

DREW ROBERTS CONSULTING

STATEMENT OF ENVIRONMENTAL EFFECTS

Alterations & Additions to Existing Child-Care Centre

CLIENT: SUNRAI DESIGNS

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PROJECT: 2023/39

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1 Introduction

This Statement of Environmental Effects (SEE) has been prepared for SUNRAI Designs and forms part of a development application to Mid-Western Regional Council for the alterations and additions to an existing child-care centre at 2 Lovejoy Street, Mudgee.

The objective of this proposal is to create an improved layout and provide additional facilities for the existing child-care centre.

The proposal is in accordance with the relevant zone objectives contained in the Mid-Western Regional Local Environmental Plan (MWRLEP) 2012 and generally satisfies the relevant objectives and controls of the Mid-Western Regional Development Control Plan 2013 (MWRDCP).

This document is divided into 6 sections. Section 2 contains a site analysis, Section 3 contains details of the proposal, Sections 4 and 5 contain the detailed assessment of the application in accordance with Section 4.15(1) of the Environmental Planning & Assessment (EP&A) Act 1979, and Section 6 concludes the report. The following details accompany this SEE:

- Architectural Plans;
- 4.6 Variation Request; and
- National Quality Framework Assessment Checklist.

2 Site Analysis

This section contains a description of the following: The Locality; Site Description; Existing Character and Context; and Surrounding Road Network.

2.1 The Locality

The subject site is located within the town of Mudgee and is located within the Local Government Area (LGA) of Mid-Western Region.



FIGURE 1: LOCATION PLAN (SIX MAPS)

2.2 Site Description

The subject site is located on the north-western corner of the intersection between Lovejoy Street and Perry Street within the downtown commercial area of Mudgee and is known as 2 Lovejoy Street, Mudgee, which is split across 3 lots being:

- Lot 3 DP727197
- Lot 1 Sec 68 DP758721

- Lot 2 Sec 68 DP758721

The site is regular in shape, generally flat in topography with a slight rise to the south towards Lovejoy Street and contains a total area of 1724.13m².

Existing improvements on the site consist of a single storey building, fencing and an extensive play area including various structures.

2.3 Existing Character and Context

The surrounding area is predominantly commercial, characterised by a mixture of businesses and other uses including the Mudgee Post Office, Robertson Park, other food and drink premises, Mudgee Guardian, residential accommodation and office premises.

The property also sits within the Mudgee Heritage Conservation Area (HCA) with many buildings in the immediate area listed as items of environmental heritage or contributory buildings to the HCA.

The outcome of the development is considered to be in keeping with the character of the commercial area in that it will have no unreasonable impacts upon the function, environmental criteria, heritage fabric or the general amenity of the locality.

2.4 Surrounding Road Network

The site has frontage to both Lovejoy Street and Perry Street with an unused vehicular access gained from Perry Street via an existing layback into the site (no parking internal to the site). The main pedestrian entry to the building is via an existing access directly onto the Lovejoy Street footpath. None of the streets are identified as a Classified Road in accordance with the Roads Act 1993 with MWRC the designated roads authority.

Lovejoy Street, directly in front of the centre, has been designated as the drop off location for the child care centre with a 15 minute parking limit arrangement in place to facilitate this. Additional parking spaces are located directly in front of the site in the Perry Street frontage.

It should be noted that the proposal is for alterations and additions to an existing child care centre with no change in occupancy rates as discussed in the DCP assessment table below. Subsequently, no significant additional vehicular movements result from the proposal.

4 Planning Controls

Pursuant to section 4.15(1)(a) of the EP&A Act, this section will assess the compliance with the planning controls applicable to the site and relevant to the proposal pursuant to the relevant heads for consideration. The relevant controls include:

- Mid-Western Regional Local Environmental Plan (MWRLEP) 2012;
- State Environmental Planning Policy (Resilience & Hazards) 2021;
- State Environmental Planning Policy (Transport & Infrastructure) 2021;
- Mid-Western Regional Development Control Plan 2013 (MWRDCP).

4.1 Mid-Western Regional Local Environmental Plan (MWRLEP) 2012

The subject site is zoned B3 – Commercial Core under Council’s MWRLEP 2012 (see Figure 3). ‘*Centre-based child care facilities*’ are permissible with consent in the zone and the proposal is considered to satisfy the objectives of the zone. Subsequently, the proposal is not reliant upon existing use rights.

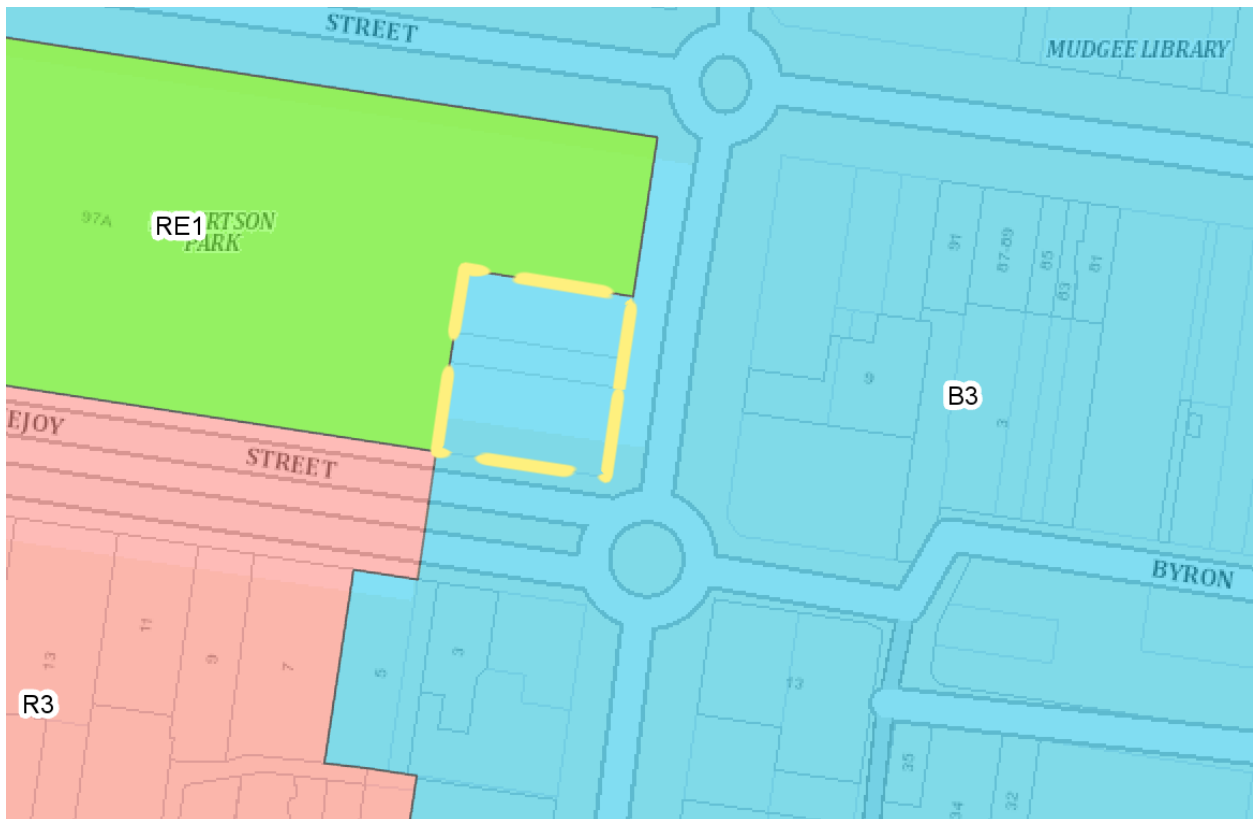


FIGURE 3: EXTRACT FROM ZONING PLAN
(SOURCE: MID-WESTERN REGIONAL LEP 2012)

4.1.1 Zone Objectives

The relevant objectives for Zone B3 are stated:

1. *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*

Comment: The proposed alterations and additions will allow the site to continue to be used for the purposes of a child-care centre serving the needs of the surrounding area.

2. *To encourage appropriate employment opportunities in accessible locations.*

Comment: The proposed alterations and additions will allow the site to continue to be used for the purposes of a child-care centre and therefore generating employment.

3. *To maximise public transport patronage and encourage walking and cycling.*

Comment: The proposed alterations and additions will allow the site to continue to be used for the purposes of a child-care centre within the downtown area, which is accessible for walking, cycling etc.

4. *To promote the central business district of Mudgee as the major focus for retail and commercial activity in Mid-Western Regional.*

Comment: The proposal will not impact on the ability of the downtown area of Mudgee to continue to be the focus for retail and commercial activity. The site will continue to be used for the purpose of a child-care centre, which performs an important supportive role in the function of the downtown area and the various businesses and employees that rely upon it.

5. *To consolidate business development in the Mudgee town centre and avoid unnecessary or inappropriate expansion of business-related land uses into surrounding residential neighbourhoods.*

Comment: The proposal is an upgrade of an existing child care facility, which is permissible with consent. Subsequently, the proposal will not create additional risk to pushing other businesses outside of the town centre area.

6. *To ensure that new development is compatible with the historic architectural character and streetscapes of the Mudgee commercial core area.*

Comment: The proposal is sympathetic to the surrounding streetscape with regards to heritage related elements and in particular Robertson Park. This is addressed further in this SEE.

7. *To ensure that the form and layout of new development is designed to encourage free pedestrian movement and connectivity within the commercial core.*

Comment: The proposal will not interfere with any existing pedestrian movements throughout the commercial core, with the area already enclosed for the purposes of the child-care centre use.

In our opinion the proposal is consistent with the relevant objectives of the B3 Commercial Core zone as detailed above. The proposal is intended to create an improved layout and improved facilities, whilst continuing to provide a sympathetic form to the streetscape within the immediate vicinity.

A summary of our assessment of the proposed development against the relevant LEP provisions is in the following table (see Table 1):

4.1.2 Other LEP Provisions

TABLE 1: PROJECT COMPLIANCE – Mid-Western Regional LEP 2012	
Site Area : 1724.13m ²	
LEP Provisions	Complies / Comments
Clause 4.3 Height of buildings	
(1) The objectives of this clause are as follows— (a) to establish a maximum height limit to which buildings can be designed in particular locations, (b) to enable infill development that is of similar height to existing buildings and that is consistent with the heritage character of the towns of Mudgee, Gulgong, Kandos and Rylstone.	The proposed addition is of an appropriate height for the context of the area with a skillion roof utilised rising away from the eastern street frontage over a single storey building form. This is considered the best design outcome in keeping with the heritage character of Mudgee and the single storey rhythm of the other buildings on site.
(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.	The maximum height prescribed is 8.5m The proposed addition will have a height of 3020mm at the eastern boundary and 4730mm at the western elevation.
Clause 4.6 Exceptions to development standards	
(1) The objectives of this clause are as follows— (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,	An exception to the design/character based development standard regarding building use contained within the ' <i>active street frontage</i> ' clause 6.7 of MWRLEP 2012 is being sought as a part of the development application.

<p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	<p>Refer to the written request contained under separate cover.</p>
<p>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</p>	<p>An exception to the design/character based development standard regarding building use contained within the <i>'active street frontage' clause 6.7</i> of MWRLEP 2012 is being sought as a part of the development application.</p> <p>Refer to the written request contained under separate cover.</p>
<p>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—</p> <p>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p> <p>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</p>	<p>An exception to the design/character based development standard regarding building use contained within the <i>'active street frontage' clause 6.7</i> of MWRLEP 2012 is being sought as a part of the development application.</p> <p>Refer to the written request contained under separate cover.</p>
<p>(4) Development consent must not be granted for development that contravenes a development standard unless—</p> <p>(a) the consent authority is satisfied that—</p> <p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p> <p>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p> <p>(b) the concurrence of the Planning Secretary has been obtained.</p>	<p>An exception to the design/character based development standard regarding building use contained within the <i>'active street frontage' clause 6.7</i> of MWRLEP 2012 is being sought as a part of the development application.</p> <p>Refer to the written request contained under separate cover.</p>
<p>(5) In deciding whether to grant concurrence, the Planning Secretary must consider—</p> <p>(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and</p>	<p>N/A.</p>

<p>(b) the public benefit of maintaining the development standard, and</p>	
<p>(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—</p> <p>(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or</p> <p>(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</p>	<p>N/A.</p>
<p>(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).</p>	<p>Noted.</p>
<p>(8) This clause does not allow development consent to be granted for development that would contravene any of the following—</p> <p>(a) a development standard for complying development,</p> <p>(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,</p> <p>(c) clause 5.4,</p> <p>(caa) clause 5.5.</p>	<p>No relevant criteria is applicable for the circumstances of this development application.</p>
<p>Clause 5.10 Heritage Conservation</p>	
<p>(1) Objectives The objectives of this clause are as follows—</p>	<p>The building is not listed as an item of environmental heritage but is located within the Mudgee Heritage Conservation Area (HCA).</p>

<p>(a) to conserve the environmental heritage of Mid-Western Regional,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>The proposal is considered to respectfully conserve the Mudgee HCA in that:</p> <ul style="list-style-type: none"> • The new works are minor in nature being single storey in height and having a footprint of 105.8m²; • The new addition does not directly adjoin or relate to any other heritage item in the street as the site sits isolated on a corner lot and enveloped by Robertson Park (refer to figure 4 below). It should be noted that whilst Robertson Park is identified as an item of environmental heritage, the Rotunda is the key element for this listing, which is located further to the west in the centre of the park; • The design is of a minimalist modern style, clearly distinguished as a deliberate non-contributory building and finished with materials of the highest quality to reinforce the building's role as a subtle and separated space to the surrounding heritage streetscape. • The two trees required to be removed are comparatively small and sit within the foreground of a larger tree on site and the larger trees of Robertson Park in general. Subsequently, their removal is considered to have minimal impact upon the streetscape and the Mudgee HCA as a whole.
<p>(2) Requirement for consent Development consent is required for any of the following—</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—</p> <p>(i) a heritage item,</p> <p>(ii) an Aboriginal object,</p> <p>(iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</p> <p>(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being</p>	<p>Development consent is being sought for the works described in this SEE.</p>

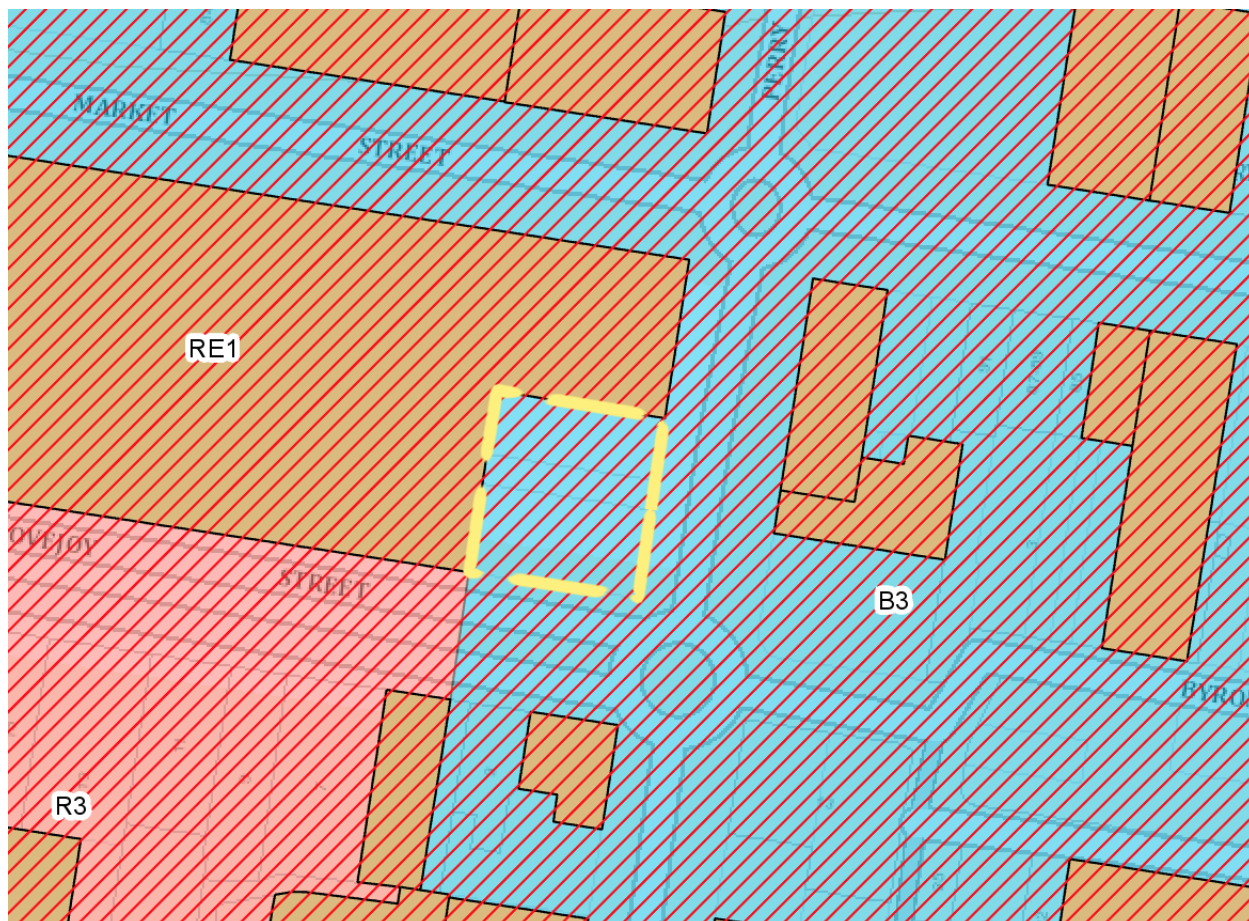
<p>discovered, exposed, moved, damaged or destroyed,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land— (i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,</p> <p>(f) subdividing land— (i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.</p>	
<p>(3) When consent not required However, development consent under this clause is not required if—</p> <p>(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development— (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or</p> <p>(b) the development is in a cemetery or burial ground and the proposed development— (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or</p> <p>(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or</p> <p>(d) the development is exempt development.</p>	<p>N/A. Development consent is being sought.</p>

<p>(4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p>	<p>Refer to comments above.</p>
<p>(5) Heritage assessment The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>N/A. No heritage management document considered necessary.</p>
<p>(6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.</p>	<p>N/A. A heritage conservation management plan is not considered necessary.</p>
<p>(7) Archaeological sites The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies)—</p> <p>(a) notify the Heritage Council of its intention to grant consent, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<p>N/A. No archaeological sites present on the property.</p>

<p>(8) Aboriginal places of heritage significance The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—</p> <p>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and</p> <p>(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</p>	<p>N/A. No Aboriginal place of heritage significance present on the site.</p>
<p>(9) Demolition of nominated State heritage items The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item—</p> <p>(a) notify the Heritage Council about the application, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<p>N/A. The site is not a State heritage item.</p>
<p>(10) Conservation incentives The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—</p> <p>(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and</p> <p>(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and</p> <p>(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and</p> <p>(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the</p>	<p>N/A. Clause not proposed to be utilised.</p>

<p>heritage significance of the Aboriginal place of heritage significance, and</p> <p>(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.</p>	
<p>6.4 Groundwater vulnerability</p>	<p>The proposal does not involve any major physical works apart from standard footings for the structures. Subsequently, no impacts related to the groundwater table are reasonably expected.</p>
<p>6.7 Active street frontage</p>	
<p>(1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages on land in Zone B3 Commercial Core.</p>	<p>An exception to the design/character based development standard regarding building use contained within this clause is being sought as a part of the development application.</p> <p>Refer to the written request contained under separate cover.</p>
<p>(2) This clause applies to land identified as “Active Street Frontage” on the Active Street Frontages Map.</p>	<p>An exception to the design/character based development standard regarding building use contained within this clause is being sought as a part of the development application.</p> <p>Refer to the written request contained under separate cover.</p>
<p>(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.</p>	<p>An exception to the design/character based development standard regarding building use contained within this clause is being sought as a part of the development application.</p> <p>Refer to the written request contained under separate cover.</p>
<p>(4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following—</p> <p>(a) entrances and lobbies (including as part of mixed use development),</p> <p>(b) access for fire services,</p> <p>(c) vehicle access.</p>	<p>An exception to the design/character based development standard regarding building use contained within this clause is being sought as a part of the development application.</p> <p>Refer to the written request contained under separate cover.</p>
<p>(5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.</p>	<p>An exception to the design/character based development standard regarding building use contained within this clause is being sought as a part of the development application.</p>

	Refer to the written request contained under separate cover.
<p>6.9 Essential services</p> <p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required—</p> <ul style="list-style-type: none"> (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable road access. 	<p>All essential services associated with a commercial location are already available and connected to the site.</p> <p>These are not expected to be affected by the proposal.</p>



**FIGURE 4: EXTRACT FROM HERITAGE MAPPING
(SOURCE: MIID-WESTERN REGIONAL LEP 2012)**

4.2 State Environmental Planning Policy (Resilience and Hazards) 2021

The object of this policy is to provide a mechanism to ensure remediation of contaminated land is undertaken within the planning framework.

Part 4 of the SEPP requires the consent authority (Mid-Western Regional Council), before determining a development application, to consider whether the land is potentially contaminated and if so whether the land is suitable in its current state for the proposed use.

Clause 4.6(1) of the SEPP prescribes the specific considerations for the consent authority as noted below:

(1) A consent authority must not consent to the carrying out of any development on land unless—

(a) it has considered whether the land is contaminated, and

(b) 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, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

Comment: No potentially contaminating activities are undertaken on the property or have been known to have been undertaken on the property. No further consideration of the SEPP is considered necessary.

4.3 State Environmental Planning Policy (Transport & Infrastructure) 2021

The object of this policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State.

Chapter 3 of the SEPP requires the consent authority (Mid-Western Regional Council), before determining a development application for a centre-based child care facility, to consider various requirements throughout the Chapter. The various clauses considered relevant to the proposal are as follows:

TABLE 2: PROJECT COMPLIANCE – SEPP (Transport & Infrastructure) 2021

SEPP Provisions	Complies / Comments
3.22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development	
<p>(1) This section applies to development for the purpose of a centre-based child care facility if—</p> <p>(a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or</p> <p>(b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.</p>	<p>The child-care centre will comply with the indoor unencumbered space requirements contained within the E&CS National Regulations. A maximum of 60 children are catered for within the facility with an allocated classroom area of 235.34m² spread across three classrooms. The Regulation requires 3.25m² per child, totalling 195m².</p> <p>The child-care centre will comply with the outdoor unencumbered space requirements contained within the E&CS National Regulations. A maximum of 60 children are catered for within the facility with an allocated outdoor area of 900m² spread across the rear of the site including verandah, deck and paths. The Regulation requires 7m² per child, totalling 420m².</p> <p>Accordingly, further consideration of this section is not necessary.</p>
<p>(2) The consent authority must not grant development consent to development to which this section applies except with the concurrence of the Regulatory Authority.</p>	<p>N/A. The proposal is considered compliant as discussed above.</p>
<p>(3) The consent authority must, within 7 days of receiving a development application for development to which this section applies—</p> <p>(a) forward a copy of the development application to the Regulatory Authority, and</p> <p>(b) notify the Regulatory Authority in writing of the basis on which the Authority's concurrence is required and of the date it received the development application.</p>	<p>N/A. The proposal is considered compliant as discussed above.</p>
<p>(4) In determining whether to grant or refuse concurrence, the Regulatory Authority is to consider any requirements applicable to the proposed development under the Children (Education and Care Services) National Law (NSW).</p>	<p>N/A. The proposal is considered compliant as discussed above.</p>

<p>(5) The Regulatory Authority is to give written notice to the consent authority of the Authority's determination within 28 days after receiving a copy of the development application under subsection (3).</p>	<p>N/A. The proposal is considered compliant as discussed above.</p>
<p>(6) The consent authority must forward a copy of its determination of the development application to the Regulatory Authority within 7 days after making the determination.</p>	<p>N/A. The proposal is considered compliant as discussed above.</p>
<p>(7) In this section—</p> <p><i>Regulatory Authority means the Regulatory Authority for New South Wales under the Children (Education and Care Services) National Law (NSW) (as declared by section 9 of the Children (Education and Care Services National Law Application) Act 2010).</i></p>	<p>Noted.</p>
<p>3.23 Centre-based child care facility—matters for consideration by consent authorities</p> <p>Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.</p>	<p>A separate document has been prepared by Sunrai Designs addressing all of the relevant provisions that are applicable to the proposal contained with the <i>Child Care Planning Guideline</i>.</p> <p>The report concludes:</p> <p><i>“The alterations and additions propose to extend the already compliant and successfully operating pre-school in a way that continues to provide above minimum standards in a supportive, interactive and playful way. The natural environment has been incorporated into the indoor and outdoor spaces and is intrinsic to the operation of the school.</i></p> <p><i>This checklist when read in conjunction with the plans clearly demonstrates compliance in all areas.”</i></p>
<p>3.26 Centre-based child care facility—non-discretionary development standards</p>	
<p>(1) The object of this section is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.</p>	<p>Noted.</p>

<p>(2) The following are non-discretionary development standards for the purposes of section 4.15(2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility—</p> <p>(a) location—the development may be located at any distance from an existing or proposed early education and care facility,</p> <p>(b) indoor or outdoor space (i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or (ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,</p> <p>(c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,</p> <p>(d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</p>	<p>Consent authority not to consider the location of any other early education and care facility.</p> <p>Proposal complies with the two relevant criteria.</p> <p>Consent authority not to consider the site area and dimensions. However, the site is considered of an adequate size to facilitate the proposal.</p> <p>N/A. The site is located within a heritage conservation area.</p>
<p>(3) To remove doubt, this section does not prevent a consent authority from—</p> <p>(a) refusing a development application in relation to a matter not specified in subsection (2), or</p> <p>(b) granting development consent even though any standard specified in subsection (2) is not complied with.</p>	<p>Noted.</p>
<p>3.27 Centre-based child care facility—development control plans</p>	
<p>(1) A provision of a development control plan that specifies a requirement, standard or control</p>	<p>MWRDCP 2013 does not contain any such provisions relating to child care facilities and</p>

<p>in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility—</p> <p>(a) operational or management plans or arrangements (including hours of operation),</p> <p>(b) demonstrated need or demand for child care services,</p> <p>(c) proximity of facility to other early education and care facilities,</p> <p>(d) any matter relating to development for the purpose of a centre-based child care facility contained in—</p> <p>(i) the design principles set out in Part 2 of the Child Care Planning Guideline, or</p> <p>(ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).</p>	<p>operation plans, proximity and the like.</p>
<p>(2) This section applies regardless of when the development control plan was made.</p>	<p>Noted.</p>

The provisions of SEPP (Transport & Infrastructure) 2021 are considered to be fully satisfied.

4.4 Mid-Western Regional Development Control Plan 2013

The Mid-Western Regional DCP 2013 applies to the site and the proposed development.

Whilst the proposal is not considered ‘commercial development’, the site is located within the *B3 Commercial Core* zone and Part 4.5 ‘*Commercial Development*’ would be the most appropriate section that contains specific controls relating to the proposal. However, any weight with regards to considerations given to the DCP should be limited where controls are clearly not targeted to the circumstances of the site and proposal. The relevant sections, as they relate to the proposal only, are addressed in the table below.

TABLE 3: PROJECT COMPLIANCE – Mid-Western Regional DCP 2013

Relevant sections applicable to this proposal.	
DCP Provisions	Complies / Comments
<p>Building setbacks</p> <p>(a) No minimum front setbacks apply.</p> <p>(b) Side and rear must comply with Building Code of Australia (BCA)</p>	<p>The new portion of the building is proposed with a setback of 1.1m from the eastern Perry Street frontage boundary and, more importantly, is also considered appropriate from a heritage and streetscape perspective.</p> <p>It should be noted that the existing building on site is also currently setback at 1.1m from Perry Street, setting the rhythm for the Perry Street frontage.</p> <p>The removal of the fencing and hedging along the eastern side of the proposed addition will allow the new building to present to Perry street in a similar manner to that of the existing building and remove any concealed spaces for safety and better management of the outdoor space for child safety.</p>
<p>Design</p> <p>(a) The LEP includes provisions relating to active street frontages. All premises on the ground level of a building facing the street are used for the purposes of business premises or retail premises.</p> <p>(b) All premises on the ground level of a building facing the street shall be comprised of windows and doors to encourage the interaction between pedestrians and the retail space</p> <p>(c) Building facades shall be articulated by use of colour, arrangement of elements or by varying materials</p> <p>(d) Consider elements within established heritage buildings and how its application may be applied to new development</p> <p>(e) Consider the pattern of built form, scale, use of verandahs, fenestration, colour and materials.</p>	<p>Refer to the 4.6 variation request provided under separate cover demonstrating that an ASF is unnecessary in this instance.</p> <p>The proposal does not include a 'retail' use. Accordingly, building elements to encourage interaction between pedestrians and retail space is not required.</p> <p>The length of the addition is 13m and therefore there is limited need for articulation.</p> <p>N/A. The building and site is not listed as an item of environmental heritage.</p> <p>The site is isolated from any other significant built form. Accordingly, the design is considered appropriate for the isolated site, intended use and intent for minimising the presence of the building within the heritage streetscape.</p> <p>Refer to comments under LEP discussion. The design intent has been to gently incorporate</p>

<p>(f) Design of new development should seek to be sympathetic to heritage items not reproduce them.</p> <p>(g) Plans must include details of all external infrastructure (air conditioning ducts, plant rooms) and how it will be screened from view from a public road.</p> <p>(h) Development on a corner must include architectural features to address both frontages.</p> <p>(i) Where the development will adjoin the residential, village and mixed use zones, sufficient setbacks in the form of landscape buffers and access ways should be incorporated.</p>	<p>the building into the heritage fabric of the surrounding area without reproducing a heritage inspired style.</p> <p>Noted.</p> <p>The site is a corner lot, however the new addition is present on the Perry Street frontage only. The existing building will continue to present to Lovejoy Street.</p> <p>N/A. The location of the new building on the eastern portion of the site does not adjoin another residential, village or mixed use zone.</p>
<p>Scale, form and height</p> <p>(a) The LEP controls the height of buildings to a maximum of 8.5m</p> <p>(b) Consistent with the existing heritage character of the town centres of Gulgong, Mudgee and Rylstone.</p> <p>(c) Gulgong has a building height limit to a maximum of 5m</p>	<p>The building will have a maximum height of 4730mm.</p> <p>The proposal has been designed with the surrounding heritage fabric considered. Refer to the MWRLEP 2012 for further comments.</p> <p>N/A.</p>
<p>Articulation and facade composition</p> <p>(a) To break visual bulk and create interest, use secondary vertical elements such as fenestration or detail such as changes in materials and colour.</p> <p>(b) Excessive length of blank walls are not supported in the front facade.</p> <p>(c) Where blank walls are unavoidable (along side or rear boundaries), break the visual impact through the provisions of landscaping, or by creating visual interest through patterning of the facade, signage or public art.</p>	<p>The proposal includes 3 slim window elements within the Perry Street facade to add visual interest to the streetscape in a manner that contributes to the activation of the street whilst also limiting views to within the building for privacy and child protection purposes. On balance, whilst also taking into consideration the high quality design and finishing, the street presentation is considered highly appropriate.</p> <p>The length of the addition is 13m and is not considered excessive in the context of the site and surrounding streetscape.</p> <p>N/A.</p>
<p>Residential-Commercial interface</p>	

<p>(a) Provision of landscaping buffers to provide visual screening along residential boundaries that adjoin development sites in the Mortimer Street precinct (in particular).</p> <p>(b) Ground and first floor development should not overlook residential properties</p> <p>(c) Maintain acoustic privacy through the use of acoustic fencing, where vehicular movement adjoins property boundaries to reduce visual bulk of the proposed development.</p> <p>(d) Reduce visual bulk by locating buildings and structures away from residential boundaries, or where buildings must be located along property boundaries ensure that sufficient landscaping is provided</p> <p>(e) A development should not reduce the sunlight received by the north-facing windows of living area, private open space areas, or clothes drying areas of adjoining properties to less than 3 hours between 9 am and 3pm at the winter solstice.</p>	<p>N/A. The site does not directly adjoin residential development to the side or rear.</p> <p>The site is considered sufficiently separated from the residential flat building to the east on the opposite side of Perry Street.</p> <p>N/A. No additional vehicular movements proposed.</p> <p>The new portion of the building is separated from the adjoining residential boundary to the south-west. No additional visual bulk will be perceived.</p> <p>No overshadowing impact upon residential properties to the south will occur as a result of the proposed single storey development.</p>
<p>Utilities and services</p> <p>(a) Documentation to demonstrate that the development is able to be services with water, sewer and drainage and adequate provision has been made for handling and disposal of solid waste.</p> <p>(b) Trade Waste Application is required where liquid waste (other than water from wash basins, toilet or bathrooms) will be discharged into Council's sewerage system.</p> <p>(c) Building and structures are to be located clear of infrastructure.</p> <p>(d) For new sewer mains structures are to be located 1m plus the equivalent inverted depth, whichever is greater) of the centreline of the main.</p>	<p>N/A. Proposal will not increase the number of children or staff that utilise the facility.</p> <p>Trade waste arrangements are expected to continue as per the existing consent and use.</p> <p>Proposed addition is clear of all infrastructure, which is all located within the road reserve.</p> <p>N/A.</p>
<p>Traffic and access</p> <p>This section contains numerous controls relating to vehicular access and loading.</p>	<p>The proposal is aimed at improving existing facilities upon the site with no changes to the existing allowable children and staff rates that the centre has imposed.</p> <p>It should be noted that the number of children that the centre has self capped is 60, which is</p>

	<p>built in to the operational procedures. The proposed addition will facilitate a new 'multi purpose space' and is not being designated or intended for additional classroom footprint. Accordingly, the child and staff rates will remain unchanged.</p> <p>Subsequently, there are no relevant provisions within this section as traffic volumes will remain the same.</p>
<p>Pedestrian access</p> <p>(a) Maintain existing covered pedestrian access within the town centres.</p> <p>(b) Convenient and safe access through parking areas.</p> <p>(c) Convenient and safe disabled access through parking areas and where relevant focus on improving links with the existing retail areas.</p>	<p>Proposal does not impact any existing covered pedestrian access area.</p> <p>N/A. No parking area proposed or affected.</p> <p>N/A. As above.</p>
<p>Parking</p> <p>Refer Specific Provisions relating to parking section 1.3.</p>	<p>Refer to comments above regarding parking and traffic. No changes proposed to the current arrangements.</p>
<p>Landscaping</p> <p>(a) Landscaped areas within the car parks should be provided incorporating the use of canopy trees and buffer planting to residential boundaries.</p> <p>(b) Landscaping to comprise low maintenance, drought and frost tolerant species</p>	<p>N/A. No additional car parking proposed.</p> <p>N/A. No additional landscaping proposed as the site is already heavily landscaped and appropriate for the use of the site.</p>

5 Planning Assessment

This section will consider the following: the Assessment of Natural Environmental Impact; the Built Environment Impacts; the Site Suitability and the Public Interest in accordance with Section 4.15(1)(b),(c) and (e).

5.1 Assessment of Natural Environmental Impact – S4.15 (1)(b)

5.1.1 Micro Climate Impacts

The proposed development is unlikely to result in any adverse effects to the micro-climate in the locality.

5.1.2 Water & Air Quality Impacts

The proposed development is unlikely to result in any adverse effects on the locality in terms of water and air quality.

5.2 Assessment of Built Environment Impacts – S4.15 (1)(b)

5.2.1 Impact on the Areas Character

The surrounding built environment comprises a mix of commercial and other uses within the Mudgee HCA. The proposal will not impact this character as discussed throughout this report.

5.2.2 Privacy, Views & Overshadowing Impacts

The proposed development will not impede the existing privacy or views of the subject or surrounding lots. The development will not provide overshadowing within the subject or adjoining lots.

5.2.3 Aural & Visual Privacy Impacts

The proposed development, being within a standard commercial area and not involving additional children or staff, will not result in any significant privacy concerns for adjoining properties.

5.2.4 Environmentally Sustainable Development

The proposal will have minimal impact with regards to ESD subject to standard conditions imposed by the consent authority.

5.3 Assessment of the Site Suitability – 4.15(1)(c)

5.3.1 Proximity to Service and Infrastructure

As outlined, the site is accessible for pedestrians via Lovejoy Street. As the site already contains an existing building, electricity, water, sewer, internet and telephone are also readily available.

5.3.2 Traffic, Parking & Access

The development will not increase the traffic volume for the area, as the proposal is for alterations and additions to an existing use with no additional capacity for children or staff proposed. It is expected that the current road network is capable of continuing to support the minimal traffic movements.

5.3.3 Hazards

The site is not subject to any known hazards such as bushfire threat, flooding, landslip and the like.

5.4 The Public Interest – 4.15(1)(e)

5.4.1 Social and Economic Impact

The proposal will make a positive contribution to the Mid-Western Region by facilitating the improvement of a child care facility and the continuation of employment.

5.4.2 The Public Interest

The proposal is in the public interest as it satisfies the objectives of the MWRLEP 2012 and MWRDCP 2013 and will not set any undesirable planning precedents.

6 Conclusion

The proposed development has been assessed in accordance with Section 4.15(1) of the EP&A Act 1979 and Council's planning instruments. The proposal is permissible in the B3 Commercial Core Zone under the Mid-Western Regional LEP 2012 and in our opinion is consistent with the relevant objectives of the Zone.

The concurrently lodged written request for a 4.6 variation in relation to the active street frontage development standard prescribed under clause 6.7 of the LEP 2012 clearly demonstrates that it is unreasonable and unnecessary to strictly apply the development standard in this instance.

As discussed throughout the SEE, the crux of the proposal is to facilitate the improved layout and functionality of the existing child care facility that will blend seamlessly into the existing streetscape with no exacerbated impacts with regards to the Mudgee Heritage Conservation Area and no impact upon any nearby items of environmental heritage. The proposal is fully compliant with the provisions of the MWRDCP 2013.

For the above reasons the proposal is considered to be in the public interest and is recommended for approval subject to standard conditions.