

COUNCIL ASSESSMENT REPORT

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSHCC-122 & 16-2022-97-1
PROPOSAL	Alterations and additions to existing educational establishment (St Michael's School, Nelson Bay) including refurbishment of grounds and buildings, removal of existing demountable buildings, new centre based child care including out-of-school hours care, new admin building, new car park, subdivision, landscaping, fencing and associated civil works.
ADDRESS	LOT: 2 DP: 216064 12 Sproule Street NELSON BAY
APPLICANT	CKDS Architecture Pty Limited
OWNER	Trustees of the Roman Catholic Church
DA LODGEMENT DATE	23 February 2022
APPLICATION TYPE	Regionally Significant Development
REGIONALLY SIGNIFICANT CRITERIA	Clause 5, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Private Infrastructure and Community Facilities – Educational establishments and childcare centres
CIV	\$8,152,406
CLAUSE 4.6 REQUESTS	Nil
KEY SEPP/LEP	<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> <i>State Environmental Planning Policy (Planning Systems) 2021</i> <i>State Environmental Planning Policy (Precincts—Regional) 2021</i> <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> <i>State Environmental Planning Policy (Industry and Employment) 2021</i> <i>Port Stephens Local Environmental Plan 2013</i>
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	Total Submissions: 7 Unique Submissions: 7

DOCUMENTS SUBMITTED FOR CONSIDERATION	Attachment 1 – Recommended Conditions of Consent Attachment 2 – Council Childcare Planning Guidelines Compliance Table Attachment 3 – Architectural Plans Attachment 4 – Civil Plans Attachment 5 – Landscape Plan Attachment 6 – Geotechnical Assessment Attachment 7 – Noise Impact Assessment Attachment 8 – Additional Noise Impact letter Attachment 9 – Traffic Management Plan Attachment 10 – Flora and Fauna Assessment Report Attachment 11 – Waste Management Plan Attachment 12 – Disability Access Report Attachment 13 - Preliminary Contamination Assessment
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	N/A
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	9 November 2022
PLAN VERSION	10
PREPARED BY	Dylan Mitchell – Principal Development Planner
DATE OF REPORT	2 November 2022

EXECUTIVE SUMMARY

Development consent is sought for a development application (No. 16-2022-97-1) for alterations and additions to an educational establishment, construction of a centre based child care facility including OOSH care and one into two lot subdivision at 12 Sproule Street Nelson Bay (LOT: 2 DP: 216064).

The key components of the development include the following:

- Refurbishment of 6 existing buildings (alterations and additions);
- Demolition/removal of 2 classroom demountables;
- Construction of a new administration building;
- Construction of new classroom block to replace the demountables;
- Construction of an 84 place childcare/early learning centre building which will also contain an Out of School Hours Care (OOSH) facility with 100 places;
- Signage including building and directional information signs;
- Site landscaping;
- Removal of 15 trees; and
- One into two lot Torrens title subdivision, to create the following lots:
 - New Lot, 3,477m² and comprising the Childcare Centre, OOSH and church.
 - Residual Lot, 17,800m² and comprising the school and church.

The applicant has identified that certain elements of the development meet the criteria for complying development under the State Environmental Planning Policy (Educational Establishments and Child Care Facilities 2017). Despite this, development consent is sought for all works under Part 4 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).

The land subject of this Development Application (DA) is 12 Sproule Street, Nelson Bay. The site currently contains an existing educational establishment, known as St Michaels Primary School.

The site is zoned R2 – Low Density Residential under the Port Stephens Local Environmental Plan 2013. The proposed development is defined as alterations and additions to an educational establishment, construction of a centre based child care facility, out of hours school care and one into two lot subdivision. Centre based childcare facilities are permitted with consent in the R2 Low Density Residential zone under the PSLEP 2013, while educational establishments and OOSH are permitted with consent in the R2 zone by virtue of Section 3.36 and 3.41 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

The application was notified and advertised for 14 days from 10 March 2022 – 24 March 2022 in accordance with the Port Stephens Council Community Participation Plan. During this time, 7 submissions were received. All submissions were unique submissions.

The key issues in respect of the assessment of the application related to impacts to traffic and parking, residential amenity, acoustic impacts to residences and stormwater management. To address these issues specialist studies were submitted in support of the application, including noise, car parking and traffic impact reports. Additional information from the applicant was also requested during the assessment to address these key issues. The studies were assessed by Council officers and, where appropriate, recommendations and mitigation measures outlined in the specialist studies have been included in the conditions of consent.

The proposal is referred to the Hunter and Central Coast Regional Planning Panel (HCCRPP) for determination pursuant to Clause 5, Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* and Schedule 2 of the *EP&A Act* for Private Infrastructure and Community Facilities – Educational establishments and childcare centres.

The development has been assessed under Section 4.15 of the EP&A Act and is considered satisfactory. Accordingly, it is recommended that the application be approved subject to conditions of consent contained in **Attachment 1**.

1. THE SITE AND LOCALITY

The subject site comprises a single allotment, legally identified as LOT: 2 DP: 216064 and measures 2.1 ha in size with an irregular shape, as shown in **Figure 1** below. The topography of the site slopes steeply from 38.65m AHD in the northeast to 27m AHD in the southwest. The site contains a school known as St Michaels Primary School and St Michael's Church.

The school currently has 264 students and has capacity for up to 399 students based on the current classroom arrangement. The school operates from 8:00am to 4:00pm Monday-Friday. Neither the student numbers or hours of operation are regulated under a development consent. The school comprises a mix of attached and detached buildings, consolidated along the western side of the site. There are eight (8) school buildings in total currently located on the site. A large open grassed play area is centrally located on the site and two paved basketball courts are located to the east. A church building with a seating capacity for 478 people is located in the north east corner of the site.

The site has frontage to three public roads, including Sproule Street, Hough Street and Wahgunyah Road. The sites primary vehicular access is located at the western end of Sproule Street while pedestrian access and the school bus stop is located at an entry point located on Wahgunyah Road. A gated

vehicular access also exists on Wahgunyah Road. The site's only permanent car parking is located at the north of the site, with access via Sproule Street. The car park contains 57 line marked car spaces which currently service both the school and the onsite church. The school's basketball court is currently used informally as an overflow car park for the church.

The site contains several landscaped areas with mature trees to the north of the basketball courts and another on the western boundary. Other planted trees and shrubs and managed areas such as lawns and garden beds are scattered throughout the site.

The site and surrounds are zoned R2 low density residential. The minimum lot size allocated to the site is 500m², consistent with other surrounding R2 Low Density zoned land. Single and two storey dwellings adjoin the site on all sides.



Figure 1: Satellite image overview of site

The site is subject to a number of environmental constraints (as mapped on Councils' GIS system) including:

- Acid Sulfate Soils Class 5;
- Stormwater Drainage Requirement Area;
- Koala Habitat Planning Map – Clear;
- NSW Wildlife Atlas – Fauna Grey-headed Flying Fox, White-bellied Sea-Eagle and Koala; and
- Flood Prone Land – Probable Maximum Flood Level.

Site Inspection

A site inspection was carried out on 10 June 2022. The subject site can be seen in the photos below:



Photograph 1: Location of proposed Centre Based Childcare and OOSH



Photograph 2: Western Interface with Residential Land and proposed location of courtyard



Photograph 3: Location of Proposed Wagunyah Road (Lower) Car Park



Photograph 4: St Michael's Church Building



Photograph 5: Sproule Street (Upper) Car park



Photograph 6: Sproule Street Access

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The development proposes Alterations and additions to an existing educational establishment (St Michael's School), construction of a centre based childcare facility and one into two lot Torrens title subdivision, as shown in **Figure 2** below.

The key components of the development include the following:

- Refurbishment of 6 existing buildings (alterations and additions);
- Demolition/removal of 2 classroom demountables;
- Construction of a new administration building;
- Construction of new classroom block to replace the demountables;
- Construction of an 84 place childcare/early learning centre building which will also contain an Out of School Hours Care (OOSH) facility;
- Signage including building and directional information signs;
- Site landscaping;
- Removal of 15 trees; and
- One into two lot Torrens title subdivision, to create the following lots:
 - New Proposed Lot, 3,477m² and comprising the childcare centre.
 - Residue Lot, 17,809m² comprising the school and church building.

The proposal does not include increasing the approved maximum student numbers or approved number of teachers at the school, which is currently limited to 339 based on number and size of classrooms. The SEE notes that the current school student numbers are 264 students.

Site Plan

BLOCK A
Refurbishment of administrative space to become teaching spaces to meet current functional area and teaching standards.

BLOCK B
Refurbishment of teaching spaces to meet current functional area and teaching standards.

BLOCK C
Refurbishment of teaching spaces to form a library and Covered Outdoor Learning Area (COLA).

BLOCK D
Refurbishment of teaching spaces to meet current functional area and teaching standards.

BLOCK E
Refurbishment and extension of teaching spaces to meet current functional area and teaching standards.

BLOCK F
Block F proposed to remain unchanged.

BLOCK G
Proposed to remain unchanged internally, with some external modifications to integrate with the proposed Block I.

BLOCK H
A new Block H is proposed with 2 new classrooms and associated support spaces.

BLOCK I
Construction of a new administration block, including, but not limited to, reception, meeting rooms, offices, staff room, male and female amenities, store rooms and outdoor staff area.

BLOCK J
New purpose built 94 place early education centre accessed from the carpark adjacent to St Michaels Church. The lower level (or undercroft) is to incorporate a space that is suitable for an Out of School Hours (DOSH) facility.

BLOCK X
Existing demountable classrooms to be removed.

ST MICHAELS CHURCH
Building to be unchanged. Associated carpark to be re-asphalted with new line markings and new lights.



Figure 2: Proposed Site Plan

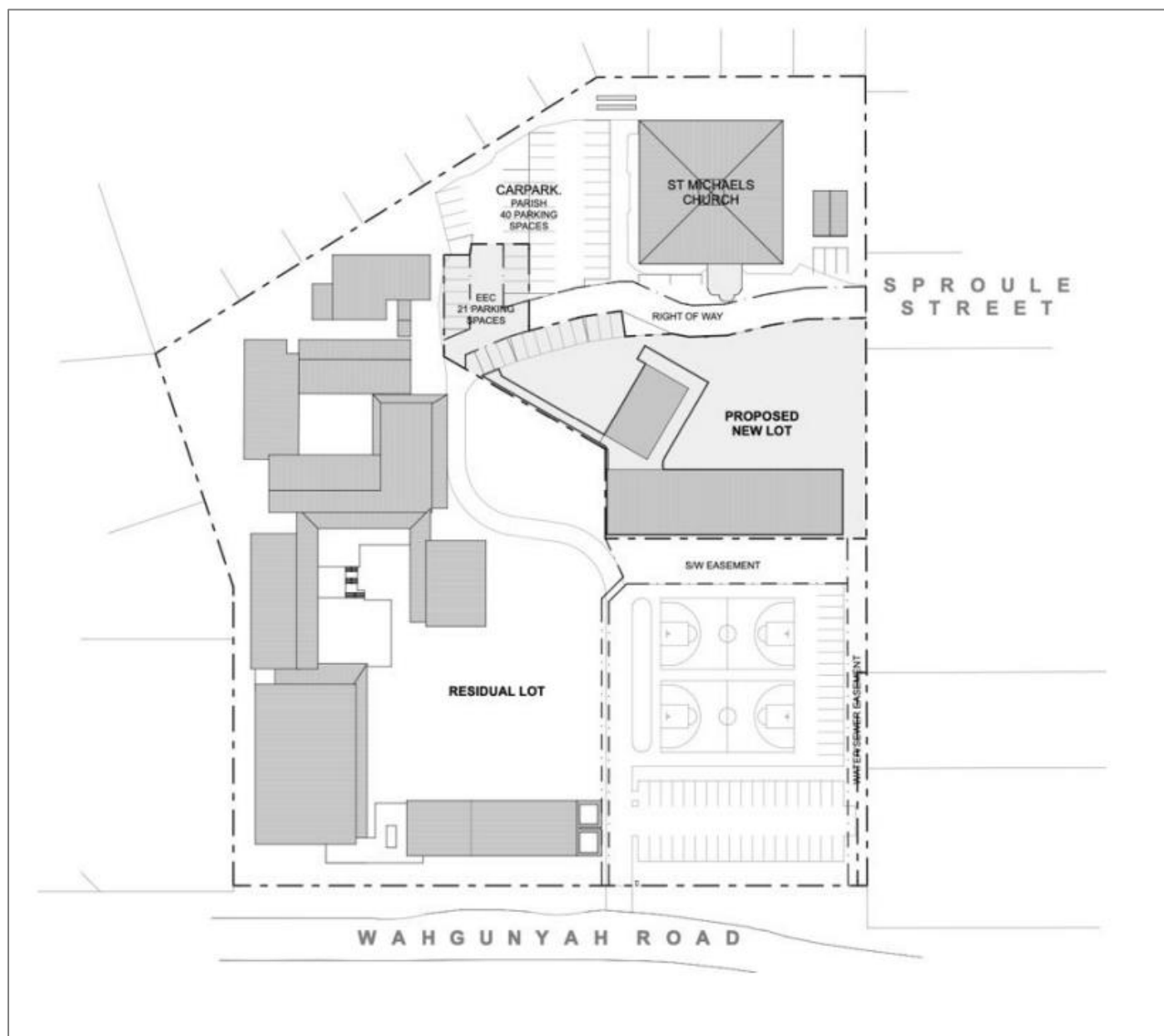


Figure 3: Proposed Subdivision Plan

Alterations and Additions to Existing Buildings and Demolition

Alterations and additions including partial demolition is proposed for 6 of the 8 existing blocks. A summary of the proposed alterations and additions and demolition is provided at **Table 1** below:

Table 1: Summary of Refurbishment works

Block No.	Description of Works	Existing Floor Space (GFA m ²)	Proposed Floor Space (GFA m ²)	GFA Gain/Loss
A	Refurbishment/alterations and addition to convert existing administration into 2 classrooms and ancillary spaces	132.97	190.56	+ 57.59m ²
B (Upper)	Refurbishment/alterations to 2 classrooms and reduction in floor space (part becomes Block A)	234.78	183.50	- 51.28m ²

B (Lower)	Refurbishment/alterations to 2 classrooms to meet contemporary teaching standards	146.21	No change	No change
C	Refurbishment/alterations – 3 classrooms become library and covered outdoor learning area (COLA)	199.80	No change	No change
D	Refurbishment/alterations of existing classrooms	148.31	No change	No change
E	Refurbishment/alterations and additions to convert existing library into 2 classrooms	125.12	209.50	+ 84.38m ²
F	No Works	227.61	No change	No change
G	New façade treatment to improve streetscape	629.79	No change	No change
X	Demolition/removal of existing demountable classrooms	Not quantified	Not quantified	- 154m ²
				Net GFA change: - 63.31m ²

The alterations and additions to the existing buildings involves the loss of 2 demountable classrooms in Block X, 3 Classrooms in Block C and the creation of 2 classrooms in Block A and creation of 2 classrooms in Block E. As a result, there is a net loss of one classroom. The proposed works result in a minor loss of overall GFA of 63m². As a result, a small reduction in the maximum number could be expected, however this has not been quantified by the applicant.

Alterations and additions to Block E to convert the existing library into 2 classrooms comprises an extension to the west and the east, in addition to the creation of enlarged openings to the northern courtyard. The existing setback to the side (residential) boundary will not decrease, with both extensions being constructed at a greater setback than the existing building and greater than 5m from the side boundary. A courtyard is proposed to the north of the block and will be partially set below natural ground level.

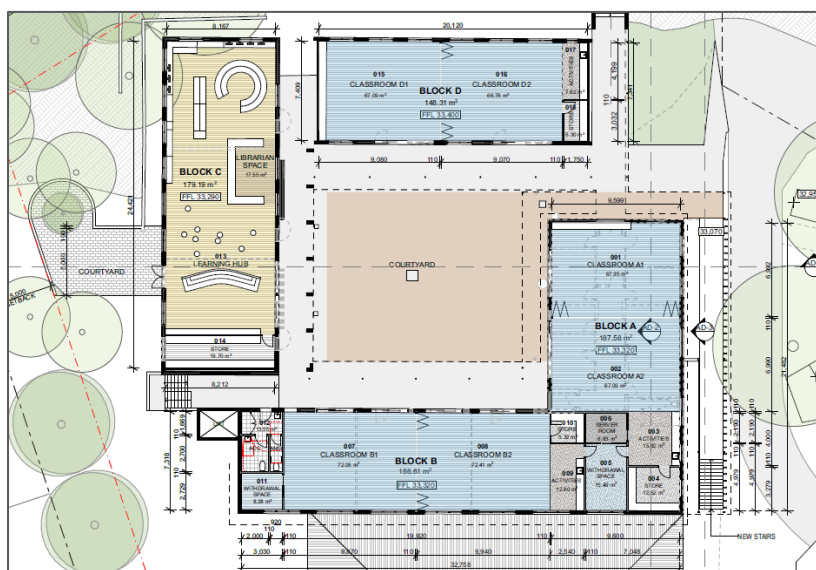


Figure 4: Block A-D Refurbishment

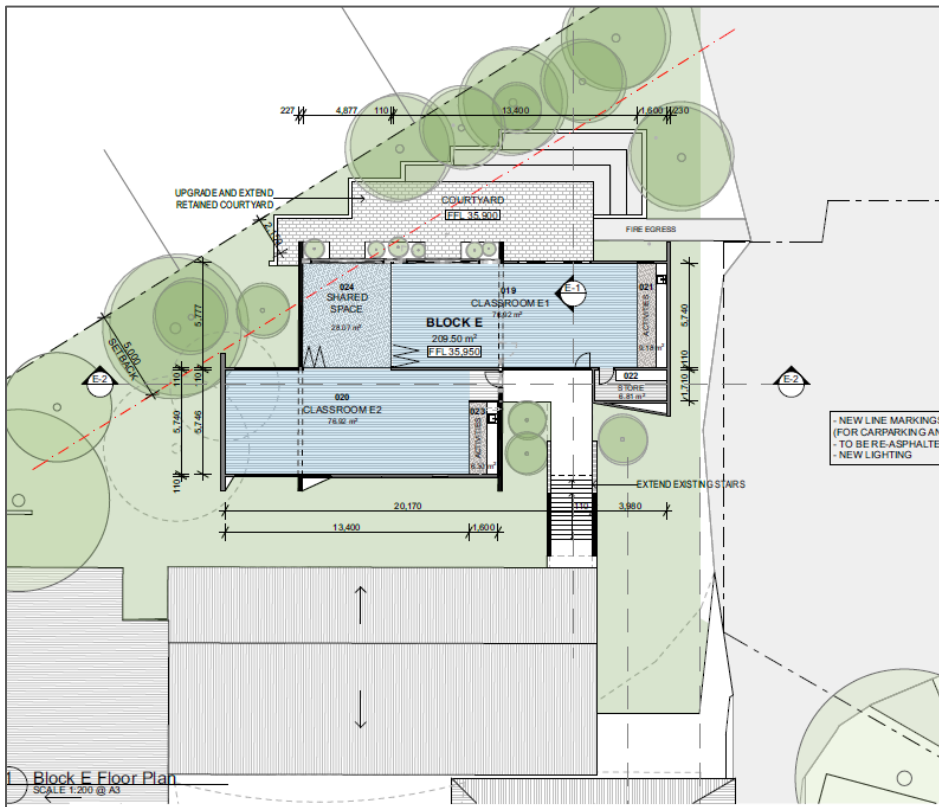


Figure 5: Block E Refurbishment

New Administration Building and Classroom Block (Block H)

The new administration building (Block I) is proposed adjacent to the existing school hall and addresses Wahgunyah Street, reinforcing this boundary as the site's primary entry. The proposed building has a total floor area of 375m² and contains a reception and foyer area, sick bay, two interview/meeting rooms, two offices, hot desk area, lounge and bathroom (See **Figure 6** below). A school identification sign measuring 1m high x 5m wide is located on a masonry wall adjacent to the building entrance.

A new two classroom block building, labelled block H, with storage under, will be constructed to replace the existing demountables, labelled X, which will be removed/demolished. The floor area of the new building will match that of the existing demountables (149.77m²). This building will be located on the same level as the existing "lower Block B". A tiered amphitheatre is proposed adjacent, between Blocks F, B and H (See **Figure 7** below).

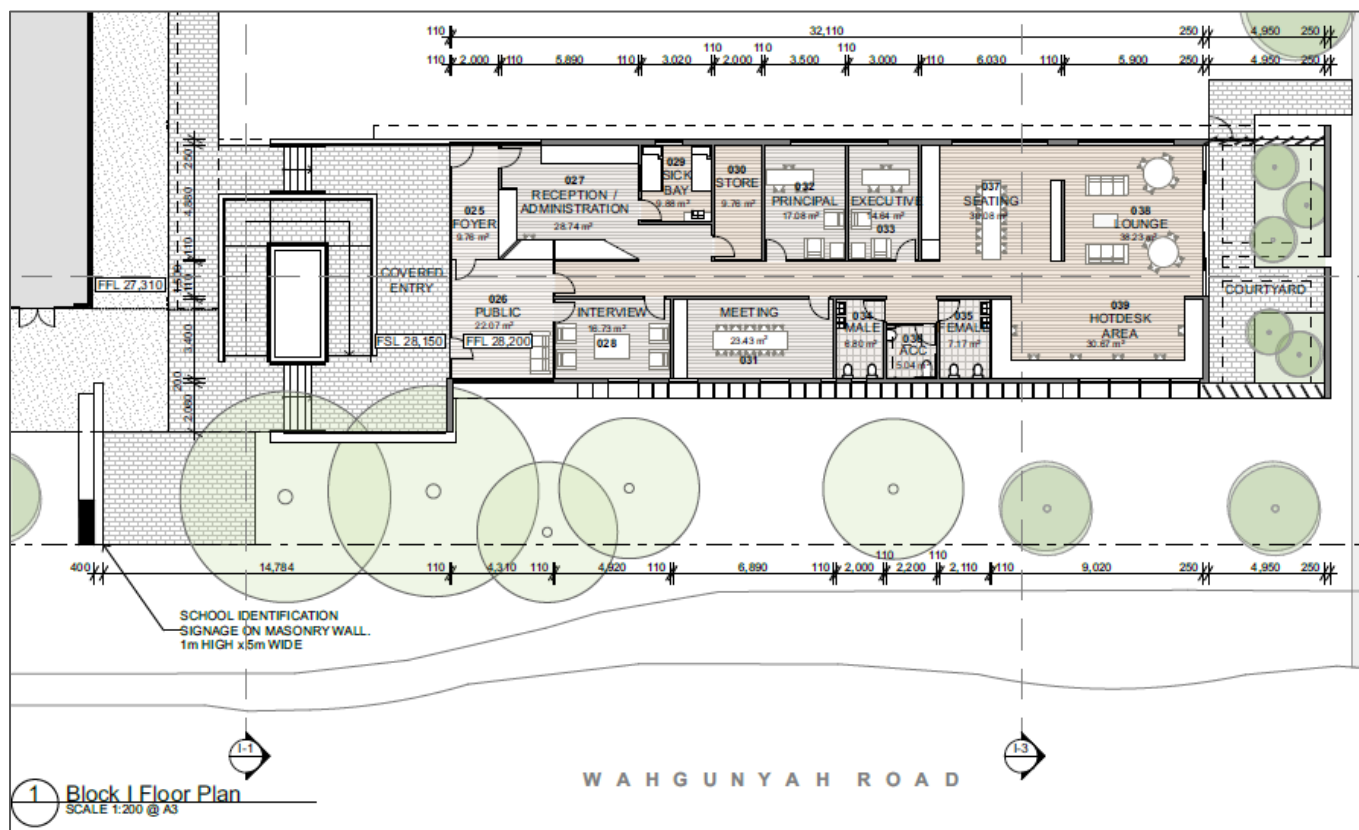


Figure 6: Block I Floor Plan

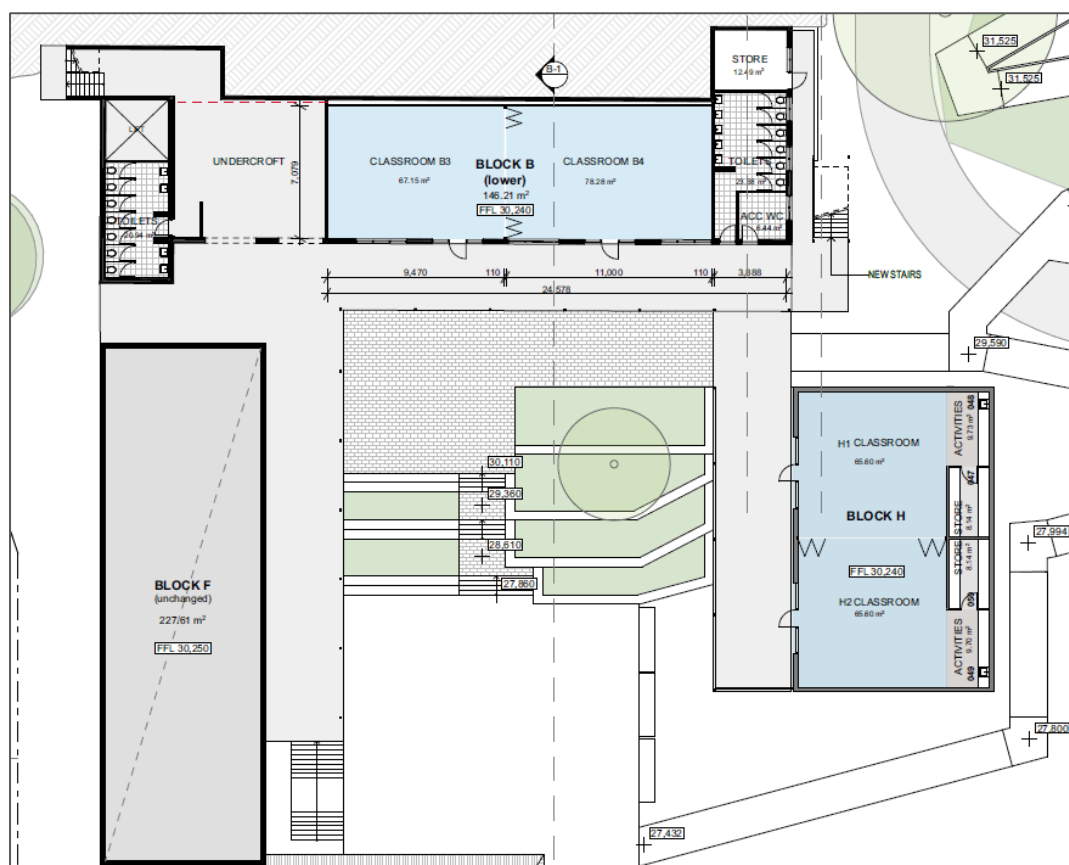


Figure 7: Proposed Block H and Amphitheatre

Childcare/early Learning Centre Building Including OOSH Facility

An 84 place centre-based childcare centre is proposed to the south of the existing church across two buildings and is labelled Block J. The childcare centre comprises 6 classrooms, a kitchen, staffroom, office space, program room and associated bathrooms and storage spaces. A large, tiered outdoor play area is proposed between the two proposed buildings to cater for the outdoor space requirements of the childcare centre. A 2.1m high acoustic fence is proposed on the western extent of the outdoor play area to mitigate noise impacts to neighbouring residences and eliminate any privacy issues.

A 105 place OOSH is proposed on the lower level of Block J. The facility includes 382m² of open space play area with an adjacent kitchen, office and associated bathrooms and storage. Due to the slope of the site, both the upper and lower levels of Block J include at grade entries.

Both uses are proposed to operate from 6.30am-6.00pm Monday to Friday. The total number of staff expected to be employed to run the two uses is 31 with the peak number on site at any one time as follows:

- 1 x Director
- 3 x ECT
- 8 x Diploma Educators
- 1 x Cook
- 3 x Trainees

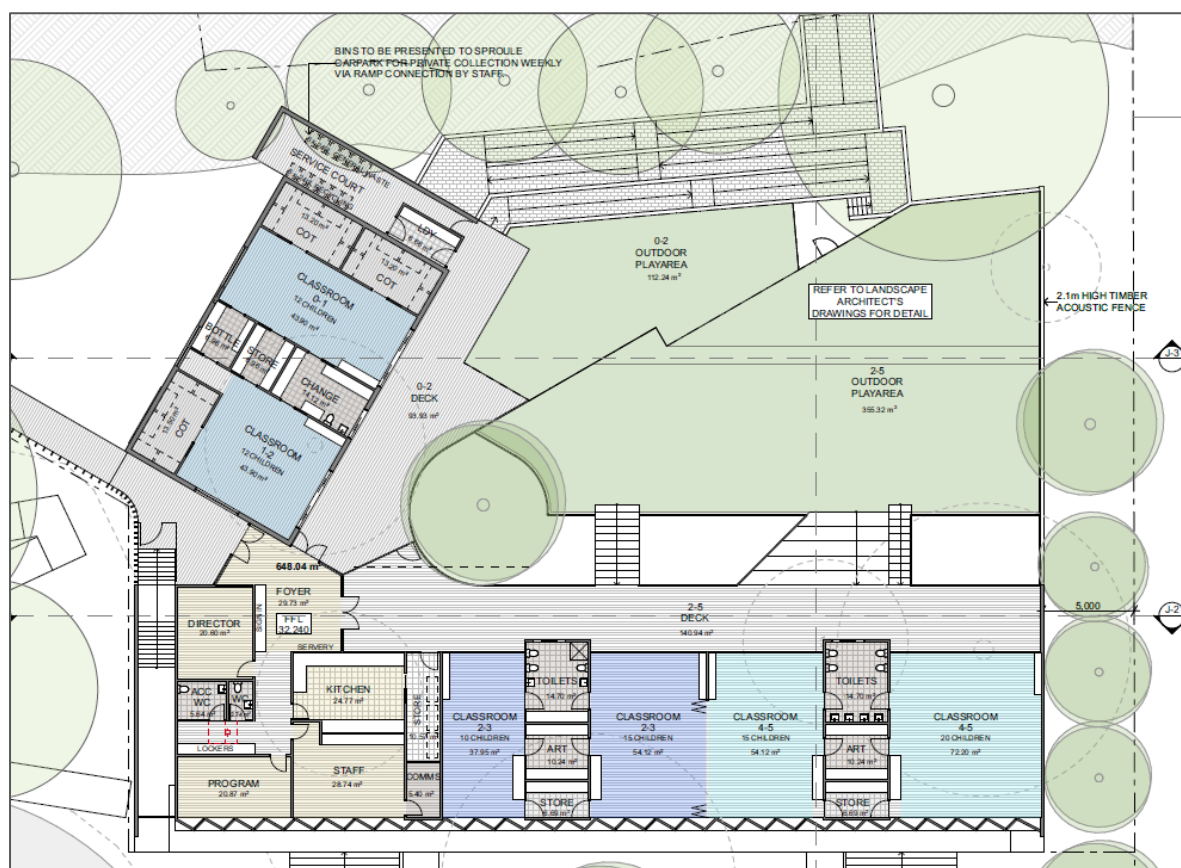


Figure 8: Proposed Childcare Centre (Block J upper floor) and associated outdoor play area

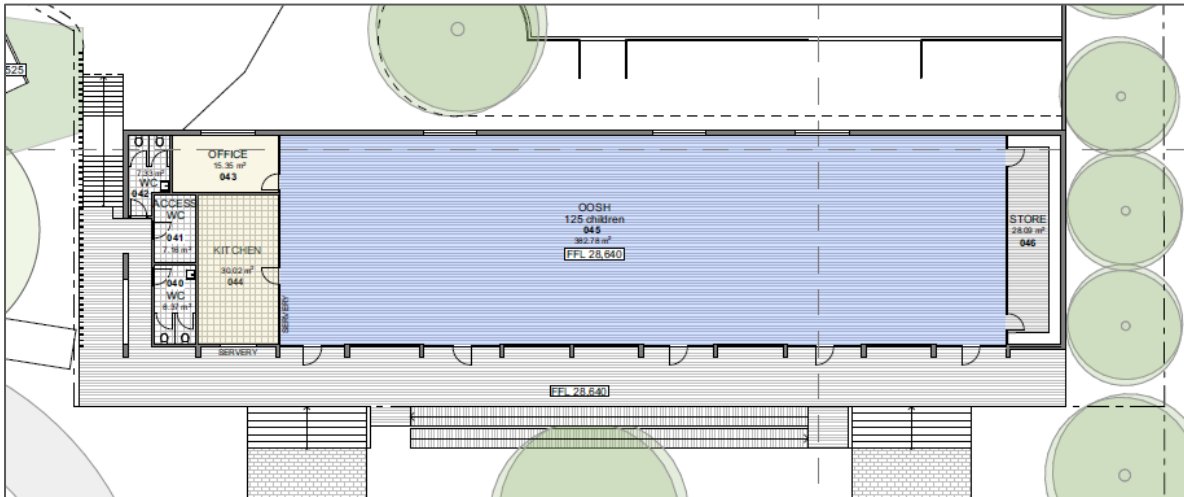


Figure 9: Proposed OOSH (Block J lower Floor)

Subdivision

The application seeks consent for a one into two lot Torrens title subdivision, to create the following lots:

- New Proposed Lot, 3,477m² and comprising the childcare centre.
- Residue Lot, 17,809m² comprising the school and church building.

Inter-allotment drainage and a right of carriageway is required to facilitate the proposed subdivision.

Car Parking

The existing vehicular accesses to the Site from Sproule Street is proposed to remain. This access and car park is proposed to cater for the child care centre and the existing church and includes 61 spaces.

A car park is proposed off Wahgunyah Street and is to be dedicated to school staff car parking, (34 spaces).

Signage

The proposal includes a number of building identification and directional signs associated with the early education centre (see **Figure 10** below). The proposed signage consists of wall mounted signage and signage pillars. The signage pillars measure 1.8m high x 1m wide. The wall mounted signage consists of two different types – Type A and B, which include the following dimensions:

- Type A – 1.15m high x 3.5m wide.
- Type B – 2m high x 2m wide

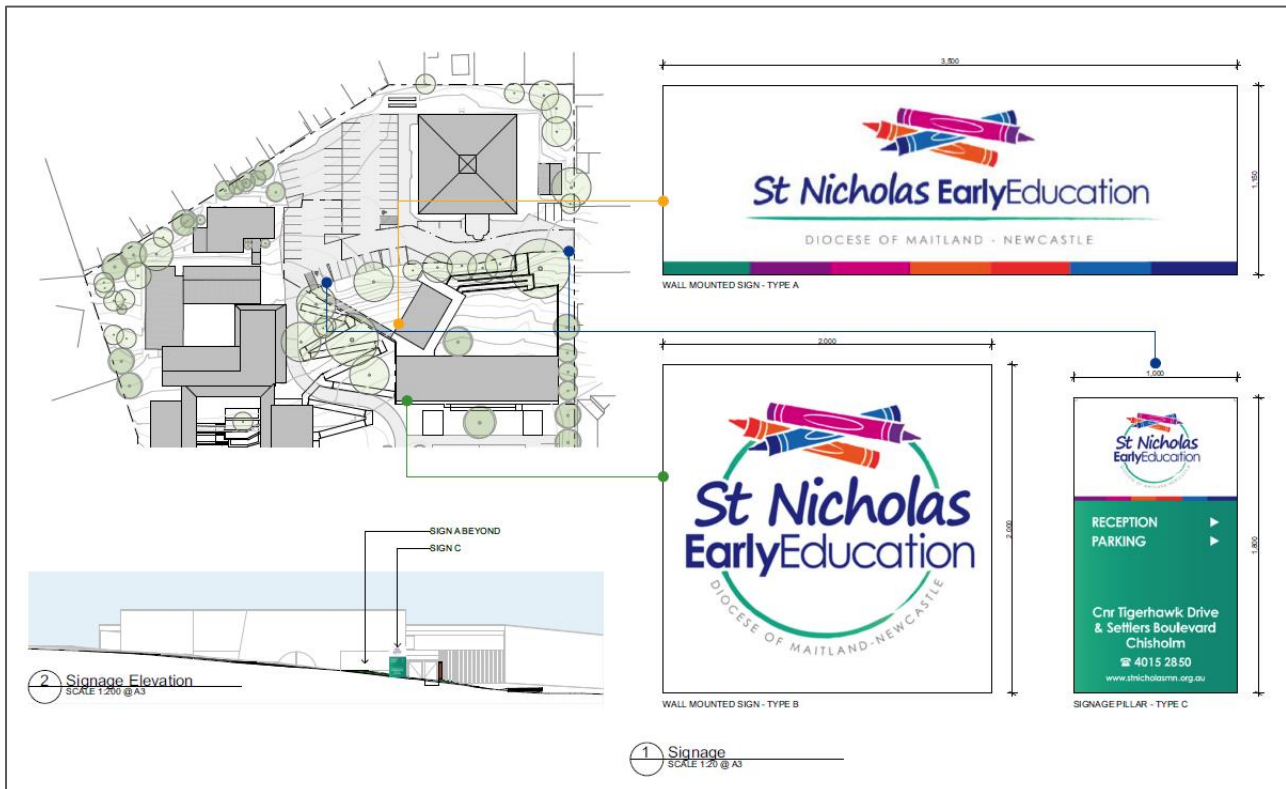


Figure 10: Proposed Signage

Landscaping

A landscape improvements are proposed which includes a mix of native species to enhance amenity and provide shading. The submitted landscape plan identifies the removal of 15 existing mature trees and replacement plantings at a ratio greater than 3:1. In total, 52 replacement plantings are proposed to offset the 15 trees removed.

The proposed landscaping amendments also new ramped pathways to be constructed to the east of the existing buildings, from the administration building/Wahgunyah Street entry to the upper (Sproule Street) car park. This will improve disabled access to existing buildings.

The proposal results in a small loss of outdoor play areas for the school, being reduced from 9007m² to 6336m². The resultant play areas are considered appropriate to cater for sporting activities on both grass and asphalt, school gatherings, general free play and formal open learning areas.

A total area of 649m² is allocated to the proposed Childcare Centre and OOSH to meet the outdoor floor space requirements of the Childcare Planning Guidelines, which are discussed in greater detail against State Environmental Planning Policy (Transport and Infrastructure) 2021 elsewhere in this report.

2.2 Background

The development application was lodged on **23 February 2022**. The land subject of this Development Application (DA) is 12 Sproule Street, Nelson Bay. The site currently contains an existing educational establishment, known as St Michaels School.

A pre-lodgement meeting was held with the applicant on 27 May 2021 (Council record no. 18-2020-20-1). The key issues discussed were:

- Privacy impacts;

- Acoustic impacts;
 - Overshadowing;
 - Local infrastructure contributions;
 - Tree removal and koala habitat;
 - Car parking and traffic impacts;
 - Stormwater and water quality;
 - Flooding;
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities 2017);
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55);
 - State Environmental Planning Policy No 64 – Advertising and Signage;
 - State Environmental Planning Policy (Coastal Management) 2018; and
 - State Environmental Planning Policy (Koala Habitat Protection) 2019.

A chronology of the development application since lodgement is outlined below, including the Panel's involvement (briefings, deferrals etc.) with the application:

Table 1: Chronology of the DA

Date	Event
23 February 2022	DA lodged
28 February 2022	DA referred to external agencies
1 March 2022	The consolidated SEPPs commenced.
10 March 2022	Exhibition of the application
31 March	Panel kick off briefing
5 May 2022	Request for Information from Council to applicant
5 July 2022	Amended plans and written response to Council's RFI was lodged, including: <ul style="list-style-type: none"> • Amended architectural plans • Amended landscape plans • Draft site management agreement
6 July 2022	Assessment briefing
27 July 2022	Amended plans and written response to Council's RFI was lodged, including: <ul style="list-style-type: none"> • Amended civil plans • New traffic and parking summary and assessment • Amended acoustic report
29 July 2022	Panel site visit
15 August 2022	Request for Information from Council to applicant relating to planning matters
6 September 2022	Request for Information from Council to applicant relating to engineering

7 October 2022	Amended plans and written response to Council's RFI was lodged, including: <ul style="list-style-type: none"> • Amended stormwater plans • Landscape design verification statement • Amended Landscape plan • Traffic Management Plan • Amended Traffic Assessment • Amended geotechnical report
2 November 2022	Council Assessment Report finalised

2.3 Site History

St Michaels School was established on the site in 1969. Council does not hold record of the school's original approval, with the first record being noted in 1980 for the installation of a transportable classroom.

A summary of the main applications relating to school uses lodged on the lots has been included below. Applications for minor development and alterations have not been included.

Table 3: Records of Development Approval

Council Reference	Proposal	Determination
9-2018-132-1	Proposed internal alterations to create new community room within existing church building and removal of dividing wall	Approved – Private Certifier
25-2012-9-1/ 35-2010-6-1	Demolish 4 classrooms, construct new hall and classroom and remove tree	SEPP Infrastructure
16-2003-65-1	Extension to admin block of primary school	Approved – Council delegation
7-1997-20970-1	Demountable office	Approved – Council delegation
7-1996-61584-1	Additions to school	Approved – Council delegation
7-1993-61848-1	School (add class room temporary)	Approved – Council delegation
7-1990-61156-1	Additions to school	Approved – Council delegation
7-1990-4803-1	Addition of library and two classrooms	Approved – Council delegation
7-1989-4348-1	Portable classroom	Approved – Council delegation
7-1996-3340-1	Relocation of dwelling	Approved – Council delegation
7-1980-249-1	Transportable classroom	Approved – Council delegation

There are no records of development approval for the establishment of the original school, nor are there any development approvals available for the church building.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (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*
 - (iii) *any development control plan, and*
 - (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*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (b) *that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

The proposal is not considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence/referral (s4.13)
- Crown DA (s4.33) - written agreement from the Crown to the proposed conditions of consent must be provided

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021;*
- *State Environmental Planning Policy (Planning Systems) 2021;*
- *State Environmental Planning Policy (Precincts—Regional) 2021;*
- *State Environmental Planning Policy (Resilience and Hazards) 2021;*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021;*
- *State Environmental Planning Policy (Industry and Employment) 2021; and*
- *Port Stephens Local Environmental Plan 2013.*

The consolidated new SEPPs commenced on 1 March 2022. There are no savings and transition provisions in the new consolidated SEPPs, which means the repealed SEPPs no longer apply to development applications under assessment and pending determination at the time of their commencement.

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 4** and considered in more detail below.

Table 4: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Planning Systems) 2021	<p><u>Chapter 2: State and Regional Development</u> Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 5 of Schedule 6:</p> <p>Clause 5(a), Schedule 6 of <i>SEPP (Planning Systems) 2021</i>: Private Infrastructure and Community Facilities – Educational establishment and childcare centres</p>	Y
State Environmental Planning Policy (Industry and Employment) 2021	<p><u>Chapter 3 Advertising and Signage</u> The proposed development is consistent with the matters for consideration under Clause 3.1, which outlines the objectives of the SEPP and Schedule 5 which provides an assessment framework to determine if the proposed signage scheme is acceptable in terms of its impacts.</p>	Y
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<p><u>Chapter 2: Vegetation in non-rural areas</u> Section 2.6 provides that a person must not clear vegetation in a non-rural area of the State to which Part 3 applies. Section 2.10 provides that Council may issue a permit for tree removal.</p> <p>The proposed landscape plan identifies the removal of 15 existing mature trees and replacement tree planting at a ratio greater than 3:1. In total, 52 replacement plantings are proposed.</p> <p>The proposed tree removal was assessed by Council's Vegetation Management Officer and the removal supported as replacement landscaping is proposed by the applicant consistent with Council's landscape technical specifications.</p> <p><u>Chapter 4: Koala Habitat Protection 2021</u> Section 4.8 requires that the application must be consistent with the approved koala plan of management that applies to the site.</p> <p>The application included a Flora and Fauna Assessment, prepared by Kleinfelder dated 2020, that confirms no koala feed trees will be removed as part of the proposal. The site does not form part of a koala corridor.</p> <p>Accordingly, the proposed development complies with the performance criteria listed in Appendix 4 of the Port Stephens CKPOM and the proposal is considered to be consistent with the requirements of Chapter 4.</p>	Y

SEPP (Resilience & Hazards)	<p><u>Chapter 4: Remediation of Land</u></p> <p>Section 4.6 requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out.</p> <p>Contamination and remediation has been considered in the Contamination Report submitted with the application and the proposal would be considered satisfactory subject to conditions.</p>	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p><u>Chapter 2: Infrastructure</u></p> <p>Section 2.48(2) (Determination of development applications—other development) – electricity transmission requires consultation with relevant electricity authority. Referral correspondence with Ausgrid confirms the proposal can be safely undertaken with respect to nearby electricity assets.</p> <p><u>Chapter 3: Educational establishments and child care facilities</u></p> <p>Chapter 3 provides development standards relating to centre based childcare facilities and educational establishments.</p> <p>The proposal is generally consistent with the requirements of this chapter.</p>	Y
Proposed Instruments	<u>N/A</u>	N/A
LEP	<p>The following LEP clauses are relevant to the proposal:</p> <ul style="list-style-type: none"> • Zone objectives and Land Use Table (Cl. 2.3) • Demolition requires development consent (Cl. 2.7) • Minimum Subdivision Lot Size (Cl. 4.1) • Height of buildings (Cl. 4.3(2)) • Heritage (Cl. 5.10) • Flood Planning (Cl. 5.21) • Acid sulphate soils (Cl. 7.1) • Earthworks (Cl. 7.2) • Essential Services (Cl. 7.6) <p>The proposal is generally consistent with the LEP.</p>	Y
DCP	<p>The following DCP provisions are relevant to the proposal:</p> <ul style="list-style-type: none"> • B1 – Tree Management • B2 – Natural Resources • B3 – Environmental Management • B4 – Drainage and Water Quality • B5 – Flooding • B7 – Heritage • B8 – Road Network and Parking 	Y

	The proposal is generally consistent with the DCP. The car parking requirements within section B8 - Road Network and Parking are nominated as merit based. The proposed car parking arrangement has been found to be acceptable, as detailed within section 3.1(c) of this report.	
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Consideration of the relevant SEPPs is outlined below.

State Environmental Planning Policy (Planning Systems) 2021

State Environmental Planning Policy (Planning Systems) 2021 identifies the types of development that are; State significant development, State significant infrastructure and critical State significant infrastructure, and regionally significant development. Schedule 6 of the SEPP defines development that is regionally significant, and includes private infrastructure and community facilities (educational establishment) with a capital investment value (CIV) of more than \$5 million. As the proposed development is for alterations and additions to an educational establishment and construction of a new childcare centre, which both have a CIV over \$5 million, the Hunter and Central Coast Regional Planning Panel is the determining authority.

State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage

State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage sets out planning controls for advertising and signage in NSW. The SEPP requires signage to be compatible with the future character of an area, provide effective communication in suitable locations and be of high quality design and finish.

The proposal includes a number of building identification and directional signs (see **Figure 10** above) in the proposal description). The proposed signage consists of wall mounted signage and signage pillars. The signage pillars measure 1.8m high x 1m wide. The wall mounted signage consists of two different types – Type A and B, which include the following dimensions:

- Type A – 1.15m high x 3.5m wide.
- Type B – 2m high x 2m wide

The matters for consideration include Clause 3.11, which outlines the objectives of the SEPP and Schedule 5 which provides an assessment framework to determine if the proposed signage scheme is acceptable in terms of its impacts. An assessment of the proposed signage scheme against the matters for consideration is outlined in table 5 below.

Table 5: Schedule 5 Assessment

Matters for consideration	Assessment comment
Clause 3.1 – Aims and objectives	<p>The proposed signage is compatible with the desired character of the area and will be of an appropriate height, scale and proportion with respect to the sites location within a low density residential area.</p> <p>The proposed signage is considered consistent with the aims and objectives of Clause 3 of the SEPP.</p> <p>Further detailed assessment against Schedule 1 of the SEPP is provided below.</p>
Schedule 5 - Assessment criteria	
<p><i>1 Character of the area</i></p> <p>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p> <p>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</p>	<p>The proposed signage is compatible with the emerging and desired character of the area. The signage is considered an appropriate height, scale and proportion with respect to the site's location within the low density residential area.</p>
<p><i>2 Special areas</i></p> <p>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?</p>	<p>The subject site is not located in proximity to any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas. It is considered that the proposal would not detract from the amenity of visual quality of surrounding areas.</p>
<p><i>3 Views and vistas</i></p> <p>Does the proposal obscure or compromise important views?</p> <p>Does the proposal dominate the skyline and reduce the quality of vistas?</p> <p>Does the proposal respect the viewing rights of other advertisers?</p>	<p>The proposal does not obscure or compromise, any important views or vistas.</p> <p>Signage is integrated with the design of buildings, being generally flush mounted and not protruding above any of the structures on which they are located. The proposed pylon sign is 1.1m in height and therefore does not protrude above any buildings.</p> <p>The proposed signage has been appropriately located to not obstruct the viewing rights of other advertisers.</p>
<p><i>4 Streetscape, setting or landscape</i></p> <p>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</p> <p>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</p>	<p>The proportion of the signage integrates in with the landscaping treatments and scale of the building.</p> <p>The proposed signage is not visible from the public realm.</p> <p>The proposed signage is integrated within the built form and does not present a cluttered appearance.</p>

<p>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</p> <p>Does the proposal screen unsightliness?</p> <p>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</p> <p>Does the proposal require ongoing vegetation management?</p>	<p>The proposed signage does not screen unsightliness or protrude above the proposed building structures.</p> <p>The proposal would not require ongoing vegetation management.</p>
<p><i>5 Site and building</i></p> <p>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?</p> <p>Does the proposal respect important features of the site or building, or both?</p> <p>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</p>	<p>The proposed signage is integrated within the built form and is compatible in terms of scale and proportion to the proposed buildings and site.</p> <p>The proposed signage is simple in form, so as to allow the inclusion of graphical information on the signage to be immediately apparent to the observer.</p>
<p><i>6 Associated devices and logos with advertisements and advertising structures</i></p> <p>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?</p>	<p>Not applicable.</p>
<p><i>7 Illumination</i></p> <p>Would illumination result in unacceptable glare?</p> <p>Would illumination affect safety for pedestrians, vehicles or aircraft?</p> <p>Would illumination detract from the amenity of any residence or other form of accommodation?</p> <p>Can the intensity of the illumination be adjusted, if necessary?</p> <p>Is the illumination subject to a curfew?</p>	<p>The proposed signage is not illuminated.</p>
<p><i>8 Safety</i></p> <p>Would the proposal reduce the safety for any public road?</p> <p>Would the proposal reduce the safety for pedestrians or bicyclists?</p>	<p>The proposed signage will not reduce the safety of the adjacent roads or footpaths.</p> <p>The proposed signage is integrated into building and landscape design, thereby eliminating the</p>

Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	possibility for obstruction of sight for pedestrians or cyclists.
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State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in Non-Rural Areas:

State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 Vegetation in Non-Rural Areas, aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State. The SEPP works in conjunction with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

Part 2.3 of the Vegetation SEPP provides that Council's Development Control Plan can make declarations with regards to certain matters. The Vegetation SEPP further provides that Council may issue a permit for tree removal.

The proposed landscape plan includes removal of 15 existing mature trees and replacement at a ratio greater than 3:1. In total, 52 replacement plantings are proposed.

A Flora and Fauna Assessment and a design statement from a landscape architect, has been submitted with the application to assess the impact of tree and vegetation removal, and whether the extent of native vegetation to be cleared exceeds the biodiversity offset scheme threshold.

The Flora and Fauna Assessment, prepared by Terras, Reference No. 12003.5-TAR-002-A and dated March 2022 concludes that the proposal is unlikely to have a significant impact on any threatened entities and the proposal does not trigger the Biodiversity Offsets Scheme. The assessment also found that no hollow bearing trees or significant habitat features will be impacted.

The Landscape Design Statement, prepared by Terras Architects, dated 5 October 2022 states that the 15 trees proposed for removal will be sufficiently offset by the 52 new tree plantings proposed, as the canopy coverage of the replacements is expected to exceed that of the existing 15 trees to be removed. The 15 mature trees proposed for removal was also reviewed by Council's Vegetation Management Officer and found to be acceptable in accordance with the Port Stephens Tree Technical Specification, subject to the 52 replacement plantings proposed. The replacement plantings are proposed at various locations across the site, with the primary areas of focus being the eastern and western boundaries, which interface residential land, thereby maximising screening benefits.

Based on the findings of the flora and fauna assessment, Landscape Design Statement and review from Council's Vegetation Management Officer, the proposed tree removal and offsetting is appropriate.

Chapter 4 Koala Habitat Protection 2021:

This chapter aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. This SEPP replaces the previous State Environmental Planning Policy No 44 - Koala Habitat Protection.

The development control provisions of the SEPP apply to development applications relating to land within Port Stephens Council and:

1. Where there is an approved Koala Plan of Management for the land, the development application must be consistent with the approved koala plan of management that applies to the land.
2. Where there is no approved Koala Plan of Management for the land,
 - a. if the land is identified on the Koala Development Application Map, and

- b. has an area of more than 1 hectare, or
- c. has, together with any adjoining land in the same ownership, an area of more than 1 hectare, whether or not the development application applies to the whole, or only part, of the land.

The land is greater than 1 hectare and is mapped as “Mainly Cleared” in the Koala Habitat Planning Map the Port Stephens Koala Plan of Management. Nonetheless, the Comprehensive Koala Plan of Management (CKPoM) applies to the land and therefore, the proposal must be consistent with the CKPoM.

The application included a Flora and Fauna Assessment, prepared by Kleinfelder dated 2020, that confirms no koala feed trees will be removed as part of the proposal. In addition, the site does not form part of a koala corridor.

Accordingly, the proposed development complies with the performance criteria listed in Appendix 4 of the Port Stephens CKPOM and the proposal is considered to be consistent with the requirements of Chapter 4.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land:

Section 4.6 of Chapter 4 of the Resilience and Hazards SEPP provides that a consent authority must not grant consent unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The NSW list of contaminated sites and list of notified sites published by the EPA does not identify the site as being contaminated, nor has previous record of contamination in Council’s system. The land is not within an investigation area, there are no records of potentially contaminating activities occurring on the site, and the proposed use is not listed as a possible contaminating use, per Table 1 of the Guidelines.

However, given the sensitive nature of the proposed land-use a Phase 1 Preliminary Investigation for Contamination, prepared by Qualtest Laboratory, Document ID NEW19P-0150-AA, Rev 0 and dated 24 October 2019 has been submitted with the application. The preliminary investigation involves a site history assessment and site walkover, and collection of soil samples.

One Area of Environmental Concern (AECs) was identified within the proposed redevelopment site relating to the potential importation of fill of unknown quality used to construct the carpark. Sampling and analysis targeted this AEC as well as giving a broad coverage of the redevelopment site. However, the laboratory results reported concentrations of contaminants below the adopted human health and ecological criteria. Given the lack of contamination in the soils, the Conceptual Site Model found that there were no complete exposure pathways to both human and ecological receptors. Based on the site history, field observations, and laboratory results, the Phase 1 report recommends that the site can be made suitable for the proposed redevelopment, if the following recommendations are implemented:

- Preparation of an Unexpected Finds Procedure, which would be included in the Construction Environmental Management Plan (CEMP) for the earthworks and construction.

- If soils are required to be disposed offsite, they will require further assessment in accordance with the NSW EPA (2014) Waste Classification Guidelines, prior to disposal.

In addition, the school routinely undertakes a Hazardous Materials Reinspection Report, as the school is known to have been constructed using hazardous materials in some buildings. The use of asbestos, lead based paints, ozone depleting substances and PCB's has been discontinued, however, residual material from past construction practices remain in some older buildings. Hazardous Materials Reinspection Report. The latest Hazardous Materials Reinspection Report, prepared by Banksia EOHS Pty Ltd and dated May 2017 was submitted with the application and identifies a number of hazardous materials within the existing school buildings. No specific ongoing recommendations for the management of hazardous materials is provided in this report.

The proposed development involves refurbishment of existing buildings which are known to contain hazardous materials, as identified in the 2017 Hazardous Materials Reinspection Report. To address this, a condition has been recommended requiring a Hazardous Building Material Assessment (HBMA) be prepared prior to the commencement of works and all demolition works that involve the demolition and removal of the hazardous materials must ensure that all site personnel are protected from risk of exposure in accordance with relevant SafeWork NSW and NSW Demolition Guidelines.

Based on the Phase 1 Preliminary Investigation for Contamination Report findings, the proposed site is not contaminated and subject to conditions regarding an unexpected finds procedure, hazardous building materials management and offsite waste disposal, the proposal satisfies the requirements of Chapter 4 of this SEPP.

Chapter 2: Coastal Management

The subject land is located with the coastal environment area and therefore the following general matters are required to be considered when determining an application. As per Section 2.10 of the SEPP, development consent must not be granted for development within the coastal environment area unless the consent authority has considered whether the development will cause impact to the integrity of the biophysical and ecological environment, the values and natural coastal processes, marine vegetation, native vegetation and fauna and existing public open space and access to and along the foreshore.

The proposal is located a significant distance from the Nelson Bay waters (300m) in an area previously cleared of vegetation and therefore would not cause any direct impacts to biophysical and ecological values of the coast. Indirect impacts associated with water quality, could be appropriately managed through the proposed stormwater management plans submitted with the application, subject to conditions.

On this basis, the proposal is consistent with the requirements of Section 2.10 of the SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure:

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State. A referral was sent to Ausgrid as per Clause 2.45 of the policy, as the development is being carried out adjacent to overhead power lines. Ausgrid recommended several conditions relating to the works being carried out in accordance with the Ausgrid specifications. The conditions recommended by Ausgrid have been included at **Attachment 1**.

Chapter 3 Establishments and Childcare Centres:

The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State. The application is for both alterations and additions to an educational establishment (Part 3.3 of this policy) and the construction and use of a new centre based child care and OOSH (Part 3.4 of this policy).

Part 3.4 - Schools—specific development controls

In accordance with Part 3.4, Section 3.36(1), the proposed educational establishment is permissible as it is being carried out within a prescribed zone (R2 – Low Density Residential zone). Section 3.36(6) provides that before determining a development application for an educational establishment in a prescribed zone, the consent authority must take into consideration—

- (a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and
- (b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.

The applicant has noted that there will be some out of hours usage by school related users, as per existing arrangements. The facilities will be available for out of hours use by others, consistent with the school's existing policies.

Schedule 8 – Design quality principles in schools of the SEPP applies to the development. An assessment of the design quality principles of Schedule 8 has been provided in **Table 6** below.

Table 6: Schedule 8 Design quality principles

Principle	Comment
Principle 1—context, built form and landscape	<p>The proposed development is considered appropriate with regard to the surrounding context, built form and landscape for the following reasons:</p> <ul style="list-style-type: none"> • It will provide a sense of place, clear entry and a positive contribution to the public realm. • It is responsive to the topography of the site. • It is reflective of the low scale built form of the locality. • It is reflective of the predominant scale, materials and colours of the locality. • It is consistent, and integrates with, the existing streetscape. • It will have a high standard of landscaping. <p>The landscaping of the courtyards and curtilage of the buildings provides functional circulation space, a sense of entry as well as enhancing the public realm of Wahgunyah Street. A major objective of the project is to improve the functional relationships of the buildings and spaces, and to improve accessibility within the site.</p> <p>The proposal responds to the local topography and setting of the site. Landscape buffering and building design intends to reduce the visual impact of the</p>

Principle	Comment
	<p>school on the neighbouring area, while providing a more functional educational environment.</p> <p>The proposal is consistent with the DCP specific area 'Nelson Bay West' with regard to landscaping objectives.</p>
Principle 2—sustainable, efficient and durable	<p>The proposal uses energy efficient materials and devices wherever possible to meet or exceed Australian standards. The school already has waste minimisation and recycling strategies in place, which will be applied at an operational level in the completed development.</p> <p>The proposal intends to update the school learning spaces to provide a more contemporary and flexible learning environment, and to deliver a coherent school campus.</p>
Principle 3—accessible and inclusive	<p>The new entry off Wahgunyah Street will provide a clear formal entry to the school. The landscaping, courtyards and pathways will provide strong visual cues for wayfinding. The buildings will include simple signage to identify their function.</p> <p>The proposal includes works to improve the accessibility of the school for those with mobility disabilities.</p> <p>There will be some out of hours usage by school related users, as per existing arrangements.</p> <p>The facilities will be available for out of hours use by others, consistent with the school's existing policies.</p>
Principle 4—health and safety	<p>The development includes fencing along all external boundaries to ensure children are kept within the grounds. The fencing is typical of school grounds and will integrate well with the proposed landscaping and design elements, particularly along the northern frontage.</p> <p>The proposal is designed to be welcoming, and provide a pleasant and positive sense of place.</p> <p>The aim of the development is to provide improved classrooms, and outdoor spaces as well as improved administration and staff facilities, consistent with contemporary standards.</p>
Principle 5—amenity	<p>Externally, there are a range of thoughtfully designed spaces to provide opportunities for engagement and learning for children, such as the yarning circle in the central north and all weather amphitheatre to the south.</p> <p>The school is not located near a noisy road or rail corridor.</p>
Principle 6—whole of life, flexible and adaptive	<p>The design of buildings internally allows for flexibility of spaces for future purposes.</p> <p>The external areas provide wide walkways and landscaped areas, which will cater for potential student increases or if there are school events.</p>

Principle	Comment
Principle 7—aesthetics	<p>The overall design of the building and landscaping is attractive and a positive addition to Nelson Bay. The design delivers a positive visual statement along the street and improves the current school presence.</p> <p>The proposal is consistent with the DCP specific area 'Nelson Bay West' with regard to landscaping objectives.</p>

Considering the above, the alterations and additions to the educational establishment are considered consistent with this policy.

Part 3.3 Early education and care facilities—specific development controls

Part 3.3 of the SEPP provides specific development controls for early childhood education and care facilities. The following clauses are of relevance to the proposed child care centre on the site and are addressed accordingly:

Section 3.22 requires the concurrence of the Regulatory Authority under the following circumstances:

- (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.*

The proposal is compliant with the requirements of regulation 107 and 108 of the Education and Care Services National Regulations as detailed under the under Child Care Planning Guidelines compliance table at **Attachment 2**. Therefore, this clause does not apply to the development and concurrence of the regulatory authority is not required.

Section 3.23 requires that the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development. In accordance with Section 3.3 - Interpretation of the SEPP, Childcare Planning Guideline means the Child Care Planning Guideline approved by the Planning Secretary and published in the Gazette on 1 October 2021.

The Child Care Planning Guidelines informs development assessment to promote high quality planning and design of child care facilities in accordance with the physical requirements of the National Regulations and aligns with the National Quality Framework. The planning objectives of this Guideline are to:

- promote high quality planning and design of child care facilities in accordance with the physical requirements of the National Regulations;
- ensure that child care facilities are compatible with the existing streetscape, context and neighbouring land uses;
- minimise any adverse impacts of development on adjoining properties and the neighbourhood, including the natural and built environment;
- deliver greater certainty to applicants, operators and the community by embedding the physical requirements for service approval into the planning requirements for child care facilities.

The applicable sections of the Child Care Planning Guidelines are the Part 2 design criteria, Part 3 Matters for Consideration and Part 4 which contains the National Regulations requirements.

The proposed child care facility has been suitably designed to achieve high levels of amenity for the occupants of the building, and to provide a safe and functional child care centre layout. The design is

consistent with the Guideline, with the exception of the parts relating to traffic, parking and pedestrian safety within Part 2 and 3 for the reasons discussed throughout this report and in detail within the Childcare Planning Guidelines compliance table, at **Attachment 2**. Accordingly, the proposal is not consistent with the provisions of the Child Care Planning Guideline and Section 23 of the SEPP.

Section 3.25 provides that 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 (FSR) for the building on the site of the facility exceeds 0.5:1. The proposed centre-based child care facility is located in the R2 zone and therefore the provisions of this clause are applicable. The proposed centre-based childcare has an FSR of 0.33:1, complying with Section 3.25.

Section 3.26 provides non-discretionary development standards in relation to the carrying out of development for the purposes of a centre-based child care facility including the following:

- (a) *location—the development may be located at any distance from an existing or proposed early education and care facility,*
- (b) *indoor or outdoor space*
 - (i) *for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations 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*
 - (ii) *for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,*
- (c) *site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,*
- (d) *colour of building materials or shade structures—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.*

Development standard (a) is satisfied as the site is appropriately zoned for a centre-based child care facility and suitably located nearby a residentially dense area with appropriate access and parking arrangements. Noise attenuation measures are to be incorporated to mitigate impacts to adjoining residential properties.

Development standard (b) is satisfied as the indoor space and outdoor space requirements of the national regulations are met in the proposal as detailed under the Child Care Planning Guidelines section below.

Development standard (c) is met as the clause does not prescribe any restrictions to development.

Development standard (d) is satisfied as the site is not a state or local heritage item or in a heritage conservation area.

Part 7 – General Development Controls

Section 3.58 includes consultation requirements with TfNSW in certain circumstances. In accordance with Section 3.58(1), this section applies to development for the purpose of an educational establishment—

- (a) that will result in the educational establishment being able to accommodate 50 or more additional students, and
- (b) that involves—
 - (i) an enlargement or extension of existing premises, or
 - (ii) new premises, on a site that has direct vehicular or pedestrian access to any road.

The proposed alterations and additions to the existing school do not involve increasing the approved number of students at the school, nor does it involve alterations that would allow for more students to attend the school.

It is considered that the proposed development is generally in compliance with the aims and objectives of the SEPP. It should be noted that the development would still need to obtain service approval for the operation of the child care facility and has been included as a recommended condition of consent.

Port Stephens Local Environmental Plan 2013

Section 1.3 – Land to which Plan applies

Port Stephens Local Environmental Plan 2013 (PSLEP 2013) applies to land identified upon the 'Land Application Map'. The subject development occurs within this area.

Section 2.3 Zone objectives and Land Use Table

The development application has been lodged for the purposes of alterations and additions to an educational establishment, construction of a centre-based childcare facility, OOSH and Torrens title subdivision. The relevant definitions are outlined below:

Centre-based child care facility means—

A building or place used for the education and care of children that provides any one or more of the following—

- (i) long day care,*
- (ii) occasional child care,*
- (iii) out-of-school-hours care (including vacation care),*
- (iv) preschool care, or*
- (b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)).*

The proposal includes a centre-based childcare facility for long day care for 84 children and out of hours school care (OOSH) for 105 students, which is permissible with consent in the R2 zone.

Educational establishment means:

A building or place used for education (including teaching), being—

- (a) a school, or*
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.*

The proposal includes alterations and additions to an educational establishment (school), which is permissible with consent in the R2 zone by virtue of Section 3.36 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

Section 2.7 – Demolition requires development consent

The proposed development includes minor demolition activities, associated with the refurbishment of existing school buildings. This demolition cannot be carried out as exempt or complying development and requires development consent.

The applicant provided a demolition plan and conditions of consent has been recommended to manage demolition works.

Section 4.1 Minimum Subdivision Lot Size

The objectives of this clause are as follows—

- (a) to ensure that lot sizes are able to accommodate development that is suitable for its purpose and that is consistent with relevant development controls,
- (b) to prevent the fragmentation of rural areas.

The site has a nominated minimum lot size of 500m² on the PSLEP 2013 Lot Size Map. The proposal includes a one into two lot Torrens title subdivision, resulting in the following lots:

- New Lot: 3,477m²
- Residual Lot: 17,809m²

Both lots exceed the 500m² minimum lot size requirement. The resulting lots are suitable to individually accommodate the proposed expansion to the existing educational establishment and the existing place of worship land-uses.

Section 4.3 Height of buildings

The subject site has a maximum building height of 8m under the PSLEP 2013. The proposal includes a maximum height of 7.5m for all structures and is therefore compliant with the requirements of this clause.

Section 4.4 – Floor space ratio

There is no floor space ratio applying to the site under the PSLEP 2013.

Section 5.10 Heritage conservation

The objectives of this clause are to conserve environmental heritage, heritage items and conservation areas, archaeological sites and Aboriginal sites and objects of heritage significance.

The site is not listed as being locally significant under Schedule 5 of the *PSLEP 2013* or on the State Heritage register. An AHIMS search did not reveal any Aboriginal sites on or in proximity to the subject site. Furthermore, the site has previously been subject to previous disturbance from its historical land use as an orchard and associated residential use.

Notwithstanding, an advice note has been recommended in the conditions, noting that in the event of any Aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Heritage NSW (HNSW) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by HNSW to proceed.

Section 5.21 – Flood planning

The objectives of this clause are to minimise flood risk to life and property and avoid significant adverse impacts on flood behaviour and the environment, while allowing development on land that is compatible with the flood hazard.

The site is partly affected by localised flooding impacts. The mapped flood area covers approximately half the site and all buildings in this location are proposed above the flood planning level and flood free egress is available via Sproule Street. On this basis, risk to property and life from flooding is adequately management and the proposal is consistent with the requirements of Section 5.21.

Section 7.1 – Acid Sulfate Soils

The objective of this clause is to ensure that development does not disturb, expose, or drain acid sulfate soils and cause environmental damage. The site is mapped as Class 5 Acid Sulfate Soils and as such works within 500m of adjacent Class 1, 2, 3 or 4 land likely to be below 5m Australian Height Datum (AHD) is considered a potential environmental risk. The site is not located within 500m of adjacent Class 1, 2, 3 or 4 land nor are works proposed below 5m AHD, therefore an Acid Sulfate Soils Management Plan is not necessary to accompany the application.

Accordingly, the proposed development is considered to be satisfactory in regard to the management of ASS.

Section 7.2 Earthworks

The objectives of clause 7.2 are to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. The proposed earthworks are not exempt development under this plan or any other applicable environmental planning instrument and therefore require consent from Council.

The application includes a site regrading plan. The proposed development includes earthworks associated with the levelling of the building footprints, car parking and stormwater drainage.

Proposed earthworks are not considered to result in significant impacts to drainage patterns or soil stability in the locality, impact future use or redevelopment of adjoining land, impact the quality of the fill or soil to be excavated, impact development and likely amenity of adjoining properties, disturb relics or negatively impact any waterway, drinking catchment area or environmentally sensitive area.

The application included a Geotechnical Investigation Report and erosion and sediment control plan which details how earthworks would be managed during construction. Subject to conditions of consent relating to erosion and sediment control, the application would be consistent with the requirements of this clause.

Clause 7.6 Essential services

This clause provides that consent must not be granted unless the consent authority is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available.

A copy of the proposed plans have been reviewed and stamped by Hunter Water Corporation (HWC) confirming that water and sewer are available for connection to the site. Electricity is available for connection and suitable drainage and vehicular access arrangements have been detailed within the civil engineering plans submitted with the application. Conditions can be included to require that essential services are available prior to the issue of an Occupation Certificate. Accordingly, it is considered the proposed development satisfies this clause as adequate arrangements have been made to service the site.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

Remediation of Land State Environmental Planning Policy

The proposed Remediation of Land SEPP is intended to repeal and replace Chapter 4 of SEPP Resilience and Hazards 2021. The draft SEPP, which was exhibited from 25 January to 13 April 2018, and is currently under consideration.

The proposed SEPP seeks to provide a state-wide planning framework to guide the remediation of land, including outlining provisions that require consent authorities to consider the potential for land to be contaminated when determining development applications; clearly lists remediation works that require development consent; and introducing certification and operational requirements for remediation works that may be carried out without development consent.

Consideration has been given to the suitability of the site with respect to potential land contamination under SEPP Resilience and Hazards 2021 – Chapter 4 elsewhere within this report. The subject site has

been identified as suitable for the proposed development and further investigation in respect to contamination is not warranted in this instance.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following sections of the Port Stephens Development Control Plan 2014 (DCP) are relevant to the proposal:

Section B – General Controls

Section B1 – Tree Management

The proposal is identified as a non-rural area as defined by State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 Vegetation in Non-Rural Areas (formerly *SEPP (Vegetation in non-rural areas) 2017*).

The landscape plan proposes removal of 15 existing mature trees and replacement at a ratio greater than 3:1. In total, 52 replacement plantings are proposed. The replacement plantings are proposed at various locations across the site, with the primary areas of focus being the eastern and western boundaries, which interface residential land, thereby maximising screening benefits.

A Landscape Design Statement, prepared by Terras Architects dated 5 October 2022 has been submitted with the application to assess the impact of tree and vegetation removal. The Landscape Design Statement, states that the 15 trees proposed for removal will be sufficiently offset by the 52 new tree plantings proposed, as the canopy coverage of the replacements would exceed that of the existing 15 trees to be removed.

The 15 mature trees proposed for removal were reviewed by Council's Vegetation Management Officer and found to be acceptable in accordance with the Port Stephens Tree Technical Specification, subject to the 52 replacement plantings proposed.

Based on the findings of the Landscape Design Statement and review from Council's Vegetation Management Officer, the proposed tree removal and offsetting is appropriate.

Section B2 – Natural Resources

The site is not located in proximity to any areas of environmental significance identified in this chapter.

The application included a Flora and Fauna Assessment, prepared by Kleinfelder dated 2020. The report identifies that 15 mature trees are proposed for removal and reasonably concludes that the proposal is unlikely to have a significant impact on any threatened entities. No hollow bearing trees or significant habitat features will be impacted. Consequently, the proposal does not trigger the Biodiversity Offsets Scheme.

The land is greater than 1 hectare and is mapped as "Mainly Cleared" in the Koala Habitat Planning Map the Port Stephens Koala Plan of Management. Nonetheless, the Comprehensive Koala Plan of Management (CKPoM) applies to the land.

The Flora and Fauna Assessment confirms no koala feed trees will be removed as part of the proposal. In addition, the site does not form part of a koala corridor. Accordingly, the proposed development complies with the performance criteria listed in Appendix 4 of the Port Stephens CKPOM.

On this basis, the proposal is consistent with the requirements of this chapter.

Chapter B3 – Environmental Management Acid Sulfate Soils

The subject site is identified as containing Class 5 Acid Sulphate Soils (ASS). The site is not located within 500m of adjacent Class 1, 2, 3 or 4 land nor are works proposed below 5m AHD, therefore an Acid Sulfate Soils Management Plan is not necessary to accompany the application. Accordingly, the proposed development is considered to be satisfactory in regard to the management of ASS.

Air Quality

The proposed development is not a development type anticipated to produce adverse impacts to air quality or require specific odour control measures. Accordingly, an air quality report was not deemed necessary for the proposed development. Any potential impacts as a result of the construction phase will be temporary and will be managed and mitigated by appropriate standard measures.

Earthworks

A site regrade plan is supplied with the application. Earthworks involving cut and fill are required for levelling of the building footprint, car parking and stormwater drainage. A condition has been included that fill will consist of Virgin Excavated Natural Material (VENM) or Excavated natural material (ENM) as defined under the *Protection of Environment Operations Act 1997*. Conditions have also been recommended requiring erosion and sediment control measures to be installed prior to the commencement of works.

Noise

The proposal presents the potential for noise generation from the centre-based childcare facility and activities associated with the school operations.

A Noise Impact Assessment (reference no. 19-2469-R1 and dated August 2020) was provided with the application which modelled the potential noise generation for the school and childcare, including sleep disturbance noise emissions. The Noise Assessment quantifies the potential operational noise emissions pertaining to vehicles, delivery/collection vehicles, children playing in the child care facility and mechanical plant associated with the proposed buildings. In addition, the assessment quantifies the noise intrusion from surrounding noise sources to the child care facility.

The Noise Assessment has been undertaken in accordance with the following documents:

- Environment Protection Authority (EPA), NSW Noise Policy for Industry (NPI) 2017;
- Association of Australian Acoustical Consultants (AAAC), Guideline for Child Care Centre Acoustic Assessment (GCCCAA);
- Australian Standard AS 1055:2018 - Acoustics - Description and measurement of environmental noise - General Procedures; and
- International Standard ISO 9613:1993 - Acoustics - Attenuation of sound during propagation outdoors.

The Noise Assessment demonstrates that the cumulative emissions from the proposed development would satisfy the relevant criteria at all receivers subject to the implementation of noise attenuation measures and construction mitigation measures, including the permanent erection of 1.8m and 2.1m high acoustic fencing along the boundaries of the centre-based childcare facility and other key locations. Conditions of consent have been recommended requiring the implementation of the recommendations proposed in the Noise Assessment and the construction and ongoing maintenance of acoustic fencing. On this basis, the proposal is considered consistent with the requirements of Chapter B3.

Chapter B4 – Drainage and water quality

A stormwater management plan was submitted with the application and includes adequate water quality and quantity controls as required by Councils policy. The stormwater drainage plan has been assessed as being consistent with Councils Infrastructure Specification, subject to the recommended conditions.

Chapter B5 – Flooding

The site is partly affected by localised flood impacts. The mapped flood area covers approximately half the site. All buildings in this location are proposed above the flood planning level and flood free egress is available via Sproule Street. On this basis, risk to property and life from flooding is adequately managed and the proposal is consistent with the requirements of Section 5.21.

Chapter B7 - Heritage

The objectives of this section is to conserve environmental heritage, heritage items and conservation areas, archaeological sites and Aboriginal sites and objects of heritage significance.

The site is not listed as locally significant under Schedule 5 of the PSLEP 2013 or State Heritage register. An AHIMS search did not reveal any Aboriginal sites on or in proximity to the subject site. The site has previously been subject to previous disturbance from its historical land uses. Further detail on heritage matters have been assessed in the preceding sections of this report against Clause 5.10 of the LEP.

Chapter B8 – Road network and parking

Traffic Impacts

The application includes a Traffic and Parking Assessment, prepared by Intersect Traffic, dated April 2020. The assessment included traffic counts at key intersections surrounding the site. Based on the traffic counts and future expected traffic volumes for the year 2030, the assessment finds that the local and state road network has sufficient capacity to cater for the traffic generated by the proposed development.

The traffic and parking assessment confirms that the construction traffic for the demolition of the existing buildings and the construction of the new school buildings and the early education learning centre on the site will not generate traffic in excess of the school expansion. During construction, traffic and parking can be managed through a Construction Traffic Management Plan. A condition for the preparation of a Construction Traffic Management Plan (CTMP) is recommended. The CTMP will be required to include measures to sequence works within holiday period as much as possible.

Car parking

The proposed development includes the use of 103 on site car parking spaces across two car parks. The application proposes reconfiguration of the existing 61 space upper car park for the proposed childcare centre and existing church operations. The reconfiguration will increase the upper car park capacity to a total of 69 spaces, 48 for use by the existing church operations and 21 spaces by the proposed childcare centre. New line marking for parking and marked pedestrian walkways are proposed to allow safe travel through the expanded upper car park. Teachers currently using the upper car park will be relocated to a new 34 space teachers lower car park accessed from Wahgunyah Road.

Table 7: On-Site Car Parking Requirements

CHAPTER B8 ON-SITE PARKING REQUIREMENTS				
Land-use	DCP On-site Parking Requirement	Existing parking spaces	Number of parking spaces required	Proposed number of parking spaces

Educational Establishment	1 car space per employee 2 bike spaces per 20 employees and students.	32	32 spaces, including 1 disabled space.	34 spaces in new lower car park.
Centre-based Childcare Centre	1 space for every 4 child care places, including one disabled parking space.	N/A	21 spaces, including one disabled space.	21 of the 69 spaces in the 'upper car park' shared with the place of worship.
OOSH	Not nominated.	N/A	N/A – merit based. Refer to discussion following this table.	Nil.
Place of Public Worship	Merit based approach	29	N/A – merit based. Refer to discussion following this table which estimates a demand of 50 spaces.	48 of the 69 spaces in the "upper car park" shared with the childcare centre.

The proposal includes 21 spaces for the childcare facility, which complies with the minimum car parking requirements of the PSDCP. As noted in the table above, there are no specific requirements for OOSH facilities. The OOSH facility operational times are such that it is considered that the small parking demand created by this facility will be catered for through reduced demand for car parking by the school and child care centre operations at these times, particularly considering that most participants would typically also attend St Michael's school, and will therefore already be on site.

The existing church has seating capacity for 478 people. The PSDCP refers to car parking requirements for places of public worship being determined on a merit based approach (plus 2 bicycle spaces per 20 employees or visitors). The RTA's (now TfNSW) Guide to Traffic Generating Developments does not provide guidance for church operations, and on this basis, the applicants TIA submitted with the application adopts the Maitland DCP numerical standard of 1 car parking space per 10 seats or 10 sqm of public space, as a relevant guide. Applying this rate, a parking requirement for the church would be approximately 48 spaces.

The church currently utilises a 61 space car park ("upper car park") which is shared with the school. As noted in the table above, the school has a current demand of 32 spaces, leaving 29 spaces for the church.

The existing deficiency is highlighted in the SEE, which states that on occasions the church experiences a peak in parking demand which requires the provision of additional overflow parking within the basketball courts of the school. Similar concerns regarding undersupply of car parking have been raised in the submissions from local residents. Following a request for additional information from the applicant, it was clarified that the last time the overflow parking was used for the church was on Friday 16th September 2016. Due to pedestrian safety concerns raised by Council and the HCCRPP, the applicant has withdrawn the proposal to continue using the overflow parking.

In response to concerns raised regarding the lack of parking surveys undertaken, the applicant has undertaken a parking survey during church operations to provide comparable data to the current usage.

The report has found that a parking rate equivalent of 1 per 2 attendees is appropriate based on a survey of a Sunday church attendance of 180 parishioners. The report concludes that funeral attendances are of comparable nature, although are reported to rarely include more than 100 attendee's based on previous funerals organised by local funeral providers and the Parish.

Utilising the parking counts in the Traffic and Parking Assessment, the demand for car parking for weekday funerals is 50 spaces. Parking demand on weekends is not relevant given the childcare centre will only operate during the week. The church currently has 29 spaces on a weekday, consequently there is a historic shortfall of 21 spaces during the peak demand as surveyed in the parking study. This shortfall in the upper carpark for the church operations is being improved by the relocation of staff parking to the new lower carpark accessed from Wahgunyah Road and the creation of 8 new spaces in the upper car park.

Given the historic shortfall, consideration must be given to Section B8.6 of the PSDCP, which provides that a reduction in the number of spaces required in accordance with Figure BU may be considered when supported by a TIA if the current land use has been approved with a parking shortfall and the proposed parking concession does not exceed the current shortfall for the approved use calculated in accordance with Figure BU.

Through the reconfiguration of the upper car park to include a total of 48 spaces allocated to the church, the historic shortfall is reduced to 2 spaces. In addition, the TIA also notes that there is opportunity for cross-utilisation of spaces noting that the peak demand periods for the church and the childcare centre would not coincide. On weekdays the car parking demand at the church are associated with funerals, which are now proposed to operate between 10:00am and 2:00pm only, and do not coincide with the peak drop off and pick up times for the childcare centre, which are before 10:00am and after 3:00pm.

The application includes a Traffic Management Plan (TMP) that details a number of measures to ensure safe parking, drop off and traffic movements within the site and surrounds, taking into consideration interaction between the school, childcare and church uses.

A dedicated delivery space has been shown within the 34 space Wahgunyah Road lower car park for the school for deliveries during school hours. The applicant notes that deliveries for the childcare centre and OOSH will be provided via the Sproule Street Car Park. These deliveries occur outside of the peak morning and afternoon period as such vehicles can utilise the dedicated drop off and pick up parking spaces for deliveries, a condition of consent is recommended to reflect this.

During construction, parking will be managed through a construction traffic and car parking management plan which includes staging of the development to minimise the number of tradespersons on site at any given time.

In conclusion, while the historic use of the overflow car parking is evidence of a historic car parking shortfall on the site, on balance, taking into consideration the improvements to address the historic parking shortfall for the church to 2 spaces based on the parking surveys, combined with the opportunity for cross utilisation, the proposed car parking supply is considered adequate for the proposed use, and a discernible improvement on the existing situation.

On this basis, the proposal satisfies Section B8.6 of the DCP.

Access

The site has vehicular and pedestrian access via Sproule Street and Wahgunyah Road. The bus drop-off and pick up zones are currently located along the Wahgunyah Road street frontage of the site. The car drop-off and pick up zones exist in Wahgunyah Road and in the car parking area accessed via Sproule Street. As a result of the proposed development, the Wahgunyah Street entry will remain the primary entry point for the school, reinforced by the relocation of the administration functions and

improved entry control arrangements. In order to improve pedestrian safety on Wahgunyah Street, the existing pedestrian crossing is to be relocated closer to the school entry.

The driveway access to Sproule Street meets the minimum vehicular sight distances from the access. Despite Sproule Street not having a dedicated pedestrian footpath, the proposal would reduce the pedestrian use of Sproule Street, noting that school users will now only access the site via Wahgunyah Street, leaving Sproule Street for the childcare centre which has been provided with adequate car parking, allowing drop off of children directly adjacent the childcare centre.

Chapter C1 – Subdivision

C1.A All subdivisions - Lot size and dimensions

The objective of this section is to ensure all new lots have a size and shape appropriate to their proposed use, and to allow for the provisions of necessary services and other requirements.

The proposed 1 into 2 lot Torrens title subdivision does not include or require the provision of new streets. The site is not subject to a minimum lot size allocated on the lot size map under the LEP, however they are considered of an appropriate size and scale with relation to existing and proposed buildings and structures.

C1.B - All subdivision - street trees

The objective of this section is to ensure street tree planting is of an appropriate species and undertaken in accordance with Council's guidelines.

The proposed development is not a type listed as requiring the provision of street trees. Appropriate internal tree plantings are incorporated as part of the proposed landscaping plan.

C1.D - All subdivision - public scale drainage

The objective of this section is to ensure further guidance is provided for subdivision that is consistent with B4 Drainage and Water Quality and the infrastructure specification – design.

A stormwater management plan was submitted with the application and includes adequate quality and quantity controls as required by Council's policy. The submitted plan demonstrates each lot is capable of gravity drainage to the public system. The stormwater drainage plan has been assessed as being consistent with the Infrastructure Specification and a condition of consent can be included requiring the provision of detailed stormwater plans, prior to the issue of a Construction Certificate.

Sproule Street does not meet the current standards for a local access road within the PSC Infrastructure Specification as it does not have adequate width and does not contain a pedestrian pathway. However, the driveway access to Sproule Street meets the minimum vehicular sight distances from the access. Despite Sproule Street not having a dedicated pedestrian footpath, the proposal would reduce the pedestrian use of Sproule Street, noting that school users will now only access the site via Wahgunyah Street, leaving Sproule Street for the childcare centre which has been provided with adequate car parking, allowing drop off of children directly adjacent the childcare centre.

Chapter D6 – Nelson Bay West

The Nelson Bay West site specific chapter applies to the proposal. The relevant sections of this chapter are considered below.

D6.6 – Landscaping

The proposal includes greater than 34% landscaping and includes a mix of drought tolerant and low maintenance native species appropriate, consistent with the objectives of this clause.

Port Stephens Local Infrastructure Contributions Plan

The application attracts Section 7.12 Contributions pursuant to the *Environmental Planning and Assessment Act 1979* and the Port Stephens Local Infrastructure Contributions Plan (LIC Plan).

Despite this, the applicant has referred to the potential for an exemption of contributions in the Statement of Environmental Effects. The LIC Plan does not offer an exemption for educational establishments or childcare facilities, nor is an exemption offered by a Ministerial Direction. Accordingly, the exemption is not supported and a condition should be included that a monetary contribution is to be paid to Council, pursuant to section 7.12 of the *EP&A Act* and the Port Stephens Council Fixed Development Contributions Plan, prior to release of the Construction Certificate.

(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

Pursuant to Sections 62 and 64 of the Environmental Planning and Assessment Regulation 2021, Council recommends that the existing buildings subject of the proposed works shall be upgraded so as to bring the building into partial conformity with the Building Code of Australia. The following works should be completed prior to the issue of an Occupation Certificate for the works proposed by this application.

- i. Emergency lighting and exit signs will need to be provided in Blocks A and B to achieve consistency with Part E4 of the Building Code of Australia.
- ii. Exit doors and doors in the path of egress to exits within Blocks A and B shall have latching hardware installed complying with D2.21 of the Building Code of Australia. All existing non-compliant hardware shall be removed.
- iii. The distance from the property boundary to the closest window opening in Block E shall be confirmed by a registered land surveyor to ensure that this opening does not need to be protected as per Part C3 of the Building Code of Australia. Where the distance is less than 3 metres to this fire source feature, this opening shall be protected in accordance with C3.4 of the Building Code of Australia or other appropriate method permitted by the Building Code of Australia.
- iv. The hydrant block plan located adjacent to the Hydrant Booster Assembly near Wahgunyah Road identifies a number of attack hydrants on the site, which were not physically identified during the site inspection. The principal certifying authority shall confirm that all existing buildings are within coverage of the fire hydrant system on site, and where deficiencies are found, remedied to achieve compliance with E1.3 of the Building Code of Australia. The hydrant block plan shall also be amended to achieve consistency with both correct site conditions and AS 2419.1
- v. The fire hose reel located on the ground floor level of Block A (south-eastern corner) shall have the instructions disc replaced, as the current instructions disc is faded and difficult to read. Consideration shall also be made to utilise a cover for this fire hose reel.
- vi. The location of the existing twin pillar attack hydrant adjacent to the topmost carpark shall be established with respect to the proposed boundary of the Torrens subdivision and whether it is located on the parcel of land to be utilised by the school or the proposed early childhood centre. Where the location exists on the land to be utilised by early childhood centre, the hydrant shall be relocated off this parcel of land, and be orientated so that the outlets are positioned so as to be not obstructed by the adjoining security fencing.

The above requirements are recommended to be addressed through a condition of consent.

3.2 Section 4.15(1)(b) - Likely Impacts of Development

This Section specifies the likely impacts of the proposed development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

Built Environment

The proposed development represents a contemporary design and built form of an appropriate height, scale, and bulk suitable within the locality, whilst respecting the amenity of adjoining residential land. Signage is integrated within the built form to minimise visual impacts and achieve compatibility with the existing and future desired character of the locality.

The incorporation of good quality landscaping, including boundary screen plantings as well as internal amenity planting, further enhances the overall visual appearance of the development and further protects the amenity of nearby residential land.

On this basis, the proposal is considered to positively contribute to the built environment.

The proposed child care, classroom and OOSH facility building (Block J) affect the eastern neighbours in the afternoon with regard to solar access. The extent of overshadowing is shown in plans A-7000-A7004 in Attachment 1. On the basis of this analysis, solar access to any habitable room or principal private open space on the adjoining property:

- is not reduced to less than 3 hours of solar access between 9:00 am and 3:00 pm at the winter solstice, or
- is not reduced in any manner if solar access to any habitable room on the adjoining property is already less than 3 hours.

Accordingly, the extent of overshadowing associated with the proposed development is not considered significant.

Natural Environment

The environmental value of the site is low due to the previous clearing undertaken on the site and assessment of this application has not identified any significant environmental impacts as a result of the proposal. The proposed removal of 15 trees will be adequately offset with new landscaping, including the planting of 52 new trees. The replacement plantings are proposed at various locations across the site, with the primary areas of focus being the eastern and western boundaries, which interface residential land, thereby maximising screening benefits.

The development incorporates a suitable stormwater management plan and water quality devices in accordance with Council's infrastructure specification and conditions have been recommended to manage any environmental impacts associated with the construction of the development.

Social and Economic Impact

The proposed development will have a positive social and economic impact through the provision of additional childcare services to the area which assist in meeting the daily to day needs of surrounding residents.

The proposed alterations and additions to the school will enhance the learning environment for children and meet contemporary operational needs for the school.

Pedestrian safety would be enhanced through the implementation of a new traffic and parking strategy, which reduces historical car parking shortfalls and involves pedestrian safety related upgrades to existing car parks and the existing pedestrian crossing on Wahgunyah Road. The existing use of unsafe informal car parking arrangements will cease with the adoption of the new traffic and parking strategy.

The proposal will generate direct employment opportunities during construction and ongoing operation with flow on employment multipliers benefitting the local community.

3.3 Section 4.15(1)(c) - Suitability of the site

Consideration has been given to potential amenity impacts to adjoining residential land and have been appropriately managed through sympathetic building design, siting of buildings and their orientation, landscaping and acoustic treatments.

The development site has previously been cleared of vegetation and the assessment has not identified any significant environmental impacts as a result of the proposal. The proposed removal of 15 trees will be adequately offset with new landscaping, including the planting of 52 new trees.

The application included a detailed Traffic and Parking Assessment which found the local and State road network has significant spare capacity to cater for the traffic generated by the proposed development. Whilst the site has a historic car parking shortfall cause by the church, on balance, taking into consideration the reconfiguration of the car parking areas to reduce the historic shortfall to 2 spaces, combined with the opportunity for cross utilisation, the proposed car parking supply is considered adequate for the proposed use, and a discernible improvement on the existing situation.

The traffic and car parking arrangements have been appropriately delineated for each of the uses proposed on the site, with the access for the church and childcare uses consolidated at Sproule Street and the school use directed to Wagunyah Road. Overflow car parking and pedestrian use on Sproule Street is expected to be reduced with all school drop off and pick up will now occur via Wagunyah Road which has greater capacity to cater for this demand. In anticipation of the increased use of Wagunyah Road, a relocated pedestrian crossing at the school site entry is proposed to improve pedestrian safety for school children.

Based on this assessment, the site is suitable to accommodate the proposal.

3.4 Section 4.15(1)(d) - Public Submissions

The proposal was exhibited for a period of 14 days from 10 March 2022 – 24 March 2022 in accordance with the *EP&A Act*, *EP&A Regulations* and the Port Stephens Community Participation Plan. Council received 7 total and unique submissions in relation to the development during that time. The matters raised in the submissions are detailed in the following table.

Table 8: Response to Submissions

Issue	Comment
<p><u>Noise Impacts</u></p> <ul style="list-style-type: none"> - Noise will be generated from the play, sports activity and car parking along the eastern boundary. - The proposed acoustic fencing may not be adequate to mitigate noise impacts. - Drop-off and pick-up traffic will increase and be present much earlier (from 6.30 am) and later (to 6pm) compared to normal school hours operations having significant noise implications. - The acoustic fence will not have any effect in minimising noise from the upper level of the childcare building. - The playground on the east side of the new buildings will bounce sound off the walls making the noise even more unbearable for our property and the street. 	<p>A Noise Assessment was provided with the application which modelled the potential noise generation for the operation including sleep disturbance noise emissions. The assessment quantifies potential operational noise emissions pertaining to vehicles, delivery/collection vehicles, children playing in the child care facility and mechanical plant associated with the proposed buildings. In addition, the assessment quantifies the noise intrusion from surrounding noise sources to the child care facility.</p> <p>The assessment demonstrates that the cumulative emissions from the project would satisfy the relevant criteria at all receivers based on building and window orientation and material and the proposed acoustic wall treatments at key locations.</p>

<ul style="list-style-type: none"> - The location of necessary kitchen exhaust fans and air-conditioning condensers is not addressed as part of the proposal. - The 6:30am opening time for the childcare centre is unreasonable. - Hours of work shouldn't start until 7.00am Not 6.00am. 	<p>Details of proposed mechanical plant selections have not been finalised at this stage. A condition has been recommended requiring a further acoustic assessment for all new mechanical plant once finalised in accordance with the recommendations of the acoustic report, to ensure that all plant locations do not result in adverse noise impacts.</p>
<p><u>Traffic & Access</u></p> <ul style="list-style-type: none"> - Sproule Street does not have the capacity to accommodate additional traffic generated by the proposal. - The street is 7 meters wide but with cars parked on both sides of the street there is only room for a single line of traffic. - Many residents have trouble accessing the street [Sproule Street] from their own driveway as they have to reverse out of steep driveways with poor visibility. - There is competing foot and vehicular traffic that compete for space on Sproule Street. - The drop off and pick up area on Wahgunyah road barely copes with traffic in the mornings and afternoons that creates a safety hazard to children and pedestrians. The application will replicate this on Sproule Street. - There is no public transportation to the street and buses are unable to turn around. - Truck movements accessing the site from Sproule Street should not be permitted as it is not wide enough, experiences overflow car parking and is used by pedestrians. - Construction traffic will generate congestion, noise and may damage the road. - Pedestrian and cyclist access via Sproule Street is unsafe as there are no footpaths, the ground is uneven, sometimes impassable and parked vehicles force pedestrians to walk in the middle of the road. - Vision of those driving cars entering the car park on the western side of the church building is very limited almost like a tunnel and could be dangerous for mothers and children seeking to enter St Nicholas [the proposed childcare centre] from the area designated in the plan. - If enrolments in the school itself rise to the approved limit, this will also increase drop-off and pick-up traffic. - The applicant's assessment needs to carefully evaluate the traffic report claim 	<p>Some submissions state that the proposal will make Sproule Street the primary entrance for the school. However, this is considered unlikely as the proposal includes methods to encourage primary entry to the school from Wahgunyah Street, whilst the childcare and the church would share the Sproule Street entrance.</p> <p>Some submissions note concern with traffic generated from construction. However, it is considered that due to the short term nature of works, these impacts could be suitably managed through the implementation of a Traffic Management Plan, requiring construction access via Wahgunyah Street where possible. Damage to any roads caused during construction has been addressed with conditions requiring the any damage to be repaired at the cost of the applicant.</p> <p>One submission opposes the introduction of restricted parking on Sproule Street. However, this is not proposed.</p> <p>Submissions requesting one way access through Sproule Street and exit through the school and Wahgunyah Street cannot be accommodated due to safety issues with vehicles travelling through the school.</p> <p>Whilst Sproule Street does not have a dedicated pedestrian footpath, the proposal would reduce the pedestrian use of Sproule Street, noting that school users will now only access the site via Wahgunyah Street, leaving Sproule Street for the childcare centre which has been provided with adequate car parking, allowing drop off of children directly adjacent the childcare centre.</p> <p>The proposal has been assessed based on the school's maximum student capacity.</p> <p>The driveway access to Sproule Street meets the minimum vehicular sight distances from the access as confirmed in the Traffic Impact Assessment (TIA) submitted with the application.</p> <p>The Traffic and Parking Assessment submitted by the applicant has been reviewed by Council's</p>

<p>that traffic volumes will be in the capacity of the access roads.</p> <ul style="list-style-type: none"> - The proposed plans will make Sproule Street the main artery to the School. - The introduction of restricted parking on the street would not be supported. - St Michael's should create another exit or entry onto Hough St or Wahgunyah Rd. 	<p>traffic engineer who generally concurred with the findings of the report.</p> <p>Restricted parking on the street is not proposed.</p> <p>As a result of the proposed development, the Wahgunyah Street entry will remain the primary entry point for the school, reinforced by the relocation of the administration functions and improved entry control arrangements. In order to improve pedestrian safety on Wahgunyah Street, the existing pedestrian crossing is to be relocated closer to the school entry. Sproule Street will only be accessible to users of the church and the childcare centre.</p>
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<p><u>Car Parking</u></p> <ul style="list-style-type: none"> - When there is services for funerals and weddings and the church car park overflows parking in Sproule Street is unimaginable. - People attending the church for funerals during the week often park in Sproule St and the overflow into Nelson St. - Onstreet parking is close to zero and persons attending the school or childcare centre would have to congest adjoining streets and roads and pedestrians will have to walk from up to 200-300 meters away. - It is unreasonable to eliminate the right of local residents street front parking. - The car parking, traffic and pedestrian arrangements do not comply with the nation childcare regulations. - Funerals will coincide with childcare centre use and there is reportedly already significant demand exceeding on-site capacity and 'overspilling' into surrounding residential streets. The assessment needs to carefully evaluate the adequacy of the proposed on-site parking on weekdays when church events coincide with educational/childcare operations. - Residents are sometimes unable to use their driveway due to overflow car parking occurring on Sproule Street. 	<p>The proposed development includes the use of 103 car parking spaces across two car parks. The application proposes reconfiguration of the 61 space upper car park for the proposed childcare centre and existing church operations to include a total of 69 spaces, 48 for use by the Parish and 21 spaces by the childcare centre. New line marking for parking and marked pedestrian walkways are proposed to allow safe travel through the expanded car park. Teachers currently using the upper car park are to be relocated to a proposed 34 space teachers car park accessed from Wahgunyah Road.</p> <p>Following a request for additional information from the applicant, it was clarified that the last time the overflow parking was used for the church was on Friday 16th September 2016. Due to pedestrian safety concerns raised by Council and the HCCRPP, the applicant has since withdrawn their proposal to continue using the overflow parking.</p> <p>The Port Stephens DCP nominates a merit-based car parking assessment for churches. The applicant has undertaken a second traffic survey to provide comparable data to the current usage and determine an appropriate car parking rate for the church. The report has found that a parking rate equivalent of 1 per 2 attendees is appropriate based on a survey of a Sunday church attendance of 180 parishioners, which is consistent with the Maitland DCP requirement. The report concludes that funeral attendances are of comparable nature, although are reported to rarely include more than 100 attendee's based on previous funerals organised by local funeral providers and the Parish.</p> <p>Utilising the parking counts in the traffic report, the demand for car parking for weekday funerals is 50 spaces. The church currently has 29 spaces on a weekday, therefore there is a historic shortfall of 21 spaces. Given the historic shortfall, consideration must be given to Section B8.6 of the PSDCP, which provides that a reduction in the number of spaces required in accordance with Figure BU may be considered when supported by a TIA if the current land use has been approved with a parking shortfall and the proposed parking concession does not exceed the current shortfall for the approved use calculated in accordance with Figure BU.</p> <p>Through the reconfiguration of the upper car park to include a total of 48 spaces allocated to the</p>
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	<p>church operations, the historic shortfall is reduced to 2 spaces. In addition, the TIA also notes that there is opportunity for cross-utilisation of spaces noting that the peak demand periods for the church and the childcare centre would not coincide. On weekdays the car parking demands at the church are associated with funerals, which are now proposed to operate between 10:00am and 2:00pm only, and do not coincide with the peak drop off and pick up times for the childcare centre, which are before 10:00am and after 3:00pm. This therefore suitably caters for the 2 space shortfall.</p> <p>During construction, parking will be managed through a Construction Traffic management Plan which will include requirements for the staging of the development to minimise the number of tradespersons on site at any given time.</p> <p>In conclusion, while the historic use of the overflow car parking is evidence of a historic car parking shortfall, on balance, taking into consideration the reduction in the historic parking shortfall for the church to 2 spaces based on the TIA findings, combined with the opportunity for cross utilisation, the proposed car parking supply is considered adequate for the proposed use, and a discernible improvement on the existing situation.</p>
<p><u>Civil Works</u></p> <ul style="list-style-type: none"> - Refurbishment and stabilisation of the embankment on the eastern boundary near Hough Street should be undertaken. 	<p>The proposal includes the construction of a 1m retaining wall at this location which will stabilise the existing embankment at this location.</p>
<p><u>Stormwater</u></p> <ul style="list-style-type: none"> - Flows from Hough Street onto the school site should be examined to ensure the new paved area and existing embankment are not adversely impacts by flows. 	<p>The proposal does not involve any stormwater works at the interface with Hough Street.</p>
<p><u>Addressing</u></p>	<p>The addressing for St Michael's school is not proposed to be changed as part of the proposal.</p>

<ul style="list-style-type: none"> - St Michaels should not be classed as number 12 Sproule Street as from the formation of Sproule Street there is only numbers 1 to 9 on the lower side and 2 to 10 on the upper side of the street never a number 12. St Michaels fronts Wahgunyah Road therefore Wahgunyah Road is their address. 	
<p><u>Tree Removal</u></p> <ul style="list-style-type: none"> - Removing mature gum trees should be avoided. They may not have koalas but they add to the local ecology and for The Catholic Diocese of Maitland Newcastle that has a commitment to sustainability and protection of the environment. - Removal of bushland will have an irreparable impact on wildlife in the area and will significantly increase noise levels for our property and Sproule Street. - Loss of amenity due to tree removal. 	<p>The application included a Flora and Fauna Assessment, prepared by Kleinfelder dated 2020. The report identifies that 15 trees are proposed for removal and reasonably concludes that the proposal is unlikely to have a significant impact on any threatened entities. No hollow bearing trees or significant habitat features will be impacted. The proposal does not trigger the Biodiversity Offsets Scheme.</p> <p>The land is greater than 1 hectare and is mapped as "Mainly Cleared" in the Koala Habitat Planning Map the Port Stephens Koala Plan of Management. Nonetheless, the Comprehensive Koala Plan of Management (CKPoM) applies to the land.</p> <p>The Flora and Fauna Assessment confirms no koala feed trees will be removed as part of the proposal. In addition, the site does not form part of a koala corridor. Accordingly, the proposed development complies with the performance criteria listed in Appendix 4 of the Port Stephens CKPOM.</p> <p>On this basis the ecological impacts of the proposed tree removal are acceptable.</p> <p>Regarding noise levels, vegetation has negligible attenuating properties, therefore increased noise impacts are not expected to occur from the proposed tree removal.</p> <p>The proposed tree removal from an amenity perspective will be sufficiently offset with the planting of 52 new trees. The replacement plantings are proposed at various locations across the site, with the primary areas of focus being the eastern and western boundaries, which interface residential land, thereby maximising screening benefits and enhanced amenity.</p>
<p><u>Infrastructure Contributions</u></p> <ul style="list-style-type: none"> - Objection to the requested reduction in Infrastructure Contributions for the childcare centre. 	<p>The Port Stephens Local Infrastructure Contributions Plan (LIC Plan) does not offer an exemption for educational establishments or childcare facilities, nor is an exemption offered by a Ministerial Direction. Accordingly, the exemption is not supported and a condition has been recommended requiring that a monetary</p>

	contribution is paid to Council, pursuant to section 7.12 of the EP&A Act and the Port Stephens Council Fixed Development Contributions Plan.
<u>Subdivision</u> <ul style="list-style-type: none"> - The assessment should carefully consider implications of the complex subdivision, including any regulatory differences or changes to rate income. 	The proposed subdivision complies with minimum lot size requirements of the PSLEP and is generally consistent with the relevant environmental planning instruments, as outlined in this report. Changes to rate income are not a relevant matter for consideration under S.4.15 of the EP&A Act.
<u>Commercial Interest</u> <ul style="list-style-type: none"> - Our property is used as a holiday rental. The proposed plans will devastate our business. 	<p>The proposed development has been assessed against the matters for consideration listed under S.4.15 of the EP&A Act, including the relevant environmental planning instruments. The assessment concludes that the proposal is acceptable with regard to amenity impacts emanating from, noise, visual impact, including tree removal and overshadowing. The proposed tree removal would be appropriately offset with new plantings and the proposed built form is considered to be of an appropriate height, scale, and bulk for the locality. Noise impacts have been considered in an acoustic assessment, reviewed by Council's Environmental Health Team and found to be acceptable.</p> <p>Impacts to a commercial interest such as a holiday rental is not relevant matter for consideration under S.4.15 of the EP&A Act.</p>

3.5 Section 4.15 (1)(e) the public interest

The development does not have any significant adverse impacts on the built or natural environment, and has positive social and economic impacts.

The proposal is consistent with the relevant of environmental planning instruments applying to the land. The assessment concludes that the proposal is acceptable with regard to amenity impacts emanating from, noise, visual impact, including tree removal and overshadowing. The proposed built form is considered to be of an appropriate height, scale, and bulk for the locality. The proposed removal of 15 trees will be adequately offset with new landscaping, including the planting of 52 new trees throughout the site. The tree plantings are primarily located along the eastern and western boundaries, which interface residential land, thereby maximising screening benefits.

Pedestrian safety would be enhanced through the implementation of a new traffic and parking strategy, which reduces historical car parking shortfalls and involves pedestrian safety related upgrades to existing car parks and the existing pedestrian crossing on Wahgunyah Road. The existing use of informal car parking arrangements will cease with the adoption of the new traffic and parking strategy.

The application included a traffic assessment which found the local and state road network has sufficient capacity to cater for the traffic generated by the proposed development. Whilst the site has a historic car parking shortfall cause by the church, on balance, taking into consideration the reduction in the historic shortfall to 2 spaces, combined with the opportunity for cross utilisation, the proposed car parking supply is considered adequate for the proposed use, and a discernible improvement on the existing situation.

On this basis, the proposal is considered to be in the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 9.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 9: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
N/A			
Referral/Consultation Agencies			
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	Correspondence with the electrical supply authority, Ausgrid, has confirmed that the proposed works are in the vicinity of underground electricity assets. Accordingly, Ausgrid recommended compliance with Ausgrid's Network Standard 156 - Working near or around underground cables during works.	Y
Integrated Development (S 4.46 of the EP&A Act)			
N/A			

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined Table 10.

Table 10: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Engineering Officer reviewed the submitted stormwater concept plan and provided support subject to conditions.	Y
Traffic	Council's Traffic Engineering Officer reviewed the proposal and provided support to the development.	Y

Building & Certification	Council's Building Certification officer reviewed the proposal and provided support to the development.	Y
Environmental Health	Council's Environmental Health Officer reviewed the proposal and provided support to the development, subject to conditions relating to contamination.	Y
Natural Systems	Council's Natural Systems Officer reviewed the proposal and provided support to the development, subject to conditions.	Y
Vegetation Management	Council's Vegetation Management Officer reviewed the proposal and provided support to the development.	Y
Development Contributions	Council's Development Contributions Officer reviewed the proposal and provided support to the development.	Y

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The application was exhibited for 14 days from 10 March 2022 – 24 March 2022 in accordance with the provisions of the Port Stephens Council Community Engagement Strategy. Council received 7 total and unique submissions in relation to the development during that time. The matters raised in the submissions are addressed in section 3.4 above.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Car parking and traffic

Car parking

The proposed development includes use of 103 on site car parking spaces across two car parks. The application proposes reconfiguration of the 61 space upper car park for the proposed childcare centre and existing church operations to include a total of 69 spaces, 48 for use by the Parish and 21 spaces by the EEC. New line marking for parking and marked pedestrian walkways are proposed to allow safe travel through the expanded car park. Teachers currently using the upper car park are to be relocated to a proposed 34 space teachers car park accessed from Wahgunyah Road.

The proposal includes 21 spaces for the childcare facility, which complies with the minimum car parking requirements of the PSDCP. There are no specific requirements OOSH facilities. The OOSH operational times are such that it is considered that the small parking demand created by this activity will be met by reduced demand for car parking by the school and child care centre at these times, particularly considering that most participants would typically also attend St Michael's school, and will therefore already be on site.

The existing church has seating capacity for 478 people. The PSDCP refers to car parking requirements for places of public worship being determined on a merit based approach (plus 2 bicycle spaces per 20 employees or visitors). The RTA's (now TfNSW) Guide to Traffic Generating Developments does not provide guidance either, and on this basis the applicants Traffic and Parking Assessment submitted with the application adopts the Maitland DCP numerical standard of 1 car parking space per 10 seats or 10

sqm of public space, as a relevant guide. Applying this standard, a parking requirement for the church of approximately 48 spaces could be expected.

The church currently utilises a 61 space car park ("upper car park") which is shared with the school. As noted in the table above, the school has a current demand of 32 spaces, leaving 29 spaces for the church.

The existing deficiency is highlighted in the SEE, which states that on occasions the church experiences a peak in parking demand which requires the provision of additional overflow parking within the basketball courts of the school. Similar concerns regarding undersupply of car parking have been raised in the submissions from local residents. Following a request for additional information from the applicant, it was clarified that the last time the overflow parking was used for the church was in Friday 16th September 2016. Due to pedestrian safety concerns raised by Council and the HCCRPP, the applicant has withdrawn their proposal to continue using the overflow parking.

In response to concerns raised regarding the lack of parking surveys undertaken, the applicant has undertaken a parking survey during church operations to provide comparable data to the current usage. The report has found that a parking rate equivalent of 1 per 2 attendees is appropriate based on a survey of a Sunday church attendance of 180 parishioners. The report concludes that funeral attendances are of comparable nature, although are reported to rarely include more than 100 attendee's based on previous funerals organised by local funeral providers and the Parish.

Utilising the parking counts in the traffic report, the demand for car parking for weekday funerals is 50 spaces. The church currently has 29 spaces on a weekday and there is therefore an historic shortfall of 21 spaces. Given the historic shortfall, consideration must be given to Section B8.6 of the PSDCP, which provides that a reduction in the number of spaces required in accordance with Figure BU may be considered when supported by a TIA if the current land use has been approved with a parking shortfall and the proposed parking concession does not exceed the current shortfall for the approved use calculated in accordance with Figure BU. This shortfall in the upper carpark for the church operations is being improved by the relocation of staff parking to the new lower carpark accessed from Wagunyah Road and the creation of 8 new spaces in the upper car park.

Through the reconfiguration of the upper car park to increase the number of spaces from 29 to 48 church spaces, the historic shortfall is reduced to 2 spaces. In addition, the Traffic Impact Assessment also notes that there is opportunity for cross-utilisation of spaces noting that the peak demand periods for the church and the childcare centre would not coincide. On weekdays the car parking demands at the church are associated with funerals, which are now proposed to operate between 10:00am and 2:00pm only, and do not coincide with the peak drop off and pick up times for the childcare centre, which are before 10:00am and after 3:00pm.

A dedicated delivery space has been shown within the 34 space Wahgunyah Road car park for the school for deliveries during school hours. The applicant notes that deliveries for the EEC will be provided via the Sproule Street Car Park. These deliveries occur outside of the peak morning and afternoon period as such vehicles can utilise the dedicated drop off and pick up parking spaces for deliveries, a condition of consent is recommended to reflect this.

During construction, parking will be managed through a construction traffic and car parking management plan which includes staging of the development to minimise the number of tradespersons on site at any given time.

In conclusion, while the historic use of the overflow car parking is evidence of a historic car parking shortfall, on balance, taking into consideration the reduction in the historic parking shortfall for the church to 2 spaces based on the Traffic and Parking Assessment findings, combined with the opportunity for cross utilisation, the proposed car parking supply is considered adequate for the proposed use, and a discernible improvement on the existing situation.

On this basis, the proposed car parking arrangements are considered adequate and satisfy Section B8 of the DCP.

Traffic and Access

The application includes a Traffic and Parking Assessment, prepared by Intersect Traffic, dated April 2020. The assessment included traffic counts at key intersections surrounding the site. Based on the traffic counts and future expected traffic volumes for the year 2030, the assessment finds that the local and state road network has significant spare capacity to cater for the traffic generated by the proposed development.

The site has vehicular and pedestrian access via Sproule Street and Wahgunyah Road. The bus drop-off and pick up zones are currently located along the Wahgunyah Road street frontage of the site. The car drop-off and pick up zones exist in Wahgunyah Road and in the car parking area accessed via Sproule Street. As a result of the proposed development, the Wahgunyah Street entry will remain the primary entry point for the school, reinforced by the relocation of the administration functions and improved entry control arrangements. In order to improve pedestrian safety on Wahgunyah Street, the existing pedestrian crossing is to be relocated closer to the school entry.

The driveway access to Sproule Street meets the minimum vehicular sight distances from the access. Despite Sproule Street not having a dedicated pedestrian footpath, the proposal would reduce the pedestrian use of Sproule Street, noting that school users will now only access the site via Wahgunyah Street, leaving Sproule Street for the childcare centre which has been provided with adequate car parking, allowing drop off of children directly adjacent the childcare centre.

The Traffic and Parking Assessment submitted by the applicant has been reviewed by Council's traffic engineer who generally concurred with the findings of the report and there are no outstanding traffic and access related concerns regarding the proposal.

5.2 Amenity Impacts

The proposed development includes the construction of a new two storey childcare centre and associated outdoor playground on the eastern boundary which interfaces neighbouring residences. Alterations and additions are proposed to a number of existing buildings, including the creation of a courtyard on the western boundary which interfaces further residences. Due to the proximity of the proposed buildings to neighbouring residences, there is the potential for adverse amenity impacts to occur.

The proposal represents a design and built form of an appropriate height, scale, and bulk suitable within the locality. Overlooking of adjoining properties is avoided through siting and orientation of the proposed buildings and windows.

The incorporation of good quality landscaping, including boundary screen plantings as well as internal amenity planting, further enhances the overall visual appearance of the development and further protects the amenity of nearby residential land.

The interface between buildings on the east and west boundaries with the neighbouring residences are depicted in sheets A-4203, A-5202, A-6301 and A-6303 of the architectural plans prepared by CKDS in **Attachment 3**.

The proposed child care building on the eastern boundary affect the eastern neighbours in the afternoon in terms of overshadowing. The extent of overshadowing is shown in plans A-7000 to A7004 prepared by CKDS in **Attachment 3**. On the basis of this analysis, solar access to any habitable room or principal private open space on the adjoining property:

- is not reduced to less than 3 hours of solar access between 9:00 am and 3:00 pm at the winter solstice, or
- is not reduced in any manner if solar access to any habitable room on the adjoining property is already less than 3 hours.

On this basis, the proposal would not cause any adverse amenity impacts to neighbouring residences.

5.3 Noise Impacts

The proposed development includes the construction of a new childcare centre and associated outdoor playground on the eastern boundary which interfaces neighbouring residences. Alterations and additions are proposed to a number of existing buildings, including the creation of a courtyard on the western boundary which interfaces further residences. A new car park is also proposed on the western boundary. Due to the proximity of the proposed buildings, car parking playgrounds and courtyards to neighbouring residences, there is the potential for adverse noise impacts to occur.

A Noise Assessment was provided with the application which measures and models the potential noise generation for the operation including sleep disturbance noise emissions. The assessment quantifies potential operational noise emissions pertaining to vehicles, delivery/collection vehicles, children playing in the child care facility and mechanical plant associated with the proposed buildings. In addition, the assessment quantifies the noise intrusion from surrounding noise sources to the child care facility.

The assessment demonstrates that the cumulative emissions from the project would satisfy the relevant criteria at all receivers subject to the implementation of noise attenuation measures and construction mitigation measures and the permanent erection of 1.8m and 2.1m high acoustic fencing along the boundaries of the centre-based childcare facility and other key locations. Conditions of consent have been recommended requiring the implementation of the recommendations made in the noise assessment and the construction and ongoing maintenance of acoustic fencing.

On this basis, the proposal is not expected to cause any adverse noise impacts to surrounding residential receivers.

5.4 Stormwater Impacts

The application proposes to discharge storm water to an existing pit and pipe network that traverses Lot 1, 2 and 3 of DP1098930 and ultimately conveys flows to the public scale detention basin at the Pirralea Gardens, 50m to the west of the site. The school site in its current state partially drains across these lots but does not benefit from a corresponding easement for drainage.

The proposal includes a stormwater management plan that as well as managing stormwater generated by the proposal, would also collect offsite overland water flows from Sproule Street that currently sheet flow across the site and convey them to the pit and pipe network in lot 1, 2 and 3 of DP1098930 and ultimately discharge to the detention basin at the Pirralea Gardens. The applicant has modelled the expected stormwater flows and confirmed that the existing network has sufficient capacity to cater for the proposal. However, to legally discharge water to this location, an easement to drain water is required over the downstream properties. At the time of writing this report, the applicant has not secured consent for this easement and accordingly, a deferred commencement condition has been recommended, requiring that the easement be obtained.

Should the easement not be obtained, the deferred commencement condition contains an alternate solution, involving the provision of design details to convey the stormwater to the Pirralea Gardens via the Wahgunyah Road reserve.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported with conditions.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment 1**.

7. RECOMMENDATION

That Development Application DA 16-2022-97-1 for alterations and additions to an educational establishment, construction of a centre based child care facility including OOSH care and one into two lot subdivision at 12 Sproule Street Nelson Bay (LOT: 2 DP: 216064) be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent to this report at **Attachment 1**.

The following attachments are provided:

- Attachment 1 – Recommended Conditions of Consent
- Attachment 2 – Council Childcare Planning Guidelines Compliance Table
- Attachment 3 – Architectural Plans
- Attachment 4 – Civil Plans
- Attachment 5 – Landscape Plan
- Attachment 6 – Geotechnical Assessment
- Attachment 7 – Noise Impact Assessment
- Attachment 8 – Additional Noise Impact letter
- Attachment 9 – Traffic Management Plan
- Attachment 10 – Flora and Fauna Assessment Report
- Attachment 11 – Waste Management Plan
- Attachment 12 – Disability Access Report
- Attachment 13 - Preliminary Contamination Assessment