</li> </ul>	<p><b>Consistent</b></p> <p>The subject site is suitable for the proposed child care facility subject to conditions of any consent granted in relation to traffic and parking, flooding and noise control measures.</p> <p>The facility would not be located in proximity to any known socially incompatible activities and uses.</p>



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	<p>interior and exterior spaces are suitable for the proposed use</p> <ul style="list-style-type: none"> <li>• there are suitable drop off and pick up areas, and off and on street parking</li> <li>• the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use</li> <li>• it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.</li> </ul>	
C3 To ensure that sites for childcare facilities are appropriately located	<p>A childcare facility should be located:</p> <ul style="list-style-type: none"> <li>• near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship</li> <li>• near or within employment areas, town centres, business centres, shops</li> <li>• with access to public transport including rail, buses, ferries</li> <li>• in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.</li> </ul>	<p><b>Consistent</b></p> <p>The proposed child care facility is appropriately located near compatible social uses, near the Bowral town centre, with access to public transport (being approximately 150m from a bus stop), and in an area with pedestrian connectivity.</p>
C4 To ensure that sites for childcare facilities do not incur risks from environmental, health or safety hazard	<p>A childcare facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> <li>• proximity to: <ul style="list-style-type: none"> <li>○ heavy or hazardous industry, waste transfer depots or landfill sites</li> <li>○ LPG tanks or service stations</li> <li>○ water cooling and water warming systems</li> <li>○ odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses</li> </ul> </li> </ul>	<p><b>Consistent</b></p> <p>The proposed child care facility is to be located on a site that would not incur risks from environmental, health or safety hazards, being within an established residential area.</p>
<b>3.2 Local character, streetscape and the public domain</b>		
C5 To ensure that the childcare facility is compatible with the local character and surrounding streetscape	<p>The proposed development should:</p> <ul style="list-style-type: none"> <li>• contribute to the local area by being designed in character with the locality and existing streetscape</li> <li>• reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> </ul>	<p><b>Consistent</b></p> <p>The proposed child care facility is generally consistent with and generally reflects the residential form, character and use of the locality, as defined by surrounding dwelling houses.</p>

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	<ul style="list-style-type: none"> <li>recognise predominant streetscape qualities, such as building form, scale, materials and colours</li> <li>include design and architectural treatments that respond to and integrate with the existing streetscape</li> <li>use landscaping to positively contribute to the streetscape and neighbouring amenity</li> <li>integrate car parking into the building and site landscaping design in residential areas.</li> </ul>	Landscaping is proposed to the building and outdoor play areas that will complement the existing streetscape and surrounding locality.
C6, C7, C8 To ensure clear delineation between the childcare facility and public spaces	<p>Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> <li>fencing to ensure safety for children entering and leaving the facility</li> <li>windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community</li> <li>integrating existing and proposed landscaping with fencing.</li> </ul>	<p><b>Consistent</b></p> <p>Fencing is provided to delineate spaces and ensure safety for children.</p> <p>Windows are provided on all elevations towards the public domain and the street.</p> <p>Landscaping and fencing have been integrated appropriately.</p>
	<p>On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the childcare facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	<p><b>Not applicable</b></p> <p>Only one building and one entry is proposed.</p>
	<p>Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> <li>clearly defined street access, pedestrian paths and building entries</li> <li>low fences and planting which delineate communal/ private open space from adjoining public open space</li> <li>minimal use of blank walls and high fences.</li> </ul>	<p><b>Not applicable</b></p> <p>The site does not adjoin any public parks, open space or bushland.</p>
C9, C10 To ensure that front fences are retaining walls respond to and complement the context and character of the area and do not dominate the public domain	<p>Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.</p>	<p><b>Not applicable</b></p> <p>No fencing is proposed for the front setback.</p>
	<p>High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be</p>	<p><b>Not applicable</b></p> <p>The site does not front a classified</p>

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	setback from the property boundary with screen landscaping of a similar height between the wall and the boundary.	road.
<b>3.3 Building orientation, envelope and design</b>		
C11 To respond to the streetscape and site, while optimising solar access and opportunities for shade	<p>Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> <li>ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by:</li> <li>facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties</li> <li>placing play equipment away from common boundaries with residential properties</li> <li>locating outdoor play areas away from residential dwellings and other sensitive uses</li> <li>optimise solar access to internal and external play areas</li> <li>avoid overshadowing of adjoining residential properties</li> <li>minimise cut and fill</li> <li>ensure buildings along the street frontage define the street by facing it</li> <li>ensure that where a childcare facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.</li> </ul>	<p><b>Consistent</b></p> <p>Proposed outdoor play areas and equipment have been sited to minimise noise and privacy impacts to and from neighbours.</p> <p>Outdoor spaces are adequately optimised for solar access. Indoor spaces are capable of adequate solar access.</p> <p>The height of the building will not significantly overshadow the adjacent properties.</p>
C12 To ensure that the scale of the childcare facility is compatible with adjoining development and the impact on adjoining buildings is minimised	<p>The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> <li>building height should be consistent with other buildings in the locality</li> <li>building height should respond to the scale and character of the street</li> <li>setbacks should allow for adequate privacy for neighbours and children at the proposed childcare facility</li> <li>setbacks should provide adequate access for building maintenance</li> <li>setbacks to the street should be consistent with the existing character.</li> </ul>	<p><b>Consistent</b></p> <p>The height of the proposed child care facility is generally consistent with the building height of other buildings in the locality and is appropriate to the scale and character of the street.</p> <p>Adequate setbacks have been provided for privacy and to allow access for building maintenance while remaining consistent with the existing setback character of the locality.</p>
C13, C14 To ensure that setbacks from the boundary of a childcare facility are consistent with the predominant development within	Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings	<p><b>Consistent</b></p> <p>The proposed child care facility is set back over 10 metres from the street and is consistent with the setback patterns of the adjacent properties.</p>

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<p>the immediate context</p>	<p>within 50 metres, the same setback is required for the predominant adjoining land use.</p> <p>On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p><b>Consistent</b></p> <p>The side and rear boundary setbacks of the proposed child care facility have observed the prevailing setbacks required for a dwelling house.</p>
<p>C15 To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character</p>	<p>The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> <li>• respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage</li> <li>• contributes to the identity of the place</li> <li>• retains and reinforces existing built form and vegetation where significant</li> <li>• considers heritage within the local neighbourhood including identified heritage items and conservation areas</li> <li>• responds to its natural environment including local landscape setting and climate</li> <li>• contributes to the identity of place.</li> </ul>	<p><b>Consistent</b></p> <p>The built form of the proposed child care facility is consistent with the residential built form of the locality. It is consistent with the established visual character of surrounding dwelling houses in the locality. It contributes to the identity of the locality.</p>
<p>C16 To ensure that buildings are designed to create safe environments for all users</p>	<p>Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> <li>• located to allow ease of access, particularly for pedestrians</li> <li>• directly accessible from the street where possible</li> <li>• directly visible from the street frontage</li> <li>• easily monitored through natural or camera surveillance</li> <li>• not accessed through an outdoor play area.</li> <li>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ul>	<p><b>Consistent</b></p> <p>Pedestrian entry is restricted to one access point via a gate provided on the southern boundary. This is capable of being easily monitored however details are to be provided prior to the issue of a Construction Certificate. The entry is not accessed through an outdoor play area.</p> <p>The entry would be visible from the street frontage.</p>
<p>C17 To ensure that childcare facilities are designed to be accessible by all potential users</p>	<p>Accessible design can be achieved by:</p> <ul style="list-style-type: none"> <li>• providing accessibility to and within the building in accordance with all relevant legislation</li> <li>• linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry</li> <li>• providing a continuous path of travel to and within the building, including access between the</li> </ul>	<p><b>Consistent</b></p> <p>Council's Accredited Certifier has confirmed that an accessible design can be achieved.</p> <p>This would need to be demonstrated at Construction Certificate stage with disabled access provisions to common and public areas to be in accordance with AS1428 Design for Access and Mobility and the Premises Code.</p>

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	<p>street entry and car parking and main building entrance. Platform lifts should be avoided where possible</p> <ul style="list-style-type: none"> <li>• minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</li> </ul> <p><b>NOTE:</b> <i>The National Construction Code, the Discrimination Disability Act 1992 and the Disability (Access to Premises – Buildings) Standards 2010 set out the requirements for access to buildings for people with disabilities.</i></p>	
<b>3.4 Landscaping</b>		
C18, C19 To provide landscape design that contributes to the streetscape and amenity	<p>Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space.</p> <p>Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> <li>• reflecting and reinforcing the local context</li> <li>• incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.</li> </ul>	<p><b>Consistent</b></p> <p>Proposed landscaping is appropriate.</p>
	<p>Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> <li>• planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</li> <li>• taking into account streetscape, local character and context when siting car parking areas within the front setback</li> <li>• using low level landscaping to soften and screen parking areas.</li> </ul>	<p><b>Consistent</b></p> <p>Proposed shrub and tree plantings will provide some shade to the car parking spaces at the front of the site.</p> <p>Low level landscaping has been proposed to soften the boundary between the carpark and the child care facility.</p> <p>No landscaping is proposed along part of the southern boundary (towards the front of the site) to ensure pedestrian sightlines and safe movements into / out of the site are maintained.</p>
<b>3.5 Visual and acoustic privacy</b>		
C20, C21 To protect the privacy and security of children attending the facility	<p>Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</p>	<p><b>Not applicable</b></p> <p>The proposal is not a mixed-use development.</p>
	<p>Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitably locating pathways, windows and doors</li> </ul>	<p><b>Consistent</b></p> <p>Overlooking into indoor rooms and outdoor play spaces is minimised through the design of the building and proposed screening measures.</p>

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	<ul style="list-style-type: none"> <li>permanent screening and landscape design.</li> </ul>	
C22 To minimise impacts on privacy of adjoining properties	<p>Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> <li>appropriate site and building layout</li> <li>suitable location of pathways, windows and doors</li> <li>landscape design and screening.</li> </ul>	<p><b>Consistent</b></p> <p>The proposed child care facility is sited and designed so as to minimise overlooking of internal living areas of dwelling houses. Landscaping and screening minimise overlooking into neighbouring private open space.</p> <p>However, an amended design is required at Construction Certificate stage to ensure awning windows on the northern elevation are either installed with obscure glass or fixed louvres or screen panels to limit overlooking to the neighbouring dwelling.</p> <p>Further to this, the <i>Juniperus scopulorum</i> 'Skyrocket' along the northern property boundary are to be replaced with a species that provides screening with a reduced mature height of no greater than 2m.</p>
C23, C24 To minimise the impact of childcare facilities on the acoustic privacy of neighbouring residential developments	<p>A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> <li>provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence).</li> <li>ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.</li> </ul>	<p><b>Consistent</b></p> <p>Sufficient detail has been provided for the proposal's acoustic mitigation measures. Acoustic fencing is proposed along the side and rear property boundaries.</p> <p>The fencing is to be comprised of a solid, imperforate construction with all holes and gaps acoustically sealed and constructed from 12mm thick plywood, 9mm thick fibre cement sheeting, plexiglass or equivalent).</p>
	<p>A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> <li>identify an appropriate noise level for a childcare facility located in residential and other zones</li> <li>determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use</li> <li>determine the appropriate height of any acoustic fence to enable the noise criteria to be met.</li> </ul>	<p><b>Consistent</b></p> <p>The submitted noise assessment report has been prepared by a suitably qualified acoustic professional and adequately addressed the relevant matters.</p> <p>Council's Environmental Health Officer has reviewed the report and raised no objections subject to conditions being imposed as part of any consent granted in relation to noise control measures.</p>
<b>3.6 Noise and air pollution</b>		

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C25, C26 To ensure that outside noise levels on the facility are minimised to acceptable levels	<p>Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> <li>• creating physical separation between buildings and the noise source</li> <li>• orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> <li>• using landscaping to reduce the perception of noise</li> <li>• limiting the number and size of openings facing noise sources</li> <li>• using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)</li> <li>• using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits</li> <li>• locating cot rooms, sleeping areas and play areas away from external noise sources</li> </ul>	<p><b>Consistent</b></p> <p>Adequate detail has been provided for the impact of external noise on the facility and any design solutions to address its impacts.</p>
	<p>An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a childcare facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"> <li>• on industrial zoned land</li> <li>• where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000</li> <li>• along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li> <li>• on a major or busy road</li> <li>• other land that is impacted by substantial external noise.</li> </ul>	<p><b>Consistent</b></p> <p>The submitted noise assessment report has identified appropriate noise levels subject to conditions recommended by Council's Environmental Health Officer being imposed as part of any consent in relation to noise control measures.</p>
C27, C28 To ensure air quality is acceptable where childcare facilities are proposed close to external sources of air pollution such as major roads and industrial development	<p>Locate childcare facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p>	<p><b>Not applicable</b></p> <p>The site is not in proximity to external sources of air pollution.</p>
	<p>A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed childcare facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines.</p> <p>The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> <li>• creating an appropriate separation distance between the facility and the pollution source.</li> </ul> <p>The location of play areas,</p>	<p><b>Not applicable</b></p> <p>The site is not in proximity to a major road or industrial development.</p>

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	<p>sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution</p> <ul style="list-style-type: none"> <li>• using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway</li> <li>• incorporating ventilation design into the design of the facility.</li> </ul>	
<b>3.7 Hours of operation</b>		
C29, C30 To minimise the impact of the childcare facility on the amenity of neighbouring residential developments	Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed childcare facility may be extended if it adjoins or is adjacent to non- residential land uses.	<p><b>Consistent</b></p> <p>The facility's proposed hours are between 7.30am and 6pm weekdays.</p> <p>A condition is recommended to ensure this is enforced.</p>
	Within mixed use areas or predominantly commercial areas, the hours of operation for each childcare facility should be assessed with respect to its compatibility with adjoining and co-located land uses.	<p><b>Not applicable</b></p> <p>The proposed facility is not located within a mixed-use area or commercial area.</p>
<b>3.8 Traffic, parking and pedestrian circulation</b>		
C31, C32, C33 To provide parking that satisfies the needs of users and demand generated by the centre	<p>Off street car parking should be provided at the rates for childcare facilities specified in a Development Control Plan that applies to the land.</p> <p>Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates:</p> <p>Within 400 metres of a metropolitan train station:</p> <ul style="list-style-type: none"> <li>• 1 space per 10 children</li> <li>• 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space.</li> </ul> <p>In other areas:</p> <ul style="list-style-type: none"> <li>• 1 space per 4 children.</li> </ul> <p>A reduction in car parking rates may be considered where:</p> <ul style="list-style-type: none"> <li>• the proposal is an adaptive re-use of a heritage item</li> <li>• the site is in a B8 Metropolitan Zone or other high density business or residential zone</li> <li>• the site is in proximity to high frequency and well connected</li> </ul>	<p><b>Consistent</b></p> <p>Off-street car parking is provided at a rate of 1 space per 4 children (24 spaces) plus for five (5) permanent staff.</p> <p>A total of 32 car parking spaces is proposed.</p>



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	<p>public transport</p> <ul style="list-style-type: none"> <li>the site is co-located or in proximity to other uses where parking is appropriately provided (for example business centres, schools, public open space, car parks)</li> <li>there is sufficient on street parking available at appropriate times within proximity of the site.</li> </ul>	
	<p>In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.</p>	<p><b>Not applicable</b></p> <p>On-street parking has not been considered as part of this proposal.</p>
	<p>A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> <li>the amenity of the surrounding area will not be affected</li> <li>there will be no impacts on the safe operation of the surrounding road network.</li> </ul>	<p><b>Consistent</b></p> <p>A Traffic &amp; Parking Impact Assessment has been lodged with this DA.</p> <p>This was reviewed by Council's Engineers and is satisfactory.</p>
<p>C34, C35 To provide vehicle access from the street in a safe environment that does not disrupt traffic flows</p>	<p>Alternate vehicular access should be provided where childcare facilities are on sites fronting:</p> <ul style="list-style-type: none"> <li>a classified road</li> <li>roads which carry freight traffic or transport dangerous goods or hazardous materials.</li> </ul> <p>The alternate access must have regard to:</p> <ul style="list-style-type: none"> <li>the prevailing traffic conditions</li> <li>pedestrian and vehicle safety including bicycle movements</li> <li>the likely impact of the development on traffic.</li> </ul>	<p><b>Not applicable</b></p> <p>The subject site does not front a classified road or a road which carries freight traffic or transports dangerous goods or hazardous materials.</p>
	<p>Childcare facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	<p><b>Consistent</b></p> <p>Council's Development Engineer has determined that safe access can be provided to and from the site, and to and from the wider locality in times of emergency, subject to conditions of any consent granted.</p>
<p>C36, C37, C38 To provide a safe and connected environment for pedestrians both on</p>	<p>The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> <li>separate pedestrian access from the car park to the facility</li> </ul>	<p><b>Consistent</b></p> <p>Adequate details have been provided concerning pedestrian safety design solutions.</p>

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and around the site	<ul style="list-style-type: none"> <li>defined pedestrian crossings included within large car parking areas</li> <li>separate pedestrian and vehicle entries from the street for parents, children and visitors</li> <li>pedestrian paths that enable two prams to pass each other</li> <li>delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</li> <li>in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas</li> <li>vehicles can enter and leave the site in a forward direction.</li> </ul>	
	<p>Mixed use developments should include:</p> <ul style="list-style-type: none"> <li>driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks</li> <li>drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or maneuvering areas used by vehicles accessing other parts of the site</li> <li>parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</li> </ul>	<p><b>Not applicable</b></p> <p>The proposal does not form part of a mixed-use development.</p>
	<p>Car parking design should:</p> <ul style="list-style-type: none"> <li>include a child safe fence to separate car parking areas from the building entrance and play areas</li> <li>provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards</li> <li>include wheelchair and pram accessible parking.</li> </ul>	<p><b>Consistent</b></p> <p>The proposal includes fencing to separate the car park from the building entrance and play areas.</p> <p>Accessible parking is provided close to the primary entrance.</p>

The following table is an assessment of the proposed childcare centre against the *Education and Care Services National Regulations* as detailed within the 'Childcare Planning Guideline'.

Regulation	Guidelines	Comments
<b>4.1 Indoor space requirements</b>		
Regulation 107	<b>The proposed development includes</b>	<b>Consistent – concurrence not</b>

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<p>Every child being educated and cared for within a facility must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space.</p> <p>If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.</p> <p>Unencumbered indoor space excludes any of the following:</p> <ul style="list-style-type: none"> <li>• passageway or thoroughfare (including door swings) used for circulation</li> <li>• toilet and hygiene facilities</li> <li>• nappy changing area or area for preparing bottles</li> <li>• area permanently set aside for the use or storage of cots</li> <li>• area permanently set aside for storage</li> <li>• area or room for staff or administration</li> <li>• kitchens, unless the kitchen is designed to be used predominately by the children as part of an educational program, e.g. a learning kitchen</li> <li>• on-site laundry</li> <li>• other space that is not suitable for children.</li> </ul> <p>All unencumbered indoor spaces must be provided as a secure area for children. The design of these spaces should consider the safe supervision of children.</p> <p>When calculating indoor space requirements, the area required for any additional child may be waived when the child is being cared for in an emergency circumstance as set out in regulation 123(5) or the child is being educated or</p>	<p><b>at least 3.25 sqm of unencumbered indoor space for each child.</b></p> <p><b>If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.</b></p>	<p><b>required.</b></p> <p>312m<sup>2</sup> minimum required for 96 children.</p> <p>313.5m<sup>2</sup> provided.</p>
	<p><b>Verandahs as indoor space</b></p> <p>For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space.</p>	<p><b>Noted</b></p> <p>The verandah has not been included as indoor space.</p>
	<p><b>Storage</b></p> <p>Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility. It is recommended that a childcare facility provide:</p> <ul style="list-style-type: none"> <li>• a minimum of 0.3m<sup>3</sup> per child of external storage space</li> <li>• a minimum of 0.2m<sup>3</sup> per child of internal storage space.</li> </ul> <p>Storage does not need to be in a separate room or screened, and there should be a mixture of safe shelving and storage that children can access independently.</p> <p>Storage of items such as prams, bikes and scooters should be located adjacent to the building entrance.</p> <p>Where an external laundry service is used, storage and collection points for soiled items should be in an area with separate external access, away from children. This will prevent clothes being carried through public areas and reduce danger to children during drop off and collection of laundry.</p>	<p><b>Consistent</b></p> <p><u>Internal storage - Consistent</u> 19.2m<sup>3</sup> minimum of internal storage space required for 96 children.</p> <p>21m<sup>3</sup> provided.</p> <p><u>External storage - Consistent</u> 28.8m<sup>3</sup> minimum of external storage space required for 96 children.</p> <p>28.8m<sup>3</sup> provided.</p>

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<p>cared for in exception circumstances as set out in regulation 124(5) and (6) of the National Regulations.</p> <p>Applicants should also note that regulation 81 requires that the needs for sleep and rest of children at the service be met, having regard to their ages, development stages and individual needs.</p> <p>Development applications should indicate how these needs will be accommodated.</p> <p>Verandahs may be included when calculating indoor space with the written approval from the regulatory authority.</p>		
<p><b>4.2 Laundry and hygiene facilities</b></p>		
<p>Regulation 106</p> <p>There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children.</p> <p>Childcare facilities must also comply with the requirements for laundry facilities that are contained in the National Construction Code.</p>	<p><b><i>The proposed development includes laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering.</i></b></p> <p>Laundry and hygiene facilities are a key consideration for education and care service premises. The type of laundry facilities provided must be appropriate to the age of children accommodated.</p>	<p><b>Consistent</b></p> <p>An on-site laundry has been provided in the building at the ground floor level, with an approximate area of 5sqm.</p>
	<p><b>On site laundry</b></p> <p>On site laundry facilities should contain:</p> <ul style="list-style-type: none"> <li>• a washer or washers capable of dealing with the heavy requirements of the facility</li> <li>• a dryer</li> <li>• laundry sinks</li> <li>• adequate storage for soiled items prior to cleaning</li> <li>• an on site laundry cannot be calculated as usable unencumbered play space for children</li> </ul>	<p><b>Consistent</b></p> <p>An on-site laundry has been provided with appropriate facilities including laundry sinks and storage for soiled items as well as space for washers and dryers.</p>
	<p><b>External laundry service</b></p> <p>A facility that does not contain on site laundry facilities must make external laundering arrangements. Any external laundry facility providing services to the facility needs to comply with any</p>	<p><b>Not applicable</b></p> <p>An on-site laundry is provided.</p>

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	relevant Australian Standards.	
<b>4.3 Toilet and hygiene facilities</b>		
<p>Regulation 109</p> <p>A service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.</p> <p>Childcare facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code.</p>	<p><b>The proposed development includes adequate, developmentally and age appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service.</b></p> <p>Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants. Design considerations could include:</p> <ul style="list-style-type: none"> <li>• junior toilet pans, low level sinks and hand drying facilities for children</li> <li>• a sink and handwashing facilities in all bathrooms for adults</li> <li>• direct access from both activity rooms and outdoor play areas</li> <li>• windows into bathrooms and cubicles without doors to allow supervision by staff</li> <li>• external windows in locations that prevent observation from neighbouring properties or from side boundaries</li> </ul>	<p><b>Consistent</b></p> <p>The proposed facility contains adequate and appropriate toilets for use by children with washing and drying facilities, direct access from indoor and outdoor play areas, windows for supervision by staff, and external windows that are not visible from neighbouring properties.</p>
<b>4.4 Ventilation and natural light</b>		
<p>Regulation 110</p> <p>Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children.</p> <p>Childcare facilities must comply with the light and ventilation and minimum ceiling height requirements of the <i>National Construction Code</i>. Ceiling height requirements may be affected by the capacity of the facility.</p>	<p><b>The proposed development includes indoor spaces to be used by children that:</b></p> <ul style="list-style-type: none"> <li>• <b>will be well ventilated; and</b></li> <li>• <b>will have adequate natural light; and</b></li> <li>• <b>can be maintained at a temperature that ensures the safety and well-being of children.</b></li> </ul> <p><b>Ventilation</b></p> <p>Good ventilation can be achieved through a mixture of natural cross ventilation and air conditioning. Encouraging natural ventilation is the basis of sustainable design; however, there will be circumstances where mechanical ventilation will be essential to creating ambient temperatures within a facility.</p> <p>To achieve adequate natural ventilation, the design of the childcare facilities must address the orientation of the building, the configuration of rooms and the external building envelope, with natural air flow generally reducing the deeper a building becomes. It is recommended that childcare facilities ensure natural ventilation is available to each indoor activity room.</p>	<p><b>Consistent</b></p> <p>The proposed child care facility includes indoor spaces that will be well ventilated, have adequate natural light and maintained at a an appropriate temperature for the safety and well-being of children.</p>
	<p><b>Natural light</b></p>	<p><b>Consistent</b></p> <p>As above, adequate natural ventilation is achieved in the proposed design.</p>

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	<p>Solar and daylight access reduces reliance on artificial lighting and heating, improves energy efficiency and creates comfortable learning environments through pleasant conditions. Natural light contributes to a sense of well-being, is important to the development of children and improves service outcomes. Daylight and solar access changes with the time of day, seasons and weather conditions. When designing childcare facilities consideration should be given to:</p> <ul style="list-style-type: none"> <li>• providing windows facing different orientations</li> <li>• using skylights as appropriate</li> <li>• ceiling heights.</li> </ul> <p>Designers should aim to minimise the need for artificial lighting during the day, especially in circumstances where room depth exceeds ceiling height by 2.5 times. It is recommended that ceiling heights be proportional to the room size, which can be achieved using raked ceilings and exposed trusses, creating a sense of space and visual interest.</p>	As above.
<b>4.5 Administrative space</b>		
<p>Regulation 110</p> <p>A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.</p>	<p><b><i>The proposed development includes an adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations.</i></b></p> <p>Design considerations could include closing doors for privacy and glass partitions to ensure supervision.</p> <p>When designing administrative spaces, consideration should be given to functions which can share spaces and those which cannot. Sound proofing of meeting rooms may be appropriate where they are located adjacent to public areas, or in large rooms where sound can easily travel.</p> <p>Administrative spaces should be designed to ensure equitable use by parents and children at the facility. A reception desk may be designed to have a portion of it at a lower level for children or people in a wheel chair.</p>	<p><b>Consistent</b></p> <p>The proposed child care facility includes adequate areas for the administrative functioning of the facility, consultation with parents of children, and conducting of private conversations.</p>
<b>4.6 Nappy change facilities</b>		
<p>Regulation 112</p> <p>Childcare facilities must</p>	<p><b><i>(To be completed only if the proposed development is for a service that will care for children</i></b></p>	<p><b>Consistent</b></p> <p>The proposed child care facility</p>

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<p>provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children.</p> <p>Childcare facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.</p>	<p><i>who wear nappies).</i></p> <p><b><i>The proposed development includes an adequate area for construction of appropriate hygienic facilities for nappy changing including at least one properly constructed nappy changing bench and hand cleansing facilities for adults in the immediate vicinity of the nappy change area.</i></b></p> <p>In circumstances where nappy change facilities must be provided, design considerations could include:</p> <ul style="list-style-type: none"> <li>• properly constructed nappy changing bench or benches</li> <li>• a bench type baby bath within one metre from the nappy change bench</li> <li>• the provision of hand cleansing facilities for adults in the immediate vicinity of the nappy change area</li> <li>• a space to store steps</li> <li>• positioning to enable supervision of the activity and play areas.</li> </ul>	<p>includes adequate areas for the purposes of nappy changing.</p>
<p><b>4.7 Premises designed to facilitate supervision</b></p>		
<p>Regulation 115</p> <p>A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity.</p> <p>Childcare facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the National Construction Code.</p>	<p><b><i>The proposed development (including toilets and nappy change facilities) are designed in a way that facilitates supervision of children at all times, having regard to the need to maintain the rights and dignity of the children.</i></b></p> <p>Design considerations should include:</p> <ul style="list-style-type: none"> <li>• solid walls in children’s toilet cubicles (but no doors) to provide dignity whilst enabling supervision</li> <li>• locating windows into bathrooms or nappy change areas away from view of visitors to the facility, the public or neighbouring properties</li> <li>• avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children</li> <li>• avoiding multi-level rooms which compromise, or require additional staffing, to ensure proper supervision. If multilevel spaces are proposed, consideration should be given to providing areas that can be closed off</li> </ul>	<p><b>Consistent</b></p> <p>The proposed toilet and change facilities for children are designed to facilitate adequate supervision of children at all times, including locating windows into bathrooms and avoiding room layouts with hidden corners.</p>

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	and used only under supervision for controlled activities	
<b>4.8 Emergency and evacuation procedures</b>		
<p>Regulations 97 and 168</p> <p>Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation.</p> <p>Regulation 97 sets out the detail for what those procedures must cover including:</p> <ul style="list-style-type: none"> <li>• instructions for what must be done in the event of an emergency</li> <li>• an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit</li> <li>• a risk assessment to identify potential emergencies that are relevant to the service.</li> </ul>	<p>Facility design and features should provide for the safe and managed evacuation of children and staff from the facility in the event of a fire or other emergency.</p> <p>Multi-storey buildings with proposed childcare facilities above ground level may consider providing additional measures to protect staff and children. For example:</p> <ul style="list-style-type: none"> <li>• independent emergency escape routes from the facility to the ground level that would separate children from other building users to address child protection concerns during evacuations</li> <li>• a safe haven or separate emergency area where children and staff can muster during the initial stages of a fire alert or other emergency. This would enable staff to account for all children prior to evacuation.</li> </ul> <p>An emergency and evaluation plan should be submitted with a DA and should consider:</p> <ul style="list-style-type: none"> <li>• the mobility of children and how this is to be accommodated during an evacuation</li> <li>• the location of a safe congregation/assembly point, away from the evacuated building, busy roads and other hazards, and away from evacuation points used by other occupants or tenants of the same building or of surrounding buildings</li> <li>• how children will be supervised during the evacuation and at the congregation/assembly point, relative to the capacity of the facility and governing child-to-staff ratios.</li> </ul>	<p><b>Consistent</b></p> <p>The proposed child care facility has been designed for the safe and managed evacuation of children and staff from the facility in the event of a fire or other emergency.</p> <p>No emergency and evacuation plan has been submitted with the DA; however, a condition has been recommended to address this issue.</p>
<b>4.9 Outdoor space requirements</b>		
<p>Regulation 108</p> <p>An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m<sup>2</sup> of unencumbered outdoor space.</p> <p>If this requirement is not met, the concurrence of the</p>	<p><b>The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child.</b></p> <p><b>If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.</b></p> <p>Calculating unencumbered space for</p>	<p><b>Consistent</b></p> <p>672m<sup>2</sup> minimum required for 96 children.</p> <p>674.2m<sup>2</sup> provided.</p>



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<p>regulatory authority is required under the SEPP.</p> <p>Unencumbered space excludes any of the following:</p> <ul style="list-style-type: none"> <li>• pathway or thoroughfare, except where used by children as part of the education and care program.</li> <li>• Car parking area.</li> <li>• Storage shed or other storage area.</li> <li>• Laundry</li> <li>• Other space that is not suitable for children.</li> </ul> <p>When calculating outdoor space requirements, the area required for any additional child may be waived when the child is being cared for in an emergency circumstance as set out in regulation 123(5) or the child is being educated or cared for in exceptional circumstances as set out in regulation 124(5) and (6) of the National Regulations.</p> <p>Applicants should also note that regulation 274 (Part 7.3 NSW Provisions) states that a centre-based service for children preschool aged or under must ensure there is no swimming pool on the premises unless the swimming pool existed before 6 November 1996. Where there is an existing swimming pool, a water safety policy will be required.</p> <p>A verandah that is included within indoor space cannot be included when calculating outdoor space and vice versa.</p>	<p>outdoor areas should not include areas of dense hedges or plantings along boundaries which are designed for landscaping purposes and not for children's play.</p> <p>When new equipment or storage areas are added to existing services, the potential impact on unencumbered space calculations and service approvals must be considered.</p>	
	<p><b>Verandahs as outdoor space</b></p> <p>Where a covered space such as a verandah is to be included in outdoor space it should:</p> <ul style="list-style-type: none"> <li>• be open on at least one third of its perimeter</li> <li>• have a clear height of 2.1 metres</li> <li>• have a wall height of less than 1.4 metres where a wall with an opening forms the perimeter</li> <li>• have adequate flooring and roofing</li> <li>• be designed to provide adequate protection from the elements</li> </ul>	<p><b>Consistent</b></p> <p>The verandah has been included as outdoor space and is not included in indoor space calculations.</p> <p>The verandah meets the listed requirements for its inclusion in outdoor space calculations.</p>
	<p><b>Simulated outdoor environments</b></p> <p>Proponents should aim to provide the requisite amount of unencumbered outdoor space in all development applications.</p> <p>A service approval will only be granted in exceptional circumstances when outdoor space requirements are not met. For an exemption to be granted, the preferred alternate solution is that indoor space be designed as a simulated outdoor environment.</p> <p>Simulated outdoor space must be provided in addition to indoor space and cannot be counted twice when calculating areas.</p> <p>Simulated outdoor environments are internal spaces that have all the features and experiences and qualities of an outdoor space. They should promote the same learning outcomes that are developed during outdoor play. Simulated outdoor environments should have:</p> <ul style="list-style-type: none"> <li>• more access to natural light and ventilation than required for an</li> </ul>	<p><b>Not applicable</b></p> <p>Outdoor space is provided.</p>

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	<p>internal space through large windows, glass doors and panels to enable views of trees, views of the sky and clouds and movement outside the facility</p> <ul style="list-style-type: none"> <li>• skylights to give a sense of the external climate</li> <li>• a combination of different floor types and textures, including wooden decking, pebbles, mounds, ridges, grass, bark and artificial grass, to mimic the uneven surfaces of an outdoor environment</li> <li>• sand pits and water play areas</li> <li>• furniture made of logs and stepping logs</li> <li>• dense indoor planting and green vegetated walls</li> <li>• climbing frames, walking and/or bike tracks</li> <li>• vegetable gardens and gardening tubs.</li> </ul>	
<p><b>4.10 Natural environment</b></p>		
<p>Regulation 113</p> <p>The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.</p>	<p><b><i>The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.</i></b></p> <p>Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space.</p> <p>Shrubs and trees selected for the play space must be safe for children. Avoid plant species that risk the health, safety and welfare of the facility's occupants, such as those which:</p> <ul style="list-style-type: none"> <li>• are known to be poisonous, produce toxins or have toxic leaves or berries</li> <li>• have seed pods or stone fruit, attract bees, have thorns, spikes or prickly foliage or drop branches</li> </ul> <p>The outdoor space should be designed to:</p> <ul style="list-style-type: none"> <li>• provide a variety of experiences that facilitate the development of cognitive and physical skills, provide opportunities for social interaction and appreciation of the natural environment</li> <li>• assist supervision and minimise opportunities for bullying and antisocial behaviour</li> <li>• enhance outdoor learning, socialisation and recreation by positioning outdoor urban</li> </ul>	<p><b>Consistent</b></p> <p>A detailed landscape plan has been provided with this DA. Sufficient details for proposed plantings and landscape design have been included.</p>

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	furniture and play equipment in configurations that facilitate interaction.	
<b>4.11 Shade</b>		
<p>Regulation 114</p> <p>The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p>	<p><b>The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</b></p> <p>Providing the correct balance of sunlight and shade to play areas is important for the health and well-being of children and staff.</p> <p>Combining built and natural shade will often be the best option.</p>	<p><b>Consistent</b></p> <p>See below.</p>
	<p><b>Solar access</b></p> <p>Controlled exposure to daylight for limited periods is essential as sunlight provides vitamin D which promotes healthy muscles, bones and overall well-being. Outdoor play areas should be provided with controlled solar access throughout the year.</p> <p>Outdoor play areas should:</p> <ul style="list-style-type: none"> <li>• have year-round solar access to at least 30 per cent of the ground area, with no more than 60 per cent of the outdoor space covered.</li> <li>• provide shade in the form of trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area</li> <li>• have evenly distributed shade structures over different activity spaces.</li> </ul>	<p><b>Consistent</b></p> <p>Sufficient details have been provided regarding solar access and shading coverage.</p>
	<p><b>Natural shade</b></p> <p>Natural shade should be a major element in outdoor play areas. Trees with dense foliage and wide-spreading canopies provide the best protection. Existing stands of trees, particularly in rear setbacks, should be retained to provide shaded play areas.</p> <p>Species that suit local soil and climatic conditions and the character of the environment are recommended.</p> <p>Dense shrubs can also provide shade. They should be planted around the site perimeter so; they don't obstruct supervision. Pruning shrubs on the underside may create shaded play nooks underneath. Planting for shade and solar access is enhanced by:</p> <ul style="list-style-type: none"> <li>• placing appropriately scaled trees near the eastern and western elevations</li> </ul>	<p><b>Consistent</b></p> <p>Sufficient details have been provided regarding provision of tree canopy and natural shade for outdoor play areas.</p>

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	<ul style="list-style-type: none"> <li>providing a balance of evergreen and deciduous trees to give shade in summer and sunlight access in winter</li> </ul> <p><b>Built shade structures</b> Built structures providing effective shade include:</p> <ul style="list-style-type: none"> <li>permanent structures (pergolas, sails and verandahs)</li> <li>demountable shade (marquees and tents)</li> <li>adjustable systems (awnings)</li> <li>shade sails.</li> </ul> <p>Shade structures should not create safety hazards. Support systems such as upright posts should be clearly visible with rounded edges or padding. Vertical barriers at the sides of shade structures should be designed to prevent children using them for climbing.</p> <p>Shade structures should allow adults to view and access the children's play areas, with a recommended head clearance of 2.1 metres. The floor area underneath the structure should be of a sufficient size and shape to allow children to gather or play actively</p>	<p><b>Consistent</b></p> <p>The proposed child care facility provides a verandah structure over the outdoor space attached to the main building.</p>
<b>4.12 Fencing</b>		
<p>Regulation 104</p> <p>Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.</p> <p>This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including a family day care venue where all children are over preschool age.</p> <p>Childcare facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the National Construction Code.</p>	<p><b><i>Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.</i></b></p> <p>Fencing at childcare facilities must provide a secure, safe environment for children and minimise access to dangerous areas.</p> <p>Fencing also needs to positively contribute to the visual amenity of the streetscape and surrounding area. In general, fencing around outdoor spaces should:</p> <ul style="list-style-type: none"> <li>prevent children climbing over, under or through fences</li> <li>prevent people outside the facility from gaining access by climbing over, under or through the fence</li> <li>not create a sense of enclosure.</li> </ul> <p>Design considerations for side and rear boundary fences could include:</p> <ul style="list-style-type: none"> <li>being made from solid prefinished metal, timber or</li> </ul>	<p><b>Consistent</b></p> <p>The proposed outdoor spaces will be enclosed with fencing of an appropriate height and material to ensure that children cannot go through, over or under it.</p>

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	<p>masonry</p> <ul style="list-style-type: none"> <li>• having a minimum height of 1.8 metres</li> <li>• having no rails or elements for climbing higher than 150mm from the ground.</li> </ul> <p>Fencing and gates should be designed to ensure adequate sightlines for vehicles and pedestrian safety in accordance with Australian Standards and Roads and Maritime Services Traffic Management Guidelines. Gates should be designed to prevent children leaving/entering unsupervised by use of childproof locking systems.</p>	
<p><b>4.13 Soil assessment</b></p>		
<p>Regulation 25</p> <p>Subclause (d) of regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval.</p> <p>With every service application one of the following is required:</p> <ul style="list-style-type: none"> <li>• a soil assessment for the site of the proposed education and care service premises</li> <li>• if a soil assessment for the site of the proposed childcare facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken</li> <li>• a statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.</li> </ul>	<p>To ensure consistency between the development consent and the service approval application, a soil assessment should be undertaken as part of the development application process.</p> <p>Where children will have access to soil the regulatory authority requires a preliminary investigation of the soil. This includes sites with or without buildings and existing approved children's services where:</p> <ul style="list-style-type: none"> <li>• the application is to alter or extend the premises</li> <li>• the alteration or extension requires earthworks or deep excavations (exceeding a depth of one metre)</li> <li>• the works are going to take place in an area used for children's outdoor play or will be used for children's outdoor play after the work is completed</li> <li>• a soil assessment has not been undertaken at the children's service.</li> </ul> <p>Minor landscaping, creation of sand pits, movement of play equipment and so on do not qualify as earthworks and do not require a soil assessment.</p> <p>An assessment of soil for a children's service approval application may require three levels of investigation:</p> <ul style="list-style-type: none"> <li>• Stage 1 - Preliminary investigation (with or without soil sampling)</li> <li>• Stage 2 - Detailed site investigation</li> <li>• Stage 3 - Site specific human health risk assessment.</li> </ul>	<p><b>Consistent</b></p> <p>A soil assessment was not considered necessary given the existing residential land use.</p> <p>Council's Environmental Health Officer confirmed the land use history for the site in question is pastoral followed by residential. Land contamination matters were considered back in 1999 during the DA process for the applicable residential subdivision (DA 0443/97), i.e. contamination investigation was undertaken by a duly qualified environmental consultancy and reviewed by the EPA, following which Council's Manager Env &amp; Health accepted that <i>'no sites subject of the subdivision are required to be noted in respect of potential contamination'</i>.</p> <p>Also, with reference to the submitted landscape plan, children are very unlikely to have contact with the onsite soil because the outdoor play areas are going to predominantly have the following surfaces: faux grass, decking, pavers and mulch. Imported topsoil, compost and mulch are most likely going to be used in the vegie garden and landscaped areas indicated on the plan.</p> <p>Regardless, a geotechnical report will be required at Construction Certificate stage.</p> <p>Council's Environmental Health Officer confirmed that based on the available information the site in question is suitable for the</p>

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		proposed development from a contaminated land perspective.
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Section 3.26 of the SEPP identifies development standards that, if complied with, prevent the consent authority from requiring more onerous standards for those identified matters. It is noted that the section does not prevent the consent authority from refusing a development application in relation to a matter not specified under this section, or from granting development consent even though any standard specified in this section is not complied with.

Subsection 3.26(2) states:

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

- (a) **location** – the development may be located at any distance from an existing or proposed early education and care facility,*
- (b) **indoor or outdoor space***
  - (i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) 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,*
- (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,*
- (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.*

Response: Noted.

The non-discretionary development standards have been adequately complied with. The subject site is not a heritage item nor is it located in a heritage conservation area.

Section 3.27 states:

*(1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility—*

- (a) operational or management plans or arrangements (including hours of operation),*
- (b) demonstrated need or demand for child care services,*
- (c) proximity of facility to other early education and care facilities,*
- (d) any matter relating to development for the purpose of a centre-based child care facility contained in—*
  - (i) the design principles set out in Part 2 of the Child Care Planning Guideline, or*

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

*(2) This section applies regardless of when the development control plan was made.'*

**Response:** These provisions are noted and are taken into consideration in the assessment of the subject development against the relevant development control plan.

#### **6.4 Wingecarribee Local Environmental Plan 2010 (WLEP 2010)**

Zoning:

The land is in Zone R2 – Low Density Residential under WLEP 2010. The proposed use of the site is within the definition of a *centre-based childcare facility* which is defined as follows:

**'Centre-based childcare facility** means –

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

*(i) long day care,*

*(ii) occasional childcare,*

*(iii) out-of-school-hours care (including vacation care),*

*(v) preschool care, or*

*(b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)), but does not include –*

*(c) a building or place used for home-based childcare or school-based childcare, or*

*(d) an office of a family day care service (within the meaning 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*

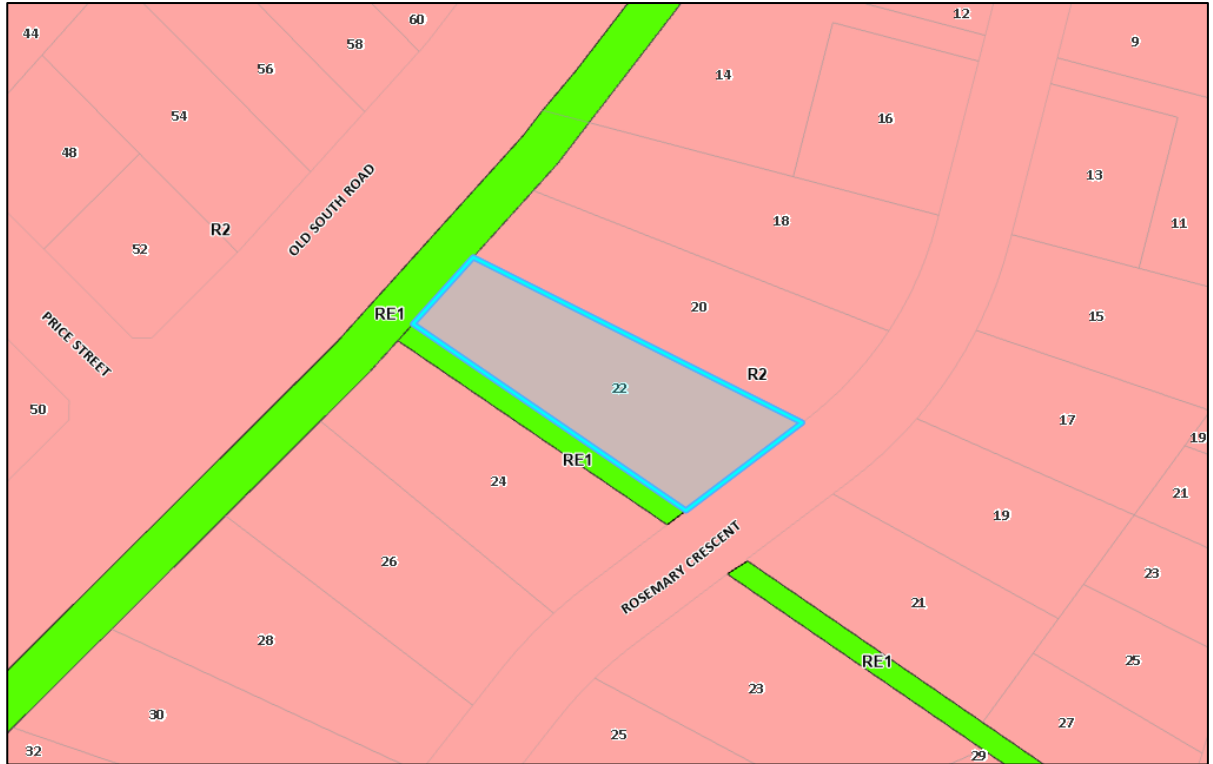
*(f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or*

*(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*

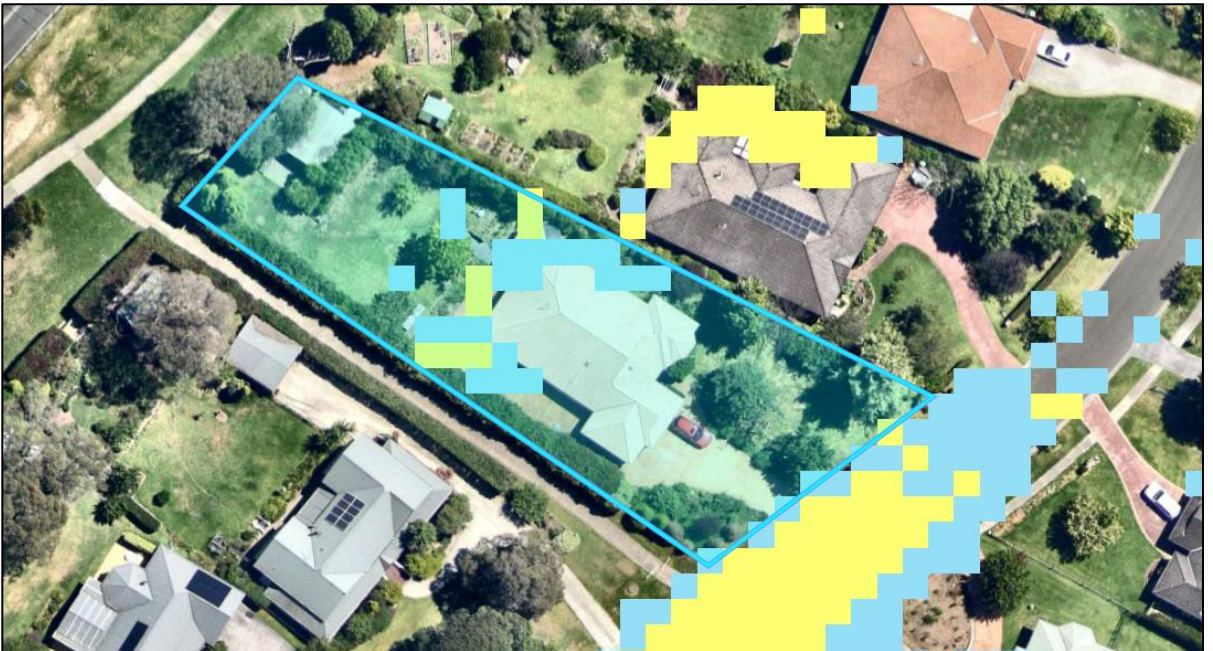
*(h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.'*

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The proposed use is specified as a permissible use within the R2 zoning of the site.



**Figure 12: Zoning Map**



**Figure 13: Flooding Map**

Principal Development Standards and Other Provisions:

The following principal development standards and other provisions in WLEP 2010 are also relevant to the proposal:

Clause	Development Standard	Proposal	Complies
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<b>Clause</b>	<b>Development Standard</b>	<b>Proposal</b>	<b>Complies</b>
<b>4.3 Height of buildings</b>	No height of building standard is specified for the site.	N/A	N/A
<b>4.4 Floor space ratio</b>	No floor space ratio (FSR) standard is specified for the site.	N/A	N/A
<b>5.10 Heritage conservation</b>	The site does not contain a heritage item and is not located in a heritage conservation area.	N/A	N/A

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Clause	Development Standard	Proposal	Complies
<p><b>5.21 Flood Planning</b></p> <p>This clause applies to the subject site which is shown on Council's mapping system as being entirely flood prone.</p>	<p>Section 5.21(2) provides that development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</p> <p>(a) is compatible with the flood function and behaviour on the land, and</p> <p>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> <p>Further to the above, section 5.21(3) provides that the consent authority must consider various matters in deciding whether to grant consent – including the intended design or scale of buildings resulting from the development, and whether the development incorporates measures to minimise risk to life and ensure safe evacuation in the event of a flood.</p>	<p>The proposal involves construction of a child care facility on land identified as a flood planning area.</p> <p>Council's Development Engineer has considered the submitted flood assessment and advised it is acceptable with the following comments made:</p> <ul style="list-style-type: none"> <li>▪ The applicant has proposed a child care centre which is marginally within the low and medium flood risk precinct as confirmed in Figure 13 above.</li> <li>▪ Child care centres are categorised as "Residential" within the Development Control Plan.</li> <li>▪ The submitted assessment has addressed the flooding prescriptive controls for residential use from the Bowral Township Development Control Plan. The assessment is satisfactory.</li> <li>▪ The assessment complies with the requirements of the objectives of section 5.21.</li> <li>▪ In relation to evacuation and site access from Rosemary Crescent during flood events: <ul style="list-style-type: none"> <li>○ The building's upper storey sits above the PMF level which allows for reliable access and pedestrian evacuation in the event of a flood. Evacuation can happen at the building's upper storey. This complies with the flooding prescriptive control of the Bowral Township Development Control Plan.</li> </ul> </li> </ul>	<p>Yes</p>
		<p>the flooding prescriptive control of the Bowral Township Development Control Plan.</p>	<p>Page   82</p>

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Clause	Development Standard	Proposal	Complies
<p><b>7.3 Earthworks</b></p>	<p>Section 7.3(2A) provides that development consent is required for earthworks carried out on land identified as “Flood Planning Area” on the Flood Planning Area map.</p> <p>The consent authority must consider a number of matters in deciding whether to grant consent – including the likely disruption of existing drainage patterns and soil stability in the locality.</p>	<p>The proposal involves construction within a flood planning area.</p> <p>Sufficient details have been provided regarding potential earthworks in relation to the development and its impact on the site in relation to the listed items.</p> <p>There is to be a Construction Management Plan to manage construction of the development including earthworks and a temporary shoring wall in relation to the extent of cut (being approximately 2m).</p> <p>A geotechnical report has also been requested for the site at Construction Certificate stage by Council’s Accredited Certifier. This is to be prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.</p> <p>It is noted that if Council or a private accredited certifier issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses, steel beams and the like. The details must be prepared by a qualified chartered professional practicing consulting structural engineer. Also, a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.</p>	<p>Yes</p>

DEVELOPMENT CONTROL PLAN			
SECTION	CONTROL	ASSESSMENT	COMPLIANCE
<b>PART A – ALL LAND</b>			
<b>Section 3 – Biodiversity</b>			

Clause	Development Standard	Proposal	Complies
<b>7.10 Public utility infrastructure</b>	Section 7.10(2) provides that development consent must not be granted for development on land to which this clause applies unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.	Council is satisfied that any public utility infrastructure that is essential for the proposed development is available.	Yes

## **7 Development Control Plans and Policies**

### **7.1 Bowral Township Development Control Plan (DCP)**

The Bowral Township DCP provisions are structured into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of the Bowral Township DCP are addressed below.

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<p><b>A3.2 Flora &amp; Fauna Assessment</b></p>	<p>Retain &amp; protect native species, endangered ecological communities, threatened species, Koalas and protect wildlife corridors.</p> <p>Required where the development will potentially impact native vegetation &amp; fauna.</p>	<p>The proposed retention and removal of trees and vegetation has been considered by Council's Trees &amp; Vegetation Section and is supported.</p>	<p>Yes</p>
<p><b>Section 5 – Flood Liable Land</b></p>			
<p><b>A5.3 Flood Liable Land</b></p>	<p>Development on mapped flood affected land referred to Council's Development Engineer for review and recommendations.</p>	<p>Council's Development Engineer has considered the submitted flood assessment and advised the proposed facility is acceptable.</p>	<p>Yes</p>
<p><b>Section 7 – Subdivision, Demolition, Siting &amp; Design</b></p>			
<p><b>A7.4 Cut &amp; Fill</b></p>	<p>Cut &amp; fill is consistent with LEP &amp; stepping of development to accommodate contours of site.</p>	<p>Proposed earthworks are acceptable in this regard.</p> <p>There is to be a Construction Management Plan to manage construction of the development including earthworks and a temporary shoring wall in relation to the extent of cut (being approximately 2m).</p> <p>A geotechnical report has also been requested for the site at Construction Certificate stage by Council's Accredited Certifier. This is to be prepared by a qualified geotechnical engineer detailing the foundation conditions of the site and solutions for consideration by a structural Engineer.</p> <p>It is noted that if Council or a private accredited certifier issues the Construction Certificate, engineering details must be submitted for approval for all structural elements, including but not limited to, piers, footings, reinforced concrete slab, first floor joist layout, roof trusses,</p>	<p>Yes</p>

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		steel beams and the like. The details must be prepared by a qualified chartered professional practicing consulting structural engineer. Also, a certificate from the engineer must be included certifying that the design fully complies with appropriate SAA Codes and Standards and the Building Code of Australia requirements.	
<b>A7.5 Shipping Containers</b>	The installation of shipping containers on any site is prohibited unless approval has been for the conversion and subsequent for use as a residential building.	Not applicable.	N/A
<b>A7.8 Principles on Minimum Acceptable Heritage Design</b>	New development is to be compatible with the existing streetscape in terms of materials, textures and colours.  Modern materials can be used in a traditional streetscape provided their proportions and details are harmonious within the surrounding development.	The proposed design (i.e. materials, textures and colours) is compatible with the existing streetscape.	Yes
<b>A7.9 Alterations to Items of Heritage</b>	Compliant with Clause 5.10 of the WLEP 2010.	Not applicable.	N/A
<b>A7.10 Development within the Vicinity of Heritage Items</b>	Adequately set back to ensure Heritage Item is not dominated by new development.  Compatible with architectural elements of nearby Heritage Item.  Compatible with the average height, bulk and scale of buildings located on adjoining or nearby land.	Not applicable.	N/A

<b>Section 8 – Safer by Design</b>			
<b>A8.4 Specific Design Requirements</b>	<p>The principles of Safer by Design may be applied to both commercial and residential development.</p> <p>In particular, Council requires all development to demonstrate that it provides:</p> <p>a) Well-defined building entrances which are clearly visible from the street. Narrow or splayed entrances are preferable to deep-set entrance ways.</p> <p>b) Internal spaces must be open and visible, eliminating hidden corners.</p> <p>c) Walkways and connecting paths must be open with good visibility.</p> <p>d) Signs and vegetation should be located so that they do not create ‘entrapment’ points where people are hidden from view.</p> <p>e) On-site garaging must provide clearly defined exit points and be lit at night, both inside the garaging and around the entrance/exit points. Such lighting should be movement-activated lighting that focusses on the access areas.</p> <p>f) Building entrances, walkways, connecting</p>	<p>The design of the proposed child care facility has demonstrated there is ability to meet Safer by Design requirements.</p> <p>However, whilst the design of the access gate would need to comply with the recommendations of the submitted noise assessment report, it would still need to be demonstrated that there is an open element to ensure good visibility from the pedestrian pathway. This is to be demonstrated at Construction Certificate stage.</p> <p>Details would also be required at Construction Certificate stage, to ensure lighting is provided at pedestrian entry points and car parking areas. It must not be directed to shine or cause nuisance to neighbouring properties and must be installed in accordance with AS4282 “Control of the obtrusive effects of outdoor lighting”.</p>	Yes

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	paths and garaging must be well lit in accordance with the provisions of Section A8 of this Plan to ensure that such lighting is down-ward focussed and effective without generating glare or annoyance beyond the area being lit.		
<b>Section 9 – Construction Standards &amp; Procedures</b>			
<b>A9.2 Sites Requiring Geotechnical Reports</b>	Geotechnical report is required for sites identified or potentially subject to geotechnical constraints, including land subject to instability, filling, or with a slope greater than 18 degrees.	The site is not identified or potentially subject to geotechnical constraints, however, this report will be required at Construction Certificate stage.	Yes
<b>A9.3 Building close to Sewer Mains &amp; Easements</b>	Development is clear of the sewer zone of influence.  Minimum clearance of 1.2m from any manhole.	The proposed child care facility is clear of the sewer zone of influence.	Yes
<b>A9.4 Building over 2+ Allotments</b>	Building work is proposed over two or more allotments, Council may require the consolidation of these lots.	Not applicable.	N/A
<b>A9.8 Stormwater Disposal</b>	Connection to inter-allotment drainage line, kerb and guttering, road table drain or council's stormwater mains.  <u>Onsite Disposal:</u> <4,000m <sup>2</sup> require hydraulic consultant's report for onsite disposal.  >4,000m <sup>2</sup> onsite trenches permitted.	Stormwater is proposed to be connected to the street. OSD and bioretention are clear of the sewer line.	Yes
<b>A9.12 Waste Management &amp; Disposal</b>	A Waste Management Plan is required for all demolition works and /or construction works (with a value greater than \$50,000).	A Waste Management Plan has been submitted addressing demolition and construction works.  It is noted that in relation to operational waste, on street collection is proposed.	Yes



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<p><b>A9.15 Re-Sited Buildings</b></p>	<p>Photos of building and Stat Dec stating the authenticity of photographs</p> <p>Certification from engineer regarding structural stability of building.</p> <p>Termite Certificate.</p>	<p>Not applicable.</p>	<p>N/A</p>
<p><b>PART C – RESIDENTIAL ZONED LAND</b></p>			
<p><b>Section 13 – Child Care Centres</b></p>			
<p><b>C13.3 Application Requirements</b></p>	<p>A statement clearly indicating the proposed number of children, their ages and staff numbers along with proposed hours of operation.</p>	<p>The DA indicates the proposed number of children, their ages and staff numbers along with proposed hours of operation.</p>	<p>Yes</p>
	<p>A letter of acceptance of the proposal from the NSW DOCS</p>	<p>This is not required at this stage.</p>	<p>N/A</p>
	<p>A Site Analysis Drawing (as described in Section A3 of this Plan)</p>	<p>A suitable site analysis plan has been submitted.</p>	<p>Yes</p>
	<p>Where a proposed development does not comply with a provision of this Section of the Plan, a statement explaining how the application otherwise achieves the aims and objectives of this Section.</p>	<p>N/A. The proposed child care facility is compliant.</p>	<p>Yes</p>
	<p>Where a child care centre is proposed on a site that is identified as potentially unhealthy or contaminated, an environmental site contamination</p>	<p>The subject site is not identified as potentially unhealthy or contaminated. As such, an environmental site contamination assessment is not required.</p>	<p>N/A</p>

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	assessment, demonstrating that the site is environmentally safe and is suitable for use as a child care centre; and		
	A detailed Landscape Plan prepared by a suitably qualified landscape professional addressing the provisions of this Plan.	A detailed landscape plan prepared by a suitably qualified landscape professional has been submitted that addresses the provisions of this Plan.	Yes
<b>C13.5 Development of New Buildings</b>	In residential areas, a minimum site area of 1,000 m <sup>2</sup> is required in order to overcome the potential problem of noise and nuisance. Sites less than this requirement will be considered on a merits basis.	The subject site exceeds 1,000sqm in area.	Yes
	Sites other than corner sites need to have a minimum width of 25 metres.	The site frontage exceeds 25m in width.	Yes
	Child care centres shall be set back a minimum of 4 metres from side and rear boundaries.	The proposed child care facility is set back a minimum 4m from side and rear boundaries.	Yes
	The entry areas of a child care centre should be setback at least 12 metres from the front boundary line. A 9-metre setback may be considered by Council where it can be shown that the objectives of A11.13 can be satisfied.	The proposed child care facility is set back 15m from the front boundary.	Yes
	For safety reasons, the optimal	The proposed design has minimised access to stairs.	Yes

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	height for a child care centre is one storey. A child care centre that exceeds one storey shall ensure the safety of children by minimising access to stairs.		
	A child care centre shall not be erected to a height greater than 2 storeys in height above the natural ground level on any part of the allotment, and in any event shall not exceed 9.5 metres in height above natural ground level to the ridge of the roof, measured at any point above the ridge.	The proposed child care facility is not to be greater than 2 storeys in height and is less than 9.5m in height.	Yes
	In order to minimise the possible adverse health effects to children of electromagnetic radiation emitted from telecommunication facilities, child care centres should be no closer than 300 metres to existing mobile phone towers or antennas or transmission line easements or other similar electromagnetic radiation sources.	Not applicable.	N/A
	Where a child care centre is proposed on a site that is identified as potentially unhealthy or contaminated, an environmental site contamination assessment must be produced to Council by the applicant to demonstrate that the site is environmentally safe and is suitable for use as	Council's Environmental Health Officer has confirmed that the subject site is not potentially contaminated.	Yes

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	a child care centre. This documentation must be provided with the Development Application.		
	<p>To ensure the safety of children, Council prefers that child care centres are not built:</p> <p>(i) on classified roads or within 30 metres of a classified road.</p> <p>(ii) in residential culs-de-sac, as culs-de-sac do not allow good traffic circulation and can result in additional traffic generation.</p>	Not applicable.	N/A
	Child care centres shall not be located adjacent to service stations or heavy industrial developments, as potentially harmful fumes or noise being emitted from either type of development may affect the health of children.	Not applicable.	N/A
	Child care centres will not be permitted on sites with existing swimming pools. DOCS licensing standards do not permit swimming pools within child care centre developments.	Not applicable.	N/A
	Car parking areas shall be located and designed to minimise potential danger to children and other users of the centre.	Car parking areas have been designed to minimise potential danger to children and other users of the facility.	Yes

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	<p>Parking and vehicle access areas are to be separated from any area used by children by safety fencing and gates.</p>	<p>These areas are to be separated by safety fencing and gates.</p>	<p>Yes</p>
	<p>If appropriate, pedestrian safety measures shall be installed (eg pedestrian crossings and refuges etc).</p>	<p>Pedestrian safety measures are to be installed.</p>	<p>Yes</p>
	<p>Car parking shall be provided at a rate of 1 space for every 4 children. Provision of car parking for permanent staff shall be in addition to this requirement.</p>	<p>Off-street car parking is provided at a rate of 1 space per 4 children (24 spaces) plus for five (5) permanent staff.  A total of 32 car parking spaces is proposed.</p>	<p>Yes</p>
	<p>Dimensions of parking spaces and vehicle access areas shall comply with Council's requirements as described in Part A.</p>	<p>Dimensions of parking spaces and vehicle access areas are compliant.  A signage and line-marking plan would need to be submitted at Construction Certificate stage for approval by the Local Traffic Committee.</p>	<p>Yes</p>
	<p>The centre should be designed to allow the safe drop off and collection of children and safe movement and parking of staff, parents, visitors, and service vehicles.</p>	<p>The proposed design allows for the safe drop off and collection of children and safe movement and parking within the site.</p>	<p>Yes</p>
	<p>Parking spaces and vehicle access points are to be located to ensure the safe movement of children to and from the centre.</p>	<p>As above.</p>	<p>Yes</p>

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	Standing areas for the dropping off and collecting of children are to be provided.	Standing areas are proposed.	Yes
	Access for people with disabilities should be provided to allow continuous wheelchair access from the street, car park, building entry and into individual playrooms and toilets.	Access for people with disabilities is to be provided. Council's Accredited Certifier has confirmed that an accessible design can be achieved.  This would need to be demonstrated at Construction Certificate stage with disabled access provisions to common and public areas to be in accordance with AS1428 Design for Access and Mobility and the Premises Code.	Yes
<b>C13.7 Noise</b>	Access points should be located so as to minimise disruption to neighbours (ie to reduce the impact of gates opening and slamming car doors when children are dropped off and picked up)	Access points are located so as to minimise disruption to neighbours.	Yes
	Playground areas should be appropriately located.	Playground areas are appropriately located.	Yes
	Appropriate location of windows and doors;	Windows and doors are appropriately located.	Yes
	No public address systems are to be installed at the centre	No public address systems are to be installed.	Yes
		Fencing and landscaping has been designed to	Yes

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	The use of fencing and landscaping to reduce the impact of noise	reduce noise impacts.	
	The proposed hours of operation, particularly the impact of early morning starting times.	The impact of the proposed hours of operation has been considered.	Yes
	To protect children from excessive noise which may be generated by proximity to roads, industrial premises, aircraft, or rail operations.	Children will not be exposed to excessive noise given the locality.	Yes
	Sites should be chosen which protect children from excessive noise.	As above.	Yes
	Details of any mitigation measures should be submitted in the Statement of Environmental Effects.	Not applicable.	N/A
	In situations where noise may be excessive from surrounding areas, an acoustic consultant's report may be required.	Not applicable.	N/A
	Where sites are adjoining or adjacent to railway land, the Department of Planning's	Not applicable.	N/A

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	document “Development near Rail Corridors and Busy Roads – Interim Guideline” must be considered.		
<b>C13.8 Outdoor Areas</b> <b>Play</b>	An outdoor play area shall be provided in each child care centre development, having space for the following areas, equipment and facilities:  (i) An open flat grassed area for running.  (ii) Quiet play areas for focused play (including a sandpit).  (iii) A formal quiet area for contained play (eg finger painting).  (iv) An active area for busy physical play which includes:  (v) some paved surfaces for wheeled toys; and  (vi) suitable play equipment with impact absorbent material beneath.	An outdoor play area is proposed as required.	Yes
	A transition zone from indoor and outdoor areas for covered outdoor play. The transition zone shall be a veranda with a minimum width of 4 metres.	A transition zone is proposed as required.	Yes
		A baby / toddler area is	Yes



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	A baby/toddler area which is flat, soft, and separated from older children.	proposed as required.	
	Secure fencing.	Secure fencing is proposed.	Yes
	A variety of surfaces, such as grass, sand, hard paving and moulding shall be provided in outdoor play areas. The heat absorption qualities and texture of materials must be suitable, with surfaces such as bitumen (due to surface temperatures exceeding 45° in summer) being avoided.	A variety of surfaces is proposed in outdoor play areas.	Yes
	Outdoor play areas are not to be located so that they are adjacent to the living/bedroom areas of adjoining residents, busy roadways or driveway areas and other potential noise or pollution sources.	The location and design of outdoor play areas is appropriate.	Yes
	Outdoor play areas must not be occupied by any motor vehicles during operating hours.	As above.	Yes
	Outdoor play areas shall have immediate access	As above.	Yes

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	to toilets.		
	Where possible, outdoor play areas shall be located to the north or north-east of the site to ensure that play areas receive adequate sunlight.	As above.	Yes
	Outdoor play areas shall be designed to allow constant supervision and access to children by staff.	As above.	Yes
	Outdoor play areas shall utilise the site's natural features (where possible).	As above.	Yes
	Attention should be given to the design and construction of outdoor play areas, to provide a variety of experiences for children.	As above.	Yes
	All outdoor play areas are to be shaded in accordance to the recommendations and considerations of the NSW Cancer Council and the NSW Health Department publication <i>Under Cover: Guidelines For Shade Planning and Design</i> .	As above.	Yes
<b>C13.9 Landscaping and Vegetation</b>	Retain and protect those individual remnant native specimens that are found scattered throughout the township of Bowral.	The proposed retention and removal of trees and vegetation has been considered by Council's Trees & Vegetation Section and is supported.	Yes

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	Be in keeping with adjoining developments.	The proposed landscaping is in keeping with adjoining developments.	Yes
	Be designed to provide a noise barrier and privacy screen for adjoining residents. In residential zones, or on land adjoining residential zones, a 1.5 metre landscaping strip shall be provided on all boundaries to help with noise abatement and privacy.	Suitable noise barriers and privacy screens are proposed.	Yes
	Ensure that existing natural features and significant vegetation are conserved where possible to help increase the amenity of the area. Where appropriate, existing trees are to be retained and incorporated as shade elements in outdoor play areas.	Existing natural features are to be conserved where possible.	Yes
	Plant species shall be chosen for their suitability to the site, ease of maintenance and interest to children.	Proposed plant species are suitable.	Yes
	Plant species shall not be toxic, allergic, prickly or otherwise unsafe for children.	As above.	Yes

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	<p>When choosing plant species, the following shall also be considered:</p> <p>(i) protection from prevailing winds;</p> <p>(ii) shelter and enclosure;</p> <p>(iii) shade;</p> <p>(iv) reduction of reflection from bright surfaces;</p> <p>(v) emphasis of pedestrian and vehicular routes; and</p> <p>(vi) good visibility of play areas.</p>	As above.	Yes
<b>C13.10 Fencing and Gates</b>	<p>Outdoor play areas must be fenced on all sides by fencing of at least 1800 mm in height.</p>	Proposed fencing is at least 1.8m in height.	Yes
	<p>No play equipment shall be located adjacent to a fence if, by doing so, it reduces the effective height of the fence and enables it to be scaled.</p>	No play equipment is to be located adjacent to a fence.	Yes
	<p>All gates leading to or from play areas shall be equipped with child self locking mechanisms.</p>	All gates are to be equipped with child self locking mechanisms.	Yes
	<p>Access to and from the centre must be through one main door which can be properly</p>	Access to and from the proposed child care facility is to be through one main door.	Yes

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	supervised by adult staff to ensure the protection of children from intruders.		
<b>C13.11 Signage</b>	Signage shall comply with the requirements of Section A10 above.	No signage is proposed as part of this application.	N/A
<b>C13.12 Hours of Operation</b>	Where a child care centre is proposed within a residential area or adjoining a residential area, the hours of operation shall generally be limited to 7 am to 6 pm, Monday to Friday. Operating hours outside these times will be considered on their merits.	The proposed hours of operation are within these times.	Yes

**7.2. Wingecarribee Contributions Plan**

Developer contributions are payable on the proposed development as follows:

- Section 7.11

Not applicable. The proposed development is not subject to a Section 7.11 Contributions Plan.

- Section 7.12

Not applicable. The proposed development is not subject to a Section 7.12 Contributions Plan.

- Section 64

*Water & Sewer*

Day School  
 0.04 Water & Sewer ET rate per student  
 $0.04 \times 96 = 3.84$   
 $3.84 - 1 \text{ ET credit} = 2.84 \text{ ET}$

*Stormwater*

Proposed site impervious area = 1,343.5sqm  
 Impervious area / 400sqm = 3.358 – 1ET credit = 2.358 ET

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<b>Contributions Levy</b>	<b>Units</b>	<b>Rate</b>	<b>Amount Payable</b>
<b>S64 Sewer Compliance Certificate</b>	<b>1.00</b>	<b>\$255.00</b>	<b>\$255.00</b>
<b>S64 Stormwater Compliance Certificate</b>	<b>1.00</b>	<b>\$255.00</b>	<b>\$255.00</b>
<b>S64 Stormwater (Bowral)</b>	<b>2.36</b>	<b>\$4,308.28</b>	<b>\$10,158.93</b>
<b>S64 Sewerage (Shirewide)</b>	<b>2.84</b>	<b>\$12,759.13</b>	<b>\$36,235.93</b>
<b>S64 Water Compliance Certificate</b>	<b>1.00</b>	<b>\$255.00</b>	<b>\$255.00</b>
<b>S64 Water (Shirewide)</b>	<b>2.84</b>	<b>\$13,161.01</b>	<b>\$37,377.28</b>
<b>Total</b>			<b>\$84,537.14</b>

**8 Environmental Assessment**

The site has been inspected (5 December 2023) and the application has been assessed having regard to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, as amended.

<b>Section 4.15 'Matters for Consideration</b>	<b>Comments</b>
Section 4.15 (1)(a)(i) – Provision of any environmental planning instrument	See discussion in section 6 and key issues below.
Section 4.15 (1)(a)(ii) – Provision of any draft environmental planning instrument.	Nil
Section 4.15 (1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Bowral Township DCP. See the relevant table in this report and the discussion below.
Section 4.15 (1)(a)(iiia) – Provision of any Planning Agreement or draft Planning Agreement.	Not applicable.
Section 4.15 (1)(a)(iv) – Provisions of the Regulations.	The relevant clauses of the Regulations have been satisfied.
Section 4.15 (1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report. The proposed development is consistent with the dominant character in the locality. The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15 (1)(c) – The suitability of the site for the development.	The site is located in close proximity to local services. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is

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<b>Section 4.15 'Matters for Consideration</b>	<b>Comments</b>
	considered suitable for the proposed development.
Section 4.15 (1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation.	The issues raised in the submissions have been addressed in this report.
Section 4.15 (1)(e) – The public interest.	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

## **9 Referral Comments**

This DA was referred to the following officers within and external to Council:

### **Internal Council Referrals:**

#### Accredited Certifier:

Subject to the following details being provided, no objection and recommended conditions of consent.

- Details are required showing Fire Resistance Levels (FRLs) of each building element of the proposed childcare facility.
- Provide a schedule/plan indicating existing and proposed fire safety measures by a competent fire safety practitioner/designer.
- No design details for fire safety measures have been included as part of the application however this can be done at CC application stage.

The applicant responded to this request in letter dated 7 March 2024 as follows:

*'As is a requirement for the construction certificate process, we confirm that all this information will be provided with the construction certificate documentation to the Private certifier that will be assessing the application.*

*We also confirm that due consideration in the design process has been given to the Type and Class of building that is being constructed on the site and intern the requirements of both the FRL and also fire safety measures. Once the development has been approved, we will continue the detailed design with the relevant fire safety practitioner for the works.*

*As the applicant, we are happy for compliance with the relevant standards and NCC to be conditioned as part of any DA approval for the development.'*

This response was accepted by Council.

#### Development Engineer:

No objection subject to recommended conditions of consent.

The following has been noted:

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*Traffic & Parking*

- The applicant has proposed to introduce an additional traffic island to direct the traffic left out only while exiting from the site. Council's Senior Traffic Engineer has confirmed this is satisfactory.
- The concept access plan has been conditioned. The median is to be designed to be more of a deterrent for the right turn.

*Flooding*

- The applicant has submitted an updated flood assessment statement addressing all the flood controls recommended by the DCP. This is acceptable.

*Stormwater Drainage*

- The development site falls towards the street. The applicant is proposing to discharge any overflow from the bio retention basin to the existing kerb inlet pit. This is satisfactory.
- Detention is required to address the significant change in imperviousness and has been provided. This is satisfactory.

Sewer / Water Development Engineer:

No objection subject to recommended conditions of consent.

Any Section 68 application would need to include a cross section through Council's potable water and wastewater mains demonstrating the proposed demolition and slab / pavement construction do not impact on Council's assets.

An appropriately sized water service will also need to be installed to the development by Council at the applicant's cost prior to the issue of the Occupation Certificate.

Environmental Health Officer:

No objection subject to recommended conditions of consent.

The following has been noted:

*Contamination*

- The land use history for the site in question is pastoral followed by residential. Land contamination matters were considered back in 1999 during the DA process for the applicable residential subdivision (DA 0443/97), i.e. contamination investigation was undertaken by a duly qualified environmental consultancy and reviewed by the EPA, following which Council's Manager Env & Health accepted that '*no sites subject of the subdivision are required to be noted in respect of potential contamination*'.
- Also, with reference to the submitted landscape plan, children are very unlikely to have contact with the onsite soil because the outdoor play areas are going to predominantly have the following surfaces: faux grass, decking, pavers and mulch. Imported topsoil, compost and mulch are most likely going to be used in the vegie garden and landscaped areas indicated on the plan.
- Accordingly, based on the available information Council can be satisfied that the site in question is suitable for the proposed development from a contaminated land perspective. Requiring the applicant to submit a PSI and/or DSI in this case would be likely to be perceived as a rather onerous request.
- Taking into account that the existing building proposed to be demolished is likely to have been built before 1990, it is likely to contain Asbestos Containing Material (ACM) and is to be addressed by a condition of any consent granted.



*Noise*

- The submitted noise assessment report appears to have been approved by a qualified Audio Engineer and generally follows the applicable AAAC Guidelines.

*Food Premises*

- The submitted floor plans do not show much detail of the design, construction and fit-out of the kitchen and other food storage and handling areas. Taking that into account, this is to be addressed by conditions of any consent granted.

Trees & Vegetation Section

No objection to the findings and recommendations in the submitted Arboricultural Impact Assessment subject to recommended condition/s of consent.

It is noted eight (8) trees requiring removal are numbered T6, T10, T11, T14, T15, T22, T26 & T29 and 14 trees that are exempt and requiring removal are numbered T4 T12, T13, T16-T21, T23-T25 T27-T28, T30 and T33.

**External Referral:**

Water NSW:

Concurrence granted (dated 23 January 2024).

The following has been noted in advice dated 26 April 2024:

*'Since there is no change in the approved stormwater plan (version P2, 18/12/2023) or increase in impervious area as part of this referral, Water NSW do not have any objections with the proposed amendment and Water NSW's previous concurrence advice (dated 23 January 2024) still applies.'*

Endeavour Energy:

No objection subject to recommended conditions of consent dated 29/11/2023.

**10 Conclusion**

That Development Application No. 24/0673 for Demolition of Existing Dwelling and Associated Structures and Construction of Centre-based Childcare Facility (96 Children / Places), at 22 Rosemary Crescent, Bowral, be determined by APPROVAL subject to the conditions detailed in **Attachment 1:**

- The proposal is consistent with the relevant objectives contained within the *Wingecarribee Local Environmental Plan 2010* and the relevant requirements of the Bowral Township Development Control Plan.
- The proposal is consistent with the specific objectives of the R2 Low Density Residential Zone in that the proposed development will meet the day to day needs of residents.

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**ATTACHMENTS**

1. Attachment 1 – Draft Conditons of Consent
  2. Notice of Payment
  3. Water NSW Concurrence
  4. Plans
  5. Noise Assessment
  6. Arboriculture Impact Assessment
  7. Waste Management Plan
-

## **6.2 22/1747 - Construction of Retail / Commercial Building - 51 Renwick Drive, Renwick**

**Report Author: Consultant Planner**

**Authoriser: Manager Development Assessment & Regulation**

### **PURPOSE**

The purpose of this report is to present Development Application No. 22/1747 for the Panel's consideration and recommends determination by APPROVAL.

<b>Consultants</b>	Planning Ingenuity
<b>Applicant</b>	D Vitalone
<b>Landowner</b>	Vitalone Nominees Pty Ltd
<b>Zoning</b>	E1 Local Centre
<b>Date Lodged</b>	18 May 2022
<b>Proposed Development</b>	Construction of Retail / Commercial Building
<b>Estimated Cost of Development</b>	\$1,640,474
<b>Notification Period</b>	1 June 2022 to 4 July 2022
<b>Number of Submissions</b>	23 submissions (17 unique submissions)
<b>Political Donations</b>	Nil
<b>Reason for Referral to Panel</b>	Development that is the subject of 10 or more unique submissions by way of objection

### **OFFICER'S RECOMMENDATION**

- 1. THAT the Local Planning Panel approve Development Application No. 22/1747 for Construction of Retail / Commercial Building at 51 Renwick Drive, Renwick, subject to the conditions detailed in Attachment 1 of this report.**
- 2. THAT Council advise those who made written submissions of the Panel's decision.**

### **EXECUTIVE SUMMARY**

#### **1. Executive summary**

The development proposal seeks the construction of a two-storey neighbourhood commercial centre which includes a total of 7 commercial and retail tenancies and car parking for 33 spaces.

The subject site is located within land zoned E1 Local Centre and is located in the Village Centre of Renwick Precinct. The purpose of the site is to contribute to the community by providing a use that meets the personal and communal living needs of the local residents, and also stimulate and encourage the residents to meet, communicate and work together. The development adjoining to the south is the Renwick Community Centre and Square Park and to the east is the Mirren Nungunna Gulla Park which services the social and recreational needs of the community.

Surrounding the site are predominantly low-density residential housing of detached one storey new builds.

The subject site is vacant and cleared of vegetation with a substation owned by Endeavour Energy located to the south western corner of the site. The site is rectangular in shape and is bounded by Renwick Street to the east and Whitefield Lane to the west.

The subject site is not located within a heritage conservation area however, it is located within a heritage item site known as Renwick Silos Precinct (I1618) under the *Wingecarribee Local Environmental Plan 2010* (WLEP 2010). The site is not identified as bushfire prone land or flood affected and the site is not affected by riparian lands or biodiversity values. The site has access to sewer and water connection.

The proposal was notified to adjoining neighbours from 1 June 2022 to 4 July 2022 in accordance with Council's community participation strategy. A total of 23 submissions were received (17 unique). The issues raised by the submissions have either been addressed via amended plans or discussed within this report.

The development proposal is consistent with the provisions of the relevant State Environmental Planning Policies, WLEP 2010 and the Mittagong and Renwick Development Control Plan. The proposal provides a reasonable amenity impact for the occupants, neighbouring properties and public domain and results in no adverse environmental impacts. The proposed commercial building will create opportunities for new commercial and retail services that will contribute to meeting the day to day needs of the Renwick community and would be of the public interest. On this basis, the proposed application is supported.

## **2. Site Description and Locality.**

The subject site is located at 51 Renwick Drive Renwick and comprises Lot 21 in DP 1241460. The site is regular in shape and has a total site area of 1983m<sup>2</sup>. The site has two frontages with the site located west of Renwick Drive and east of Whitefield Lane. The primary eastern frontage to Renwick drive is 47.49m in length and the secondary western frontage to Whitefield Lane is 47.4m in length. The northern side boundary is 40.55m and the southern side boundary is 42.02m in length.

The site is a vacant cleared site containing no trees or vegetation. The land is part of a relatively new subdivision where substantial earthworks would have occurred to remove all such structures and vegetation from the land. An electrical substation is located on the south western corner of the site and there are existing easements around the substation which benefit Endeavour Energy. The site has a slight slope of 1m from south western corner to north eastern corner towards Renwick Drive.

The site is not located within a heritage conservation area however, it is located within a heritage item site known as Renwick Silos Precinct (I1618) under the WLEP 2010. The site is not identified as bushfire prone land or flood affected and the site is not affected by riparian lands or biodiversity values. The site has access to sewer and water connection.

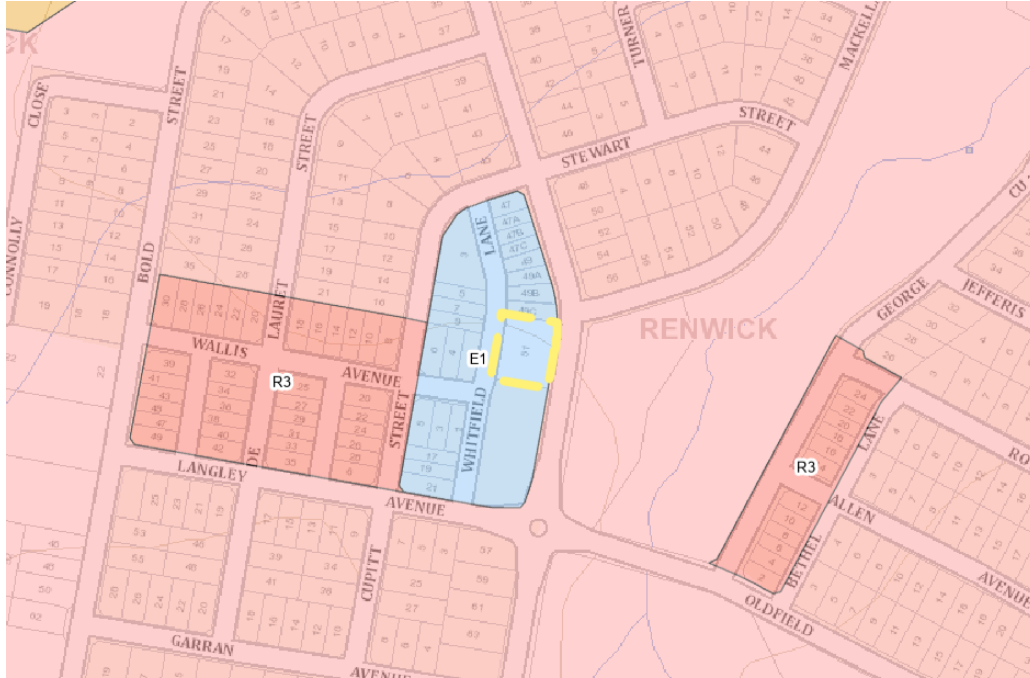
The site is located within the Village Centre of the Renwick Precinct which is to meet the basic personal and communal living needs of local residents, and also stimulate and encourage the residents to meet, communicate and work together. The Village Centre is to accommodate basic shopping, cultural, recreational and social facilities, offer maximum convenience and comfort, and must be an attractive destination, with a unique 'sense of place', for locals and visitors alike.

The development adjoining to the south is the Renwick Community Centre and Square Park and to the east is the Mirren Nungunna Gulla Park which services the social and recreational needs of the community. Surrounding the site are predominantly low-density residential housing of detached one storey new builds with pitched roofs. Specifically, detached residential single storey housing is

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located north and west adjoining to the site at 49C Renwick Drive and opposite Whitefield Lane at 7-9 Whitfield Lane and 2 Wallis Avenue. Mittagang town centre and train station is located 3km west of the subject site.



**Figure 1: Locality Map**



**Figure 2: Drone aerial photo – Site outlined in 'Red'**

**3. Background**

### **3.1 Site history**

A pre-lodgement meeting with the applicant and Council was held on 22 February 2022 for the two-storey neighbourhood shopping centre with associated parking. The key notes that arose from the meeting include the following:

- Previous subdivision of the overall estate (DA07/0946) undertook various works which made the land satisfactory for further development (in terms of site contamination);
- Concurrence would be required from Water NSW in accordance with water catchment requirements under the SEPP (Biodiversity and Conservation) 2021;
- Proposal largely complies with Mittagong and Renwick DCP;
- Noise impacts of loading dock is to be addressed in the DA;
- A Traffic and Parking Assessment Report is required addressing traffic generation, car parking demand and supply, vehicle manoeuvring, disabled access and access points;
- An Acoustic Report is required addressed potential noise sources;
- Connectivity provides for pedestrian to the Square Park;
- External lights spillage to not adversely impact on residents;
- Site is a local listed heritage items under WLEP 2010 (I618 and I275) as the 'Former Renwick Institution including brick silo, pair of mass concrete silos and silo precinct'; and
- Conceptual Stormwater Management Plan is required.

The above requirements have been addressed via the supporting documents provided with the application or amendments to the preliminary design or by way of condition which has been discussed throughout the report.

### **3.2 DA history**

Council issued numerous requests for additional information during the assessment process to address raised by referral agencies and/or as a result of issues raised in public submissions. A summary is provided below.

#### **3.2.1 Engineering and Sewer issues**

Council requested the below information on 29 November 2022:

- There is a Council's sewer main running through the site. The applicant is proposing an underground OSD tank which might clash with Council's sewer main. The applicant shall investigate this to ensure there is appropriate clearance to the sewer main prior to the DA determination.
- Any sewer main will need to be contained within 3m wide easement benefited Council. As a result, all stormwater structures (i.e. above ground bioretention basin, underground OSD tank) will need to be relocated to be away from the sewer easement.

- Provide information showing the building extents, OSD and retaining walls with respect to the Council sewer maintenance structures and sewer main. The applicant is required to shown an overlay of these structures to determine if there is a clash.

The applicant responded on 23 January 2023 with a surveyed sewer location showing the proposed building will impact the sewer location. Council's Water and Sewer Engineer and Development Engineer provided conditions that will require the applicant to relocate the sewer prior to commencement of building works. Conditions recommended by Council's Water and Sewer Engineer have been included in **Attachment 1**.

### **3.2.2 Environmental Health – Noise impact**

Council requested the below information on 29 November 2022:

- To effectively prevent likelihood of such offensive noise, the loading dock deliveries should be restricted to the hours of 7am to 9pm on Monday-Friday and 8am-9pm on Weekends and Public Holidays.

The applicant's responded on 23 January 2023, agreeing to the loading dock delivery hours. In addition, an acoustic wall is proposed to be erected on the boundary adjoining 49C Renwick Drive. The restriction on loading dock delivery hours has been recommended as a condition of consent and is also included in **Attachment 1**.

### **3.2.3 Water NSW – Stormwater and water quality**

Council requested the below information on 29 November 2022:

- Provide an e-copy MUSIC model (.sqz form) for assessment of stormwater management.

Numerous inadequate MUSIC model revisions were provided throughout the assessment process. An adequate and final MUSIC model dated 18 July 2023 was submitted to Council on 21 August 2023 which was approved by Water NSW on 20 October 2023 subject to conditions. The Water NSW referral response is included in this report as well as the recommended conditions of consent.

### **3.2.4 Planning**

Council requested the following amendments on 24 March 2023:

- The proposed design and scale of the development is not considered to reflect the existing adjoining and nearby residential development. The submitted Elevations Plan shows a flat 'boxy' design, which is not reflective of the immediate locality. The applicant is requested to adequately address this concern with reference to the character of the local area.
- The architectural design and treatment is to adequately address Section 16 of the Mittagong Township DCP in relating to the culture, identity and character of the Southern Highlands.

The applicant responded on 9 May 2023 with a revised set of elevations showing a pitched roof and architectural style that is more "in character" with the surrounding development and locality.

Council requested the following information and amendments on 10 November 2023:

- Shadow diagrams demonstrating there is no adverse impacts to the adjoining residential properties and complies with C2.5.2(d) of the Mittagong (Renwick) DCP.
- *Nyssa Sylvatica* trees proposed on the edge of the carpark is to be changed to a local native specimen and/or recommended in Council's DCP. The trees selection is to not have berries and roots that will adversely impact the cars parked under the trees and cause trip hazards.

A combined revised set of plans were provided with all the doors and windows shown for each tenancy and the external materials, finishes and colours detailed on the elevations.

The applicant responded on 24 November 2023 with the additional information requested above including a revised landscape plan proposing *Tristaniopsis Laurina* species which is ideal for car parking sites.

Shadow diagrams also demonstrated that there would be no adverse impacts to the adjoining residential properties in terms of solar access.

### **3.2.5 Traffic and transport**

Council requested the below information on 29 November 2022:

- Provide evidence that the proposed car park entry/exit in Renwick Drive will not clash with the works associated with the raised pedestrian crossing in Renwick Drive.
- Traffic and parking assessment report required addressing traffic generation, car parking demand and supply, and vehicle manoeuvring/swept paths for all vehicles.

The applicant responded on 3 October 2024 with a revised survey showing the location of the raised pedestrian crossing on Renwick Drive and the proposed vehicle crossing being sufficiently set away from the raised pedestrian crossing. A Traffic Report was also submitted which was referred to Council's for comment from Council's Traffic officers.

### **3.2.6 Endeavour Energy**

Council noted the following issues raised by Endeavour Energy on 2 February 2024:

- Two car spaces encroach on the substation easement restriction which requires no permanent or temporary development to encroach this area and impede access to the substation.

The issues were discussed with the applicant and Endeavour Energy and it was resolved that the deletion of two car parking spaces will be adequate for the development and will meet the restriction requirements of the title as well as still comply with the DCP car parking rates.

## **4. Proposed development**

As detailed in Section 3 of this report, the development has been amended multiple times to address the issues of Council and the public.

The final design which is subject of this report involves the construction of a two-storey neighbourhood commercial centre which includes 7 tenancies (3 retail on the ground floor and 4 commercial tenancies on the first floor) and car parking for 33 spaces.

Specifically, the proposed works include the following:

### **Ground level:**



- New driveway for entry/exit to the carpark area from Renwick Drive and Whitfield Lane;
- Pedestrian connection from Square Park and from Whitfield Lane and Renwick Drive;
- Carparking for 33 car parking including one accessible space;
- Lobby entry off Renwick Drive with stairs and lift to the first floor level;
- Loading dock and garbage enclosure off Whitfield Lane;
- Acoustic wall north of loading dock and adjacent to 49C Renwick Drive;
- Retention of existing electricity substation owned by Endeavour Energy;
- Landscaping along southern boundary and street frontage;
- Main entry to commercial building and secondary entries to tenancies; and
- Three tenancies to include retail uses of total gross floor area of 715m<sup>2</sup>.

**First Floor Level**

- Entry off Renwick Drive via stairs and lift to the ground floor level;
- Four tenancies to include commercial uses of total gross floor area of 215m<sup>2</sup>;
- Two accessible bathrooms; and
- Plant deck.

Whilst the plans indicate that there are 33 car spaces, a condition is imposed to delete 2 car parking spaces to comply with Endeavour Energy requirements for safety buffers around the existing substation and existing easements which has been discussed and agreed to by the applicant. Even with the deletion of these car spaces, the proposed development still complies with Council’s car parking rates in the DCP.

The fitout and use of each tenancy and any associated signage is subject to a separate development application. A condition is imposed to this effect.

The proposed development will also involve the relocation of the sewer line due to a conflict between the location of the new building and the existing sewer line which runs along the front property boundary. A condition of consent has been imposed to require the relocation of the sewer to occur prior to the commencement of building work for the new building.

The proposed development also involves a stormwater management system involving the discharge of stormwater to Council’s existing kerb inlet pit at Renwick Drive and landscaping.

**5. Notification**

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance the *Notification of Development Proposals Policy – 14 November 2018*.

The notification period was from 1 June 2022 to 4 July 2022.

The following total submissions were received because of the notification process:

- Total of **23 Submissions** (including 17 unique submissions):

Issue	Comment
<p><b>Architectural design and character</b></p> <p>The submissions raised concerns that the proposed design is inconsistent with the character of the Renwick Precinct in particular and indigenous history, the flat roof design, and industrial factory look of the commercial building. The architecture style does not fit with the village nature of the comment and</p>	<p>The plans were amended to provide a raked roof form, vertically proportioned rectangular windows and a protruding triangular featured entry. The proposal is a contemporary commercial building of high quality design standard with materials finishes and colours consisting of Colorbond grey steel roofing, neutral concrete wall panels and terracotta</p>

Issue	Comment
<p>does not meet the rural feel of the Renwick community. In addition, the proposal does not meet the Village Centre objectives of Section 16.4 of the DCP in that it won't be an attractive design, does not have a sense of place and does not relate to the character of the Southern Highlands.</p>	<p>aluminium cladding. As a result of these design changes and the proposed materials, finishes and colours, the proposed commercial building is more in line with the design, style and proportions of the surrounding development within Renwick Precinct. The surrounding development consists of predominantly residential new builds that have raked grey steel roof and protruding front porches/entries or front rooms. To the south is Renwick Community Centre which also includes a raked grey steel roof and neutral concrete wall panels.</p> <p>As the scale is part one to part two storey, the proposal does not clash with the surrounding rural landscape and maintains a village feel as a neighbourhood commercial centre for Renwick Precinct. The proposal will activate the frontage to Renwick Drive and provide the opportunity for outdoor dining and liveliness which will contribute in giving the community a sense of place and a place to socialise, work and enjoy. Given the above, the amended plans is considered to reflect the character and architectural design of the Renwick Precinct and meets the Village Centre objectives as discussed in the Section 16.3 of the DCP.</p>
<p><b>Privacy</b></p> <p>The submissions have raised concerns that the two storey form results in windows overlooking into neighbouring properties</p>	<p>The amended plans have removed the first floor windows on the western elevation. The northern elevation which is adjacent to No. 49C Renwick Drive has not windows proposed and the windows proposed to the western elevation which is adjacent to No. 7-9 Whitfield Lane are located only to the ground level and will not result in any overlooking. Given the above, the proposal will result in no adverse privacy impacts.</p>
<p><b>Traffic flow</b></p> <p>Concerns were raised regarding the proposed car parking entry and exit into Whitfield Lane. Whitfield Lane is a narrow lane that is part of a residential area within children often riding bikes and skateboards down the lane. The proposed access from Renwick Drive should be sufficient.</p>	<p>As discussed in the report, the applicant has submitted a Traffic Report and it has been reviewed by Council's Transport Engineer. No objections regarding access/ egress were raised by Council's Traffic Engineer.</p>

Issue	Comment
<p><b>Noise impact</b></p> <p>A submission has raised concerns that the proposed air-conditioning unit located on the roof will have adverse noise impact particularly over time as it ages or if it is not installed properly.</p> <p>Noise concerns were also raised in relation to the use of the loading dock.</p>	<p>Council’s Environmental Health Officer has imposed conditions requiring the air-conditioning unit to be reviewed by a qualified acoustic professional and appropriate acoustic mitigation measures applied to ensure compliance with the relevant noise emission criteria specified. The recommended conditions also include the requirement for ongoing compliance with the EPA Noise Policy for Industry and which can be enforced by Council. Subject to the recommended conditions, the air-conditioning unit will have no adverse noise impacts.</p> <p>As discussed throughout this report, conditions have been imposed restricting the hours of the loading dock to minimise impacts on adjoining residents.</p>
<p><b>Trees</b></p> <p>A submission has raised concerns that the Nyssa Sylvatica trees proposed on the edge of the carpark will attract birds as the berries are a popular food causing nuisance and bird poo to cars. In addition, these trees have a root systems that may break up the concrete and cause trip hazards and therefore, shrubs are preferred.</p>	<p>As discussed above in this report, an amended landscape plan was provided which changes the Nyssa Sylvatica trees to Tristaniopsis Laurina trees. These are common trees used in car parks and does not include berries for birds and a root system that will cause a trip hazard. Tree are encouraged for the site instead of shrubs in order to contribute to the tree canopy coverage of the locality and reduce urban heat.</p>
<p><b>Commercial and retail spaces</b></p> <p>Concerns were raised over the number of proposed commercial spaces and whether 3-4 would be too many for the community.</p>	<p>There is a total of 7 new commercial tenancies. The three tenancies on the ground floor are intended to be “retail” premises and the four (4) tenancies on the first floor are proposed as commercial/office spaces. There is no minimum or maximum gross floor area under the LEP which would restrict the size or number of commercial tenancies proposed.</p>

## **6. Relevant Environmental Planning Instruments**

### **6.1 State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4 of SEPP Resilience and Hazards 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use. The previous subdivision of the overall estate (DA07/0946) undertook various works which made the land satisfactory for further

development (in terms of site contamination). Council is satisfied that the land is not a site of possible contamination and therefore no further assessment of contamination is required.

## **6.2 State Environmental Planning Policy (Biodiversity Conservation) 2021**

### **Chapter 2 – Vegetation in non-rural areas**

The site is cleared of vegetation and as such, the provisions of Chapter 2 as they relate to tree removal in non-rural areas and zones does not apply to the proposed development.

### **Chapter 4 – Koala Habitat**

This chapter applies to the local government area of Wingecarribee; however the site is cleared of vegetation and is less than 1 hectare in size so the provisions of Chapter 4 do not apply to this development.

### **Chapter 6 – Water Catchments**

The site is within the Warragamba Catchment and therefore Chapter 6 is applicable to the assessment of the application. Due to the scale and nature of the commercial development, the application was categorised as a Module 5 development for the purposes of the Neutral or Beneficial Effect on Water Quality Assessment Guideline and therefore Concurrence required by Water NSW.

Numerous inadequate MUSIC model revisions were provided by the applicant throughout the assessment process which were reviewed by Water NSW. An adequate and final MUSIC model dated 18 July 2023 was submitted to Council on 21 August 2023 and approved by Water NSW on 20 October 2023 subject to conditions.

Water NSW stated that it was satisfied that the proposed development could achieve a neutral or beneficial effect (NorBE) on water quality, provided the minimum SQID requirements were incorporated in the construction certificate drawings and are satisfied. The recommended conditions from Water NSW are included in the recommended conditions of consent.

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

### **Division 5 -Electricity transmission or distribution; Clause 2.48 Determination of development applications**

The application was referred to Endeavour Energy due to an existing electricity substation being located on the south western corner of the site. Endeavour Energy raised concerns that two car spaces encroached on the existing substation easements which required that no temporary or permanent development impede access to the substation.

The issues were discussed with the applicant and Endeavour Energy and it was resolved that the deletion of two car parking spaces would achieve the exclusion zone. Even with the deletion of the two car parking spaces, the proposed development still complies with the DCP car parking rates for the proposed development. These conditions have been included as part of the development consent.

### **Subdivision 2 – Development in or adjacent to road corridors and road reservations**

The site is not within a classified road, is not adjacent to any rail corridors and is not a traffic generating development for the purposes specified in this SEPP. Therefore, concurrence is not required from Transport of NSW.

## **6.4 Wingecarribee Local Environmental plan 2010 (WLEP)**

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The land is zoned “E1 Local Centre”. The proposed development is best categorised as a “commercial premises” and in the Land Use Table at the end of Part 2 of the LEP it specifies that “Commercial premises” are permissible with development consent in the zone.

The proposal is consistent with the specific objectives of the zone in that:

- The commercial building will provide a range of retail and business uses that serve the needs of people who live in, work in or visit the area.
- Encourages investment in local commercial development that generates employment opportunities and economic growth.
- The proposal generally conserves and enhance the unique sense of place of business centre precincts by ensuring new development integrates with the distinct urban scale, character, cultural heritage and landscape setting of the Renwick precinct.
- The proposed development ensures adequate provision is made for infrastructure that supports the viability of business centre precincts, including public car parking, pedestrian access paths and amenities.
- The proposal maximises the efficient use of land in business centre precincts to promote more compact and accessible places.
- The commercial development has been designed to consider the character and amenity of adjacent and nearby residential area.

The following development standards in the WLEP 2010 apply to the proposal:

<b>Clause</b>	<b>Development Standard</b>	<b>Proposal</b>	<b>Compliance</b>
4.3 Height of building	No maximum height limit specified in the LEP		N/A
4.4 Floor Space Ratio	No maximum FSR specified in the LEP	Two storeys	N/A
4.6 Exceptions to Development Standards	No Clause 4.6 Variation sought	N/A	N/A

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Clause	Development Standard	Proposal	Compliance
5.10 Heritage conservation	Development consent is required for items of heritage significance or sites within Heritage Conservation Areas	<p>The subject site is not located within a heritage conservation area however.</p> <p>The site is located within a heritage item site known as <i>Renwick Silos Precinct (11618)</i> under the Wingecarribee LEP 2010.</p> <p>The application was referred to Council's Heritage Advisor and no concerns or issues were raised in relation to the impact of the development on the heritage significance of the locality.</p> <p>It should be noted, that whilst the subject site is part of a heritage item, this item has been subdivided as part of an urban release area and the site itself is currently vacant.</p>	Yes
5.21 Flood Planning	Matters for consideration for land within a flood planning area	The subject site is not identified as flood prone land on the Flood map.	N/A

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Clause	Development Standard	Proposal	Compliance
6 Urban Release Areas	These provisions relate to the management of land in terms of state public infrastructure and the need for a DCP for land within the release area	The subject site is within an Urban Release Area. The Mittagong and Renwick Precinct Development Control Plan applies to this urban release area which has been created to include provisions addressing the matters raised in this clause. The proposal has been assessed against the planning controls within the Mittagong and Renwick Precinct Development Control Plan as discussed in <b>Appendix 2</b> of this report.	Yes
7.3 Earthworks	Requires the consent authority to consider the impact of the earthworks on the built and natural environment.	<p>The development proposal has minimal earthworks which is ancillary to the proposed development, responds to the topography and will not result in any adverse impacts.</p> <p>The matters within clause 7.3(3) have been considered within this assessment.</p>	Yes

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Clause	Development Standard	Proposal	Compliance
7.4 Natural resources sensitivity—biodiversity	Requires the consent authority to consider the impact of the development on the “Regional wildlife Habitat Corridor”.	The subject site is not identified on the Natural resource sensitivity - biodiversity map.	N/A
7.5 Natural resources sensitivity—water	Requires the consent authority to consider the impact of the development on the “Natural Waterbodies” on the Natural Resources Sensitivity Map.	The subject site is not identified on the Natural resource sensitivity -Water Map.	N/A
7.10 Public Utility infrastructure	Requires Council to be satisfied that public utility infrastructure for the proposed development is adequate.	The site is adequately serviced by water and sewer and discharge of stormwater is proposed into Council’s kerb.  As discussed in this report, the proposed works will require the relocation of the sewer due to being built up to the front boundary where the existing sewer line is located. This is to be dealt with as a condition of consent prior to the commencement of building works.	Yes
Schedule 1 – Additional Permitted Uses  Use of certain land known as Renwick Urban Release Area	This provision applies to exhibition homes or villages	Exhibition homes or exhibition villages are not proposed for this site and therefore, this clause does not apply.	N/A



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Clause	Development Standard	Proposal	Compliance
7.11 Development in local centres	Applies to area "Area A" on the Land Zoning Map	The site is not mapped as "Area A" on the zoning map.	N/A

**6.5 Wingecarribee Contributions Plan**

Developer contributions are payable on the proposed development as follows:

- Section 7.12

Not applicable. The proposed development is not subject to a Section 7.12 Contributions Plan.

- Section 64

*Water & Sewer*

Shops – Florists, Supermarkets  
 0.0038 Water & Sewer ET rate per sqm  
 0.0038 x 930sqm = 3.534  
 3.534 – 1 ET credit = 2.534 ET

*Stormwater*

Proposed site impervious area = 1,879sqm  
 Impervious area / 400sqm = 4.697 – 1ET credit = 3.697 ET

	Units	Rate	Amount Payable
<b>Contributions Levy</b>			
<b>S64 Sewer Compliance Certificate</b>	1.00	\$255.00	\$255.00
<b>S64 Stormwater Compliance Certificate</b>	1.00	\$255.00	\$255.00
<b>S64 Stormwater (Mittagong)</b>	3.70	\$4,308.28	\$15,940.64
<b>S64 Sewerage (Shirewide)</b>	2.53	\$12,759.13	\$32,331.64
<b>S64 Water Compliance Certificate</b>	1.00	\$255.00	\$255.00
<b>S64 Water (Shirewide)</b>	2.53	\$13,161.01	\$33,350.00
<b>Total</b>			<b>\$82,387.28</b>

**7. Development Control Plans and Policies**

**7.1 Renwick and Mittagong DCP**

The relevant provisions of the Renwick and Mittagong DCP are addressed in **Appendix 2**.

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**8. Environmental Assessment**

The site has been inspected and the application assessed having regard to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, as amended.

Section 4.15 'Matters for Consideration	Comments
Section 4.15 (1)(a)(i) – Provision of any environmental planning instrument	See discussion in section 6 and key issues below.
Section 4.15 (1)(a)(ii) – Provision of any draft environmental planning instrument.	Nil
Section 4.15 (1)(a)(iii) – Provisions of any development control plan	The proposal satisfies the objectives and controls of the Renwick and Mittagong DCP. See table in <b>Appendix 2</b> and the discussion below.
Section 4.15 (1)(a)(iiia) – Provision of any Planning Agreement or draft Planning Agreement.	Not Applicable.
Section 4.15 (1)(a)(iv) – Provisions of the Regulations.	The relevant clauses of the Regulations have been satisfied.
Section 4.15 (1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15 (1)(c) – The suitability of the site for the development.	The site is located in close proximity to local services. The site has sufficient area to accommodate the proposed land-use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15 (1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation.	The issues raised in the submissions have been addressed in this report.
Section 4.15 (1)(e) – The public interest.	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the

Section 4.15 'Matters for Consideration	Comments
	proposal is considered to be in the public interest.

## **8.1 Discussion of Key issues**

### **8.1.1 Flora and Fauna**

The proposed development is clear of any trees or vegetation and is not mapped as being affected by Biodiversity Values.

The amended landscape plan prepared by HHPA Architects proposes small to medium trees throughout the site. *Nyssa Sylvatica* trees were originally proposed along edge of the carpark which are known for dropping berries and having roots that could potentially impact the parked cars under trees and cause potential trip hazards. Concerns were also raised by some of the residents that these tree species could attract *Ibis* birds.

The amended landscape plan changes these trees to *Tristaniopsis Laurina* which are a local species that is ideal for car parking sites. The proposed landscaping to the site will improve the visual amenity of the subject site and streetscape and will contribute to the local biodiversity.

### **8.1.2 Waste Management - Operation**

The proposed external garbage enclosure at the rear of the commercial building was considered inadequate because of its size, external location and potential to cause amenity impacts within the site and onto the adjoining residential dwellings. Conditions have been imposed to require an internal waste storage room to be provided and the supply of a private waste contractor to ensure waste is collected on site rather than from the public road.

A condition has also been imposed requiring an Operational Waste Management Plan to be lodged with the application for the Construction Certificate to detail how waste is intended to be managed as an end use.

### **8.1.3 Solar access**

Shadow diagrams have been submitted with the application demonstrating the overshadowing impact from 9am to 3pm at winter solstice (21 June). Due to the orientation of the site and location of the proposed building, the proposed shadows fall predominately on the car parking area of the site, Renwick Drive and Whitfield Lane.

Solar access is maintained in full to the adjoining residential dwelling houses and on Mirren Nungunna Gulla Park. There is a negligible overshadowing impact to Square Park at 9am on 21 June, but this mostly falls on the concrete pedestrian path. Given the above, the proposed solar access impact is considered to be acceptable.

### **8.1.4 Access for persons with a disability**

The proposal provides for one accessible car parking space, two disabled toilets, lift access to the first floor level and flat, unobstructed access (no stairs) to all the tenancies. The accessible parking space is located in front of the main ground floor entry and on-street parking is available in front of the lobby to the first floor level. A condition is imposed to ensure access for people with disabilities, and disabled toileted shall be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the *Disability Discrimination Act 1992*.

### **8.1.4 Crime Prevention through Environmental Design**

The subject development will have no detrimental impacts on Crime Prevention Through Environmental Design (CPTED) principles and strategies, i.e. Safer-by-Design guidelines. The proposal achieves the CPTED principles i.e. surveillance, access control, territorial reinforcement and space management, for the following reasons:

- Natural surveillance: The proposal provides clear sight lines through the site and to all entry points. Activate frontages with transparent openings and windows are proposed to both Renwick Drive and Whitfield Lane and to the neighbouring open spaces to provide natural passive surveillance.
- Active Surveillance: The design of the building allows a high level of passive surveillance over the car park area and pedestrian access points.
- Access Control: Entries will be locked during closing hours and restricted access to the loading dock and service areas
- Lighting: A condition is imposed for details on the external lighting to the car park and building exterior to be provided in accordance with the Australian Standards for safety and for minimising any obtrusive effects of lighting. The external lighting provided will ensure all areas are well lit particularly at night and ensure safety for all customers and pedestrians.
- Vandalism and Graffiti: A condition is imposed for external walls to the ground floor to be finished with a graffiti resistant coating which will maintain the building and avoid long term graffiti. The above measure will prevent vandalism.

Given the above, the development will not give rise to any significant safety, security or crime related impacts.

#### **8.1.5 Context and Setting**

The context of the surrounding development consists of predominantly residential new builds that have raked grey steel roof and protruding front porches in a 'heritage style' of architecture. To the south of the site is Renwick Community Centre which a contemporary new development which includes a raked grey steel roof and neutral concrete wall panels.

Concerns were raised in a number of the submissions that the original 'modern flat roof' style & design architecture was incompatible with the surrounding development.

To respond to the concerns of the community, the Applicant amended the design to now include a raked roof form including vertically proportioned rectangular windows and a protruding triangular featured entry which is consistent with the design, style and proportions of the surrounding development within Renwick Precinct.

As the scale is part one to part two storey, the proposal does not clash with the surrounding rural landscape and maintains a "village feel" as a neighbourhood commercial centre for Renwick Precinct.

The proposal will activate the frontage to Renwick Drive and provide the opportunity for outdoor dining and liveliness which will contribute to giving the community a sense of place and a place to socialise, work and enjoy.

Given the above, the amended plans are considered to better reflect the character and architectural design of the Renwick Precinct and meets the Village Centre objectives as discussed in the Section 16.3 of the DCP, overcoming the concerns raised by the objectors.

#### **8.1.6 Social and Economic Impacts**

The new commercial premises will contribute to employment in the locality and activate the frontage as a commercial plaza for the Renwick Precinct. As discussed, the proposal will provide the opportunity for outdoor dining and bring liveliness to the local centre which will contribute to giving the community a sense of place and a place to socialise, work and enjoy.

**8.1.7 Noise and Vibration**

Conditions are imposed to regulate the noise and vibration impact during construction and regulate the noise impact from operation of the building including deliveries, use of loading dock, waste collection and mechanical plant and ventilation. Subject to the recommended conditions, the proposed development will not give rise to any adverse noise or vibration generation.

**8.1.8 Air and Microclimate**

The subject development will not give rise to any significant air pollution or other emission.

**8.1.9 Soils**

The subject development will not have any significant soils impacts and is not subject to any significant soils constraints (i.e. is not noted as acid sulphate, highly erodible, saline or of high productive value).

**9. Conclusion**

That Development Application No. 22/1747 for Construction of Retail / Commercial Building at 51 Renwick Drive, Renwick, be determined by APPROVAL subject to the conditions detailed in **Attachment 1:**

- The proposal is consistent with the relevant objectives contained within the *Wingecarribee Local Environmental Plan 2010* and the relevant requirements of the Renwick and Mittagong Development Control Plan.
- The proposal is consistent with the specific objectives of the E1 Local Centre Zone in that the proposed development will offer new retail and commercial tenancies to support the Renwick local community.

**Appendix 1: Referrals.**

Referral Section	Comments
<b>Water NSW</b>	<p>The proposal was referred to Water NSW for Concurrence as the development was categorised as a Module 5 development located within the Warragamba Catchment as per Part 6.5 of the SEPP (Biodiversity and Conservation) 2021. After numerous re-referrals to Water NSW, final comments were provided on the 20 October 2023:</p> <p><i>“I refer to NSW Planning Portal referral received 3 June 2022 requesting the concurrence of Water NSW under Part 6.5 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the SEPP) with a proposal for construction of a two-storey neighbourhood commercial centre with associated parking and service areas.</i></p> <p><i>The subject property, which was inspected by Water NSW, is located within the Warragamba which forms part of Sydney's water supply. Water NSW considered the</i></p>

Referral Section	Comments
	<p><i>following documents in its assessment of the application:</i></p> <ul style="list-style-type: none"> <li>• <i>Statement of Environmental Effects prepared by Michael Brown Planning Strategies (dated 05/05/22)</i></li> <li>• <i>Architectural plans prepared by Hely Horne Perry Architects Pty Ltd (dated 06-05-22), and</i></li> <li>• <i>Proposed Stormwater Drainage Plans including MUSIC Stormwater Quality Modelling prepared by deboke Engineering Consultants (dated 18-07-23).</i></li> </ul> <p><i>Water NSW has done a historical review into the creation of Lot 21. This lot was created in one of the early stages (Stage 3) of the Renwick Subdivision (Lot 201 of 4900 square metres created by LUA 10/1215 – Water NSW Ref: 11013-a1) and subsequently further subdivided into 8 lots (DA 17/1406 and Water NSW Ref: 17161-a1). This development has a subdivision-scale bioretention system constructed downstream.</i></p> <p><i>The original Lot 201 of 4900 square metres had a covenant in favour of Water NSW requiring a 30KL rainwater tank to treat the ‘estimated’ roof area. The ground area of the lot had an estimated pervious: impervious ratio in the original RENWICK Stage 1 MUSIC modelling. In the model, the combined road and lot runoff were then treated in the large subdivision scale bioretention basins.</i></p> <p><i>The extent of development for this shopping centre/ carpark has a much greater impervious area ratio than in the original MUSIC model. However, the Stormwater Quality Improvement Devices (SQIDS) proposed by the applicant are excessive considering the subdivision bioretention basins are already providing some treatment. Therefore, Water NSW has resized the area of the lot-scale bioretention basins and removed the permeable paving, and downsized the requirement of some of the engineered components (e.g. inlet filters only required to treat the pavement pits, not the roof water or bypass water) to have minimum amount of SQIDS that will meet NorBE.</i></p> <p><i>Water NSW is satisfied that the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality, provided these minimum SQID requirements are incorporated in the construction certificate drawings, appropriate conditions are included in any development consent and are subsequently implemented.</i></p> <p><i>Water NSW concurs with Council granting consent to the application subject to the attached conditions.”</i></p> <p><i>The recommended conditions by Water NSW have been included in the consent.</i></p>
<p><b>Endeavour Energy</b></p>	<p>The application was referred to Endeavour Energy as a substation owned by Endeavour Energy is located on the south western corner of the site. Endeavour Energy provided the following comments on 2 January 2024:</p> <p><i>“There is an easement and restrictions for fire rating and swimming pool or spa for padmount station no. 28987.</i></p>

Referral Section	Comments
	<p><i>The Statement of Environmental Effects indicates the following: “The proposal is not located within or immediately adjacent to any existing easement for electricity purposes or electricity substation”.</i></p> <p><i>All encroachments, activities and / or works (including subdivision and even if not part of the Development Application) whether temporary or permanent within or affecting an easement, restriction, right of access or protected works (other than those approved / certified by Endeavour Energy’s Customer Network Solutions Branch as part of an enquiry / application for load or asset relocation project) need to be referred to Endeavour Energy’s Easements Officers for assessment and possible approval if they meet the minimum safety requirements and controls. However please note that this does not constitute or imply the granting of approval by Endeavour Energy to any or all of the proposed encroachments and / or activities.</i></p> <p><i>For further information please refer to the attached copies of Endeavour Energy’s:</i></p> <ul style="list-style-type: none"> <li><i>- Guide to Fencing, Retaining Walls and Maintenance Around Padmount Substations.</i></li> <li><i>- Mains Design Instruction MDI 0044 ‘Easements and Property Tenure Rights’ which deals with activities / encroachments within easements.</i></li> </ul> <p><i>The below extracts of the Site Analysis – Site Plan appears to show the car park encroaches and landscaping is immediately adjacent to the easement for the padmount substation.</i></p> <p><i>Subject to the satisfactory resolution of the foregoing, Endeavour Energy has no objection to the Development Application.</i></p> <p><i>Although Council may be able to appropriately condition these matters, as they may substantially impact the proposed development, Endeavour Energy’s recommendation is for the applicant to seek advice on / address the matters prior to Council granting any consent. This can assist in avoiding the need to later seek modification of an approved Development Application.</i></p> <p><i>To resolve this matter the applicant will need to make direct contact with Endeavour Energy’s Easements Officers (who do not have access to the NSW Planning Portal) via the contact details provided below.</i></p> <p><i>To ensure an adequate connection, the applicant will need to engage an Accredited Service Provider (ASP) of an appropriate level and class of accreditation to assess the electricity load and the proposed method of supply for the development.</i></p> <p><i>Whilst provision is generally made for a customer connection point for each developable lot as part of the electricity distribution works for the underlying subdivision, the final connection of end use customers for the lot will not occur until the end use is known. This can result in an electricity load that is outside of the existing Supply / Connection Offer requiring the incorporation of the additional load for consideration and may entail the completion of additional contestable works projects that are outside of the existing approved / certified works.</i></p> <p><i>The planting of large / deep rooted trees near electricity infrastructure is opposed by</i></p>

Referral Section	Comments
	<p><i>Endeavour Energy. Existing trees which are of low ecological significance in proximity of electricity infrastructure should be removed and if necessary replaced by an alternative smaller planting. The landscape designer will need to ensure any planting near electricity infrastructure achieves Endeavour Energy’s vegetation management requirements.</i></p> <p><i>No planting of trees is allowed in the easement for a padmount substation. Screening vegetation around a padmount substation should be planted a minimum distance of 800mm plus half of the mature canopy width from the substation easement and have shallow / non-invasive roots. This is to avoid trees growing over the easement as falling branches may damage the cubicle and tree roots the underground cables. All vegetation is to be maintained in such a manner that it will allow unrestricted access by electrical workers to the substation easement all times.”</i></p> <p>In response to the raised issues by Endeavour Energy, a condition has been imposed requiring the deletion of two car parking spaces (Spaces #1 and #2) which were located within the restriction area of the substation. This has been discussed with the applicant and Council Traffic Engineers who raise no objections to the removal of the two car spaces given that 31 car spaces still meets Council’s car parking requirements.</p> <p>Conditions have been included in the consent to address Endeavour Energy’s requirements.</p>
<p><b>Water and Sewer Engineer</b></p>	<p>Council’s Water and Sewer Engineer have provided the following comments:</p> <p><i>“As the proposed development is build up to the front boundary onto the sewer within the lot we will need them to relocate the sewer prior to commencement of building works. Conditions recommended below.”</i></p> <p>The recommended standard conditions from Council’s Water and Sewer Engineer have been imposed on the consent.</p>
<p><b>Environmental Health Officer</b></p>	<p>Council’s Environmental Health Officer has provided the following comments:</p> <ol style="list-style-type: none"> <li>1. <i>“SOEE p34 specifies that: ‘Loading dock deliveries should only occur between the hours of 6.00am and 9.00pm’. The Acoustic Report assesses the noise from the deliveries against the intrusiveness and sleep arousal criteria and finds it acceptable. However, it is my opinion that noise from delivery trucks and the loading dock that can be audible at the nearby residential properties 2 Wallis Ave &amp; 49C Renwick Dr in the early morning hours is likely to constitute offensive noise as defined in the POEO Act. Accordingly, in order to effectively prevent likelihood of such offensive noise, the loading dock deliveries should be restricted to the hours of 7am to 9pm on Monday-Friday and 8am-9pm on Weekends and Public Holidays.</i></li> <li>2. <i>The Acoustic Report, p17 reads: ‘If the ground floor restaurant/cafe is proposed to operate during the night-time period (10pm – 7am) or be licensed for the service of alcohol, it is assumed that this use would be subject to a separate development application which would be accompanied by a noise impact assessment of the proposed use’. I suggest that a separate</i></li> </ol>



Referral Section	Comments
	<p><i>DA should be required for the use of tenancies as food and drink premises.</i></p> <p><i>Conditions to address the above is to be imposed along with the recommended environmental health conditions”</i></p> <p>The recommended conditions to restrict the use of the loading dock has been conditioned.</p> <p>The first use of each tenancy will require a first use approval and the specific details of any future uses (e.g. shop or restaurant) will be assessed as part of future DAs.</p> <p>As such, the EHO’s recommended conditions about food premises is too premature to include on this consent. If these separate applications include a food and drink premises then the potential impacts of those developments (including car parking, traffic and noise) will be addressed and conditioned as part of those applications.</p>
<p><b>Development Engineer</b></p>	<p>Council’s Development Engineer has provided the following comments:</p> <p><i>“STORMWATER DRAINAGE</i></p> <ul style="list-style-type: none"> <li>• <i>Concept stormwater management plan has been submitted and available from ECM.</i></li> <li>• <i>DP and Section 88B instrument does not state any stormwater restriction the development site.</i></li> <li>• <i>Legal point of discharge: The development site falls towards the street. The applicant is proposing to drain to Council’s existing kerb inlet pit at Renwick Drive. This is satisfactory.</i></li> <li>• <i>Detention is required according to Council’s engineering specification and has been provided in the stormwater plan. The detailed calculation can be confirmed at Section 68 and CC stage.</i></li> </ul> <p><i>FLOODING</i></p> <ul style="list-style-type: none"> <li>• <i>The site is not mapped to be flood affected according to Council’s mapping system.</i></li> </ul> <p><i>SEWER AND WATER</i></p> <ul style="list-style-type: none"> <li>• <i>A referral has been sent to Council’s sewer and water development engineer.</i></li> <li>• <i>It assumed that the planner will liaise with the Sewer and Water Development Engineer directly. Therefore, this memo excludes sewer and water.</i></li> </ul> <p><i>RECOMMENDATIONS</i></p> <ul style="list-style-type: none"> <li>• <i>It is recommended that the DA is approved, subject to the below conditions.”</i></li> </ul> <p>The recommended conditions by Council’s Development Engineer have been included in the consent.</p>
<p><b>Transport Engineer</b></p>	<p>Council’s Traffic Engineer has provided the following comments:</p>

Referral Section	Comments		
	<p><i>“Vehicular Access</i></p> <ul style="list-style-type: none"> <li>• <i>The applicant proposing to gain access from Renwick Drive and Whitfield Lane. Both access points facilitate both entry and exit to the carpark. Satisfactory.</i></li> <li>• <i>DP and Section 88B instrument does not state any access restriction for the development site.</i></li> <li>• <i>Mittagong DCP (including Renwick) has directed to refer to RTA’s Guide to Traffic Generating Developments for buildings greater than one storey in height.</i></li> <li>• <i>The required parking spaces are:</i> <ul style="list-style-type: none"> <li>○ <i>1 space/30m<sup>2</sup> of Retail (Ground Floor) as per Mittagong DCP.</i></li> <li>○ <i>1 space/40m<sup>2</sup> of GFA for Office and Commercial (first floor) as per RTA’s Guide to Traffic Generating Developments.</i></li> </ul> </li> <li>• <i>The applicant has proposed the below as per architectural plans.</i> <ul style="list-style-type: none"> <li>○ <i>GF Retail of 715 m<sup>2</sup>.</i></li> <li>○ <i>FF Commercial 215m<sup>2</sup>.</i></li> </ul> </li> <li>• <i>The required parking spaces for the development will be:</i> <ul style="list-style-type: none"> <li>○ <i>GF Retail: 23.83 spaces.</i></li> <li>○ <i>FF Commercial: 5.4 spaces.</i></li> <li>○ <b><i>Total: 30 spaces.</i></b></li> </ul> </li> <li>• <i>The applicant has nominated 33 car spaces on plan. However, due to the substation the carparking spaces need to result to 31 car spaces. This meets the minimum requirements.</i></li> </ul> <p><u><i>Extract from Mittagong DCP (including Renwick)</i></u></p> <table border="1" data-bbox="564 1469 1501 1659"> <tr> <td data-bbox="564 1469 874 1659">Retail, Office, Commercial</td> <td data-bbox="874 1469 1501 1659"> <p>1 space per 30 m<sup>2</sup> of gross leaseable floor area for buildings of single storey.</p> <p>For buildings greater than one storey in height the disaggregated method for car park calculation (Section 5 RTA Guide for Traffic Generating Developments) may be considered.</p> </td> </tr> </table> <p><u><i>Extract from RTA’s Guide to Traffic Generating Developments</i></u></p>	Retail, Office, Commercial	<p>1 space per 30 m<sup>2</sup> of gross leaseable floor area for buildings of single storey.</p> <p>For buildings greater than one storey in height the disaggregated method for car park calculation (Section 5 RTA Guide for Traffic Generating Developments) may be considered.</p>
Retail, Office, Commercial	<p>1 space per 30 m<sup>2</sup> of gross leaseable floor area for buildings of single storey.</p> <p>For buildings greater than one storey in height the disaggregated method for car park calculation (Section 5 RTA Guide for Traffic Generating Developments) may be considered.</p>		

Referral Section	Comments
	<p><b>5.6 Office and commercial.</b></p> <p><b>Definition.</b></p> <p>The term <i>commercial premises</i> refers to a building or place used as an office or for other business or commercial purposes. This includes non-medical professional consulting rooms.</p> <p><b>Parking.</b></p> <p>The car parking requirements for office and commercial developments vary with the parking policies of local government areas. As discussed in the RTA's publication <i>Metropolitan Parking Policy and Guidelines</i>, it is the responsibility of local government to determine parking policy in commercial centres. Distinction needs to be drawn between whether the parking demand is to be met on-site (unrestrained situation) or whether car parking supply is to be used as a policy tool to restrict commuter movement by private vehicles into a commercial centre (restrained situation). On this basis, the following car parking provision is recommended:</p> <ul style="list-style-type: none"> <li>▪ unrestrained situation - 1 space per 40m<sup>2</sup> gross floor area.</li> <li>▪ restrained situation - refer to council parking code and applicable local plans.</li> </ul> <hr/> <ul style="list-style-type: none"> <li>• <i>Traffic Assessment Report was done. The report shows no impact on existing road network. No concerns raised to the traffic report.</i></li> <li>• <i>Waste management report has been conditioned to be provided prior to CC"</i></li> </ul> <p>Council's car parking rates as outlined in the DCP have been applied in this case.</p> <p>The recommended conditions regarding deletion of two car spaces for the substation and the requirement for an operation waste management report have been conditioned to be provided prior to the issue of the Construction Certificate.</p>
<b>Heritage Advisor</b>	<p>Council's Heritage Advisor has provided the following heritage comments:</p> <p><i>"The proposal is acceptable with regard to its heritage impacts."</i></p>

**Appendix 2: Renwick and Mittagong DCP**

The extent to which the proposed development complies with the Renwick and Mittagong DCP are detailed in the table below:

Development Control Plan			
Section	Control	Assessment	Complies
<b>PART A – ALL LAND AND RENWICK PRECINCT</b>			
A2.2.4 Residential Amenity	New development is sympathetic to existing or future streetscape and neighbour character	The style, height, materials and finishes of the proposed commercial development is compatible with its residential surrounding land uses and is considered to be appropriate for the locality. The proposal will sit at a scale which is consistent with the low-density character of the area and is sympathetic to existing and	Yes

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		future streetscape and neighbour character.	
A2.2.6 Visual Amenity	New development be designed to integrate with existing streetscape and built form.	The proposal has been designed to provide an appropriate street presentation to Renwick Street and Whitfield Lane throughout a suitable built form design and landscaped areas which will have a positive contribution to the locality.	Yes
A2.2.7 Public Views and Vistas	Development contributes to the protection of public views and vistas	The proposed development will not have an adverse impact on any key public views or vistas. In relation to surrounding landscaped environments, the proposed siting and orientation of the commercial building, its materials and finishes and its overall scale ensure that views to significant landscaping are protected as far as practicable.	Yes
A2.2.8 Environmental Sustainability	Developments shall ensure the conservation of biological diversity and ecological integrity. In addition, development shall protect vegetation, threatened species, ecological communities, hydrological aspects, watercourses, significant natural features, and any other aspect of environmental quality.	The proposed development does not result in any adverse impacts on biological or ecological integrity and does not result in the removal of any threaten species, ecological communities or like.	Yes
A4.3 Development in Sydney's Drinking Water Catchments	Development to provide assessment of water quality in accordance with Water NSW recommended practices	As discussed above, Water NSW is satisfied that the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality, provided the minimum SQID requirements are incorporated in the construction certificate drawings and are satisfied. The development can also connect to the town water supply and sewer. Subject to the recommended conditions, the proposed will have no adverse	Yes

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		impacts on Sydney's Drinking Water Catchments	
A4.5 Stormwater Management	A concept stormwater management plan is to be provided. The stormwater management plan is to demonstrate appropriate measures of managing stormwater and drainage in accordance with Council's Engineering Design and Construction Specifications.	A concept stormwater and drainage management plan has been provided which recommends the stormwater is to drain to Council's existing kerb inlet pit at Renwick Drive as the development site falls towards the street.  Council's Development Engineer has reviewed this plan and, subject to the recommended conditions, the development will satisfy the provisions of Clause A4.5 Stormwater Management.	Yes
A4.6 Erosion & Sediment Control Plans	Sediment and erosion control details shown on plan	Sediment and erosion control details have been shown on plan and standard sediment and erosion control measures included as standard conditions.	Yes
A6.1 Vegetation Management & Landscaping	Identify any trees proposed for removal, including any trees within 3 metres of development.	There are no trees or significant vegetation on the site that will be impacted by the proposal.	Yes
A9.3 Building near or over Council Mains and Easements	Structures are to be erected clear of Council's water, sewer and drainage mains by a minimum of one (1) metre and 1.2 metres for a sewer manhole and shall be clear of any easement over such a main.	The proposed development is located on Council's sewer line. A condition is imposed for the relocation of the sewer as recommended by the applicant and Council's Water and Sewer Engineer. The remainder of the proposal is not located on any other water and drainage mains and is connected to the town water supply.  Through the imposition of the condition, the proposal will comply with Council's infrastructure requirements.	Yes
A9.12 Waste Management and Disposal	To minimise the volume of waste generated during demolition and construction	A condition is recommended for an Operational Waste Management Plan to be submitted prior to the	Yes

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<b>Development Control Plan</b>			
<b>Section</b>	<b>Control</b>	<b>Assessment</b>	<b>Complies</b>
	phases of development	issue of the construction certificate.  A condition is also imposed requiring an internal waste storage room and on-site waste collection service to minimise the impact on the environment and residential amenity for the nearby dwelling houses.	
<b>PART B – BUSINESS ZONED LAND</b>			
Section 4 On-site Car Parking	Retail, Office, Commercial  1 space per 30 m <sup>2</sup> of gross leaseable floor area for buildings of single storey.  For buildings greater than one storey in height the disaggregated method for car park calculation (Section 5 RTA Guide for Traffic Generating Developments) may be considered.	The ground floor level has a gross leaseable floor area of 715m <sup>2</sup> . These tenancies are proposed to be used as retail tenancies. This equates to <b>23.8 car spaces</b> .  In accordance with Guide for Traffic Generating Developments, 1 space per 40m <sup>2</sup> of gross floor area for Office and Commercial uses to the first floor level is required. As the first floor level has a GFA of 215m <sup>2</sup> , <b>5.3 car spaces</b> is required.  A total of <b>30 car spaces</b> are required. A total of 33 spaces are proposed, however with the deletion of 2 car spaces to confirm to the electricity sub-station easement, <b>31 spaces are remaining which still complies with Council's requirements.</b>	Yes
	The minimum design requirements for parking facilities are the Australian Standard AS 2890 series.	Council's Traffic Engineer has reviewed the Traffic Impact Assessment submitted with the application, and has concluded that the parking facilities and manoeuvring of vehicles has been designed to comply with the Australian Standards and is satisfactory to Council.	Yes
Section 5 Loading Facilities and Water & Resource	Full details of anticipated vehicle sizes, volumes and frequency of delivery and other service	Council's Traffic Engineer has reviewed the Traffic Impact Assessment and has raised no	Yes

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<b>Development Control Plan</b>			
<b>Section</b>	<b>Control</b>	<b>Assessment</b>	<b>Complies</b>
Recovery Storage and Collection	vehicles must be supplied with the development application. These estimates, particularly vehicle sizes, must be realistic and based on established averages for the range of businesses likely to occur in the development	<p>issues on the design of the loading bay facilities and deliveries to the site. The loading bay is 11.8m long and 5.9m wide and can comfortably accommodate a medium size rigid vehicle of 8.8m which is adequate in servicing the site and to support the nature of the proposed uses.</p> <p>An Acoustic report has been submitted concluding the loading facilities and delivery hours of 6.00am and 9.00pm will have no adverse noise impact. However, following a review by Council Environmental Health Officer it is recommended the hours of delivery is to be 7am to 9pm on Monday-Friday and 8am-9pm on Weekends and Public Holidays which will ensure there is no adverse noise impacts to surrounding residential development. A condition is imposed for these delivery hours.</p>	
<b>SECTION 16 RENWICK PRENCINT</b>			
C16.3.2 Heritage	<p>(a) To identify both Indigenous and Non-Indigenous heritage items of high significance.</p> <p>(b) To conserve, where appropriate, items of high heritage significance</p>	<p>The proposed site is not expected to have any lindigenous and Non-Indigenous heritage items of high significance.</p> <p>As discussed above, the development is appropriate and consistent with the Renwick Precinct and results in no adverse heritage impacts.</p>	Yes
<b>SECTION 16 RENWICK PRENCINT</b>			
<b>C16.4 Village Centre</b>			
Village Centre Objectives	<p>(a) To serve East Mittagong and Renwick convenience shopping and service needs.</p> <p>(b) To create a concentrated</p>	<p>The proposal achieves compliance the Village Centre objectives for the following reasons:</p> <ul style="list-style-type: none"> <li>• The commercial building</li> </ul>	Yes

<b>Development Control Plan</b>			
<b>Section</b>	<b>Control</b>	<b>Assessment</b>	<b>Complies</b>
	<p>focal point for local economic, social, cultural and community activities.</p> <p>(c) To create a village square that has a sense of place that engenders community and civic pride. (d) To encourage an architecture and built-form that is civic, yet relates to the culture, identity and character of the Southern Highlands.</p> <p>(e) To be accessible by foot, cycle, bus, car, and mindful of the needs of an aging population.</p> <p>(f) To maximise the number of dwellings within walking distance of the Village Centre compatible with market and visual character factors.</p> <p>(g) To be a pedestrian oriented and a pedestrian priority place.</p> <p>(h) To be suitably landscaped to facilitate and encourage a range of public, communal activities and as a setting for public art.</p> <p>(i) To offer good winter sun, summer shade and shelter from adverse wind and rain</p> <p>(j) To encourage any compatible use or activity that reinforces the longterm economic and social viability of the centre, including those which generate tourism interest and expenditure. (k) To provide local employment opportunities and encourage participation in community based activities..</p>	<p>serves East Mittagong and Renwick convenience shopping and service needs.</p> <ul style="list-style-type: none"> <li>• Contributes to creating a concentrated focal point for local economic, social, cultural and community activities.</li> <li>• Contributes to creating a village square that has a sense of place.</li> <li>• Provides an architecture and built-form that relates to the culture, identity and character of the Southern Highlands. This includes providing a raked roof form which is similar to surrounding residential and civic building's roof form instead of a flat roof and retaining a two storey scale.</li> <li>• The proposed is accessible and is mindful of the needs of an aging population with an accessible car parking space provided and lift access to the first floor level</li> <li>• The proposed is both pedestrian and car oriented to provide accessibility for both.</li> <li>• Does not impact on the adjoining open spaces at Square Park and Gulla Parks and provides landscaping along the boundary adjoining the park and street frontages</li> <li>• The awning provides</li> </ul>	



<b>Development Control Plan</b>			
<b>Section</b>	<b>Control</b>	<b>Assessment</b>	<b>Complies</b>
		<p>covered walkway around the commercial building to provide for weather protection. There is also no adverse solar access impact to the adjoining residential development and parks.</p> <ul style="list-style-type: none"> <li>• The proposed is a compatible use that reinforces the long term economic and social viability of the centre</li> <li>• The commercial development provides for 7 new tenancies that will provide local employment opportunities and encourage participation in community based activities.</li> </ul>	
Size and Range of Facilities	(a) A market analysis is to be undertaken and submitted to Council to consider with any development application within the Village Centre, to provide guidance and justification for the range and size of the proposed commercial and/or retail development.	A market analysis was not considered necessary. The uses proposed are permissible, the range and size of the proposed commercial and retail tenancies is considered acceptable for the village centre given that a two storey scale is retained. The 7 commercial and retail tenancies generated from the proposed will benefit the community and will adequately meet the day to day needs of the residents whilst maintaining no adverse amenity and environmental impacts.	Yes
Village Square and Broad Walk	(a) Landscaping is to incorporate hard wearing surfaces to accommodate activities and seating, formal planting, shade trees, turfed areas and facilitate opportunities for public art. (b) Perimeter buildings fronting the Collector Road in the Village Centre are to incorporate	The proposed development maintains the boardwalk around Square Park and provides a pedestrian connection to the boardwalk within Square Park into the site. In addition, the walkways around the proposed commercial building provides an awning for weather protection.	Yes

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<b>Development Control Plan</b>			
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	weather protective verandas, overhanging balconies, colonnades and awnings.		
Building Scale	(a) A two-storey building proportion is encouraged.	The proposed commercial building is two storeys and is of a height and scale that is compatible with the surrounding dwellings which are also of one to two storey scale.	Yes
Active Frontage	(a) Non-residential buildings fronting the square and streets are to have active edges, facades, shopfront window displays, inviting entries.  (b) Generally non-residential and live-work buildings are to be built to the street alignment, except where articulation is required for planning purposes or for architectural expression	The proposed commercial building is built to the street frontages and includes shop front windows and active frontages to Renwick Street in accordance with this clause. The frontage to Whitfield Lane provides more privacy for the adjoining residential housing.	Yes
Live-work Housing	(a) Provision of a more intensive, intimate, flexible and urban scale of residential development within walking distance of the Village Centre.  (b) Housing is to be designed to be flexible enabling potential commercial, retail or art/craft gallery use to address the street.	Not applicable as housing is not provided for this site as it is allocated for commercial development for the Renwick Precinct as shown in Figure C16.5 of the DCP.	N/A
Pedestrian Priority	(a) Provide adequate lighting along pathways and outdoor congregation areas. (b) Use appropriate separation to protect pedestrians from vehicles. (c) Provide informal visual surveillance opportunities including living areas, windows and balconies overlooking public places.	Adequate lighting will be provided in accordance with the Australian Standards for outdoor lighting and conditions have been imposed to this effect. Appropriate separation is provided for pedestrians and vehicles throughout the site. Windows and active frontages are proposed to provide passive visual surveillance opportunities. Safety for pedestrians and the community has been incorporated with the proposal.	Yes

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<b>Development Control Plan</b>			
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Car Parking	Car parking required for individual/exclusive use should be accessed via a back or side access way that is screened from view on the main street. The quantity and location is to be determined at development application stage	As the main commercial building with neighbourhood shops and supermarket for Renwick Precinct, the location of driveways and car parking from Renwick Drive and Whitfield Lane is acceptable to provide better accessibility and exposure.	Yes
Service Access	Provide dedicated service access to loading facilities via a back or side access way that is screened from view on the main street.	Loading facilities provided from the rear of the site from Whitfield Lane and is screened from view on the main street.	Yes

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**ATTACHMENTS**

1. Draft Notice of Determination
2. Notice of Payment
3. Water NSW Concurrence
4. Plans
5. Noise Impact Assessment Report

**7 MEETING CLOSURE**

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