

CAP MEETING – 10 JANUARY 2024

ITEM 8.1

DEVELOPMENT NO.:	23018174
APPLICANT:	Development Holdings Pty Ltd
ADDRESS:	35 PARATOO ROAD STIRLING SA 5152 CT 5767/919
NATURE OF DEVELOPMENT:	Two storey child care facility with attached signage, retaining walls, combined fence & retaining walls, decking & associated car parking
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Rural Neighbourhood <p>Subzones:</p> <ul style="list-style-type: none"> • Adelaide Hills <p>Overlays:</p> <ul style="list-style-type: none"> • Hazards (Bushfire - Medium Risk) • Hazards (Flooding - Evidence Required) • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • Regulated and Significant Tree <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Site Area (Minimum site area is 2,000 sqm)
LODGEMENT DATE:	29 June 2023
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2023.9
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes 13 November 2023 – 1 December 2023
RECOMMENDING OFFICER:	Marie Molinaro Statutory Planner
REFERRALS STATUTORY:	<ul style="list-style-type: none"> • Native Vegetation Council
REFERRALS NON-STATUTORY:	<ul style="list-style-type: none"> • Council Environmental Health • Council Engineering

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DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for demolition of a dwelling and associated outbuildings and construction of a child care facility.

A child care facility is described in the Planning & Design Code as:

A place primarily for the care or instruction of children of less than primary school age, children with special needs or out-of-school-hours care (including vacation care) and not resident on the site.

The child care facility will comprise the following:

- Construction of one (1) two storey building:
 - Ground level - 27m x 12.9m containing two (2) nursery rooms for 24 children with associated sleep rooms, toilets and food preparation space, reception area, staff amenities (meeting room, staff room, office and toilet), storage space with lift and stair access up to level 1. The ground level is sited lengthways into the land.

Associated with the ground level is a 30m x 6.4m outdoor play area on the southern side of the building, 12.9m x 6.4m service yard at the rear of the building and 6.5m x 3.9m enclosed waste storage space accessible from the front of the building. The ground floor outdoor play area is partly covered by a verandah.
 - Level 1– irregular shape, but approximately 29.5m x 22m containing four (4) toddler rooms for 45 children with associated toilet and food preparation spaces, two (2) kindy rooms for 59 children with associated toilet and food preparation spaces, separate kitchen, laundry and drying space, staff toilets and book storage space with lift and stair access down to ground level. Level 1 is sited lengthways across the land.

Associated with level 1 are two (2) irregular shaped outdoor play areas, one on the southern side of the building and one at the rear of the building both partly covered with timber deck flooring.
- The total floor area of the building is 1060 square metres.
- The total area of associated outdoor play areas is 986 square metres.
- The building has a maximum height of 8.7m, measured from ground level to the roof peak.
- External materials and colours are as follows:
 - Ground level walls – white weatherboard cladding and rendered beige wall on the front façade with remainder in white weatherboard.
 - Level 1 walls – white weatherboard and vertical brown timber cladding on the front façade with rendered white hebel panel on the northern side and rear facades and white weatherboard on the southern façade.
 - Roof – Colorbond sheeting in white colour for the building and Colorbond sheeting in grey colour for the verandah cover over part of the ground level outdoor play area.
- The facility is setback:
 - 22m from the front boundary as measured from the front of the building, with car park between the front of the building and the front boundary.
 - 13m from the southern side boundary as measured from the edge of the outdoor play area.
 - 17m from the northern side boundary as measured from the edge of the outdoor play area.

Associated with the construction of the child care facility are the following:

- Two (2) non-illuminated advertising signs to display the name of the child care facility on the front elevation.

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- Earthworks comprising:
 - Approximately 2.5-3m of fill at the south-eastern corner of the land below the car park area, to be supported by two-tiered retaining walls, wrapping around the front and southern side of the car park area. The maximum height of the individual retaining walls is 1.5m.
 - Approximately 3m of cut to create the outdoor level 1 play areas, to be supported by two-tiered retaining walls. The maximum height of the retaining walls is 3.5m. An additional 1.3m high cut retaining is required along the northern edge of the car park.
 - The fill retaining walls supporting the car park are to be a Bluestone finish, with the remainder to be concrete sleeper material.
- 1.8m high white timber picket fencing along the street facing frontage of the ground level and level 1 outdoor play areas.
- 1.8m high Colorbond 'Monument' fencing around the southern, rear and northern perimeters of the outdoor play areas attached to the retaining walls.
- Provision of a 6.2m wide cross-over to Paratoo Road with upgrading of the surrounding footpath and inclusion of drainage infrastructure. The cross-over will allow for two-way vehicle movements.
- Asphalt car park between the building and the front boundary with the provision of 33 car parking spaces, including three (3) designated staff parking spaces and one (1) universal access space. Included within the car park are four (4) bollard lights, with additional wall mounted lighting on the building.
- The car park has a total area of 955 square metres and is supported by a crash barrier attached to the top-tier retaining walls.
- Removal of native vegetation comprising 16 tree saplings, one medium tree and three young trees.
- Planting of landscaping between the edge of the car parking area and the front boundary and around the perimeter of the ground level and level 1 outdoor play areas. Landscaping is partly comprised of species from Council's Native Habitat and Landscaping Guide.
- Roof stormwater will be managed by 3 x 5,000L above ground detention tanks.
- Ground level run-off from the outdoor play areas will be directed to a swale on Paratoo Road and car park run-off will be directed to a gross pollutant trap connected to 4 x 10,000L underground detention tanks.
- Plant equipment of the facility will be located at ground level within a service yard space at the rear of the building.

Operational matters of the child care facility are as follows:

- Total capacity for a maximum of 128 children at any one time.
- Hours of operation – Monday to Friday, 6:30am until 6:30pm.
- Waste will be stored in an enclosed space on the ground level and collected by a private contractor between 9:00am and 7:00pm on Sunday or public holidays.
- Deliveries undertaken by small trucks and passenger vehicles will occur between 7:00am and 5:00pm Monday to Friday.

The plans and application information are included as **Attachment 1 – Application Documents**.

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BACKGROUND:

There are no development approvals on Council record relating to the subject land.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 35 PARATOO RD STIRLING SA 5152

Title ref.: CT 5767/919 **Plan Parcel:** F210897 AL111 **Council:** ADELAIDE HILLS COUNCIL

The subject land is a triangular shaped allotment, with an area of 1.04 hectares. It is wider at the front, with a frontage to Paratoo Road of 100 metres.

The land is approximately 15m south of the intersection of Paratoo Road and Old Mount Barker Road, 50m north of the intersection of Paratoo Road and Yam Street and 200m north of the intersection of Paratoo Road and Braeside Road.

Old Mount Barker Road is the zone boundary, with land on the northern side of Old Mount Barker Road being within the Productive Rural Landscape Zone.

The use of the land is residential, comprised of a single storey detached dwelling with associated outbuildings. The dwelling is sited away from the road frontage, near the northern side boundary. It is surrounded by a cluster of trees at the rear, with garden between the dwelling and the front boundary.

The land is sloping, with a north-south cross-fall of approximately 1 in 6 through the development area. It is serviced by mains water, sewer and electricity supply. There is an easement at the rear of the land, which is unaffected by the proposal.

Paratoo Road is sealed Council roadway, provided in-part with upright kerb & gutter. It is a two-way road until near the southern boundary of the subject land, where at this point it narrows to a one-way road. Vehicles can only travel north past the frontage of the subject land.

The adjoining land to the south is the Stirling East Primary School, which has a main frontage to Braeside Road. A staff and student drop-off and pick-up car park is located on the Paratoo Road frontage. Entry to this car park is at the southern end and the exit point is at the northern end of the subject land. Road signage restricts vehicles leaving the car park from turning right. Road signage also restricts vehicles turning right onto Yam Street from Paratoo Road.

There is a sealed footpath in front of the primary school frontage, which turns into a compacted gravel footpath in front of the subject land. The footpath in front of the subject land is approximately 6m wide.

Road signage prevents on-street parking in front of the primary school frontage between 3:00pm and 4:00pm, however there are two unrestricted indented off-street parking spaces available near the southern boundary of the subject land. There is an un-signalised pedestrian crossing just below the indented street parking spaces and pedestrian warning signs on the approach to the primary school.

Aside from the primary school, the surrounding land use is residential comprised of single storey and two storey detached dwellings generally set well back from the boundaries and surrounded by vegetation and landscaped gardens. The area of these residential allotments is generally around 2000-3000 square metres.

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The subject land is identified on **Attachment 2 – Subject Land Map**. The zoning is shown in **Attachment 3 – Zoning Map**.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:** Fence: Code Assessed - Performance Assessed
Child Care Facility: Code Assessed - Performance Assessed
Fences and walls
Retaining wall: Code Assessed - Performance Assessed
Deck: Code Assessed - Performance Assessed
Advertisement: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
The proposal is not listed as Accepted, Deemed to Satisfy or Restricted in the Planning & Design Code, so it defaults to being a Performance Assessed type of development.

PUBLIC NOTIFICATION

- **REASON**
A child care facility is not listed as being exempt from public notification in Table 5 procedural matters of the Rural Neighbourhood Zone. The proposal is not considered to be a minor form of development, and therefore public notification was required.
- **LIST OF REPRESENTATIONS**
Eight (8) representations were received during the public notification period. Two (2) representors wish to be heard in support of their written representation.

The representor details are below:

Representor Name	Representor's Address	Wishes to be Heard	Nominated Speaker (if relevant)
Tony Lockwood	142 Old Mount Barker Road, Aldgate	Yes	Simon Grose of Advantage Planning
Nicola Hastings	140 Old Mount Barker Road, Aldgate	Yes	Nick Simos of SA Urban and Regional Planning
Simon Gamble	3 Sharon Court, Aldgate	No	
Fenella Dermody	27 Ashenden Road, Aldgate	No	
Jace Haggett-Carmody	34 Paratoo Road, Aldgate	No	
Peter Rischbieth	10 St Margarets Drive, Aldgate	No	
Helene Nielsen	Not supplied	No	
Tina Comely	6 St Margarets Drive, Aldgate	No	

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- **SUMMARY**

The issues contained in the representations can be summarised as follows:

- Seeking further information regarding the location of plant equipment.
- Seeking the inclusion of noise attenuation methods as part of the proposal.
- Seeking a reduction in the opening time of the facility & seeking assurance that it will not operate beyond 6:30pm.
- Seeking further information regarding waste management to minimise potential odour impact.
- Seeking an amendment to the time for when waste is collected by the external contractor.
- Seeking further information regarding northern side boundary fencing treatment.
- Seeking further information regarding possible further development of the land.
- Concern regarding potential negative light spill impact on adjacent residential properties and wildlife, including from vehicle headlight glare.
- Comment that the scale and design of the facility is out character in the residential locality.
- Concern regarding potential traffic congestion resulting from the proposal as compounded by purported traffic and pedestrian hazard/danger associated with the adjoining primary school.
- Concern that the proposal will reduce the availability of off-street parking.
- Concern that the proposal will increase existing traffic and pedestrian hazard/danger in the area as compounded by purported traffic and pedestrian hazard/danger associated with the adjoining primary school.
- Comment that commercial development is out character in a residential area.

The representations are included in ***Attachment 4 – Representations*** and the applicant's response is provided in ***Attachment 5 – Response to Representations***.

No amendments were made to the design of the proposal in response to the representations. However, there was an alteration to the operation of external lighting.

AGENCY REFERRALS

- Native Vegetation Council

The Native Vegetation Council referral response is discussed further in the Planning Assessment section of the report.

This response is included in ***Attachment 6 – Referral Response***.

INTERNAL REFERRALS

- Council Environmental Health

Advised the applicant of food health requirements.

- Council Engineering

Reviewed the proposal for access/traffic and stormwater management arrangements with assistance of a peer review by BE Engineering Solutions. Their referral response is discussed further in the Planning Assessment section of the report.

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PLANNING ASSESSMENT

Desired outcomes

Desired outcomes are policies designed to aid the interpretation of performance outcomes by setting a general policy agenda for a zone, subzone, overlay or general development policies module. Where a relevant authority is uncertain as to whether or how a performance outcome applies to a development, the desired outcome(s) may inform its consideration of the relevance and application of a performance outcome, or assist in assessing the merits of the development against the applicable performance outcomes collectively.

Performance outcomes

Performance outcomes are policies designed to facilitate assessment according to specified factors, including land use, site dimensions and land division, built form, character and hazard risk minimisation.

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Attachment 7 – Relevant P&D Code Policies**.

Rural Neighbourhood Zone

Desired Outcome	
DO1	Housing on large allotments in a spacious rural setting, often together with large outbuildings. Easy access and parking for cars. Considerable space for trees and other vegetation around buildings, as well as on-site wastewater treatment where necessary. Limited goods, services and facilities that enhance rather than compromise rural residential amenity.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use & Intensity	PO 1.1 & DTS/DPF 1.1, PO 1.2 & DTS/DPF 1.2, PO 1.3, PO 1.4
Building Height	PO 2.1
Primary Street Setback	PO 3.1 & DTS/DPF 3.1
Side Boundary Setback	PO 5.1 & DTS/DPF 5.1
Rear Boundary Setback	PO 6.1 & DTS/DPF 6.1
Advertisements	PO 10.1 & DTS/DPF 10.1

The Land Use and Intensity Performance Outcomes of the Rural Neighbourhood Zone are discussed in full as they relate directly to the proposal.

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PO 1.1

Predominantly residential development with complementary ancillary non-residential uses compatible with a spacious and peaceful lifestyle for individual households.

Performance Outcome 1.1 anticipates non-residential uses, provided they are compatible with a spacious and peaceful lifestyle for individual households. Corresponding Designated Performance Feature 1.1 and Performance Outcome 1.4 lists child care facility (pre-school) as one of the contemplated non-residential uses.

The siting of the child care facility is considered to achieve a sense of spaciousness for the adjoining residential property to the north as it is sited away from this boundary, closer to the adjoining primary school. The 17m setback of the fenced northern outdoor play area is approximately 7m closer to the shared boundary than the existing dwelling and further, existing open-style post and wire fencing on this shared boundary is to remain. In addition, the building itself is setback approximately 35m from the dwelling on the adjoining land to the north (140 Old Mount Barker Road, Stirling), which is the nearest dwelling. On the side of this dwelling facing the shared boundary is a carport and solid wall.

With further regard to spaciousness the setbacks to the other side boundary and front boundary are large and considered to achieve the Performance Outcomes 3.1 and 5.1 which generally seek for setbacks to minimise impacts on adjoining properties. The adjoining property on the southern side is the primary school, and it is the car park area of this site which is adjacent the proposed child care facility.

The proposed use is considered to be compatible with a peaceful lifestyle for the adjoining and adjacent residential uses, as interface between land uses matters with regard to hours of operation, noise, light spill and traffic impact are considered to be adequately addressed. These matters are however discussed later in the report.

In consideration of this though the locality is not wholly residential, with the presence of the adjoining primary school. So in this sense the 'peacefulness' of this locality would not be the same as other parts of the Zone that are wholly residential.

PO1.2

Commercial activities improve community access to services, are of a scale and type to maintain residential amenity.

The scale of the proposed child care use is considered to maintain residential amenity with regard to hours of operation & capacity and its linked association with additional traffic movements on the surrounding road network. These matters are however discussed later in the report.

Further, considering scale relative to hours of operation and capacity this proposed facility is somewhat similar to another other recent child care facility proposal approved in Bridgewater and also in the Rural Neighbourhood Zone. The capacity of the Bridgewater facility is 80 children and hours of operation 6:30am to 6:30pm Monday to Friday.

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PO1.3

Non-residential development sited and designed to complement the residential character and amenity of the neighbourhood.

The siting of the proposed facility is well away from the site boundaries, which is typical of built form in the locality, and which assists in maintaining visual amenity in the form of providing a sense of spaciousness as desired in the Zone.

The proposed facility is sited on the cleared part of the land, meaning that substantial mature trees are for the most part retained, which is also desired in the Zone and common to the locality. The design of the proposal incorporates new landscaping around the car park and outdoor areas. This further assists with retention of landscape amenity. Landscaping is discussed further later in the report.

Despite the representations, the design of the built form is considered to complement the mostly residential character of the locality.

The two-storey building has a larger floor area than dwellings in the locality, but it is considered unreasonable to expect a desired form of community service development to be of a similar floor area to inherently smaller-scale residential development in the locality. Performance Outcome 4.1 only seeks non-residential development in the form of shops, consulting rooms and offices to be 'small-scale'. There is no such desired scale guide statement for community service development in Performance Outcome 4.1.

With that said, the design of the two-storey building is considered to be of a high standard and respectful of visual amenity. The bulk of the building is broken up by its articulated design, incorporation of different size openings and use of varying materials and colours. The mostly lighter colour shades are considered to be acceptable as they are of neutral tones. The height of the building is considered to not offend Performance Outcome 2.1 which seeks for buildings to contribute to a low-rise residential character and complement the height of nearby buildings. In this regard, the building is cut into the land so that level 1 is flush with ground level around the existing dwelling, resulting in the full two storeys only being apparent from the street and southern side elevation.

This design respects the privacy amenity of the adjoining residential property to the north with regard to overlooking potential. Privacy treatment to the level 1 south facing openings were not considered necessary as the adjoining site is the primary school and they provide potential for increased passive surveillance of the school car park.

Further, a single storey building design of the same floor area would result in more disturbance to the land both in terms of earthworks and tree removal and result in the facility being closer to the site boundaries.

Other built form elements of the proposal are fencing and retaining walls.

Solid 1.8m high Colorbond fencing is proposed around the perimeter of the outdoor play areas. Whilst solid fencing is considered uncommon in the Rural Neighbourhood Zone, this fencing should not impact on adjoining amenity as it is off-set from the boundaries. Further, the chosen 'Monument' colour is dark, which will help the solid fencing blend with the vegetated surrounds. Open style timber picket fencing to the outdoor play areas is included along the street facing elevation.

The fill retaining walls at the front of the land, supporting the car park are tiered, which breaks up the vertical profile/mass; and at the request of staff were altered from a concrete sleeper to natural Bluestone finish to blend with the surrounds. This is considered an acceptable design approach for a sloping site, and which supports the requirement of a level car park.

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PO1.4

Non-residential development located and designed to improve community accessibility to services, primarily in the form of:

- a) small-scale commercial uses such as offices, shops and consulting rooms*
- b) community services such as educational establishments, community centres, places of worship, pre-schools and other health and welfare services*
- c) services and facilities ancillary to the function or operation of support accommodation or retirement facilities*
- d) open space and recreation facilities*

The location of the proposed child care facility adjoining a primary school is considered to provide potential improved accessibility for parents/care-givers of both pre-school and school age children.

The proposal is one of the primarily desired non-residential uses as per part b) of the Performance Outcome.

Adelaide Hills Subzone

Desired Outcome	
DO1	Additional residential and tourist accommodation that retains and embraces the values of the established mature vegetation as a defining characteristic of the area.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use & Intensity PO 1.1 & DTS/DPF 1.1	

In the opinion of staff, the Subzone considers tourist accommodation as an additional desired commercial use in this part of the Rural Neighbourhood Zone. The Subzone is not viewed as aiming to restrict development to only residential and tourist accommodation development.

The proposal is considered to meet the part of Desired Outcome 1 which seeks for the retention and embracement of established mature vegetation as a defining characteristic of the area.

The proposed child care facility, comprising the two storey building, outdoor play spaces and car parking areas are sited on the most cleared part of the land. This results in the retention of most of the existing mature vegetation.

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Overlays

Hazards (Bushfire – Medium Risk) Overlay

Desired Outcome	
DO 1	Development, including land division responds to the medium level of bushfire risk and potential for ember attack and radiant heat by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change.
DO 2	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Siting PO 1.1	
Built Form PO 2.1	

Unlike the Hazards (Bushfire – High Risk) Overlay, the Hazards (Bushfire – Medium Risk) Overlay does not specifically address child care facility development.

However, with regard to Desired Outcome 2 the surrounding sealed, public road network facilitates emergency service access to the land and the car park area would provide on-site access to emergency service vehicles.

The building itself is fully enclosed and will be constructed of materials commonly used in dwellings to which the Overlay applies.

Recommended advisory note five (5) encourages the facility operator to develop a bushfire risk management plan.

Hazards (Flooding – Evidence Required) Overlay

Desired Outcome	
DO 1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Flood Resilience PO 1.1 & DTS/DPF 1.1	

The floor level of the building, car park area and outdoor play areas are more than 300mm above top of kerb. A swale has been included around the northern and rear perimeter of level 1 to restrict potential overland flows from entering the facility.

There are no nearby watercourses and the land is not within a flood prone area.

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Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Desired Outcome	
DO 1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Water Quality PO 1.1 & PO 1.2 & DTS/DPF 1.2	
Wastewater PO 2.1, DTS/DPF 2.1	
Stormwater PO3.1, PO3.3, PO3.9 & DTS/DPF3.9	
Landscapes and Natural Features PO4.1	

As per Desired Outcome 1, and Performance Outcome 1.1 the proposal is considered to have a neutral effect on water quality.

This is because the land is connected to mains sewer as sought by Performance Outcome 2.1 and the corresponding Designated Performance Feature 2.1.

In addition, Council Engineering are satisfied with the stormwater management detail, that post-development stormwater discharged will not exceed pre-development quantities as desired by Performance Outcome 3.1. Water quality management specifically from the car park area is discussed later in the report.

Native Vegetation Overlay

Desired Outcome	
DO 1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Environmental Protection PO 1.1 & DTS/DPF 1.1, PO 1.2, PO 1.4	

The construction of the proposed child care facility will require the associated removal of native vegetation comprising 16 sapling Stringybark (*Eucalyptus obliqua*) trees, one (1) medium size Stringybark (*Eucalyptus obliqua*) tree and three young (3) Blackwood (*Acacia melanoxylon*) trees (20 native trees/saplings total).

A data report produced by an accredited native vegetation consultant was included with the application, and the consultant categorised this clearance as of 'Level 3' category. As per Overlay procedural matters this designated level of clearance required the proposal to be referred to the Native Vegetation Council.

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Performance Outcome 1.1 recognises that where development cannot practically avoid native vegetation clearance, clearance should be minimised. It is considered that the level of clearance has been minimised by the siting of the facility and as noted in the data report:

The concept aimed to be further than 10m away from any remnant trees – this has been achieved, except in the case of small regrown of Stringybarks and Blackwoods, which have regenerated amongst dense exotic amenity planted shrubs and trees.

The native vegetation clearance is supported by the Native Vegetation Council, with the direction to include one (1) condition and one (1) advisory note. See condition 15 and advisory note nine (9).

A separate arborist report advises that for the remaining native vegetation the development comprises a minor level of encroachment into Tree Protection Zones and is “acceptable.” The tree canopy outlines on the civil plans show only a minor level of canopy extension into the outdoor play areas.

The arborist advice was that level of encroachment into the Tree Protection Zone of the medium size Stringybark to be removed is “major”, which is why it is required to be removed. This is tree 4 on figure 5.6 of the vegetation removal detail of the Ekistics Planning Statement document, but noting it is identified as tree 5 in the data report assessment.

Prescribed Water Resources Area Overlay

Desired Outcome	
DO 1	Sustainable water use in prescribed water resources areas maintains the health and natural flow paths of surface water, watercourses and wells.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
N/A	

This Overlay is not relevant to the proposal as it relates to water taking activities such as horticulture and intensive animal husbandry or the alteration to a water body.

Regulated and Significant Tree Overlay

Desired Outcome	
DO 1	Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Tree Retention and Health PO 1.1, PO 1.4	
Ground Work Affecting Trees PO 2.1	

After public notification it was discovered that tree 4 is within 20m of the existing dwelling on the land. Trees within 20m of dwellings in the Hazards (Bushfire – Medium Risk) Overlay are excluded from being regulated or significant.

The description of the proposal was altered accordingly to remove regulated tree removal.

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General Development Policies

Advertisements

Desired Outcome	
DO 1	Advertisements and advertising hoardings are appropriate to context, efficient and effective in communicating with the public, limited in number to avoid clutter, and do not create hazard.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Appearance PO 1.1 & DTS/DPF 1.1, PO 1.3 & DTS/DPF 1.3, PO1.5	
Proliferation of Advertisements PO 2.3 & DTS/DPF 2.3	
Advertising Content PO 3.1 & DTS/DPF 3.1	

Proposed are two (2) non-illuminated signs attached to the front elevation, which will identify the name of the facility operator. The proposed signage is considered to be discrete and meet Desired Outcome 1 and Performance Outcome 10.1 of the Zone, which relates directly to advertising.

Clearance from Overhead Powerlines

Desired Outcome	
DO 1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Environmental Protection PO 1.1 & DTS/DP F1.1	

As part of their submission the applicant has declared that the development will not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996. This is consistent with Designated Performance Feature 1.1.

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Design

Desired Outcome	
DO 1	<p>Development is:</p> <ul style="list-style-type: none"> a) contextual – by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate areas. b) dural – fit for purpose, adaptable and long lasting. c) inclusive – by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm for occupants and visitors. d) sustainable – by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
All Development PO 1.4 & DTS/DPF 1.4, PO 1.5	
Safety PO 2.1, PO2.3, PO 2.3	
Landscaping PO 3.1, PO 3.2	
Carparking Appearance PO 7.2, PO 7.3, PO 7.4, PO 7.5, PO 7.6, PO7.7	
Earthworks & Sloping Land PO 8.1 & DTS/DPF 8.1, PO 8.4, PO 8.5	
Fences and Walls PO 9.1 & PO 9.2 & DTS/DPF 9.2	
Massing PO 15.1	
Car Parking, Access and Manoeuvrability PO 19.2 & DTS/DPF 19.2, PO19.3 & DTS/DPF 19.3, PO 19.4 & DTS/DPF 19.4, PO19.5 & DTS/DPF19.5, PO 19.6 & DTS/DPF 19.6	
All Non-Residential Development – Water Sensitive Design PO 31.1, PO 31.2	

The proposal is considered to meet part a) of Desired Outcome 1 in that the design is considered to carefully respond to the natural surrounds and built environment. Vegetation retention is maximised, the two-storey component of the building is away from the adjoining residential property and the facility including associated fencing and retaining walls will be constructed of non-reflective materials and finished in a neutral colour scheme.

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Earthworks associated with the proposal exceed the desired 1m depth sought by Designated Performance Feature 8.1, but it is recognised that level areas are required for outdoor play spaces and the car park area to ensure the facility is fit for purpose as per part b) of Desired Outcome 1. The outdoor play areas are excavated into the land, so the supporting retaining walls will not be visible from the adjoining residential property or the street. The car park is built up, however the supporting retaining walls are stepped, finished in a natural material and landscaped.

However, in recognition of the extent of earthworks it is recommended that submission of a satisfactory soil, erosion and drainage management plan (SEDMP) is required as a Reserved Matter prior to Development Approval. Further to this, recommended condition 14 seeks the inclusion of the accepted soil, erosion and drainage management details to be implemented prior to construction commencing.

The inclusion of landscaping around the car park perimeter achieves Performance Outcomes 7.4, 7.5 and 7.6 which all speak to the inclusion of landscaping within vehicle parking areas to improve appearance and enhance visual amenity. The inclusion of some plant species selected from Council's Native Habitat for Landscaping Guide achieves in part Performance Outcome 3.1.

The submitted landscaping plan is however considered by staff to be somewhat conceptual in nature and a further recommended Reserved Matter seeks a more detailed landscaping plan with the plant species and number of plants prepared by a Landscape Designer prior to Development Approval.

Furthermore, regarding the car park, Performance Outcome 7.2 seeks for car parking spaces to be located and designed to minimise impacts on adjacent receivers. There was representor concern that there may be nuisance caused by vehicle headlight glare. Vehicle headlight glare nuisance is considered to be limited noting the large landscaped separation distances to adjoining and adjacent residential properties and that the facility will close at a reasonable time of 6:30pm.

A gross-pollutant trap is included in the design of the car park, which achieves Performance Outcome 31.1.

A designated enclosed waste storage area is included at the front of the building on the ground level. This achieves Performance Outcome 1.5 and responds to representor feedback.

Infrastructure and Renewable Energy Facilities

Desired Outcome	
DO 1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Water Supply PO 11.1 & DTS/DPF 11.1	

The development will be serviced by mains water supply as sought by Performance Outcome 11.1. This module is silent on electricity and wastewater management, regardless the development will also be serviced by mains electricity and sewer.

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Interface between Land Uses

Desired Outcome	
DO 1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate uses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
General Land Use Compatibility PO 1.2	
Hours of Operation PO 2.1 & DTS/DPF 2.1	
Activities Generating Noise or Vibration PO 4.1 & DTS/DPF 4.1, PO 4.2	
Light Spill PO 6.1, PO 6.2	

Hours of Operation

The proposed hours of operation of the child care facility, including deliveries are Monday to Friday from 6:30am to 6:30pm.

Performance Outcome 2.1 seeks for hours of operation of non-residential development to not unreasonably impact the amenity of sensitive receivers and sets-out that the following should be taken into account in determining if hours of operation will have an unreasonable impact – the nature of the development, measures to mitigate off-site impacts, the extent to which the development is desired in the zone and measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonably compromising the intended use of that land.

The Rural Neighbourhood Zone primarily desires residential development; however, some non-residential development is envisaged, particularly child care facilities are described as a form of community service development in the Zone. As this is a desired type of non-residential use in this Zone, this is considered to recognise that the nature of the development is appropriate and can sit comfortably with residential uses.

By its definition, child care facility includes out-of-school-hours care, and in light of the above the proposed hours of operation are not considered to have an unreasonable impact on sensitive receivers in the locality. Further, and as detailed earlier in the report these hours of operation are the same as the child care facility recently approved in Bridgewater within the Rural Neighbourhood Zone.

Therefore, despite the representations it is not considered necessary to setback the opening time of the facility to 7:00am.

The hours of operation are listed in recommended condition three (3). Any change to the hours of operation would require separate Development Approval to vary this condition.

Hours of waste collection are discussed later in the report.

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Activities Generating Noise or Vibration

Performance Outcome 4.1 seeks for development emitting noise to not unreasonably impact the amenity of adjacent receivers, through the achievement of the relevant Environment (Noise) Protection Policy. The Policy applicable at the time of application lodgement was the Environment Protection (Noise) Policy 2007.

An environmental noise impact assessment (acoustic) report by Sonus Engineers is included in support of the application. Advice in the report is that the Environment Protection (Noise) Policy 2007 excludes child care facilities, so instead an assessment of noise impact was made against a World Health Organisation (WHO) guideline.

The report concludes that without any acoustic treatments noise from the outdoor play areas would meet the WHO guideline. This finding was based on the maximum capacity of 128 children being outdoors for eight (8) hours per day.

A separate noise impact assessment was undertaken of plant equipment associated with the facility and from general car park use. The assessment found that both day and night time predicted noise levels will be within the Environment Protection (Noise) Policy 2007 Goal Noise levels. The assessment recommended housing plant equipment of the facility within the ground level rear service yard area to achieve compliance with the Noise Policy.

The representations sought noise attenuation methods to be included in the design of the proposal, mainly the addition of solid fencing along the street facing outdoor play areas and around the car park. However, based on the above findings of the noise impact assessment, no such noise attenuation methods are required. The street facing open style fencing and parking barriers are considered to be a better design approach, allowing for passive surveillance opportunity.

The representations also sought for clarification of where the plant equipment will be located. In response, the applicant has confirmed that plant equipment will be contained within the enclosed ground floor service yard at the rear of the building, in accordance with the recommendation of the noise impact assessment.

Recommended condition four (4) requires all plant equipment to be contained within the enclosed ground floor service yard area at the rear of the building.

Light Spill

Performance Outcome 6.1 seeks for external lighting to be positioned and designed so as to not cause unreasonable light spill impact to adjacent sensitive receivers.

The proposal includes lighting in the car park and attached to the building. In response to the representations, the applicant has agreed to only turn on external lighting during hours operation.

This is considered to be a reasonable response and recognising that positioning of lighting on the building is well away from adjoining and residential development and the design of lighting in the car parking is limited to four (4) low-level bollards.

Recommended condition seven (7) controls external lighting.

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Site Contamination

Desired Outcome	
DO 1	Ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1 & DTS/DP F1.1	

The proposed child care facility use is not a more sensitive use than the existing residential use of the land. Therefore, the land is considered suitable for its intended use with regard to the risk of site contamination and site history investigation information was not requested. This is in accordance with Practice Direction 14.

Transport, Access and Parking

Desired Outcome	
DO 1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Movement Systems PO 1.1, PO 1.4	
Sightlines PO 2.2	
Vehicle Access PO 3.1 & DTS/DP F3.1, PO 3.3, PO 3.4, PO 3.5 & DTS/DPF3.5, PO 3.6, PO3.8	
Access for People with Disabilities PO 4.1	
Vehicle Parking Rates PO5.1 & DTS/DPF5.1	
Vehicle Parking Areas PO 6.2, PO 6.4, PO 6.5	

Access to the car park of the facility is in the same location as the existing cross-over to the land. The cross-over will however be upgraded to be 6.2m wide and include some road verge/footpath alterations. Regarding the representations, there will therefore be no loss of on-street car parking as a result of the proposal. However, it is noted that vehicles should not be parked on the footpath in any event.

A traffic and parking report by Cirqa Traffic Engineers has been included in support of the proposal. A finding of the report is that sightline distances at the entry/exit point are above that of the relevant Australian standard.

The car park of the facility will include 33 parking spaces, one (1) of which is for universal access. Performance Outcome 5.1 and corresponding Designated Performance Feature 5.1 seek for sufficient on-site car parking with regard to Transport, Access and Parking Table 1 – General Off-Street Car parking Requirements. For a child care centre Table 1 seeks the provision of 0.25 parking spaces per child, which for this proposal would mean the provision of 32 parking spaces.

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The traffic and parking report advises that the design of the parking spaces and manoeuvring areas, including for universal access meet the relevant Australian standards. Therefore, Performance Outcome 5.1 for vehicle parking rates and Performance Outcome 4.1 for access for people with disabilities are met.

Further, regarding the design of the car park the traffic and parking report includes modelling to demonstrate that it will cater for forward entry and exit of larger vehicles associated with waste collection. The modelling shows the waste collection vehicle turnaround will be partly over vehicle parking spaces, so despite concern raised in the representations it is considered necessary for waste collection to occur outside of the hours of operation of the facility.

The nominated waste collection times are however considered within the parameters of the *Local Nuisance and Litter Control Act (2016)*, whereby noise generated by waste collection before 9:00am or after 7:00pm on any Sunday or public holiday or before 7:00am or after 7:00am any other day is a declared local nuisance.

Waste collection is considered unlikely to be undertaken for extended periods, so noise generated by this activity is not considered to be unreasonable with regard to duration. This is supported by a staff review of a waste management plan included for a recent 95 place child care facility elsewhere in, Stirling. The waste management plan with this application detailed that separate general waste and cardboard recycling waste pick-up by external contractors would occur once per week, with waste collection vehicles expected to be stopped on-site for 2-3 minutes (6-8 minutes total per week).

Recommended condition four (4) requires external contractors collecting waste to be provided with access to the enclosed waste storage area, to ensure waste is not put out into in the car park for pick-up.

Regarding movement systems, the traffic report includes estimates of vehicle trip movements likely to be generated by the facility; and modelling for how peak vehicle trip movements will affect intersection performance near the subject land. The report findings are that the adjacent road network will operate below capacity even during the adjacent school related traffic peaks.

Therefore, despite the concerns of the representors, it is considered unlikely that the proposal will lead to unreasonable traffic congestion. Council Engineering accept the findings of the Cirqa report.

In regard to representor concern regarding potential for increased traffic and pedestrian hazard, it is considered that peak vehicle movement times of the proposed child care facility are dispersed and not directly aligned with peak vehicle movement times of the adjoining primary school. Further, line of sight distance at the access to the facility are in excess of the relevant Australian standard.

Council Engineering are of the view that the recommended signage and line-marking upgrades to the Old Mount Barker Road and St Margaret's Drive intersections detailed in the traffic and parking report are not particularly required. This view was formed on the basis that Council traffic data has recorded only one (1) accident in this location. The accident occurred at 10:00am, outside of the peak traffic times of the primary school.

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CONCLUSION

The proposal is for demolition of a dwelling and construction of a child care facility in the Rural Neighbourhood Zone.

Regarding the use, child care facilities are a desired form of community service development in the Zone; and the proposal is considered to achieve all the performance outcomes of the Zone that speak directly to non-residential development.

The design of the two-storey building and associated supporting structures is considered to be of a high-standard; and its siting minimises disturbance to the land in the form of earthworks and tree removal to an acceptable level.

Recommended conditions of consent pertaining to capacity, hours of operation, waste management, management of lighting and noise generated from associated plant equipment are expected to manage off-site amenity impacts to an acceptable level.

Traffic concerns from the representors are noted, however the expert traffic advice is that there should be no adverse traffic congestion or increased hazard resulting from the proposal.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 23018174 by Development Holdings Pty Ltd for two storey child care facility with attached signage, retaining walls, combined fence & retaining walls, decking, & associated car parking at 35 Paratoo Road, Stirling, is GRANTED Planning Consent subject to the following reserved matters and conditions:**

RESERVED MATTERS

Pursuant to section 102 (3) of the Planning, Development and Infrastructure Act of 2016, the following matters shall be reserved for further assessment prior to the granting of Development Approval. The Assessment Manager is delegated to undertake this further assessment:

- 1) A detailed landscaping plan shall be prepared by a suitably qualified person and submitted with further details regarding plant species, locations, plant numbers and plant spacing, irrigation and mulching detail.**
- 2) A detailed soil, erosion and drainage management plan (SEDMP) shall be provided for construction of the child care facility. The SEDMP shall comprise a site plan and design sketches that detail erosion control methods and installation of sediment collection devices that will prevent soil moving off site during construction and soil transfer onto roadways by vehicles and machinery.**

Pursuant to Section 127(1) of the *Planning, Development and Infrastructure Act 2016*, the power to impose further conditions of consent in respect of the reserved matter above is delegated to the Assessment Manager.

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CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
 - 2) The maximum capacity of the child care facility shall be 128 children at any one time.
 - 3) The hours of operation of the child care facility, including deliveries (but excluding waste collection) shall be 6:30am to 6:30pm, Monday to Friday.
 - 4) All solid waste shall be stored in closed containers with close fitting lids in the enclosed bin area shown on the approved site plan (drawing DA04, Rev. 2 dated 24/05/2023) prepared by Brown Falconer. External contractors accessing the site for waste collection shall be provided with access to enclosed bin area to ensure waste is not stored in the car park area for collection.
 - 5) The collection of waste shall not occur before 9:00am or after 7:00am Saturday, Sunday or public holidays, or before 7:00am or after 7:00pm Monday to Friday.
 - 6) Plant equipment of the child care facility shall only be located within the service yard area shown on the approved ground floor plan (drawing DA05, Rev. 2 dated May 2023) prepared by Brown Falconer.
 - 7) External lighting shall be installed in accordance with the approved lighting plans by TMK engineers; and once installed shielded if necessary in such a manner so to not cause unreasonable nuisance to adjoining and adjacent residential properties.
 - 8) External lighting shall be not be switched on before 6:30am Monday to Friday; and all external lighting shall be switched off no later than 6:30pm Monday to Friday.
 - 9) The cross-over & kerb and footpath alterations, vehicle-parking spaces, driveways and manoeuvring areas shall be constructed in accordance with the approved site plan (drawing DA04, Rev. 2 dated 24/05/2023) prepared by Brown Falconer and the approved stormwater management plan (drawing 220216-C201, Rev. C dated June 2023) prepared by CPR Engineers prior to the occupation of the child care facility. Clear visible line marking of vehicle parking spaces shall be completed prior to the occupation of the child care facility. The car park and line-marking shall thereafter be maintained in good condition at all times.
 - 10) Materials and goods shall not be stored on the land in areas delineated for use as vehicle parking.
 - 11) The external finishes to the child care facility shall be as follows:
 - Two storey building:**
 - Walls:** White weatherboard cladding, rendered beige hebel panels & timber panelling.
 - Roof:** Colorbond sheeting in a white colour tone.
 - Fencing:** Open style white timber picket fencing to the play area street facing elevation and Colorbond 'Monument' to the remainder of the play area fencing.
- Retaining**
- Walls:** Street facing retaining walls supporting the car park shall be of Bluestone construction.

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- 12) Landscaping accepted in the detailed landscaping plan shall be planted within the next available planting season following occupation of the child care facility. Such landscaping shall be maintained in good health and condition at all times, including through the installation of irrigation and mulching. Any such landscaping shall be replaced in the next planting season if and or when it dies or becomes seriously diseased.
- 13) All roof run-off from the building and run-off from the outdoor play areas and car park shall be managed in accordance with the approved stormwater management plan (drawing 220216-C201, Rev. C dated June 2023) prepared by CPR Engineers. All roof run-off generated by the development shall be directed to the stormwater management system within one (1) month of the roof cladding being installed.
- 14) Prior to construction of the approved development, straw bales or other soil erosion control methods as accepted in the soil, erosion and drainage management plan shall be placed and secured below areas of excavation and fill to prevent soil moving off the site during construction.

Conditions imposed by Native Vegetation Council under Section 122 of the Act

- 15) Prior to any clearance of native vegetation, the Native Vegetation Council must provide written confirmation that the Significant Environmental Benefit requirements under the *Native Vegetation Act 1991* have been satisfied.

ADVISORY NOTES

Planning Consent

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).
- 5) It is recommended that the operator of the child care facility prepare and display a Bushfire Survival Plan (BSP) designed specifically for the purpose of staff, children or visitors that may be present during a bushfire event, especially during the Fire Danger Season.

The SA CFS 'Bushfire Safety Guide for Business' document should be utilised as a basis for information and the drafting of the BSP, along with industry body guidelines and recommendations.

- 6) The operator of the child care facility should consider reducing operating hours and including other restrictions on days of heightened bushfire danger and/or bushfire events and consider including any alterations to services offered due to actual or predicted conditions during the Fire Danger Season.

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- 7) It is the responsibility of the child care facility operator to ensure compliance with the relevant food safety legislation before operating. Food business notification must be provided to commencing any food (or consumable product) handling activities. This may be provided on-line at www.fbn.sa.gov.au or by obtaining a notification form from Council Environmental Health.
- 8) The onus of ensuring that the development is located in the approved position on the correct allotment is the responsibility of the applicant/developer. This may necessitate a boundary survey being undertaken by a licensed surveyor prior to the work commencing and when building work is complete.

Advisory Note imposed by Native Vegetation Council under Section 122 of the Act

- 9) The clearance of native vegetation must be undertaken in accordance with the approval of the Native Vegetation Council under the *Native Vegetation Act 1991* as set out in Decision Notification 2023/3272/473.

OFFICER MAKING RECOMMENDATION

Name: Marie Molinaro

Title: Senior Statutory Planner