

2 176 Quarry Road Ryde - Consolidation of two lots into one and construction of a two storey child care centre with basement car parking for 20 vehicles. The child care will operate between 7am and 6pm Monday to Friday and have a capacity for up to 100 children - LDA2019/0328

Report prepared by: Creative Planning Solutions

Report approved by: Senior Coordinator - Assessment; Manager - Development
 Assessment; Director - City Planning and Environment

File Number: GRP/09/6/12/1/2 - BP20/906

**City of Ryde
 Local Planning Panel Report**

DA Number	LDA2019/0328
Site Address & Ward	176 Quarry Road Ryde, NSW 2112 Lot 12 in Deposited Plan 239671 Lot 13 in Deposited Plan 239671 East Ward
Zoning	R2 Low Density Residential
Proposal	Consolidation of two lots into one and construction of a two storey child care centre with basement car parking for 20 vehicles. The child care will operate between 7am and 6pm Monday to Friday and have a capacity for up to 100 children.
Amended Proposal	Consolidation of two lots into one and construction of a two storey child care centre with basement car parking for 19 vehicles. The child care will operate between 7am and 6pm Monday to Friday and have a capacity of up to 95 children.
Property Owners	Antonio Salerno
Applicant	Designcorp Architects
Report Author	Ben Tesoriero, Consultant Planner
Lodgement Date	24 September 2019

ITEM 0 (continued)

Notification 1 No. of Submissions	Forty-two (42) submissions received: <ul style="list-style-type: none"> • Thirty-nine (39) submissions objected to the proposed development. • Three (3) submissions received in support of the proposed development.
Notification 2 No. of submissions	Fifteen (15) submissions received: <ul style="list-style-type: none"> • Fourteen (14) submission objecting to the proposed development. • One (1) submission being a general enquiry.
Cost of Works	\$1,958,759.76
Reason for Referral to LPP	<p>Contentious development – (b) in any other case – is the subject of 10 or more unique submissions by way of objection. <i>Schedule 1, Part 2 of Local Planning Panels Direction</i></p> <p><i>and</i></p> <p>Departure from development standards – contravention of the floor space ratio development standard by more than 10% - <i>Schedule 1, Part 3 of Local Planning Panels Direction</i></p>
Recommendation	Approval
Attachments	<ol style="list-style-type: none"> 1. Compliance table - <i>State Environmental Planning (Educational Establishments and Child Care Facilities) 2017</i> and Child Care Planning Guideline 2. LEP and DCP Compliance Table 3. Recommended conditions of consent 4. Clause 4.6 written request to vary Clause 4.4(2) Floor Space Ratio 5. Plans submitted with the development application

1. Executive Summary

The proposal seeks consent for the demolition of structures, consolidation of two lots into one and the construction of a two storey child care centre with basement parking

ITEM 0 (continued)

for nineteen (19) vehicles. The child care centre is proposed to operate from 7:00am to 6:00pm Monday to Friday, will have a capacity of ninety-five (95) children and will employ fourteen (14) staff.

This development application (DA) is reported to the Ryde Local Planning Panel (RLPP) for determination in accordance with Section 9.1 (Directions by the Minister) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as it proposes a departure from a development standard in excess of 10%, and is contentious development, having received more than ten (10) submissions.

To satisfy clause 4.4(2) of *Ryde Local Environmental Plan 2014* (RLEP 2014), the floor space ratio (FSR) is not to exceed 0.5:1, which given the site area of 1,226m² equates to a maximum gross floor area (GFA) of 613.35m². The GFA for the development is however calculated at 742.63m², which equates to an FSR of 0.605:1 – being a 21%, or 129.28m², variation to the development standard.

When having regard to the GFA definition contained within the Dictionary of the RLEP 2014, the variation to the development standard arises from the necessity to include the floor area of the outdoor play area given it is to be enclosed by walls greater than 1.4 metres in height.

A clause 4.6 written request to vary the FSR development standard has been submitted by the applicant. This assessment has found the applicant's written request satisfactorily addresses the jurisdictional prerequisites required to satisfy the consent authority. Accordingly, the proposed variation to the standard is considered satisfactory.

Other elements of the building otherwise comply with applicable development standards and controls governing building height, setbacks and landscaped area.

The DA was advertised from 9 October 2019 to 30 October 2019, and again for the amended plans from 3 April 2020 to 23 April 2020. In response to the first advertising period, forty-two (42) submissions were received, with thirty-nine (39) objecting and three (3) in support. In response to the second advertising period, fifteen (15) submissions were received, with fourteen (14) of those objecting to the subject application, and one (1) submission being a general enquiry.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the EP&A Act. The proposal does not result in any significant adverse impacts upon neighbouring properties or the streetscape. The planning assessment found that the proposal the site is suitable for the proposed development.

For the reasons outlined above, the subject DA is recommended for approval subject to conditions that are appended to this report.

ITEM 0 (continued)

2. The Site and Locality

The site is legally described as Lot 12 and Lot 13 in Deposited Plan 239671 and has a street address of 176 Quarry Road, Ryde. The site is irregularly-shaped and has a combined area of 1,226.7m² (title); the front boundary is 30.73 metres, the northwest and southeast side boundaries are 45.855 and 38.1 metres respectively and the stepped rear boundary has a total length of 33.15 metres. The frontage is oriented to the northeast and adjoins the road reserve. The majority of the site contains a small northwest to southeast (i.e. side to side) slope of approximately 900mm; a section at the front of the site around the existing driveway has an approximate 1.2 metre slope towards Quarry Road.



Figure 1: Aerial photograph of the site in context.

Source: Nearmap, 28 February 2020

Existing development on the site consists of a detached two-storey dwelling house with an attached double garage that is of brick construction with a tiled roof (**Figure 2**); the rear setback includes a small metal shed and paved areas. There are no significant trees on the site. Vehicular access is obtained via a driveway and crossover from Quarry Road.

ITEM 0 (continued)

The site is not mapped as being subject to any constraints, such as heritage, urban bushland, flooding or bushfire prone land.



Figure 2: The subject site, as viewed from the northeast within Quarry Road
Source: Google, Number 2019

The subject site is located on the south-western side of Quarry Road. Adjoining the north-western side boundary is 180 Quarry Road, which contains a detached two-storey dwelling house (**Figure 3**). Adjoining the south-eastern side boundary is a public pathway (**Figure 4**), which provides a pedestrian link between Quarry Road and Readford Place to the southwest. Beyond the walkway is 174 Quarry Road, which contains a detached two-storey dwelling house with an integrated double garage (**Figure 5**).

Adjoining the south-western rear boundary are 5 and 6 Readford Place, which each contain a detached two-storey dwelling house (**Figure 6** and **Figure 7**). On the northeast side of Quarry Road opposite the subject site is 1 Lavarack Street, which contains a detached two-storey dwelling house and integrated garage (**Figure 8**).

Development within surrounding residential-zoned areas consists predominantly of low-density residential accommodation (i.e. detached dwelling houses with isolated dual occupancies and multi-dwelling housing developments). Notable non-residential development within areas to the north and northwest include two parks (Yamble Reserve and Henry Dunant Reserve), Smalls Road Public School and North Ryde Community Preschool.

ITEM 0 (continued)



Figure 3: 180 Quarry Road to the northwest of the subject site.
Source: CPS Site Inspection, 28 October 2019

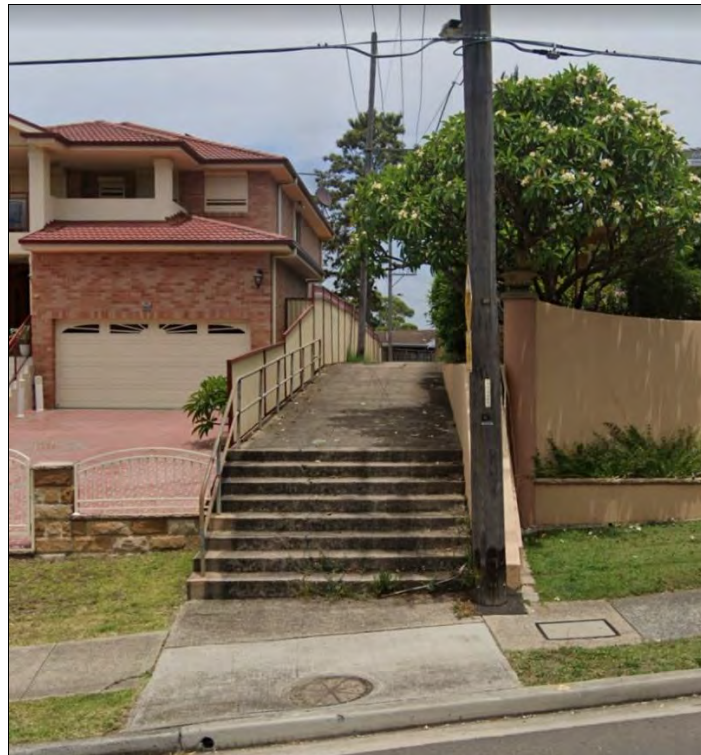


Figure 4: The pedestrian laneway adjoining the southeast boundary of the subject site (right) and 174 Quarry Road (left), as viewed from Quarry Road
Source: Google, January 2019

ITEM 0 (continued)



Figure 5: 174 Quarry Road, as viewed from Quarry Road.
Source: CPS Site Inspection, 28 October 2019



Figure 6: 5 Readford Place, as viewed from Readford Place.
Source: CPS Site Inspection, 28 October 2019

ITEM 0 (continued)



Figure 7: 6 Readford Place, as viewed from Readford Place.
Source: CPS Site Inspection, 28 October 2019



Figure 8: 1 Lavarack Street, as viewed from Lavarack Street
Source: CPS Site Inspection, 28 October 2019

ITEM 0 (continued)

3. The Proposal

The proposal includes the demolition of structures, consolidation of two lots and the construction of a child care centre consisting of a two storey building plus a basement level for parking and services. The childcare centre will cater for ninety-five (95) children; twelve (12) children will be aged from 0-2 years, fifteen (15) children will be aged 2-3 years and the remaining 68 children will be aged 3-6 years.

The centre will include fourteen (14) staff, and will operate from 7:00am to 6:00pm Monday to Friday.

Eight (8) trees are also proposed to be removed. The physical aspects of the proposed development are as follows:



Figure 9: Proposed eastern elevation (Quarry Road).
Source: Designcorp Architects, Issue N, dated: 25/06/2020

Basement level (RL 83.1) (Figure 10):

- The basement level will contain nineteen (19) car parking spaces to be allocated:
 - Seven (7) spaces for staff
 - Twelve (12) spaces for visitors
- Four (4) bicycle spaces are to be located at the northern end of this level.
- The northeast side of the basement will include a services room, laundry, pram storage, stairway to the ground floor and a bin storage area.
- Vehicular access to this level is obtained via a ramp (with 1:8 and 1:20 gradients) to be located on the northeast side of the site that will connect to the proposed driveway crossover and layback to Quarry Road.
- Pedestrian access to this level is obtained via two (2) elevators and two (2) stairways on the northeast side; the main stairway provides direct internal

ITEM 0 (continued)

access to the reception area on the ground floor and the other provides direct access to the front setback.

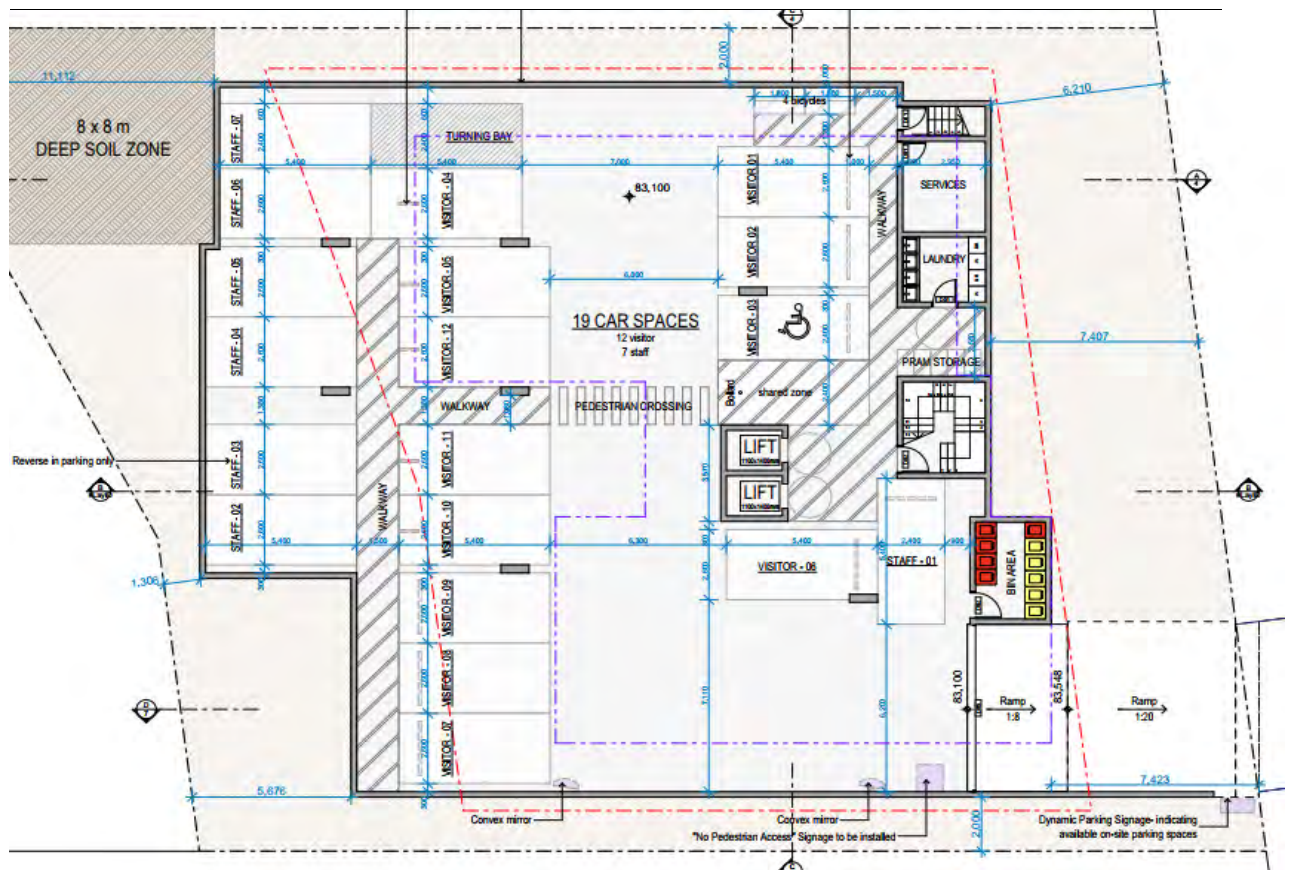


Figure 10: Extract of proposed basement plan.
Source: Designcorp Architects, 25 June 2020

Ground Floor (RL: 86.1) (Figure 11):

- Pedestrian access is provided through a centrally-located access way on the building's northeast (i.e. front) elevation.
- A reception area is located in the centre of this level; all stairway and internal lift access from the basement level is also directed to this area. The reception area effectively splits the ground floor into two wings, herein referred to as the 'northwest' wing and 'southeast' wing. Towards the rear of this area is an internal stairway connecting the ground and first floors.
- The northwest wing contains two (2) playrooms, two (2) cot rooms, two (2) toilet rooms (with nappy change facilities) and storage areas.
 - Playroom 01 is oriented towards the front of the building, and is to accommodate all children in the 0-2 year age group.
 - Playroom 02 is oriented towards the rear of the building, and is to accommodate twenty (20) children in the 3-6 age year group.
- The southeast wing contains two (2) playrooms, one (1) toilet room (with nappy change facilities) and storage areas.

ITEM 0 (continued)

- Playroom 03 is oriented towards the front of the building, and is to accommodate all children in the 2-3 year age group.
- Playroom 04 is oriented towards the rear of the building, and is to accommodate twenty (20) children in the 3-6 year age group.
- The ground floor outdoor play space is located at the rear and sides of the building, and is accessed via doors from playrooms 02 and 04. This area is to be partly covered by the first floor outdoor play area above. Beyond the covered component is a large open turf area for outdoor play space, with some of that space sitting atop of the basement level. The outdoor play space contains a variety of fixed play equipment, an open turf area, sand pit with shade sail above, feature planters, timber deck, concrete bench seat and timber and stone stepping pads within the mulched garden areas.
- The outdoor play space on the ground floor will be surrounded by a 1.8m high solid acoustic fence with a 1.4m awning above; a one-metre wide landscaped buffer will be located between the acoustic fence and boundary fences.

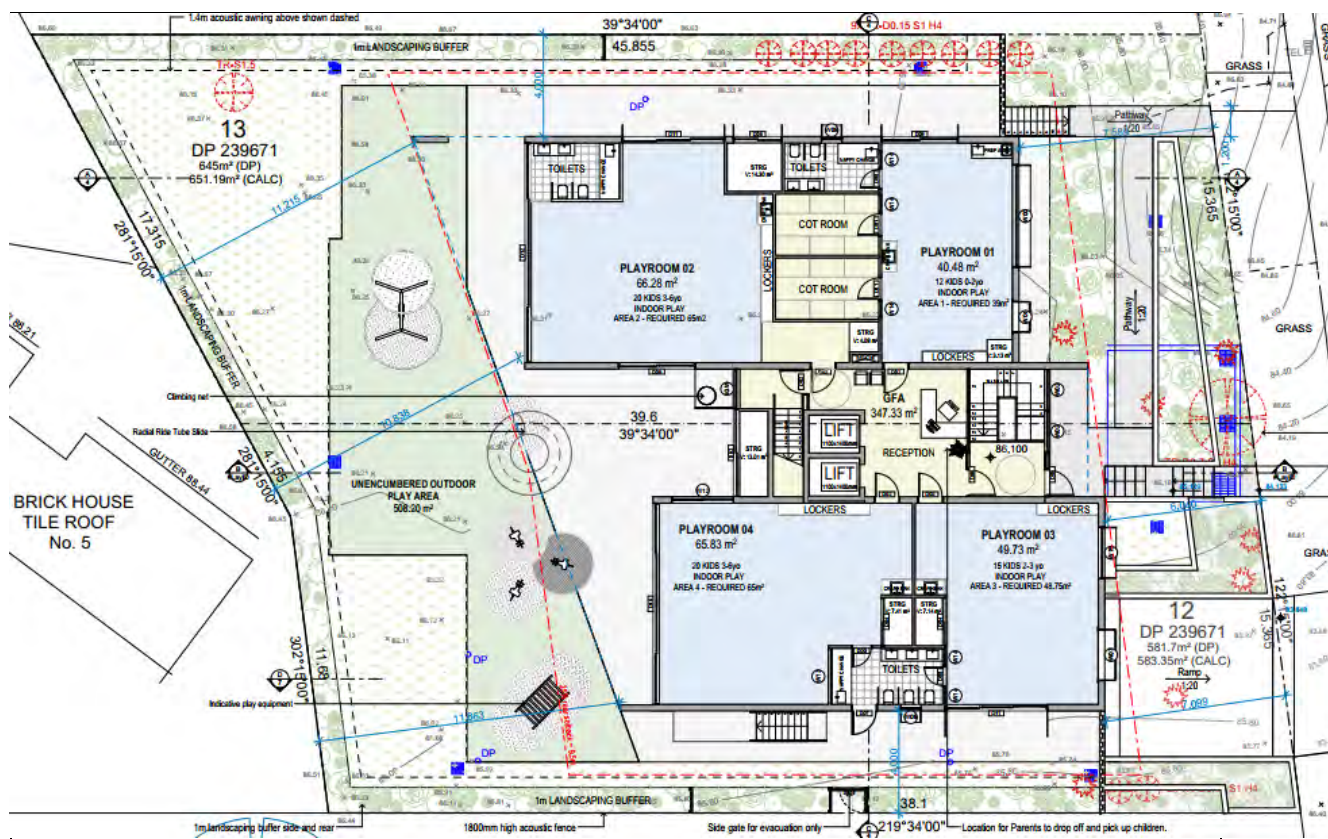


Figure 11: Extract of proposed ground floor plan.
Source: Designcorp Architects, 25 June 2020

First Floor (RL: 89.1) (Figure 12):

- The centre of the first floor contains a lobby area. Access to this level is provided via the two (2) lifts and a stairway to the rear of the lift core, which directly connects the lobby to the ground floor reception.

ITEM 0 (continued)

- The lobby area also effectively splits the ground floor into two wings.
- The northwest wing contains an office and meeting room, a manager's office, kitchen, and two (2) toilet rooms, one of which is for persons with disabilities.
- The southeast wing contains Playroom 05 (which will accommodate twenty-eight (28) children in the 3-6 age group), a toilet room with nappy change facilities and storage areas.
- The first-floor outdoor play space is located at the rear of the building, and is accessed via doors from Playroom 05 and a stairway that connects to the southeast side setback. The area immediately adjacent to the building would be covered by an eave, however the rear of this area is to be open. Landscaping within this area will include turfed areas and planter boxes, and will be enclosed by a 1.8 metre high barrier, consisting of 1 metre high solid balustrades topped by an 800mm high stained-glass screen.

It is noted the acoustic report recommends a minimum height of 1.6 metres for the acoustic walls, while the architectural plans show the acoustic walls having a height of 1.8 metres. As there are concerns that the 600mm high planters adjacent to the screens may create potential climbable surfaces adjacent to the balustrades, the 1.8 metre height on the architectural plans is supported, and to ensure lower walls are not installed, a condition of consent reflecting this has been recommended.

ITEM 0 (continued)

October 2019.	(42) unique submissions were received; thirty-nine (39) of which objected to the proposed development, with three (3) in support of the proposal.
18 November 2019	<p>Council write to the applicant identifying the following issues with the proposal:</p> <ul style="list-style-type: none"> • Inconsistencies with design quality principles within <i>State Environmental Planning Policy (educational Establishments and Child Care Facilities) 2017</i> that included a noncompliant floor space ratio (FSR), building design and character issues and inappropriate landscaping treatments, • Insufficient parking and issues associated with tandem parking arrangements, • Inconsistencies with the <i>Child Care Planning Guideline</i>, • No written request pursuant to clause 4.6 of <i>Ryde Local Environmental Plan 2014</i> for the FSR contravention, • Inconsistent information regarding staff numbers, and • Noncompliant setbacks and landscape design issues.
12 December 2019	A meeting was held between Council and the applicant regarding the issues raised by Council's assessment of the DA. It was agreed the applicant would be afforded an opportunity to submitted amended plans responding to the issues identified.
22 January 2020	Following a peer review by an external Traffic Consultant, a further request for information (RFI) letter was sent to the applicant detailing concerns with the Traffic and Parking Impact Assessment submitted with the DA.
17 March 2020	The applicant submits amended plans and information.
Second advertising - 3 April 2020 to 23 April 2020.	The DA was advertised in the <i>Northern District Times</i> and notified to surrounding properties. In response, fifteen (15) unique submissions were received, fourteen (14) of which objected to the proposed development; the remaining submission was an enquiry relating to advertising that neither supported nor objected to the DA.
14 April 2020	A further request for additional information was sent to the applicant. Issues raised included a noncompliant FSR, design and character issues, a lack of information regarding solar access and operational details such as deliveries, staffing and risk assessment.
5 May 2020	The applicant submits amended plans and information.
19 June 2020	A meeting was held between Council and the applicant to discuss rectification of design issues.
2 and 7 July 2020	The applicant submitted amended architectural, landscape and stormwater plans. The amended plans were

ITEM 0 (continued)

	<p>accompanied by a revised clause 4.6 written request. An amended Traffic and Parking Impact Assessment Report, and Acoustic report was also submitted.</p> <p>The amended plans and documentation covers the following:</p> <ul style="list-style-type: none"> • Reduction in the overall building height by 200mm. • Retaining walls within the front setback now incorporate planters along the driveway, to aid in softening visual bulk. • Deletion of the 1.8m boundary fence and relocation of the acoustic fence to the surrounds of the outdoor play area on the ground floor • Implementation of more glazing to the front façade • Updated 3D perspective drawings which reflect the latest revision of the plans. • Information provided within the revised SEE and Traffic Report which indicates deliveries to occur outside of drop off and pick up times in which Council are satisfied. • The outdoor play areas now include sufficient levels of natural planting and turfed areas, given the introduction of suspended slabs structures, above the basement within the outdoor play space on the ground floor and beneath the outdoor play space on the first floor. • Introduction of an additional lift to ease pedestrian congestion within the car park. • The revised 4.6 written request provided appropriate justifications and environmental planning grounds to support the contravention of the 0.5:1 Floor Space Ratio development standard. <p>Given the amendments undertaken the proposal was not renotified.</p>
--	--

ITEM 0 (continued)
5. Planning Assessment
5.1 State Environmental Planning Instruments

Instrument	Proposal	Compliance
State Environmental Planning Policy No. 55 – Remediation of Land		
<p>The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated.</p>	<p>The submitted Preliminary Site Investigation Report indicates there is a low potential for the development to cause land and/or groundwater contamination, and that the site is suitable for the proposed development, subject to recommendations. Further, the site has been historically used for residential purposes. As such, it is unlikely to contain contaminants and further investigation of the site is not warranted in this instance.</p>	<p>Yes</p>
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017		
<p>The Vegetation SEPP commenced on 25 August 2017 and replaced clause 5.9 of RLEP 2014, which related to the preservation of trees and vegetation.</p> <p>The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.</p>	<p>The applicant proposes to remove eight (8) trees on the site to facilitate the development. The trees to be removed are not significant, and the site is not mapped</p>	<p>Yes</p>

ITEM 0 (continued)

	<p>as containing significant urban bushland on Council's Environmentally Sensitive Areas map. All of the trees to be removed have been classified as exempt under Part 9.5 of RDCP 2014 and can be removed without the need for obtaining consent.</p> <p>The proposal is also supported by a satisfactory arborist report and landscape plan. The proposal will not unduly impact upon any existing biodiversity, trees and/or vegetation on the site. The removal of the trees is considered acceptable by the consultant Landscape Architect/Arborist.</p>	
<p>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</p>		
<p>Clause 23 of the <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i> (SEPP) provides that:</p> <p><i>Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority</i></p>	<p>The <i>Child Care Planning Guideline</i> (herein simply referred to as 'the Guideline') establishes the assessment framework to deliver consistent</p>	<p>Yes</p>

ITEM 0 (continued)

<p><i>must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.</i></p>	<p>planning outcomes and design quality for centre-based childcare facilities in NSW.</p> <p>A detailed assessment of the proposal against provisions of the Guidelines is illustrated in the compliance table held in Attachment 1. This matter has also been discussed in greater detail following the table.</p>	
<p>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</p>		
<p>This Plan applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.</p>	<p>Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.</p>	<p>Yes</p>

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (ESEPP)

Clause 23 Centre-based child care – matters for consideration by consent authorities

Clause 23 of the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (ESEPP)* provides that:

Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.

ITEM 0 (continued)

The *Child Care Planning Guideline* (CCPG) establishes the assessment framework to deliver consistent planning outcomes and design quality for centre-based childcare facilities in NSW.

A detailed assessment of the proposal against the provisions of the CCPG is contained within **Attachment 1** appended to this report, which finds the proposal to be consistent with the objectives and guidelines of the CCPG.

One area of potential concern however is the quality of information regarding emergency and evacuation procedures as required by Section 4.8 (Emergency and evacuation procedures) of the CCPG. The proposed marshalling point adjacent to the intersection of Quarry Road and Aeolus Avenue is considered inappropriate, due to the distance the children would need to walk adjacent to Quarry Road. The turning-head of the Readford Place cul-de-sac is considered to be a more appropriate evacuation marshalling point as there would be less traffic within this location. To shorten the route to this point and keep children away from Quarry Road during an evacuation, it is recommended that a condition be imposed that would require the following:

- Small changes to the site layout, southeast side boundary fence and landscaping to provide an additional gate towards the rear of the site to facilitate direct access to the adjoining laneway,
- Changes to the gate design to ensure that they are flush with the fence (as opposed to the 'indented' design of the current gate) to avoid adversely affecting the performance of the acoustic barrier. The gates are to also open inwards (as opposed to opening out into the laneway), are to be secured by internal locks and signposted to prevent attempted access from the laneway, and
- The emergency management plan is to be amended to nominate the Readford Place cul-de-sac as the emergency evacuation point. The site evacuation plans are to be amended accordingly.

The following is a brief response to the proposal's performance against the design quality principles contained within Part 2 of the CCPG:

1. The proposal responds well to the layout of the site, is consistent with streetscape character and is well located with regard to surrounding facilities and public transport.
2. Despite the FSR contravention, the design of the building largely complies with controls governing building form and presents positively to the streetscape.
3. The proposal includes large indoor and outdoor spaces that will provide purpose-built and accessible facilities with high levels of amenity capable of being used for a variety of activities.

ITEM 0 (continued)

4. The proposal will provide adequate cross ventilation, sunlight and passive thermal design.
5. The proposed development incorporates substantial and varied landscaped areas (particularly within the front and rear setbacks) that will positively contribute to the streetscape and local character.
6. A high level of internal and external amenity is proposed for users of the centre, with good solar access and natural ventilation to be provided to indoor and outdoor areas. The design of the development will not give rise to unacceptable impacts on adjoining property.
7. The layout and design of the centre will not create risks for children attending the site. All indoor and outdoor areas are capable of satisfactory active and casual surveillance.

Attachment 1 also contains an assessment of the proposal's compliance against the non-discretionary development standards for centre based child care centres contained in the ESEPP.

5.2 Ryde Local Environmental Plan (RLEP 2014)

The following outlines provisions of RLEP 2014 that are relevant to the proposal.

Clause 2.3 - Zone Objectives and Land Use Table

Under RLEP 2014, the subject site is zoned R2 Low Density Residential. 'Centre-based child care facilities' are permissible with consent within the R2 zone.

Objectives for residential zones:

The objectives of the R2 low density residential zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*
- *To provide for a variety of housing types.*

As no residential development is proposed, the first and third objectives of the zone would not directly apply to the proposal. The proposal is however a form of development that is consistent with the surrounding low-density residential environment in terms of height, number of storeys, relative bulk and scale (given the substantial size of the subject site) and landscaped area. The second objective will be satisfied as the proposed development would provide facilities and services to meet the day-to-day needs of local residents. The proposal satisfies the relevant objectives for non-residential developments.

ITEM 0 (continued)

The following table provides a summary of the key provisions that apply to the proposal:

Clause	Proposal	Compliance
4.3(2) Height of Buildings		
9.5m	Proposed building height 7.05m . Note: Height calculated from roof ridge to lowest ground RL beneath	Yes
4.4(2) Floor Space Ratio		
0.5:1 (613.35m ²)	Proposed GFA: Basement: 6.98m ² Ground Floor: 350.43m ² First Floor: 392.2m ² Total GFA: 742.63m ² Site Area: 1,226.7m ² (Title) Proposed FSR: 0.605:1	No, cl.4.6 variation request submitted
4.6 Exceptions to development standards		
(1) The objectives of this clause are as follows— (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	Variation Sought to clause 4.4(2)	Yes
6.2 Earthworks		
(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	Submitted information (including a Geotechnical Investigation Report) indicates that, subject to conditions, the earthworks would not have a detrimental impact on the environment and surrounding sites. No objection has been raised by Council's Development Engineer.	Yes
6.4 Stormwater Management		
(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.	The plans depict sufficient permeable surfaces, OSD and discharge from the site. Council's Development Engineer is satisfied with the proposed drainage arrangement.	Yes

ITEM 0 (continued)

Clause 4.6 – Exceptions to Development Standards.

The development contravenes clause 4.4(2) of RLEP 2014, which prescribes a maximum FSR of 0.5:1 (i.e. GFA of 613.35m², based on a site area of 1226.7m²). The proposal's GFA of 742.63m² equates to an FSR of 0.605:1, representing a 21% or 129.28m² contravention of the development standard.

The proposal has been supported by amended plans (dated 25 June 2020) and a clause 4.6 written request prepared by Planning Lab (dated 1 July 2020) to vary the development standard. This planning assessment has found however that the proposed GFA and FSR of the site are higher than that calculated by the applicant, which indicates that the GFA and FSR of the site respectively are 724.61m² and 0.587:1.

When having regard to the GFA definition contained within the Dictionary of the RLEP 2014, the variation to the development standard arises from the necessity to include the floor area of the outdoor play area given it is to be enclosed by walls greater than 1.4 metres in height. The areas at first floor included in the GFA calculation are shown in **Figure 13**.

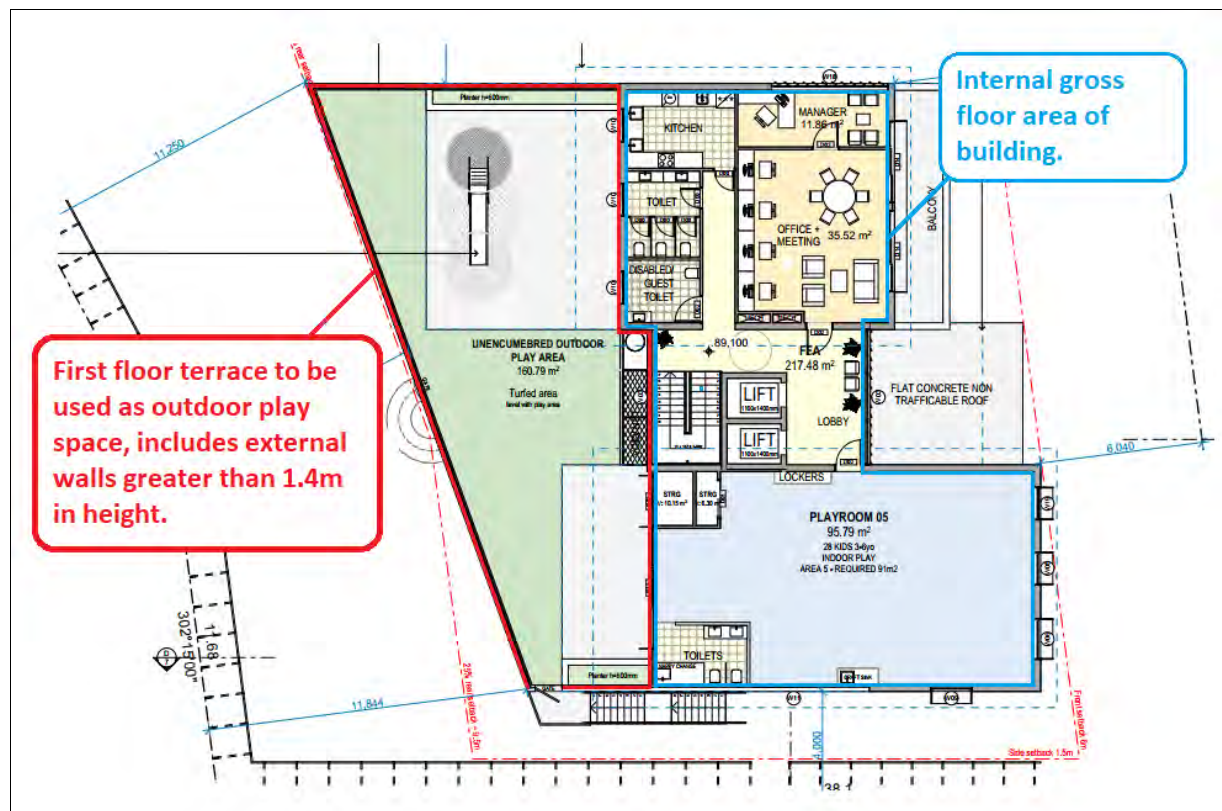


Figure 13: Areas included in GFA at first floor plan.

Source: Designcorp Architects, 25 June 2020

ITEM 0 (continued)

An assessment of the relevant provisions of Clause 4.6 is as follows:

- Clause 4.6(3)(a) - Is compliance unreasonable or unnecessary in the circumstances of the case?
- Clause 4.6(3)(b) - Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

The written request provides the reasons why compliance with the standard is unreasonable and/or unnecessary, with selected excerpts shown below:

- *A reduction in the height of the fence or the use of a slatted balustrade around the Level 1 outdoor play area would exclude the areas from consideration as GFA, rendering the FSR numerically compliant. The proposed design represents an appropriate built form.*
- *Objectives of the development standard (Clause 4.4) are achieved notwithstanding non-compliance with the standard. This is primarily because the additional wall height is located at the rear of the block and will not be readily visible from the public domain. Therefore, in comparison to a compliant scheme with a 1.4m wall height, the proposal does not present as having greater bulk.*
- *The walls will have a negligible additional overshadowing effect on 174 Quarry Road from approximately 2pm. This will affect a very small portion of the rear private open space of 174 Quarry Road, the great majority of which will be unaffected.*
- *The proposed wall height of 1.8m lessens any potential privacy issues in comparison to a 1.4m wall. This is because the 1.8m tall wall will not readily permit views into the rear private open spaces of neighbouring dwellings.*
- *The 1.8m wall height provides a suitable acoustic barrier which will minimise the environmental impact of noise generated by the development having a positive impact on the amenity of the built environment.*
- *The additional wall height increases the safety of both staff and children.*
- *If the variation is not permitted, the building will be required to reduce its GFA by 107.34m², which is equal to 17.4%. A corresponding decrease in childcare places would be a reduction of 16 child care places down to 79. A reduction in the provision of childcare spaces is an undesirable outcome for the landowner, future operator and the community.*

Assessment Officer's Comments:

It is agreed that the variation to the FSR development standard is attributable to the rear-facing first floor outdoor play area, which is bounded by the 1.8-metre-high acoustic barriers. It is also agreed that the acoustic barriers would serve to protect the acoustic amenity and visual privacy of surrounding residential allotments. Given that they would not significantly contribute to the proposed building's height, bulk and/or scale, the barriers will have a negligible impact on the overshadowing of

ITEM 0 (continued)

surrounding residential sites and will still enable plentiful solar access and amenity to the proposed outdoor play areas on both levels.

While the barriers technically increase the development's GFA, compared to enclosed habitable areas on the first floor, the relatively limited (i.e. 1.8 metre) height of the barriers will be well below the ceiling height of the first floor and as such will not contribute to the building's height, bulk and scale. There will be no visual impact on the Quarry Road streetscape, and the streetscape's existing and future character will therefore be retained.

It is therefore agreed that strict enforcement of the FSR development standard in this circumstance would be unreasonable, and there are sufficient environmental planning grounds to justify the contravention.

Is the proposal in the public interest?

Pursuant to clause 4.6(4)(ii), a development will be in the public's interest if it is consistent with the objectives of the development standard and also the zone objectives in which the particular development is carried out. A response on the proposal's consistency with the R2 zone objectives is as follows:

- *To provide of the housing needs of the community within a low density residential environment.*

The proposal does not include any housing. The design of the proposed development is however consistent with that of the surrounding low-density residential area; aside from the proposed variation to the FSR development standard, the development otherwise obtains a high level of compliance with other development standards and controls that govern building height, bulk and scale. The barriers that enclose the first-floor outdoor play area will not be visible from the street, and as such will the existing low-density residential environment of surrounding streetscapes will be unaffected.

- *To enable other land uses that provide facilities or services that meet the day to day needs of residents.*

The proposal will provide child care facilities and services to meet the day to day needs of residents. It is agreed with the applicant's written request that to refuse the FSR variation will significantly reduce the available floor space and therefore the number of child care places available to local residents.

- *To provide a variety of housing types.*

The proposal does not include any housing, however the proposal will not affect the capacity of surrounding sites to continue providing housing of varying types.

ITEM 0 (continued)

A response to each of the objectives of clause 4.4 (floor space ratio) of RLEP 2014 is as follows:

(a) To provide effective control over the bulk of future development

Comment: The proposed variation to the development standard is largely attributable to the partial enclosure of the rear-facing first-floor play area. The 1.8 metre high barriers are significantly lower than the building's habitable room areas, and in this instance do not contribute significantly to the bulk and scale of the building as a whole. The proposed development otherwise achieves a high level of compliance with the standards and controls that seek to limit building height, bulk and scale. As a result, the streetscape presentation of the building is consistent with the desired character for future development in the R2 zone.

(b) To allow appropriate levels of development for specific areas.

Comment: The design of the proposed development is appropriate for the site. FSR variation notwithstanding, the height, scale, materials and design of the building is consistent with applicable development standards and controls. The presentation of the development to surrounding sites and the public domain is also consistent with the existing and desired character of the area. Provided that the site is operated in accordance with recommended conditions, it will also not have unreasonable and inappropriate impacts on this specific area of Ryde.

(c) In relation to land identified as a Centre on the Centres Map – to consolidate development and encourage sustainable development patterns around key public transport infrastructure.

Comment: The objective is not relevant to the proposed development, as the subject site is not land identified as forming part of a Centre on the Centres Map within RLEP 2014.

Summary

The applicant has adequately addressed why compliance with the development standard is unreasonable or unnecessary under Clause 4.6(3)(a) of RLEP 2014. The applicant has also demonstrated sufficient environmental planning ground to justify contravention of the floor space ratio development standard, as required by Clause 4.6(3)(b).

It has been demonstrated by this assessment that the proposed development is consistent with the objectives of both the development standard and the R2 zone. For these reasons, the development will be in the public interest.

ITEM 0 (continued)

The concurrence of the Planning Secretary is not required – refer clause 4.6(4)(b) of the RLEP 2014.

Accordingly, development consent may be granted to the proposal, despite the contravention of the FSR development standard.

5.3 Draft Environmental Planning Instruments

Instrument	Proposal	Compliance
Draft Remediation of Land State Environmental Planning Policy		
<p>The Draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. The explanation of Intended Effects accompanying the draft SEPP advises:</p> <p><i>As part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with Councils and industry. A key finding of this preliminary consultation was that although the provisions of SEPP 55 are generally effective, greater clarity is required on the circumstances when development consent is required for remediation work.</i></p>	<p>The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of DAs. As discussed within the SEPP 55 assessment above, the subject site has been used for residential purposes for an extended period of time, and is therefore unlikely to have been associated with land uses that will result in contamination of the site. This is supported by a preliminary site investigation report which also indicates there is a low potential for the development to cause land and/or groundwater contamination, and</p>	<p>Yes</p>

ITEM 0 (continued)

	that the site is suitable for the proposed development, subject to recommendations.	
Draft Environment SEPP		
The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways and urban bushland areas. Changes proposed include consolidating a number of SEPPs, which include: <ul style="list-style-type: none"> - State Environmental Planning Policy No. 19 – Bushland in Urban Areas - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 	The proposal is not inconsistent with the provisions of the draft SEPP.	Yes

5.4 Development Control Plans

Ryde Development Control Plan 2014 (RDCP 2014)

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 3.2: Child Care Centres
- Part 3.3: Dwelling Houses and Dual Occupancy
- Part 7.2: Waste Minimisation and Management;
- Part 8.2: Stormwater & Floodplain Management;
- Part 8.3: Driveways;
- Part 9.3: Parking Controls

Note: Built form controls for dwelling houses and dual occupancy controls within Part 3.3 of RDCP 2014 apply to this proposal, in accordance with control 3.2(d) within Part 3.2 of the DCP.

Clause 26(1) of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* provides that a provision of a development control plan that specifies a requirement, standard or control in relation to any of the

ITEM 0 (continued)

following matters (including by reference to ages, age ratios, groupings, numbers of 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).*

A detailed assessment of the proposal against the relevant provisions of RDCP 2014, Part 3.2 Child Care Centres is contained within **Attachment 2**. This assessment has concluded that the proposal is consistent with the aims and objectives of RDCP 2014. Where strict compliance has not been achieved, in accordance with Section 4.14(3A)(b) of the EP&A Act, flexibility has been sought to allow a reasonable alternative solution that achieves the objects of those controls. These matters are discussed below:

Part 3.2: Child Care Centres**Section 2.0 - Size, Location and Site Selection**

Section 2.1.1 of Part 3.2 of RDCP 2014 provides for the criteria for sites where child-care centres should be located. The subject site's is consistent with such requirements, being on a large (i.e. 1, 226.7m²) and suitably orientated site, is mostly level and not in a cul-de-sac, on a battle-axe allotment and/or on an arterial/sub-arterial road. The RDCP 2014 does however seek for larger-scale centres in low density residential areas to be located:

- On street corners,
- Sites that share common boundaries with compatible non-residential uses, and
- Where child care centres can be co-located with compatible uses subject to acceptable traffic and parking requirements being met.

The subject site is not a preferred location for the proposed development as it will share common boundaries with three (3) residential properties, and is not necessarily co-located with compatible uses. Also, while not a corner allotment, the site does benefit from a south-eastern boundary adjoining a public pathway rather than another residential lot.

ITEM 0 (continued)

Despite not being in a preferred location, the site area is substantial, which provides sufficient space for compliant setbacks, landscape area and both indoor and outdoor play space. Further, the placement and design of the proposed development on the site is such that it will not adversely affect the visual privacy, acoustic amenity and solar access of surrounding sites. At 7.05 metres the building is also well below the 9.5 metres building height standard and would present to the streetscape in a manner that is envisioned by the RDCP 2014. This helps ensure a development outcome that is consistent with the existing and desired future character of the surrounding area.

Given the site is not located on a major road, the centre will not be adversely affected by noise, vibration or pollution, and the location of the driveway will allow for suitable vehicular and pedestrian entrance and egress. Further the minimal gradient across the site is conducive for a child care centre development and will enable reasonable solar access to outdoor play areas.

The location of the site will therefore satisfy the objects of Section 2.1.1.

Section 5.0 – Car Parking, Traffic and Access

Control Section 5.1(f) does not permit underground parking in low density residential areas.

The proposal is for a larger-scale child care centre and includes basement parking for visitors and staff. Whilst the provision of basement parking is contrary to control (f), the proposal is appropriate for the following reasons:

- The elevational difference between Quarry Road and the floor level of the basement carpark is not significant, the design of the driveway and basement access point will not dominate the streetscape and minimises paved areas within the front setback area,
- The relocation of the current driveway crossover to the lowest point of the site will mean the new driveway crossover is further away from the Quarry Road/Lavarack Street intersection,
- Aside from providing parking and facilities both undercover and in accordance with relevant standards, the provision of parking facilities within the basement and internal access between the basement and levels above will internalise noise associated with parking areas and associated activities; the provision of a basement will therefore further improve the acoustic amenity of surrounding sites,
- If at-grade parking were to be provided, the slope at the front of the site would require that carpark access be obtained from the northern point of the site adjacent to the Quarry Road/Lavarack Street intersection. Further, any provision of at-grade parking will dominate the streetscape, which is contrary to control 5.1(g) within Part 3.2 of RDCP 2014, and

ITEM 0 (continued)

- Council's Consultant Traffic Engineer and Senior Development Engineer have raised no objection to a basement parking layout.

Despite the non compliance, the proposed basement carpark location of the site will satisfy the objects of Section 5.1 of the RDCP 2014, and is therefore satisfactory.

5.5 Planning Agreements or Draft Planning Agreements

The DA is not the subject of any planning agreements or draft planning agreements.

5.6 Section 7.12 Fixed Rate Development Levy Contributions Plan 2020

Council's current Section 7.12 Fixed Rate Development Levy Contributions Plan 2020 became effective on 1 July 2020. The plan relates to development which has a cost of works in excess of \$350,000 and for non residential development which increases the floor space. The proposed use a child care involves a construction cost of \$1,958,759.76 and includes an increase in floor space. The proposed use being a child care centre is not identified in Section 2.5 of the Policy as being exempt from the contribution. The proposal is subject to a contribution of **\$19,837.87** and this is included in recommended conditions of consent (**Condition 42**).

5.7 Any matters prescribed by the regulationsEnvironmental Planning and Assessment Regulation 2000

The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning, Industry and Environment and others. Standard conditions of consent requiring compliance with the BCA and relevant Australian Standards have been included in the commencement.

Education and Care Services National Regulations

These Regulations underpin the operational and specific design requirements for education and care providers. With regard to the DA, these Regulations govern physical environment design requirements for centre-based child care facilities, and form part of the design guidelines within the Child Care Planning Guideline. The proposal complies with such regulations; reference is made to the assessment in **Attachment 1** for further detail.

ITEM 0 (continued)**6. The likely impacts of the development**

The assessment demonstrates that, subject to conditions, the proposal will not have any significant adverse nor unreasonable impacts upon adjoining properties or the environment in general. The development will not result in any significant or adverse visual privacy or overshadowing impacts on adjoining sites, and the visual appearance of the development with the public domain would be consistent with the existing and future character of the surrounding area. All relevant issues regarding environmental impacts of the development are discussed elsewhere within this report.

The proposal seeks to vary the FSR development standard within clause 4.4 of RLEP 2014. The contravention has been supported by a satisfactory clause 4.6 written request and demonstrates that the proposal is satisfactory, despite the FSR variation.

Approval of the proposed development is unlikely to establish a negative precedent that would be reflected elsewhere within the Ryde LGA. The development is therefore considered satisfactory in terms of environmental impact.

7. Suitability of the site for the development

The subject site is located within the R2 Low Density Residential zone. 'Centre-based child care facilities' are permitted with consent in the R2 zone. While the proposal is identified as a non-preferred location for larger scale centres under the RDCP 2014, the earlier assessment in response to Section 2.1.1 of Part 3.2 of the RDCP 2014 has demonstrated that the site is suitable for the child care centre development as proposed.

8. The Public Interest

The public interest is best serviced by the consistent application of the requirements of the relevant environmental planning instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised.

Although the proposal seeks a variation to a development standard, the submitted clause 4.6 written request establishes satisfactory environmental planning grounds for the variation, and demonstrates why it is unreasonable to enforce strict compliance with the development standard.

Further, the proposal is consistent with other relevant planning provisions, will not significantly or unreasonably affect surrounding sites and the broader area and is consistent with the existing and future character of the area. The proposal would therefore be in the public interest.

ITEM 0 (continued)**9. Submissions**

The DA was advertised in accordance with Council's Community Participation Plan (CPP). Owners of surrounding sites originally notified from 9 October 2019 to 30 October 2019. In response to the first advertising period, forty-two (42) unique submissions were received; thirty-nine (39) of these objected to the proposed development, with three (3) in support of the proposal.

Following plan amendments, the DA was advertised a second time from 3 April 2020 to 23 April 2020. In response, fifteen (15) unique submissions were received. Fourteen (14) of these submissions objected to the proposed development; one (1) submission enquired about reviewing information, but did not indicate whether the submission supported or objected to the proposal. Of the fifteen (15) submissions, six (6) were from parties who had not objected to the original proposal.

Further amended plans were submitted on 2 July 2020. The amended plans were not notified as the amendments do not increase the impact on adjoining or neighbouring land or cause material impact on the environment.

The objections raised in the submissions are summarised below, with a comment by the assessing planner:

- ***Impacts to local traffic, including the following specific concerns:***
 - ***The site's proximity to Denistone East, Kent Road, Smalls Road Primary School, Yamble Reserve, and the child care centres on Hancott Street and within Yamble Reserve.***
 - ***The site's proximity to Quarry Road intersections with Lavarack Street, Aelous Avenue, and Lane Cove Road.***
 - ***Increased traffic within Hancott Street and Readford Place, due to convenient pedestrian access to the site via the adjacent pedestrian laneway.***
 - ***Pedestrian safety, noting the location of the site at the top of the hill.***
 - ***No through traffic on Lavarack Street.***
 - ***Queuing and safety issues associated with Aelous Avenue / Quarry Road roundabout, and suggestions for no stopping signs.***
 - ***A 'U-shaped' driveway not provided as required by RDCP 2014.***
 - ***Disturbances during construction.***
 - ***Issues with access between the site and Quarry Road, with associated requests for left-in/left-out only.***

Comment: Information submitted with the DA demonstrates that the proposed development would provide a sufficient amount of onsite parking, and that the local road network could accommodate traffic volumes to be generated by the proposed development.

ITEM 0 (continued)

The concern held regarding parents parking within Hancott Street and Readfod Place and then walking to the child care centre is considered unlikely. Particularly given the availability of parking on site which provides for a more direct and convenient means off dropping children off to the centre.

The DA was referred to an independent traffic consultant (Bitzios Consulting Engineers) for peer review; comments from referral response indicate that the proposal does not result in any adverse impacts upon traffic. Further information was requested including the provision of further analysis of localised traffic impacts upon the local road network during peak periods.

In the supplementary traffic and parking assessment provided on 7 July 2020 further analysis was provided in regards to impacts upon Lovell Road/North Road/ Cecil Street / Quarry Road, Aeolus Avenue/Quarry Road, Smalls Road/Quarry Road and Quarry Road/Lane Cove Road/Goulding Road. The information provided was based on further surveys undertaken in regards to the local roads. The intersections were surveyed and a queue survey undertaken as part of the intersection surveys. It was concluded the intersections were not at capacity and represented low delays (with the exception of the Lane Cove Road/Quarry Road intersection) and has spare capacity. The proposal did not result in an unacceptable impact and considered satisfy by Council's Consultant Traffic Engineer.

Conditions of consent have been recommended requiring a construction and traffic management plan (**Condition 55**), work zone permit (**Condition 60**) and conditions relating to construction noise (**Condition 61**).

- **Concerns with submitted Traffic Report, including:**
 - **Failing to account for new Smalls Road Primary School.**
 - **No consideration of vehicles exiting existing properties near the Aeolus Avenue / Quarry Road roundabout.**
 - **Inadequate consideration to increased traffic flows associated with additional delays on the right turn from Aeolus Avenue to Quarry Road.**
 - **Comparison to other road intersections are not appropriate.**
 - **Impacts to pedestrian safety due to parents parking on-street.**

Comment: In the amended traffic and parking assessment submitted to Council on 7 July 2020, further surveys were undertaken at the request of Council regarding queuing and intersection surveys of local roads including the Aeolus Avenue and Quarry Road intersection. The applicant's traffic and parking reports was referred externally to the independent traffic consultant (Bitzios Consulting Engineers) for peer review; comments from in their referral response indicate that the proposal does not result in a significant or detrimental impact upon the efficiency of this intersection.

The proposal does not rely upon on street car parking. The proposed basement provides for the required number of parking spaces for a child care of this size.

ITEM 0 (continued)

- ***Impacts to on-street parking, including the following specific concerns:***
 - ***Requests for a dedicated drop off area,***
 - ***Quarry Road parking limited due to dividing lines and medians, and single lane.***

Comment: A dedicated drop off area is not proposed as off-street car parking facilities are provided as part of the proposed development and there is insufficient space within the Quarry Road corridor for the provision of such facilities. The proposal provides for a compliant number of parking spaces and as such, the development does not rely upon changes to Quarry Road to facilitate the development.

- ***Acoustic impacts from indoor and outdoor play spaces, and from mechanical ventilation equipment.***

Comment: Acoustic impacts have been assessed in a Noise Impact Assessment submitted with the DA. In accordance with this assessment and its recommendations, which include acoustic barriers around the outdoor play spaces, the operation of the site would not have an unacceptable impact on surrounding residences. Council's Environmental Health Officer has reviewed the DA and the acoustic assessment, and raises no objection to the proposal, subject to consent conditions.

The planning assessment has however recommended that a condition of consent be imposed for a validation assessment of the acoustic recommendations. This would require that a noise assessment be carried out within three (3) months of the commencement of operations to confirm that the recommendations actually satisfy the noise criteria.

- ***Visual privacy concerns***

Comment: The architectural plans demonstrate a 1.8m high acoustic fence to be included around the elevated open space areas, which would otherwise give rise to overlooking opportunities. The height of the acoustic fence will serve a dual purpose as a noise barrier, and also to limit overlooking potential. Accordingly, visual privacy will be satisfactorily maintained to adjoining property.

- ***Light pollution***

Comment: Conditions of consent will require that the development (including lighting) is constructed in accordance with applicable Australian Standards, *including Australian Standard 4282 – Control of the obtrusive effects of outdoor lighting.*

ITEM 0 (continued)

Regardless, it is considered unlikely that unacceptable light spill impacts will result from the operation of the centre given it proposes to close at 6pm.

- ***Impact on utility services***

Comment: There is no evidence that the development will adversely affect local utility services. In the event of approval, the development will be subject to consent conditions requiring that the developer obtain relevant certificates from Sydney Water to ensure that the development is adequately serviced by water infrastructure. The development would also be subject to conditions that would require any service and/or utility alterations to be undertaken in accordance with relevant service provider requirements.

- ***Development is contrary to CCPG and RDCP 2014***

Comment: The proposed development is satisfactorily compliant with the relevant provisions of the RLEP 2014, RDCP 2014 and the CCPG. Detailed assessments of the proposal against these provisions are contained within **Attachment 1** and **Attachment 2**. The provisions of the RLEP2014 and EP&A Act generally allow for certain variations of planning controls in circumstances where it can be demonstrated the objects of the controls are met nonetheless.

Where contraventions or non-compliances have been identified, this assessment report demonstrates why the variations should be supported in the circumstances of the case, and why the proposed development remains suitable for the subject site.

- ***Insufficient outdoor play space.***

Comment: The amended proposal achieves compliance with the minimum 7.0m² of unencumbered outdoor play space per child required by Regulation 108 of the *Education and Care Services National Regulations*. A detailed assessment is contained within the compliance assessments contained in the attachments to this report.

- ***Poor centre amenity, in relation to solar access afforded to unencumbered outdoor space.***

Comment: The proposal achieves compliance with the minimum 30% solar access requirement for outdoor play areas under the CCPG.

The amended plans demonstrate the outdoor play space contains a variety of fixed play equipment, an open turf area, sand pit with shade sail above, feature planters, timber deck, concrete bench seat and timber and stone stepping pads within the mulched garden areas.

ITEM 0 (continued)

The outdoor play space has been assessed by Council's consultant landscape architect, and they have advised that the proposal is satisfactory, subject to consent conditions.

- **Concern with evacuation plan, namely that the pedestrian pathway is not large enough to accommodate 120 people.**

Comment: The following condition of consent has been recommended to ensure the Emergency Evacuation Plan and the approved plans be modified to provide a shorter evacuation route to the off-site marshalling point within the Readford Place cul-de-sac. This includes the inclusion of an additional side gate providing emergency access only to the adjacent public pathway via the outdoor play space area. The recommended condition (**Condition 3**) to address this is as follows:

The site layout and associated information is to be amended, so that the off-site evacuation marshalling point is located within the cul-de-sac turning head in Readford Place. To enable this, the following is to be undertaken:

- *In addition to the gate shown on the approved plans, an additional gate is to be placed on the southeast boundary within the rear setback area to enable direct access to the public laneway addressing this boundary. The landscaped layout of the site is to be modified so as to provide unimpeded direct access to both gates.*
- *The two (2) gates are to be designed as follows:*
 - *Both gates are to be designed so that they are flush with the fence/acoustic barrier (i.e. they are not to provide an 'indent' in the fence).*
 - *Both gates are to open inwards to the site (i.e. they do not open out into the laneway), and can only be unlocked/opened from within the site.*
 - *Signage is to be installed on both sites of the gates, which clearly indicate that the gates are for emergency evacuation purposes only. Signage on the exterior (i.e. laneway) side of the gates are to direct persons to enter the site via the entry point at the front of the site.*
- *Evacuation plans and all emergency procedures and evacuation documents are to be amended to reflect the changes required by this condition prior to the issue of an occupation certificate.*
- **Streetscape design and character issues, in that the appearance of the development is akin to that of a commercial building**

Comment: The building presents to the public domain as a two-storey structure, with a height (7.05m) that is well below the 9.5m building height standard, and setbacks that are well in excess of minimum RDCP 2014 requirements, noting that low-density residential controls are to be used to establish building setbacks for child care centres. This assessment has found that the design of the building and its associated

ITEM 0 (continued)

height, bulk and scale is appropriate with regard to the existing and desired character of the local area as shown in **Figure 14** perspective.

PROPOSED CHILD CARE CENTRE AT
176 QUARRY RD RYDE,
MATERIALS AND FINISHES SCHEDULE



Figure 14: Perspective of proposal as viewed from Quarry Road
Source: Designcorp Architects, 25 June 2020

- ***Cut and fill***

Comment: The proposal necessitates cut and associated retaining walls within the front setback to facilitate the construction of the basement carpark and associated facilities. Information submitted with the DA and this assessment has found that, subject to conditions, that there is a low risk of any adverse impacts arising from such earthworks. The building footprint is to be located on a relatively level part of the site, with the ground floor level to be close to existing ground levels, with the exception of works within the eastern-most part of the site (i.e. the area with the greatest slope). The development will not present to the public domain as containing excessive cut and fill, particularly with the degree of landscape proposed that is supported by Council's Consultant Landscape Architect/Arborist.

- ***Development is not compatible with the R2 zoning***

Comment: The proposed development is permitted with consent in the R2 zone. Further, the proposal would satisfy the objectives of the R2 zone, in that it provides facilities and services for the day to day use of residents in a manner and scale that is compatible with a low-density residential environment.

ITEM 0 (continued)

- ***Air quality affected by increased traffic***

Comment: The subject site is not situated adjacent to a railway line or major road (i.e. sources of noise and air pollution). An Ambient Air Quality Assessment has been submitted with the DA. The assessment concludes that the subject site would be suitable for the proposed development. In addition, the proposal was referred to Council's Environmental Health Officer who raised no objection to the proposal.

- ***Trees and landscaping issues, including tree removal, inadequate tree plantings and insufficient landscaping for visual or acoustic screening.***

Comment: The proposed landscaping layout contains a variety of plantings that are suitable for the site and consistent with the surrounding area. The design and layout of the site will however provide visual privacy and acoustic amenity without reliance upon landscaping. The Consultant Landscape Architect/Arborsit raised no objection to the tree removal and landscaping arrangements in their referral response.

- ***Insufficient demand for centre, particularly of the size proposed***

Comment: Clause 26(1)(b) of the ESEPP indicates that any provision relating to the need or demand for child care services does not apply to the development. This precludes Council from giving considering this objection in the assessment.

- ***Construction Issues***

Comment: Construction issues (e.g. noise, traffic management, hours of works, sediment control, etc.) will be managed through standard conditions of consent. (**Conditions 48, 55, and 61**).

- ***Inadequate notification area and period***

Comment: The application was advertised in accordance with Council's CPP upon lodgement of the DA. The application was then advertised a second time in accordance with Council's CPP following the submission of additional information and amended plans.

- ***Inadequate setbacks***

Comment: The proposal satisfies relevant front, side and rear setback controls under the RDCP 2014 provisions. Reference is made to the detailed compliance assessments contained in the attachments of this report for further information.

ITEM 0 (continued)

- **Hazards associated with asbestos removal**

Comment: Demolition of existing structures and any associated removal of hazardous materials (e.g. asbestos) will be subject to standard conditions of consent (**Conditions 33 and 34**).

- **Impacts to property values**

Comment: Impacts to the property values are not a matter for consideration under Section 4.15 of the *Environmental Planning and Assessment Act No.1979*.

- **Overshadowing, including to 5 Readford Place**

Comment: The proposal complies with relevant controls relating to solar access of adjoining sites, meaning that at least 3 hours solar access is maintained to the private open space areas and living room windows of adjoining property between 9am and 3pm at the winter solstice. Reference is made to **Attachment 2** for further details on compliance with the solar access controls. The submitted shadow diagrams are shown in **Figure 15**.

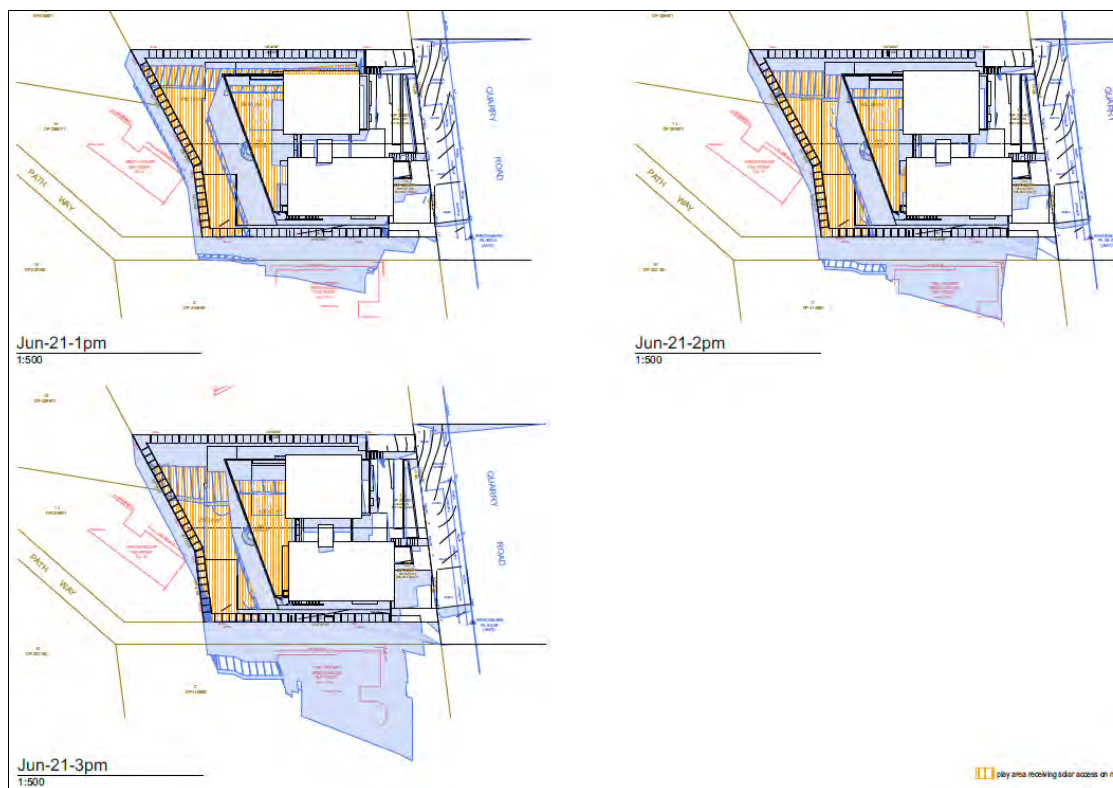


Figure 15: Shadow diagrams of proposed development
Source: Designcorp Architects, 25 June 2020

ITEM 0 (continued)**10. Referrals****INTERNAL REFERRALS****Traffic**

Council engaged Bitzios Consulting Traffic Engineers to undertake an independent peer review of the submitted Traffic and Parking Impact Assessment (TPIA) prepared by McLaren Traffic Engineering (MTE) dated 28 June 2019. Bitzios identified concern with regard to trip generation rates, trip distribution patterns and the SIDRA models. Subsequently, Council issued an RFI to the applicant on 22 January 2020, outlining the issues identified by Bitzios.

On 17 March 2020, the applicant submitted supplementary information, including an itemised response, prepared by McLaren Traffic Engineering (MTE). The updated TPIA was also referred to Bitzios for peer review. In their peer review of the revised TPIA, Bitzios identified that - although some of the issues had been resolved, numerous issues, previously raised had remained outstanding (i.e. trip generation rates, trip distribution rates and SIDRA Models).

On 7 July 2020, amended plans and documentation were submitted which included a revised TPIA Report, dated 2 July 2020, prepared by MTE. This was again considered by Council's Consulting Traffic Engineers. In their referral response issued on 17 August 2020, Bitzios were satisfied with the amendments and further survey information provided to demonstrate the impact upon the local road network and specifically local road intersections.

Senior Development Engineer

Further to the Senior Development Engineer's previous review dated 28 May, amended architectural, landscape, traffic report and stormwater Plans were received 2 July and are considered below.

Stormwater Management

A review of the recent plans notes;

- The consultant has assumed all softplay areas are hardstand. This is considered reasonable given such areas are over the basement level and would have very little ability for absorption. This is considered accepted.*
- The outline of the OSD tank does not correlate with the architectural and landscape plans. It would look feasible that the tank be relocated under the front access path and this can be addressed by condition.*
- The failure mode from the OSD tank is provided for and is directed back to Quarry Road.*

ITEM 0 (continued)**Vehicle Access and Parking**

Based on the revised capacity of 95 children and 13 staff, the development will warrant 12 parent pickup/ dropoff spaces and 7 staff parking spaces. The proposed parking configuration has provided this level of parking capacity.

A review of the parking configuration notes there has not been any considerable changes to the previous set of plans other than the basement level be reduced by 200mm. This has slightly increased the grade of the driveway ramp though not to a degree that would be of concern.

Recommendation

There are no objections to the proposed development with respect to the engineering components, subject to the application of the following conditions being applied to any development consent being issued for the proposed development.

Environmental Health Officer

The proposal was referred to Council's Environmental Health Officer for comment. In their latest referral response dated 24 April 2020, no objection to the proposal was raised, subject to conditions.

Consultant Landscape Architect/Arborist

The proposal was referred to Council's Consultant Landscape Architect and Arborist for comment. The summary of the referral comments is as follows:

All existing trees located on the site and nominated for removal are classified as exempt under Part 9.5 of RDCP 2014 and are capable of being removed without the need for obtaining consent. In this regard, no issues are raised with the proposed tree removal to take place to facilitate construction. Furthermore, no neighbouring trees or street trees are to be affected by the proposal. Some concern has been raised in relation to the lack of canopy tree planting proposed within the outdoor play spaces however this is recommended to be dealt with via imposition of conditions.

With regard to the proposed landscape plans, landscape design and overall layout of open space and play space areas, the proposal is considered to be satisfactory. The proposal achieves compliance with the key provisions of both Part 3.2 of the RDCP 2014 as well as State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. This includes a complaint levels of outdoor play space provided, landscape plans prepared by a qualified landscape architect, and well-designed outdoor play spaces that meet the specific outcomes and objectives of landscaping and outdoor play space requirements. As such, the proposal is supported from a landscape perspective in its current form.

ITEM 0 (continued)

Some concern has been raised in relation to the proposed acoustic fence design and the suitability of the proposed planting species below with regard to mature heights and receiving appropriate levels of natural rainfall to enable the planting to establish. Furthermore, concern has been raised in relation to the planting within the raised terrace not being provided any irrigation. The proposal also fails to provide sufficient shade to the play space areas. Despite the above, it is considered however that these issues can be dealt with via conditions.

Conditions 49 – 52, 75 and 76 addressing the above issues by the Landscape Architect/Arborist have been included in the draft consent.

11. Conclusion

After consideration of the development against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the relevant statutory and policy provisions, the proposal is suitable for the site and is not contrary to the public interest.

It is therefore recommended that the subject application be approved (subject to recommended conditions) for the following reasons:

1. The proposed consolidation of two lots into one and construction of a two storey child care centre with basement car parking is consistent with the objectives of the relevant provisions of the ESEPP, RLEP 2014 and RDCP 2014, with minimal environmental impacts.
2. The proposal has been supported by a satisfactory clause 4.6 written request which demonstrates that compliance with the clause 4.4(2) floor space ratio development standard is unreasonable in the circumstances of this specific proposal. The clause 4.6 written request also demonstrates that there are sufficient environmental planning grounds to justify contravention of the development standard.
3. The submissions received in response to this DA have been considered and addressed in this report. None of the issues raised warrant the refusal of the subject DA.
4. The proposed development is consistent with the existing and desired future character of the local area and will have no unacceptable impacts on adjoining properties.
5. The site is suitable for the proposed development, which is also in the public interest.

ITEM 0 (continued)**12. Recommendation**

That the Ryde Local Planning Panel, as the consent authority, grant consent to LDA2019/0328 for consolidation of two lots into one and construction of a two storey child care centre with basement car parking at 176 Quarry Road Ryde (Lot 12 and Lot 13, Deposited Plan 239671) subject to recommended conditions within **Attachment 4** of this report.

ATTACHMENTS

- 1 Child Care Planning Guideline
- 2 LEP & DCP Compliance Table
- 3 Draft Conditions of Consent
- 4 Clause 4.6 request to vary C4.4(2) FSR
- 5 Amended A3 Plans - subject to copyright provisions

Report Prepared By:

**Ben Tesoriero Planning Consultant
Creative Planning Solutions**

Report Approved By:

**Kimberley Kavwenje
Senior Coordinator - Assessment**

**Sandra Bailey
Manager - Development Assessment**

**Liz Coad
Director - City Planning and Environment**

Attachment 1 - State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Relevant clauses	Compliance with standard/provision	Compliance
22 Centre-based child care—concurrency of Regulatory Authority required for certain development	The clause does not apply as the amended proposal complies with requirements for outdoor play areas. As such, the concurrence of the Regulatory Authority is not required.	N/A
23 Centre-based child care—matters for consideration by consent authorities	The Child Care Planning Guidelines have been considered within the assessment.	Refer to table below
24. Centre-based child care facility in Zone IN1 or IN2 – additional matters for consideration by consent authorities.	The subject site is located within an R2 Low Density Residential Zone.	N/A
25. Centre-based child care—non-discretionary development standards	Assessment of the clause is as follows: (a) Noted (b) (i.) 318.1m ² of indoor space provided, complying with regulation 107 (ii.) 669.3m ² of outdoor space provided, which complies with regulation 108 (c) Noted (d) Noted. Heritage provisions do not apply. The proposal complies with the standards.	Yes
26. Centre-based child care—development control plans	Noted.	Noted.

Child Care Planning Guideline August 2017

Guideline	Compliance with standard/provision
Part 2 Design Quality Principles	
<p>Principle 1. Context Good design responds and contributes to its context, including the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Well-designed child care facilities respond to and enhance the qualities and identity of the area including adjacent sites, streetscapes and neighbourhood. Well-designed child care facilities take advantage of its context by optimising nearby transport, public facilities and centres, respecting local heritage, and being responsive to the demographic, cultural and socio-economic makeup of the facility users and surrounding communities.</p>	<p>The design of the proposed development responds to the dimensions and slope of the site is consistent with existing and desired future streetscape character. The layout of the site is such that the setbacks, landscaped areas and treatments, building height, articulation and design are consistent with both surrounding sites and the locality more broadly. Further, the site is well located, being close to other educative and community facilities (such as parks) and public transport facilities.</p>
<p>Principle 2. Built Form Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the surrounding area. Good design achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Good design also uses a variety of materials, colours and textures. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook. Contemporary facility design can be distinctive and unique to support innovative approaches to teaching and learning, while still achieving a visual appearance that is aesthetically pleasing, complements the surrounding areas, and contributes positively to the public realm.</p>	<p>Despite incorporating a contemporary design, the proposed design incorporates appropriate building height, bulk and scale that contributes positively to the streetscape and is consistent with the existing and desired future character of the area. A variation to the FSR development standard is proposed, which this planning assessment has found to be acceptable; a high degree of compliance with controls governing height, setbacks, bulk, scale, building articulation and landscaping is otherwise proposed.</p>
<p>Principle 3. Adaptive learning spaces Good facility design delivers high quality learning spaces and achieves a high level of amenity for children and staff, resulting in buildings and associated infrastructure that are fit-for-purpose, enjoyable and easy to use. This is achieved through site layout, building design, and learning spaces fit-out. Good design achieves a mix of inclusive learning spaces to cater for all students and different modes of learning. This includes appropriately designed physical spaces offering a variety of</p>	<p>The submitted information proposes large indoor and outdoor spaces that will provide purpose-built and accessible facilities with high levels of amenity capable of being used for a variety of activities.</p>

Guideline	Compliance with standard/provision
settings, technology and opportunities for interaction.	
<p>Principle 4. Sustainability Combines positive environmental, social and economic outcomes. This includes use of natural cross ventilation, sunlight and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and re-use of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>The proposed centre based childcare facility will provide adequate cross ventilation, sunlight and passive thermal design.</p>
<p>Principle 5. Landscape Landscape and buildings should operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Well-designed landscapes make outdoor spaces assets for learning. This includes designing for diversity in function and use, age-appropriateness and amenity. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p>	<p>The proposed development incorporates substantial and varied landscaped areas (particularly within the front and rear setbacks) that will positively contribute to the streetscape and local character. Aside from the carpark entry, the finished levels of the site would retain the overall topography of the site.</p>
<p>Principle 6. Amenity Good design positively influences internal and external amenity for children, staff and neighbours. Achieving good amenity contributes to positive learning environments and the well-being of students and staff. Good amenity combines appropriate and efficient indoor and outdoor learning spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, service areas and ease of access for all age groups and degrees of mobility. Well-designed child care facilities provide comfortable, diverse and attractive spaces to learn, play and socialise.</p>	<p>A high level of internal and external amenity is proposed for users of the proposed development, with high levels of solar access and natural ventilation to be provided to indoor and outdoor areas. The design of the development will not have significant adverse impacts on surrounding sites, with solar access, visual privacy and acoustic amenity being afforded to surrounding sites.</p>
<p>Principle 7 - Safety Well-designed child care facilities optimise the use of the built and natural environment for learning and play, while utilising equipment, vegetation and landscaping that has a low</p>	<p>The layout and design of the centre will not create risks for children attending the site. All indoor and outdoor areas are capable of active and casual surveillance.</p>

Guideline	Compliance with standard/provision
<p>health and safety risk, and can be checked and maintained efficiently and appropriately.</p> <p>Well-designed child care facilities incorporate passive surveillance and Crime Prevention Through Environmental Design (CPTED).</p>	
Part 3 Matters for Consideration	
<p>C1. For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> • the acoustic and privacy impacts of the proposed development on the residential properties • the setbacks and siting of buildings within the residential context • traffic and parking impacts of the proposal on residential amenity. <p>For proposed developments in commercial and industrial zones, consider:</p> <ul style="list-style-type: none"> • potential impacts on the health, safety and wellbeing of children, staff and 	<p>An acoustic report has been submitted with the proposed development application by Rodney Stevens Acoustics, dated 3 June 2019. The acoustic report concludes that the proposed childcare centre will not cause “offensive noise” levels to neighbouring residences, provided the noise measures recommended are implemented. The findings of the report are supported by Council’s Environmental Health Officer.</p> <p>The proposed centre based child-care facility has minimum front setback of 6m to the front building line.</p> <p>The following setbacks have been provided to the side and rear boundaries from the ground floor:</p> <ul style="list-style-type: none"> • Northern side boundary – 4m • Southern side boundary – 4m. • Western rear boundary – 9.56m <p>The following setbacks have been provided to the side and rear boundaries from the first floor:</p> <ul style="list-style-type: none"> • Northern side boundary – 4m • Southern side boundary – 4m • Western rear boundary – 9.949m. <p>These setbacks are generally satisfactory.</p> <p>A traffic report has been submitted with the proposed development application by McLaren Traffic Engineering and Road Safety Consultants, dated 28 June 2019, which considers the parking impacts on residential amenity.</p> <p>The proposed development is located within the R2 Low Density Residential zone and therefore this is largely not applicable. However, an air quality assessment has</p>

Guideline	Compliance with standard/provision
<p>visitors with regard to local environmental or amenity issues such as air or noise pollution and local traffic conditions</p> <ul style="list-style-type: none"> the potential impact of the facility on the viability of existing commercial or industrial uses. 	<p>been submitted with the DA indicating the proposal is satisfactory.</p> <p>Refer above.</p>
<p>C2 When selecting a site, ensure that:</p> <ul style="list-style-type: none"> the location and surrounding uses are compatible with the proposed development or use. the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards. there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed. the characteristics of the site are suitable for the scale and type of development proposed having regard to: - size of street frontage, lot configuration, dimensions and overall size - number of shared boundaries with residential properties - the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas. where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use. there are suitable drop off and pick up areas, and off and on street parking. the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises. 	<p>The subject site contains a large and relatively level area that is suitable for a building of the size being proposed. The dimensions and orientation of the site support the building design, in that the development will not adversely affect surrounding sites.</p> <p>The site contains no significant environmental and/or planning affectations or constraints (e.g. bushfire, flooding, landslip, etc.), and information submitted with the application demonstrates that the site is not contaminated.</p> <p>The location of the site is on a local 'collector' road, and is not situated in a cul-de-sac. Sufficient off-street parking facilities will be provided.</p>
<p>C3. A child care facility should be located:</p> <ul style="list-style-type: none"> near compatible social uses such as schools and other educational establishments, parks and other public 	<p>The proposed centre-based child care facility is located within 450m of Smalls Road Primary School which has been recently</p>

Guideline	Compliance with standard/provision
<p>open space, community facilities, places of public worship</p> <ul style="list-style-type: none"> • near or within employment areas, town centres, business centres, shops • with access to public transport including rail, buses, ferries • in areas with pedestrian connectivity to the local community, businesses, shops, services and the like. 	<p>constructed.</p> <p>The subject site is located within 1.3km of North Ryde Town Centre precinct.</p> <p>The subject site is located within 50m walking distance of Bus Stop (ID: 2112160) providing further pedestrian connectivity.</p> <p>The subject site is located within range of numerous community facilities including Yamble Reserve and Henry Dunant Reserve to the north. The subject site is also located within 650m of Northcross Christian Church.</p>
<p>C4 A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from: proximity to: - heavy or hazardous industry, waste transfer depots or landfill sites - LPG tanks or service stations - water cooling and water warming systems - odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses.</p>	<p>The proposed development is located within an established low density residential area and as such, staff visitors and children will not be exposed to any heavy or hazardous industries, or service stations. Although the subject site is located on a collector road, and within 330m of a State arterial road (Lane Cove Road) air quality and acoustic impact assessments have been carried out to demonstrate site suitability.</p>
3.2 Local Character, streetscape and the public domain interface	
<p>C5 The proposed development should:</p> <ul style="list-style-type: none"> • contribute to the local area by being designed in character with the locality and existing streetscape • reflect the predominant form of surrounding land uses, particularly in low density residential areas • recognise predominant streetscape qualities, such as building form, scale, materials and colours • include design and architectural treatments that respond to and integrate with the existing streetscape • use landscaping to positively contribute to the streetscape and neighbouring amenity • integrate car parking into the building and site landscaping design in residential areas. 	<p>Refer to assessment of Design Quality Principles.</p>
<p>C6 Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> • fencing to ensure safety for children entering and leaving the facility 	<p>Fencing has been designed to ensure the safety of children entering and leaving the</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> • windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community • integrating existing and proposed landscaping with fencing. 	<p>facility.</p> <p>Windows have been provided on the eastern front elevation which provides passive surveillance of Quarry Road adding an element of safety to the proposed development.</p> <p>Landscaping and fencing have been integrated with the proposed development.</p>
<p>C7 On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	<p>A single building is proposed. All entry points have been designed for legibility and access by visitors.</p>
<p>C8 Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> • clearly defined street access, pedestrian paths and building entries • low fences and planting which delineate communal/ private open space from adjoining public open space • minimal use of blank walls and high fences. 	<p>The development does not adjoin public parks, open space or bushland.</p>
<p>C9 Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.</p>	<p>Front fencing is not proposed; the separation of public and private domain is delineated by retaining walls and landscaping treatments.</p>
<p>C10 High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary</p>	<p>Not applicable.</p>
<p>3.3 Building orientation, envelope and design</p>	
<p>C11 Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> • ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: - facing doors and windows 	<p>The are no undue visual privacy or overlooking impacts anticipated from the proposed development, given the 1.8m high</p>

Guideline	Compliance with standard/provision
<p>away from private open space, living rooms and bedrooms in adjoining residential properties - placing play equipment away from common boundaries with residential properties - locating outdoor play areas away from residential dwellings and other sensitive uses</p> <ul style="list-style-type: none"> • optimise solar access to internal and external play areas • avoid overshadowing of adjoining residential properties • minimise cut and fill <ul style="list-style-type: none"> • ensure buildings along the street frontage define the street by facing it • ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other 	<p>solid acoustic balustrade surrounding the private outdoor space on the first floor. In addition, the 2.2m high acoustic barrier with 45-degree rafters and clear polycarbonate awning surrounding the outdoor play space within the rear setback will prevent any overlooking or visual privacy impacts to adjoining properties.</p> <p>A review of the submitted shadow diagrams indicates the proposed development optimises solar access to the external play area on the ground floor.</p> <p>A review of the submitted shadow diagrams indicates that the adjoining properties at 174 Quarry Road, 5 Readford Place and 6 Readford Place will receive at least 3 hours of sunlight to their property between the hours of 9am and 3pm on June 21.</p> <p>The maximum cut within the building footprint is 3.29m within the southern area of the basement garage. This has been calculated from the finished floor level of the basement garage: RL 83.30 and the existing ground level RL:86.59.</p> <p>Upon entry to the access ramp within the front setback, 1.202m of cut is proposed. This has been calculated between the finished level of the entry pathway upon access to the ramp at RL:84.978 and existing ground level directly beneath at RL:86.18m.</p> <p>Upon entry to the stairs case leading up to the entry porch of the proposed development, 1.907m of cut has been proposed. This has been calculated between the finished floor level of RL:84.133 and existing ground level directly beneath at RL:86.04.</p> <p>There is no fill proposed inside or outside the building footprint.</p> <p>The proposed centre-based childcare facility faces Quarry Road.</p> <p>Outdoor play areas located above ground level are protected from wind and other climatic conditions.</p>

Guideline	Compliance with standard/provision
climatic conditions.	
<p>C12 The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> • building height should be consistent with other buildings in the locality • building height should respond to the scale and character of the street • setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility • setbacks should provide adequate access for building maintenance • setbacks to the street should be consistent with the existing character. 	<p>The maximum building height of the proposed development is 7.05m. This has been calculated at the roof ridge RL:92.950 and an interpreted existing ground level directly below at EGL RL:85.90.</p> <p>The proposed building height of 7.05m is compliant with the maximum height control of 9.5 specified within RLEP 2014. The proposed building height is considered to be consistent with the broader streetscape.</p> <p>The proposed centre-based childcare facility has a setback on its northern and southern side boundaries of 4m to both the ground floor and first floor which is considered to provide adequate privacy for the neighbours.</p> <p>The side setbacks would provide adequate access for building maintenance.</p> <p>The proposed centre based child-care facility has a front setback of between 6m to the outside face of the front façade.</p>
<p>C13 Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres.</p> <p>On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p>	<p>The subject site is not located on a classified road.</p> <p>As above.</p>
<p>C14 On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p>The side and rear setbacks of the proposed development are considered to be consistent with the broader streetscape.</p>
<p>C15 The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> • respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage 	<p>Refer to discussion of Design Quality Principles.</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> • retains and reinforces existing built form and vegetation where significant • considers heritage within the local neighbourhood including identified heritage items and conservation areas • responds to its natural environment including local landscape setting and climate • contributes to the identity of place 	
<p>C16 Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> • located to allow ease of access, particularly for pedestrians • directly accessible from the street where possible • directly visible from the street frontage • easily monitored through natural or camera surveillance • not accessed through an outdoor play area. • in a mixed-use development, clearly defined and separate from entrances to other uses in the building. 	<p>The entry point to the proposed development allows for ease of access with a 1 in 20 and 1:8 grade access ramp.</p> <p>The entry to the proposed development is directly accessible from the street via the pedestrian pathway stairs and access ramp.</p> <p>The front entry of the proposed centre is clearly visible from Quarry Road.</p> <p>The front entry allows for natural surveillance.</p> <p>The front entry provides access to the internal foyer/entry and reception area.</p> <p>The proposal is not for mixed-use development.</p>
<p>C17 Accessible design can be achieved by:</p> <ul style="list-style-type: none"> • providing accessibility to and within the building in accordance with all relevant legislation • linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry • providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible • minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath. 	<p>The development is expected to be able to comply with relevant standards.</p> <p>The design of the proposed development is considered accessible with disabled access provided to the entrance of the site in the form of an access ramp.</p> <p>A continuous path of travel is provided throughout the building.</p> <p>The ground floor is located well above the footpath level, creating the need for substantial ramping.</p>

Guideline	Compliance with standard/provision
3.4 Landscaping	
C18 Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space.	A 1m boundary screen planting buffer has been provided adjacent to the 1.8m acoustic fence surrounding the ground floor outdoor play area.
C19 Incorporate car parking into the landscape design of the site by: <ul style="list-style-type: none"> • planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings • taking into account streetscape, local character and context when siting car parking areas within the front setback 	Not applicable as basement car parking proposed. No car parking would be located within the front setback.
3.5 Visual and acoustic privacy	
C20 Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.	The proposed development is not a mixed-use development.
C21 Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through: <ul style="list-style-type: none"> • appropriate site and building layout • suitably locating pathways, windows and doors • permanent screening and landscape design. 	Indoor and outdoor play spaces have been suitably located to minimise overlooking to indoor and outdoor play spaces from the public domain. Pathways, windows and doors suitably located. Screen planting is proposed.
C22 Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through: <ul style="list-style-type: none"> • appropriate site and building layout • suitable location of pathways, windows and doors • landscape design and screening. 	Appropriate site and building layout and generous side setbacks prevent overlooking into the adjoining dwellings. Pathways, windows and doors are not considered to be suitably located. Landscaping design treatments have been used to provide screening and prevent overlooking into adjoining dwellings.
C23 A new development, or development that includes alterations to more than 50 per cent of	

Guideline	Compliance with standard/provision
<p>the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> • provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence). 	<p>At ground level, the proposal includes a 1.8m high solid barrier with an added 45 degree cantilever awning extending 1.4m in length as recommended by the acoustic report. The first floor play area will be encompassed by a 1.8m high acoustic barrier.</p>
3.6 Noise and Air Pollution	
<p>C25 Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> • creating physical separation between buildings and the noise source • using landscaping to reduce the perception of noise • limiting the number and size of openings facing noise sources • locating cot rooms, sleeping areas and play areas away from external noise sources. 	<p>The proposed development provides 4m side setbacks maintaining an adequate building separation between the adjoining residential properties.</p> <p>Refer to earlier comments in relation to screening planting.</p> <p>Complies.</p> <p>Play areas are located away from external noise sources. The cot room is located towards the rear of the proposed development.</p>
<p>C26 An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"> • on industrial zoned land • where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000 • along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007 • on a major or busy road • other land that is impacted by substantial external noise 	<p>The subject site is located within the R2 Low Density Residential Zone and is not located within an ANEF contour.</p> <p>The submitted acoustic report has considered noise that will be generated to non-play areas, such as the cot rooms from Quarry Road, and has concluded that traffic noise intrusion generated from Quarry Road to the indoor areas of the childcare centre will not exceed the noise criteria.</p>
<p>C27 Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p>	<p>The proposed centre-based childcare facility is located within an established low density residential zone. However, the subject site is located on a Collector Road and within 330m of Lane Cover Road, which is a state arterial road.</p> <p>Refer below.</p>

Guideline	Compliance with standard/provision
<p>C28 A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> • creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution • using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway incorporating ventilation design into the design of the facility 	<p>An Ambient Quality assessment report has been submitted, which concludes that the development is expected to be subject to negligible amounts of motor vehicle emissions. Notably the outdoor play spaces have been orientated towards the rear of the site to create separation distance from noise pollutants potentially generated by vehicles on Quarry Road. Landscape plantings have been proposed arounds the side and rear boundaries of the rear outdoor play space to aid in filtering air pollution.</p>
3.7 Hours of Operation	
<p>C29 Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p>	<p>As per the submitted Statement of Environmental Effects, the proposed hours of operation are 7:00am to 6:00pm Monday to Friday, which is compatible with adjoining residential land uses.</p>
<p>C30 Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.</p>	<p>The subject site is located within the R2 zone; there is no surrounding commercial development.</p>
3.8 Traffic, parking and pedestrian circulation	
<p>C31. Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.</p> <p>Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates: Within 400 metres of a metropolitan train station:</p> <ul style="list-style-type: none"> • 1 space per 10 children • 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space. 	<p>Off street parking complies. Refer below.</p> <p>In accordance with Section 5.1 of Part 3.2 of DCP2014, 1 space per 8 children is to be provided and 1 space per 2 staff is to be provided including an accessible car parking space.</p> <p>The proposal seeks 95 children and 14 staff members.</p>

Guideline	Compliance with standard/provision
<p>In other areas: 1 space per 4 children.</p> <p>A reduction in car parking rates may be considered where:</p> <ul style="list-style-type: none"> • the proposal is an adaptive re-use of a heritage item • the site is in a B8 Metropolitan Zone or other high-density business or residential zone • the site is in proximity to high frequency and well connected public transport • the site is co-located or in proximity to other uses where parking is appropriately provided (for example business centres, schools, public open space, car parks) • there is sufficient on street parking available at appropriate times within proximity of the site. 	<p>As such a total of 12 spaces is required for the children and a total of 7 car parking spaces is required for staff, plus an additional accessible car parking space.</p> <p>The submitted basement plan indicates 7 parking spaces allocated for staff members and 12 spaces allocated to visitors, including an accessible car parking space. In addition, four (4) bicycle spaces have been provided.</p>
<p>C32</p> <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>Not applicable – R2 zoned site.</p>
<p>C33</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"> • the amenity of the surrounding area will not be affected • there will be no impacts on the safe operation of the surrounding road network. 	<p>A Traffic and Parking Impact Assessment (prepared by McLaren Traffic Engineering) in addition to an acoustic impact assessment, which addresses impacts on the road network and amenity.</p> <p>Refer to referral comments within the planning report for further commentary on the assessment by Council’s Environmental Health Officer and external traffic consultant.</p>
<p>C34.</p> <p>Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"> • a classified road • roads which carry freight traffic or transport dangerous goods or hazardous materials. <p>The alternate access must have regard to:</p> <ul style="list-style-type: none"> • the prevailing traffic conditions • pedestrian and vehicle safety including bicycle movements • the likely impact of the development on traffic. 	<p>The subject site fronts a collector road being Quarry Road. The subject site is located within 330m of a state arterial road being Lane Cove Road. The updated traffic report prepared by McLaren Engineering and Road Safety Consultants, dated 12 March 2020 concludes that the proposal will have no detrimental impact to the performance of the intersections or on residential amenity surrounding the subject site as a result of the generated traffic.</p> <p>A peer review conducted by Bitzios has been undertaken; refer to the main</p>

Guideline	Compliance with standard/provision
	assessment report for comments by the external traffic consultant.
<p>C35. Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	The subject site is located within Quarry Road which provides adequate access to and from the site in the event of an emergency.
<p>C36. The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> • separate pedestrian access from the car park to the facility • defined pedestrian crossings included within large car parking areas • separate pedestrian and vehicle entries from the street for parents, children and visitors • pedestrian paths that enable two prams to pass each other • delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities • in commercial or industrial zones and mixed-use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas • vehicles can enter and leave the site in a forward direction. 	<p>A separate pedestrian access path has been provided from the car park to the facility within the basement.</p> <p>Pedestrian pathways have not been marked on the submitted plans within the basement car park.</p> <p>Separate pedestrian and vehicle entries have been provided from Quarry Road.</p> <p>Pedestrian pathways are not of a sufficient width to allow prams to pass each other within the north-eastern component of the basement car park.</p> <p>Delivery and loading areas have not been clearly designated on the submitted plans.</p> <p>The proposed development is not located in a commercial or industrial zone; therefore this control is not applicable.</p> <p>Complies.</p>
<p>C37. Mixed use developments should include:</p> <ul style="list-style-type: none"> • driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks • drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same 	Not applicable, as the site development is not for a mixed use.

Guideline	Compliance with standard/provision
<p>floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site</p> <ul style="list-style-type: none"> parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility. 	
<p>C38. Car parking design should:</p> <ul style="list-style-type: none"> include a child safe fence to separate car parking areas from the building entrance and play areas provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards include wheelchair and pram accessible parking. 	<p>Complies.</p> <p>Clearly marked accessible parking has been provided within the basement.</p> <p>Disabled parking has been provided within the basement.</p>
<p>Part 4 Applying the National Regulations to development proposal</p>	
<p>4.1 Indoor Space Requirements</p> <p>Regulation 107 Education and Care Services National Regulations Every child being educated and cared for within a facility must have a minimum of 3.25m² of unencumbered indoor space.</p> <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>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. Development applications should indicate how these needs will be accommodated.</p> <p>Storage It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> a minimum of 0.3m³ per child of external storage space a minimum of 0.2m³ per child of internal 	<p>The proposed centre-based child care facility provides 318.1m² of unencumbered indoor space for 95 children. This equates to 3.35m² of unencumbered indoor space for each child which is compliant with the Education and Care Services National Regulation.</p> <p>All unencumbered indoor spaces within the proposed development are secure and allow for safe supervision.</p> <p>The submitted development application indicates that two (2) internal cot/sleeping rooms will be provided adjacent to the babies room, for children aged between 0-2 years.</p> <p>The proposed childcare centre provides 37.46m³ of external storage area. With 95 children proposed, this equates to 0.39m³ of external storage space per child.</p>

Guideline	Compliance with standard/provision
storage space.	The proposed centre-based child centre provides 28.33m ³ of internal storage space. With 95 Children proposed, this equates to 0.29m ³ of internal storage space per child.
<p>4.2 Laundry and hygiene facilities</p> <p>Regulation 106 Education and Care Services National Regulations</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.</p> <p>On site laundry</p> <p>On site laundry facilities should contain:</p> <ul style="list-style-type: none"> • a washer or washers capable of dealing with the heavy requirements of the facility • a dryer • laundry sinks • adequate storage for soiled items prior to cleaning • an on site laundry cannot be calculated as usable unencumbered play space for children (refer to Figure 2) <p>External laundry service</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 relevant Australian Standards.</p>	<p>Laundry facilities have been included on the basement level and therefore the proposed development is compliant with Regulation 106 (Education and Care Services National Regulations).</p> <p>Refer above.</p> <p>The proposed laundry is large enough to accommodate appliances and storage.</p> <p>Internal laundry facilities have been provided, therefore the proposed centre-based childcare facility does not require external laundry facilities.</p>
<p>4.3 Toilet and hygiene facilities</p> <p>Regulation 109 Education and Care Services National Regulations</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. Child care facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code.</p> <p>Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants (refer to Figure 3). Design considerations could include:</p> <ul style="list-style-type: none"> • junior toilet pans, low level sinks and hand 	<p>The toilet/nappy change facilities have been appropriately located for safe and convenient use with washing and drying facilities. It is considered age appropriate toilets have been provided.</p> <p>Junior toilet pans, low level sinks and hand drying facilities have been included.</p> <p>Low level sinks and handwashing facilities</p>

Guideline	Compliance with standard/provision
<p>drying facilities for children</p> <ul style="list-style-type: none"> • a sink and handwashing facilities in all bathrooms for adults • direct access from both activity rooms and outdoor play areas • windows into bathrooms and cubicles without doors to allow supervision by staff • external windows in locations that prevent observation from neighbouring properties or from side boundaries 	<p>have been included within the bathrooms.</p> <p>Sink and handwashing facilities provided in all bathrooms.</p> <p>Direct access from activity rooms provided. Toilet facilities are accessible via the indoor and outdoor play space.</p> <p>Windows have been provided to bathrooms and cubicles.</p> <p>Location of external windows, combined with a generous 4m setback to the side boundaries prevents observation from neighbouring dwellings into the centre-based child care facility.</p>
<p>4.4 Ventilation and natural light Regulation 110 Education and Care Services National Regulations Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the National Construction Code. Ceiling height requirements may be affected by the capacity of the facility.</p> <p>Ventilation To achieve adequate natural ventilation, the design of the child care 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 child care facilities ensure natural ventilation is available to each indoor activity room.</p> <p>Natural Light 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 child care facilities consideration should be given to:</p>	<p>Windows to all four sides of the development have been provided to maximise cross ventilation.</p> <p>The proposed facility maximises cross ventilation with windows and sliding door openings to the indoor play areas. However, it is noted that compliance with the acoustic requirements is based on the indoor play area doors and glazing to remain closed during loud group activities.</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> • providing windows facing different orientations • using skylights as appropriate • ceiling heights. 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>Windows have been provided to all four sides of the building.</p> <p>No skylights proposed.</p> <p>2.7m floor to ceiling heights on the ground floor. 2.4-3.55m floor to ceiling heights on the first floor</p>
<p>4.5 Administrative Space Regulation 111 Education and Care Services National Regulations A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.</p>	<p>Internal administration/reception is provided within the entry lobby on the ground floor. An office meeting area and managers office has been provided on the first floor.</p>
<p>4.6 Nappy change facilities Regulation 112 Education and Care Services National Regulations Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children. Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.</p> <p>In circumstances where nappy change facilities must be provided, design considerations could include:</p> <ul style="list-style-type: none"> • properly constructed nappy changing bench or benches • a bench type baby bath within one metre from the nappy change bench • the provision of hand cleansing facilities for adults in the immediate vicinity of the nappy change area • positioning to enable supervision of the activity and play areas. 	<p>The proposal provides suitably located nappy change facilities.</p> <p>Nappy changing benches have been provided.</p> <p>Bench type baby baths have been included on the submitted plans.</p> <p>Hand cleansing facilities are considered to be provided within the nappy change room. However, information has not been provided on the submitted plans.</p> <p>Positioned adjacent to indoor play spaces to allow for supervision.</p>

Guideline	Compliance with standard/provision
<p>4.7 Premises designed to facilitate supervision</p> <p>Regulation 115 Education and Care Services National Regulations</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. Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the National Construction Code.</p> <p>Design considerations should include:</p> <ul style="list-style-type: none"> • solid walls in children’s toilet cubicles (but no doors) to provide dignity whilst enabling supervision • locating windows into bathrooms or nappy change areas away from view of visitors to the facility, the public or neighbouring properties • avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children • 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 and used only under supervision for controlled activities. 	<p>The toilets facilities for children aged between 3-6 years do not include glass walls to allow for maximum supervision at all times.</p> <p>Glass walls would be provided to the toilet facilities within Playroom 2 and Playroom 5.</p> <p>Solid walls would be provided between cubicles.</p> <p>All areas of the proposed development allow for maximum supervision.</p> <p>Multi-level rooms are not proposed.</p>
<p>4.8 Emergency and evacuation procedures</p> <p>Regulations 97 and 168 Education and Care Services National Regulations Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including:</p> <ul style="list-style-type: none"> • instructions for what must be done in the event of an emergency • an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit 	<p>An emergency evacuation plan has been submitted. This document is also subject to recommended conditions that must be satisfied prior to the issue of an occupation certificate.</p> <p>Emergency and evacuation procedures have been submitted..</p> <p>Emergency and evacuation floor plan have been submitted.</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> • a risk assessment to identify potential emergencies that are relevant to the service <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. Multi-storey buildings with proposed child care facilities above ground level may consider providing additional measures to protect staff and children. For example:</p> <ul style="list-style-type: none"> • 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 • 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. An emergency and evaluation plan should be submitted with a DA and should consider: <ul style="list-style-type: none"> • the mobility of children and how this is to be accommodated during an evacuation • 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 • 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. 	<p>Risk assessment submitted.</p> <p>An emergency evacuation plan has been submitted details evacuation routes and muster points. Such documentation and the site layout will however require modification prior to the issue of an occupation certificate, and is the subject of recommended consent conditions.</p>
<p>4.9 Outdoor Space requirements</p> <p>Regulation 108 Education and Care Services National Regulations</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 7.0m² of unencumbered outdoor space.</p> <p>Verandahs as outdoor space</p>	<p>The proposed centre-based childcare facility provides 669.3m² of unencumbered outdoor space. This equates to 7.05m² of unencumbered outdoor space which is compliant with the minimum 7.0m² specified within the Childcare Planning Guideline.</p>

Guideline	Compliance with standard/provision
<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"> • be open on at least one third of its perimeter • have a clear height of 2.1 metres • have a wall height of less than 1.4 metres where a wall with an opening forms the perimeter • have adequate flooring and roofing be designed to provide adequate protection from the <p>Simulated outdoor environments should include:</p> <ul style="list-style-type: none"> • more access to natural light and ventilation than required for an 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 • skylights to give a sense of the external climate • 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 • sand pits and water play areas • dense indoor planting and green vegetated walls • climbing frames, walking and/or bike tracks • vegetable gardens and gardening tubs. 	<p>Covered outdoor space areas comply with these requirements.</p> <p>No simulated outdoor environments nominated.</p>
<p>4.10 Natural Environment Regulation 113 Education and Care Services National Regulations The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.</p> <p>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. 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"> • are known to be poisonous, produce toxins or have toxic leaves or berries • have seed pods or stone fruit, attract bees, 	<p>Trees, sand and natural vegetation have been included within the rear outdoor play space.</p> <p>No proposed toxic berries or plantings are proposed.</p>

Guideline	Compliance with standard/provision
<p>have thorns, spikes or prickly foliage or drop branches.</p> <p>The outdoor space should be designed to:</p> <ul style="list-style-type: none"> • 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 • assist supervision and minimise opportunities for bullying and antisocial behaviour • enhance outdoor learning, socialisation and recreation by positioning outdoor urban furniture and play equipment in configurations that facilitate interaction. 	<p>The proposed outdoor open play area provides a variety of experiences through leisurely activities within the sand pit and fixed play equipment which creates social interaction amongst the children.</p> <p>The layout of the outdoor play space has been designed to allow for maximum supervision.</p> <p>The layout of the rear open play space is considered to enhance social interaction through a range of leisure activities and seating areas.</p> <p>Concern is held regarding the extent of artificial turf and lack of natural plantings and trees providing shade.</p>
<p>4.11 Shade</p> <p>Regulation 114 Education and Care Services National Regulations</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>Solar access</p> <p>Outdoor play areas should:</p> <ul style="list-style-type: none"> • 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. • 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 <p>Natural Shade</p> <p>Planting for shade and solar access is enhanced by:</p> <ul style="list-style-type: none"> • placing appropriately scaled trees near the eastern and western elevations • providing a balance of evergreen and deciduous trees to give shade in summer and sunlight access in winter. <p>Built shade structures</p> <p>Built structures providing effective shade include:</p> <ul style="list-style-type: none"> • permanent structures (pergolas, sails and verandahs) 	<p>Shade is to be provided by sails, the overhanging first floor play area and eaves.</p> <p>A review of the amended shadow diagrams has revealed that at least 30% of the ground area of the rear outdoor play space year-round will receive solar access.</p> <p>Shade sails are also proposed to provide children with protection from ultraviolet radiation. Trees have also been included to provide shade around the sand pit area.</p> <p>Sufficient tree planting will be provided for natural shading, subject to conditions.</p> <p>Shade sails proposed.</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> • demountable shade (marquees and tents) • adjustable systems (awnings) • shade sails. 	
<p>4.12 Fencing Regulation 104 Education and Care Services National Regulations Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including a family day care venue where all children are over preschool age. Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the National Construction Code.</p> <p>In general, fencing around outdoor spaces should:</p> <ul style="list-style-type: none"> • prevent children climbing over, under or through fences • prevent people outside the facility from gaining access by climbing over, under or through the fence • Design considerations for side and rear boundary fences could include: • being made from solid prefinished metal, timber or masonry • having a minimum height of 1.8 metres • having no rails or elements for climbing higher than 150mm from the ground. <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 (refer to Figure 11).</p>	<p>The proposal includes a 1.8m high solid acoustic barrier fence with a 45-degree timber rafter and clear polycarbonate awning extending 1.4m to the surrounds of the outdoor play space.</p> <p>The outdoor play space on the first floor proposes a 1.8m solid acoustic barrier comprising of one metre high brick balustrades topped by 800mm high glass screening.</p> <p>These structures are to be of solid construction with no gaps to satisfy the acoustic engineer recommendations.</p>
<p>4.13 Soil Assessment Regulation 25 Education and Care Services National Regulations Subclause (d) of regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required:</p>	<p>A Preliminary Site Investigation has been submitted, which has found that the site is not contaminated and is suitable for the proposed development. This document will form part of the recommended conditions of consent, and will cover matters that include (but is not limited to) unexpected finds.</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> • a soil assessment for the site of the proposed education and care service premises 	N/A
<ul style="list-style-type: none"> • if a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken 	N/A
<ul style="list-style-type: none"> • 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. 	Statement/comment provided with the submitted statement of environmental effects that the development site has never in the past been used for anything other than residential purposes.

Attachment 2 – LEP and DCP Compliance Assessment

RYDE LEP 2014	PROPOSAL	COMPLIANCE
4.3(2) Height <ul style="list-style-type: none"> • 9.5m 	7.05m Top of ridge RL 92.950 EGL – 85.90	Yes
4.4(2) & 4.4A(1) FSR <ul style="list-style-type: none"> • 0.5:1 	Basement/Laundry – 6.98m ² Ground Floor – 350.43m ² First Floor – 392.2m ² Site Area (1,226.7m ² – Survey Plan (title)) GFA = 742.63m ² FSR = 0.605:1	No
4.6 Exceptions to development standards	A clause 4.6 written request was received in response to the first set of amended plans (Issue N). Refer to Assessment report for response to written request.	Yes
5.10 Heritage Conservation	The subject site does not contain a heritage item and is not located within a heritage conservation area.	N/A
6.1 Acid sulfate soils	The subject site is not affected by any class of acid sulphate soils.	N/A
6.2 Earthworks	A geotechnical report has been submitted, prepared by Geotechnical Consulting Engineers, dated 30 April 2019. The geotechnical report concludes that site may be suitable for the level of earthworks being proposed. Council's development engineer has no objection to the development, subject to conditions.	Yes
6.3 Flood Planning	The subject site is not affected by flooding.	N/A

6.4 Stormwater Management	The proposed stormwater management system is supported by Council's Senior Development Engineer.	Yes
----------------------------------	--	-----

RYDE DCP 2014	PROPOSED	COMPLIANCE
Part 3.2 – Child Care Centres		
Child Care Centre Design		
A child care centre development is to be designed and drawn by a person who is an architect or who is accredited by the Building Designers Association of NSW Inc.	A review of the submitted documentation shows that the proposed development has been designed and drawn by Designcorp Architects, under the supervision of Joe El-Sabbagh, being the nominated registered architect (registration no. 8707).	Yes
The landscape plan must be designed and specified by a landscape architect with demonstrated experience in designing external spaces for child care centres due to the particular nature of the requirements (refer in particular the requirements in section 6 Landscaping and Play Spaces under this Part)	The Landscape plan has been designed and drawn by Victor Jonathan Barakat of TGS Landscape Architects.	Yes
Child care centre development applications are required to be accompanied by a signed undertaking by the applicant, licensee or proposed licensee that demonstrates that the proposal has been designed to comply with respect to the Children's Services Regulation 2004 or DoCS requirements as relevant at the time of application	Education and Care Services National Regulations considered in the assessment and this undertaking is therefore not required.	N/A
Technical Assessment Requirements		
Technical assessments may also be required to be prepared and submitted with the development application, or while the development application is under assessment, to demonstrate support for the proposal and compliance with this DCP.	The submitted documents include technical assessments as required.	Yes
Suitability of Location and Site for Child Care Preferred Locations		

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Single use developments street frontage and width >20m. Corner allotments > 17m - Single use – minimum site area of 800m² – regular in shape 	<p>The proposed child care centre is not located on a corner allotment. Total street frontage = 30.73m²</p> <p>Lot 12 in DP239671(581.7m²) Lot 13 in DP239671(645m²)</p> <p>Total Site Area = 1,226.7m²</p>	<p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> - Not located on arterial or sub-arterial roads, refer Schedule 2 	<p>The proposed child care centre is not located on an arterial or sub-arterial road as detailed in schedule 2 of Part 3.2 of Ryde DCP 2014. The subject site is however located on a collector road in accordance with Schedule 2 within Part 3.2 of DCP 2014.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Within mixed use developments on arterial and sub-arterial roads, located distant and facing away from road 	<p>Not within a mixed use development</p>	<p>N/A</p>
<ul style="list-style-type: none"> - No battle-axe allotments 	<p>Not a battle axe allotment.</p>	<p>N/A</p>
<ul style="list-style-type: none"> - Cul-de-sac not preferred. Applications for centres in CDS must demonstrate appropriate traffic management is provided 	<p>Quarry Road is not a cul-de-sac.</p>	<p>N/A</p>
<ul style="list-style-type: none"> - Not located in proximity to a brothel (Part 3.1 Brothels under DCP 2006) 	<p>The subject site is not located within close proximity to a brothel.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Site flat or gently sloping and well drained <ul style="list-style-type: none"> i. Assist design of useable indoor and outdoor areas at same grade ii. Provide accessibility to all areas iii. Assist drainage after rain 	<p>The subject site is relatively flat. However, the very front of the site experiences a steep fall of approximately 1.2m. This occurs over a distance of 6.87m, calculated between a contour RL:86.20 within the front setback and a contour RL:85.00 along the front property boundary.</p> <p>The slope down from the rear will provide for effective drainage.</p>	<p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Aspect permits maximum solar access and natural ventilation 	<p>The site and proposed building faces east and is consistent with the existing building alignments along Quarry Road. It is considered that the proposed building permits maximum solar access and ventilation within the building.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Located on land not affected by adverse overshadowing by existing or future development, undue heat loads from reflective surfaces of existing or future approved buildings on neighbouring sites 	<p>Given the zoning and height limitations within the surrounding area, it is unlikely that the child care centre would be significantly overshadowed by existing or future development on surrounding sites.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Site not subject to undue overlooking from existing or future adjoining development 	<p>As above, the surrounding development is predominantly residential. It is not considered that the site is subject to undue overlooking from existing or future adjoining development.</p>	<p>Yes</p>
<p>Preferred locations for larger centres in residential areas:</p> <ul style="list-style-type: none"> - Sites located on street corners - Sites share common boundaries with compatible non-residential uses - Compatible land uses subject to acceptable traffic and parking 	<p>The proposal is considered to be a larger centre based on proposed capacity. The site is not preferred for the proposed development as it is not a corner allotment and shares boundaries with residential uses. The proposal is however acceptable due to the area and dimensions of the site, the proposed layout of the development and that it is not located on a major road. Refer to the main planning assessment for further discussion.</p>	<p>No</p>
<ul style="list-style-type: none"> - In low density residential zones, larger scale development (2 or more allotments, up to 90 children) share common boundaries with no more than 3 residential properties. 	<p>Site shares boundaries with three properties; however, a fourth property is separated only by a pedestrian footpath.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Work based centres in mixed use developments adjacent to non-commercial/non-residential components to protect privacy and amenity of centre and neighbouring workers/residents. 	<p>As above the site is not located in a mixed use centre</p>	<p>N/A</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
Assessing Child Care Needs and Size of Facility		
<p>All development applications for child care centres are required to identify:</p> <p>i. Proposed total number of child care places.</p> <p>ii. Proposed number of children by age group;</p> <p>iii. Proposed number of staff including all full time and part time staff, and role of each staff member</p>	<p>The proposal seeks to accommodate 95 childcare places.</p> <p>The proposed age group breakdown for the child care centre is as follows</p> <p>0-2 years – twelve (12) 2-3 years – fifteen (15) 3-6 years – sixty-eight (68)</p> <p>Total – 95 Children</p> <p><i>The number of educators to children ratios is regulated by the Education and Care Services National Regulations.</i></p> <p><i>The ratios were updated on 1 January 2016. The ratios are provided as follows.</i></p> <p><i>1:4 (birth to 24 months)</i> <i>1:5 (24-36 months)</i> <i>1:10 (Older than 36 months)</i></p> <p>Proposed</p> <p>Playroom 1 – (0-2 years) – 12 children – 3 educators.</p> <p>Playroom 2 – (3-6 years) – 20 children – 2 educators.</p> <p>Playroom 3 – (2-3 years) – 15 children – 3 educators. Required – 3 provided.</p> <p>Playroom 4 – (3-6 years) – 20 children – 2 educators.</p> <p>Playroom 5 – (3-6 years) – 28 children – 3 educators.</p> <p>Total Staff required is 13. Proposed 14.</p>	<p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
Site Analysis		
<ul style="list-style-type: none"> - A site analysis to be submitted for new child care centre developments including developments that involve the conversions of existing dwellings/other buildings 	<p>A site analysis plan has been submitted by Design Corp Architects.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - A site analysis drawing must be based on a survey drawing produced by a qualified surveyor and contain a reference number and date. All levels are to be provided to AHD 	<p>Site analysis is based on the Survey Plan provided by CC Surveying.</p>	<p>Yes</p>
Design and Character		
<ul style="list-style-type: none"> • All Child Care Centres - Designed in accordance with CPTED - orientated for year round natural light and ventilation and comfort in indoor spaces and outdoor spaces - design to take advantage of natural lighting and opportunities to maximize solar access and natural ventilation - avoid the proximity to and use of 	<p><i>Surveillance</i> It is considered that the proposed child care centre will provide opportunities for effective casual surveillance. The proposed building entry fronts Quarry Road and provides clear sightlines from internal areas and public spaces.</p> <p>Clear sightlines are also provided from the internal areas to the rear outdoor play areas.</p> <p>The proposed building and outdoor spaces are orientated according to the existing street pattern to the western side of Quarry Road. The proposed indoor and outdoor play spaces are orientated to the south.</p> <p>The proposed centre-based childcare facility is considered to have been designed to take advantage of natural lighting and ventilation. Large openable windows and sliding doors are provided to all indoor play spaces on the ground floor. The windows are orientated to promote cross flow ventilation.</p> <p>The proposal is not located in</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>large expanses of UV reflective surfaces</p> <ul style="list-style-type: none"> - maximize energy efficiency and sustainability and compliance with Part 7.1 Energy Smart, Water Wise under this DCP - building materials, appliances, utilities and fuel sources should be made with consideration for minimising energy requirements - appliances to be used/installed in the centre should have a minimum 3.5 star rating - designed to reflect desired/expected character of buildings in the area - frontages and entries are to be designed to be readily apparent from the street frontage 	<p>proximity to large expanses of UV reflective surfaces.</p> <p>An Energy Efficiency Report has been submitted with the subject development application that addresses compliance with Section J of the Building Code of Australia – Energy Efficiency.</p> <p>Refer above.</p> <p>Refer above.</p> <p>The submitted plans show that the proposed building materials will comprise of a predominant face brick finish which is considered to be inconsistent with the broader streetscape.</p> <p>The submitted plans show that the frontage and building entry is readily apparent from Quarry Road.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> - where fill is proposed to be used, clean fill must be used. 	<p>No fill proposed.</p>	<p>Yes</p>
Setbacks		
<ul style="list-style-type: none"> • Side ○ Single storey dwelling <ul style="list-style-type: none"> - 900mm to wall, includes balconies etc. ○ First floor addition <ul style="list-style-type: none"> - 1500mm to wall, includes balconies etc. ○ Two storey dwelling <ul style="list-style-type: none"> - 1500mm to wall, includes balconies 	<p>The proposed centre-based childcare facility has been setback 4m from the northern and southern side boundaries; a stairway on the southeast side elevation will be set back 2.78 metres.</p> <p>The proposal is not for any form of additions, but rather a new build for a childcare facility.</p> <p>The proposed centre-based</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>etc.</p> <ul style="list-style-type: none"> ○ Side setback to secondary frontage (cnr allotments): 2m to façade and garage/carports ● Front <ul style="list-style-type: none"> - 6m to façade (generally) - 2m to secondary street frontage - Garage setback 1m from the dwelling façade - Wall above is to align with outside face of garage below. - Front setback free of ancillary elements e.g. RWT,A/C ● Rear <ul style="list-style-type: none"> - 8m to rear of dwelling OR 25% of the length of the site, whichever is greater. Note: 12.5m is 25% of site length (50m average length) ● Sites wider than they are long <ul style="list-style-type: none"> - One side setback of 8m or 20% of allotment width, whichever is greater. NB: Side setback on irregular allotments can be measured at the centre line of the site (must have 8x8 DSA). - Rear setback 4m min (in addition to 8m side setback) 	<p>childcare facility is two storey and has been set back 4m from the northern and southern side boundaries; a stairway on the southeast side elevation will be set back 2.78 metres.</p> <p>The subject site is not located on a corner allotment and therefore does not have a secondary street frontage.</p> <p>Minimum 6m front setback proposed. No secondary street frontage.</p> <p>Basement garage proposed; entrance will be set back 2.97m behind the ground floor level above. Basement garage proposed.</p> <p>Front setback free of ancillary elements. The OSD tanks are located below ground in the front setback.</p> <p>Maximum site depth: 45.855m 20% of maximum site depth: 9.171m</p> <p>Proposed rear setback: Min. 9.5m (measured to first floor play area)</p> <p>The subject site is not wider than it is long.</p> <p>Refer above</p>	<p>N/A</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>
Privacy		
Acoustic Privacy – for children in the centre		
- Sites affected by heavy traffic or	Cot rooms have been	Yes

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>other external noises are to be designed so as to locate sleep rooms and play areas away from the noise source. Noise amelioration incorporated into design</p>	<p>appropriately located. The submitted acoustic report indicates glazing for all windows to play areas and cot rooms.</p>	
Acoustic Privacy – for adjoining residents		
<p>- Noise impacts on neighbouring properties are to be minimised by design measures including:</p> <ul style="list-style-type: none"> i. Orientating the facility having regard to neighbouring property layout ii. Orientating playgrounds/outdoor play areas away from private open space areas, bedrooms and living areas iii. Using laminated or double glazing where necessary; iv. Designing fencing which minimises noise transmission and loss of privacy 	<p>An acoustic report has been submitted with the proposed development application by Rodney Stevens Acoustics, dated 26 June 2019. The Acoustic Report concludes the following:</p> <ul style="list-style-type: none"> • Traffic noise intrusion into the indoor areas has been assessed not to exceed the noise criteria. • Noise emissions from the indoor play activities to the nearest residential receivers complies with the noise criteria, provided the recommendations set out are put in place. • Noise emissions from the outdoor play area activities to the nearest residential receivers have been calculated to comply with the noise criterion where a 2.2m solid barrier with awning is erected around the perimeter of the outdoor play area to minimise the noise impact. • Noise emissions from the carpark to the nearest residential receivers comply with the noise criterion. <p>The acoustic report concludes that the proposed childcare centre will not cause “offensive noise” levels to neighbouring residences, provided the noise measures recommended are implemented.</p>	<p>Yes</p>
<p>- child care centres in residential</p>	<p>As noted previously the</p>	<p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>areas with a side boundary set back of less than 3 metres, noise buffering measures should be considered</p> <p>- Acoustic report submitted including recommendations for noise attenuation measures and specifies pre and post development noise levels.</p>	<p>proposed side setbacks are 4m to the northern and southern side boundaries from the both the ground floor and first floor, with a 2.78m setback for a side stairway. Noise buffering treatments are provided.</p> <p>An acoustic report has been submitted which provides recommendations for noise attenuation measures,</p>	<p>Yes</p>
Visual Privacy – for children in the centre		
<p>- Indoor areas adjacent to public areas shall be screened to prevent direct sight lines.</p> <p>- Direct overlooking of indoor amenities and outdoor play spaces from public areas should be minimised through design features including:-</p> <ol style="list-style-type: none"> i. Appropriate site and building layout; ii. Suitable location of pathways, windows and doors; iii. Permanent screening and landscaping. <p>- Windows and doors in the proposed centre are to be sited in locations which maximise security for children attending the centre.</p>	<p>Indoor play areas not located adjacent to any public areas.</p> <p>The indoor and outdoor play spaces are located towards the rear of the proposed centre-based childcare facility minimising any overlooking from the Quarry Road public domain.</p> <p>The proposed windows of the indoor play areas allow for this opportunity whilst being appropriately set back from the front boundary to maximise security.</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p>
Visual Privacy – for adjoining residents		
<p>- Direct overlooking of adjoining main internal living areas and private open spaces should be minimised through:-</p> <ol style="list-style-type: none"> i. Appropriate site and building layout; ii. Suitable location of pathways, windows and doors; iii. Landscaping and screening. 	<p>No overlooking impacts are anticipated. Significant side setbacks, landscape treatments, window placement and the level of the ground floor will prevent overlooking of adjoining sites from that level. Overlooking opportunities of first floor areas will be prevented through window design/placement and a 1.8m barrier around the first-floor</p>	<p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> Windows and doors in the proposed centre are to be sited in locations which minimise loss of privacy to adjoining residences 	<p>play area. Windows and doors to the proposed centre are considered to be sited in locations which minimise privacy to adjoining properties.</p>	Yes
5.0 Car Parking, Traffic and Access		
Car Parking		
<ul style="list-style-type: none"> All on-site parking areas are to be designed in accordance with Australian Standard AS 2890.1 and AS 2890.2. 	<p>A Traffic and Parking Report has been submitted with the application demonstrating that all on-site parking is to be designed in accordance with the relevant Australian Standards.</p>	Yes
<ul style="list-style-type: none"> Off-street parking is to be provided at the rate of 1 space per 8 children, and 1 space per 2 staff. Stack parking for staff only and max 2 spaces 	<p>In accordance with Section 5.1 of Part 3.2 of DCP2014, 1 space per 8 children is to be provided and 1 space per 2 staff is to be provided with an additional accessible car parking space.</p> <p>The proposal seeks 95 children and 14 staff members.</p> <p>As such a total of 12 spaces are required for the children and a total of 7 car parking spaces is required for staff, including an accessible car parking space.</p> <p>The submitted basement plan indicates 7 parking spaces allocated for staff members and 12 spaces allocated to visitors. Notably an accessible car parking space has been provided. In addition, four (4) bicycle spaces have been provided.</p>	Yes
<ul style="list-style-type: none"> Parking requirement to be rounded up to nearest whole number 	Refer above	Yes
<ul style="list-style-type: none"> 1 accessible space located close to the continuous path of travel and where a minimum height clearance 	An accessible parking has been provided within the basement garage.	Yes

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>and exit driveway access at a minimum safe distance from each other</p> <ul style="list-style-type: none"> - ii. To enable vehicles to leave the site in a forward gear; - iii. To enable vehicles using the entrances and exits to not endanger persons and vehicles using those accesses; - iv. To ensure the front setback is not given over to traffic circulation and parking requirements which may unduly impact on streetscape and impact on the opportunity for landscaping to meet the requirements of Section 6 of this Part. <ul style="list-style-type: none"> - Separation - Not < 9m on turning circle of 15m and a - Separation - Minimum width of 12m between driveway laybacks. - Vehicle's not to encroach on pedestrian access ways. Barriers etc. do not block accessible paths of travel - Separate pavement treatment to distinguish driveway from parking spaces 	<p>The internal layout of the carpark would enable vehicles to turn around within the basement in accordance with relevant Australian Standards and enable vehicular entrance and egress in a forward direction. No objection has been raised by Council's development engineer to such a layout.</p> <p>Turning circle is not proposed.</p> <p>The proposal includes one driveway and crossover to the basement garage.</p> <p>The pedestrian pathways have been separated from the vehicle access ways.</p> <p>Car parking located within a basement.</p>	<p>N/A</p> <p>N/A</p> <p>Yes</p> <p>N/A</p>
Impact on Traffic Flow		
<ul style="list-style-type: none"> - Vehicles enter and leave the site in a forward direction. Drop off/pick up area designed separate to manoeuvring area - SEE addresses likely impacts on amenity of existing streets. - No to be located on high volume roads, centres located on high 	<p>Forward vehicular entrance and egress is proposed. Internal manoeuvrability to facilitate vehicles entering and existing the site is in a forward direction.</p> <p>Council's Development Engineer raised no objection to the proposal, subject to conditions.</p> <p>The SEE submitted addresses the likely impacts on amenity that the proposed development will have on the existing street.</p> <p>The proposed development is located on a collector road, and</p>	<p>Yes</p> <p>Yes</p> <p>No</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>volume roads incorporate measures to alleviate associated traffic problems.</p> <p>- Road Safety Audit required for applications on collector roads where volume exceeds 5000(AADT)</p>	<p>issues have been identified with the submitted traffic assessment.</p> <p>Road safety audit has been submitted.</p>	<p>Yes</p>
Pedestrian Safety		
<p>- Segregated from vehicle access with clearly defined paths</p> <p>- Drop off/pick up points provided no more than 30m from main entrance, well lit, allows safe movement,</p> <p>- Vehicle movements separated from pedestrian access by safety fencing, gates etc.</p>	<p>A separate pedestrian pathway has been provided to the entrance of the proposed development.</p> <p>Onsite drop-off/pick-up points are within 30m of access points from the basement.</p> <p>The turning bay at the end of the aisle has been separated from walkway areas.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Accessibility		
<p>- Access provided in accordance with AS1428.1 and Part D of BCA, Part 9.2 of DCP 2014.</p> <p>- Minor alterations must not reduce accessibility, improvements must be made where possible,</p> <p>- Other matters to be considered include:</p> <p>- i. Continuous path of travel from street/parking area into and within every room and outdoor area,</p> <p>- Pathways 1200mm-1500mm and grades no steeper than 1:14</p> <p>- One onsite parking space 3.6m wide with 2.5m height clearance</p>	<p>An access report has been submitted which has been prepared by PSE Access Consulting, dated 12 June 2019.</p> <p>Refer above, the proposed development is for a new child care centre</p> <p>A continuous path of travel has been provided from the front of the site and from within the basement car park.</p> <p>The front pedestrian pathway is 1.2m in width. The front pedestrian access ramp is 1.5m in width and has a grade of 1:20.</p> <p>One accessible space has been provided within the basement that is 3.6m wide with a 2.65m height clearance.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Landscape buffer provided along side and rear boundaries in residential zone, minimum width 1m 	<p>conditions recommended</p> <p>The proposed landscaped setback provided along the front boundary generally exceeds 2m wide and complies with the above control. Species selection will assist in screening the proposed development whilst maintaining appropriate sightlines for vehicles entering/exiting the site. As such, it is considered that those species chosen are satisfactory in this instance. A landscape buffer of 1m has been provided to all side and rear boundaries.</p>	<p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> - Landscape/setback buffers for centres in commercial and industrial zones depending on context, 	<p>The proposed childcare centre is not located in a commercial or industrial zone and therefore this control is not applicable.</p>	<p>N/A</p>
<p>Play Spaces</p>		
<p>Size and Functionality of Play Spaces</p>		
<ul style="list-style-type: none"> - New centres to provide indoor, outdoor play spaces and transition areas 	<p>Indoor and outdoor play spaces have been provided.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Regular shapes with convenient access 	<p>The proposed internal and external play areas are regularly shaped with convenient access.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - Avoid location of play spaces in front setback 	<p>The proposal would not include an outdoor play space within the front setback.</p>	<p>Yes</p>
<ul style="list-style-type: none"> - New centres – 10m² of unencumbered outdoor play space /child care place inclusive of transition area 	<p>It is noted that the outdoor play space complies with the Childcare Planning Guideline under the <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities 2017)</i> (SEPP) which prevails over the DCP2014.</p> <p>The proposed centre-based childcare facility provides 669.70m² of unencumbered outdoor space. This equates to 7.04m² of unencumbered outdoor space which is compliant with the minimum</p>	<p>N/A SEPP Guidelines Prevail</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
	7.0m ² specified within the Childcare Planning Guideline.	
<ul style="list-style-type: none"> - New centres – at 4.5m² of unencumbered indoor play space for each / child care place exclusive of transition areas. 	<p>It is noted that the indoor play area complies with the Childcare Planning Guideline under the State Environmental Planning Policy (Educational Establishments and Child Care Facilities 2017) (SEPP) which prevails over the DCP2014.</p> <p>The proposed centre-based child care facility provides 316.16m² of unencumbered indoor space for 100 children. This equates to 3.32m² of unencumbered indoor space for each child which is compliant with the Education and Care Services National Regulation.</p>	<p>N/A SEPP Guidelines Prevail</p>
Outdoor Play Spaces		
<ul style="list-style-type: none"> - Shaped to maximise supervision and useability and stimulates early learning 	The proposed outdoor play area is shaped to maximise supervision and useability.	Yes
Designed to		
<ul style="list-style-type: none"> - Be well drained 	The proposal was referred to Council's Development Engineer, who raised no objection to the proposed methods of drainage, subject to conditions.	Yes
<ul style="list-style-type: none"> - Takes advantage of existing natural features and vegetation 	Refer above.	Yes
Designs aim for		

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - 30% natural planting area - 30% turfed area - 40% hard surfaces (sand, paving, timber platforms) 	<ul style="list-style-type: none"> - 107.15m² of natural planting has been provided within the rear outdoor play space which equates to 16% of the total outdoor play space of 669.70m². - 241m² of new turf provided which equates to 36% of the total outdoor play space of 669.70m². - 267.88m² of hard surfaces provided which equates to 47% of the total outdoor play space of 669.70m². <p>Whilst this is considered a shortfall, it is considered the provision of natural planting is appropriate for the site and will meet the relevant planting objectives.</p>	No
Work based child care centres, and centres in mixed use facilities		
<ul style="list-style-type: none"> - Where outdoor spaces are provided externally above ground level (refer section 3.4 of this Part): 	The proposed child care centre is not work based child care nor located within a mixed use facility	N/A
<ul style="list-style-type: none"> - i. make outdoor space of a similar quality to that achievable at ground floor level. designed to comply with requirements of section 6.2.2. 	Refer above	N/A
<ul style="list-style-type: none"> - ii. measures implemented for protection from excessive wind and other adverse climatic conditions 	Refer above	N/A
<ul style="list-style-type: none"> - iii. Adequate fencing is to be provided for the safety of the children and to prevent objects from being thrown 	Refer above	N/A
<ul style="list-style-type: none"> - Outdoor storage space does not impede supervision of the play areas. 0.5m² of space per child who will be using the area. 	Refer above	N/A
Indoor Play Spaces		
<ul style="list-style-type: none"> - a. Indoor play spaces shall be designed to: <ul style="list-style-type: none"> - i. Achieve passive surveillance from all rooms; - ii. Provide direct access to play areas; - iii. Allow maximum supervision of the indoor and outdoor play spaces; 	<p>The indoor play spaces are regularly shaped and encourage passive surveillance from all rooms.</p> <p>The proposed internal viewing windows allow for maximum</p>	<p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - iv. Allow subspaces to be set up with discernible divisions to offer a variety of play areas. 	supervision from internal common areas to the outdoor play areas. No subspaces are shown on the submitted plans.	
Miscellaneous Controls		
Signage		
<ul style="list-style-type: none"> - All advertising and signage must be designed to comply with Part 9.1 Advertising Signs. 	No signage proposed. A condition is recommended that would require separate consent for any signage not capable of being erected as 'exempt' development.	N/A
Exterior Lighting		
<ul style="list-style-type: none"> - Lighting is to be provided to assist access via the main entrance. 	The submitted plans do not show proposed lighting. Lighting details are to be provided prior to issue of the construction certificate and are to comply with Australian Standards.	Condition
<ul style="list-style-type: none"> - The street number of the building is to be visible from the street day and night, by lighting and/or reflective material 	Refer above	Condition
<ul style="list-style-type: none"> - External lighting must not adversely impact adjoining properties. 	Refer above	Condition
Waste Storage and Management		
<ul style="list-style-type: none"> - Waste management plan submitted 	Waste management plan has been submitted with the proposed development application	Yes
<ul style="list-style-type: none"> - Adequate provision made for the storage and collection of waste and recycling in accordance with Part 7.2 of this DCP. 	The proposal was referred to Council's Environmental Health Officer for comment. In their latest referral response, no objection to the proposal was raised, subject to conditions	Yes
<ul style="list-style-type: none"> - In addition to the requirements of Part 7.2 of this Plan, applications for child care centre development are to address the following considerations. 		
<ul style="list-style-type: none"> - special removal service required for the removal/disposal of nappies 	Refer above	Refer above
<ul style="list-style-type: none"> - frequency of removal of waste to ensure regular removal and avoid undue build up of garbage 	Refer above	Refer above
<ul style="list-style-type: none"> - opportunities for avoidance, reuse 	Refer above	Refer above

RYDE DCP 2014	PROPOSED	COMPLIANCE
and recycling of waste		
- convenience for staff of the location of bins	Refer above	Refer above
- security of waste from access by children	Refer above	Refer above
- . likely requirements for waste from kitchen facilities	Refer above.	N/A
- Impact of waste storage and collection on adjoining residential developments in terms of unsightliness, odour and noise	Refer above	Refer above
- Expansion – as far as possible to be visually and physically integrated into the design. Screening required for areas visible from street.	Proposal is for a new child care centre	N/A
- Where food preparation is carried out, waste area is to be covered and floor graded and drained, easily accessible and suitably screened	The proposal was referred to Council's Environmental Health Officer for comment. In their latest referral response dated 24 April 2020, no objection to the proposal was raised, subject to conditions	Yes
- Residential areas - not to be designed to store waste facilities of a size and scale which can only be managed by side arm waste collection vehicles. - There is to be no on-site access by waste collection vehicles	Refer above	Refer above
- Composting must not impact on amenity of adjoining premises or the centre	Refer above	Refer above
- Separate waste collection services including frequency and times must minimise noise impact on neighbouring properties	Refer above	Refer above
Emergency Evacuation		
- Fire Safety and Evacuation Plan complying with AS3745 prepared for all new centres and for developments resulting in an increase in places	Emergency Evacuation procedures and an emergency evacuation floor plan have been submitted with the development application.	Yes
The Fire Safety and Evacuation Plan is to address: - i. The mobility of children and how this is to be accommodated during	Refer above	Yes

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>an evacuation;</p> <ul style="list-style-type: none"> - ii. The location of a safe congregation area, away from the evacuated building, busy roads and other hazards, and away from evacuation points for use by other occupants/tenants of the same building or of surrounding buildings; and - iii. The supervision of children during the evacuation and at the congregation area with regard to the capacity of the child care centre including child to staff ratios. 		
Out of School Hours Care		
<ul style="list-style-type: none"> - Where an OOSH service is proposed in a childcare centre, the centre shall provide permanent separation of OOSH facilities from the remaining centre facilities. 	<p>No out of school hours care is proposed.</p>	<p>N/A</p>
<ul style="list-style-type: none"> - Operational elements which are to be provided separately for each service include: <ul style="list-style-type: none"> - i. amenities (toilet facilities) - ii. indoor play spaces, and - iii. outdoor play areas (especially where vacation care is proposed). 		
<ul style="list-style-type: none"> - Access to staff facilities should also be provided for staff of the OOSH facility 		
<ul style="list-style-type: none"> - The operational elements are to be designed in accordance with any relevant controls under this Part (for example minimum area requirements for outdoor play areas, indoor play areas) 		
<ul style="list-style-type: none"> - Proposed number of staff and child care places are to be provided in accordance <ul style="list-style-type: none"> - with section 2.2 of this Part 		
<ul style="list-style-type: none"> - Parking requirements will be assessed in accordance with section 5 of this Part 		
<ul style="list-style-type: none"> - Child care centres that include out of school hours care are not to result in an overdevelopment of the site. 		
<ul style="list-style-type: none"> - The total number of places approved for the centre will include places approved for out of school hours care where this is proposed 		

DEMOLITION	PROPOSAL	COMPLIANCE
<ul style="list-style-type: none">• Plan showing all structures to be removed.	No demolition proposed	N/A
<ul style="list-style-type: none">• Demolition Work Plan	No demolition proposed	N/A
<ul style="list-style-type: none">• Waste Management Plan	Plan submitted	Yes

Attachment 3 – Recommended conditions of consent

GENERAL

The following conditions of consent included in this Part identify the requirements, terms and limitations imposed on this development.

1. **Approved Plans/Documents.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

Document Description	Date	Plan No/Reference
Site Management Plan	25.06.2020	Designcorp Architects, Sheet No. N000, REF:2018-193, Issue n
Roof Site/Analysis Plan	25.06.2020	Designcorp Architects, Sheet No. N3, REF 2018-193, Issue n
Basement/Section A/Section C – Acoustic Detail	25.06.2020	Designcorp Architects, Sheet No. N4, REF 2018-193, Issue n
Ground/Section B	25.06.2020	Designcorp Architects, Sheet No. N5, REF 2018-193, Issue n
First/Section C	25.06.2020	Designcorp Architects, Sheet No. N6, REF 2018-193, Issue n
North Elevation/South Elevation/East Elevation/West Elevation/Section D	25.06.2020	Designcorp Architects, Sheet No. N7, REF 2018-193, Issue n
Calc Plan Ground	25.06.2020	Designcorp Architects, Sheet No. N10, REF 2018-193, Issue n
Calc Plan First	25.06.2020	Designcorp Architects, Sheet No. N11, REF 2018-193, Issue n
Material and Finishes Schedule	25.06.2020	Designcorp Architects, Sheet No. N15, REF 2018-193, Issue n
Landscape Plan	01.07.2020	TGS Landscape Architects, Drawing Number: 2019.0602DA1-1, Sheet 1 of 2, Issue C
Landscape Plan	01.07.2020	TGS Landscape Architects, Drawing Number: 2019.0602DA1-2, Sheet 2 of 2, Issue C
Emergency Management Plan	Undated	SPS Fire and Safety
Evacuation Plan Basement	21.05.2020	SPS Fire and Safety
Evacuation Plan Ground Floor	21.05.2020	SPS Fire and Safety
Evacuation Plan First Floor	21.05.2020	SPS Fire and Safety
Cover Sheet & Design Summary Table	02.07.2020	EZE Drainage Solutions, Job No. 17125, DWG No. D1, Issue C
Stormwater Management Plan	02.07.2020	EZE Drainage Solutions, Job No. 17125, DWG No. D2, Issue C
Typical Details	02.07.2020	EZE Drainage Solutions, Job No. 17125, DWG No. D3, Issue C
OSD Calculation Sheet & OSD Details	02.07.2020	EZE Drainage Solutions, Job No. 17125, DWG No. D4, Issue C

Basement Drainage Design	02.07.2020	EZE Drainage Solutions, Job No. 17125, DWG No. D5, Issue C
Documents		
Traffic and Parking Impact Assessment	02.07.2020	McLaren Traffic Engineering & Road Safety Consultants, Doc REF: 200440.01FA, Issue A
Noise Impact Assessment	26.06.2019	Rodney Stevens Acoustics, Reference: 190153R1, Revision 2
Pre-Construction Concept Design Road Safety Audit	21.05.2020	The Transport Planning Partnership, Version 01, Ref: 16300
Geotechnical Investigation Report	30.04.2020	GCA Geotechnical Consultants Australia, Report No. G19103-1
Ambient Air Quality Assessment	26.08.2019	GCA Geotechnical Consultants Australia, Report No. E1951-1
Preliminary Site Investigation Report	26.08.2019	GCA Geotechnical Consultants Australia, Report No. E1950-1
Wind Impact Assessment	02.09.2020	Vipac Engineers & Scientists, Document No. 30N-19-0166-TRP-6765722-0
Section J Report	28.06.2019	Outsource Ideas p/l, Revision A.
Assessment Report, Access and Compliance Requirements	12.06.2019	PSE Access Consulting. Prepared by Mr. Peter Simpson.
Arboricultural Implication Assessment	14.06.2019	Horticultural Resources Consulting Group, Issue A.
Waste Management Plan	15.07.2019	Designcorp Australia Pty Ltd

2. Prior to the issue of a **Construction Certificate**, the following amendments shall be made:

- (a) The plans shall be amended to demonstrate the acoustic barriers around the first-floor play area are to be a height of at least 1.8 metres above the finished floor level of the first floor decking.
- (b) An additional emergency evacuation gate shall be provided within the southern side boundary fence providing access to the public walkway. The gate shall be sited between the rear boundary and the rear of the child care centre.

The development must be carried out in accordance with the amended plans approved under this condition.

Reason: To address potential overlooking and emergency egress concerns.

3. **Emergency evacuation.** Documentation relating to the emergency evacuation of the site shall be modified as follows:

- (a) The design of the emergency evacuation gates referred to in Condition 2(b) are to ensure:
 - Both gates are flush with the boundary/acoustic fence (i.e. they are not to be 'indented' or contained within an alcove), and must not contain gaps in accordance with the approved noise impact assessment,

- Both gates are to be designed so that they open inwards (i.e. they are not to open out into the adjoining pathway),
- Both gates are to be designed so that they can only be opened from within the site, and
- The internal sides of both gates are to clearly indicate that they are for emergency exit purposes only. The exterior of both gates (i.e. sides addressing the adjoining pathway) are to also indicate that site access is to be obtained from the Quarry Road frontage.

The placement and design of the gates are to be indicated on the construction plans prior to the issue of a **Construction Certificate**.

(b) The Emergency Management Plan is to be amended as follows:

- In the event of an off-site evacuation, the emergency marshalling point is to be located at the end (i.e. turning head) of the Readford Place cul-de-sac to the southwest. Off-site gathering at the intersection of Quarry Road and Aeolus Avenue is to be removed.
- The emergency access routes from the ground and first floors are to be altered, so that evacuation occurs through the two side emergency exit gates (as conditioned above) to the pathway adjoining the southeast side boundary of the site. Where practical, routes to the off-site marshalling point are to avoid using Quarry Road.

The amendments to the Emergency Management Plan are to be implemented prior to the issue of an **Occupation Certificate**.

Reason: To ensure the safe evacuation of the building in the event of an emergency.

4. **Plan of Management.** A detailed Plan of Management (PoM) is to be prepared and provided to the Manager Development Assessment at the City of Ryde Council prior to the operation of the approved use. The PoM must address:

- All operational requirements of the approved child care centre, and
- Be consistent with the requirements of this consent.

Operation of the site is not to commence until the Manager Development Assessment at the City of Ryde Council has indicated that they are satisfied with the contents of the PoM, and the approved document cannot be altered without the written consent of Council.

Reason: To ensure that the operation of the site is in accordance with the requirements of this consent.

5. **Inconsistency between documents.** In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

Reason: To ensure that the development is in accordance with the determination.

6. **No approval for signage.** This development consent does **not** approve the installation or erection of any signage not specified or detailed by the approved plans or these conditions. Separate consent must be attained for any future signage that is not 'exempt' development.

Reason: Statutory requirement.

7. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.

Reason: Statutory requirement.

8. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.

Reason: To ensure the structural protection of adjoining properties.

9. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.

Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties.

10. **Hoardings.**

- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
- (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

Reason: To ensure the safety of the public and hoarding/fencing is removed at the completion of the development.

11. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Reason: To ensure the safety of the public.

12. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

Reason: To ensure public spaces are unobstructed during construction.

13. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Any doors/ gates on the boundary must be installed so they do not open onto any footpath.

Reason: To ensure protection of adjoining public spaces.

14. **Road Opening Permit.** In accordance with the requirements of the Roads Act, the applicant must obtain consent (*Road opening Permit*) from Council prior to any excavation being undertaken in the road reserve (this includes verge and public footpath areas). No works shall be carried out in the road reserve without this permit being paid and a copy kept on the site.

Reason: To ensure compliance with the requirements of *Roads Act 1993*.

15. **Public Utilities.** All services or utilities required to be altered in order to complete the development works are to be undertaken in accordance with the requirements of the relevant service provider (e.g. Telstra, Jemena, Ausgrid, etc.), with all costs associated with this alteration to be borne by the applicant.

Reason: To ensure access to public utilities.

16. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's 2014 DCP 2014 Part 8.5 (Public Domain Works), except otherwise as amended by conditions of this consent.

Reason: Statutory requirement.

17. **Traffic Management.** Traffic management procedures and systems must be in place and practised during the construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 and City of Ryde, Development Control Plan 2014: - Part 8.1; Construction Activities.

Reason: To minimise impact upon pedestrian and vehicular traffic systems.

18. **Construction and fit-out of food premises within the child care** – All proposed food premises (other than retail meat premises) must be constructed and fitted-out in accordance with the requirements of:

- (a) Food Safety Standard 3.2.3: *Food Premises and Equipment*; and
- (b) Australian Standard *AS 4674-2004: Design, construction and fit-out of food premises*.

Reason: Statutory requirement.

19. **Construction of walls** - The walls of all proposed food premises must be constructed of brick, concrete blocks, preformed panels filled with suitable material or other solid materials.

Reason: To ensure compliance with BCA and relevant Australian Standards. .

20. **Provision for installation of kitchen exhaust systems** - Adequate provision must be made for the installation of kitchen exhaust systems to the proposed food premises.

Reason: To ensure the required exhaust is provided.

21. **Fresh air intake vents** - All fresh air intake vents must be located in a position that is free from contamination and at least 6 metres from any exhaust air discharge vent or cooling tower discharge.

Reason: To ensure fresh air is provided to the basement.

22. **Exhaust air discharge vents** - All exhaust air discharge vents must be designed and located so that no nuisance or danger to health will be created.

Reason: To ensure compliance with relevant Australian Standards.

23. **Carpark exhaust vent** - The carpark exhaust vent must be located at least 3 metres above ground level or any pedestrian thoroughfare and:
(a) at least 6 metres from any fresh air intake vent or natural ventilation opening; and
(b) at least 6 metres or, where the dimensions of the allotment make this impossible, the greatest possible distance from any neighbouring property boundary.

Reason: To ensure compliance with relevant Australian Standards.

24. **Kitchen exhaust vent** - The kitchen exhaust vent must be located above roof level:
(a) at least 6 metres from any fresh air intake vent or natural ventilation opening;
(b) at least 6 metres or, where the dimensions of the allotment make this impossible, the greatest possible distance from any neighbouring property boundary; and
(c) at least 8 metres from any cooling tower.

Reason: To ensure compliance with relevant Australian Standards.

25. **Storage of garbage and recyclable materials** - A separate room or area must be provided in a convenient location within the basement for the storage of garbage and recyclable materials in compliance with Council's Development Control Plan 2014 Part 7.2.

Reason: To ensure a separate waste room is provided.

26. **Construction of garbage rooms** - All garbage rooms must be constructed in accordance with the following requirements:
- (a) The room must be of adequate dimensions to accommodate all waste containers, and any compaction equipment installed, and allow easy access to the containers and equipment for users and servicing purposes;
 - (b) The floor must be constructed of concrete finished to a smooth even surface, coved to a 25mm radius at the intersections with the walls and any exposed plinths, and graded to a floor waste connected to the sewerage system;
 - (c) The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;
 - (d) The walls must be constructed of brick, concrete blocks or similar solid material cement rendered to a smooth even surface and painted with a light coloured washable paint;
 - (e) The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint;
 - (f) The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material;
 - (g) Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high;
 - (h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation;
 - (i) The room must be provided with adequate artificial lighting; and
 - (j) A hose cock must be provided in or adjacent to the room to facilitate cleaning.

Reason: To provide the design requirements for the waste room.

27. **Access for waste collection vehicles** - Safe easy access must be provided for waste collection vehicles to service the waste containers. The driveways and manoeuvring areas must be designed for maximum legal dimensions and weights and allow collection vehicles to enter and leave the premises in a forward direction. Additional clearances must be provided for overhead and side loading where appropriate.

Reason: To ensure access is provided for waste collection vehicles.

28. **Plumbing and drainage work** - All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation and the NSW Department of Fair Trading.

Reason: Statutory requirement.

29. **Installation of grease trap** - A grease trap must be installed if required by Sydney Water Corporation. The grease trap must be located outside the building or in a dedicated grease trap room and be readily accessible for servicing. Access through areas where exposed food is handled or stored or food contact equipment or packaging materials are handled or stored is not permitted.

Reason: To ensure compliance with relevant Australian Standards.

DEMOLITION CONDITIONS

The following conditions are imposed to ensure compliance with relevant legislation and Australian Standards, and to ensure that the amenity of the neighbourhood is protected.

A Construction Certificate is not required for Demolition.

30. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:
- (a) Council must be notified of the following particulars:
 - (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - (ii) The date the work is due to commence and the expected completion date
 - (b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.

Reason: To ensure neighbours are notified prior to the commencement of demolition.

31. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).

Reason: Statutory requirement.

32. **Excavation**

- (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.
- (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with the Work Cover Authority, in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.

33. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.

Reason: Statutory requirement.

34. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.

Reason: Statutory requirement.

35. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.

Reason: To ensure waste is managed in accordance with the consent.

36. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.

Reason: To ensure waste is disposed of at lawful facilities.

37. **Imported fill – type.** Any imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.

Reason: To ensure public safety.

38. **Delivery dockets to be provided.** Each load of imported fill must be accompanied by a delivery docket from the supplier including the description and source of the fill.

Reason: To ensure the source of fill is known.

39. **Delivery dockets – receipt and checking on site.** A responsible person must be on site to receive each load of imported fill and must examine the delivery docket and load to ensure that only Virgin Excavated Natural Material that has been validated for use on the site is accepted.

Reason: To ensure the source of fill is documented.

40. **Delivery dockets – forward to PCA on demand.** The delivery dockets must be forwarded to the Principal Certifying Authority within seven (7) days of receipt of the fill and must be produced to any authorised officer who demands to see them.

Reason: To ensure the source of fill is documented.

41. **Surplus excavated material** - All surplus excavated material must be disposed of at a licensed landfill facility, unless Council approves an alternative disposal site.

Reason: To ensure appropriate disposal of excavated material.

PRIOR TO CONSTRUCTION CERTIFICATE

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

42. **Section 7.12.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council as follows:

A – Contribution Type	B – Contribution Amount
Section 7.12 Contribution	\$19,837.87

These are contributions under the provisions of Section 7.12 of the *Environmental Planning and Assessment Act, 1979* as specified in City of Ryde Fixed Rate (Section 7.12) Development Contributions Plan 2020, effective from 1 July 2020.

The above amount is current at the date of this consent, and is subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amount that differs from that shown above.

The contribution must be paid **prior to the issue of any Construction Certificate**. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the **City of Ryde**. Personal or company cheques will not be accepted.

A copy of the City of Ryde Fixed Rate (Section 7.12) Development Contributions 2020 Plan may be inspected at the Ryde Customer Service Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

Reason: Statutory requirement.

43. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.

Reason: To ensure compliance with the Australian Standards.

44. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.

Reason: To ensure the structural integrity of the approved development.

45. **Security deposit.** The Council must be provided with security for the purposes of section 4.17(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation)

Reason: Statutory requirement.

46. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:

- (a) Infrastructure Restoration and Administration Fee
- (b) Enforcement Levy

Reason: Statutory requirement.

47. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.

Reason: Statutory requirement.

48. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.

Reason: To provide suitable vehicular access.

49. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by

any part of your development. Please go to www.sydneywater.com.au/tapin to apply.

Reason: Statutory requirement

50. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.

Reason: To ensure the use of appropriate roofing material to minimise reflectivity and impacts upon amenity.

51. **Fencing.** Where applicable, fencing is to be in accordance with Council's DCP 2014:
- Part 3.2 – Child Care Centres, Section 3.5 (Fences, Gates and Security), and
 - Part 3.3 – Dwelling Houses and Dual Occupancy (attached), Section 2.16 – Fences.

Details of compliance are to be provided in the plans for the **Construction Certificate**.

Reason: To ensure fencing is compliant with Council's policy requirements.

52. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

Reason: To ensure appropriate lighting is provided for residential safety and maintains the amenity of adjoining properties.

39. **Vehicle Access & Parking.** All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off street Parking standards).

With respect to this, the following revision(s) / documentation must be provided with the plans submitted with the application for a Construction Certificate:

- a) All internal driveways and vehicle access ramps must have ramp grades, transitions and height clearances complying with AS 2890 for all types of vehicles accessing the parking area. To demonstrate compliance with this Australian Standard, the plans to be prepared for the Construction Certificate must include a driveway profile, showing ramp lengths, grades, surface RL's and overhead clearances taken along the vehicle path of travel from the crest of the ramp to the basement. The driveway profile must be taken along the steepest grade of travel or sections having

significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

- b) To allow for adequate sight distance from a vehicle exiting the property to pedestrians in the footpath area, the northern side of the driveway entry at the property boundary must have clear sight through a splayed region defined by Figure 3.3 of AS 2890.1 (2004) and Council's DCP. Ideally the region is to be free of all obstructions, otherwise any solid obstructions are to be no greater than 900mm above finished surfaces and horizontal fencing/ slats are to permit more than 50% visual permeability.

These amendment(s) must be clearly marked on the plans submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

Reason: To ensure compliance with AS2890.

40. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to the kerb in Quarry Road, generally in accordance with the plans by EZE Drainage Solutions Pty Ltd, drawing number 17125 D1 to D5, revision C, dated 2nd July 2020, subject to any variations marked in red on the approved plans or noted following:

- To minimise the expanse of hardstand the OSD storage must be extended and located under the pathway in the front setback.

The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and prepared by a suitably qualified Civil Engineer and comply with the following:

- The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
- The subsurface drainage system must be designed to preserve the pre-developed groundwater table so as to prevent constant, ongoing discharge of groundwater to the public drainage network, as well as avoid long term impacts related to the support of structures on neighbouring properties.

Reason: To ensure effective stormwater management.

41. **Stormwater Management - Onsite Stormwater Detention.** In accordance with Council's community stormwater management policy, an onsite stormwater detention (OSD) system must be implemented in the stormwater management system of the development.

As a minimum, the OSD system must:

- a) provide site storage requirement (SSR) and permissible site discharge (PSD) design parameters complying with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management).
- b) incorporate a sump and filter grate (trash rack) at the point of discharge from the OSD system to prevent gross pollutants blocking the system or entering the public drainage service,
- c) ensure the OSD storage has sufficient access for the purpose of ongoing maintenance of the system, and
- d) ensure the drainage system discharging to the OSD system is of sufficient capacity to accommodate the 100 year ARI 5 minute storm event.

Detailed engineering plans and certification demonstrating compliance with this condition & Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) are to be submitted with the application for a Construction Certificate.

Reason: To ensure effective stormwater management.

42. **Stormwater Management - Pump System.** The basement pump system must be dual submersible and shall be sized and constructed in accordance with Section 9.3 of AS 3500.3.

The wet well must be designed and constructed in accordance with section 9.3 of AS 3500.3, except that the sump volume is to be designed to accommodate storage of runoff accumulating from the 100yr ARI 3 hour storm event, in the event of pump failure as per the requirements of Council's DCP - Part 8.2 (*Stormwater and Floodplain Management*).

Direct connection of the pumps rising main to the kerb will not be permitted. The rising main must discharge to the sites drainage system, upstream of the onsite detention system (if one is provided) or any rainwater tank which is utilised for irrigation only.

Pump details and documentation demonstrating compliance with this condition are to be submitted in conjunction with the Stormwater Management Plan for the approval of the Certifying Authority, prior to the release of any Construction Certificate for construction of the basement level.

Reason: To ensure effective stormwater management.

43. **Vehicle Footpath and Gutter Crossover Approval.** A new vehicle footpath crossing and associated gutter crossover shall be constructed at the approved vehicular access location/s. Where there is an existing vehicle footpath crossing and gutter crossover, the reconstruction of this infrastructure may be required in order that it has a service life consistent with that of the development and ensure it is compliant with current Council's standards and specifications. The location, design and construction shall be in accordance with Council's

DCP 2014 Part 8.3 (*Driveways*), Part 8.5 (*Public Civil Works*) and Australian Standard AS2890.1 – 2004 (Offstreet Parking).

Prior to the issue of the Construction Certificate, an application shall be made to Council for approval under Section 138 of the Roads Act, 1993, for the construction of the vehicle footpath and gutter crossover. The application shall include engineering design drawings of the proposed vehicle footpath crossing and gutter crossover. The drawings shall be prepared by a suitably qualified Civil Engineer using the standard B85 vehicle profile. The drawings shall show the proposed vehicle footpath crossing width, alignment, and any elements impacting design such as service pits, underground utilities, power poles, signage and/or trees. In addition, a benchmark (to Australian Height Datum) that will not be impacted by the development works shall be included. All grades and transitions shall comply with Australian Standard AS 2890.1-2004 Offstreet Parking and Council's specifications. The new crossing shall be 6.0 m. wide, without the splays, and shall be constructed at right angle to the alignment of the kerb and gutter, and located no closer than 1m from any power pole and 3m from any street tree unless otherwise approved by Council.

Fees are payable at the time of the application, in accordance with Council's Schedule of Fees and Charges.

The Council approved design details shall be incorporated into the plans submitted for the application of the Construction Certificate.

Reason: To ensure compliant vehicular access is constructed.

44. **Road and Public Domain Works.** The following Public Domain works are required;
- a) Construction of a new concrete vehicular crossing as specified under the condition "*Vehicle Footpath and Gutter Crossover Approval*".
 - b) Construction of a new concrete footpath spanning the site frontage. The footpath width and grade must be in accordance with the DCP Part 8.5 (*Public Civil Works*) Section 2.3. If there is an existing footpath in the vicinity of the site which is variable to these specifications, the applicants is to confer with Council's Civil Works section for directions as to the appropriate footpath specifications.
 - c) Reinstatement of damaged sections of kerb and gutter.
 - d) Removal of any existing footpath and gutter crossover which is not fronting an approved access point and the reinstatement of grass verge, concrete kerb, gutter and footpath in this region.

In accordance with Section 138 of the Roads Act, detailed engineering plans prepared by a qualified and experienced civil engineer, complying with the specifications outlined in Council's DCP 2014 Part 8.5 (*Public Civil Works*) must be submitted and approved by Council prior to the issue of the Construction Certificate.

Engineering plans assessment and inspections fee associated with this work

are payable in accordance with Council's Management Plan prior to approval being issued by Council.

Reason: To ensure the serviceability of infrastructure adjacent the development property is consistent with the life of the development and provides safe and efficient access to the site.

45. **Geotechnical Design, Certification and Monitoring Program.** The proposed development involves the construction of subsurface structures and excavation that has potential to adversely impact neighbouring property if undertaken in an inappropriate manner. To ensure there are no adverse impacts arising from such works, the applicant must engage a suitably qualified and practicing Engineer having experience in the geotechnical and hydrogeological fields, to design, certify and oversee the construction of all subsurface structures associated with the development.

This engineer is to prepare the following documentation:

- a) Certification that the civil and structural details of all subsurface structures are designed to;
 - provide appropriate support and retention to neighbouring property,
 - ensure there will be no ground settlement or movement during excavation or after construction (whether by the act of excavation or dewatering of the excavation) sufficient to cause an adverse impact to adjoining property or public infrastructure, and,
 - ensure that the treatment and drainage of groundwater will be undertaken in a manner which maintains the pre-developed groundwater regime, so as to avoid constant or ongoing seepage to the public drainage network and structural impacts that may arise from alteration of the pre-developed groundwater table.
- b) A Geotechnical Monitoring Program (GMP) to be implemented during construction that:
 - is based on a geotechnical investigation of the site and subsurface conditions, including groundwater,
 - details the location and type of monitoring systems to be utilised, including those that will detect the deflection of all shoring structures, settlement and excavation induced ground vibrations to the relevant Australian Standard;
 - details recommended hold points and trigger levels of any monitoring systems, to allow for the inspection and certification of geotechnical and hydro-geological measures by the professional engineer; and;
 - details action plan and contingency for the principal building contractor in the event these trigger levels are exceeded.
 - Is in accordance with the recommendations of the Geotechnical Report by Geotechnical Consultants Australia Pty Ltd, reference G19103-1, revision 0, dated 30th April 2019.

The certification and the GMP is to be submitted for the approval of the Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure there are no adverse impacts arising from excavation works.

46. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties that may be affected by the construction work. As a minimum, the scope of the report is to include:

- 5 Readford Place
- The public pathway adjoining the site on the eastern boundary
- 180 Quarry Road

A copy of the dilapidation survey is to be submitted to the Accredited Certifier and Council prior to the release of the Construction Certificate.

Reason: To ensure there is a record of properties that may be affected by the construction works.

47. **Site Dewatering Plan.** A Site Dewatering Plan (SDP) must be prepared and submitted with the application for a Construction Certificate.

The SDP is to comprise of detailed plans, documentation and certification of the system, must be prepared by a chartered civil engineer and must, as a minimum, comply with the following;

- a) All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded so as to prevent the emission of offensive noise as a result of their operation.
- b) Pumps used for dewatering operations are not to be fuel based so as to minimise noise disturbance and are to be electrically operated.
- c) Discharge lines are to be recessed across footways so as to not present as a trip hazard and are to directly connect to the public inground drainage infrastructure where ever possible.
- d) The maximum rate of discharge is to be limited to the sites determined PSD rate or 30L/s if discharging to the kerb.
- e) Certification must state that the submitted design is in accordance with the requirements of this condition and any relevant sections of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
- f) Be in accordance with the recommendations of approved documents which concern the treatment and monitoring of groundwater.
- g) Any details, approval or conditions concerning dewatering (eg Dewatering License) as required by the Water Act 1912 and any other relevant NSW legislation.
- h) Approval and conditions as required for connection of the dewatering system to the public drainage infrastructure as per Section 138 of the Roads Act.

Reason: To ensure that stormwater runoff and the disposal of groundwater from the excavation is drained in an appropriate manner and without

detrimental impacts to neighbouring properties and downstream water systems

48. **Erosion and Sediment Control Plan.** An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified consultant, detailing soil erosion control measures to be implemented during construction. The ESCP is to be submitted with the application for a Construction Certificate. The ESCP must be in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by NSW Department – Office of Environment and Heritage and must contain the following information:

- Existing and final contours
- The location of all earthworks, including roads, areas of cut and fill
- Location of all impervious areas
- Location and design criteria of erosion and sediment control structures,
- Location and description of existing vegetation
- Site access point/s and means of limiting material leaving the site
- Location of proposed vegetated buffer strips
- Location of critical areas (drainage lines, water bodies and unstable slopes)
- Location of stockpiles
- Means of diversion of uncontaminated upper catchment around disturbed areas
- Procedures for maintenance of erosion and sediment controls
- Details for any staging of works
- Details and procedures for dust control.

The ESCP must be submitted with the application for a Construction Certificate. This condition is imposed to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

Reason: Protection of the environment.

49. **Irrigation.** Automatic irrigation connected to recycled water or harvested rainwater is to be provided to the planting beds located under the boundary acoustic fence and planting areas of the upper terrace. Details of compliance must be shown on the plans for Construction Certificate.

Reason: To provide a sufficient supply of water to vegetation to ensure establishment and continued health.

50. **Canopy Tree Planting.** The outdoor play spaces must include additional canopy tree plantings to ensure canopy cover to at least 50% of the outdoor play area within 5 years of planting. Details of compliance must be shown on the plans for Construction Certificate.

Reason: To ensure appropriate levels of natural shade and sun protection are provided to the outdoor play area.

51. **Shade Cover.** The upper terrace outdoor play space must include fixed shade sails to provide shade to at least 50% of the terrace area. Details of compliance must be shown on the plans for Construction Certificate.

Reason: To ensure appropriate levels of shade and sun protection are provided to the outdoor play area.

52. **Species Substitution.** The *Acmena smithii*, *Viburnum odoratissimum* and *Photinia glabra* shown planted under the boundary acoustic fence must be substituted for species which grow to a maximum mature height of 2m.

Reason: To ensure the form and condition of boundary planting does not conflict and is not impacted by the overhead acoustic fence.

53. **Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

Reason: To ensure appropriate lighting is provided for residential safety and maintains the amenity of adjoining properties.

54. **Consolidation of lots.** Prior to issue of any Construction Certificate, the Applicant must consolidate the existing lots Lot 12 and 13 within Deposited Plan 239671 which will form the development site into a single lot. Evidence of lot consolidation, in the form of a plan registered with NSW Land Registry Services, must be submitted to the Certifier prior to issue of any Construction Certificate.

Reason: To ensure that the legal property description is consistent with the proposed site layout and that continuous structures will not be placed across separate lots.

PRIOR TO COMMENCEMENT OF WORKS

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

55. **Construction Traffic Management Plan.** As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by a Traffic Engineer having RMS accreditations and submitted to Council for approval prior to the issue of a Construction Certificate. This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent the site.

The CTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- Specify construction vehicle routes and rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council's Traffic section.
- Wherever the site is in proximity to a Public School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum seven (7) days notification must be provided to adjoining property owners prior to the implementation of significant temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street tree's.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’s Manual – “Traffic Control at Work Sites” and Councils DCP 2014 Part 8.1 (Construction Activities). The modification of parking restrictions (Work Zones) and standing heavy vehicles (crane, concrete pump, etc) on a footpath/ roadway are subject to separate approval from Council and/or the Local Traffic Committee.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and is to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To minimise impacts of construction activities on the surrounding road network.

56. Site Sign

- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Reason: Statutory requirement.

57. Excavation adjacent to adjoining land

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Reason: To ensure notice to given to adjoining owners prior to excavation works.

- 57. Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

Reason: To ensure to site is safely secured.

- 58. Property above/below Footpath Level.** Where the ground level adjacent the property alignment is above/below the established verge and footpath level, adequate measures are to be taken (either by means of constructing approved retaining structures or batters entirely on the subject property) to support the subject land/footpath and prevent harm to the public / occupants of the site due to the abrupt level differences.

Reason: To ensure public safety.

- 59. Work Zones and Permits.** Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane.

Reason: To ensure a work zone is approved to minimise impact on traffic.

DURING WORKS

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

60. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.

Reason: Statutory requirement.

60. **Construction noise.** The L₁₀ noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.

Reason: To reduce impacts on amenity of surrounding sites.

61. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.

Reason: To ensure all works are located on the subject site.

62. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.

Reason: To protect the environment and the amenity of surrounding properties.

63. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:

- (a) Fill is allowed under this consent;
- (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
- (c) the material is reused only to the extent that fill is allowed by the consent.

Reason: To protect the environment.

64. **Construction materials.** All materials associated with construction must be retained within the site.

Reason: To ensure safety and amenity of the area.

65. **Site Facilities.** The following facilities must be provided on the site:
- (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

Reason: Statutory requirement.

66. **Site maintenance**
The applicant must ensure that:

- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
- (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
- (c) the site is clear of waste and debris at the completion of the works.

Reason: To ensure the site is appropriately maintained.

67. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

Reason: To ensure works do not disrupt pedestrians and vehicular traffic.

68. **Traffic Management.** Any traffic management procedures and systems must be in accordance with AS 1742.3 1996 and City of Ryde, Development Control Plan 2014: - Part 8.1; Construction Activities.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

69. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by EZE Drainage Solutions Pty Ltd, drawing number 17125 D1 to D5, revision C, dated 2nd July 2020, submitted in compliance to the condition labelled "*Stormwater Management.*".

Reason: To ensure effective stormwater management.

70. **Erosion and Sediment Control Plan - Implementation.** The applicant shall install erosion and sediment control measures in accordance with the Construction Certificate approved Soil Erosion and Sediment Control (ESCP) plan at the commencement of works on the site. Erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.

Reason: To ensure protection of the environment.

71. **Geotechnical Monitoring Program - Implementation.** The construction and excavation works are to be undertaken in accordance with the Geotechnical Report and Monitoring Program (GMP) submitted with the Construction Certificate. All recommendations of the Geotechnical Engineer and GMP are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

Reason: To ensure works are in accordance with the recommendations of the submitted Geotechnical Report.

72. **Site Dewatering Plan – Implementation.** The Site Dewatering Plan (SDP) on the site must be constructed in accordance with the Construction Certificate version of the SDP submitted in compliance to the condition labelled “Site Dewatering Plan.”, the requirements of Council in regards to disposal of water to the public drainage infrastructure and the requirements of any Dewatering License issued under NSW Water Act 1912 in association with the works. A copy of the SDP is to be kept on site at all times whilst dewatering operations are carried out.

Reason: To ensure effective dewatering operations.

73. **Construction Traffic Management Plan - Implementation.** All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure works are in accordance with the approved CTMP.

74. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or identified as approved for removal on the stamped plans.

75. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.

Reason: Statutory requirement.

PRIOR TO OCCUPATION CERTIFICATE

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

76. **Landscaping.** All approved landscaping works are to be completed prior to the issue of the **Occupation Certificate**.

Reason: To ensure completion of landscaping works in accordance with the approved plans.

77. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Each year the Owners must send to the Council and the Fire and Rescue NSW an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirements.

78. **Road opening permit – compliance document.** The submission of documentary evidence to Council of compliance with all matters that are required by the Road Opening Permit issued by Council under Section 139 of the *Roads Act 1993* in relation to works approved by this consent, prior to the issue of any **Occupation Certificate**.

Reason: Statutory requirement.

79. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site

www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: Statutory requirement.

80. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties, prior to the issue of any **Occupation Certificate**.

Reason: To ensure there is a record of properties that may be affected by the construction works once completed.

81. **Public domain – work-as-executed plan.** A works as executed plan for works carried out in the public domain must be provided to and endorsed by Council prior to the issue of any **Occupation Certificate**.

Reason: To ensure the integrity of works in the public domain.

82. **Letterboxes and street/house numbering.** All letterboxes and house numbering are to be designed and constructed to be accessible from the public way. Council must be contacted in relation to any specific requirements for street numbering.

Reason: To ensure consistency with Council’s requirements for street numbering.

83. **Redundant Footpath Crossing.** The existing footpath crossing(s) and associated gutter crossover(s) which are not accessing approved vehicle access points must be removed and restore kerb and gutter, verge and footway to match existing adjoining sections. All new levels and materials must be flush and consistent with adjoining sections and all costs are to be borne by the applicant. The works must be completed to Councils satisfaction, prior to the issue of any Occupation Certificate.

Reason: To protect the public infrastructure and ensure safety of pedestrians.

84. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.

Reason: To ensure appropriate stormwater management.

85. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention, and pump/ sump components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the instrument are to be in accordance with the Council's standard terms for such systems and to the satisfaction of Council. The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.

Reason: To ensure the OSD is registered on the title of the land.

86. **Engineering Compliance Certificates.** Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.
- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls).
 - b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
 - c) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
 - d) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).

- e) Certification from a suitably qualified geotechnical engineer confirming that the Geotechnical Monitoring Program (GMP) was implemented throughout the course of construction and that all structures supporting neighbouring property have been designed and constructed to provide appropriate support of the neighbouring property and with consideration to any temporary loading conditions that may occur on that site, in accordance with the relevant Australian Standard and building codes.
- f) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.

Reason: To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards,

87. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

Reason: To ensure the constructed On-site detention will not be modified

88. **Parking Area Line Marking and Signage.** Traffic control line marking and signs must be installed in the developments parking area. The location and specifications of these measures must be in accordance with AS 2890.1, must be based on Traffic Engineering principals and must be located under the guidance of a suitably qualified Traffic Engineer experienced in traffic safety. Certification that these measures have been implemented must be provided to the Accredited Certifier prior to the issue of an Occupation Certificate for any part of the development requiring use of the parking area.

Reason: To ensure the safe and efficient circulation of traffic and access to parking, directional signage

89. **Certification of fit-out work** - Where Council is not the Principal Certifying Authority, the PCA must inspect the completed fit-out and issue a compliance certificate certifying that the fit-out complies with Food Safety Standard 3.2.3: *Food Premises and Equipment* and Australian Standard AS 4674-2004: *Design, construction and fit-out of food premises*, and a copy of the compliance certificate must be submitted to Council, before the issue of an Occupation Certificate.

Reason: To ensure compliance with the relevant Australian Standard.

90. **Compliance report** - A report from a qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria must be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) before the issue of an Occupation Certificate.

Reason: To ensure the proposal has been constructed in accordance with the acoustic recommendations.

OPERATIONAL CONDITIONS

The conditions in this Part of the consent relate to the on-going operation of the development and shall be complied with at all times.

91. **Hours of operation.** The hours of operation are to be restricted to:

- 7:00am to 6:00pm (Monday-Friday).

This condition does not apply to activities (e.g. cleaning) which take place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling, then such internal activities must not occur outside the hours of use specified above.

Reason: To ensure conformity with proposal.

92. **Number of children.** The maximum number of children shall be limited to the following:

- 0-2 years: Twelve (12)
- 2-3 years: Fifteen (15)
- 3-6 years: Sixty-eight (68)

Reason: To ensure conformity with proposal.

93. **Number of staff.** The number of staff onsite shall be as follows:

- At least thirteen (13) staff are to be provided for children accommodated by the child care centre, **except** where stipulated by the regulations, and
- At least one (1) member of staff for administration/support purposes.

Reason: To ensure sufficient staffing in accordance with the Regulations.

94. **Parking Allocation.** Both the owner and occupier of the development must provide and maintain the minimum parking allocation as follows;

- 10 visitor spaces,
- 1 shared visitor and loading bay space,
- 1 disabled visitor space, and
- 7 staff spaces.

95. **Delivery times.** All deliveries to the child care centre are not to occur between the hours of 3:30pm and 9:00am Monday to Friday.

Reason: To minimise disturbance of surrounding areas and conflict with peak pick and drop off times.

96. **Loading area.** All deliveries during permitted times are to be loaded and unloaded within the basement carpark.

Reason: To minimise disturbance of surrounding areas.

97. **Offensive noise.** The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.

Reason: To protect the amenity of neighbouring properties.

98. **Noise.** A validation report must be obtained from a suitably qualified and experienced consultant in acoustic engineering three (3) months after the business commences trading and from time to time as reasonably requested by Council. The report should demonstrate and certify that noise from the development to adjoining sensitive receivers satisfies the provisions of the *Protection of the Environment Operations Act 1997*, NSW Office of Environment & Heritage/Environment Protection Authority Noise Policy for Industry, and conditions of Council's development consent.

If it is found the development fails to satisfy these provisions, then works and/or operational modifications shall be undertaken; any such changes must then be validated by a further acoustic assessment, by a suitably qualified acoustic engineer to be selected by Council. The reasonable cost of such appointment shall be borne by the operator, and in the event of continued inconsistency, then any further works and/or operational requirements recommended by the Council-selected acoustic consultant shall also be borne by the licensee/operator and carried out within a time frame set by Council.

Reason: To protect the amenity of neighbouring properties and ensure compliance with approved documentation.

99. **Validation of noise complaints.** Following commencement of operation, should substantiated complaints or breaches of noise regulation occur, a suitably qualified acoustic engineer selected by Council will be engaged to measure noise emanating from the building/premises and to recommend appropriate action. The reasonable cost of such appointment shall be borne by the operator and any works and/or operational requirements recommended by the acoustic consultant shall also be borne by the licensee/operator and carried out within a time frame set by Council.

Reason: To protect the amenity of neighbouring properties.

100. **Waste storage/disposal – hours of collection.** Waste and recyclable material generated by these premises must not be collected between the hours of 6:00pm and 7:00am Monday to Friday.

Reason: To protect the amenity of neighbouring properties.

101. **Waste storage/disposal – method.** All waste generated on the premises must be stored and disposed of in an environmentally acceptable manner.

Reason: To protect the amenity of the surrounding area.

102. **Waste storage/disposal – containers.** An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.

Reason: To protect the amenity of the surrounding area.

103. **Waste storage/disposal – recycling.** Wastes for recycling should be stored in separate bins or containers and transported to a facility where the wastes will be recycled or re-used.

Reason: To ensure sufficient waste storage.

104. **Transfer of waste containers to emptying point** - Staff or contractors must be employed to take the waste containers from the garbage room or waste storage area to the container emptying point for servicing and to return the containers to the garbage room or waste storage area after servicing.

Reason: To ensure effective waste management.

105. **Disposal of liquid wastes** - All liquid wastes generated on the premises must be treated and discharged to the sewerage system in accordance with the requirements of Sydney Water Corporation or be transported to a liquid waste facility for recycling or disposal.

Reason: To ensure effective waste management.

106. **Trade waste permit** - The applicant must contact Sydney Water Corporation to determine whether a Trade Waste Permit is required before discharging any trade wastewater to the sewerage system.

Reason: To ensure effective waste management.

107. **Maintenance of waste storage areas** - All waste storage areas must be maintained in a clean and tidy condition at all times.

108. **Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:

(a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the *Noise Policy for Industry (EPA, 2017)*.

- (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
- (c) The transmission of vibration to any place of different occupancy.

Reason: To protect the amenity of neighbouring properties.

ADVISORY NOTES

Health Inspection Services:

109. **Inspections and fees** - Council officers may carry out periodic inspections of the premises to ensure compliance with relevant environmental health standards and Council may charge an approved fee for this service in accordance with Section 608 of the *Local Government Act 1993*.

The approved fees are contained in Council's Management Plan and may be viewed or downloaded at www.ryde.nsw.gov.au.

Reason: Statutory requirement.

CL 4.6 VARIATION OF DEVELOPMENT STANDARDS JUSTIFICATION

176 QUARRY ROAD, RYDE

DA FOR CONSTRUCTION OF A CHILD CARE CENTRE



Photomontage: Designcorp Architects

Report Prepared by: Giovanni Cirillo

Issue Date: 1 July 2020

Disclaimer: This document may only be used for the purpose for which it was commissioned. Changes to available information, legislation and schedules are made on an ongoing basis and readers should obtain up to date information. Planning Lab accepts no liability or responsibility whatsoever for or in respect of any use of or reliance upon this report and its supporting material by any third party. Information provided is not intended to be a substitute for site specific assessment or legal advice in relation to any matter. Unauthorised use of this report in any form is prohibited.

Contents

Summary	4
Introduction	5
The Request	5
The Site	5
Proposed Development	6
The Development Standards	8
Relevant Clause Extracts	10
Public Interest and Consistency with the Objectives of the Standard and Zone	12
R2 Zone Objectives	12
Clause 4.4 Objectives	12
Clause 4.6 3(a) Compliance Unreasonable or Unnecessary	13
Consistency with the Objectives of the Standard	14
No Significant Environmental Impacts	14
Community Burden	14
Clause 4.6 3(b) Environmental Planning Grounds	15
Specific Element of the Development that Contravenes the Standard	15
Environmental Planning Justification	15
Concurrence of the Secretary	16
Conclusion	17

Summary

This Clause 4.6 variation request accompanies a development application for 176 Quarry Road, Ryde. Clause 4.4 of the Ryde Local Environmental Plan 2014 ('the LEP') limits development on the site to a maximum FSR limit of 0.5:1. The site's area is 1,234.54m² and has a maximum permissible GFA of 617.27m².

A part of the proposed building, a space on Level 1 labelled as 'unencumbered outdoor play area' ('Level 1 outdoor area') has an area of 159.64m². It has no roof and is partially enclosed by walls 1.8m in height. Planning Lab contends that this area does not meet the definition of Gross Floor Area (GFA) and should be excluded from the Floor Space Ratio calculations. Under this approach, the development has a total FSR of 0.457:1 which complies with the applicable maximum FSR limit and a Clause 4.6 variation request is not required.

Nonetheless, this clause 4.6 variation request has been prepared as if it is required because Ryde Council has indicated that they consider the Level 1 outdoor area to constitute GFA. Under this interpretation, the proposal has a total FSR of 0.587:1 and exceeds the maximum permitted GFA under Clause 4.4 by 107.34m² which is a variation of 17.4%.

The proposed development has a public benefit as it provides childcare services to meet the needs of the community in compliance with the objectives of the R2 Low Density Residential zone. If this variation is refused, the additional 107.34m² of GFA that would need to be removed from the proposal would reduce the potential available childcare spaces in the development from 95 to 79. This would reduce the availability of services to meet the day to day needs of residents and is not in the public interest.

The variation arises from the necessity for the outdoor area wall to be 1.8m (instead of 1.4m which would exclude the area from the GFA count) to achieve compliance with regulation 104 of the Child Care Planning Guideline and to achieve a better acoustic outcome.

Compliance is unreasonable and unnecessary in this instance as the objectives of the development standard (Clause 4.4) are achieved notwithstanding non-compliance with the standard. This is primarily because the additional wall height is located at the rear of the block and will not be readily visible from the public domain. Therefore, in comparison to a compliant scheme with a 1.4m wall height, the proposal does not present as having greater bulk.

The additional height of the fence has multiple environmental planning benefits including; improved child safety, improved acoustic amenity of the built environment and minimisation of privacy impacts upon neighbours.

The proposal has an inconsequential overshadowing impact on 174 Quarry Road but is otherwise without adverse environmental impacts. On balance, the impact of not approving the variation would be a reduction of approximately 16 child care places which is disproportionate to the negative environmental impact of the development which is a negligible overshadowing impact.

The Ryde Local Planning Panel may assume the concurrence of the Secretary of the Department of Planning and Environment to the variation due to Department of Planning Circular PS 18-003 'Variations to development standards' 21/02/2018.

This request has adequately addressed the matters required for consideration under Clause 4.6 of the Ryde LEP 2014.

Introduction

The Request

We consider that the proposed development complies with the maximum floor space ratio of 0.5:1 which applies to the site under clause 4.4 of the Ryde Local Environment Plan 2014 ('the LEP'). As shown in the GFA calculations in the drawings provided by designcorp, the Level 1 outdoor area has a GFA of 159.64m² and has been excluded from the FSR calculations as it is uncovered. This is discussed in greater detail under the heading 'The development standards'.

Ryde Council has indicated that they do not share this interpretation of GFA and so this variation request has been prepared on a contingent basis. If Council accepts the argument presented in the 'The Development Standards' section then this request is not required.

If the consent authority does not accept that GFA should be applied as argued above, then this Clause 4.6 variation request will be required in consideration of the floor space ratio contravention. This should not be considered to detract from Planning Lab's position that the proposal is compliant with the site's maximum FSR. In that event, the variation is worthy of approval as:

- The proposal is in the public interest as it meets the R2 zone objectives by providing a permissible land use providing child care services to meet the day to day needs of residents.
- Compliance is unreasonable and unnecessary as the proposal meets the first test in *Wehbe v Pittwater Council* [2007] NSWLEC 827 that the objectives of the standards are achieved despite the non-compliance with the standards.
- There are sufficient environmental planning grounds to justify the contravention as the proposed walls to the Level 1 outdoor play area will increase the safety of building occupants, reduce acoustic impacts on the built environment, minimise privacy impacts on surrounding dwellings and has only a negligible shadow impact.
- If the variation is not approved, the opportunity to provide 107.34m² of childcare services will be lost. This will result in the loss of approximately 16 childcare spaces which is against the public interest.
- The concurrence of the Secretary can be assumed by the Ryde Local Planning Panel.

The Site

The subject site for the Development Application is 176 Quarry Road, Ryde which is described by NSW Land and Property Information as Lots 12 and 13 in DP 239671 comprising a site area of 1,234.54m². The site is currently occupied by a large detached two storey residential dwelling built over the two allotments with a detached metal shed in the rear yard. The area immediately surrounding the site is characterised by single and double storey detached residential dwellings. A public pathway aligns the south east site boundary.

The site is located in an R2 zone and has a maximum FSR of 0.5:1.



Figure 1 - 176 Quarry Road

Proposed Development

The proposal is for the development of a child care centre which is intended to have capacity for up to 95 children between the ages of 0-6 years. The design is a two-storey building with a single level of basement car parking. At ground level, the site includes covered and uncovered play areas. On the second storey, a 159.64m² outdoor play area is provided which is open to the sky. The Level 1 play area is surrounded by outer walls that are 1.8m in height in order to protect the children and to provide an acoustic barrier to prevent offensive noise escaping to surrounding properties.

Interpretation	Site area	Proposed GFA	Proposed FSR	Extent of non-compliance
Level 1 outdoor play area excluded from GFA	1,234.54m ²	564.97m ²	0.457:1	n/a - complies
Level 1 outdoor play area included in GFA	1,234.54m ²	724.61m ²	0.587:1	107.34m ² / 0.087:1
Difference	-	159.64m ²	0.13:1	-

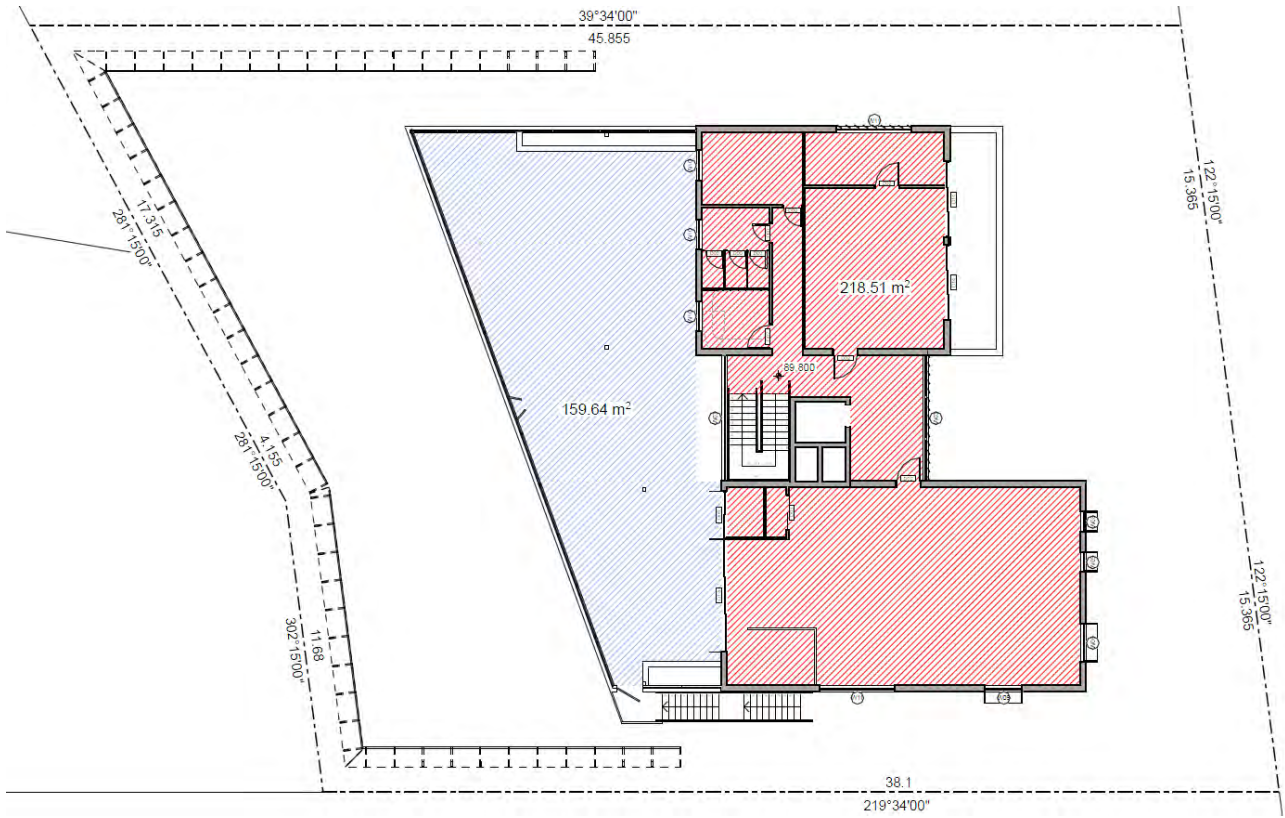


Figure 2 – The outdoor play area shown in blue

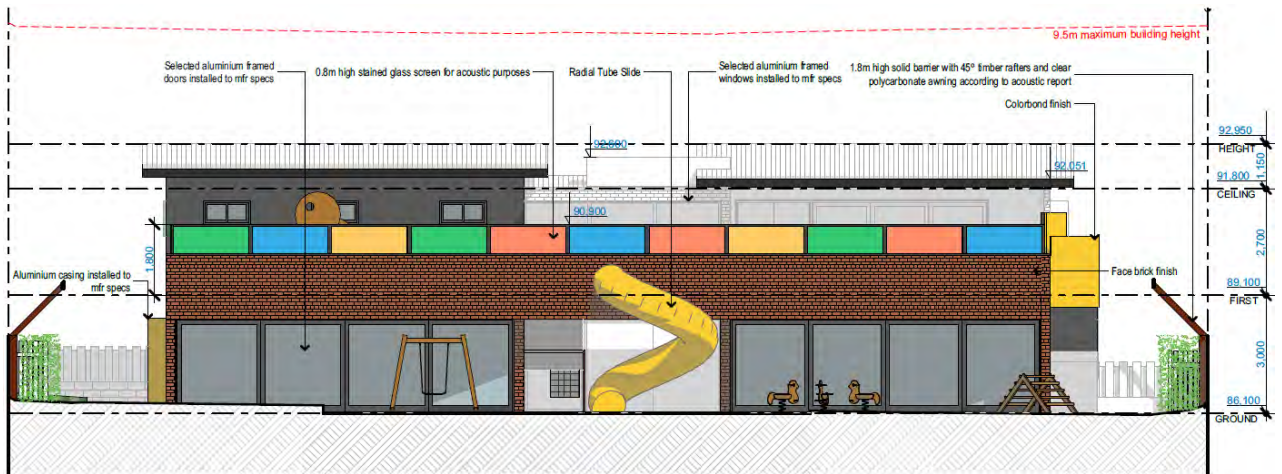


Figure 3 – The West Elevation showing the height of the wall

Clause 4.4

Clause 4.4(2) of the Ryde LEP 2014 states that:

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The LEP's 'Floor Space Map' shows the site as having a maximum floor space ratio of 0.5:1. Therefore, the site's maximum FSR is 0.5:1.

Clause 4.4 of the LEP should be read in conjunction with Clause 4.5(2) which states:

(2) Definition of "floor space ratio" The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

The LEP definition of GFA is (underline added for emphasis):

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,*
but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement—*
 - (i) storage, and*
 - (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.*

The LEP definition of GFA excludes areas which are not part of a floor of a building. As shown in the definitions below, a floor of a building is synonymous with a storey and a storey must have either a floor or roof above it. As the Level 1 outdoor area has no roof, it does not constitute a storey of the building and is exempt from being counted as GFA.

The Merriam-Webster Online Dictionary defines a floor as being synonymous with a storey saying:

“1: the level base of a room

2a: the lower inside surface of a hollow structure (such as a cave or bodily part)

2b: a ground surface // the ocean floor

3a: a structure dividing a building into stories

b: the occupants of such a floor”

The Merriam-Webster Online Dictionary defines a storey as being:

1a: the space in a building between two adjacent floor levels or between a floor and the roof

b: a set of rooms in such a space

c: a unit of measure equal to the height of the story of a building // one story high

The proposal does not constitute a space between a floor and a roof and is therefore not a storey or a floor of the building. The area of the Level 1 outdoor playground is therefore not GFA for the purposes of calculation of the FSR under Clause 4.4 of the LEP.

Contingent Clause 4.6

Council has previously indicated that they do not accept the above argument and have requested a Clause 4.6. Accordingly, this Clause 4.6 request is provided in support of the proposed development on a contingent basis to apply if the Council does not accept the interpretation above. The remainder of this request is prepared on the assumption that Council maintains its position and considers the Level 1 outdoor play area as GFA. Planning Lab does not accept this position but even if the Council is correct in their interpretation, development consent should still be granted based on this Clause 4.6 Request.

The variation to the FSR development Standards

The site's area is 1,234.54m². The maximum FSR applied to the site is 0.5:1. The maximum permitted GFA for development on the site under Clause 4.4 is 617.27m².

The proposed development has a GFA of 724.61m² which equals an FSR of 0.587:1. This represents a variation of 107.34m² and 0.087:1 which is equal to a variance of 17.4%.

Clause 4.6

Development consent may still be granted to the proposal despite the non-compliance with Clause 4.4 if a variation is approved under Clause 4.6 of the LEP. This document is a written request from the applicant which addresses the relevant considerations of Clause 4.6. The FSR control under Clause 4.4 is not excluded from the operation of the Clause.

Relevant Clause Extracts

The relevant clauses of the Ryde LEP 2014 are Clause 4.4 - Floor Space Ratio and Clause 4.6 - Exceptions to Development Standards. They are reproduced in full below.

4.4 Floor space ratio

(1) The objectives of this clause are as follows—

- (a) to provide effective control over the bulk of future development,*
- (b) to allow appropriate levels of development for specific areas,*
- (c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows—

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) Development consent must not be granted for development that contravenes a development standard unless—

- (a) the consent authority is satisfied that—*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the*

objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Secretary must consider—

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. *When this Plan was made it did not include all of these zones.*

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(ca) clause 4.3, to the extent that it applies to the land identified as "Town Core" on the Ryde Town Centre Precincts Map,

(cb) clause 4.1A, to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached),

(cc) clause 6.9.

Public Interest and Consistency with the Objectives of the Standard and Zone

A proposed development is in the public interest where it is consistent with the relevant objectives of the applicable standards and the land use zone in which it is located (*Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*).

The proposal is consistent with the relevant R2 zone and Clause 4.4 objectives as discussed below.

R2 Zone Objectives

The site is located within an R2 low density residential zone in which 'Centre-based child care facilities' are permitted with consent. The objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a variety of housing types.*

Dot point 2 relates to the proposal for the development of a childcare centre. The proposed development would have childcare places for up to 95 children between of various pre-school ages. This is self-evidently a facility and service that will assist in meeting the day to day needs of those nearby residents with young children. The proposal is in the public interest as it provides a vital service for residents.

Dot points one and three do not apply to the proposed development as they relate to housing and the proposal is for a permitted use other than housing.

Clause 4.4 Objectives

The objectives relating to FSR are set out in Clause 4.4(1) of the LEP. They are:

- (1) *The objectives of this clause are as follows—*
- (a) *to provide effective control over the bulk of future development,*
 - (b) *to allow appropriate levels of development for specific areas,*
 - (c) *in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

(a) to provide effective control over the bulk of future development,

The additional FSR of the development is located at the Level 1 outdoor play area which is at the rear of the block and will not be apparent from the street. This play area provides outer walls greater than 1.4m for the safety of children (in compliance with regulation 104 of the Childcare Planning Guideline) and to minimise the acoustic impacts on neighbouring development. The necessity for 1.8m high outer walls is specific to the proposed use as a childcare centre and has positive safety impacts for building occupants (children) and positive acoustic impacts for neighbouring buildings by minimising sound impacts. Were it

not for these benefits, an outer wall of 1.4m could be provided and the area would be excluded from consideration as GFA which would render the development compliant with the FSR standard. Similarly a slatted balustrade could be provided but for the above considerations which would also be excluded from calculation in GFA.

The additional wall height of 0.4m (which causes the non-compliance) is located at the rear of the development and will not be readily observable from the public domain. If the wall were lowered, or the outdoor terrace were removed entirely from the proposal, the apparent bulk of the building from the public domain would not be reduced. The proposal does not, therefore, diminish the ability of the FSR control to control the bulk of future development as the proposed design is comparable in scale to a compliant building.

(b) to allow appropriate levels of development for specific areas,

The surrounding area is characterised by a mix of one and two storey residential dwellings with large front setbacks and side setbacks of approximately 1m-2m. The proposed development is consistent with this pattern of development. The additional building bulk that the development proposes is located at the rear of the building and will not generally be seen from the public domain and especially from Quarry Road. The development is consistent with the pattern and scale of surrounding development and is appropriate to the area.

As discussed above, a reduction in the height of the fence or the use of a slatted balustrade around the Level 1 outdoor play area would exclude the area from consideration as GFA rendering the FSR numerically compliant but this would not reduce the building's apparent bulk from the public domain. The proposed design represents an appropriate built form and level of development for the area.

(c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.

The site is not on land identified as a Centre on the Centres Map and this objective does not apply.

Clause 4.6 3(a) Compliance Unreasonable or Unnecessary

The most common five methods for demonstrating that compliance is unreasonable or unnecessary are set out in *Wehbe v Pittwater Council [2007] NSWLEC 827*. These five methods were re-affirmed in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*. It should be noted that while multiple methods may apply in some instances, any one of the methods is sufficient on its own to satisfy the requirement to demonstrate that compliance is unreasonable or unnecessary. The methods are:

1. the objectives of the development standard are achieved notwithstanding non-compliance with the standard
2. the underlying objective or purpose of the standard is not relevant to the development
3. the underlying objective or purpose would be defeated or thwarted if compliance was required

4. the standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and/or
5. the zoning of land was unreasonable or inappropriate, such that the standards for that zoning are also unreasonable or unnecessary.

This request addresses the first listed method and demonstrates that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

In addition, to the first test of Wehbe, this request also seeks to demonstrate that the 'unreasonable and unnecessary' requirement is met because the burden that would be placed on the community by not permitting the variation (and allowing for additional provision of childcare places) would be disproportionate to the (inconsequential) adverse consequences attributable to the proposed non-compliant development.

Consistency with the Objectives of the Standard

This has been demonstrated under the 'Clause 4.4 objectives' heading in this variation request.

No Significant Environmental Impacts

The additional 0.4m of wall height on the Level 1 outdoor area does not result in any consequential negative environmental impacts. On balance, the increased wall height improves environmental amenity.

The wall will not be readily seen from the public domain and will have no impact on the building's perceived bulk and scale. There is no view loss resulting from the wall.

The walls will have a negligible additional overshadowing effect on 174 Quarry Road from approximately 2pm. This will affect a very small portion of the rear private open space of 174 Quarry Road, the great majority of which will be unaffected.

The proposed wall height of 1.8m lessens any potential privacy issues in comparison to a 1.4m wall. This is because the 1.8m tall wall will not readily permit views into the rear private open spaces of neighbouring dwellings. The higher fence has been designed in accordance with the recommendations of the project Acoustic Consultant, Rodney Stevens Acoustics, who have recommended that the wall be a minimum of 1.6m to ensure the protection of the acoustic amenity of the neighbouring dwellings. The wall height will lessen the acoustic impact of the childcare centre and protect environmental amenity of the neighbourhood.

Community Burden

The proposal will provide child care places for up to 95 children in support of the objectives of the R2 zone as discussed above. If the variation is not permitted, the building will be required to reduce its GFA by 107.34m² which is equal to 17.4%. A corresponding decrease in childcare places would be a reduction of 16 child care places down to 79. A reduction in the provision of childcare spaces is an undesirable outcome for the landowner, future operator and the community.

As identified above, the additional wall height above 1.4m does not result in any significant adverse environmental impacts. As such, the impact of not approving the variation (a reduction of approximately

16 child care places) is disproportionate to the impact of the development (negligible overshadowing impact).

Clause 4.6 3(b) Environmental Planning Grounds

There are sufficient environmental grounds to justify this variation to Clause 4.4. In stating this we have considered the following (*Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*):

- the specific element of the development that contravenes the development standard (rather than the development as a whole); and,
- the environmental planning grounds on which it is justified.

Specific Element of the Development that Contravenes the Standard

The proposal exceeds the maximum permitted GFA under Clause 4.4 by 107.34m². This results from the inclusion of the Level 1 outdoor play area (159.64m²) in the GFA calculation because the walls exceed 1.4m. Were the walls 1.4m or less in height, there would not be any contravention of Clause 4.4. The walls are required to reach 1.8m in height for the protection of children and required to be at least 1.6m as an acoustic barrier. Therefore, the specific element of the building which causes the contraventions is the section of wall to the Level 1 play area where it exceeds a height of 1.4m.

Environmental Planning Justification

There is an absence of any environmental harm arising from the wall height of the Level 1 play area as discussed above. There are environmental planning benefits resulting from the wall height of 1.8m which relate to objectives 1.3(b), 1.3(g) and 1.3(h) of the *Environmental Planning and Assessment Act 1979* (*Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 [23]*).

1.3(h)

The additional wall height increases the safety of occupants which includes both staff and children. If a 1.4m high wall were provided, the risk of a child falling would be higher than with a 1.8m wall. Child safety is increased by the height of the wall making it extremely unlikely that a child could climb over the wall and thereby preventing them from falling. The safety of staff is increased as they will in turn be unlikely to be required to prevent a child from falling which could put them at risk of a workplace injury.

1.3(g)

The 1.8m wall height provides a suitable acoustic barrier which will minimise the environmental impact of noise generated by the development having a positive impact on the amenity of the built environment. Surrounding development consists of detached suburban style housing which are a particularly noise sensitive type of development. A 1.4m wall would necessarily provide a smaller sound barrier and have a

diminished ability to contain noise. This has been demonstrated in the Acoustic Impact Statement by Rodney Stevens Acoustics.

A 1.8m wall height has the additional benefit of protecting the privacy of neighbouring residential buildings. If a 1.4m high wall were provided, adult occupants would be able to see into the rear private open space of 180 Quarry Road, 174 Quarry Road 5 Readford Place and 6 Readford Place from certain parts of the development. A wall height of 1.8m will prevent this from occurring and protects the privacy of the surrounding detached suburban houses.

1.3(b)

In addition to the specific environmental planning benefits arising from a 1.8m wall instead of a 1.4m wall, there is a direct benefit of permitting the variation as it will allow for the provision of more childcare places than would otherwise be permitted which will promote the social and economic welfare of the community. Regulation 104 of the Childcare Planning Guidelines (which must be considered by the consent authority under Clause 23 of *State Environmental Planning Policy (Educational Establishments and Childcare Facilities 2017)*) requires that:

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.

Regulation 104 goes on to provide guidance that fences should be solid to provide no climbing points and should have a minimum height of 1.8m. If the variation is not approved, the development would be required to remove 107.34m² of GFA from the design. This cannot be achieved by simply removing the Level 1 outdoor play area due to the outdoor play area requirements under Regulation 108 which requires that 7m² of outdoor space per child (the proposal provides 7.01m² per child). If this Clause 4.6 is not approved, the opportunity to provide 95 childcare places would be reduced by 16 to approximately 79 child care spaces.

A reduction of child care spaces within a residential area is undesirable as they form a vital service for parents in the neighbourhood.

Concurrence of the Secretary

The consent authority, being the Ryde Local Planning Panel, may assume the concurrence of the Secretary of the Department of Planning and Environment to the variation. This is because of Department of Planning Circular PS 18–003 ‘Variations to development standards’, 21/02/2018, which is a notice under 64(1) of the Environmental Planning and Assessment Regulation 2000.

The Circular allows independent hearing and assessment panels who exercise consent authority functions on behalf of councils, but are not legally delegates of the council to assume the Secretary’s concurrence even where the development contravenes a numerical standard by greater than 10%.

The Secretary can be assumed to have given concurrence to the variation, provided that the determination is not made by a delegate of the Council.

Conclusion

This written request for variation to the FSR development standards has been prepared on a contingent basis and is to be relied upon by the consent authority if it does not accept the applicant's position that the Level 1 outdoor play area does not constitute GFA.

The proposed variation to the FSR development standard is appropriate in the case of this development because:

- The proposal is consistent with the objectives of the R2 zone and the Clause 4.4
- compliance with the development standards are unreasonable or unnecessary in the circumstances of the case;
- there are sufficient environmental planning grounds to justify contravening the development standards;
- the concurrence of the Secretary can be assumed.

This request has adequately addressed the matters required for consideration under Clause 4.6 of the Ryde LEP 2014.