

Dated: January 2025

# STATEMENT OF ENVIRONMENTAL EFFECTS



## Proposed Child Care Facility

7 Regiment Road

RUTHERFORD NSW 2320

**Applicant: Saddington Holdings C/- Brown Commercial Building**

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## 1 INTRODUCTION

This Statement of Environmental Effects (SEE) is submitted to Maitland City Council (Council) in support of a Development Application (DA) at 7 Regiment Road, Rutherford 2320 (the site) for the following:

- Construction and use of a of a 122-place centre-based child care facility (GFA 837m<sup>2</sup>);
- Provision of 32 on-site car parking spaces including one (1) accessible space plus a designated loading bay;
- Construction of an entry/exit driveway via Regiment Road;
- Associated earthworks, new landscaping, retaining walls, fencing and signage;
- One into two lot Torrens Title Subdivision; and
- Other minor works as illustrated on the proposed Plans included at **Appendix A**.

This SEE has been prepared to demonstrate environmental, social and economic matters associated with the proposal as outlined in **Section 3** of this report. This statement examines how the proposal fits the location and the planning merits of the development in accordance with statewide planning instruments including *Chapter 3 Educational Establishments and Child Care Facilities of State Environmental Planning Policy (Transport and Infrastructure)*, *Maitland Local Environmental Plan (LEP) 2011* and *Maitland Development Control Plan (DCP)*.

The objectives of this SEE are the following:

- To provide a description of the subject site and the surrounding locality;
- To provide details of the proposal;
- To provide discussion of the relevant environmental planning instruments and controls; and
- To provide an assessment of the potential environmental, social and economic impacts of the proposed development.

## 2 SITE ANALYSIS

### 2.1 Site Details

The site is located within Maitland Local Government Area (LGA) at 7 Regiment Road, Rutherford 2320 (Lot 2, DP1260460).

The lot is roughly rectangular in shape with an area of 8,265m<sup>2</sup> of which 3,226m<sup>2</sup> will be developed for the purpose of the childcare with 5,039m<sup>2</sup> of residual land remaining at the rear. The lot has a frontage to Regiment Road of approximately 141m. The site levels range between 24.10m Australian Height Datum (AHD) to 21.33m AHD.

The site is currently being utilized as an open area storage predominantly for concrete pits and pipes. There is a large shed located in the southern portion of the site, however there are no buildings on the area of the site to be developed for the childcare. No demolition is required to facilitate the proposal.

There are 3 large gum trees located on the street frontage of the lot which are proposed to be retained under this DA. Refer to Figures 1 and 2 for site aerial and cadastre.

Figure 1 - Site Aerial



Figure 2 - Site Cadastre



## 2.2 Hazards and Constraints

The site is unaffected by the following hazards and natural constraints:

- The site is not located within a coastal zone;
- The site is not within a mine subsidence district;
- The site is not affected by road widening or road realignment proposals;
- The site is not affected by a policy restriction for landslip;
- The site is not mapped as bushfire prone land;
- The site is not located within a heritage conservation area and does not contain any listed heritage items (local or state);
- The site is not reserved for acquisition under any environmental planning instrument; and
- The site is not located in close proximity to any sex service premises or restricted premises.

### **2.3 Surrounding Land Uses**

The surrounding land is predominantly zoned Productivity Support (E3) with General Residential (R1) on the opposite side of Regiment Road and Public Recreation (RE1) further afield. The New England Highway, a State Classified Road, is located approximately 100m to the north of the site.

In 2019, a 7-Eleven and Guzmen Y Gomez was constructed adjacent to the site, on the corner of the New England Highway and Regiment Road which included the subdivision of the subject parcel of land into what is present today.

Numerous light industrial/commercial type developments surround the development, including Eagles Plumbing Plus, Bolt Up Mining, Office Works, and Maitland Sheet Metal.

An unnamed waterway is located 100m north-west of the site, which leads to Stony Creek, 815m south-east of the site.

### 3 PROPOSED DEVELOPMENT

This application seeks approval for use and construction of a centre-based child care facility with associated signage, landscaping and car parking. Further details are provided below.

#### 3.1 Bright Steps Academy

Bright Steps Academy will be the operator of the premises and are an experienced child care provider with a proven record of successful operation of centre-based child care facilities. They currently operate five successful premises within NSW, Victoria and ACT with plans to expand the number of facilities to double their portfolio with a specific focus on regional areas. The Plan of Management (POM) for the Rutherford centre is enclosed with this DA (refer **Appendix K**).

#### 3.2 Child Care Facility

The proposed childcare building is a single storey rectangular shaped design and extends to 837m<sup>2</sup> Gross Floor Area (GFA). The facility has capacity for 122 children across six rooms comprising the following breakdown:

- Babies room 1 (0-2 years) -16 children
- Babies room 2 (0-2 years) -16 children
- Toddlers room 3 (2-3 years) - 25 children
- Toddlers room 4 (2-3 years) - 25 children
- Pre-school room 5 (3-6 years) - 20 children
- Pre-school room 6 (3-6 years) - 20 children

In addition, a commercial kitchen is provided as well as administration areas, foyer, universal WC and laundry. Internal storage is provided within each room. A mixture of natural and mechanical ventilation is proposed with natural ventilation utilised where possible, and mechanical used to supplement as required.

A large outdoor play area is provided at the rear of the building with an area of 859m<sup>2</sup> of unencumbered space. Each room will have direct access to the external play space through double-glazed doors. An awning is provided off the rear of the building providing shade to the play area. In addition shade sails are provided shading approximately 23% of the outdoor area.

A drying area easily accessible from the external under covered areas is provided on the south western side of the building.

The building is contemporary in form, materials and colour palette. Being purpose-built, the building incorporates adequate facilities and amenities to suit the needs of occupants and ensures compatibility with the operational requirements under the *Education and Care Services National Regulation* and the *Child Care Planning Guideline 2021*.



The siting of the building establishes good spatial relationships between internal and external play spaces, and the safe supervision of children in each space through a visual connection provided through large, glazed windows and doors.

The proposal has been designed to incorporate equitable accessibility for all users, in accordance with legislative requirements and AS1428.

Services including water supply, sewer, stormwater drainage, and electricity are all available within reasonable proximity to the subject site. The childcare facility will connect to these services as necessary and in accordance with authority/service provider requirements.

### **3.3 Operational Hours and Staff**

The centre will operate for 52 weeks per year, excluding public holidays. The proposed hours of operation are 6:30am - 7pm Monday to Friday (closed weekends).

As the centre has been designed to cater for 0–6 year olds, the number of educators in rooms shall be dictated by the required ratios for NSW under the National Regulations (ie 1 per 4 for babies; 1 per 5 for toddlers; and 1 per 10 for pre-school aged children). In addition, there will be an onsite cook, manager and administration staff. External contractors shall routinely be required to enter the premises for cleaning and maintenance purposes, sometimes after hours.

### **3.4 Outdoor Play Areas and Equipment**

Sufficient space and high quality, age-appropriate and safe equipment have been considered in the design of the outdoor play areas. An awning and shade sails are provided so children can enjoy outdoor play out of direct sunlight during the hotter months.

Three separate play areas have been designed for the babies, toddlers and pre-school cohorts to ensure age-appropriate equipment and design is achieved. Pools style fencing will allow the carers to move freely between the areas. Features of the outdoor areas include raised veggies gardens, sandpits, mud kitchens, cubby houses, sensory pathways, bike path and a forest run with densely planted grasses and stepping stone pathway. Refer to the Landscape Plans at **Appendix H** for full details.

### **3.5 Storage**

Internal storage has been included within each of the rooms meeting or exceeding the minimum requirements under the NQF (0.2m<sup>3</sup> per child). It has not been included in the unencumbered internal area calculation.

Internal storage provision is outlined below:

- Babies rooms - 5m<sup>3</sup> in each room
- Toddler rooms - 4m<sup>3</sup> in each room

- Pre-school room - 4m<sup>3</sup> in each room

Total internal storage - 26m<sup>3</sup> (minimum required 24.4m<sup>3</sup>).

Practical and accessible external storage will also provide within the outdoor area meeting the National Quality Framework of 0.3m<sup>3</sup> per child. Similar to internal calculations, the unencumbered outdoor space provisions are exclusive of the storage areas. A large storage shed is provided as well as sandpit storage boxes in each of the play areas.

### **3.6 Safety and Security**

A safe and efficient car parking arrangement is provided with sufficient car parking spaces to cater for the size of the centre. A safe and secure entry system will be used with visitors gaining entry to the building only by invitation by staff or fob key type arrangement.

### **3.7 Waste Management and Deliveries**

A loading zone is provided for service vehicles, adjacent to the waste storage area. Waste from the operation will be stored in the covered waste area where ample room is provided for bins to separate general waste, recycling bins and nappies. Waste will be collected by a private contractor from within the site outside of peak hours. Further details on Waste Management are provided in the WMP at **Appendix E**. Swept paths are provided in the Traffic and Parking Assessment Report (TPAR) at **Appendix C**.

Deliveries to the proposed childcare centre will be undertaken by a variety of light commercial vehicles such as vans, utilities and the like, which are capable of fitting into a conventional parking space. Deliveries will therefore be scheduled to occur outside of peak periods when the on-site drop-off/ pick-up spaces will be largely vacant. Notwithstanding, a dedicated loading bay is provided at the southern end of the car park. Deliveries are estimated to be 3 per week with no more than one per day.

### **3.8 Signage**

The proposed signage scheme is simple and concise with the primary aim of lawfully identifying the land use and operator of the premises.

A total of one (1) sign is proposed on the building being a round entrance sign located under the awning at the front of the building (southeastern elevation) approx. 2m in diameter. In addition one (1) freestanding 'L' shaped entrance sign is proposed in the south eastern corner of the site, adjacent to the street.

The signs will be made of high quality materials and will not dominate the streetscape. The plans at **Appendix A** indicate the size, location, and dimensions of proposed signs.

As specific details of the signage are not yet confirmed, a signage zone is indicated on the plans and will contain the name and/or logo of the childcare operator.

### 3.9 Stormwater Management

The development will capture all roof water from the building connecting to the OSD tank located beneath the driveway at the southern end of the car park. It will have a storage volume of 62m<sup>3</sup>. All driveway/carpark stormwater runoff will be collected in a series of pits and pipes and conveyed to the underground OSD tank. Overflow from the OSD tank will discharge to Regiment Road.

All gutters and downpipes are designed to accept a 1:20 year ARI storm event. Box gutters and downpipes are designed to accept a 1:100 year ARI storm event. All pits and pipes are designed to accept a 1:20 year ARI storm event. Ocean protection ocean guard and ocean protect storm filters are used. The stormwater arrangements for the site have been prepared by Eclipse Consulting Engineers and are included at **Appendix G**.

### 3.10 Vehicular Access and Parking

Vehicular access to the childcare facility is proposed via a new entry/exit driveway located approximately midway along proposed Lot 1's Regiment Road site frontage. Additionally, an existing easement runs through the adjoining mixed use site to the north which aligns with the proposed childcare parking aisle, thereby providing an alternative means of access. Importantly, all vehicles will be able to enter and exit the site in a forward direction at all times.

The proposed driveway will provide for cars and service vehicles in accordance with the Australian Standard for Parking Facilities (Part 1: Off-street car parking and Part 2: Off-street commercial vehicle facilities), AS 2890.1:2004 and AS 2890.2 –2018.

The development includes 32 parking spaces including one accessible space adjacent to the entry. Parking spaces will be typically 2.6 metres wide by 5.5 metres long. The disabled parking space will be 2.4 metres wide, with a 2.4-metre-wide adjacent area for wheelchairs.

The two-way circulation aisles will be a minimum of 7m wide. These dimensions satisfy the requirements of the Australian Standard for Parking Facilities AS 2890.1:2004 and AS 2890.6:2009.

The internal layout of the proposal will provide for cars and service vehicles to enter the site, circulate, and exit in a forward direction. Dense landscaping between the street and car parking area will provide an aesthetically pleasing view of the development from the street.

Further details on traffic, access and parking compliance are included in the TPAR prepared by CJP Traffic Engineers (refer to **Appendix C**).

### 3.11 Landscaping and Tree Removal

The three existing trees located on site adjacent to the street frontage are all retained under this DA. One of the large gum trees has been incorporated into the 5m landscaped setback to Regiment Road, in front of the childcare development.

Proposed new landscaping includes trees, shrubs, grasses and groundcovers. Landscaping has been designed to complement the built form, soften the car parking area, and enhance the outdoor play area while ensuring the functionality of the site.

The planting palette is based on suitability for the proposal and the durability of the species selected. Refer to the Landscaping Plan and documentation at **Appendix H** for full planting and play equipment specifications.

### 3.12 Subdivision

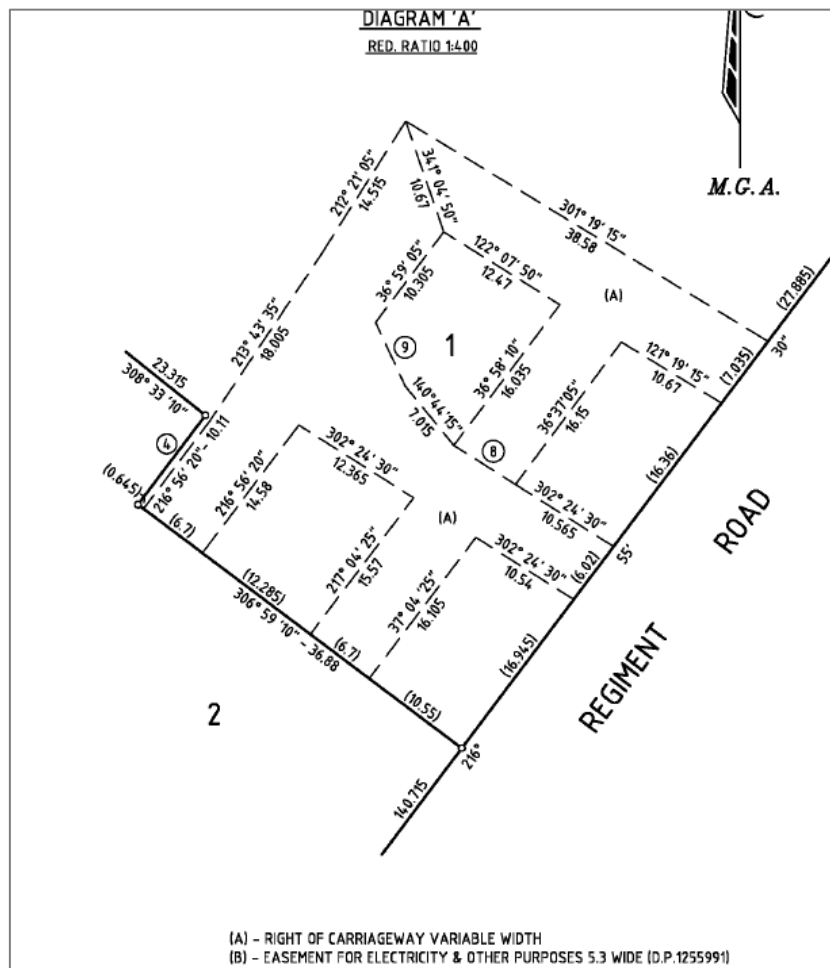
It is proposed to subdivide the existing lot into 2 Torrens Title allotments as per the following:

- Proposed Lot 1 – 3,226m<sup>2</sup>; and
- Proposed Lot 2 – 5,039m<sup>2</sup>

Refer to the Proposed Subdivision Plan at **Appendix A**.

It is noted that an easement exists on adjoining Lot 1 DP 1260460 to allow right of carriageway benefitting the subject site. Refer to Deposited Plan (DP) extract in **Figure 3**.

**Figure 3 – DP extract from Lot 1 DP 1260460**



### **3.13 Construction Management**

A Construction Management Plan (CMP) will be prepared and submitted to the Certifier for approval prior to the issue of the Construction Certificate.

## 4 ENVIRONMENTAL PLANNING INSTRUMENTS AND CONTROLS




### 4.1 Education and Care Services National Regulations

A service approval under this regulation shall be required for the operation of the child care facility. The proposal has been assessed against the design requirements of this regulation to ensure consistency between the development and the requirements for a service approval.

Part 3: Facilities and Equipment stipulates various requirements for centre-based child care facilities. Where relevant, such requirements are demonstrated on the proposed Plans at **Appendix A**. The proposal satisfies all Part 3 requirements in the design. Additional requirements under other parts of the regulation, including record keeping, staffing and operational matters are required to be met by the service provider once operational.

A summary of compliance in regard to unencumbered indoor and outdoor space and internal and external storage provision is provided below at **Table 2**. Where relevant, such requirements are also demonstrated on the proposed Plans at **Appendix A**.

**Table 1 – Child Care Area of Compliance**

TOTAL NUMBER OF CHILDREN	122
0 - 2 YEARS BABIES	32
2 - 3 YEARS TODDLERS	50
3 - 5 YEARS PRE SCHOOL	40
<b>BABIES 0 - 2 YEARS UNENCUMBERED INDOOR AREA</b>	
	
PLAY ROOM 01	16 CHILDREN 54m <sup>2</sup> [52m <sup>2</sup> REQ]
PLAY ROOM 02	16 CHILDREN 54m <sup>2</sup> [52m <sup>2</sup> REQ]
<b>TODDLERS 2 - 3 YEARS UNENCUMBERED INDOOR AREA</b>	
	
PLAY ROOM 03	25 CHILDREN 86m <sup>2</sup> [81.25m <sup>2</sup> REQ]
PLAY ROOM 04	25 CHILDREN 85m <sup>2</sup> [81.25m <sup>2</sup> REQ]
<b>PRE SCHOOL 3 - 5 YEARS UNENCUMBERED INDOOR AREA</b>	
	
PLAY ROOM 05	20 CHILDREN 68m <sup>2</sup> [65m <sup>2</sup> REQ]
PLAY ROOM 06	20 CHILDREN 68m <sup>2</sup> [65m <sup>2</sup> REQ]
<b>EXTERNAL UNENCUMBERED PLAY AREA</b>	
PLAY AREA	122 CHILDREN 859m <sup>2</sup> [854m <sup>2</sup> REQ]
INCLUDING 196m <sup>2</sup> UNDERCOVER PLAY AREA	
* 22.8% OF UNENCUMBERED PLAY AREA WILL BE SHADED.	
GROSS BUILDING AREA =	850m <sup>2</sup>
GROSS FLOOR AREA =	837m <sup>2</sup>
TOTAL INTERNAL STORAGE	26m <sup>3</sup>
TOTAL EXTERNAL STORAGE	36.6m <sup>3</sup> (MINIMUM)

### 4.2 Environmental Planning and Assessment Act 1979

The proposal is subject to the provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Section 4.15(1) of the EP&A Act provides criteria which a consent authority is to take into consideration, when considering a DA. An assessment of the subject DA, in accordance with the relevant matters prescribed under Section 4.15(1), is provided within this report.

The proposed development does not trigger Integrated Development pursuant to Section 4.46 of the EP&A Act.

## 4.3 State Environmental Planning Policy (Transport and Infrastructure) 2021

### Chapter 2 Infrastructure

The proposal does not trigger 'traffic generating development' under Clause 2.122 and Schedule 3, therefore referral to Transport for NSW (TfNSW) is not required.

### Chapter 3 Educational Establishments and Child Care Facilities

The proposed child care centre is defined under this SEPP as "centre-based child care".

### Part 3.3 Early Education and Care Facilities - Specific Development Controls

The following clauses are of relevance to the centre-based child care proposed at the site:

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

- (1) This clause 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.*

- (2) The consent authority must not grant development consent to development to which this clause applies except with the concurrence of the Regulatory Authority.*

The proposal satisfies the regulations 107 and 108 of the Education and Care Services National Regulations in terms of meeting the minimum unencumbered indoor space (3.25m<sup>2</sup> per child) and unencumbered outdoor space (7m<sup>2</sup> per child) as demonstrated in Table 2, therefore concurrence from the regulatory authority is not required.

The Education and Care Services National Regulations checklist for compliance is provided at **Appendix F**.

#### **Clause 3.23 Centre-based child care—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.*

The applicable provisions of the Child Care Planning Guideline are addressed in **Section 4.7** of this SEE and a detailed table of compliance is provided at **Appendix F**.

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

*(1) The object of this clause 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 (now 2019) applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,*

*(c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,*

*(d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.*

*(3) To remove doubt, this clause does not prevent a consent authority from:*

*(a) refusing a development application in relation to a matter not specified in subclause (2), or*

*(b) granting development consent even though any standard specified in subclause (2) is not complied with.*

The location, indoor and outdoor space provisions, site dimensions and colour scheme proposed under this DA satisfy the criteria within the National Regulations.

### **Clause 3.27 Centre-based child care—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 childhood 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 clause applies regardless of when the development control plan was made.*

Noted, however there are no non-compliances with Maitland DCP in this regard. A compliance table is provided at **Appendix F**.

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

##### **Chapter 4 Remediation of Land**

Clause 4.6(1) of the SEPP states:

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

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

*(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

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

A Detailed Site Investigation (DSI) has been undertaken by NEO Consulting (included at **Appendix I**). Analytical results of soil samples indicated that all analytes were below the NEPM Health and Ecological Assessment Criteria for Residential (A) development, aside from Benzo(a)pyrene and Carcinogenic PAHs in the shallow fill layer across the northern portion of the site. As such a Remedial Action Plan (RAP) is required to delineate and manage identified PAH contamination. The RAP will outline the steps for post-demolition sampling, data gap investigation, and remediation strategy in order to make the site suitable for the child care development. In addition, a site specific 'Unexpected Finds Protocol' shall be made available for reference for all occupants and/or site workers in the event unanticipated contamination is discovered.

#### **4.5 State Environmental Planning Policy (Industry and Employment) 2021**

##### **Chapter 3 Advertising and Signage**

Clause 3.6 states that a consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

*(a) that the signage is consistent with the objectives of this Policy as set out in clause 3.1 (1) (a), and*

*(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.*

It is considered that the proposal satisfies the relevant criteria outlined within Chapter 3 of the SEPP. Consistency of the development with Clause 3.1(1)(a) is discussed further in **Section 5.9** of this report. A detailed assessment of the proposal against the Schedule 5 Assessment Criteria is provided in **Appendix F**.

#### 4.6 Maitland Local Environmental Plan (LEP) 2011

The site is within the land application area of Maitland Local Environmental Plan 2011 (LEP 2011).

#### Land Use Table

The site is Zoned E3 Productivity Support under the provisions of LEP 2011, refer to **Figure 4**. A centre-based child care facility is a permissible use within the E3 zone.

**Figure 4 – Zoning Map Extract (Source: ePlanning Spatial Viewer)**



## **Zone E3 Productivity Support**

### *1 Objectives of zone*

- To provide a range of facilities and services, light industries, warehouses and offices.*
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.*
- To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.*
- To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.*
- To provide opportunities for new and emerging light industries.*
- To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.*
- To minimise conflict between land uses within the zone and with adjoining zones.*

### **2 Permitted without consent**

*Home industries*

### **3 Permitted with consent**

*Animal boarding or training establishments; Boat building and repair facilities; Business premises; Centre-based child care facilities; Community facilities; Depots; Food and drink premises; Function centres; Garden centres; General industries; Hardware and building supplies; Hotel or motel accommodation; Industrial retail outlets; Industrial training facilities; Information and education facilities; Kiosks; Landscaping material supplies; Light industries; Local distribution premises; Markets; Mortuaries; Neighbourhood shops; Office premises; Oyster aquaculture; Passenger transport facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Respite day care centres; Rural supplies; Service stations; Specialised retail premises; Storage premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Wholesale supplies; Any other development not specified in item 2 or 4*

### **4 Prohibited**

*Agriculture; Air transport facilities; Airstrips; Amusement centres; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Eco-tourist facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home businesses; Home occupations; Home occupations (sex services); Home-based child care; Industries; Jetties; Marinas; Mooring Pens; Moorings; Open cut mining; Registered clubs; Residential accommodation; Resource recovery facilities; Restricted*

*premises; Rural industries; Sewerage systems; Sex services premises; Tourist and visitor accommodation; Transport depots; Truck depots; Waste disposal facilities; Water recreation structures; Wharf or boating facilities.*

#### **Clause 4.1 Minimum Subdivision Lot Size**

The subject site does not have specified minimum lot size for subdivision under the LEP.

#### **Clause 4.3 Height of Buildings**

The subject site does not have specified building height limit under the LEP.

#### **Clause 4.4 Floor Space Ratio**

The subject site does not have a specified FSR under the LEP.

#### **Clause 4.6 Exceptions to Development standards**

There are no variations proposed to any development standards sought in conjunction with the proposal.

#### **Clause 5.21 Flood Planning**

The site is not mapped as located within a flood planning area.

#### **Clause 5.10 Heritage Conservation**

The subject site is not located within a heritage conservation area and does not contain any listed heritage items.

#### **Clause 7.1 Acid Sulphate Soils**

The objective of this clause is to ensure that development does not disturb, expose, or drain acid sulphate soils and cause environmental damage. The site has been identified as Class 5 on the Acid Sulfate Soils mapping.

The DSI considered the risk of ASS being present at the site and found that there is “no known occurrence” of ASS underlying the soil at this site. The proposed development is not expected to present an environmental risk in terms of disturbance of ASS, as such, it is considered to be compliant with the objectives provisioned within Clause 7.1.

#### **Clause 7.2 Earthworks**

The proposed earthworks to be undertaken as part of this DA will not adversely impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. Appropriate environmental mitigation measures will be implemented during works as conditioned by Council.

#### **4.7 Child Care Planning Guideline 2021**

In accordance with Clause 3.23 of Chapter 3 of *SEPP (Transport and Infrastructure) 2021*, the following provides an assessment of the proposed development against the applicable provisions of the Child Care Planning Guideline 2021.

The objectives of the Guideline are as follows:

- *promote high quality planning and design of child care facilities in accordance with the physical requirements of the National Regulations;*
- *ensure that child care facilities are compatible with the existing streetscape, context and neighbouring land uses;*
- *minimise any adverse impacts of development on adjoining properties and the neighbourhood, including the natural and built environment; and*
- *deliver greater certainty to applicants, operators and the community by embedding the physical requirements for service approval into the planning requirements for child care facilities.*

The proposed childcare facility has been designed to achieve high levels of amenity for the occupants of the building, and to provide a safe and functional child care centre layout. The design is consistent with the objectives of the design criteria contained within Part 2 of the Planning Guideline and Part 3 Matters for Consideration as detailed in the compliance table at **Appendix F**.

#### **4.8 Maitland Development Control Plan (DCP)**

Maitland DCP Chapters relevant to the site and proposed development are:

- Part B- Environmental
  - B5 Tree and Vegetation Management
  - B.6 Site Waste Minimisation and Management
- Part C
  - C2 Childcare Centres
  - C6 Signage
  - C10 Subdivision
  - C11 Vehicular Access and Car Parking

The proposal is generally compliant with all relevant provisions of DCP 2011. A detailed assessment of the proposed development against the controls is provided in the compliance table at **Appendix F**.

## 5 ASSESSMENT OF PLANNING ISSUES

The following is an assessment of the environmental effects of the proposed development as described in the preceding sections of this SEE.

### 5.1 Traffic, Access and Parking

A Traffic and Parking Assessment Report (TPAR) has been undertaken by CJP Consulting Engineers for the proposed development, refer **Appendix C**. The report examines the traffic implications of the proposed development including the predicted traffic generation and its impact on the surrounding road network, parking and transport environment. The report also reviews parking requirements, access provisions and public transport, including assessment against Council, Australian Standards and the Child Care Planning Guideline as required.

#### Traffic

It is noted that the site lies within a large residential catchment area of Rutherford and Telarah in addition to a large industrial and employment area to the west – i.e. the proposed childcare centre is expected to draw much of its enrolments from nearby residents and employees who will likely drop-off/pick-up their child(ren) on the same trip to/from work.

Based on the above TfNSW trip generation rates for long day childcare centres, the proposed development has a traffic generation potential of 78 vehicle trips during the weekday morning peak period and 48 vehicle trips during the weekday afternoon peak hour, as set out in the table below.

Table 4.1 – Proposed Peak Traffic Generation Potential				
Land Use	Period	Vehicle Trip Rate	No. of Children	Proposed Peak Trips*
Childcare centre	AM Site Peak	0.81 trips/child	122	99 peak trips
	PM Site Peak	0.80 trips/child	122	98 peak trips
	AM Network Peak	0.64 trips/child	122	78 peak trips
	PM Network Peak	0.39 trips/child	122	48 peak trips

\* entry/exit combined

The anticipated road network peak trips provided above are not significant. As such, the traffic impact to the surrounding road network during the weekday morning and afternoon road network peak periods is expected to be minimal and fall within daily fluctuations. Accordingly, the proposal is supportable on traffic grounds.

#### Access and Internal Circulation

Vehicular access to the site is proposed from a 7.8m wide entry/exit driveway on Regiment Road. Regiment Road is a local road with a sealed carriageway width of approximately 6m and gravel edges. It carries two-way traffic movements. The car parking access and layout has been assessed to achieve the relevant clauses and objectives of AS2890.1:2004, AS2890.2:2018 and AS2890.6:2022.

The development provides loading and servicing facilities with swept paths provided in the

TPAR at **Appendix C**. All movements entering and exiting the site will be in a forward direction.

## **Parking**

The parking area containing 32 parking spaces including one accessible space has been assessed against the relevant sections of *AS2890.1:2004*, *AS2890.2:2018*, and *AS2890.6:2022* and is found to satisfy the objectives of each standard.

The proposal meets the car parking rates as outlined within Council's DCP and The Child Care Planning Guideline 2021 of 1 per 4 children ( $122/4 = 30.5$ ). Furthermore, the provision of 32 parking spaces has been confirmed to meet the operational requirement of the child care operator based on Bright Steps experience at their existing child care facilities.

## **5.2 Landscaping**

Extensive new landscaping is proposed that will complement the built form of the development including new trees, shrubs, grasses and groundcovers. The proposed landscaping has been prepared in accordance with relevant Council requirements as well as having regard for the practicality of ongoing management. Specifically, a 5m landscaped setback is proposed to Regiment Road for continuity with the neighbouring development to the north.

Tree and shrub species, sizing & locations have been chosen to ensure that passive surveillance is maintained at the building entrance and driveway with smaller groundcovers and shrubs adjacent to paths and buildings in accordance with Crime Prevention Through Environmental Design (CPTED) principles.

Plant species selection has been considered in terms of soil types, species hardiness and ongoing watering maintenance requirements. Non-toxic plants are selected for the outdoor play areas and plants with sharp or spiky features are avoided.

Landscaping features such as raised veggie gardens, forest run and stepping stone pathways are incorporated within the outdoor play area for the child care facility providing natural shade and opportunities for safe 'nature play'. The landscape design in this area results in an attractive development with good amenity assisting in the learning outcomes of the children. A detailed Landscape Plan is included at **Appendix H**.

## **5.3 Acoustic Impact**

A Noise Assessment (NA) has been conducted by Muller Acoustic Consulting, refer **Appendix D** The Assessment has been prepared in accordance with and having regard for the following documents:

- NSW Department of Environment and Climate Change (DECC), NSW Interim Construction Noise Guideline (ICNG), July 2009;
- NSW Environment Protection Authority (EPA), Noise Policy for Industry (NPI), 2017;
- NSW Environment Protection Authority (EPA's), Approved Methods for the

- measurement and analysis of environmental noise in NSW, 2022;
- Standards Australia AS 1055:2018 - Acoustics - Description and measurement of environmental noise - General Procedures;
  - International Organisation for Standardisation (ISO) 9613-1:1993 (ISO9613:1) - Acoustics - Attenuation of Sound During Propagation Outdoors - Part 1: Calculation of the Absorption of Sound by the Atmosphere;
  - International Organisation for Standardisation (ISO) 9613-2:1996 (ISO9613:2) - Acoustics - Attenuation of Sound during Propagation Outdoors - Part 2: General Method of Calculation; and
  - Association of Australian Acoustical Consultants (AAAC), Guideline for Childcare Centre Acoustic Assessment (GCCCAA).

### **Operational Noise**

The NA quantified potential operational noise emissions from the development on the closest commercial and residential receivers (see Figure 1 in the NA), including noise associated with cars, delivery/service vehicles, children playing outdoors, and the mechanical plant required for the building. The assessment also quantified potential noise intrusion from surrounding noise sources on the internal and external areas of the proposed child care centre.

The following noise attenuation controls will be incorporated into the development:

- *Construction of an impervious barriers (for noise intrusion) surrounding the northeastern boundary of project playground. The barriers should be constructed to an RL of 1.8m above the relative ground level of the playground. The barriers should consist of materials with a surface density of at least 10kg/m<sup>2</sup>, and not contain any gaps (ie lapped and capped timber or equivalent); and*
- *The mechanical plant for the CCC is yet to be finalised. Therefore, the modelling assumes one AC unit per classroom and one for the admin spaces, totalling eight AC units. The AC units are assumed to be located on northern and southern gable ends of the building.*

The results of the NA demonstrate that emissions from the project would satisfy the relevant criteria at all receivers for all assessment periods based on the above noise controls being implemented.

Assessment of maximum noise level events associated with transient event noise emissions from waste collection may have the potential to be above the maximum noise trigger levels. However, a detailed maximum level assessment demonstrated that due to the low occurrence of these events occurring during the morning shoulder period which are not predicted to be above the maximum level of 65dBA, the potential for sleep disturbance is considered negligible.



## **Construction**

Modelled noise emissions from construction activities identify that predicted noise emissions will remain below the applicable construction management levels at all receivers taking into account the standard mitigation measures.

In summary, based on the NA results, approval for the project is justified on acoustic grounds provided the recommendations and controls outlined in the NA are implemented.

### **5.4 Visual Impact**

The proposed development has been designed to visually complement the recently developed adjoining GYG/ service station site with consistent landscape setbacks to the street and uniformity in parking areas in front of the building line.

The architectural character of the proposed building is compatible with the diverse character of the surrounding area. High quality materials and finishes have been selected with articulation used to highlight the entry point. A neutral colour palette will allow the building to integrate seamlessly into the surrounds.

The building is well setback from the street front and retention of the large gum tree at the front of the site will aid in minimising visual impact.

Extensive on-site landscaping works and plantings within the car parking area will enhance the proposal making a positive visual contribution to the Regiment Road streetscape as well as enhancing on site amenity.

### **5.5 Odour**

It is not expected that the proposal will have a significant impact on surrounding premises from any potential odours associated with cooking/food preparation activities undertaken within the kitchen, nor will odour be observed from the waste storage area (which is enclosed and fully roofed).

Operation of the kitchen will be in accordance with the Food Standards Code in *The Food Act 2003 and Australian Standard 4674 – Design Construction and Fit-out of Food Premises*.

### **5.6 Overshadowing**

Due to the single storey nature of the building and suitable setbacks proposed, it is not expected that the proposal will not have any unreasonable impact as a result of overshadowing neighbours.

### **5.7 Lighting**

Appropriate external lighting will be installed within the site, including lighting at the entrance to the building and within the parking area. External lighting will contribute to the overall safety of the site and will be in accordance with *AS4282-1997 Control of the obtrusive effects of outdoor lighting* and *AS1158 Lighting for Roads and Public Spaces*.

## 5.8 Crime Risk

The development has been designed to and shall be managed by the operator to minimise and discourage criminal activity and promote the safety of parents/carers, children and staff. The proposal demonstrates natural surveillance opportunities through large glazed windows from the building overlooking the car park and unimpeded sightlines at the driveway entry.

The concept of space management will be established and maintained throughout the life of the development, ensuring the site remains in a clean and usable state for the community to utilise. Operational mitigation measures will be implemented to further promote on site safety such as the use of a fob system for access to the building.

The proposal is generally consistent with Crime Prevention Through Environmental Design (CPTED) principles and has regard for the 4 key strategies (surveillance, access control, territorial reinforcement and activity and space management) of crime prevention and public safety. Landscaping that will enhance the aesthetics of the development is used without providing dense landscaping where offenders could hide or entrap victims.

## 5.9 Signage

A conservative approach to signage has been adopted to ensure signage does not dominate the street. The development includes a round business identification sign above the building entrance (under awning) as well as a freestanding entrance sign facing the road.

Signs are non-offensive and non-dominant to the street. They are not illuminated and there will be no flashing elements or light spill.

The aims of Chapter 3 Advertising and Signage of *SEPP (Industry and Employment) 2021* are to ensure that signage:

- (i) is compatible with the desired amenity and visual character of an area, and*
- (ii) provides effective communication in suitable locations, and*
- (iii) is of high quality design and finish,*

It is considered that the proposed signage is compatible with the character of the area. The signs will be of an appropriate height and proportion to not detract from the amenity and visual character of the surrounds. Building signage does not protrude beyond the built form and will be of a high quality design and finish.

Overall, the design of signage is appropriate for the use and setting of the site and will identify the user of the child care in an appropriate manner. They create no public safety concerns and meet the objectives and provisions of Chapter 3 Advertising and Signage of *SEPP (Industry and Employment) 2021* and Council's DCP, as demonstrated in the compliance tables provided at **Appendix F**.

## 5.10 Waste Management

A Waste Management Plan (WMP) has been prepared for the proposed development, addressing each stage of the proposed development from demolition and construction through to the ongoing management of waste when the premise is operational, refer to **Appendix E**.

### Demolition and Construction Waste

Type and quantities of demolition and construction waste are detailed in the WMP. The Erosion and Sediment Control Plan provided within **Appendix B** includes details of the proposed stockpile location within the site and traffic movement to and within the site by vehicles during the excavation and construction phases. Waste during these phases shall be appropriately managed on site to minimise cross-contamination and optimise opportunities for reuse of materials. Stockpiles shall be suitably contained and regularly checked.

### Operational Waste

The types of waste generated during operation will include food waste, paper and cardboard, plastics, containers, residual waste, nappies and miscellaneous waste. A secure waste storage area is located at the southern end of the building where staff will be responsible for sorting and storing operational waste. Waste and recycling will be collected on site via private contractor on an as needs basis, to be determined once operational.

## 5.11 Sediment and Erosion Control

Best practice erosion and sedimentation controls shall be put in place during construction and will be maintained at all times until the site has been stabilized. All erosion and sediment control devices will be constructed, placed and maintained in accordance with respective Council specifications and Landcom soil and construction manual and as shown on the proposed Sediment and Erosion Control Plan prepared by Eclipse at **Appendix B**. Erosion and sedimentation controls shall be checked daily and maintained in working order especially after heavy rain events.

Contractors' vehicular access to the site will be restricted to a single all weather access point located on Regiment Road so as to reduce the likelihood of sediment being trafficked off site. Sediment fencing will be installed around selected parts of the perimeter of the site as detailed on the plans.

All stockpiles of building material such as sand and soil will be protected to prevent scour and erosion. Full details are to be provided in a Construction Management Plan (CMP) to be prepared at the construction certificate stage.

## 5.12 Water Management

The water management proposed for the development is detailed in the Civil Engineering Plans prepared by Eclipse Engineers, provided at **Appendix G**. The stormwater drainage strategy includes a network of pipes and pits to convey the runoff from the roof and hardstand areas of the site to underground OSD (63m<sup>3</sup>) at the southern end of the car park. Gutters, downpipes, pits and pipes are designed for 1:20 year storm event whilst box gutters and downpipes are 1:100 storm event. The OSD tank is sized to meet Council's requirements for volume and rate of discharge.

Ocean protection ocean guard and ocean protect storm filters are used. The Ocean protection provides two filtration bag types- 200 micron bags for higher water quality filtering and a coarse bag for targeting gross pollutants.

A MUSIC model has been prepared to determine the effectiveness of SQID's at reducing pollutant loads at the site. Refer to the Civil Engineering Plans for full details.

## 5.13 Contamination

A DSI has been undertaken to ensure the site is suitable for the proposed childcare use (refer **Appendix I**). As detailed in Section 4.4 of this SEE, analytical results of soil samples indicated that all analytes were below the NEPM Health and Ecological Assessment Criteria for Residential (A) development, aside from Benzo(a)pyrene and Carcinogenic PAHs in the shallow fill layer across the northern portion of the site. As such a Remedial Action Plan (RAP) is required to delineate and manage identified PAH contamination. The RAP will outline the steps for post-demolition sampling, data gap investigation, and remediation strategy in order to make the site suitable for the child care development. In addition, a site specific 'Unexpected Finds Protocol' shall be made available for reference for all occupants and/or site workers in the event unanticipated contamination is discovered.

## 5.14 Social and Economic Impacts

The proposal is expected to have positive impacts in relation to both social well-being and economic growth for the local and wider community.

The positive economic impacts will be realised through both construction and ongoing operational phases of the proposed childcare. Construction jobs and flow-on economic benefits to the community will occur over a 1-2 year period following DA/CC approval.

The development represents a much needed childcare facility in an area that has a growing number of young families with limited long day options. It is expected that the development will have an enduring positive impact on the neighbourhood and inevitable will prove to be a focus of local community identity and support.

### **5.15 Public Interest**

The proposal is in the public interest as it will deliver several public, social and economic benefits with minimal adverse impacts (as detailed within this report).

A well-designed childcare facility is appropriate for the location and setting within Rutherford. It is easily accessible for people traveling past the site and will be highly desirable for those reliant on childcare. The purpose-built facility proposed under this DA will provide an essential service to the area meeting the needs of young families in a convenient and accessible location.

### **5.16 Building Access**

Access to the building will be compliant with the relevant legislation and criteria including the Building Code of Australia (BCA) and the *Disability Discrimination Act 1992* and *AS1428 – Design for Access and Mobility* to ensure that adequate pedestrian and disabled access is provided for the development. As illustrated on the proposed plans, an accessible path of travel is available from the car park into the building and within the building and outdoor play areas.

## 6 CONCLUSION

The proposed childcare facility to be located at 7 Regiment Road, Rutherford will provide a high-quality facility for young families with minimal environmental or amenity impacts on the surrounding area.

The development being purpose designed and built incorporates facilities and amenities to suit the needs of the specific occupants and ensures compatibility with the physical requirements under the National Quality Framework. The proposal is compliant with relevant legislative requirements and controls, in particular *Chapter 3 Educational Establishments and Child Care Facilities of SEPP (Transport and Infrastructure) 2021, The Child Care Planning Guideline 2021 and Education and Care Services National Regulation.*

The proposal including subdivision is permissible within the E3 Productivity Support zoning and has been found to be compliant with all controls and requirements contained within the LEP. A detailed assessment against the applicable sections of the DCP has been undertaken and the development was found to be compliant with all relevant objectives and controls.

The SEE has detailed all the relevant matters of consideration pertaining to the proposed development under Section 4.15 of the EP&A Act 1979. The proposed development will provide a safe, functional, and environmentally responsive development outcome for the site and locality. It is considered the proposal is therefore worthy of Council's support.

## **APPENDICES**

Appendix A – DA Plans

Appendix B – Civil Engineering Plans

Appendix C – Traffic and Parking Assessment Report

Appendix D – Noise Impact Assessment

Appendix E – Waste Management Plan

Appendix F – Compliance Tables

Appendix G – Plan of Management

Appendix H – Landscaping Plans

Appendix I – Preliminary Site Investigation/ Detailed Site Investigation