

**SYDNEY PLANNING PANEL (NORTH)**

Sydney Planning Panel Reference No.	2017SNH035 DA
DA Number	DA 2016/263
Local Government Area	Willoughby City Council
Proposed Development	DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A CHILDCARE CENTRE AND ASSOCIATED WORKS
Street Address	1-1A WALTER STREET AND 452-460 WILLOUGHBY ROAD, WILLOUGHBY
Applicant/Owner	ARTMADE ARCHITECTS
Number of Submissions	62
Regional Development Criteria (Schedule 4A of the Act)	Capital Investment Value > 5m Private infrastructure and community facilities
List of All Relevant s79C(1)(a) Matters	Education and Care Services National Regulations SREP (Sydney Harbour Catchment). SEPP (Infrastructure) SEPP 55 – Land Remediation SEPP 64 Advertising and Signage Willoughby Local Environmental Plan 2012 Draft SEPP and Draft Guideline
List of all documents submitted with this report for the Panel's consideration	A. Schedule of recommended Conditions NOTIFICATION MAP B. Notification map C. Development Statistics Table D. SEPP 64 Assessment & G.5 of The WDCP E. Draft SEPP and Draft Guideline Assessment F. Neighbour Notification Issues G. Plans & Elevations (as amended)
Recommendation	Refusal
Report by	Pooja Chugh
Report date	12 July 2017

**1-1A WALTER STREET & 452-460 WILLOUGHBY ROAD, WILLOUGHBY DA2016/263  
(CHILDCARE CENTRE DEVELOPMENT)**

**ATTACHMENTS:**

- 1. NOTIFICATION MAP**
- 2. DEVELOPMENT STATISTICS**
- 3. SEPP 64 ASSESSMENT & G.5 OF THE WDCP**
- 4. DRAFT SEPP AND DRAFT GUIDELINE ASSESSMENT**
- 5. NEIGHBOUR NOTIFICATION ISSUES**
- 6. PLANS & ELEVATIONS (PROVIDED SEPARATELY)**

**MEETING DATE:** 24 JULY 2017

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**RECOMMENDATION:** REFUSAL

**LOCATION:** 1-1A WALTER STREET & 452-460 WILLOUGHBY ROAD, WILLOUGHBY

**APPLICANT:** ARTMADE ARCHITECTURAL

**OWNER:** MS J M CORNAY AND MR R SORAK AND MRS A R SORAK AND H R NIHILL AND MR A M HORAN AND MS V C HORAN AND MR A D POTTER AND MS N E HERRON AND MR J G T HEAD AND MS L T N VU AND MR J R HUGHES

**PROPOSAL:** DEMOLITION OF EXISTING DWELLINGS AND CONSTRUCTION OF A NEW 222 PLACE CHILDCARE CENTRE AND SIGNAGE

**DATE OF LODGEMENT:** 22 JULY 2016

**REPORTING OFFICER:** POOJA CHUGH – DEVELOPMENT ASSESSMENT OFFICER

**RESPONSIBLE OFFICER:** IAN ARNOTT – PLANNING MANAGER

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## **DESCRIPTION OF PROPOSAL**

Development Application DA-2016/263 seeks Council's consent for the demolition of the existing dwellings and construction of a new 222 place childcare centre at 1-1A Walter Street & 452-460 Willoughby Road, Willoughby. Detailed description of the proposal is as follows:

- Demolition of existing dwellings and structures and amalgamation of land;
- Construction of a two and three storey child care centre building;
- Removal of existing vehicular crossings on Willoughby Road;
- Three basement levels with 40 car parking spaces accessed from Walter Street;
- One non-illuminated sign;
- Hours of operation 7:00am to 6:00pm Monday to Friday with a maximum of four (4) Saturdays a year for special occasions; and
- 35 staff including kitchen staff, managers and centre director.

## Delegation

The proposal is regionally significant development as identified in Schedule 4A of the *Environmental Planning and Assessment Act* (EP&A Act). It has a capital investment value (CIV) over \$5 million and therefore Sydney (North) Planning Panel is the determination authority.

The application is reported to Council due to litigation. The application has commenced Class 1 proceedings in the NSW Land and Environment Court appealing against Council's deemed refusal of the development application on 13 June 2017.

## Neighbour Notification

The development application was notified in accordance with Part B.4 of the *Willoughby Development Control Plan* (WDCP) for a 14 day period from 29 July 2016 to 19 August 2016. As part of Walter Street residents did not receive a notification letter, the application was renotified and the notification period was extended until 26 August 2016.

Council received 62 submissions. The primary issues of concern in the public submissions relate to:

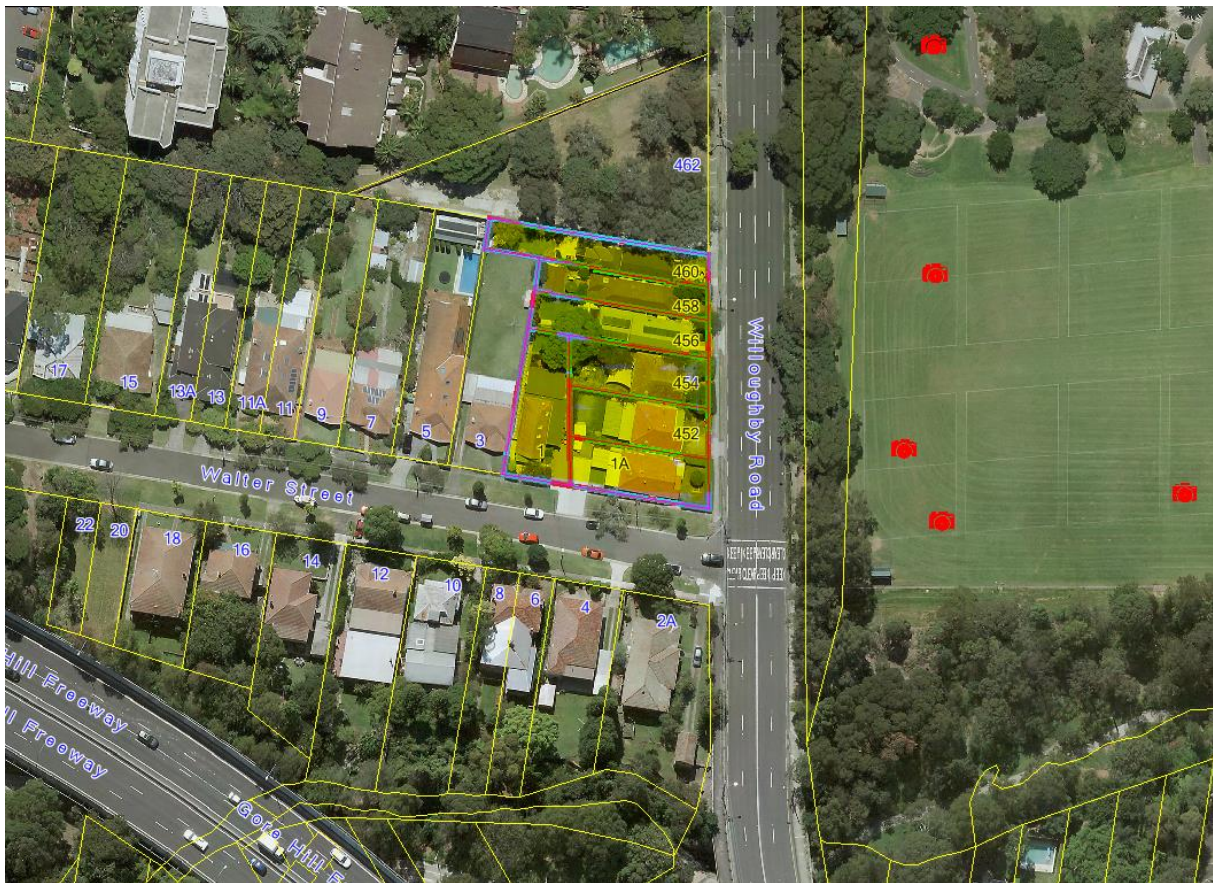
- Height, built form and design
- Childcare capacity
- Traffic, safety & amenity impacts
- Car Parking and loss of on-street parking
- Site suitability

For further discussion of the issues raised in the submissions please refer to the **Notification Issues in Attachment 5.**

## Existing Building and Site Context

The subject site is located at the intersection of Willoughby Road and Walter Street. The site comprises of seven (7) existing allotments containing 1-2 storey dwelling houses as follows:

		Site area (m <sup>2</sup> )	Existing improvements
Lot 1 DP 1084753	1 Walter Street	378.4m <sup>2</sup>	Single storey dwelling
Lot 12 DP 129153	1A Walter Street	322.5m <sup>2</sup>	Single storey dwelling
Lot 11 DP 129153	452 Willoughby Road	322.5m <sup>2</sup>	Single storey dwelling
Lot 1 DP 178525	454 Willoughby Road	322.48m <sup>2</sup>	Single storey dwelling
Lot 1 DP 75133	456 Willoughby Road	309.84m <sup>2</sup>	Part single and part double storey dwelling
Lot 1 DP 81135	458 Willoughby Road	259.25m <sup>2</sup>	Single storey dwelling
Lot 1 DP 1161181	460 Willoughby Road	324.4m <sup>2</sup>	Part single and part double storey dwelling
Total area: 2239.37m <sup>2</sup> or 2250m <sup>2</sup> as per Survey Plan			



**Figure 1 – Aerial Photos of the subject site highlighted in yellow and context**

The site is located within the R3 Medium Density Residential zone on the western side of Willoughby Road. The southern boundary of the subject site adjoins Walter Street, Willoughby. The Bicentennial Reserve Oval is located opposite the subject site.

The subject site is to the south of the Willoughby Road retail-commercial centre. The locality is characterised by one to two storey residential dwellings. Immediately adjoining to the north of the subject site is a vacant lot fronting Willoughby Road. Further north of the subject site is three storey residential flat building development known as the 'Castlevalle'. To the south of the site on Walter Street the sites are zoned SP2 Infrastructure.

### **Relevant History**

- On 22 July 2016 Council received subject DA2016/263 for Demolition of existing structures and construction of a childcare centre with two hundred and twenty five (225) children capacity, signage, landscaping and associated works at 1-1A Walter Street and 452-460 Willoughby Road, Willoughby.
- On 10 October 2016 Council wrote to the applicant requesting further information in regard to site isolation; setback/streetscape; height of sign; traffic matters; landscaping; waste management; stormwater and concerns in relation to indoor/outdoor play areas, evacuation plan and staff numbers.
- The Development Application was amended on 3 March 2017 by receipt of amended plans and information. The amended proposal reduced the total number of children from two hundred and twenty five (225) to two hundred and twenty two (222).
- The proposal is regionally significant development as identified in Schedule 4A of the Environmental Planning and Assessment Act 1979. It has a capital investment value

(CIV) over \$5 million and therefore Sydney (North) Planning Panel is to exercise the functions of the consent authority.

- On 13 June 2017 ArtMade Architectural Pty Ltd commenced Class 1 proceedings no.2017/169864 with the NSW Land and Environment Court appealing against the Council's deemed refusal (s97(1) Environmental Planning and Assessment Act 1979) of this application.
- A brief was provided to the Sydney (North) Planning Panel regarding assessment of the subject Development Application on 28 June 2017.

## ASSESSMENT

Controls	
Willoughby Local Environmental Plan 2012 (WLEP 2012)	
Existing Use/s	Dwelling Houses
Proposed Use	Child Care Centre
Zoning:	R3 Medium Density Residential
Applicable DCP	Yes – WDCP
Applicable REPs	Yes – Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
Applicable SEPPs	Yes – SEPP 55, SEPP (Infrastructure) 2007, SEPP 64.
Regulations	Yes – Children (Education and Care Services) National Law - Education and Care Services National Regulations
Draft Environmental Planning Instruments	Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 ( <b>Draft SEPP</b> ) and Draft Childcare Planning Guideline ( <b>Draft Guideline</b> )
Developer's Contribution Plans:	a. S94A/s94: Yes b. Applicable rate (%): 1% c. The cost of development: \$7,735,172.00 d. Date of accepted cost of development: 22/07/2016 e. The total contribution payable (subject to Building Price Indexing (Enterprise Bargaining Agreement)): \$77,351.72

Referrals	
RMS	No objections, conditions provided.
Building	Standard conditions of consent apply.
Traffic	The proposal is acceptable.
Environmental Health	The proposal does not provide sufficient information to demonstrate that the management of the noise impacts will be acceptable.
Waste	The proposal is unacceptable due to length of the driveway and width of the access path to wheel 1100L garbage bins for collection.
Development Engineering	The proposal in its current form is unsatisfactory. Additional information has been requested with respect to the design of

	the On Site Detention System, flooding, and stormwater and civil works in the public road which has not been received.
Landscaping	The proposal does not maintain prominent landscape quality of the area/locality due to insufficient landscaping along both the street frontages. In sufficient deep soil zones and soft landscaping provided.
Children's Services	Council's Children Services Manager raised concern with the ratio requirements for the outdoor play area, safety and adequate supervision of the volume of children in the outdoor play areas, safe and effective evacuation of children 0-2 and lack of details in relation to additional support staff required.

#### Matters for Consideration Under S.79C EP&A Act

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

(a)(i)	The provisions of any environmental planning instrument (EPI)	✓
	State Environmental Planning Policies (SEPP)	✓
	Regional Environmental Plans (REP)	✓
	Local Environmental Plans (LEP)	✓
	<p><b>WLEP 2012:</b></p> <p><i>R3 – Medium Residential Zone</i>  Childcare centre is a permissible use in the R3 Medium Density Residential Zone. However, the proposed development in its present form is inconsistent with the objective of the zone being incompatible with the scale and character of the surrounding residential developments in terms of building bulk and landscaping. The large elevated outdoor play areas, as proposed, in order to attain sufficient outdoor area for the number of children proposed, demonstrates that the site is unsuitable and the proposed development is an overdevelopment of the site.</p>	
	<p><i>Floor Space Ratio</i>  The application is compliant with the Floor Space Ratio of 0.7:1 (see <b>Development Statistic Table in Attachment 2</b>).</p>	
	<p><i>SREP (Sydney Harbour Catchment)</i>  There are no specific matters contained in the SREP (Sydney Harbour Catchment) that apply to the proposed development.</p>	
	<p><i>SEPP 55 – Remediation of land</i>  A preliminary site assessment report has been submitted in respect to SEPP 55, and is considered to be satisfactory by Council's Environmental Health Officer, subject to the recommended conditions of consent.</p>	
	<p><i>SEPP 64 – Advertising and Signage</i>  The proposed development includes one non-illuminated free standing business identification sign at the corner of the building at the intersection of Willoughby Road and Walter Street. The proposed sign is assessed against the requirements of SEPP 64 and is acceptable given the size and location. Please refer to <b><u>Attachment 3 – SEPP 64 Schedule 1 Criteria</u></b> for details and discussion in <b><u>Part G.4.3 of the WDCP below</u></b>.</p>	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	Draft State Environmental Planning Policies (SEPP)	✓

	<p>Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (<b>Draft SEPP</b>) and Draft Childcare Planning Guideline (<b>Draft Guideline</b>)</p> <p>The Draft SEPP and the Draft Guideline are imminent and certain and therefore are relevant considerations. The proposed development is inconsistent with the controls and design criteria of the Draft SEPP and the Draft Guideline with regard to the proposed design, setbacks, site coverage and landscaping.</p>	
	Draft Regional Environmental Plans (REP)	N/A
	Draft Local Environmental Plans (LEP)	N/A
(a)(iii)	Any development control plans	
	Development control plans (DCPs)	✓
	<p><b>WDCP:</b> The proposed development has been assessed against the relevant requirements of the Willoughby Development Control Plan (WDCP), and is considered to be unsatisfactory, particularly with respect to the following:</p> <p><u>Part A – Purpose and Aims:</u> The proposed development does not demonstrate the principles of quality urban design incorporating high quality architectural design with long-term durability and environmental sustainability. Furthermore, due to inadequate setbacks provided, the proposal provides an unacceptable presentation to Willoughby Road and Walter Street being compatible with the existing and desired future character of the locality and resulting in adverse impacts on the amenity of adjoining properties.</p> <p><u>Part C.5 – Water Management:</u> The subject site is flood affected. The Flood Evacuation Plan submitted requires that all children should be relocated to the first and second floor levels. In this regard, procedures detailing how safe and effective evacuation of children 0-2 years old can be achieved have not been provided. In addition, the proposed development has not addressed all the issues related to on-site water detention (OSD), stormwater and civil works in the public road and issues related to the Flood Study.</p> <p><u>Part C.8 – Waste Management:</u> The proposal is required to provide 3 x 1100L garbage bins to be serviced weekly. It is considered unreasonable to wheel 1100L garbage bins for a length of 47m and present on Walter Street for collection on a weekly basis. The access path provided adjacent to the western boundary for wheeling the bins is 1.4m wide and considered to be difficult to manoeuvre 1.2m wide bulk garbage bins.</p> <p><u>Part C.9 – Preservation of Trees or Vegetation:</u> The proposal does not provide adequate landscaping within the front setback areas along Willoughby Road and Walter Street to maintain prominent landscape quality of the area/locality. The existing front setback is covered by a timber deck due to the raised level of the basement car parking area, which limits the landscaping potential of the site.</p>	

The landscape area provided along Willoughby Road is not adequate to provide for amelioration of bulk and scale; provide adequate separation from outdoor child activities to a public space and provide an attractive natural environment for users of the site. Furthermore, the proposed development provides little opportunity for deep soil zones and soft landscaping due to the extent of the basement car parking area and the ground level being covered by level one of the development.

Part C.11 – Safety by Design: The design of the proposed development does not deliver suitable facilities and layout to support the operation of a quality childcare centre with the safety and well-being of the children as the highest priority.

Part G.8 Child Care Services: The layout and the design of the proposed development with large outdoor play areas raise issues of concern. The majority of the outdoor play areas on the ground floor are covered by the first floor level above, impacting on the solar access, quality and amenity of these outdoor areas.

The Plan of Management and Emergency Response Plan submitted do not adequately demonstrate the number of part time support staff, operation and management of the outdoor play areas and whether a safe evacuation of the children of the proposed development during an emergency, can be achieved.

Part D.2 - Residential Controls:

The site is located on land zoned R3 – Medium Density Residential. Controls contained in Part D.2 of the WDCP specifically relate to medium density residential developments and not other permissible uses within the zone. Notwithstanding, these controls provide appropriate guidelines for the development in terms of the acceptable scale and form in residential environment.

The proposed development does not provide the setbacks that would otherwise be required for medium density residential developments in the R3 Medium Density Residential Zone including setbacks provided along both Willoughby Road and Walter Street frontages. Progressive setbacks from respective side boundaries as building increases in height, bulk and scale to maintain adequate building separation and avoid unreasonable impacts on the amenity of the adjoining and surrounding properties, have not been provided.

In this case, the proposal is unlikely to be compatible with surrounding residential developments in terms of:

- Streetscape presentation with elevated outdoor playing areas with acoustic fencing and limited landscaping being incompatible with the surrounding developments.
- Unacceptable visual bulk as viewed from surrounding properties in comparison to a compliant residential flat building.
- Failure to limit the site coverage to provide adequate open space and maintain privacy
- Amenity impacts to the adjoining residential developments.

Please refer to **Development Statistics Table (Attachment 2)** for details.



(a)(iv)	Any matters prescribed by the regulations	
	Clause 92 EP&A Regulation-Demolition	✓
	Clause 93 EP&A Regulation-Fire Safety Considerations	N/A
	Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings	N/A
(b)	The likely impacts of the development	
	Context & setting	✓
	Access, transport & traffic, parking	✓
	Servicing, loading/unloading	✓
	Public domain	x
	Utilities	✓
	Heritage	N/A
	Privacy	x
	Views	N/A
	Solar Access	x
	Water and draining	x
	Soils	✓
	Air & microclimate	✓
	Flora & fauna	✓
	Waste	x
	Energy	✓
	Noise & vibration	x
	Natural hazards	N/A
	Safety, security crime prevention	x
	Social impact in the locality	✓
	Economic impact in the locality	✓
	Site design and internal design	x
	Construction	✓
	Cumulative impacts	x
	Comment: The proposal is considered to have unacceptable impacts on the amenity of the adjoining and surrounding properties.	
(c)	The suitability of the site for the development	
	Does the proposal fit in the locality?	x
	Are the site attributes conducive to this development?	x
	Comment: The site is located at the major road intersection. The application in its current form does not satisfactorily address the site's constraints, especially noise from the road corridor and safe evacuation and cumulative impacts of these issues.	
(d)	Any submissions made in accordance with this Act or the regulations	
	Public submissions	x
	Submissions from public authorities	N/A
	Comment: The primary issue of concerns in the public submissions relate to loss of on-street parking and traffic impacts; pedestrian activity; height, built form and design; and childcare capacity. Please refer to the notification issues section below. Please refer to <b>Notification Issues (Attachment 5)</b> for details.	
(e)	The public interest	
	Federal, State and Local Government interests and Community interests	x
	Comment: Having regard to the deficiency of the application in satisfactorily addressing the identified design issues and amenity impacts to the surrounding residential properties, the approval of the application will not be in the interests of the public.	

## **Conclusion**

The application in its present form fails to address the principles of quality urban design, provide landscaping and an acceptable presentation to Willoughby Road and Walter Street and is incompatible with the existing and desired future character of the locality. Furthermore, safety and amenity impacts to adjoining and surrounding residential developments are unacceptable. The concerns in relation to urban design, setbacks, streetscape, landscaping and site coverage, comprise an overdevelopment of the site.

The application also contains inadequate information with respect to landscaping, waste management, building layout, stormwater management, and compliance with the Education and Care Services National Regulations.

Based on the above assessment, and consideration of the relevant matters under S79C of the Environmental Planning and Assessment Act 1979, the application is recommended for refusal.

## **OFFICER'S RECOMMENDATION**

**That the application DA-2016/263 proposing demolition of existing dwellings and erection of a childcare centre at 1-1A Walter Street & 452-460 Willoughby Road, Willoughby be refused for the reasons contained in the attached schedule and delegation be granted to the General Manager to issue the refusal notice.**

## Conditions for Refusal

The reasons for **REFUSAL** are:

1. Pursuant to Section 79C (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with Clause 1.2 of the Aims of Plan of the Willoughby Local Environmental Plan 2012 ("WLEP"), specifically subclause (2)(d)(ii)(A)&(B) and (2)(e)(i)&(ii). The proposed development is incompatible with the scale and character of the surrounding residential development due to the setbacks, large elevated first floor level decks, outdoor play area and associated acoustic fencing along Willoughby Road and Walter Street and will have an unacceptable streetscape presentation and unreasonable impacts on the amenity of the surrounding residential developments.
2. Pursuant to Section 79C (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the objectives of the R3 Medium Density Residential Zone applicable under Willoughby Local Environmental Plan 2012 ("WLEP"). The proposed development does not provide the setbacks and built form that would otherwise be required for medium density residential developments in the R3 Medium Density Residential Zone. The proposal fails to maintain prominent landscape quality of the area/locality.
3. Pursuant to S.79C (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the application fails to demonstrate compliance with Clause 5.9 Preservation of trees and vegetation of the Willoughby Local Environmental Plan 2012. The development fails to provide adequate landscaping/planting to soften the visual bulk of the proposed building as viewed from Willoughby Road, Walter Street and the adjoining properties.
4. Pursuant to S.79C (1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the application fails to demonstrate compliance with Part 3 of the Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Draft SEPP) and Sections 3A, 3B, 3D, 3E, 3G, 3H, 3I, 3J 3M of the Draft Childcare Planning Guideline (Draft Guideline).
5. Pursuant to S.79C (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the Flood Evacuation Plan fails to detail a safe and effective evacuation procedure for children 0-2 years old. The application fails to address issues related to flooding, on-site water detention, stormwater and civil works in the public road as contained Part C.5 Water Management of the Willoughby Development Control Plan (WDCP).
6. Pursuant to S.79C (1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the development proposal fails to demonstrate a safe and suitable access for waste disposal as contained in Part C.8 Waste Management of WDCP.
7. Pursuant to S.79C (1)(a)(iii) and S.79C (1)(a)(iv) of the Environmental Planning and Assessment Act 1979 the proposed development does not meet requirements or the intent of the control contained in Part G.8 of WDCP for childcare centre development and Education and Care Services National Regulations respectively, in particular:

•	Safe transition of the children to the outdoor play area on the ground floor
•	Compliance with ratio requirements for the outdoor play area
•	Design/layout, safety and adequate supervision of the volume of children (75) using the outdoor play areas
•	Safe and effective evacuation of children 0-2
•	Sufficient support staff for the operation of the childcare centre

8. Pursuant to S.79C (1) (b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to result in the following unreasonable impacts:
- Visual bulk of the proposed built form as viewed from Willoughby Road, Walter Street and the surrounding residential properties and incompatibility with surrounding low and medium density residential developments.
  - The development results in unreasonable amenity impacts on the adjoining and surrounding residential properties
9. Pursuant to S.79C (1) (d) of the Environmental Planning and Assessment Act 1979, having regards to the issues raised in the public submissions and the adverse impacts of the proposed development, the approval of the application is not considered to be in the interest of the public.
10. Pursuant to S.79C (1) (e) of the Environmental Planning and Assessment Act 1979, given the inadequacy of the application and the development's potential impacts the approval of the development is not considered to be in the public interest.

Plan numbers and specifications used in this determination:

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Proposed Site/Roof Plan	A02.01	E	3/03/2017	Artmade Architects
Basement Floor Plans	A03.01 A03.01	B	3/03/2017	
Ground Floor Plan	A03.03	D	3/03/2017	
First and Second Floor Plans	A03.04 A03.05	E	3/03/2017	
External Elevation Plans	A04.01 A04.02	E	3/03/2017	
Building Section Plans	A05.01 A05.02 A05.03	E  B	3/03/2017	
Streetscape and 3D Perspectives	A06.11	A	15/07/2016	
Landscape Plans	1/4 2/4	-	9/03/2017	Tessa Rose
Hydraulic Services Plans	H101 to H106	B	6/03/2017	Glenn Haig & Partners
Site Soil & Water Management Plan	SW001	A	6/03/2017	Glenn Haig & Partners
Civil Drawings	SKC01 to SKC03	A	9/03/2017	AT&L

Notification Map



**Caveat**  
The information represented in this map has been provided in good faith. Detailed records relating to this Development Application are recorded in Council's "Pathway" software application and this data should be seen as Council's official source of information relating to this Development Application.

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**Development Statistics**

	Existing	Proposed	Standard	Compliance
<b>WLEP 2012</b>				
Site Area (m2)	2250m <sup>2</sup>		-	-
Gross Floor Area (m2)	-	1487.35	2025m <sup>2</sup>	Yes
Floor Space Ratio	-	0.66:1	0.9:1	Yes
Height	<12m	12.16m	12m	No – Clause 4.6 Variation Assessment provided (1)
<b>WDCP 2006</b>				
Minimum frontage	-	44.96m	20m	Yes
Setbacks	5-7m	6.2m (min) to Willoughby Road	Front – 7.5m to main street	No (2)
		3.5m to Walter Street	3.5m from secondary street	Yes
		Side (west) – 2.4 min – 3m max. for all storeys	Side/ rear – 3m for the ground floor level of the building with an increase of 1.2m for each storey of the building above the ground floor level. The total required setback is to apply to all floors from the 3 <sup>rd</sup> floor up.	No (2)
		Side (north) – 3m for all two storeys to the northern boundary		No (2)
Landscaped Area (%)		738.5m <sup>2</sup> ~30% (In plans)  440.5m <sup>2</sup> or 19.6% (as per Council's calculation)	Soft landscaping – 35% of site area	No (3)

	Existing	Proposed	Standard	Compliance
Solar Access		3 hours provided as required by the DCP	3 hours of sunlight between 9am to 3pm on 22 June to the north facing windows of living areas and the principal portion of the recreational open space	Yes to adjoining developments  No to subject development (4)
Car Spaces		18 staff spaces	1 space per 2 staff due to location within MPTC ( $35/2 = 17.5$ spaces)	Yes (5)
		23 visitor spaces (including 2 accessible)	Children (drop off/ pick up) – 1/10 children ( $222/10 = 22.2$ spaces)	
			Accessible parking – 1 (when >5 car spaces)	
		Total 41 spaces	40 spaces	
		1 loading/ unloading		
		2 motorcycle and 2 Bicycle spaces		
		4 lockers		
Hours of Operation		7am to 6pm Monday to Friday, including 4 Saturdays a year for special occasions.	Shall not extend outside the core period of 7am to 7pm unless written justification provided.	Yes
<b>Education and Care Services National Regulations</b>				
	Proposed		Standard	Compliance
Educator to child ratio	0-2 yo = <b>40</b> children, <b>10</b> staff  2-3 yo = <b>65</b> children, <b>13</b> staff  3-5 yo = <b>117</b> children, <b>12</b> staff  Total <b>35</b> staff		0-2yo, 1:4  2-3yo, 1:5  3-5 yo, 1:11  Total staff req = <b>35</b>	Yes (5)
Space requirements – Indoor space	<b>823m<sup>2</sup></b> per <b>222</b> children = <b>3.70m<sup>2</sup></b> per child		3.25m <sup>2</sup> per child	Yes
Space requirements – Outdoor space	<b>1580m<sup>2</sup></b> per <b>222</b> children = <b>7.10m<sup>2</sup></b> per child		7m <sup>2</sup> per child	Yes

**Notes:**

### **(1) Height of Building (Clause 1.3 of the WLEP 2012)**

The maximum height of building permitted is 12m. The proposal provides a building height of 12.16m. In this respect the submitted Clause 4.6 request to vary the height of the building is generally acceptable as the non-compliance is minor; that is 0.16m or 1.3%. Furthermore, the subject site is flood affected requiring a minimum freeboard.

### **(2) Setbacks (Part D.2.8 of the WDCP)**

Part D.2.8 of the WDCP stipulate that the frontage should have a setback of 7.5m to the main street (Willoughby Road) and a minimum 3.5m from the secondary street boundary (Walter Street). The proposal, as amended provides 6.2m to Willoughby Road and 3.5m to Walter Street and 3m setback to remaining two sides.

The setbacks provided are not considered to be compatible with the streetscape/desirable future character of the location along both Willoughby Road and Walter Street. Furthermore, the proposed development does not provide progressive setbacks from respective side boundaries as the building increases in height, bulk and scale to maintain adequate building separation and avoid unreasonable impacts on the amenity of the adjoining and surrounding properties.

The proposal with elevated first floor level outdoor play area along the Walter Street frontage combined with inadequate front and side setbacks is considered to have unacceptable amenity impacts on neighbouring properties. Furthermore, due to the setbacks provided by the proposed development there is limited opportunity for tree planting and landscaping.

### **(3) Landscape Area (Part D.2.10 of the WDCP)**

The proposed development is required to provide soft landscaping to a minimum of 35% of the site area which equates to 875m<sup>2</sup>. In accordance with Council's calculations, the proposal provides 440.5m<sup>2</sup> or 19.6% of the site as landscape area.

The proposal does not provide adequate landscaping within the front setback areas along Willoughby Road and Walter Street. The existing front setback area is covered by a timber deck due to the raised level of the basement car parking area, which limits the landscaping potential of the site. The landscape area provided along Willoughby Road is not adequate to provide for amelioration of bulk and scale; provide adequate separation from outdoor child activities to a public space and provide an attractive natural environment for users of the site.

The proposed development provides a little opportunity for deep soil zones and soft landscaping due to the extent of the basement car parking area and the ground level being covered by level one of the development.

### **(4) Solar Access and Overshadowing (Part D.2.13 of the WDCP)**

Solar access requirements of the WDCP require that the design of development provides for adequate solar access. In this respect the majority of the outdoor play areas on the ground floor are covered by the first floor level above, impacting on the solar access, quality and amenity of these outdoor areas.

### **(5) Support Staff and associated Parking**



The Plan of Management submitted notes that a number of part time support staff will be required for effective management, food preparation, administration and staff ratios during breaks and programming times. In this regard, total number of support staff required to be employed and additional parking demand created by these support staff has not been provided for assessment.

**SEPP 64 Advertising and G.5 of the WDCP Signage Assessment**

The proposed sign has been considered against the requirements of SEPP 64 (Advertising and Signage) as outlined below. The proposal seeks approval for one non-illuminated 4.95m high free standing business identification sign at the corner of the building at the intersection of Willoughby Road and Walter Street.

Schedule 1 Assessment Criteria	
	Assessment
<i>1 Character of the Area</i>	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Given the size and location of the sign, the proposal is considered acceptable. Please refer to G.5 of the WDCP in the Assessment Section of the report.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	
<i>2 Special Areas</i>	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed business identification sign is acceptable given the location at the intersection of Willoughby Road and Walter Street.
<i>3 Views and vistas</i>	
Does the proposal obscure or compromise important views?	The proposed sign is not considered to compromise or obscure any important views, visually dominate the skyline or impact on surrounding viewing rights.
Does the proposal dominate the skyline and reduce the quality of vistas?	
Does the proposal respect the viewing rights of other advertisers?	
<i>4 Streetscape, setting or landscape</i>	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed business sign in terms of scale, proportion, form and number is considered to be appropriate in the residential setting.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed sign is considered to be reasonable with respect to the streetscape, setting or landscape.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed design and location of the sign is considered to be simple and not unreasonably impact on existing advertising.
Does the proposal screen unsightliness?	The proposed sign is simple and only contains the name of the childcare centre. The sign is not considered to result in unsightliness.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed sign does not protrude above building, structures or tree canopies.
Does the proposal require ongoing vegetation management?	The proposed sign does not require any ongoing vegetation management.

<i>5 Site and building</i>	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed sign is considered to be designed to be compatible with the scale and proportion of the building and the site.
Does the proposal respect important features of the site or building, or both?	
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	
<i>6 Associated devices and logos with advertisements and advertising structures</i>	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	N/A
<i>7 Illumination</i>	
Would illumination result in unacceptable glare?	The proposed sign is non-illuminated.
Would illumination affect safety for pedestrians, vehicles or aircraft?	
Would illumination detract from the amenity of any residence or other form of accommodation?	
Can the intensity of the illumination be adjusted, if necessary?	
Is the illumination subject to a curfew?	
<i>8 Safety</i>	
Would the proposal reduce the safety for any public road?	The proposed sign is not considered to reduce the safety of users of any public roads, pedestrians or cyclists children or result in any obstruction to sightlines from public areas.
Would the proposal reduce the safety for pedestrians or bicyclists?	
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	

**Draft SEPP and Draft Guideline Assessment**

*Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (Draft SEPP) and *Draft Childcare Planning Guideline* (Draft Guideline) are proposed instruments that have been notified. In accordance with section 79C of the EPA Act, the Draft SEPP and the Draft Guideline are relevant considerations.

Part 3 of the Draft SEPP and the Draft Guideline provide specific development controls for early childhood education and care facilities. The proposed development does not meet the following matters for consideration and design criteria provided in the Draft Guideline are discussed below:

<b>Matters for consideration and design criteria</b>	
	Assessment
<b>3A Location</b>	
Where the development is the only use on a site zoned for residential purposes, or adjoining land zoned for residential purposes, consider: <ul style="list-style-type: none"> <li>The acoustic and privacy impacts of the proposed development on the residential properties.</li> <li>The setbacks and siting of buildings within the residential context.</li> </ul>	The outdoor elevated play areas and the setbacks provided are considered to have acoustic and privacy impacts on the adjoining residential developments. Further, the Environmental Noise Assessment submitted has not adequately demonstrated that the proposed development will not have unacceptable acoustic impacts on neighbouring properties.
<b>3B Building Envelopes - Heights and Setbacks</b>	
(3). The minimum setback to a classified road is 10m (4). The setback to the road frontage is to be at least: <ul style="list-style-type: none"> <li>The average setback of the two closest buildings where there are existing buildings within 50m; or</li> <li>Where there are no buildings within 50m, the same as required for the predominant adjoining land use.</li> </ul> (5). On land in a residential zone, the setback to a side boundary is to consider the side setback patterns of adjoining development.	The proposal provides 6.2m setback to the Willoughby Road, which is a classified road. Further the raised outdoor play area provides 2m setback from the Willoughby Road.  The setbacks provided from the Walter Street and remaining side boundaries are not keeping in with the setback pattern of the adjoining residential developments.
<b>3C Landscaped Area</b>	
The objective of this design criteria is to provide landscape design that contributes to the streetscape and amenity.  (3). Landscaping in the front setback should positively contribute to the streetscape and neighbouring amenity.	The development fails to provide adequate landscaping/planting that contributes to the streetscape and amenity.
<b>3D Local Character and Context</b>	
The objective of this design criteria is for the built form, articulation and scale to relate to the local character of the area and the context.	The proposal does not provide a positive contribution to the character of the existing area and exacerbates the bulk and scale of the proposed development.

<b>3E Public Domain Interface</b>	
The objective of this design criteria is that front fences and retaining walls do not dominate the public domain and instead, respond to and compliment the context and character of the area.	The use of extensive acoustic glazing for the outdoor play areas results in a development that does not integrate with the streetscape character or provide visual interest from the public street.
<b>3G Orientation</b>	
The objective of this design criteria is for the centre to respond to the streetscape and site while optimising solar access and opportunities for shade within the development. (2). The site and building layout allow solar access to internal and external play.	The majority of the outdoor play areas on the ground floor are covered by the first floor level above, impacting on the solar access, quality and amenity of these outdoor areas.
<b>3H Visual Privacy</b>	
The objective of this design criteria is to protect the privacy and security of children attending the centre, without restricting the opportunity for children to view safely out from the centre's indoor and outdoor play areas to assist their visual development.  Further, minimise the adverse impact on privacy of adjoining properties.	The proposal does not adequately demonstrate that the operation and management of outdoor play areas and safe evacuation of children, particularly 0-2 years old, of the proposed development can be achieved.
<b>3I Acoustic Privacy</b>	
The objective of the design criteria is to minimise the impact of the child care centre on the acoustic privacy of neighbouring residential developments.	The proposal does not adequately demonstrate that the proposed development will not have unacceptable acoustic impacts on neighbouring properties.
<b>3J Noise and Pollution</b>	
The objective of the design criteria is to ensure that outside noise levels are controlled to acceptable levels.	The Environmental Noise Assessment submitted does not demonstrate or provide the results of the predicted noise emission levels of the proposed child care centre.
<b>3M Form and Articulation</b>	
The objective of the design criteria is to promote well designed buildings of high architectural quality that contribute to the local character.	The long section of continuous walls along the western boundary with minimal articulation fails to demonstrate quality urban design. It does not provide a positive contribution to the character of the existing area and exacerbates the bulk and scale of the proposed development

**Neighbour Notification Issues**

Issue	Comment
<p><u>Loss of On-Street Parking and Traffic Impacts</u></p> <p>The correspondents are concerned that the proposed development will adversely affect the traffic at the locality and on-street parking will be lost.</p>	<p>As discussed in the Assessment section of this report, under the <b>Development Statistics Table (Attachment 2)</b> the proposed development complies with the adequate number of pick up/drop and staff car parking spaces as required by Part C.4 of the WDCP. Further, the submitted traffic report has been assessed by Council's Traffic Section to be satisfactory.</p> <p>The site has a frontage to Willoughby Road which is a classified road pursuant to the Roads Act 1993. The proposal was referred to RMS for comments and has been assessed to be satisfactory subject to conditions.</p> <p>Notwithstanding the above, the proposal does not clarify the total number of support staff required to be employed and the additional parking demand created by these support staff. Accordingly, the proposal is not considered to be satisfactory in this regard.</p>
<p><u>Pedestrian/Bicycle Use</u></p> <p>The correspondents are concerned that the proposed development will increase the movement of cars in and out of the Walter Street impacting pedestrian/bicycle use of the footpath.</p> <p>The correspondents are concerned regarding likelihood of a pedestrian or a vehicular accident at the intersection of the Willoughby Road and Walter Street.</p>	<p>The proposal was referred to Council's Traffic Section and RMS for comments. The proposal has been assessed to be satisfactory in this regard.</p>
<p><u>Height, Built Form and Design</u></p> <p>The correspondents are concerned that the size and scale of proposed childcare centre is not suitable for the residential area.</p>	<p>The site is located within an R3 Medium Density Residential zone. The proposed development does not take into account the form of existing development/development likely to occur in the future.</p> <p>The proposed development is not considered to provide an acceptable presentation to the street that is compatible with the desired future character of the locality and resulting in adverse impacts on the streetscape and adjoining developments. Furthermore, the design of the proposed development does not support the operation of a quality childcare centre with the safety and well-being of the children.</p> <p>The proposed development does not provide adequate landscaping/planting to soften the visual bulk of the proposed building as viewed from Willoughby Road, Walter Street and the adjoining properties.</p>

<p><u>Childcare Capacity</u></p> <p>The correspondents are concerned with the capacity of the childcare, being the largest in the Willoughby LGA that the proposed development will adversely affect their amenity particular in relation to overshadowing, privacy, safety and noise.</p>	<p>As discussed in the assessment section of the report, the concerns in relation to urban design, setbacks, streetscape, landscaping and site coverage, comprise an overdevelopment of the site.</p> <p>The proposed "stacking" of large elevated outdoor play areas and play area with 2m setback from the Willoughby Road in order to attain sufficient outdoor area for the number of children proposed demonstrates that the proposed development will have unacceptable impacts on the surrounding residential developments.</p> <p>The use of extensive acoustic glazing to reduce impacts from road corridor noise and on neighbouring properties demonstrates that the capacity of the proposed childcare centre is not acceptable.</p>
<p><u>Site Suitability</u></p> <p>The correspondents are concerned that given the nature and geographical context of the site, size and scale of the development, the site is inappropriate and unsuitable.</p>	<p>As discussed above and in the assessment section of the report, the proposal fails to respond to the site constraints and its context and therefore not considered suitable.</p>
<p><u>Amenity Impacts</u></p> <p>Correspondents have raised concern that the proposal will have unacceptable impacts on the visual and acoustic privacy, solar access and amenity.</p>	<p>The proposed development does not provide progressive setbacks from respective side boundaries as building increases in height, bulk and scale to maintain adequate building separation and avoid unreasonable impacts on the amenity of the adjoining and surrounding properties.</p> <p>The proposed development covers a large extent of site area with the building elements and the large elevated outdoor deck/play areas. The elevated first floor deck outdoor play area along the Walter Street frontage has unacceptable amenity impacts on neighbouring properties.</p>