



The General Manager  
Canterbury Bankstown Council  
PO Box 8  
Bankstown NSW 1885

Attention: Juliette Kavanagh

**SECTION 4.55(1A) APPLICATION FOR MODIFICATION OF DA-859/2022**

**RE: DEMOLITION OF EXISTING ON-SITE STRUCTURES AND CONSTRUCTION OF A 2-STOREY  
CHILDCARE CENTRE FOR 42 CHILDREN OVER ONE LEVEL OF BASEMENT CARPARKING**

**PROPERTY AT 83 KENNEDY STREET, PICNIC POINT NSW 2213 (LOT 1 DP 523719)**

**1. INTRODUCTION**

Dear Juliette,

Reference is made in relation to Development Consent **DA-859/2022** was granted on 13 November 2023 for the demolition of existing on-site structures and construction of a 2-storey childcare centre for 42 children over one level of basement carparking at 83 Kennedy Street, Picnic Point (the Site).

This statement has been prepared in support of a Section 4.55(1A) Application submitted to Canterbury Bankstown Council which seeks to modify Development Consent **DA-859/2022 (Appendix 1)** which granted consent for:

*Demolition of existing on-site structures and construction of a 2-storey childcare centre for 42 children over one level of basement carparking*

The proposed modifications are minor in nature and relate specifically to the modification of Condition 1 in regards to the Approved Plans as a result of BCA requirements.

This Application is made pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (the EP&A Act), on behalf of the owners. The following supporting documentation has been provided as part of this application:

- **Appendix 1** Development Consent DA-859/2022
- **Appendix 2** S4.55 Architectural Plans

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## 2. SITE LOCATION AND CHARACTERISTICS

The Site is located at 83 Kennedy Street, Picnic Point, and is legally described as Lot 1 DP 523719.

The Site is located on the eastern side of Kennedy Street, exhibits a total area of 980.5m<sup>2</sup> and is subject to applicable provisions outlined within *Canterbury Bankstown Local Environmental Plan 2023* (CBLEP2023). It is rectangular in shape and has a frontage of 20.117m to Kennedy Street and maximum site depth of 48.785m.

The Site currently comprises a single storey residential dwelling. Vehicular and pedestrian access is provided from Kennedy Street.

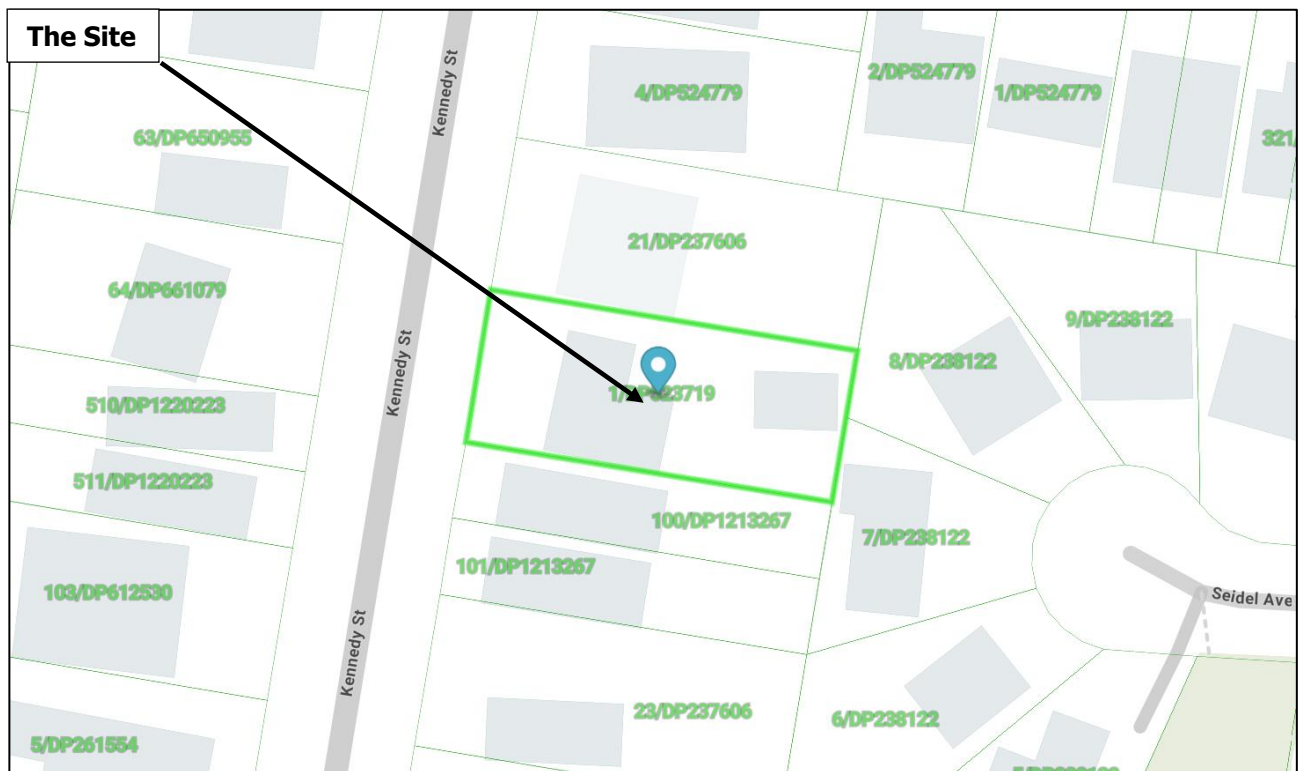
The Site can be seen in **Figures 1-2** below.



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### 3. PROPOSED MODIFICATIONS

The modifications sought to Development Consent **DA-859/2022** relate to the modification of Condition 1 Approved Plans. As part of the Construction Certificate process, a BCA review of the proposal was conducted and as a result modification to the approved childcare are required in order to remove the requirements of performance solutions.

The proposed changes are outlined in **Table 1** below.

Table 1. Proposed Modifications	
Location	Modification
Basement Level	<ul style="list-style-type: none"><li>▪ Addition of a new fire Exit with stairs.</li></ul>
Ground Level	<ul style="list-style-type: none"><li>▪ Addition of a new Fire Exit door facing Kennedy Street.</li><li>▪ Relocation of Fire Exit door facing north is to be adjacent to kitchen entry to achieve a minimum 3m setbacks from the boundary.</li><li>▪ Conversion of a portion of the patio area to the north to playground area.</li></ul>
First Level	<ul style="list-style-type: none"><li>▪ Conversion of existing storage space to an ambulant toilet</li><li>▪ The door to internal playroom 3 is flipped to have the swing in the direction of exit.</li></ul>

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### 4. PROPOSED CONDITION OF CONSENT

The desired development outcome as outlined above requires the modification of **Condition 3** of development consent **DA2024/0404**.

To reflect the proposed modification to the relevant conditions, text proposed to be deleted is indicated by 'strikethrough' text and text proposed to be added is indicated in **red**.

#### Condition No. 1

##### 1. Approved Plans and supporting documentation

*Approved plans and supporting documentation Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.*

<b>Approved Plans</b>				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A03	<del>DA-C</del> <b>CC-1</b>	Area Analysis	Mhannah Architects	<del>13 June 2023</del> <b>16 December 2024</b>
A04	<del>DA-C</del> <b>CC-1</b>	Basement Level	Mhannah Architects	<del>13 June 2023</del> <b>16 December 2024</b>
A05	DA-C	Ground Level	Mhannah Architects	<del>13 June 2023</del> <b>16 December 2024</b>
A06	<del>DA-C</del> <b>CC-1</b>	First Floor	Mhannah Architects	<del>13 June 2023</del> <b>16 December 2024</b>
A07	<del>DA-C</del> <b>CC-1</b>	Roof Plan	Mhannah Architects	<del>13 June 2023</del> <b>16 December 2024</b>
A08	<del>DA-C</del> <b>CC-1</b>	Elevations	Mhannah Architects	<del>13 June 2023</del> <b>16 December 2024</b>
<b>A09</b>	<b>CC-1</b>	<b>Streetscape Analysis</b>	<b>Mhannah Architects</b>	<b>16 December 2024</b>
A10	<del>DA-C</del> <b>CC-1</b>	Sections	Mhannah Architects	<del>13 June 2023</del> <b>16 December 2024</b>

<b>Approved Documents</b>			
Document Title	Version Number	Prepared By	Date of Document
83 Kennedy Street, Picnic Point, Noise Impact Assessment, July 2021	1190-AC-A-01	Broadcrest Consulting Pty Ltd	27 July 2021
Stage 2 Detailed Site Contamination Investigation, Proposed Childcare Centre 83 Kennedy Street, Picnic Point NSW	E22012PP-R02F	Geo-Environmental Engineering Pty Ltd	14 March 2023
Plan of Management	-	Mhannah Architects Pty Ltd	March 2023

*In the event of any inconsistency between the approved plans and documents, the approved plans prevail. In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.*

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## 5. STATUTORY PLANNING FRAMEWORK

### 5.1 Environmental Planning and Assessment Act 1979

The EP&A Act is the principle planning and development legislation in New South Wales. Pursuant to Part 4, the proposal is local development. The modifications sought to the development consent **DA-859/2022** warrants consideration of the provisions of Section 4.55(1A) of the EP&A Act. The provisions of Section 4.55 of the EP&A Act provided in **Table 2** below require consideration in this instance.

Table 2. Section 4.55(1A) Assessment	
Clause	Response
<i>(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—</i>	
<i>(a) it is satisfied that the proposed modification is of minimal environmental impact, and</i>	Given the nature of the changes proposed, the modification will have no undue environmental impact. Overall, there is no intensification resulting from the proposed modifications.
<i>(b) 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</i>	The development as they relate to <b>DA-859/2022</b> as modified will be substantially the same development.  The proposed modification does not involve changes to the use, building envelope, access to the Site or drainage of the development approved <b>DA-859/2022</b> .
<i>(c) it has notified the application in accordance with— (i) the regulations, if the regulations so require, or (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</i>	Given the nature of the proposed modification, notification of this application should not be required as the outcomes of the proposed development will remain as previously approved.
<i>(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.</i>	No submissions are apparent at the time of writing in accordance with the EP&A Act. The modification does not give cause to any substantial changes which warrant notification.
<i>(3) 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.</i>	The proposed modifications continue to satisfy the matters for consideration referred to in section 4.15(1) of the EP&A Act and has considered the reasons given by the consent authority for original granting of consent. The reasons for consent and Council's desired outcomes have been considered and are still achieved through the proposed modification.

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### **Section 4.55(1A) – Substantially the same**

The scope of a maximum modification of a consent without constituting assessment as a standalone application can be analysed through the ambit of *Michael Standley & Associates Pty Ltd v North Sydney Council [2005] NSWLEC 358*, whereupon Commissioner Mason P. found in relation to modification of development consents that the word “modify” was given the ordinary meaning of “to alter without radical transformation”. Therefore, the extent to which a consent may be modified is that to which the consent, as modified, is as approved without radical transformation or alteration.

The development, as modified, is substantially the same development and will not result in a radical transformation of **DA-859/2022** for the following reasons:

- The modification retains the approved primary land use for a childcare centre and proposes no substantial change to this fundamental element of the approval;
- There are no substantial quantitative changes proposed to the approved building bulk or scale including changes to the height, GFA, or setbacks of the building;
- There is no substantial modification to the configuration of the approved development;
- The function, form, operations, and importantly, public perception of the site, as a childcare centre remains unchanged.

In light of the above, the proposal as amended, is not considered to result in a “radical transformation” of the consent, as currently approved, satisfying the radical transformation test pursuant to *Michael Standley & Associates Pty Ltd v North Sydney Council [2005] NSWLEC 358*.

Whilst the proposal seeks to modify the approved architectural plans to provide fire exit stairs to the basement, addition of a fire exit door, provision of an ambulant toilet and modification of door swing due to BCA requirements, this is not considered to be material or essential elements of the approved development which would constitute a radical change to the ultimate development outcome of the Site. This is further analysed in *Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280* which applies a quantitative and qualitative test to determine what qualifies a development as being “substantially the same”.

*Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280* provides that a comparison of the development as approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is “essentially or materially” the same as the approved development. The comparison 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).

Whilst the proposed modification to the Architectural Plans as a result of BCA requirements through the modification of Condition 1, the modification is not considered to be substantial or comprise a critical element of the development. Further, from a qualitative perspective, the development retains its identity as a childcare centre.

In light of the above, the proposal, as amended, will be substantially the same development as approved, and satisfies the requirements for the application to be assessed and approved pursuant to Section 4.55(1A) of the EP&A Act.



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### 5.2 Section 4.55(3) – Section 4.15 and Reasons given by the consent authority for the grant of the consent

Section 4.15(1) of the EP&A Act specifies the matters which a consent authority must consider when determining a DA. The relevant matters for consideration under Section 4.15(1) of the EP&A Act are provided in **Table 3** below.

Table 3. Section 4.15(1)(A) Considerations	
Section	Response
Section 4.15(1)(a)(i) any environmental planning instrument, and	The development is subject to the State Environmental Planning Policy (Transport and Infrastructure) 2021 and CBLEP2023. Refer to <b>Section 5.4</b> and <b>5.5</b> of this Statement.
Section 4.15(1)(a)(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	No draft environmental instruments are applicable to this application.
Section 4.15(1)(a)(iii) any development control plan, and	<p>The relevant provisions of the <i>Canterbury Bankstown Development Control Plan 2023</i> (CBDCP2023) have been considered under <b>DA2024/0404</b>.</p> <p>The proposed modifications will not result in any changes to the assessment undertaken against CBDCP2023 as part of the original DA.</p>
Section 4.15(1)(a)(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	N/A
Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	Refer to <b>Section 5.3</b> of this Statement.
Section 4.15(1)(b)-(c)	Refer to <b>Sections 5</b> to <b>12</b> of this Statement.

### 5.3 Environmental Planning and Assessment Regulation 2021

This application has been prepared in accordance with the provisions of the EP&A Regulation. Division 1 of Part 5 of the EP&A Regulation stipulates how a modification application must be "made". This DA satisfies the relevant criteria of the Regulation.

Further, the proposed modification does not trigger 'Designated Development' pursuant to Schedule 3 of the EP&A Regulation.

### 5.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

Among other functions, State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP Transport and Infrastructure) repeals the former State Environmental Planning Policy (Infrastructure) 2007 as

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well as State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 among others.

Chapter 3 of the SEPP aims to facilitate the effective delivery of educational establishments and early education and care facilities. The proposed development includes a centre based childcare centre and is subject to the provisions of the SEPP.

A compliance table of the relevant clauses of Chapter 3 specific to the development is provided in **Table 4** below. Further, an assessment of the proposal against the Education and Care Services National Regulations and Child Care Planning Guidelines is provided within **Tables 5** and **6** respectively.

<b>Table 4. SEPP Transport and Infrastructure Chapter 3 Assessment</b>	
<b>Clause</b>	<b>Comment</b>
<b>Part 3.3 Early education and care facilities—specific development controls</b>	
3.22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development	The proposal complies with regulation 107 (indoor unencumbered space requirements) and 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations.
(1) This section applies to development for the purpose of a centre-based child care facility if—	
(a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or	
(b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.	
(2) The consent authority must not grant development consent to development to which this section applies except with the concurrence of the Regulatory Authority.	
(3) The consent authority must, within 7 days of receiving a development application for development to which this section applies—	
(a) forward a copy of the development application to the Regulatory Authority, and	
(b) notify the Regulatory Authority in writing of the basis on which the Authority's concurrence is required and of the date it received the development application.	
(4) In determining whether to grant or refuse concurrence, the Regulatory Authority is to consider any requirements applicable to the proposed development under the Children (Education and Care Services) National Law (NSW).	
(5) The Regulatory Authority is to give written notice to the consent authority of the Authority's	



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<p>determination within 28 days after receiving a copy of the development application under subsection (3).</p> <p><b>Note</b>—The effect of section 4.13(11) of the Act is that if the Regulatory Authority fails to inform the consent authority of the decision concerning concurrence within the 28 day period, the consent authority may determine the development application without the concurrence of the Regulatory Authority and a development consent so granted is not voidable on that ground.</p>	
<p>(6) The consent authority must forward a copy of its determination of the development application to the Regulatory Authority within 7 days after making the determination.</p>	
<p><b>3.23 Centre-based child care facility—matters for consideration by consent authorities</b></p> <p>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 <i>Child Care Planning Guideline</i>, in relation to the proposed development.</p>	<p>The applicable provisions under the Child Care Planning Guidelines have been addressed within the Child Care Planning Guidelines Assessment Table below.</p>
<p><b>3.25 Centre-based child care facility—floor space ratio</b></p> <p>(1) Development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1.</p> <p>(2) This section does not apply if another environmental planning instrument or a development control plan sets a maximum floor space ratio for the centre-based child care facility.</p>	<p>The proposed modification does not result in any additional GFA thus will not increase the approved FSR as per DA-859/2022.</p> <p>The proposed development is subject to a maximum FSR of 0.4:1 under Clause 4.4(2B) pursuant to the CBLEP2023. The development provides a FSR of 0.326:1 and as such is compliant with FSR requirements.</p>
<p><b>3.26 Centre-based child care facility—non-discretionary development standards</b></p> <p>(1) The object of this section is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.</p> <p>(2) The following are non-discretionary development standards for the purposes of section 4.15(2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility—</p>	<p>Noted.</p>

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(a) <b>location</b> —the development may be located at any distance from an existing or proposed early education and care facility,	
<p>(b) <b>indoor or outdoor space</b></p> <p>(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the <i>Education and Care Services National Regulations</i> applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or</p> <p>(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the <i>Children (Education and Care Services) Supplementary Provisions Regulation 2012</i> applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,</p>	The centre-based child care facility provides 156.94m <sup>2</sup> of unencumbered indoor play space and 319m <sup>2</sup> of unencumbered outdoor play space which is consistent with the indoor and outdoor unencumbered space requirements of the Education and Care Service National Regulations.
(c) <b>site area and site dimensions</b> —the development may be located on a site of any size and have any length of street frontage or any allotment depth,	Noted.
(d) <b>colour of building materials or shade structures</b> —the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.	The Site is not identified to be a heritage item nor located within a heritage conservation area (HCA)
<p><b>3.27 Centre-based child care facility—development control plans</b></p> <p>(1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility—</p> <p>(a) operational or management plans or arrangements (including hours of operation),</p> <p>(b) demonstrated need or demand for child care services,</p> <p>(c) proximity of facility to other early education and care facilities,</p> <p>(d) any matter relating to development for the purpose of a centre-based child care facility contained in—</p> <p>(i) the design principles set out in Part 2 of the <i>Child Care Planning Guideline</i>, or</p>	Noted.

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(ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).	
(2) This section applies regardless of when the development control plan was made.	

<b>Table 5. Education and Care Services National Regulations Chapter 4 Operational Requirements</b>		
<b>Part 4.3 Physical Environment</b>		
<b>Division 1 Centre-based services and family day care services</b>		
<b>Clause</b>	<b>Proposed</b>	<b>Comment</b>
<b>Clause 103 Premise, furniture and equipment to be safe clean and in good repair</b> The approved provider of an education and care service must ensure that the education and care service premises and all equipment and furniture used in providing the education and care service are safe, clean and in good repair.	Noted	<b>Noted</b>
<b>104 Fencing</b> Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	The proposal does not modify the approved fencing and barriers under <b>DA-859/2022</b> .	<b>Complies</b>
<b>106 Laundry and hygiene facilities</b> The proposed development includes laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering. Laundry/hygienic facilities are located where they do not pose a risk to children.	The proposal does not modify the approved laundry facilities under <b>DA-859/2022</b> .	<b>Complies</b>
<b>107 Unencumbered indoor space</b> The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child. <i>Refer to regulation 107 of the Education and Care Services National Regulation for further information on calculating indoor space.</i>	A total of 42 children will be cared for on the site. The proposed modifications will continue to provide 156.94m <sup>2</sup> of unencumbered indoor space which exceeds the 136.5m <sup>2</sup> required under the Regulations.	<b>Complies</b>
<b>108 Unencumbered outdoor space</b> The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child. <i>Refer to regulation 108 of the Education and Care Services National Regulation for further information on calculating outdoor space, and for different requirements for out-of-school-hours care services.</i>	A total of 42 children will be cared for on the site. The proposed modifications will continue to provide 319m <sup>2</sup> of unencumbered outdoor space which exceeds the 294m <sup>2</sup> required under the Regulations.	<b>Complies</b>

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<b>109 Toilet and hygiene facilities</b> The proposed development includes adequate, developmentally and age-appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service. The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.	The proposed modifications provide an ambulant toilet on the first floor. The proposal does not modify the other toilet and hygiene facilities approved under <b>DA-859/2022</b> .	<b>Complies</b>
<b>110 Ventilation and natural light</b> The proposed development includes indoor spaces to be used by children that — <ul style="list-style-type: none"> <li>• will be well ventilated; and</li> <li>• will have adequate natural light; and</li> <li>• can be maintained at a temperature that ensures the safety and well-being of children.</li> </ul>	Indoor spaces for children are well ventilated and will have adequate natural lighting due to the numerous windows and sliding door available to each room.	<b>Complies</b>
<b>Division 2 Additional requirements for centre-based services</b>		
<b>111 Administrative space</b> The proposed development includes an adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations.	The proposal does not modify the approved administrative space under <b>DA-859/2022</b> .	<b>Complies</b>
<b>112 Nappy change facilities</b> (To be completed only if the proposed development is for a service that will care for children who wear nappies)	The proposal does not modify the nappy change facilities space under <b>DA-859/2022</b> .	<b>Complies</b>
<b>113 Outdoor space – natural environment</b> The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.	The centre continues to provide a wide variety of outdoor play facilities that would promote exploration and improve experience in the natural environment.	<b>Complies</b>
<b>114 Outdoor space – shade</b> The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	The proposed landscaping and shade sails provides outdoor shading within each proposed outdoor area.	<b>Complies</b>
<b>115 Premises designed to facilitate supervision</b> The proposed development (including toilets and nappy change facilities) are designed in a way that facilitates supervision of children at all times, having regard to the need to maintain the rights and dignity of the children.	The internal layout as well as outdoor play space of the proposed centre is considered to have been designed to allow for the supervision of children at all times when activity rooms and play spaces are in use.	<b>Complies</b>
<b>Part 4.4 Staffing Arrangements</b>		
<b>Division 2 Minimum number of educators and family day care coordinators required</b>		
<b>123 Educator to child ratios—centre-based services</b> The minimum number of educators required to educate and care for children at a centre-based service as follows; <ol style="list-style-type: none"> <li>1) Children age between 0 to 24 months- 1 educator to 4 children;</li> <li>2) Children age between 24 months to 36 months - 1 educator to 5 children;</li> </ol>	The proposal does not modify the approved number of children and educators under <b>DA-859/2022</b> .	<b>Complies</b>

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3) Children age between 36 months and over - 1 educator to 10 children; and		
4) Children over preschool age- 1 educator to 15 children.		

<b>Table 6. Child Care Planning Guideline</b>		
<b>Principle</b>		<b>Response</b>
<b>3. Matters for Consideration</b>		
<b>Objectives</b>	<b>Design Guidance</b>	<b>Response</b>
<b>3.1 Site Selection</b>		
<i>To ensure that appropriate zone considerations are assessed when selecting a site.</i>	<p><b>C1</b> <i>For proposed developments in or adjacent to a residential zone, consider:</i></p> <ul style="list-style-type: none"> <li><i>the acoustic and privacy impacts of the proposed development on the residential properties</i></li> <li><i>the setbacks and siting of buildings within the residential context</i></li> <li><i>traffic and parking impacts of the proposal on residential amenity.</i></li> </ul>	<p><b>Complies</b></p> <p>The proposed modification maintains the approved use of a childcare facility. The proposal will not result in additional acoustic impacts to adjoining residential development. Further, the proposed modification does not amend the approved setbacks and number of car parking spaces approved under <b>DA-859/2022</b>.</p>
<i>To ensure that the site selected for a proposed child care facility is suitable for the use.</i>	<p><b>C2</b> <i>When selecting a site, ensure that:</i></p> <ul style="list-style-type: none"> <li><i>the location and surrounding uses are compatible with the proposed development or use</i></li> <li><i>the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards</i></li> <li><i>there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed</i></li> <li><i>the characteristics of the site are suitable for the scale and type of development proposed having regard to:</i> <ul style="list-style-type: none"> <li><i>size of street frontage, lot configuration, dimensions and overall size</i></li> <li><i>number of shared boundaries with residential properties</i></li> <li><i>the development will not have adverse environmental</i></li> </ul> </li> </ul>	<p><b>Complies</b></p> <p>The proposed modification maintains the approved use of a childcare facility. It is not located within a sensitive environmental or cultural area and will not result in adverse environmental impacts on surrounding areas. Further, the proposed modification does not amend the approved number of car parking spaces or vehicular access approved under <b>DA-859/2022</b>.</p>

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	<ul style="list-style-type: none"> <li>- <i>impacts on the surrounding area, particularly in sensitive</i></li> <li>- <i>environmental or cultural areas</i></li> <li>• <i>where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use</i></li> <li>• <i>there are suitable drop of and pick up areas, and of and on street parking</i></li> <li>• <i>the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use</i></li> <li>• <i>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.</i></li> </ul>	
<i>To ensure that sites for child care facilities are appropriately located.</i>	<p><b>C3</b> A child care facility should be located:</p> <ul style="list-style-type: none"> <li>• <i>near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship</i></li> <li>• <i>near or within employment areas, town centres, business centres, shops with access to public transport including rail, buses, ferries</i></li> <li>• <i>in areas with pedestrian connectivity to the local community, businesses, shops, services and the like</i></li> </ul>	<p><b>Complies</b></p> <p>The proposed modification maintains the approved use under <b>DA-859/2022</b>.</p>
<i>To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards</i>	<p><b>C4</b> A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> <li>• <i>proximity to:</i> <ul style="list-style-type: none"> <li>- <i>heavy or hazardous industry, waste transfer depots or landfill sites</i></li> <li>- <i>LPG tanks or service stations</i></li> </ul> </li> </ul>	<p><b>Complies</b></p> <p>The Site is not located within proximity to the adverse environmental conditions listed.</p>



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	<ul style="list-style-type: none"> <li>- <i>water cooling and water warming systems</i></li> <li>- <i>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</i></li> </ul>	
<b>3.2 Local Character, Streetscape and Public Domain Interface</b>		
<i>To ensure that the child care facility is compatible with the local character and surrounding streetscape.</i>	<p><b>C5</b> <i>The proposed development should:</i></p> <ul style="list-style-type: none"> <li>• <i>contribute to the local area by being designed in character with the locality and existing streetscape</i></li> <li>• <i>reflect the predominant form of surrounding land uses, particularly in low density residential areas</i></li> <li>• <i>recognise predominant streetscape qualities, such as building form, scale, materials and colours</i></li> <li>• <i>include design and architectural treatments that respond to and integrate with the existing streetscape</i></li> <li>• <i>use landscaping to positively contribute to the streetscape and neighbouring amenity</i></li> <li>• <i>integrate car parking into the building and site landscaping design in residential areas.</i></li> </ul>	<p><b>Complies</b></p> <p>The proposed modification maintains the two storey built form that is to be set within a landscape setting to be compatible with the existing 1-2 storey predominantly low density character within the immediate locality.</p> <p>The proposed modification does not amend the approved materials and finishes, setbacks and building height as approved under <b>DA-859/2022</b>.</p>
<i>To ensure clear delineation between the child care facility and public spaces.</i>	<p><b>C6</b> <i>Create a threshold with a clear transition between public and private realms, including:</i></p> <ul style="list-style-type: none"> <li>• <i>fencing to ensure safety for children entering and leaving the facility</i></li> <li>• <i>windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community</i></li> <li>• <i>integrating existing and proposed landscaping with fencing.</i></li> </ul>	
	<p><b>C7</b> <i>On sites with multiple buildings and/or entries, pedestrian entries and spaces</i></p>	

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	<i>associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</i>	
	<p><b>C8</b>  <i>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:</i></p> <ul style="list-style-type: none"> <li><i>clearly defined street access, pedestrian paths and building entries</i></li> <li><i>low fences and planting which delineate communal/private open space from adjoining public open space</i></li> <li><i>minimal use of blank walls and high fences.</i></li> </ul>	<p><b>N/A</b></p> <p>The proposed development does not adjoin public parks, open space, or bushland.</p>
<i>To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.</i>	<p><b>C9</b>  <i>Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions</i></p> <p><b>C10</b>  <i>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.</i></p>	<p><b>Complies</b></p> <p>The proposal does not seek consent to modify the fencing approved under <b>DA-859/2022</b>.</p> <p>The Site is not identified as a heritage item, is not within a heritage conservation area nor is it adjacent to a heritage item.</p>
<b>3.3 Building Orientation, Envelope and Design</b>		
<i>To respond to the streetscape and site, while optimising solar access and opportunities for shade.</i>	<p><b>C11</b>  <i>Orient a development on a site and design the building layout to:</i></p> <ul style="list-style-type: none"> <li><i>ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by:</i> <ul style="list-style-type: none"> <li><i>facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties</i></li> <li><i>placing play equipment away from common boundaries with residential properties</i></li> <li><i>locating outdoor play areas away from residential</i></li> </ul> </li> </ul>	<p><b>Complies</b></p> <p>The proposed modification does not seek to amend the approved building siting, finished floor levels, setbacks and building height under <b>DA-859/2022</b>. Therefore, the proposal does not result in additional privacy, acoustic or overshadowing impacts.</p>

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	<p><i>dwelling and other sensitive uses</i></p> <ul style="list-style-type: none"> <li><i>optimise solar access to internal and external play areas</i></li> <li><i>avoid overshadowing of adjoining residential properties</i></li> <li><i>minimise cut and fill</i></li> <li><i>ensure buildings along the street frontage define the street by facing</i></li> <li><i>ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions</i></li> </ul>	
<p><i>To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised.</i></p>	<p><b>C12</b>  <i>The following matters may be considered to minimise the impacts of the proposal on local character:</i></p> <ul style="list-style-type: none"> <li><i>building height should be consistent with other buildings in the locality</i></li> <li><i>building height should respond to the scale and character of the street</i></li> <li><i>setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility</i></li> <li><i>setbacks should provide adequate access for building maintenance</i></li> <li><i>setbacks to the street should be consistent with the existing character.</i></li> </ul>	<p><b>Complies</b></p> <p>The proposal maintains the two-storey built form and building setbacks as approved under <b>DA-859/2022</b>.</p>
<p><i>To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context.</i></p>	<p><b>C13</b>  <i>Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</i></p>	<p><b>N/A</b></p> <p>Kennedy Street has a prevailing street character.</p>
	<b>C14</b>	<b>Complies</b>

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	<i>On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</i>	The proposed development is located within a residential zone and maintains the approved setback under <b>DA-859/2022</b> .
<i>To ensure that the built form, articulation, and scale of development relates to its context and buildings are well designed to contribute to an area's character.</i>	<p><b>C15</b>  <i>The built form of the development should contribute to the character of the local area, including how it:</i></p> <ul style="list-style-type: none"> <li><i>• respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage</i></li> <li><i>• contributes to the identity of the place</i></li> <li><i>• retains and reinforces existing built form and vegetation where significant</i></li> <li><i>• considers heritage within the local neighbourhood including identified heritage items and conservation areas</i></li> <li><i>• responds to its natural environment including local landscape setting and climate</i></li> <li><i>• contributes to the identity of place.</i></li> </ul>	<p><b>Complies</b></p> <p>The proposed modification does not result in additional bulk and scale and will maintain the character as approved under <b>DA-859/2022</b>.</p>
<i>To ensure that buildings are designed to create safe environments for all users.</i>	<p><b>C16</b>  <i>Entry to the facility should be limited to one secure point which is:</i></p> <ul style="list-style-type: none"> <li><i>• located to allow ease of access, particularly for pedestrians</i></li> <li><i>• directly accessible from the street where possible</i></li> <li><i>• directly visible from the street frontage</i></li> <li><i>• easily monitored through natural or camera surveillance</i></li> <li><i>• not accessed through an outdoor play area.</i></li> <li><i>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</i></li> </ul>	<p><b>Complies</b></p> <p>The proposed modification does not seek to amend the pedestrian entry point as approved under <b>DA-859/2022</b>.</p>
<i>To ensure that child care facilities are designed to be accessible by all potential users.</i>	<p><b>C17</b>  <i>Accessible design can be achieved by:</i></p> <ul style="list-style-type: none"> <li><i>• providing accessibility to and within the building in accordance with all relevant legislation</i></li> <li><i>• linking all key areas of the site by level or ramped pathways that</i></li> </ul>	<p><b>Complies</b></p> <p>The proposal does not modify the building entry or ramps as approved under <b>DA-859/2022</b>.</p>

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	<p><i>are accessible to prams and wheelchairs, including between all car parking areas and the main building entry</i></p> <ul style="list-style-type: none"> <li><i>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</i></li> <li><i>minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</i></li> </ul> <p><i>NOTE: The National Construction Code, the Discrimination Disability Act 1992 and the Disability (Access to Premises – Buildings) Standards 2010 set out the requirements for access to buildings for people with disabilities.</i></p>	
<b>3.4 Landscaping</b>		
To provide landscape design that contributes to the streetscape and amenity.	<p><b>C18</b> Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> <li>reflecting and reinforcing the local context</li> <li>incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.</li> </ul>	<p><b>Complies</b></p> <p>An amended Landscape Plan has been prepared by Eden Renewed Gardens to reflect the proposed modification. The landscaping scheme is considered high quality and appropriate for the use of the Site.</p>
	<p><b>C19</b> Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> <li>planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</li> <li>taking into account streetscape, local character and context when siting car parking areas within the front setback</li> <li>using low level landscaping to soften and screen parking areas.</li> </ul>	<p><b>Complies</b></p> <p>The proposed modification maintains the car parking within the basement as approved under <b>DA-859/2022</b>.</p>
<b>3.5 Visual and Acoustic Privacy</b>		
	<b>C20</b>	<b>N/A</b>

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<p><i>To protect the privacy and security of children attending the facility.</i></p>	<p><i>Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</i></p> <p><b>C21</b>  <i>Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</i></p> <ul style="list-style-type: none"> <li><i>• appropriate site and building layout</i></li> <li><i>• suitably locating pathways, windows and doors</i></li> <li><i>• permanent screening and landscape design.</i></li> </ul>	<p>The proposal does not comprise a mixed use development.</p> <p><b>Complies</b></p> <p>The proposal modification does not result in overlooking of indoor rooms and outdoor play spaces from public areas.</p>
<p><i>To minimise impacts on privacy of adjoining properties</i></p>	<p><b>C22</b>  <i>Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</i></p> <ul style="list-style-type: none"> <li><i>• appropriate site and building layout</i></li> <li><i>• suitable location of pathways, windows and doors</i></li> <li><i>• landscape design and screening.</i></li> </ul>	<p><b>Complies</b></p> <p>The proposed modification will not result in additional overlooking of main internal living areas and private open space in adjoining developments.</p>
<p><i>To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments</i></p>	<p><b>C23</b>  <i>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:</i></p> <ul style="list-style-type: none"> <li><i>• 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).</i></li> <li><i>• ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.</i></li> </ul> <p><b>C24</b>  <i>A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</i></p> <ul style="list-style-type: none"> <li><i>• identify an appropriate noise level for a child care facility located in residential and other zones</i></li> <li><i>• determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use</i></li> </ul>	<p><b>Complies</b></p> <p>An Acoustic Impact Assessment was provided as part of <b>DA-859/2022</b>. The proposed modifications do not result in additional acoustic impact to adjoining dwellings.</p>



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	<ul style="list-style-type: none"> <li>determine the appropriate height of any acoustic fence to enable the noise criteria to be met.</li> </ul>	
<b>3.6 Noise and Air Pollution</b>		
<p>To ensure that outside noise levels on the facility are minimised to acceptable levels.</p>	<p><b>C25</b> Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> <li>creating physical separation between buildings and the noise source</li> <li>orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> <li>using landscaping to reduce the perception of noise</li> <li>limiting the number and size of openings facing noise sources</li> <li>using double or acoustic glazing, acoustic louvres, or enclosed balconies (wintergardens)</li> <li>using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and softs</li> <li>locating cot rooms, sleeping areas and play areas away from external noise sources.</li> </ul>	<p><b>Complies</b></p> <p>An Acoustic Impact Assessment was provided as part of <b>DA-859/2022</b>. The proposed modifications do not result in additional acoustic impact to adjoining dwellings.</p>
	<p><b>C26</b> 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>To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and</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><b>Complies</b></p> <p>The location of the childcare centre was assessed and approved under <b>DA-859/2022</b>. The proposal does not modify the location of the child care centre.</p>

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<i>industrial development.</i>	<p><b>C28</b>  <i>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:</i></p> <ul style="list-style-type: none"> <li><i>creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution</i></li> <li><i>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</i></li> <li><i>incorporating ventilation design into the design of the facility.</i></li> </ul>	<p><b>Complies</b></p> <p>The subject site is not located near a major road that triggers the need for an air quality assessment.</p>
<b>3.7 Hours of Operation</b>		
<i>To minimise the impact of the child care facility on the amenity of neighbouring residential developments</i>	<p><b>C29</b>  <i>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.</i></p>	<p><b>Complies</b></p> <p>The proposal does not modify the hours of operation as approved under <b>DA-859/2022</b>.</p>
	<p><b>C30</b>  <i>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.</i></p>	<p><b>N/A</b></p> <p>The Site is not located within a mixed use area or commercial area.</p>
<b>3.8 Traffic, Parking and Pedestrian Circulation</b>		
<i>To provide parking that satisfies the needs of users and demand generated by the centre.</i>	<p><b>C31</b>  <i>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. Where a Development Control Plan does not specify car parking rates, of street car parking should be provided at the following rates:</i></p>	<p><b>Complies</b></p> <p>The proposal does not seek to reduce the number of car parking spaces as approved under <b>DA-859/2022</b>.</p>

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	<p><i>Within 400 metres of a metropolitan train station:</i></p> <ul style="list-style-type: none"> <li>• 1 space per 10 children</li> <li>• 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space.</li> </ul> <p><i>In other areas:</i></p> <ul style="list-style-type: none"> <li>• 1 space per 4 children.</li> </ul> <p><i>A reduction in car parking rates may be considered where:</i></p> <ul style="list-style-type: none"> <li>• the proposal is an adaptive re-use of a heritage item</li> <li>• the site is in a B8 Metropolitan Zone or other high density business or residential zone</li> <li>• the site is in proximity to high frequency and well connected public transport</li> <li>• the site is co-located or in proximity to other uses where parking is appropriately provided (for example business centres, schools, public open space, car parks)</li> <li>• there is sufficient on street parking available at appropriate times within proximity of the site.</li> </ul>	
	<p><b>C32</b>  <i>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.</i></p>	<p><b>N/A</b></p> <p>The Site is not located within commercial or industrial zones and the proposal is not a mixed-use development.</p>
	<p><b>C33</b>  <i>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:</i></p> <ul style="list-style-type: none"> <li>• the amenity of the surrounding area will not be affected</li> <li>• there will be no impacts on the safe operation of the surrounding road network.</li> </ul>	<p><b>Complies</b></p> <p>A Traffic Impact Assessment was provided with <b>DA-859/2022</b>. The proposed modification does not increase the number of children nor reduce the number of approved car parking spaces.</p>
To provide vehicle access from the	<b>C34</b>	<b>Complies</b>

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<p><i>street in a safe environment that does not disrupt traffic flows.</i></p>	<p><i>Alternate vehicular access should be provided where child care facilities are on sites fronting:</i></p> <ul style="list-style-type: none"> <li><i>a classified road</i></li> <li><i>roads which carry freight traffic or transport dangerous goods or hazardous materials.</i></li> </ul> <p><i>The alternate access must have regard to:</i></p> <ul style="list-style-type: none"> <li><i>the prevailing traffic conditions</i></li> <li><i>pedestrian and vehicle safety including bicycle movements</i></li> <li><i>the likely impact of the development on traffic.</i></li> </ul>	<p>The Site does not front a Classified Road or a road which carries freight traffic or transport dangerous goods or hazardous materials.</p>
	<p><b>C35</b> <i>Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</i></p>	<p><b>Complies</b></p> <p>The Site is not located within a cul-de-sac or narrow lanes or road.</p>
<p><i>To provide a safe and connected environment for pedestrians both on and around the site.</i></p>	<p><b>C36</b> <i>The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</i></p> <ul style="list-style-type: none"> <li><i>separate pedestrian access from the car park to the facility</i></li> <li><i>defined pedestrian crossings included within large car parking areas</i></li> <li><i>separate pedestrian and vehicle entries from the street for parents, children and visitors</i></li> <li><i>pedestrian paths that enable two prams to pass each other</i></li> <li><i>delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</i></li> <li><i>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</i></li> <li><i>vehicles can enter and leave the site in a forward direction.</i></li> </ul>	<p><b>Complies</b></p> <p>The proposal does not modify the location of the pedestrian and vehicular access nor modify the existing loading facilities as approved under <b>DA-859/2022</b>.</p>
	<p><b>C37</b> <i>Mixed use developments should include:</i></p> <ul style="list-style-type: none"> <li><i>driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks</i></li> </ul>	<p><b>N/A</b></p> <p>The proposed development is not a mixed use development.</p>

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	<ul style="list-style-type: none"><li><i>drop of 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</i></li><li><i>parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</i></li></ul>	
	<p><b>C38</b> <i>Car parking design should:</i></p> <ul style="list-style-type: none"><li><i>include a child safe fence to separate car parking areas from the building entrance and play areas</i></li><li><i>provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards</i></li><li><i>include wheelchair and pram accessible parking.</i></li></ul>	<p><b>Complies</b></p> <p>The proposal does not modify the location and number of car parking spaces as approved under <b>DA-859/2022</b>.</p>

## 5.5 Canterbury Bankstown Local Environmental Plan 2023

### 5.5.1 Zoning and Permissibility

The site is located within the R2 Low Density Residential zone under CBLEP2023 (**Figure 3**). The objectives of the R2 zone:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To 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.*
- *To ensure suitable landscaping in the low density residential environment.*
- *To minimise and manage traffic and parking impacts.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To promote a high standard of urban design and local amenity.*

The permissibility of the development was established under the original DA and the use of the development as 'centre based child care facility' will remain unchanged as approved under **DA-859/2022**.

Given the minor nature of the changes sought under this application, the proposed modification does not result in any of the objectives of the zone being compromised. The development will continue to be capable of achieving these objectives to the same capacity as the approved development under **DA-859/2022**.

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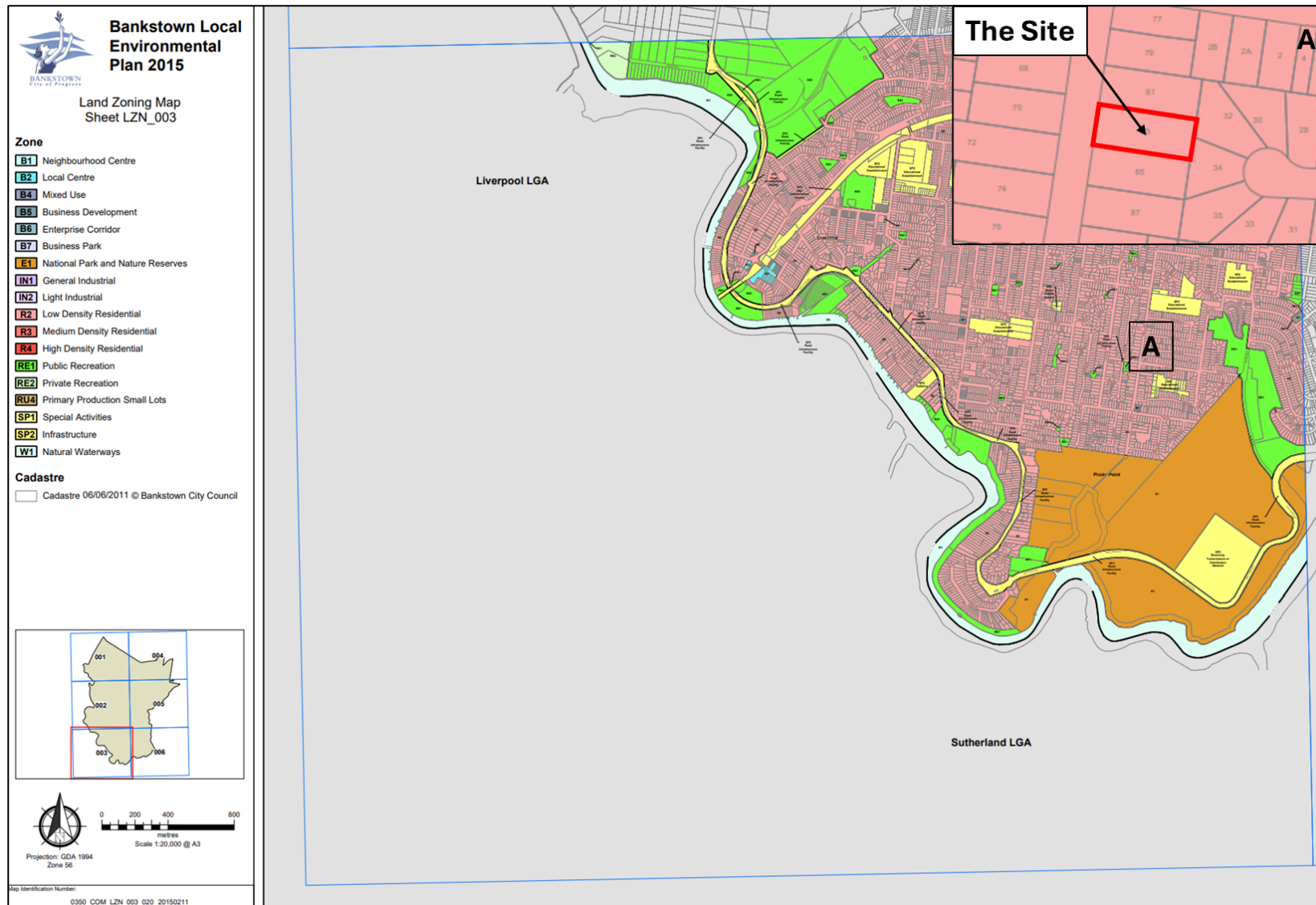
Further, the proposed modification will support the continued use of the Site as a centre based child care facility. The relevant Development Standards contained within CBLEP2023 will not be contravened by the proposed modification.



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## **6. NON-STATUTORY PLANNING FRAMEWORK**

### **6.1 Canterbury Bankstown Development Control Plan 2023**

The CBDCP2023 supplements CBLEP2023 and provides more detailed provisions to guide development. Given the minor nature of the changes sought under this application, the proposed modification does not result in any of the controls of the CBDCP2023 being compromised. The development will continue to be capable of achieving these controls to the same capacity as the approved development under **DA-859/2022**.

## **7. LIKELY IMPACTS OF DEVELOPMENT**

The proposed modification is considered minor in nature and does not result in any measurable changes to the overall outcome of the proposed development. Given the nature and scale of the modification proposed, the likely impact will remain consistent with those previously assessed and determined under **DA-859/2022**.

## **8. LAND USE**

The proposed modifications will preserve the use of the site as a centre based child care facility, consistent with **DA-859/2022**.

## **9. TRAFFIC**

There will be no change to traffic and transport arrangements under the subject application, consistent with **DA-859/2022**.

## **10. SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

Given the nature of the proposed modification, the proposal is deemed suitable as it does not seek to modify the design and configuration of the approved centre based child care facility or give rise to any undesirable environmental or amenity impacts. The proposal does not comprise any changes or additional elements which might cause the development as previously approved under **DA-859/2022** to be deemed unsuitable for the Site.

## **11. PUBLIC INTEREST**

The development provides a centre based child care facility within the Canterbury Bankstown LGA. The proposal as modified will not exhibit any unacceptable impacts on the amenity of the locality and is compatible with the surrounding context. The development will not impose any adverse environmental impacts. Therefore, the development as modified is in the public interest.

## **12. CONCLUSION**

The proposal has been prepared after taking into consideration the following key issues:

- The development history of the Site;
- Previously approved development;
- The context of the Site and locality;
- The relevant heads of consideration under Section 4.55(1A) of the EP&A Act; and
- The aims, objectives and provisions of the relevant statutory and non-statutory planning instruments.

As detailed throughout this Statement, the proposed modifications will preserve the approved use of the Site and will not substantially change the configuration of the development. The proposal is therefore considered to represent a development outcome substantially the same as that previously approved under **DA-859/2022**. In light of the above, the modifications proposed to development consent **DA-859/2022** are considered worthy of support by Canterbury Bankstown Council.