

**COUNCIL ASSESSMENT REPORT**  
WESTERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSWES-107 DA 2021/LD-000333
<b>PROPOSAL</b>	Centre-Based Child Care Facility
<b>ADDRESS</b>	<ul style="list-style-type: none"> <li>• Lot 100 in DP1280186</li> <li>• Lot 7317 in DP1170701 - Part Crown Reserve R630023</li> <li>• Lot 7318 in DP1170701 - Part Crown Reserve R630023</li> <li>• Lot 19 in DP22820</li> <li>• Lot 22 in DP22820</li> <li>• Lot 23 in DP22820</li> <li>• Lot 21 in DP22820</li> <li>• Lot 24 in DP22820</li> <li>• Lot 65 in DP651098</li> <li>• Lot 101 in DP575642</li> </ul>
<b>APPLICANT</b>	Peter Vlatko General Manager on behalf of Cobar Shire Council ABN 71 579 717 155
<b>OWNER</b>	Cobar Shire Council and part Crown Reserve R630023
<b>DA LODGEMENT DATE</b>	25 August 2021 amended 22 April 2022
<b>APPLICATION TYPE</b>	Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Council related development over \$5 million
<b>CIV</b>	\$6,827,199.00
<b>CLAUSE 4.6 REQUESTS</b>	Nil
<b>SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 55</li> <li>• State Environmental Planning Policy No. 64</li> <li>• Cobar Local Environmental Plan 2012</li> </ul>
<b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b>	Nil

**DOCUMENTS  
SUBMITTED FOR  
CONSIDERATION**

Relevant documents as uploaded to NSW Planning Portal

For assessment:

- Covering letter from Dunn & Hillam Architects pages 1 – 4 dated 20- April 2022
- Architectural Drawings Package Dunn & Hillam Architects.

Job No. 19\_315 Drawings:

- DA 01-00 Rev B 20/04/2022
- DA 01-01 Rev C 20/04/2022
- DA 01-02 Rev C 20/04/2022
- DA 01-03 Rev C 20/04/2022
- DA 01-04 Rev A 20/04/2022
- DA 01-05 Rev A 20/04/2022
- DA 01-06 Rev A 20/04/2022
- DA 01-07 Rev A 20/04/2022
- DA 01-10 Rev A 20/04/2022
- Traffic and Parking Assessment prepared by Lyle Marshall & Partners. Job No. 1112-20. Report No. 2-21 Rev A, April 2022.
- Arboricultural Impact Assessment prepared by Wade Ryan Contracting, Revision 22/04/2022 pages 1-16.
- Stormwater and Civil Services drawings prepared by JHA Services Job No. 210032. Drawings C000 Rev P4, C100 Rev P7, C101 Rev P7, C102 Rev P3, C110 Rev P5, C111 Rev P5, C112 Rev P5, C113 Rev P5, C114 Rev P6, C201 Rev P4, C300 Rev P5, C301 Rev P4, C400 Rev P4 issued 14/04/2022.
- Noise Impact Assessment prepared by JHA Services Project Number 210032 Revision B 29/07/2021.
- Preliminary Site Contamination Assessment prepared by Barnson Pty Ltd Project No. 36686 Report Reference 36686ER01 16/07/2021 Final Revision.
- Statement of Environmental Effects prepared by SJB Planning Final Version August 2021.
- Child Care Planning Guidelines 2017 – Assessment Prepared by SJB Planning Final Version 11/08/2021 pages 1 – 31.
- Draft Landscape Plan prepared by Somewhere Landscape Architects, Project J581 drawings L01, L02 and L03.
- Draft Plan of Management for Early Learning Centre Building prepared by Cobar Shire Council issue 01 - 05/08/2021.

For Information Only

- Ward Oval Precinct Master Plan – all stages, Dunn & Hillam Architects. Job No. 19\_315 Drawing No. SD 01-11 24/02/2022.
- Access Design Assessment Report prepared by Design Confidence, Reference P220\_519-2 (ACCESS) KG Final Report issued 14/07/2021.

	<ul style="list-style-type: none"> <li>• BCA Design Assessment Report prepared by Design Confidence, Reference P220_519-1 (BCA) JR Final Report issued 27/07/2021.</li> <li>• Site Survey Plans prepared by Langford &amp; Rowe for Cobar Shire Council. Eight (8) sheets.</li> <li>• Council Memorandum dated 06/08/2021 regarding the Precinct Plan of Management.</li> <li>• Quantity Surveyors Report prepared by Altusgroup printed 05/08/2021.</li> </ul>
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>	Not applicable
<b>RECOMMENDATION</b>	Conditional Consent
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes
<b>SCHEDULED MEETING DATE</b>	26 July 2022
<b>PREPARED BY</b>	Garry Ryman
<b>DATE OF REPORT</b>	19 July 2022

## EXECUTIVE SUMMARY

Cobar Shire Council (the applicant) has submitted a development application for a Centre-Based Child Care Facility. The proposal is regionally significant development being a Council related development with a Capital Investment Value over \$5 million.

The site comprises land that in part is owned by the applicant together with two (2) Crown reserve lots.

The application was placed on public exhibition and no submissions were received.

Following an assessment of the application relative to the *Environmental Planning and Assessment Act 1979* and other related legislation, the application is recommended for approval by granting conditional consent.

## 1. THE SITE AND LOCALITY

### 1.1 The Site

The site is located on the corner of Maidens Avenue and Brennan St, Cobar and comprises ten (ten) lots legally described as Lot 100 in DP1280186, Lot 7318 in DP1170701, Lot 19 in DP22820, Lot 22 in DP22820, Lot 23 in DP22820, Lot 7317 in DP1170701, Lot 65 in DP 651098, Lot 101 in DP575642, Lot 21 in DP22820 and Lot 24 in DP22820.

### 1.2 The Locality

The site is approximately five hundred (500 ) metres south of the Barrier Highway and is part of the Ward Oval Precinct. This precinct is surrounded by a variety of adjoining land uses

including; single storey detached dwellings, Cobar Public School, Cobar Golf Course, Cobar Pres-school, Girl Guides and Army Cadet Halls.

## **2. THE PROPOSAL AND BACKGROUND**

### **2.1 The Proposal**

The proposed development includes the construction of a single storey centre-based child care building, an at grade on-site carpark and associated works within the road reserve together with demolition of an existing set of cattle yards and a freestanding loading ramp.

The proposal is detailed in the Architectural Drawing Package prepared by Dunn & Hillam Architects dated 20 April 2022.

### **2.2 Background**

The development application was lodged on 25 August 2021 and a Planning Panel briefing was held on 26 October 2021.

An application to amend the Development Application under clause 55 of the *Environmental Planning and Assessment Regulation 2000* was submitted on the NSW Planning Portal on 22 April 2022.

The main changes included in the amended application are the relocation of the on-site carpark with access from Brennan Street, changes to the roof line of the building, demolition of the cattle yards and consideration of the key issues discussed at the Panel Briefing.

The amended application is the subject of this Assessment Report.

### **2.3 Site History**

The matters listed below are highlighted as relevant information for the Panel in its consideration of the subject development.

- Ward Oval Precinct, Masterplan – all stages dated 24 Feb 2022 included in application documents for information only.
- Development Application for New Multipurpose Hall and refurbishment of existing pavilions currently under assessment.
- Ward Oval Sporting and Community Facilities Plan of Management adopted by Council on 23 September 2021 not relied upon in this Assessment Report to establish Crown land owners consent. The Plan was prepared without consulting the Crown. Details in respect of this Plan of Management is provided as Item 1 in Attachment C.

## **3. STATUTORY CONSIDERATIONS**

This section of the Assessment Report firstly identifies and comments on legislation identified as being relevant to the subject development followed by required statutory considerations.

The *Crown Land Management Act 2016* is relevant as two of the lots in the development site are part of Crown Reserve R630023. Despite being the Crown land manager for this Reserve, Cobar Shire Council had to obtain land owners consent from the Crown to make the application in respect of parts of the development work that fell outside of the deemed land owner consent provisions in s2.23 of the *Crown Land Management Act 2016*. Details of the Crown land owners consent is provide in Item 2 of Attachment C

The development site includes seven (7) lots that are classified as community land under the *Local Government Act 1993* and it is highlighted that s47E is relevant to the subject development in that no power of a council under an environmental planning instrument to consent to the carrying out of development on community land may be delegated by the council.

Other matters related to the *Local Government Act 1993* include the application of Cobar Shire Council Development Servicing Plans for Water and Sewerage 2013 (s64) and the need to obtain approvals under s68 for activities as relevant to the proposed development.

The relevant Section 64 water supply and sewerage charges have been calculated and included in the draft Conditions of Consent. Similarly, a list of required activity approvals have been listed as a draft Condition of Consent.

A site walkover for Aboriginal heritage was undertaken by the Cobar Local Aboriginal Land Council (at the invitation of Cobar Shire Council) in April 2022. During the walkover, an isolated artefact was identified and in response an Aboriginal Due Diligence Assessment Report was prepared as advocated in s57 of the *National Parks and Wildlife Regulation 2019* made under the *National Parks and Wildlife Act 1974*.

The outcome of the due diligence process was that:

*Aboriginal Heritage Impact Permit (AHIP) application not necessary. Proceed with caution. If any Aboriginal objects are found, stop work and notify Heritage NSW. If human remains are found, stop work, secure the site and notify NSW Police and Heritage NSW.*

This Assessment Report supports the management recommendations provided in the Due Diligence Report. A copy of the Report is provided as Item 3 in Attachment C.

The proposed development involves carrying out of works on a public road being Maidens Avenue and Brennan Street. Cobar Shire Council is the appropriate road authority under the *Roads Act 1993* and it is noted that the development is not integrated development as detailed s4.46 (31) of the *Environmental Planning and Assessment Act 1979*.

This Assessment Report has been prepared on the basis that a separate approval must be obtained under s138 of the *Roads Act 1993* to carry out works on or within a public road prior the work commencing.

Section 1.7 of the *Environmental Planning and Assessment Act 1979* gives effect to Part 7 of the *Biodiversity Conservation Act 2016*. Part 7 includes an obligation to determine whether a proposal is likely to significantly affect threatened species. A development is considered to result in a significant impact if:

- it is carried out in a declared area of outstanding biodiversity value,

The site is not in an area of outstanding biodiversity area.

- it is likely to significantly affect threatened species or ecological communities or their habitats according to the test of significance in s7.3

The proposed development is in an existing cleared area of Ward Oval. No significant vegetation or native ground cover would be cleared to facilitate the project. On this basis, no significant impacts to threatened species or ecological communities or their habitats are anticipated as a result of the proposed development.

- if the biodiversity offsets scheme applies and the proposed development causes the biodiversity offsets scheme threshold to be exceeded.

Clearing of native vegetation is not proposed and therefore the clearing threshold is not exceeded. A Biodiversity Development Assessment Report (BDAR) is not required.

The Cobar Shire Local Strategic Planning Statement (adopted 28 May 2020) was prepared in accordance with s3.9 of the *Environmental Planning and Assessment Act 1979* and in part gives effect to the Far West Regional Plan 2036.

The proposed development has been assessed relative to the above strategic documents. The application is considered to be consistent with the goals for the region and beneficial towards retaining Cobar as a healthy and cohesive community.

The Cobar Local Infrastructure Contributions Plan 2012 adopted under the *Environmental Planning and Assessment Act 1979* is relevant to the proposed development and the s7.12 levy has been calculated and included in a draft Condition of Consent.

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (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,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

### 3.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application

- *State Environmental Planning Policy No. 55 – Remediation of Land;*
- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*
- *State Environmental Planning Policy No.64 Advertising and Signage*
- *Cobar Local Environmental Plan 2012.*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 1** and considered in more detail below.

**Table 1: Summary of Applicable State Environmental Planning Policies**  
(Preconditions in **bold**)

EPI	Matters for Consideration	Comply (Y/N)
SRD SEPP	<ul style="list-style-type: none"> <li>• Clause 20(1) declares the proposal as regionally significant development pursuant to clause 3 of Schedule 7.</li> </ul>	Y

SEPP 55	<ul style="list-style-type: none"> <li>• <b>Clause 7</b> - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory.</li> </ul>	Y
Infrastructure SEPP	<ul style="list-style-type: none"> <li>• <b>Clause 45</b> - (Determination of development applications - other development) – electricity infrastructure - the proposal is satisfactory.</li> </ul>	Y
Education SEPP	<ul style="list-style-type: none"> <li>• <b>Clause 23</b> - Matters for Consideration</li> <li>• Clause 25 - Non discretionary development standards</li> </ul>	Y
SEPP 64	<ul style="list-style-type: none"> <li>• Clause 6 (2) – Signage to which this Policy applies</li> <li>• <b>Clause 8</b> – Consistent with objectives and Schedule 1 assessment criteria</li> </ul>	Y

*State Environmental Planning Policy (State and Regional Development) 2011*

*State Environmental Planning Policy (State and Regional Development) 2011* ('SRD SEPP') applies to the proposal as it identifies if development is regionally significant development. In this case, pursuant to Clause 20(1) of SRD SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 3 of Schedule 7 of the SRD SEPP as the proposal is development for a Council related development with a CIV over \$5 million. Accordingly, the Western Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

*State Environmental Planning Policy No. 55 – Remediation of Land*

The provisions of *State Environmental Planning Policy 55 - Remediation of Land* ('SEPP 55') have been considered in the assessment of the development application. Clause 7(1) of SEPP 55 requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. In order to consider this, a Preliminary Site Investigation ('PSI') has been prepared for the site.

The Assessment Report supports the findings of the PSI and no further action or reasons to impose specific conditions relative to SEPP55 have been identified. The PSI findings are included below.

*Based on the findings of the desktop review and site investigation it can be stated with a reasonable level of confidence that the areas comprising the Subject Site are unlikely to be contaminated. This finding is supported with analytical results of surface soil samples collected at the Subject Site, in which no contaminants were detected above screening criteria. These areas are therefore considered suitable for the proposed re-development and use as childcare facility.*

*State Environmental Planning Policy – (Infrastructure) 2007*

The subject application was referred to Essential Energy as the electricity supply authority for the area in accordance with clause 45 and the final response in respect of the referral is summarised as "the development is satisfactory to Essential Energy, however the applicant/developer is responsible to consider their requirements for private electrical assets.

The general issue of electrical supply and assets is covered elsewhere in the report in considering the provision of utility services to the proposed development. Relevant supporting documents in respect of electricity are provided as Item 4 in Attachment C.

This Assessment concludes that all required matters have been considered noting that the proposal does not trigger any roads and traffic provisions in Division 17.

#### State Environmental Planning Policy No 64 – Advertising and Signage

Notwithstanding, that the proposed building identification sign may be exempt development and not subject to SEPP No. 64 (clause 6 (2)) this Assessment Report supports the analysis and outcomes in the Statement of Environmental Effects prepared by SJB Planning relative to Clause 8 and Schedule 1 of the SEPP.

Relevant exempt development clauses in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* are listed below as information:

Clause 1.15	What development is exempt development
Clause 1.16	General requirements for exempt development
Clause 2.83	General requirements (for advertising and signage)
Clauses 2.84 and 2.85	Specified development and development standards for building identification signs.

#### State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 applies to the proposal and has been addressed in the application in the following documents prepared by SJB Planning:

- Statement of Environmental Effects August 2021
- Child Care Planning Guidelines Assessment 11 August 2021

This Assessment Report supports the analysis and compliance conclusions detailed in these documents and highlights that clause 23 of the Education SEPP makes consideration of any applicable provisions of the Child Care Planning Guidelines a precondition to determining the subject development application.

The two documents have been checked relative to the amended application noting that the documents were not revised as part of the amended application. This review supports the position that changes within the amended application do not materially change the analysis and compliance conclusions within these documents.

The covering letter prepared by Dunn & Hillam Architects pages 1-4 dated 20 April 2022 provides additional detail in item 8 on page 3 to supplement the comments at item C4 on pages 4 and 5 of the Child Care Planning Guidelines Assessment document.

The conclusions in items C29 and C30 in the guidelines assessment document regarding the hours of operation are supported by this Assessment Report.

In summary, it is considered that the proposal may be accepted as being consistent with the Education SEPP, including the precondition of considering any applicable provisions of the Child Care Planning Guidelines subject to conditions as included in the draft Conditions of Consent in respect of the following items in the Guidelines Assessment document.

- C1 and C24 in respect of the Noise Impact Assessment prepared by JHA Consulting Engineers
- C38 in respect of final design of carparking spaces to include provision of a minimum (2) accessible car parking spaces. Compliance with AS/NZS 2890.6 and the issue of a s38 approval under the Roads Act will address this item.

- 4.8 in respect of an emergency and evacuation plan being prepared post development approval and facilitated by way of a condition of consent.

### Cobar Local Environmental Plan 2012

The relevant local environmental plan applying to the site is the *Cobar Local Environmental Plan 2012* ('the LEP'). The aims of the LEP include;

- Encouraging a range of housing, employment, recreation and community facilities to meet the needs of existing and future residents of Cobar and
- Promoting the efficient and equitable provisions of public services, infrastructure and amenities.

The proposal is consistent with these aims as the proposal is providing a new facility to the community in the form of a centre-based child care facility to meet the needs of existing and future residents of Cobar. The design, location and capacity of the new facility is consistent with promoting the efficient and equitable provision of public services, infrastructure and amenities.

The site has been checked relative to the maps identified in the LEP and with the exception of the Land Zoning Map, all of the other maps (as listed below) are not applicable to the subject application.

- Lot Size Map
- Heritage Map
- Land Reservation Acquisition Map
- Terrestrial Biodiversity Map
- Groundwater Vulnerability Map
- Watercourse Map
- Wetlands Map
- Additional Permitted Uses Map.

The site is located within the Zone RE2 Private Recreation and objectives this zone are:

- To enable land to be used for private open space or recreational purposes
- To provide a range of recreational setting and activities and compatible land uses
- To protect and enhance the natural environment for recreation purposes.

The proposal is considered to be consistent with these zone objectives for the following reasons of the proposal being a compatible land use in locality and designed to protect and enhance the natural environment.

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of centre-based child care facility. Which is a permissible use with consent in the Land Use Table in clause 2.3

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are identified in Table 2 below.

Specific comments are included in respect of each of the identified controls.

**Table 2: Consideration of the LEP Controls**

Control	Requirement	Proposal	Comply
Demolition requires consent (CI 2.7)	Demolition may be carried out with consent	The amended application introduced demolition of a set of cattle yards and loading ramp. Consent may be issued.	Yes
Earthworks (CI 6.1)	1) Objectives 2) Separate consent unless ancillary 3) Matters for consideration	Proposal assessed against requirements.	Yes
Stormwater Management (CI 6.3)	1) Objective 2) Application 3) Matters for consideration	Proposal assessed against requirement	Yes
Essential Services (CI 6.10)	Essential services being available	Proposal assessed against requirement	Yes

Clause 2.7 establishes that demolition may be carried out only with development consent.

Further, clause 92 of the *Environmental Planning and Assessment Regulation 2000* prescribes that the provisions of AS2601-1991: Demolition of Structures (published by Standards Australia as in force at 1 July 1993) are to be taken into consideration by a consent authority in the case of a development application for the demolition of a building.

The relevant requirements in respect of demolition work as exempt development in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* are contained in the following clauses.

- 1.15 What development is exempt development
- 1.16 General requirements for exempt development
- 2.25 and 2.26 Specified development and development standards for demolition.

The proposed demolition of the cattle yards and freestanding loading ramp are not exempt development and therefore require consent. The extent of information included with the application in respect of the demolition work is limited. However, from the application it can be readily identified which structures are proposed for demolition or require demolition.

To assist with assessing the proposed demolition a Hazardous Materials Survey – prepared in respect of the cattle yards (Report Number Cattle – Ward Oval – HAZMAT Reprot\_Rev1 dated 10 August 2021) has been considered in conjunction with AS2601. This Assessment Report raises no concern with development consent being granted for the proposed demolition work subject to conditions as included in the draft Conditions of Consent. A copy of the survey is provided as Item 5 in Attachment C.

Compliance with relevant legislation in respect of demolition, removal and disposal of hazardous materials will readily mitigate any potential adverse impacts. Relevant agencies include; Environmental Protection Authority (waste classification and licensing of landfills) and SafeWork (licensing of and notice of work by demolition contractors).

Clause 6.1 relates to a control in respect of earthworks and has been considered relative to the proposed development. Proposed earthworks associated with the development are considered to be ancillary to and a necessary part of the construction work. The extent of the earthworks does not warrant requiring a separate development consent. The required earthworks are considered to be of a minor nature and will have minimal environmental impact.

Clause 6.3 relates to a control in respect of stormwater management with the objective of minimising the impacts of urban stormwater on the development site, adjoining properties, native bushland and receiving waters. The development is on land within a recreation zone and pursuant to subclause (2) the control is not applicable with its applications limited to land in residential, business and industrial zones. Notwithstanding subclause (2) it is considered worth while commenting on the proposed stormwater design relative to the general concepts listed in subclause (3).

The proposed design;

- does not include excessive areas of hard stand surfaces.
- collects and pipes roof and surface stormwater to an existing stormwater drainage line provided to service the Ward Oval Precinct. The proposed drainage system connects to the existing stormwater drain on Lot 101 in DP575642.
- incorporates four (4) rainwater tanks to harvest roof water from the building for re-use.
- without on-site stormwater retention is preferred given the location of the site low within the catchment and the capacity of the existing 375mm diameter drainage line and open managed drainage channel to effectively handle initial flows in a storm event.
- collecting and draining stormwater away from the site is the preferred management approach over dispersing collected storm water on the development site.

Clause 6.10 includes a precondition that development consent must not be granted to development unless the consent authority is satisfied in respect of essential services as described below:

Any of the following services being;

- the supply of water,
- the supply of electricity,
- the disposal and management of sewage,
- stormwater drainage or on-site conservation,
- suitable road access

that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required.

The site is serviced by suitable road access, existing water supply and sewerage system as well as stormwater drainage system as previously detailed. These essential services are available and the precondition to granting consent is satisfied.

Further to the consultation with Essential Energy in respect of clause 45 under the Infrastructure SEPP the proposed arrangements for the supply of electricity to Lot 100 in DP1280186 have been identified and summarised below:

- It is proposed to install a new pole mounted substation at corner of Brennan Street and Maidens Avenue to supply lot 100.
- The above proposal supersedes a previous option for a pad mounted substation shown in the Architectural Drawings package dated 20 April 2022 and noted as being subject to a separate development application.

- The approval pathway for the installation of the new Pole Mounted Substation will be via State Environmental Planning Policy (Transport and Infrastructure) 2021 or the former Infrastructure SEPP as evidenced in a notification letter received by Council on 13 July 2022.
- The matter of retaining, altering or replacing the existing event electricity supply to the residual area of Lot 100 not occupied by the child care building is still being negotiated with Essential Energy.
- Regardless of the final outcome in respect of event power, the assessment has established that if the existing power pole and overhead power line (insulated bundle) located within four (4) metres of the proposed new building poses no unreasonable or unacceptable safety concerns.

This Assessment Report supports the position that adequate arrangements have been made for making electricity available when required.

In summary the proposal is considered to be generally consistent with the LEP and consent may be granted without the need to seek an exception to a development standard under clause 4.6

### **3.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

This assessment has not identified any proposed instrument that is or has been subject of public consultation and relevant to this development proposal.

### **3.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

There are no Development Control Plans in effect within the Cobar shire local government area.

### **3.4 Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act**

There are no planning agreements or draft planning agreements that are of relevance to the proposed development.

### **3.5 Section 4.15(1)(a)(iv) - Provisions of Regulations**

The *Environmental Planning and Assessment Regulation 2000* in clauses 92, 93, 94A prescribed matters relevant to this paragraph.

The requirement in clause 92 relating to demolition work and need to consider the provisions of AS 2601 is the only matter relevant to the subject development application.

As previous documented AS 2601 has been considered in the preparation of this Assessment Report.

### **3.6 Section 4.15(1)(b) - Likely Impacts of Development**

In considering the development application the consent authority is to take into consideration matters as are of relevance to the proposed development; including the likely impacts of the development. Environmental impacts on both the natural and built environment, and social and economic impacts in the locality are to be considered.

In this regard, potential impacts as relevant to the proposal and identified in applicable SEPP and LEP controls have been considered in the responses included above in this assessment.

The Statement of Environmental Effects submitted with the application has addressed the following impacts:

- Construction Impacts
- Amenity Impacts or Neighbouring Properties
- Privacy Impacts
- Solar Access and Overshadowing
- Acoustic Impacts
- Traffic and Parking
- Social Impacts and Economic Impacts

This assessment has considered the identified impacts included in the SEE and supports both comments and conclusions provided on behalf of the applicant.

Further, specific consideration of likely impacts considered in this assessment are detailed below.

Safety, security and crime prevention was considered relative to the crime prevention and the assessment of development applications – Guidelines under section 79c of the EP&A Act 1979 and a memorandum of Understanding prepared between Cobar Shire Council and NSW Police.

The proposed development does not fit within the type of Development Application covered by the Memorandum and when contacted in October 2021 the local police confirmed no need for referral of the subject application.

The proposal has been considered relative to the Ward Oval Precinct Master Plan. This master plan document is not static and subject to ongoing review. The Plan included in the application is dated 24 February 2022 and pre-dates the amended development application lodged on 22 April 2022.

The proposal has been reviewed against the Plan and is considered to be generally consistent with the Plan.

The relocation of the on-site carpark and changing the vehicle access from Maidens Ave to Brennan St is considered to improve the site design by reducing the footprint of the Child Care Facility and lessening the impact on Ward Oval in terms of future opportunities and maximising available space for showground activities.

The assessment has considered the proposed development and how it relates to existing development on the site including potential impacts and risks associated with the proposal. The matters considered also supplement the previous assessment comments regarding the Child Care Planning Assessment Guidelines.

The original application did not propose to remove the set of cattle yards located to the south of the proposed building site. A preliminary assessment identified an obvious conflict between the cattle yards and the proposed building in terms of physical proximity preventing co-location in terms of practical function.

The applicant has addressed this conflict as detailed in the covering letter from Dunn & Hillam pp 1-4 dated 20 April 2022 and the amended proposal is supported by this assessment.

There are no other identified unreasonable conflicts between the proposed Child Care Facility and other development within the Ward Oval Precinct. The siting of the proposed facility and

its immediate curtilage effectively separates it from other activities and is considered acceptable.

The revised design as presented in the amended application in this assessment is considered as being acceptable in terms of its interaction with the street frontage and adjoining developments in the locality.

The proposed provision of both on street and on site parking is considered to be sufficient to effectively service the proposed development without comprising existing use of Ward Oval or future opportunities.

The proposed development is considered to be of a scale and size that is not out of character with the surrounding area. The proposal will not adversely impact the street scape, the outlook from adjoining properties or pose any unreasonable impacts to adjoining residents.

Construction work will generate some noise, however through a condition of consent limiting the working hours and available legislative provisions such impact may be readily managed to avoid unreasonable impact in the neighbourhood. There will be no on going significant noise impacts expected as a result of the development.

It is considered that the proposed development will not result in any significant adverse social or economic impact. The expected social and economic impact of the development is expected to be positive and will result in a material public benefit to the community by providing additional child care services to the community.

Overall the likely impacts of the proposal have been assessed as being reasonable and no matters of significant concern with the development have been identified.

### **3.7 Section 4.15(1)(c) - Suitability of the site**

The proposed development is an acceptable fit in the locality and the attributes of the site are considered to be conducive to the development. There are no legislative, physical, servicing or environmental constraints to prevent the development. The proposed development is compatible with existing land uses in the locality. The site is considered to be suitable for the proposed development.

### **3.8 Section 4.15(1)(d) - Public Submissions**

Public exhibition completed with no submissions received. Details of the community consultation undertaken is included in Section 4 of this report.

### **3.9 Section 4.15(1)(e) - Public interest**

No negative public interest matters have been identified in respect of this proposal. The proposal will strengthen and expand on existing child care services available within the community. The proposed development is considered to be in the public interest.

## **4. REFERRALS AND SUBMISSIONS**

### **4.1 Agency Referrals and Concurrence**

The development was referred to Essential Energy in accordance with clause 45 of the Infrastructure SEPP as previously addressed in this report.

Further, NSW Police were consulted regarding providing comments as previously discussed in Section 3.5 of this report in respect of crime prevention.

There are no outstanding legislated concurrence or referral requirements in respect of this proposal.

## 4.2 Community Consultation

The original application was on public exhibition from 1 September 2021 to 22 September 2021.

The exhibition included:

- Notice in local newspaper
- Exhibition on Council's website
- Letter to neighbouring properties

At the close of exhibition period no submissions were received.

The amended application was on public exhibition from 28 April 2022 to 13 May 2022

The exhibition included:

- Notice in local newspaper
- Exhibition on Council's website
- Letter to neighbouring properties

At the close of exhibition period no submissions were received.

In addition to the public exhibition of the Development Application it is noted that a draft Plan of Management for Ward Oval Sporting and Community Facilities was subject to community consultation.

This consultation included giving public notice of the proposed draft Plan and conduct of a Public Hearing. The draft Plan included an Early Learning Precinct as a Community Use at Ward Oval.

No submissions were received from the community in respect of the Early Learning Precinct.

## 5. CONCLUSION

In conclusion, it is submitted that the proposed development is worthy of support on the basis of being:

- Acceptable in terms of s4.15 matters for consideration
- Permissible with consent on the subject land
- Unlikely to cause any unreasonable impacts in the locality
- Acceptable in terms of public interest considerations and
- Proposed on a suitable site for the development.

## 6. RECOMMENDATION

That the Development Application DA No 2021/LD-00033 for a Centre-Based Child Care Facility at Ward Oval Precinct, Maidens Ave, Cobar be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of Consent
- Attachment B: Documents listed in draft Condition 1
- Attachment C: Additional documents referenced in Assessment Report.