

Attachment 3 – Appendix B - State Environmental Planning Policy (Transport and Infrastructure) 2021 and Child Care Planning Guideline 2021 Assessment

Chapter 3 – Educational Establishments and Child Care facilities

Part 3.3 Early Education and Care Facilities – Specific development controls

Section 3.22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development

The development application for the purpose of a centre-based child care facility was referred to the NSW Department of Education (the “Department”) regarding the shortfall of outdoor space requirements. Calculations were provided to the Department and on the 8 June 2023, the NSW Department of Education (the “Department”) approved the concurrence request regarding the simulated outdoor environment.

The proposal complies with Regulations 107 and 108 of the Education and Care Services National Regulations and therefore no further concurrence is sought or required.

Section 3.23 Centre-based child care facility—matters for consideration by consent authorities

The applicable provisions of the Child Care Planning Guideline have been considered and an assessment against the matters for consideration are provided in the table below.

Section 3.24 Centre-based child care facility in certain zones—additional matters for consideration by consent authorities

The proposal minimises land use conflicts with 6 and 7-storey developments on surrounding land to the west. The proposed is not located on land in a prescribed zone.

Section 3.26 Centre-based child care facility—non-discretionary development standards

The non-discretionary development standards subject of this clause including location, indoor and outdoor space in excess of the regulations, site area and dimensions, and building materials and finishes have not been used as a basis for refusal of this application. The proposal generally complies with the regulations and therefore is recommended for approval.

Section 3.27 Centre-based child care facility—development control plans

The provisions contained in the Cumberland Development Control Plan 2021 pertaining to this clause have not been applied when assessing the proposed development (refer to comments under the ‘Provisions of Development Control Plans’ section of this report).

Child Care Planning Guideline 2021

The SEPP requires consideration of the provisions contained within the Child Care Planning Guideline. Integral to SEPP (Childcare) is the *Child Care Planning Guideline 2021*, which sets benchmarks for the design of the development. An assessment is provided below.

Control	Comment	Compliance
<i>Part 2 Design Quality Principles</i>		
Principle 1 – Context	The proposal is generally adequately designed and responds to and enhances the qualities and identity of the area including adjacent sites, streetscapes and neighbourhood. The proposed multi-level above ground built form is an appropriate response to the locality.	Yes.
Principle 2 – Built form	The proposed multi-storey built form with a flat roof is not out of character with the future emerging character along Great Western Highway. The building may appear box-like in appearance however the architectural treatments and recessed elements	Yes.

	such as the varying building materials and colours create a sense of visual interest at the corner location. The outdoor play areas are an extension of the indoor play rooms and are designed not to be overlooked from adjoining properties.	
Principle 3 – Adaptive learning spaces	The proposal provides satisfactory learning spaces for children and adequate break out areas for the employees.	Yes.
Principle 4 – Sustainability	The proposal relies on mechanical ventilation with its built form. The play room doors may be open at all times to maximise natural ventilation and to receive the prevailing winds year round.	Yes.
Principle 5 – Landscape	The proposed landscaping is considered satisfactory. Screen planting is excluded from calculations of unencumbered outdoor space. Proposed landscaping considered satisfactory and car parking is proposed in the basement levels.	Yes.
Principle 6 – Amenity	The proposal relates well to the internal and external amenity for children, staff and the adjoining properties.	Yes.
Principle 7 – Safety	An evacuation plan has been provided and the evacuation/assembly point to Joyner Street is appropriate within the E3 Productivity Support zone.	Yes.
<i>Part 3 Matters for Consideration</i>		
3.1 Site selection and location <i>C1 Zone Consideration</i> <i>Objective: To ensure that appropriate zone considerations are assessed when selecting a site</i>	<p>Visual and Acoustic Privacy An Acoustic report was submitted to Council and is considered satisfactory subject to conditions including the implementation of the recommendations included within the Acoustic report.</p> <p>Setbacks and siting Setbacks and siting of the building is considered acceptable in the E3 Productivity Support setting and its corner location. The design has incorporated the new site area and splay corner at Joyner Street/Great Western Highway.</p> <p>Traffic and Parking Traffic and parking report submitted and proposed vehicular access and basement car parking considered satisfactory subject to conditions.</p>	<p>Yes.</p> <p>Yes.</p> <p>Yes.</p>
3.1 Site selection and location <i>C2 Site selection</i> <i>Objective: To ensure that the site selected for a proposed child care facility is suitable for the use.</i>	<p>Compatible uses Contextually, existing developments in the surrounding area of the subject site are primarily one-and-two storey dual occupancy and dwelling houses to the north, however Joyner Street is undergoing transition to a higher density built form. For example, the adjoining site to the west, at 102-108 Great Western Highway, is under construction for a 6 and 7 storey residential flat building. The proposed built form with below ground level car parking levels is compatible with the locality.</p> <p>Environmental constraints The site is not affected environmental hazards such as land slip, bushfires or coastal hazards.</p> <p>Contamination Refer to the 'SEPP (Resilience and Hazards) 2021' comments under the 'Environmental Planning Instruments' section under the main body of the report.</p> <p>Site Characteristics The design of the building is suitable for the corner allotment.</p> <p>Drop off areas Suitable areas for pickups and drop offs are within the basement level.</p>	<p>Yes.</p> <p>Yes.</p> <p>Yes, subject to conditions.</p> <p>Yes.</p> <p>Yes.</p>

	Restricted Premises The site is not located in proximity to any restricted premises or places of incompatible social behaviour.	Yes.
3.1 Site selection and location <i>C3 Site location</i> <i>Objective: To ensure that sites for child care facilities are appropriately located.</i>	The mixed-use development site is located within a E3 Productivity Support Zone and is nearby compatible social uses such as schools, public reserves, places of public worship, Parramatta CBD and shopping centre and public transport.	Yes.
3.1 Site selection and location <i>C4 Avoidance of hazards</i>	The site is located approximately 250 metres from a service station (trading as 'BP'), 149 Great Western Highway, Mays Hills, at the corner of Great Western Highway and Robilliard Street. Notwithstanding, a hazardous material survey report, dated 28 November 2022 and prepared by Geotechnical Consultants Australia Pty Ltd was provided. In review of the report, Council's Environmental Health Unit has recommended contamination-related conditions to be imposed within any development consent issued.	Yes.
3.2 Local character, streetscape and the public domain interface <i>C5 Compatible character and streetscape</i> <i>Objective: To ensure that a child care facility is compatible with the local character and surrounding streetscape.</i>	Design The contemporary design of the child care centre contributes positively to the locality. Whilst not providing a tiled roof form which would be similar to adjoining built form, the proposed design creates a sense of visual interest to its corner location along the Joyner Street/Great Western Highway streetscapes. The design and architectural treatment responds to the emerging contemporary character with flat roof design. The simulated outdoor play areas does not result in a development that is excessive in bulk and scale when viewed from the adjoining properties or the public domain. The proposal is built to the western boundary as per the desire built form along the Great Western Highway and provides adequate provisions between the building and its new boundaries that contributes or respond to the streetscapes. The proposed basement car parking levels are integrated within the building and contributes to a desired future character of Joyner Street/Great Western Highway streetscapes.	Yes.
3.2 Local character, streetscape and the public domain interface <i>C6 Public and Private Spaces</i> <i>C7 Multiple Entries</i> <i>C8 Parks and open spaces</i> <i>Objective: To ensure clear delineation between the child care facility and public spaces.</i>	Play Space A landscape buffer and acoustic barriers on each level of the simulated outdoor play spaces ensures is no interface with the public domain with any of the outdoor play areas. Fencing The simulated outdoor play space levels do not abut a property boundary. The plans as submitted shows adequate landscaping around the perimeter of the site to integrate the acoustic balustrade/fencing into the landscaping. Multiple Entries Multiple pedestrian entries to the child care facility are proposed to/from Joyner Street and the Great Western Highway. However, the main access to the lift from Great Western Highway. The pedestrian entry is separate to the vehicle entry driveway and lift access. Parks and open spaces	Yes. Yes, subject to conditions. Yes, subject to conditions. N/A.

	The site does not adjoin a public park.	
3.2 Local character, streetscape and the public domain interface <i>C9 Front Fencing</i> <i>C10 Fencing on Classified Roads</i>	Front fencing The facility is accessible from the ground floor with a clear access point from the street. There is no interface with the public domain as the facility occupies levels 1-5. Fencing on Classified Roads The fencing and interface along Great Western Highway is suitable. There are no high acoustic fencing proposed along the Great Western Highway.	Yes. Yes.
3.3 Building orientation, envelope, building design and accessibility <i>C11 Building Layout</i> <i>Objective: To respond to the streetscape and site, while optimising solar access and opportunities for shade.</i>	Visual privacy and acoustic privacy The proposed development is considered to maintain both acoustic and visual privacy and includes upper levels partially enclosed play areas. The development includes acoustic barriers/fences along the north elevations across all levels of the outdoor play areas to mitigate noise and minimise visual privacy to adjoining properties. Solar Access Adequate solar access is provided within the site. There are no adjoining properties to the south. Cut and Fill The extent of excavation and landfill is not excessive and not beyond the building footprint. Refer to comments under Clause 6.2 of the Cumberland LEP 2021.	Yes. Yes. Yes.
3.3 Building orientation, envelope, building design and accessibility <i>C12 Scale</i> <i>Objective: To respond that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised.</i>	The child care centre is consistent in terms of building height with existing developments and is of an appropriate scale.	Yes.
3.3 Building orientation, envelope, building design and accessibility <i>C13 Front Setback</i> <i>C14 Side and Rear Setbacks</i> <i>Objective: To respond that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised.</i>	The site is located on a corner location within the E3 Productivity Support Zone where side and rear setbacks for a dwelling house does not apply. The prevailing setback along the Great Western Highway is nil to 3 metres. The proposal provides a 3m-4.1m built form setback to both front setbacks which is satisfactory and complies with the DCP controls. The basement level setback has a nil setback to the new Great Western Highway frontage and the Joyner Street boundary which is acceptable as there are no privacy impacts or conflicts within the public domain. The built form is consistent with the emerging character of Mays Hill and Westmead.	Yes.

<p>3.3 Building orientation, envelope, building design and accessibility</p> <p><i>C15 Entry</i> Objective: To ensure that buildings are designed to create safe environments for all users.</p>	<p>Pedestrian entry to the child care centre is from the Great Western Highway. Vehicular access to the building is from Joyner Street with no direct access to the child play areas.</p>	<p>Yes.</p>
<p>3.3 Building orientation, envelope and design</p> <p><i>C16 Accessibility</i> Objective: To ensure that child care facilities are designed to be accessible by all potential users.</p>	<p>An Access Report was submitted with the development application and accessibility is considered satisfactory. Accessible parking space and bathrooms provided and lift access throughout the building.</p>	<p>Yes.</p>
<p>3.4 Landscaping</p> <p><i>C17 Landscaping</i> <i>C18 Car park landscaping</i></p> <p>Objective: To provide landscape design that contributes to the streetscape and amenity.</p>	<p>The proposed landscaping is considered satisfactory. Screen planting excluded from calculations of unencumbered outdoor space.</p> <p>The proposed landscaping considered satisfactory and car parking is proposed in the basement car parking levels.</p>	<p>Yes, subject to conditions.</p>
<p>3.5 Visual and Acoustic Privacy</p> <p><i>C19 Balconies</i> <i>C20 Overlooking from public space</i> <i>C21 Overlooking from public space</i> <i>C22 Acoustic privacy</i> <i>C23 Acoustic consultant</i></p> <p>Objective: To protect the privacy and security of children attending the facility.</p> <p>Objective: To minimise impacts on privacy of adjoining properties.</p> <p>Objective: To minimise the impact of child care facilities on the acoustic privacy of neighbouring</p>	<p>Balconies No residential land use is proposed. There are no open balconies that overhang the simulated outdoor play spaces.</p> <p>Overlooking from public space The acoustic balustrades are designed to be 1.8m in height. There is no overlooking to or from the public domain.</p> <p>Acoustic privacy The submitted Acoustic report includes a recommendation which is achievable and realistic. Mechanical details subject to conditions in development consent.</p> <p>Acoustic Consultant Noise Impact Assessment Report submitted was prepared by a suitably qualified acoustic professional which provides recommendations which are conditioned to be implemented on site. Application has been reviewed by Council's Environmental Health Unit who advised the proposal is considered satisfactory subject to conditions.</p>	<p>N/A.</p> <p>Yes</p> <p>Yes, subject to conditions.</p> <p>Yes, subject to conditions.</p>

<i>residential developments</i>		
3.6 Noise and air pollution C24 Noise attenuation measures from centre C25 Noise attenuation from external sources C26 Air pollution C28 Air quality report Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels.	<p>Noise attenuation measures from centre Noise Impact Assessment Report submitted was prepared by a suitably qualified acoustic professional which provides recommendations which are conditioned to be implemented on site. Application reviewed by Council's Environmental Health Unit and is considered satisfactory subject to conditions.</p> <p>Noise attenuation from external sources The site adjoins the Great Western Highway to the south and it is noted all openings between the indoor and outdoor play areas are orientated to the north, away from the noise source.</p> <p>Air Pollution Mechanical ventilation and exhaust extract ventilation stacks are shown on the plans.</p> <p>Air Quality Report An air quality assessment report was submitted and considered satisfactory.</p>	<p>Yes.</p> <p>Yes.</p> <p>Yes.</p> <p>Yes.</p>
3.7 Hours of operation	The proposed hours of operation are 7:00am till 7:00pm on weekdays. No operations on weekends or public holidays.	Yes, subject to conditions.
3.8 Traffic, parking and pedestrian circulation	<p>Parking Rates Car parking rates are generally measured as a function of capacity, that is, spaces per number of children and staff. Adequate car parking for 47 vehicles in total are provided within the basement levels.</p> <p>Parking in non-residential zones The site is located wholly within the E3 Productivity Support zone.</p> <p>Traffic and Parking Study A Traffic and Parking Impact Assessment Report was submitted in support of the application, which are considered satisfactory subject to conditions.</p> <p>Alternate Vehicle Access The site proposes alternative vehicle access requirement from Joyner Street and not Great Western Highway</p> <p>Cul-de-sacs or narrow lanes/roads Joyner Street is a local road which is accessible from Great Western Highway and/or Amos Street.</p> <p>Pedestrian Environment Pedestrian access is separate from the vehicular access. The proposed facility does not include a loading area. It is considered that, given the nature of the use, delivery trucks would not be servicing the site. Vehicles can enter and exit the site in a forward manner. Sight lines conditioned to comply with standards.</p> <p>Mixed Use access The proposal is a mixed use development with separate parking levels for the business/office premises.</p> <p>Car Park Design The car parking basement levels and its layout are considered satisfactory subject to conditions of consent. Accessible space provided with lift access from the basement levels to levels 1-5.</p>	<p>Yes, subject to condition.</p> <p>N/A.</p> <p>Yes.</p> <p>Yes.</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Part 4 Applying the National Regulations to development proposals		
4.1 Indoor Space requirements	<p>The proposal requires a minimum of 494 square metres of unencumbered indoor space for 152 children.</p> <p>The architectural plans indicate that 533 square metres of indoor space for 152 children is available across 8 rooms.</p> <p>Based on the Council's calculation of unencumbered indoor space, as per Section 107 of the <i>Education and Care Services National Regulations</i>, the facility provides an unencumbered indoor space of 526 square metres. This calculation comprises of:</p> <ul style="list-style-type: none"> Indoor play room 1 - 0-2 years (x 16) = 65.5 square metres - complies Indoor play room 2 - 2-3 years (x 20) = 65 square metres - complies Indoor play room 3 - 0-2 years (x 16) = 65.5 square metres - complies Indoor play room 4 - 2-3 years (x 20) = 65 square metres - complies Indoor play room 5 - 3-4 years (x 20) = 65 square metres - complies Indoor play room 6 - 3-4 years (x 20) = 67.5 square metres - complies Indoor play room 7 - 4-6 years (x 20) = 65 square metres - complies Indoor play room 8 - 4-6 years (x 20) = 67.5 square metres - complies <p>As per Section 107 of the <i>Education and Care Services National Regulations</i>, the facility provides an unencumbered indoor space of 526 square metres which complies for 152 children.</p>	Yes.
4.1 Indoor Space requirements Storage The <i>Child Care Planning Guideline</i> recommends that some storage should be provided in spaces where children can access it independently.	<p>The following minimum internal storage space is recommended (30.4 cubic metres) for 152 children:</p> <ul style="list-style-type: none"> Room 1 - 0-2 years (x 16) = 3.9 cubic metres provided (3.2 cubic metres required) - complies Room 2 - 2-3 years (x 20) = 3.6 cubic metres provided (4 cubic metres required) - does not comply Room 3 - 0-2 years (x 16) = 3.9 cubic metres provided (3.2 cubic metres required) - complies Room 4 - 2-3 years (x 20) = 3.6 cubic metres provided (4 cubic metres provided) - does not comply Room 5 - 3-4 years (x 20) = 3.4 cubic metres provided (4 cubic metres required) - does not comply Room 6 - 3-4 years (x 20) = 3.1 cubic metres provided (4 cubic metres required) - does not comply Room 7 - 4-6 years (x 20) = 3.4 cubic metres provided (4 cubic metres required) - does not comply Room 8 - 4-6 years (x 20) = 3.1 cubic metres provided (4 cubic metres required) - does not comply <p>In this instance, the submitted architectural plans do not indicate the dimensions of the internal storage area or the openings to indoor storage for children. Across the rooms there is inadequate overall total internal storage of 28 cubic metres.</p>	No, but acceptable.

	<p>The variation to the internal storage spaces is considered acceptable as the floor-to-ceiling height across all levels is 3m and there is an adequate mixture of safe shelving to each of the 8 internal play rooms and storage of items such as prams, bikes and scooters adjacent to the lift lobby foyer/area on each level.</p> <p>The following minimum external storage space is recommended (45.6 cubic metres) for 152 children:</p> <ul style="list-style-type: none"> • First floor simulated outdoor play area (x 36) = 13.5 cubic metres provided (10.8 cubic metres required) - complies • Second floor simulated outdoor play area (x 36) = 13.5 cubic metres provided (10.8 cubic metres required) - complies • Third floor simulated outdoor play area (x 40) = 12 cubic metres provided (12 cubic metres required) - complies • Fourth floor simulated outdoor play area (x 40) = 13.5 cubic metres provided (10.8 cubic metres required) - complies <p>Overall, there is adequate external storage areas of 51 cubic metres. In this instance, the submitted architectural plans do not indicate the dimensions of the external storage areas. However, openings to the external storage are shown on the plan and there is space for adequate external storage.</p>	Yes.
4.2 Laundry and hygiene facilities	The architectural plans show laundry details indicating double sink, bench and 2 washing machines/dryers. It is also noted that the laundry is located on the upper-most level (6 th storey). Opportunities to provide dryer and storage space for soiled items to the laundry can be provided.	Yes.
4.3 Toilet and hygiene facilities	The architectural plans show the bathrooms all have openings which increase the size and usability of the bathrooms. Opportunities for external/internal windows to allow for staff supervision can be incorporated into the design of the toilet and hygiene facilities.	Yes.
4.4 Ventilation and natural light	The floor-to-ceiling height range from 2.7m-3m and are satisfactory. All play areas are provided with sufficient direct and indirect daylight and are provided with satisfactory cross-ventilation. A condition is imposed for the proposal to comply with the National Construction Code requirements.	Yes, subject to conditions.
4.5 Administrative space	Each level has a foyer from the lift where a sign-in tablet will be affixed to a wall within the lift foyer. The upper-most storey provides an administration room, kitchen, consultation room and a staff/meeting room. Adequate provisions for temporary pram storage are provided within the ground floor entry corridor.	Yes, subject to conditions.
4.6 Nappy change facilities	<p>Adequate nappy change areas are provided for the 0-3 age group indoor play areas 1 and 2 on the first floor level.</p> <p>A condition of consent is imposed to ensure that the Child care facility complies with the requirements for nappy changing and bathing facilities as per the National Construction Code.</p>	Yes, subject to conditions.
4.7 Premises designed to facilitate supervision	Adequate bathrooms details are provided to indicate that these spaces could be appropriately supervised. A condition for compliance with this National Construction Code requirement will be imposed.	Yes, subject to conditions.
4.8 Emergency and evacuation procedures	An emergency evacuation plan is provided. The mobility of children and how this is to be accommodated during an evacuation is adequate.	Yes, subject to conditions.
4.9 Outdoor space requirements	The proposal requires a minimum of 1,064 square metres of unencumbered outdoor space for 152 children.	Yes.

<p>Section 108 of the <i>Education and Care Services National Regulations</i> provides a guide to calculating unencumbered outdoor space as following:</p> <p>(3) <i>In calculating the area of unencumbered outdoor space required, the following areas are to be excluded—</i></p> <p>(a) <i>any pathway or thoroughfare, except where used by children as part of the education and care program;</i></p> <p>(b) <i>any car parking area;</i></p> <p>(c) <i>any storage shed or other storage area;</i></p> <p>(d) <i>any other space that is not suitable for children.</i></p>	<p>The architectural plans indicate that 1,114 square metres of floor area for 152 children is available, however this calculation <i>includes</i> portions of the columns, areas excluded by the acoustic consultant's barrier recommendations and areas unsuitable to children.</p> <p>Based on the Council's calculation of unencumbered indoor space, as per Section 108 of the <i>Education and Care Services National Regulations</i>, the facility provides an unencumbered outdoor space of 1,109.5 square metres. This calculation comprises of:</p> <ul style="list-style-type: none"> • First floor simulated outdoor play area = 271 square metres – complies • Second floor simulated outdoor play area = 264 square metres – complies • Third floor simulated outdoor play area = 294 square metres – complies • Fourth floor simulated outdoor play area = 280.5 square metres – complies <p>The NSW Department of Education reviewed the proposal and on the 8th June 2023 approved the concurrence request noting that <i>"...both indoor and outdoor play spaces provided is sufficient for the intended number of children."</i> NSW Department of Education also noted the simulated outdoor play areas provide adequate natural light and ventilation. As per Section 108 of the <i>Education and Care Services National Regulations</i>, the facility provides an unencumbered outdoor space of 1,109.5 square metres, which complies overall for 152 children.</p>	
<p>4.10 Natural Environment</p>	<p>Facilities are proposed within the outdoor play area that will allow children to explore and experience the natural environment including:</p> <ul style="list-style-type: none"> - sand pits; - artificial grass; - kitchen play area; - timber decking; - climbing mounds; - water play areas; - shade sails; and - soft-fall space. <p>The natural environment materials such as sand, plants, large rocks etc. need to be present as per Section 113 of the <i>Education and Care Services National Regulations</i>. Notwithstanding the elements included in the unencumbered space complies with Section 108 of the <i>Education and Care Services National Regulations</i> as noted above.</p>	<p>Yes.</p>
<p>4.11 Shade</p>	<p>The submitted shadow diagrams and 3D sun view diagrams illustrate the shadows cast by the proposal during the winter solstice. The shadowing and shadow diagrams are satisfactory.</p> <p>Shade sails are not required on levels 1, 2, 3 and 4 as they are underneath the building slab and as Level 4 outdoor play space is partially covered there are adequate areas of shading outdoor spaces. Outdoor play areas have year-round solar access to at least 30% to each level, as no more than 60% of the outdoor space on each level are covered by shade sails or the levels above.</p>	<p>Yes</p>

	Council's assessment identified the outdoor spaces receive adequate opportunities for direct solar access year-round as these are located to the north and east of the building.	
4.12 Fencing	As there is no western side setback as the building is built to the boundary and the facility is located above ground, there are no opportunities for insufficient fencing or areas where adverse safety issues arise. Architectural plans and Noise Impact Assessment report demonstrate adequate fencing and landscaping around the perimeter of the simulated outdoor play areas.	Yes
4.13 Soil Assessment	The Preliminary and Detailed Site Investigation reports submitted with the development application concluded that the site requires the implementation of a Remediation Action Plan for it to be considered suitable for the on-going use as a child care centre. Council's Environmental Health Unit has assessed the reports and consider the findings and recommendations satisfactory subject to conditions.	Yes