

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

Panel Reference	PPSHCC-32
DA Number	DA2019/00966
LGA	Newcastle
Proposed Development	Alterations / Additions to Educational establishment (630 students), new Childcare Centre (79 places) and Subdivision – Community Title (two into three lots), associated site works, landscaping and signage
Street Address	30 Vista Parade Kotara NSW 2289 (Lot 12 DP 560852 and Lot 131 262057)
Applicant/Owner	Trustees Diocese of Maitland-Newcastle C/- Webber Architects
Date of DA lodgement	30 August 2019
Total Number of Submissions	13
Number of Unique Objections	10
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	<p>The application is reported to the Hunter and Central Coast Joint Regional Planning Panel pursuant to Part 4 'regional development' and Schedule 7 <i>State Environmental Planning Policy (State and Regional Development) 2011</i>, as the development is a type classified under Schedule 7(5) <i>Private infrastructure and community facilities over \$5 million</i>, with the value of works being \$16,833,020.98.</p> <p>The Panel is the determining authority under the provisions of the SEPP.</p>
List of All relevant S4.15 (1)(a) matters	<p>Environmental planning instruments: s4.15(1)(a)(i)</p> <ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 - Remediation of Land • State Environmental Planning Policy No.64 – Advertising and Signage • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 • Newcastle Local Environmental Plan 2012 <p>Development Control Plan: 4.15 (1)(a)(iii)</p> <ul style="list-style-type: none"> • Newcastle Development Control Plan 2012 • Section 94A Development Contributions Plan 2009
List all documents submitted with this report for the Panel's consideration	<p>Appendix A – Draft Reasons for Refusal</p> <p>Appendix B – Plans/Documents submitted with the application for assessment</p> <p>Appendix C - General Terms of Approval - Subsidence Advisory NSW and NSW Rural Fire Service</p> <p>Appendix D – Agency Advice - Transport NSW and Ausgrid</p>

Clause 4.6 requests	Nil
Summary of key submissions	<ul style="list-style-type: none"> • Traffic, access and parking • Pedestrian safety • Visual and acoustic amenity • Bushfire protection works • Drainage and flooding • Ecological impacts • Land contamination • Air quality • Construction and traffic management • Payment of contributions
Report prepared by	Amanda Gale, Senior Development Officer (Planning) City of Newcastle
Report date	2 December 2020

Summary of s4.15 matters**Yes**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Legislative clauses requiring consent authority satisfaction**Yes**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards**Not
Applicable**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Special Infrastructure Contributions**Not
Applicable**

Does the DA require Special Infrastructure Contributions conditions?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions**No**

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

Development consent is sought under DA2019/00966 for alterations and additions to existing educational establishment (630 students), new childcare centre (79 places) and community title subdivision (two into three lots), associated site works, landscaping and signage at 30 Vista Parade Kotara (legally known Lot 12 DP 560852 and Lot 131 DP 262057). The proposed development comprises the following works:

- Expansion of existing educational establishment consisting of alterations and additions to buildings to facilitate an increase in student numbers from 385 to 630 students.
- New centre-based Childcare centre (79 places) operating from 6:30am to 7pm weekdays, catering for the following age groups:
 - 0 to 18 months – 12 children
 - 18months to 2 years – 12 children
 - 2 years – 10 children
 - 3 years – 20 children
 - 4 to 5 years – 25 children
- Associated staff carparking – 20 car parking spaces for childcare centre and 37 spaces for school.
- Relocation of existing vehicular access, provision of school drop off area, and new pedestrian entry.
- Community Title subdivision (two into three lots), the subdivision includes:
 - Proposed Lot 1 (2,846m²) – common lot for infrastructure
 - Proposed Lot 2 (1,983m²) – childcare centre
 - Proposed Lot 3 (2.43ha) – school and remaining land
- Associated works – partial demolition, site works, landscaping, bushfire protection works and signage.

The application is reported to the Hunter and Central Coast Regional Planning Panel pursuant to Part 4 'regional development' and Schedule 7 *State Environmental Planning Policy (State and Regional Development) 2011*, as the development is a type classified under Schedule 7(5) *Private infrastructure and community facilities over \$5 million*, with the capital investment value (CIV) being \$16,833,020.98.

Subject site

The site currently contains existing school buildings and facilities for St James Primary School, and before and after school care services - YMCA Kotara OSCH services. A large portion of the site to the north is heavily vegetated. The site comprises two lots and is regular in shape, with an overall site area of 2.93ha. The site is surrounded by existing low-density forms of residential development (beyond Styx Creek boundary to the west, public recreation zoned land to the east and public recreation zoned land to the rear, northern boundary). Across from the site frontage on Vista Parade is an existing place of public worship (St Phillip's Kotara Church), also owned by the Dioceses of Maitland - Newcastle. The existing vehicular access to the school is from Vista Parade.

The constraints identified that affect the site include – bushfire prone land, flood prone land, mine subsidence and ecology / biodiversity matters.

Permissibility

The applicable planning instrument is *Newcastle Local Environmental Plan 2012* (LEP) under which the subject site is zoned R2 Low Density Residential. The proposed uses are defined as *educational establishments* and *centre-based childcare centres* and are permissible within the R2 Low Density Residential zone with consent.

Integrated development

The proposal is 'integrated development' under Section 4.46 of the *Environmental Planning & Assessment Act 1979*, with general terms of approval required from Subsidence Advisory NSW and NSW Rural Fire Service as follows:

- i) Subsidence Advisory NSW in accordance with Section 22 of the *Coal Mine Subsidence Compensation Act 2017* and their 'general terms of approval' (GTAs) were granted subject to conditions dated 15 October 2019.
- ii) NSW Rural Fire Service in accordance with Section 100B of the *NSW Rural Fires Act 1997* and their 'general terms of approval' (GTAs) were granted subject to conditions dated 24 February 2020.

External referrals

The application was referred to the following external agencies for comment:

- Transport for NSW - Roads and Maritime Service (RMS) – Referred under cl. 104/sch.3 ISEPP (traffic generating development) - Referral response provided dated 17 September 2019, noted that Vista Parade is a local road and that it was recommended that Council be satisfied that the proposed development would not have a significant impact on the safety and efficiency of the classified road network.
- Ausgrid - Referred under cl. 45 ISEPP (proximity to overhead powerlines, underline power mains and substation) – Referral response dated 23 July 2020 and the development can satisfy these requirements.

Pre-conditions to granting development consent

The following legislative clauses are relevant to the proposal and require the consent authority to be satisfied before consent is granted:

- Part 4 'Regionally significant development' and Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011* – The development has a CIV over \$5 million, being \$16,833,020.98. The HCCRPP is the relevant determining authority.
- Clause 23 ESEPP requires that before determining a development application for a centre-based childcare facility, the consent authority must take into consideration any applicable provisions of the *Child Care Planning Guideline* in relation to the proposed development. The application has been assessed against the *Child Care Planning Guideline*.
- Schedule 4 of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (ESEPP) includes seven design quality principles for schools that must be considered before determining a development application. Consideration has been given to the seven design principles in detail within the assessment report. The proposal is considered unacceptable, primarily on the impacts of traffic, parking and residential amenity.
- Clause 57 'traffic generating development' ESEPP requires that educational establishments that will have an increase in 50 or more students and involving an

enlargement or extension of an existing premises or new premises on a site with direct access to any road, must be notified to Transport for NSW – Roads and Maritime Services (RMS). RMS advice was received dated 17 September 2019 having been referred to RMS under cl.104 and SEPP (Infrastructure) 2007. It is noted that sch.3 ISEPP was amended on commencement of ESEPP to remove the provisions relating to educational establishments, with these now being addressed under cl.57 ESEPP. The matters that the consent authority must give consideration for, originally only under Clause 104, are now the matters that must be considered under Clause 57 of the ESEPP. Notwithstanding, the proposal is unacceptable as it would result in a significant decline in road network efficiency and overall road safety.

- Clause 45 'Determination of development applications – other development' of *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) – Written notice has been given to the electricity supply authority (Ausgrid) and consideration has been given to the response received, including recommended conditions being imposed on the development consent.
- Clause 7 'Contamination and remediation to be considered in determining development application' of *SEPP 55 – Remediation of Land* (SEPP55) – Clause 7 SEPP55 requires that where land is contaminated, Council must be 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. Two reports were submitted to address potential contamination issues for the development. These included a Preliminary Site Investigations St James Primary School (St Nicholas EEC) Prepared by Valley Civilab 19 February 2020, and Preliminary Site Investigations St James Primary School Prepared by Valley Civilab 19 February 2020. The development is considered to satisfy the SEPP and is suitable for the proposed use as detailed in this report.
- Clause 2.3 'Zone objectives and Land Use Table' of Newcastle Local Environmental Plan 2012 (NLEP2012) – The site is zoned R2 Low Density Residential under the LEP. The proposed development is defined as an *educational establishment and centre-based childcare facility* under the LEP and are permissible land uses in the zone.
- Clause 2.6 'Subdivision – consent requirements' - The land may be subdivided with development consent.
- Clause 4.1AA 'Minimum subdivision lot size for community title schemes' - The proposed subdivision achieves the Minimum lot size requirement as identified within Clause 4.1, a requirement of Clause 4.1AA of the LEP.

Consultation

The proposal was placed on public exhibition for a period of 14 days from 9 September 2019 to 25 September 2019 in accordance with the *Environmental Planning & Assessment Act 1979* (EP&A Act), *Environmental Planning & Assessment Regulations 2000* (EP&A Regulation) and Section 8 of Newcastle Development Control Plan 2012 (DCP).

Thirteen submissions were received during the notification period. Each of the submission responses have been considered in this assessment and a response provided in relation to concerns raised. A number of the submissions received highlighted the following traffic matters, which remain of concern and are not able to be addressed sufficiently given the current scale of expansion proposed on this site:

- Extent of on-street parking
- Additional traffic generated by the proposal
- Congestion during peak periods

Key Issues

The main issues identified in the assessment and/or raised in the submissions are as follows:

- Traffic, access and parking
- Pedestrian safety
- Visual and acoustic amenity
- Bushfire protection works
- Drainage and flooding
- Ecological impacts
- Land contamination
- Construction and traffic management
- Payment of contributions

Amended plans and additional information were requested throughout the assessment process including in respect to: traffic, site access and parking, land contamination, subdivision plans and documentation, biodiversity impacts, flooding and drainage.

It is noted that in City of Newcastle's (CN) original request for information the Applicant was advised that the application was not supported on traffic grounds on the basis that the additional traffic generated by the development would further exacerbate traffic congestion, increase the extent of on-street kerbside parking, and culminate in a general decline in road network efficiency, road safety and residential amenity. Whilst the applicant submitted additional information on a number of occasions during the assessment in respect to traffic and parking matters, the additional information did not resolve concerns raised by Council.

The proposed increase in traffic post development would not be able to be adequately addressed through the implementation of a Traffic Management Plan as suggested by the applicant. Significant upgrades to Vista Parade and the intersections of both Vista Parade / Princeton Avenue and Vista Parade / Grayson Avenue would be required to address the identified traffic and road network concerns. Road widening would form a key element of these upgrades necessitating land acquisition.

The proposal as it stands, given existing locational constraints is not suitable for the intensification of the use proposed without significant adverse impacts on surrounding residential properties, surrounding road network, the public domain and character of the locality.

The proposal is not a Crown development, the educational establishment is a privately operated facility, known as St James Primary School. Therefore, construction certificates and occupation certificates would be required post any development consent being granted.

The development has been assessed under Section 4.15(1) of the EP&A Act 1979 and is considered unsatisfactory on traffic and parking grounds and adverse impacts on residential amenity within this area. Accordingly, it is recommended that the application be refused based on the Draft schedule of refusal reasons provided within **Appendix A**.

RECOMMENDATION

That DA2019/00966 for alterations and additions to existing educational establishment, new childcare centre and community title subdivision (two into three lots), associated site works, landscaping and signage at 30 Vista Parade, Kotara (Lot 12 DP 560852 and Lot 131 DP 262057) be refused subject to the draft reasons as set out in the attached schedule (**Appendix A**).

1. INTRODUCTION

This report provides a detailed overview of the proposal for an increase in the capacity of St James Primary School (630 students), by undertaking part demolition and alterations / additions, the construction of new buildings and associated ancillary development. The proposal also includes the construction of a new centre-based childcare centre (79 places), associated site works, landscaping, carparking and bushfire protection works and signage for the entire site. In addition, a Community Title subdivision of the land into three allotments is proposed at 30 Vista Parade, Kotara.

The proposed school expansion aims to provide improved facilities to support the use of the site as a school and accommodate the increased demand for school places. The proposal does not change the current land use but seeks to intensify uses on site. The school will continue to provide before and after school care facilities. In addition, the development introduces a centre-based childcare facility on site.

The report also includes a comprehensive planning assessment of the development against the relevant matters for consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979 (EPAA).

The development application was lodged with Council on 30 August 2019 and is integrated development with referrals completed to Subsidence Advisory NSW and NSW Rural Fire Service. Refer to **Appendix C** for these agency 'general terms of approval' letters.

The development application is reported to the Hunter and Central Coast Regional Planning Panel, as the development is a type classified under Schedule 7(5) *Private infrastructure and community facilities over \$5 million*, with the capital investment value (CIV) being \$16,833,020.98.

2. BACKGROUND

Preliminary meeting discussions and advice was provided under a Pre-Development application (PR2019/00041) with the City of Newcastle and final advice provided via letter dated 6 June 2019.

3. SITE DESCRIPTION

The existing St James Primary School is spread over two lots, being Lot 12 DP 560852 and Lot 131 DP 262057, 30 Vista Parade Kotara NSW 2298. (See **Figure 1**: Aerial map)

Existing school activities on site also include the YMCA Kotara OSCH services. A number of buildings and infrastructure exist on the site, some of which are proposed for retention as part of the upgrade and some proposed for demolition.

The combined site is regular in shape with overall area of 2.93ha. The lots share an irregular internal boundary as the boundary crosses through the middle of the existing main school buildings further down the site. The site has a southern frontage to Vista Parade of 95.09m, western side boundary (with Styx Creek drain) of 315m, eastern side boundary of 319m (with public recreation land – pedestrian path/cycleway) and northern rear boundary (with public recreation land) of 101m. Across the western side boundary (Styx Creek drain) are residential properties which front Grayson Avenue and back onto the drain. The eastern side boundary (adjoining public recreational land) are residential properties which front Princeton Avenue and back onto the public land. Styx Creek drain (Hunter Water Corporation land) is approximately 14.5m in width providing an additional setback to the site (western boundary). The public recreational land is generally

approximately 30 metres in width providing an additional setback to the site (eastern side). The property directly across Vista Parade street frontage contains an existing catholic church known as St Phillip's.

The site is reasonably well serviced by public transport with bus stops located in Vista Parade. School buses drop off / pick up in Vista Parade at designated public transport and school bus stops. An existing pedestrian access pathway is located along the eastern boundary of the site, linking to Vista Parade and is being retained.

More broadly, pedestrian footpaths are inconsistent in this location, with pathways typically available to the east of St James Primary School including both sides of Vista Parade and Princeton Avenue. No dedicated pathways are available on Grayson Avenue or on any of the local roads further west of this site.

The broader area is characterised by residential properties characteristic of this R2 Low Density Residential zoned location.



Figure 1: Aerial map with approximate boundaries of subject site in yellow (Source: City of Newcastle, OneMap)



Figure 2: Site analysis (Source: Statement of Environmental Effects prepared by Strategy Hunter)

The site is identified as being affected by land constraints including – mine subsidence, flooding, bushfire, acid sulfate soils (Class 5) and habitat.



Figure 3: View of subject site from Vista Parade looking south east (Source: Statement of Environmental Effects prepared by Strategy Hunter)



Figure 4: View of subject site from Vista Parade looking north west (Source: Statement of Environmental Effects prepared by Strategy Hunter)



Figure 5: Shared pathway adjacent east boundary (Source: Statement of Environmental Effects prepared by Strategy Hunter)



Figure 6: View of subject site from shared pathway looking north west (Source: Statement of Environmental Effects prepared by Strategy Hunter)



Figure 7: View of vegetation along shared pathway looking north (Source: Statement of Environmental Effects prepared by Strategy Hunter)



Figure 8: Styx Creek and residences adjacent west boundary (Source: Statement of Environmental Effects prepared by Strategy Hunter)



Figure 9: View of subject site from Styx Creek looking east (Source: Statement of Environmental Effects prepared by Strategy Hunter)

4. PROPOSAL

Background

As outlined within the application, St James Primary school is located on Vista Parade, Kotara, between Grayson Avenue and Princeton Avenue. The existing school provides for a capacity of 385 students, of which there are currently 366 students enrolled. The school employs a total of 34 staff. School hours are 8:50am to 2:50pm. YMCA Kotara OSHC provides out of school hours care within the existing hall to the front of the school between 6:30am-9:00am and 2:45pm-6:00pm, Monday to Friday. YMCA OSHC has a capacity for up to 150 students, which includes students from St James Primary School together with a number of nearby schools. A

shuttle bus service provides transport for students between these schools and YMCA Kotara OSHC.

Proposal

The proposal includes alterations and additions to the existing primary school to increase the capacity of students to 630 (from 385) and to provide more contemporary learning spaces and facilities within the existing St James Primary School. To support the increase in student numbers, up to 15 additional staff shall be required. There are no changes proposed to existing school operating hours.

The alterations and additions to the existing school will involve a number of existing buildings being upgraded, demolition of other buildings and construction of single and two storey new buildings, and ancillary works such as carparking, landscaping, site works, bushfire protection works and fencing.

In addition, a new 79 place St Nicholas early learning (childcare centre) is proposed as part of the overall development upgrade of the existing school facilities currently operating from this site. The existing YMCA Kotara OSCH operation is proposed to continue from the site's facilities. The childcare centre is proposed to provide extended hours care between 6.30am to 6:30pm weekdays. Up to 22 staff shall be employed by the centre across all shifts. The centre is proposed to cater for the below age groups:

- 0 – 18 months (12 children)
- 18 months – 2 years (12 children)
- 2 years (10 children)
- 3 years (20 children)
- 4 – 5 years (25 children)

The proposed childcare centre is of single-storey design, will address Vista Parade and provide casual surveillance of the childcare centre car park and Vista Parade beyond.



Figure 10: Extract of Site Plan – Proposed (Source Architectural Drawings prepared by Webber Architects)

Vehicular access is proposed to be relocated from the single driveway (more centrally located on Vista Parade), to adjacent to the western boundary of the site (adjoining Styx Creek drain). The pedestrian entry will be located at the middle of the Vista Parade frontage and the pedestrian entry will service both the school and new childcare centre. A school drop off area will be located in a one-way traffic flow area at the northern end of the vehicular access.

Key setbacks of proposed buildings from property boundaries include:

- Block A: 20.5m (western side)
- Block B: 5m (western side)
- Existing Block D: 5.6m (western side)
- Block I: 28.36m (eastern side)
- Existing Block G: 4.0m (eastern side) and 5.0m (Vista Pde frontage)
- Childcare Centre: 7.9m (western side) and 40.0m (Vista Pde frontage)

A Community title subdivision of the site (two into three lots) is also proposed and is accompanied by a Neighbourhood Management Statement (NMS), both prepared by Parker Scanlon. The subdivision includes:

- 14

The purpose of the subdivision is to place the school and childcare centre on separate lots, with certain common infrastructure contained within a common lot.

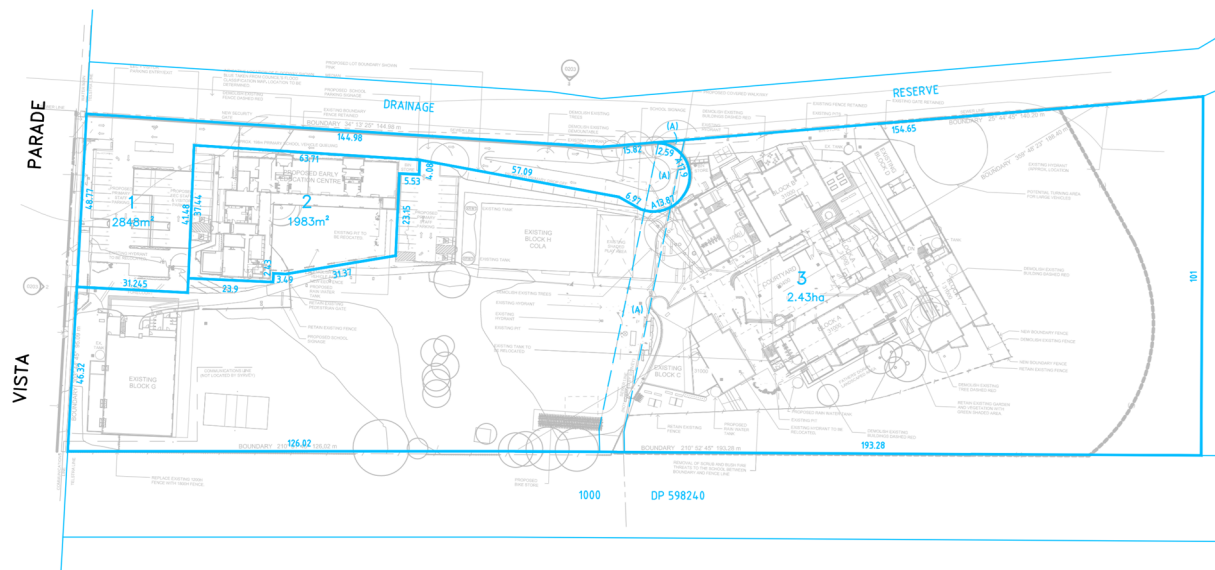


Figure 12: Plan Proposed Community Title Subdivision extract (Source: Parker Scanlon)

A full set of Architectural plans are attached at **Appendix B** to this report.

5. PLANNING ASSESSMENT

5.1 Environmental Planning and Assessment Act 1979 (EP&A Act)

5.1.1 Section 4.5 – Regional Planning Panels

Section 4.5 of the EP&A Act and Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 requires the Regional Planning Panel (RPP) to determine applications for development classified under Scheduled 7(5) *Private infrastructure and community facilities over \$5 million*. The development has a CIV of \$16,833,020.98.

5.1.2 Section 4.46 – Integrated Development

The proposal is integrated development under Section 4.46 of the EP&A Act as approval is required from NSW Rural Fire Service under the provisions of Section 100B of the *Rural Fires Act 1997*, and Subsidence Advisory NSW under the provisions of Section 22 of the *Coal Mine Subsidence Compensation Act 2017*.

NSW Rural Fire Service granted their 'general terms of approval' (GTAs) on the 24 February 2020, subject to a number of conditions in relation to asset protection zones, construction standards, access requirements, water and utility services, landscaping assessment, emergency and evacuation planning assessment.

Subsidence Advisory NSW granted their 'general terms of approval' (GTAs) on the 15 October 2019, subject to a number of conditions, in particular to prescribed design parameters for the childcare centre.

Refer to **Appendix C** for copies of the integrated GTA's.

Regional Environmental Plan

There are no regional environmental plans that are relevant for discussion in relation to this proposal.

5.1.3 Section 4.15(1) Evaluation

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act 1979, as detailed hereunder.

5.1.3.1 The provisions of any environmental planning instrument

State Environmental Planning Policy (State and Regional Development) 2011

This policy sets out the functions of regional panels in determining applications for regional development. Clause 20 of the SEPP requires the Regional Planning Panel to be the determining authority for development included in Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011. This includes applications for development classified under Schedule 7(5) *Private infrastructure and community facilities over \$5 million*.

The application is submitted to the Hunter and Central Coast Regional Planning Panel for determination as the value of works is over \$5 million.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (ESEPP)

The ESEPP generally includes the provisions relating to schools that were previously included in the SEPP (Infrastructure) 2007. The aims of the policy are to facilitate the effective delivery of educational establishments and early education and care facilities, with a focus on good design. An assessment of the relevant provisions of the ESEPP is provided below.

Centre-based childcare facility

Clause 23 ESEPP requires that before determining a development application for a centre-based childcare facility, the consent authority must take into consideration any applicable provisions of the *Child Care Planning Guideline* in relation to the proposed development.

Table 1: Childcare Planning Guideline (SEPP)

Consideration	Response
1.3 Objectives	The proposal does not achieve all the objectives of the Guideline.
2. Design Quality Principles <i>Principle 1: Context</i> <i>Principle 2: Built Form</i> <i>Principle 3: Adaptive learning spaces</i> <i>Principle 4: Sustainability</i> <i>Principle 5: Landscape</i> <i>Principle 6: Amenity</i> <i>Principle 7: Safety</i>	<u>Applicant Response:</u> It is considered that the proposal meets all seven design quality principles as described through the Statement (SEE) submitted with the application. <u>Officer Comment:</u> The proposal does not achieve all the design quality principles, particularly those that relate to residential amenity within the area, and traffic and parking matters, which remain outstanding concerns as part of this application.

	<p>It is noted that given the childcare centre is only one component of this development, it cannot be completely separated from the overall development which includes the significant expansion of the existing St James Primary School. Implications of traffic and parking and residential amenity, whilst not all directly related to the childcare centre on its own, these outstanding issues compromise the efficiency and appropriateness of the centre and development in its entirety.</p>
3.1 Site selection and location	
<p>C1 Objective: <i>To ensure that appropriate zone considerations are assessed when selecting a site.</i></p> <p>For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> • the acoustic and privacy impacts of the proposed development on the residential properties • the setbacks and siting of buildings within the residential context • traffic and parking impacts of the proposal on residential amenity 	<p>Applicant response:</p> <p>The proposal has minimal adverse acoustic and privacy impacts on nearby residences through building and landscape design. The setbacks and siting of the building is consistent with the residential nature of the area. Traffic and parking impacts are satisfactory and discussed within detail in the Traffic Assessment and accompanying response to information requests submitted with the application.</p> <p>Officer Comment:</p> <p>The proposal is acceptable in relation to visual and acoustic privacy, from a building design perspective.</p> <p>The building design with its orientation and building materials/finishes, setbacks and privacy treatments will assist in minimising any adverse impact.</p> <p>Acoustic privacy has been assessed in accordance with the Noise Assessments submitted with the application.</p> <p>Appropriate landscaping of the site will provide some added screening of the proposal along the internal driveway/western boundary line through provision of a continuous hedge.</p> <p>If consent is granted, hedge species should be amended to ensure a minimum hedge height of 3m is achieved along the western boundary as it relates to the residential properties across Styx Creek drain. The fencing along this boundary will remain as existing – open school style fencing. There may also be scope toward the northern end of the driveway / turning area, where landscaping is not achieved to add sections of solid style fencing / screening to achieve a level of privacy in the absence of landscaping.</p> <p>The traffic and parking impacts are considered unacceptable and will result in adverse residential amenity impacts. Therefore, based on traffic and parking implications the proposal does not meet this objective in relation to site selection and location,</p>

	<p>given the scale of expansion proposed and the constraints of the site's location.</p> <p>In addition, separate to the broader residential amenity impacts discussed as a result of the traffic and parking concern, there is also the added potential for residential amenity impacts on the immediate residential properties to the west. This relates to the delays that would be experienced with vehicular entry/exit of the site and required queuing arrangements along the driveway. However, it is difficult to quantify the degree of noise and air quality impacts that might result from vehicles queuing along the internal driveway.</p> <p>It is noted that the air quality concerns raised in submissions was not addressed by the applicant in their response to submissions received.</p>
Objective: <i>To ensure that the site selected for a proposed childcare facility is suitable for the use</i>	
<p>C2 When selecting a site, ensure that:</p> <ul style="list-style-type: none"> the location and surrounding uses are compatible with the proposed development or use the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed the characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> size of street frontage, lot configuration, dimensions and overall size number of shared boundaries with residential properties the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas 	<p><u>Applicant Response:</u> The site is:</p> <ul style="list-style-type: none"> compatible with the surrounding residential and school environment is affected by bushfire and flood risk. However, bushfire and flooding assessments at SEE - Attachment 10 and Attachment 11 concluded these risks can be appropriately managed. the study at Attachment 5 concluded the site is suitable for sensitive land uses such as a childcare centre from a contamination perspective sized and located appropriately for a development of the type, size and scope of the proposal, and will not result in adverse environmental impacts on the surroundings is not located in existing premises has suitable drop off pick up areas and adequate off-street carparking as described in the plans at Attachment 1 and reviewed in the traffic study at Attachment 16 adjoins suburban streets with satisfactory characteristics and adequate capacity for the proposal as concluded by the traffic study at Attachment 16 is not located near incompatible uses <p><u>Officer Comment:</u> The school currently operates from the site. Both educational establishment and centre-based childcare centres are permissible uses within the R2 Low Density Residential zone.</p>

<ul style="list-style-type: none"> • where the proposal is to occupy or retrofit an existing premises the interior and exterior spaces are suitable for the proposed use • there are suitable drop off and pick up areas, and off and on street parking • the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use • it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises 	<p>The constraints that affect the site being mine subsidence, bushfire, flooding and environmental matters have been addressed and supported through the submission of relevant reports and would be subject to recommended conditions, if consent were to be granted.</p> <p>The assessment of whether the proposal provides for suitable drop off and pick up areas, and off and on street parking, concludes as follows:</p> <p>The provision of a parent drop-off zone within the site is supported although it is acknowledged that the level of utilisation of this facility will be determined by the efficiency of the operation of the proposed Vista Parade driveway entry/exit.</p> <p>The proposal to facilitate the afternoon drop-off is heavily reliant on the on-street parking already and the proposal to increase the capacity of school by 60% will result in a significant increase in this activity adversely impacting on the residential amenity and is not supported.</p> <p>Due to the significant expansion of facilities on site, and existing traffic conditions within this location and road network, the application is not supported on traffic and parking grounds and does not maintain an acceptable level of residential amenity in this location.</p>
<p><i>Objective: To ensure that sites for childcare facilities are appropriately located.</i></p>	
<p>C3 A childcare facility should be located:</p> <ul style="list-style-type: none"> • near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship • near or within employment areas, town centres, business centres, shops • with access to public transport including rail, buses, ferries • in areas with pedestrian connectivity to the local community, businesses, shops, services and the like 	<p><u>Applicant response:</u></p> <ul style="list-style-type: none"> • located adjacent to school, and parkland • near a scheduled bus route • located on a shared pathway system with neighbourhood links <p><u>Officer Comment:</u></p> <p>The proposed childcare centre forms part of the overall school expansion and intensification of uses on this site.</p> <p>The proposed childcare centre in its own right, is acceptable in terms of co-location with a school, and will service the needs of the local residential community. The site is also across Vista Parade from an existing Church.</p> <p>The site has access to existing public transport and is within an area with pedestrian connectivity to surrounding residential properties within the neighbourhood locality. Though pedestrian safety concern exists for the overall development, given the development proposes an increase in demand of On-Street parking by 60%, heavily relying on the Grayson</p>

	Avenue, Casey Avenue and Princeton Avenue south of Vista Parade. Due to lack of sufficient infrastructure around the area concerns are raised in relation to pedestrian safety.
<i>Objective: To ensure that sites for childcare facilities do not incur risks from environmental, health or safety hazards.</i>	
<p>C4 A childcare facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> proximity to: <ul style="list-style-type: none"> heavy or hazardous industry, waste transfer depots or landfill sites LPG tanks or service stations water cooling and water warming systems Odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses extractive industries, intensive agriculture, agricultural spraying activities any other identified environmental hazard or risk relevant to the site and/or existing buildings within the site. 	<p><u>Applicant Response:</u></p> <p>The proposal is:</p> <ul style="list-style-type: none"> not located near heavy or hazardous industry, waste transfer depots or landfill sites not located near LPG tanks or service stations not affected by odour generating uses affected by any identified environmental hazard or risk suitable for the site as concluded by the contamination study at Attachment 5 <p><u>Officer Comment:</u></p> <p>The proposal is located within a residential zone – R2 Low Density Residential.</p> <p>Consideration was given during the assessment of the level of risk of contamination on site and appropriate risk site investigation assessments were submitted with the application.</p> <p>The assessment considers the proposal acceptable in relation to contaminated land. Refer to SEPP 55 – Remediation of Land for further details.</p> <p>Other site constraints such as mine subsidence, flooding and bushfire have all been addressed and the development is appropriate in relation to these site constraints, subject to recommended conditions, if consent was to be granted.</p> <p>However, given the traffic and parking concerns, associated with this scale of expansion in this site location, there are also considered risks to children, teachers and parents associated with the ability to access parking facilities on site provided for use by the childcare centre.</p> <p>Whilst the scale of school expansion, drives the main concerns in terms of traffic and parking impacts, there will be implications for the operational management of the childcare centre and ability to access the site and utilise parking on-site efficiently. Operational management recommendations for the school see teachers walking children to areas for pick-up in off-site locations, due to the likely difficulty associated with accessing the site and using on-site carparking and drop-up / pick-up facilities. This in turn will therefore, impact on the efficiency and effectiveness</p>

	of the childcare centre operation and access to on-site parking facilities and drop off-pick facilities for the centre.
3.2 Local character, streetscape and the public domain interface	
<i>Objective: To ensure that the childcare facility is compatible with the local character and surrounding streetscape.</i>	
<p>C5 The proposed development should:</p> <ul style="list-style-type: none"> • contribute to the local area by being designed in character with the locality and existing streetscape • reflect the predominant form of surrounding land uses, particularly in low density residential areas • recognise predominant streetscape qualities, such as building form, scale, materials and colours • include design and architectural treatments that respond to and integrate with the existing streetscape • use landscaping to positively contribute to the streetscape and neighbouring amenity • integrate carparking into the building and site landscaping design in residential areas 	<p><u>Applicant Response:</u> The proposal:</p> <ul style="list-style-type: none"> • is designed in character with the surrounding area • is reflective of the low- scale built form of the locality • is reflective of the predominant scale, materials and colours of the locality • consistent with and integrates with the existing streetscape • has a high standard of landscaping • has adequate sensitively designed, and located off street car parking <p><u>Officer Response:</u> The design is considered reasonable and consistent with the single storey and two-storey building form that exists within this area.</p> <p>The proposed expansion is significant in scale and the location on site for the upgrade has been predetermined by the fact the school is existing. In addition, the environmental constraints that exist on site, namely bushfire, flooding, mine subsidence and ecology matters have added another layer to the siting and overall design / layout of expansion works across this site.</p> <p>Landscaping has been integrated across the site and is considered acceptable. The proposal is considered acceptable in terms of streetscape, however given traffic and parking concerns and implications on the road network and its efficiency, it is likely that adverse amenity impacts will result on the neighbouring residential amenity in this area.</p> <p>Carparking provision has been provided which complies numerically with DCP requirements. However, given the broader traffic and parking implications and impact on the road network and its safety, the proposal at this scale is not considered appropriate for the site.</p>
<i>Objective: To ensure clear delineation between the childcare facility and public spaces.</i>	

<p>C6 Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> fencing to ensure safety for children entering and leaving the facility windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community integrating existing and proposed landscaping with fencing 	<p><u>Applicant Response:</u> The proposal:</p> <ul style="list-style-type: none"> is adequately secured with fencing, secured doorways and other safer by design features provides passive surveillance of the car park, entries, and the street has landscaping fencing designed as an integrated whole <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
<p>C7 On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the childcare facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	<p><u>Applicant Response:</u> The proposal has clearly defined, and sign posted entrances and spaces.</p> <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
<p>C8 Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> clearly defined street access, pedestrian paths and building entries low fences and planting which delineate communal/ private open space from adjoining public open space minimal use of blank walls and high fences. 	<p><u>Applicant Response:</u> The proposal presents an appealing landscaped street frontage with well-defined public and private spaces.</p> <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
<p>C9 Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.</p>	<p><u>Applicant Response:</u> Front fences and walls are visually permeable. The proposal is not located near a heritage item or place.</p> <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
<p>C10 High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar</p>	<p><u>Applicant Response:</u> The proposal is not located on a classified road.</p> <p><u>Officer Comment:</u> Vista Parade is not a classified road, it is a local road, which is also referenced in RMS (TfNSW) advice to Council.</p>

height between the wall and the boundary	
3.3 Building orientation, envelope and design	
Objective: To respond to the streetscape and site, while optimising solar access and opportunities for shade.	
<p>C11 Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> • ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> - facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties - placing play equipment away from common boundaries with residential properties - locating outdoor play areas away from residential dwellings and other sensitive uses • optimise solar access to internal and external play areas • avoid overshadowing of adjoining residential properties • minimise cut and fill • ensure buildings along the street frontage define the street by facing it ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions 	<p><u>Applicant Response:</u> The building, car park, play space and landscaping are designed to protect the privacy and acoustic environment of nearby residences (the site does not directly adjoin any residences).</p> <ul style="list-style-type: none"> • the proposal does not share property boundaries with residential properties. • the building is oriented to maximise solar access to internal and external play spaces • the proposal does not overshadow nearby residences • the site is gently sloping, and involves minimal cut and fill • the building is designed to address the internal car park and the street • the proposal is located at ground level only <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
<p>C12 The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> • building height should be consistent with other buildings in the locality • building height should respond to the scale and character of the street • setbacks should allow for adequate privacy for neighbours and children at the proposed childcare facility • setbacks should provide adequate access for building maintenance 	<p><u>Applicant Response:</u> The proposal:</p> <ul style="list-style-type: none"> • is low scale and generally consistent with the height and scale of buildings in the surrounding area • has setbacks and landscape design that provide for adequate privacy of the stakeholders while providing street definition and address • has adequate access for maintenance • setbacks maintain the character of the area <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>

<ul style="list-style-type: none"> setbacks to the street should be consistent with the existing character. 	
<p><i>Objective: To ensure that setbacks from the boundary of a childcare facility are consistent with the predominant development within the immediate context.</i></p>	
<p>C13 Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p>	<p><u>Applicant Response:</u> The proposal is located such that the referencing of setbacks from adjacent structures is not appropriate. The building has been designed to complement the setbacks and built form of nearby buildings consistent with its operation as a childcare centre.</p> <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and setbacks set out in C13, as it is noted that these are not particularly relevant for this site.</p>
<p><i>C14 On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</i></p>	<p><u>Applicant Response:</u> Setbacks maintain the character of the area. There are no dwellings that adjoin the site.</p>
<p>C15 The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage contributes to the identity of the place retains and reinforces existing built form and vegetation where significant considers heritage within the local neighbourhood including identified heritage items and conservation areas responds to its natural environment including local landscape setting and climate contributes to the identity of place. 	<p><u>Applicant Response:</u> The proposal:</p> <ul style="list-style-type: none"> is consistent with the low-scale built form of the locality, materials, colour and character of the locality contributes to the development of a community focus and local identity comprising a church and school is not located in a heritage area, or near a heritage item or place responds to the environment through building design and landscaping <p><u>Officer Comment:</u> In relation to the childcare centre component, front and side setbacks are considered acceptable. The building is also of single-storey construction and orientated to be in-ward facing, so as to minimise any visual or privacy impacts on the residential amenity of properties on the other side of Styx Creek drain (western side boundary).</p>
<p><i>Objective: To ensure that buildings are designed to create a safe environment for all users.</i></p>	
<p>C16 Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> located to allow ease of access, particularly for 	<p><u>Applicant Response:</u> The entry to the Centre will be</p> <ul style="list-style-type: none"> well defined accessible to those with mobility disabilities

<p>pedestrians directly accessible from the street where possible</p> <ul style="list-style-type: none"> • directly visible from the street frontage • easily monitored through natural or camera surveillance • not accessed through an outdoor play area. • in a mixed-use development, clearly defined and separate from entrances to other uses in the building. 	<ul style="list-style-type: none"> • have a high degree of passive surveillance • not accessed through at outdoor play area • provide a secured entry to the actual childcare centre operations <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
<p><i>Objective: To ensure that childcare facilities are designed to be accessible by all potential users.</i></p>	
<p>C17 Accessible design can be achieved by:</p> <ul style="list-style-type: none"> • providing accessibility to and within the building in accordance with all relevant legislation • linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry • providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible • minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath 	<p><u>Applicant Response:</u> The Plans will achieve compliance with requirements for access for people with a disability i.e., Premises Standards, Building Code of Australia and Australian Standards for accessibility and minimise the risk of action under the Disability Discrimination Act. The design of the proposal aims to reduce or eliminate the impediments to movement described in C17.</p> <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
<h3>3.4 Landscaping</h3>	
<p><i>Objective: To provide landscape design that contributes to the streetscape and amenity.</i></p>	
<p>C18 Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> • reflecting and reinforcing the local context • incorporating natural features of the site, such as trees, rocky 	<p><u>Applicant Response:</u> The landscape concept plan is at Attachment 15. It aims to achieve the considerations outlined in C18.</p> <p><u>Officer Comment:</u> The proposed landscaping to be undertaken with the project is considered appropriate in the context of the site and setting and fit for purpose.</p>

outcrops and vegetation communities into landscaping.	
<p>C19 Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings taking into account streetscape, local character and context when siting car parking areas within the front setback using low level landscaping to soften and screen parking areas 	<p><u>Applicant Response:</u> A landscape concept plan is at Attachment 15. It aims to achieve the considerations outlined in C19. Car parking is screened from the street in a manner that maintains a satisfactory level of passive surveillance of the Site.</p> <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
3.5 Visual and acoustic privacy	
<i>Objective: To protect the privacy and security of children attending the facility.</i>	
C20 Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.	Not applicable
<p>C21 Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ul style="list-style-type: none"> appropriate site and building layout suitably locating pathways, windows and doors permanent screening and landscape design 	<p><u>Applicant Response:</u> The building design, layout, landscape design and landform minimise direct overlooking of these spaces.</p> <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
<i>Objective: To minimize impacts on privacy of adjoining properties</i>	
<p>C22 Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> appropriate site and building layout suitable location of pathways, windows and doors landscape design and screening 	<p><u>Applicant Response:</u> The building design, layout, landscape design and landform minimise direct overlooking of these spaces. There are no adjoining developments/residences.</p> <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
<i>Objective: To minimise the impact of childcare facilities on the acoustic privacy of neighbouring residential developments.</i>	
A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:	<p><u>Applicant Response:</u> The proposal does not directly adjoin residential property. Nonetheless, building design, layout, landscape design and operational practices will address likely acoustic privacy/nuisance issues.</p>

<ul style="list-style-type: none"> • provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence) • ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure 	<p><u>Officer Comment:</u> A noise assessment report was submitted in support of the proposed childcare centre and has considered that the operations of the childcare centre are appropriate and in line with acoustic requirements.</p> <p>Should consent be granted to the development conditions of consent could be recommended in relation to compliance with the noise assessment, servicing and waste collection, restricted hours and future assessment and compliance of mechanical plant in line with relevant requirement.</p> <p>The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
<p>C24 A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> • identify an appropriate noise level for a childcare facility located in residential and other zones • determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use • determine the appropriate height of any acoustic fence to enable the noise criteria to be met 	<p><u>Applicant Response:</u> An acoustic report is at Attachment 19 – acoustic assessment for school.</p> <p><u>Officer Comment:</u> The proposal was supported by a noise assessment submitted with the application.</p> <p>The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
3.6 Noise and air pollution	
<p>Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels.</p>	
<p>C25 Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> • creating physical separation between buildings and the noise source • orienting the facility perpendicular to the noise source and where possible buffered by other uses • using landscaping to reduce the perception of noise • limiting the number and size of openings facing noise sources • using double or acoustic glazing, acoustic louvres or enclosed balconies (winter gardens) 	<p>The building design, layout, landscape design, operational practices and relationship to other land uses will address likely noise nuisance. Refer to the Acoustic Report at Attachment 18, which identifies noise nuisance as unlikely.</p>

<ul style="list-style-type: none"> • using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits • locating cot rooms, sleeping areas and play areas away from external noise sources. 	
<p>C26 An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a childcare facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"> • on industrial zoned land • where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000 • along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007 • on a major or busy road other land that is impacted by substantial external noise 	<p><u>Applicant Response:</u> The proposal is:</p> <ul style="list-style-type: none"> • not on or near industrial zoned land • not affected by ANEF contours • not on or near a railway or mass transit corridor • on a main or busy road • is designed to reduce the impact of other likely noise generators for satisfactory levels. <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
<p><i>Objective: To ensure air quality is acceptable where childcare facilities are proposed close to external sources of air pollution such as major roads and industrial development.</i></p>	
<p>C27 Locate childcare facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p>	<p><u>Applicant Response:</u> The proposal is not located near sources of air pollution concern, major roads or industrial development.</p> <p><u>Officer Comment:</u> The proposal is generally considered acceptable in relation to this objective and control within the Guideline.</p>
<p>C28 A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed childcare facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution.</p>	<p>Not applicable.</p>
<p>3.7 Hours of operation</p>	
<p><i>Objective: To minimise the impact of the childcare facility on the</i></p>	

<p><i>amenity of neighbouring residential developments.</i></p>	
<p>C29 Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed childcare facility may be extended if it adjoins or is adjacent to non-residential land uses.</p>	<p><u>Applicant Response:</u> The proposed hours of operation of the proposal are 6.30am to 6.30pm Monday to Friday, which is a slightly earlier start than the Guideline. Given the outcome of the Acoustic Assessment it is considered that these operating hours will not create a noise nuisance. Operation of similar centres by St Nicholas has not led to any neighbourhood amenity/compatibility issues.</p> <p><u>Officer Comment:</u> The guideline outlines 'hours of operation' under section 3.7 (C29) - should be confined to the core hours of 7.00am to 7.00pm outlined for areas that the predominate land use is residential. Hours can be extended if it adjoins or is adjacent to non-residential land uses.</p> <p>The site is zoned R2 Low Density Residential and while the predominate land use in this area is residential, residential properties do not immediately adjoin the site. To the west, the site adjoins Styx Creek drain (with residential properties backing onto this drain), to the east, the site adjoins public recreational zoned land (with residential properties backing onto this land). Immediately across the southern Vista Parade frontage is a place of public worship.</p> <p>The proposal seeks a minor amendment to the hours of operation, seeking 6.30am to 6.30pm Monday to Friday. In the context of the site and setting, location for siting of the childcare centre and associated parking, underlying design put forward accompanied by an acoustic report, the proposal is considered acceptable with proposed hours and is not considered to present any unreasonable amenity impacts on surrounding residential properties within this area.</p> <p>In considering the variation to hours of operation, the proposal has given due consideration to the Childcare Planning Guidelines and overall is considered a minor variation and remains acceptable and consistent with the Guideline. A Noise Assessment prepared by Spectrum Acoustics and dated August 2019 has been submitted with the application and is considered to be satisfactory.</p>
<p>C30 Within mixed use areas or predominantly commercial areas, the hours of operation for each childcare facility should be assessed with respect to its compatibility with adjoining and co-located land uses.</p>	<p>Not applicable.</p>

3.8 Traffic, parking and pedestrian circulation	
<i>Objective: To provide parking that satisfies the needs of users and demand generated by the centre.</i>	
C31 Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.	Twenty-five car parking spaces are to be provided, including one disabled parking space. This provision meets Newcastle Development Control Plan 2012 (DCP) requirements.
C32 In commercial or industrial zones and mixed-use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.	Not applicable.
<p>C33 A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> the amenity of the surrounding area will not be affected there will be no impacts on the safe operation of the surrounding road network 	<p><u>Applicant Response:</u> A traffic and parking study is included at Attachment 16 and demonstrates that the proposal is satisfactory from this perspective.</p> <p><u>Officer Comment:</u> On-site parking provision for both the childcare centre and school expansion is considered to meet the DCP provisions.</p> <p>However, acknowledging the constraints of the local road network and proposed site access, coupled with the existing traffic congestion and the resulting increase in vehicle traffic from this development, it is considered that this development would result in a significant decline in road network efficiency and overall road safety.</p> <p>The projected increase in the demand of on-street parking for afternoon pick-up relating to the school would adversely impact on the residential amenity and also lead to concerns regarding pedestrian safety and overall road safety.</p> <p>The traffic and parking concerns result in the reliability for vehicular access to the site and utilisation of childcare centre parking areas being considerably constrained in terms of use.</p> <p>The likelihood of longer and more frequent queuing of vehicles on site, as part of the traffic flow and management on-site is of significant concern, from a safety perspective but also in terms of adverse amenity impacts on residential amenity.</p>
<i>Objective: To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.</i>	

<p>C34 Alternate vehicular access should be provided where childcare facilities are on sites fronting:</p> <ul style="list-style-type: none"> • a classified road • roads which carry freight traffic or transport dangerous goods or hazardous materials. The alternate access must have regard to: <ul style="list-style-type: none"> - the prevailing traffic conditions - pedestrian and vehicle safety including bicycle movements - the likely impact of the development on traffic 	<p><u>Applicant Response:</u> The proposal is not located on a classified road or one carrying freight or dangerous/hazardous goods.</p> <p><u>Officer Comment:</u> As discussed within this report, the application is not supported on traffic and parking grounds. Therefore, the proposal is not consistent with the objective and controls in relation to safe access provision and without impact on the road network.</p>
<p>C35 Childcare facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	<p>Not applicable - the proposal is not located in a cul-de-sac, narrow lane or road.</p>
<p><i>Objective: To provide a safe and connected environment for pedestrians both on and around the site.</i></p>	
<p>C36 The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> • separate pedestrian access from the car park to the facility • defined pedestrian crossings included within large car parking areas • separate pedestrian and vehicle entries from the street for parents, children and visitors • pedestrian paths that enable two prams to pass each other • delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities • in commercial or industrial zones and mixed-use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas • vehicles can enter and leave the site in a forward direction. 	<p><u>Applicant Response:</u> The proposal has all the characteristics listed.</p> <p><u>Officer Comment:</u> Internal design and layout of the childcare centre and associated facilities such as carparking, pedestrian access / movement is acceptable.</p> <p>The concern exists with the overall development, and in particular the associated traffic and parking concerns, primarily relating to the expansion of the school on site and residential amenity and pedestrian safety within this area.</p> <p>No designated separate service area is provided, bin storage areas will be collected directly off the internal driveway arrangement.</p>

<p>C37 Mixed use developments should include:</p> <ul style="list-style-type: none"> • driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks • drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility. 	<p>Not applicable - The proposal is not in a mixed-use development.</p>
<p>C38 Car parking design should:</p> <ul style="list-style-type: none"> • include a child safe fence to separate car parking areas from the building entrance and play areas • provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards • include wheelchair and pram accessible parking 	<p><u>Applicant Response:</u> The proposal has:</p> <ul style="list-style-type: none"> • a child safe fence and secured doors separating car parking from the building entrance and play areas • accessible car parking located as close as possible to the building entrance • wheelchair (see above point) and pram accessible car parking <p><u>Officer Comment:</u> Notwithstanding traffic and parking concerns associated with the entire development, the design and provision of parking for the centre is appropriate.</p>

Schools

Clause 35 provides that development for the purposes of a school may be carried out by any person with development consent on the subject site. Before determining a development application, 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 4, and*
- (b) *Whether the development enables the use of school facilities (including recreational facilities) to be shared with the community'.*

Schedule 4 of the ESEPP includes seven design quality principles for schools that must be considered before determining a development application. These include:

- Principle 1—context, built form and landscape
- Principle 2—sustainable, efficient and durable
- Principle 3—accessible and inclusive

- Principle 4—health and safety
- Principle 5—amenity
- Principle 6—whole of life, flexible and adaptive
- Principle 7—aesthetics

Consideration has been given to the seven design quality principles and the proposal is considered unacceptable in relation key principles of road network efficiency and road safety, pedestrian safety and residential amenity as follows:

- *Principle 2 – sustainable, efficient and durable* - Good design combines positive environmental, social and economic outcomes.
- *Principle 4 – health and amenity* – Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.
- *Principle 5 – amenity* – Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.

As a result of the proposed development is recommended for refusal.

Traffic generating development

Part 7 (clause 57) of the ESEPP requires that educational establishments that will have an increase in 50 or more students and involving an enlargement or extension of an existing premises or new premises on a site with direct access to any road, must be notified to Transport for NSW – Roads and Maritime Services (RMS).

A referral was undertaken to Transport NSW under the ISEPP (Infrastructure) 2007. It is noted that sch.3 ISEPP was amended on commencement of ESEPP to remove the provisions relating to educational establishments, with these now being addressed under cl.57 ESEPP. The matters that the consent authority must give consideration for, originally only under Clause 104, are now the matters that must be considered under Clause 57 of the ESEPP.

The RMS identified within response dated 17 September 2019, that Vista Parade is a local road and that it was recommended that Council be satisfied that the proposed development would not have a significant impact on the safety and efficiency of the classified road network. Further, RMS raised no objection to the proposal and recommended Council consider issues relating to general road safety and driver sight lines at the proposed driveway. Refer to **Appendix C** for copies of the advices received from agencies.

Clause 57 also requires that the consent authority take into consideration any potential traffic safety, road congestion or parking implications of the development. An assessment of these matters is outlined below.

Traffic Generation

The assumed road capacity for two-way movement on Vista Parade as per the traffic report submitted by SECA dated 9 August 2019 is 1000vph, which is considered conservative as the actual capacity might be lower due to the constrained children's/pedestrian crossing east of driveway.

Current two-way traffic flows on Vista Parade as per the traffic report submitted by SECA dated 9 August 2019 are 502 vehicles per hour (vph) during the morning peak period (8 am to 9 am). Flows in the afternoon peak (2:30 pm to 3:30 pm) were lower with 327 vph.

The development application proposes an increase in school numbers from 385 to 630 students and an additional 15 staff, representing a 64% - 245 increase in student numbers at the school.

In addition, a 79 place Early Learning Centre (Childcare) is also proposed as part of this application employing up to 22 staff across all shifts. The existing YMCA Kotara OSCH is proposed to continue to operate at the site.

The traffic consultant has estimated that the development proposal could generate an additional 307 trips in morning peak hours (61% increase) and 267 trips in afternoon peak (82% increase). Overall, 920-970 trips per day (460-485 two-way vehicle movements).

The proposed development will result in a significant increase in traffic volumes adversely impacting on road safety and residential amenity factors of the area due to the limited road capacity of Vista Parade.

Road Network Operation

There are concerns regarding the traffic and its impact on the network due to the existing congestion occurring in Vista Parade during peak school AM/PM periods. In addition, the application does not propose any changes to the existing external road network to cater for the increased traffic demand arising from the development.

The applicant submitted a Technical Design Note prepared by SECA and dated 29 October 2020, based upon observation survey conducted by the SECA solution on Wednesday 21st October, Thursday 22nd October and Friday 23rd October 2020. The Technical Design Note identifies that:

1. For traffic exiting the school, this was a mixture of left and right turns out. An issue for the left turns out was the operation of the adjacent school crossing point – drivers here give pedestrians priority, which then means traffic cannot exit the school as they block back into the driveway. This also blocks traffic heading north-west along Vista Parade, with a near constant flow of pedestrians causing delays and congestion.
2. Vista Parade became blocked with traffic trying to turn right into the school, which then caused a queue of three cars on Grayson Avenue trying to turn right into Vista Parade, with this happening twice.
3. In the morning period, parents were observed using the car park opposite the school associated with the church. The children and parents then walk into the school via the school crossing. This can be a near constant stream at times, which then causes Vista Parade to become blocked and traffic cannot move or exit the school driveway when turning left out of the school.
4. Parents / students were observed to cross the driveway to access the existing pedestrian access to the school. Vehicles entering / exiting the school typically give way to these movements, also contributing to delays. Similarly, there are no designated crossings between this pathway and the kiss and drop.
5. Operation of the children's crossing is not supervised. Students / parents currently cross Vista Parade upon arriving at the crossing. The arrival of pedestrians can see this crossing used multiple times in a single minute – this was observed during these recent traffic surveys.

An assessment of the Technical Design Note has identified the following in relation to the proposed site access:

1. A west bound vehicle in Vista Parade turning right into the school site will obstruct through traffic due to the narrow carriageway.
2. Vehicle queuing extending back from the intersections of Vista Parade/Grayson Street and Vista Parade / Princeton Avenue across the school frontage is likely to impact on the operation of the proposed access driveway.
3. A vehicle turning right out of the proposed school driveway onto Vista Parade obstructs other vehicles exiting left from the site.
4. Current pedestrian/School crossing east of driveway will significantly impact the future traffic flow on Vista Parade leading to congestion on Grayson Avenue and causing road safety concerns.

The development proposes to relocate vehicular access from a single driveway located on Vista Parade, to an area adjacent to the western boundary of the site. The development also proposes to increase the capacity of the kiss and drop facility within the property. However, the assessment of the application has identified concerns regarding the operation feasibility of vehicles entering and exiting the site due to existing congestion and traffic volume on Vista Parade. The proposal also significantly relies on the crossing supervisor in Vista Parade to optimise the traffic movement during morning peak hour.

Furthermore, the traffic report submitted with the application acknowledge the delays at the intersection of Grayson Avenue and Vista Parade and queuing of maximum three cars happening twice but does not provide any information about the delay time to the vehicles. The report also predicts that the 60% increase in the capacity of the school might add to the delays at the intersection of Grayson Avenue and Vista Parade but does not comment on the predicted delay time.

Acknowledging the constraints of the local road network and proposed site access, coupled with the existing traffic congestion, the resulting increase in vehicle traffic associated with this development application is not supported. It is concluded that the additional increase in traffic would result in a general decline in road network efficiency and overall road safety.

Consideration has been given to the matters for consideration as outlined within this clause. Acknowledging the constraints of the local road network and proposed site access, coupled with the existing traffic congestion, the resulting increase in vehicle traffic associated with this development application is not supported. It is concluded that this additional increase in traffic would result in a general decline in road network efficiency and overall road safety.

The proposal is not considered to have adequately satisfied the provisions of the ESEPP, the impacts to traffic safety and road congestion are not acceptable.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency.

Clause 45 - requires the consent authority to give written notice to the electricity supply authority and invite comments about potential safety risk and the application has triggered referral to Ausgrid under the provisions of the SEPP.

Ausgrid advice was received on 23 July 2020 and forwarded onto the proponents for their information and future actions in direct consultation with Ausgrid.

Clause 104 - refers to traffic generating development. Schedule 3 has been amended by the SEPP - Educational Establishments and Child Care Facilities 2017 (ESEPP) to remove the provisions relating to educational establishments. Refer to clause 57 ESEPP discussion.

State Environmental Planning Policy No.55 (Remediation of Land) (SEPP No.55)

State Environmental Planning Policy No.55 (Remediation of Land) (SEPP No.55) requires consideration to be given to previous uses on the site and whether the site needs to be remediated for future uses. Clause 7(1) (b) and (c) of SEPP No.55 require that where land is contaminated, the consent authority must be 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.



Figure 13: Contaminated land mapping with approximate boundaries of subject site in yellow
(Source: City of Newcastle, OneMap)

The development application has been submitted with two reports which address potential contamination issues as follows:

- Environmental Site Assessment St James Primary School – Proposed St Nicholas EEC Site Prepared by Valley Civilab 15 July 2019, and
- Environmental Site Assessment St James Primary School Prepared by Valley Civilab 5 March 2019

The two reports divide the development into two site areas (Early Education Centre (EEC) in the southwest of current school area and the primary school in the north of the site). The reports present essentially the same methodology comprising a site inspection, the collection of soil samples, the analysis of the samples for a suite of “contaminants of concern”, nomination of assessment criteria (Residential A land use – the most sensitive land use), a discussion of the results and conclusions.

The assessment report for the school refers to a “desktop” study although, there is no information presented regarding the conduct of this study or its findings. The report for the EEC makes no reference to any desktop study.

The assessment for the school area concluded “no indication of gross contamination has been identified which would constrain the expanded development of the site for its use as a primary school”. Similarly, the EEC assessment report concluded “no indication of gross contamination has been identified which would constrain the expansive development of the site under its current residential A land use criterion as a primary school and proposed use as an early education centre”.

The NSW EPA “Guidelines for Consultants Reporting on Contaminated Sites” provide detail to ensure “reports prepared by consultants on the investigation and remediation of contaminated land contain sufficient and appropriate information to enable efficient review by regulators, the Site Auditor and other interested parties” (Part 1 Introduction).

The guidelines use the term “Preliminary Site Investigation” for the initial investigation into potential site contamination. “Environmental Site Assessment”, as used for the reports to support this DA, is not a term used in the guidelines, however the submitted reports were considered to be the equivalent of a “Preliminary Site Investigation” in function.

Key elements of a Preliminary Site Investigation are to:

- identify all past and present potentially contaminating activities, and
- identify potential contamination types

To achieve these objectives, the Preliminary Site Investigation report must include an assessment of the site history. The investigation of the site history informs the subsequent sampling and analysis plan, sampling methodology and assessment criteria.

Accordingly, the applicant provided amended “Preliminary Site Investigation” reports for both the St James Primary School and the St Nicholas EEC, dated 19 February 2020 which contain the required assessment and site history including “Review and Database Searches” and “Preliminary Conceptual Site Model”.

The conclusion of the assessment for the early education centre is “based on the desktop study and limited intrusive sampling conducted on the site, no indication of gross contamination has been identified which would constrain the expansive development of the site under its current residential A land use criterion as a primary school and proposed use as an early education centre”. Similarly, the assessment for the primary school determined “no indication of gross contamination has been identified which would constrain the expanded development of the site for its use as a primary school.”

The proposal is considered to have addressed concerns raised and has satisfied the provisions of the SEPP subject to recommended conditions, to be imposed on any consent granted.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP) works together 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 3 of the Vegetation SEPP contains provisions similar to those contained in cl.5.9 of Newcastle Local Environmental Plan (cl.5.9 now repealed) and provides that Council’s Development Control Plan (DCP) can make declarations with regards to certain matters, and further that Council may issue a permit for tree removal.

An Arborist Impact Assessment has been submitted with the application which has assessed the existing trees within the developed areas of the site. As outlined within the Arborist Impact Assessment, a total of 42 trees have been assessed. The majority of trees assessed have either a low or moderate retention value, with a total of seven trees assessed as high retention value (inclusive of Tree 33 which warrants repurposing).

The overall environmental assessment of vegetation across the entire site and more specifically within the northern area of the site (heavily vegetated area) is considered in the Biodiversity Development Assessment Report (BDAR) submitted with the application.

The proposed development will result in clearance of vegetation exceeding the NSW Biodiversity Offset Scheme (BOS) thresholds and it therefore triggers the requirement for the preparation of a Biodiversity Development Assessment Report (BDAR). The BDAR must be prepared in accordance with the Biodiversity Assessment Method (BAM).

The area of native vegetation to be cleared for the proposed development is approximately 0.32ha. Areas that are not on the Biodiversity Values Map and of less than 1ha meet the requirement of a “small area development” under the BAM and a “streamlined” BDAR is required. The BDAR has been prepared accordingly.

The BAM Calculator report (Appendix F of the BDAR) identifies the proposed development will generate four Ecosystem Credits as a result of the impacts on Plant Community Type 1568 (Blackbutt – Turpentine – Sydney Blue Gum mesic tall open forest on ranges of the central Coast).

The BDAR concludes that “the retirement of these credits will be carried out in accordance with the NSW Biodiversity Offsets scheme, and will be achieved by either:

- a) The obligation to retire credits under the Biodiversity Offsets Scheme, or*
- b) Making payments into the Biodiversity Conservation Fund using the offset payments calculator”.*

The Statement of Environmental Effects Section 4.1 notes it is the applicant’s intention to satisfy the obligation by making a payment into the Biodiversity Conservation Fund. The Applicant has also confirmed their intention to make payment into the Biodiversity Conservation Fund should development consent be granted.

The proposal is considered to have addressed concerns raised and has satisfied the provisions of the SEPP subject to recommended conditions, to be imposed on any consent granted.

State Environmental Planning Policy No.64 (Advertising and Signage)

The policy aims to regulate signage and provide signage that is compatible with the desired amenity and visual character of an area.

The policy applies to all signage, except for signs deemed to be exempt development, that can be displayed with or without development consent, and is visible from any public place or public reserve. Depending on the size and location of any sign, the development application may require concurrence of Transport NSW (formally RMS) and/or the Department of Planning and Environment.

Any proposal must be consistent with the objectives set out in Clause 3(1)(a) and the assessment criteria outlined in Schedule 1 of the Policy.

The proposed signage associated with this application, is provided on plan and schedule within the Landscaping plan set, prepared by Terras landscape architects, Rev H dated 13 July 2020.

The proposed signage schedule includes:

- A – Staff parking Entry / Exit – 1.2m x 900mm concrete with mounted signage
- B – School Pedestrian signage – 1.2m x 900mm rendered wall to match entry signage

- C – Childcare centre (EEC) + Visitor parking Entry / Exit – 1.2m x 900mm concrete with mounted signage
- D – Parking and Drop-off Entry – 1.2m x 900mm concrete with mounted signage (to be lit)
- E – EEC + Main Entry School signage – 2.1m x 1.2m pylon sign at entry gate (to be lit)
- F – EEC Building signage – 3.650m x 1.7m wall mounted (to be lit)
- G – School signage – 1.2m x 900mm School way finding signage

The signage is considered 'building identification signage' or 'business identification signage' under the provisions of the SEPP and is consistent with the SEPP. Refer to Section 7.09 Newcastle Development Control Plan 2012 (DCP) for further assessment details.

The signage proposal that forms part of this application has been assessed against Clause 13 of the SEPP (matters for consideration). In this regard, the signage is appropriate for its intended use in association with the school and childcare centre and is compatible with the desired amenity and satisfies the requirements of this SEPP.

Newcastle Local Environmental Plan 2012 (LEP)

Clause 1.3 – Land to which Plan applies

Newcastle Local Environmental Plan 2012 (LEP) applies to land identified upon the 'Land Application Map'. The subject development occurs within this area.

Clause 2.3 Land Use Table - Zoning

The site is zoned R2 Low Density Residential under the LEP. The proposed development is defined as an 'educational establishment' and 'centre-based childcare facility' under the LEP and is permissible in the zone.

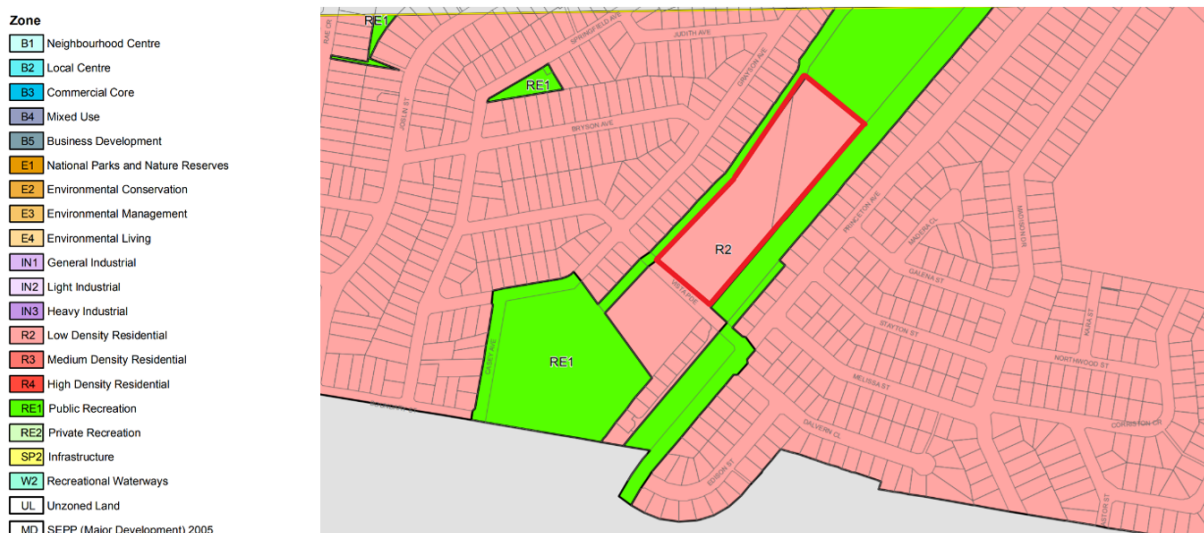


Figure 14: NLEP2012 Land Use Map Extract - approximate boundaries of subject site in red
(Source: Sheet LZN_002H)

The development meets the objectives of the zone insofar as it will enable the continuation of the provision of other land uses, namely school and childcare centre that provides facilities and services to meet the day to day needs of residents within the existing and surrounding community.

However, given the scale of the proposed development, it is considered that to approve the proposal without the scale being reduced and/or without significant upgrades to the road network carried out, the current proposal will result in a significant decline in the road network efficiency and overall road safety, resulting in an unreasonable adverse impact on the residential amenity within this area.

Clause 2.6 Subdivision - consent requirements

The land may be subdivided with development consent.

The proposal includes a Community Title subdivision (two into three lots). Refer to discussion under Clause 4.1AA below.

Clause 4.1 Minimum subdivision lot size

The site is identified within an area of 400m² on the Minimum Lot Size map.

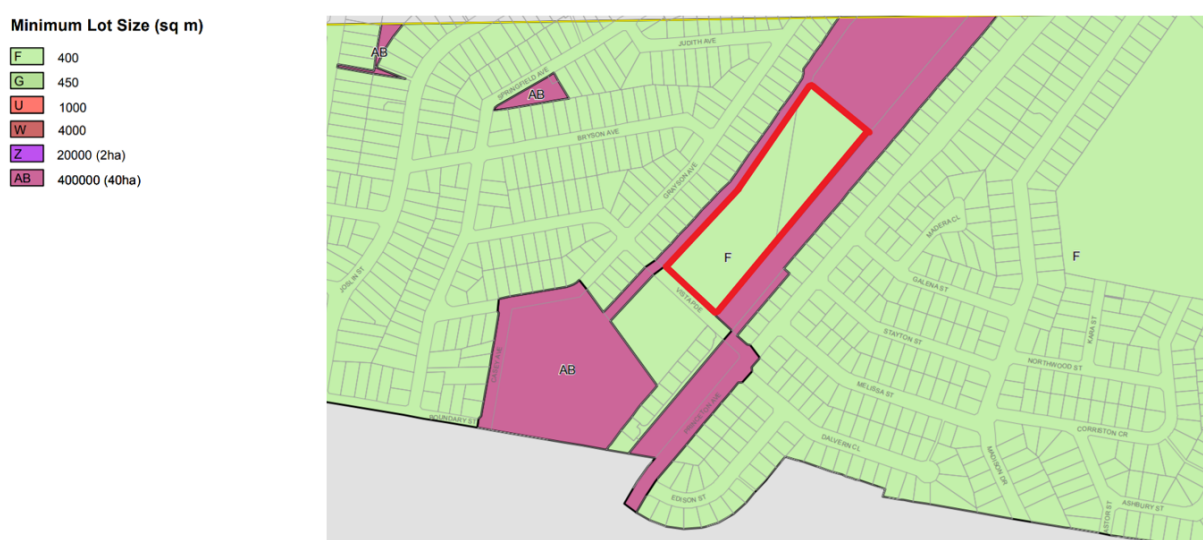


Figure 15: NLEP2012 Lot Size Map Extract - approximate boundaries of subject site in red (Source: Sheet LSZ_002H)

Clause 4.1AA Minimum subdivision lot size for community title schemes

A community title subdivision of the site (two into three lots) is proposed as part of this application. A Neighbourhood Management Statement (NMS) accompanies the subdivision plan. The purpose for the subdivision is to enable separation of the school and new childcare centre on individual lots, with certain infrastructure such as vehicular access to some car parking areas and utilities located on the common lot. The proposed subdivision is for land management purposes and has no impact on the nature of the proposed development. Proposed lot boundaries have been configured to respond to the functional components of the development.

The proposed subdivision results in the following:

- Proposed Lot 1 (2,846m²) – common lot for infrastructure
- Proposed Lot 2 (1,983m²) – childcare centre
- Proposed Lot 3 (2.43ha) – school and remaining land

The proposed subdivision achieves the Minimum lot size requirement as identified within Clause 4.1, a requirement of Clause 4.1AA.

During assessment, whilst the subdivision is considered acceptable as outlined above, additional information was requested to correct some discrepancies and omissions from the subdivision plan and (NMS), including: that the open access way shown on the NMS should be amended to a private access way, the NMS is missing documents including services work plan and open access way plan, subdivision plan showing areas of parking associated with other lots on the neighborhood lot, and lack of easements for drainage shown on the subdivision plan. The applicant did not provide additional information in the form of an amended subdivision plan and NMS to address these matters.

However, if the application were granted consent, conditions could be imposed requiring an amended subdivision plan and (NMS) be submitted, resolving the discrepancies and omissions within the plans / document. In addition, relevant easements created for stormwater drainage, could be required by way of conditions relating to stormwater drainage infrastructure.

Clause 4.3 Height of Buildings

The site is not subject to height of building provisions under the LEP. However, it is considered that the building form and scale is in keeping with the character and context of the R2 Low Density Residential zone, consisting of single and two-storey buildings.

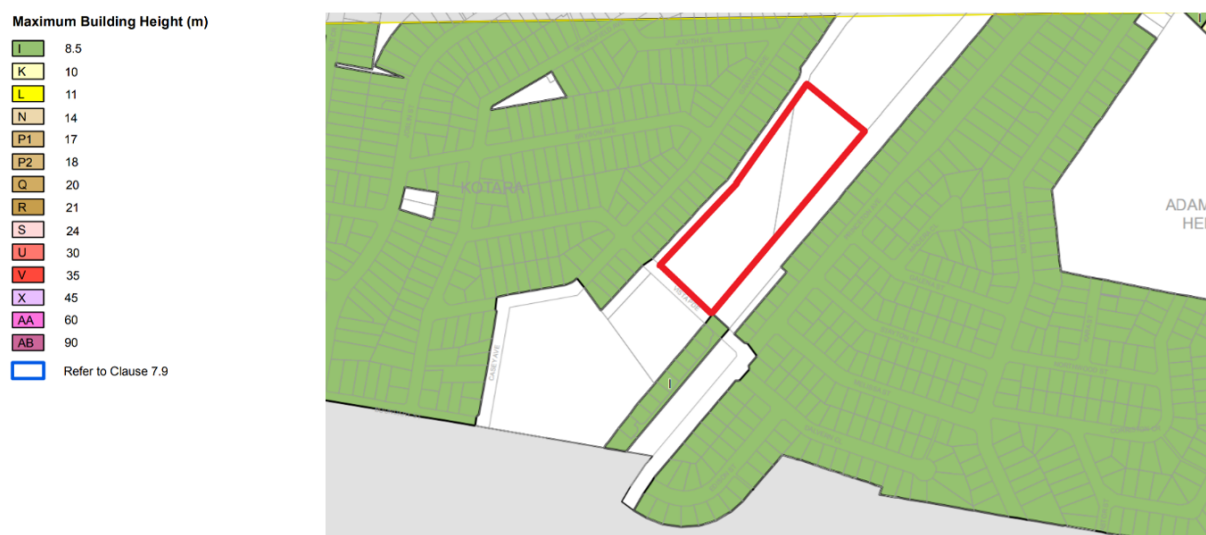


Figure 16: NLEP2012 Height of Buildings Map Extract - approximate boundaries of subject site in red (Source: Sheet HOB_002H)

Clause 4.4 Floor Space Ratio

The site is not subject to maximum floor space ratio provisions under the LEP. Notwithstanding, it is noted that the proposal incorporates a mix of one and two-storey buildings consistent with an area that comprises of both single and two-storey dwellings and some recent multi-dwelling housing developments.

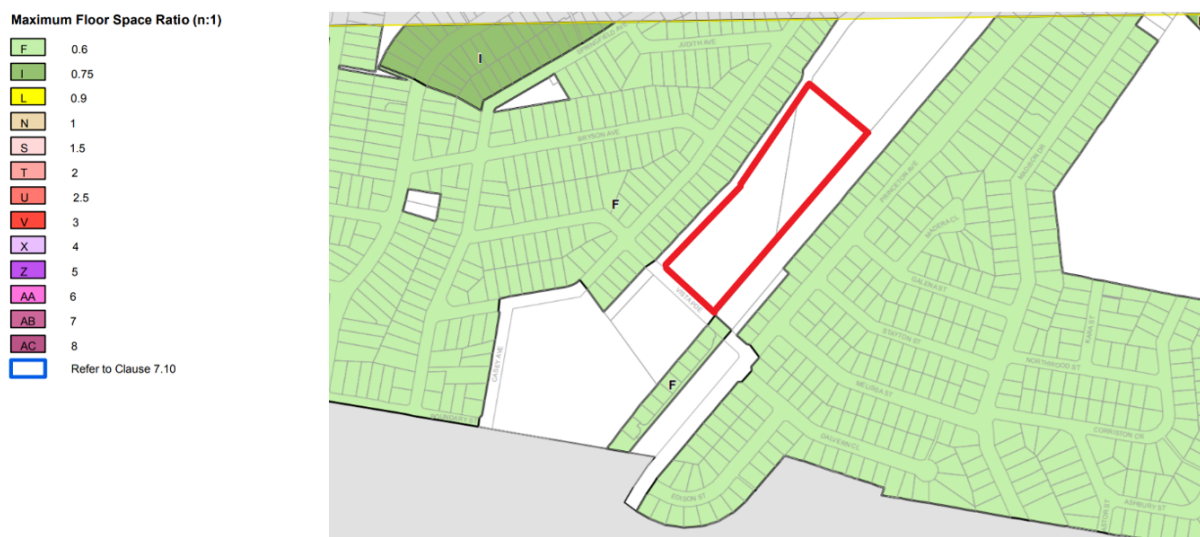


Figure 17: NLEP2012 Floor Space Ratio Map Extract - approximate boundaries of subject site in red (Source: Sheet FSR_002H)

Clause 5.05 Heritage Items

The site and existing buildings are not listed as heritage items under the LEP.

Clause 5.10 Heritage Conservation

The site is not located within a heritage conservation area under the LEP.

Further, the applicant has identified that a search of the AHIMS data base with a buffer of 200m has identified no Aboriginal sites or places in or near the site. The site is also heavily disturbed due to previous development.

The proposal is consistent with the provisions of this clause.

Clause 6.1 Acid Sulfate Soils

The clause aims to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The land is mapped as containing Class 5 Acid Sulphate Soils (ASS) under the LEP.

Accordingly, an ASS Management Plan is required for works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

Given the Class 5 classification of land no further investigation is necessary nor is the requirement for an ASS Management Plan required.

Clause 6.2 Earthworks

The site has a slope upwards towards the south/southeast. It has a gentle downwards incline away from Vista Parade along the western boundary (i.e. stormwater channel / Styx Creek). Earthworks overall will be minimal, with the intention to utilise any spoil generated on site.

The proposed earthworks to be undertaken include cut and fill operations to create suitable building platforms for the development of the facility and its internal roads / carparking areas. The Cut and Fill Plan, prepared by Birzulis Associates and dated 20 October 2020 indicates

approximately 1,500m³ of filling and 500m³ of cut, and as a result the application requires importing of approximately 1,000m³, which will largely be placed under building footprints at the northern end of the site. Furthermore, the civil plans submitted, in addressing flood management requirements within the Vista Parade carpark area, indicates in the order of plus or minus 0.2m maximum earthworks required to achieve a close to natural ground level as possible, to achieve an acceptable outcome addressing the flooding constraints of the site.

Whilst the extent of cut and fill is noted, it is still considered that the development will respond sensitively to the topography of the land to restrict and control earthworks. The cut and fill will minimise land shaping outside of the building footprint to ensure that development does not concentrate surface flows onto adjoining properties or areas of the site, whilst maintaining amenity and privacy.

Council requires development to prevent erosion and sediment laden run off during site preparation, construction and ongoing use of the land. Implementation of the required soil erosion and sediment controls will be required to be implemented for any development works to ensure the protection of the adjoining lands for the during of works and recommended conditions imposed to install appropriate measures prior to works commencing on the land, with any consent granted.

While earthworks will be undertaken as part of the proposal, the level of earthworks are not considered to detrimentally impact on environmental functions, neighbouring uses or features of the surrounding area. Recommended conditions would be required, with any consent granted for the application.

5.1.3.2 *Any draft environmental planning instrument that is or has been placed on public exhibition*

There are no draft environmental planning instruments on exhibition that are relevant to the proposed development application.

5.1.3.3 *Any development control plan (and development contribution plan)*

The main planning requirements of relevance in the Newcastle Development Control Plan 2012 (DCP) are discussed in detail below.

Section - 3.01 Subdivision

As outlined within the application, the subject site currently consists of two allotments as described elsewhere in this report. The proposal includes a Community Title subdivision into three allotments, such that, the primary school is located on one lot (proposed Lot 3 – 2.43ha), the new child-care centre is located on another lot (proposed Lot 2 – 1,983m²) and certain infrastructure such as vehicle access to some car parking areas and utilities and services are located on a common lot (proposed Lot 1 – 2,843m²).

The proposal to subdivide the land is for land management purposes and lot boundaries have been configured to respond to the functional components of the proposed development.

A plan of subdivision and a Neighbourhood Management Statement, both prepared by Parker Scanlon has been submitted as required under the provisions of this section of the DCP.

The proposed subdivision is consistent with the aims and provisions of this section of the DCP where relevant, by achieving an efficient use of land, ensuring lots have appropriate levels of amenity, services and access and all lots are physically capable of development whilst minimising any adverse impacts on the natural and built environments.

The proposed subdivision is permissible and consistent with relevant clauses within the LEP, and generally achieves the requirements of the DCP. However, based on the information submitted, the application cannot be supported given the discrepancies / omissions between plans and NMS. These matters are seen to be resolvable through the provision of an amended subdivision plan and accompanying NMS. If the application were granted consent, conditions are recommended requiring an amended subdivision plan and (NMS) be submitted, resolving the discrepancies within the plan / documents. In addition, relevant easements are to be created for stormwater drainage, in line with relevant conditions recommended relating to the stormwater drainage aspects of this assessment and the above advice.

Section - 3.11 Community Services

This section applies to uses including educational establishments and childcare centres. The aims of the section include:

1. *To maintain the streetscape, amenity and character of areas surrounding community services.*
2. *To ensure community services are accessible, convenient and appropriately located.*
3. *To encourage social connections, community participation and promote health and wellbeing.*

General controls applying to all development to which this section applies

1. *When designing and siting community facilities consideration is given to, but not limited to:*

a) Location and use of surrounding buildings

Response: The site is an existing school. An open space buffer containing a cycleway separates the site from single-storey detached dwellings to the east. The dwellings to the west are separated from the site by an open stormwater channel (known as Styx Creek drain), largely single-storey with a couple of two-storey detached dwellings.

To the south of the site across Vista Parade is St Philips Catholic Church and to the east of the church is a two-storey medium 'gun-barrel' development.

To the north of the site is a well vegetated public reserve.

The proposed buildings on the site have been designed to provide a domestic scale to the street (child care centre) and in the case of the school buildings, one and two-storey building with integral screening on the facades facing any dwellings as well as intervening landscaping. It is considered the proposal presents a building mass and scale that is appropriate for a low-density residential environment and a design that respects the residential context, as well as the adjacent open space.

Assessment comment:

The proposal in terms of existing context and built form, orientation and design together with placement of outdoor areas and site landscaping is considered acceptable.

b) Views to and from the site

Response: The proposal will not adversely affect views to and from the site. A combination of landscaping and building design will provide a more than satisfactory appearance of the site from external viewpoints. There are no iconic or no distance views that will be impeded by the proposed development.

Assessment comment:

The proposal in terms of views to and from the site is considered acceptable. In addition, in some respects the upgraded building design, orientation and overall site and landscaping works will be an improvement on what is currently existing as part of the school operations at this site.

c) Access to the site

Response: the site has a slope upwards towards the south / southeast. It has a gentle downwards incline away from Vista Parade along the western boundary (ie. Stormwater channel / Styx Creek drain). Access to and within the site presents few issues. It is proposed to move the existing vehicular access to Vista Parade to the west adjacent to the property boundary with the stormwater channel. Moving the vehicular access will achieve greater separation from the vehicular access to the church opposite, and from the pedestrian crossing. A Traffic Impact Study has been prepared by Seca Solutions. The site is served by a footpath network with a shared pedestrian path / cycleway adjacent the site to the east.

Assessment comment:

Access to the site is provided via a new driveway adjacent to Styx Creek on the western site boundary. This driveway is providing access to St James Primary School, the proposed early learning centre and existing YMCA Kotara OSCH. Both the driveway and the internal circulating roads are designed to accommodate two-way traffic movement, with the internal road forming a loop at its northern end allowing for parents to access the drop off zone and exit the site in a forward direction. The parking aisles for the early learning centre shall allow for one-way clockwise circulation enabling vehicles to continue to circulate within the carpark and not need to re-enter the main driveway. The internal circulation roads are designed to accommodate two-way traffic movements with a minimum width of 5.5 metres.

Significant concerns regarding the operational efficiency of the proposed driveway have been raised as per the section - Road Network Operations.

d) Existing vegetation and topography of the site

Response: the landscaping of the site will be rejuvenated and increased as a result of the proposal. Details are provided within the Landscaping plans, prepared by Terras landscape architects. A number of trees will be removed from the site and an Arborist Report, has reviewed the proposal and concluded that all trees assessed are suspected of being introduced as amenity trees with the exception of Tree No. 30 to 35 which appear to be naturally occurring. The Arborist Report is of the view that the implementation of the landscaping plan should offset the removal of the trees that are identified as needed to be removed. Tree protection measures are recommended for other trees and these will be implemented during construction. The Arborist Report and Biodiversity Development Assessment Report have been submitted and are included in **Appendix B**.

Assessment comment:

The proposal is considered acceptable in terms of tree removal and vegetation management across the site and is also supported by a BDAR and Arborist Report. Refer to details under Vegetation SEPP 2017 and Section 7.3 Tree Management of DCP 2012.

This site is partly affected by flooding with a large concrete lined open drain running down the western property boundary. The drain belongs to Hunter Water Corporation and is known as Styx Creek drain. The drain runs from the south to the north with large flood events, such as the 1% Annual Exceedance Probability (AEP) event, spilling across Vista Parade which would make the road impassable.

The main road access to the site is proposed to enter and exit onto Vista Parade adjacent to the open drain which would be flooded in large flood events. To address this issue the application is proposing to establish an alternative emergency driveway arrangement from the proposed new carpark.

For large flood events up to a Probable Maximum Flood (PMF) event part of the driveway acts as a floodway. The applicant has provided amended plans which illustrate that the proposed carpark maintaining the existing ground levels to preserve the floodway for large flood events.

A smaller catchment draining the Princeton Avenue area is piped through the site in a drainage easement. The 1200mm diameter pipe belongs to Hunter Water Corporation. For large flood events, such as the 1% AEP event, above the capacity of the pipe it is proposed to direct the floodwaters to the north, around the new school buildings, in the landscaped area.

In addition, the proposed new buildings on the site will be protected from flooding in a 1% AEP flood event. As such, the development is acceptable subject to recommended conditions, if consent was granted.

Section - 4.02 Bush Fire Protection

The site is identified as bushfire prone land and is categorised as Vegetation Category 1 (red) – land considered to be the highest risk for bushfire and surrounded by a 100m buffer (yellow).



Figure 18: Bushfire Prone Land mapping with approximate boundaries of subject site in blue (Source: City of Newcastle, OneMap)

A Bushfire Risk Assessment prepared by Newcastle Bushfire Consulting was submitted with the application. The application was referred to the NSW Rural Fire Service as an 'integrated development' under the provisions of Section 100B *Rural Fires Act*. NSW Rural Fire Service granted their 'general terms of approval' (GTAs) subject to conditions dated 24 February 2020 (Refer to **Appendix C**).

The proposal complies with the Planning for Bushfire Guidelines, with all bushfire protection works (asset protection zones) within the rear of the site, considered as part of the overall vegetation loss and biodiversity considerations discussed within this report.

Section - 4.03 - Mine Subsidence

The site is located within a proclaimed Mine Subsidence District and general terms of approval (GTAs were granted from Subsidence Advisory NSW on 18 October 2019 - Refer to **Appendix C**).

Section - 4.04 - Safety and Security

This section provides objectives and controls for crime prevention and public safety and draws from the process of reducing crime risk through the location and design of development relating to Crime Prevention Through Environmental Design (CPTED). The principles of CPTED relate to casual surveillance, access control, territorial reinforcement and space management.

A Crime Risk Assessment was provided within the Statement (SEE) submitted with the application, prepared by Strategy Hunter and is considered to have demonstrated a suitable response to safety and security consistent with this section.

The development will create additional pedestrian and vehicular activity and movement in part of Vista Parade which currently experiences relatively low levels of activity during much of the day. Notwithstanding that anti-social activity is not a significant issue in this locality, the increase in activity will tend to discourage antisocial activity through informal surveillance. The Crime Risk Assessment has also considered that the proposal will also present a crime target, and this must also be managed and considered in the design and operation of the proposal.

The design of the proposal and its surrounds as stated within the Crime Risk Assessment, will attempt to minimise opportunities for crime by providing appropriate levels of light, maximising important view lines, and minimising places for concealment or where activity can take place outside of the public gaze. Landscaping will be designed and maintained to ensure this is achieved. Visibility, lighting, CCTV and a selection of external materials will minimise opportunities for vandalism and by continuing the existing site management of ensuring any vandalism or graffiti is rapidly repaired or removed.

The carpark will be occupied by users and staff vehicles from around 6:30am to 7:00pm. The carparks will be lit by on site lighting, and with the southernmost car park also receiving incidental lighting from the street lighting of Vista Parade. In addition, the southern carpark will be visible from Vista Parade providing a high level of informal surveillance from that public space. The reception area / office of the Centre also overlooks the most heavily trafficked area of the carpark. The carpark will also receive CCTV surveillance.

The northern car park will receive informal surveillance from the glassed area at the rear of the childcare centre and adjacent play area (the centre being orientated to the north to maximise solar access). This car park is in a relatively open area with the school open space and open construction area adjacent. The site will be secured by a 1.8m high open palisade fence. The childcare centre will receive an additional 'layer' of security and all public entry will be via the pedestrian and vehicular entries on Vista Parade. The site also has regular scheduled bus services on Vista Parade, with a bus stop located close by in a highly visible location.

No cash is proposed to be held on the premises. No drugs will be held on the premises beyond those provided by parents for specific needs.

The Crime Risk Assessment submitted outlines in detail a response to the four (4) CPTED principles and related criteria and the conclusion provides the following:

The proposal will have a positive impact in its surrounds by:

- Increasing people orientated activity
- Rejuvenating an existing school
- Broadening the groups using the space by developing a childcare centre
- Improving the availability of local family orientated services

The proposal is located in an area of low crime risk due to its suburban location and not located within a hotspot for personal or property related crime.

A number of measures have been incorporated into the design to reduce crime risk, both generally and measures specific to the development for childcare centre and school. In addition, crime risks presented during the construction phase will be mitigated by: use of secure lock up storage for valuables or high theft risk items, CCTV monitoring, removal of tools from the site during non-working times where possible, keeping the site in a neat and tidy appearance, regular 24 hour security patrols, delivery of building materials as close as possible to time for use.

The development is acceptable in regards this section of the DCP.

Section - 4.05 Social Impact

The controls within this section of DCP, relate to development applications comply with the requirements of the 'Social Impact Assessment Policy for Development Applications 1999'.

A formal social impact assessment is not required for the proposed development; however, a social impact comment is required within the Statement (SEE) submitted with the application.

The intensification of the school through the addition of student numbers and staff will improve the capacity of the school to provide education to the existing and future community. This also aligns with the expected increase in housing within the local government area. In addition, a new childcare centre within the same site as the school will offer additional childcare placements within this local area and more broadly provide needed care facilities to meet the demands of existing and future population growth within the broader community.

It is also acknowledged that the development will also provide for improved amenity of the existing facility and allow for a more productive and cohesive learning environment, with newer and better buildings and facilities. These improvements in buildings and facilities will also provide greater visual and acoustic privacy for surrounding neighbours, through better design and material finishes. In addition, increased staff placements and employment opportunities will also be created during the construction phase of the development, with flow on economic benefits to the local services and facilities.

The assessment needs to balance the benefits of the proposal as outlined above, together with the existing traffic congestion experienced in this area, and the resulting increase in vehicle traffic which will result from the scale and intensification proposed under this application. It is considered that this development will result in a significant decline in road network efficiency and overall road safety. The projected increase in the demand of on-street parking for afternoon pick-up would adversely impact on the residential amenity which also leads to concerns regarding pedestrian safety and overall road safety. The residential amenity within this area will also be impacted by the scale of this proposal and constraints of the site and local road network.

Therefore, on balance and given the scale and intensification of uses on this site, there is not considered the ability to resolve these significant concerns, without a downscaling of the proposal and the proposal is not considered socially acceptable on traffic and parking ground and resultant adverse residential amenity impacts within this area.

5.01 Soil Management

A Sediment and Erosion Management Plan has been submitted with the application to minimise sediments being removed from the site during the construction period. Should the development consent be granted a condition of consent would be required to ensure such measures are in place for the entire construction period.

Section - 5.02 Land Contamination

The site is considered suitable for the proposed development as discussed under *SEPP 55 Land Contamination*. The applicant has submitted Preliminary Site Investigations which have been assessed and it has been determined that the site is not adversely impacted by gross contamination.

Section - 5.03 Tree Management

The proposal includes tree removal across the site, both within the existing developed area of the site and for asset protection zone purposes at the north and north-eastern areas of the site.

An Arborist Impact Assessment has been submitted with the application which has assessed the existing trees within the developed areas of the site. As outlined within the Arborist Impact Assessment, a total of 42 trees have been assessed. The majority of trees assessed have either a low or moderate retention value, with a total of seven trees assessed as high retention value (inclusive of Tree 33 which warrants repurposing).

The overall environmental assessment of vegetation across the entire site and more specifically within the northern area of the site (heavily vegetated area) is considered in the Biodiversity Development Assessment Report (BDAR) submitted with the application.

The overall outcome is acceptable in relation to vegetation loss as discussed under *SEPP (Vegetation in Non-Rural Areas) 2017*. However, should development consent be granted conditions of consent requiring compensatory planting as part of the overall proposed landscaping scheme for the development would be required.

5.04 Aboriginal Heritage

The site has been subject to considerable ground disturbance given existing school operations and improvements over time on the site, and it is unlikely items of aboriginal heritage will be located.

The SEE identifies that a search of the AHIMS data base with a buffer of 200m has identified no Aboriginal sites or places in or near the site. The site is also heavily disturbed due to previous development. Accordingly, it is considered that an Aboriginal Heritage Impact Permit (AHIP) is not required because of the highly disturbed urban setting, the absence of relevant confirmed site records or other associated landscape feature information on AHIMS and the absence of landscape features that are likely to indicate presence of Aboriginal objects.

Section - 5.05 and 5.07 Heritage Items and Heritage Conservation Areas

As stated under Clause 5.10 LEP, the site is not identified as being a locally listed heritage item. The school site is not located within a Heritage Conservation Area and is not listed on the State Heritage Register.

Section - 7.02 - Landscape, Open Space and Visual Amenity

A Landscape master plan prepared by Terras Landscape Architects has been submitted with the application. The proposal is considered for the purposes of the DCP section, as a *Category 3 – large scale development or development on prominent or ecologically sensitive sites with a high degree of visual significance and environmental impact*. This category determines the level of information required with the development application and at various stages post any development consent granted.

Key elements for consideration with this site and proposal relate to the need for landscaping to satisfy the needs of the users of the site, buffering of surrounding residential properties, the Vista Parade streetscape and interface with the reserve.

The proposed landscape master plan is considered acceptable and consistent with the objectives and controls relevant within this section. The overall landscape master plan provides for enhanced landscaping to meet the needs of the school and childcare centre, provides for suitable replacement planting to compensate for the removal of trees within the active area of the site and creates a positive landscape interface with Vista Parade frontage.

It is recommended, if consent were to be granted that an amended landscaping plan be submitted, which includes a suitable hedge species to achieve a minimum three metre high landscape treatment along the western boundary. In addition, other relevant more standard conditions relating to landscaping plan / documentation requirements at various stages through Construction Certificate to completion and on-going maintenance be imposed, on any consent granted.

7.03 Traffic, Parking and Access

Parking

Off-Street

Parking Supply

The proposal provides for a total of 55 parking spaces (including four accessible car spaces) across two separate car parking areas as per **Table 2** below.

Table 2: Parking Supply

Type of Parking	Location & No. of Parking			Total
	Primary School	Early Child Care	Primary Drop-Off	
Cars	S- 31	S/V-18	V-7	60
V – Visitor	D-2(Staff)	D-2		
D- Disabled	Visitor			
S-Staff				

In addition to this, a drop off zone is also proposed for St James Primary School comprising seven parallel car spaces with queuing for approximately 33 cars within the site. The proposal does not include provisions for separate car parking associated with YMCA Kotara OSCH, as it is anticipated that staff shall be able to utilise the car parking available on site (shared use).

A Class 2 secure bicycle enclosure has been provided for school staff and bicycle racks for students.

Parking Demand

Table 3 below outlines the parking demand for the proposed development based on the CN DCP 2012. The parking rate for YMCA Kotara is assumed as per the table below.

Table 3: Parking Demand

Use	Rate as per CN DCP 2012	Quantity	Spaces Required
St James Primary School			
Staff	1 space per 2 staff plus 1 space per 8 senior students	49	24.5
Visitors	1 space per 100 students for visitors	630	6.3
Sub-Total			31
Early Learning Centre			
Children Attending	1 space per 4 children	79	19.75
Sub-Total			20
YMCA Kotara OSCH			
Staff	1 per 2 staff	6	3
Sub-Total			3
TOTAL			54

The onsite parking provision under this application complies with DCP requirements.

On-Street Parking

The observation survey conducted by the SECA consultant states that the on-street parking is highly utilised during the afternoon pick-up times. The parking survey conducted reflect the on-street parking demand as per the Table 4 below.

Table 4: Existing observed on-street parking demands

	Drop off period	Pick up period
Princeton Avenue	5	28
Grayson Avenue	5	39
Casey Avenue	0	27 (Thursday and Friday only of survey)
St Phillips Church	Data not provided	Data not provided

The development allows for the student numbers to increase from the current 385 to 630, an increase of 60%. Based on this increase, the projected traffic parking is provided below by SECA consultant, as follows:

	Drop off period	Pick up period
Princeton Avenue	8	45
Grayson Avenue	8	62
Casey Avenue	0	43

Figure 19: Predicted on-street parking demand (Source: Traffic Report prepared by SECA Solutions)

Based on the above table the projected demand for parking is from 94 cars to 150 cars. The predicted demand for the parking might be higher than stated by the consultant as the St Phillip Church parking demand has not been considered in the future prediction of on-street parking.

The development proposes to meet the future demand of the parking by relying on the kerb side parking of Princeton Avenue, Grayson Avenue and Casey Avenue as follows:

1. Capacity of 46 cars on the eastern side of Casey Avenue
2. Capacity of 55 cars south of Vista Parade on Grayson Avenue (kerb length 260m)
3. Capacity of 45 cars the north western side of Princeton Avenue, south of Vista Parade
4. The remainder on the northern side of Vista Parade

Grayson Avenue is almost 9m wide and parking cars on both the side of the street raises safety concerns for the traffic movement in the area.

The provision of a parent drop off zone within the site is supported although it is acknowledged that the level of utilisation of this facility will be determined by the efficiency of the operation of the proposed Vista Parade driveway entry/exit.

Furthermore, the proposal to facilitate the afternoon drop-off is heavily reliant on the existing on-street parking and the proposal to increase the capacity of school by 60% will result in a significant increase in this activity. This will have adverse impacts on the residential amenity of the surrounding area and is not supported.

Car park layout

The proposed car park layouts have been reviewed and are generally considered to be acceptable subject to compliance with Australian Standard AS 2890.1 and 6. However, an improved outcome would be achieved if the proposed childcare / school staff carpark adjacent to Vista Parade was amended to provide for a one-way clockwise vehicle movement with the further most northern car park access being designated as the 'Entry'. This would assist in reducing the potential for vehicle queuing at the Vista Parade driveway entry/exit.

A 'tear-drop' kiss and drop facility comprising of designated spaces and on-site storage for around 33 vehicles is provided within the site for parent drop/off pick/up activity.

Site Access

Access to the site is provided via a new driveway adjacent to Styx Creek on the western site boundary. This driveway is providing access to St James Primary School, the proposed early learning centre and existing YMCA Kotara OSCH. Both the driveway and the internal circulating roads are designed to accommodate two-way traffic movement, with the internal road forming a loop at its northern end allowing for parents to access the drop off zone and exit the site in a forward direction. The parking aisles for the early learning centre shall allow for one-way clockwise circulation enabling vehicles to continue to circulate within the carpark and not need to re-enter the main driveway. The internal circulation roads are designed to accommodate two-way traffic movements with a minimum width of 5.5 metres.

However, significant concerns regarding the operational efficiency of the proposed driveway has been raised as discussed in detail under the heading 'Road Network Operations' within the ESEPP discussion section of this report. For these reasons the proposal does not adequately satisfy the requirements of this section.

Section - 7.05 Energy Efficiency

The childcare centre building and outdoor space area will be orientated to the north to maximise sunlight. Similarly, the school buildings will seek to maximise solar access consistent

with achieving an efficient school operational outcome. Awnings, sun control devices and blinds are proposed to provide protection against unwanted sunlight and heat gain, particularly from the west. The childcare centre building will use air conditioning. All buildings will use water heating systems that meet current energy efficiency standards, including instantaneous on-demand hot water systems. The buildings will meet the thermal insulation requirements, of the National Construction Code.

Should consent be granted to the development, the applicant has advised that provision will be made for the installation of photovoltaic panels to provide a portion of the electricity required by the school and childcare centre and their inclusions are to be confirmed through the construction certificate process.

The proposal is considered consistent with the aims and objectives and relevant controls under this section and is considered to be able to achieve an acceptable level of energy efficiency.

Section - 7.06 Stormwater and 7.07 Water Efficiency

The stormwater drainage plan, civil engineering and cut and fill plans have been amended during the assessment in resolving both flooding and drainage concerns raised during the assessment.

The proposed stormwater drainage system for the new development includes measures to remove site generated pollutants and onsite detention tanks designed to control site discharge. The drainage system proposed is considered to meet the requirements of these sections, subject to conditions, if consent was granted to the development application.

Section - 7.08 Waste Management

A Waste Management Plan prepared by Barker Ryan Stewart has been submitted with the application. The Plan addresses demolition, construction, ongoing operational waste management and waste reduction, recycling and disposal.

The proposed school and childcare centre operational waste is to be placed in 660 litre bins for removal by a waste contractor. The location of the waste storage and collection points are provided on plan, with pick up points located on the internal vehicle access driveway.

It is proposed that waste will be removed during the school and childcare centre operating hours and coordinated with both the school and childcare centre to ensure that this does not coincide with peak periods.

In assessing the adequacy of servicing the site, no dedicated service area is being provided on site. It has been indicated that the demands for servicing associated with St James Primary School and the proposed early learning centre are low and can typically be completed by small commercial vehicles such as a van or ute. These vehicles shall utilise designated parking spaces on-site as required.

Waste collection is proposed to occur on-site along the driveway and adjacent to bin storage areas. If the application were to be granted consent, waste management could be addressed by way of conditions of consent.

Section - 7.09 Advertising and Signage

The proposed development includes several building and direction information signs that form part of the application. Further, several existing school signs will be removed from the Vista Street frontage, to provide more integrated signage associated with the school and childcare centre.

The overall signage strategy for the development as follows:

- Sign A – Staff Parking Entry / Exit – 1200mm x 900mm concrete with mounted signage
- Sign B – School pedestrian signage – 1200mm x 900mm rendered wall to match entry signage
- Sign C – EEC and Visitor Parking Entry / Exit – 1200mm x 900mm concrete with mounted signage

The signage that is located and more visible from the public domain include:

- Sign D - Parking and Drop Off entry signage to be located at the vehicle entry point to the site (1200mm x 900mm – illuminated)
- Sign E - Childcare centre (early education centre) and main School identification pylon signage to be located on the front boundary at the entry gate (2100mm x 1200mm – illuminated)
- Sign F - Childcare centre (EEC) building signage (3650mm x 1700mm – wall mounted flush sign mounted on the front facade wall of the centre and illuminated)

The proposed signs are proposed to achieve essential wayfinding, site function and building identification signs. The design has been integrated with the site landscaping and building design and are not considered to pose any adverse aesthetic impact or traffic hazard on the surrounding area and public domain.

It is noted that the DCP generally does not support illuminated and pole / pylon signs within residential zones. However, when considered on merit, given the nature and purpose for the signage and the scale and context of the signage associated with this development, and unlikely adverse impact on surrounding lands, the proposed illuminated signs are considered acceptable in this instance. The signage proposed overall is appropriate for the development and consistent with the requirements of this section.

The applicant proposes that should development be granted approval, full details of the signage would be provided at Construction Certificate stage. Further, should consent be granted conditions of consent restricting the hours of illumination would be required.

Section 8.00 - Public Participation

The application was notified for a period of 14 days from 9 September 2019 to 25 September 2019 in accordance with Section 8 of the DCP and 13 submissions were received.

It is noted that the application was notified prior to the adoption of the City of Newcastle Community Participation Plan, accordingly notification occurred under section 8 of the DCP.

The key issues raised within the submissions have been discussed previously in this report. Comments provided to the concerns raised by the objectors received during the public exhibition process are provided in the table below.

Table 5: Summary and response to issues raised in submissions

Issue	Comment
Traffic, access and parking - increase in traffic congestion, access conflict, insufficient parking provision and impact	As discussed within relevant sections of the report, the proposal is not supported on traffic grounds.

on street parking, road network and pedestrian safety	
<p>Visual privacy impacts – visual privacy and impact of glare from buildings (windows, roofs and building materials)</p>	<p>The proposal will see some of the existing school buildings and infrastructure remain with the expansion focused around these key areas on site. This results in the proposal concentrated along the western boundary (adjoining Styx Creek drain). As such, the proposed development does not result in unacceptable visual privacy impacts upon surrounding residential properties.</p> <p>The design is both single and two storey construction, orientated away from the western boundary (more in-ward facing) with activity spaces opening into a central circulation / courtyard area away from boundaries. The design has incorporated varying articulation, windows and window treatments to assist with maintaining privacy.</p> <p>In addition, upgraded building materials, finishes and appropriate screening devices is seen as a positive in relation to both visual and acoustic privacy. The development is designed to maintain the existing ground level where possible and as it relates to perimeter boundaries, and in particular, the driveway along the western boundary line, assisting with maintaining a reasonable level of visual and acoustic privacy for residential properties across Styx Creek drain.</p> <p>In relation to the potential for glare impacts, the use of batten screens to windows limit glare and the selection of colours and materials can be of low reflectivity.</p> <p>Screening and landscaping treatments will also assist with maintaining a reasonable level of privacy, along with the setbacks from boundaries and also the separation that Styx Creek drain affords (from rear of residential properties to the school western side boundary).</p> <p>The Landscape Plan provided identifies a hedge to be planted along the existing fence line on the western boundary and suggests that sufficient width is available to increase the hedge height to a species suitable for up to 3m high.</p> <p>Should development consent be granted, an amended Landscape Plan should be conditioned, requiring hedging treatment to be extended to suitable species to achieve a minimum 3m height.</p>
<p>Acoustic privacy impacts – school expansion and new childcare centre (inclusive of opening hours for childcare centre), waste bin storage / collection, traffic and parking</p>	<p>Concerns were raised about the expansion of school facilities / student numbers, the addition of a childcare centre on the site and varied operating hours associated with the childcare centre – proposed to open at 6:30am.</p> <p>In considering the variation to hours of operation, the proposal has given due consideration to the Childcare Planning Guidelines and is considered a minor variation and remains acceptable. The Noise Assessment</p>

	<p>submitted with the application demonstrates the proposed operating hours of the centre are consistent with acceptable noise limits.</p> <p>It is recommended if consent were granted, a condition be included limiting servicing / deliveries and waste collection from 7:00am.</p> <p>Existing traffic concerns associated with this development need due consideration when assessing the visual and acoustic privacy impacts that may result from this development, particularly along the western boundary. The conclusions of the traffic assessment reveal that there is significant concern regarding the operational efficiency of the proposed driveway, given access restrictions into the site. Therefore, this raises a potential issue in terms of visual and acoustic amenity impacts due to the likelihood of extended times of vehicle queuing on site, based on the inadequate access and road network in this location.</p> <p>It is recommended if consent was granted, that an operational management strategy be prepared for both the school and childcare centre to ensure students and staff on-site are focused on maintaining a reasonable level of amenity for surrounding residential properties.</p>
Stormwater management and runoff	<p>As discussed within this report, the development is considered to have adequately addressed flooding and stormwater management consistent with Council requirements, subject to recommended conditions if any consent is granted.</p>
Construction management – demolition and construction	<p>Some concerns were raised about construction impacts during construction.</p> <p>If the development were to be granted consent, it is recommended that appropriate conditions be imposed that require a construction management plan be implemented to address noise, dust and other matters such as waste and traffic management. Relevant guidelines and Australian Standards also exist to ensure appropriate construction management is undertaken with any development site.</p> <p>Construction and traffic management would be required to ensure works are carried out in accordance with appropriate legislative and CN requirements.</p>
Exemption from paying contributions	<p>The application sought an exemption from paying contributions on the basis of being a not-for-profit organisation.</p> <p>Refer to assessment detail under Newcastle Section 94A Development Contribution Plan 2009 (Updated 2017) of this report.</p>

	If consent was granted, an appropriate condition requiring the payment of applicable contributions under CN's Development Contribution Plan would be required.
Land contamination	Consideration of land contamination has been discussed in detail SEPP 55 – Remediation of Contaminated Land. The applicant has submitted Preliminary Site Investigations which demonstrate that the site can be made suitable for the proposed development.
Air quality impact	The proposal will generate additional traffic within the site and on surrounding roads, however, the use of any site generates vehicular use both on and off site. Notwithstanding, the proposed development is not considered likely to result in unreasonable air quality impacts.
Loss of vegetation / wildlife	Vegetation will be removed from the site to make way for the upgrade / expansion of school facilities and new childcare centre. In addition, bushfire protection works (APZs) are required to comply with relevant requirements. The application has been submitted with an Arborist Report and BDAR and is considered to have addressed concerns raised and has satisfied the provisions of the SEPP – Vegetation in Non-Rural Areas 2017 subject to recommended conditions and DCP 2012.

Newcastle Section 94A Development Contribution Plan 2009 (Updated 2017)

The application attracts a Section 7.12 (former Section 94A) Contribution pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and in accordance with the former *Newcastle Section 94A Development Contributions Plan*. A contribution of 1% of the cost of development would be payable to Council as determined in accordance with clause 25J of the *Environmental Planning and Assessment Regulation 2000*.

The application includes a request for exemption to the payment of contributions on the basis the development is delivering a community service and undertaken by a not for profit charity.

The proposed development supports an enlargement, expansion and overall increase in the floor area. It will or is likely to, require the provision of or increase the demand for public amenities and public services within the area. The Section 7.12 Local Infrastructure Contributions Plan does not make exemptions for not-for-profit or charitable organisations, therefore a levy of 1% is required to be paid under the Plan.

Should development consent be granted, a condition requiring this contribution be paid as detailed above and consistent with CN's Development Contributions Plans would be required.

5.1.3.4 Planning agreements

No planning agreements are relevant to the proposal.

5.1.3.5 The regulations (and other plans and policies)

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act* and *Regulation 2000*. In addition, compliance with AS 2601 – Demolition of Structures will be included in the conditions of consent for any demolition works.

5.1.3.6 Coastal management plan

No Coastal Management Plan applies to the site or the proposed development.

5.1.3.7 *The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

Impacts upon the natural and built environment have been discussed in this report in the context of relevant State policy, including LEP 2012 and DCP 2012 considerations. However, further discussion on a number of key matters are listed below.

Character, bulk and scale

The built form of the proposed facilities is consistent with the existing character of the school and do not impact on the streetscape. In addition, several older buildings are being removed from the site and will be replaced with modern structures that provide greater visual and acoustic amenity through the use of contemporary materials.

It is acknowledged that the proposed intensification or expansion of facilities on this site are considerable. However, when balanced with the merits of the application, the design and built form remain in keeping with the character of development within the R2 Low Density Residential zone.

The orientation inward-facing design of buildings, whilst concentrated along the western portion of the site in line with the existing school facilities are provided with reasonable separation and setbacks achieved when combined with the adjoining Styx Creek drain. Earthworks across the site proposed to be kept to a minimum to ensure the built form and massing across the site is kept as low as possible and is consistent with the context of the site and intent of the R2 Low Density Residential zone.

Comprehensive landscaping is proposed to provide both compensatory planting for those trees lost to make way for the development and as part of the overall upgrade and amenity for the existing school grounds and school community.

Pedestrian Management

The report on the observation surveys submitted by SECA dated 29 October 2019 mentions that a small percentage of parent's park on surrounding streets or St Phillips church to drop off the kids to school in the morning.

However, during the afternoon pick time, the parents park around the surrounding streets such as Grayson Avenue and Princeton Avenue while students accompanied by the teachers walk toward their parents. Currently Pedestrian footpaths are inconsistent in this location, with pathways typically available to the east of St James Primary School including both sides of Vista Parade and Princeton Avenue. No dedicated pathways are available on Grayson Avenue or on any of the local roads further west as shown in figure 20 below.



Figure 20 - Pedestrian footpath facilities

Further, the development proposes an increase in the demand of on-street parking by 60%, heavily relying on the Grayson Avenue, Casey Avenue and Princeton Avenue south of Vista Parade. Due to lack of proper infrastructure around the area concerns are raised in relation to pedestrian safety.

Visual privacy

The assessment has considered the visual privacy impacts associated with this proposal. Residential properties are located to the south, east and west of the site. The design of buildings has seen a mixture of building design window placement, faced mounted screens and landscaping to minimise privacy impacts.

The existing school is single storey and several proposed new buildings are two-storey. As a result, additional architectural measures have been taken to ensure that privacy impacts are minimised. Vertical louvres proposed for western facing windows to assist in providing privacy as well as to improve energy efficiency. As part of the landscaping proposal, a hedge proposed to a minimum 2m high is to be located along the western side boundary (of the vehicle driveway adjacent to the perimeter fence on Styx Creek). In addition, canopy trees will be planted at certain locations on the eastern side of the driveway to provide further visual softening and relief.

Additional screening on the eastern side of the site is not considered necessary due to the existing vegetation on site as well as the buffer provided by vegetation and the former railway embankment on the adjacent parkland, however this area will be landscaped.

Acoustic privacy

The school and childcare centre will operate on weekdays during daylight hours. They will not operate during weekends and evenings, which are the times when most residents are at home and are most sensitive to acoustic intrusion. There is no change proposed for current arrangements whereby the existing hall (Block G) is currently being used by OOSH from

6:30am to 6:00pm school days and vacation care during the holidays. The hall is also hired out for taekwondo twice a week and on various other occasions for community fundraisers.

The childcare centre will not generate high levels of noise. The school will generate low levels of noise most of the time but will generate higher levels of noise during recess and lunchtimes in particular. Noise generated by adjacent uses are unlikely to disturb the operation of the school and childcare centre.

Noise Assessment reports have been submitted with the application for both the school and childcare centre (Noise Assessment Proposed Alterations to St James School Prepared by Spectrum Acoustics dated July 2019, and Noise Assessment Proposed Early Education Centre Prepared by Spectrum Acoustics August 2019).

The submitted Noise Assessment for the proposed school identifies that there may be marginal increase in received noise at the rear boundary of the most affected residences in Princeton Avenue due to the cumulative noise from the play areas and the proposed childcare centre. This increase would only occur during brief intervals. Overall, there is very little potential for adverse noise impacts and all modelled scenarios satisfy the appropriate assessment criteria.

The submitted Noise Assessment for the proposed childcare centre was determined to have given consideration to appropriate noise assessment criteria for the noise generated from children's activity, mechanical plant and road traffic noise. The Noise Assessment also considered sleep disturbance prior to 7am. The submitted Noise Assessment demonstrates that the noise impacts from play areas, mechanical plant and traffic will not result in adverse acoustic impacts to adjoining residential receivers.

The acoustic impacts of the development is considered to be acceptable, however should consent be granted recommended standard conditions would be required in relation to demolition and construction noise, standard noise restrictions under relevant legislation and written certification confirming all mechanical plant achieves the noise criteria set out in the Noise Assessment reports submitted with the application. Goods and deliveries to the premises and waste collection from the premises is also to be restricted to between 7:00am and 6:00pm, should consent be granted to the development.

Social and Economic Impacts

In principle, the proposal achieves the orderly and economic continuation of use of the land for an educational establishment and introduces a needed community service being a centre-based childcare centre, whilst also aiming to protect the environment and the conservation of native vegetation.

The application includes an Access Design Review detailing that the proposal is capable of compliance with the relevant requirements.

The proposed development could in principle have a positive social and economic impact as it relates to the upgrade and expansion of existing St James Primary school facilities for existing and new students. In addition, the proposal will provide additional centre-based childcare centre facilities, which is close to an educational facility, employment opportunities, public transport and locality residential properties, which require the services provided on site on a daily basis, if not for the existing constraints of the site and local road network.

However, as discussed extensively within this report, the scale and intensity of expansion is not appropriate for this site and its local context, from traffic and parking and resultant adverse impacts of residential amenity within this area.

Overall, the negative adverse impacts on the local road network, road safety and residential amenity within this area, make the scale of proposal on this site, unacceptable having regard to social and economic impacts.

5.1.3.8 *The suitability of the site for the development*

St James Primary School currently operates from the site and has done so for many years. The site is zoned R2 Low Density Residential under the LEP and an educational establishment and centre-based childcare centre are both permissible uses within the zone.

However, given the traffic and parking concerns and constraints of this site's access, local road network and large-scale expansion proposed, the site is not considered suitable for such a scale and intensification of land use. It is considered that the development is an overdevelopment of the site. To adequately respond to the traffic and road network concerns, including resultant residential amenity impacts, the development requires a significant redesign and reduction in scale to address outstanding concerns.

The proposed increase in traffic post development would not be able to be adequately addressed through the implementation of a Traffic Management Plan as suggested by the applicant. Significant upgrades to Vista Parade and the intersections of both Vista Parade / Princeton Avenue and Vista Parade / Grayson Avenue would be required to address the identified traffic and road network concerns. Road widening would form a key element of these upgrades necessitating land acquisition. Council has no plans for upgrade works at this location.

The proposal as it stands, given existing locational constraints is not suitable for the intensification of use proposed without significant adverse impacts on surrounding residential properties, surrounding road network, the public domain and character of the locality.

5.1.3.9 *Any submissions made in accordance with this act or the regulations*

The application was notified in accordance with the Regulations and 13 submissions were received, which have been discussed in detail under Section 8 of the DCP.

5.1.3.10 *The public interest*

The proposed development will result in a significant increase in traffic volumes adversely impacting on road safety and residential amenity factors of the area due to the limited road capacity of Vista Parade. As such, the proposed development is not in the public interest.

6. CONCLUSION

The proposal with current scale of expansion is not an acceptable form of development for this site in this location. The proposal is inconsistent with State policy, namely the ESEPP relating to traffic, parking, and residential amenity. The applicant has not demonstrated that the development is acceptable with respect to impacts to road networks and road safety and is considered an overdevelopment of the site.

The proposal is unacceptable against the relevant heads of consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and is recommended for refusal, based on the draft reasons for refusal contained within **Appendix A**.

7. RECOMMENDATION

- A. That the Hunter and Central Coast Regional Planning Panel, as the consent authority, refuse the development application for the alterations / additions to existing Educational establishment, Childcare centre, associated works and Community Title subdivision (two

into three lots) at 30 Vista Parade Kotara, subject to the draft reasons for refusal set out in **Appendix A**; and

- B. That those persons who made submissions be advised of the determination.