

Appendix A
State Environmental Planning Policies (Assessment Tables)

State Environmental Planning Policy (Transport and Infrastructure) 2021 -
Chapter 3 - Education Establishments and Child Care Facilities

Relevant Control		Compliance with Requirements	Compliance
<i>Part 3 Early education and care facilities specific development controls.</i>			
Requirement	<p>3.22 Centre-based childcare facility -concurrence of Regulatory Authority required for certain development</p> <p>(1) This clause applies to development for the purpose of a centre-based childcare facility if:</p> <p>(a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or</p> <p>(b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.</p> <p>(2) The consent authority must not grant development consent to development to which this clause applies except with the concurrence of the Regulatory Authority.</p> <p>(3) The consent authority must, within 7 days of receiving a development application for development to which this clause applies:</p> <p>(a) forward a copy of the development application to</p>	<p>There are 115 children to be placed within the childcare centre. A minimum of 367.25 square metres of indoor space would be required (Or 3.25 square metres per child). The centre is provided with 392.62 square metres of unencumbered indoor play space.</p> <p>At least 7 square metres of outdoor space per child is required. As such, at least 791 square metres of space would be required.</p> <p>There is a total of 819.84 square metres of unencumbered outdoor play space provided within the centre.</p> <p>Compliance is achieved.</p> <p>Concurrence is not required if compliance is achieved.</p>	<p>Yes</p> <p>Yes</p>

	<p>the Regulatory Authority, and</p> <p>(b) notify the Regulatory Authority in writing of the basis on which the Authority's concurrence is required and of the date it received the development application.</p> <p>(4) In determining whether to grant or refuse concurrence, the Regulatory Authority is to consider any requirements applicable to the proposed development under the Children (Education and Care Services) National Law (NSW).</p> <p>(5) The Regulatory Authority is to give written notice to the consent authority of the Authority's determination within 28 days after receiving a copy of the development application under subclause (3).</p> <p><u>Note.</u></p> <p><i>The effect of section 4.13(11) of the Act is that if the Regulatory Authority fails to inform the consent authority of the decision concerning concurrence within the 28 day period, the consent authority may determine the development application without the concurrence of the Regulatory Authority and a development consent so granted is not voidable on that ground.</i></p> <p>(6) The consent authority must forward a copy of its determination of the development application to the Regulatory Authority within 7</p>	
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	<p>days after making the determination.</p> <p>(7) In this clause:</p> <p>Regulatory Authority means the Regulatory Authority for New South Wales under the Children (Education and Care Services) National Law (NSW) (as declared by section 9 of the Children (Education and Care Services National Law Application) Act 2010).</p> <p><u>Note.</u></p> <p><i>Concurrence to development may be granted subject to conditions. A development consent subject to concurrence may be voidable if it is granted not subject to any conditions of the concurrence. (See section 4.13 of the Act.)</i></p>		
	<p>3.23 Centre-based childcare facility—matters for consideration by consent authorities</p> <p>Before determining a development application for development for the purpose of 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.</p>	The Guideline has been used in the assessment of the development application.	Yes
	<p>3.24 Centre-based childcare facility in certain zones - additional matters for consideration by consent authorities</p> <p>(1) The object of this section is to minimise land use conflicts with existing developments on surrounding land and to ensure the safety and health of people using or visiting a centre-based</p>	The site is within a Local Centre zone which is considered suitable to support a Centre based Child Care facility.	Yes

	<p>childcare facility on land in a prescribed zone.</p> <p>2) The consent authority must consider the following matters before determining a development application for development for the purpose of a centre-based child care facility on land in a prescribed zone—</p> <ul style="list-style-type: none"> • whether the proposed development is compatible with neighbouring land uses, including its proximity to restricted premises, sex services premises or hazardous land uses, • whether the proposed development has the potential to restrict the operation of existing industrial land uses, • whether the location of the proposed development will pose a health or safety risk to children, visitors or staff. <p>(3) The matters referred to in subclause (2) are in addition to any other matter that the consent authority must consider before determining a development application for development for the purpose of a centre-based childcare facility.</p>		
	<p>3.25 Centre based child care facility floor space ratio</p> <p>(1) Development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1.</p>	<p>The Cumberland Local Environmental Plan 2021 does not set a floor space ratio for centre based child care centres. The subject site is not located with an R2 low Density Residential Zone.</p>	<p>N/A</p>

	<p>(2) This section does not apply if another environmental planning instrument or a development control plan sets a maximum floor space ratio for the centre-based child care facility.</p>	<p>The CLEP 2021 sets a FSR for the site, in which the proposal exceeds the allowable permissible.</p> <p>A Clause 4.6 has been provided to vary the Floor Space Ratio Development Standard. This is addressed in the main body of the report.</p>	
	<p>3.26 Centre-based child care facility—non-discretionary development standards</p> <p>(1) The object of this clause is to identify development standards for particular matters relating to a centre-based childcare facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.</p> <p>(2) The following are non-discretionary development standards for the purposes of section 4.15(2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based childcare facility:</p> <p>(a) location—the development may be located at any distance from an existing or proposed early education and care facility,</p> <p>(b) indoor or outdoor space</p> <p>(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the</p>	<p>The site is located within a Local Centre zone. At the time of assessing the application, the distance to the nearest child care centre within the suburb is not known.</p> <p>No issues are raised to the site or location.</p> <p>Based on 115 children to be placed within the childcare centre. A minimum of 367.25 square metres of indoor space would be required (Or 3.25 square metres per</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p>Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or</p> <p>(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,</p>	<p>child). The centre is provided with 392.62 square metres of unencumbered indoor play space.</p> <p>At least 7 square metres of outdoor space per child is required. As such, at least 791 square metres of space would be required.</p> <p>There is 819.84 square metres of unencumbered outdoor play space provided within the centre</p>	<p>A detailed assessment is outlined under this table regarding the unencumbered outdoor play space.</p>
	<p>(c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,</p>	<p>The combined site area is 1668 square metres and a frontage of 44.58metres</p>	<p>Yes</p>
	<p>(d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</p> <p>(3) To remove doubt, this clause does not prevent a consent authority from:</p> <p>(a) refusing a development application in relation to a matter not specified in subclause (2), or</p> <p>(b) granting development consent even though any standard specified in subclause (2) is not complied with.</p>	<p>The building materials and colours are determined as being satisfactory for a building located within a heritage conservation area.</p>	<p>Yes</p>

	<p>3.27 Centre-based child care facility—development control plans</p> <p>(1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility:</p> <ul style="list-style-type: none"> (a) operational or management plans or arrangements (including hours of operation), (b) demonstrated need or demand for child care services, (c) proximity of facility to other early education and care facilities, (d) any matter relating to development for the purpose of a centre-based child care facility contained in— <ul style="list-style-type: none"> (i) the design principles set out in Part 2 of the <i>Child Care Planning Guideline</i>, or (ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates). <p>(2) This section applies regardless of when the development control plan was made.</p>	The childcare centre is satisfactory.	Yes
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Level 1

- Indoor area

<i>Indoor playroom</i>	<i>Child age ratio/staff Nos</i>	<i>Unencumbered Floor area (sqm)</i>
Playroom 1	1-2 years (5 staff)	65.08 sqm
Playroom 2	0-1 years (5 staff)	65.32 sqm
Playroom 3	2-3 years (4 staff)	66.27 sqm

- Outdoor area

<i>Outdoor play area</i>	<i>Child age ratio</i>	<i>Unencumbered Floor area (sqm)</i>
Outdoor play area 1	0-2 years (40 children) ~ (37 Children)*	280.24 sqm – 15.8 sqm (area to be setback) = 264.44 sqm*
Outdoor play area 2	2-3 years (20 children)	140.73 sqm

Level 2

- Indoor area

<i>Indoor playroom</i>	<i>Child age ratio/staff Nos</i>	<i>Unencumbered Floor area (sqm)</i>
Playroom 4	2-3 years (4 staff)	65.05 sqm
Playroom 5	3-5 years (2 staff)	65.90 sqm
Playroom 6	3-5 years (2 staff)	65 sqm

- Outdoor area

<i>Outdoor play area</i>	<i>Child age ratio</i>	<i>Unencumbered Floor area (sqm)</i>
Outdoor play area 3	3-5 years (40 children) ~ (38 Children)*	288.15 sqm – 16 sqm (area to be setback) = 272.15 sqm*

*Further to the above, as the building on the first and second floor requires to be setback as per the original proposal (i.e. a setback of 4.765 metres from the western boundary) in accordance with the recommendation made by Council's Heritage Consultant. This has resulted in the number of children being reduced in order to meet the unencumbered outdoor area as per Regulation 108 of the Education and Care Services National regulations. The total number of children will be reduced by 5 to a total child care placement of 115.

State Environmental Planning Policy (Precincts Central River City) 2021 -
Chapter 6, Part 6.2 Potential urban renewal project, sub-part 6.8 Development in potential precincts.

Relevant Control	Compliance with Requirement	Satisfactory
(1) This section applies to a development application to carry out development on land that comprises all or part of a potential precinct if the proposed development is or involves subdivision, or has an estimated development cost of more than \$5 million, and is not exempt or complying development.	The proposed development has accost of works greater than \$5 million, and therefore this section applies to the application.	Noted.
(2) The consent authority must not grant development consent unless it is satisfied that the proposed development is consistent with the objective of developing the potential precinct for the purposes of urban renewal.	Noted. This is addressed below.	Yes
<p>(3) For the purposes of subsection (2), the consent authority is to take into account whether or not the proposed development is likely to restrict or prevent the following—</p> <ul style="list-style-type: none"> (a) development of the potential precinct for higher density housing or commercial or mixed development, (b) the future amalgamation of sites for the purpose of any such development within the potential precinct, (c) access to, or development of, infrastructure, other facilities and public domain areas associated with existing and future public transport in the potential precinct. 	The proposed development is not considered to restrict or prevent the future redevelopment of adjoining sites. The adjoining sites to the west are listed as heritage items and within a Heritage Conservation Area. There redevelopment will be dependent on impacts to the Heritage Items.	Yes

<p>(4) This section does not apply to a development application to the extent that it involves subdivision for the purpose only of any one or more of the following—</p> <ul style="list-style-type: none"> (a) widening a public road, (b) a minor realignment of boundaries that does not create— <ul style="list-style-type: none"> (i) additional lots or the opportunity for additional dwellings, or (ii) lots that are smaller than the minimum size permitted under an environmental planning instrument applicable to the land concerned, (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings, (d) rectifying an encroachment on a lot, (e) creating a public reserve, (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets. 	Noted.	N/A
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State Environmental Planning Policy (Sustainable Buildings) 2022 -

Chapter 3 – Standards for non-residential development

Sub-part 3.2 Development consent for non-residential development.

Relevant Control	Compliance with Requirement	Satisfactory
<p>(1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—</p> <ul style="list-style-type: none">(a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,(b) reduction in peak demand for electricity, including through the use of energy efficient technology,(c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,(d) the generation and storage of renewable energy,(e) the metering and monitoring of energy consumption,(f) the minimisation of the consumption of potable water.	<p>A NABERS Embodied emissions materials from completed by a Quantity Surveyor has been lodged with the application.</p>	Yes
<p>(2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.</p>	<p>The embodied emissions attributable has been quantified by a Quantity Surveyor.</p>	Yes