



SUTHERLAND SHIRE COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSSH-198
Development Application Number:	DA25/0286
Portal Application Number:	PAN-538597
LGA	Sutherland Shire
Lodgement Date:	06 June 2025
Estimated Cost of Works:	\$5,831,229.00
Applicant:	Matthew Hall
Owner:	167 Burraneer Pty Ltd
Land Legal Description:	Lot 4 DP 353017
Street Address:	167-169 Burraneer Bay Road, Burraneer
Proposed Development:	Demolition of existing structures and construction of a childcare centre with capacity for 95 children
Zoning:	R2 – Low Density Residential
Development Permissible:	Yes
Existing Use Rights	No
Integrated Development:	No
Designated Development:	No
Notification Period:	Original Notification: 24 June to 24 July 2025: 14 submissions comprising 12 unique submissions were received Notification of Revised Plans: 16 October to 29 October: 10 unique submissions received Total Submissions: 22 unique submissions
Clause 4.6 Variation:	No
Site Visit Date:	16 July 2025
Key Considerations:	• Traffic impact and parking provision • Tree retention and protection • Site planning and massing of built form • Amenity impacts to surrounding properties
Consent Authority:	This application is referred to the Sydney South Planning Panel (SSPP) for the following reasons:

	• Clause 5, Schedule 6 State Environmental Planning Policy (Planning Systems) 2021 exceeds the estimated development cost (EDC) of \$5 million – Private infrastructure and community facilities
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Sustainable Buildings) 2022 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • Child Care Planning Guideline (CCPG) • State Environmental Planning Policy (Industry and Employment) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). • Sutherland Shire Development Control Plan 2015 (SSDCP 2015). • Section 7.12 Development Contribution Plan 2016 - Sutherland Shire. • Housing and Productivity Contribution
List all documents submitted with this report for the Panel's consideration	• Recommended conditions of development consent. • Childcare centre planning guideline compliance table • Sutherland Shire Development Control Plan compliance table.
Report Prepared By:	Evan Phillips, Senior Planner
Report Date:	24 November 2025

1.0 Executive Summary and Recommendation

The application is identified as Regionally Significant Development in accordance with Clause 5, Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021, as the development is for a childcare centre, which is a type of private infrastructure and community facility (school infrastructure) and which exceeds the estimated development cost (EDC) of \$5 million. The applicant's submission / EDC is \$5,831,229.00. Therefore, the application is referred to the Sydney South Planning Panel (SSPP) for determination.

The application is for the demolition of existing structures and construction of a childcare centre with capacity for 95 children.

The subject site is a corner allotment located at No.167-169 Burraneer Bay Road, Burraneer. The site has a secondary frontage to Gannons Road and is currently occupied by a single detached dwelling house.

Following assessment, it is recommended that Development Application No. DA25/0286 for the demolition of existing structures and construction of a childcare centre for 95 children at Lot 4 DP 353017 / No.167-169 Burraneer Bay Road, Burraneer be determined by the granting of development consent subject to the conditions contained in **Appendix A**. The reasons for which are espoused in detail in the assessment report discussion below.

2.0 Introduction

2.1 Application description

The application is for the demolition of existing structures and construction of a childcare centre with capacity for 95 children. Specifically, the existing dwelling including ancillary structures at No.167-169 Burraneer Bay Road, Burraneer are to be demolished. The proposal will necessitate the removal of existing site vegetation, however, seeks to retain 2 large *Eucalyptus haemastoma* (Scribbly Gums) within the site frontages.

The proposed development will provide a new two storey building with basement level parking. Access to the basement is via the secondary Gannons Road street frontage at the northwest corner of the site. The basement accommodates 24 car parking spaces (4 of which are tandem and dedicated to staff use) and associated rooms for waste, storage and services. The main pedestrian entry to the childcare centre is via Gannons Road. The ground floor accommodates the entry foyer/reception area and staff amenities. A dedicated outdoor area for staff is provided in the southwestern corner of the site.

The proposed 95 children are to be accommodated in 5 separate rooms and 3 external play areas as detailed below:

- Ground Floor Room 1 and adjoining outdoor play area 1 adjoining Burraneer Bay Road - Maximum 15 x 0-2 year olds
- Ground Floor Rooms 2 & 3 / adjoining second ground floor outdoor play (identified as area 3) on

northern side of site - Maximum 40 x 2-3 year olds

- First floor Rooms 4 & 5 / adjoining outdoor play area 3 – Maximum 40 x 3-5 year olds

The hours of operation are proposed to be between 7.00am and 6.00pm Mondays to Fridays and closed on weekends and public holidays.

Further works include lift access between levels, acoustic fencing and landscaping at the site peripheries. Building identification signage is also proposed to be affixed to the building on both street front elevations.

A site plan is provided in the figure below:

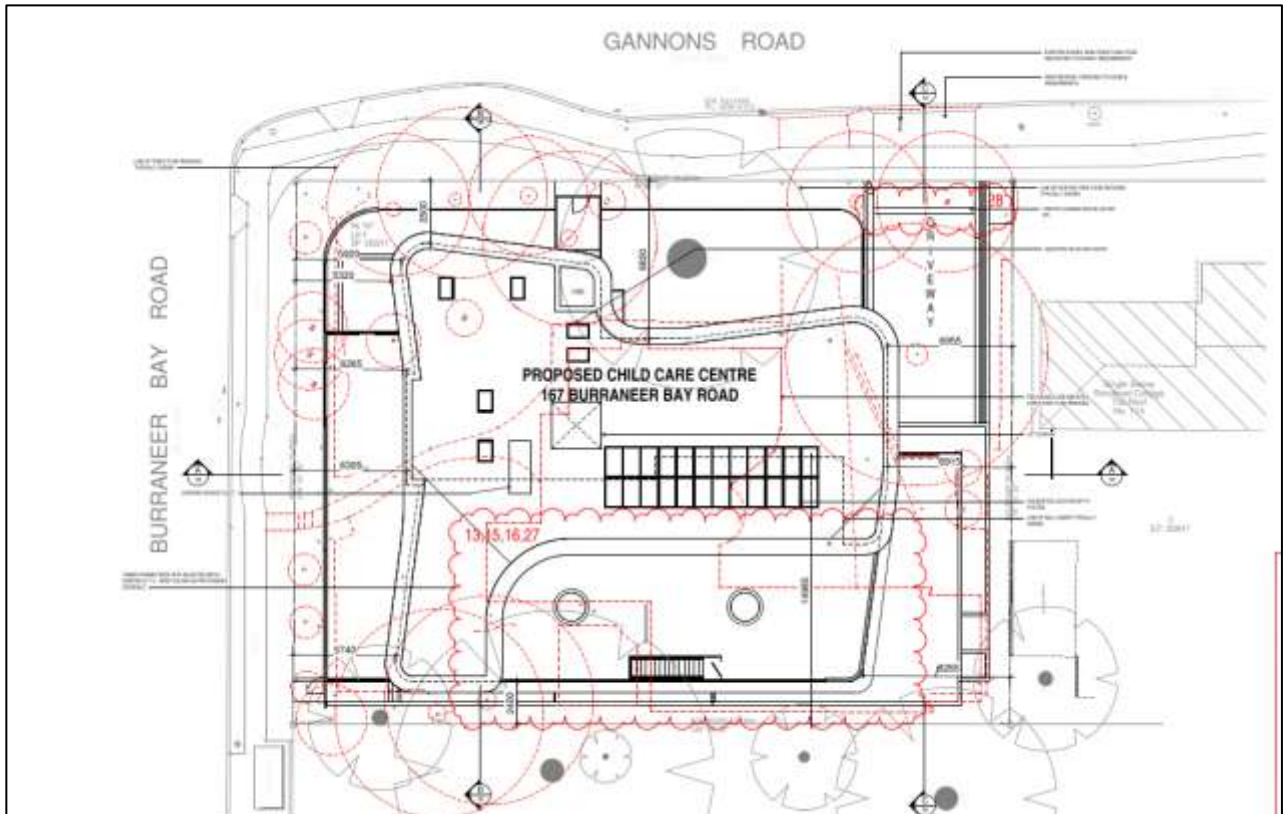


Figure 1: Site Plan

2.2 Site description

The subject site is known as No.167-169 Burraneer Bay Road, Burraneer and is located at the corner of Burraneer Bay Road and Gannons Road, Burraneer. The land is legally described as Lot 4 in Deposited Plan 353017.

The site is rectangular in shape with a primary southern frontage to Burraneer Bay Road of 30.48m. The site contains a secondary western frontage to Gannons Road of 40.234m. The site contains a northern rear boundary shared with No.114 Gannons Road of 30.48m. The site has a total area of 1,226.3m². The site falls from Burraneer Bay Road to the rear of the site by approximately 3m.

Situated on the land is a detached single storey clad dwelling with a pitched tiled roof. Vehicular access is via the secondary street frontage of Gannons Road which leads to a detached brick garage structure. The

site is well vegetated with numerous established trees and garden areas.

The site is located within a predominantly low density residential setting and is adjoined on its boundaries by a detached 2 storey dwelling house to the north with the eastern (side) boundary being shared with Burraneer Bay Public school zoned SP2 Educational Establishment. Opposite the site and across Burraneer Bay Road to the south is a small set of neighbourhood shops and commercial premises located upon land zoned E1 – Local Centre. To the west and on the opposite side of Gannons Road is a multi dwelling housing development. Both roads and pedestrian routes fronting the site are highly trafficked.

An aerial location, site and oblique photo are provided at Figures 2 – 4 below followed by the zoning map at Figure 5.



Figure 2: Site Locality Photo



Figure 3: Aerial Photograph



Figure 4: Aerial oblique site photo viewed from south

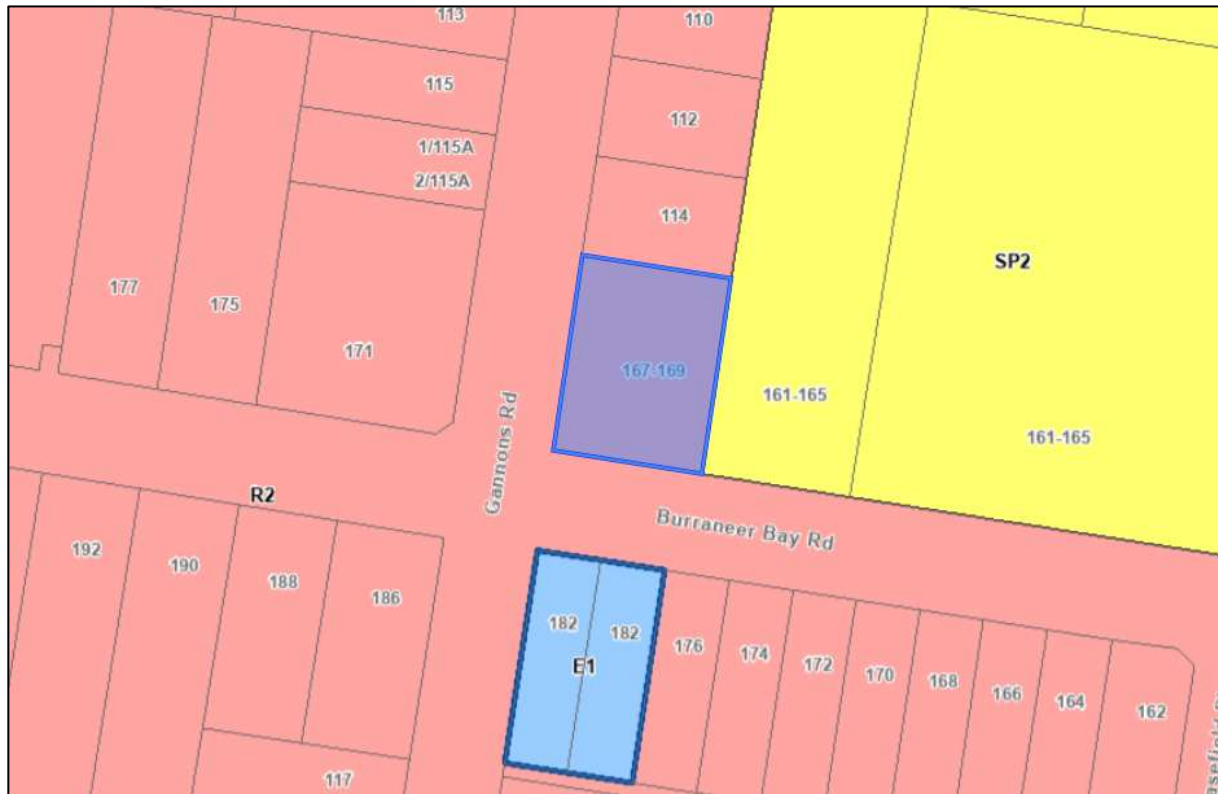


Figure 5: Zoning Map

2.3 Application history

A history of this application is as follows:

- The current application was submitted on 6 June 2025.
- The application was placed on exhibition from 24 June 2025 to 24 July 2025.
- A request for more information (RFI) was sent to the applicant on 2 September 2025 and the following issues were raised:

Concerns regarding site planning and building massing / setbacks in particular:

- Secondary street alignment
- Proximity and elevated nature of play area 2 to the northern adjoining property
- Inadequate setback to eastern boundary adjoining the school.
- Inadequate boundary landscape treatment including location of OSD
- Massing of 2 storey form within the rear site portion

Concerns regarding the landscape treatment of the site including:

- Inconsistency between submitted plans / documentation and demonstrated compliance with the minimum 25% landscaped area development standard in accordance with Clause 6.14 of Sutherland Shire Local Environmental Plan 2015.

- Proximity of built form to existing vegetation and concerns regarding the adequate retention of the significant site vegetation. The requirement to undertake appropriate root mapping and undertake design changes to reduce overall extent of excavation.
- Location of bin storage and hydrant booster (including adequacy of design detail)

Concerns regarding proposed vehicular access and car parking arrangements including:

- Compliance with sight distances for pedestrians at the exit of the basement ramp as per AS2890.1
 - The requirement for a dedicated turning bay in the event the parking area is occupied and maintenance of compliance with SSDCP2015 car parking rates.
 - The current arrangement does not allow a vehicle to exit the site in a forward direction if the basement is full.
- Amended plans were lodged on 7 October 2025. A summary of the main changes made in response to Council's concerns are as follows:
 - The building shifted 600mm east to align with existing building (eastern setback reduced equally) to aid in the retention of Tree 3.
 - Changes to the treatment around tree 3 and increase in total landscaped area provision.
 - Northern setback to external play space increased to 3m and planter included.
 - 1.3m planted setback provided to eastern side of site.
 - Minor internal changes including to basement layout and to staff and children rooms/facilities.
 - Changes to the location of the bin holding area and driveway access.
 - Reduction in visual bulk of the first floor of the development adjoining the northern and eastern boundaries.
 - Provision of a turning bay in the basement with parking increased to be maintained at 24 spaces.
 - The building was lowered by 75mm.
 - The revised application was placed on exhibition from 16 October to 29 October:

2.4 Key considerations

The key considerations with this application are as follows:

- Traffic impact and parking provision

- Tree retention and protection
- Site planning and massing of built form
- Amenity impacts to surrounding properties

3.0 Consultation

3.1 Internal referrals

The application was referred to the following internal specialists for comment:

Engineering (Traffic)

Council's Traffic Engineer has undertaken an assessment of the amended proposal including the traffic report submitted with respect to car parking provision and potential traffic / pedestrian related impacts. The surrounding road network is determined to have sufficient capacity to cater for the proposed development. Parking provision is in accordance with SSDCP2015. The application is supported and the following recommendations have been included in the revised design (and re-affirmed with conditions of development consent) which adequately mitigate potential risks associated with the development noting a high level of pedestrian activity along Gannons Road:

- A dedicated turning bay is provided within the parking area.
- Sufficient sight distances are provided at the entry/exit of the driveway in accordance with AS2890.1:2004.
- A traffic slowing device has been provided at the driveway to ensure vehicles are slowed at exit.
- Further "No Stopping" timed signage will be required to be installed either side of the access driveway.
- Requirement for traffic management during construction particularly around school drop off and pick up times.

Engineering (Assessment Team)

Council's Development Engineer has undertaken an assessment of the application with respect to stormwater disposal / run-off (including connection to Gannons Road), construction site management, parking area access / design and the hydraulic / booster design for firefighting purposes. No objections to the development proposal have been raised subject to suitable conditions of development.

Landscape Architect

Council's Landscape Architect has undertaken an assessment of the application including submitted arborist report with respect to landscaping, tree removal and retention, and general site planning. There are 22 trees proposed for removal as part of this application. The removed species are considered acceptable due to the respective size / nature / health of these species along with the siting of trees within the amended footprint of the development which is a reasonable site planning approach. This includes consideration of whether Tree 12 can be retained. Whilst being of a more significant Eucalyptus species in the south eastern site portion, it is located within the development footprint. Retention of this tree would require a significant reduction in the building footprint across all levels and will result in a compromised development outcome. The removal of Tree 12 is considered acceptable in the circumstances noting the

retention of Tree 10 and the adjoining Tree 12A would maintain adequate tree canopy notwithstanding the removal of Tree 12.

Specific concerns were raised in relation to works within the Tree Protection Zones of Trees 3 and Tree 10 which are both *Eucalyptus haemastoma* (Scribbly Gum) and require retention due to their significance. A request to undertake root mapping was made which revealed the need to shift the building / basement footprint east to align with the existing building footprint to avoid the severing of roots.

The overall extent of works in proximity to Tree 3 (i.e. bin holding area / booster) including basement extent was also required to be reduced (i.e. pram storage area) to aid in allowing additional remaining area for root growth for better recovery from the stresses of root loss and development works. Amendments to the proposal have been made which respond to the concerns raised, including relocation of the bin holding area and basement pram storage space. Subject to the imposition of conditions of development consent, the proposal is acceptable.

The recommended conditions also include minor refinement to the landscape design, suitable construction management measures in proximity to the trees, tree replacement (off-site), and a design requirement for strip footings for fencing and retaining walls within the Tree Protection Zone of Tree 3 and Tree 10 and neighbouring trees Tree 12A (*Corymbia maculata*) and Tree 15 (*Eucalyptus sideroxylon* 'Rosea').

Environmental Health

The application was referred to Council's Environmental Health Unit who provided comments in relation to building design and neighbourhood amenity (including an assessment of the acoustic report / operational noise). No objections to the development proposal have been raised subject to suitable conditions of development.

Building Surveyor

Council's Building Surveyor has reviewed the proposed development with respect to compliance with relevant construction codes and access standards. No objections to the development proposal have been raised subject to suitable conditions of development.

Waste Management Officer

The application was referred to Council's Waste Management Officer for assessment. The development is to be serviced by a private waste contractor. The bin room within the basement is suitably sized to accommodate the required waste bins and a holding area is provided within the site adjoining the basement entry. No objections to the bin storage and methodology for private waste collection from Gannons Road have been raised subject to suitable conditions of development consent.

3.2 Integrated development

The application does not constitute integrated development.

3.3 Designated development

The application does not constitute designated development.

4.0 Section 4.14: Consultation and development consent—certain bush fire prone land

This section of the Act is not applicable.

5.0 Evaluation

5.1 Section 4.15(1)(a)(i): Any environmental planning instrument

5.1.1 State Environmental Planning Policy (Planning Systems) 2021

State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP) identifies State and Regionally Significant development in NSW. Clause 5, Schedule 6 of the SEPP identifies this application as regionally significant development as it has an estimated development cost (EDC) of more than \$5M – Private infrastructure and community facilities. The applicant's submission / EDC is \$5,831,229.00 (excluding GST). As such, the application is referred to the SSPP for determination.

5.1.2 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land (Previously SEPP 55)

Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP) requires Council to consider whether the land subject to the development proposal is contaminated; and if the site is contaminated, Council must be satisfied that the site is suitable or can be made suitable (i.e. following remediation) for the proposed land use.

A site inspection identified that the site is currently occupied by a dwelling house. A review of Council's GIS and historical aerial photos has shown the historic use of the site as this land use. A search of Council's records, including historical files and contaminated land register specifies that the site is not potentially contaminated. In conclusion, the site is suitable for the proposed development in accordance with requirements of the Resilience and Hazards SEPP.

5.1.3 State Environmental Planning Policy (Sustainable Buildings) 2022

State Environmental Planning Policy (Sustainable Buildings) 2022 (the Sustainable Buildings SEPP) encourages the design and construction of more sustainable buildings across NSW. The overarching purpose of the Sustainable Buildings SEPP is to assist NSW's target of achieving net zero greenhouse gas emissions by 2050. The proposal is for non-residential development which has a capital investment value greater than \$5 million. In accordance with section 3.1(a), the Sustainable Buildings SEPP applies to the proposed development.

Non-residential Development (chapter 3.2)

In deciding whether to grant development consent to non-residential development, section 3.2 requires the consent authority to consider whether the development is designed to enable: the minimisation of waste

from associated demolition and construction, a reduction in peak demand for electricity, including through the use of energy efficient technology, a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design, the generation and storage of renewable energy, the metering and monitoring of energy consumption, the minimisation of the consumption of potable water.

Development consent must not be granted to non-residential development under the Sustainable Buildings SEPP unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified. A NABERS Embodied emissions materials form accompanies the application and have been considered. The development is acceptable regarding the requirements listed under chapter 3.2.

5.1.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 3 – Child Care Centres and Educational Establishments

Part 3.3 Early education and care facilities—specific development controls

The Transport and Infrastructure SEPP (T&I SEPP) aims to facilitate the effective delivery of educational establishments and early education and care facilities across the state, seeking to ensure consistency in assessment requirements and regulatory certainty and aligning the planning framework with the National Quality Framework (NQF). A compliance table against Part 3.3 Early education and care facilities—specific development controls of the T&I SEPP is provided below:

CLAUSE	REQUIRED	PROPOSAL	COMPLIANCE
Clause 3.22 – Concurrence of Regulatory Authority unless provisions met	3.25m ² of unencumbered indoor space p/child 95 x 3.25 = 309m ² req'd	320m ²	Yes
	7m ² of unencumbered outdoor space p/ child 95 x 7 = 665m ² req'd	666m ²	Yes
3.26 Centre-based child care facility— non-discretionary development standards	[CANNOT REFUSE PROVISIONS] (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 child care facility: (a) location—the development may be located at any distance from an existing or proposed early education and care facility, (b) indoor or outdoor space (i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the		Noted Noted. The development

	unencumbered area of outdoor space for the development complies with the requirements of those regulations, or (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 (repealed) now Children (Education and Care Services) Supplementary Provisions Regulation 2019 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause, (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, (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.	complies with the requirements Noted. The development is not a heritage item or in a conservation area
3.27 Centre-based child Care facility—DCP	Provision of DCP that specifies a requirement, standard or control in relation to the following does not apply: 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 contained in: a. The design principles set out in Part 2 of the <i>Child Care Planning Guideline</i>; or b. Matters for consideration in Part 3 or regulatory requirements set out in Part 4 of that <i>Guideline</i> (other than those concerning building height, side and rear setbacks or car parking rates)	Noted A plan of management has been submitted Noted Noted Noted Noted

The Child Care Planning Guideline (CCPG) has been developed to accompany the T&I SEPP. This guideline aligns with the National Quality Framework for early education and care services and applicable Education and Care Services National Regulations. The guideline is to be used to inform the detailed centre design (e.g. setbacks, internal space and provisions, ventilation and light, and outdoor environment etc), so as to achieve a high quality environment and to maximise safety, health and overall care for young

children while being attractive, sympathetic to the streetscape, appropriate for the setting and have minimal adverse impacts on surrounding areas. An assessment against the accompanying Childcare Planning Guideline including design quality principles, matters for consideration and National Regulations is contained below and provided at **Appendix “B”**.

CLAUSE	REQUIRED	PROPOSAL	COMPLIANCE
PART 2 – Design Quality Principles			
Principle 1 – Context	Respond and contribute.	The amended proposal responds to the specific residential zoning and context of the locality which includes a variety of residential development types (single dwellings, dual occupancy and medium density) to the north and west and other land use typologies to the south and east (being single storey commercial and an educational establishment).	Yes
Principle 2 – Built Form	Scale, bulk and height appropriate. Achieves appropriate building alignments, proportions, building type, articulation and manipulation of building elements. Defines public domain, contributes to streetscape, provides internal amenity and outlook.	The amended proposal is of a scale, bulk and height which is consistent with the character of the streetscape and adjoining development. Adequate setbacks and landscaping of the site peripheries (including frontage) is provided	Yes
Principle 3 – Adaptive learning spaces	Fit for purpose, enjoyable and easy to use/ Achieved through site layout, building design and learning spaces fit out.	Learning spaces appear structured and set out in a way that is fit for purpose both in and out.	Yes
Principle 4 – Sustainability	Natural cross ventilation, sunlight and passive thermal design for ventilation, heating and cooling elements including recycling and re-use of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	Each room will receive adequate sunlight and access to air. Suitable deep soil zones are provided at the site peripheries.	Yes

Principle 5 – Landscape	Landscape design to make outdoor spaces assets for learning, enhance environmental performance and contribute to local context.	The landscape design includes the retention of vegetation, peripheral plantings and includes “active” components for children to utilise.	Yes
Principle 6 - Amenity	Combines appropriate and efficient indoor and outdoor learning spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy storage, service areas and ease of access for all age groups and degrees of mobility.	Suitable spaces provided in and out which are naturally ventilated, receive light and are accessible for occupants of the centre.	Yes
Principle 7 – Safety	Balance safety and security with the need to create a welcoming and accessible environment.	Staff and children will achieve a high level of safety and security.	Yes

5.1.5 State Environmental Planning Policy (Industry and Employment) 2021

The proposal includes the provisions for three business identification signs which include the text "Mini & Me". Chapter 3 of the State Environmental Planning Policy (Industry and Employment) 2021 sets out certain matters relating to advertising and signage. Section 3.6 requires that Council must not grant consent to an application to display signage unless the following is satisfied:

- (a) *that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and*
- (b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5*

There are certain additional matters which must be considered for advertising however these are not applicable to the business identification signage proposed as part of this application. The following is an assessment against the relevant matters:

Objectives of the Chapter as set out in section 3.1(1)(a)	
Objective	Comment
(a) to ensure that signage (including advertising)—	
(i) is compatible with the desired amenity and visual character of an area, and	The site is within a residential zone and has interface to an educational establishment and low scale commercial development across the road. The signage is compatible with the locality, being a non-residential land use permitted in the residential zone.

(ii) provides effective communication in suitable locations, and	The signage is provided in suitable locations on the building's façade to enable effective communication
(iii) is of high quality design and finish, and	Signage proposed is of high-quality design and finish

Schedule 5 Assessment Criteria		
Categories	Considerations	Compliance
Character of the area	- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? - Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Signage considered to be compatible.
Special areas	Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	No – considered acceptable
Views and vistas	- Does the proposal obscure or compromise important views? - Does the proposal dominate the skyline and reduce the quality of vistas? - Does the proposal respect the viewing rights of other advertisers?	No views, vistas, or skylines are compromised.
Streetscape, setting or landscape	- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? - Does the proposal contribute to the visual interest of the streetscape, setting or landscape? - Does the proposal reduce clutter by rationalising and simplifying existing advertising? - Does the proposal screen unsightliness? - Does the proposal protrude above buildings, structures or tree canopies in the area or locality? - Does the proposal require ongoing vegetation management?	Signage is considered appropriate in the context of the streetscape and setting. There is no adverse proliferation of signage or visual detracting from the landscape qualities of the site.

Site and building	• Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage is considered acceptable and commensurate in scale to the size of the building.
Associated devices and logos with advertisements and advertising structures	• Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	None of these features are required for the signage
Illumination	• Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination be adjusted, if necessary? • Is the illumination subject to a curfew?	Illumination is not proposed
Safety	• Would the proposal reduce the safety for any public road? • Would the proposal reduce the safety for pedestrians or bicyclists? • Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	Signage is not anticipated to adversely impact upon surrounding road and pedestrian routes.

5.1.6 Sutherland Shire Local Environmental Plan 2015

Part 2: Permitted or prohibited development

The site is located within Zone R2 – Low Density Residential and the objectives of the zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To protect and enhance existing vegetation and other natural features and encourage appropriate bushland restoration particularly along ridgelines and in areas of high visual significance.*
- *To allow the subdivision of land only if the size of the resulting lots retains natural features and allows a sufficient area for development.*

- *To ensure the single dwelling character, landscaped character, neighbourhood character and streetscapes of the zone are maintained over time and not diminished by the cumulative impact of multi dwelling housing or seniors housing.*

Child care centres are a permissible form of development within Zone R2 – Low Density Residential. The provision of child care services within the Local Government Area is generally encouraged in light of the social demand and benefits they provide. The proposed building adjoins an existing school and low density residential housing and is of a scale and density that is compatible within the existing surrounds and established streetscape / neighborhood character. The proposal will provide complimentary services and employment opportunities to the local community and provide care for children. Subject to appropriate design changes and amendments to the operational management of the child care centre, the development is not anticipated to increase unacceptable risks to public safety or detract from the character of the area.

Part 4: Principal development standards

The proposal has been assessed for compliance against Sutherland Shire Local Environmental Plan 2015. A compliance table with a summary of the applicable development standards is contained below:

CLAUSE	REQUIRED	PROPOSAL	COMPLIANCE
Cl.4.3 Height of Building	8.5m	8.11m	Yes
Cl.4.4 Floor Space Ratio	0.55:1	0.49:1	Yes

Building Height

The proposed development complies with the maximum permissible height limit and satisfies the relevant objectives contained in clause 4.3 of SSLPP 2015. The development is broadly compatible with the character of surrounding development in terms of height, bulk and scale. Further discussion is contained below in the assessment discussion in relation to the design of the development and impacts to adjoining properties.

Floor Space Ratio

The proposed development complies with the maximum permissible floor space ratio and satisfies the relevant objectives contained in clause 4.4 of SSLPP 2015. The development adequately reinforces the desired density of the low density residential zone.

Part 5: Miscellaneous provisions

Clause 5.10 Heritage Conversation

Trees within the site and adjoining road reserve has been identified as an item of local environmental heritage pursuant to SSLEP 2015 (Item ID: 0604 - street trees (possibly remnant canopy) consisting of *Eucalyptus racemosa* (Snappy Gum or Small-leaf Scribbly Gum)). The listing is depicted in the figure below.



Figure 6: Heritage listing Item ID: 0604 - street trees.

A Statement of Heritage Impact accompanies the application addressing the provisions of Clause 5.10 of SSLEP2015. A site inspection revealed an absence of the listed street trees fronting the site with the mapping data representing the historic presence of vegetation within the road reserve. The heritage listing also does relate more broadly to vegetation eastward of the site along Burraneer Bay Road.

Notwithstanding the above, existing native vegetation is retained on site and the built form is not anticipated to detract from the heritage significance of the vegetation and the application is acceptable on heritage grounds pursuant to Clause 5.10 of SSLEP 2015. The opportunity for further replanting within the road reserve has been considered, however has not been pursued given the nature of the verge (i.e. limited width/planting opportunity and presence of overhead power lines) and associated pedestrian routes (existing and future).

Archaeological sensitivity

Council records indicate that the subject site is rated low in terms of Archaeological Sensitivity. A site inspection did not reveal any evidence of shell material or significant sandstone features within the development zone. The proposal does not warrant an Aboriginal Archaeological Study being undertaken. Notwithstanding the above, a suitable precautionary condition of development consent will be imposed in the event of any unexpected finds during development works.

Part 6: Local Provisions

Clause 6.1 Acid sulfate soils

The subject site is identified as within 'Class – 5' on the Acid Sulfate Soils Maps and the provisions of Clause 6.1 are therefore applicable. The objectives of this clause are to ensure that development does not disturb, expose or drain acid sulphate soils and cause environmental damage. Within Class 5, the trigger under SSLEP 2015 is works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the watertable is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land. Given the nature of the proposed works including site relative to AHD, there is unlikely to be an impact on the water table on adjacent Class 1, 2, 3, or 4 land.

Clause 6.2 Earthworks

The proposal includes earthworks and therefore Clause 6.2 of SSLEP 2015 is applicable. Clause 6.2 requires certain matters to be considered in deciding whether to grant consent. These matters include impacts on drainage; future development; quality and source of fill; effect on adjoining properties; destination of excavated material; likely disturbance of relics; impacts on waterways; catchments and sensitive areas and measures to mitigate impacts. The relevant matters have been considered and the application is acceptable subject to conditions imposed relating to the management of excavated and imported soil.

Clause 6.4 Stormwater management

Clause 6.4 of SSLEP 2015 requires Council to be satisfied of certain matters in relation to stormwater management prior to development consent being granted. These matters include maximising permeable surfaces; on-site stormwater retention minimising the impacts on stormwater runoff. These matters have been addressed to Council's satisfaction.

Clause 6.13A Green Grid Links

Clause 6.13A of SSLEP 2015 applies to land identified as a green grid link on the Green Grid Map within SSLEP 2015. The objective of this clause is to provide for a network of tree-lined pathways for pedestrians and cyclists that run between and through open spaces and along waterways. In deciding whether to grant development consent to development on land to which this clause applies, the consent authority must consider the extent to which the development:

- (a) *retains and enhances tree canopy cover, and*
- (b) *facilitates and prioritises pathways for pedestrians and cyclists that run between and through open spaces and along waterways.*

An assessment of the development has been undertaken having regard to the Green Grid Links. The opportunity for further replanting within the road reserve has been considered and not pursued given the nature of the verge (i.e. limited width/planting opportunity and presence of overhead power lines) and associated pedestrian routes (existing and future).

Clause 6.14 Landscaped areas in certain residential, employment, conservation and waterway zones

Additional information has been provided by the applicant to demonstrate compliance with the minimum required landscaping for the site (25%). The proposed development satisfies the objectives contained in clause 6.14 of SSLEP 2015. Further, existing significant trees are retained and additional plantings are proposed as part of the application. The proposal retains existing native vegetation which contributes to biodiversity and the tree canopy of the Sutherland Shire.

Clause 6.15 Energy efficiency and sustainable building techniques for commercial and industrial developments

Clause 6.15 of SSLEP 2015 contains matters for consideration relating to ecologically sustainable development and energy efficiency and sustainable building techniques. The relevant matters have been considered as a part of the assessment of the application and the proposal is acceptable.

Clause 6.16 and 6.18 Urban design—general

Clauses 6.16 and 6.18 of SSLEP 2015 contain the relevant matters of consideration relating to urban design. The Child Care Planning Guideline which accompanies the T&I SEPP contains similar provisions and considerations in terms of building form, scale and character. The proposal involves the construction of a purpose built building for child care. The development is of a modern composition and character which is anticipated to fit contextually in the streetscape being surrounding by a range of land use / building typologies. The amended development is respectful of the residential zoning and nature of residential lands to the north and west opposite Gannons Road in terms of design, site planning and massing of built form which is discussed in the assessment component of this report. No detrimental impact is anticipated to be presented to adjoining properties in terms of visual intrusion of built form, overshadowing, overlooking. Any visual impact of the development is anticipated to be further ameliorated with tree retention, landscape relief and edge plantings. The relevant matters have been considered as a part of the assessment of the application and the proposal is considered to be acceptable.

5.2 Section 4.15(1)(a)(ii): Any proposed instrument

There are no relevant proposed environmental planning instruments.

5.3 Section 4.15(1)(a)(iii): Any development control plan

5.3.1 Sutherland Shire Development Control Plan 2015

The provisions of the Child Care Planning Guideline will generally take precedence over a Development Control Plan, other than building height, side and rear setbacks and car parking rates. The proposal has been assessed for compliance against the relevant provisions of SSDCP 2015. This includes the controls for dwelling houses in Chapter 2 as the predominant land use within the zone. Following assessment, it has been established that the proposal has adequately addressed the controls contained in SSDCP2015. A compliance checklist is provided at **Appendix “C”** and further discussion in relation to side, rear setbacks and the massing of built form along with parking provision is contained within the assessment section of this report.

5.4 Section 4.15(1)(a)(iiia): Any planning agreement

There is no planning agreement associated with this application.

5.5 Section 4.15(1)(a)(iv): The regulations (to the extent that they prescribe matters for consideration for the purposes of this paragraph)

Section 61 – Conditions have been imposed in relation to demolition.

5.6 Section 4.15(1)(b): The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Site Planning and Building Massing / Setbacks

Street Setbacks

In terms of site planning, the alignment of built form to Burraneer Bay Road is generally considered acceptable. The basement extends to within the street setback and the development above ground level proposes minor encroachments into the street setback (i.e. 7.5m to 6m forming articulation zone) to a minimum 5.75m more than would typically otherwise be envisaged under Council's SSDCP2015. The street setback is however considered appropriate and responsive to the prevailing streetscape character (including the multi dwelling development opposite site at No.171 Burraneer Bay Road).

The revised proposal also provides for a varying setback of between 3.485m and 7.315m to Gannons Road which is an appropriate response to the secondary street frontage and exceeds the provisions of SSDCP2015 for low density residential development. The street setbacks provided to the development are acceptable having regard to the objectives of the Child Care Planning Guideline.

Notwithstanding the extent of basement outside of the footprint of the building above, the application provides for compliant overall deep soil landscaped area in accordance with SSLEP2015 and supports suitable landscaping both within the frontages and forward of proposed fencing, contributing positively to the landscaped character of the streetscape. The fence design which includes varying heights between 1.5m and 1.8m (to achieve acoustic attenuation), is of a composition and style which integrates and reinforces the character of the streetscape and is further softened by the edge landscape treatment.

Rear Northern Setback – Ground / Podium Level

Concerns were raised during the assessment in relation to the elevated podium level and associated external play space within proximity to the site's northern rear boundary (including massing of 2 storey form) within the site. The T&I SEPP generally provides that Development Control Plans seeking to regulate development for a child care facility will not apply, except for controls relating to building height, rear and side setbacks and car parking rates. The controls for setbacks contained within SSDCP2015 are directly applicable to the development.

As depicted in the figure below, the elevated nature of play area 2 (as originally proposed) and the close proximity to the northern adjoining property (i.e. within the minimum 6m as required under SSDCP2015), would provide opportunity for overlooking and a visually intrusive built form to the adjoining northern neighbour particularly given the proposed height out of ground and the low 1.3m height acoustic barrier.

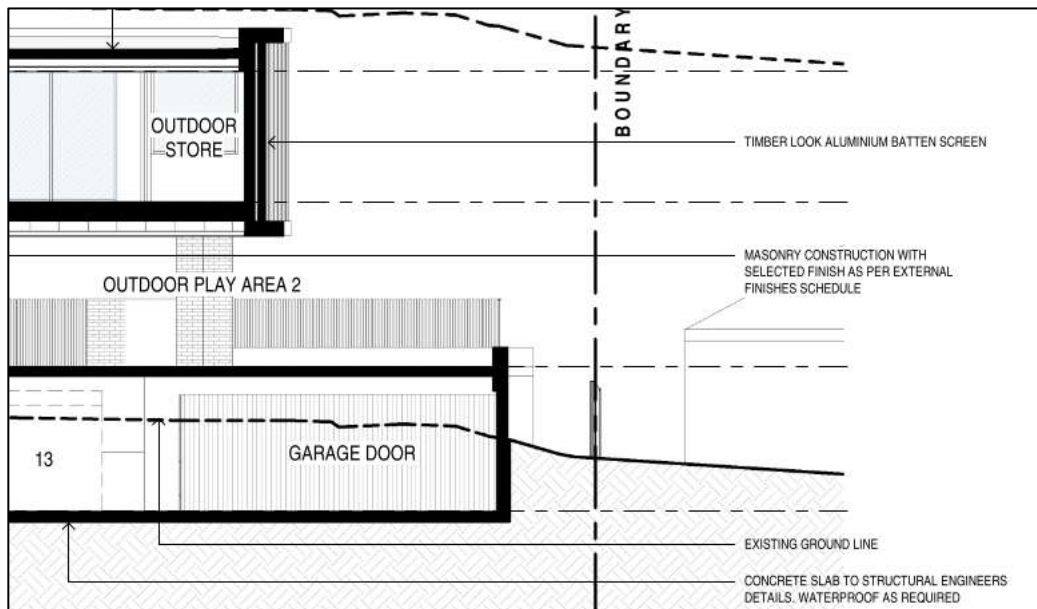


Figure 7: Original Section and relationship to northern adjoining property.

In response to raised concerns, the finished level within this portion of the site is lowered by 75mm and a further setback of the acoustic fence / external play space from the boundary has been provided (3m rear setback). This has enabled a continuation of the planter along the northern edge of the podium as well as planting within the 1.3m rear setback to enable the planting scheme to soften the built form and provide a graduated building edge. The amended design is supported by the lodgement of additional sections, elevations and sight line diagrams which include a 1.5m high acoustic fence (1.3m originally proposed) that demonstrates a suitable relationship between the properties. The figure below depicts the relationship of the amended design to the neighbouring property.

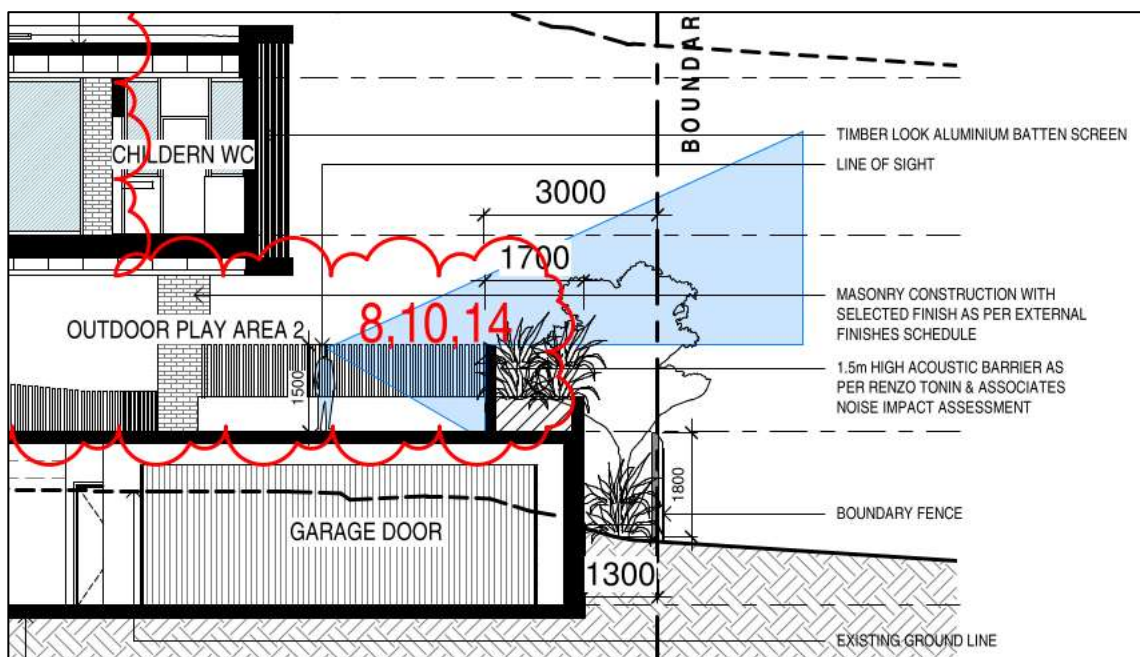


Figure 8: Revised design and section showing relationship to northern adjoining property.

Side Eastern Setback

The revised development provides for a minimum 2.4m eastern side setback to the main built form which is in excess of the minimum requirements for dwelling houses. Whilst also appreciating the presence of the school adjoining the eastern boundary, the amended proposed provided an increased setback to the elevated podium / play space (originally proposed on boundary / nil setback) to adequately reinforce the low density context and provide suitable spatial relief between properties. This also enabled a continuous setback of 1.3m for the full length of the eastern side boundary allowing for further deep soil and opportunity for landscape treatment and relief at the side boundary.

Massing of 2 Storey Form

In terms of built form massing within the low-density residential zone, two storey development is only envisaged on the front 60% of the site measured from the front boundary, with the rear 40% devoid of two storey built form. The intent of the control is to minimise amenity impacts to adjoining properties including associated private open spaces in terms of privacy, overlooking and visual intrusion.

The corner nature of the site is acknowledged and a continuation of 2 storey form along a secondary frontage (beyond 60%) to a 6m rear setback is generally an acceptable approach in the low density residential context. The continuation of 2 storey-form form along the northern rear boundary to the eastern boundary however needs to be carefully considered. Part of the northern façade, as originally proposed, tapered away from the northern boundary. This was not considered sufficient to offset the visual impact of the development. The continued roof form and edge framing over the external play space also exacerbated the overall bulk and scale of the development in this sensitive site portion.

The built form / massing strategy has been revised to reduce the visual bulk and scale, of the development. The revised design reinforces the organic shape of the first floor building mass with the external play space comprising an open form, lower scale component that now plays a secondary role in the building composition. The revisions are depicted in the photomontages below.



Figure 9 - Views from adjoining school grounds looking south west – original (left) and proposed (right) views



Figure 10 - Views from northern adjoining property looking south – original (left) and proposed (right) views.

The changes included a reduction in wall height and roof form, along with variation in materiality. The overall visual bulk and scale and extent of the 2 storey form within this northern site portion is considered to be acceptable having regard to the low density residential context. Any amenity impacts have been significantly reduced and are now acceptable in a residential context.

Tree Protection

In the context of this site, threatened species, populations and ecological communities are protected by the Biodiversity Conservation Act 2016, the Commonwealth Environmental Protection and Conservation of Biodiversity Act 1999. Threatened species are particular plants and animals that are at risk of extinction and include threatened populations and endangered ecological communities.

Council has mapped the known threatened species, populations and endangered ecological communities. The site is mapped as accommodating the Coastal Enriched Sandstone Dry Forest vegetation community. The retention of the significant site vegetation is imperative to maintain biodiversity and the current positive contribution of the site to the landscape character of the streetscape. Specific concerns were raised during the assessment in relation to the adequate protection of Tree 3 and Tree 10 within the site being both of the species *Eucalyptus haemastoma*, an indicator specie of the vegetation community. Suitable investigation (including root mapping) and design changes have been made to adequately demonstrate the retention of these trees into the overall design of the child care centre mainly including;

- Shifting the building to the east to at least the line of the existing dwelling.
- Retention of existing brick retaining walls during demolition
- Relocation of basement pram storage space
- Relocation of bin holding area and clarification as to stormwater / hydraulic infrastructure.

The resulting encroachment into the Tree Protection and Structural Root Zone of Tree 3 is depicted in the figure below.

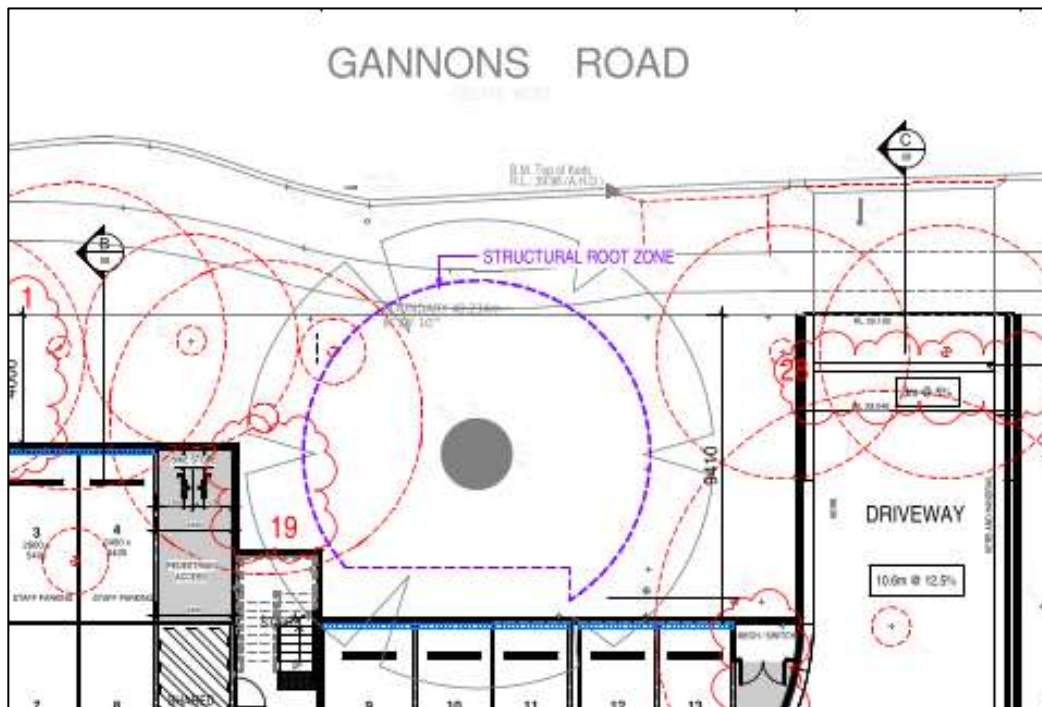


Figure 10 – Basement footprint in proximity to Tree 3 *Eucalyptus haemastoma*,

It is concluded that the proposed development will not result in any significant impact on threatened species, populations and endangered ecological communities. In addition to the trees species retained / proposed in the landscape design further conditions of development consent are to be imposed requiring arborist supervision for the protection of existing trees as well as compensatory off-site tree replacement planting (in line with Council's tree replacement policy) to further contribute to biodiversity and the tree canopy of the Sutherland Shire.

Operation & Neighbourhood Amenity

The child care centre is proposed to provide long day care for a total of 95 children within standard operating hours of Monday to Friday between 7:00am and 6:00pm. The building / external play spaces adjoin a residential property with other residences located opposite Gannons Road to the west. Noise and amenity impacts associated with the operation / use of the child care centre (including outdoor play areas) are considered as part of the assessment.

The applicant has submitted an acoustic assessment and plan of management which identify design measures including noise / sound barriers to the outdoor areas to maintain impacts to neighbouring properties to within acceptable levels. These designs have been integrated into the development proposal. It is recommended that upon completion there is further noise testing to ensure all elements of the acoustic report have been implemented and are managed. . Required boundary vegetation and landscape treatment at the perimeter of the outdoor play area is also anticipated to enhance amenity to adjoining properties.

Subject to on-going management, the operation of the childcare centre is capable of integrating within the residential setting presenting no detrimental impact upon neighbourhood amenity, consistent with

Traffic Impact and Car Parking

SSLEP2015 and SSDCP2015 contain certain matters for consideration relating to transport accessibility, traffic impacts and car parking. Onsite parking within the basement is provided in accordance with the minimum requirements of SSDCP2015 (i.e. at the rate of 1 space per 4 children). A total of 24 car spaces are required for the proposed development which provides for a total capacity for 95 children.

The proposal as originally lodged failed to achieve acceptable basement manoeuvring due to the absence of a turning bay in the event the parking area being occupied. This arrangement is required to allow a vehicle to exit the site in a forward direction if the basement is full. Further, concerns were raised in relation to pedestrian and vehicular safety at the entry / exit location in terms of sight lines and vehicular speed on exit. Amendments have been received which address these concerns. A dedicated turning bay has been located in the basement between car spaces 14 and 15 and a traffic slowing device (localised hump) at the site entry / exit.

The application has been supported by a detailed traffic report which has been reviewed by Council's Traffic Engineer which is considered to be acceptable. The suitability of the site and surrounding road and pedestrian network has been considered as a part of the assessment.. A suitable and safe environment for drop-off / pick-up within the basement is provided and the surrounding road network is generally considered capable of accommodating the proposed land use without causing detrimental traffic generation, parking stress or increasing the general risk to the public and patrons of the child care centre to an unacceptable level.

5.7 Section 4.15(1)(c): The suitability of the site for the development

The site is suitable for the proposed development.

5.8 Section 4.15(1)(d): Any submissions made in accordance with this Act or the regulations

The application was notified in accordance with the provisions of Appendix A of the Sutherland Shire Community Engagement Strategy 2023 (SSCES) and the administrative requirements of the Sydney South Planning Panel (SSPP).

The notification occurred between 24 June to 24 July 2025 and 14 submissions comprising 12 unique submissions were received. The revised development proposal was notified between 16 October to 29 October and 10 unique submissions received following this re-notification.

A total of 22 unique submissions were received during the course of assessment which is inclusive of 2 submissions received in support of the proposal. The key issues identified in the submissions are as follows:

- Suitability of the site and location for a child care centre including the adequacy of the surrounding road network to accommodate the land use, and cumulative impact due to being located adjacent to an existing public school and commercial uses.
- Unsuitable intensity of development – 95 children not considered to be appropriate.
- The scale of commercial use inconsistent with the R2 Low-Density Residential Zone objectives
- Bulk and scale of the development (including visual intrusion) and incompatible with the character of the locality
- Inadequate building setbacks to the street frontages.
- Deficiency / accuracy in submission including submitted traffic assessment.
- External traffic impact, including increased vehicular movements, congestion and impact to on street parking. No safe on street pick-up and drop-off.
- Adequacy of the driveway and parking design (including provision of parking in conjunction with the development).
- Resident / student safety and adequacy of surrounding pedestrian routes (including driveway location and sight lines to pedestrians).
- Waste management, bin collection impacts.
- Impacts on surrounding neighbourhood (including vulnerable residents) and environment during operation (i.e. noise, air quality) and during construction (including roadway), including impacts to students in the adjoining school.
- Environmental concerns including destruction of a significant number of mature trees, negatively impacting local biodiversity and green space and increased stormwater run-off and flooding damage to downstream properties.

Comment: The key issues identified in the submissions relate to the suitability of the site for the intensity of development proposed, including issues related to the scale of the development in the low density residential zone, provision of adequate setbacks, tree loss and ongoing operational concerns. The adequacy of the surrounding road network to accommodate the land use and adverse impacts to the surrounding neighbourhood has also been raised as a primary concern. These matters are discussed in the specialist referrals and assessment discussions of this report above which concludes that the proposal (as amended) is acceptable subject to suitable conditions of development consent.

5.9 Section 4.15(1)(e): The public interest

The development is in the public interest.

6.0 Development Contributions

6.1 Section 7.12 Development Contribution Plan

The proposed development has a value of greater than \$100,000. In order to provide high quality and diverse public facilities, the proposed development will attract Section 7.12 Contributions in accordance with Council's adopted Section 7.12 Development Contribution Plan 2016.

This contribution is based upon the proposed cost of the development and has been calculated at 1% of \$5,831,229.00 (the estimated cost of development identified on the development application form). Therefore, the Section 7.12 levy for the proposed development is \$58,312.29.

6.2 Housing and Productivity Contribution

The application involves commercial development within the meaning of the Environmental Planning and Assessment (Housing Productivity Contributions) Order 2024. Accordingly, monies are payable under the Housing and Productivity Contribution. A calculation of \$19,112.01 is based on the proposed 589.2m² of new commercial gross floor area.

6.3 Affordable Housing Contributions

Council does not have any adopted affordable housing contribution plans. Therefore, no contributions or dedications are required and no further consideration is necessary.

7.0 Conclusion

The application has been assessed having regards to the relevant matters for consideration.

The subject land is located within Zone R2 Low Density Residential pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a centre-based child care centre, is a permissible land use within the zone with development consent.

The proposal involves the construction of a purpose built building for a child care centre. The provision of child care services within the Local Government Area is generally encouraged in light of the social demand and benefits they provide. The proposal will provide complimentary services and employment opportunities to the local community and provide care for children. The amended proposal satisfactorily addresses matters identified during the assessment of the application in relation to traffic / pedestrian impact, parking provision, site planning, massing, neighbour amenity and landscape (including tree retention). The child care centre is anticipated to fit appropriately within the context of the immediate locality and it is considered that subject to suitable operational conditions of development consent an acceptable impact will be presented to the amenity of the surrounding neighbourhood.

The matters raised in public submissions have been considered and reviewed against relevant planning controls. In achieving this amendments have been made to the plans or conditions of consent where appropriate.

Following assessment, it is recommended that Development Application No. DA25/0286 for the demolition of existing structures and construction of a childcare centre for 95 children at Lot 4 DP 353017 / No.167-169 Burraneer Bay Road, Burraneer be determined by the granting of development consent for the reasons outlined in this report and subject to the conditions contained in **Appendix A**.