

AUTHORISED OFFICERS REPORT

DEVELOPMENT APPLICATION: DA-2026/0033
NSW PLANNING PORTAL PAN-615018
FOR: Centre-based child care facility and 2 Lot (Torrens Title)
Subdivision (Construction of 90 enrolment child care
facility and Boundary Realignment)
ZONE: E1 Local Centre
ADDRESS: 41 & 43 Noorong Street Barham NSW 2732
PROPERTY Lot 6 Section 7 DP 758053 & Lot 7 DP 1052096
OWNER: Matrob Pty Ltd ATF Kibble Superannuation Fund
APPLICANT: Acre Town Planning

Section 1: Introduction

1.1 Scope of this Report

This report is structured to firstly provide an overview of the proposed development and the statutory assessment procedure used during processing the development application. An assessment of the development application is then provided which culminates in the recommendations.

This report has been divided into the following structure:

- Section 1 – Introduces the development application and includes a description of the development application.
- Section 2 – Describes the statutory assessment process and procedures used to assess the development application.
- Section 3 – Identifies the relevant statutory and strategic land use and development policies and guidelines applicable to the development application and assesses the considered performance of the development application against these policies and guidelines.
- Section 4 – Discusses and makes a recommendation based on the assessment of the development application.

Appendix 1 contains development plans which must be adhered in giving effect to the development considered in this report, and Appendix 2 contains conditions of consent.

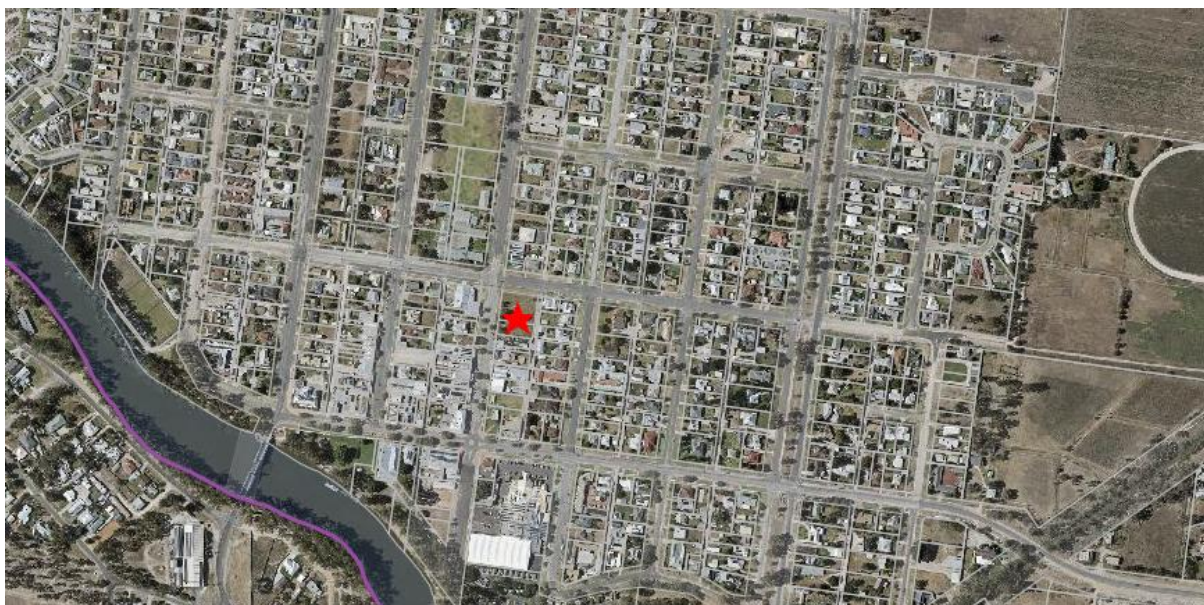
1.2 Subject Site

The sites subject to this development application are located at the corner of Noorong Street and Wakool Street, Barham and identified as:

- 43 Noorong Street, Barham - Lot 6 Section 7 DP 758053, and
- 41 Noorong Street, Barham - Lot 7 DP 1052096, hereon referred to as the site.

41 Noorong Street has a land size of 1011m², and 43 Noorong Street has a land size of 2023m², totalling a combined land size of 3034m². Refer to figure 1.

Figure 1 – Location Plan



Source: Intramaps 2024 Aerial Mapping (Towns)

The site is vacant of any structures and is generally flat. There is scattered mature native vegetation throughout the site, which is proposed to be removed to facilitate the works. The site is zoned E1 Local Centre under the Wakool Local Environmental Plan (LEP) 2013. The purpose of this zone is to provide for a range of retail, business, and community uses that serve the needs of the people who live in, work, or visit the area. This site is mapped as River Murray land under Chapter 5 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, and is identified as being affected by the 1% AEP flood event in the low hazard flood fringe zone.

The site does not contain any known items of environmental heritage significance. The site is not mapped as Bush Fire Prone Land or Contaminated Land or containing any other resources.

1.3 Surrounding developments

The Site is surrounded by existing residential and commercial development. Key surrounding features include:

- **North:** Wakool Street and the Barham preschool, Police Office, and Fire Station, alongside extensive existing residential development.
- **East:** Unnamed Laneway & Existing residential development,
- **South:** Several Local businesses including Vinnies, Murray River Meats (Butcher), and a veterinary clinic.
- **West:** Noorong Street commercial precinct.

1.4 The Proposal

Development consent is sought for a single-storey childcare centre featuring six activity rooms, sleeping areas, bathrooms, a communal kitchen, reception, offices, staff areas, and a laundry. No demolition is proposed. Refer to Figure 2 for more details.

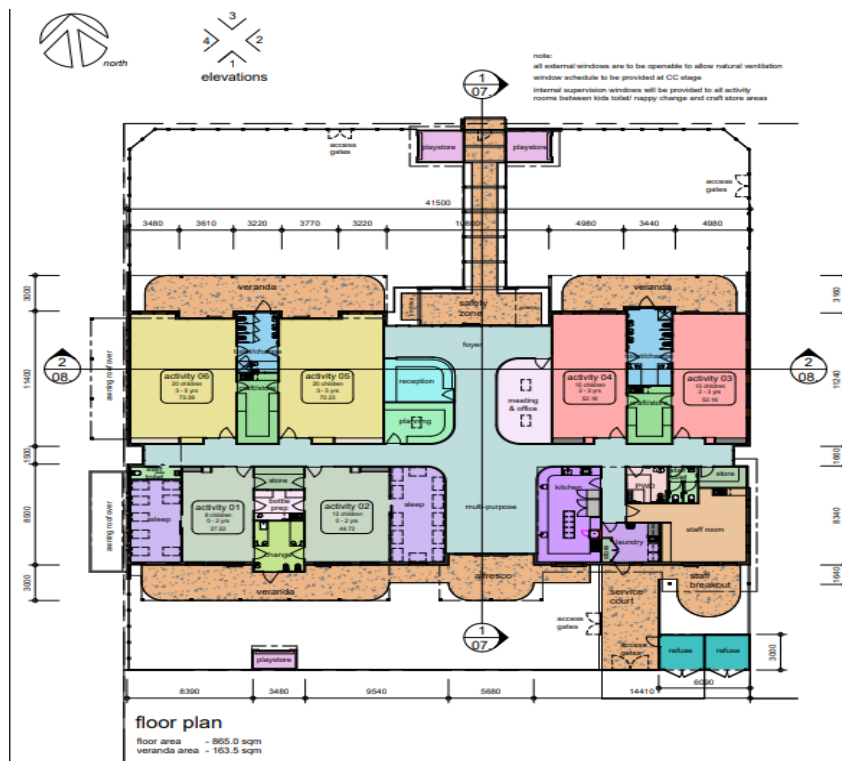


Figure 2 – Site Plan
Source: Application Documents

A total of 90 children are to be hosted at the premises.

The activity rooms are as follows:

- 0-2 years section – 2 activity rooms, 2 sleep rooms, nappy change room, bottle room store, staff toilet, verandah and outdoor play area with play store
- 2-3 years section - 2 activity rooms, toilets / change room, store / craft room, verandah and outdoor play area with play store.
- 3-5 years section – 1 activity room, toilets / change room, store / craft room, verandah and outdoor play area with play store.

Pedestrian Access is provided via the existing footpath on the northern boundary (Wakool Street), and vehicle access is available via the laneway on the eastern boundary of the development. Car parking spaces for 16 vehicles is proposed for the childcare development, and an additional 5 spaces to be constructed on the southern allotment for the purposes of future commercial / residential development.

The proposal includes landscaping (planting & play areas), no ancillary structures are proposed as part of the application. Refer to Figure 3 for more details.

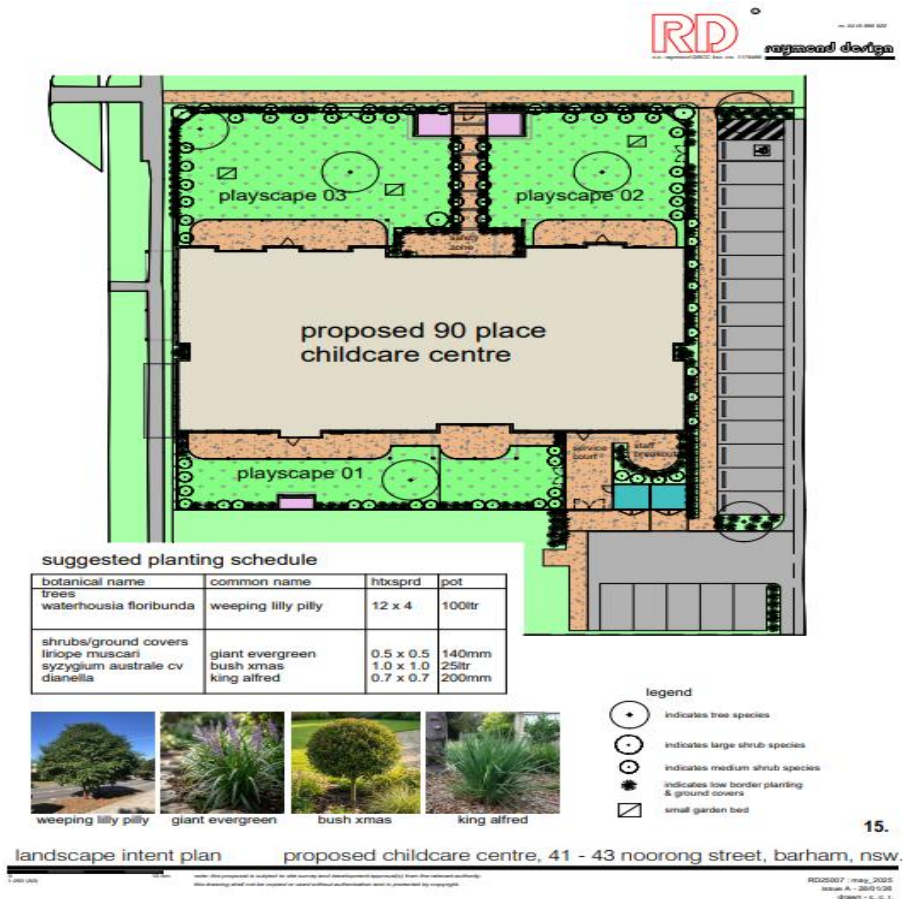


Figure 3 – Landscaping Details
Source: Application Documents

Section 2: Statutory Assessment Process

2.1 Environmental Planning and Assessment Act 1979

Section 1.3 Objects

Comment: This Act aims to ensure the sustainable development and management of the State's resources by:

- promoting community wellbeing, economic growth, and environmental protection
- supporting housing supply and affordability
- improving productivity and land use
- conserving biodiversity and cultural heritage (including Aboriginal heritage)
- building resilience to climate change and natural disasters
- encouraging good design and safe, healthy built environments
- fostering public participation in planning, and
- integrating economic, environmental, and social factors in decision-making.
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Comment: The proposed development is consistent with the objects of the Act in offering community wellbeing, economic growth and protecting environmental values. The proposed child care facility will provide a community asset for the use of the wider Barham community.

Section 1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

Comment: The proposed development will not have a significant effect on the terrestrial and aquatic environment, threatened species, populations or ecological communities, or their habitats. Although some vegetation is proposed to be removed to facilitate the development, the proposal is not considered to create any significant adverse environmental impact. It is therefore considered the proposal is not inconsistent with Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994*.

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

Comment: Not applicable. The site is not mapped as Bush Fire Prone Land.

Section 4.15 Evaluation

Comment: This report provides the necessary review and evaluation of the development application. See below.

Section 4.46 What is “integrated development”?

Comment: The application is not classed as Integrated Development.

2.2 Chronology of events and public notification and statutory referral process.

The below table provides an overview of the timeline with respect to the lodgement and assessment of the application.

Application history/timeline

Application lodged	09/03/2026
Public Exhibition (Neighbour Notification)	16/03/2026 – 07/04/2026. Council note that no submissions were received during the exhibition period. A submission of support was provided outside of the exhibition period.
Further information requested	04/06/2026 – Council requested an updated servicing plan, including water and sewer services, as well as a stormwater management plan.
Further information received	Not Applicable – Required information has been proposed as conditions as per advice from Council’s Infrastructure Department.

2.3 Referrals and Owners Consent

Internal Referrals	Infrastructure Department – Responded on 03 June 2026, and requested amended services plans for water and sewer, as well as a stormwater management plan. Advice was also provided on the 1 st July 2026 regarding recommended condition of consent, and further advice regarding services, flooding, and Section 64 Contributions. In this response,
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	it was confirmed that laneway upgrades are required at the expense of the applicant, and that the legal point of discharge is a kerb adaptor in the road reserve. Council has conditioned a stormwater management plan as part of the conditions of consent. Liquid Trade Waste Team – Responded 25 March 2026 confirming that a liquid trade waste application must be obtained prior to operations. This has been included in the recommended conditions of consent. Waste Team – No response provided. Environmental Health – Provided general conditions of consent regarding food preparation which have been included in the recommended conditions of consent Parks & Gardens Team – No response provided.
External Referrals	<u>River Murray land Agencies - SEPP (Biodiversity and Conservation) 2021</u> DCCEEW: Biodiversity & Conservation Division – Recommended that Council apply the relevant development standards as outlined in the Barham Flood Risk Management Study & Plan. Also confirmed that there is no biodiversity risk to local flora / fauna as a result of the proposed development. <u>SEPP (Transport and Infrastructure) 2021</u> NSW State Emergency Services (NSW SES) – No response received.
Public Exhibition	The proposed development was publicly exhibited in accordance with Council's DCP requirements. No submissions were received during the exhibition period.
Owners Consent	Provided.

2.4 Contributions

Section 7.11 (formerly Section 94) Development Contributions are not required.

Section 7.12 (formerly Section 94A) Levy Development Contributions are required. The total cost of works provided, excluding GST is \$5,990,256.00. Including 10% GST, the works total a cost of \$6,589,281.60. The contributions payable are 1% of the total cost of works including GST, as per the Section 7.12 Murray River Council Levy Development Contribution Plan 2026, the contribution payable for this development is \$65,892.82. Council have conditioned this to be paid in the recommended conditions of consent.

Section 64 contributions are required, see calculations below:

DEVELOPMENT	Childcare Facility Barham
CONTRIBUTION RATE	90 Students, 16 Educators Total = 106 people Water = 0.06 ET per person Sewer = 0.10 ET per person
SEWER Rate of 1 ET for 2026/27 Financial Year = \$5,596.50	Sewer = 0.10 ET per person. Applicable Sewer ET = $0.10 \times 106 = 10.6 \text{ ET}$ Charge in FY 26/27 = $10.6 \times \$5,596.50$ Charge in FY 26/27 = \$59,322.90
FILTERED WATER Rate of 1 ET for 2026/27 Financial Year = \$4,477.00	Water = 0.06 ET per person, Applicable Filtered Water ET = $0.06 \times 106 = 6.36 \text{ ET}$ Charge in FY 26/27 = $6.36 \times \$4,477.00$ Charge in FY 26/27 = \$28,473.72
RAW WATER- Rate of 1 ET for 2026/27 Financial Year = \$448.00	Water = 0.06 ET per person, Applicable Raw Water ET = $0.06 \times 106 = 6.36 \text{ ET}$ Charge in FY 26/27 = $6.36 \times \$448.00$ Charge in FY 26/27 = \$2,849.28

Section 3: Town Planning Assessment

Assessment of the development application has been undertaken in respect to relevant considerations arising from Section 4.15 of the *Environmental Planning and Assessment Act 1979* as follows:

3.1 Section 4.15 Evaluation

(1) *Matters for consideration-general*

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) (Repealed),*

that apply to the land to which the development application relates,

- (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.*

Matters for consideration

3.2(a) the provisions

3.2(a)(i) Environmental Planning Instruments

3.2(a)(i)a Wakool Local Environmental Plan 2013

Part 1 Preliminary

1.2 Aims of Plan

Comment: The proposed development is consistent with the aims of Wakool LEP 2013.

The proposed development will provide appropriate development within the locality. It is considered the development will provide sustainable economic growth and development within the township of Barham.

1.9A Suspension of covenants, agreements and instruments

Comment: For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.

Part 2 Permitted or prohibited development

2.2 Zone objectives & Land Use Table (development permissibility)

Zone: E1 Local Centre

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

Comment: The proposed development is consistent with the objectives of the E1 Local Centre Zone of the Wakool LEP 2013. The application seeks permission for a centre-based child care facility which is permissible in the E1 zone. Under the Wakool LEP 2013:

Centre-based child care facility means -

(a) a building or place used for the education and care of children that provides any one or more of the following—

- (i) long day care,*
- (ii) occasional child care,*
- (iii) out-of-school-hours care (including vacation care),*
- (iv) preschool care, or*

(b) an approved family day care venue (within the meaning of the [Children \(Education and Care Services\) National Law \(NSW\)](#)),

but does not include—

(c) a building or place used for home-based child care or school-based child care, or

(d) an office of a family day care service (within the meanings of the [Children \(Education and Care Services\) National Law \(NSW\)](#)), or

(e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or

(f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or

(g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or

(h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

2.6 Subdivision—consent requirements

Comment: The application includes a proposed boundary realignment, consent has been applied for.

Part 3 Exempt and complying development

Comment: Noted. The proposed development cannot be classed as exempt or complying development as it does not meet all development controls.

Part 4 Principal development standards

4.1 Minimum subdivision lot size

Comment: A boundary realignment is proposed; it is noted however the subject land does not contain any minimum lot size provisions.

4.6 Exceptions to development standards

Comment: Not applicable.

Part 5 Miscellaneous provisions

5.10 Heritage conservation

Comment: The site does not contain any known items of Environmental Heritage Significance. It is the responsibility of the Applicant to ensure compliance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*. Any consent issued will contain the standard condition regarding protection of Aboriginal Cultural Heritage.

5.21 Flood planning

Comment: The land is mapped as flood prone in the 1% levee breach event. Council note that the application was referred to NSW SES for advice regarding flood risk and evacuation management, however no response was received. Based on advice from Council's Infrastructure Department, the recommended conditions of consent will include a Finished Floor Level (FFL) requirement of 77.55m AHD, and conditions requiring all structural components of the building below the adopted flood level to maintain flood compatibility. A Flood Emergency Response Plan (FERP) has also been conditioned to be provided before the release of a Construction Certificate, which must outline evacuation procedures, triggers, and emergency management measures in the event of a flood. Notwithstanding, Council would generally expect the facility to cease operations during periods of flooding. It is noted that there are several requirements that must be considered by Council under this section, they have been discussed accordingly below.

(1) The objectives of this clause are as follows—

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.*

Comment: It is considered the proposal is consistent with the objectives of the clause (section).

- (2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—*

(a) is compatible with the flood function and behaviour on the land

Comment: Council consider the proposed development is compatible with the flood function of the land. The land does not ordinarily flood in the 1% AEP flood event, and instead the overlay is based on a flood levee breach event. The built form of the proposed structure is similar to surrounding buildings, and is unlikely to impact on flood behaviours. Council have imposed conditions requiring all materials below the FPL to be constructed of flood compatible materials, in order to reduce the risk of pollution and decrease general 'rebuild' costs following an event.

(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and

Comment: It is considered the proposed development will not adversely impact flood behaviour or increase potential flood affectation for other development. The area of the proposed childcare predicted to be above the FPL will be approximately 865m², and the site is on the fringe of the flood mapping, meaning any trapped water could ideally escape further along Noorong Street, limiting flood affectation for neighbouring properties.

(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and

Comment: Council have conditioned a Flood Emergency Response Plan (FERP) in the recommended conditions of consent, confirming potential evacuation routes during a flood event. It is noted that the childcare will not contain permanent residents and will instead operate on standard childcare hours (7am-7pm). As such, Council consider the risk is significantly lower than standard residential development, as the proposed use may temporarily cease operations during an event without displacing person/s. As discussed above, the site is on the fringe of the flood levee breach event, and Council consider that evacuation can be achieved if required via safe access though Noorong Street. The exact route and processes will be subject to the proponent's investigations as part of the FERP, and must be approved by Council before the release of a CC.

(d) incorporates appropriate measures to manage risk to life in the event of a flood, and

Comment: Please refer to points discussed under subsection (2)(c).

(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

Comment: The subject land is more than ~300m from the closest natural waterway (Murray River), and Council consider the proposed works will not contribute to erosion or siltation. Vegetation removal is required to facilitate the development, however as the works are occurring away from the watercourse, it is considered that no adverse impact is likely.

(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—

(a) the impact of the development on projected changes to flood behaviour as a result of climate change,

Comment: Council does not have specific data on projected changes to flood behaviour because of climate change within the Barham township. It is noted the scale of the development in relation to flood behaviour is relatively minor, and Council are unable to conceive any impacts to the development as a result of climate change.

(b) the intended design and scale of buildings resulting from the development,

Comment: The design and scale of the buildings are suitable for the proposed use. The design of the building is architecturally suitable, and the size of the building is considered appropriate for the site.

(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,

Comment: Please refer to section (2)-(c) above.

(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.

Comment: Whilst the development may be modified following a flood event, it is unlikely that the building will ever be relocated or removed as it is being constructed on a concrete slab. Council consider this suitable in this instance as the building has been conditioned to be constructed above the FPL and therefore is unlikely to be adversely affected by flooding.

(4) A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.

Comment: Noted.

(5) In this clause—

Considering Flooding in Land Use Planning Guideline means the Considering Flooding in Land Use Planning Guideline published on the Department's website on 14 July 2021. flood planning area has the same meaning as it has in the Flood Risk Management Manual.

Flood Risk Management Manual means the Flood Risk Management Manual, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023.

Comment: Noted.

5.22 Special flood considerations

Comment: The application is for sensitive and hazardous development, as a child care facility is classed as an early education and care facility under the chapter, and is between the flood planning area and probable maximum flood (PMF). The requirements of this section have been extensively discussed as part of Section 5.21. In summary, Council are satisfied that the proposed development is unlikely to affect the safe occupation or evacuation of people during an event to flood, and it is considered that the proposed development will incorporate appropriate measures prior to operation to manage risk to life in the event of a flood. Council also consider that the environment will not be adversely

affected in a flood as part of the development. A condition has been included requiring all materials below the FPL to be flood compatible to reduce the risk of environmental pollution.

Part 6 Additional local provisions

6.1 Earthworks

Comment: Earthworks associated with the construction and establishment of the development will be required; however, Council considers the impacts of these earthworks to being able to be appropriately managed. The scale of earthworks is relative to developing the application site and unlikely to cause any detrimental effects on the drainage patterns and soil stability of the land.

6.2 (Repealed)

6.3 Terrestrial biodiversity

Comment: Not applicable. The subject site is not covered by Council's biodiversity mapping.

6.4 Riparian land and watercourses

Comment: No issues identified, as no works proposed within or near the riparian land and watercourse. As such, the development will not impact the water quality of the river, and the stability of the bed, shore, and banks.

6.5 Wetlands

Comment: Not applicable. The subject land is not mapped as a wetland.

6.8 Essential services

Development consent must not be granted for development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

Subsection	Comment
<i>(a) the supply of water,</i>	Water supply is available.
<i>(b) the supply of electricity,</i>	Electricity is available.
<i>(c) the disposal and management of sewage,</i>	The proposed development is required to connect to Council's existing sewer main. Any upgrades to infrastructure will be required to be constructed to satisfaction of Council at the expense of the Applicant.
<i>(d) stormwater drainage or on-site conservation,</i>	Council note that stormwater infrastructure is not available. Council have recommended conditions of consent regarding a stormwater management plan, that is to be provided before the commencement of works. Council are satisfied that all stormwater runoff generated from the development can be managed via runoff to the road reserve as per advice from Council's Infrastructure Dept. in the referral response dated 01/07/2026.

(e) -suitable road access	Provisions are available for suitable vehicle and pedestrian access to the property frontage. Council have imposed conditions regarding access to the property, and laneway upgrade works will be required before the operation of the facility.
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3.2(a)(i) State Environmental Planning Policy (Biodiversity and Conservation) 2021 Chapter 1 Preliminary

Comment: Noted.

Chapter 2 Vegetation in non-rural areas

Comment: The proposed development is not inconsistent with this Chapter of the SEPP. The existing trees on site proposed to be removed are not considered significant.

Chapter 3 Koala habitat protection 2020

Comment: Not applicable (land is zoned E1 Local Centre).

Chapter 4 Koala habitat protection 2021

Comment: The subject land is not considered to be core koala habitat or potential koala habitat.

Chapter 5 River Murray lands

Comment: The subject site is mapped as 'River Murray land' within the State Environmental Planning Policy (Biodiversity and Conservation) 2021. It is considered the proposal is consistent with the requirements of the Chapter. The subject land is located within an existing commercial precinct of Barham and the application has suitably addressed potential impacts upon the locality.

3.2(a)(i) State Environmental Planning Policy (Sustainable Buildings) 2022 Chapter 1 Preliminary

Comment: Noted.

Chapter 2 Standards for residential development—BASIX

Comment: Not applicable (application does not involve BASIX development).

Chapter 3 Standards for non-residential development

Comment: The State Environmental Planning Policy (Sustainable Buildings) 2022 and Chapter 3 'Standards for non-residential development' promotes sustainable design and aims to help achieve NSW's net zero target by 2050. Its requirements apply to large non-residential developments valued at \$5 million or more. Given the proposed works exceed \$5 million, Council have considered the requirements of the chapter and are satisfied that the proposal has taken all reasonable measures to satisfy the requirements of the chapter. Solar panels have been proposed to reduce energy consumption, and natural light has been utilised throughout the development to reduce reliance on artificial lighting. The applicant has provided an embodied emissions report, which Council consider satisfies the requirements of Section 3.2 (2). Council notes the development is not defined as 'large commercial development', so consideration of Section 3.3 is not required.

Chapter 4 Miscellaneous

Comment: Noted.

3.2(a)(i) State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Comment: The proposed development cannot be classed as exempt or complying development as it does not meet all development controls.

3.2(a)(i) State Environmental Planning Policy (Housing) 2021

Comment: Not applicable.

3.2(a)(i) State Environmental Planning Policy (Industry and Employment) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 3 Advertising and signage

Comment: Not applicable, no signage has been proposed as part of the development.

3.2(a)(i) State Environmental Planning Policy (Planning Systems) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 State and regional development

Comment: The application is classed as Regionally Significant Development as the proposed development is for a child care centre with an estimated development cost of more than \$5 million.

3.2(a)(i) State Environmental Planning Policy (Primary Production) 2021

Comment: Noted. It is noted the land is zoned E1 Local Centre within the township of Barham, therefore this Policy is not applicable.

3.2(a)(i) State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 3 Hazardous and offensive development

Comment: The proposal is not classed as Hazardous and offensive development or potentially hazardous or potentially offensive development.

Chapter 4 Remediation of land

Comment: The site is not mapped on Council's contaminated lands register and is not considered to be contaminated or likely to be contaminated. Furthermore, the applicant has provided a detailed contaminated lands report prepared by Provincial Geotechnical Pty Ltd, which confirms that the site does not appear to have any contamination risk. In accordance with the requirements of the chapter, Council consider the land is suitable in its current state for the proposed development. No remediation works are required before the commencement of use.

3.2(a)(i) State Environmental Planning Policy (Resources and Energy) 2021

Comment: Not applicable.

3.2(a)(i) State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Comment: Council consider the provisions of the Chapter have been satisfied. It is noted referral to Transport for NSW is not required, as the development does not exceed the threshold of 200 motor vehicles per hour.

Chapter 3 Educational establishments and child care facilities

Part 3.1 Preliminary

3.1 Aims of Chapter

Comment: It is considered the proposal is consistent with the aims of the Chapter.

Part 3.2 General

3.10 Notification of councils and State Emergency Service—development on flood liable land

Comment: The subject land is mapped as Flood prone, therefore the application was referred to NSW SES. NSW SES did not provide a response.

Part 3.3 Early education and care facilities—specific development controls

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

Comment: This section outlines the circumstances under which concurrence is required by the regulatory authority, being the NSW Department of Education. In this instance, the proposed development complies with indoor floor area and outdoor space requirements as per the provided plans, so concurrence is not required.

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

Comment: This section requires Council to consider the provisions of the 'Child care planning guideline' dated September 2021 issued by NSW Department of Planning, Industry and Environment. There is a list of matters for consideration which are provided within the guideline, these have been discussed below.

3.1 Site Selection and Location

Comment: Council consider the site appropriate for the proposed development, the surrounding land uses are generally compatible with the proposal, and are unlikely to introduce potential acoustic, visual, or other contaminants into the site. Parking is managed via a laneway, which will aid in mitigating road safety concerns, and the pedestrian frontage is accessible via both existing and proposed footpaths. It is considered that the proposed structure has an overall positive impact to the amenity of the area, it has been sited as to utilise as much space as possible, whilst mitigating impacts to neighbouring residential properties. Council note that a detailed traffic impact assessment has been provided, which confirms that both primary road's have existing 40km/h school zone restrictions in place, with standard 50km/h restrictions outside of school times. Lastly, the site has been chosen as to be within close proximity to the main township of Barham, there are several employment opportunities near the proposal, and it is connected with the community via pedestrian and private vehicle access, whilst also ensuring there are no heavy or hazardous industries nearby.

3.2 Local Character, streetscape and the public domain interface

Comment: As per the supplied plans, perimeter fencing is provided around the building, and the proposal has been designed to ensure that passive surveillance of surrounding streets is possible via outwards facing windows, and swimming pool-style semi-transparent fencing. Council consider the proposal will not degrade the visual characteristics of the neighbourhood, and the built form is suitable for the site.

3.3 Building orientation, envelope, building design, and accessibility

Comment: The building has been designed as to optimise solar access. 4 out of 6 of the playrooms are located on the northern side of the structure, ensuring the maximum amount of natural light is captured. The proposed structure is single storey, consistent with development in Barham, and does not overshadow neighbouring properties. The primary

entry to the premises is located on the northern side of the development, providing connectivity to the existing footpath network. The access is directly visible to a primary street frontage, and is secured via a safety zone, followed by a reception area and foyer. This ensures that any access to the facility is closely monitored. A rear access is also proposed, which will allow staff to access the premises via a proposed easement, following the future construction of a commercial premises on the adjoining allotment.

3.4 Landscaping

Comment: The applicant has provided a landscaping plan as per Figure 3, which provides planting along the boundaries of the site. Landscaping is also proposed throughout the carparking area, and a full planting schedule has been provided as part of Figure 3.

3.5 Visual and Acoustic Privacy

Comment: Council is satisfied the proposed works will not adversely impact neighbouring residents' privacy. The proposed building does not overlook adjoining properties and is setback appropriately as to minimise acoustic impacts. Council note that the proposal was extensively notified to neighbours, and no submissions of objections were received during this period. This reinforces Council's position that the works are unlikely to impact the amenity of the neighbours. It is noted that Council have imposed a condition of consent to provide an acoustic fence along the eastern boundary of the site, where there is not a solid dividing wall. As part of this condition, the Applicant will be required to prepare an acoustic report to determine the appropriate height of the fencing in accordance with C22 & C23 of the Guidelines.

3.6 Noise and air pollution

Comment: Council consider the proposal will not be impacted by external noise pollution. There are no industrial commercial operations nearby, and there are no major or busy roads surrounding the development. As such, council consider an air quality assessment is not required, and the conditioned acoustic assessment is not required to measure external noise factors.

3.7 Hours of Operation

Comment: The applicant has not provided hours of operation. Accordingly, Council have conditioned the standard 7am-7pm maximum operation hour period as per C28 of the guideline.

3.8 Traffic, parking and pedestrian circulation

Comment: As discussed above, off street car parking has been provided to a total of 16 spaces. As per the DCP requirement of one (1) space per five (5) children, the requirement is 18 spaces for this development. This variation is further discussed below, however it can be considered that Council are satisfied with this request. In accordance with C35 of the guidelines, separate pedestrian access has been provided to the facility, and vehicles are able to enter / exit the laneway parking in a forward direction. Fencing has also been proposed to separate car parking areas from both the building entrance, and proposed play areas.

4.1 Indoor Space Requirements

Comment: The proposed development includes a minimum of 3.6m² of unencumbered space per child, exceeding the requirements of the regulation.

4.2 Laundry and Hygiene Facilities

Comment: The proposal include a laundry facility on the southern side of the premises. The proponent has provided sufficient space for a washer, dryer, sinks, and storage.

4.3 Toilet and Hygiene Facilities

Comment: The proponent has provided adequate toilet facilities on site, compliance with the National Construction Code (NCC) will be required as part of the construction Certificate, satisfying the requirements of Regulation 109.

4.4 Ventilation and Natural Light

Comment: As per above, compliance with the NCC will be achieved at the Construction Certificate stage. Council are satisfied that the development will have adequate levels of natural light, and can be maintained to ensure that natural ventilation is available. The structure has high ceilings, gazetted by windows, which will significantly increase the amount of natural light.

4.5 Administrative Space

Comment: The proposal includes adequate space for administrative purposes. As per the provided plans, there is a reception area, planning room, meeting and office area, and a staff room. It is noted that the proposal also fulfils the considerations laid out in the design guidance, by providing a connected waiting area as per Figure 4 of the guidelines.

4.6 Nappy Change Facilities

Comment: The proposed development includes nappy changing facilities between activity room 1 & 2. The proponent has outlined in their assessment that internal supervision windows will be provided to restrict access to this area, and council have provided advice to applicant via the recommended conditions of consent which recommends installing lockable doors to restrict access to this area.

4.7 Premises Designed to Facilitate Supervision

Comment: Council considers the proposed floorplan manages the supervision of children to an adequate degree. the building has been designed as to avoid room layouts with hidden corners, and features a central hallway for ease of access between activity rooms.

4.8 Emergency and Evacuation Procedures

Comment: Council have imposed a condition requiring compliance with the regulations, of which they must provide the documents as outlined in regulation 97 before the issue of a Construction Certificate. Council consider this satisfies the requirements of the provision.

4.9 Outdoor Space requirements

Comment: The proposal includes 8.1m² of unencumbered outdoor space per child, satisfying the requirements of the provision.

4.10 Natural Environment

Comment: The applicant's landscaping plan provides a planting list, none of which Council consider will increase the risk to children. Whilst there are no play-structures of such proposed, Council note that this would likely be exempt from DA requirements, and thus outside the scope of this assessment.

4.11 Shade

Comment: As per the provided plans, shade areas have been provided via exterior verandahs. It is also considered that once the planted trees reach maturity, they will also be able to provide shade to outdoor play areas. Council consider adequate shade has been provided, and the development will achieve a minimum of 2 hours solar access as per the requirements of the guidelines.

4.12 Fencing

Comment: Outdoor play areas have been enclosed by fencing at a minimum height of 1.8 metres. The proposed fencing is similar to that of swimming pool fencing, and Council consider that it meets the requirements of Regulation 104. It is noted that any changes to fencing as a result of the acoustic report must still comply with the regulation.

4.13 Soil Assessment

Comment: The proponent has provided a detailed soil/contamination analysis report which confirms that the soil does not contain any harmful contaminants. Council agrees with the provided report, and considers the land unlikely to be contaminated.

3.2(a)(ii) Proposed instruments

Comment: No relevant proposed instruments apply to the site.

3.2(a)(iii) Any development control plan

Comment: Wakool Development Control Plan 2013 applies to the proposal. The requirements of the plan have been discussed accordingly below.

Section A INTRODUCTION

Comment: Noted.

Section B LAND USE TYPES

B.1 RESIDENTIAL & ANCILLARY USES

Comment: Not applicable (centre-based child care facility proposed).

B.2 INDUSTRIAL & HIGHER IMPACT USES

Comment: Not applicable.

B.3 COMMERCIAL, RETAIL & OTHER USES

Comment: The proposal is not inconsistent with the requirements of this subchapter. The building has been designed and sited as to minimise impacts to neighbouring properties, access and car parking has been discussed above and is considered satisfactory, and the proposed fencing meets the security requirements of the developing, whilst landscaping has been provided which is suitable for the proposed development. It is considered that all required services are available to the site, or able to be managed, and the building has been designed to incorporate splays, curves, and other architectural elements to reinforce the site as a prominent corner mark for the street.

B.4 AGRICULTURAL USES

Comment: Not applicable.

B.5 SUBDIVISION

Comment: The proposed 2 lot subdivision (boundary adjustment) meets the relevant objectives as it qualifies with the respective requirements of this section set out below. In summary, the transfer of land between two adjacent sites do not impact or compromise any features, servicing of the current sites including access to a public road.

Objectives	Outcomes
B.5.1 Site Planning	• The development application seeks approval for a boundary adjustment

	- Proposed development will not cause a land use conflict, the proposed uses are for a child care facility, which is included in the assessment of this application, and future commercial premises subject to a separate approval. - Proposal aims to create logical layout. There are no identified land use conflicts on this site.
B.5.2 Subdivision Layout	The objectives of the chapter have been assessed below. Their purpose is to; Promote a subdivision layout that: <i>a) Is responsive to site characteristics, setting, landmarks, places of cultural heritage significance and views;</i> - No landmarks, places of cultural or heritage significance or specific views will be interfered with by this development. <i>b) Creates a sense of place that promotes a sense of identity and safety;</i> - The proposal compliments the proposed childcare, the realignment has been proposed so that the secondary allotment may be developed in the future. <i>c) Creates legible and inter-connected movement and open-space networks;</i> - The proposed realignment will not impact on existing movement or open space networks, and is generally considered a minor adjustment.
B.5.3 Landscaping	A landscaping plan has been provided for both allotments to Council's satisfaction.
B.5.4 Staged Subdivision	Not applicable, development is not staged.
B.5.5 Lot Size and Shape (Residential)	Not applicable, the subdivision is for commercial purposes.
B.5.6 Lot Size and Shape (Industrial)	Not applicable, the subdivision is for commercial purposes.
B.5.7 Roads and Access	Both lots have suitable access. They will both be primarily serviced via the existing laneway, and buildings will be designed as to face the primary street frontage/s.
B.5.8 Utilities and Servicing	No change is proposed to the existing access arrangement.
B.5.9 Open Space	Not applicable.
B.5.10 Community Title Subdivision	Not applicable (Torrens Title subdivision proposed).

B.6 OTHER TYPES OF DEVELOPMENT

Comment: Not applicable.

Section C SITE-SPECIFIC CONTROLS

C.1 NATURAL ENVIRONMENT

Comment: Vegetation removal is proposed as part of the works. Council note that the land is not subject to any biodiversity overlays, and advice was received from DCCEEW Biodiversity & Conservation Division confirming that the clearing is unlikely to impact on biodiversity values of the land. The proposal fulfills the objectives and requirements of the chapter, and Council consider the works unlikely to affect existing vegetation corridors, and the works are likely to enhance the visual setting of the shire by replanting trees following the completion of the development, as per the provided landscaping plan.

C.2 HAZARDS

Comment: The Applicant has submitted suitable information regarding potential contamination. Whilst the site is mapped as flood liable in the Probably Maximum Flood (PMF), council consider the recommended conditions of consent ensure that the flood risk is managed to a suitable degree. A stormwater management plan has been conditioned to ensure that stormwater runoff can be managed in a manner that will not affect neighbouring properties.

C.3 HERITAGE & CULTURE

Comment: The site does not contain any known items of Environmental Heritage Significance. The applicant has provided an AHIMS search which did not produce any known items of ACH in the vicinity. It is noted it is the responsibility of the Applicant to ensure compliance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*. Any consent issued will contain the standard condition regarding protection of Aboriginal Cultural Heritage.

C.4 ACCESS & PARKING

Comment: Access is provided via both an existing unnamed Public Laneway, and Wakool Street. As discussed throughout the report, council consider the access requirements suitable for the development. It is noted that the chapter requires car parking to be provided at an equivalent rate of 18 car spaces for this development. The applicant has proposed 16 car spaces, which Council consider suitable in this instance, as on-street car parking is available, and extra car parking at a rate of 5 spaces is available at the future commercial allotment to the south.

C.5 URBAN AREA CHARACTER STATEMENTS

Comment: The proposed development is consistent with the desired character of the area.

3.2(a)(iia) Any Planning Agreements

Comment: No planning agreements apply.

3.2(a)(iv) The regulations

Comment: The regulations have been considered in the assessment of this application. It is considered the application is consistent with the objectives of the regulations.

Section 61 Additional matters that consent authority must consider

Comment: Not applicable.

Section 62 Consideration of fire safety

Comment: Not applicable.

Section 63 Considerations for erection of temporary structures

Comment: Not applicable.

Section 64 Consent authority may require upgrade of buildings

Comment: Not applicable.

3.3(b) the significant likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

- **Context and siting** – The proposed childcare centre fits within the character of the area, providing both economic and community benefits by meeting growing demand for early learning facilities. Its design responds well to the site's corner location, enhances both street frontages, and uses materials that distinguish it from nearby homes while blending with the area. The site is also conveniently located near local roads and the town centre.
- **Environmental Impacts** – Given the proposed development is only clearing a minor amount of both native and non-native vegetation, Council consider the development is unlikely to cause adverse significant adverse impact on biodiversity values.
- **Natural Environment** - The development is unlikely to adversely impact the landscape setting and/or native vegetation onsite, and more widely the natural environment. The provided landscaping plan includes a significant amount of planting, which will assist in transforming the currently bare site into a well-vegetated space.
- **Built Environment** - The proposed single-storey childcare centre is suited to the area's low-scale character, with a maximum height of 4.77m. Its high-quality design incorporates durable modern materials like Dulux cladding and Colorbond products, varied façades, and thoughtful roof and window detailing for visual interest. Overall, the design is attractive, functional for childcare use, and a positive addition to the neighbourhood.
- **Social & Economic Impacts** – The proposed development is unlikely to adverse impact social and economic values. This is due to the proposed development being compatible with both commercial and residential use; and more so, due to the development layout, orientation and mitigation measures proposed to maintain suitable amenity values for residents.
- **Amenity** - The development is unlikely to impact amenity values of the immediate locality for reasons outlined in this report, particularly in relation to operational impact and those associated with traffic, parking and noise. The internal amenity provided by this design is suitable where all activity area internal rooms are provided with natural light by way of externally facing windows that are not encumbered. The internal rooms are appropriately proportioned and designed so as cater for different class sizes and age groups. Other internal amenities provided including the staff rooms, toilet and cots facilities, and the purposefully designed entry with reception, meeting, kitchen, and office area.
- **Traffic and Parking** – The proponent has provided a Traffic Impact Assessment with particular consideration of the development layout (i.e. 16 car spaces, pedestrian paths, and various activity areas). The design emphasizes safety with visual splay requirements and suitable fencing. Operational hours are set from 7:00 am to 7:00 pm, Monday to Friday. Compliance with planning regulations is essential for approval.
- **Noise** – As discussed above, Council have imposed a condition to provide an acoustic assessment before the release of a Construction Certificate. This will assist in identifying and subsequently mitigating any noise issues prior to the commencement of works.

- **Waste** – Traffix Group has prepared a Waste Management Plan on behalf of the Applicant, emphasizing waste minimization and recycling during construction. The plan outlines compliance with NSW regulations, identifies waste types, and recommends strategies for reducing landfill contributions. Key measures include contractor waste management training, accurate material estimation, and on-site waste separation to enhance recycling efforts. The plan also outlines strategies for waste collection and recycling. It includes provisions for co-mingled recycling and landfill waste, emphasizing waste minimization practices. Future waste streaming initiatives will be integrated, and management responsibilities are defined to ensure compliance and effective waste handling.
- **Non-Aboriginal Heritage** – The site is not subject to any heritage conservation provisions.
- **Aboriginal Cultural Heritage** – No known items identified on the subject land. In any event statutory requirements would trigger contingency measures if any cultural heritage was subsequently identified.
- **Bushfire Hazard**: The subject site is not mapped as Bushfire Prone Land.
- **Water Quality & Stormwater** –As discussed above, a stormwater management plan has been conditioned as a requirement. Regardless, Council are satisfied that the stormwater generated from the development will not impact upon neighbouring properties.
- **Soils, soil erosion** – Suitable construction management protocols will manage this.
- **Flora & Fauna** – No areas of critical habitat or native vegetation are affected by this development. Minor vegetation clearing is required to facilitate the development, however Council consider this suitable in regards to the net benefit to the community, noting that the applicant is proposing extensive replanting on the site.
- **Utilities** – All utility services were considered appropriate at the time the site was created, these remain suitable to service the proposed development.
- **Signage** – No signage has been proposed as part of the development.
- **Safety, security & crime prevention** – The orientation of the development offers suitable environmental surveillance while ensuring secure areas within the premises for children and staff. Specifically, the design prioritises safety through secure fencing, controlled entry via the pedestrian access gate, and strategically placed reception and office areas for oversight. Clear sightlines and a safe entry enhance security.

3.4(c) The suitability of the site for the development

Comment: The site is suitable for the proposed development for reasons outlined throughout this report.

3.5(d) any submissions made in accordance with this Act or the regulations, DCCEEW: Biodiversity & Conservation Division

Recommended that Council apply the relevant development standards as outlined in the Barham Flood Risk Management Study & Plan. Also confirmed that there is no biodiversity risk to local flora / fauna as a result of the proposed development.

NSW State Emergency Services (NSW SES)

No response received.

Public Submissions

Comment: The proposal was publicly exhibited, and neighbor letters were issued. No submissions were received during this period. One submission in support of the application was provided outside of the exhibition period.

3.6(e) The public interest.

The public's interest has been taken into consideration in the assessment of this Development Application particularly in relation to the operational impact i.e. traffic congestion and noise; and social and economic needs of this community. It is considered the proposed development will not have a detrimental impact on these areas of general public interest and is considered in the best interest of the community of Barham.

3.7 Summary

The proposed development has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* and is considered to satisfy these provisions. The proposal is well-designed and compliant with planning requirements for centre-based child care facilities.

It is therefore recommended development consent be granted subject to the relevant conditions of development consent.

Section 4. Recommendation

It is **recommended:**

1. Development consent be granted; and
2. The following conditions be included with the development consent.

Josh Mckay
Town Planner



Date

29 June 2026

Reviewed By:

Chris O'Brien



Date

06 July 2026