

- 3 142 -148 Cox's Road, North Ryde - Alterations and additions to the existing building to accommodate 135 place child care centre on the first floor. The hours of operation are between 6:30am and 7:00pm Monday to Friday. The development also involves a change of use of tenancy 5 and 7 on the ground floor to office, increasing in parking from 56 to 58 spaces, 2 business identification signs and strata subdivision - LDA2019/0189**

**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 - BP20/907

### City of Ryde Local Planning Panel Report

<b>DA Number</b>	LDA2019/0189
<b>Site Address &amp; Ward</b>	142 -148 Cox's Road, North Ryde Lot 41 in Deposited Plan 560408 Lot 3 in Deposited Plan 220894 West Ward
<b>Zoning</b>	B1 Neighbourhood Centre
<b>Proposal</b>	Alterations and additions to the existing building to accommodate 135 place child care centre on the first floor. The hours of operation are between 6:30am and 7:00pm Monday to Friday. The development also involves a change of use of tenancy 5 and 7 on the ground floor to office, increasing in parking from 56 to 58 spaces, 2 business identification signs and strata subdivision.
<b>Property Owners</b>	Alramon Pty Ltd
<b>Applicant</b>	EVMR Pty Ltd/As Five Canons
<b>Report Author</b>	Ben Tesoriero Consultant Planner
<b>Lodgement Date</b>	2 June 2019
<b>Notification - No. of Submissions</b>	Seventeen (17) submissions received, all objecting to the proposed development.

**ITEM 0 (continued)**

<b>Cost of Works</b>	\$1,689,220.54
<b>Reason for Referral to LPP</b>	<p><b>Contentious development</b> – (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><b>Departure from development standards</b> – contravention of the floor space ratio development standard by more than 10% - <i>Schedule 1, Part 3 of Local Planning Panels Direction</i></p>
<b>Recommendation</b>	Refusal
<b>Attachments</b>	<p>Attachment 1 – SEPP (Educational Establishments and Child Care Facilities) 2017, Clause 23 – Matters for consideration - (Provisions of the Child Care Planning Guideline)</p> <p>Attachment 2 – LEP and DCP Compliance Table</p> <p>Attachment 3 – SEPP 64 – Advertising and Signage compliance table</p> <p>Attachment 4 - Clause 4.6 Written Variation Request</p> <p>Attachment 5 – Plans submitted with the LDA</p>

**1. Executive Summary**

The subject development application (DA No. LDA2019/0189) was lodged on 12 June 2019 and seeks consent for alterations and additions to the existing building to accommodate a 135 place child care centre on the first floor. The proposed hours of operation are between 6:30am and 7:00pm Monday to Friday. The development also involves a change of use of Tenancy 5 and Tenancy 7 on the ground floor to use as office premises, increase to the number of parking spaces from 56 to 58, 2 business identification signs and strata subdivision.

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

**ITEM 0 (continued)**

The application was advertised in accordance with the provisions of the *Ryde Development Control Plan 2014* (RDCP2014), and seventeen (17) submissions were received, all of which objected to the proposed development.

On 28 August 2019, a request for information (RFI) was issued to the applicant requesting the issues identified in Council's preliminary assessment to be addressed. On 4 October 2019, the applicant submitted amended plans and documentation. The amended plans and documentation addressed some of the issues raised in Council's RFI, however, other matters remained outstanding, with the application seeking a non-compliance floor space ratio development standard.

The applicant submitted a Clause 4.6 written objection to the FSR non compliance on 13 January 2020. The proposal results in a technical non compliance with the development standard on the basis of the inclusion of outdoor play spaces which have wall heights in excess of 1.4 metres. The applicant contends that the area is partially unroofed and where there is no roof should be excluded from the calculation. Council does not agree with this.

It is Council's position that the proposal seeks a 36.2% variation to the FSR development standard. The proposed variation is not considered to be reasonable and insufficient environmental planning grounds have been provided to justify the variance. The variance sought is on the basis of an intensification of use, the number of children proposed and reliance upon an adjoining property in which owner's consent has been provided to facilitate the development. This forms part of the recommendation for refusal.

On 26 March 2020 Council wrote to the applicant and advised owner's consent was required to be provided, concerns with the submitted traffic and parking assessment and issues relating to the landscape design were also raised. Further information was submitted on 15 May 2020 including amended architectural plans, amended landscape plans and a supplementary traffic and parking assessment. On 19 May 2020 the applicant submitted a legal opinion regarding the issue of owner's consent. The issues relating to landscape design and the proposed car parking shortfall were resolved.

Council requested further clarification on traffic matters on 16 June 2020 and the applicant provided a further amended supplementary traffic and parking assessment on 8 July 2020. The concerns relating to owner's consent and traffic impact remain unresolved and form part of the recommendation for refusal.

The proposal is not considered to be consistent with the requirements of the *Childcare Planning Guideline*, as well as with key development controls contained within the *Ryde Development Control Plan 2014*. The proposal significantly intensifies the use of the site, has not demonstrated there is not a resultant adverse

### ITEM 0 (continued)

impact on the surrounding road network, and the proposal relies upon the use of the adjoining allotment and owners consent has not been provided.

Having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act*, it is recommended Development Application No. LDA2019/0189 be refused.

## 2. The Site and Locality

The site contains two adjoining allotments, with the north-western allotment being a larger regularly shaped allotment legally described as Lot 41 in Deposited Plan 560408 and known as 144-148 Cox's Road. The south-eastern allotment is legally described as Lot 3 in Deposited Plan 220894 and has an address of 142 Cox's Road, North Ryde. This allotment is L-shaped, as it sits partially behind the adjoining allotment at 140 Cox's Road. Collectively, the subject site has a total site area of 2729.5m<sup>2</sup> (survey plan, based off title) (**Figure 1 - 3**).



Figure 1 – Map location of the subject site (identified by the red border) and surrounding area.

Source: <https://maps.six.nsw.gov.au>

**ITEM 0 (continued)**



**Figure 2** – An aerial photo of the subject site (identified by the red border) and surrounding area.  
Source: <https://maps.six.nsw.gov.au>



**Figure 3** – A closer aerial photo of the subject site (identified by the red border) and surrounding land.  
Source: <https://maps.six.nsw.gov.au>

**ITEM 0 (continued)**

Existing development on the subject site consists of a two-storey commercial building which contains eleven (11) commercial tenancies on the ground floor (**Figure 4**). The first floor of the development is currently vacant, with the building at 144-148 Cox's Road containing a full width balcony facing towards the street (**Figure 5**).

The rear of the site contains a car park which includes parking associated with the existing complex (**Figure 6**). The car park is accessed via a one-way entry/exit driveway arrangement, requiring vehicles to access the site via a driveway and crossover from the south-eastern end of the Cox's Road frontage, and to exit the site via the adjacent Council car park at 150 Cox's Road. The allotment which comprises the Council car park is not burdened by a right of carriageway or similar, meaning that there is no legal mechanism which enables vehicles to exit the subject site via the Council car park.

The subject site is located on the south-western side of Cox's Road, within the North Ryde Neighbourhood Centre. Development within the surrounding area primarily consists of commercial, retail and business tenancies, as well as a range of community uses. Notably, the subject site abuts land within the RE2 Private Recreation zone to the immediate south-west as well as sitting adjacent and opposite land within the SP2 Infrastructure zone. The subject site is located along a bus route, with the nearest stop being located a short distance (less than 10 metres, in front of 140 Cox's Road) from the site frontage (Bus Stop ID:211368).

Adjoining and surrounding development consists of the following:

- 140 Cox's Road: This site adjoins the south-eastern side boundary of the subject site, with part of the subject site wrapping around its rear boundary. Development on this site consists of liquor store (Cellarbrations) within a two-storey commercial building with an external timber cladding finish (**Figure 7**).
- 150 Cox's Road: This site adjoins the north-eastern side boundary of the subject site. The site is zoned SP2 Infrastructure in accordance with RLEP2014 and contains the Council car park described earlier (**Figure 8**).
- 191-195 Cox's Road: This site is located directly opposite the subject site to the north-east, across Cox's Road. The site contains Holy Spirit Catholic Primary School North and is zoned SP2 Infrastructure (**Figure 9**).
- 199 Cox's Road: This site adjoins the primary school to the north-west and is zoned B1 Neighbourhood Centre. The site comprises of a single storey brick commercial building with two tenancies. The tenancies are occupied by a bank and medical centre (**Figure 10**).
- 137 - 207 Twin Road: This site is zoned RE2 Private Recreation, comprises of the North Ryde Golf Club, and is located immediately to the south-west of the subject site (**Figure 11**). Vehicular access to this site is from the primary frontage along Twin Road, approximately 600 metres south-west of the subject site.

**ITEM 0 (continued)**



**Figure 4** – The subject site, as viewed from the north-eastern side (i.e. opposite side) of Cox's Road.  
Source: CPS – Site Inspection, 27 June 2019



**Figure 5** –The subject site viewed from the existing first floor balcony at the rear. Note: The first floor is currently vacant.  
Source: CPS – Site Inspection, 27 June 2019.

**ITEM 0 (continued)**



**Figure 6** – Car park located at the rear of the subject site.  
Source: CPS – Site Inspection, 27 June 2019



**Figure 7** –140 Cox's Road – two storey commercial building containing liquor store immediately adjoining the subject site to the south-east.



**ITEM 0 (continued)**

Source: CPS – Site Inspection, 27 June 2019.



**Figure 8** –150 Cox's Road – Adjoining Council car park immediately adjoining the subject site to the north-west.

Source: Google – November 2017



**Figure 9** – 191 – 195 Cox's Road directly opposite the subject site and including Holy Spirit Catholic Primary School North.

Source: Google – November 2017

**ITEM 0 (continued)**



**Figure 10** – 199 Cox's Road, as viewed from Cox's Road.  
Source: Google – November 2017

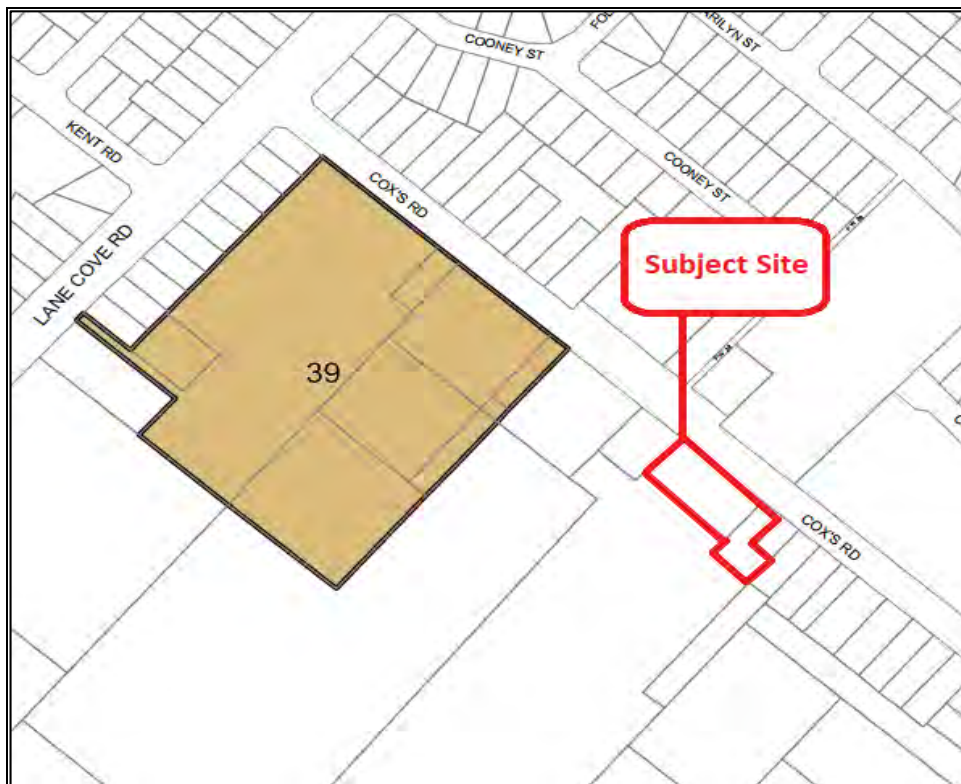


**Figure 11** – 137 -207 Twin Road as identified by the red boarder – North Ryde Golf Club, located immediately to the south-west of the subject site, zoned RE2 Private Recreation.  
Source: <https://maps.six.nsw.gov.au>

### ITEM 0 (continued)

The subject site is not affected by any significant environmental hazards or affectations. The subject site does not contain a heritage item nor is it within a heritage conservation area; it is however in close proximity to an item of local heritage significance, which is identified by Schedule 5 of *Ryde Local Environmental Plan 2014* (RLEP2014) as follows:

- North Ryde Public School (Buildings B00J, B00M and B00N) (house) (Item No. 39), at 154 Cox's Road, North Ryde; located within 100m of the subject site to the west (**Figure 12**).



**Figure 12** – The subject site is located within 100m of Heritage Item No.39 (North Ryde Public School) which is of local heritage significance.

Source: <https://www.legislation.nsw.gov.au/maps>

### 3. The Proposal

The proposal seeks consent for alterations and additions to the existing building to accommodate 135 place childcare centre on the first floor. The hours of operation are between 6:30am and 7:00pm Monday to Friday.

The development also involves a change of use of Tenancy 5 and Tenancy 7 on the ground floor to use as office premises, increase to the number of parking spaces from 56 to 58, 2 business identification signs and associated strata subdivision.

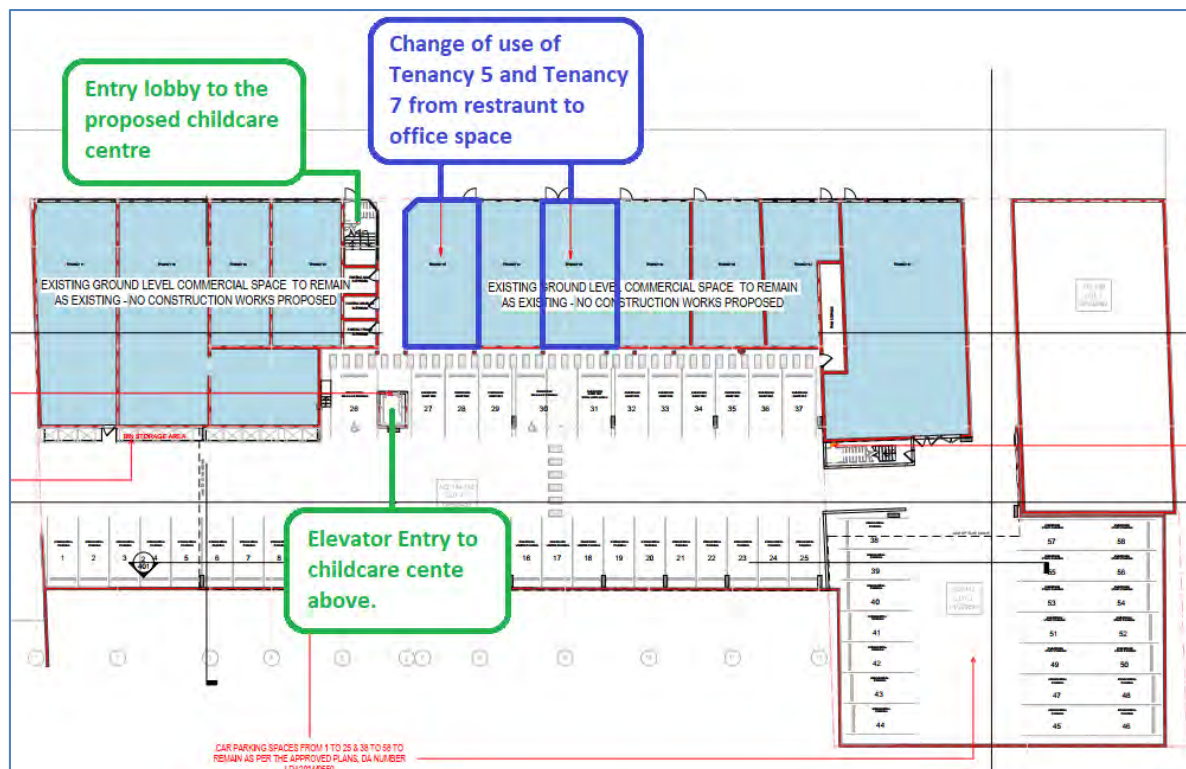
## ITEM 0 (continued)

Details and specifics of the proposal are as follows:

### Ground floor:

The ground floor of the existing building includes 11 commercial and retail tenancies. Tenancy 5 and Tenancy 7 will include a change of use from restaurants to office spaces (no change of use is proposed to Tenancy 6, which sits between these two tenancies). (**Figure 13**).

Entry to the proposed childcare centre will be facilitated via the existing access lobby located between Tenancy 7 and Tenancy 8 on the ground floor. The access lobby includes stairs which lead up to the proposed childcare centre on the first floor. Additionally, the lobby provides access to the elevator located adjacent to the car park at the front portion of the car park.



**Figure 13** – Proposed Ground Floor Plan indicating the location of the main entry point to the childcare centre, and the change of use of Tenancy 5 and Tenancy 7.

Source: Applicant's submitted Ground Floor Plan/Five Canons Architecture, Revision M.

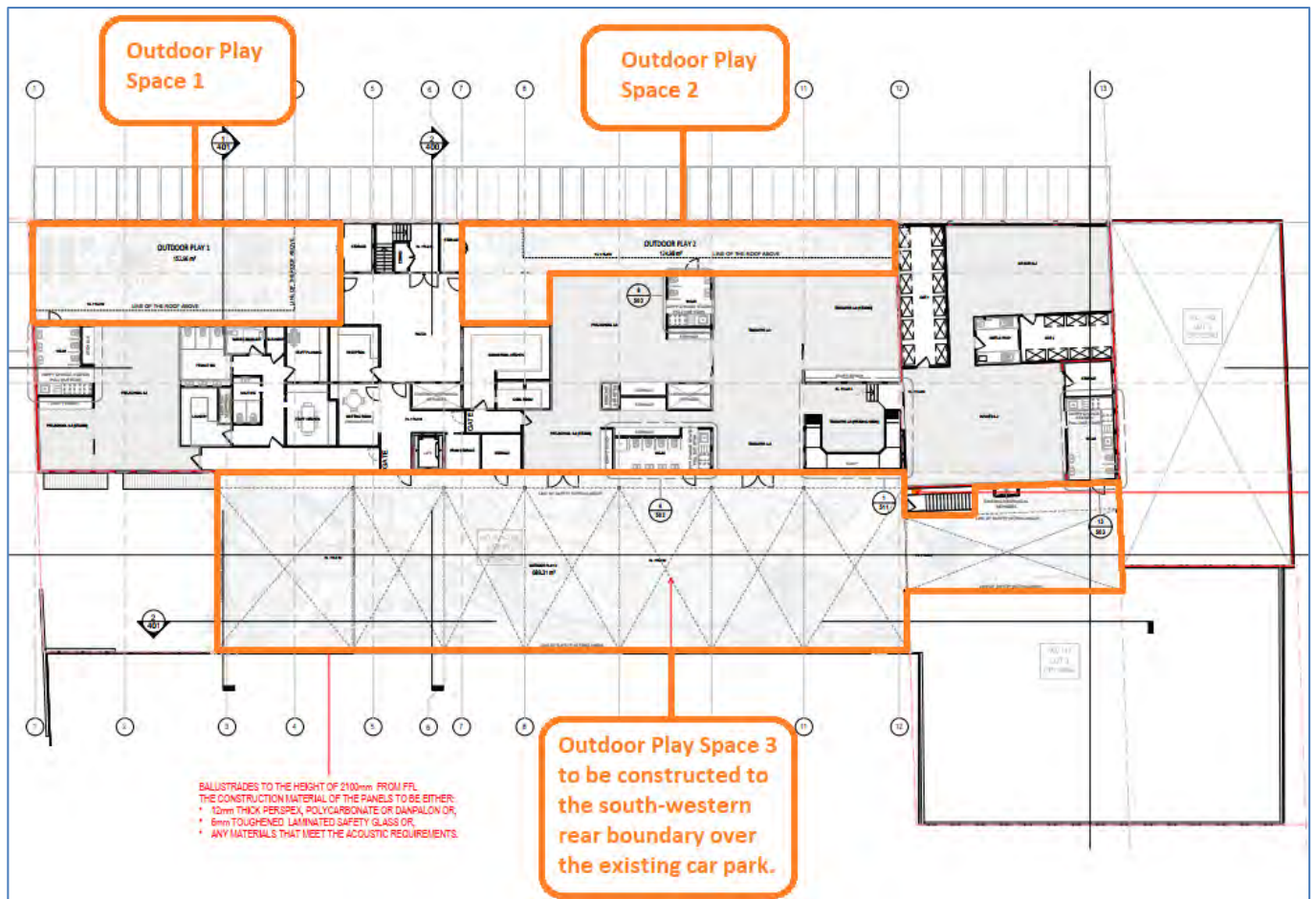
### First floor:

The childcare centre is to include a plaza area, 3 outdoor play places (**Figure 14**), 4 indoor play spaces, 4 children's bathroom facilities with nappy change stations and pull out stairs.

### ITEM 0 (continued)

The proposed outdoor play spaces are each proposed with surrounding 2.1 metre acoustic walls. This requires that the existing front balconies be occupied by two of the play spaces, with a rear extension required to accommodate the third and largest play space. The layout of the play spaces across the first floor are shown within **Figure 14** and detailed sections of the acoustic walls are shown within **Figure 15**. Outdoor play spaces that are bound by walls of at least 1.4 metres in height contribute to the calculation of gross floor area, and this information was provided to the applicant in the Council RFI.

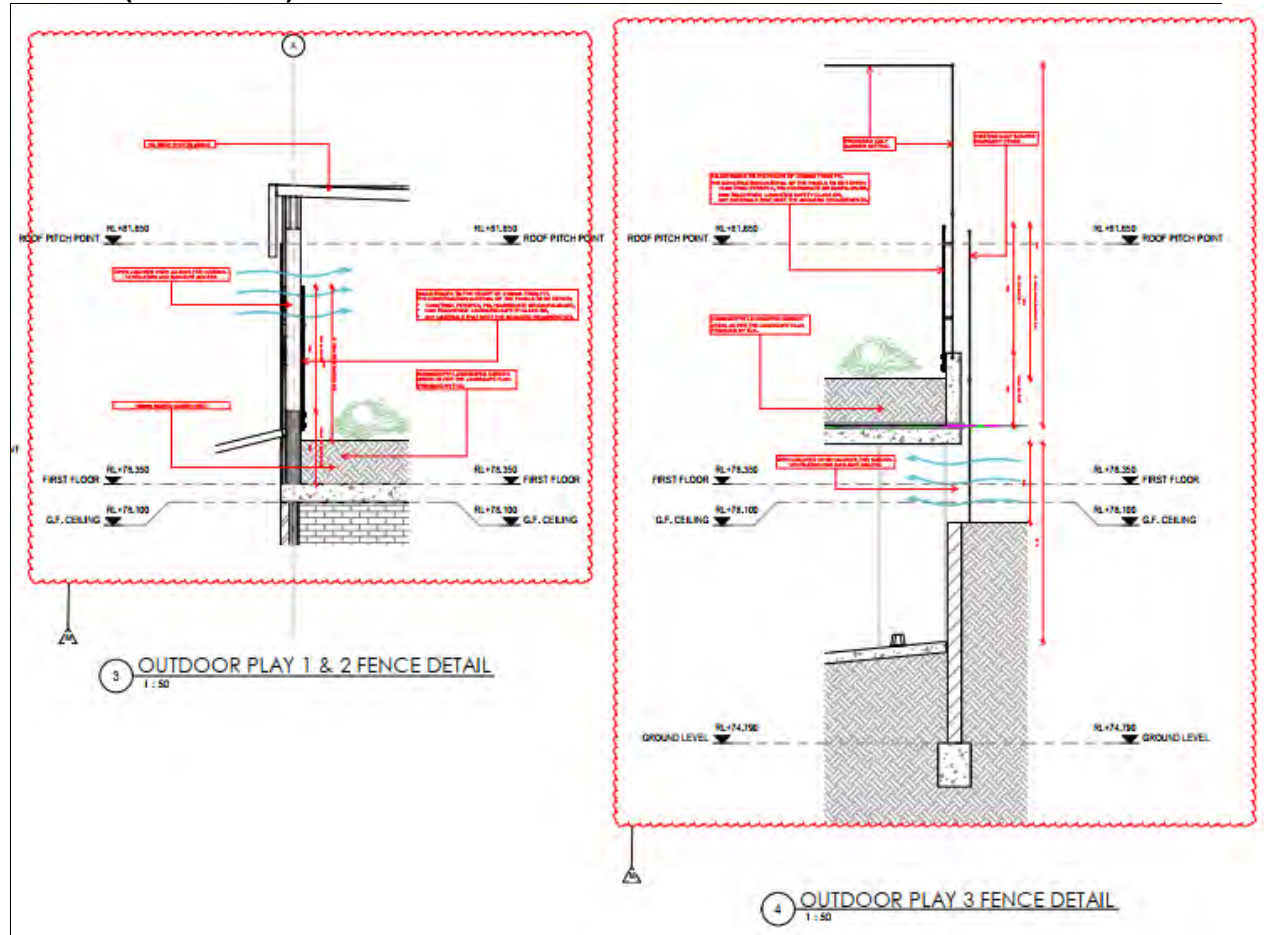
Facilities for staff have also been provided which include staff male and female bathroom facilities, a unisex bathroom, cleaners room, reception room, staff room, staff planning room, meeting room and laundry. The centre is also proposed to include 5 internal storage areas and 3 external storage areas.



**Figure 14** – Proposed First Floor Plan indicating the location of the outdoor play spaces within the proposed childcare centre.

Source: Applicant's submitted First Floor Plan/Five Canons Architecture, Revision M.

**ITEM 0 (continued)**

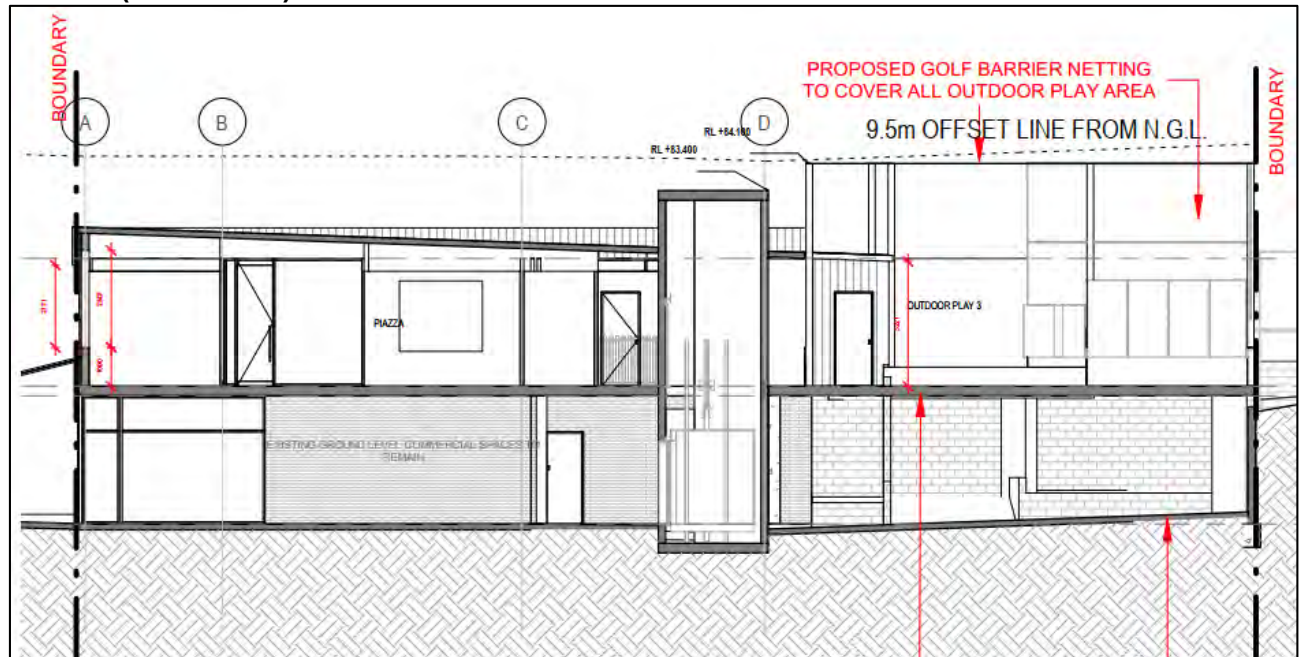


**Figure 15 – Proposed Detailed Section indicating the design of the front acoustic walls (left) and the rear acoustic walls.**  
Source: Applicant's submitted Outdoor Play Fence Details /Five Canons Architecture, Revision M.

External

The proposal seeks to incorporate various minor design changes to the building, predominantly being those already described above. The proposal seeks to increase the maximum height of the building through the provision of safety netting and supporting structures, designed to protect occupants from stray golf balls from the adjacent course, as shown within the image below.

**ITEM 0 (continued)**



**Figure 16** – Proposed Cross Section indicating the height of the golf ball barrier netting.

Source: Applicant’s submitted Section Plan/Five Canons Architecture, Revision M

The proposal seeks various other alterations to the roof, including the removal of various portions above the outdoor play spaces, so as to create outdoor play space with direct solar access.

The proposal also seeks to continue to rely upon the existing one-way entry/exit driveway arrangement which requires vehicles to exit the site via the Council Car Park, despite there being no known legal mechanism in place to permit this arrangement.

**4. Background**

12 June 2019	The development application (DA) was lodged.
Advertising placed 26 June 2019. Notification -21 June 2019 to 10 July 2019.	The DA was notified to owners of surrounding properties and advertised in the <i>Northern District Times</i> . In response to this notification of the DA, seventeen (17) submissions objecting to the development were received. The objectors raised the following concerns with the proposal: <ul style="list-style-type: none"> <li>- Car Parking, including in relation to adequacy of parking provision, vehicular and pedestrian safety, and car park design.</li> <li>- Traffic impacts, including in relation to the methodology of the traffic study.</li> </ul>

**ITEM 0 (continued)**

	<ul style="list-style-type: none"> <li>- Concerns regarding emergency and evacuation procedures for ensuring the safety of the children.</li> <li>- Insufficient solar access afforded to the rear outdoor play space.</li> <li>- Health and safety concerns regarding the current vacant area of the first floor.</li> <li>- Request for Cox's Road Master Plan be included in the draft LEP.</li> </ul>
<p>28 August 2019</p>	<p>Following a preliminary assessment, a request for further information was forwarded to the applicant raising the following issues:</p> <p><b><i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 – Childcare Planning Guideline.</i></b></p> <p><u><i>Noise and Air Pollution</i></u></p> <ul style="list-style-type: none"> <li>• Portions of the perimeter of the outdoor play spaces included operable louvres and not the 1.4m high acoustic wall as recommended by the submitted Acoustic Report.</li> <li>• The applicant was requested to submit amended plans with the recommended acoustic wall to be appropriately incorporated into the design.</li> </ul> <p><u><i>Traffic, parking and pedestrian circulation</i></u></p> <ul style="list-style-type: none"> <li>• Wheelchair and pram accessible parking had not been provided within the proposed development.</li> </ul> <p><u><i>Toilet and hygiene facilities</i></u></p> <ul style="list-style-type: none"> <li>• The submitted plans did not provide windows into bathrooms and cubicles to allow supervision by staff in accordance with Section 4.3, Regulation 109 of the Education and Care Services National Regulations.</li> <li>• The applicant was requested to provide details of windows to toilets facilities in order to demonstrate compliance.</li> </ul> <p><u><i>Premises designed to facilitate supervision</i></u></p> <ul style="list-style-type: none"> <li>• Solid walls had not been provided between cubicles.</li> <li>• The applicant was requested to provide solid walls between each cubicle within the children's toilets to achieve</li> </ul>



**ITEM 0 (continued)**

	<p>compliance with Regulation 115.</p> <p><u>Emergency and evacuation procedures</u></p> <ul style="list-style-type: none"><li>• A Risk Assessment to identify potential emergencies that are relevant to the service had not been submitted.</li><li>• The applicant was requested to provide a detailed risk assessment.</li></ul> <p><u>Fencing</u></p> <ul style="list-style-type: none"><li>• Insufficient information regarding the fencing arrangements to the south-western outdoor play space.</li><li>• Insufficient information was provided on the submitted plans in relation to childproof gates and details pertaining to locking systems.</li></ul> <p><b>Ryde Local Environmental Plan 2014</b></p> <p><u>Floor Space Ratio</u></p> <ul style="list-style-type: none"><li>• The proposal exhibited a gross floor area of 2269.66m<sup>2</sup>, which equated to an FSR of 0.83:1, and thus failed to achieve compliance with the floor space ratio development standard prescribed for the subject site.</li><li>• The GFA calculations provided inappropriately excluded the GFA attributed to outdoor play space 1 and 2, which were to include outer walls greater than 1.4m as recommended within the submitted Acoustic Report.</li><li>• The applicant was advised that the gross floor area definition contained within the Dictionary of RLEP2014 only excludes terraces and balconies, if the outer walls are less than 1.4m in height.</li><li>• Council also advised the applicant that if the non-compliance was to be maintained, a clause 4.6 written request would need to be submitted.</li></ul> <p><b>Ryde Development Control Plan 2014</b></p> <p><u>Child Care Centre Design</u></p> <ul style="list-style-type: none"><li>• Insufficient information had been provided on the submitted landscape plan in order to ascertain whether the submitted landscape plans had been designed by a landscape</li></ul>
--	--

**ITEM 0 (continued)**

	<p>architect registered under the Australian Institute of Landscape Architects.</p> <p><u><i>Educators to Staff Ratios</i></u></p> <ul style="list-style-type: none"> <li>• The submitted plans did not provide details on the number of children to be located within each room.</li> <li>• Council advised a revised estimate of the total number of educators to be provided.</li> </ul> <p><u><i>Car Parking</i></u></p> <ul style="list-style-type: none"> <li>• The proposal provided twenty-eight (28) car parking spaces, which resulted in a shortfall of one (1) car parking space, which would likely be exacerbated with correctly nominated educator ratios.</li> </ul> <p><u><i>Additional Information</i></u></p> <p>Council also requested the following information be provided as part of any amended plans to be submitted:</p> <ul style="list-style-type: none"> <li>• Section plans to depict all significant variations in the design of the building.</li> <li>• Shadow diagrams to depict the full extent of shadows to the outdoor play spaces.</li> <li>• Detailed signage information in order to enable an assessment against State <i>Environmental Planning Policy No.64 – Advertising and Signage</i>.</li> </ul>
<p>4 October 2019</p>	<p>The applicant submits amended plans for assessment.</p> <p>The amended plans and documentation submitted have addressed the following:</p> <ul style="list-style-type: none"> <li>• Details regarding fencing arrangements to the perimeter of Outdoor Play Space 3 were included, but depicted an acoustic wall in accordance with the recommendations provided within the submitted Acoustic Report. This barrier is proposed to be 2.1m high.</li> <li>• The inclusion of wheelchair accessible parking.</li> <li>• Windows provided to bathrooms to maximise supervision.</li> <li>• Solid walls provided between cubicles.</li> <li>• The submission of a Risk Assessment to identify potential</li> </ul>

**ITEM 0 (continued)**

	<p>emergencies that are relevant to the service.</p> <ul style="list-style-type: none"> <li>• Landscape Architect information submitted as requested.</li> <li>• The submitted plans provide the number of children to be located within each room.</li> <li>• Sections, shadows, signage information and a new survey has been submitted.</li> </ul> <p>However, the amended plans submitted have not satisfactorily addressed some of the matters raised in the RFI issued to the applicant on the 28 August 2019, which include the following:</p> <ul style="list-style-type: none"> <li>• Floor Space Ratio has become further non-compliant, given the inclusion of a 2.1m high acoustic wall to the boundaries of rear Outdoor Play Space 3.</li> <li>• The proposal does not provide a sufficient number of allocated children and staff parking. Furthermore, although correct educator ratio information has been provided, no other managerial or support staff have been accounted for in the calculation of staff numbers.</li> </ul> <p>Additional issues have arisen, including:</p> <ul style="list-style-type: none"> <li>• The 2.1m acoustic walls which surround the play spaces exacerbates the bulk and scale of the proposed development.</li> <li>• The outdoor play spaces fail to achieve compliance with the design aims specified for natural planting area, turfed area and hard surface areas.</li> <li>• The childcare centre is to be located on the first floor of an existing commercial building in an area where there is insufficient landscaping and deep soil arrangements.</li> </ul> <p>Given the applicant has been unable to resolve the above issues, and further non-compliances have arisen, this report recommends refusal of the application.</p>
5 December 2019	The proposed development was referred to Bitzios Traffic Consultants for a peer review of submitted information.
13 January 2020	The applicant submits a Clause 4.6 variation to the proposed FSR non compliance.
26 March 2020	<p>A request for further information was sent to the applicant raising the following concerns:</p> <ul style="list-style-type: none"> <li>- Owner's consent had not been submitted. The proposal relies upon the adjoining property at Lot 1 within DP</li> </ul>

**ITEM 0 (continued)**

	605185 to facilitate vehicular access and an intensification of use. <ul style="list-style-type: none"> <li>- Concerns relating to landscaping regarding insufficient amount of natural planting and deep soil landscape area. Excessive levels of hard paving.</li> <li>- Concerns with the submitted traffic and parking assessment relating to trip generation rates.</li> </ul>
15 May 2020	The applicant submitted amended plans, landscape plan and updated traffic comments.
19 May 2020	The applicant submits letter of advice regarding owner's consent.
16 June 2020	A request for further information was sent to the applicant regarding the amended traffic information and raised concerns relating to trip generation and the amended response. Further clarification was sought.
8 July 2020	The applicant submitted an amended traffic and parking assessment.

**5. Planning Assessment**
**5.1 State Environmental Planning Instruments**

<b>Instrument</b>	<b>Proposal</b>	<b>Compliance</b>
<b>State Environmental Planning Policy No. 55 – Remediation of Land</b>		
The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated.	A contamination assessment has not been submitted with this application; however, given no earthworks are proposed, and the existing commercial uses at the subject site and within the locality, it is unlikely that the proposal will present any contamination	Yes

**ITEM 0 (continued)**

	concerns.	
<b>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</b>		
<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 proposal has been considered satisfactory by Council's Landscape Architect and supported by an landscape plan. The proposal does not unduly impact upon any existing biodiversity or trees or vegetation on the site</p>	Yes
<b>State Environmental Planning Policy No.64 – Advertising and Signage (SEPP 64)</b>		
<p>Clause 8 of SEPP 64 states that the consent authority must not grant consent to an application for signage unless it is satisfied:</p> <p>a) That the signage is consistent with the objectives of this Policy as set out in clause 3(1)(a), and</p> <p>b) That the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.</p> <p><u>Objectives</u></p> <p>The objectives stipulated under Clause 3(1)(a) are:</p> <ol style="list-style-type: none"> <li>1. To ensure that signage (including advertising):</li> <li>2. Is compatible with the desired amenity and visual character of an area, and</li> <li>3. Provides effective communication in</li> </ol>	<p>The proposal seeks consent for the inclusion of two business identification flush wall signs, one each on the first floor of the north-eastern (front) and north-western elevation. Each sign contains three-dimensional graphics and letters indicating the name and logo of the service provider.</p> <p>The proposed development satisfies the objectives of this policy by ensuring that the proposed signage is</p>	Yes

**ITEM 0 (continued)**

<p>suitable locations, and</p> <p>4. Is of high-quality design and finish,</p>	<p>compatible with the desired amenity and visual character of the locality, provides effective communication and is of high-quality having regard to both design and finishes.</p> <p>Schedule 1 of SEPP 64 provides assessment criteria for the provision of new signage. An assessment of the proposed signage against these criteria is provided within <b>Attachment 3</b>. This assessment has concluded that the signage is satisfactory with respect of SEPP 64.</p>	
<p><b><u>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</u></b></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 must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.</i></p>	<p>The <i>Child Care Planning Guideline</i> (herein simply referred to as 'the Guideline') establishes the assessment framework to deliver consistent planning outcomes and design quality for centre-based childcare facilities in NSW.</p>	<p><b>No</b></p>

**ITEM 0 (continued)**

	<p>A detailed assessment of the proposal against provisions of the Guidelines is illustrated in the compliance table held in <b>Attachment 1</b>. There are areas of non compliance identified in Attachment 1 and have been discussed following the table.</p>	
<b>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</b>		
<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**

Clause 23 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 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.*

The Child Care Planning Guideline (herein simply referred to as 'the Guideline') establishes the assessment framework to deliver consistent planning outcomes and design quality for centre-based childcare faculties in NSW.

**ITEM 0 (continued)**

A detailed assessment of the proposal against provisions of the Guidelines is illustrated in the compliance table held in **Attachment 1**. The non compliances are discussed below”

Principle 2 Built Form

Principle 2 – Built form contained within the childcare planning guideline provides the following:

- *Good design achieves a scale, bulk and height appropriate to the existing desired future character of the surrounding area.*

*Good design achieves an appropriate built form for a site and the buildings 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.*

The proposal is inconsistent with Principle 2 Built Form. The proposal results in an excessive FSR which is a result of an intensification of land use and results in an unacceptable built form. The scale of the resultant development is inconsistent with the desired future character of the surrounding area. The proposed scale of the development contributes to the intensification of the land use and results in unacceptable traffic impacts.

Part 3.8 Traffic, parking and pedestrian circulation

There is a discrepancy between Part 5.1 of RDCP and the parking requirement identified in control 31. Control 31 references reliance upon the parking requirements specified in the DCP that applies to the land. On this basis, the proposal is required to provide 17 car spaces for the children, 12 car parking spaces for staff and 1 accessible space. The proposal provides for 16 parking spaces for the children, 12 spaces for staff and 1 accessible space and is non compliant. The non compliance has been considered satisfactory based on the applicant’s justification which includes an analysis based on first principles that the level of parking provision is sufficient despite the technical non-compliance with Council’s control. This has been peer reviewed by Council’s Consultant Traffic Engineer and the shortfall is considered acceptable.

Control 33 requires a Traffic and Parking study to be prepared in support of the proposal to quantify potential impacts. The proposal has been supported by Traffic and Parking Assessments undertaken by McLaren Traffic Engineering. Throughout the assessment of the application, two supplementary Traffic and Parking Assessments were provided and in the most recent Assessment dated 7 July 2020, the proposal had not satisfactorily demonstrated there would not be an adverse



### ITEM 0 (continued)

impact upon the local traffic network as a result of queuing at the intersection of Cox's Road and Wicks Road. The proposal is considered unsatisfactory in this regard.

The proposal relies upon exiting the site via the adjoining Council carpark. The proposal is an intensification of use and owners consent has not been sought. The car park has been identified for strategic upgrades which will impact the operation of the child care centre were it to be approved and given there is no legal entitlement for use, this is must be resolved prior to development consent being issued.

## 5.2 Ryde Local Environmental Plan 2014

### Clause 2.3 - Zone Objectives and Land Use Table

The subject site is within a B1 Neighbourhood Centre zone under the provisions of the *Ryde Local Environmental Plan 2014* (RLEP2014) – **Figure 17**. The child care is defined as a 'centre-based child care facility' which is permissible with consent in the B1 zone. The ground floor tenancies would either be defined as 'office premises' or be ancillary to the child care centre use, and in either circumstances, are permissible within the B1 zone.

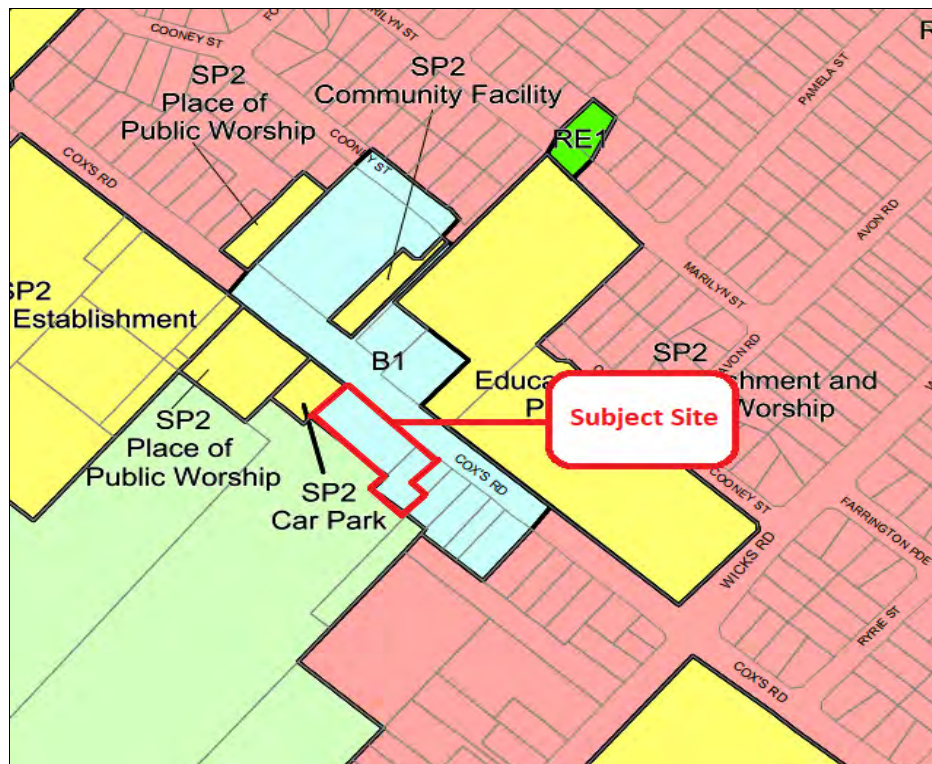


Figure 17 – RLEP2014 Zoning map extract. Subject Site located within the B1 zone.

Source: <https://www.legislation.nsw.gov.au>

**ITEM 0 (continued)**
**Objectives of the B1 – Neighbourhood Centre zone:**

The objectives of the B1 zone are as follows:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To encourage employment opportunities in accessible locations.*

The proposed development would satisfy the first objective, as the proposed childcare centre provides a community use to serve the people who live and work in the surrounding area. In addition, the conversion of tenancy 5 and 7 from restaurants to office spaces provides a more diverse range of small-scale business and retail uses on the ground floor.

The proposed development would also satisfy the second objective of the control, in that it would provide numerous employment opportunities within the North Ryde Neighbourhood Centre which is an accessible location.

The following is a summary of the clauses under Ryde LEP 2014 applicable to the development.

<b>Ryde LEP 2014</b>	<b>Proposal</b>	<b>Compliance</b>
<b>4.3(2) Height</b>		
9.5m	The maximum building height of the proposed development is 9.13m. This has been calculated at the proposed roof pitch at RL:84.10 and the existing finished floor level at RL:74.790.	Yes
<b>4.4(2) FSR</b>		
0.8:1 (2183.60m <sup>2</sup> )	Ground Floor – 980.04m <sup>2</sup> First Floor – 1994.45m <sup>2</sup>  GFA 2974.49m <sup>2</sup> FSR – 1.08:1 Site Area (2729.5m <sup>2</sup> –	No

**ITEM 0 (continued)**

Ryde LEP 2014	Proposal	Compliance
	site survey)	
<b>4.6 Exceptions to development standards</b>		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</p> <p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	<p>Variation of 36.2% to the standard</p> <p>Refer to discussion below.</p>	<b>No</b>
<b>5.10 Heritage Conservation</b>		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views,</p> <p>(c) To conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance</p>	<p>The subject site does not contain a heritage item, and is not located within a heritage conservation area.</p> <p>It is however located within the vicinity of an item of local heritage significance, which is identified by Schedule 5 of Ryde Local Environmental Plan 2014 (RLEP2014) as follows:</p> <p>“North Ryde Public School (Buildings B00J, B00M and B00N)” (house) (Item No. 39), at 154 Cox’s Road, North Ryde”.</p> <p>The proposal has been considered acceptable by Council’s Heritage Advisor given the</p>	Yes

**ITEM 0 (continued)**

<b>Ryde LEP 2014</b>	<b>Proposal</b>	<b>Compliance</b>
	relative scale of the alterations and additions to accommodate the proposed childcare centre on the first floor of the existing commercial building, and the separation between the buildings, there are no anticipated impacts to the nearby heritage item.	
<b>Clause 6.4 Stormwater management</b>		
(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.	<p>The proposal is consistent with the provisions of Clause 6.4(3) in that the proposal has been designed to maximise the use of permeable surfaces allowing for water filtration and avoids adverse impacts of stormwater runoff on adjoining properties and receiving waters.</p> <p>The proposal has been considered acceptable by Council's Senior Development Engineer.</p>	Yes

**Clause 4.6 Exceptions to development standards**

The development contravenes Clause 4.4(2) of RLEP 2014 which establishes the maximum floor space ratio development standard of 0.8:1. The proposal results in a gross floor area of 2974.49m<sup>2</sup> which equates to an FSR of 1.08:1 and does not comply with the development standard.

**ITEM 0 (continued)**

The proposal represents a 36.2% variation to the standard. The applicant has submitted a Clause 4.6 request prepared by Planning Lab and dated 19 December 2019 (**Attachment 4**) to vary the development standard.

There is a difference in FSR calculation. The applicant's written variation indicates a departure of 59.17m<sup>2</sup>. Council's calculation which is consistent with those shown on the submitted architectural plans (Drawing DA-106 Revision M dated 15.05.2020 prepared by Five Cannons) indicates a variation of 767.91m<sup>2</sup>. Council's assesses the proposal as seeking a 36.2% variation whilst the applicant's submission is a 0.27% variation. The Clause 4.6 variation has not included balconies and terraces where the external wall is greater than 1.4 metres. Gross floor area is defined as follows:

*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.*

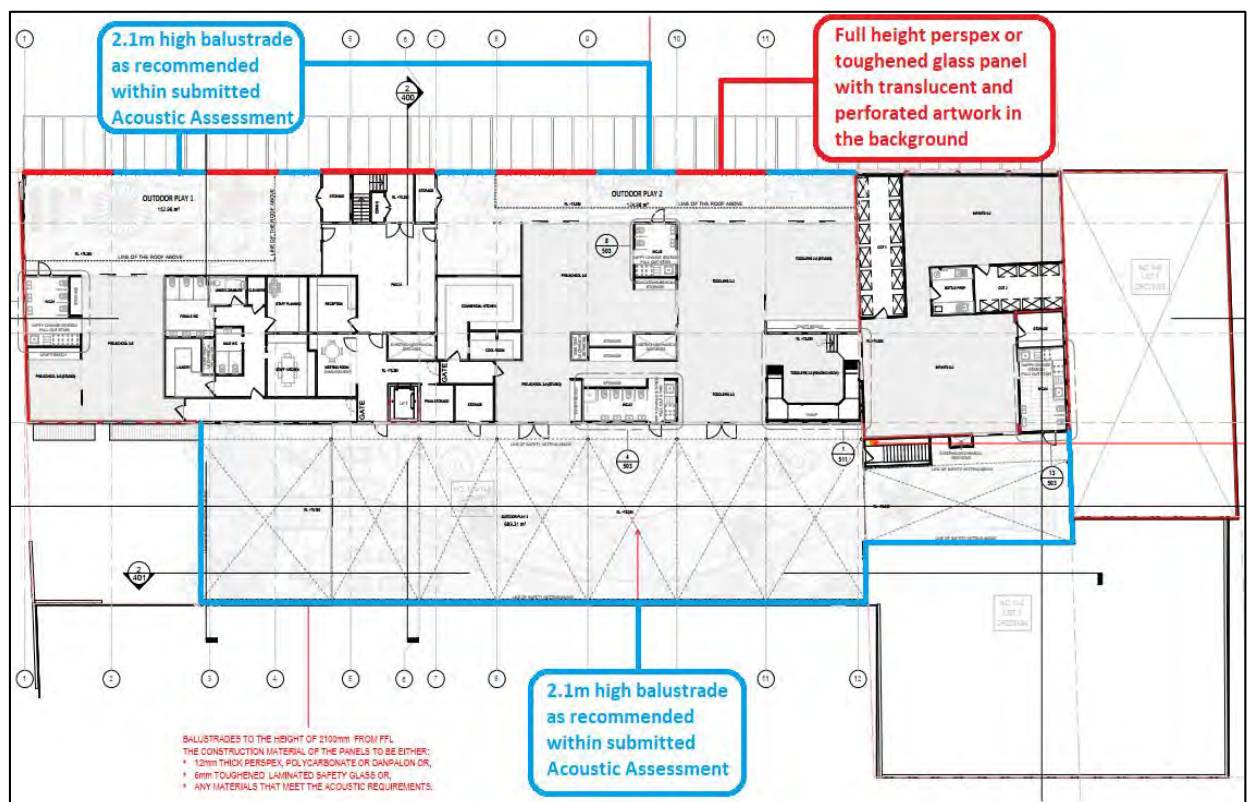
Much of the FSR non-compliance arises from the proposed fencing arrangements to the outdoor play spaces and is a technical non compliance. Given the solid acoustic structures are greater than 1.4 metres in height, these are included as part of the GFA calculation.

The proposal relies upon 1.4 metres high solid barrier along the boundaries of the front outdoor play spaces in order to minimise the noise impacts from those areas and to achieve compliance with the noise level criterion as recommended by the submitted Acoustic Report prepared by Rodney Stevens Acoustics, dated 15 April 2019. (See Figure 18). The area of the play spaces required is on the basis of the number of children proposed, consistent with the Education and Care Services National Regulations.

**ITEM 0 (continued)**

The Applicant's Clause 4.6 contends that Play space 1 and 2 are unroofed and are excluded from the GFA calculation. The play spaces have a combined area of 277.94m<sup>2</sup>. The written variation has been provided on the basis of including northern play area and indicates there is a resultant FSR of 0.82:1 and is seeking a variation of 59.17m<sup>2</sup> only. The proposed play spaces are identified in **Figure 19**.

Council does not agree with the exclusion of Play Space 1 and 2 on the basis it is unroofed. The definition relating to the exclusion of terraces and balconies does not reference the need of the balcony or terrace to be roofed, rather it refers only to include a wall height greater than 1.4 metres in which these two areas do.

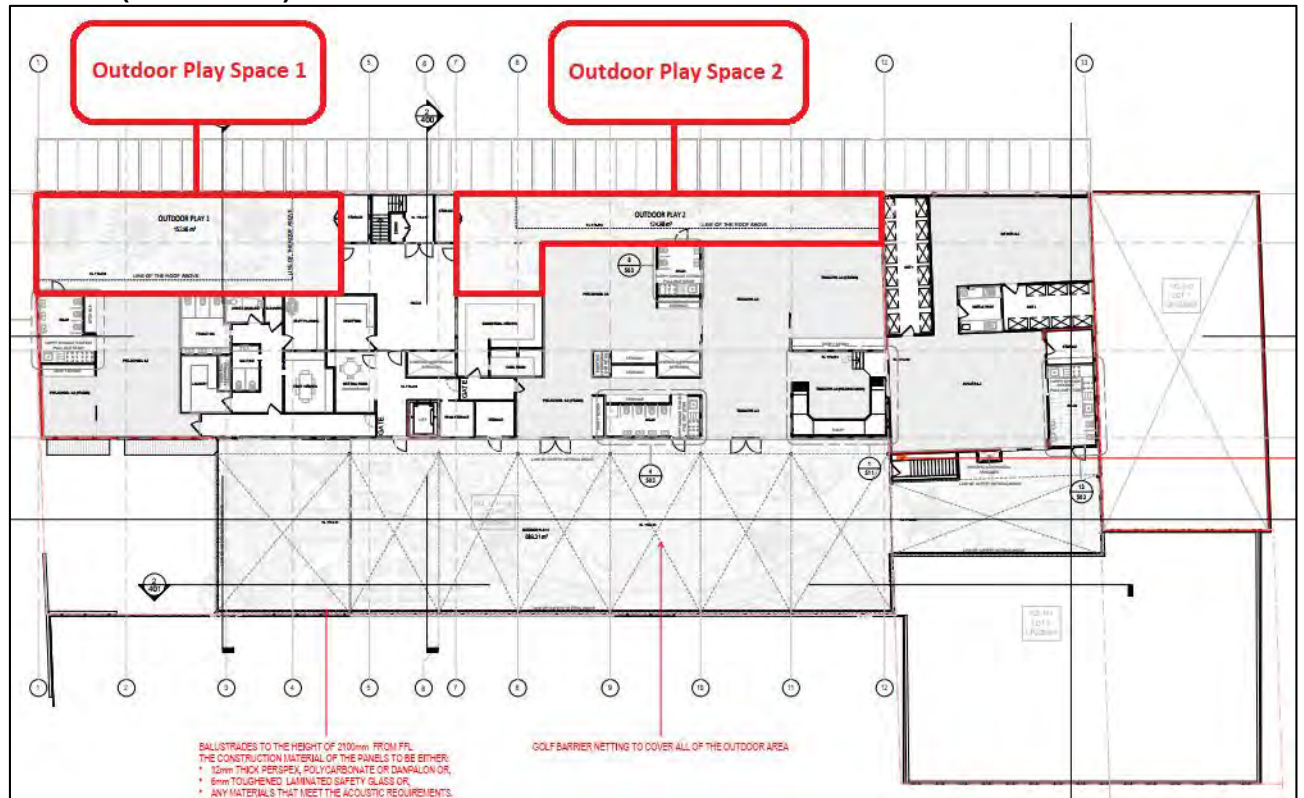


**Figure 18** – Extract of applicant's submitted first floor plan, detailing the location of the solid 2.1m high acoustic wall to surround the outdoor play spaces, and full height Perspex or glass panels to Outdoor Play Space 1 and 2.

Source: Applicant's submitted first floor plan/Five Canons Architecture, Revision M

The applicant's Clause 4.6 has not included the play area at the rear of the site. Council is of the view that this space needs to be included due to the height of the walls surrounding this space being 2.1m.

**ITEM 0 (continued)**



**Figure 19** – Proposed First Floor Plan indicating the location of outdoor play space 1 and 2 within the proposed childcare centre.

Source: Applicant's submitted First Floor Plan/Five Canons Architecture, Revision M

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:

- *The additional is minor being just 59.17m<sup>2</sup> on a block with an area of 2,729.5 m<sup>2</sup>*
- *The additional GFA is a nominal amount and does not substantially increase the building's scalar beyond an FSR of 0.8:1 in such a way as it would be identifiable from the public domain*
- *The additional outer wall height provide protection for children against falling*

**ITEM 0 (continued)**

- *The additional outer wall height provides an acoustic barrier to prevent offensive noise from entering and exiting the site*
- *The additional outer wall height facilitates the use of the space as an outdoor play area which allows additional child care spaces*
- *The change to the building's bulk and scale as seen from Cox's Road will remain consistent with the existing development neighbouring commercial developments.*
- *The additional wall height has no shadow impact upon private development*
- *The additional FSR does not result in any adverse privacy impacts.*
- *The proposal is consistent with the objectives of Clause 4.4*
- *The FSR variation is nominal as it results from the taller than usual wall heights resulting from necessity due to the proposed use as a child care*
- *The proposed bulk and scale are consistent with those of the surrounding buildings and streetscape*
- *The proposal proposed building will not appear incongruous with neighbouring buildings when viewed from the public domain*
- *The proposal provides additional GFA for the use of a child care centre which provides a necessary service to parents within North Ryde*
- *The proposed use is as a child care centre. In the event that the proposal was to comply with a 0.8:1 FSR, the amount of child care spaces offered by the centre would need to be reduced to maintain compliance with the requirements to provide sufficient open space per child. This is not in the public interest.*
- *The proposed building's FSR being 0.82:1 is a function of a larger than balcony walls. A compliant wall height would be unsafe for children and would reduce the acoustic dampening properties of the wall.*
- *The proposal does not result in any significant negative environmental impact and that there are sufficient positive impacts justified on environmental planning grounds to justify the proposed contraventions.*

**Assessment Officer's Comments:**

The proposal is a technical non compliance with the development standard. The intensification of the use and the size of the child care centre results in the excessive departure of the development standard. The intensification sought is based on the number of children and compliance with the standard could be achieved with the reduction in the number of children which presently extends beyond the suitability of the site. The non-compliance and the proposal does not satisfy Clause 4.6(3)(a) and



**ITEM 0 (continued)**

4.6(4)(a)(i) in demonstrating it is unreasonable or unnecessary to comply with the standard.

The proposed development relies upon land not in their ownership and in which owner's consent has not been provided to facilitate the proposed intensification of the land use. The development cannot exist in upon itself and relies upon Council's carpark to facilitate the development.

The written request indicates the variation is a result of the use of the site as a child care. The breach is a result of the number of children proposed and the requirement of outdoor play spaces and necessity for acoustic fencing to maintain the amenity of adjoining properties. Compliance could be achieved with the reduction in the number of children.

The submission has not established there are sufficient environmental planning grounds to justify contravening the standard in accordance with (Clause 4.6(3)(b) and 4.6(4)(a)(i).

**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. Council is of the view that the development is contrary to the public interest as required by Clause 4.6(4)(a)(ii) for the following reasons:

- The proposal does not achieve the objective of the standard as required by Clause 4.6(3)(a) and 4.6(4)(a)(i).
- The number of children proposed results in an intensification of the land which extends beyond the suitability of the site
- The proposal is capable of achieving compliance with the development standard by a reduction in the number of children proposed.
- The number of children determines the resultant traffic generation. The applicant has not demonstrated that the intensification of use does not lead to adverse impacts upon the local road network;
- The proposal relies upon access through the adjoining allotment and owner's consent has not been provided. The intensification of use will impact upon the adjoining allotment. The proposal extends beyond the site and has not provided sufficient environmental planning grounds.

**Summary**

The applicant has submitted a Clause 4.6 written request that seeks to justify contravention of the development standard Clause 4.4 Floor Space Ratio. Pursuant to Clause 4.6(3)(a) of RLEP 2014, the written request has not demonstrated that

**ITEM 0 (continued)**

compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The written request has not demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard, as required by Clause 4.6(3)(b).

Pursuant to Clause 4.6(4)(a)(i) of RLEP 2014, Council is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3). Further, it is Council's opinion that the proposed development will be contrary to the public interest because it is inconsistent with the objectives of the development standard for floor space ratio.

The concurrence of the Planning Secretary is not required. Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

Accordingly, the proposal variation is not supported.

**5.3 Draft Environmental Planning Instruments**

Instrument	Proposal	Compliance
<b>Draft Remediation of Land State Environmental Planning Policy</b>		
<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 development applications. The proposal does not include any earth works and the proposed child care is located on the first floor. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.</p>	<p>Yes</p>

**ITEM 0 (continued)**

<b>Draft Environment SEPP</b>		
<p>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:</p> <ul style="list-style-type: none"> <li>- State Environmental Planning Policy No. 19 – Bushland in Urban Areas</li> <li>- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> </ul>	<p>The proposal is not inconsistent with the provisions of the draft SEPP.</p>	<p>Yes</p>

**5.4 Ryde Development Control Plan 2014 (RDCP2014)**

The proposal is subject to the provisions of the following parts of RDCP2014:

- Part 3.2: Child Care Centres
- Part 7.2: Waste Minimisation and Management;
- Part 8.2: Stormwater & Floodplain Management;
- Part 8.3: Driveways;
- Part 9.1: Signage
- Part 9.3: Parking Controls

Clause 26(1) of *State Environmental Planning Policy (educational Establishments and Child Care Facilities) 2017* indicates that a provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers 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

**ITEM 0 (continued)**

- 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 Ryde Development Control Plan 2014 (RDCP2014), Part 3.2 Child Care Centres is illustrated in the compliance table held in **Attachment 2**. Taking into consideration the above provisions of clause 26(1) of RDCP2014, the relevant non-compliances identified in the compliance tables are assessed and discussed in more detail below.

Part 2.1 Suitability of Location and Site for Child Care Centre

The site includes two allotments, being Lot 41 in Deposited Plan 560408 and Lot 3 in Deposited Plan 220894 in addition to relying upon Lot 1 within Deposited Plan 605185 (Council's carpark) to enable vehicles to exit upon Cox's Road. Lot 3 in Deposited Plan 220894 (142 Cox's Road) is L shaped and irregular in shape and is contrary to the requirements for a regular shaped allotment. However, given the siting of the child care at first floor it does not adversely impact the design of the proposal. This non compliance is acceptable.

Part 3.4 Centres in Mixed Use Developments and in Non-residential areas

The proposed outdoor play space 1 and 2 are sited adjacent to Cox's Road frontage and play space 3 is sited above the car parking area at the rear of the site and located at first floor and is contrary to controls (e) and (g). Despite this, the applicant has provided an air quality assessment report as well as an access report which confirms the location is suitable.

The DCP also requires that child care centres are to be located to benefit from a north/northeast aspect and to provide for year round comfort and useability of outdoor play spaces. In order to address the concerns held regarding the FSR non compliance, the amended plans have reduced the depth of the roofing above play spaces 1 and 2. These play spaces have a north eastern aspect and it is considered more desired to maintain the provision of roofing. It is Council's opinion, these spaces are included the GFA calculation whether they are roofed or not on account of the wall heights.

Part 5.1 Car Parking, Traffic and Access

Section 5.1 of Part 3.2 of DCP 2014 prescribes the following car parking provisions:

- *Off-street parking is to be provided at the rate of 1 space per 8 children, and 1 space per 2 staff. Stack or tandem parking may only be used for staff parking and with no more than 2 spaces in each tandem space.*

**ITEM 0 (continued)**

- *Where calculations for car parking result in a fraction, the number is to be rounded up to the nearest whole number.*
- *One off-street accessible parking space is to be provided for use by persons using mobility aids.*

In accordance with the aforementioned controls, the childcare centre would be required to provide 17 car spaces for the children, 12 car parking spaces to accommodate the staff members and 1 accessible parking space to accommodate for people with mobility aids.

The car parking for the centre, located at the rear of the site, is proposed to be allocated as follows:

- 16 car parking spaces to accommodate the children
- 12 car parking spaces to accommodate the staff
- 1 accessible space to accommodate people with mobility aids.

The proposal provides for a shortfall of one (1) parking space. This issue was raised in Council's RFI on 28 August 2019, 4 October 2019 and 26 March 2020. The applicant has provided a supplementary Traffic and Parking Assessment on 7 July 2020 which includes an analysis based on first principles that the level of parking provision is sufficient despite the technical non compliance with Council's control. This has been peer reviewed by Council's Consultant Traffic Engineer and the shortfall is considered acceptable.

**The proposal relies upon vehicular access from the site to Cox's Road via Council's car park. No legal entitlement exists for this use. Particular concern has been raised regarding the proposed intensification of use by the proposed child care and reliance upon the carpark without owner's consent being sought or provided. The proposal relies upon the access through Council's land to achieve the desired U shaped driveway access. The on site manoeuvring is reliant upon land in which there is no legal entitlement for use.**

Further, concerns are held regarding the resultant impacts upon the local road network as a result of the intensified land use. The proposal has been supported by supplementary Traffic and Parking Assessments in which the intersection model has not been calibrated to reflect the actual traffic conditions on site. The vehicle queue lengths reflected in the model do not appear to be consistent with the actual queue lengths identified at the intersection of Cox's Road during peak periods. This is important particularly for the base (existing) model, which needs to be consistent with the current traffic conditions during peak periods to accurately assess the likely impacts generated by the proposed child care centre. Concern is held in regards to impact on traffic flows within Cox's Road and Council's carpark.

**ITEM 0 (continued)****Part 6.0 :Landscape design and play spaces**

Section 6.2.2 of Part 3.2 of DCP 2014 prescribes the following design aims for outdoor play spaces:

- 30% *natural planting area (excluding turf)*
- 30% *turfed area,*
- 40% *hard surfaces (sand, paving, timber platforms).*

The proposal provides the following percentage breakdown within the outdoor play spaces:

- 14% (134.45m<sup>2</sup>) natural planting area.
- The proposal does not include any form of natural turfed areas.
- 86% (884.55m<sup>2</sup>) hard surface areas.

The Landscape Plan has not satisfied the following requirements:

- Transition Areas have not been provided
- The proposal is not consistent with the control which requires outdoor play spaces to aim for:
  - 30% natural planting area (excluding turf)
  - 30% turfed area,
  - 40% hard surfaces (sand, paving, timber platforms).

As the outdoor play areas are located on the first floor in the form of a Roof Garden the 30% natural planting area on deep soil is not achievable. The amended landscape plan submitted on 15 May 2020 provided for an increase in raised plantings by 10% (over 100 m<sup>2</sup>) and a reduction in hard surfaces. The additional raised planting beds stimulate children's interest in the natural world and the landscape design has been supported by Council's Landscape Architect.

**5.5 Planning Agreements or Draft Planning Agreements**

No planning agreements or draft planning agreements are relevant to this development.

**5.6 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)**

The subject application has been recommended for refusal.

**ITEM 0 (continued)****5.7 Any matters prescribed by the regulations**Owner's Consent

Schedule 1 of the *Environmental Planning and Assessment Regulation 2000*, Part 1(i) prescribes that development applications must be accompanied by evidence that the owner of the land on which the development is to be carried out consents to the application.

Although no building works are proposed over 150 Cox's Road (the Council car park), the development is wholly reliant on this site to permit the safe and efficient operation of the car park within the subject site. This is despite there being no encumbrances (right of way, etc) on the Council car park to permit vehicular movements between the subject site and the Council car park. The proposal is for an intensification of the use of the land at 142 – 148 Cox's Road and proposes reliance upon the carpark to facilitate the intensified development of the land. Council is under no legal obligation to continue to permit vehicular access between the two allotments, irrespective of whether vehicles can continue to access the car park from Cox's Road.

Owner's consent has not been provided from Council, and although Council are also the consent authority for this development, the Local Planning Panel does not have any authority to provide owner's consent on behalf of Council. The absence of the consent of all owners of land subject to the application is therefore included as a recommended reason for refusal.

Environmental 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. As the proposal is recommended for refusal, there are no further matters for consideration.

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 CCPG. 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****Built Environment Impact**

Impacts on the built environment have been discussed throughout this report. There are concerns in relation to the bulk and scale of the proposed development, given the alterations and additions proposed to the first floor of the building to accommodate the childcare centre results in a significant non-compliance with the FSR development standard prescribed for the subject site. The proposed intensification of the use has not demonstrated it does not result in any adverse impact upon traffic flows within Cox's Road or Council's car park.

**Natural Environment Impact**

Impacts on the natural environment have been discussed throughout this report. Such impacts have not been adequately addressed in terms of natural planting, deep soil area requirements within the outdoor play spaces to support the growth of vegetation.

The proposed development would result in adverse impacts to the natural environment given the absence of soft landscaping treatments.

**7. Suitability of the site for the development**

The site is not affected by any significant restrictions (flooding, acid sulphate soils, areas of environmental sensitivity, etc.). However, the proposal is considered to be an overdevelopment of the site generated by the number of children proposed. The number of children necessitates the area of outdoor play spaces and these spaces are required to be enclosed by acoustic screening in order to achieve the required noise criterion. The submitted Clause 4.6 is not considered to have satisfied the jurisdictional prerequisite and is not supported. The proposal has not demonstrated it will not result in any adverse impact upon local traffic flows and queueing times along Cox's Road. The intensification of use is reliant upon access through Council's land and no owner's consent has been provided. The proposal in its current form is considered unsuitable.

**8. The Public Interest**

Based on the assessment contained in this report, approval of the development is not in the public interest, and as such shall form a reason for refusal.



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

The application was advertised in accordance with the provisions of the *Ryde Development Control Plan 2014* (RDCP2014), and seventeen (17) submissions were received, all of which objected to the proposed development

The objections raised in the submissions are outlined below, followed by a comment from the assessing planner:

- **Traffic impacts, including:**
  - **Concerns regarding the methodology of the Traffic Study undertaken, where 5 ground floor tenancies remain vacant.**
  - **The associated traffic impacts of the facility.**
  - **Proximity to public bus stop exacerbating traffic impacts**
  - **Safety impacts**

**Comment** – The submitted Traffic and Parking Impact Assessment (TPIA) and subsequent supplementary reports have been considered by Council’s Consultant Traffic Engineer. The proposal is not considered to be satisfactory in regards to the intersection model not being calibrated to reflect actual traffic conditions on site. The vehicle queue lengths reflected in the model do not appear to be consistent with the actual queue lengths identified at the intersection of Cox’s Rd/Wicks Rd during peak periods. This is important particularly for the base (existing) model, which needs to be consistent with current traffic conditions during peak periods to accurately assess the likely impacts potentially generated by the child care centre.

Council raised issues in relation to the methodology used within the traffic and parking assessment particularly with regard to a number of the ground floor tenancies being vacant. As part of the amended plans and documentation received on 4 October 2019, the applicant’s Traffic Engineer provided a written response indicating that within the initial TPIA and the associated SIDRA modelling, expected future traffic generation had been added to the existing traffic captured within the traffic surveys conducted. The amended information satisfactorily responded to the concerns held in relation to the inclusion of the commercial tenancies.

Council also raised initial concerns with the service and access arrangements to the site, given there are poor sightlines at the driveway entry, primarily due to buses being parked at the adjacent bus stop. This issue remains a concern.

- **Insufficient car parking to accommodate 135 children and insufficient disabled parking.**

**ITEM 0 (continued)**

**Comment** – The proposal results in a short fall of one (1) parking space required for parent drop off. The proposal provides for one (1) accessible space and complies with the control requirements. The proposed parking shortfall has been considered satisfactory by Council's Traffic Consultant. The applicant has demonstrated by an analysis based on first principles that the level of parking provided is sufficient despite the technical non compliance with Council's control.

- **Concerns in relation to car park design and operation, including:**
  - **Concerns that the location of allocated parking spaces 38-44 are not adequately sized.**
  - **Suggestion for car parking spaces abutting the golf course to specify the type of parking arrangement, e.g. nose to wall.**
  - **Skip bin currently occupying parking spaces**

**Comment** – Parking spaces 38-44 remain unchanged and are allocated to the commercial and retail tenancies on the ground floor. The dimensions of these spaces are compliant with the relevant Australian standards.

Car Parking Spaces 1 – 25 abut the golf course and are associated with both the existing commercial tenancies, child care staff and visitors. The proposed spaces are compliant with the dimensional requirements and demonstrate adequate turning circles whereby the specification of which direction vehicles park is not necessary.

The proposal includes provision of a waste room located in the carpark. The proposed waste room is not located within a designated parking space. Childcare visitor spaces are available for service vehicles no larger than a standard B99 vehicle outside of drop-off and pick-up periods.

The design of car parking spaces is consistent with relevant Australian standards.

- **Emergency and evacuation procedures – concerns regarding the location of evacuation points.**

**Comment** – Council's RFI issued to the applicant on 28 August 2019, requested the submission of a Risk Assessment in order to identify potential emergencies relevant to the proposal in accordance with Regulation 97 and 168 of the *Education and Care Services National Regulations*.

As part of the amended plans submitted on 4 October 2019, a detailed Risk Assessment Report was submitted. The Risk Assessment Report submitted, prepared by GHD, dated 4 October 2019, provides detailed evacuation strategies and plans for the proposed childcare centre and includes a fire refuge area within

**ITEM 0 (continued)**

Outdoor Play Space 3 which also provides direct access to the evacuation stairs to the car park.

The information submitted satisfies the above Regulations.

- **Insufficient solar access afforded to the rear outdoor play space.**

**Comment** – Councils RFI issued to the applicant on 28 August 2019, requested the submission of shadow diagrams depicting the full extent of the shadows to the outdoor play areas in order to demonstrate the level of solar access afforded between 9am and 3pm on June 21.

*Regulation 114 of the Education and Care Services National Regulations* prescribes the centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun. Section 4.11 of the Child Care Planning Guideline provides the following design guidance:

- *Outdoor play areas should have year round solar access to at least 30% of the ground area, with no more than 60 per cent of the outdoor space covered.*

As part of the amended plans submitted on 4 October 2019, solar access diagrams were submitted which depicted the level of solar access between 9am and 3pm on June 21. The submitted shows diagrams revealed that at-least 30% of the ground area of the outdoor play spaces will receive 3 hours of sunlight between 12pm and 3pm.

- **Health and safety concerns regarding the current vacant area of the first floor.**

**Comment:** The proposal seeks consent for a new use which would occupy the vacant first floor area. As such, this matter would be able to be addressed were the application to be approved.

- **Request for Council to prepare a Cox's Road Master Plan.**

**Comment** – This matter relates to the preparation of strategic planning documents, and is therefore not specifically relevant to the proposal. The proposal has been considered by Council's Strategic Activation team specially relating to the reliance upon Council's carpark. The carpark has been identified as potentially being modified to have two flow entrance and exit onto Cox's Road adjacent to the subject site.

**ITEM 0 (continued)****10. Referrals*****Internal referrals:*****Landscape Architect**

The amended plans submitted on 19 May 2020 were considered by Council's Landscape Architect. The amendments undertaken to the landscape plan have satisfactorily addressed the previously held concerns relating to consistency with the landscape design provisions of Part 3.2 of RDCP.

**Heritage Advisor**

The amended proposal was referred to Council's Heritage Advisor for consideration. No concerns were raised with the proposed development, given the nature of the works and separation distances between the site and item.

***Traffic***

Council engaged Bitzios Consulting Engineers to undertake an independent peer review of the submitted Traffic and Parking Assessment prepared by McLaren Traffic Engineering (MTE) dated 8 May 2019. Council's in correspondence dated 20 March 2020 raised the following concerns:

- The trip generation rates may be underestimated, leading to possible inadequate parent/visitor parking at peak arrival times.

MTE has used the rates in the *RTA Guide to Traffic Generating Developments (2002)* and subsequent updates to derive a total of 108 trips in the period 0700 to 0900, and 95 trips in the period 1600 to 1800. Trip generation rates adopted in the MTE report are superseded and these rates were only applicable to childcare centres with 22-66 places. MTE has assumed an even 50:50 split of trips in and out of the centre.

The trip generation rates were requested to be recalculated using the formula provided within the latest Childcare Centre Analysis Report (prepared by TEF in 2015 and published by RMS). It was considered this report better reflected a child care of the proposed size.

It was also requested that the trip generation not be spread evenly across the two hours during the AM and PM peak hours. It was advised, that 70% of trips arrive during a sharper 1-hour peak period. The calculation undertaken by Bitzios indicated a trip calculation approximately 20 to 60 per cent higher than MTE trip generation

**ITEM 0 (continued)**

rates and an amended assessment was required reflecting the desired spread of trips during peak periods.

- The trip distribution pattern has minor issues as stated in the report and should be revised before coding the new distribution in the SIDRA model.

MTE's trip distribution assumption of trips to and from "Wicks Road (south leg)" on page 16 of the MTE report. We believe this is intended to be the northern leg of the Cox's Road/Wicks Road intersection. Further, the PM distribution from Wicks Road components do not sum to 35% (page 16) and do not match the numbers in Figure 7B.

- IDM historical signal data and associated signal plans should be adopted from RMS for the purpose of this modelling. SIDRA models and report attachments showed no evidence of applying IDM data for the purpose of this analysis. An optimum cycle time has been used for the signal coding and analysis which is deemed unacceptable.
- The SIDRA models have not been calibrated to actual signal timing and/or back of queue lengths.
- 28 parking spaces have been proposed in the layout. Given the number of proposed 135 childcare places falls outside any existing comparative study and RMS analysis report for childcare centres, a detailed queuing analysis should be undertaken considering a realistic arrival and departure profile to determine any likely internal queueing or queue push back into Cox's Road.
- The proposal does not provide a sufficient amount of car parking allocated for children and staff of the facility in accordance with the parking requirements specified within Section 5.1, Part 3.2 – Car Parking of DCP 2014.

The applicant submitted further information on 15 May 2020 including a supplementary traffic and parking assessment prepared by McLaren Traffic Engineering (MTE) dated 5 May 2020.

On 15 June 2020 Council wrote to the applicant advising the supplementary report had been considered and issues remained. These matters included:

1. Trip Generation
  - a. Not satisfied with MTE response to underestimation of traffic generation associated with the proposed child care centre. They have insisted on using the old figures stipulated in RTA Trip Generation Guideline 2002 with no reasonable technical rationale.

**ITEM 0 (continued)**

- b. Peak hour of the network and traffic profile is different to arrival peak hour of a child care centre. This matter has been completely disregarded with insisting on using the same old method.
  - c. TEF report has been published on TfNSW website, therefore we consider that as an adopted technical document which reflects the most recent traffic behaviour at child care centres. MTE is more than welcome to undertake their own independent survey. In the absence of such comparative study, we strongly recommend using the most recent data.
2. Trip Distribution
    - a. This issue has been addressed by MTE
  3. SIDRA Models
    - a. There is no evidence of SIDRA model calibration. Signal data for the survey date should be purchased from RMS for an accurate modelling.
    - b. With respect to my colleagues opinion, I am not of the opinion that any SIDRA model should have a calibrated base model to be reliable for future assessment using “with development” traffic. All queue length should be validated to modeller and reviewer satisfaction. A superficial assessment using SIDRA will certainly result in unreliable outputs even for a comparative case. In other words, the result will not accurately quantify the impacts of the new development.
  4. Car Parking
    - a. MTE is using the TEF report on an elective basis as it suits them. They just mentioned in the previous section that TEF report has not been adopted by RMS yet.
    - b. We are unaware of any conventional queuing theory assessment in MTE’s report. Are there any updated reports?

The applicant submitted a further supplementary traffic and parking assessment prepared by McLaren Traffic Engineering (MTE) dated 7 July 2020. The further report was referred to Bitzios Consulting Engineers who provided the following advice:

*Section 1.3.1 – IDM data should not reflect an impossible worst degree of saturation. IDM data represent Real time performance of the signalised intersection. It seems that MTE is refereeing to IDM data that the model is failing because of using this data rather than something wrong with the model itself or lack of proper calibration. In other words, MTE is shifting the blame to using IDM data which represent the real time performance of the intersection while they have failed to provide any evidence the model is calibrated and fit for purpose. Obviously using the “Optimum signal timing” and hoping for the best would result in a major discrepancy in the outcomes while we are not even sure if the base model is representing correct queue lengths and delays at this particular intersection. In my opinion, the SIDRA model outputs are still unacceptable despite using IDM data for Cox’s Rd/Wick Road intersection. We*

**ITEM 0 (continued)**

*never mentioned that using IDM data would be a means for calibration while using IDM data would be mandatory for having a calibrated model.*

Assessment Officer's comments: The modelling used is incorrect in relation to the signalling and therefore it cannot be determined whether the proposal as a result of its intensification of use will have an adverse impact on the local road network. From the information provided, it cannot be determined whether correct queue lengths and delays at the intersection of Cox's Road and Wicks Road have been utilised and therefore the actual impact on Cox's Road as a result of the proposed development cannot be ascertained. This forms part of the recommendation for refusal.

**Senior Development Engineer**

The amended information was referred to Council's Senior Development Engineer and the following comments were provided:

*Development Engineering Services initial review identified a parking shortfall for the proposed development. As per the DCP requirements, the development will warrant 17 (16.86) spaces based on the 135 childcare places. The documentation makes no mention of staff levels however the traffic report presents that 12 staff spaces are required so it is presumed that the level of staff for the facility is to be in the order of 24 (planner to confirm).*

*The architectural plans have depicted 12 staff parking spaces and 16 parent pickup / dropoff spaces, presenting a technical shortfall of 1 parking space.*

*The supplementary traffic report has undertaken an analysis of the parking demand on first principles, utilising basic queuing analysis and adopting the derived 98% percentile queue length (commonly adopted in traffic analysis as representing the vast majority of situations). The report has not detailed the analysis however has claimed based on the estimated traffic generation arising from the 135 childcare spaces (detailed in Table 1 of the report) the proposed development would warrant 14 parking spaces. Based on the queuing probability this is correct but it would be prudent to clarify with Council's engaged Traffic Consultant for verification.*

The amended proposal was referred to Council's Traffic Consultant and in their response dated 13 August 2020, no concerns were raised with the parking shortfall proposed. The applicant has demonstrated by an analysis based on first principles that the level of parking provision is sufficient despite the technical non compliance with Council's control.

**Urban Strategy**

**ITEM 0 (continued)**

The proposal was referred to Council's City Activation team in relation to the proposal and its reliance upon Council's carpark. The following comments were received:

*The intention as part of the public domain upgrade at Cox's Road is for the configuration of the Council Car Park to be changed. The existing (eastern) entry will become a two way flow (entry and exit); the existing (western) exit will be closed off. This change will reduce the risk of a vehicle colliding with a pedestrian as they use the pedestrian crossing.*

The proposed development relies upon the use of carpark to facilitate access onto Cox's Road. There is no existing legal entitlement for use and therefore during the identified works to the adjoining carpark, this will prevent the intended use of child care centre and its functioning. The applicant has been requested to seek owner's consent but to date this has not been undertaken. The proposal is an intensification of use which will impact upon the current use of Council's carpark and future works.

**Environmental Health Officer**

The proposal was referred to Council's Environmental Health Officer for comment. In their referral response issued on 13 September 2019, no objections to the proposed development were raised, subject to conditions.

**11. Conclusion**

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

Therefore, it is recommended that the application be refused pursuant to Section 80(1)(b) of the Act. The reasons for the decision are as follows:

- The proposal fails to achieve compliance with the floor space ratio development standard prescribed for the subject site.
- The clause 4.6 written request to justify the contravention of the FSR development standard is not supported.
- The proposed intensification of the land use relies upon an adjoining property in which it does not have legal entitlement to use.
- Owner's consent to utilise the adjoining Council owned car park for vehicular access from the subject site to Cox's Road has not been provided with the application.



**ITEM 0 (continued)**

- The proposal has not demonstrated that it will not result in any adverse impact upon the local road network. Insufficient information has been submitted to address queue times at the intersection of Cox's Road and Wicks Road which will potentially be impacted by the intensified land use.

**12. Recommendation**

Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, the following is recommended:

(a) That development application LDA2019/0189 for alterations and additions to the existing building to accommodate a 135 place childcare centre on the first floor, change of use of tenancy 5 and 7 on the ground floor to office, increasing parking from 56 to 58 spaces, 2 business identifications signs and strata subdivision at 142-148 Cox's Road, North Ryde be refused for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development does not satisfy the following provisions of the *Child Care Planning Guideline* as required by Clause 23 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.
  - Section 2, Principle 2 – Built Form – The proposed intensification of land and proposed number of children results in the creation of enclosed outdoor play spaces which contribute to the exceedance of the FSR development standard.
  - The proposal is contrary to Part 3.8 Traffic, parking and pedestrian circulation of the Child Care Planning Guideline.
2. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development does not comply with the following provisions of *Ryde Local Environmental Plan 2014*:
  - Clause 4.4 'Floor Space Ratio' - the proposed development seeks a floor space ratio of 1.08:1 which exceeds the maximum 0.8:1 floor space ratio development standard.
  - The submitted Clause 4.6 written request has not satisfied the jurisdictional prerequisites to support the proposed 36.2% variant to Clause 4.4.

**ITEM 0 (continued)**

3. Pursuant to Section 4.15(a)(iii) of the Environmental Planning and Assessment Act 1979, the development does comply with the following provisions of the Ryde Development Control Plan 2014:
  - Part 3.2 – Part 5.1 Car Parking, Traffic and Access – the proposal is an intensification of use and has not demonstrated there will be no adverse impact upon local traffic and relies upon access through Council’s car park without owner’s consent being provided.
4. Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, the development has failed to provide details prescribed by the regulations contained within the Environmental Planning and Assessment Regulation 2000, Schedule 1. Insufficient information has been submitted to enable assessment of the proposed development as follows:
  - A development application must contain evidence that the owner of the land on which the development is to be carried out consents to the application. The application relies on vehicular access via the adjoining Lot 1 DP 605185, owned by Council, and no evidence has been provided that the owners of that land consent to the application.
5. Pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not suitable for the site. The proposal is contrary to Section 1.3 Objects of the Environmental Planning and Assessment Act 1979
6. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.

**ITEM 0 (continued)**

**ATTACHMENTS**

- 1 SEPP Childcare Planning Guideline
- 2 LEP & DCP compliance table
- 3 SEPP 64 Advertising and Signage
- 4 Clause 4.6 Variation Request
- 5 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**

<b>Relevant clauses</b>	<b>Compliance with standard/provision</b>	<b>Compliance</b>
22 Centre-based child care— concurrence of Regulatory Authority required for certain development	N/A – proposal complies with requirements for outdoor play areas, and concurrence 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 proposed centre-based child care facility is located within the B1 Neighbourhood Centre and therefore this clause does not apply.	N/A
25. Centre-based child care—non-discretionary development standards	Proposal complies with standards.	Yes
26. Centre-based child care— development control plans	Assessment of DCP controls is limited to those which do not contravene this clause.	Refer to DCP assessment.

## Child Care Planning Guideline August 2017

Guideline	Compliance with standard/provision
<b>Part 2 Design Quality Principles</b>	
<p><b>Principle 1. Context</b></p> <p>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 overall size of the development is not appropriate in its context. Refer to discussion of built form below.</p>
<p><b>Principle 2. Built Form</b></p> <p>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</p>	<p>Given the proposed development exhibits an excessive departure from the FSR development standard facilitated by the intensification of the land use.</p> <p>The non-compliant built form is as a result of the 2.1m high acoustic walls to surround the outdoor play space which contribute to these areas being classified as GFA in accordance with the Dictionary contained within RLEP2014.</p>

Guideline	Compliance with standard/provision
<p>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><b>Principle 3. Adaptive learning spaces</b>            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 settings, technology and opportunities for interaction.</p>	<p>The centre-based child care facility generally achieves a satisfactory layout to enable adaptive learning spaces.</p>
<p><b>Principle 4. Sustainability</b>            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 is considered to provide adequate cross ventilation, sunlight and passive thermal design.</p>
<p><b>Principle 5. Landscape</b>            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</p>	<p>The proposal includes a reduced area of natural planting areas as a result of the child care being located at first floor. The proposal has been amended to include a reduction in</p>

<b>Guideline</b>	<b>Compliance with standard/provision</b>
<p>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>hard paving proposed throughout the outdoor play spaces and an increase in natural plantings. The amendments undertaken are considered to have achieved the desired appearance and performance.</p>
<p><b>Principle 6. Amenity</b></p> <p>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>The proposal delivers satisfactory quality learning spaces and achieves a satisfactory level of amenity for children and staff, aside from the absence of landscaping referred to above.</p>
<p><b>Principle 7 - Safety</b></p> <p>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 health and safety risk, and can be checked and maintained efficiently and appropriately.</p>	<p>The proposed centre-based childcare facility is designed to minimise safety impacts.</p>

Guideline	Compliance with standard/provision
Well-designed child care facilities incorporate passive surveillance and Crime Prevention Through Environmental Design (CPTED).	As above.
<b>Part 3 Matters for Consideration</b>	
<p><b>C1.</b> For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> <li>• the acoustic and privacy impacts of the proposed development on the residential properties</li> <li>• the setbacks and siting of buildings within the residential context</li> <li>• traffic and parking impacts of the proposal on residential amenity.</li> </ul> <p>For proposed developments in commercial and industrial zones, consider:</p> <ul style="list-style-type: none"> <li>• potential impacts on the health, safety and wellbeing of children, staff and visitors with regard to local environmental or amenity issues such as air or noise pollution and local traffic conditions</li> <li>• the potential impact of the facility on the viability of existing commercial or industrial uses.</li> </ul>	<p>The proposed centre-based childcare facility is located within a B1 Neighbourhood Centre, and is not adjacent to any residential zones. However, residential properties are located a short distance from the site and where relevant, these matters are considered in further detail within the assessment.</p> <p>These matters are considered in further detail within the assessment.</p>
<p><b>C2</b></p> <p>When selecting a site, ensure that:</p> <ul style="list-style-type: none"> <li>• the location and surrounding uses are compatible with the proposed development or use</li> <li>• the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal</li> </ul>	<p>The proposed centre-based childcare facility is a permissible use within the B1 Neighbourhood Centre Zone in accordance with the Ryde Local Environmental Plan 2014, and this use would be compatible with the objectives of the zone.</p> <p>The subject site does not pose any</p>



Guideline	Compliance with standard/provision
<p>hazards</p> <ul style="list-style-type: none"> <li>• there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed</li> <li>• the characteristics of the site are suitable for the scale and type of development proposed having regard to: - 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</li> <li>• where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use</li> <li>• there are suitable drop off and pick up areas, and off and on street parking</li> <li>• the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use</li> </ul>	<p>significant environmental risks as it is not affected by flooding, landslip, bushfire or coastal hazards.</p> <p>There are minimal earthworks proposed, and given the existing commercial uses at the site, it is unlikely that remediation would be required.</p> <p>The characteristics of the site are considered suitable with the B1 Zone. The proposal is to be located within the first floor of an existing commercial building with a space capable of including a centre-based childcare facility development.</p> <p>The proposed development application seeks consent for alterations and additions to the first floor of an existing commercial building to accommodate a centre-based childcare facility. It is considered the interior and exterior spaces are suitable for the proposed development.</p> <p>It is considered suitable drop off and pick up areas are provided on-site, along with on-street parking.</p> <p>The subject site is located off (Cox's Road) which is a collector road. The subject site is located within 300m of Lane Cove Road which is a classified road. This will not</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> <li>• it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.</li> </ul>	<p>unduly impact on the proposal.</p> <p>The subject site is not located close to any incompatible social activities.</p>
<p><b>C3.</b></p> <p>A child care facility should be located:</p> <ul style="list-style-type: none"> <li>• near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship</li> <li>• near or within employment areas, town centres, business centres, shops</li> <li>• with access to public transport including rail, buses, ferries</li> </ul>	<p>The proposed centre-based child care facility is located directly opposite Holy Spirit Catholic Primary School and within 100m of North Ryde Public School.</p> <p>The subject site is located within the North Ryde Neighbourhood Centre.</p> <p>The subject site is located along a bus route, with the nearest stop being located a short distance (i.e. less than 10m) from the site frontage.</p>
<p><b>C4</b></p> <p>A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from: proximity to:</p> <ul style="list-style-type: none"> <li>- heavy or hazardous industry, waste transfer depots or landfill sites</li> <li>- LPG tanks or service stations</li> <li>- water cooling and water warming systems</li> <li>- odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses.</li> </ul>	<p>The proposal seeks alterations and additions to the existing first floor of a building to accommodate a childcare centre within the B1 Neighbourhood Centre Zone. The subject site is not located within proximity to any heavy or hazardous industries. As such, the site is well located, and there are no undue hazards associated with the site's location.</p>

Guideline	Compliance with standard/provision
<b>3.2 Local Character, streetscape and the public domain interface</b>	
<p><b>C5</b></p> <p>The proposed development should:</p> <ul style="list-style-type: none"> <li>• contribute to the local area by being designed in character with the locality and existing streetscape</li> <li>• reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> <li>• recognise predominant streetscape qualities, such as building form, scale, materials and colours</li> <li>• include design and architectural treatments that respond to and integrate with the existing streetscape</li> <li>• use landscaping to positively contribute to the streetscape and neighbouring amenity</li> <li>• integrate car parking into the building and site landscaping design in residential areas.</li> </ul>	<p>The visual presentation of the proposed centre-based childcare facility from Cox's Road includes provision of 2.1m acoustic barriers as recommended to be implemented by the submitted Acoustic Report, which contributes to the non-compliant FSR.</p> <p>The proposal seeks to utilise the existing car parking located at the rear of the site.</p> <p>The proposal does not include landscape works within the streetscape</p> <p>The proposal seeks to utilise the existing car park on site.</p>
<p><b>C6</b></p> <p>Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> <li>• fencing to ensure safety for children entering and leaving the facility</li> <li>• windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and</li> </ul>	<p>Capable of complying.</p> <p>Windows have been provided on the northern front elevation which provides passive surveillance of the public domain.</p>

Guideline	Compliance with standard/provision
<p>connection between the facility and the community</p> <ul style="list-style-type: none"> <li>• integrating existing and proposed landscaping with fencing.</li> </ul>	<p>The proposed landscape design incorporates plantings and fencing.</p>
<p><b>C7</b></p> <p>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>The proposed development includes multiple buildings and two entries – one from inside the street and one from the carpark.</p> <p>Pedestrian entries and spaces associated within the childcare centre have been clearly defined.</p>
<p><b>C8</b></p> <p>Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> <li>• clearly defined street access, pedestrian paths and building entries</li> <li>• low fences and planting which delineate communal/ private open space from adjoining public open space</li> <li>• minimal use of blank walls and high fences.</li> </ul>	<p>Entry to the proposed development is clearly defined.</p> <p>No front fence is proposed. Proposal is for alterations and additions to an existing commercial building at the first floor to accommodate a childcare centre.</p> <p>Minimal blank walls proposed.</p>
<p><b>C9</b></p> <p>Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing</p>	<p>No front fencing is proposed.</p>

Guideline	Compliance with standard/provision
should be designed in accordance with local heritage provisions.	
<p><b>C10</b></p> <p>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>The proposal seeks to include 2.1m high solid acoustic walls to the perimeter of the outdoor place spaces. The subject site is located 300m of Lane Cove Road which is a classified road. Cox's Road is a collector road in accordance with Schedule 2 contained within Part 3.2 of DCP 2014. The acoustic walls in this instance contribute to the floor space ration non-compliance and intensification of the land use of the basis on the number of children proposed.</p>
<p><b>3.3 Building orientation, envelope and design</b></p>	
<p><b>C11</b></p> <p>Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> <li>• ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> <li>- facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties</li> <li>- placing play equipment away from common boundaries with residential properties</li> <li>- locating outdoor play areas away from residential dwellings and other sensitive uses</li> </ul> </li> <li>• optimise solar access to internal and external play areas</li> </ul>	<p>The are no visual privacy or overlooking concerns anticipated from the proposed development, given its location on the first floor of an existing commercial building, and that it does not abut any residential properties.</p> <p>A review of the submitted shadow diagrams indicates the proposed development optimises solar access to internal and external play areas.</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> <li>• avoid overshadowing of adjoining residential properties</li> <li>• minimise cut and fill</li> <li>• ensure buildings along the street frontage define the street by facing it</li> <li>• ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.</li> </ul>	<p>The subject site does not overshadow any residential properties.</p> <p>Given the proposed development is located entirely above existing ground level, there are no associated earthworks proposed.</p> <p>The proposal utilises the first floor of an existing building which is orientated towards Cox's Road.</p> <p>The above ground outdoor place spaces proposed are considered to be adequately protected from wind and other climatic conditions.</p>
<p><b>C12</b></p> <p>The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> <li>• building height should be consistent with other buildings in the locality</li> <li>• building height should respond to the scale and character of the street</li> <li>• setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility</li> </ul>	<p>The maximum building height of the proposed development is compliant with the height of buildings development standard.</p> <p>The proposed building height of 9.13m 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 proposal is largely contained within an existing building, however the nil setback proposed to the southern rear boundary from</p>

Guideline	Compliance with standard/provision
<ul style="list-style-type: none"> <li>• setbacks should provide adequate access for building maintenance</li> <li>• setbacks to the street should be consistent with the existing character.</li> </ul>	<p>Outdoor Play Space 3 is considered to contribute to the bulk and scale of the building which is incommensurate amongst adjoining development.</p> <p>Not applicable.</p> <p>No change to the existing street setback is proposed, given the development is to be located within an existing building.</p>
<p><b>C13</b></p> <p>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>No changes to the front setback of the building are proposed.</p>
<p><b>C14</b></p> <p>On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p>The subject site is not located within a residential zone.</p>
<p><b>C15</b></p> <p>The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> <li>• respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage</li> <li>• retains and reinforces existing built form and</li> </ul>	<p>The subject site is located within 100m of a heritage item 39, identified as North Ryde Public School which contains three buildings of heritage significance listed within Schedule 5 of LEP 2014.</p> <p>Given the relative scale of the alterations</p>

Guideline	Compliance with standard/provision
<p>vegetation where significant</p> <ul style="list-style-type: none"> <li>• considers heritage within the local neighbourhood including identified heritage items and conservation areas</li> <li>• responds to its natural environment including local landscape setting and climate</li> <li>• contributes to the identity of place</li> </ul>	<p>and additions to accommodate the proposed childcare centre on the first floor of the existing commercial building, and the separation between the buildings, there are not anticipated to be any impacts to the nearby heritage item. The proposal has been considered satisfactory by Council's Heritage Advisor.</p>
<p><b>C16</b></p> <p>The facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> <li>• located to allow ease of access, particularly for pedestrians</li> <li>• directly accessible from the street where possible</li> <li>• directly visible from the street frontage</li> <li>• easily monitored through natural or camera surveillance</li> <li>• not accessed through an outdoor play area.</li> <li>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ul>	<p>The entry point to the proposed development allows for ease of access.</p> <p>The entry to the proposed development is directly accessible from the street via the existing driveway which leads to the rear car park, and separate pedestrian access provided at the ground floor within the centre of the building fronting Cox's Road.</p> <p>The front entry of the proposed centre-based child care facility is clearly visible from Cox's Road.</p> <p>The front entry allows for natural surveillance.</p> <p>The entry is not accessed through an outdoor play area.</p> <p>The ground floor commercial premises are each provided with individual entry points.</p>



Guideline	Compliance with standard/provision
<p><b>C17</b></p> <p>Accessible design can be achieved by:</p> <ul style="list-style-type: none"> <li>• providing accessibility to and within the building in accordance with all relevant legislation</li> <li>• linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry</li> <li>• providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible</li> <li>• minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</li> </ul>	<p>The site provides accessibility in accordance with relevant legislation.</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 at grade access pathway which leads to the elevator providing access to the childcare centre on the first floor.</p> <p>A continuous path of travel is provided throughout the building.</p> <p>The extent of ramping has been minimised.</p>
<p><b>3.4 Landscaping</b></p>	
<p><b>C18</b></p> <p>Appropriate planting should be provided along the boundary integrated with fencing.</p> <p>Screen planting should not be included in calculations of unencumbered outdoor space.</p>	<p>The proposal provides for landscape gardens equivalent to 14% of the proposed outdoor play spaces. The proposal has been designed in accordance with the DCP provisions and is responsive to the site characteristics being at first floor and not having natural ground access to facilitate an increase in natural landscape surfaces.</p>
<p><b>C19</b></p> <p>Incorporate car parking into the landscape</p>	<p>The proposal seeks to occupy the existing</p>

Guideline	Compliance with standard/provision
<p>design of the site by:</p> <ul style="list-style-type: none"> <li>• planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</li> <li>• taking into account streetscape, local character and context when siting car parking areas within the front setback</li> </ul>	<p>car park at the rear of the site.</p>
<b>3.5 Visual and acoustic privacy</b>	
<p><b>C20</b></p> <p>Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</p>	<p>The balconies overlook and overhang car parking areas only.</p>
<p><b>C21</b></p> <p>Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitably locating pathways, windows and doors</li> <li>• permanent screening and landscape design.</li> </ul>	<p>No overlooking opportunities are anticipated.</p> <p>Pathways, windows and doors suitably located.</p> <p>Landscape not required for this purpose.</p>
<p><b>C22</b></p> <p>Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitable location of pathways, windows and doors</li> <li>• landscape design and screening.</li> </ul>	<p>The layout of the building is appropriate to minimise privacy impacts.</p> <p>Pathways, doors and windows have been suitably located.</p> <p>Landscape not required for this purpose.</p>

Guideline	Compliance with standard/provision
<p><b>C23</b></p> <p>A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> <li>• provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence).</li> </ul>	<p>Despite the proposed development not being directly adjacent to any form of residential accommodation, acoustic fences are proposed.</p>
<p><b>3.6 Noise and Air Pollution</b></p>	
<p><b>C25</b></p> <p>Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> <li>• creating physical separation between buildings and the noise source</li> <li>• orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> <li>• using landscaping to reduce the perception of noise</li> <li>• limiting the number and size of openings facing noise sources</li> <li>• locating cot rooms, sleeping areas and play areas away from external noise sources.</li> </ul>	<p>The proposal seeks to utilise an existing building. Acoustic walls are proposed for the purposes of minimising noise impacts.</p>

<p><b>C26</b></p> <p>An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"> <li>• on industrial zoned land</li> <li>• where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000</li> <li>• along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li> <li>• on a major or busy road</li> <li>• other land that is impacted by substantial external noise</li> </ul>	<p>The submitted acoustic report prepared by Rodney Stevens Acoustics has addressed the relevant acoustic considerations that apply to this site.</p>
<p><b>C27</b></p> <p>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 site is suitably located to avoid such impacts.</p>
<p><b>C28</b></p> <p>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"> <li>• creating an appropriate separation distance between the facility and the pollution source.</li> </ul> <p>The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution</p>	<p>The characteristics of the site are considered suitable with the B1 Zone. The proposal is to be located within the first floor of an existing commercial building. An air quality assessment report prepared by Todoroski Air Science, dated 11 June 2019 states that the only air pollutants that would affect the proposal are emissions from various food outlets, motor vehicle exhausts and the sewer harvesting facility at the gold course.</p> <p>The report concludes that the above air pollutants would not have any air quality</p>

<ul style="list-style-type: none"> <li>• using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway</li> <li>• incorporating ventilation design into the design of the facility</li> </ul>	<p>impact on the proposed development.</p>
<p><b>3.7 Hours of Operation</b></p>	
<p><b>C29</b></p> <p>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>The DA has been lodged seeking consent for hours of operation between 6:30am to 7:00pm Monday to Friday. It is to be noted that the subject site is located adjacent to non-residential land uses, and there is no objection to the proposed hours of operation.</p>
<p><b>C30</b></p> <p>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 B1 Neighbourhood Centre Zone and is located adjacent to the SP2 Infrastructure Zone and the RE2 Private Recreation Zone. The proposed childcare centre is to be located on the first floor of an existing building. The ground floor of the building contains commercial and business tenancies. Within close proximity of the subject site are schools and other small business and commercial buildings. Given the surrounding context of land uses, the proposed hours of operation for the centre-based childcare facility are considered to be compatible with adjoining land uses.</p>
<p><b>3.8 Traffic, parking and pedestrian circulation</b></p>	
<p><b>C31.</b> Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the</p>	<p>Refer to DCP assessment.</p>

land.	
<p><b>C32</b></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>	No on-street parking proposed.
<p><b>C33</b></p> <p>A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> <li>• the amenity of the surrounding area will not be affected</li> <li>• there will be no impacts on the safe operation of the surrounding road network.</li> </ul>	<p>A traffic report has been submitted with the proposed development application by McLaren Traffic Engineering and Road Safety Consultants Transit Pty Ltd.</p> <p>The submitted Traffic Report states that the intersection of Wicks Road, Cox's Road is currently performing above a safe operational capacity. However insufficient information has been provided to demonstrate there will not be an adverse impact upon the local traffic network as a result of the intensification of the site.</p>
<p><b>C34.</b></p> <p>Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"> <li>• a classified road</li> <li>• roads which carry freight traffic or transport dangerous goods or hazardous materials. The alternate access must have regard to:</li> <li>• the prevailing traffic conditions</li> <li>• pedestrian and vehicle safety including bicycle movements</li> <li>• the likely impact of the development on traffic.</li> </ul>	The subject site does not front a classified road, or roads which carry freight traffic and therefore this control is not applicable.
<p><b>C35.</b></p> <p>Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure</p>	The subject site is not located within a cul-de-sac or narrow lane road. Cox's Road

<p>that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	<p>provides adequate access to and from the site in the event of an emergency, however concerns are held regarding the impacts upon queuing and waiting lengths at the intersection with Wicks Road which may impact upon access to the site. .</p>
<p><b>C36.</b></p> <p>The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> <li>• separate pedestrian access from the car park to the facility</li> <li>• defined pedestrian crossings included within large car parking areas</li> <li>• separate pedestrian and vehicle entries from the street for parents, children and visitors</li> <li>• pedestrian paths that enable two prams to pass each other</li> <li>• delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</li> <li>• in commercial or industrial zones and mixed-use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas</li> <li>• vehicles can enter and leave the site in a forward direction.</li> </ul>	<p>A separate pedestrian access path has been provided from the car park to the facility.</p> <p>A clearly defined pedestrian pathway has been included on the submitted plans.</p> <p>Separate pedestrian and vehicle entries have been provided from Cox’s Road.</p> <p>Pedestrian pathways are of a sufficient width to allow prams to pass each other.</p> <p>Delivery and loading areas are not required.</p> <p>Entry 1 of the childcare centre has been physically separated from the car parking area.</p> <p>The compliance is reliant upon an adjoining</p>

	<p>site which does not form part of the site for the proposed development and owner's consent has not been provided.</p>
<p><b>C37.</b></p> <p>Mixed use developments should include:</p> <ul style="list-style-type: none"> <li>• driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks</li> <li>• drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site</li> <li>• parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</li> </ul>	<p>The proposal seeks to utilise the existing driveway arrangements on the site. However, concern is held that owner's consent has not been provided by Council in regards to the proposed reliance upon the adjoining property for access to Cox's Road. The proposal is an intensification of use and legal entitlement must be ensured in regards to facilitating such a development.</p> <p>Drop-off spaces have been indicated on the submitted plans.</p> <p>Parking spaces are located amongst parking spaces for the commercial developments fronting Cox's Road. The child care spaces are grouped together and are able to be marked for exclusive use of the centre.</p>
<p><b>C38.</b></p> <p>Car parking design should:</p> <ul style="list-style-type: none"> <li>• include a child safe fence to separate car parking areas from the building entrance and play areas</li> <li>• provide clearly marked accessible parking as close as possible to the primary entrance to</li> </ul>	<p>Capable of complying.</p> <p>Clearly marked accessible parking has been indicated on the submitted plans.</p>



<p>the building in accordance with appropriate Australian Standards</p> <ul style="list-style-type: none"> <li>• include wheelchair and pram accessible parking.</li> </ul>	<p>Wheel chair and pram accessible parking has been provided.</p>
<p><b>Part 4 Applying the National Regulations to development proposal</b></p>	
<p><b>4.1 Indoor Space Requirements</b></p> <p><b>Regulation 107 Education and Care Services National Regulations</b></p> <p>Every child being educated and cared for within a facility must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space.</p> <p>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><b>Storage</b></p> <p>It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> <li>• a minimum of 0.3m<sup>3</sup> per child of external storage space</li> </ul>	<p>The proposed centre-based child care facility provides 485.42m<sup>2</sup> of unencumbered indoor space for 135 children. This equates to 3.59m<sup>2</sup> of unencumbered indoor space for each child which is compliant.</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 sleeping (cot) rooms will be provided adjacent to the babies rooms, for children aged between 0-2 years.</p> <p>The proposed centre-based childcare facility provides 60.769m<sup>3</sup> of external storage space. With 135 children proposed, this</p>

<ul style="list-style-type: none"> <li>• a minimum of 0.2m<sup>3</sup> per child of internal storage space.</li> </ul>	<p>equates to 0.45m<sup>3</sup> of external storage per child.</p> <p>The proposed centre-based child care provides 106.5m<sup>3</sup> of internal storage space. With 135 Children proposed, this equates to 0.78m<sup>3</sup> of internal storage space per child.</p>
<p><b>4.2 Laundry and hygiene facilities</b></p> <p><b>Regulation 106 Education and Care Services National Regulations</b></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><b>On site laundry</b></p> <p>On site laundry facilities should contain:</p> <ul style="list-style-type: none"> <li>• a washer or washers capable of dealing with the heavy requirements of the facility</li> <li>• a dryer</li> <li>• laundry sinks</li> <li>• adequate storage for soiled items prior to cleaning</li> <li>• an on site laundry cannot be calculated as usable unencumbered play space for children (refer to Figure 2)</li> </ul> <p><b>External laundry service</b></p> <p>A facility that does not contain on site laundry facilities must make external laundering arrangements. Any external laundry facility providing services to the facility needs to comply with any relevant Australian Standards.</p>	<p>Laundry facilities have been included at the western end of the childcare facility adjacent to the indoor play space for children aged between 3-5 years.</p> <p>The proposed laundry is large enough to accommodate necessary appliances and storage.</p> <p>Internal laundry facilities have been provided; therefore the proposal does not require external laundry facilities.</p>

<p><b>4.3 Toilet and hygiene facilities</b>  <b>Regulation 109 Education and Care Services National Regulations</b></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).</p> <p>Design considerations could include:</p> <ul style="list-style-type: none"> <li>• junior toilet pans, low level sinks and hand drying facilities for children</li> <li>• a sink and handwashing facilities in all bathrooms for adults</li> <li>• direct access from both activity rooms and outdoor play areas</li> <li>• windows into bathrooms and cubicles without doors to allow supervision by staff</li> </ul>	<p>The toilet/nappy change facilities have been appropriately located for safe and convenient use with washing and drying facilities. It is considered that age appropriate toilets have been provided.</p> <p>Junior toilet pans, low level sinks and hand drying facilities have been included and depicted on the plans.</p> <p>Low level sinks and handwashing facilities have been included within the bathroom/nappy change rooms of the proposed development.</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>The amended plans submitted on 4 October 2019, include glazed partitions around the toilet and hygiene facilities to maximise supervision.</p>

<ul style="list-style-type: none"> <li>external windows in locations that prevent observation from neighbouring properties or from side boundaries</li> </ul>	<p>Location of external windows prevents observation from neighbouring development into the centre.</p>
<p><b>4.4 Ventilation and natural light</b></p> <p><b>Regulation 110 Education and Care Services National Regulations</b></p> <p>Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. 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><b>Ventilation</b></p> <p>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><b>Natural Light</b></p> <p>When designing child care facilities consideration should be given to:</p> <ul style="list-style-type: none"> <li>providing windows facing different orientations</li> </ul>	<p>Natural light and cross ventilation is acceptable.</p> <p>The proposed centre-based childcare facility addresses the orientation of the building while maximising cross ventilation with windows and sliding door openings to the indoor play areas.</p> <p>Windows have been provided on opposite southern elevations.</p> <p>Skylights not necessary, given satisfactory</p>

<ul style="list-style-type: none"> <li>• using skylights as appropriate</li> <li>• 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.</li> </ul>	<p>daylight achievable via the building facades.</p> <p>3.3m floor to ceiling heights are proposed within the indoor play spaces which are considered proportional to room size.</p>
<p><b>4.5 Administrative Space</b></p> <p><b>Regulation 111 Education and Care Services National Regulations</b></p> <p>A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.</p>	<p>An Internal administration/reception room has been provided.</p>
<p><b>4.6 Nappy change facilities</b></p> <p><b>Regulation 112 Education and Care Services National Regulations</b></p> <p>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"> <li>• properly constructed nappy changing bench or benches</li> </ul>	<p>The proposed centre-based childcare facility provides nappy changing facilities within each of the bathroom facilities for children. The nappy change facilities include benches and bathing facilities. The nappy changing facilities have all been located adjacent to the indoor play spaces to allow for maximum supervision of the children.</p> <p>Nappy changing benches have been provided.</p>

<ul style="list-style-type: none"> <li>• a bench type baby bath within one metre from the nappy change bench</li> <li>• the provision of hand cleansing facilities for adults in the immediate vicinity of the nappy change area.</li> <li>• positioning to enable supervision of the activity and play areas.</li> </ul>	<p>Bench type baby baths have been included on the submitted plans.</p> <p>Hand cleansing facilities are 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>
<p><b>4.7 Premises designed to facilitate supervision</b></p> <p><b>Regulation 115 Education and Care Services National Regulations</b></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"> <li>• solid walls in children’s toilet cubicles (but no doors) to provide dignity whilst enabling supervision</li> <li>• locating windows into bathrooms or nappy change areas away from view of visitors to the</li> </ul>	<p>The proposed centre-based childcare facility has been designed to allow for maximum supervision of the children from within the indoor and outdoor play spaces. The toilets facilities and nappy changing facilities include glazed partitions to walls to maximise supervision</p> <p>The amended plans submitted on 4 October 2019 include solid walls Between cubicles to provide dignity whilst enabling supervision.</p> <p>The walls to the nappy changing rooms and toilets now include glazed partition windows to maximise supervision and are located</p>

<p>facility, the public or neighbouring properties</p> <ul style="list-style-type: none"> <li>• avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children</li> <li>• avoiding multi-level rooms which compromise, or require additional staffing, to ensure proper supervision. If multilevel spaces are proposed, consideration should be given to providing areas that can be closed off and used only under supervision for controlled activities.</li> </ul> <p><b>4.8 Emergency and evacuation procedures</b> 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"> <li>• instructions for what must be done in the event of an emergency</li> <li>• a risk assessment to identify potential emergencies that are relevant to the service</li> </ul> <p>Facility design and features should provide for the safe and managed evacuation of children</p>	<p>away from the view of visitors. Windows to bathrooms and nappy change rooms have not been included to maximise supervision.</p> <p>All areas of the proposed development allow for acceptable supervision.</p> <p>Multi-level rooms are not proposed.</p> <p>Emergency and evacuation procedures have been submitted within the report prepared by GHD, dated 4 October 2019.</p> <p>Risk assessment has been submitted as part of the report prepared by GHD, dated 4 October 2019.</p> <p>Refer above.</p>
--	---

<p>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"> <li>• independent emergency escape routes from the facility to the ground level that would separate children from other building users to address child protection concerns during evacuations</li> <li>• a safe haven or separate emergency area where children and staff can muster during the initial stages of a fire alert or other emergency. This would enable staff to account for all children prior to evacuation. An emergency and evaluation plan should be submitted with a DA and should consider:</li> <li>• the location of a safe congregation/assembly point, away from the evacuated building, busy roads and other hazards, and away from evacuation points used by other occupants or tenants of the same building or of surrounding buildings</li> <li>• how children will be supervised during the evacuation and at the congregation/assembly point, relative to the capacity of the facility and governing child-to-staff ratios.</li> </ul>	<p>Emergency and evacuation floor plans have been submitted.</p> <p>The submitted emergency and evacuation plans indicate the emergency and assembly areas to be located within the Council carpark on the western side of the building.</p> <p>The submitted emergency and evacuation indicate a refuge area to be located within Outdoor Play Space 3.</p> <p>Details of how children will be supervised have been provided within the Risk Assessment prepared by GHD.</p>
---	---



<p><b>4.9 Outdoor Space requirements</b></p> <p><b>Regulation 108 Education and Care Services National Regulations</b></p> <p>An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m<sup>2</sup> of unencumbered outdoor space.</p> <p><b>Verandahs as outdoor space</b></p> <p>Where a covered space such as a verandah is to be included in outdoor space it should:</p> <ul style="list-style-type: none"> <li>• be open on at least one third of its perimeter</li> <li>• have a clear height of 2.1 metres</li> <li>• have a wall height of less than 1.4 metres</li> </ul> <p>where a wall with an opening forms the perimeter</p> <p><b>Simulated outdoor environments should include:</b></p> <ul style="list-style-type: none"> <li>• 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</li> <li>• skylights to give a sense of the external climate</li> <li>• a combination of different floor types and textures, including wooden decking, pebbles, mounds, ridges, grass, bark and artificial grass, to mimic the uneven surfaces of an</li> </ul>	<p>The proposed centre-based childcare facility provides 1019m<sup>2</sup> of unencumbered outdoor space. This equates to 7.54m<sup>2</sup> of unencumbered outdoor space per child which complies with the minimum 7.0m<sup>2</sup> specified within the Childcare Planning Guideline.</p> <p>All outdoor play spaces are located at the first floor level. However, these spaces are proposed to be predominantly open.</p> <p>N/A</p> <p>N/A</p> <p>There are no simulated outdoor play spaces proposed.</p>
---	---

<p>outdoor environment</p> <ul style="list-style-type: none"> <li>• sand pits and water play areas</li> <li>• dense indoor planting and green vegetated walls</li> <li>• climbing frames, walking and/or bike tracks</li> </ul>	
<p><b>4.10 Natural Environment</b></p> <p><b>Regulation 113 Education and Care Services National Regulations</b></p> <p>The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.</p> <p>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"> <li>• are known to be poisonous, produce toxins or have toxic leaves or berries</li> <li>• have seed pods or stone fruit, attract bees, have thorns, spikes or prickly foliage or drop branches.</li> </ul> <p>The outdoor space should be designed to:</p> <ul style="list-style-type: none"> <li>• provide a variety of experiences that facilitate the development of cognitive and physical skills, provide opportunities for social interaction and appreciation of the natural environment</li> </ul>	<p>Nominated planting is safe for children.</p> <p>The proposed outdoor open play areas provide a variety of experiences through to engage play and simulate a variety of sensory environment.</p> <p>The layout of the outdoor play space has</p>

<ul style="list-style-type: none"> <li>• assist supervision and minimise opportunities for bullying and antisocial behaviour</li> <li>• enhance outdoor learning, socialisation and recreation by positioning outdoor urban furniture and play equipment in configurations that facilitate interaction.</li> </ul>	<p>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><b>4.11 Shade</b></p> <p><b>Regulation 114 Education and Care Services National Regulations</b></p> <p>The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p> <p><b>Solar access</b></p> <p>Outdoor play areas should:</p> <ul style="list-style-type: none"> <li>• have year-round solar access to at least 30 per cent of the ground area, with no more than 60 per cent of the outdoor space covered.</li> <li>• provide shade in the form of trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area</li> </ul> <p><b>Natural Shade</b></p> <p>Planting for shade and solar access is enhanced by:</p> <ul style="list-style-type: none"> <li>• placing appropriately scaled trees near the eastern and western elevations</li> <li>• providing a balance of evergreen and deciduous trees to give shade in summer and</li> </ul>	<p>Outdoor shade structures have been included within each outdoor play space area to protect children from exposure to ultraviolet radiation.</p> <p>A review of the submitted shadow diagrams has revealed that at-least 30% of the ground area of the outdoor play spaces year-round will receive solar access.</p> <p>Shade sails are proposed to provide children with protection from ultraviolet radiation. Trees have also been included to provide additional shade.</p> <p>Given the available soil depths shade trees are not provided but the proposal relies upon shade sails.</p>

<p>sunlight access in winter.</p> <p><b>Built shade structures</b></p> <p>Built structures providing effective shade include:</p> <ul style="list-style-type: none"> <li>• permanent structures (pergolas, sails and verandahs)</li> <li>• demountable shade (marquees and tents)</li> <li>• adjustable systems (awnings)</li> <li>• shade sails.</li> </ul>	<p>Numerous shade sails are proposed in all outdoor play spaces which will provide effective shading.</p>
<p><b>4.12 Fencing</b></p> <p><b>Regulation 104 Education and Care Services National Regulations</b></p> <p>Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. 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"> <li>• prevent children climbing over, under or through fences</li> <li>• prevent people outside the facility from gaining access by climbing over, under or through the fence</li> </ul>	<p>The amended plans submitted on 15 May 2020, have include a 2.1m high solid fence to Outdoor Play Space 3 which will include materials recommended by the acoustic report such as:</p>

<p>Design considerations for side and rear boundary fences could include:</p> <ul style="list-style-type: none"> <li>• being made from solid prefinished metal, timber or masonry</li> <li>• having a minimum height of 1.8 metres</li> <li>• having no rails or elements for climbing higher than 150mm from the ground.</li> </ul>	<ul style="list-style-type: none"> <li>• 12mm Thick Perspex;</li> <li>• 6mm toughened laminated safety glass</li> </ul>
<p><b>4.13 Soil Assessment</b></p> <p>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> <ul style="list-style-type: none"> <li>• a soil assessment for the site of the proposed education and care service premises</li> <li>• if a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken</li> <li>• a statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.</li> </ul>	<p>The proposed development is seeking alterations and additions to an existing building to accommodate a child care centre on the first floor. As such, a soil assessment is not required.</p>

## Attachment 2 – LEP and DCP Compliance Table

RYDE LEP 2014	PROPOSAL	COMPLIANCE
<b>2.7 Demolition requires development consent</b>	Consent for demolition to be sought separately by complying development. In the event of approval, a condition is recommended that would require separate consent for demolition.	Yes
<b>4.3(2) Height</b> • 9.5m	The maximum building height of the proposed development is 9.13m. This has been calculated at the proposed hipped roof pitch at RL:84.10 and the existing finished floor level at RL:74.790.	Yes
<b>4.4(2) &amp; 4.4A(1) FSR</b> • 0.8:1	Ground Floor – 980.04m <sup>2</sup> First Floor – 1994.45m <sup>2</sup>  GFA 2974.49m <sup>2</sup> FSR – 1.08:1 Site Area (2729.5m <sup>2</sup> – site survey)	No
<b>5.10 Heritage Conservation</b>	As per Schedule 5 of Ryde Local Environmental Plan 2014, the subject site is located within 100m of North Ryde Public School which is classified as a heritage item of local significance.  The proposal seeks to utilise the first floor of an existing commercial building with only minor external alterations proposed. Given the minor nature of the proposed works, there are not considered to be any impacts on nearby heritage items.	Yes
<b>6.1 Acid Sulfate soils</b>	The subject site is not affected acid sulphate soils.	N/A
<b>6.4 Stormwater management</b>	The proposed stormwater management system is supported by Council's Senior Development Engineer.	Yes

RYDE DCP 2014	PROPOSED	COMPLIANCE
---------------	----------	------------

RYDE DCP 2014	PROPOSED	COMPLIANCE
<b>Part 3.2 – Child Care Centres</b>		
<b>Child Care Centre Design</b>		
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 Edwin Vanegas of Five Cannons Architecture who is a registered architect (Reg No. 6256) under the NSW Architects Registration Board	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 Barrakat of TGS Landscape Architects who is a registered landscape architect under the Australian Institute of 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	A signed undertaking has been submitted demonstrating that the proposed centre-based childcare facility will be required to comply with the Children’s Services Regulation 2004 before being able to trade/gain the appropriate licence.	Yes
<b>Technical Assessment Requirements</b>		
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
<b>Suitability of Location and Site for Child Care</b>		
<b>Preferred Locations</b>		
– Single use developments street frontage and width >20m. Corner allotments > 17m	The proposed child care centre is not located on a corner allotment.	Yes
– Single use – minimum site area of 800m <sup>2</sup> – regular in shape	Lot 41 in Deposited Plan 560408 and Lot 3 in Deposited Plan 220894	No

RYDE DCP 2014	PROPOSED	COMPLIANCE
	<p>L shaped allotment Total Site Area = 2729.5m<sup>2</sup></p> <p>The subject site is located on a collector road, as identified by Schedule 2 within Part 3.2 of DCP 2014.</p>	
<ul style="list-style-type: none"> <li>- Not located on arterial or sub-arterial roads, refer Schedule 2</li> </ul>	<p>The proposed child care centre is not located on an arterial or sub-arterial road.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Within mixed use developments on arterial and sub-arterial roads, located distant and facing away from road</li> </ul>	<p>The proposed child care centre is not located on an arterial or sub-arterial road.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- No battle-axe allotments</li> </ul>	<p>The site is not a battle axe allotment</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Cul-de-sac not preferred. Applications for centres in CDS must demonstrate appropriate traffic management is provided</li> </ul>	<p>Cox's Road is not a cul-de-sac.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Not located in proximity to a brothel (Part 3.1 Brothels under DCP 2006)</li> </ul>	<p>No sex-service premises have been identified within close proximity to the subject site.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Site flat or gently sloping and well drained               <ul style="list-style-type: none"> <li>i. Assist design of useable indoor and outdoor areas at same grade</li> <li>ii. Provide accessibility to all areas</li> <li>iii. Assist drainage after rain</li> </ul> </li> </ul>	<p>There is a rear-to-front fall on the site. The proposed child care being located at first floor achieves at grade indoor and outdoor areas.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Aspect permits maximum solar access and natural ventilation</li> </ul>	<p>The site is located to the south of the Council carpark and is adjoined to the south east by the North Ryde Golf Course. The proposal receives acceptable levels of solar access and does not adversely overshadow adjoining properties.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Located on land not affected by adverse overshadowing by existing or future development, undue heat loads from reflective surfaces of</li> </ul>	<p>Given the zoning and height limitations within the surrounding area, it is unlikely that the child care centre would</p>	<p>Yes</p>



RYDE DCP 2014	PROPOSED	COMPLIANCE
existing or future approved buildings on neighbouring sites	be significantly overshadowed by existing or future development on surrounding sites.	
- Site not subject to undue overlooking from existing or future adjoining development	Given the existing surrounding development the proposal is not subject to overlooking and is unlikely to be adversely impacted in future.	Yes
<ul style="list-style-type: none"> <li>- Preferred locations for larger centres in residential areas;</li> <li>- Sites located on street corners</li> <li>- Sites share common boundaries with compatible non-residential uses</li> <li>- Compatible land uses subject to acceptable traffic and parking</li> </ul>	<p>The proposed centre would accommodate 135 places, and is therefore considered to be a larger centre.</p> <p>The site is not a corner allotment but is adjoined by non residential land uses.</p> <p>The proposal has not demonstrated it will not result in adverse traffic impacts.</p>	No
- 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.	The proposal is not part of a mixed-use does not result in any adverse amenity impacts	Yes
<b>Assessing Child Care Needs and Size of Facility</b>		
<p>All development applications for child care centres are required to identify:</p> <ul style="list-style-type: none"> <li>i. Proposed total number of child care places.</li> <li>ii. Proposed number of children by age group;</li> <li>iii. Proposed number of staff including all full time and part time staff, and role of each staff member</li> </ul>	<p>The proposal seeks to accommodate 135 children.</p> <p>The proposed age group breakdown for the child care centre is as follows</p> <p>0-2 years – forty (40)  2-3 years – forty-five (45)  3-6 years – fifty (50)</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</i></p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
	<p>January 2016. The ratios are provided as follows.</p> <p>1:4 (birth to 24 months)  1:5 (24-36 months)  1:10 (Older than 36 months)</p> <p>Proposed</p> <p>Area A (Preschool 3-5 ) – 20 children and 2 staff  Area B (Preschool 3- 5) 30 children and 3 staff</p> <p>Area C (toddlers 2-3) 45 children and 9 staff</p> <p>Area D (infants 0-2) 20 children and 5 staff</p> <p>Area E (infants 0-2) 20 children and 5 staff</p> <p>Total number of required educators is 24. However, a staff breakdown which includes, managerial staff, cooking staff has not been included with the submitted documentation.</p>	
<b>Site Analysis</b>		
<ul style="list-style-type: none"> <li>- A site analysis to be submitted for new child care centre developments including developments that involve the conversions of existing dwellings/other buildings</li> <li>- 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</li> </ul>	<p>A site analysis plan has been submitted which has been prepared by Five Canons Architecture.</p> <p>Site analysis is based on the Survey Plan provided by ATS Land and Engineering Surveyors.</p>	<p>Yes</p> <p>Yes</p>
<b>Environmental Risks and Hazards</b>		
<p>The location is to take into consideration any other environmental health hazard or risk relevant to the site and/or existing buildings within the site or the surrounding area having regard to the following:</p> <p>i. Pollution created by car and other</p>	<p>The proposal is located on a collector road. The proposal has been designed incorporating external walls to enclose the designed outdoor play spaces and areas presenting to the streetscape</p>	<p>Yes</p>



RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>centre.</p> <p>The site is not to be in a location likely to be affected by emissions of dust, fumes, noise, nor by frequent truck movements. This especially applies in proximity to industrial and business uses.</p> <p>Consideration is to be given to the requirements of SEPP 55 and any land contamination policy adopted by Council. In this regard a preliminary site assessment, detailed site assessment, and/ or site audit may be required to be submitted with the development application and/or as a requirement of development consent.</p>	<p>The site is located within a Neighbourhood Centre which does not include industrial noise. The surrounding developments include commercial and retail stores.</p> <p>The proposed child care is sited at first floor and does not include any excavation works and is therefore unlikely to be affected by contaminated lands.</p>	<p>Yes</p> <p>Yes</p>
<b>Design and Character</b>		
<ul style="list-style-type: none"> <li>• <b>All Child Care Centres</b></li> <li>- Designed in accordance with CPTED</li> </ul>	<p><i>Surveillance</i></p> <p>It is considered that the proposed child care centre proposed on the first floor of the existing commercial building will provide opportunities for effective casual surveillance. The building entry fronts Cox's 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>Yes</p>
<ul style="list-style-type: none"> <li>- orientated for year round natural light and ventilation and comfort in indoor spaces and outdoor spaces</li> <li>- design to take advantage of natural lighting and opportunities to maximize solar access and natural ventilation</li> </ul>	<p>The proposal seeks consent for a childcare centre at the first floor of an existing commercial building.</p> <p>The proposal will be afforded year round natural light and ventilation to indoor and outdoor spaces.</p> <p>The proposed centre-based childcare facility is designed to take advantage of natural lighting and ventilation. The</p>	<p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- avoid the proximity to and use of large expanses of UV reflective surfaces</li> <li>- maximize energy efficiency and sustainability and compliance with Part 7.1 Energy Smart, Water Wise under this DCP</li> <li>- building materials, appliances, utilities and fuel sources should be made with consideration for minimising energy requirements</li> <li>- appliances to be used/installed in the centre should have a minimum 3.5 star rating</li> <li>- designed to reflect desired/expected character of buildings in the area</li> </ul>	<p>windows are orientated to promote cross flow ventilation</p> <p>The proposed childcare centre within the first floor of the existing commercial building is located in proximity to large expanses of UV reflective surfaces.</p> <p>An energy efficiency report located within the BCA Compliance Assessment Report, prepared by Aramini Leedham Consulting, 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 proposal seeks to accommodate a childcare centre within the first floor of the existing commercial building. The provision of prominent 2.1m acoustic walls is not appropriate in this location</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<ul style="list-style-type: none"> <li>- frontages and entries are to be designed to be readily apparent from the street frontage</li> <li>- where fill is proposed to be used, clean fill must be used.</li> </ul>	<p>The submitted plans show that the frontage and building entry is readily apparent from Cox's Road.</p> <p>No fill proposed</p>	<p>Yes</p> <p>Yes</p>
<b>Centres in Mixed Use Developments and in Non-residential areas</b>		
<p>Work based child care centres are to be designed as self-contained premises to ensure access for child</p>	<p>The proposal includes a separate main entrance from the street frontage in addition to</p>	<p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>care places is available to community members external from the company, should places permit. The centre is to have a separate main entrance, separate pedestrian and vehicular access including drop off/pickup area in proximity to the entrance, and be readily accessible to the general public.</p>	<p>access from the rear from the car park. The proposal includes separate access for pedestrian and vehicles.</p>	
<p>Child care centres are to be located to benefit from a north/northeast aspect and to provide for year round comfort and useability of outdoor play spaces. The siting and design is to maximize opportunity for indoor and outdoor play areas to be oriented to receive maximum benefits of natural light and ventilation.</p>	<p>The centre benefits from a north-east aspect at the front and a south-west aspect at the rear, towards the golf course. The proposal is to be located within the first floor of an existing commercial building and achieves a compliant level of solar access.</p>	<p>Yes</p>
<p>Outdoor play spaces are to be located away from driveways/sources of noise or fumes.</p>	<p>Play space 1 and 2 adjoin the Cox's Road frontage. The play spaces include a 2.1 metre high acoustic fencing.</p>	<p>Yes</p>
<p>Siting and design of outdoor areas is to avoid being subject to undue reflectivity, glare, heat load and UV radiation from surrounding environments (e.g. from smooth reflective surfaces on tall buildings, expanses of asphalt and concrete). Design and siting should avoid the use of large expanses of UV reflective surfaces (smooth surfaces), including metal sheeting, concrete, asphalt, glass and sand being exposed to the sun from 11 am to 3 pm daylight saving time from reflecting into the outdoor play spaces. Shade audits may be required to be prepared in accordance with the NSW Cancer Council guidelines Shade for Child Care Services to identify initial shade opportunities and protection from indirect and direct UVR, and shade opportunities projected to 5 years from establishment of the centre (once planting is established).</p>	<p>Play space 3 is sited above the car park at the rear of the site.</p> <p>The amended proposal has removed the roofing to play spaces 1 and 2 which have a north eastern aspect.</p>	<p>No</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>All child care centres are preferred to be located at ground floor level where achievable and in areas where the opportunity for natural landscaping comprising deep soil planting is possible (i.e. not to be entirely located over basement areas).</p>	<p>The proposed child care is located at first floor.</p>	<p>No</p>
<p>Child care centres in mixed use developments may provide spaces for 0-2 year olds above ground floor level (no higher than second storey) subject to meeting minimum safety considerations and natural planting requirements (refer Section 6 of this Part).</p>	<p>The proposal includes provision of 40 infants at first floor</p>	<p>Yes</p>
<p>Where centre facilities are provided for use by children above ground floor level, a safe refuge area shall be provided which opens directly to a dedicated fire-isolated stair. The minimum total area of the refuge shall be calculated at the rate of 0.25 m<sup>2</sup> per person (staff and children) for the capacity of the centre occupying the area at that first floor level at any one time. The doors, walls, floors and ceiling of the refuge shall have a minimum Fire Resistance Level (FRL) equal to that required for the fire stairs. The refuge area is not to be used for storage at any time.</p>	<p>The proposal includes 2 separate fire stairs</p>	<p>Yes</p>
<p>Where child care centres are not located at ground level within a mixed-use building, the application is required to address child safety, privacy, and amenity impacts for the surrounding users as well as for occupants of the child care centre (refer Section 6.2 of this Part).</p>	<p>The proposal has been designed in accordance with these provisions.</p>	<p>Yes</p>
<p>Fencing Gates and Security</p>		
<p>Designated outdoor play areas must be fenced on all sides. The design and height of fencing are to prevent children scaling fencing and / or crawling under, and must impede intruders from entering premises through it or from scaling it and to prevent unlawful access to children.</p>	<p>The proposal incorporates provision of 1.4 metre high fencing throughout the development.</p>	<p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>Gates are to be designed to prevent children leaving/entering unsupervised by use of childproof locking systems. All raised areas, including any stairs, are to be enclosed to prevent a child from falling or crawling through gaps.</p>	<p>If the application were recommended for approval this could be conditioned</p>	<p>Yes</p>
<p>Adequate safety provision is to be made to prevent children gaining access to other parts of the building/site unsupervised.</p>	<p>The development contains fencing throughout to ensure children cannot gain access without supervision</p>	<p>Yes</p>
<p>Fencing and gates are to be designed to ensure adequate sightlines for vehicles and pedestrian safety in accordance with Australian Standards and RMS Traffic Management Guidelines.</p>	<p>Proposed fencing enables sight lines.</p>	<p>Yes</p>
<p><b>Privacy</b></p>		
<p><b>Acoustic Privacy – for children in the centre</b></p>		
<p>- Sites affected by heavy traffic or 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>The submitted Acoustic Report prepared by Rodney Stevens Acoustics, dated 15 April 2019, stated that a 1.4 metres high solid barrier along the boundaries of the front outdoor play spaces was to be implemented in order to minimise the noise impacts from those areas in order to achieve compliance with the noise level criterion.</p> <p>The front outdoor play spaces are located on balconies and include outer walls of at least 1.4 metres in height (as recommended within the submitted Acoustic Report)</p> <p>The fencing arrangements to the boundaries of Outdoor Play Space 3 at the rear of the first floor include a 2.1 metre high acoustic wall was also proposed for this area</p>	<p>Yes</p>
<p><b>Acoustic Privacy – for adjoining residents</b></p>		
<p>- Noise impacts on neighbouring properties are to be minimised by design measures including: i. Orientating the facility having</p>	<p>The submitted Acoustic Report prepared by Rodney Stevens Acoustics, dated 15 April 2019, stated that a 1.4 metres high</p>	<p>Yes</p>



RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>regard to neighbouring property layout</p> <ul style="list-style-type: none"> <li>ii. Orientating playgrounds/outdoor play areas away from private open space</li> <li>iii. Using laminated or double glazing where necessary;</li> <li>iv. Designing fencing which minimises noise transmission and loss of privacy</li> </ul> <p>– child care centres in residential 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>solid barrier along the boundaries of the front outdoor play spaces (play space 1 and 2) was to be implemented in order to minimise the noise impacts from those areas in order to achieve compliance with the noise level criterion.</p> <p>The fencing arrangements to the boundaries of Outdoor Play Space 3 at the rear of the first floor include a 2.1 metre high acoustic wall was also proposed for this area</p> <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>Noise buffering in place.</p> <p>Acoustic report provides recommendations for noise attenuation measures.</p>	<p>Yes</p> <p>Yes</p>
<b>Visual Privacy – for children in the centre</b>		
<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> <ul style="list-style-type: none"> <li>i. Appropriate site and building layout;</li> <li>ii. Suitable location of pathways, windows and doors;</li> <li>iii. Permanent screening and</li> </ul>	<p>The indoor play areas are located at first floor and do not enable direct sight lines.</p> <p>There are no visual privacy or overlooking concerns anticipated from the proposed development, given its location on the first floor of an existing commercial building, and that it does not abut any residential properties.</p>	<p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<p>landscaping.</p> <ul style="list-style-type: none"> <li>- Windows and doors in the proposed centre are to be sited in locations which maximise security for children attending the centre.</li> </ul>	<p>The proposed windows of the indoor play areas allow for this opportunity whilst still being appropriately set back from the front boundary to maximise security. The locations of doors and windows should maximise security of children, as it would allow for surveillance of approaches to the building.</p>	<p>Yes</p>
<b>Visual Privacy – for adjoining residents</b>		
<ul style="list-style-type: none"> <li>- Direct overlooking of adjoining main internal living areas and private open spaces should be minimised through:-               <ol style="list-style-type: none"> <li>i. Appropriate site and building layout;</li> <li>ii. Suitable location of pathways, windows and doors;</li> <li>iii. Landscaping and screening.</li> </ol> </li> <li>- Windows and doors in the proposed centre are to be sited in locations which minimise loss of privacy to adjoining residences</li> </ul>	<p>There are no visual privacy or overlooking concerns anticipated from the proposed development, given its location on the first floor of an existing commercial building, and that it does not abut any residential properties.</p> <p>Windows and doors to the proposed centre are sited in locations which minimise privacy to adjoining properties.</p>	<p>Yes</p> <p>Yes</p>
<b>5.0 Car Parking, Traffic and Access</b>		
<b>Car Parking</b>		
<ul style="list-style-type: none"> <li>- All on-site parking areas are to be designed in accordance with Australian Standard AS 2890.1 and AS 2890.2.</li> <li>- 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</li> </ul>	<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> <p>The centre-based childcare facility proposes to employ 24 educators and 135 Children. In accordance with Section 5.1 of Part 3.2 of RDCP2014, 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>A total of 28 spaces has been provided which is one less than</p>	<p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- Parking requirement to be rounded up to nearest whole number</li> <li>- 1 accessible space located close to the continuous path of travel and where a minimum height clearance of 2.5 metres can be achieved</li> </ul>	<p>the 29 spaces that are required.</p> <p>The variation of 1 car parking space is considered acceptable to Council's Consultant Traffic Engineer as well as Senior Development Engineer.</p> <p>The proposal provides 1 accessible car parking space and therefore achieves compliance with the aforementioned control.</p> <p>Refer above</p> <p>An accessible car parking space has been provided directly adjacent to the disabled car parking space.</p>	<p>-</p> <p>Yes</p>
<p><b>Work based child care centres, and centres in mixed use facilities</b></p>	<p>The proposed development is located within a mixed-use facility.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Parking spaces and pick up/drop off a max 30m to centre main entrance, preferably at floor level. Direct access provided for those not at floor level,</li> </ul>	<p>The spaces allocated for childcare pick-up and drop-off are all located within 30m of the main building entrance.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- the drop off/pickup zones are to be exclusively available for use in conjunction with the child care centre throughout operating hours, spaces are to be clearly marked</li> </ul>	<p>The drop spaces are clearly identified on plan and if recommended for approval could be conditioned to include required signage.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Driveway access, manoeuvring areas and parking areas are not to be shared with access, parking, manoeuvring areas used by other uses or truck movements.</li> </ul>	<p>The proposal relies upon access through the adjoining allotment (Council's carpark). This is a public carpark which can be utilised by other uses and trucks.</p> <p>The parking area is located amongst the other parking associated with the commercial development within the same building.</p>	<p>No</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<b>On Site Manoeuvrability</b>		
<ul style="list-style-type: none"> <li>- The site must be able to accommodate a “U” shaped one-way driveway system with sufficient driveway turning area in addition to the parking spaces to enable vehicles to enter and leave in a forward direction</li> </ul>	<p>The proposal does rely on two separate driveways to achieve a U shape. However, the secondary access is through Council’s carpark and owners consent has not been sought nor provided.</p>	<p>No</p>
<ul style="list-style-type: none"> <li>- Variation on the requirement for a “U” shaped driveway meets following criteria               <ul style="list-style-type: none"> <li>- i. To provide a separate entrance and exit driveway access at a minimum safe distance from each other</li> <li>- ii. To enable vehicles to leave the site in a forward gear;</li> <li>- iii. To enable vehicles using the entrances and exits to not endanger persons and vehicles using those accesses;</li> <li>- iv. To ensure the front setback is not given over to traffic circulation and parking</li> </ul> </li> <li>- requirements which may unduly impact on streetscape and impact on the opportunity for landscaping to meet the requirements of Section 6 of this Part.</li> </ul>	<p>Proposal is compliant but relies on vehicles exiting via Council car park, despite no owner’s consent being received.</p>	<p>No</p>
<ul style="list-style-type: none"> <li>- Separation - Not &lt; 9m on turning circle of 15m and a</li> <li>- Separation - Minimum width of 12m between driveway laybacks.</li> <li>- Vehicle’s not to encroach on pedestrian access ways. Barriers etc. do not block accessible paths of travel</li> <li>- Separate pavement treatment to distinguish driveway from parking spaces</li> </ul>	<p>Turning circle is not proposed</p> <p>One street driveway laybacks utilised, with another providing access to the Council car park. However, no owner’s consent has been received for the use of the Council car park.</p> <p>The pedestrian pathways have been separated from the vehicle access ways where practicable.</p> <p>Car parking spaces have not been proposed within the front setback.</p>	<p>N/A</p> <p>No</p> <p>No</p> <p>N/A</p>
<b>Impact on Traffic Flow</b>		

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- Vehicles enter and leave the site in a forward direction. Drop off/pick up area designed separate to manoeuvring area</li> <li>- SEE addresses likely impacts on amenity of existing streets.</li> <li>- Not to be located on high volume roads, centres located on high volume roads incorporate measures to alleviate associated traffic problems</li> <li>- Road Safety Audit required for applications on collector roads where volume exceeds 5000(AADT)</li> </ul>	<p>Vehicles will enter site via the existing driveway; however, reliant on Council car park as described above.</p> <p>The SEE has not accounted for the visual impact of the 2.1m acoustic walls.</p> <p>The proposed development is not located on a high-volume road. However, the proposal has not demonstrated it will not result in an adverse impact upon queuing and waiting lengths along Cox's Road.</p> <p>Road Safety Audit has been submitted.</p>	<p>No</p> <p>No</p> <p>No</p> <p>Yes</p>
<b>Pedestrian Safety</b>		
<ul style="list-style-type: none"> <li>- Segregated from vehicle access with clearly defined paths</li> <li>- Drop off/pick up points provided no more than 30m from main entrance, well lit, allows safe movement,</li> <li>- Vehicle movements separated from pedestrian access by safety fencing, gates etc.</li> </ul>	<p>A separate pedestrian pathway has been provided to the entrance of the proposed development.</p> <p>The spaces allocated for childcare pick-up and drop-off are all located within 30m of the main building entrance</p> <p>Safety fencing has not been provided to separate vehicle movements and pedestrian access.</p>	<p>Yes</p> <p>Yes</p> <p>No</p>
<b>Accessibility</b>		
<ul style="list-style-type: none"> <li>- Access provided in accordance with AS1428.1 and Part D of BCA, Part 9.2 of DCP 2014.</li> <li>- Minor alterations must not reduce accessibility, improvements must be made where possible,</li> <li>-</li> </ul>	<p>An access report has been submitted which has been prepared by PSE Access Consulting, dated 28 March 2019.</p> <p>The proposed childcare centre to occupy the first floor of the existing commercial building utilises existing access</p>	<p>Yes</p> <p>Yes</p>

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- Other matters to be considered include:</li> <li>- Continuous path of travel from street/parking area into and within every room and outdoor area,</li>   <li>- Pathways 1200mm-1500mm and grades no steeper than 1:14</li>   <li>- One onsite parking space 3.6m wide with 2.5m height clearance</li> </ul>	<p>arrangement.</p> <p>A continuous path of travel has been provided from the front of the site and from within the car park at the rear of the site.</p> <p>The proposal seeks to utilise the existing pedestrian pathway on the ground floor of the building which includes a low greek with a minimum width of 1.95m.</p> <p>One accessible space has been provided within the at grade car park at the rear of the site which meets the required dimensions.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>Landscaping and Play Spaces</b>		
<b>General Landscaping Requirement</b>		
<ul style="list-style-type: none"> <li>• <b>Landscape plan provided</b></li> <li>- Significant trees/vegetation to be retained and protection program during construction.</li> </ul>	<p>The proposal was referred to Council's Consultant Landscape Architect/Arborist for comment. A number of issues were raised with regard to the following:</p> <ul style="list-style-type: none"> <li>- Tree Impacts</li> <li>- Plan Inconsistencies</li> <li>- Inappropriate Tree Species</li> <li>- Insufficient Tree Planting</li> <li>- Transition Areas</li> <li>- Insufficient Unencumbered Outdoor space.</li> <li>- Play Space Design</li> <li>- Insufficient Shade</li> <li>- Maintenance Access</li> <li>- Acoustic Fence</li> </ul> <p>An amended landscape plan and design responding to these issues received on 15 May 2020 and has now been</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>- Hazardous plants avoided (poisonous, choking etc.)</li> <li>- Show landscaping of outdoor play spaces in accordance Section 6.2.2</li> <li>- Considers effect of outdoor play on soil</li> <li>- Considers potential of tree roots to up-lift outdoor surfaces</li> <li>- Identify opportunities for deep soil planting and appropriate tree species</li> <li>- Shrubs and trees that offer range of textures, colours and scents, for children's learning experience</li> <li>- Irrigation utilises rainwater or recycled water</li> </ul>		

RYDE DCP 2014	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> <li>- Landscaping setback of 2m along front boundary</li> <li>- Landscape buffer provided along side and rear boundaries in residential zone, minimum width 1m</li> <li>- Landscape/setback buffers for centres in commercial and industrial zones depending on context,</li> </ul>	<p>considered acceptable by Council's Landscape Architect.</p> <p>The site is located within a centre. The proposed children incorporates landscape buffer within the provided outdoor play spaces which present to the front and rear boundaries.</p>	<p>Yes</p>
<b>Play Spaces</b>		
<b>Size and Functionality of Play Spaces</b>		
<ul style="list-style-type: none"> <li>- Regular shapes with convenient access</li> <li>- Avoid location of play spaces in front setback</li> <li>- New centres – 10m<sup>2</sup> of unencumbered outdoor play space /child care place <b>inclusive</b> of transition area</li> </ul>	<p>The proposed internal and external play areas are regularly shaped.</p> <p>The proposal includes Play space 1 and 2 within the front setback. However, given the child care is at first floor within a neighbourhood centre, the spaces do not detract from an established landscape setting as exists in a low density residential area.</p> <p>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>Yes</p> <p>Yes</p> <p>N/A SEPP Guidelines Prevail</p>
<ul style="list-style-type: none"> <li>- New centres – at 4.5m<sup>2</sup> of unencumbered indoor play space for each / child care place <b>exclusive</b> of transition areas.</li> </ul>	<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>N/A SEPP Guidelines Prevail</p>
<b>Outdoor Play Spaces</b>		
<ul style="list-style-type: none"> <li>- Shaped to maximise supervision and useability and stimulates early learning</li> </ul>	<p>The design of the play areas would enable supervision of all areas.</p>	<p>Yes</p>
<b>Designed to</b>		

RYDE DCP 2014	PROPOSED	COMPLIANCE
- 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
- Takes advantage of existing natural features and vegetation	Refer above.	Yes
<b>Designs aim for</b>		
- 30% natural planting area	<ul style="list-style-type: none"> <li>- 134.45m<sup>2</sup> of natural planting has been provided within the outdoor play spaces which equates to 14% of the total outdoor play space of 1019 m<sup>2</sup></li> <li>- The proposal does not include any form of natural turfed areas.</li> <li>- 443 m<sup>2</sup> of hard surfaces provided which equates to 43% of the total outdoor play space</li> </ul>	No
- 30% turfed area	Limited natural turf has been proposed.	No
- 40% hard surfaces (sand, paving, timber platforms)	443 m <sup>2</sup> – 43%	No
<b>Work based child care centres, and centres in mixed use facilities</b>		
- Where outdoor spaces are provided externally above ground level (refer section 3.4 of this Part):	The proposed childcare centre is to be located within the first floor of an existing commercial building in an area where there is minimal opportunity to provide for natural landscaping such as deep soil. It is not unreasonable that the proposal would be located at first floor in this location; however, the landscape scheme has been amended to incorporate an appropriate landscape design and increase in soft landscaping provided within planter areas.	Yes
- 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.	Proposal has been designed in accordance with Section 6.2.2 given the site attributes	Yes
- ii. measures implemented for protection from excessive wind and other adverse climatic conditions	Play space 3 is entirely roofed with Play space 1 and 2 being partially roofed.	Yes



<b>RYDE DCP 2014</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
- iii. Adequate fencing is to be provided for the safety of the children and to prevent objects from being thrown	Proposed landscape design incorporates appropriate fencing	Yes
- Outdoor storage space does not impede supervision of the play areas. 0.5m <sup>2</sup> of space per child who will be using the area.	Proposal includes 1019 m <sup>2</sup> Of unencumbered play space and provides the required areas of storage	Yes
<b>Indoor Play Spaces</b>		
- a. Indoor play spaces shall be designed to:	The indoor play spaces are regularly shaped and encourage passive surveillance from all rooms.	Yes
- 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;	The proposed internal viewing windows allow for supervision from internal common areas to the outdoor play areas. No subspaces are proposed.	Yes
- iv. Allow subspaces to be set up with discernible divisions to offer a variety of play areas.		
<b>Miscellaneous Controls</b>		
<b>Signage</b>		
- All advertising and signage must be designed to comply with Part 9.1 Advertising Signs.	Proposed signage complies with State Environmental Planning Policy No.64 - Advertising and Signage (SEPP 64). Refer to Attachment 3.	Yes
<b>Exterior Lighting</b>		
- Lighting is to be provided to assist access via the main entrance.	The submitted plans do not show proposed lighting, however this can be conditioned prior to the issue of the construction certificate.	Condition
- The street number of the building is to be visible from the street day and night, by lighting and/or reflective material	Can be conditioned to comply in the event of an approval.	Condition
- External lighting must not adversely impact adjoining properties.	Refer above	Condition
<b>Waste Storage and Management</b>		
- Waste management plan submitted	Waste management plan has been submitted with the proposed development application	Yes
- Adequate provision made for the storage and collection of waste and recycling in accordance with Part 7.2	A bin storage area has been provided within the carpark area at the rear of the site.	Yes

RYDE DCP 2014	PROPOSED	COMPLIANCE
of this DCP.	Council's Environmental Health Officer raised no objection to the storage and collection of waste and recycling.	
- In addition to the requirements of Part 7.2 of this Plan, applications for child care centre development are to address the following considerations.		
- special removal service required for the removal/disposal of nappies	Refer above	Refer above
- frequency of removal of waste to ensure regular removal and avoid undue build up of garbage	Refer above	Refer above
- opportunities for avoidance, reuse and recycling of waste	Refer above	Refer above
- 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.	Refer above.
- 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	Council's Environmental Health Officer raised no objection to proposed kitchen design.	Yes
- 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
<b>Emergency Evacuation</b>		
- 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 proposed development	Yes

<b>RYDE DCP 2014</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
	application.	
<p>The Fire Safety and Evacuation Plan is to address:</p> <ul style="list-style-type: none"> <li>- i. The mobility of children and how this is to be accommodated during an evacuation;</li> <li>- 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</li> <li>- 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.</li> </ul>	Refer above	Yes

<b>DEMOLITION</b>	<b>PROPOSAL</b>	<b>COMPLIANCE</b>
<ul style="list-style-type: none"> <li>• Plan showing all structures to be removed.</li> </ul>	Minimal demolition proposed and a separate demolition plan is therefore not necessary.	Yes
<ul style="list-style-type: none"> <li>• Demolition Work Plan</li> </ul>	No demolition proposed	N/A
<ul style="list-style-type: none"> <li>• Waste Management Plan</li> </ul>	Plan submitted	Yes
<b>3.2 Signage in business Zone</b>		
<p>Sign options for Office and Retail Shop – Fronts within Shopping Precincts or Areas</p> <ul style="list-style-type: none"> <li>• An illuminated Under Awning Sign</li> <li>• Fascia Sign</li> <li>• Top Hamper Sign</li> <li>• Window Sign</li> <li>• Drop Awning Sign</li> <li>• Under Awning Sign</li> <li>• Under Awning Sign</li> <li>• Real Estate Sign</li> <li>• Temporary Sign</li> <li>• Flush Wall Sign</li> <li>• Internally Illuminated Sign.</li> </ul>	Refer to SEPP 64 assessment contained within Attachment 3.	Yes
<b>3.2.2 Extent of Signage Permitted</b>		
<p>For Two or More Storey Buildings</p> <p>The total area of signs to be erected on a building (this includes all elevations) should not exceed 1.5m<sup>2</sup> per 1 metre of frontage of the property</p>	<p>The total frontage width of the subject site is 76.2m.</p> <p>The front elevation sign has a</p>	Yes

to the street	<p>total area of 4.58m<sup>2</sup>.</p> <p>The western elevation sign has a total area of 1.782m<sup>2</sup>.</p> <p>The total area of signs to be erected on the building is 6.362m<sup>2</sup>.</p> <p>The total area does not exceed 1.5m<sup>2</sup> per 1 metre of frontage of the property to the street.</p>	
<p>Front Elevation – All signage above the ground floor or awning level of a building must relate to the activity or use of the building at the first-floor level.</p> <p>The maximum area of signs above the ground floor or awning level on the front elevation should not exceed 15% of the area of the elevation situated at that level.</p>	<p>The front elevation signage relates to the use of the proposed childcare centre to be located within the first floor of the existing commercial building and does not exceed 15% of the area of the elevation at that level.</p>	Yes
<p>Side and Rear Elevations – The maximum area of signs on side or rear walls should not exceed 15% of the area of each elevation visible from a public place. Where there is a break in any elevation the maximum coverage should apply to each part of that elevation.</p>	<p>The proposed side elevation sign does not exceed 15% of the total western elevation wall.</p>	Yes
<p>Flush Wall Sign – A sign attached or painted on the wall of a building and projecting horizontally no more than 300mm from the wall.</p>	<p>The proposed signage will project 300mm off the walls.</p>	Yes

**Attachment 3 – Compliance Table SEPP State Environmental Planning Policy  
No.64 – Advertising and Signage (SEPP 64)**

<b>Matters for Consideration</b>	<b>Comment</b>	<b>Complies</b>
<b>1 Character of the area</b>		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The signage is compatible with the existing and desired future character of the locality and is consistent with the type of signage found along Cox's Road	Yes
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The type of signage proposed is consistent with the signage proposed on adjoining development given its location amongst commercial and business uses.	Yes
<b>2 Special Area</b>		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The signage is not located in an environmentally sensitive area, heritage area, natural or other conservation area, open space area, waterway or rural landscape.	Yes
<b>3 Views and Vistas</b>		
Does the proposal obscure or compromise important views?	The signage will not obscure or compromise important views.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage is of an appropriate scale and location which will not dominate the skyline.	Yes
Does the proposal respect the viewing rights of other advertisers?	The proposed signage will not obscure any future signage and will respect the viewing rights of other advertisers.	Yes

<b>4 Streetscape, setting or landscape</b>		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signage is appropriate given the size of the mixed use building and surrounding buildings.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage is of a satisfactory quality design and finish that will not negatively impact the streetscape amenity of the locality.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage is of a size and scale that is compatible with the subject building and does not result in signage clutter.	Yes
Does the proposal screen unsightliness?	The proposed signage provides visual interest to the building, and maintains the them in this location.	Yes
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signage does not protrude above the building.	Yes
Does the proposal require ongoing vegetation management?	The proposal is not surrounded by vegetation and as such ongoing vegetation management is not required.	N/A
<b>5 Site and building</b>		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The scale, proportion and form of the signage is appropriate given the size of the building.	Yes
Does the proposal respect important features of the site or building, or both?	As above	Yes
Does the proposal show	The proposed signage is responsive to the	Yes

innovation and imagination in its relationship to the site or building, or both?	building, with its design and siting influenced by the form of signage located on adjoining commercial and business buildings.	
<b>6 Associated devices and logos with advertisements and advertising structures</b>		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed signage has not been designed to include any safety or lighting devices.	N/A
<b>7 Illumination</b>		
Would illumination result in unacceptable glare?	No illuminated signage proposed.	N/A
Would illumination affect safety for pedestrians, vehicles or aircraft?	Refer above.	N/A
Would illumination detract from the amenity of any residence or other form of accommodation?	Refer above.	N/A
Can the intensity of the illumination be adjusted, if necessary?	Refer above.	N/A
Is the illumination subject to a curfew?	Refer above.	N/A
<b>8 Safety</b>		
Would the proposal reduce the safety for any public road?	The signage is not considered to have any adverse impact upon the safety for any public road.	Yes
Would the proposal reduce the safety for pedestrians or bicyclists?	As above.	Yes

Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	As above.	Yes
---	-----------	-----



**CL 4.6 VARIATION OF DEVELOPMENT STANDARDS JUSTIFICATION**

**142 & 144-148 COXS ROAD, NORTH RYDE**

**DA FOR ALTERATIONS AND ADDITIONS TO AN EXISTING  
COMMERCIAL BUILDING FOR USE AS A CHILD CARE CENTRE**



**Report Prepared by: Giovanni Cirillo**

**Issue Date: 19 December 2019**

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.

## Clause 4.6 Variation Request Summary

### Site

Lot 3 in DP 220894 and Lot 41 in DP 560408 – 142 & 144-148 Coxs Road, North Ryde

Site area: 2,729.5m<sup>2</sup>

### Variations sought

Clause 4.4 Floor Space Ratio

### Extent of FSR variation

Maximum FSR permissible under Clause 4.4: 0.8:1 (2,183.6m<sup>2</sup>)

FSR of building proposed: 0.82:1 (2,242.77m<sup>2</sup>)

Extent of non-compliance: 0.02:1 (59.17m<sup>2</sup>)

### Summary of non-compliance

The proposed child care centre is on the second storey of an existing commercial building. The centre includes three outdoor play areas with areas 1 and 2 being on the northern portion of the site towards the Coxs Road frontage and area 3 being on the south of the site. Play areas 1 and 2 are largely open to the sky but with surrounding fencing being a mix of Perspex or toughened glass panels and fixed coloured louvres which allow for natural ventilation. It is the position of the City of Ryde that these areas be included in the gross floor area (GFA) calculation.

These northern outdoor play areas have a combined area of 269m<sup>2</sup>. Including them within the site's GFA yields a total of 2,242.77m<sup>2</sup> equivalent to an FSR of 0.82:1. These areas do not increase the building's perceived bulk and scale from the public domain and have no associated negative environmental impacts. This Variation Request seeks to vary the FSR standard on this basis.

## Introduction

This Clause 4.6 Variation of Development Standards Justification has been prepared by Planning Lab at the request of the City of Ryde to accompany an application for the development of a childcare centre on the second-storey of the existing commercial building at 142 & 144-148 Coxs Road, North Ryde ('the site'). The Architectural drawings have been prepared by Five Canons Architects and are included within this application. A description of the proposal is included within the attached Statement of Environmental Effects by Planning Lab.

The proposal includes three outdoor play areas with areas 1 and 2 being on the northern portion of the site towards the Coxs Road frontage and area 3 being on the south of the site (figure 3). Play areas 1 and 2 are largely open to the sky but with surrounding fencing being a mix of Perspex or toughened glass panels and fixed coloured louvres which allow for natural ventilation. Play areas one and two have no roof and the outer walls exceed a height of 1.4m. They have a total combined area of 269m<sup>2</sup>. It is the position of Planning Lab that this area is not gross floor area (GFA) under the applicable definition in the Ryde LEP 2014 as discussed within the GFA Definition section of this Variation Request. Notwithstanding, Planning Lab acknowledges that the City of Ryde holds a contrary position and considers these outdoor play areas to constitute GFA. This Variation Request is submitted in acknowledgement of Council's position in order to justify the nominal variance to FSR that occurs under Council's interpretation of the GFA definition whereby the northern outdoor play areas are included and the site reaches an FSR of 0.82:1 exceeding the FSR maximum by 0.02:1 or 59.17m<sup>2</sup>.

## Background

The subject site for the Development Application is 142 & 144-148 Coxs Road, North Ryde which is described by NSW Land and Property Information as Lot 3 in DP 220894 and Lot 41 in DP 560408 comprising a site area of 2,729.5m<sup>2</sup>. The site largely resembles an irregular rectangular with a sole frontage to Coxs Road (figures 1, 4-5). The site is located in a B1 - Neighbourhood Centre zone and has a maximum FSR of 0.8:1.

The existing structure on the site is a semidetached two storey commercial building. The Ground floor contains 11 single storey retail/office tenancies with active frontages to Coxs Road. These tenancies are currently occupied by a range of commercial and retail usages including a pathology lab, restaurants and a dance studio. The upper level of the building has previously been used as a commercial office but is currently vacant. Parking is facilitated on site at the rear of the building which is entered through a neighbouring Council car park and exited through a driveway which divides the ground floor tenancies.

The proposal is for the development of a child care centre with capacity for up to 135 children on the second floor of the existing building. The proposal involves alterations and additions to the existing structure to facilitate a child care centre which requires outdoor play areas. Outdoor play areas 1 and 2 are located along the northern section of the building along Coxs Road. It is proposed to remove sections of the roof in these areas (figure 2) and to enclose them with a mix of toughened glass panels and fixed louvres (figures 5-7).



Figure 1 – The site

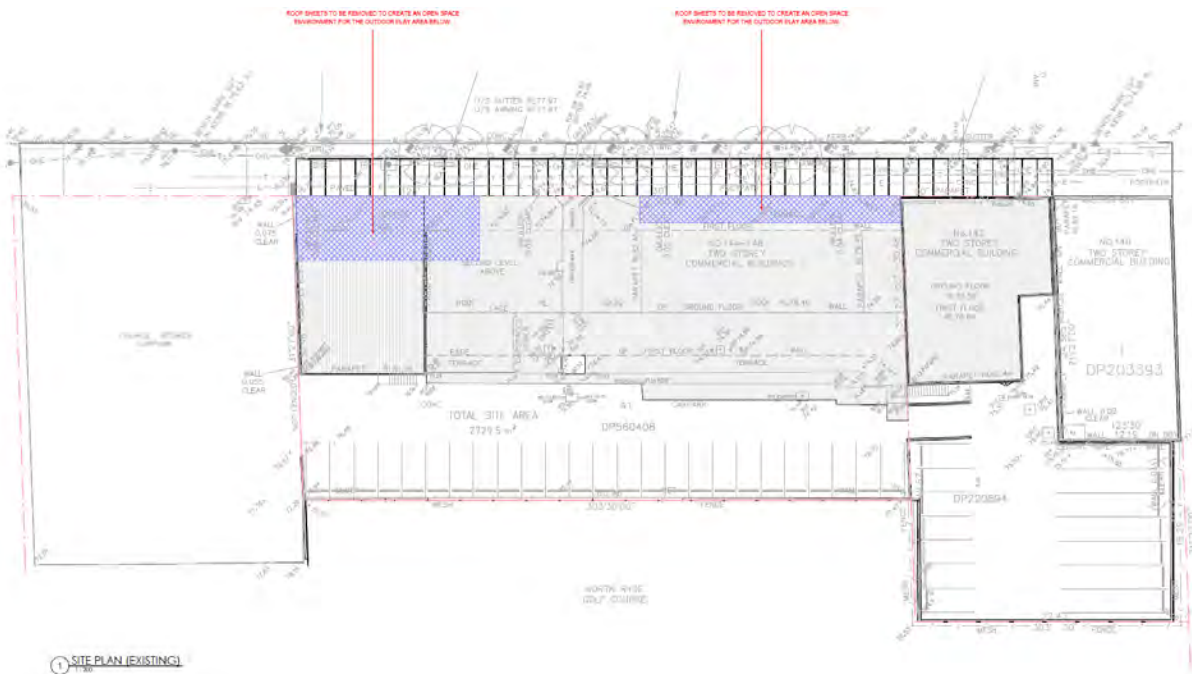


Figure 2 – Roof sheets to be removed to facilitate outdoor play areas 1 and 2.



Figure 3 - Locations of the play areas



Figure 4 - The existing northern elevation

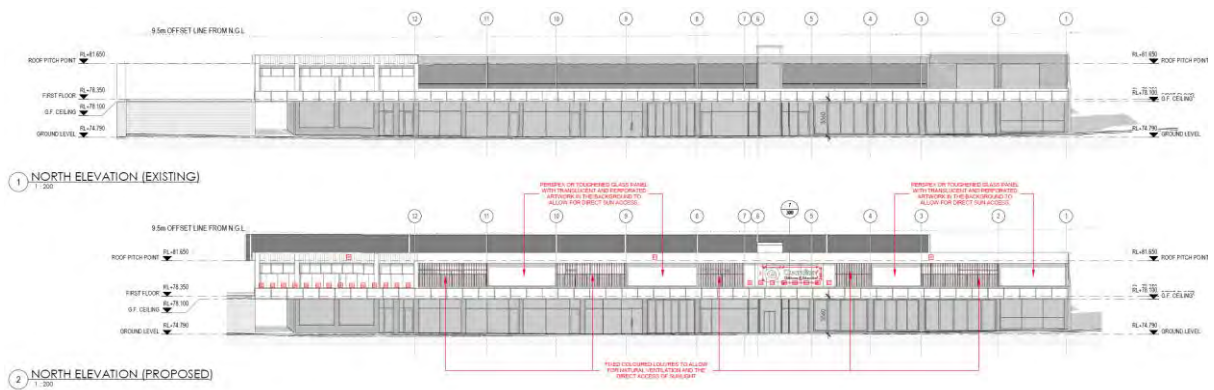


Figure 5 – Existing and proposed northern elevation

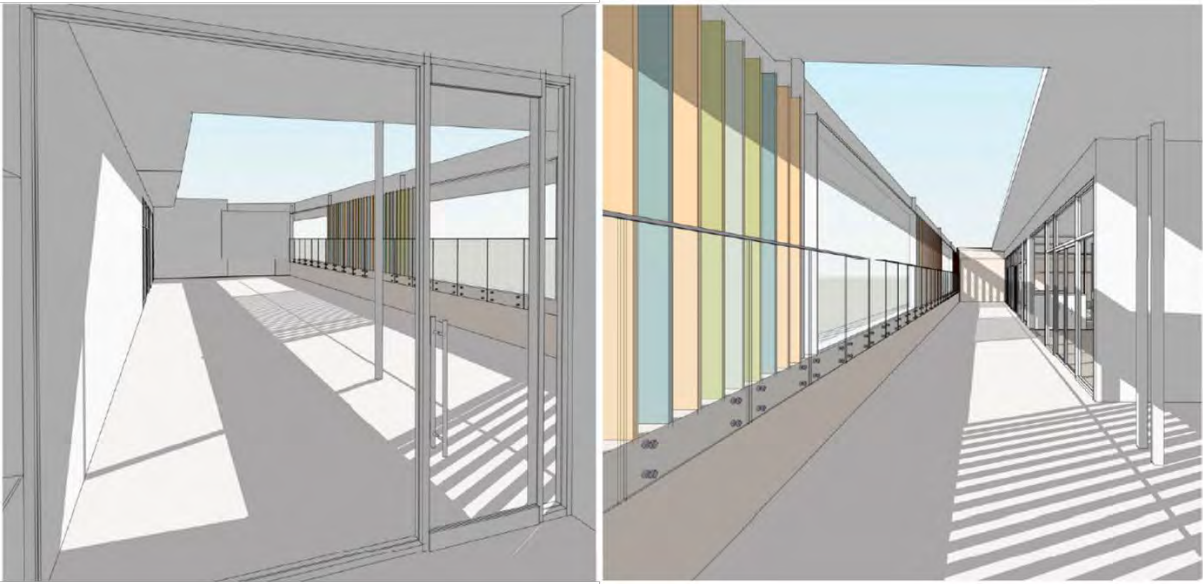


Figure 6 – Section D showing the height of the wall

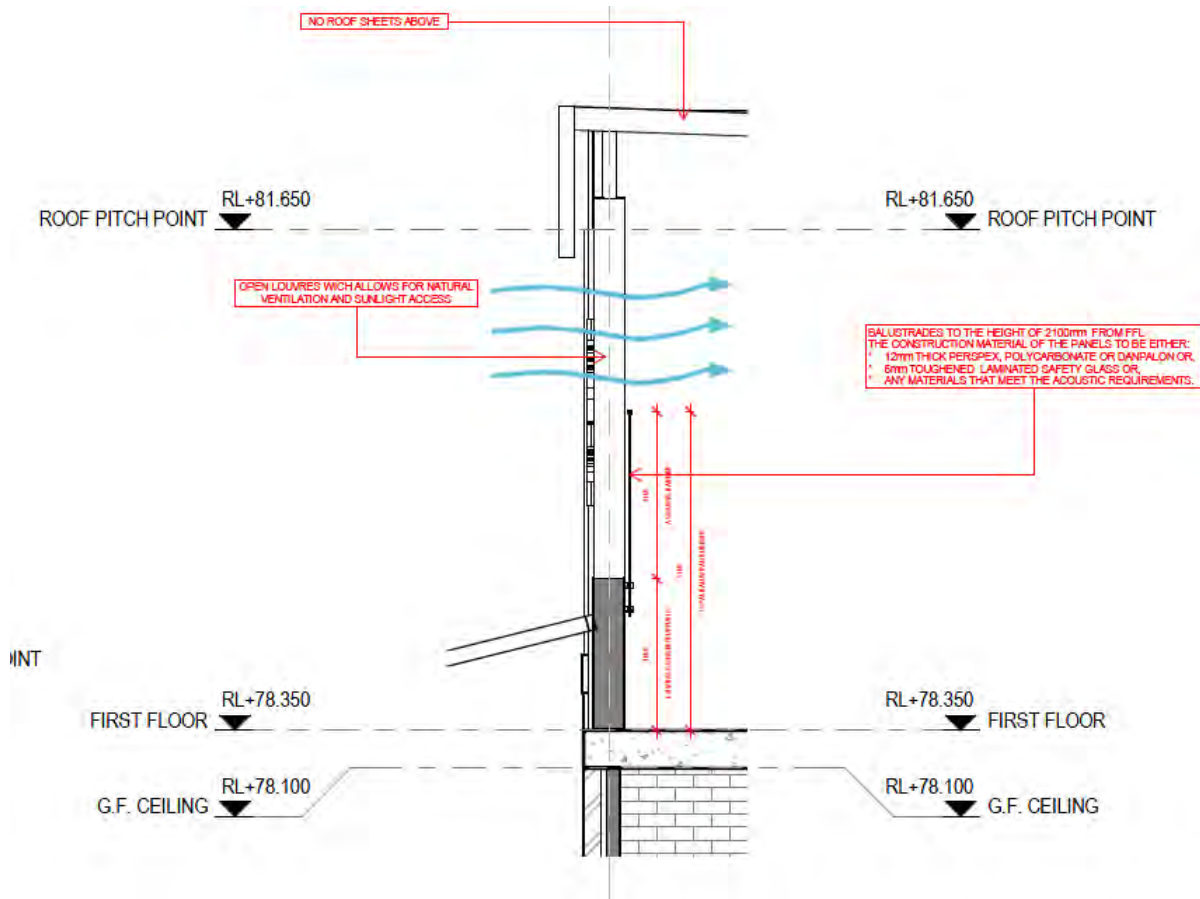


Figure 7 - Outdoor play areas 1 and 2 fencing details

## GFA Definition

### Planning Lab's position

The Ryde LEP 2014 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.

It is the opinion of Planning Lab that the 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 a floor and a roof above it. As the play areas have no roof, it does not constitute a storey of the building and is exempt from being counted as GFA. Counting such an area as floor space is akin to counting a garden as GFA simply because it has masonry boundary fences.

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*

*also: STORY*



*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*

### **Council’s Position**

Planning Lab acknowledges that the City of Ryde holds a counter opinion that any terrace or balcony with walls greater than 1.4m in height should be considered GFA under GFA exclusions definition (i). This Clause 4.6 Variation Request has been prepared in acknowledgement of Council’s interpretation of the GFA definition and will accept that definition for the purposes of this Variation Request.

## **Argument**

The proposed variation to Clause 4.4 of the Ryde LEP 2014 arises from the enclosure height around the second storey outdoor play areas 1 and 2 which have a combined area of 269m<sup>2</sup>. Where the outdoor play areas are included as GFA the proposal reaches 0.82:1 (exceeding the maximum GFA by 59.17m<sup>2</sup>) but where they are excluded, it reaches a compliant 0.723:1.

The outdoor play areas 1 and 2 have walls of 1m in height with an attached acoustic barrier which is an additional 1.1m in height making the enclosure wall height 2.1m. This creates a safe area for children and provides appropriate acoustic protection for the children and staff. Were it enclosed by walls of 1.4m or less in height, this area would be exempt from inclusion in the building’s GFA. But for the need to provide taller walls for child protection and acoustic reasons, this area could be fitted with smaller walls or with a slatted balustrade and be excluded from the GFA calculation. In effect, this is a nominal variance to the FSR standard and is minor being a variance of only 59.17m<sup>2</sup> and 0.02:1.

The existing building has a roof over a second storey terrace along a large portion of the Coxs Road frontage where the play areas are proposed to be located. The proposal will appear from the public domain to enclose this space. This is consistent with the existing pattern of development along the Coxs Road neighbourhood centre where 2-storey commercial buildings are typically built to the front boundary at both levels. The proposal will not be visually inconsistent with the bulk and scale of surrounding development.

The environmental impact of the additional wall height is improved amenity for the building’s occupants with no negative effects on the surrounding development or public domain. The building remains sympathetic to its context and is compliant with the built form controls under the Ryde DCP 2014. It is for these reasons that we request that Council approve this minor variation to Clause 4.4 in allowing the site to reach a GFA of 0.82:1.

## Justification

In response to the proposed FSR non-compliances, this Clause 4.6 application is provided to seek exemption from the development standards. It is submitted that the variation is well-founded and is worthy of Council's approval. The following is an assessment of the proposed variation against the requirements of CI 4.4 Floor Space Ratio and Clause 4.6 Exceptions to Development Standards.

The proposal seeks to provide sufficient outdoor play space so as to be able to operate as a viable childcare centre offering a high standard of amenity for staff and children. To that end, two open-aired outdoor play spaces are proposed along the Coxs Road frontage. These play areas will be enclosed with a mix of a 1m high wall, toughened glass acoustic screens and vertical louvres. This mixture of materials will ensure child safety, minimise noise impacts from Coxs Road and allow for suitable cross ventilation of the child care centre. The proposed modifications to the façade are in keeping with the character of 2-storey commercial development along Coxs Road and will not result on any negative environmental impacts.

It is the proposed enclosure of play areas 1 and 2 being greater than 1.4m in height which triggers the consideration of the outdoor play areas as GFA, where otherwise, they would not. This results in a proposal which nominally exceeds the maximum FSR by 0.02:1. The exceedance of the FSR as a result of the proposed enclosure results in a superior planning outcome and does not significant environmental impacts, because:

- the additional GFA is a minor amount and does not increase the building's bulk or scale beyond what is already characteristic of the area;
- the additional FSR is minor being only 59.17m<sup>2</sup> and 0.02:1 above the nominated maximum of 0.8:1;
- the wall provides protection for children against falling;
- the wall provides an acoustic barrier to prevent offensive noise from entering or exiting the site;
- the wall facilitates the use of the outdoor play areas which permits additional childcare spaces;
- the increased wall height does not substantively change the building's bulk and scale where it may be seen from the public domain and, to the extent that it does alter the building's bulk and scale, it remains consistent with the surrounding commercial developments;
- the non-compliance does not result in any overshadowing;
- the non-compliance does not result in any adverse privacy impacts.

## Relevant Clause Extracts

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

### 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.

## Justification for Variation to Clause 4.4

Clause 4.4 dictates the FSR limit for the subject site providing a limit of 0.8:1. The proposal has a site area of 2,729.5m<sup>2</sup> and is proposed to have a GFA of 2,242.77m<sup>2</sup> which equals and FSR of 0.82:1. The proposed exceedance results from the design including an enclosing wall around outside play areas 1 and 2 which the City of Ryde has advised is to be considered as GFA and for which this Variation Justification has been required.

This application will address each aspect of Clause 4.4 for completeness.

***(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.***

Objective 1(a). The proposal has a bulk and that is not incongruous with the surrounding neighbourhood character. The surrounding commercial buildings are typically 2 storey buildings being built to the front boundary at both levels. The proposal provides a similar built form which is responsive to the existing surrounding built form. It represents only a minor variance to the standard of 59.17m<sup>2</sup> and will not be evidently of a greater scale than permitted under the existing FSR limit.

Objective 1(b). The proposed use is within an existing 2-storey commercial building in a neighbourhood centre and is appropriate to its context.

Objective 1(c). The site is not located as being within a Centre on the Centres Map.

***(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 building exceeds the FSR of 0.8:1 shown on the Floor Space Ratio map which is the impetus for this application.

## Justification for Variation under Clause 4.6

This application will address each aspect of Clause 4.6 for completeness.

***1) The objectives of this clause are:***

***(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.***

Objective 1(a) provides the impetus for the clause in confirming its intention for flexibility in the application of development standards. Here the flexibility relates to the proposal which relates to a nominal breach of the site's maximum FSR caused by the wall height enclosing play areas 1 and 2.

Objective 1(b) introduces the desired outcome from objective 1(a) in providing a better outcome from applying the flexible approach. This proposal provides an opportunity for a better outcome by varying the relevant FSR standard as follows:

- The proposal is consistent with the objectives of Clause 4.4.
- The FSR variation is nominal as it results from taller than usual wall heights resulting from necessity due to the proposed use as a child care centre.
- The proposed bulk and scale are consistent with those of the surrounding buildings and streetscape.
- The proposed building will not appear incongruous with neighbouring buildings when viewed from the public domain.
- The proposal provides additional GFA for the use of a child care centre which provides a necessary service to parents within North Ryde.

***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.***

The development standards proposed to be contravened is Clauses 4.4 which not 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.***

Subclauses 3 (a) and (b) are discussed separately.

(a) Compliance with the development standard is considered unnecessary and unreasonable.

Compliance with Clause 4.4 is considered unnecessary and unreasonable in the circumstances of the case for the following reasons:

- The additional GFA is minor being just 59.17m<sup>2</sup> on a block with an area of 2,729.5m<sup>2</sup>.
- The additional GFA is a nominal amount and does not substantively increase the building's bulk or scale beyond an FSR of 0.8:1 in such a way as it would be identifiable from the public domain.
- The additional outer wall height provides protection for children against falling.
- The additional outer wall height provides an acoustic barrier to prevent offensive noise from entering and exiting the site.
- The additional outer wall height wall facilitates the use of the space as an outdoor play area which allows additional childcare spaces.
- The change to the building's bulk and scale as seen from Coxs Road will remain consistent with the existing development neighbouring commercial developments.
- the additional wall height has no shadow impact upon private development.
- The additional FSR does not result in any adverse privacy impacts.

The outcome of the proposal is a building that fits within its surroundings and achieves the objectives of the B1 zone while staying generally within the built form outcome and scale anticipated for the area.

In this context and in consideration of the nature of the variation sought, it cannot be argued that the proposal is seeking to effect general planning change. Essentially, the development remains compliant with the principles and general parameters of the built form controls and expectations within the planning framework. If approved, the built form outcome of the proposal will not be out of keeping with, nor detrimental to the amenity of its surroundings.

In view of all the above, compliance with Clause 4.4 is unreasonable and unnecessary in the circumstances.

(b) There are sufficient environmental planning grounds to justify contravening the development standard

The proposed use is as a child care centre. In the event that the proposal was to comply with a 0.8:1 FSR, the amount of child care spaces offered by the centre would need to be reduced to maintain compliance with the requirements to provide sufficient open space per child. This is not in the public interest.

The proposed building's FSR being 0.82:1 is a function of a larger than balcony walls. A compliant wall height would be unsafe for children and would reduce the acoustic dampening properties of the wall.

With regard to environmental amenity matters of consideration which are; overshadowing, privacy/overlooking, view loss and visual domination. These matters provide an indication of a proposal's suitability and reflect the matters of consideration under Section 4.15 of the Act.

As indicated previously, the proposed variation in building bulk will not adversely impact on any of those criteria. As reflected in the shadow diagrams submitted with the DA, there is no significant adverse overshadowing effect to neighbouring developments and there is no overshadowing to the

public domain. Similarly, the proposal does not raise any privacy concerns for surrounding development.

Visual domination is usually associated with the perceptions from the public domain and from multi-storey buildings. In this case, the building is an existing two storey commercial building and that form is being generally maintained. The proposed building cannot be said to visually dominate the streetscape. The proposal is consistent with the existing aesthetic character of the area.

Therefore, it would appear that the proposal does result in any significant negative environmental impact and that there are sufficient positive impacts justified on environmental planning grounds to justify the proposed contraventions.

**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.**

These matters were considered and are positively demonstrated by the proposal. The Director General has formally delegated his function to Council.

4(a)(i)

The matters required to be demonstrated have been addressed under discussion of Clause 4.4.

4(a)(ii) consistency with the objectives for development within land use zone.

The land use table in the LEP specifies the zone objectives and permissible uses. The objectives of the B1 Neighbourhood Centre Zone are:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To encourage employment opportunities in accessible locations.*

The proposal recognises these objectives for the B1 Neighbourhood Centre Zone by:

- Providing child care is a necessary community service.
- The proposed child care centre will require 24 staff to be working when operating at full capacity.

**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.**

The Secretary of Department of Planning and Environment can be assumed to have concurred to the variation. This is because of Department of Planning Circular PS 08–003 ‘Variations to development standards’, dated 9 May 2008. This circular is a notice under 64(1) of the *Environmental Planning and Assessment Regulation 2000*. Under Clause 64(2), a consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given.

In any event, the contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

**(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.

The proposal is not for the contravention of a subdivision control, nor is it located within one of the specified 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).**

The consent authority will keep a record of the determination.

- 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.**

Not applicable.