



Education

Planning Ref: DA23/0196

Our Ref: CORP24/30115

Evan Phillips  
SUTHERLAND SHIRE COUNCIL  
ephillips@ssc.nsw.gov.au

Dear Mr Phillips

**Notice of concurrence**

Section 22(5) of the *State Environment Planning Policy (Educational Establishments and Childcare Facilities) 2017*  
(*the SEPP*)

On 29 February 2024, the NSW Department of Education (the “Department”) received your referral for the development application described below:

Application Number: DA23/0196

Property: 39 Willarong Road CARINGBAH NSW 2229

**Reason for Referral**

The development application for the purpose of centre-based child care facility was referred to the Department under section 22 of the SEPP which states:

- (1) *This clause applies to development for the purpose of a centre-based child care facility if:*
- (a) *the floor area of the building or place does not comply with clause 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations*
  - (b) *the outdoor space requirements for the building or place do not comply with clause 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations.*

**EARLY CHILDHOOD EDUCATION**

Locked Bag 5107 Parramatta NSW 2124

T 1800 619 113 F 02 8633 1810 E [ececd@det.nsw.edu.au](mailto:ececd@det.nsw.edu.au) [www.dec.nsw.gov.au](http://www.dec.nsw.gov.au)

## Decision

Following review of the development application the Department has determined that a concurrence is not applicable.

The applicant has indicated that they intend to care for up to 108 children. Plans provided demonstrate that there is a total of 386m<sup>2</sup> of unencumbered indoor space and 826m<sup>2</sup> of unencumbered outdoor space. Based on the plans and calculations provided there is no need to simulate any space, as there is sufficient natural outdoor and indoor space for the intended number of children.

We note the concerns of the council regarding the roof void being of a commensurable size of the outdoor space to achieve adequate solar access and ventilation. However, in this proposal the applicant has not provided any simulated outdoor space. Therefore, there is no requirement for concurrence on this application.

This decision is based on the plans and assessment report provided on 4 April 2024, including the calculations provided by the applicant, and the stipulation that the space meets the requirements of the National Regulations and The Department of Planning and Environment's Child Care Planning Guideline at the time of completion.

Service approval, any relevant waivers and the number of children allowed will be determined on the final fit out and completion of the space.

## Service approval

A person may not operate an education and care services, as defined by the National Law or the *Children (Education and Care Services) Supplementary provisions Act 2011*, unless they hold a service approval.

## Contact

Should you have any questions about this letter please contact Tegan Smith (R/Manager, Approvals and Services) on 1800 619 113 or [concurrence.ece@det.nsw.edu.au](mailto:concurrence.ece@det.nsw.edu.au).

Yours sincerely



### **R/Manager, Approvals and Services**

NSW Early Childhood Education and Care Regulatory Authority  
Delegate of the Secretary, Department of Education  
13 May 2024

#### **EARLY CHILDHOOD EDUCATION**

Locked Bag 5107 Parramatta NSW 2124

T 1800 619 113 F 02 8633 1810 E [ececd@det.nsw.edu.au](mailto:ececd@det.nsw.edu.au) [www.dec.nsw.gov.au](http://www.dec.nsw.gov.au)