



COOTAMUNDRA-
GUNDAGAI REGIONAL
COUNCIL

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Business Paper

EXTRAORDINARY COUNCIL MEETING

**ALBY SCHULTZ MEETING CENTRE,
COOTAMUNDRA**

5:30PM, WEDNESDAY 2ND JUNE, 2021

Administration Centres: 1300 459 689

The Mayor & Councillors
Cootamundra-Gundagai Regional Council
PO Box 420
Cootamundra NSW 2590

NOTICE OF MEETING

An Extraordinary Meeting of Council will be held in the Alby Schultz meeting Centre, Cootamundra on:

Wednesday, 2nd June, 2021 at 5:30pm

The agenda for the meeting is enclosed.

Phillip McMurray
General Manager

AGENDA

Order Of Business

1	Acknowledgement of Country	5
2	Open Forum (N/A) open forum not to be held at extraordinary meetings	5
3	Apologies	5
4	Disclosures of Interest	5
5	General Manager's Report.....	6
5.1	Development, Building and Compliance	6
5.1.1	Development Application - 62/2021 Gundagai Preschool Redevelopment, First Avenue, Gundagai	6
6	Confidential Items	66
6.1	Closed Council	66
6.2	Sheridan Street Main Street Upgrade (Block 3)	66
6.3	Resumption of Open Council Meeting	66
6.4	Announcement of Closed Council Resolutions	66

1 ACKNOWLEDGEMENT OF COUNTRY

Council acknowledges the Wiradjuri people, the Traditional Custodians of the Land at which the meeting is held and pays its respects to Elders, both past and present, of the Wiradjuri Nation and extends that respect to other Aboriginal people who are present.

2 OPEN FORUM (N/A) OPEN FORUM NOT TO BE HELD AT EXTRAORDINARY MEETINGS

3 APOLOGIES

4 DISCLOSURES OF INTEREST

5 GENERAL MANAGER'S REPORT

5.1 DEVELOPMENT, BUILDING AND COMPLIANCE

5.1.1 DEVELOPMENT APPLICATION - 62/2021 GUNDAGAI PRESCHOOL REDEVELOPMENT, FIRST AVENUE, GUNDAGAI

DOCUMENT NUMBER	350101
REPORTING OFFICER	Sharon Langman, Manager Development, Building and Compliance
AUTHORISING OFFICER	Phillip McMurray, General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p>3. Sustainable natural and built environments: we connect with the places and spaces around us</p> <p>3.2 Our built environments support and enhance liveability</p>
FINANCIAL IMPLICATIONS	There are no financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	Council needs to assess each application on its individual merits in accordance with legislative requirements and timeframe.
POLICY IMPLICATIONS	There are no policy implications associated with this report.
ATTACHMENTS	1. Assessment Report DA 62-2021 Gundagai Preschool Download

RECOMMENDATION

Council approves development application 62/2021 for Centre-based childcare facility - to demolish the existing preschool building and dwelling house, and to construct a new preschool and kindergarten facility, including a new car park, bus stop, landscaping, signage and outdoor play areas on Lot 13 DP 1102375 and Lot 2 DP 574412, 87 and 89 First Avenue, Gundagai, subject to the following conditions:

PART A – ADMINISTRATIVE CONDITIONS

Compliance with plans

A1. The developer shall carry out the development generally in accordance with the following plans and documentation:

Statement of Environmental Effects, dated May 2021, prepared by Habitat Planning			
The following plans, prepared by NBRS Architecture:			
<i>Drawing No.</i>	<i>Version</i>	<i>Content</i>	<i>Date of plan</i>
20124-NBRS-A-DA03	3	Site plan	06.05.2021
20124-NBRS-A-DA04	3	Existing and Demolition - Stage 1	06.05.2021
20124-NBRS-A-DA05	3	Existing and Demolition - Stage 2	06.05.2021
20124-NBRS-A-DA10	3	Floor plan	06.05.2021
20124-NBRS-A-DA11	3	Roof plan	06.05.2021
20124-NBRS-A-DA30	3	External building elevations	06.05.2021

20124-NBRS-A-DA31	3	External building elevations	06.05.2021
20124-NBRS-A-DA32	3	External building elevations	06.05.2021
20124-NBRS-A-DA60	3	Materials schedule	06.05.2021
20124-NBRS-A-DA70	3	Finishes Board	06.05.2021

Parameters of consent

A2. This consent permits the facility to be licenced for a maximum capacity of eighty (80) children.

Compliance with plans and inconsistencies between documents

A3. In the event of an inconsistency between the documents and/or plans referred to above, the latter documents and/or plans, shall prevail to the extent of the inconsistency.

A4. In the event of an inconsistency between the conditions of this consent and the documents and/or plans referred to above, then the conditions of this consent shall prevail to the extent of the inconsistency.

A5. No departure from the approved plans and specifications shall be made unless the prior approval of Council has been obtained in writing (i.e Section 4.55 modification or new development consent).

Cost of works

A6. All works associated with the proposal, or required by this consent, will be at no cost to Council.

A7. All works associated with the cost of the retaining walls and fencing shall be by the developer, and not any adjoining or adjacent land owner.

Compliance with legislation

A8. All building and construction works must be carried out in accordance with the requirements of the:

- (a) *Building Code of Australia*,
- (b) *Environmental Planning and Assessment Act, 1979*, and the Regulations made thereunder, and
- (c) *Education and Care Services National Regulations*.

PART B - PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

Consolidation of land

B1. Prior to a construction certificate being issued Lot 13 DP 1102375 and Lot 2 DP 574412, shall be consolidated into a single lot, by way of a plan of consolidation registered with NSW Land Registry Services.

Section 7.12 Contributions

B2. Prior to the issue of construction certificate, a contribution is required towards the provision of public amenities and services, in accordance with the Cootamundra-Gundagai Regional Council Section 7.12 Fixed Development Consent Levy Contributions Plan 2018.

Section 7.12 contributions are calculated on the estimated cost of development as specified on the Development Application at time of lodgment and may be subject to change with the coming of a new financial year or revised estimated cost of development.

The contribution payable with respect to this application is 1 % of the cost of the development (\$1,500,000), being \$ 15,000.

Retaining walls

B3. The retaining walls shall be designed by an appropriately qualified and certified structural engineer, and details shall be submitted to and approved by the Principal Certifying Authority, as part of the application for a construction certificate. Adequate provisions are also to be made for drainage, and specific consideration shall be given to overland flow, as identified in the *Gundagai Floodplain Risk Management Study and Plan* (December 2018).

Stormwater

B4. A comprehensive stormwater drainage system shall be designed by a suitably qualified practising Civil or Hydraulic Engineer or other suitably qualified professional. The plan shall be submitted to, and approved by, Council, prior to the issue of a construction certificate. The plan shall include, but not necessarily be limited to, the following:

- (a) detailed engineering design plans for the management of stormwater, to collect and treat all stormwater generated by the proposed development (from roofs and hardstand areas),
- (b) specifically addressing run-on and overland flow, as identified in the *Gundagai Floodplain Risk Management Study and Plan* (December 2018),
- (c) stormwater drainage as it relates to the proposed retaining walls,
- (d) the hydraulic requirements, discharge details, pipe sizes, pit details and conveyance and disposal details,
- (e) the risk of water surcharging onto the footpath,
- (f) connection into Council's stormwater drainage system,
- (g) the hydrology and hydraulic calculations shall be based on models described in the current edition of *Australian Rainfall and Runoff*,
- (h) provision of a minimum of a 10,000 litre rainwater tank, incorporating escape paths for overland flow of water in the event of a major rainfall event. The escape paths shall be properly constructed overflow channels for floor relief for the 100 year ARI event.

Sedimentation and erosion controls

B5. Prior to the issue of a construction certificate, a detailed erosion and sedimentation control plan shall be submitted to, and approved by, Council.

Construction management plan

B6. A management plan to address demolition and construction activity access and parking is to be prepared to ensure that suitable provision is available on site for all vehicles associated with the construction of the development to alleviate any need to park within, or load/unload from the road reserve of First Avenue. Appropriate signage and fencing is to be installed and maintained to effect this requirement.

Plumbing and drainage approvals

B7. Prior to a construction certificate being issued, a plumbing and drainage approval for the proposed plumbing works and installation of any liquid trade waste pre-treatment devices (e.g dry basket arrestor in the main kitchen), shall be obtained from Cootamundra-Gundagai Regional Council, in accordance with Section 68 of the *Local Government Act 1993* and *Liquid Trade Waste Regulation Guidelines*.

Landscaping plan

B8. A detailed landscaping plan shall be submitted to, and approved by Council, prior to a construction certificate being issued.

PART C - PRIOR TO COMMENCEMENT OF WORK

Asbestos

C1. Prior to work commencing on-site, the dwelling and existing preschool building shall be inspected by a suitably qualified person, for the presence of asbestos. In the event of asbestos being discovered, its removal shall be in accordance with the relevant conditions of this consent (see Part D of this consent).

C2. Prior to work commencing on-site, testing for the presence of naturally occurring asbestos (NOA) shall be undertaken, in accordance with the Council's Asbestos Policy (Section 5.1). In the event that NOA is found, an asbestos management plan shall be prepared in accordance with the requirements of the *Work Health and Safety Regulation 2017*.

Construction certificate

C3. Prior to construction work commencing on-site a Construction Certificate must be obtained from Council or a Registered Certifier.

Dilapidation report

C4. A dilapidation report prepared by a professional engineer, accredited building surveyor or other suitably qualified person must be submitted to the satisfaction of the Principal Certifying Authority prior to commencement of any demolition, excavation or building works.

The dilapidation report shall include the two (2) sheds and ancillary works (e.g concrete slab), located on 88 Punch Street, Gundagai, directly behind 87 First Avenue, Gundagai, and shall detail the current condition and status of the structures (including photographs).

Sedimentation and erosion controls

C5. Prior to work commencing, the measures contained in the approved erosion and sedimentation control plan shall be implemented on-site, and shall be maintained in good working condition, throughout the life of the project.

Builders Toilet

C6. The applicant shall ensure that a suitable builders' toilet is situated on the property prior at the time of the first inspection, prior to commencing construction.

Site Security

C7. Access to the site shall be restricted by way of safety/security fencing and the access point clearly delineated.

Protection of trees

C8. All trees on the site (not approved for removal), and that may be threatened by the works, are to be suitably protected in accordance with *AS 4970-2009 Protection of trees on development sites*, by way of tree guards, barriers or other measures as necessary in order to protect tree root systems, trunks and branches, during construction.

Construction signage

C9. No more than two signs shall be erected at the front of the site to display the following details. At least one of these signs shall have the following minimum information:

- the name of the Principal Certifying Authority, their address and telephone number;
- the name of the person in charge of the work site and telephone number at which that person may be contacted outside working hours;
- that unauthorised entry to the work site is prohibited.

The signs shall be maintained to a tidy and legible standard at all times and must be removed when the work has been completed.

C10. A notice bearing the lot number and the builders name and license number shall be prominently displayed at the front of the land from the time work commences, until the building is complete, or an occupation certificate is issued.

PART D – DURING DEMOLITION, CONSTRUCTION AND THE CARRYING OUT OF WORKS

Approved plans to be on-site

D1. A legible copy of the stamped plans, specifications, a copy of the development consent, the construction certificate and any other certificates to be relied upon shall be available on site at all times during construction.

Hours of work

D2. Work on the project shall be limited to the following hours:

- (i) Monday to Friday -7:00 am to 6:00 pm
- (ii) Saturday -8:00 am to 5:00 pm
- (iii) Sunday/Public Holidays - No work to be carried out on, without the prior consent of Council.

Naturally occurring asbestos

D3. The applicant is advised that the subject land may be affected by naturally occurring asbestos. If naturally occurring asbestos material is encountered during excavation works on site, the works are to cease immediately and Council is to be notified. Interception of any naturally occurring asbestos will require specific processes to be implemented to secure the site and to manage any further works in accordance with the requirements of Safework NSW.

Demolition

D4. Demolition of the subject buildings shall be carried out in accordance with the requirements of *Australian Standard AS2601 The Demolition of Structures and Work Health and Safety Act 2011*.

D5. All removal, transport and disposal of asbestos or other contaminated waste materials shall be controlled in accordance with the *Work Health and Safety Act 2011, SafeWork Australia Code of Practice – How to Manage and Control Asbestos in the Workplace* and the *Protection of Environment Operations Act 1997*.

D6. Work involving asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 485 of the *Work Health & Safety Regulation 2011*.

D7. All excavated material or demolition waste to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the NSW Department of Environment and Climate Change's 'Waste Classification Guidelines Part 1: Classifying Waste' publication and disposed of at a lawful waste facility.

D8. Copies of receipts stating the following must be retained and given to the principal certifying authority if requested:

- (a) the place to which waste materials were transported,

(b) the name of the contractor transporting the materials,

(c) the quantity of materials transported off-site and recycled or disposed of.

D9. All works are to be carried out so as not to cause damage to adjacent and adjoining properties, including Council's road reserve and nature strip area. Any damage arising from the removal / demolition works is to be made good and any necessary repairs are carried out by the person having the benefit of this consent at no cost to Council.

D10. Whilst work is being undertaken:

- (a) all vehicles entering or leaving the site must have their loads covered, and
- (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

D11. It is the responsibility of the person having the benefit of this consent to notify the adjoining neighbours two (2) days prior to commencing work of the intention to carry out demolition works. The notification shall detail the type of machinery to be utilised, hours of operation, likely duration of works, and safety measures taken to protect property and persons from damage.

D12. Suitable measures shall be taken to ensure that there is no adverse effect to occupants of adjoining buildings and the public by the generation of dust and noise.

D13. Protection shall be afforded to the users of any public place by the provision of fencing and/or hoardings adjacent to any public places.

D14. Where possible, one (1) of the existing water and sewer connections shall be retained for connection of the new development. Where the existing services cannot be reused, they shall be removed, in accordance with the following conditions.

D15. The Developer shall carry out all works associated with the removal of the redundant water and sewer services, as follows:

- the disconnection of water within the site (being on the property side of the water meter), and
- the disconnection of sewerage services within the site (excluding works on the sewer main), with the work being carried out by a licensed plumber where necessary.

D16. Council shall carry out all works associated with the removal of the redundant water and sewer services, including water meters, and capping of the sewer main (including all work on the sewer main), at full cost to the Developer.

Unexpected finds

D17. If Aboriginal objects are uncovered during earthworks, excavation or disturbance, work in the immediate area must stop immediately and Council and Heritage NSW shall be consulted.

Rainwater tank

D18. A rainwater tank (minimum size of 10,000 litres) shall be installed to capture roof water. The rainwater tank shall be connected to a minimum of one (1) block of toilets and one (1) outdoor tap.

Shoring and adequacy of adjoining property

D19. As the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, the person having the benefit of this development consent must, at the person's own expense—

- (a) protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

Retaining walls

D20. All excavations associated with the development must be executed safely in accordance with appropriate professional standards and excavations must be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Vehicular access

D21. All redundant vehicular access points or laybacks to the subject property from First Avenue, shall be removed and the road reserve and kerb and gutter reinstated to match the surrounding roadside landform to Council's specifications.

D22. A suitably constructed vehicle access shall be provided to the service area and the carpark. The vehicle access shall be constructed in accordance with Council's specifications, after making application to and obtaining approval from Council, under Section 138 of the *Roads Act 1993*.

Carpark

D23. The carpark shall be designed and constructed in accordance with *AS2890.1 - Parking facilities - Off-street car parking*.

Trafficable areas

D24. All trafficable areas on-site (access, parking and manoeuvring areas) shall be sealed (concrete or bitumen) and shall be drained in an appropriate manner.

Stormwater drainage

D25. Stormwater shall be collected and discharged in accordance with the approved stormwater plan.

Wastewater drainage and sewer

D26. All plumbing and drainage work is to comply with the requirements of Australian Standard AS3500 Plumbing and Drainage and the Plumbing Code of Australia and the NSW Code of Practice Plumbing and Drainage.

Liquid trade waste

D27. Liquid trade waste facilities shall be installed in accordance with the Section 68 liquid trade waste approval, and the *Liquid Trade Waste Management Guidelines*.

Waste management

D28. All waste generated during the construction stage shall be stored on-site in suitable receptacles, and disposed of to a licensed waste disposal facility.

Storage of materials

D29. No materials, goods, etc, shall be placed in Council's road reserve during the construction phase.

Food preparation areas

D30. The fit out of the kitchen and kitchenette is to comply with the Food Act 2003, Food Regulation 2015, and the Food Standards Code.

D31. The mechanical ventilation in the kitchen must comply with AS/NZS 1668.1 and AS 1668.2 if required by the BCA.

Disabled access and facilities

- D32. Access for the disabled must be provided to the whole floor in accordance with *Australian Standard AS1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work*.
- D33. Toilet accommodation shall be provided for disabled persons in accordance with the design criteria in *Australian Standard AS1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work*.
- D34. Ramps provided for disabled access shall comply with *Australian Standard AS1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work*.
- D35. The applicant shall provide all required tactile indicators, audible indicators and signage as required by *Australian Standard AS1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work*.

PART E - PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**Occupation Certificate**

- E1. A final Occupation (Completion) Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an occupation certificate, the Principal Certifying Authority must be satisfied that the requirements of section 6.9 of the *Environmental Planning and Assessment Act 1979* have been satisfied.

Registration as a food premises

- E2. The business shall register as a food premises with Council on the approved form prior to commencement of business.

Liquid Trade Waste

- E3. A liquid trade waste approval shall be obtained from Council.

PART F - PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**Arrange issue of Occupation Certificate**

- F1. When all conditions of consent have been complied with, the applicant shall notify the PCA to arrange a final inspection and for the issue of a final Occupation (Completion) Certificate.

Dilapidation report

- F2. A dilapidation report prepared by a professional engineer, accredited building surveyor or other suitably qualified person must be submitted to the satisfaction of the Principal Certifying Authority after completion of all works on site and prior to the issuing of an occupation certificate for the whole development).

The dilapidation report shall include the two (2) sheds and ancillary works (e.g concrete slab), located on 88 Punch Street, Gundagai, directly behind 87 First Avenue, Gundagai, and shall detail the current condition and status of the structures (including photographs).

- F3. Any damage caused to the adjacent sheds as a result of the excavation or construction works, shall be repaired, at full cost to the developer.

Fire Safety Certificates

- F4. A Final Fire Safety Certificate must be issued for the building prior to the issue of an Occupation Certificate. As soon as practicable after a Final Fire Safety Certificate is issued, the owner of the

building to which it relates must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

PART G - DURING OPERATIONS

Annual Essential Services Compliance Certification

G1. The owner shall submit to Council an Annual Fire Safety Statement, each twelve months after the original certificate was issued.

Hours of operation

G2. Hours of the operation shall be:

- Monday to Friday – 8:00 am to 6:00 pm

Waste

G3. All solid waste and rubbish generated by the use of the buildings, shall be stored in suitable receptacles within the curtilage of the buildings at all times, and shall be disposed of to an authorised landfill site on a regular basis, so as not to create a nuisance in terms of odour, vermin, contamination, or the like.

Noise

G4. The use of the property for the approved development, shall not give rise to "offensive noise" as defined in the Protection of the Environment Operations Act 1997, at the closest residence, at any time.

Amenity

G5. The business shall not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, waste water, waste products or grit, oil or otherwise.

G6. The development shall not involve exposure to view from any adjacent premises or from any public place of any unsightly matter.

Signage

G7. The business identification sign shall be adequately maintained so as not to lose its cosmetic integrity.

Food premises

G8. The premises shall be operated in accordance with the requirements of the Food Act 2003, and Chapter 3 of the Australia New Zealand Food Standards Code, a copy of which is available at the following website: <http://www.foodstandards.gov.au>

G9. The storage of food products shall be in accordance with the Australia New Zealand Food Standards Code. In particular your attention is drawn to the need to store potentially hazardous foods under temperature, and all foods in such a way that they are protected from the likelihood of contamination.

G10. The handling of food products shall be in accordance with Chapter 3 of the Australia New Zealand Food Standards Code.

G11. The food premises shall be subject to payment of an annual registration fee and scheduled and random inspections. Fees and Charges will be charged at the rate nominated in Council's Operational Plan.

REASONS FOR THE CONDITIONS:

- To confirm the details of the application as submitted by the applicant and as approved by Council.
- To manage any inconsistencies between the approved plan/documents and conditions of consent.
- To achieve the objectives of section 1.3 of the *Environmental Planning and Assessment Act 1979*, having regard to the relevant matters for consideration contained in section 4.15 of the Act and the Environmental Planning Instruments applying to the land.
- To ensure necessary approvals are applied for and are in force, before the facility operates.
- To protect the amenity of the local environment, residents and adjoining landowners.
- To ensure the development complies with all relevant approvals.

Introduction

This proposal is for the redevelopment of the Gundagai Preschool on Council land. In accordance with delegations issued to staff applications by Council or that involve Council land need to be referred to Council for determination.

Discussion

This report is an assessment of the application for the redevelopment of the Gundagai Preschool. The proposed development is to be undertaken in two stages over the two existing allotments. The proposal is being undertaken in two stages to allow early childcare and preschool activities to continue uninterrupted during the redevelopment. The existing dwelling on the lot adjoining the current operating preschool is to be demolished and stage 1 of the new preschool building is to be constructed. The site of the existing preschool will then be redeveloped. The playground area will remain unchanged. The redevelopment provides for onsite carparking, bus stop area and access compliant building and site.

The proposal does involve significant cut and retaining of earth due to the topography of the site. Accordingly additional consideration of stormwater impacts both on site and on the surrounding infrastructure is required.

As the site is owned by Cootamundra Gundagai Regional Council, and in accordance with the delegations issued to staff, the matter is referred to Council for determination. All matters in accordance with legislation have been considered and assessed in the attached assessment report, including the submission made as a result of notification of the proposed development. As demonstrated in the assessment report the matters raised are able to be addressed and monitored through imposed conditions, as are other matters as identified during the assessment of the proposal. Accordingly, there are insufficient reasons for the application to be refused, it is therefore recommended that the proposal be approved, and appropriate conditions be imposed to mitigate and monitor identified issues.

DEVELOPMENT ASSESSMENT REPORT

Pursuant to the Environmental Planning & Assessment Act 1979
Section 4.15 (as amended)

**DATE OF REPORT COMMENCEMENT:**

28 May 2021

COUNCIL OFFICER COMPLETING DEVELOPMENT ASSESSMENT:

Laura Schweiger

DEVELOPMENT REFERENCE:

DA2021/062

DEVELOPMENT ADDRESS:

87 and 89 First Avenue, Gundagai

LOT / SEC / PLAN:

Lot 13 DP 1102375 and Lot 2 DP 574412

OWNER(S):

Cootamundra-Gundagai Regional Council and Gundagai Pre-School Kindergarten

APPLICANT:

Cootamundra-Gundagai Regional Council

APPLICANT ADDRESS:

255 Sheridan Street
GUNDAGAI NSW 2722

PROPOSED DEVELOPMENT:

Centre-based child care facility - to demolish the existing preschool building and dwelling house, and to construct a new preschool and kindergarten facility, including a new car park, bus stop, landscaping, signage and outdoor play areas (See Figure 1).

The development will be undertaken in two (2) stages to facilitate the ongoing operation of the existing preschool, and will generally consist of the following works in each stage:

Stage 1

- demolition and removal of existing dwelling and vegetation including site levelling and preparation works at 87 First Avenue, Gundagai,
- construction of part of the Preschool facility on land currently known as 87 First Avenue, comprising playroom and family room, storeroom, staff room, office and reception and WC amenities,
- carpark, retaining walls, landscaping and pylon signage

Stage 2

- demolition of pre-existing preschool and ancillary structures including driveway, carpark, sheds and select vegetation at 89 First Avenue,
- site preparation and levelling works,
- construction of the balance of preschool and kindergarten comprising main entry and foyer, playrooms, dining room, kitchen, WC's and storerooms,
- bus stop retaining walls and landscaping works.

The existing preschool facility is currently licensed for 25 children. The redeveloped preschool facility will operate largely as it presently does, but with an increased capacity. The application has foreshadowed that it will take some time for the facility to reach full capacity (80 children), which will occur based on community demand. Initially, the preschool facility will only be licensed for 59 children.

The operational aspects of the preschool operating at full capacity, are as follows:

- number of children – 80
 - 0-2 year olds x 20
 - 3-4 year olds x 30
 - 4-5 year olds x 30
- number of employees – 8 staff
- hours of operation – Monday to Friday 8:00 am to 6:00 pm
- children arrive at, and depart from, the facility by a variety of methods including school bus, car and walking.

Figure 1 – Site plan

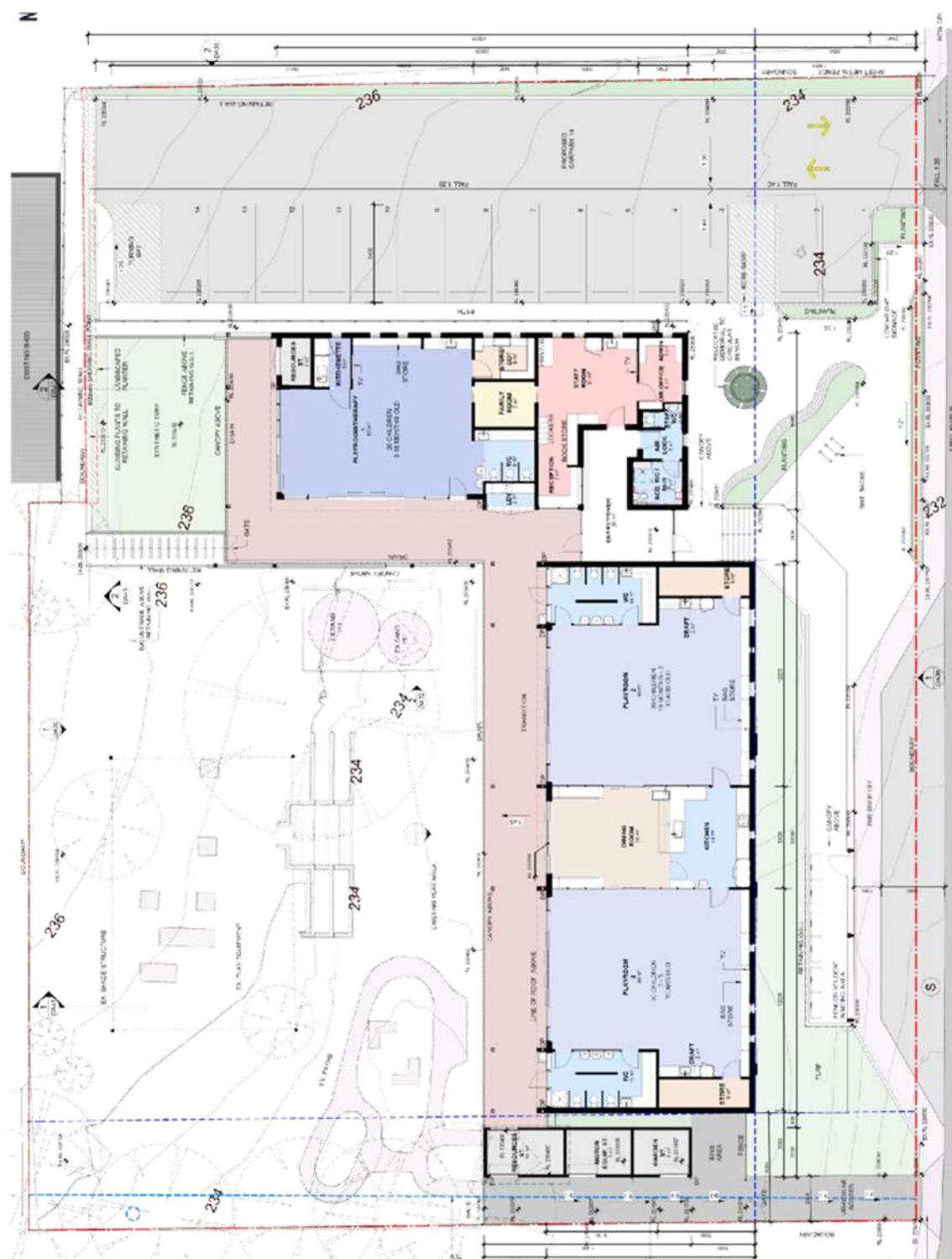


Figure 2 – Southern elevations (First Avenue)

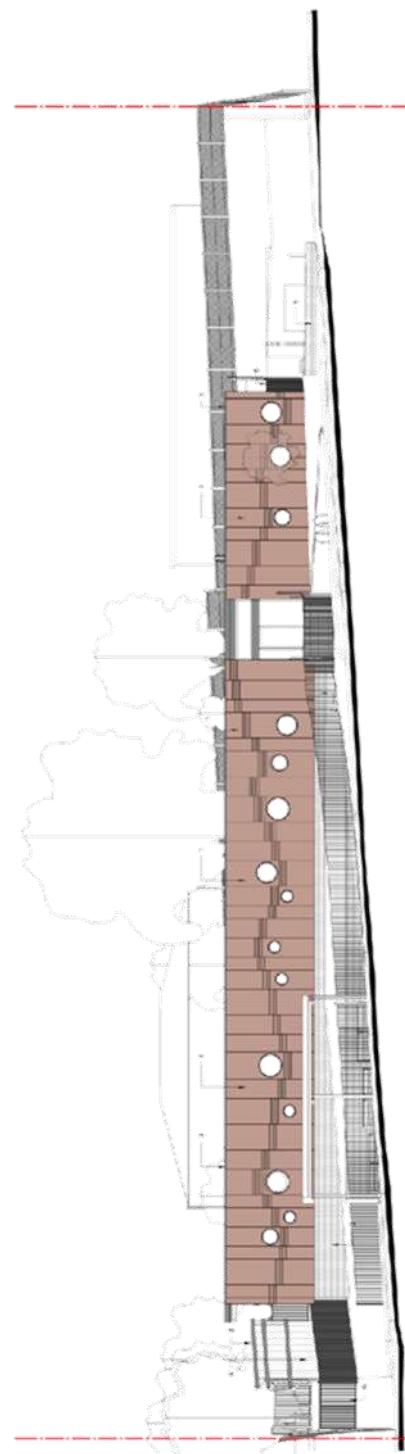
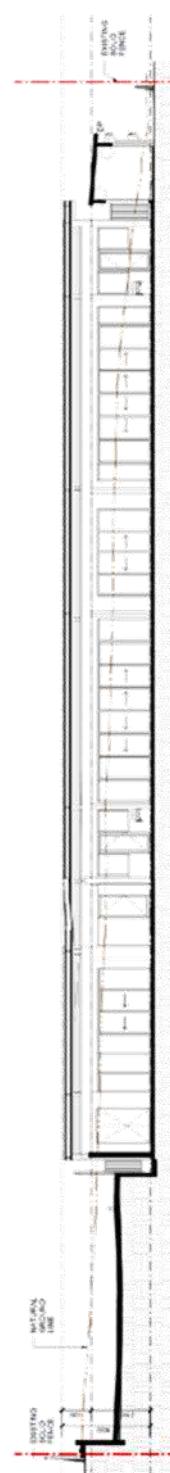


Figure 3 – Northern elevation (rear)



SITE AND LOCALITY:

The 3,004 m² site is located in central Gundagai, one block (100 metres) north of the main street (Sheridan Street), on the northern side of First Avenue, between Kitchener Street and Byron Street. The site is presently in two (2) lots, and supports a preschool (western lot – Lot 2) and a dwelling house, mostly recently used as an office (eastern lot – Lot 13). The subject land slopes strongly from the north-east to the south-west, and largely sits elevated above the roadway. The land owners are presently in the process of consolidating the lots as exempt development, which will be necessary to facilitate the development, as the building is proposed to be erected over the boundary. This will be reinforced as a condition of consent.

Figure 4 – View of the site from First Avenue



The surrounding land is a mixture of residential, commercial and community uses, including:

- dwellings to the south across First Avenue, to the north-east and east and a dwelling and shed directly to the north of the dwelling to be demolished,
- four units (used for teachers housing) directly to the north of the existing preschool,
- a residential lot (containing an open shed only), immediately to the east,
- vacant commercial land and the Family Hotel, to the south across First Avenue,

Other uses in the area include Saint David's Uniting Church, Gundagai Fire Station, the Men's Shed, the Baptist Church, the Gundagai Police Station and Carberry Park.

Figure 5 – Location plan (NSW Six Maps)

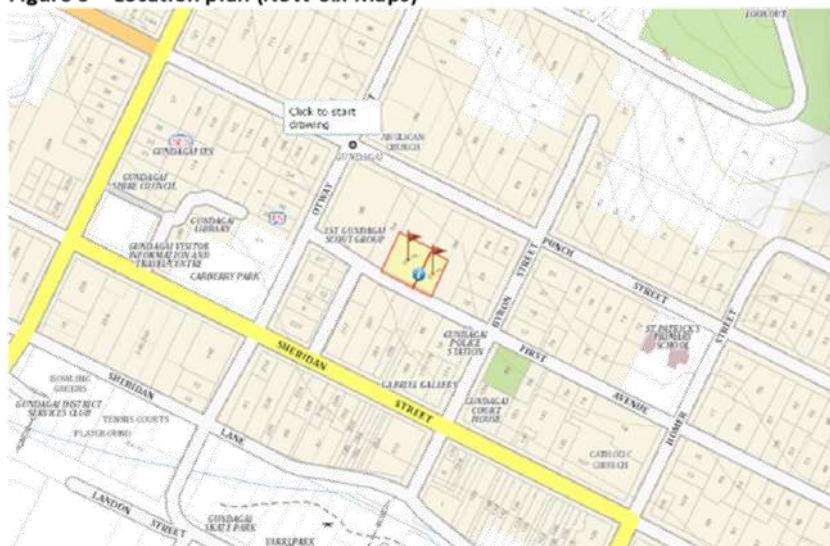


Figure 6 – Aerial view – locality (Google Earth 19.2.2020) – property coloured purple



Figure 7 – Aerial view – site and adjacent properties (Google Earth 19.2.2020) – property coloured purple



GENERAL REQUIREMENTS OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979:**1.7 Application of Part 7 of *Biodiversity Conservation Act 2016* and Part 7A of *Fisheries Management Act 1994***

These sections of the Acts, requires Council to consider whether the development or activity is likely to significantly affect threatened species, populations or ecological communities (as per the relevant test in each Act). As per these sections and tests, it is not considered that the development is likely to significantly affect threatened species, populations or ecological communities, because:

Biodiversity Conservation Act 2016

- the site has not been declared as an area of outstanding biodiversity value,
- the development does not exceed the biodiversity offsets scheme thresholds (is not mapped as high biodiversity value on the Biodiversity Values Map and does not exceed the clearing threshold),
- the site is devoid of the tree, shrub and grass species that are typical of the four (4) EECs known to occur across the whole of the CGRC LGA, and
- vegetation removal is restricted to five (5) trees, and half a dozen shrubs, none of which are considered significant from a biodiversity perspective,
- the development is not a key threatening process.

Fisheries Management Act 1994

- there will be no impact on any threatened species, endangered populations and endangered ecological communities known to occur in the area, (confined to the Murrumbidgee River or river system), as the development is over 800 metres from the River, and all discharges are to Council's sewer and stormwater systems,
- there is no declared critical habitat in the region,
- the development is not a key threatening process.

2.22 Mandatory community participation requirements

Part 1 (Mandatory community participation requirements) of Schedule 1 (Community participation requirements) sets out the mandatory requirements for community participation by planning authorities with respect to the exercise of relevant planning functions, which includes among other things, notification of development applications. The relevant section that applies to this development is:

7 Application for development consent (other than for a complying development certificate, for designated development, for nominated integrated development, for threatened species development or for State significant development)

- (1) *Minimum public exhibition period for an application for development consent (other than for a complying development certificate, for designated development, for nominated integrated development, for threatened species development or for State significant development)—*
 - (a) *if the relevant community participation plan specifies a period of public exhibition for the application—the period so specified, or*
 - (b) *if the relevant community participation plan specifies that no public exhibition is required for the application—no public exhibition, or*
 - (c) *otherwise—14 days.*

The CGRC Community Participation Plan (CPP) identifies certain development applications that will be notified (generally buildings of certain size and setback), and those that may detrimentally impact adjoining neighbours. Accordingly, the development was notified to eighteen (18) adjoining and adjacent landowners. One (1) submission was received, from the neighbours to the north of the site, who made the following comments:

- we are not against the development,
- have concerns regarding the rear retaining wall and potential movement of ground to our shed, both during and after construction,
- would like an agreement between both parties, that if something happens, that Council will be responsible,
- if a new boundary fence is built, they will not be partaking in any cost.

These issues raised will be addressed throughout this report.

4.5 Designation of consent authority

The development is not state significant or regionally significant, and therefore Council is the determining authority.

4.10 Designated development

Schedule 3 of the EP&A Regulation defines the various types of designated development, but the application does not meet any of the criteria and therefore is not designated.

4.13 Consultation and concurrence

If required by an environmental planning instrument, this section requires Council to consult with or obtain the concurrence of the person. No consultation was required in this instance (see bushfire sections, Infrastructure SEPP and Education SEPP below, pertaining to referrals).

4.14 Consultation and development consent—certain bush fire prone land

The site is not bushfire prone, and therefore no referral to the NSW Rural Fire Service was required.

4.22 Concept development applications

The development is not a concept development (a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications).

4.33 Determination of Crown development applications

The development is not a Crown development.

4.36 Development that is State significant development

The development is not State significant development (of a size, type, value or with impacts deemed to be significant).

4.46 Integrated development

The development is not integrated development (requires consent or an approval from another government agency, as identified in the Act).

SECTION 4.15 CONSIDERATIONS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979:**4.15(1)(a)(i) The provisions of any environmental planning instrument:*****State Environmental Planning Policies (SEPPs) and deemed SEPP's*****SEPP (Infrastructure) 2007**

The sections of this policy that are relevant to an assessment of this application are detailed as follows:

- *Clause 45 (Determination of development applications—other development)* applies to a development application for development in proximity to electricity infrastructure (e.g within 5 metres of an exposed overhead power line). Even though there are overhead power lines in the area, none are within the prescribed distance.
- *Clause 55 (Development adjacent to corridor)* applies to developments adjacent to a gas pipeline corridor. This development is not adjacent a gas pipeline.
- *Division 15, Subdivision 2 (Development in or adjacent rail corridors)*, including *Clauses 84, 85, 86 and 87* – the site is not adjacent the railway corridor, and therefore these clauses do not apply to this development.
- *Clause 101 (Development with frontage to classified road)*, does not apply as the site does not front a classified road.
- *Clause 102 (Impact of road noise or vibration on non-road development)*, does not apply as the AADT volume on the adjacent roads does not exceed 20,000 vehicles.
- *Clause 103 (Excavation in or immediately adjacent to corridors)*, does not apply as the development will not result in an excavation adjacent a listed road.
- *Clause 104 and Schedule 3 (Traffic generating development)*, does not apply, as the type and scale of development is not identified in the Schedule.

SEPP (Educational Establishments and Child Care Facilities) 2017

The relevant sections of this policy have been discussed as follows:

- *Clause 22 (Centre-based childcare facility – concurrence of Regulatory Authority required for certain development)* – requires a referral of the application to the Regulatory Authority (being the Secretary of the Department of Education), if the application does not comply with the following standards under the *Education and Care Services National Regulations*:
 - (a) the floor area under Clause 107 (indoor unencumbered space requirements) and
 - (b) the outdoor space requirements under Clause 108 (outdoor unencumbered space requirements).

The proposed building meets these standards, demonstrated as follows, and therefore does not require a referral to the Regulatory Authority:

Clause	Area required	Area provided
107 Indoor space	3.25 m ² per child	<ul style="list-style-type: none"> ▪ Room 1 - 4 m² per child ▪ Rooms 2 and 3 - 3.26 m² per child
108 Outdoor space	7 m ² per child	12.5 m ² per child

- *Clause 23 (Centre-based child care facility—matters for consideration by consent authorities)* – requires the consent authority to take into consideration any applicable provisions of the *Child Care Planning Guideline*, before determining a development application for a centre-based child care facility. *The Child Care Planning Guideline Planning Guideline*, indicates that Council should consider Parts 2, 3 and 4 of the Guideline. An assessment against the relevant provisions has been undertaken as follows.

Part 2 - Design quality principles

Principle 1 – Context – the design of the facility has taken into consideration, the context of the local area, in terms of the natural and built features of the area. It is located on a site that has been used for the intended purpose for some time, and is conveniently located to service the community, being on the interface between the commercial and residential area. It respects the neighbourhood in terms streetscape, setbacks and density, and has provided an accessible facility, whilst managing a large slope across the site.

Principle 2 - Built form - for the most part, the design of the facility has taken into account the built form of the area, whilst accommodating a large crossfall over the site. The scale, bulk, height and setbacks are considered appropriate for the existing character of the area, with generous setbacks and being single storey in design, but with the western end appearing higher due to the slope of the site. However, it is lower than other two (2) storey buildings in the area, and sits lower in the landscape due to the landform that rises to the north. A variety of materials are proposed, using colours to compliment the area, and it respects the streetscape with large setbacks from First Avenue.

Principle 3 - Adaptive learning spaces – the facility has been designed to be fit-for-purpose, and to provide a high level of amenity for children and staff, with a mix of inclusive learning spaces. This has been achieved by designing a new facility, rather than trying to retrofit and adding to the existing dated facility.

Principle 4- Sustainability – the facility has been designed using a mixture of modern sustainable materials, and the design and orientation of the building optimises the northern aspect, and minimises openings to the west, to reduce heating and cooling cost. Given the roof area and potential stormwater issues (see also section below on flooding and earthworks), it is recommended that a condition be imposed requiring a 10,000 litre water tank to be installed that is connected to a minimum of one (1) bank of toilets and one (1) outdoor tap.

Principle 5 – Landscape – the development incorporates landscaping at the front of the building which contributes positively to the streetscape, and adjacent the car park, to soften the area, and existing vegetation will be maintained in the outdoor play area at the rear of the site.

Principle 6 – Amenity – the development has been designed to minimise the impacts on the adjacent dwellings and the neighbourhood as a whole, from noise, overlooking and overshadowing. This has been achieved through the use of setbacks, orientation, slope of the land and the proposed cut.

Principle 7 – Safety – it is considered that the facility has been designed with the safety of the children in mind, in terms of access to and from the building, and throughout the building. It is assumed that the fitout of the building will meet all relevant standards required in terms of the type, number and design of equipment and facilities. In terms of Crime Prevention Through Environmental Design, it is considered that the development meets the design principles of territorial reinforcement (use of fencing and landscaping), surveillance (line of sight, open fencing, street lighting, low-level landscaping), access control (single, easily identifiable access point) and space and activity management (the facility will be well maintained and cared for).

Part 3 – Matters for consideration

Matters for consideration	Comments
3.1 Site selection and location	
Objective: To ensure that appropriate zone considerations are assessed when selecting a site	
C1 For developments in a residential zone, consider: <ul style="list-style-type: none"> ▪ the acoustic and privacy impacts ▪ the setbacks and siting of buildings ▪ traffic and parking impacts 	<p>The SEE and plans identify that the proposed building will be located 8.85 metres from First Avenue, 6 metres from the western side boundary, 13 metres from the eastern side boundary and between 8 metres and 24 metres from the rear (northern) boundary. The car park will be located between the building and the eastern boundary, and the outdoor play area is located on the northern side of the proposed building, in the same location that it presently is.</p> <p>Due to the setbacks proposed, the topography of the site, the design of the facility and its placement on the site, the building does not overshadow any adjoining properties, and will not unreasonably overlook nearby properties. The development will also have minimal impact in terms acoustic privacy, as a result of the above-mentioned design features, the proposed hours of operation, the location of the outdoor play area, the staggering and intermittent nature of the outdoor play times, and the nature, frequency and volume of noise to be generated.</p> <p>There are several dwellings that are adjoining and adjacent to the development site, the majority of which are setback substantial distances from the proposed building. This includes the following properties, as shown on Figure 8 below:</p> <ul style="list-style-type: none"> ▪ 94 Punch Street – setback 25 metres from the building, and immediately adjacent the north-west corner of the outdoor play area. Existing landscaping and fencing along the western boundary of the site (see adjacent photo), provides ample protection in terms of visual and acoustic privacy, <p>Photo 1 - View towards dwelling on 94 Punch Street</p> 

Matters for consideration	Comments
	<ul style="list-style-type: none">▪ 90 Punch Street (units) – these units are setback between 22 metres and 33 metres to the proposed building, and 9 metres from the outdoor play area. There is an existing solid fence, intermittent trees, and an existing shade sail (see adjacent photo), that provides an adequate level of visual and acoustic privacy, and no detrimental impact is expected as a result of the development;▪ 88 Punch Street – this dwelling is setback 48 metres from the proposed building and 45 metres from the car park and playground. The existing shed and vegetation on the property, and the proposed cut will effectively shield the dwelling from the facility, such that there will be no privacy or acoustic impacts (see adjacent photo);▪ 84 Punch Street - this dwelling is setback 56 metres from the proposed building and 45 metres from the car park. The existing shed and vegetation on 88 Punch Street, and the proposed cut will effectively shield the dwelling from the facility, such that there will be little to no impacts;▪ 22 Byron Street – this dwelling is 47 metres from the subject site, and will have no loss of visual or acoustic privacy, as a result of this setback, existing vegetation and the proposed cut;▪ 18 Byron Street – this dwelling is 44 metres from the subject site, and will have no loss of visual or acoustic privacy, as a result of this setback, existing vegetation and shed.



Matters for consideration	Comments
	<ul style="list-style-type: none">▪ 86 and 88 First Avenue– these dwellings are setback approximately 20 metres from the site, on the southern side of First Avenue. There will be little or no loss of visual privacy as a result of the development, and whilst there will be small increase in passenger vehicle movements, the impacts on acoustic privacy are expected to be minimal based on the proposed hours of operation. <p>In terms of potential traffic and parking impacts on residential amenity, these are not considered to be adverse, based on the anticipated increase of passenger vehicle movements, the hours of operation and existing setbacks to residential dwellings.</p> <p>Existing passenger vehicle movements associated with the drop-off and pickup of children are on average 17 per day, and are expected to be 54 per day (based on the same percentage of children arriving and departing by passenger vehicles). There is no anticipated increase in bus movements, as the facility is already serviced by the three (3) existing bus services, which is expected to cater for any increase in numbers using the service.</p> <p>Hours of operation are standard commercial hours (Monday to Friday 8:00 am to 6:00 pm), consistent with other business in the CBD immediately to the south. The most affected houses are those on the southern side of First Avenue, but which have substantial setbacks of 20+ metres.</p> <p>The issues relating to traffic, access and parking are also discussed in Sections C31 to C38 below.</p>

Figure 8 - Aerial view showing the location of adjacent dwellings with respect to the proposed building



Matters for consideration	Comments
Objective: To ensure that the site selected for a proposed child care facility is suitable for the use	
C2 Site selection is to ensure: <ul style="list-style-type: none"> ▪ compatibility with location and surrounding uses ▪ the site is environmentally safe ▪ potential environmental contaminants on the land or in the general proximity ▪ the site is suitable for the scale of the development in terms of street frontage, site area and shape, and environmental impacts on the surrounding area ▪ suitability of retrofitting an existing premises 	<p>The site is located on the interface between the commercial and residential areas of the town, with a mixture of residential, commercial and community uses. A facility of this nature, is considered compatible with these adjacent uses in terms of hours of operation, potential impacts and being centrally and conveniently located for users and access to bus services.</p> <p>The site is not affected by mainstream flooding, landslip or bushfire, but is affected by overland flow in the 1:100 year ARI. The SEE states that "a Stormwater Drainage Concept Plan has been prepared and submitted with the application to address this risk by ensuring a design incorporates a drainage system capable of capturing stormwater flows and discharging offsite at points of adequate capacity in such rain events". This issue is explored further in relation to Section 6.4 (flood planning) and Section 6.5 (earthworks) of the LEP below, and despite being subject to overland flow, the site is considered suitable for the proposed use, dependent on managing the stormwater flows.</p> <p>The site has been identified as having a high potential for naturally occurring asbestos and testing for this will be required, and if present will need to be managed appropriately (see discussion in relation to SEPP 55 below).</p> <p>The scale of the development is suitable for the site and the general area, ensuring all space requirements have been met, and allowing generous setback from the boundaries and adjacent dwellings, for the most part. The SEE also identifies that the single storey height building is compatible with the local setting, and there are no environmentally or culturally sensitive areas nearby.</p> <p>Not applicable</p>

Matters for consideration	Comments	
<ul style="list-style-type: none"> ▪ suitable drop off and pick up areas, and off and on street parking are provided ▪ the adjoining road is appropriate and safe for the proposed use ▪ it is not located close to incompatible uses 	<p>The development will incorporate a bus bay within the property boundaries and it is considered that sufficient parking is proposed (see further discussion in Sections C31 to C38 below, in relation to traffic and parking).</p> <p>It is considered that the First Avenue is appropriate and safe for the proposed use. The SEE identifies that the road network is suitable for the development, being a 7 metre wide sealed road with an existing concrete footpath adjacent the property, accommodating one-way traffic only, being adjacent an existing bus zone which is proposed to be incorporated into the site of the new, being in a 50km/h speed limit area and being used mostly by local traffic.</p> <p>The site is not located in close proximity to uses such as injecting rooms, drug clinics, licensed premises or sex services premises.</p>	
Objective: To ensure that sites for child care facilities are appropriately located		
C3 A child care facility should be located:	<ul style="list-style-type: none"> ▪ near uses such as schools, parks, community facilities, places of public worship, ▪ near or within commercial areas ▪ with access to public transport ▪ in areas with pedestrian connectivity 	<p>It is considered that the development site is appropriately located, with the SEE identifying that it is situated within 200 metres of several churches, Carberry Park and the broader central activity centre of Gundagai, within 250 metres of St. Patricks Primary School and within 1.3 km of Gundagai Public School. As discussed previously, the development is serviced by the local school bus runs, and there is an existing footpath network adjacent the property and in the area.</p>
Objective: To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards		
C4 A child care facility should not be located in close proximity to such things as industrial sites, waste facilities, service stations, odorous developments, extractive industries, intensive agriculture, agricultural spraying, other hazardous land uses	<p>The development site is not located adjacent or nearby any of these identified land uses, or other hazardous or offensive land uses.</p>	
3.2 Local character, streetscape and the public domain interface		
Objective: To ensure that the child care facility is compatible with the local character and surrounding streetscape		
<p>C5 The development should:</p> <ul style="list-style-type: none"> ▪ be designed in character with the locality and existing streetscape 	<p>The SEE states that the design of the building scale and building materials will make a positive contribution to the built environment in this location. The use of face brick and burgundy earthy tones will blend well with other developments in proximity and the surrounding urban landscape. The SEE also states that the building is set back 8.85 metres from First Avenue, and this setback</p>	

Matters for consideration	Comments
<ul style="list-style-type: none"> ▪ reflect the predominant form of surrounding land uses, ▪ recognise predominant streetscape qualities ▪ design to integrate with the existing streetscape ▪ use landscaping to positively contribute to the streetscape and local amenity ▪ integrate car parking into the building and site landscaping design. 	<p>combined with the design of the building, will ensure the impact on the existing streetscape is positive and complementary to the existing built form.</p> <p>Given the setbacks on the adjacent and adjoining properties in First Avenue (which are less than what is proposed in this development), and given the bulk and scale of several buildings in immediate area, these statements are agreed with.</p> <p>It is also considered that the parking has been integrated well into the overall site design, in terms of location, orientation and ease of access, and minor landscaping is proposed partway along the eastern boundary of the carpark and in areas between the carpark and First Avenue.</p>
Objective: To ensure clear delineation between the child care facility and public spaces.	
C6 Create a threshold with a clear transition between public and private realms, including: <ul style="list-style-type: none"> ▪ fencing to ensure safety for children entering and leaving the facility ▪ windows placement to provide passive surveillance and connectivity to the street ▪ integrate landscaping and fencing 	<p>There will be select landscaping and fencing at the front of the property that will clearly define the extent of the facility, but will maintain passive surveillance opportunities and connectivity with the street. The fencing will generally be located along the northern edge of the bus drop off lane, to separate the building from the trafficable areas for the safety of the children, and will be open style in nature (similar to pool fencing). Landscaped areas will be provided in areas adjacent the front boundary, and in front of the parking area, and there are a number of windows in the front façade.</p>
C7 Delineate facility from other buildings on-site to improve legibility	<p>Not applicable – site does not contain multiple buildings and access to the facility is clearly identifiable.</p>
C8 Provide an appealing streetscape frontage where the development adjoins public parks, open space or bushland	<p>Not applicable – the site does not adjoin parks or bushland.</p>
Objective: To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain	
C9 Front fences to be constructed of visually permeable materials, and in accordance with local heritage provisions if in a HCA or heritage listed	<p>The front fencing proposed is open style fencing, and is considered suitable, as the site is not heritage listed or located in a heritage conservation area (HCA).</p>
C10 Use of high solid acoustic fencing to shield traffic noise	<p>The site is not on a classified road and will not be subject to unacceptable traffic noise from the either the local road network or the Hume Highway. Accordingly, no acoustic fencing is proposed or required.</p>

Matters for consideration	Comments
3.3 Building orientation, envelope and design	
Objective: To respond to the streetscape and site, while optimising solar access and opportunities for shade	
C11 Orient and design the building layout to: <ul style="list-style-type: none"> ▪ ensure visual privacy and minimise potential noise and overlooking impacts ▪ optimise solar access to play areas ▪ avoid overshadowing of adjoining properties ▪ minimise cut and fill ▪ buildings to address the street. 	<p>The issue of visual and acoustic privacy and the overshadowing of adjacent properties has been discussed at length in Section C1 above, and the orientation and design of the development is considered to have an acceptable impact in this regard.</p> <p>The outdoor play is located on the northern side of the building, which provides an optimal aspect for good solar access, even taking into account landform.</p> <p>It is unfortunate that the development has been unable to minimise cut and fill, due to the slope of the land, which has a fall of almost 8 metres from the north-eastern corner of the site to the south-western corner of the site. This has resulted in a cut of approximately 3 metres in the north-east corner, tapering off towards the western and southern boundaries. However, this has been deemed necessary to ensure that the all aspects of the development are accessible. It also provides additional screening to adjacent properties and reduces the overall height of the development from a streetscape perspective.</p>
Objective: To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised.	
C12 Minimise the impacts on local character: <ul style="list-style-type: none"> ▪ building height consistent with other buildings ▪ building height consistent with the scale and character of the street ▪ setbacks to allow for adequate privacy for neighbours and children at the facility ▪ setbacks provide adequate access for building maintenance ▪ setbacks to the street consistent with the existing character 	<p>The building is single storey, but the western end of the building presents higher when viewed from the street, due to the fall of the land and the larger brick subfloor area at that end (similar to the existing preschool building). The overall height of the building is considered in keeping with the height of other buildings in the area, and the character of the street, with several notable two (2) storey buildings and taller single storey buildings (accommodating the slope of the land), located in the immediate area.</p> <p>In addition, ample setbacks have been provided to allow for ease of access for building maintenance, and those building setbacks are greater than the majority of the setbacks of other buildings in the area. In particular the front setback is the same as the setbacks of the existing preschool and dwelling proposed to be demolished, and is considered consistent with the existing character the street.</p>

Matters for consideration	Comments
Objective: To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context.	
C13 Street setbacks: <ul style="list-style-type: none"> ▪ to a classified road – 10 metres ▪ other road – average of setback of buildings within 50 metres 	The immediate area supports a variety of street setbacks, from zero boundary setbacks to setbacks greater than 15 metres. The site does not front a classified road and the building is setback 8.5 metres from the street, which is a greater distance from the street than many of the other buildings in the area.
Objective: To ensure prevailing side and rear boundary setbacks in the area	
	The building is setback 14 metres from the eastern (side) boundary, 6 metres from the western (side) boundary and 10 metres from the northern (side) boundary. For the most part these setbacks are greater than others within the locality. There is a storage shed located on the western side of the main building, which is setback 2.5 metres from the western boundary, which is consistent with the setback of other ancillary structures in the area.
Objective: To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character.	
C15 Built form to contribute to the character of the local area, by: <ul style="list-style-type: none"> ▪ respecting built form, neighbourhood character, streetscape quality and heritage ▪ contributes to the identity of the place ▪ retaining significant existing built form and vegetation ▪ responding to its natural environment. 	<p>These issues have been largely discussed in sections C5, C11 and C12 above, with particular reference to building height, bulk and scale, colours, streetscape and landscaping, and it has been determined that the development will contribute positively to the character of the area. The SEE states that "the building has been designed to provide interest and make a modern, playful and positive contribution to the streetscape".</p> <p>In terms of heritage, the site is not adjacent any of the mapped heritage conservation areas in Gundagai, but is located nearby several local heritage items, which include the former Gundagai Gaol and the Gundagai Police Station.</p> <p>The former Gundagai Gaol has been identified as a State Significant group of buildings, with a strong and special association with the Gundagai community. It is one of the few remaining gaol compounds dating from 1859 and a rare and largely intact example of its type. The gaol is significant due to the survival of successive phases of use. The former gaol is important in demonstrating the principal characteristics of small gaol complexes designed in the mid-19th century. The proposed development is located approximately 100 metres from the Gaol, and given this setback, there will be no impact on the aesthetic significance of the Gaol.</p> <p>The Gundagai Police Station is evidence of the construction of a police station in Gundagai in 1878-9. The large building, including additions completed in 1891, is evidence that in the late 19th</p>

Matters for consideration	Comments
	<p>century Gundagai was the centre of a large Police District and a gold mining centre. The form, planning, scale and detailing of the police station is evidence of the Victorian Georgian Style and is representative of its type. Its modest and largely intact exterior detailing is appropriate to a rural police station and consistent with its status. The item has a special association with the Gundagai community as a symbol of the district's history of law enforcement. The proposed development is located approximately 50 metres from the Police Station, and given this setback, there will be no impact on the aesthetic significance of the item.</p> <p>In terms of retaining the existing buildings, neither the existing preschool nor the existing dwelling to be demolished are considered significant enough to retain, and would be unable to be successfully retrofitted or added to. The vegetation to be removed is minimal and is not considered significant.</p>
<p>Objective: To ensure that buildings are designed to create safe environments for all users.</p> <p>C16 Provide one secure access point which is:</p> <ul style="list-style-type: none"> ▪ located for ease of pedestrian access, ▪ directly visible and accessible from the street ▪ monitored through surveillance ▪ not accessed through an outdoor play area. 	<p>Pedestrian access to the facility is from the front of the building, which is highly visible and readily identifiable from the street, the on-site parking area and the on-site bus drop-off/pick-up area, and is easily accessed.</p>
<p>Objective: To ensure that child care facilities are designed to be accessible by all potential users</p> <p>C17 Incorporate accessible design standards, that provide accessibility via a continuous path of travel to and within the building, and that links all key areas of the site by level or ramped pathways, including access between the street entry and car parking and main building entrance.</p>	<p>The SEE states that "access to and within the building will be access code compliant. The submitted plans illustrate clearly identifiable paths with minimal grades. A disabled persons compliant car park is provided adjacent to the main entrance of the facility. Access compliant development will be demonstrated with the detailed design".</p>
<p>3.4 Landscaping</p> <p>Objective: To provide landscape design that contributes to the streetscape and amenity.</p>	
<p>C18 Provide appropriate plantings along the boundary integrated with fencing. Use existing landscape and incorporate natural features of the site to provide a high quality landscaped area.</p>	<p>Landscaping and vegetation in and around the existing preschool facility (generally the outdoor play area) will be retained. Additional landscaping will be provided in and around the front of the building, and the SEE states that "new landscaped areas ... will be complementary to the scale, type</p>

Matters for consideration	Comments
	and location of the development. A detailed landscape will be provided for approval with detailed design with the Construction Certificate package".
<p>C19 Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> ▪ planting shade trees in large car parking areas ▪ taking into account streetscape, local character and context ▪ using low level landscaping. 	
3.5 Visual and acoustic privacy	
Objective: To protect the privacy and security of children attending the facility	
C20 Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.	Not applicable – the facility is not part of a mixed use development
C21 Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas	None of the outdoor or indoor play areas are visible from public areas, due to the design of the facility. There may be interrupted views of the outdoor play area from the adjoining private properties of 94 and 90 Punch Street (due to landscaping and fencing), but this is no different from the current situation, as the outdoor play area is to remain unchanged.
Objective: To minimise impacts on privacy of adjoining properties.	
C22 Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments.	This has largely been discussed in Section C1 above. In summary, there will be no overlooking of living areas for private open spaces or the private open space areas for 84 and 88 Punch Street and 18 and 22 Byron Street, due to the substantial setbacks, the proposed cut, the existing landscaping, existing sheds and landform. In terms of the units on 90 Punch Street and the dwelling on 94 Punch Street there will be no overlooking of internal areas due to the height difference (topography) and setbacks, and there will be little or no overlooking of private open spaces due to topography, fencing and vegetation.
Objective: To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.	
C23 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:	This has largely been discussed in Section C1 above. In summary, there is expected to be little or no impact on the acoustic privacy of any of the adjoining or adjacent dwellings, due to the proposed setbacks, topography, the proposed cut and retaining walls, existing and proposed fencing, and building design and location.

Matters for consideration	Comments
<ul style="list-style-type: none"> provide an acoustic fence (solid, gap free fence) along any boundary adjoining a residential property 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. 	The SEE states that "the sloping nature of the development site will require a site cut that will result in retaining walls adjacent to both the eastern side boundary and the parts of the northern rear boundary. The retaining walls will vary in height up to 3.0 metres and form part of a shoring wall structure with acoustic qualities. The development will also retain existing sheet metal boundary fencing above, at existing natural ground level further benefiting acoustic qualities of the site. No mechanical plant or equipment proposed atop or above the roof level. All mechanical plant and equipment will be contained within the services area and setback to the western boundary to reduce any impact of noise on surrounding sensitive land uses".
<p>C24 A suitably qualified acoustic professional should prepare an acoustic report to identify and determine:</p> <ul style="list-style-type: none"> an appropriate noise level for a child care facility an appropriate background noise level for outdoor play areas the appropriate height of any acoustic fence to meet noise criteria 	<p>The SEE states that "having regard for the existing land use and operations of the centre an acoustical assessment is not considered necessary".</p> <p>Based on the justification provided in Sections C1 and C23 above, it is agreed that there is no need for an acoustic report to support the development application in this instance.</p>
3.6 Noise and air pollution	
<p>Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels</p>	
<p>C25 Adopt design solutions (physical separation, orientation, landscaping, materials, openings, etc), to minimise the impacts of noise</p>	The site is located in a predominantly residential area, on a local road, although it is immediately north of the CBD. Accordingly, as the background noise levels are generally low, and based on the design and orientation of the building, materials proposed and fencing and landscaping, it is not considered that there will be an adverse effects of external noise on the facility.
<p>C26 Prepare an acoustic report to identify appropriate noise levels and noise attenuation measures for sleeping areas and other non-play where the facility is located in industrial areas, adjacent airports, rail corridors and major roads, or other noisy landuses.</p>	The site is not located adjacent any of these identified noise transmitters or noisy activities, so no investigation of the noise levels and or attenuation measures is required. The SEE identifies that "the Hume Freeway is located greater than 800m from the site, and the ongoing use of the site will not be adversely affected by the function of the freeway", and this statement is agreed with.
<p>Objective: To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and industrial development.</p>	

Matters for consideration	Comments
C27 Locate facility to avoid or minimise impacts from external sources of air pollution e.g major roads and industrial development.	The SEE states that "there are no sources of potential air pollution in proximity of the site. As previously noted, the Hume Freeway is located greater than 800m from the subject site", and this is agreed with.
C28 Prepare an air quality assessment report for facilities close to major roads or industrial developments	The facility is not close to major roads or industrial developments and therefore an air quality assessment report is not required.
3.7 Hours of operation	
Objective: To minimise the impact of the child care facility on the amenity of neighbouring residential developments.	
C29 Hours of operation in residential areas should be confined to the core hours of 7.00am to 7.00pm weekdays.	Hours of operation will be as per the existing arrangements, being Monday to Friday, 8:00 am to 6:00 pm.
C30 In mixed use areas or commercial areas, the hours of operation should be assessed with respect to its compatibility with adjoining and co-located land uses.	Not applicable – the facility is located in a predominantly residential area.
3.8 Traffic, parking and pedestrian circulation	
Objective: To provide parking that satisfies the needs of users and demand generated by the centre	
C31 Off street car parking to be as per applicable DCP. Where there is no DCP, parking to be at the rate of - 1 space per 4 children.	<p>The centre has been designed to operate at a capacity of 80 children, although it will initially be licensed for 59 children, and will gradually build up as demand increases. At a capacity of 80 children, 20 car parking spaces should be provided under these guidelines. The development proposes fourteen (14) spaces only, which is a shortfall of six (6) spaces.</p> <p>The SEE acknowledges this shortfall, but offers the following justification as to why the shortfall is acceptable and why fourteen (14) spaces is considered appropriate in this instance:</p> <ul style="list-style-type: none"> ▪ the car park area is highly accessible and will coexist and operate in conjunction with existing on-street parking, nearby off-street parking areas and the proposed bus stop that will accommodate private bus services for the facility, ▪ the facility will continue to be serviced by three private bus companies that provide the primary mode of transport for an average of 61% of enrolled children on a daily basis, ▪ an average of 5% of children walk/ride bicycles to the centre on a daily basis, ▪ the balance of daily enrolled children are dropped off and/or collected from the centre via private car equating to approximately 34% of enrolments,

Matters for consideration	Comments
	<ul style="list-style-type: none"> ▪ based on the above statistics, the car parking facility when utilised under the centre's full capacity, would likely be only 34% utilised by parents in private vehicles. This equates to approximately 7 spaces or 50% of the 14 proposed (34% of 80 = 27.2 children, and 27.2 children ÷ 4 children = 6.8 spaces), ▪ these occupancy rates would predominantly occur during the peak pick and drop off times of: 8:30 am – 9:30 am and 2:50 pm and 3:30 pm, and are spread over these times, ▪ a small percentage of parents have preferred to utilise off-site and on street parking and walk short distances to the centre. <p>In addition to the above justification, whilst the area is a mixture of residential, community and commercial uses, it is predominantly residential, and the community uses (Churches and Scouts) are intermittent. The residential density is very low, and all dwellings have ample off-street parking, and traffic movements along First Avenue are comparatively low. In addition, there is separate access to the service area which is located at the western end of the building, totally separate from the car parking area.</p> <p>Based on this and the above justification, it is considered that sufficient grounds have been established to support a variation of the recommended parking arrangements, and that the six (6) space shortfall does not justify refusal of the application.</p>
C32 In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses.	Not applicable – the development is not in an industrial or commercial zone and is not part of a mixed use development.
C33 A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts.	Given the nature of the area, the road network, and the design of the development (low traffic, one-way street, off-street bus bay, separation of service area and parking area), a traffic study was not deemed necessary. The Applicant has clearly identified the potential traffic generation, the modes of transport and likely percentages thereof, based on current numbers at the facility. As identified in Section C31 above the majority of the children are expected to arrive and depart the facility by school buses, which already service the centre, and whilst there will be an impact in the number of cars frequenting the facility, the road network is considered adequate to handle this increase, without impacting on the service levels of the road network, or creating safety issues.

Matters for consideration	Comments
<p>Objective: To provide vehicle access from the street in a safe environment that does not disrupt traffic flows</p>	
C34 Alternate vehicular access should be provided where site front a classified road roads which carry freight traffic or transport dangerous goods or hazardous materials.	Not applicable – the site does not front a classified road, and the local road network does not typically accommodate freight traffic or vehicles that transport dangerous or hazardous goods and materials. In any event, there is no opportunity to provide alternate access as there is no secondary or rear street frontage.
C35 Child care facilities proposed within cul-de-sacs or 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	Not applicable – the site is not within a cul-de-sac or located on a narrow road, but in any event, access to and from the site is considered satisfactory for everyday use and in the event of an emergency.
<p>Objective: To provide a safe and connected environment for pedestrians both on and around the site</p>	
<p>C36 Incorporate the following design solutions to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> ▪ separate pedestrian access from the car park to the facility ▪ include pedestrian crossings within large car parks ▪ separate pedestrian and vehicle entries from the street for parents, children and visitors ▪ pedestrian paths that enable two prams to pass ▪ delivery and loading areas located away from the main pedestrian access to the building ▪ vehicles can enter and leave the site in a forward direction. 	<p>The SEE States that "the design of the centre has been undertaken to minimise pedestrian and vehicle conflicts. This will result in the safest environment possible for users of the centre". Some of the design solutions adopted include:</p> <ul style="list-style-type: none"> ▪ children being dropped off/picked up, either by bus or private vehicle, can access the centre without having to cross either the car park, the access way or drop off area - there are three (3) separate access gates into the main fenced front area, from those areas, ▪ the service area is in a separate part of the site (western side of the building), remote from the car park on the eastern side, ▪ all vehicles can enter and exit the centre in a forward direction.
<p>C37 Mixed use developments should:</p> <ul style="list-style-type: none"> ▪ separate access and parking areas for the facility from those areas used by trucks, ▪ have exclusive drop off and pick up zones. 	Not applicable – the facility is not part of a mixed use development.

Matters for consideration	Comments
C38 Car parking design should: <ul style="list-style-type: none">▪ include a child safe fence to separate car parking areas from the entrance and play areas▪ provide accessible parking as close as possible to the primary entrance to the building▪ include wheelchair and pram accessible parking.	The car park is adjacent to, but separated from, the building, the outdoor areas and the main access/egress area of the facility, by child safe fencing. The car park proposes one (1) accessible parking space, which is located in close proximity to the entrance of the facility, which will be connected by a compliant pathway, all of which will be in accordance with the relevant Australian Standards.

Part 4. Applying the National Regulations to development proposals

4.1 Indoor space requirements – the indoor space requirements of 3.25 m² per child has been met.

4.2 Laundry and hygiene facilities – the Regulations require that a laundry facility be provided on-site or that an external laundry service is used. If provided on-site, the laundry must contain a washer, a dryer, a laundry sink and adequate storage for soiled items prior to cleaning. The plans show a laundry cupboard/room off the balcony and the Applicant has confirmed that it will have the required fixtures.

4.3 Toilet and hygiene facilities – the Regulations require that the facility must ensure that adequate, developmentally and age appropriate toilet, washing and drying facilities are provided for use by the children, and that they are safe to use, convenient to access and maintain amenity and dignity. Each room has its own set of toilets that are assumed to be aged appropriate.

4.4 Ventilation and natural light – Given the orientation of the facility (to the north) and the design of the building (large walls of sliding glass doors for each room, that open onto the verandah), it is considered that the facility has been provided with suitable ventilation and adequate natural light. This will be further assessed in relation to the *National Construction Code* as part of the assessment of a Construction Certificate.

4.5 Administrative space – the development proposes an administration area, that is sufficient in size to carry out the administrative functions of the facility, and includes a Director's Office, that can be used to conduct private conversations with parents, staff or visitors to the facility.

4.6 Nappy change facilities – a nappy change area is proposed in the WC area of the 0-18 months old room, which satisfies this standard.

4.7 Premises designed to facilitate supervision - due to the large glass sliding doors provided to each of the rooms, there is direct line of sight between the rooms and the outdoor play areas, and the bathrooms have been designed to allow for adequate supervision.

4.8 Emergency and evacuation procedures – an emergency and evacuation plan will need to be developed relative to the new facility, prior to the facility being licenced.

4.9 Outdoor space requirements - the outdoor space requirements of 7 m² per child has been well exceeded.

4.10 Natural environment – the existing outdoor play area will be retained and enhanced where necessary, to allow the children to explore and experience the natural environment. The existing landscaping and sandpits will be retained.

4.11 Shade – the existing outdoor play area has natural shade from trees and is supplemented by an existing shade sail, all of which are to be retained. The proposed verandah on the northern side of the building, will provide additional shading.

4.12 Fencing – the fencing proposed is designed to prevent children climbing under, over or through the fencing, and will be a combination of solid and open style fencing, depending on the streetscape and privacy needs of the facility.

4.13 Soil assessment – the Regulations require a soil assessment to be carried out, which will be conditioned (see SEPP 55 below as well). This involves either a soil testing to be carried out on site, or that a statement be provided 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. Due to the potential for naturally occurring asbestos, soil testing will be required.

A general condition will be imposed requiring compliance with the *Education and Care Services National Regulations*, to ensure compliance with the above standards.

- *Clause 25 (Centre-based child care facility—non-discretionary development standards)* – this clause identifies standards, that if met by the development, prevents Council asking for a more onerous standard. This relate to the location of the facility in relation to other similar facilities, indoor and outdoor space requirements, site area and dimensions and the colour of building materials or shade structures. Council does not intend to regulate any of these matters.
- *Clause 26 (Centre-based child care facility—development control plans)* – this identifies certain matters that a DCP cannot regulate, but is not relevant to this application, as the former Gundagai LGA does not have a DCP.

SEPP No. 55 – Remediation of Land

Clause 7(1) prescribes that a consent authority must not consent to the carrying out of any development on land, unless it has considered whether the land is contaminated. The site is not identified on Council's potentially contaminated land register, and there is no evidence to indicate that the land is a site of possible contamination from past landuses (historical aerial photography from 1961 onwards, shows the only uses since 1961 have been residential and the preschool).

The SEE identifies that both the dwelling and the preschool building have the potential for containing asbestos due to the age, and further investigation prior to demolition is required by a suitably qualified professional, to ensure any asbestos is identified and removed properly.

The Gundagai region is also known for having areas of naturally occurring asbestos (NOA), and the site has been mapped as have a high potential for NOA. This places obligations on the person who has the control or management of the work site under the *Work Health and Safety Regulation 2017*, and under Council's Asbestos Policy, requires testing to determine if asbestos is present, and if it is will require the preparation of an asbestos management plan.

Appropriate conditions will be imposed in relation to these matters.

SEPP (Vegetation in Non-Rural Areas) 2017

Not applicable as tree removal is being considered as part of this development application.

SEPP No. 64—Advertising and Signage

The SEE and plans indicate that a low height, non-illuminated pylon signage will be erected adjacent the front boundary of the car park, and will take the form of a business identification sign (a sign that indicates the name of the business and nature of the business, and may include the address and logo or other symbol that identifies the business). The sign as shown on the plans is 2.2 metres long and 1 metre high.

Part 2 of the SEPP applies, and requires any signage to:

- comply with the aims and objectives of the SEPP,
- satisfy the assessment criteria specified in Schedule 1 of the SEPP.

Staff are satisfied that the signage proposed on-site is consistent with the following aims of the SEPP, which are to ensure that signage:

- (i) *is compatible with the desired amenity and visual character of an area* - the size is appropriate, it is well setback from the street, and it integrates into the overall design of the facility,
- (ii) *provides effective communication in suitable locations* - the sign is appropriately located and is easily seen from the public domain.
- (iii) *is of high quality design and finish* – the sign will be constructed of appropriate materials and will be properly maintained (to be conditioned).

In terms of satisfying the assessment criteria in Schedule 1 of the SEPP, the following comments are provided:

- *signage is compatible with the existing or desired future character of the area* – the sign is modest in size, which is in keeping with a property on the interface of a business and residential zone,
- *it does not detract from the amenity or visual quality of the area* – the sign is modest in nature, and is setback from the street boundary, so that it does not detrimentally impact on the visual quality of the area,
- *it does not obscure or compromise important views* – satisfied as the sign is located wholly within the property, and is low in height, so it sits well below the surrounding landform,
- *it doesn't dominate the skyline and reduce the quality of vista* – the sign does not protrude above the skyline, being only 1 metre in height and ground-mounted,
- *it respects the viewing rights of other advertisers* – it does not impede or block other signs,
- *the scale, proportion and form of the signage is appropriate for the streetscape* - it is of a height and bulk that is consistent with the proposed building, and has an acceptable impact on the streetscape,
- *the sign does not protrude above the buildings, structures in the area* – the sign sits well below the proposed building, and any adjacent buildings or structures in the area,
- *the signage is compatible with the scale, proportion and other characteristics of the building, on which the proposed signage is to be located* – the sign is small and discreet and sits comfortably adjacent the proposed building in terms of scale,
- *illumination and glare and safety* – the sign is not illuminated,
- *it will not reduce the safety for any public road, pedestrians or bicyclists or obscure sightlines* – the sign is not near an intersection and is located fully on the property behind and parallel to the proposed access to the carpark, so it will not impede vision for cars, and therefore will have no impact on road safety.

Overall, Staff are of the opinion that the signage proposed is appropriate.

Local Environmental Plan (LEP)

The applicable LEP is the Gundagai LEP 2011 (CLEP), and the relevant provisions of the LEP are discussed as follows.

1.2 Aims of Plan

The subdivision is largely consistent with the aims of the LEP, in that it will have no impact on the riparian setting of the town, and will have no impact on important fauna and flora, indigenous and non-indigenous heritage or crop and pasture land. It will however,

encourage economic growth and employment creation in Gundagai, and will complement the primary business area along Sheridan Street.

1.4 Definitions

The proposed development is defined as follows:

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)).

1.6 Consent authority

The consent authority for the purposes of this Plan is (subject to the Act) the Council.

1.9A Suspension of covenants, agreements and instruments

There are no known easements or covenants on or over the land.

2.1 Land use zones

The site is zoned R1 General Residential, and the proposed development is permitted in the zone with consent.

2.3 Zone objectives

Under this clause Council must have regard to the objectives of the zone when determining the development. The development, whilst not actively working towards every objective, is considered to be consistent with the following objective:

- *to enable other land uses that provide facilities or services to meet the day to day needs of residents* – this development provides a facility that meets the needs of the local community, and is set in a convenient location on the interface of the residential and commercial areas, and is a use that can fit comfortably into either zone.

The remainder of the objectives are not specifically related to the proposed use.

2.6 Subdivision—consent requirements

The proposal does not involve subdivision, but requires the consolidation of the land, which is being undertaken as exempt development.

2.7 Demolition requires development consent

This development does involve demolition work, and approval has been sought as part of this application. This aspect will be appropriately conditioned.

5.10 Heritage conservation

There are no heritage items on-site (identified on either the SHR or in the LEP), and the site is not located in a HCA. The heritage considerations and impact on nearby heritage items is discussed at length in Sections C9 and C15 above, and concluded no impact is expected. Given the highly developed and disturbed nature of the site (as a result of past development) a search of the AHIMS database was not done in this instance, and the likelihood of disturbing indigenous artefacts or relics is considered low. Nonetheless, an unexpected finds condition will be imposed.

6.1

Biodiversity protection

This clause applies to land that is identified as sensitive land on the Natural Resources Sensitivity Biodiversity Map. Parts of the site are mapped as such (see light green shaded area on adjacent aerial imagery). The development does involve the removal of a small number of trees and shrubs from this area (see photos below), but that they are not considered to be significant, nor do they provide any substantial habitat or food source. Overall there will be no adverse impacts on native ecological communities, the habitat of any threatened species, populations or ecological community, regionally significant species of fauna and flora or habitat, and do not form any effective habitat corridors.

Figure 9 - LEP biodiversity mapping**Photo 4 - Trees along eastern boundary of 87 First Avenue (southern end)****Photo 5 - Trees along eastern boundary of 87 First Avenue (northern end)****Photo 6 - Trees in rear yard 87 First Avenue**

6.2 Land protection

This clause applies to land identified as “sensitive land” on the *Natural Resources Sensitivity Land Map*, but the site is not mapped as being affected, and accordingly this clause is not applicable.

6.3 Water protection

This clause applies to land that is identified as “sensitive land” on the Natural Resources Water Map, and the whole of the site has been identified as being affected. As the property is connected to reticulated sewer, and there are no potentially contaminating uses being proposed, there will be no impact adverse impacts on ground or surface water.

6.4 Flood planning

The site is not affected by the 1% AEP for mainstream flooding, as shown in the 2018 Flood Study, but is partially affected by overland flow (see flood contours on adjacent figure). What this shows, when compared to the levels shown on the site plan, is that between approximately 100 mm and 400 mm of water flows across the site, at various locations. A draft stormwater management plan has been lodged that indicatively shows how stormwater will be collected, managed and discharged. The plan includes a series of stormwater inlet pits throughout the carpark, the outdoor play area and the front yard area, to intercept surface waters/overland flow, prior to discharging to Council’s stormwater system. Council’s Engineers have raised concerns with regards to pipe size, surcharging of water onto the footpath and connection to Council’s stormwater system. Accordingly, the size of the pits and pipes will need to be assessed as part of the construction certificate phase, to ensure that they are adequate to manage the stormwater. Provided this infrastructure is sized correctly, the development should not adversely affect flood behaviour and is not likely to adversely affect the environment. It is considered that the site is compatible with the flood hazard and incorporates appropriate measures to manage risk to life from overland flow (see also earthworks section below).

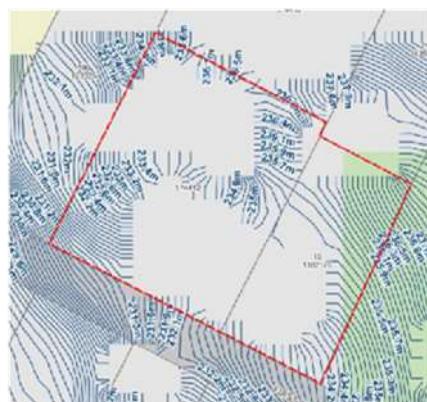
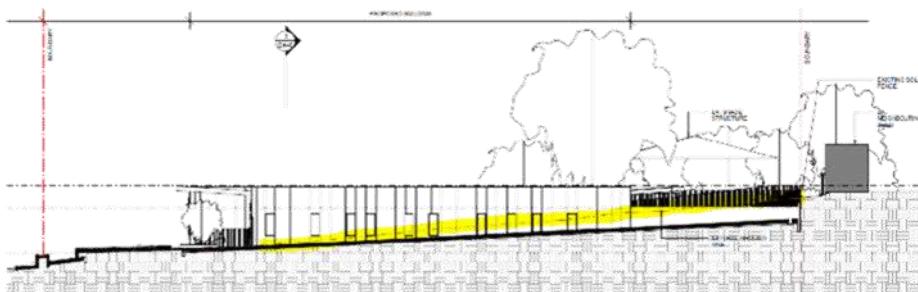
Figure 10 - Overland flow mapping

Figure 11 – Eastern elevation

The SEE states that “the development will undertake earthworks to create an appropriately graded and level building and carpark. Bulk earthworks and site trimming for the development will be undertaken in both stages and will not require any fill to be imported to the site. The developments design requires the site cut to be retained by a retaining and shoring wall, to be located on the north and eastern boundary adjacent to the proposed car park”.

The submission received raised concerns about the extent of the cut and the proximity of the cut to the existing shed on the adjacent property to the north. Whilst the cut is substantial, it is largely unavoidable due to significant fall across the site from the north-eastern corner to the south-western corner of the site, and the need to make the car park and the building accessible. Conditions will be imposed to address the concerns of the neighbour in relation to the adjacent shed, and will involve:

- the preparation of a dilapidation report on the two (2) adjacent sheds (directly behind 87 First Avenue), both prior to construction being carried out and after construction is completed. The dilapidation reports will detail the condition of the sheds (including any damage), before and after construction,
- a condition that requires any damage caused to the adjacent sheds by the development, to be rectified by the developer, at their cost,
- conditions relating to the shoring of the adjacent property,
- conditions relating to the engineering design and structural integrity of the proposed retaining walls, including stormwater drainage.

In further assessing this issue, Council must consider the following factors:

- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality* – the cut undertaken will impact on the drainage pattern of the overland flow in terms of intercepting the run-on water onto the site, and then how it is to be managed through the site, to the point of discharge to First Avenue. Consideration will need to be given to subsurface drainage behind the retaining wall as well as the collection points throughout the site, with a final stormwater management plan and associated hydraulic calculations to be required as a condition of consent. If managed properly there is unlikely to be any detrimental impacts on the existing drainage patterns.
- (b) *the effect of the proposed development on the likely future use or redevelopment of the land* - the earthworks proposed are required to facilitate the proposed development, and will not be undertaken if the project does not go ahead.
- (c) *the quality of the fill or the soil to be excavated, or both* – no fill is expected to be required due to the extensive cut proposed, and soil testing is required under both the *Education and Care Services National Regulations* (Regulation 25) and SEPP 55, as

discussed previously. This will determine how and where the excess soil can be disposed of.

- (d) *the effect of the proposed development on the existing and likely amenity of adjoining properties* – the earthworks will provide additional screening from an amenity perspective (visual and acoustic), and will therefore have a positive effect.
- (e) *the source of any fill material and the destination of any excavated material* – no fill is proposed to be imported to the site, and soil testing will determine where the excavated soil can be disposed of, or if it can be reused.
- (f) *the likelihood of disturbing relics* – the likelihood of disturbing relics is considered low, but an unexpected find conditions has been imposed.
- (g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area* – the earthwork is not expected to have any impact on any of the identified features, with conditions proposed relating to sedimentation and erosion control.

6.6 Essential Services

Development consent must not be granted to development unless Council 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* – both the existing preschool and dwelling have water connections and meters to the main in First Avenue. Both meters appear to be suitably located to service the new development, and a final decision on which service is to be retained and which service is to be removed, will be made at the construction phase,
- (b) *the supply of electricity* – overhead power is located on the southern side of First Avenue, and is connected to the both properties. New connections (if required), is relatively straightforward,
- (c) *the disposal and management of sewage* – both the preschool and the dwelling have separate connections to Council's sewer main, which is located along the front boundary of the property. As part of the development, a single service will be provided to service the development, which may include the removal of one or both existing sewer junctions,
- (d) *stormwater drainage or on-site conservation* – a detailed stormwater management plan will be required as discussed above in the flooding and earthworks sections,
- (e) *suitable road access* – First Avenue is suitable for access to the development. All redundant crossings shall be removed, and new crossings constructed to Council's specifications.

4.15(1)(a)(ii) The provisions of any draft environmental planning instrument:

State Environmental Planning Policies (SEPPs)

There are no draft SEPP's which relate to this development.

Local Environmental Plan (LEP)

There are no draft LEP's which apply to this land.

4.15(1)(a)(iii) The provisions of any development control plan:

There is no development control plan (DCP) that applies to the land.

4.15(1)(a)(iiia) Any planning agreement or draft planning agreement:

The developer has not entered into a planning agreement, nor has offered to enter into a draft planning agreement.

4.15(1)(a)(iv) Matters prescribed by the Regulations:

Council has considered the following matters as prescribed by Regulations:

Clause 92 (Additional matters for consideration): -

- the development application does involve the demolition of a building, and appropriate conditions have been imposed in relation to AS 2601 - The demolition of structures,
- the development is not for the carrying out of development on land that is subject to a subdivision order made under Schedule 7 to the Act,
- the development is not located within the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle (to which the Dark Sky Planning Guideline applies),
- the development does not pertain to a manor house or multi dwelling housing (terraces),
- the development is not for the erection of a building for residential purposes on land in Penrith City Centre.

Clause 92A (Additional matters for Wagga Wagga)

- the development is not in Wagga.

Clause 93 (Fire safety and other considerations)

- the development is not for a change of building use for an existing building.

Clause 94 (Consent authority may require buildings to be upgraded)

- the development does not involve the rebuilding, enlargement or extension of an existing building, rather a total rebuild.

Clause 94A (Fire safety and other considerations - temporary structures)

- the development is not for a temporary structure.

Clause 288 (Special provision relating to Sydney Opera House)

- the development does not relate to the Sydney Opera House.

4.15(1)(b) The likely impacts of that development:***Context and Setting:***

The surrounding area is a mixture of commercial, residential and community uses, and the impacts of the development on the character and amenity of the area have been assessed as being acceptable, with little or no impact in terms of overshadowing, views or acoustic privacy (see also Sections C1- C5, C8 – C9, C11 - C15 and C20 – C23 above).

Access, Transport and Traffic:

Access to the site, car parking and traffic impacts have been considered at length in Sections C31, C33, C36 and C38 above), and the impacts of the development have been found to be acceptable.

Public Domain:

The development will not impact negatively in terms of such things as recreational opportunities, or the amount, location, design, use and management of public spaces. The issue of pedestrian

linkages and access between the development and public areas has been discussed in Sections C16, C36 and C38, and are satisfactory.

Utilities:

The issue of utilities has been discussed above in relation to Section 6.6 of the LEP (essential services) and all required services are readily available. There are no s64 contributions applicable, as there are no plans in place in the former Gundagai LGA.

Heritage:

There will be no likely impact on Aboriginal or European heritage, as a result of the development, as discussed in relation to Section 5.10 (heritage conservation) of the LEP above, and Sections C9 and C15 above.

Other Land Resources:

The development will not have any adverse effect on conserving and using valuable land resources such as productive agricultural land, mineral extractive resources or water supply catchments.

Water:

The issue of water supply and impact on ground and surface water is discussed above, in relation to Sections 6.4 (flooding), 6.5 (earthworks) and 6.6 (essential services) of the LEP.

Soil:

Given the extent of the earthworks proposed and high level of construction, there is potential for erosion and transportation of sediment from the site. Appropriate conditions have been imposed in this regard.

Air and Microclimate:

The development will have no effect on air quality and microclimatic conditions in terms of existing air quality or pollution.

Flora and Fauna:

The development does result in the removal of a small number of trees and shrubs, none of which are considered significant from a biodiversity perspective. This issue has been discussed above in relation to Section 1.7 of the Environmental Planning and Assessment Act 1979, and clause 6.1 of the LEP, and it has been concluded that the development will not have any impact on critical habitats, threatened species or populations, ecological communities or any other protected species, or on native fauna or vegetation.

Waste:

The same type of waste will be generated from the development, as present, generally being domestic type and general waste, but in larger quantities. A suitable area for the storage and collection of bins is to be provided to the west of the building.

Construction waste will include such things as excavated soil, excess building materials and other general waste. This waste will be collected in designated receptacles within the works areas for either reuse in future construction and/or landscaping as appropriate or disposal to approved waste disposal locations.

Energy:

A Part J assessment under the Building Code of Australia is required to be prepared as part of obtaining a construction certificate, which requires minimum levels of energy efficiency to be achieved for non-residential buildings. The issue of sustainability and energy efficiency is also

discussed in relation to Principle 4 (sustainability) of Part 2 of the Child Care Guidelines, and Section C11 of Part 3 of the Childcare Guidelines.

Noise and Vibration

The issue of noise and the impacts on the amenity of the neighbourhood has been discussed at length in relation to Sections C1 and C20 to C34 of Part 3 of the Child Care Guidelines above, and are considered acceptable.

Natural Hazards:

There are no known risks to people, property or the biophysical environment from geologic or soil instability, bushfire or mainstream flooding. The issue of overland flow of water has been discussed in relation to Clause 6.4 (flooding) of the LEP, above.

Technological hazards

There are no known risks to people, property or the biophysical environment from industrial and technological hazards, land contamination and remediation or building fire risk.

Safety, security and crime prevention

The design of the development has taken in to consideration the safer by design principles, as discussed above in relation to Principle 7 (safety) of Part 2 of the Child Care Guidelines.

Social Impacts in the Locality:

It is not considered that the development will have a negative social impact in terms of the health and safety of the community, social cohesion, community structure, character, values or beliefs, social equity, socio-economic groups or the disadvantaged, and social displacement. It is considered that the development sits comfortably in the existing social landscape, and will provide increased preschool capacity consummate with community demand, in a highly accessible location.

Economic Impact in the Locality:

The proposed development will provide both immediate short-term economic benefit during the construction phase, and longer-term benefits in terms of increased employment at the facility, a greater need for local services, and freedom for more parents and care-givers to pursue additional employment opportunities.

Site Design and Internal Design:

Firstly, the development has been designed to comply with the *Child Care Planning Guideline* and the *Education and Care Services National Regulations*. Secondly, it has been designed to respond to the local area and the site, in terms of site coverage, the position of the buildings, and the size, form, appearance and design of buildings (see Sections C2, C5 and C11 to C15 of Part 3 of the Child Care Guideline above).

Construction Matters:

Appropriate conditions will be imposed in relation to construction impacts. Whilst there may be impacts, they will be transient and short-lived.

Cumulative impacts

Nil adverse cumulative impacts have been identified.

4.15(1)(c) - The suitability of the site for the development:***Does the proposal fit in the locality ?***

The development will result in a development that fits in the locality. There are no constraints posed by adjacent developments that would prohibit the development. It is considered that the air quality and microclimate are appropriate for the development, and there are no hazardous landuses or activities nearby, and ambient noise levels are suitable for the development.

Are the site attributes conducive to development ?

The site is not subject to natural hazards including mainstream flooding, bushfire, subsidence, slip or mass movement. The soil characteristics are appropriate for the development (subject to confirmation by testing), and there are no critical habitats, or threatened species, populations, ecological communities or habitats on the site. The development will not prejudice future agricultural production and there are no known mineral or extractive resources on the site. This issue of potential site contamination has been discussed previously.

4.15(1)(d) - Any submissions made:

The issues raised in the submissions have been dealt with, other than the cost of fencing. A condition will be imposed ensuring all fencing costs are met by the developer.

4.15(1)(e) - The public interest:

The Riverina Murray Regional Plan 2036 has been developed to plan for future population's needs for housing, jobs, infrastructure and a healthy environment, in the Region. The development is not inconsistent any of the Directions in the Plan.

An assessment of the application has been made against the relevant considerations of the *Child Care Planning Guideline* and the *Education and Care Services National Regulations*, and Staff are not aware of any other policy statements from either Federal or State Government that are relevant to this proposal, nor any planning studies or strategies.

Overall, the proposal would not contravene the public interest.

OTHER MATTERS:**Section 7.11 and 7.12 Contributions Policies:**

Section 7.12(2) of the EPA Act, states that "*a consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 7.11*". Accordingly, Council can only require payment of either a 7.11 or 7.12 contributions.

Section 7.11 Contributions Plans

The only Section 7.11 plan in force is the "Development Generating Heavy Vehicle Usage of Local Road", which only applies in Gundagai, but is not relevant to this development.

Section 7.12 Contributions Plans

The *Cootamundra-Gundagai Regional Council Section 7.12 Fixed Development Consent Levy Contributions Plan 2018*, applies to this development, as follows:

Proposed Cost of the Development	Maximum Percentage of the Levy	Contribution payable
Up to \$100,000	Nil	N/A
\$100,001-\$200,000	0.5 %	N/A
\$200,001 +	1 %	Cost = \$ 1,500.000 ∴ Contribution = \$ 15,000

Disclosure of political donations and gifts:

The application and notification process did not result in any disclosure of Political Donations and Gifts.

FINANCIAL IMPACTS:

Nil impacts for Council as consent authority

POLICY IMPACTS:

Nil

ORGANISATIONAL IMPACT:

Nil

RISK MANAGEMENT IMPACTS:

Nil

LEGAL ISSUES:

Nil

CONCLUSION:

Council has considered the all matters under the relevant legislation, and it considers that the proposed development is appropriate having regard to those matters, and that any impacts can be managed through appropriate conditions.

RECOMMENDATION:**Determination:**

That Council approve the following development, subject to the consent conditions below:

- Application No.: DA2021/062
- Property: Lot 13 DP 1102375 and Lot 2 DP 574412
87 and 89 First Avenue
GUNDAGAI NSW 2722
- Development: Centre-based child care facility - to demolish the existing preschool building and dwelling house, and to construct a new preschool and kindergarten facility, including a new car park, bus stop, landscaping, signage and outdoor play areas.

Conditions:**PART A – ADMINISTRATIVE CONDITIONS****Compliance with plans**

A1. The developer shall carry out the development generally in accordance with the following plans and documentation:

Statement of Environmental Effects, dated May 2021, prepared by Habitat Planning			
The following plans, prepared by NBRS Architecture:			
Drawing No.	Version	Content	Date of plan
20124-NBRS-A-DA03	3	Site plan	06.05.2021
20124-NBRS-A-DA04	3	Existing and Demolition - Stage 1	06.05.2021
20124-NBRS-A-DA05	3	Existing and Demolition - Stage 2	06.05.2021
20124-NBRS-A-DA10	3	Floor plan	06.05.2021
20124-NBRS-A-DA11	3	Roof plan	06.05.2021
20124-NBRS-A-DA30	3	External building elevations	06.05.2021
20124-NBRS-A-DA31	3	External building elevations	06.05.2021
20124-NBRS-A-DA32	3	External building elevations	06.05.2021
20124-NBRS-A-DA60	3	Materials schedule	06.05.2021
20124-NBRS-A-DA70	3	Finishes Board	06.05.2021

Parameters of consent

A2. This consent permits the facility to be licenced for a maximum capacity of eighty (80) children.

Compliance with plans and inconsistencies between documents

A3. In the event of an inconsistency between the documents and/or plans referred to above, the latter documents and/or plans, shall prevail to the extent of the inconsistency.

A4. In the event of an inconsistency between the conditions of this consent and the documents and/or plans referred to above, then the conditions of this consent shall prevail to the extent of the inconsistency.

A5. No departure from the approved plans and specifications shall be made unless the prior approval of Council has been obtained in writing (i.e Section 4.55 modification or new development consent).

Cost of works

A6. All works associated with the proposal, or required by this consent, will be at no cost to Council.

A7. All works associated with the cost of the retaining walls and fencing shall be by the developer, and not any adjoining or adjacent land owner.

Compliance with legislation

A8. All building and construction works must be carried out in accordance with the requirements of the:

- Building Code of Australia*,
- Environmental Planning and Assessment Act, 1979*, and the Regulations made thereunder, and
- Education and Care Services National Regulations*.

PART B - PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**Consolidation of land**

B1. Prior to a construction certificate being issued Lot 13 DP 1102375 and Lot 2 DP 574412, shall be consolidated into a single lot, by way of a plan of consolidation registered with NSW Land Registry Services.

Section 7.12 Contributions

B2. Prior to the issue of construction certificate, a contribution is required towards the provision of public amenities and services, in accordance with the Cootamundra-Gundagai Regional Council Section 7.12 Fixed Development Consent Levy Contributions Plan 2018.

Section 7.12 contributions are calculated on the estimated cost of development as specified on the Development Application at time of lodgment and may be subject to change with the coming of a new financial year or revised estimated cost of development.

The contribution payable with respect to this application is 1 % of the cost of the development (\$ 1,500,000), being \$ 15,000.

Retaining walls

B3. The retaining walls shall be designed by an appropriately qualified and certified structural engineer, and details shall be submitted to and approved by the Principal Certifying Authority, as part of the application for a construction certificate. Adequate provisions are also to be made for drainage, and specific consideration shall be given to overland flow, as identified in the *Gundagai Floodplain Risk Management Study and Plan* (December 2018).

Stormwater

B4. A comprehensive stormwater drainage system shall be designed by a suitably qualified practising Civil or Hydraulic Engineer or other suitably qualified professional. The plan shall be submitted to, and approved by, Council, prior to the issue of a construction certificate. The plan shall include, but not necessarily be limited to, the following:

- (a) detailed engineering design plans for the management of stormwater, to collect and treat all stormwater generated by the proposed development (from roofs and hardstand areas),
- (b) specifically addressing run-on and overland flow, as identified in the *Gundagai Floodplain Risk Management Study and Plan* (December 2018),
- (c) stormwater drainage as it relates to the proposed retaining walls,
- (d) the hydraulic requirements, discharge details, pipe sizes, pit details and conveyance and disposal details,
- (e) the risk of water surcharging onto the footpath,
- (f) connection into Council's stormwater drainage system,
- (g) the hydrology and hydraulic calculations shall be based on models described in the current edition of *Australian Rainfall and Runoff*,
- (h) provision of a minimum of a 10,000 litre rainwater tank,

(h) incorporating escape paths for overland flow of water in the event of a major rainfall event. The escape paths shall be properly constructed overflow channels for floor relief for the 100 year ARI event.

Sedimentation and erosion controls

B5. Prior to the issue of a construction certificate, a detailed erosion and sedimentation control plan shall be submitted to, and approved by, Council.

Construction management plan

B6. A management plan to address demolition and construction activity access and parking is to be prepared to ensure that suitable provision is available on site for all vehicles associated with the construction of the development to alleviate any need to park within, or load/unload from the road reserve of First Avenue. Appropriate signage and fencing is to be installed and maintained to effect this requirement.

Plumbing and drainage approvals

B7. Prior to a construction certificate being issued, a plumbing and drainage approval for the proposed plumbing works and installation of any liquid trade waste pre-treatment devices (e.g dry basket arrestor in the main kitchen), shall be obtained from Cootamundra-Gundagai Regional Council, in accordance with Section 68 of the *Local Government Act 1993* and *Liquid Trade Waste Regulation Guidelines*.

Landscaping plan

B8. A detailed landscaping plan shall be submitted to, and approved by Council, prior to a construction certificate being issued.

PART C - PRIOR TO COMMENCEMENT OF WORK**Asbestos**

C1. Prior to work commencing on-site, the dwelling and existing preschool building shall be inspected by a suitably qualified person, for the presence of asbestos. In the event of asbestos being discovered, its removal shall be in accordance with the relevant conditions of this consent (see Part D of this consent).

C2. Prior to work commencing on-site, testing for the presence of naturally occurring asbestos (NOA) shall be undertaken, in accordance with the Council's Asbestos Policy (Section 5.1). In the event that NOA is found, an asbestos management plan shall be prepared in accordance with the requirements of the *Work Health and Safety Regulation 2017*.

Construction certificate

C3. Prior to construction work commencing on-site a Construction Certificate must be obtained from Council or a Registered Certifier.

Dilapidation report

C4. A dilapidation report prepared by a professional engineer, accredited building surveyor or other suitably qualified person must be submitted to the satisfaction of the Principal Certifying Authority prior to commencement of any demolition, excavation or building works.

The dilapidation report shall include the two (2) sheds and ancillary works (e.g concrete slab), located on 88 Punch Street, Gundagai, directly behind 87 First Avenue, Gundagai, and shall detail the current condition and status of the structures (including photographs).

Sedimentation and erosion controls

C5. Prior to work commencing, the measures contained in the approved erosion and sedimentation control plan shall be implemented on-site, and shall be maintained in good working condition, throughout the life of the project.

Builders Toilet

C6. The applicant shall ensure that a suitable builders' toilet is situated on the property prior at the time of the first inspection, prior to commencing construction.

Site Security

C7. Access to the site shall be restricted by way of safety/security fencing and the access point clearly delineated.

Protection of trees

C8. All trees on the site (not approved for removal), and that may be threatened by the works, are to be suitably protected in accordance with *AS 4970-2009 Protection of trees on development sites*, by way of tree guards, barriers or other measures as necessary in order to protect tree root systems, trunks and branches, during construction.

Construction signage

C9. No more than two signs shall be erected at the front of the site to display the following details. At least one of these signs shall have the following minimum information:

- the name of the Principal Certifying Authority, their address and telephone number;
- the name of the person in charge of the work site and telephone number at which that person may be contacted outside working hours;
- that unauthorised entry to the work site is prohibited.

The signs shall be maintained to a tidy and legible standard at all times and must be removed when the work has been completed.

C10. A notice bearing the lot number and the builders name and license number shall be prominently displayed at the front of the land from the time work commences, until the building is complete, or an occupation certificate is issued.

PART D – DURING DEMOLITION, CONSTRUCTION AND THE CARRYING OUT OF WORKS**Approved plans to be on-site**

D1. A legible copy of the stamped plans, specifications, a copy of the development consent, the construction certificate and any other certificates to be relied upon shall be available on site at all times during construction.

Hours of work

D2. Work on the project shall be limited to the following hours:

(i)	Monday to Friday	-	7:00 am to 6:00 pm
(ii)	Saturday	-	8:00 am to 5:00 pm
(iii)	Sunday/Public Holidays	-	No work to be carried out on, without the prior consent of Council.

Naturally occurring asbestos

D3. The applicant is advised that the subject land may be affected by naturally occurring asbestos. If naturally occurring asbestos material is encountered during excavation works on site, the works are to cease immediately and Council is to be notified. Interception of any naturally occurring asbestos will require specific processes to be implemented to secure the site and to manage any further works in accordance with the requirements of SafeWork NSW.

Demolition

D4. Demolition of the subject buildings shall be carried out in accordance with the requirements of *Australian Standard AS2601 The Demolition of Structures and Work Health and Safety Act 2011*.

D5. All removal, transport and disposal of asbestos or other contaminated waste materials shall be controlled in accordance with the *Work Health and Safety Act 2011*, *SafeWork Australia Code of Practice – How to Manage and Control Asbestos in the Workplace* and the *Protection of Environment Operations Act 1997*.

D6. Work involving asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 485 of the *Work Health & Safety Regulation 2011*.

D7. All excavated material or demolition waste to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the NSW Department of Environment and Climate Change's 'Waste Classification Guidelines Part 1: Classifying Waste' publication and disposed of at a lawful waste facility.

D8. Copies of receipts stating the following must be retained and given to the principal certifying authority if requested:

- (a) the place to which waste materials were transported,
- (b) the name of the contractor transporting the materials,
- (c) the quantity of materials transported off-site and recycled or disposed of.

D9. All works are to be carried out so as not to cause damage to adjacent and adjoining properties, including Council's road reserve and nature strip area. Any damage arising from the removal / demolition works is to be made good and any necessary repairs are carried out by the person having the benefit of this consent at no cost to Council.

D10. Whilst work is being undertaken:

- (a) all vehicles entering or leaving the site must have their loads covered, and
- (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

D11. It is the responsibility of the person having the benefit of this consent to notify the adjoining neighbours two (2) days prior to commencing work of the intention to carry out demolition works. The notification shall detail the type of machinery to be utilised, hours of operation, likely duration of works, and safety measures taken to protect property and persons from damage.

D12. Suitable measures shall be taken to ensure that there is no adverse effect to occupants of adjoining buildings and the public by the generation of dust and noise.

D13. Protection shall be afforded to the users of any public place by the provision of fencing and/or hoardings adjacent to any public places.

D14. Where possible, one (1) of the existing water and sewer connections shall be retained for connection of the new development. Where the existing services cannot be reused, they shall be removed, in accordance with the following conditions.

D15. The Developer shall carry out all works associated with the removal of the redundant water and sewer services, as follows:

- the disconnection of water within the site (being on the property side of the water meter), and
- the disconnection of sewerage services within the site (excluding works on the sewer main), with the work being carried out by a licensed plumber where necessary.

D16. Council shall carry out all works associated with the removal of the redundant water and sewer services, including water meters, and capping of the sewer main (including all work on the sewer main), at full cost to the Developer.

Unexpected finds

D17. If Aboriginal objects are uncovered during earthworks, excavation or disturbance, work in the immediate area must stop immediately and Council and Heritage NSW shall be consulted.

Rainwater tank

D18. A rainwater tank (minimum size of 10,000 litres) shall be installed to capture roof water. The rainwater tank shall be connected to a minimum of one (1) block of toilets and one (1) outdoor tap.

Shoring and adequacy of adjoining property

D19. As the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, the person having the benefit of this development consent must, at the person's own expense—

- (a) protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

Retaining walls

D20. All excavations associated with the development must be executed safely in accordance with appropriate professional standards and excavations must be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Vehicular access

D21. All redundant vehicular access points or laybacks to the subject property from First Avenue, shall be removed and the road reserve and kerb and gutter reinstated to match the surrounding roadside landform to Council's specifications.

D22. A suitably constructed vehicle access shall be provided to the service area and the carpark. The vehicle access shall be constructed in accordance with Council's specifications, after making application to and obtaining approval from Council, under Section 138 of the *Roads Act 1993*.

Carpark

D23. The carpark shall be designed and constructed in accordance with *AS2890.1 - Parking facilities - Off-street car parking*.

Trafficable areas

D24. All trafficable areas on-site (access, parking and manoeuvring areas) shall be sealed (concrete or bitumen) and shall be drained in an appropriate manner.

Stormwater drainage

D25. Stormwater shall be collected and discharged in accordance with the approved stormwater plan.

Wastewater drainage and sewer

D26. All plumbing and drainage work is to comply with the requirements of Australian Standard AS3500 Plumbing and Drainage and the Plumbing Code of Australia and the NSW Code of Practice Plumbing and Drainage.

Liquid trade waste

D27. Liquid trade waste facilities shall be installed in accordance with the Section 68 liquid trade waste approval, and the *Liquid Trade Waste Management Guidelines*.

Waste management

D28. All waste generated during the construction stage shall be stored on-site in suitable receptacles, and disposed of to a licensed waste disposal facility.

Storage of materials

D29. No materials, goods, etc, shall be placed in Council's road reserve during the construction phase.

Food preparation areas

D30. The fit out of the kitchen and kitchenette is to comply with the Food Act 2003, Food Regulation 2015, and the Food Standards Code.

D31. The mechanical ventilation in the kitchen must comply with AS/NZS 1668.1 and AS 1668.2 if required by the BCA.

Disabled access and facilities

D32. Access for the disabled must be provided to the whole floor in accordance with *Australian Standard AS1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work*.

D33. Toilet accommodation shall be provided for disabled persons in accordance with the design criteria in *Australian Standard AS1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work*.

D34. Ramps provided for disabled access shall comply with *Australian Standard AS1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work*.

D35. The applicant shall provide all required tactile indicators, audible indicators and signage as required by *Australian Standard AS1428.1 Design for Access and Mobility – General Requirements for Access – New Building Work*.

PART E - PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**Occupation Certificate**

E1. A final Occupation (Completion) Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an occupation certificate, the Principal Certifying Authority must be satisfied that the requirements of section 6.9 of the *Environmental Planning and Assessment Act 1979* have been satisfied.

Registration as a food premises

E2. The business shall register as a food premises with Council on the approved form prior to commencement of business.

Liquid Trade Waste

E3. A liquid trade waste approval shall be obtained from Council.

PART F - PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**Arrange issue of Occupation Certificate**

F1. When all conditions of consent have been complied with, the applicant shall notify the PCA to arrange a final inspection and for the issue of a final Occupation (Completion) Certificate.

Dilapidation report

F2. A dilapidation report prepared by a professional engineer, accredited building surveyor or other suitably qualified person must be submitted to the satisfaction of the Principal Certifying Authority after completion of all works on site and prior to the issuing of an occupation certificate for the whole development).

The dilapidation report shall include the two (2) sheds and ancillary works (e.g concrete slab), located on 88 Punch Street, Gundagai, directly behind 87 First Avenue, Gundagai, and shall detail the current condition and status of the structures (including photographs).

F3. Any damage caused to the adjacent sheds as a result of the excavation or construction works, shall be repaired, at full cost to the developer.

Fire Safety Certificates

F4. A Final Fire Safety Certificate must be issued for the building prior to the issue of an Occupation Certificate. As soon as practicable after a Final Fire Safety Certificate is issued, the owner of the building to which it relates must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

PART G - DURING OPERATIONS**Annual Essential Services Compliance Certification**

G1. The owner shall submit to Council an Annual Fire Safety Statement, each twelve months after the original certificate was issued.

Hours of operation

G2. Hours of the operation shall be:

- Monday to Friday – 8:00 am to 6:00 pm

Waste

G3. All solid waste and rubbish generated by the use of the buildings, shall be stored in suitable receptacles within the curtilage of the buildings at all times, and shall be disposed of to an

authorised landfill site on a regular basis, so as not to create a nuisance in terms of odour, vermin, contamination, or the like.

Noise

G4. The use of the property for the approved development, shall not give rise to "offensive noise" as defined in the Protection of the Environment Operations Act 1997, at the closest residence, at any time.

Amenity

G5. The business shall not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, waste water, waste products or grit, oil or otherwise.

G6. The development shall not involve exposure to view from any adjacent premises or from any public place of any unsightly matter.

Signage

G7. The business identification sign shall be adequately maintained so as not to lose its cosmetic integrity.

Food premises

G8. The premises shall be operated in accordance with the requirements of the Food Act 2003, and Chapter 3 of the Australia New Zealand Food Standards Code, a copy of which is available at the following website: <http://www.foodstandards.gov.au>

G9. The storage of food products shall be in accordance with the Australia New Zealand Food Standards Code. In particular your attention is drawn to the need to store potentially hazardous foods under temperature, and all foods in such a way that they are protected from the likelihood of contamination.

G10. The handling of food products shall be in accordance with Chapter 3 of the Australia New Zealand Food Standards Code.

G11. The food premises shall be subject to payment of an annual registration fee and scheduled and random inspections. Fees and Charges will be charged at the rate nominated in Council's Operational Plan.

REASONS FOR THE CONDITIONS:

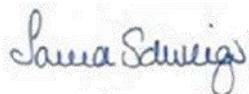
- To confirm the details of the application as submitted by the applicant and as approved by Council.
- To manage any inconsistencies between the approved plan/documents and conditions of consent.
- To achieve the objectives of section 1.3 of the *Environmental Planning and Assessment Act 1979*, having regard to the relevant matters for consideration contained in section 4.15 of the Act and the Environmental Planning Instruments applying to the land.
- To ensure necessary approvals are applied for and are in force, before the facility operates.

- To protect the amenity of the local environment, residents and adjoining landowners.
- To ensure the development complies with all relevant approvals.

SCHEDULE 1, DIVISION 4, CLAUSE 20 - REASONS FOR THE DECISION:

This section of the Act requires the public notification of certain decisions, the date of the decision, the reasons for the decision and how community views were taken into account in making the decision. The reasons for the decision and how community views were taken into account, as it relates to this development application are:

- the proposed development is not inconsistent with the objectives of the zone,
- the proposed development is permitted in the zone,
- the proposed development does not compromise the relevant Environmental Planning Instruments,
- the proposal will be consistent with the built form and character, established by existing developments both on the site and off the site,
- any potential concerns have been ameliorated by appropriate conditions,
- the proposal is not inconsistent with the key planning provisions contained within the applicable environmental planning instruments,
- the proposal will have an acceptable environmental impact,
- the proposal is consistent with the zone and desired future character of the area, notification of the application in accordance with the relevant environmental planning instrument and/or policy was carried out, and the issues raised in the submission received relating to the proposed cut has been conditioned to ensure no impact occurs.

DEVELOPMENT ASSESSMENT SIGNING OFFICER:

Laura Schweiger
Town Planner

28th May 2021

6 CONFIDENTIAL ITEMS

6.1 CLOSED COUNCIL	
DOCUMENT NUMBER	350124
REPORTING OFFICER	Teresa Breslin, Governance Officer
AUTHORISING OFFICER	Phillip McMurray, General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	<p>4. Good governance: an actively engaged community and strong leadership team</p> <p>4.3 Cootamundra-Gundagai Regional Council is a premier local government Council</p>
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	To facilitate compliance with sections 10 and 11 of the Local Government Act 1993.
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

Note

Council's Code of Meeting Practice allows members of the public present to indicate whether they wish to make representations to the meeting, before it is closed to the public, as to whether that part of the meeting dealing with any or all of the matters listed should be closed.

RECOMMENDATION

1. **Item 6.2 be considered in closed Council at which the press and public are excluded in accordance with the applicable provisions of the Local Government Act, 1993 and related public interest reasons detailed.**
2. **In accordance with section 11 (2) and (3) of the Local Government Act, 1993, the reports, correspondence and other documentation relating to Item 6.2 be withheld from the press and public.**

6.2 SHERIDAN STREET MAIN STREET UPGRADE (BLOCK 3)

Provisions for Confidentiality

Section 10A (2) (d(i)) – The Confidential Report contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

Public Interest

It is considered that discussions of this matter in open Council would, on balance, be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in the future and therefore prejudice Council's ability to secure the optimum outcome for the community.