

Notice of Council Assessment Panel Meeting

Tuesday 19 February 2019

MEMBERSHIP

Mr R McBryde
Mr P Dungey
Mr G Salmon
Ms B Merrigan
Mr D Wyld

Independent Member (Presiding Member)
Independent Member
Independent Member
Independent Member
Elected Member

NOTICE is given pursuant to Sections 87 and 88 of the Local Government Act 1999 that the next **COUNCIL ASSESSMENT PANEL MEETING** will be held in the Council Chambers, 571 Monatgue Road, Modbury on **TUESDAY 19 FEBRUARY 2019** commencing at **10.00AM**

A copy of the Agenda for the above meeting is supplied



JOHN MOYLE
CHIEF EXECUTIVE OFFICER

Dated: 13 February 2019



Naturally Better

CITY OF TEA TREE GULLY
COUNCIL ASSESSMENT PANEL MEETING
19 FEBRUARY 2019

AGENDA

1. Attendance Record:

- 1.1 Present
- 1.2 Apologies

2. Minutes of Previous Meeting

That the Minutes of the Council Assessment Panel Meeting held on 29 January 2019 and Special Council Assessment Panel Meeting held on 29 January 2019 be confirmed as true and accurate records of proceedings.

3. Business Arising from Previous Minutes

3.1 CAP.070/115394/2018 - Three Single Storey Row Dwellings at 20 Berryman Drive, Modbury

That the above application be deferred to allow the applicant the opportunity to address the following:

- Detailed landscaping plan(s) for the frontage;
- Privacy issues due to the side wall window locations e.g. details of dividing fences or staggering of windows;
- To consider staggered benched levels for the dwellings to reduce the amount of excavation and fill required.

Outcome: Council has received amended plans which are currently being assessed.

4. Reports and Recommendations

4.1 CAP. 070/115721/2018 - Childcare Centre (Non-Complying) at 817-839 North East Road Valley View5

Recommended for Approval, subject to concurrence of the State Commission Assessment Panel

4.2 Update to CAP Terms of Reference323

Recommended to edorse the update Terms of Reference

5. Other Business

5.1 E.R.D. Court Matters Pending

**5.1.1 CAP.070/113465/2017 - Appeal against Refusal for
16 Mantua Court, Greenwith**

Outcome: An application has been lodged with the Court, and a conciliation conference was held on 05 December 2018. A second conference has been set for 25 February 2019 to provide time for the Applicant to prepare amended documentation. The courts are amenable for an adjournment to allow consideration of the amended documentation at the March 2019 CAP Meeting.

6. Information Reports -Nil

7. Date of Next Meeting

19 March 2019

REPORT NO: CAP.070/115721/2018
RECORD NO: D19/6395
TO: COUNCIL ASSESSMENT PANEL MEETING - 19 FEBRUARY 2019
FROM: Chelsea Tully
Senior Planning Officer
SUBJECT: CHILDCARE CENTRE (NON-COMPLYING)

SUMMARY

Applicant: Ekistics Planning and Design

Nature of Development: Demolition of existing structures and construction of a single storey childcare centre (pre-school) with associated car park, fencing, retaining walls, signage, freestanding pylon and landscaping (Non-Complying)

Address: 817-839 North East Road Valley View

Application No: 070/115721/2018

Lodgement Date: 23 August 2018

Development Plan: Consolidated 29 September 2016

Zone and Policy Area: Commercial

Relevant Development Plan Provisions:

Objectives:
Design and Appearance: 1
Hazards: 1, 9
Interface between Land Uses: 1
Landscaping, Fences and Walls: 1, 2
Natural Resources: 1, 2, 5, 6
Orderly and Sustainable Development: 1, 3, 4
Outdoor Advertisements: 1, 2, 3, 4, 5, Regulated Trees: 1
Significant Trees: 1
Transportation and Access: 2

Principles:
Design and Appearance: 1, 14, 15, 16, 17, 22
Hazards: 1, 4, 7, 23
Interface between Land Uses: 1, 2, 7,
Landscaping, Fences and Walls: 1, 2, 4
Natural Resources: 1, 5, 6, 7
Orderly and Sustainable Development: 1, 8
Outdoor Advertisements: 1, 2, 4, 5, 6, 12, 13, 14
Regulated Trees: 1
Significant Trees: 2

Transportation and Access: 22, 23, 25, 26, 27, 29, 30, 31, 32, 33, 36, 40

Commercial Zone: 1, 2

Public Notification: Category 3

Representations:

Number of Properties Notified: 13

Number of Representations Received: 0

Schedule 8 Referral: Department of Planning, Transport and Infrastructure

Was a request for additional information made? Yes

Issues: Non-complying land use

Recommendation: Approval, subject to concurrence of the State Commission Assessment Panel

1. PROPOSAL

The proposal is to develop a portion of the land by constructing a single storey pre-school facility (childcare centre) with associated car park, fencing, retaining walls, landscaping and advertising.

The childcare facility will accommodate up to 134 children and proposes to operate between the hours of 6:30am and 6:30pm, Monday to Friday.

The car park provides 34 on-site car parking spaces, with vehicle access proposed via a double crossover off Carlisle Place. The existing crossover to North East Road is to be reinstated to kerb and gutter.

Associated site works for the building and car park results in retaining walls of up to 1.4m in cut and up to 1.35m in fill.

Advertising displays include an attached sign on the front façade above the entry, and a freestanding pylon in the southern corner of the site, adjacent to the junction of North East Road and Carlisle Place. The pylon sign is two sided, internally illuminated and proposes the dimensions 0.9m wide x 6.0m high.

2. PROCEDURAL MATTERS

2.1 Kind of Development

The site is located within the Commercial Zone and the zone procedural matters lists any proposal for a 'pre-school' school as non-complying.

Schedule 1 of the *Development Regulations 2008* ('the Regulations') defines a pre-school as follows:

A place primarily for the care or instruction of children of less than primary school age not resident on the site, and includes a nursery, kindergarten or child-care centre.

The application has therefore been determined as a non-complying form of development.

Panel members will recall the application was previously presented at the 18 September 2018 meeting in accordance with Regulation 17(3) to determine whether to proceed to assess this non-complying application. The minutes of this meeting can be found in Attachment 4.

Following the decision to proceed, a request for further information was sent to the applicant so as to undertake a full assessment of the proposal.

2.2 Schedule 8 Referral(s)

This application is subject to a mandatory referral to the Department of Planning, Transport and Infrastructure (DPTI) due to an alteration of an existing access point in the form of removing a crossover to North East Road.

DPTI's referral response can be found in Attachment 23, which states that they have no objection to the development subject to the following conditions:

1. *The access to the proposed development shall be in general accordance with the Brown Falconer Site Plan, Job No. 2018060, Drawing No. 33227 003, dated October 2018.*
2. *All off-street car parking shall be designed in accordance with AS/NZS 2890.1:2004 and AS/NZS 2890.6:2009. Additionally, clear sightlines, as shown in Figure 3.3 'Minimum Sight Lines for Pedestrian Safety' in AS/NZS 2890.1:2004, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath.*
3. *The redundant crossover on North East Road and Carlisle Place shall be reinstated to kerb and gutter to Council's standard prior to the operation of the business, with all costs being borne by the applicant.*
4. *Waste collections shall occur outside of the typical operating hours of the proposed development*
5. *Signage on this site visible from the adjacent roads shall not contain any element that flashes, scrolls, moves or changes, or imitates a traffic control device.*
6. *All illuminated signs visible from North East Road shall be limited to a low level of illumination (i.e. $\leq 150\text{Cd/m}^2$).*
7. *Stormwater run-off shall be collected on-site and discharged without jeopardising the safety and integrity of the adjacent roads. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's expense.*

The above conditions have been added to the recommendation outlined in Section 7 of this report.

3. PUBLIC NOTIFICATION

Section 38(2)(a) of the *Development Act 1993* ('the Act') states that the Regulations or a Development Plan may assign different forms of development to a category for the purposes of public notification.

No assignment to a category is made under Parts 1 or 2 of the Regulations, nor does the Development Plan provide an assignment for a non-complying form of development. The application is therefore a Category 3 form of development.

In this case, the application could not be considered under the Schedule 9, 2(g) minor clause in the Regulations for the purposes of notification, and as such the application underwent Category 3 public notification.

Thirteen (13) properties were notified, however no representations were received during the notification period.

4. SITE AND LOCALITY



Figure 1 Location Plan
Blue hatch outlining existing allotment and solid purple outlining subject site.

The site is known as 817-839 North East Road, Valley View, and is located entirely within the Commercial Zone. The site is irregular in shape, with an overall allotment area of approximately 15,450m² and frontages of some 150m to North East Road, 75m to Carlisle Place and 60m to Nottingham Crescent.

The subject site for the proposed childcare centre site is located at the south western end of the existing allotment, comprising approximately 4,100m² in site area and up to 15m of frontage along North East Road. Carlisle Place is a no-through road that currently provides vehicle access to the subject site and two residential allotments, while the frontage to Nottingham Crescent does not provide any vehicle access points to the subject site.

The site currently comprises an abandoned service trade premises, including the large single storey showroom and office building, a smaller office and showroom building, two large freestanding pylon signs, and car parking areas.

The balance of this large service trade premises site (which does not form part of this application) has been nominated for bulky goods, petrol station and car wash uses.

The site is bound by the Residential Zone to the north-west, south and south-east. The allotment to the north-east is also located within the Commercial Zone; comprising an existing two storey office building.

All surrounding residential land is separated from this site by road or public reserve, noting the reserve to the immediate north to north west of the site contains a section of the Dry Creek watercourse. Residential development in the locality is generally low density and primarily single storey detached dwellings. The locality has a strong presence of landscaping, noting the large mature trees that follow the reserves along the rear of this site.

5. PLANNING ASSESSMENT

5.1 Land Use

Commercial Zone Objective 1 seeks a range of commercial and business-related land uses. The proposed development is defined as a pre-school use which is nominated as a non-complying form of development in the Zone.

Notwithstanding its non-complying status, a childcare centre is considered to be akin to a commercial land use and therefore shares similarities with land uses envisaged in the zone.

The subject site is located at the interface with the Residential Zone, which lists a pre-school land use as an envisaged form of development within that zone. It is therefore considered that the proposed land use is appropriate for this specific site as it is a commercial activity in the Commercial Zone that adjoins residential land uses.

The development will also remove the existing service trade premises use rights on the land, noting this premises also includes a service department (motor repair station) component.

Whilst the existing service trade premises is an envisaged land use in **Zone PDC 1**, it is expected that a childcare centre development will have less of an impact on the amenity of the adjoining Residential Zone than the current use as the centre will not use any loud equipment or machinery. This is consistent with **Commercial Zone Objective 2**.

As such the proposed childcare centre (pre-school) land use is considered acceptable for the site, and is consistent with the intent of the Zone given the site is at an interface with residential land.

5.2 Site contamination

The current use of the land comprises a service trade premises, with motor repair facilities and an underground fuel tank.

The applicant has provided a preliminary site investigation report by Land & Water Consulting (LWC) to determine the suitability of the proposed childcare centre on this land, see Attachment 24.

The report concludes that the potential for site contamination on the land as being low, and there were no off-site contaminants identified on the land.

LWC have made the following recommendations in their report:

1. *Underground fuel storage tanks, fuel dispenser and associated infrastructure are to be removed prior to any redevelopment of the Site*
2. *Soils surrounding the underground fuel storage tanks, fuel dispenser and associated infrastructure are to be chemically validated to ensure no residual fuel product is present.*
3. *Soil vapour assessment is to be undertaken in the vicinity of the underground fuel storage tanks upon the tank removal works as such location will be developed into a childcare carpark with childcare centre (sensitive site, change in use) established to its north west based on the development plans provided by the Client. Completing such action now may provide a false positive where residual fuel product is within the tanks (unknown).*

The above recommendations have been added as recommended conditions of approval, and this has been acknowledged by the applicant in the Statement of Effect, in Attachment 15.

5.3 Built form

The facility comprises a single storey U-shaped building which is to be constructed using a range of external materials, including face brick and fibre cement cladding for the external walls, and 'Woodland Grey' Colorbond roof sheeting.

The building generally has an overall height of 4.0m to the roof, with the exclusion of the entry, which comprises a parapet and skillion roof design with a maximum height of 5.7m.

The proposed 1060m² building is considered to be of a size and scale that is appropriate for this locality. The proposed U-shaped building in effect halves the appearance of the length of the building when viewing the site from Carlisle Place.

The single storey design also ensures the development is consistent with the scale of buildings on site and found throughout the residential locality.

It is considered that the building design reflects the desired character of the locality, having regard to building height, mass and proportion, therefore meeting **Design and Appearance PDC 1(a)**.

As noted above, the design provides for a range of external building materials and projecting elements so as to add visual interest and reduce the overall bulk of the building. Furthermore the use of a high ceiling and varied roof design to the entry creates a point of interest and identifies the building entry for visitors. The entry also presents to the primary frontage along North East Road.

The development has therefore been designed to achieve the intent of **Design and Appearance PDCs 1(b)(c)(d)(e)(f), 16 and 17**.

Part of the advertising schedule for this development includes a free-standing pylon sign. Further assessment of the pylon sign can be found in Section 5.5 of this report.

5.4 Building setback

The Commercial Zone does not nominate a building setback requirement for any development, whilst **Design and Appearance PDC 22** states that buildings should be setback to be similar to or compatible with setbacks of buildings on adjoining land and other buildings in the locality.

The existing building on site has a setback of approximately 17.0m to North East Road, with the portion of building on the subject site having a setback of approximately 31m.

Furthermore, the adjacent dwelling at 815 North East Road has a setback of some 7.0m and the nearby two storey commercial (office) building located further north in the Commercial Zone has a setback of approximately 6.5m.

The proposed building has a significant setback of some 65m to North East Road so as to accommodate parking between the primary frontage and the building.

On this basis, the proposed setback is not similar to setbacks on adjoining land. It could be considered that the significant setback contributes to the existing arrangement of large hard stand areas along the North East Road frontage of the service trade premises, such that the location of the building and new car park will not be significantly out of character for the site and locality.

This aspect of the development is not ideal, particularly from a streetscape amenity or urban design perspective, however given the retention of most vegetation along the Carlisle, coupled with the acknowledgement of existing hard stand areas on the land, it is considered that the proposed setback configuration will not compromise the streetscape character of this locality.

5.5 Car Parking and Access

5.5.1 *Access and vehicle movements*

The development proposes to reinstate an existing crossover to/from North East Road, and to relocate an existing crossover along the Carlisle Place frontage.

The car park design also includes an opportunity to link to a future development immediately north of this facility. This link is not critical to the proposed development as the carpark has a separate access point allowing two way movements via the local road.

Council's traffic engineer has reviewed the access design and advised that the matter needs to be considered by DPTI to ensure there are no external road network concerns with the development (Attachment 22).

DPTI has since reviewed the application and advised they have no objection to the design or impact of the development, see Section 2.2 of this report.

Council's engineer also recommended an additional pedestrian path be added to the south of the car park to enable safe movements of pedestrians through the site.

In response, the applicant has amended the proposal to demonstrate dedicated pedestrian paths which are accessible from all on-site parking spaces.

Finally, Council's traffic engineer recognised that the applicant's traffic report has demonstrated sufficient traffic movements for this development and all anticipated vehicles using the site. A copy of the applicant's traffic consultant (CIRQA) report can be found in Attachment 16.

In light of the above, it is considered that the proposed development provides safe and convenient movement for pedestrians and all anticipated vehicles, having been designed to comply with the relevant Australian Standard *AS2890.1:2004*.

The development therefore complies with **Transportation and Access Objective 2(a)** and **PDCs 22 and 23**.

5.5.2 *Car parking*

Table TTG/2 – Off Street Vehicle Parking Requirements states that a child care centre development requires one (1) parking space per four (4) children.

This facility can accommodate up to 126 children, thus requiring a total of 31.5 on-site parking spaces.

The car park has been designed to provide 32 on-site parking spaces, which meets the minimum on-site parking requirement.

The applicant's traffic consultant, CIRQA, noted in their report that Council's parking rate is consistent with recent research and survey data for this type of land use. Council's traffic engineer also confirmed that the on-site parking is sufficient.

The design of the car parking spaces is also consistent with the requirements set out in *AS2890.1:2004*.

As such, the development has achieved **Transportation and Access PDCs 31 and 32**.

5.6 Advertising Displays

Outdoor Advertisements Objective 3 and **PDC 1** state that advertisements should be designed to enhance the appearance of a locality, be consistent with the predominant character of the locality, and should be co-ordinated to complement the architectural form of the associated building.

Commercial Zone Procedural Matters also nominates a freestanding advertisement exceeding 6.0m in height as a non-complying form of development.

The development incorporates advertising in the form of an attached non-illuminated sign with dimensions of 4.0 x 0.9m above the entry door on the eastern elevation, as well as a free-standing, two-sided pylon sign, which is internally illuminated and has the dimensions 6.0m high x 1.7m wide. The proposed signage is illustrated in Attachment 7.

Despite the non-complying nature of this application, the applicant has designed the pylon sign to comply with the merit assessment criteria by not exceeding 6.0m in height. On this basis, it is considered that the proposed height is within the realm of what is anticipated for the zone.

The provision of one attached and one freestanding on this 1400m² site ensures the proposed advertising signage is not excessive and has been minimised to ensure the effectiveness of individual signs, as sought in **Outdoor Advertisements Objective 6** and **PDC 2**.

As part of their referral response, DPTI raised no concern with the proposed pylon along this arterial road frontage and have instead included recommended conditions of approval which limit lux levels of the illumination and prevents any animation or movement within the site.

The development is therefore consistent with **Outdoor Advertising Objective 2** and **PDC 13(a)** which states that signage and advertising should not cause a hazard or distract drivers.

5.7 Interface between land uses

This development is located at the interface of the Commercial and Residential Zones, and as such the potential impact on adjacent residential properties is an important consideration.

This is reflected in **Interface between Land Uses PDC 1**, which states that development should not detrimentally affect the amenity of the locality by way of odour, noise, light spill and/or hours of operation.

Whilst the site is at the interface, it is also noted that the land is separated from all nearby residential properties by either a public road and/or large reserve.

With respect to potential noise impacts, the applicant has submitted an acoustic report from Sonus who has recommended some treatments to the site so as to minimise noise impacts and ensure the development is compliant with the *Environment Protection (Noise) Policy 2007* ('Noise Policy'), see Attachment 17.

Sonus has recommended acoustic fencing to the rear portion of the outdoor play area, in the form of 2.4 and 2.7m high metal sheeting with sealed joints, or similar. This has been demonstrated on the plans (see Attachment 7), and has also been reinforced by way of condition.

Sonus has concluded that noise from the car park and plant area can comply with the Noise Policy, so no treatment is required to these areas.

Odour and light spill has been noted by the applicant as being managed by the centre so as to comply with the relevant legislation.

In particular, waste will be stored in a dedicated area forward of the main building line in an area screened with timber slats. This location is considered acceptable given the timber screening complements the external facades of the building, and also ensures the bins are stored away from nearby residents and outdoor play areas.

Waste will be collected by a private contractor using a Medium Rigid Vehicle (MRV) outside of operating hours and in accordance with the requirements of the Noise Policy.

The proposed operating hours are from 6:30am to 6:30pm, Monday to Friday. This means that the centre will open 30 minutes before the commencement of 'daytime hours' as determined in the Noise Policy.

To further ensure compliance with the Noise Policy, the applicant has confirmed that the outdoor area will not be used before 7:00am, and a condition reinforcing this has been added to the recommendation below.

The development is therefore considered achieve the above interface PDC.

5.8 Tree impact

5.8.1 *Regulated and significant trees*

This development seeks to retain all regulated and significant trees on and around the subject site.

The applicant has submitted a report prepared by Tree Environs, which identifies 39 nearby trees and investigates the impact of the development on three significant and three regulated trees (see Attachment 19).

The arborist report identified all the regulated and significant trees as having good health and good structure.

Adjacent to the carpark, there is one significant and two regulated trees located along the Carlisle Place boundary, which are identified as Trees 1, 2 and 7 in the report, respectively.

The car park area, including footpath and associated retaining, has been designed to be located outside the Structural Root Zone (SRZ) of each tree. As such, Tree Environs have concluded that whilst the development will encroach the Tree Protection Zones (TPZ), the level of impact is considered moderate and is acceptable having regard to the relevant Australian Standard *AS4970-2009*.

In making this determination, the arborist has recommended the pavement be installed with care and incorporate the use of permeable paving system.

A significant Soap mallee tree is located to the rear of the building along the Nottingham Crescent frontage, and is identified as Tree 17 in the same report.

The building, drainage infrastructure and associated retaining wall has been designed to avoid the SRZ of Tree 17. The resulting 18% TPZ encroachment has been assessed as moderate but acceptable given a mulched garden bed will be installed between the building and the fence.

The remaining significant tree on the land has been identified as Tree 24, a River oak tree. This tree will only be impacted by the development to a minor extent. The TPZ area will comprise an outdoor play area, with no site works or drainage proposed. The only recommendation for this tree is to ensure the space is designed to minimise impacts on the tree.

The above recommendations form part of a condition in the recommendation below to ensure the development is undertaken so as to minimise damage to the nearby trees.

In light of the above, it is considered that the development is consistent with **Regulated Trees PDC 1** and **Significant Trees PDC 2** in that the development has been designed to minimise the impact on nearby trees.

5.8.2 *Street trees*

The development seeks to relocate an existing driveway crossover on Carlisle Place by shifting the crossover to the east slightly. The new location requires the removal of four non-regulated street trees within the road verge, each being Southern cypress pine trees and are identified as Trees 10-13 (inclusive) in Attachment 19.

Council's City Arborist has reviewed the removal request, and advises that the street tree removal can be supported as this will allow for greater protection to the regulated and significant trees on the creek line, see Attachment 20.

Removal of the four trees is subject to the payment of a replacement tree fee, charged per tree and in accordance with Council's Fees and Charges Register.

As such, the recommendation below includes a condition that requires payment of \$600 per tree (total \$2,400) for the removal of the trees.

5.9 Site works, retaining walls, fencing and landscaping

The site was most recently used as a service trade premises and therefore has a high level of sealed hard stand areas. The proposed development will generally work with the established levels, with the new building to be constructed at the rear where the land is generally flat.

The new car park at the front will require cut of a height up to 1.4m along the North East Road end of the car park aisle, and will be retained accordingly using concrete sleepers. Further retaining walls in cut will be required along the Carlisle Place side of the car park, along the edge of the footpath.

The visibility of these walls will be primarily limited to the subject site, and will be further obscured from the public realm as a result of landscaping located between the car park and North East Road shown (see Attachment 10).

Retaining is also proposed to the rear of the facility, including up to 1.35m of fill adjacent the rear wall of the building. Whilst it is preferred to keep any fill to a maximum height of one (1) metre, it is noted that this wall is located inside the site and will be screened from public view by boundary fencing.

The proposed site works and associated retaining is therefore considered to be appropriate and consistent with the intent of **Sloping Land Objective 1** and **PDC 2(a)** in that the development has been designed to minimise visual impact.

A range of fencing is proposed in response to the recommendations of Sonus to minimise noise impacts from the proposed development.

The applicant is proposing a 1.8m high Colorbond fence along the Carlisle Place/Nottingham Crescent frontage along the side of the building, extending to a 2.4m high Colorbond acoustic fence along the western portion of this road boundary and a section of the rear boundary. In addition, a 2.7m high Colorbond acoustic fence is proposed along the majority of the rear boundary for the subject site.

The portion of fencing along the rear boundary is higher than generally expected in this locality, particularly noting it presents to the Residential Zone.

That said, the fencing has a specific purpose to minimise noise impacts for adjoining residents and will be screened from view by existing vegetation along the Dry Creek reserve.

As such, it is considered that the development generally meets the intent of **Landscaping, Fences and Walls Objective 2** in that the fences and walls should be functional and enhance the attractiveness of the site, whilst also meeting the **Interface between Land Uses PDCs** discussed in Section 5.6 above.

In recognising that the site currently enjoys a well-landscaped reserve to the rear of the land and will be fenced for security and privacy purposes, it is appropriate for landscaping to focus on the land between the car park and road boundaries. Some landscaping is proposed to the rear of the site however this is part of the outdoor play area and will not be visible beyond the site.

The applicant has supplied a landscape plan which shows landscaping areas around the new car park. This plan proposes to retain the existing trees and incorporate low lying mass plantings in the remaining areas (see Attachment 10).

The development is therefore considered to meet **Landscaping, Fences and Walls Objective 1** which seeks the enhancement of amenity through appropriate planting and landscaping works.

5.10 Stormwater and flood impacts

The applicant has submitted a stormwater management report from Wallbridge Gilbert Aztec (WEA) to determine the suitability of drainage design and also assess the impact of nearby flood waters from Dry Creek, see Attachment 18.

The report demonstrates that nearby flood waters will not enter the site and that the finished level of the development is appropriate. It also concludes that the stormwater detention and disposal design is compliant with Council requirements and will not impact the adjoining creek.

The design, including disposal to the creek at the rear, has been assessed by Council's storm water engineer who has advised that storm water management plan is acceptable (Attachment 21).

5.11 Land division

Panel members should also note that the applicant has recently lodged a Torrens title land division application for the site at 817-839 North East Road.

The application proposes for a 1 into 3 division and is still under assessment. The proposed allotment for this development reflects the subject site as demonstrated on the plans and documents. The division also proposes reciprocal right-of-way easements for all three allotments to enable connectivity through the car park for all three allotments. This approach is reflected in the design of the current car park design which has provision for an extension to the car park, see Attachment 6 and 14.

There are no concerns or implications associated with the land division in relation to this application, however the land division will be assessed in due course and will have regard to the outcome of this application.

5.12 Water sensitive urban design

The existing site comprises a significant amount of hard stand surface areas which is reflective of the existing service trade premises use. The existing storm water management system discharges roof water run off on to the bitumen where it sheet flows to the nearest system which discharges to Dry Creek.

As part of this development, the applicant is seeking to replace the bitumen surface with permeable paving and landscaping, thus reducing the extent of surface water run off already occurring on the land. In addition the outdoor play area will have infiltration trenches.

The development also provides infiltration trenches in the outdoor play area which provides on-site retention and will assist in reducing the flow directed to Dry Creek.

The above measures are consistent with **Natural Resources PDC 7(b)**.

6. CONCLUSION

Notwithstanding the non-complying nature of the proposed child care centre (pre-school) land use, it is considered that this development is a suitable use for the Commercial Zone.

The development will revitalise a portion of land that remains vacant and underutilised, and will result in a development that is sympathetic to the streetscape character of the locality.

It is considered that the development has been designed to minimise impacts on the locality and adjoining residential properties, and it is also recognised that no objections or representations were received during the notification period from any interested parties.

The design has had regard to the need for suitable access, on-site car parking, landscaping, and noise attenuation, built form design and tree impact, and therefore is considered to display sufficient merit to warrant consent subject to the concurrence of the State Commission Assessment Panel.

7. RECOMMENDATION

That pursuant to the authority delegated to the Council Assessment Panel by Council, the Council Assessment Panel:

- A. RESOLVES that the proposed development is not seriously at variance with the policies in the Tea Tree Gully (City) Development Plan.
- B. RESOLVES to GRANT Development Plan Consent to the application by Ekistics Planning and Design to demolish existing structures and construct a single storey childcare centre (pre-school) with associated car park, fencing, retaining walls, signage, freestanding pylon and landscaping (Non-Complying) at 817-839 North East Road, Valley View, as detailed in Development Application No. 070/115721/2018 subject to concurrence by the State Commission Assessment Panel, the following reserved matter(s), condition(s) and advisory note(s):

- (1) The development shall be undertaken, completed and maintained in accordance with the plan(s) and information detailed in Application No. 070/115721/2018, in particular:
- Overall Site Plan prepared by Brown Falconer, Dwg 3227 002, Rev 3, Amended Date 22/01/2019
 - Site Plan, Fencing and Signage Plans prepared by Brown Falconer, Dwgs 3227 003-005, Rev 3, Amended Date 22/01/2019
 - Floor Plan prepared by Brown Falconer, Dwg 3227 006, Rev 3, Amended Date 22/01/2019
 - Floor Plan prepared by Brown Falconer, Dwg 3227 007, Rev 1, Amended Date 22/01/2019
 - Landscape Plans prepared by Brown Falconer, Dwgs 3227 008-009, Rev 3, Amended Date 22/01/2019
 - Elevation Plan prepared by Brown Falconer, Dwg 3227 010, Rev 1, Amended Date 22/01/2019
 - Materials Palette prepared by Brown Falconer, Dwg 3227 011, Rev 1, Amended Date 22/01/2019
 - Traffic and Parking Report prepared by CIRQA, Version V1.1, Dated 24 October 2018
 - Environmental Noise Assessment Report prepared by Sonus, Dated November 2018
 - Stormwater Management Report prepared by Wallbridge Gilbert Aztec, Rev E, Dated 31 January 2019
 - Tree Survey in Relation to Development Report prepared by Tree Environs, Dated 17 October 2018
 - Preliminary Site Investigation including Soil and Groundwater Investigations prepared by Land & Water Consulting, Dated October 2018
- and information except where varied by any condition(s) listed below.
- (2) The materials used on the external surfaces of the works and the pre-coloured steel finishes or paintwork shall be maintained in good condition at all times. All external paintwork shall be completed within 2 months of the erection of the consulting room building.
- Reason: To preserve and enhance the amenity of the site and locality.*

- (3) The premises shall be kept tidy and buildings, fences, landscaping and paved or sealed surfaces shall be maintained in good condition at all times.
Reason: *To maintain the amenity of the site and locality.*
- (4) All driveways, parking and manoeuvring areas shall be formed and be properly drained. They shall be maintained in good condition thereafter and made available for parking at all times.
Reason: *To ensure useable and safe carparking.*
- (5) All off-street carparking spaces shall be linemarked, in accordance with the approved plans and Australian Standards AS 2890.1:2004 and 1742.2:2009. The line marking, signposting and directional arrows shall be maintained to a clear and visible standard at all times.
Reason: *To maintain safety for users.*
- (6) The planting and landscaping identified on the 'Landscape Plan - Carpark' submitted with the application shall be completed in the first planting season concurrent with or following commencement of the use of the childcare centre. Such planting and landscaping shall not be removed nor the branches of any tree lopped and any plants which become diseased or die shall be replaced by suitable species.
Reason: *To maintain amenity and site of locality.*
- (7) The hours of operation herein approved are 6:30am to 6:30pm Monday to Friday. Any variation to these hours of operation will require a further consent.
Reason: *To minimise the impact on adjoining properties.*
- (8) The outdoor play spaces shall not be used prior to 7:00am on any given day
Reason: *To minimise the impact on adjoining properties.*
- (9) Any lights on the subject land shall be directed and screened so that overspill of light into the nearby properties is avoided and motorists are not distracted.
Reason: *To minimise the impact on adjoining properties and motorists.*
- (10) Stormwater management and water discharge shall be undertaken in accordance with the Storm Water Management Plan by WGA dated 31 January 2019, with the works outside the boundaries of the site to be undertaken to the satisfaction of Council's engineer.
Reason: *To assist and maintain water quality entering Council's drainage network and minimise the impact of development on the nearby watercourse.*
- (11) The development shall comply with the recommended acoustic fencing treatments around the boundaries of the site as listed in the Sonus Environmental Noise Assessment report dated November 2018.
Reason: *To maintain the amenity of the locality*

- (12) The development shall comply with the recommendations of Tree Environs in the Tree Survey Report in Relation to Development dated 17 October 2018, and the following tree-sensitive measures shall be adopted during the works:
- All excavation works shall be carried out using an air spade or similar under the supervision of a qualified arborist;
 - A pier footing system shall be used for the retaining walls, and all holes shall be dug by hand or using an air spade under the supervision of an arborist;
 - Permeable paving shall be installed within the Tree Protection Zones (TPZ) of Trees 1, 2 and 7;
 - The garden bed between the fence and the new building shall be mulched within the TPZ of Tree 17; and
 - Fencing work within the TPZ of Trees 22 and 24 shall comprise lightweight panels on a post and rail support system with bored footings to support the posts, and without continuous trenching within a TPZ.
- Reason: To minimise the impact on nearby regulated and significant trees.*
- (13) The signage, herein approved, shall be maintained in good repair with all words and symbols being clearly visible at all times.
Reason: To ensure amenity of the site and locality.
- (14) The signage, herein approved, shall not move, flash, blink or rotate in any manner.
Reason: To preserve and enhance the amenity of the locality and not to distract road users.
- (15) Underground fuel storage tanks, fuel dispenser and associated infrastructure shall be removed from the land prior to the commencement of any works associated with the childcare centre.
- (16) Soils surrounding the underground fuel storage tanks, fuel dispenser and associated infrastructure are to be chemically validated to ensure no residual fuel product is present.
- (17) Soil vapour assessment is to be undertaken in the vicinity of the underground fuel storage tanks upon the tank removal works.
- (18) Payment of the \$2,400 street tree removal fee (\$600 per tree) shall be paid to the City of Tea Tree Gully within one month of the first street tree being removed.

Reserved Matter(s):

The following matter(s) have been reserved pursuant to section 33(3) of the Development Act 1993, and sub-delegated to Council planning staff for a determination, prior to the issue of Development Approval:

- (1) Confirmation from a suitably qualified environmental engineer or auditor confirming the works have been undertaken in accordance with the recommendations of LWC and that the site is suitable for its intended purpose.

Department of Planning, Transport and Infrastructure Conditions

- (1) The access to the proposed development shall be in general accordance with the Brown Falconer Site Plan, Job No. 2018060, Drawing No. 33227 003, dated October 2018.
- (2) All off-street car parking shall be designed in accordance with AS/NZS 2890.1:2004 and AS/NZS 2890.6:2009. Additionally, clear sightlines, as shown in Figure 3.3 'Minimum Sight Lines for Pedestrian Safety' in AS/NZS 2890.1:2004, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath.
- (3) The redundant crossover on North East Road and Carlisle Place shall be reinstated to kerb and gutter to Council's standard prior to the operation of the business, with all costs being borne by the applicant.
- (4) Waste collections shall occur outside of the typical operating hours of the proposed development
- (5) Signage on this site visible from the adjacent roads shall not contain any element that flashes, scrolls, moves or changes, or imitates a traffic control device.
- (6) All illuminated signs visible from North East Road shall be limited to a low level of illumination (i.e. $\leq 150 \text{Cd/m}^2$).
- (7) Stormwater run-off shall be collected on-site and discharged without jeopardising the safety and integrity of the adjacent roads. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's expense.

Notes:

- (1) The cost of rectifying any damage or conflict with existing services or infrastructure arising out of this development will be borne by the applicant.
- (2) The Applicant/Owner is advised that any works undertaken on Council owned land (driveways, stormwater connections, etc) will require formal approval under the Local Government Act through Council's Civil Operations Department, prior to any works being undertaken. Please find attached the relevant application form for your convenience. For further information on this process, or the specifications and conditions relating to works on Council land, please contact Council's Civil Operations Department on 8397 7444.
- (3) All earthworks shall be confined to and contained entirely within the property boundaries and shall not encroach on or over the roadside verge/reserve.
- (4) This consent does not obviate the need to obtain any other necessary approvals from any/all parties with an interest in the land.

- (5) The development (including during construction) shall not at any time emit noise that exceeds the relevant levels derived from the *Environmental (Noise) Policy 2007*.
- (6) The Disability Discrimination Act places obligations on the applicant/developer in relation to the provision of facilities and access for people with disabilities
- (7) The removal of the street tree located on the Council verge adjacent to the subject site has been approved as part of this application. The fee paid to Council is to cover the cost of a new street tree (to be selected and planted by Council) and 3 years maintenance costs to ensure establishment. Removal of the existing street tree is at the applicant/owner's cost.
- (8) Please be advised that Council will commence street tree planting(s) on the road verge adjacent the subject land in the first planting season following completion of the development. For any enquiries regarding this, please contact Council's Parks Operations Department on 8397 7444.
- (9) Please be advised that the development has been granted Development Plan Consent only. An application for Building Rules Consent shall be lodged and approved prior to Development Approval being issued by Council.
- (10) The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.
- (11) NBN Co. is responsible for the installation of National Broadband Network (NBN) fibre for all developments in areas where NBN Co. has already rolled out fibre. To ensure services are available when residents move in, developers and builders shall register their developments and apply to NBN Co. before building has commenced. To determine if your site is in an NBN area and to register your development, please complete the pre-qualifier forms located at www.nbnco.com.au/newdevelopments. For more information, please contact the NBN Co. New Developments Team on 1800 687 626 or email newdevelopments@nbnco.com.au.

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Report Authorisers

Chelsea Tully Senior Planning Officer	8397 7223
Nathan Grainger Manager City Development	8397 7200
Carol Neil Director Community & Cultural Development	8397 7341

RECORD NO: D19/9095
TO: COUNCIL ASSESSMENT PANEL MEETING - 19 FEBRUARY 2019
FROM: Nathan Grainger
Manager City Development
SUBJECT: UPDATE TO CAP TERMS OF REFERENCE

1. PROPOSAL

Section 81 of the Planning, Development and Infrastructure Act 2016 requires each Council to establish a Council Assessment Panel (CAP) and determine membership and operating arrangements. Council's Governance staff have recently undertaken a review of the Terms of Reference (TOR) for each of its committees, including the Council Assessment Panel.

On review, it was revealed that the TOR currently do not allow the Assessment Manager to cancel or reschedule a CAP meeting where circumstances dictate, or where there are no matters of business listed on the agenda.

The TOR also currently do not allow the Assessment Manager to call for a Special Meeting of the CAP. Instead, the TOR requires a written request in writing by the Presiding Member, or two or more CAP Members, to request a special meeting of the CAP to be held.

As a result of these findings, amendments have been made to the TOR for your endorsement, and these include:

- 1.7 The Assessment Manager may cancel or reschedule a CAP meeting where circumstances dictate and where there are no matters of business listed on the agenda. In rescheduling a meeting, the Assessment Manager will work with the CAP members to ensure the availability and convenience of the members.

- 1.10 The Assessment Manager may, by delivering a written request to the Presiding Member or two or more CAP members, require a special meeting of the CAP to be held. The written request must be accompanied by the agenda for the special meeting.

2. RECOMMENDATION

That pursuant to the authority delegated to the Council Assessment Panel by Council, the Council Assessment Panel:

- A. RESOLVES that the Terms of Reference be amended at items 1.7 to allow the Assessment Manager to cancel and reschedule meetings as required and at 1.10 to allow the Assessment Manager to call Special Meetings as required.

Attachments

1. Proposed CAP Terms of Reference325

Report Authorisers

Nathan Grainger Manager City Development	8397 7200
Carol Neil Director Community & Cultural Development	8397 7341