



# PRAGMA

## — URBAN PLANNING —

### Statement of Environmental Effects

**Address:** 28-30 Marskell Circuit, Mudgee

**Proposal:** ' amalgamation of two (2) lots into one (1), site preparation works and construction of a 72-place centre-based child care facility with at grade parking and associated works'

**Pragma Urban Planning Pty Ltd**

**Prepared by:** M. Boutros

**Revision:** A

**Date:** March 2025

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Document History				
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### Disclaimer

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## Introduction

This document has been prepared by Pragma Urban Planning Pty Ltd ('Pragma') for a Development Application for 28-30 Marskell Circuit, Mudgee. The Development Application proposes the amalgamation of two (2) lots into one (1), site preparation works and construction of a 72-place centre-based child care facility with at grade parking and associated works. At the time of writing, the Site is comprised of two vacant allotments which have been created through the subdivision approved in Development Consent DA0248/2014.

The Site is zoned R1 General Residential zoning under the provisions of the Mid-Western Regional Local Environmental Plan 2012 ('MWRLEP 2012'). Figures 1, 2, 3, 4, 5 and 6 assist in illustrating the zoning and context of the Site.

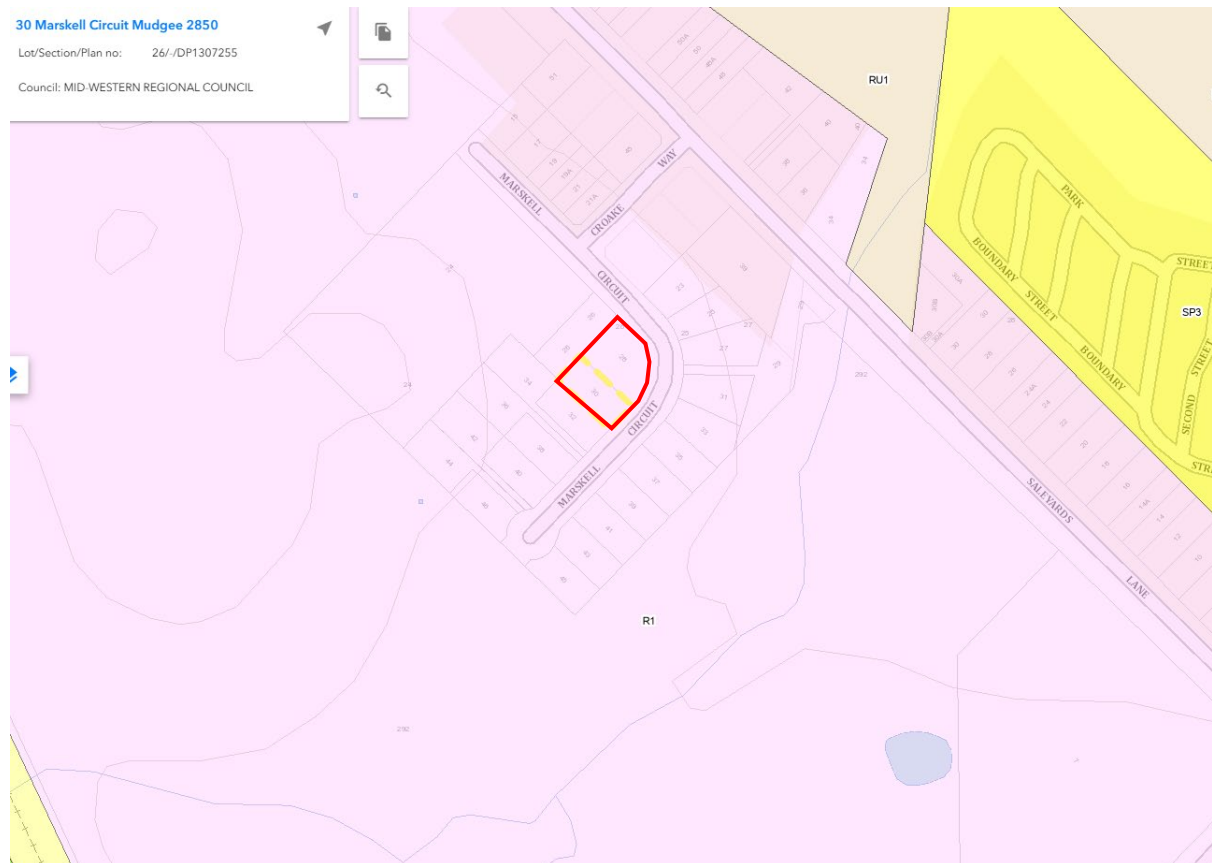


Figure 1. Zoning Map Overlay – R1 General Residential – MWRLEP 2012 (Extracted from <https://www.planning.nsw.gov.au/spatialviewer/#/find-a-property/address> )



Figure 2. Extract of Aerial Image of Site (Extracted from <https://www.google.com/maps>)

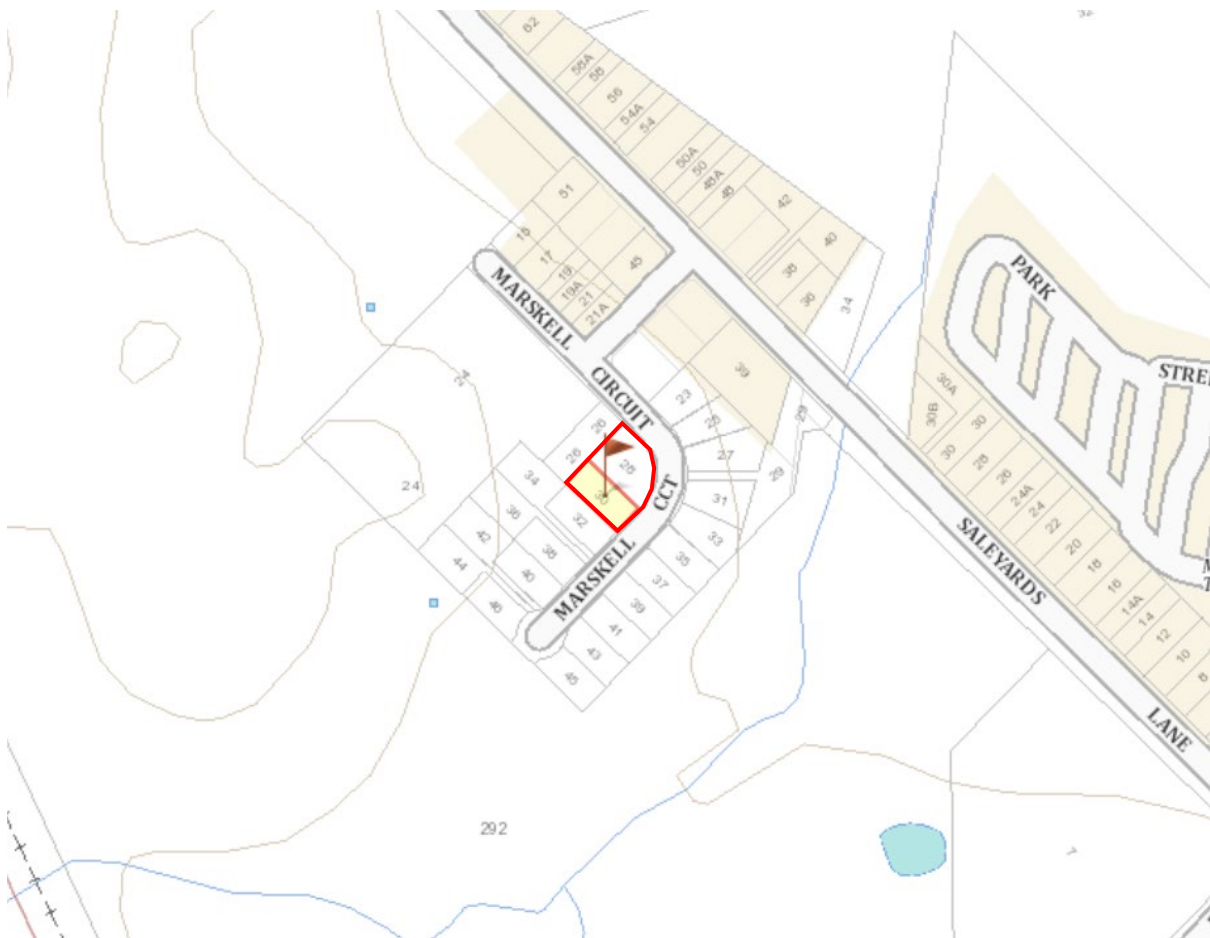


Figure 3. Extract of NSW Map of Site (Extracted from <https://maps.six.nsw.gov.au/>)

## **Site Context**

The subject site is made up of two properties known as 28-30 Marskell Circuit, Mudgee having the legal description of Lots 26 and 27 in Deposited Plan 1307255 ('the Site'). The Site is a regular shaped corner lot with a frontage to Marskell Circuit. The Site has an arc frontage with and a total area of approximately 2671sqm. Figures 4, 5, 6 and 7 depict images of the streetscape and the Site. Topography of the Site falls towards the roadway which wraps around the allotments, there is a variance of approximately 5m across the site.



**Figure 4. View of the Site facing north-westerly**



**Figure 5. View of the Site facing South-westerly**

The immediate locality is characterised by newly subdivided vacant allotments (at the time of our site visit in March 2025) as can be perceived from the photos taken from the Site, see Figures 6 and 7 below. There are single storey dwelling houses both recently completed or under construction within the visual catchment.



Figure 6. View from the subject Site facing Northernly



Figure 7. View from the subject Site facing North-westerly

## Proposal

The Development Application proposes amalgamation of two (2) lots into one (1), site preparation works and construction of a 72-place centre-based child care facility with at grade parking and associated works, as per the architectural plans and associated documentation. The proposal seeks to amalgamate the following the allotments:

- 30 Marskell Circuit, Lot 26 in Deposited Plan 1307255: Site area 978.43sqm
- 28 Marskell Circuit, Lot 27 in Deposited Plan 1307255: Site area 680.80sqm

Combined site area of 1659.23sqm

The resulting layout of the proposal is outlined below:

### Car park

- 18 car spaces
  - One accessible space
  - 10 tandem staff spaces

#### Indoor area

- Entry foyer
- Sign in area
- Office
- Staff room
- Disabled staff toilet
- Laundry
- Kitchen
- Play room 1 (0-2 years), 12 places
  - Cot room
  - Nappy change room / Bathroom
- Play room 2 (3-5 years), 30 places
  - Shared toilet area
- Play room 3 (2-3 years), 30 places
  - Shared toilet area

#### Outdoor play area

- Quiet play areas for 0-2 year olds
- Combined outdoor play area
- Outdoor storage areas

The age group and staff breakdown proposed are below:

- 0-2 years – 12 places / 3 educators
- 2-3 years – 30 places / 6 educators
- 3-5 years – 30 places / 3 educators

The hours of operation of the childcare services are proposed to be:

- Monday-Friday: 7:00am to 6:00pm, Monday to Friday.
- Saturday-Sunday: Closed
- Public holidays: Closed

This Statement should be read in conjunction with the architectural, drainage, landscape, and other design documentation which form part of the Development Application and detail the different elements of the Proposed Development.

### State Environmental Planning Policy (Planning Systems) 2021

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Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 identifies thresholds for private child care centres to be nominated 'Regionally significant development'.

#### **State Environmental Planning Policy (Planning Systems) 2021**

*Current version for 28 February 2025 to date (accessed 20 March 2025 at 14:15)*

#### **Schedule 6 Regionally significant development**

### **5 Private infrastructure and community facilities over \$5 million**

Development that has an estimated development cost of more than \$5 million for any of the following purposes—

(a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,

(b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.

**Comment:** The costs of the Proposal are estimated to be \$1,435,500 as per the cost summary report prepared by Residence Design Studio Pty Ltd.

### **State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 (the 'Resilience and Hazards SEPP') identifies provisions relating to potential Site contamination.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

Current version for 4 August 2023 to date (accessed 25 February 2025 at 14:48)

#### **Chapter 4 Remediation of land**

**Comment:** The Site is subject of a relatively recent subdivision facilitated by Mid-Western Regional and as such it is assumed that the Site has been remediated as part of the process.

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the 'Biodiversity and Conservation SEPP') identifies preservation provisions for Sites zoned SP4 Enterprise as addressed below.

#### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

Current version for 27 November 2024 to date (accessed 25 February 2025 at 14:49)

#### **2.3 Land to which Chapter applies**

(1) This Chapter applies to the following areas of the State (the non-rural areas of the State)—

(a) land in the following local government areas—

Bayside, City of Blacktown, Burwood, Camden, City of Campbelltown, Canterbury-Bankstown, Canada Bay, Cumberland, City of Fairfield, Georges River, City of Hawkesbury, Hornsby, Hunter's Hill, Georges River, Inner West, Ku-ring-gai, Lane Cove, City of Liverpool, Mosman, Newcastle, North Sydney, Northern Beaches, City of Parramatta, City of Penrith, City of Randwick, Rockdale, City of Ryde, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Waverley, City of Willoughby, Woollahra.

**Comment:** The Site is located within Mid-Western Regional Council

### **State Environmental Planning Policy (Sustainable Buildings) 2022**

Chapter 3 of the State Environmental Planning Policy (Sustainable Buildings) 2022 (the 'Sustainable Buildings SEPP') identifies sustainable development provisions for non-residential

development which are considered below.

**State Environmental Planning Policy (Sustainable Buildings) 2022**

Current version for 5 April 2024 to date (accessed 20 March 2025 at 14:18)

**Chapter 3 Standards for non-residential development**

**3.1 Application of Chapter**

(1) This Chapter applies to development, other than development for the purposes of residential accommodation, that involves—

- (a) the erection of a new building, if the development has an estimated development cost of \$5 million or more, or
- (b) alterations, enlargement or extension of an existing building, if the development has an estimated development cost of \$10 million or more.

**Comment:** The Proposal relates to a new building and the estimated costs of the Proposal \$1,435,500 as per the cost summary report prepared by Residence Design Studio Pty Ltd.

**State Environmental Planning Policy (Transport and Infrastructure) 2021**

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Chapter 3 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (the 'Transport and Infrastructure SEPP') sets out a range of overarching controls and guidelines for centre-based child care facilities, which are addressed in this statement and throughout the documentation accompanying this application. Under provisions of the Transport and Infrastructure SEPP, a centre-based child care facility is defined as:

**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)),

Note—

An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.

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.

Provisions within the Transport and Infrastructure SEPP are considered below.

**State Environmental Planning Policy (Transport and Infrastructure) 2021**

Current version for 13 December 2024 to date (accessed 25 February 2025 at 16:02)

**Chapter 3 Educational establishments and child care facilities**

**Part 3.3 Early education and care facilities—specific development controls**

**3.22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development**

(1) This section applies to development for the purpose of a centre-based child care facility if—

(a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or

(b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.

**Comment:** The architectural plans prepared by RSDNC clearly illustrate compliance with the indoor and outdoor space requirements prescribed by the Education and Care Services National Regulations.

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

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.

**Comment:** The Child Care Planning Guideline has been considered later in this document.

**3.24 Centre-based child care facility in certain zones—additional matters for consideration by consent authorities**

(1) The object of this section is to minimise land use conflicts with existing developments on surrounding land and to ensure the safety and health of people using or visiting a centre-based child care facility on land in a prescribed zone.

(2) The consent authority must consider the following matters before determining a development application for development for the purpose of a centre-based child care facility on land in a prescribed zone—

(a) whether the proposed development is compatible with neighbouring land uses, including its proximity to restricted premises, sex services premises or hazardous land uses,

(b) whether the proposed development has the potential to restrict the operation of existing industrial land uses,

(c) whether the location of the proposed development will pose a health or safety risk to children, visitors or staff.

(3) The matters referred to in subsection (2) are in addition to any other matter that the consent authority must consider before determining a development application for development for the purpose of a centre-based child care facility.

(4) In this section—

prescribed zone means any of the following land use zones—

- (a) Zone E4 General Industrial,
- (b) Zone E5 Heavy Industrial,
- (c) Zone IN1 General Industrial,
- (d) Zone IN2 Heavy Industrial.

**Comment:** The subject Site is zoned R1 which is not a prescribed zone.

### **3.25 Centre-based child care facility—floor space ratio**

(1) Development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1.

(2) This section does not apply if another environmental planning instrument or a development control plan sets a maximum floor space ratio for the centre-based child care facility.

**Comment:** The Site is not zoned R2.

### **3.26 Centre-based child care facility—non-discretionary development standards**

(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.

(2) The following are non-discretionary development standards for the purposes of section 4.15(2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility—

(a) location—the development may be located at any distance from an existing or proposed early education and care facility,

(b) indoor or outdoor space

(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the 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,

- (c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,
  - (d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.
- (3) To remove doubt, this section does not prevent a consent authority from—
- (a) refusing a development application in relation to a matter not specified in subsection (2), or
  - (b) granting development consent even though any standard specified in subsection (2) is not complied with.

**Comment:** The objective of this clause is to prevent consent authorities from requiring more onerous standards for those matters identified.

### **3.27 Centre-based child care facility—development control plans**

- (1) A provision of a development control plan that specifies a requirement, standard or control 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—
- (a) operational or management plans or arrangements (including hours of operation),
  - (b) demonstrated need or demand for child care services,
  - (c) proximity of facility to other early education and care facilities,
  - (d) any matter relating to development for the purpose of a centre-based child care facility contained in—
    - (i) the design principles set out in Part 2 of the Child Care Planning Guideline, or
    - (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).
- (2) This section applies regardless of when the development control plan was made.

**Comment:** The objective of this clause is to prevent consent authorities from implementing provisions within their Development Control Plan relating to ages, age ratios, groupings, numbers or the like. Mid-Western Regional Council Development Control Plan 2013 ('MWRC DCP') has been considered as part of this statement.

**Note.** The SEPP Transport and Infrastructure requires consideration of the provisions contained within the Child Care Planning Guideline, September 2021 which has occurred in Appendix A.

## **Mid-Western Regional Local Environmental Plan 2012**

Provisions of the MWRLP 2012 which may relate to the Proposed Development are considered below.

### **Mid-Western Regional Local Environmental Plan 2012**

Current version for 10 May 2024 to date (accessed 28 March 2025 at 18:40)

## **Zone R1 General Residential**

### **1 Objectives of zone**

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

### **2 Permitted without consent**

Home-based child care; Home businesses; Home occupations; Roads; Rural workers' dwellings; Water reticulation systems

### **3 Permitted with consent**

Attached dwellings; Boarding houses; Caravan parks; Centre-based child care facilities; Community facilities; Dwelling houses; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Function centres; Funeral homes; Group homes; Health services facilities; Home industries; Hostels; Information and education facilities; Markets; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential accommodation; Residential flat buildings; Respite day care centres; Semi-detached dwellings; Seniors housing; Sewage reticulation systems; Shop top housing; Signage; Tank-based aquaculture; Tourist and visitor accommodation; Water recycling facilities; Water storage facilities

### **4 Prohibited**

Advertising structures; Farm stay accommodation; Any other development not specified in item 2 or 3

**Comment:** Centre-based child care facilities are permitted. The Proposal is considered to be consistent with the following zone objectives:

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The Proposal provides opportunity for child-care services which will meet the needs of local residents.

## **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.

(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.

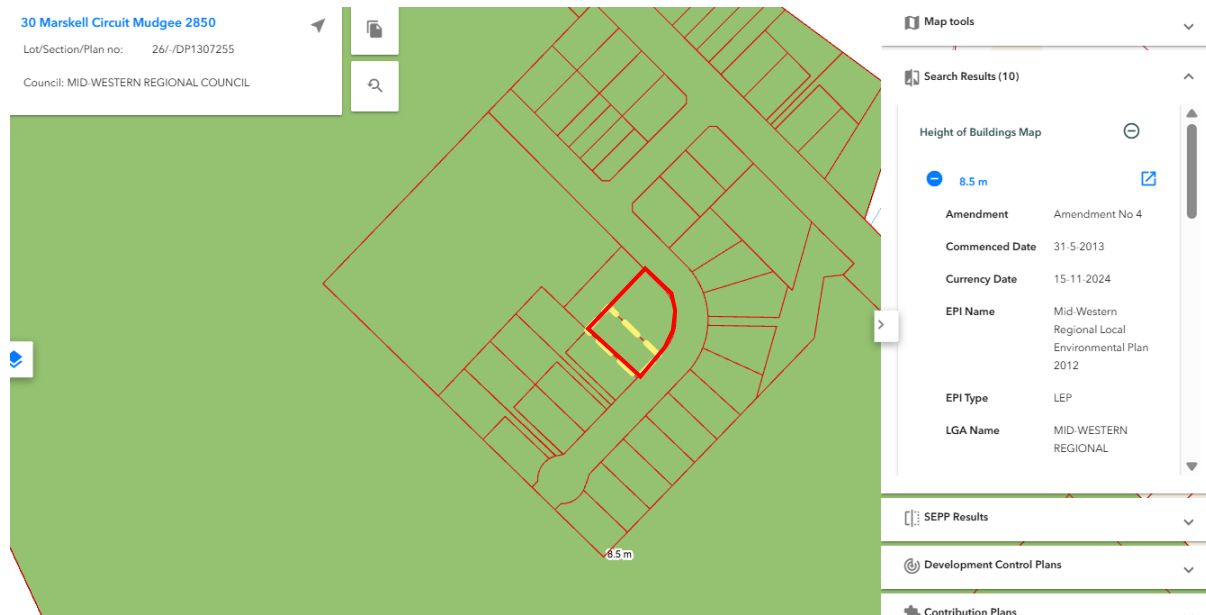


Figure 8. Height Map Overlay – 8.5m – MWRLEP 2012 (Extracted from <https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address>)

**Comment:** The proposed works are to be set below the 8.5m height limit prescribed by Clause 4.3 and identified on Figure 8.

#### 4.4 Floor space ratio

[Not adopted]

**Comment:** Note.

#### 5.10 Heritage conservation



Figure 9. Heritage Map (MWRLEP 2012) Overlay with State Heritage Register Curtilage Overlay from ePlanning Spatial Viewer (Extracted from <https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address>)

**Comment:** The Site does not appear to abut a heritage conservation area or heritage item identified in the MWRLEP 2012 (as per Figure 8). We do not purport to be heritage experts; however, it is our view, that the proposal is unlikely to undermine the integrity of the locality such that it would unduly impact upon a heritage item identified within the MWRLEP 2012 due to the form of the proposed development and proximity to heritage items identified.

### 6.1 Salinity

**Comment:** It is assumed that a suitable condition of consent may be imposed for the proposed works such that it would not result in additional salinization within the local area.

### 6.3 Earthworks

**Comment:** Development consent is sought for earth works so as to facilitate the proposal. It is assumed the earthworks may be carried out in a manner that will not adversely affect the existing drainage pattern and/or soil stability through the utilisation of appropriate construction methodology and conditions of consent.

Where cut works are to be undertaken, appropriate conditions may be imposed to ensure retaining measures are to be carried out in accordance with appropriate engineering and construction methodology which appear to have been implemented on the Site as existing. The Proposal seeks a balanced approach with respect to cut and fill due to the natural topography of the Site. If external fill is required a suitable condition of consent may be imposed to ensure it is suitably sourced.

### 6.4 Groundwater vulnerability

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

- (a) to maintain the hydrological functions of key groundwater systems,*
- (b) to protect vulnerable groundwater resources from depletion and contamination as a result of development.*

*(2) This clause applies to land identified as "Groundwater vulnerable" on the Groundwater Vulnerability Map.*

*(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following—*

- (a) the likelihood of groundwater contamination from the development (including from any on-site storage or disposal of solid or liquid waste and chemicals),*
- (b) any adverse impacts the development may have on groundwater dependent ecosystems,*
- (c) the cumulative impact the development may have on groundwater (including impacts on nearby groundwater extraction for a potable water supply or stock water supply),*
- (d) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

*(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*

- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.



Figure 10. Groundwater Vulnerability Map Overlay – Groundwater Vulnerable – MWRLEP 2012 (Extracted from <https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address> )

**Comment:** As per Figure 10, the Site is located within a Groundwater vulnerable area. It is assumed that suitable conditions of consent may be imposed to ensure that the proposed works avoid any significant adverse environmental impact.

## 6.5 Terrestrial biodiversity

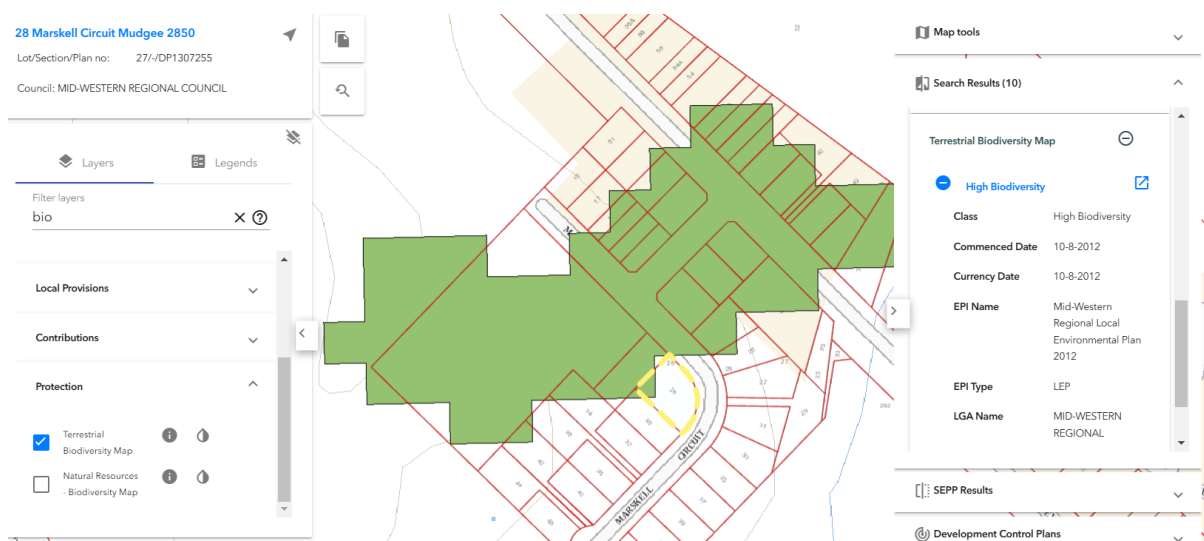


Figure 11. Sensitivity Biodiversity Map Overlay – High Biodiversity – MWRLEP 2012 (Extracted from <https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address> )

**Comment:** A minor portion of the Site is identified as having 'high biodiversity' as per Figure 11, however, as per our site photos and the survey plan the Site is clear of dense vegetation and trees. Please see below extract from ePlanning Spatial Viewer which depicts the overlay with an aerial image:



#### 6.9 Essential services

*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—*

- (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.*

**Comment:** The Proposal seeks one vehicular crossover which is to be located towards the south eastern end of the Site. The application includes civil and stormwater documentation. Pragma understand that the land is sewered. understand that Suitable conditions of consent can be imposed to ensure that the Site benefits from the supply of water and electricity, however, it is assumed that these matters were resolved in the recent subdivision (DA0248/2014) of the subject Site.

#### Mid-Western Regional Council Development Control Plan 2013

The MWRC DCP 2013 applies to the subject Site and as such relevant provisions have been considered below.

Note: In the absence of built form controls specifically relating to centre-based child care facilities Part 3.1 of the plan is considered.

**Development Control Plan 2013**

**PART 3 DISCRETIONARY DEVELOPMENT STANDARDS**

**3.1 RESIDENTIAL DEVELOPMENT IN URBAN AREAS (SINGLE DWELLINGS AND DUAL-OCCUPANCIES)**

**Buildings Setback**

a) Setbacks must be compatible with the existing and/or future desired streetscape.

**Comment:** The proposal seeks a front setback of approximately 6.155m from Marskell Circuit which is in line with the deemed to satisfy provisions.

b) Side or rear building setbacks are to demonstrate no unreasonable adverse impact on the privacy or solar access of adjoining properties.

**Comment:** The siting of resulting centre is not considered to result in undue visual bulk, privacy or solar access impacts on the adjoining properties. The proposal is single storey with much of the shadows falling on the at grade parking within the site itself or within front setback areas.

c) Garages are to be setback a minimum of 5.5 metres from the front boundary.

**Comment:** The Proposal seeks at grade parking.

d) Side and rear walls within 900mm and eaves within 450mm of boundaries are to comply with the BCA requirements for fire rating

**Comment:** Note.

**Deem to satisfy**

	Zone	Street	Side/Rear	Secondary Frontage for Corner Lots *
Deem to satisfy	R1, R2 and R3 where Lot size is less than 900m <sup>2</sup>	4.5m to building line 5.5m to the garage	900mm	0m for garages in laneways  2m to side boundary
	R1, R2 and R3 where Lot size is greater than 900m <sup>2</sup> , less than 2,000m <sup>2</sup>	6.5m to building line 7.5 to the garage	900mm	2m
	R2 where 2000m <sup>2</sup> to 1ha	10m	2.5m	5m

**Comment:** The Proposal seeks to apply the identified provisions because it seeks to amalgamate two lots in a context where the properties have an area in excess of 900sqm but less than 2000sqm.

Street setback: 6.155m

Rear/Side setback: In excess of 7.5m

The measurements are to the facility and not ancillary structures such as storage or eaves.

### **Building Height**

a) *Elevated housing developments must minimise the impact on areas of predominantly single storey housing.*

b) *Building height must ensure that adjacent properties are not overlooked or overshadowed.*

*Deem to satisfy is a single storey building with a FFL of less than 1 metre above Natural Ground Level*

**Comment:** The Proposal seeks a single storey form in a manner where the majority of the shadows will fall on the front setback and car parking areas during the winter solstice. The Proposal does seek some fill in excess of 1m, however, the proposal is still well within the 8.5m MWRLEP 2012 height limit.

### **Site Coverage**

a) *Stormwater runoff must not exceed infrastructure capacity.*

**Comment:** Please refer to the drainage documentation prepared by MJW accompanying the application.

b) *Development must be an appropriate bulk and scale for the existing residential surrounds.*

**Comment:** The Proposal results in a gross floor area of approximately 362sqm and a building coverage of less than 410sqm. The scale of the proposal is considered to be modest given the context of the locality.

c) *Dual occupancy development is not to exceed 50% site coverage. Note: Site Coverage means: The proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:*

- *Any basement,*
- *Any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,*
- *Any eaves,*
- *Unenclosed balconies, decks, pergolas and the like.*

**Comment:** The Proposal does not relate to a dual occupancy, in any case, the proposal has a site coverage of significant less than 50% of the Site area.

### **Solar Access**

a) *Development must have reasonable access to sunlight and must not unduly impede solar access of neighbouring dwellings.*

b) *Dwellings are to be positioned to maximise solar access to living areas.*

c) *Shadow diagram must include:*

- Location, size, height and windows openings of buildings on adjoining properties;
- Existing shadow-casting structures such as fences, carports, hedges, trees etc.; and
- Topographical details, including sectional elevations where land has any significant slope.

d) Living areas and gardens should be orientated to the north to maximise solar access to these areas.

e) North-facing pitched roofs should be incorporated where possible to provide opportunity for solar energy collectors.

f) Solar access should be controlled within buildings to allow warm winter sun to penetrate rooms while excluding hot summer sun by:

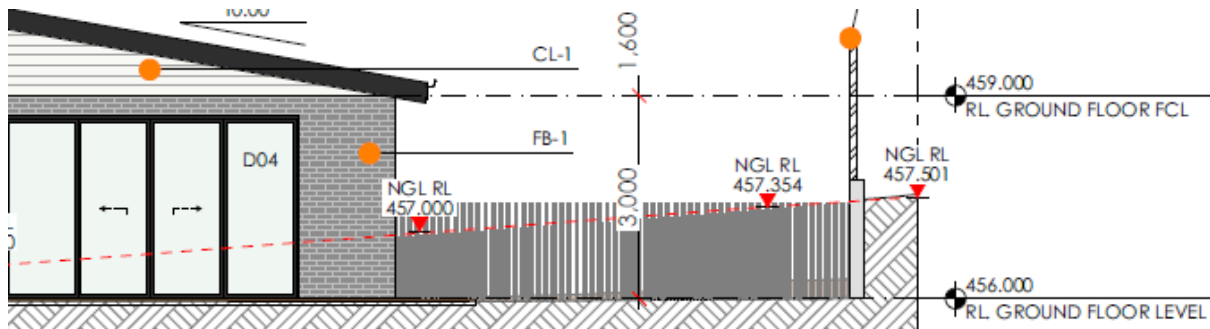
- Using horizontal projecting screens such as balconies, awnings, verandah roofs, pergolas and wide eaves; and
- Use of ceiling insulation.

**Comment:** Given the scale and orientation of the Site, the Proposal is anticipated to receive adequate sunlight while not adversely affecting the adjoining properties.

### Privacy

a) Development must ensure that reasonable privacy is achieved for new dwellings and existing adjoining residences and private open space.

**Comment:** The Proposal does not result in undue opportunity for overlooking onto the adjacent properties. It is noted that at the time of writing both of the adjoining allotments are vacant. Furthermore, the cut works are sought on the side of the property where the Site adjoins those properties and as such the works avoid undue opportunity for overlooking, please see below extract of the architectural plans:



### Parking

a) Development must provide adequate off-street parking to maintain the existing levels of and safety on the road network.

b) Parking areas and access driveways must be functional in design.

**Comment:** The application includes a Traffic Impact Assessment prepared by Genesis traffic which has assessed the car parking arrangement on Site.

c) Parking areas should be visually attractive and constructed, designed and situated so encourage their safe use

**Comment:** The Proposal seeks to provide a landscape buffer around the parking areas.

*d) The number of spaces is determined based on the occupation potential. Note: rooms can be used as a bedroom, e.g. 'study' are counted as a bedroom.*

**Comment:** The Proposal seeks to provide car parking in accordance with Part 5.1 of this plan.

*e) Any vehicle entering or leaving the driveway must be visible to approaching vehicle pedestrians.*

**Comment:** The Proposal has been designed to ensure vehicles can enter and exit in a forward direction.

*f) Driveway access to a major road should be avoided where possible*

**Comment:** The Site does not have a frontage to a major road.

### **Landscaping**

*a) Landscaping must enhance the quality of the built environment.*

*b) Species selection and location should improve energy efficiency through reducing heat gain through windows and deflecting winter winds.*

*c) Plants with low maintenance and water requirements should be selected.*

**Comment:** Please refer to the Landscape Concept Plan prepared by Eco Design for details regarding the planting arrangement.

### **Corner lots**

*a) Development must address both street frontages.*

*b) Utility windows are not permitted on either elevation with frontage to the street unless they are integrated into architectural features of the development.*

**Comment:** The Proposal has openings oriented towards both frontages.

### **Fencing**

*Fencing facing the street or forward of the building line must avoid extensive lengths of 'Colorbond' as it presents a barrier to the street.*

*Solid fencing of a length greater than 30% may be permitted where landscaping is provided to soften the visual impact on the streetscape.*

**Comment:** Please refer to the fence documentation prepared by RSDNC.

### **Slopes**

*a) Development maximises retention of natural ground levels and contours.*

*b) Drainage is to avoid erosion of gullies, slopes and drainage lines in the locality.*

c) Cut and fill, earthworks, retaining walls, unprotected embankments and terraces etc are setback from boundaries such that there is no impact on the privacy or visual amenity of adjoining dwellings and their private open space.

d) Cut and fill, earthworks, retaining walls, unprotected embankments and terraces etc are setback from boundaries such that they do not redirect the flow of surface water onto adjoining properties.

**Deem to Satisfy**

- Cut is to be limited to 1,000 mm.
- Fill is restricted to 600 mm. It must be clean fill and a geotechnical assessment issued for the fill to demonstrate compaction to the Australian Standard.
- Any cut and/or fill must be provided with retaining walls, drainage and must be setback a minimum of 300 mm from any boundary.
- Fill must not direct stormwater onto adjoining properties and drainage pits for overland flow paths are to be provided.
- Cut and fill is not permitted within water or sewer easements

**Comment:** A variation to the prescribed cut and fill controls is considered appropriate in this instance due to the steep topography of the site, which presents a level difference of approximately 5 metres across the property. Strict adherence to the maximum cut of 1,000 mm and fill of 600 mm would result in excessive stepping of the building footprint, reduced functionality of outdoor areas, and unnecessary design complexity. The proposed variation allows for a more practical response.

**Design**

a) Design should maximise surveillance with clear sightlines between public and private places, effective lighting of public places and landscaping that makes places.

b) Physical and symbolic barriers should be used to attract, channel or restrict the movement of people to minimise opportunities for crime and increase the effort required to commit crime.

**Comment:** The Proposal appropriately distinguishes between public and private realms through the use of landscaping, building orientation and fencing.

d) Must be sympathetic with existing adjoining and surrounding developments in relation to bulk and height.

**Comment:** The Proposal seeks a single storey built form in line with the character of the few dwellings which have been constructed.

e) Well-proportioned building form that contributes to the streetscape and amenity.

**Comment:** The Proposal is well articulated and of a scale that is compatible with existing and future desired character of the locality.

- f) Density appropriate to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.
- g) Design must demonstrate efficient use of natural resources, energy and water throughout its full life cycle, including construction.
- h) Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.
- i) Optimise amenity (e.g. appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility).
- j) Optimise safety and security, both internal to the development and for the public domain.
- k) Design must demonstrate response to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

**Comment:** The Proposal does not relate to a residential dwelling, in any case, the large setbacks proposed ensure that resulting facility maintains suitable amenity for the future development of the adjoining allotments. Please refer to the Landscape Concept Plan prepared by Eco Design for details regarding the planting arrangement.

- l) Council will not support dual occupancy development where both dwellings are pre-manufactured or relocatable homes in urban zones.

**Comment:** The Proposal does not relate to a dual occupancy or manufactured home.

## PART 5 DEVELOPMENT STANDARDS

### 5.1 CAR PARKING

Child Care centre	1 space per 4 children.
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**Comment:** The Proposal results in 72 places and seeks to provide 18 total car spaces.

### Landscaping

- a) Parking facility design shall consider the likely visual impact of the parking facility in the locality and provide an integrated landscape design addressing amenity impacts.
- b) A landscaping plan including details of species selection of mature shade trees, species condition, size of beds, understorey and ground cover planting, irrigation provision shall be submitted to Council for approval.
- c) Landscaping shall be provided to separate pedestrian and vehicle conflict points where possible.
- d) Landscaping provision for sun control (shading) shall be provided at the rate of 1 shade tree for every 6 car parking spaces.
- e) Existing trees on site are to be retained where possible.

*Note: Design and layout including manoeuvring, provisions of accessible spaces and access reference should be made to AS 2890.1 Parking Facilities*

**Comment:** Please refer to the Landscape Concept Plan prepared by Eco Design for details regarding the planting arrangement. As presented, the proposed landscaping will soften the presentation of at grade parking and providing shading around the Site.

### 5.3 STORMWATER MANAGEMENT

**Comment:** Please refer to the drainage documentation prepared by MJW accompanying the application.

## Evaluation of Section 4.15 of the Environmental Planning and Assessment Act 1979 No 203

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### Context and Setting

The Site is known as 28-30 Marskell Circuit, Mudgee. The Site is relatively large benefitting from a corner position and a total area of 1659.23m<sup>2</sup>. Given the size of the Site the Proposed Development has been designed to be compatible with the existing and intended streetscape of the locality in terms of aesthetics, height and density while being consistent with the relevant Child Care Planning Guideline standards which dictate those elements.

The Proposal is compatible with the surrounding properties in terms of form and height as there are multitude of single storey-built forms present in the streetscape. The Proposal avoids undue acoustic and visual impacts through careful design and implementation of measures to mitigate impacts such as the below listed:

- Acoustic fencing as recommended by the Noise Impact Assessment accompanying the application
- Screen planting around the Site
- Setbacks in excess of the minimum requirement
- Wide vehicular access for the car parking area

### Social, Environmental and Economic Impacts

As outlined in this statement, the proposal will result in positive social, economic and environmental impacts. The construction of the facility will in our view revitalise the Site for use as a social asset improving the social and economic welfare of the community. The Site has been vacant for some time and as such the redevelopment of the Site will be a positive contribution to the local economy it is able to provide full-time and part-time employment opportunities to the local and wider community while easing the demand of the child care facilities.

### Traffic and Parking Impacts

As per the Parking & Traffic Impact Assessment accompanying the application the Proposed Development is not considered to result in unacceptable traffic and parking impacts.

### The Suitability of the Site for the Development

The Proposed Development is a permissible development under provisions of the R1 General Residential zoning and is actively encouraged in the SEPP Transport and Infrastructure. The

proposal is generally consistent with the fundamental planning controls and provisions in the Child Care Planning Guideline for the Site as detailed in this statement. The Operational Plan of Management demonstrates that the site can be appropriately managed to maintain functionality and amenity, thereby establishing the proposal's suitability for this location.

**Any submissions made in accordance with the Act**

It is anticipated Mid-Western Regional Council will consider any submissions in its assessment of the proposal.

**The Public Interest**

As considered in this statement and supporting documentation, the Proposed Development can likely be undertaken in a manner that will provide a high-quality child-care facility accessible to the local and wider community. At the time of writing there is significant residential redevelopment occurring within proximity of the Site in line with the provisions prescribed by the MWRLEP 2012.

**Conclusion**

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Throughout this statement Pragma Urban Planning has attempted to consider potential environmental and amenity impacts relating to the Proposed Development. It is our opinion that the Proposed Development is capable of achieving compatibility with overarching planning objectives and the broader public interest. This compatibility is guided by planning instruments reviewed in this document, subject to multidisciplinary analysis and suitable conditions of consent. The application is to be lodged to Mid-Western Regional Council for an independent assessment and analysis of the proposal.

## Appendix A – Child Care Planning Guideline September 2021

The SEPP Transport and Infrastructure requires consideration of the provisions contained within the Child Care Planning Guideline, September 2021. Please see below consideration of the document.

Child Care Planning Guideline	
Provision	Comment
<b>2. Design quality principles</b>	
<p><b>Principle 1 - Context</b>  <b>Good design responds and contributes to its context, including the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Well-designed child care facilities respond to and enhance the qualities and identity of the area including adjacent sites, streetscapes and neighbourhood.</b></p> <p><b>Well-designed child care facilities take advantage of its context by optimising access by walking and public transport, public facilities and centres, respecting local heritage, and being responsive to the demographic, cultural and socio-economic makeup of the facility users and surrounding communities.</b></p>	<p>The Site is appropriate for the proposed use for the reasons identified below:</p> <ul style="list-style-type: none"> <li>▪ The Site is a large lot with a total area of 1659.23m<sup>2</sup> and can provide safe vehicular and pedestrian access into and out of the Site as well as efficient circulation spaces and play areas</li> <li>▪ The Site is a corner allotment</li> <li>▪ The Site is located within an area where there are newly subdivided lots and as such demand for child care services will increase</li> <li>▪ Pragma is not aware of any hazardous land uses within proximity to the Site</li> <li>▪ Pragma Urban Planning is not aware of any nearby uses that would compromise the suitability of the site for a centre-based child care facility</li> </ul>
<p><b>Principle 2 - Built form</b>  <b>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the surrounding area.</b></p> <p><b>Good design achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Good design also uses a variety of materials, colours and textures.</b></p> <p><b>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</b></p> <p><b>Contemporary facility design can be distinctive and unique to support innovative approaches to</b></p>	<p>The Proposal seeks a contemporary single storey built form with at grade parking. The Proposal is aesthetically pleasing and enhances the character of the locality.</p>

<p>teaching and learning, while still achieving a visual appearance that is aesthetically pleasing, complements the surrounding areas, and contributes positively to the public realm.</p>	
<p><b>Principle 3 - Adaptive learning spaces</b> Good facility design delivers high quality learning spaces and achieves a high level of amenity for children and staff, resulting in buildings and associated infrastructure that are fit-for-purpose, enjoyable and easy to use. This is achieved through site layout, building design, and learning spaces' fit-out.</p> <p>Good design achieves a mix of inclusive learning spaces to cater for all children and different modes of learning. This includes appropriately designed physical spaces offering a variety of settings, technology and opportunities for interaction.</p>	<p>The resulting centre will provide indoor and outdoor play areas that are well designed and sited in a manner that provides high level of amenity for future children and staff.</p>
<p><b>Principle 4 - Sustainability</b> Sustainable design combines positive environmental, social and economic outcomes.</p> <p>This includes use of natural cross ventilation, sunlight and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and re-use of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p> <p>Well-designed facilities are durable and embed resource efficiency into building and site design, resulting in less energy and water consumption, less generation of waste and air emissions and reduced operational costs.</p>	<p>The proposal provides sufficient openings and floor to ceiling heights (2.7m) as per the elevations prepared by RSDNC to permit sunlight penetration and natural cross ventilation throughout the building.</p>
<p><b>Principle 5 - Landscape</b> Landscape and buildings should operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Well-designed landscapes make outdoor spaces assets for learning. This includes designing for diversity in function and use, age-appropriateness and amenity.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which</p>	<p>Please refer to the landscape documentation accompanying the application which illustrates planting that will in our view soften the presentation of the resulting building while also providing diversity in function and use of the play areas.</p>

<p>contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks</p>	
<p><b>Principle 6 - Amenity</b> Good design positively influences internal and external amenity for children, staff and neighbours. Achieving good amenity contributes to positive learning environments and the well-being of children and staff.</p> <p>Good amenity combines appropriate and efficient indoor and outdoor learning spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, service areas and ease of access for all age groups and degrees of mobility. Well-designed child care facilities provide comfortable, diverse and attractive spaces to learn, play and socialise</p>	<p>In our view, the Architectural Plans prepared by RSDNC illustrate that the proposed indoor and outdoor play areas benefit from sufficient solar access, natural ventilation and storage while avoiding undue visual bulk and acoustic impacts on the locality.</p> <p>The building layout incorporates step-free internal circulation, promoting ease of mobility for all users.</p> <p>The application is supported by a Noise Impact Assessment prepared by Noise and Vibration Consultants concludes the Proposal will not result in undue impacts on the locality subject to recommendations.</p>
<p><b>Principle 7 - Safety</b> Well-designed child care facilities optimise the use of the built and natural environment for learning and play, while utilising equipment, vegetation and landscaping that has a low health and safety risk, and can be checked and maintained efficiently and appropriately.</p> <p>Good child care facility design balances safety and security with the need to create a welcoming and accessible environment. It provides for quality public and private spaces that are inviting, clearly defined and allow controlled access for members of the community. Well-designed child care facilities incorporate passive surveillance and Crime Prevention Through Environmental Design (CPTED).</p> <p>Well designed vehicular parking and access minimise traffic safety risks on children and staff.</p>	<p>The resulting centre will provide openings oriented toward Marskell Circuit.</p> <p>The vehicular and pedestrian accessways are clearly identifiable from the public realm.</p> <p>The play areas are located towards the rear of the property, enclosed by boundary fencing to enhance child safety.</p>
<p><b>3. Matters for consideration</b></p>	
<p><b>3.1 Site selection and location</b></p>	
<p><b>C1</b> For proposed developments in or adjacent to a residential zone, particularly if that zone is for low density residential uses consider:</p> <ul style="list-style-type: none"> <li>• the acoustic and privacy impacts of the proposed development on the residential properties</li> <li>• the setbacks and siting of buildings within the residential context</li> </ul>	<p>The Site is located within a R1 zone. The Site does not adjoin an allotment within a R2 zone. The form, bulk, and scale of the development are considered compatible with the existing and desired future character of the locality.</p>

<ul style="list-style-type: none"> <li>• visual amenity impacts (e.g. additional building bulk and overshadowing, local character)</li> <li>• traffic and parking impacts of the proposal on residential amenity and road safety</li> </ul>	
<p>For proposed developments in commercial and industrial zones, consider:</p> <ul style="list-style-type: none"> <li>• potential impacts on the health, safety and wellbeing of children, staff and visitors with regard to local environmental or amenity issues such as air or noise pollution and local traffic conditions</li> <li>• the potential impact of the facility on the viability of existing commercial or industrial uses.</li> </ul>	<p>The Site is located with a residential zone.</p>
<p>For proposed developments in public or private recreation zones, consider:</p> <ul style="list-style-type: none"> <li>• the compatibility of the proposal with the operations and nature of the community or private recreational facilities</li> <li>• if the existing premises is licensed for alcohol or gambling</li> <li>• if the use requires permanent or casual occupation of the premises or site</li> <li>• the availability of on-site parking</li> <li>• compatibility of proposed hours of operation with surrounding uses, particularly residential uses</li> <li>• the availability of appropriate and dedicated sanitation facilities for the development.</li> </ul>	
<p>For proposed developments on school, TAFE or university sites in Special Purpose zones consider:</p> <ul style="list-style-type: none"> <li>• the compatibility of the proposal with the operation of the institution and its users</li> <li>• the proximity of the proposed facility to other uses on the site, including premises licensed for alcohol or gambling</li> <li>• proximity to sources of noise, such as places of entertainment or mechanical workshops</li> <li>• proximity to odours, particularly at agricultural institutions</li> <li>• previous uses of a premises such as scientific, medical or chemical laboratories, storage areas and the like.</li> </ul>	
<p><b>C2</b> When selecting a site, ensure that:</p> <ul style="list-style-type: none"> <li>• the location and surrounding uses are compatible with the proposed development or use</li> <li>• the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards</li> </ul>	<p>The Site is located within a residential zone, the adjoining properties do not appear to be uses that would undermine the use of the Site as an educational establishment.</p> <p>Pragma is not aware of environmental constraints such as land slip, bush fire</p>

- there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed
- the characteristics of the site are suitable for the scale and type of development proposed having regard to:
  - o length of street frontage, lot configuration, dimensions and overall size
  - o number of shared boundaries with residential properties
- the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas
- where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use. Where the proposal relates to any heritage item, the development should retain its historic character and conserve significant fabric, setting or layout of the item.
- there are suitable and safe drop off and pick up areas, and off and on street parking
- the characteristics of the fronting road or roads (for example its operating speed, road classification, traffic volume, heavy vehicle volumes, presence of parking lanes) is appropriate and safe for the proposed use
- the site avoids direct access to roads with high traffic volumes, high operating speeds, or with high heavy vehicle volumes, especially where there are limited pedestrian crossing facilities
- it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.

and coastal hazards that would unduly impact the Site.

The subject Site is large enough to accommodate a driveway access point which is double width without undermining the character of the locality.

Pragma is not aware of any site characteristics that are likely to be hazardous to the future use of the Site.

The Site does not appear to be closely located to incompatible social activities uses as per Pragma's site visit.

A Traffic and Parking Assessment prepared by Genesis Traffic is included in the application package.

### C3

**A child care facility should be located:**

- near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship
- near or within employment areas, town centres, business centres, shops
- with access to public transport including rail,

The Site is also located within proximity (in a regional sense) to the following amenities which are compatible:

- Mudgee Town Centre
- Jubilee Oval
- Gowrie NSW Mudgee Early Education & Care
- Mudgee Team Training Village

<p>buses, ferries</p> <ul style="list-style-type: none"> <li>• in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.</li> </ul>	
<p><b>C4</b> A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> <li>• proximity to: <ul style="list-style-type: none"> <li>o heavy or hazardous industry, waste transfer depots or landfill sites</li> <li>o Liquefied Petroleum Gas (LPG) tanks or service stations</li> <li>o water cooling and water warming systems</li> <li>o odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses</li> <li>o extractive industries, intensive agriculture, agricultural spraying activities</li> </ul> </li> <li>• any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site.</li> </ul>	<p>The Site does not appear to be located within close proximity to any of the following:</p> <ul style="list-style-type: none"> <li>▪ heavy or hazardous industry, waste transfer depots or landfill sites</li> <li>▪ Liquefied Petroleum Gas (LPG) tanks or service stations</li> <li>▪ water cooling and water warming systems</li> <li>▪ odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses</li> <li>▪ extractive industries, intensive agriculture, agricultural spraying activities</li> </ul>
<p><b>3.2 Local character, streetscape and the public domain interface</b></p>	
<p><b>C5</b> The proposed development should:</p> <ul style="list-style-type: none"> <li>• contribute to the local area by being designed in such a way to respond to the character of the locality and existing streetscape</li> <li>• build on the valued characteristics of the neighbourhood and draw from the physical surrounds, history and culture of place</li> <li>• reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> <li>• recognise and respond to predominant streetscape qualities, such as building form, scale, materials and colours</li> <li>• include design and architectural treatments that respond to and integrate with the existing streetscape and local character</li> <li>• use landscaping to positively contribute to the streetscape and neighbouring and neighbourhood amenity</li> <li>• integrate car parking into the building and site landscaping design in residential areas</li> <li>• in R2 Low Density Residential zones, limit outdoor play space to the ground level to reduce impacts on amenity from acoustic fences/barriers onto adjoining residence, except when good design solutions can be achieved</li> </ul>	<p>The Proposal has been designed to enhance the character of the locality utilising a single storey-built form that is sympathetic to the character of the locality.</p> <p>The Site does not appear to be within proximity to a heritage item or conservation area identified within the MWRLEP 2012.</p> <p>The designer skilfully utilises landscaping to soften the presentation of the resulting development and contribute to the character of the locality.</p>
<p><b>C6</b></p>	<p>Fencing and landscaping is used to establish public and private spaces</p>

<p><b>Create a threshold with a clear transition between public and private realms, including:</b></p> <ul style="list-style-type: none"> <li>• fencing to ensure safety for children entering and leaving the facility</li> <li>• windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and a connection between the facility and the community</li> <li>• integrating existing and proposed landscaping with fencing.</li> </ul>	<p>and provide screening/security around play areas. The resulting building has windows and openings within the front elevation, which permit passive surveillance to the streetscape and front setback.</p>
<p><b>C7</b> <b>On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</b></p>	<p>The pedestrian and vehicular access ways are to be clearly identifiable from Marskell Circuit.</p>
<p><b>C8</b> <b>Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</b></p> <ul style="list-style-type: none"> <li>• clearly defined street access, pedestrian paths and building entries</li> <li>• low fences and planting which delineate communal/private open space from adjoining public open space</li> <li>• minimal use of blank walls and high fences.</li> </ul>	<p>The development does not adjoin a public park, open space or bushland.</p>
<p><b>C9</b> <b>Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.</b></p>	<p>The proposal utilises landscaping and vehicular access point to establish the front building line. The Site does not adjoin a heritage item or conservation area identified within the MWRLEP 2012.</p>
<p><b>C10</b> <b>High solid acoustic fencing may be used when shielding the facility from noise on classified roads.</b></p> <p>The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary</p>	<p>The Site does not adjoin a classified road.</p>
<p><b>3.3 Building orientation, envelope, building design and accessibility</b></p>	
<p><b>C11</b> <b>Orient a development on a site and design the building layout to:</b></p> <ul style="list-style-type: none"> <li>• ensure visual privacy and minimise potential noise and overlooking impacts on neighbours</li> </ul>	<p>The Proposal has been sited to minimise undue acoustic and privacy impacts on the adjoining residential properties as identified below:</p>

<p>by</p> <ul style="list-style-type: none"> <li>o facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties</li> <li>o placing play equipment away from common boundaries with residential properties</li> <li>o locating outdoor play areas away from residential dwellings and other sensitive uses</li> </ul> <ul style="list-style-type: none"> <li>• optimise solar access to internal and external play areas</li> <li>• avoid overshadowing of adjoining residential properties</li> <li>• minimise cut and fill</li> <li>• ensure buildings along the street frontage define the street by facing it</li> <li>• ensure where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions</li> </ul>	<ul style="list-style-type: none"> <li>▪ The proposal has consolidated the outdoor play area into an L shaped setback area which is to be lined with acoustic fencing as deemed necessary by the Noise Impact Assessment accompanying the application</li> <li>▪ The Proposal maintains a single storey form</li> <li>▪ A landscaped buffer area around the Site</li> </ul> <p>Given the orientation and siting it is anticipated that the overshadowing impacts will not be undue on the adjoining properties.</p> <p>The Proposal seeks cut and fill works, however, given the topography of the Site and nature of the proposal they are not considered excessive.</p>
<p><b>C12</b> The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> <li>• building height should be consistent with other buildings in the locality</li> <li>• building height should respond to the scale and character of the street</li> <li>• setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility</li> <li>• setbacks should provide adequate access for building maintenance</li> <li>• setbacks to the street should be consistent with the existing character.</li> </ul> <p>Where a Local Environmental Plan or Development Control Plan do not specify a floor space ratio for the R2 Low Density Residential zone, a floor space ratio of 0.5:1 is to apply to a child care facility in the R2 zone.</p>	<p>The Proposal is single storey. The designer has skilfully sited the built form to ensure adequate building separation which permits a landscape around the Site.</p> <p>The Proposal appropriately sites the play areas in the rear which allows for adequate privacy for neighbours and children attending the facilities.</p> <p>The proposed street setback is compatible with Part 3.1 of the MWR DCP.</p>
<p><b>C13</b> Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings.</p> <p>Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p>	<p>The Site does not have a frontage to a classified road.</p>

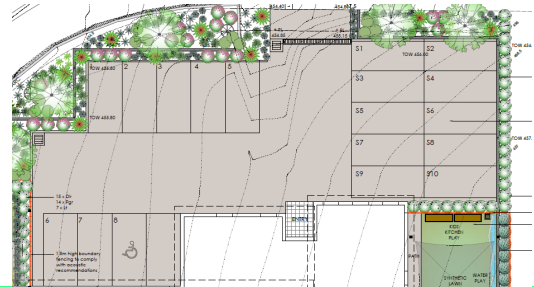
<p><b>C14</b> On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p>The Site has a residential zoning and as such has sought to provide a minimum 6.155m setback in line with the approval at MWRC DCP.</p>
<p><b>C15</b> Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> <li>• located to allow ease of access, particularly for pedestrians</li> <li>• directly accessible from the street where possible</li> <li>• directly visible from the street frontage</li> <li>• easily monitored through natural or camera surveillance</li> <li>• not accessed through an outdoor play area.</li> <li>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ul>	<p>The Proposal maintains a single-entry pedestrian point into the facility itself.</p>
<p><b>C16</b> Accessible design can be achieved by:</p> <ul style="list-style-type: none"> <li>• providing accessibility to and within the building in accordance with all relevant legislation</li> <li>• linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry</li> <li>• providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible</li> <li>• minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</li> </ul>	<p>The Proposal has been designed to ensure that the floor plate does not have steps within it, permitting wheelchair access from the entryway to the rear play areas.</p> <p>The proposal includes accessible car space.</p>
<p><b>Note:</b> The National Construction Code and the Disability (Access to Premises – Buildings) Standards 2010 set out the requirements for access to buildings for people with disabilities.</p>	<p>Note.</p>
<p><b>3.4 Landscaping</b></p>	
<p><b>C17</b> Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space.</p> <p>Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> <li>• reflecting and reinforcing the local context</li> </ul>	<p>Please refer to the landscape documentation accompanying the application.</p>

- incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.

**C18 Incorporate car parking into the landscape design of the site by:**

- planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings
- taking into account streetscape, local character, pedestrian safety and context when siting car parking areas within the front setback
- using low level landscaping to soften and screen parking areas

The car parking area is located at grade. The area is to be screened by vegetation and trees as per the follow extract:



### 3.5 Visual and acoustic privacy

**C19**  
Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.

The proposal does not relate to a mix of uses.

**C20**  
Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:

- appropriate site and building layout
- suitably locating pathways, windows and doors
- permanent screening and landscape design.

The proposal has been designed to minimise overlooking from public areas into the play areas through the use of fencing as per architectural documentation accompanying the application.

**C21**  
Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:

- appropriate site and building layout
- suitable location of pathways, windows and doors
- landscape design and screening.

The layout of the Proposal is not particularly susceptible to overlooking from adjoining properties.

<p><b>C22</b> A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> <li>• provide an acoustic fence along any boundary where the adjoining property contains a residential use. An acoustic fence is one that is a solid, gap free fence</li> <li>• ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure</li> </ul>	<p>Please refer to the Noise Impact Assessment prepared by Noise and Vibration Consultants which nominates the height and type of acoustic fencing.</p>
<p><b>C23</b> A suitably qualified acoustic professional should prepare an Noise Impact Assessment which will cover the following matters:</p> <ul style="list-style-type: none"> <li>• identify an appropriate noise level for a child care facility located in residential and other zones</li> <li>• determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use</li> <li>• determine the appropriate height of any acoustic fence to enable the noise criteria to be met.</li> </ul>	<p>Please refer to the Noise Impact Assessment prepared by Noise &amp; Vibration Consultants which concludes the following: <i>'An environmental noise assessment was conducted for the proposed child care centre located at 30 Marskell Circuit, Mudgee. Compliance is predicted with the assessment criteria on the condition the acoustic treatments and management controls in Section 8 are implemented.'</i></p>
<p><b>3.6 Noise and air pollution</b></p>	
<p><b>C24</b> Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> <li>• creating physical separation between buildings and the noise source</li> <li>• orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> <li>• using landscaping to reduce the perception of noise</li> <li>• limiting the number and size of openings facing noise sources</li> <li>• using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)</li> <li>• using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits</li> <li>• locating cot rooms, sleeping areas and play areas away from external noise sources.</li> </ul>	<p>The Proposal has been sited in a manner that minimises undue acoustic impacts on the adjoining properties. Please refer to the Noise Impact Assessment prepared by Noise &amp; Vibration Consultants.</p>
<p><b>C25</b> An Noise Impact Assessment should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</p>	<p>Note.</p>

<ul style="list-style-type: none"> <li>• on industrial zoned land</li> <li>• where the ANEF contour is between 20 and 25</li> <li>• along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li> <li>• on a major or busy road</li> <li>• other land that is impacted by substantial external noise.</li> </ul>	
<p><b>C26</b> Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p>	<p>The Site does not appear to be in an area that is likely to be impacted by sources of air pollution such as major roads. Pragma have not identified an approved 'industrial activity' within close proximity to the subject Site.</p>
<p><b>C27</b> A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines.</p> <p>The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> <li>• creating an appropriate separation distance between the facility and the pollution source.</li> </ul> <p>The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution</p> <ul style="list-style-type: none"> <li>• using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway</li> <li>• incorporating ventilation design into the design of the facility.</li> </ul>	<p>Given the other centre-based child care facilities within proximity to the property, the Site is not considered to be particularly vulnerable to sources of pollution.</p>
<p><b>3.7 Hours of operation</b></p>	
<p><b>C28</b> Hours of operation where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non residential land uses.</p>	<p>Please refer to the Operational Plan of Management which identifies the hours of operation as 7:00am-6:00pm on weekdays.</p>
<p><b>C29</b> Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.</p>	<p>Note.</p>
<p><b>3.8 Traffic, parking and pedestrian circulation</b></p>	
<p><b>C30</b> Off street car parking should be provided at</p>	<p>The Site is within a Residential zone. that features other educational</p>

the rates for child care facilities specified in a Development Control Plan that applies to the land.

Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates:

Within 400 metres of a railway or Metro station within Greater Sydney:

- 1 space per 10 children
- 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space.

In other areas:

- 1 space per 4 children.

A reduction in car parking rates may be considered where:

- the proposal is an adaptive reuse of a heritage item
- the site is in a B8 Metropolitan Zone or other high-density business or residential zone
- the site is in proximity to high frequency and well connected public transport
- the site is co-located or in proximity to other uses where parking is appropriately provided (for example business centres, schools, public open space, public or commercially operated car parks)
- there is sufficient on street parking available at appropriate times within proximity of the site.

establishments. The traffic and car parking arrangement are considered to be satisfactory as per Traffic and Parking Assessment prepared by Genesis Traffic.

#### C31

In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.

The Site is within a Residential zone.

#### C32

A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses, to optimise the safety and convenience of the parking area(s)

and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:

- the amenity of the surrounding area will not be affected
- there will be no impacts on the safe operation of the surrounding road network.

#### C33

Alternate vehicular access should be provided where child care facilities are on sites fronting:

- a classified road
- roads which carry freight traffic or transport

The Site does not front a classified road. The vehicular access point has been considered in the Traffic and Parking Assessment prepared by Genesis Traffic.

<p>dangerous goods or hazardous materials. The alternate access must have regard to:</p> <ul style="list-style-type: none"> <li>• the prevailing traffic conditions</li> <li>• pedestrian and vehicle safety including bicycle movements</li> <li>• the likely impact of the development on traffic</li> </ul>	
<p><b>C34</b> Child care facilities proposed within cul-de-sacs or via narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	<p>The Proposal is supported by a Traffic Impact Assessment prepared by Genesis which concludes the following: <i>'• the traffic generation of the proposed development will not present any adverse traffic implications'</i></p>
<p><b>C35</b> The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> <li>• separate pedestrian access from the car park to the facility</li> <li>• defined pedestrian crossings and defined/separate paths included within large car parking areas</li> <li>• separate pedestrian and vehicle entries from the street for parents, children and visitors</li> <li>• pedestrian paths that enable two prams to pass each other</li> <li>• delivery, loading and vehicle turnaround areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</li> <li>• minimise the number of locations where pedestrians and vehicles cross each other</li> <li>• in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas</li> <li>• vehicles can enter and leave the site in a forward direction</li> <li>• clear sightlines are maintained for drivers to child pedestrians, particularly at crossing locations.</li> </ul>	<p>The Proposal seeks to provide a car parking area at grade. The proposal seeks one vehicular crossover where the access point permits vehicles to enter and exit in a forward direction.</p> <p>The facility includes a defined entry landing.</p>
<p><b>C36</b> Mixed use developments should include:</p> <ul style="list-style-type: none"> <li>• driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks</li> <li>• drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing</li> </ul>	<p>The Proposal does not relate to a mixed-use development.</p>

<p>other parts of the site</p> <ul style="list-style-type: none"> <li>• parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</li> </ul>	
<p><b>C37</b> Car parking design should:</p> <ul style="list-style-type: none"> <li>• include a child safe fence to separate car parking areas from the building entrance and play areas</li> <li>• provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards</li> <li>• include wheelchair and pram accessible parking.</li> </ul>	<p>The car parking area is separated from the play areas.</p>
<p><b>4. Applying the National Regulations to development proposals</b></p>	
<p><b>4.1 Indoor space requirements</b></p>	
<p><b>Regulation 107</b> <b>Education and Care Services National Regulations</b> Every child being educated and cared for within a facility must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP Transport and Infrastructure. Unencumbered indoor space excludes any of the following:</p> <ul style="list-style-type: none"> <li>• passageway or thoroughfare (including door swings) used for circulation</li> <li>• toilet and hygiene facilities</li> <li>• nappy changing area or area for preparing bottles</li> <li>• area permanently set aside for the use or storage of cots</li> <li>• area permanently set aside for storage</li> <li>• area or room for staff or administration</li> <li>• kitchens, unless the kitchen is designed to be used predominately by the children as part of an educational program e.g. a learning kitchen</li> <li>• on-site laundry</li> <li>• other space that is not suitable for children.</li> </ul>	<p>The Proposal results in a total unencumbered indoor space of approximately 234.42m<sup>2</sup> which is in excess of the requirement as indicated by the plans prepared by RSDNC.</p>
<p><b>Design guidance</b> <b>Verandahs as indoor space</b></p> <p>For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space (refer to Figure 1).</p>	<p>Note.</p>

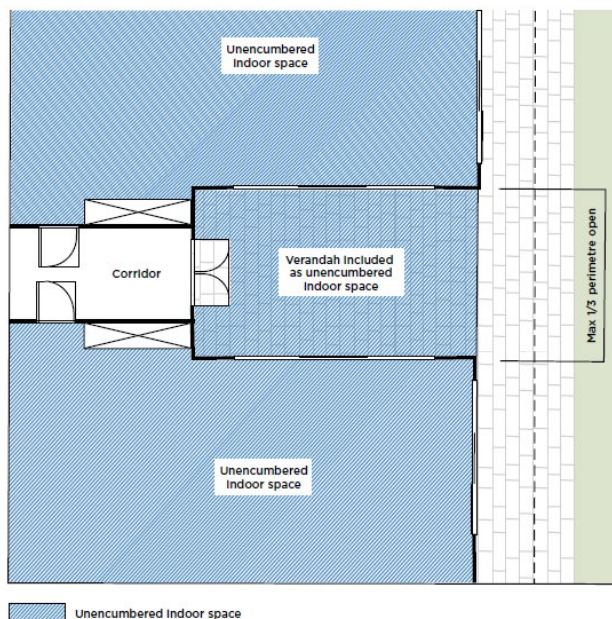


Figure 1 An outdoor verandah can be included as unencumbered indoor space with written approval. In spatial calculations this can only be counted once.

Note.

### Storage

**Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas need to be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:**

- a minimum of 0.3m<sup>3</sup> per child of external storage space
- a minimum of 0.2m<sup>3</sup> per child of internal storage space.

**Storage does not need to be in a separate room or screened, and there should be a mixture of safe shelving and storage that children can access independently.**

**Storage of items such as prams, bikes and scooters should be located adjacent to the building entrance.**

**Where an external laundry service is used, storage and collection points for soiled items should be in an area with separate external access, away from children.**

**This will prevent clothes being carried through public areas and reduce danger to children during drop off and collection of laundry.**

Please refer to the Storage Area calculations prepared by RSDNC which states that the proposal will provide 15m<sup>3</sup> of internal storage and 22m<sup>3</sup> of external storage.

### STORAGE

INTERNAL 0-2 YEARS	14.4m <sup>3</sup>	15m <sup>3</sup>
2-3 YEARS	COMBINED INTERNAL	COMBINED INTERNAL
3-5 YEARS		
EXTERNAL 0-5 YEARS	21.6m <sup>3</sup>	22m <sup>3</sup>
	COMBINED EXTERNAL	COMBINED EXTERNAL

The internal storage areas nominated on the plans appear to be integrated into the built form. The outdoor storage area is proposed to be located in the outdoor area.

#### 4.2 Laundry and hygiene facilities

##### Regulation 106

##### Education and Care Services National Regulations

There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that is not accessible by, and does not pose a risk to children.

Child care facilities must also comply with the requirements for laundry facilities that are contained in the National Construction Code.

##### Design guidance

Laundry and hygiene facilities are a key consideration for education and care service premises. The type of laundry facilities provided must be appropriate to the age of children accommodated. On site laundry

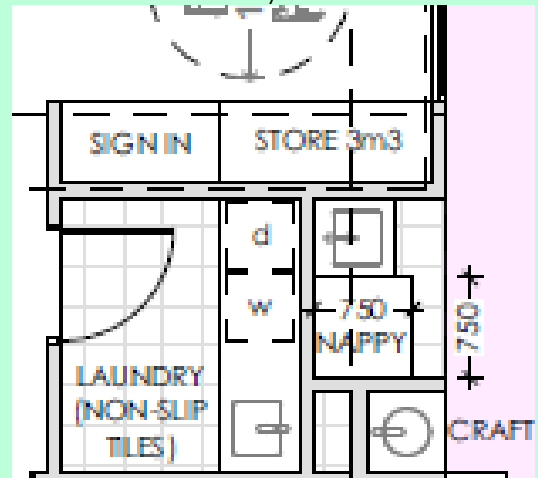
On site laundry facilities should contain:

- a washer or washers capable of dealing with the heavy requirements of the facility
- a dryer
- laundry sinks
- adequate storage for soiled items prior to cleaning
- an on-site laundry cannot be calculated as useable unencumbered play space for children (refer to Figure 2).

##### External laundry service

A facility that does not contain on site laundry facilities must make external laundering arrangements. Any external laundry facility providing services to the facility needs to comply with any relevant Australian Standards.

A laundry room is proposed to be located near the foyer:



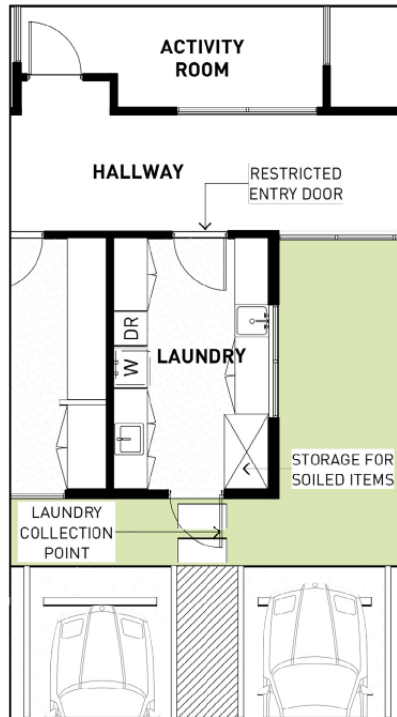


Figure 2 A typical child care facility laundry layout. External access may be provided if laundry is done off site or for deliveries.

#### 4.3 Toilet and hygiene facilities

##### Regulation 109

##### Education and Care Services National Regulations

A service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.

Child care facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code.

##### Design guidance

Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants (refer to Figure 3). Design considerations could include:

- junior toilet pans, low level sinks and hand drying facilities for children
- a sink and handwashing facilities in all bathrooms for adults
- direct access from both activity rooms and outdoor play areas

Please refer to the floor plans prepared by RSDNC, which identify the locations of the toilets, sinks, and nappy change areas for the respective play areas.

- windows into bathrooms and cubicles without doors to allow adequate supervision by staff
- external windows in locations that prevent observation from neighbouring properties or from side boundaries.

#### 4.4 Ventilation and natural light

##### Regulation 110 Education and Care Services National Regulations

Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children.

Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the National Construction Code. Ceiling height requirements may be affected by the capacity of the facility.

##### Design guidance

##### Ventilation

Good ventilation can be achieved through a mixture of natural cross ventilation and air conditioning. Encouraging natural ventilation is the basis of sustainable design; however, there will be circumstances where mechanical ventilation will be essential to creating ambient temperatures within a facility.

To achieve adequate natural ventilation, the design of the child care facilities must address the orientation of the building, the configuration of rooms and the external building envelope, with natural air flow generally reducing the deeper a building becomes. It is recommended that child care facilities ensure natural ventilation is available to each indoor activity room.

##### Natural light

Solar and daylight access reduces reliance on artificial lighting and heating, improves energy efficiency and creates comfortable learning environments through pleasant conditions. Natural light contributes to a sense of well-being, is important to the development of children and improves service outcomes. Daylight and solar access changes with the time of day, seasons and weather conditions. When designing child care facilities consideration should be given to:

- providing windows facing different orientations
- using skylights as appropriate
- ceiling heights.

It is anticipated that the Proposal will benefit from sufficient ventilation and light given its orientation and the location of the openings. The Proposal also seeks to provide a 2.7m floor to ceiling height clearance. Please refer to the elevation and floor plans prepared by RSDNC for details:



Designers should aim to minimise the need for artificial lighting during the day, especially in circumstances where room depth exceeds ceiling height by 2.5 times. It is recommended that ceiling heights be proportional to the room size, which can be achieved using raked ceilings and exposed trusses, creating a sense of space and visual interest.

#### 4.5 Administrative space

**Regulation 111**  
**Education and Care Services National Regulations** A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.

##### Design guidance

Design considerations could include closing doors for privacy and glass partitions to ensure supervision.

**Note:** Areas or rooms for staff and administration are excluded in the calculation of unencumbered indoor space under National Regulation 107.

When designing administrative spaces, consideration should be given to functions which can share spaces and those which cannot (refer Figure 4). Sound proofing of meeting rooms may be appropriate where they are located adjacent to public areas, or in large rooms where sound can easily travel.

Administrative spaces should be designed to ensure equitable use by parents and children at the facility. A reception desk may be designed to have a portion of it at a lower level for children or people in a wheel chair.

The Proposal seeks to locate a staff room and office area near the foyer. See below extract of the Ground Floor Plan prepared by RSDNC for detail:

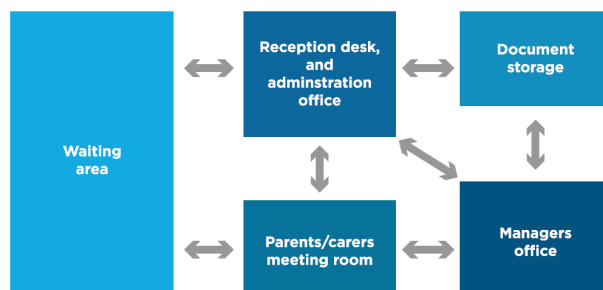
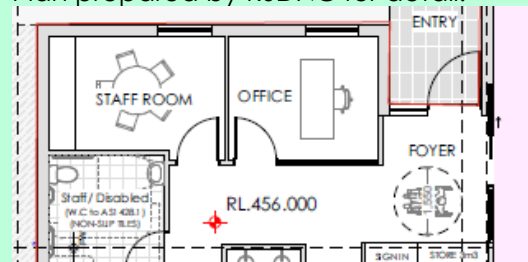


Figure 4 Diagram showing relationships between administrative spaces within a child care facility. Requirements of rooms and functions may vary depending on the size and individual requirements of the facility.

#### 4.6 Nappy change facilities

**Regulation 112**  
**Education and Care Services National Regulations**

The Ground Floor plan prepared by RSDNC identifies a nappy change bench areas as per the below extracts:

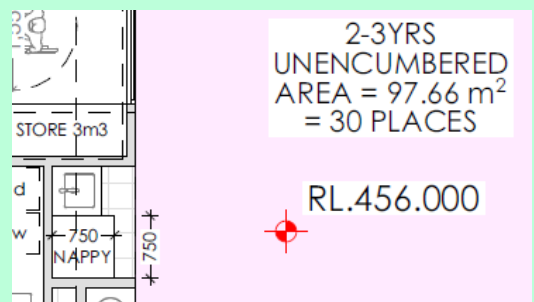
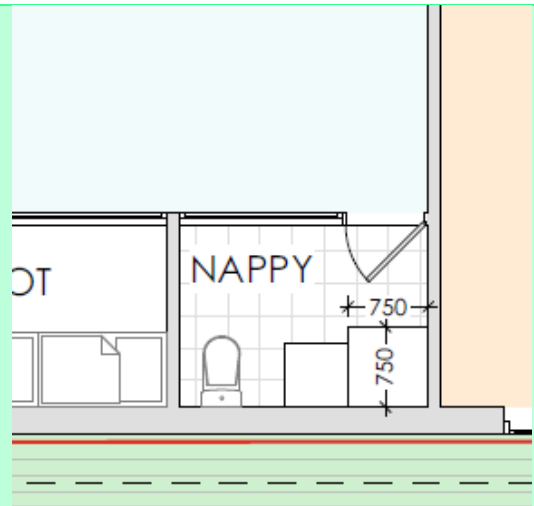
Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children.

Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.

#### Design guidance

In circumstances where nappy change facilities must be provided, design considerations should include:

- properly constructed nappy changing bench or benches
- a bench type baby bath within one metre from the nappy change bench
- the provision of dedicated hand cleansing facilities for adults in the immediate vicinity of the nappy change area
- a space to store steps
- positioning to enable adequate supervision of the activity and play areas.



#### 4.7 Premises designed to facilitate supervision

##### Regulation 115

##### Education and Care Services National Regulations

A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate adequate supervision of children at all times, having regard to the need to maintain their rights and dignity.

Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the National Construction Code.

The premises appears to be appropriately designed to facilitate supervision within the resulting centre. The floor plans illustrate that the nappy change, bathrooms and cot rooms are to be fitted with windows to permit supervision into those areas.

#### Design guidance

Design considerations should include:

- solid walls in children's toilet cubicles (but no doors) to provide dignity whilst enabling supervision
- locating windows into bathrooms or nappy change areas away from view of visitors to the facility, the public or neighbouring properties
- avoiding room layouts with hidden corners where supervision is poor, or multi room activity rooms for single groups of children

- avoiding multi-level rooms which compromise, or require additional staffing, to ensure adequate supervision. If multi-level spaces are proposed, consideration should be given to providing areas that can be closed off and used only under supervision for controlled activities (refer to Figures 5, 6 and 7).

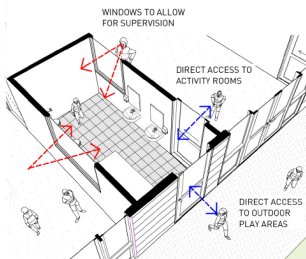


Figure 5 Bathroom facilities to have direct access to outdoor areas and activity rooms. Supervision requirements need to be considered in the design to prevent blind spots.

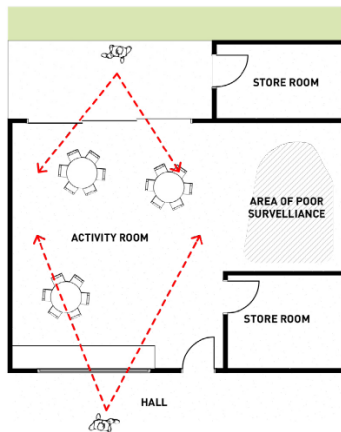


Figure 6 Avoid tucked away areas as these reduce effective supervision.

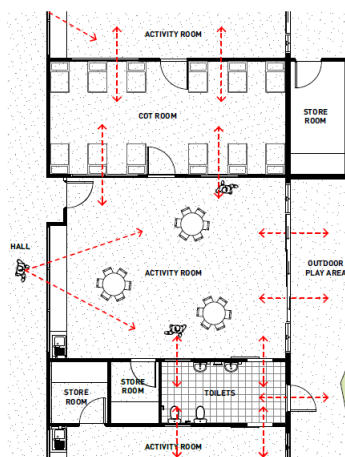


Figure 7 Good design of spaces allows for effective supervision between all areas children will occupy.

#### 4.8 Emergency and evacuation procedures Regulations 97 and 168

**Education and Care Services National Regulations Regulation 168 sets out the list of procedures that an education and care service must have, including procedures for emergency and evacuation.**

**Regulation 97 sets out the detail for what those procedures must cover including:**

- **instructions for what must be done in the event of an emergency**
- **an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit**
- **a risk assessment to identify potential emergencies that are relevant to the service.**

**Risks associated with multi-storey buildings, including the appropriate child-to-staff ratios and emergency and evacuation plans, need to be assessed in the context of the service approval.**

**These matters need to be considered by the Quality Assurance and Regulatory Services Directorate, Early Childhood Education on behalf of the Secretary of the NSW Department of Education.**

**There are circumstances where a service approval may approve a maximum number of children that is lower than the development consent, for example due to complexities related to evacuation.**

**The lowest maximum number of children should prevail, whether it be in the development consent or the service approval to further the health, safety and well being of children. That said, the applicant may still apply to modify either the service approval or the development consent to increase the maximum number of children.**

#### **Design guidance**

**Facility design and features should provide for the safe and managed evacuation of children and staff from the facility in the event of a fire or other emergency.**

**This should take into consideration the number and age of the occupants, emergency and evacuation plans, the location of the facility and the relevant fire safety measures within the building. Multi-storey buildings with proposed child care facilities above ground level may consider providing additional measures to protect staff and children. For example:**

The Operational Plan of Management identifies roles and responsibilities that are to be implemented in the case of an emergency. An emergency evacuation plan should be prepared prior to the occupation of the centre.

- independent emergency escape routes from the facility to the ground level that would separate children from other building users to address child protection concerns during evacuations
- child appropriate handrails and barriers if shared fire stairs are utilised
- a safe haven or separate emergency area where children and staff can muster during the initial stages of a fire alert or other emergency. This would enable staff to account for all children prior to evacuation. For all child care facilities, an emergency and evacuation plan should be submitted with a DA and should consider:
  - the mobility of children and how this is to be accommodated during an evacuation
  - the location of a safe congregation/assembly point, away from the evacuated building, busy roads and other hazards, and away from evacuation points used by other occupants or tenants of the same building or of surrounding buildings
  - how children will be supervised during the evacuation and at the congregation/assembly point, relative to the capacity of the facility and governing child-to-staff ratios.

**Fire safety of centres in high rise buildings**  
The design and construction of new child care facilities must comply with the requirements of the National Construction Code. Specific fire safety provisions apply to certain child care facilities including those in multi-storey buildings.

## **B. External physical environment**

### **4.9 Outdoor space requirements**

#### **Regulation 108**

**Education and Care Services National Regulations** An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m<sup>2</sup> of unencumbered outdoor space.

If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP Transport and Infrastructure.

Unencumbered outdoor space excludes any of the following:

- pathway or thoroughfare, except where used by children as part of the education and care program
- car parking area
- storage shed or other storage area

The Proposal results in a total unencumbered outdoor space of approximately 514.69m<sup>2</sup> in excess of the requirement as indicated by the plans prepared by RSDNC.

- laundry
- other space that is not suitable for children.

When calculating outdoor space requirements, the area required for any additional child may be waived when the child is being cared for in an emergency circumstance as set out in Regulation 123(5) or the child is being educated or cared for in exceptional circumstances as set out in Regulation 124(5) and (6) of the National Regulations.

Applicants should also note that Regulation 274 (Part 7.3 NSW Provisions) states that a centrebased service for children preschool age or under must ensure there is no swimming pool on the premises, unless the swimming pool existed before 6 November 1996. Where there is an existing swimming pool, a water safety policy will be required.

A verandah that is included within indoor space cannot be included when calculating outdoor space and vice versa.

#### **Design guidance**

Calculating unencumbered space for outdoor areas should not include areas of dense hedges or plantings along boundaries which are designed for landscaping purposes and not for children's play (refer to Figure 9 and 10).

When new equipment or storage areas are added to existing services, the potential impact on unencumbered space calculations and service approvals must be considered.

#### **Verandahs (covered outdoor space) as outdoor space**

Where a covered space such as a verandah is to be included in outdoor space it should:

- be open on at least one third of its perimeter
- have a clear height of 2.1 metres
- have a wall height of less than 1.4 metres

where a wall with an opening forms the verandah perimeter

- have adequate flooring and roofing
- be designed to provide adequate protection from the elements (refer to Figure 8).

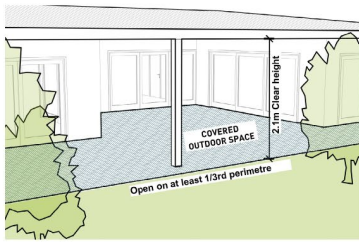


Figure 8 Covered areas such as verandahs can be included in outdoor space calculations.



Figure 9 Dense planting along boundaries and other areas not suitable for children should be excluded when calculating outdoor unencumbered space.

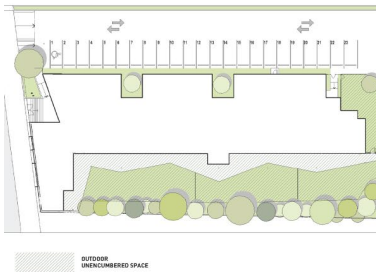


Figure 10 Areas to be included when calculating outdoor unencumbered space.

**Simulated outdoor environments**  
Applicants should aim to provide the requisite amount of unencumbered outdoor space in all development applications.

A service approval will only be granted in exceptional circumstances when outdoor space requirements are not met. For an exemption to be granted, the preferred alternate solution is that indoor space be designed as a simulated outdoor environment.

Simulated outdoor space must be provided in addition to indoor space and cannot be counted twice when calculating areas.

Simulated outdoor environments are internal spaces that have all the features and experiences and qualities of an outdoor space. They should promote the same learning outcomes that are developed during outdoor play. Simulated outdoor environments should have:

- more access to natural light and ventilation than required for an internal space through large windows, glass doors and panels to enable views of trees, views of the sky and clouds and movement outside the facility

The proposal does not rely upon simulated outdoor environments.

- skylights to give a sense of the external climate
- a combination of different floor types and textures, including wooden decking, pebbles, mounds, ridges, grass, bark and artificial grass, to mimic the uneven surfaces of an outdoor environment
- sand pits and water play areas
- furniture made of logs and stepping logs
- dense indoor planting and green vegetated walls
- climbing frames, walking and/or bike tracks
- vegetable gardens and gardening tubs.

#### 4.10 Natural environment

**Regulation 113 Education and Care Services National Regulations** The approved provider of a centre-based service must ensure that the outdoor spaces allow children to safely explore and experience the natural environment.

##### Design guidance

Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space. Shrubs and trees selected for the play space must be safe for children. Avoid plant species that risk the health and safety of the centre's occupants, such as those which:

- are known to be poisonous, produce toxins or have toxic leaves or berries
- have seed pods or stone fruit, attract bees, have thorns, spikes or prickly foliage or drop branches.

The outdoor space should be designed to:

- provide a variety of experiences that facilitate the development of cognitive and physical skills, provide opportunities for social interaction and appreciation of the natural environment
- ensure adequate supervision and minimise opportunities for bullying and antisocial behaviour
- enhance outdoor learning, socialisation and recreation by positioning outdoor urban furniture and play equipment in configurations that facilitate interaction.

The facilities proposed as part of the outdoor play area will allow children to explore and experience the natural environment in a safe matter, please refer to the Landscape documentation.

#### 4.11 Shade Regulation

**114 Education and Care Services National Regulations** The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.

##### Design guidance

Providing the correct balance of sunlight and shade to play areas is important for the health and wellbeing of children and staff. Combining

Please refer to the Landscape Concept Plan prepared by Eco Design for details regarding the planting arrangement.

built and natural shade will often be the best option.

#### **Solar access and sun protection**

Controlled exposure to daylight for limited periods is essential as sunlight provides vitamin D which promotes healthy muscles, bones and overall wellbeing. However, exposure to ultraviolet radiation in childhood significantly increases the chances of getting skin cancer later in life. Outdoor play areas should be provided with controlled solar access throughout the year, including protecting children and staff from ultraviolet radiation from the sun and play equipment from becoming hot. Well-designed play spaces provide comfortable and safe areas for children to engage in activities for improved health and well-being. Outdoor play areas should:

- have a minimum of 2 hours of solar access between 8.00am and 4.00pm during winter months, for at least 30% (or 2.1m<sup>2</sup>) of the 7.0m<sup>2</sup> of outdoor space per child required.
- adequate shade for outdoor play areas is to be provided in the form of natural shade such as trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area
- have evenly distributed shade structures over different activity spaces.

Natural shade should be a major element in outdoor play areas. Trees with dense foliage and wide-spreading canopies provide the best protection. Existing stands of trees, particularly in rear setbacks, should be retained to provide 36 shaded play areas. Species that suit local soil and climatic conditions and the character of the environment are recommended. Dense shrubs can also provide shade. They should be planted around the site perimeter so they don't obstruct supervision. Pruning shrubs on the underside may create shaded play nooks underneath. Planting for shade and solar access is enhanced by:

- placing appropriately scaled trees near the eastern and western elevations
- providing a balance of evergreen and deciduous trees to give shade in summer and sunlight access in winter.

#### **Built shade structures**

Built structures providing effective shade include:

- permanent structures (pergolas, sails and verandahs)
- demountable shade (marquees and tents)
- adjustable systems (awnings)
- shade sails.

Shade structures should not create safety hazards. Support systems such as upright posts

should be clearly visible with rounded edges or padding. Vertical barriers at the sides of shade structures should be designed to prevent children using them for climbing. Shade structures should allow adults to view and access the children's play areas, with a recommended head clearance of 2.1 metres. The floor area underneath the structure should be of a sufficient size and shape to allow children to gather or play actively.

#### 4.12 Fencing

##### Regulation 104

**Education and Care Services National Regulations** Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. This Regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including a family day care venue where all children are over preschool age. Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the National Construction Code.

**Design guidance** Fencing at child care facilities must provide a secure, safe environment for children and minimise access to dangerous areas. Fencing also needs to positively contribute to the visual amenity of the streetscape and surrounding area. In general, fencing around outdoor spaces should:

- prevent children climbing over, under or through fences
  - prevent people outside the facility from gaining access by climbing over, under or through the fence
  - if the outdoor space is being fenced internally, then the fence must be at least 1.2m high.
- Design considerations for side and rear boundary fences** should include:
- being made from solid prefinished metal, timber or masonry
  - having a minimum height of 1.8 metres
  - having no rails or elements for climbing higher than 150mm from the ground.

Fencing and gates should be designed to ensure adequate sightlines for vehicles and pedestrian safety in accordance with Australian Standards, Austroads and Transport for NSW traffic management guidance. Gates should be designed to prevent children leaving/entering unsupervised by use of childproof locking systems (refer to Figure 11).

Please refer to the acoustic documentation and architectural plans which identify the fencing arrangement of the Site.

#### 4.13 Soil assessment Regulation

##### Regulation 25

### Education and Care Services National Regulations

Subclause (d) of Regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required:

- a soil assessment for the site of the proposed education and care service premises
- if a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken
- a statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.

### Design Guidance

To ensure consistency between the development consent and the service approval application, a soil assessment should be undertaken as part of the development application process.

Where children will have access to soil the regulatory authority requires a preliminary investigation of the soil. This includes sites with or without buildings and existing approved children's services where:

- the application is to alter or extend the premises
- the alteration or extension requires earthworks or deep excavations (exceeding a depth of one metre)
- the works are going to take place in an area used for children's outdoor play or will be used for children's outdoor play after the work is completed
- a soil assessment has not been undertaken at the children's service. Minor landscaping, creation of sand pits, movement of play equipment and so on do not qualify as earthworks and do not require a soil assessment. An assessment of soil for a children's service approval application may require three levels of investigation:
  - Stage 1 - Preliminary investigation (with or without soil sampling)
  - Stage 2 - Detailed site investigation
  - Stage 3 - Site specific human health risk assessment.

The Site is the subject of a relatively recent subdivision (DA0248/2014) facilitated by Mid-Western Regional, the Ordinary Council meeting on 12 August 2020 stated the following in relation to the consent:

*The deferred commencement conditions related to the requirement for a Phase 2 Environmental Assessment to identify any further contamination risks and the completion of the part closure of Saleyards Road reserve. The deferred conditions were satisfied and consequently an operational consent was issued on 7 May 2019.*