

Assessment report to Sydney Central City Planning Panel

Panel reference: PPSSCC-220

Development application

DA number	SPP-21-00001	Date of lodgement	9 February 2021
Applicant	Simon Ochudzawa		
Owner	Westminster Projects Pty Ltd		
Proposed development	Demolition of existing structures and the construction and operation of a single storey centre-based childcare facility (accommodating 106 children and 17 staff members) with 29 basement and 7 at-grade car parking spaces, and associated retaining walls and landscaping works.		
Street address	54 Westminster Street, Schofields		
Notification period	3 to 16 March 2021 and 25 August to 7 September 2021	Number of submissions	1

Assessment

Panel criteria Section 7, SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> Capital investment value over \$5 million (private infrastructure and community facilities) (the development application originally had a capital investment value of \$5,873,190)
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 Child Care Planning Guideline 2017 Education and Care Services National Regulations 2012 Blacktown City Council Growth Centre Precincts Development Control Plan 2010 Central City District Plan 2018 Blacktown Local Strategic Planning Statement 2020
Report prepared by	Kelly Coyne
Report date	15 December 2021
Recommendation	Approve, subject to deferred commencement consent including conditions listed in attachment 8.

Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal and DA submission material
- 5 Development application plans
- 6 Assessment against planning controls

- 7 Issues raised by the public
- 8 Draft conditions of consent

Checklist

Summary of section 4.15 matters

Have all recommendations in relation to relevant section 4.15 matters been summarised in the Executive summary of the Assessment report?	Yes
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Legislative clauses requiring consent authority satisfaction

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 summarised in the Executive Summary of the Assessment report?	Yes
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Clause 4.6 Exceptions to development standards

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?	Not applicable
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (section 7.24)?	Yes
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Conditions

Have draft conditions been provided to the applicant for comment?	Yes
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1 Executive summary

- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
- potential noise impacts to nearby receivers. This is considered acceptable subject to suitable treatment measures being implemented and adhered to
 - waste collection by a small rigid vehicle, which is considered satisfactory for the proposal
 - a private drainage easement at the rear over the adjoining lot, which will require registration necessitating a deferred commencement consent condition to facilitate this arrangement
 - inadequate stormwater details. It is proposed that provision of acceptable stormwater measure be subject to conditions of consent
 - the removal of 7 trees on site to accommodate the proposed building. This is considered satisfactory and adequate replacement plantings are proposed
 - a variation to the development control plan to enable basement car parking, which is supported.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments have not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3 The application is therefore satisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel approve the application subject to deferred commencement consent including conditions listed in attachment 8.

2 Location

- 2.1 The site is located within the North West Growth Area. The character of the locality is in transition from rural residential to urban.
- 2.2 The site is close to Riverstone High School (to the north) and Schofields Public School (to the south).
- 2.3 It is located approximately 1.5 km north of Schofields Railway Station, approximately 3 km west of Tallawong Metro Station and 5.6 km west of the Rouse Hill Town Centre .
- 2.4 Development in the locality consists of established low density rural residential properties, which are predominately single storey detached dwellings on large lots.
- 2.5 The site is on the southern side of the street with surrounding development including:
- a 2-storey residential dwelling on the northern side of Westminster Street at 57 Westminster Street
 - a single storey residential dwelling adjacent to the eastern site boundary at 58 Westminster Street
 - residential dwellings and vacant land adjacent to the southern site boundary at 4-8 Lambeth Road and 57 to 65 St Albans Road
 - single and 2-storey residential dwellings adjacent the western site boundary at 50A Westminster Street and 10-14 Lambeth Road.
- 2.6 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The land is legally described as Lot C DP 100797, otherwise known as 54 Westminster Street, Schofields.
- 3.2 The site is rectangular in shape with a total area of 2,327 m², frontage of 30.48 m and an average lot depth of 76.57 m.
- 3.3 The site has about a 3 m fall from the north-eastern corner to the south-western corner.
- 3.4 The existing structures on the site comprise a single storey brick dwelling, detached garage and a driveway.
- 3.5 The remainder of the site is predominately grassland with some existing trees and shrubs located towards the Westminster Street frontage and scattered throughout the site.
- 3.6 An aerial image of the site and surrounding area is at attachment 2.

4 Background

- 4.1 The site is zoned R2 Low Density Residential under State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The zoning plan for the site and surrounds is at attachment 3.
- 4.2 An Appeal for DA-19-00496 for the construction of 12 x 2 storey townhouses on the site was dismissed by the Land and Environment Court on 7 October 2020.
- 4.3 The initial application for this development proposal was lodged on 9 February 2021. The application proposed the demolition of existing structures and the construction and operation of a 2 storey centre-based child care facility accommodating 120 children, 20 staff members, 33 basement and 6 at grade car parking spaces and associated retaining walls and landscaping works. The ground floor proposed an administration room, reception, staff room, office, toilets, laundry, kitchen, storage rooms, cleaner's rooms, 2 play rooms to accommodate 30 children for 3-4 years and 30 children for 4-5 years. The first floor proposed an administration room, managers office, staff room, kitchen, laundry, toilets, cot room, storage rooms, 2 play rooms to accommodate 30 children 0-2 years and 30 children for 2-3 years.
- 4.4 We issued a request for additional information letter on 27 April 2021. The main issues raised were: bulk and scale, character/streetscape, 2-storey building having activity rooms proposed on the first floor, accessibility to the first floor and lack of connectivity with outdoor play area, Child Care Planning Guideline issues, drainage issues and waste issues.
- 4.5 As a result, the applicant submitted amended plans on 12 August for a single storey childcare, which is now the subject of this report.
- 4.6 The cost of works has reduced under the amended proposal and so this application no longer meets the criteria for assessment by this Panel. However, the applicant advised that they did not want to withdraw the application and start all over again. The applicant requested we continue this application with an amended proposal but still based on the original value of the application.

5 The proposal

- 5.1 The development application has been lodged by Simon Ochudzawa.
- 5.2 The applicant proposes the construction and use of a childcare centre.
- 5.3 This amended proposal dated 27 April 2021 comprises:
 - demolition of existing structures

- removal of 7 trees (located within the boundary of the site)
 - civil works (including the excavation of the basement carpark) stormwater management and services and utilities connections
 - new landscaping
 - construction of a single storey building for the use centre-based child care facility accommodating 106 children with an on-ground and basement carpark for 36 spaces.
- 5.4 Other details about the proposal are at attachment 4, and a copy of the development plans is at attachment 5.

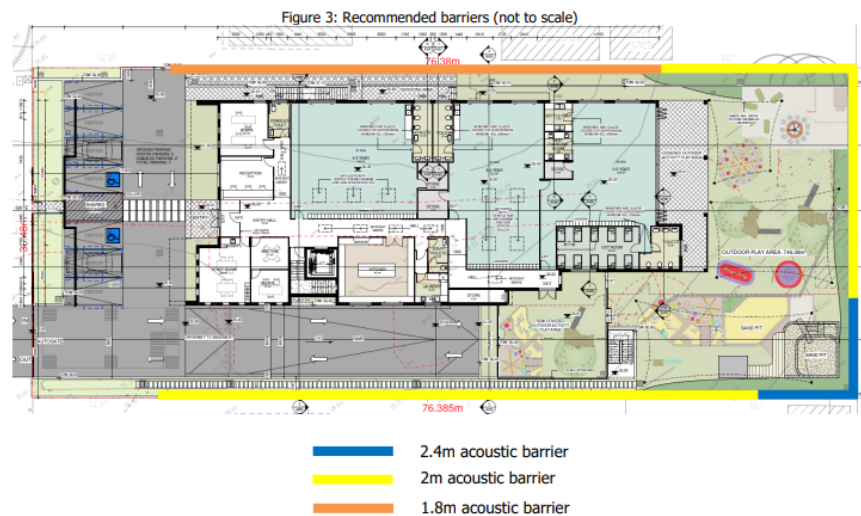
6 Assessment against planning controls

- 6.1 A full assessment of the development application against relevant planning controls is at Attachment 6.

7 Key Issues

7.1 Noise impacts

- 7.1.1 The proposed hours of operation for the childcare centre are 7 am to 7 pm, Monday to Friday.
- 7.1.2 The proposal was accompanied by an Acoustic Report prepared by Acoustic Works. The report presents an assessment of noise emission levels from the various noise sources associated with the proposed childcare centre at nearby receivers.
- 7.1.3 Based on the predicted noise level and subjective assessment of the site and surrounds for the daytime period (7 am to 7 pm, Monday to Friday), noise impacts at the residential receiver locations are predicted to comply with the assessment criteria on the condition the following measures are implemented:
- Use of the outdoor play areas being limited to a maximum of 2 hours in the morning and 2 hours in the afternoon. This is to be implemented through a plan of management.
 - Use of outdoor play areas being restricted to the day period (7 am to 6 pm) only. This is to be implemented through the plan of management.
 - Construction of acoustic barriers to the height and extent shown in Figure 3 below, using either 16 mm thick lapped timber (minimum 40% overlap), masonry, 9 mm fibre cement sheet, Hebel, Perspex, plywood or other materials with a minimum surface density of 10kg/m². The barriers are to be free of gaps and holes.
 - Use of 4 mm thick float glazing with acoustic seals on the windows within the 4-5 year old indoor play area, with windows to be shut during indoor play.



- 7.1.4 To achieve the required internal noise levels for the development, the 4-5 year old indoor play area will require an alternative ventilation system (in line with National Construction Code 2016 requirements and AS1668.2), similar to air-conditioning or mechanical ventilation, to allow doors and windows to be closed.
- 7.1.5 Detailed mechanical plant specifications are yet to be determined, however Acoustic Works recommends that any new mechanical plant is designed to comply with the criteria stated in Section 6.3 of its report. The assessment of the mechanical plant design is to be undertaken by a qualified consultant prior to installation.
- 7.1.6 Our Environmental Health Unit has assessed the potential noise impacts and Acoustic Works' report, and the above recommendations will be required to be implemented as a condition of consent.

7.2 Waste collection

- 7.2.1 Waste collection will be via a private commercial agreement with Veolia. A 6.1 m (maximum size) waste truck will enter the site in a forward direction and then reverse into the loading bay area to service the bin room within the basement. The truck will then exit in a forward direction.
- 7.2.2 The applicant has provided details of a waste service contractor (Veolia) that is capable of servicing the site with a rear lift truck (small rigid vehicle).
- 7.2.3 Waste collection will be restricted to occur outside of the childcare centre's operating times of 7 am to 7 pm in line with the Traffic Report prepared by EB Traffic Solutions Pty Ltd, dated 16 December 2020. Waste collection time will also be conditioned to be in line with the acoustic report recommendation that it be conducted within existing waste collection times of the area. Therefore, the waste will need to be collected before 7 am and this will be imposed as a condition of consent.

7.3 Private drainage easement requires a deferred commencement consent condition

- 7.3.1 The legal point of discharge is to be a private drainage easement at the rear of the site over the adjoining lot.
- 7.3.2 Based on the letter from the applicant's solicitor dated 27 August 2019 this registration appeared imminent.
- 7.3.3 However, we have not yet received any evidence of the registration of the drainage easement and this will form a deferred commencement condition as included at attachment 8.

7.4 Insufficient stormwater details can be conditioned in consent

- 7.4.1 Insufficient information has been provided to enable a proper engineering assessment for the site.
- 7.4.2 Amended stormwater plans are required to be provided to demonstrate the design and specification of the stormwater system for the proposed development are in line with Council's requirements.
- 7.4.3 The required amendments have been conditioned to allow for amended stormwater plans and details to be provided to Council for further review and approval prior to the issue of any Construction Certificate.

7.5 Tree removal

- 7.5.1 An arboricultural impact assessment and tree management plan identifies 11 trees within the site and 2 trees on the adjacent road reserve.
- 7.5.2 Of the 11 trees within the site, 7 are proposed to be removed, 3 retained and 1 preserved and relocated to be integrated into the development at the rear of the site.
- 7.5.3 The landscape plan submitted demonstrates that adequate replacement trees are proposed as part of the development, including:
 - 4 x Pyrus Calleryana 'Chanticleer' (Callery Pear - 10m) planted along the front boundary
 - 18 x Eucalyptus Ficifolia 'Summer Red' (Red Flowering Gum - 5m) planted along the side boundaries
- 7.5.4 In addition, 1 street tree is proposed to be removed and replaced with 2 x Tristania Laurina 'Luscious' (Water Gum - 10m) 35 litre.
- 7.5.5 It is therefore considered that the removal of 7 trees on site and 1 street tree is acceptable as adequate replacement trees are proposed as part of the overall landscaping of the development.

7.6 Variation to development control plan for basement car parking supported

- 7.6.1 A variation is proposed to Section 4.4.2.3 'Access and Parking' of the Blacktown Growth Centres Development Control Plan 2010 relating to childcare centres as it does not permit underground parking in low density residential areas. This childcare centre proposes a basement car park for both staff and visitors/parents.
- 7.6.2 The variation should be supported for the following reasons:
 - Section 3.8 'Traffic, parking and pedestrian circulation' of the Child Care Planning Guideline 2017 (the Guideline) 2017 supports basement car parking.

Car parking within a basement can provide optimum use of the site area and minimise visual impacts. Where basement car parking is provided, design should aim to:

 - locate car park entries behind the building line
 - integrate entries with the overall building façade. Design options include ventilation grills, louvres, screening devices, 'hit and miss' brickwork and similar cladding finishes
 - minimise visual prominence. This can be done by stepping car park levels or using split needs of the centre.
 - Under cl 4.4.2.7.1 of Blacktown City Council Growth Centres Development Control Plan 2010 (see exert below) we are also required to assess the development application against the provisions of Blacktown Development

Control Plan 2015. It is noted that the Blacktown Development Control Plan 2015 does support basement car parking.

4.4.2.7.1 Development Application

Development Consent is required from Blacktown City Council under the Environmental Planning and Assessment (EP&A) Act 1979. Development Applications for child care centres will be assessed against the provisions of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006, SEPP (Educational Establishments and Child Care Facilities) 2017, BCC Growth Centre Precincts Development Control Plan 2010, and Blacktown Development Control Plan 2015, and will also be considered in relation to the merits of the application.

- However, as explained below, there appears to be an error within the Growth Centres Development Control Plan in relation to basement car parking.
- The Growth Centres Development Control Plan in relation to the controls for childcare centres has changed over the years. The main body of the controls under clause 4.4.2 for childcare centres was amended by including a control not supporting basement car parking. This was made effective from 18 December 2017. Prior to that time, basement car parking was not prohibited in the growth centres. There is no explanation or reasoning for this change in the controls. However, as this control is only in the Development Control Plan not the State Environmental Planning Policy (Educational Establishments and Child Care Centres) 2017 it is not a prohibition, more a merit assessment issue.

Further discussions have been held with the Department of Planning, Industry and Environment regarding the background to the inclusion of the control. The Department has indicated that the prohibition of the basement car park is an error and the intent of the changes to the Growth Centres Development Control Plan was to ensure consistency with Blacktown Development Control Plan 2015 which permits basement car parks. It is the opinion of the Department the control should have read 'basement car parks are permitted'.

7.6.3 The proposed basement is considered appropriate as:

- it will minimise the visual impacts of parking within the front setback as the alternative would be increased hard pavement parking within the front setback, which would be visually dominant from the street frontage. The basement will not protrude above ground level
- it will improve the streetscape and make the development more consistent with the character of a R2 Low Density zone rather than having increased hard stand pavement in the front setback for more parking.

7.6.4 The at-grade and basement car park areas will provide sufficient car parking for staff and visitors to the centre. The proposal complies with the required on-site parking requirements.

8 Issues raised by the public

- 8.1 The proposed development was notified to property owners and occupiers in the locality between 3 and 16 March 2021 (original proposal) and between 25 August and 7 September 2021 (amended proposal). The development application was also advertised on Council's website under 'Have your say' and a sign was erected on the site on both occasions.

- 8.2 We received 1 submission from the original notification period.
- 8.3 The issues raised by the resident relate to public safety, existing and potential traffic conditions, potential impacts and implications given the number of childcare centres recently approved or under assessment in the area. A summary of each issue and our response is at attachment 7.
- 8.4 The objection is not sufficient to warrant refusal of the development application.

9 External referrals

- 9.1 The development application was referred to the following external authorities for comment:

Authority	Comments
NSW Police	Acceptable subject to conditions

10 Internal referrals

- 10.1 The development application was referred to the following internal sections of Council for comment:

Section	Comments
Building	Acceptable subject to conditions
Environmental Health Unit	Acceptable subject to conditions
Landscaping	Acceptable subject to conditions
Social Planning	Acceptable subject to conditions
Traffic	Acceptable subject to conditions
Engineering	Acceptable subject to conditions
Drainage	Acceptable subject to conditions

11 Conclusion

- 11.1 The proposed development has been assessed against all relevant matters and is considered to be satisfactory. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. The site is considered suitable for the proposed development subject to conditions.

12 Recommendation

- 1 Approve Development Application SPP-21-00001 subject to a deferred commencement consent including conditions at attachment 8, for the reasons listed below.
 - a The proposal results in an acceptable scale of development for the site and generally complies with the relevant provisions of the applicable planning controls [Section 4.15 (c) of the Environmental Planning and Assessment Act 1979].
 - b The proposed development will not create an adverse environmental impact on existing or future potential adjoining development with regard to visual bulk,

overshadowing, solar access, amenity or privacy impacts [Section 4.15 (b) of the Environmental Planning and Assessment Act 1979].

- 2 Council officers notify the applicant and submitters of the Panel's decision.



Kelly Coyne
Assistant Team Leader



Judith Portelli
Manager Development Assessment



Peter Conroy
Director City Planning and Development