



STATEMENT OF ENVIRONMENTAL EFFECTS

Section 4.56 Modification Application seeking alteration and additions to an approved centre-based child care centre

31 Telopea Street,
PUNCHBOWL

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1. Introduction

We act on behalf of the Applicant to modify the approved child care centre at No. 31 Telopea Street, Punchbowl.

On 11 August 2021, a Development Application (DA-631/2021) was lodged with Canterbury Bankstown Council seeking consent for the '*Demolition of existing structures and the construction of a two storey centre-based childcare facility for 74 children with basement parking*'. The application was granted consent on the 11 March 2022 by the Land and Environmental Court.

Pursuant to Section 4.56(1), this application seeks to modify a number of elements as approved under DA-631/2021. The extent of alterations predominately relate to modifications to the internal layout arrangements of the centre following advice from future centre operators seeking to ensure the best design for operational and functional purposes. The proposal also includes modifications to the basement parking level to achieve sewer pipe and manhole requirements and to achieve accessibility requirements with regard to headroom clearance. External alterations are limited to the inclusion of a new fire hydrant booster, changes to acoustic screen heights and some minor changes with regard to window treatment.

At the time of the lodgement of the original application under DA-631/2021, the application was assessed against the provisions of SEPP (Education Establishments and Child Care Facilities) 2017, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015. These instruments have since been repealed, however, the majority of provisions have been transferred into the current legislation and planning documents, being SEPP (Transport and Infrastructure) 2021, NSW Child Care Planning Guidelines, Canterbury Bankstown Local Environmental Plan 2023 and Canterbury Bankstown Development Control Plan 2023. The proposal achieves full compliance with the applicable provisions contained within the above mentioned legislation, both repealed and in force.

The purpose of this Statement is to address the planning issues associated with the development proposal and specifically to assess the likely impact of the development on the environment in accordance with the requirements of S.4.15 of the Environmental Planning & Assessment (EP&A) Act, 1979.

This Statement is divided into five sections. The remaining sections include a locality and site analysis; a description of the proposal; an environmental planning assessment; and a conclusion.



2. Site Description

2.1 THE SITE

The site known as No.31 Telopea Street, Punchbowl with the legal description Lot 9, Section A in DP5720. The site is rectangular in shape, with a southern frontage to Telopea Street and rear boundary of 18.275m, and eastern and western side boundaries of 48.77m. The site has a total area of 891.2m². The site is generally flat with some slight falls towards the rear boundary.

The location of the site is illustrated in **Figure 1** below with the site outlined in red.



Figure 1 Aerial photo of the site and surrounds (source: NearMaps)

The site contains a single storey timber clad dwelling with a metal roof and a detached single garage, with adjoining carport (Figure 2). The front and rear yards are contains large grassed areas, and a small shed is existing within the north eastern corner of the site. There is no significant vegetation existing on the site.

All relevant utility services including water, sewer, electricity, gas and telephone are available for connection to the subject site.

The site is located in Punchbowl within a R2 Low Density Residential Zone. The surrounding area is characterised by low density residential development of varying architectural styles and generally comprises detached single and two storey buildings of differing ages.

A photograph of the site are provided in **Figure 2** below.



Figure 2 Subject site viewed from Telopea Street.

3. Description of the proposal

3.1 BACKGROUND

DA—631/2021 – was lodged with Canterbury Bankstown Council on 11 August 2021 and sought consent for ‘Demolition of existing structures and the construction of a two storey centre-based childcare facility for 74 children with basement parking’. The development application was granted consent on 11 March 2022 by the Land and Environmental Court.

The proposal represents the first modification to DA-631/2021.

3.2 PROPOSED MODIFICATION

The subject application seeks consent for the modification of the approved development for minor alterations and additions to the approved centre based child-care centre. The modification seeks to make relatively minor changes to the approved layout of the development at the request of the future operator of the centre. The proposed changes seek to enhance the use and operation of the centre, and overall ensure the most efficient, safe and accessible design for the use of children and staff.

The proposal will maintain the approved building envelope with the bulk of changes relating to reconfiguration of the internal layout at the request of the future centre operator.

The modifications proposed are clearly shown on the Architectural Plans prepared by *Place Studio* and submitted with the application, and are described below:

Basement

- Extension of the basement to the rear boundary;
- Sewer pipe re-diversion;
- Reconfiguration of parking layout;
- Cold water pump room added;
- New fires stair added within western side boundary;
- Electrical cupboard added adjacent to bin room; and
- Modification of the size of the fire pump room.

Ground Floor

- New fire hydrant booster to front of building;
- Basement fire egress stair to western side boundary;
- Layout changes to allow for children’s toilets to sit adjacent to playroom;
- Layout changes to allow for separate staff room space, including relocation of laundry;
- Inclusion of staff lockers;
- Pavement to egress pathways along the side boundaries;
- Installation of railings on both sides of proposed stairway;
- Installation of new see-through windows for supervision;
- New electrical riser and communications rack near staff room;
- Gates added to landscaped setbacks to allow for maintenance;
- Additional landscape features within the outdoor play area; and
- OSD tank relocated to rear boundary.

First Floor

- Layout changes to split 3-5 years room into two smaller rooms for 20 children each;
- Nappy change area rearranged;
- Craft sinks provided to each new 3-5 year room;

- Toilets for 3-5 years relocated to the middle of the two play rooms;
- Relocation of baby change and bottle prep in 2-3 years room;
- Additional sink for adult use;
- Updated front façade window sill heights;
- Updated vertical sliding windows;
- Glass brick skylights replaced with glass visioneering floor (fire rated material); and
- Acoustic balustrades increased from 1500mm to 1800mm in accordance with acoustic advice.

Notably, the proposal will not alter the capacity of the centre for 74 children, the number of staff, the hours of operation or the number of parking spaces provided.

The centre will continue to provide high quality indoor and outdoor play spaces. The modifications include minor changes to the indoor rooms and outdoor play areas, however, will continue to comply with the minimum area requirements under Regulation 107 Space Requirements – indoor space and Regulation 108 Space Requirements – outdoor space under the Education and Care Services National Regulations (2011).

The amended indoor and outdoor play area calculations are provided below.

Calculation (Indoor Play Areas) (3.25m² per child – 240.5m² required for 74 children)

<i>Play Area</i>	<i>Age Group</i>	<i>Number of Children</i>	<i>Internal Area Required</i>	<i>Internal Area Proposed</i>
Ground Floor	0-2 Years	10	32.5m ²	32.63m ²
First Floor	2-3 Years	24	78m ²	78.27m ²
First Floor	3-5 Years	20	65m ²	65.07m ²
First Floor	3-5 Years	20	65m ²	65.23m ²

Total Indoor Area: 241.2m² proposed where a minimum 240.5m² is required.

With regard to the outdoor play space provision, Regulation 108 – Space Requirements Outdoor space, the proposal will provide 520.4m² of outdoor play area. The proposed modifications will provide the outdoor play area at ground floor and within the first level, consistent with the approval, providing a total area which meets the minimum required space for 74 children (518m² required).

3.3 CONDITIONS OF CONSENT TO BE MODIFIED

The subject modification application will necessitate changes to the following conditions of consent under DA-631/2021.

3.3.1 Condition No. 1

The proposal necessitates the modification of consent Condition 1 of DA-631/2021 to reflect the revised Architectural plans prepared by *Place Studio* and the supporting amended documentation, submitted with this modification. This includes modifications to subsequent Conditions 1.6, 1.7 and 1.11 which refer to documents to be superseded by the submitted documentation.

4. Statutory and Policy Compliance

4.1 SECTION 4.56

Section 4.56 of the *Environmental Planning & Assessment Act 1979* contains provisions relating to the modification of development consents issued by the NSW Land and Environment Council, and states:

(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if—

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

(b) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, and

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

(1A) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

(1B) (Repealed)

(1C) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

(2) After determining an application for modification of a consent under this section, the consent authority must send a notice of its determination to each person who made a submission in respect of the application for modification.

(3) The regulations may make provision for or with respect to the following—

(a) the period after which a consent authority, that has not determined an application under this section, is taken to have determined the application by refusing consent,

(b) the effect of any such deemed determination on the power of a consent authority to determine any such application,

(c) the effect of a subsequent determination on the power of a consent authority on any appeal sought under this Act.

(4) (Repealed)

Assessment of the proposed modification against the relevant provisions of Section 4.56(1) is provided below, and against the relevant provisions of Section 4.15 in Section 4.2 of this Statement.

When assessing a modification application, the consent authority has a threshold decision to make and must be satisfied that what is proposed is “substantially the same” development as the original development, as set out in Section 4.56(1) of the EP&A Act. Whether the development will be “substantially the same” as the original consent is a mixed question of fact and law. This decision can be guided by principles and tests established in the Courts.

Decisions of the Land and Environment Court support the proposition that the main elements of the proposal are matters substantially the same as the existing development consent, as outlined below.

Modification Principles Established by the Courts

The traditional ‘test’ as to whether or not a development as modified will be “substantially the same” development as that originally approved was applied by J Stein and the Court of Appeal in *Vacik Pty Limited v Penrith City Council* [1992] NSWLEC 8 and endorsed by J Bignold in *Moto Projects (No 2) Pty Ltd v North Sydney C* [1999] NSWLEC 280.

J Stein stated in the *Vacik* case: “In my opinion ‘substantially’ when used in the section [s102, the predecessor of s96] means essentially or materially having the same essence”.

J Bignold expressed in the *Moto* case: “The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified ... not merely a comparison of the physical features or components of the development ... rather ... involves an appreciation, qualitative as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).”

J Bignold came to deal with the matter of “substantially the same” again in *Tipalea Watson Pty Limited v Kurringai Council* [2003] NSWLEC 253. From this Judgement, one can distil a list of matters or ‘tests’ to consider, being whether the modification involves the following:

- (a) significant change to the nature or the intensity of the use;
- (b) significant change to the relationship to adjoining properties;
- (c) adverse amenity impacts on neighbours from the changes;
- (d) significant change to the streetscape; and
- (e) change to the scale or character of the development, or the character of the locality

In 2015, the principles regarding Section 96(2)(a) (now Section 4.55(2)(a)) were summarised in *Agricultural Equity Investments Pty Ltd v Westliffe Pty Ltd (No 3)* [2015] NSWLEC 75 where Pepper J set out the legal principles that apply as follows:

The applicable legal principles governing the exercise of the power contained in s 96(2)(a) of the EPAA may be stated as follows:

1. first, the power contained in the provision is to “modify the consent”. Originally the power was restricted to modifying the details of the consent but the power was enlarged in 1985 (*North Sydney Council v Michael Standley & Associates Pty Ltd* (1998) 43 NSWLR 468 at 475 and *Scrap Realty Pty Ltd v Botany Bay City Council* [2008] NSWLEC 333; (2008) 166 LGERA 342 at [13]). Parliament has therefore “chosen to facilitate the modification of consents, conscious that such modifications may involve beneficial cost savings and/or improvements to amenity” (*Michael Standley* at 440);

2. the modification power is beneficial and facultative (*Michael Standley* at 440);

3. *the condition precedent to the exercise of the power to modify consents is directed to “the development”, making the comparison between the development as modified and the development as originally consented to (Scrap Reality at [16]);*
4. *the applicant for the modification bears the onus of showing that the modified development is substantially the same as the original development (Vacik Pty Ltd v Penrith City Council [1992] NSWLEC 8);*
5. *the term “substantially” means “essentially or materially having the same essence” (Vacik endorsed in Michael Standley at 440 and Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280; (1999) 106 LGERA 298 at [30]);*
6. *the formation of the requisite mental state by the consent authority will involve questions of fact and degree which will reasonably admit of different conclusions (Scrap Realty at [19]);*
7. *the term “modify” means “to alter without radical transformation” (Sydney City Council v Ilene Pty Ltd [1984] 3 NSWLR 414 at 42, Michael Standley at 474, Scrap Realty at [13] and Moto Projects at [27]);*
8. *in approaching the comparison exercise “one should not fall into the trap” of stating that because the development was for a certain use and that as amended it will be for precisely the same use, it is substantially the same development. But the use of land will be relevant to the assessment made under s 96(2)(a) (Vacik);*
9. *the comparative task involves more than a comparison of the physical features or components of the development as currently approved and modified. The comparison should involve a qualitative and quantitative appreciation of the developments in their “proper contexts (including the circumstances in which the development consent was granted)” (Moto Projects at [56]); and*
10. *a numeric or quantitative evaluation of the modification when compared to the original consent absent any qualitative assessment will be “legally flawed” (Moto Projects at [52]).*

In the case of *Arrage v Inner West Council* [2019] NSWLEC 85, Preston J found that there was no legal obligation to consider the circumstances in which the development consent was granted when comparing the approved development and the proposed modified development, or to consider the material or essential elements of the original development consent, neither of which are mandatory relevant matters. Rather it is the statutory provision of Section 4.55 (or s4.56 in this instance) which provides the relevant test.

In *Hunter Development Brokerage Pty Limited trading as HDB Town Planning and Design v Singleton Council* [2022] NSWLEC 64, Duggan J stated that in determining whether a development is substantially the same, it is not only important to ascertain that a development is for the same use, but also to consider the way in which the development is to be carried out. Furthermore, Duggan J sets out the need to establish significance of an alteration to understand whether a development is substantially the same, as follows:

“The significance of a particular feature or set of features may alone or in combination be so significant that the alteration is such that an essential or material component of the development is so altered that it can no longer be said to be substantially the same development – this determination will be a matter of fact and degree depending upon the facts and circumstances in each particular case. Such an exercise is not focussing on a single element, rather it is identifying from the whole an element which alone has such importance it is capable of altering the development to such a degree that it falls outside the jurisdictional limit in s 4.56.”

Furthermore, another key decision to consider is that of the Chief Judge of the Court in *Realize Architecture Pty Ltd v Canterbury-Bankstown Council* [2024] NSWLEC 31 which seeks to apply a balanced approach to determining whether or not a development as modified will be substantially the same as that originally approved. The decision sets out the balanced approach that should be applied to answer the substantially the same test, which is as follows:

7. *In deciding whether or not the development as modified is substantially the same development as the development for which consent was originally granted, the Commissioner needed to undertake three tasks:*
- a) *Finding the primary facts: This involves drawing inferences of fact from the evidence of the respects in which the originally approved development would be modified. These respects include the components or features of the development that would be modified, such as height, bulk, scale, floor space, open space and use, and the impacts of the modification of those components or features of the development.*
 - b) *Interpreting the law: This involves interpreting the words and phrases of the precondition in s 4.55(2) as to their meaning.*
 - c) *Categorising the facts found: This involves determining whether the facts found regarding the respects in which the development would be modified fall within or without the words and phrases of the precondition in s 4.55(2). American jurist, Karl Llewellyn termed such descriptions of words and phrases as “abstract fact-categories”: Karl Llewellyn, *The Bramble Bush: On Our Law and Its Study* (Oceana Publication 1960) 80. In the Australian authorities, they are commonly referred to as “statutory descriptions” or “statutory criteria”: see, for example, *The Australian Gas Light Company v The Valuer-General* (1940) 40 SR (NSW) 126 at 137-138; *Azzopardi v Tasman UEB Industries Ltd* (1985) 4 NSWLR 139 at 156; *Randwick Municipal Council v Manousaki* (1988) 66 LGRA 330 at 333. The decision-maker’s task is to determine whether the facts found fall within or without the statutory description, “according to the relative significance attached to them” by the decision-maker: *The Australian Gas Light Company v The Valuer-General* at 138.*

Whether or not there will be increased environmental or neighbourhood amenity impacts under a proposed modified development is not a consideration as to whether or not a modification proposal is substantially the same under Section 4.55 (or s4.56 in this instance) of the EP&A Act. Authority for this position is set out in a decision of Talbot J in *Wolgan Action Group Incorporated v Lithgow City Council* [2001] NSWLEC 199 [43] in which he provides:



“Even if the present applicant is correct in that there will be a significant increase in the environmental impact ... that, nevertheless, does not necessarily preclude a conclusion that the development, to which the consent as modified relates, is substantially the same development as that already permitted. The extension ... alone does not change the inherent character of the development itself. There may be some additional environmental impact but that is a matter to be considered as part of the deliberations on the merits.”

Modification Principles Applied to the Proposal

When considered against these principles, the proposed modification described at Section 3 of this Statement will result in a development that is substantially the same as the development for which consent was originally granted and the consent authority can therefore consider the application pursuant to Section 4.55(2) of the EP&A Act.

A comparison between the development as modified and the development the subject of the original consent can conclude that there is no material change, with the final form being almost wholly the same to that which has been granted approval. The development as modified does not significantly amend the scale or form of the approved development nor increase the intensity of activity at the site. The extension of the basement car park is minor and being located below ground will not have any bearing on the visual bulk or scale of the approved development. The alterations proposed are predominately internal and any external alterations are designed to complement the characteristics of the approved development to ensure the extent of the modifications will be “*essentially or materially having the same essence*” as the approved development (*Vacik endorsed in Michael Standley at 440 and Moto Projects (No 2) Pty Ltd v North Sydney Council* [1999] NSWLEC 280; (1999) 106 LGRA 298 at [30]).

The increased height of acoustic barriers at the first floor will not appear substantially different from those approved and are necessary to allow for suitable acoustic levels. The proposed fire stair and booster, being the only additional external features, do not add any considerable building bulk to the development and will not radically change the



character of the development or have any adverse impact to the amenity of future users, surrounding developments or the public domain. The proposed modifications will still have the same essence as the original approval and the proposed modifications will “alter without radical transformation” (*Sydney City Council v Ilenace Pty Ltd* [1984] 3 NSWLR 414 at 42, *Michael Standley at 474*, *Scrap Realty at [13]* and *Moto Projects at [27]*).

The proposed modifications maintain the approved use and setting being a centre based child care centre development in the R2 Low Density zone, and will not alter the capacity, hours of operation or staff numbers of the centre. Whilst the intensity of use, of itself, is not sufficient to conclude the development is substantially the same, it is a relevant consideration which adds to the above analysis.

With consideration to the tests identified in *Tipalea Watson Pty Limited v Ku-ring-gai Council*, the proposal (as modified) will not change the nature or the intensity of the use or relationship to adjoining properties, will not result in any significant change to the streetscape, scale or character of the development or character of the locality, and will not result in adverse amenity impacts on neighbours. The key modifications proposed are fundamental to achieving compliance with the relevant access and acoustic requirements and standards and will provide for a safe and attractive environment for the conduct of children’s early education.

As noted in *Wolgan Action Group Incorporated v Lithgow City Council*, an increase in environmental impacts is not a consideration as to whether or not a modification proposal is substantially the same. Nonetheless, in our view, the impact of the proposed modifications will be generally minimal when set against the backdrop of the approved building envelope and use of spaces, especially in terms of design and character, landscaping, privacy and solar access.

Finally, *Moto Projects (No. 2) Pty Limited v North Sydney Council* [1999] NSWLEC 280; (1999) 106 LGERA 298, which outlines principles for determining whether a s4.55 application is ‘substantially the same’ as an originally issued development consent. The assessment of ‘substantially the same’ needs to consider qualitative and quantitative matters.

In terms of a quantitative assessment, the proposed modifications will maintain the capacity of the centre, being 74 children and will not alter the number of staff required for the operation of the centre. Whilst the proposal involves modifications to the basement layout, a total of 18 parking spaces will still be provided within the basement, consistent with the approval. The modifications to the internal layout, whilst changing indoor play spaces, will still provide play area in accordance with the requirements. The proposal will not change approved hours and days of operation. The modification will actually result in a decrease in GFA, ensuring the proposal will maintain compliance with the permissible FSR, and will not change the approved building height.

Qualitatively, the relationship of the building to public domain and adjoining properties will be maintained as approved. The proposal will retain the building form and presentation as viewed from Telopea Street. The bulk, scale and character of the site as established by the approved development will be unchanged when viewed from Telopea Street. That is, the modifications are largely internal, and any respond appropriately to the character of the surrounding development and neighbours.

The proposed modifications will improve upon the internal and external arrangements of the approved childcare centre, which will enhance utility, efficiency and amenity. Additionally, the proposal will not significantly alter the privacy relationship to surrounding developments or public domain as appropriate measures have been taken to mitigate any potential impacts as detailed in the Landscape Plan and the Acoustic Report and incorporated in the Plan of Management.

In accordance with the recent findings of *Realize Architecture Pty Ltd v Canterbury-Bankstown Council* [2023] NSWLEC 1437 (*Realize Architecture* (1)) and *Canterbury-Bankstown Council v Realize Architecture Pty Ltd* [2024] NSWLEC 31 (*Realize Architecture* (2)), the Court found that whilst there may be quantitative and qualitative differences between a modification application and original consent, the focus of the test in s4.55(2) (or s4.56 in this instance) should be holistic and assess the overall ‘balance’ between the original and modified development, in assessing the substantially the same test.

Whilst the quantitative and qualitative assessment, comparison of material and essential features and consideration of environmental impacts are instructive for the purposes of comparing a modification application and the original development consent, they are not mandatory. In accordance with both *Realise Architecture (1)* and *(2)*, a holistic balance and balanced approach must be taken to the substantially the same test.

In this regard, a balanced approach has been undertaken to demonstrate that the proposal, whilst modifying certain aspects, will be in totality a development which is consistent with that originally approved. Overall, the proposed modifications will not result in any extensive changes to the character of the development, relationship to the streetscapes and neighbouring properties, and will have minimal adverse environmental and amenity impacts.

In conclusion, the modifications proposed by this application are considered to result in a development that is substantially the same as the development for which consent was originally granted. This proposal does not seek to alter the use or predominant built form, with the provision of a childcare centre being maintained. The proposal will continue to operate under all other conditions imposed under DA-631/2021 and therefore satisfies the substantially the same test.

4.2 STATUTORY AND POLICY COMPLIANCE

4.2.1 State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021 commenced on 1 March 2022 and repealed the provisions of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*. The former provisions of the repealed SEPP have been transferred into Chapter 3 of the new Policy.

Part 3.3 of the new Policy applies to the proposed development. Clause 3.23 requires a consent authority to consider any applicable provisions of the *Child Care Planning Guidelines* before determining a development application.

An assessment of the proposal against the relevant provisions of the Guidelines is provided below.

Table 1 Child Care Planning Guidelines				
Clause / Control	Requirement	Proposal	Complies?	
3.3 Building orientation envelope, building design and accessibility	C11 Orient a development on a site and design the building layout to:			
	<ul style="list-style-type: none"> ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by <ul style="list-style-type: none"> facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties placing play equipment away from common boundaries with residential properties locating outdoor play areas away from residential dwellings and other sensitive uses avoid overshadowing of adjoining residential properties 	<p>The proposal will not alter the approved visual privacy relationship with no change proposed to the location and orientation of indoor and outdoor play spaces and no changes to glazing and openings with the exception of design changes to the street elevation window. The proposal will improve acoustic privacy by increasing the height of acoustic fencing as per acoustic advice.</p>	Yes	
	<ul style="list-style-type: none"> ensure where a child care facility is located above ground level, outdoor play areas are 	<p>The proposal will not alter the approved building envelope and therefore will not create any additional overshadowing.</p> <p>The proposed modification to the outdoor play area at the first floor will provide improve</p>	Yes	

Table 1 Child Care Planning Guidelines

	protected from wind and other climatic conditions	protection through the increase height of balustrades.	
	C14 On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house	The proposal will not alter the approved building setbacks of the development.	Yes
3.5 Visual and acoustic privacy	<p>C23 A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> • identify an appropriate noise level for a child care facility located in residential and other zones • determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use • determine the appropriate height of any acoustic fence to enable the noise criteria to be met. 	Refer to the acoustic report submitted within the application.	Yes
3.8 Traffic, parking and pedestrian circulation	<p>C30 Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.</p> <p>C37 Car parking design should:</p> <ul style="list-style-type: none"> • include a child safe fence to separate car parking areas from the building entrance and play areas • provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards • include wheelchair and pram accessible parking. 	<p>The proposal continues to provide 18 parking spaces within the basement, consistent with the approval. Notably, an additional on street parking space is relied upon for the centre.</p> <p>The proposed modifications to the lower ground level includes safety measures.</p> <p>Accessible parking is provided at basement level as approved.</p> <p>As above.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
4.1 Indoor space requirements	<p>Regulation 107 Education and Care Services National Regulations</p> <p>Every child being educated and cared for within a facility must have a minimum of 3.25m² of unencumbered indoor space.</p>	<p>Required - 74 x 3.25m² = 240.5m²</p> <p>The proposed modification provides 241.2m² of unencumbered indoor space.</p>	Yes
4.2 Laundry and hygiene facilities	<p>Regulation 106 Education and Care Services National Regulations</p>		

Table 1 Child Care Planning Guidelines

	There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children	The proposed modifications will continue to provide appropriate nappy changing facilities.	Yes
4.3 Toilet and hygiene facilities	<p>Regulation 109 Education and Care Services National Regulations</p> <p>A service must ensure that adequate, developmentally and age appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.</p> <p>Child care facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code.</p>	The proposed modifications will continue to provide age-appropriate toilet facilities.	Yes
4.4 Ventilation and natural light	<p>Regulation 110 Education and Care Services National Regulations</p> <p>Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children.</p> <p>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>	The proposal does not alter the existing natural ventilation and light to the ground and first floor play areas.	Yes
4.6 Nappy change facilities	<p>Regulation 112 Education and Care Services National Regulations</p> <p>Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy</p>	As approved. Nappy change facilities are provided within the indoor play areas.	Yes

Table 1 Child Care Planning Guidelines

	<p>changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children.</p> <p>Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.</p>		
4.9 Outdoor space requirements	<p>Regulation 108 Education and Care Services National Regulations</p> <p>An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m² of unencumbered outdoor space.</p>	<p>Required – 74 x 7m² = 518m²</p> <p>The proposed modification provides 520.4m² of unencumbered outdoor space</p>	Yes
4.10 Natural environment	<p>Regulation 113 Education and Care Services National Regulations</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>The proposed modifications will incorporate elements of the natural environment. Refer to the Landscape Plan submitted with this application. An extensive variety of outdoor play and educational experiences have been integrated into the design including natural environment features.</p>	Yes
4.11 Shade	<p>Regulation 114 Education and Care Services National Regulations</p> <p>The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p>	<p>The outdoor play areas are provided with appropriate landscaping features and built shade structures to protect children from overexposure. Refer to Landscape Plan submitted within this application.</p>	Yes
4.12 Fencing	<p>Regulation 104 Education and Care Services National Regulations</p> <p>Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.</p>	<p>The proposed modifications will not alter the approved fencing.</p>	Yes

4.2.2 Canterbury Bankstown Local Environmental Plan 2023

The DA was originally assessed and determined under the former *Bankstown Local Environmental Plan 2015* (BLEP 2015) which was the former local environmental planning instrument in force for this site prior to the gazettal of the *Canterbury Bankstown Local Environmental Plan 2023* (CBLEP 2023) which commenced on the 23 June 2023.

Notwithstanding the above, since there are no savings provisions which apply to the proposal, the CBLEP 2023 is the applicable planning instrument for this application.

Under the CBLEP 2023, Centre-based childcare facilities remain permissible with development consent in the R2 – Low Density Residential Zone. The proposed modification achieves the objectives of the R2 – Low Density Residential Zone in the following manner:

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

The proposal does not reduce the amount of housing provided in the area since it modifies an approved non-residential use.

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

The proposed modifications to the approved childcare facility will continue to meet the day to day needs of residents.

- *To allow for certain non-residential uses that are compatible with residential uses and do not adversely affect the living environment or amenity of the area.*

The proposal continues to provide a non-residential use which is compatible with the adjoining residential land uses. The modifications will not have any adverse impact on the amenity of the adjoining properties since the majority of changes are internal.

- *To ensure suitable landscaping in the low density residential environment.*

The proposal will largely maintain the approved landscape design which will contribute to the landscape character of the locality.

- *To minimise and manage traffic and parking impacts.*

The proposal will not alter the approved number of parking spaces and will not increase the capacity of the centre.

- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

Not applicable.

- *To promote a high standard of urban design and local amenity.*

The proposal will maintain the essence of the approved development which was designed to complement the character of the locality, being largely residential in nature.

With regards to all other development controls prescribed within the CBLEP 2023, the proposed modifications to the approved childcare centre will remain compliant, as demonstrated in **Table 2** below.

Table 2 Canterbury Bankstown Local Environmental Plan 2023 Compliance Table			
Clause / Control	Requirement	Proposal	Complies?
4.3 Height of Buildings	9m maximum building height.	The proposal will not alter the approved building height.	Yes No change

Table 2 Canterbury Bankstown Local Environmental Plan 2023 Compliance Table

4.4 Floor Space Ratio	0.5:1 maximum FSR	The proposal will maintain compliance with the maximum FSR permitted for the subject site.	Yes No change
6.3 Earthworks	<p>(3) In deciding whether to grant development consent for earthworks, or for development involving ancillary earthworks, the consent authority must consider the following—</p> <p>(a) the likely disruption of, or the detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill and the soil to be excavated,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of the fill material and the destination of the excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, a waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	Whilst the proposal seeks to extend the footprint of the approved basement level, the extent of additional excavation required is minor and will not have any adverse impacts on the soil stability or amenity of adjoining properties.	Yes
6.3 Stormwater and water sensitive urban design	<p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on the land on which the development is carried out, adjoining properties and infrastructure, native bushland and receiving waters, or if the impact cannot be reasonably avoided, minimises and mitigates the impact, and</p> <p>(d) includes riparian, stormwater and flooding measures, and</p> <p>(e) is designed to incorporate the following water sensitive urban design principles—</p>	<p>The proposal seeks to modify the location of the OSD tank. Refer to the amended Stormwater Plans submitted with this application.</p> <p>The proposed changes to the stormwater arrangements have been suitably designed to service the development with minimal impacts.</p>	Yes

Table 2 Canterbury Bankstown Local Environmental Plan 2023 Compliance Table

	<p>(i) protection and enhancement of water quality, by improving the quality of stormwater runoff from urban catchments,</p> <p>(ii) minimisation of harmful impacts of urban development on water balance and on surface and groundwater flow regimes,</p> <p>(iii) integration of stormwater management systems into the landscape in a way that provides multiple benefits, including water quality protection, stormwater retention and detention, public open space and recreational and visual amenity.</p>		
6.11 Essential services	<p>Development consent must not be granted to development unless the consent authority is satisfied that the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage,</p> <p>(d) stormwater drainage or on-site conservation,</p> <p>(e) waste management,</p> <p>(f) suitable vehicular access.</p>	<p>The original development consent ensured that the childcare centre will be provided with the relevant public utility infrastructure. Accordingly, the proposed modifications to the approved childcare centre will not change this requirement.</p> <p>Notably, the proposal seeks to provide a sewer pipe re-diversion within the basement. Refer to the submitted Architectural Plans.</p>	Yes

4.2.1 Canterbury Bankstown Development Control Plan 2023

The DA was originally assessed and determined under the former Bankstown Development Control Plan 2015 (BDCP 2015) which was the former local environmental planning instrument in force for this site prior to the gazettal of the Canterbury Bankstown Development Control Plan 2023 (CBDCP 2023).

Notwithstanding the above, since there are no savings provisions which apply to the proposal, the CBDCP 2023 is the applicable control plan for this application.

Chapter 10.1 contains provisions specific to child care centres and as such as addressed in **Table 3** below.

Notably, the controls contained within Chapter 10.1 of CBDCP 2023 are the same as those contained in the former BDCP 2015, in which the original DA was assessed against. The proposal will not significantly alter the conclusions of the original assessment due to the nature of the modifications proposed, predominately relating to internal layout changes.

Table 3 Canterbury Bankstown Development Control Plan 2023 Compliance Table

Clause / Control	Requirement	Proposal	Complies?
Chapter 10.1 Child Care Centres			
Section 2 – Traffic Management	2.1 Development for the purpose of child care facilities must not result in a street in the vicinity of the site to exceed the environmental capacity	The proposal will not alter the capacity of the centre or number of parking spaces onsite.	Yes No change

Table 3 Canterbury Bankstown Development Control Plan 2023 Compliance Table

	maximum. If the environmental capacity maximum is already exceeded, the development must maintain the existing level of absolute delay of that street.		
	2.2 Development for the purpose of child care facilities must not result in a street intersection in the vicinity of the site to have a level of service below Level B. If the existing level of service is below Level B, the development must maintain the existing level of absolute delay of that street intersection.	As above, the proposal will not increase the amount of traffic caused by the proposal.	Yes No change
	2.3 For the purpose of clauses 2.1 and 2.2, applications must submit a Traffic Impact Study based on the RTA Guide to Traffic Generating Developments.	A traffic report is submitted with this application. Notably, there is no change to the number of parking spaces provided onsite.	Yes
Section 3 – Site Layout and Building Envelopes	3.1 The storey limit for child care facilities is two storeys.	No change proposed. The proposal will continue to sit at two storeys.	Yes No change
	3.3 Facilities or activities for children aged 0–2 years must solely locate on the first storey (i.e. the ground floor) of a building to ensure the safe evacuation of children during emergencies	Consistent with the approval, 0-2 years are located at the ground floor.	Yes No change
	3.4 The minimum setback for child care facilities in Zone R2 Low Density Residential and Zone R3 Medium Density Residential is: (a) 5.5m to the primary street frontage; (b) 3m to the secondary street frontage; (c) 1.5m to the side boundary; and (d) the basement level must not project beyond the ground floor perimeter of the child care facility.	The proposal does not alter the setbacks of the approved development except for the new fire stair proposed within the western side setback and the extension of the fire pump room within the basement. These additions will extend beyond the permitted setbacks. The extension of the fire pump room beyond the ground floor perimeter is necessary to allow for an appropriate basement layout and configuration and to accommodate the necessary services to support the approved development. Notably, the approved basement extends beyond the ground floor perimeter of the centre and therefore the modifications do not introduce a non-compliance. The same can be said about the minor extension of the basement to the rear boundary which is consistent with the approved basement footprint which extends to both side boundaries.	On Merit

Table 3 Canterbury Bankstown Development Control Plan 2023 Compliance Table

		The proposed fire stair is a minor building element which provides necessary access to ensure safe operation of the centre. The fire stair will not add any significant visual bulk being screened by boundary fencing and will not introduce any privacy impacts.	
	3.8 Child care facilities must ensure the siting of outdoor areas (such as a balcony or deck) and outdoor play areas avoids: (a) a living area or bedroom of an adjoining dwelling; (b) areas forward of the front building line; (c) a road and driveway that may have noise or a possible pollution impact on children; (d) any other potential noise or pollution source; and (e) any potential traffic hazard locations where an out-of-control vehicle may injure children.	The proposal does not alter the siting of the approved outdoor areas which have been suitably located to avoid adverse impacts on both adjoining neighbours and children.	Yes No change
	3.9 Child care facilities must be easily accessible to people with disabilities and must comply with the Building Code of Australia and Australian Standard AS 1428.1–2021, Design for access and mobility.	The proposal continues to achieve compliance with the accessibility requirements. Refer to the updated access report submitted with this application.	Yes
	3.10 The siting and design of car parks and driveways must ensure the safe movements of people and vehicles to and from child care facilities.	The design of the carpark has been amended to allow for the necessary services to be provided. The design of the carpark has been advised and supported by the traffic engineer. Refer to the traffic report submitted with this application.	Yes
Section 4 – Building Desing and Energy Efficiency	4.1 Child care facilities must make efficient use of natural resources and optimise amenity in the design, construction and occupation of buildings and facilities, such as: (a) good orientation and natural light to rooms and play areas; (b) limiting building depth to provide natural cross-ventilation and natural light; (c) minimal use of mechanical ventilation; (d) use of sun shading devices; (e) preventing UV factor to open areas; and (f) ensuring the development adapts to the existing topography by avoiding excessive cut and fill	The proposed modifications do not alter the siting and overall design and orientation of the centre.	Yes No change
	4.2 The design of buildings should achieve a northern orientation to maximise solar access.	The proposal does not alter the solar access achieved by the centre. Notably,	Yes

Table 3 Canterbury Bankstown Development Control Plan 2023 Compliance Table

		consistent with the approval, outdoor play spaces are oriented to the north to maximise solar access.	No change
	<p>4.3 The design of buildings must ensure that:</p> <p>(a) At least one living area of a dwelling on an adjoining site must receive a minimum three hours of sunlight between 8.00am and 4.00pm at the midwinter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.</p> <p>(b) A minimum 50% of the required private open space for a dwelling that adjoins a development receives at least three hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected private open space.</p>	The proposal does not introduce any additional shadow impacts to neighbouring properties and the amount of solar access achieved by neighbours will remain as approved and complies with the controls.	Yes No change
	4.5 Child care facilities with more than 29 children in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential must locate in a purpose-built facility. The external building design must give the appearance of a dwelling house.	The proposal does not alter the essence and overall design of the building which presents as a dwelling house.	Yes No change
	<p>4.6 Development for the purpose of new buildings must incorporate architectural elements to articulate the building form and avoid large expanses of blank walls. Architectural elements may include but not be limited to:</p> <p>(a) Defining the base, middle or top of a building using different materials and colours.</p> <p>(b) Incorporating horizontal or vertical elements such as recessed walls or banding.</p> <p>(c) Incorporating recessed or partially recessed balconies within the building wall.</p> <p>(d) Defining the window openings, fenestration, balustrade design, building entrances, and doors. (e) Using sun shading devices.</p> <p>(f) Any other architectural feature to the satisfaction of Council.</p>	The proposal maintains all architectural elements of the approved development and does not introduce any blank walls.	Yes No change
	4.7 Development for the purpose of new buildings must provide active frontages to the streets and must orientate buildings and pedestrian entrances to the streets	The proposal does not alter the building entrance which is clearly oriented to the street.	Yes No change

Table 3 Canterbury Bankstown Development Control Plan 2023 Compliance Table

	4.9 Development for the purpose of new buildings must have roof designs that: (a) unify separate or attached buildings with a contemporary architectural appearance; and (b) combine good quality materials and finishes.	The proposal does not alter the roof design of the building.	Yes No change
	4.10 The maximum fence height for front fences is 1.8m	No change proposed to front fence heights.	Yes No change
	4.11 The external appearance of a front fence forward of the front building line must ensure: (a) the section of the front fence that comprises solid construction (not including solid piers) does not exceed a fence height of 1m above ground level (existing); and (b) the remaining height of the front fence comprises open style construction such as spaced timber pickets or wrought iron that enhance and unify the building design.	No change proposed to approved front fence design.	Yes No change
	4.12 Council does not allow the following types of front fences: (a) chain wire, metal sheeting, brushwood, and electric fences; and (b) noise attenuation walls.	As above, no change to front fences.	Yes No change
Section 5 – Acoustic Privacy	5.1 Air conditioning, mechanical ventilation or any other continuous noise source must not exceed the ambient level at any specified boundary by more than 5dB(A).	The proposal will continue to comply.	Yes No change
	5.2 The location and design of child care facilities must consider the projection of noise from various activities to avoid any adverse impacts on the residential amenity of adjoining land. For the purpose of this clause, Council requires applications to submit an Acoustic Report prepared by a suitably qualified acoustic consultant.	Refer to the amended acoustic report submitted with this application.	Yes
	5.3 The maximum height for noise attenuation walls and fences along the boundary of the site is 2m.	The proposal will not alter the height for fencing at the boundaries.	Yes No change
Section 6 – Open Space and Landscape	6.1 The location of outdoor play areas must allow supervision from within the child care facility.	No change is proposed to the location of the approved outdoor play areas.	Yes No change
	6.2 Outdoor play areas must:	The proposal does not alter the location or design of outdoor play areas.	Yes

Table 3 Canterbury Bankstown Development Control Plan 2023 Compliance Table

	<p>(a) locate on a land gradient that is predominantly flat;</p> <p>(b) provide access to shade, particularly between 9.30am and 3.00pm during summer months. This may be in the form of a shade structure or natural shade from trees;</p> <p>(c) consider the surface treatment in accordance with best practice guidelines in early childhood environments.</p>		No change
	<p>6.3 Outdoor play areas do not include:</p> <p>(a) a driveway, parking area, drying area or other service area, undercroft area, balcony and the like; or</p> <p>(b) deep soil zones; or</p> <p>(c) within residential zones, any above ground terrace, deck or verandah where the height of the floor level is more than 300mm above the ground level (existing).</p>	Outdoor play areas are as approved.	Yes No change
	6.4 Outdoor play areas must avoid retaining walls where possible	The proposal does not introduce any new retaining walls.	Yes No change
	6.5 The maximum height for retaining walls in outdoor play areas is 300mm above the ground level (existing), and must incorporate a safety fence or the like to prevent accidental falls.	As above.	Yes No change
	6.7 Applications must submit a detailed landscape plan prepared by a qualified landscape architect consistent with Council's Landscape Guide.	Refer to the revised landscape plan submitted with this application.	Yes
	<p>6.8 Child care facilities in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential must provide:</p> <p>(a) a minimum 2m wide deep soil zone along the primary street frontage and secondary street frontage of the site; and</p> <p>(b) a minimum 1.5m wide deep soil zone around the perimeter of the outdoor play area, to act as a buffer to the fence, provide spatial separation to neighbouring properties and enhance the aesthetic quality of the space</p>	<p>The proposal does not alter the amount of deep soil provided in the street setback except for to provide a fire hydrant booster as required by Rural Fire Services NSW.</p> <p>Since the basement, as approved, extends to the side boundaries, deep soil is not provided around the outdoor play area at the ground floor. Notwithstanding this, landscaping is provided surrounding and within the play area to offer additional spatial separation and soften the play area.</p>	Yes On Merit

Table 3 Canterbury Bankstown Development Control Plan 2023 Compliance Table

Section 7 – Safety and Security	7.1 The front door and at least one window to buildings must face the street to enable natural surveillance.	The proposal continues to provide a door and at least one window to the street frontage.	Yes No change
	7.2 The street number of buildings must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building.	Noted. No change proposed.	Yes No change
	7.3 Child care facilities must separate the car park and any outdoor play area with a safety fence and gates.	All facilities are separate from parking which is located in the basement, as approved.	Yes No change
	7.4 Child care facilities with more than 15 children must erect (at the expense of the applicant) an unscalable 1.8m high lapped timber fence or the like along the side and rear boundaries of the site.	The proposal does not alter approved side and rear fencing.	Yes No change
	7.5 Child care facilities must provide safe access for children and people with disabilities, and fire protection and evacuation requirements.	The proposal provides an additional fire access stair to ensure safe and efficient evacuation.	Yes
Section 8 – Site Facilities	8.1 The location and design of utilities and building services (such as plant rooms, hydrants, equipment and the like) must be shown on the plans.	All shown on plans.	Yes
	8.2 Utilities and building services are to be integrated into the building design and concealed from public view.	All utilities and services are integrated into the built form.	Yes
	8.3 Child care facilities must ensure the following facilities are not visible to the street or any nearby public open spaces: (a) waste storage areas; (b) storage of goods and materials; and (c) any clothes drying areas.	All facilities will be hidden from the street view.	Yes
	8.4 The location and design of substations must be shown on the plans.	Not required.	N/A
	8.7 The design, construction, and operation of kitchens and food premises must comply with: (a) Food Act 2003; (b) Food Regulation 2010; (c) FSANZ Food Standards Code; and (d) Australian Standard AS 4674–2004, Design, construction and fitout of food premises.	The proposal will not alter compliance with the relevant standards. This can be conditioned, consistent with the approved development.	Yes



4.3 IMPACTS ON NATURAL & BUILT ENVIRONMENT

4.3.1 Natural Environment

The proposal does not give rise to any significant additional environmental impacts beyond that considered and approved as part of the original application. The proposal will maintain compliance with the approved conditions of consent that are imposed to minimise all environmental impacts during construction and upon completion of the development.

Whilst the proposal will increase the extent of the basement footprint, the amount of additional excavation required is minor and will not have any adverse impacts on the surrounding land and topography.

The proposed modifications will not significantly alter the approved landscape area and will continue to provide for new tree plantings across the site, with no additional tree removal required.

4.3.2 Built Environment

In terms of the relationship between the modified development to the adjoining properties, the proposal will not have an adverse impact on the amenity of adjoining properties and will be entirely compatible with the approved built form and character as it relates to Telopea Street. The proposed modifications primarily relate to internal changes and will not alter the relationship of the development with the adjoining properties. The external modifications include an increase in the balustrade height to the first floor play space at the request of acoustic advice which will ensure the privacy of adjoining properties is enhanced.

Other external changes, including the fire booster and new fire stair are essential building elements and will not add any significant bulk to the approved development and will integrate into the overall development and landscape setting with minimal visual impacts when compared to the approval.

4.3.3 Amenity

In terms of the amenity impacts, including overshadowing, privacy and views, the impact created by the proposed modifications are considered to be acceptable and consistent with the approved development. The proposal will not alter the building envelope and therefore will not introduce any additional shadowing impacts to the neighbouring sites. With regard to privacy, the proposal will maintain the location and orientation of indoor and outdoor play space and does not introduce any new openings which would have additional acoustic and visual privacy implications. The proposal does seek to increase the height of the acoustic balustrade to the first floor outdoor play space, which will only have positive impacts for the neighbouring properties with regard to noise.

An amended Acoustic Report has been prepared by *Rodney Stevens Acoustics* in support of this application.



4.3.4 Parking and Access

The proposal will not alter the number of parking spaces provided onsite, with a total of 18 car park spaces provided within the basement as per the approval. Furthermore, the centre relies on one (1) additional on street parking space to achieve the requirements, as approved.

The proposal will however seek to amend the layout of the car park in response to design changes and requirements to provide necessary services, include sewer pipes, within the basement.

A Traffic and Parking Assessment prepared by *McLaren Traffic* is submitted with the subject application and provides an assessment of the basement car park layout, as modified by this proposal. The Assessment concludes that the parking areas have been assessed against the relevant standards and have been found to satisfy the objectives of each standard.





As detailed above, the proposed modifications will not have any adverse impacts on the parking and traffic arrangements of the surrounding road network.

4.4 ECONOMIC & SOCIAL IMPACTS

The proposal will continue to increase the number of available childcare places within the locality consistent with the approved use of the site, which will contribute to the availability of the service for the local community. The proposal will continue to have a positive economic and social impact given the provision of services for the locality.

Undertaking the works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects. The centre will employ the same number of staff as per the approved development. Accordingly, it is considered that the proposed development is likely to have only positive economic impacts in the locality, consistent with the approval. The proposed modifications will not have any significant detrimental impact on the social dynamic of the locality.

4.5 THE PUBLIC INTEREST

The proposal, as amended, is considered to be compatible with the approved development and existing surrounding development, and will provide a balance between protecting residential amenity, the natural and built environment, and providing appropriate amenity to the child care centre.



5. Conclusion

This Statement of Environmental Effects accompanies an application pursuant to Section 4.56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) which seeks to modify the approved development under DA-631/2021 at No. 31 Telopea Street, Punchbowl.

The proposed modifications are the result of the detailed design of the development arising as the construction certificate plans are prepared following the granting of consent and have come about to respond to the requirements of the future child care operator who has been engaged to occupy the centre. The proposed modifications are minor from an environmental impact perspective however are fundamental to the ability to act on the existing development consent and are considered to be substantially the same as the approved development.

The modifications are consistent with the objectives and controls of the SEPP (Transport and Infrastructure) 2021, Child Care Guidelines, Canterbury Bankstown LEP 2023 and Canterbury Bankstown DCP and will not introduce any adverse built or natural environment impacts over what is anticipated by the planning controls and approved development.

Accordingly, for the reasons outlined in this Statement, we respectfully request that Council modify the development consent to incorporate the proposed changes detailed in this report and accompanying plans.

