

Request for exemption from Section 7.12 contribution for the proposed St Nicholas Early Learning Centre at 507 Medowie Road, Medowie (LOT: 412 DP: 1063902)

Background

Proposed Development

124 place Child Care Centre (Early Learning Centre)

Applicant

Trustees of the Roman Catholic Church for the Diocese of Maitland-Newcastle, 841 Hunter St, Newcastle West NSW 2300

Location

507 Medowie Road, Medowie (LOT: 412 DP: 1063902)

Exemption sought

The applicant requests exemption from the requirement to provide a Section 7.12 contribution of levied under the provisions of the Port Stephens Fixed Development Contributions Plan 2006 (Amendment No.8) (Section 7.12 (94A) Plan), on the grounds stated below.

Clause 2.10 of the Section 7.12 Plan states as follows:

Council may consider exempting other development types, or components of developments from the s7.12 levy or may vary the levy to a lesser amount, at its complete discretion. For such claims to be considered, any such request will need to include a comprehensive submission arguing the case for exemption or reduction.

Criteria for consideration

The effect of Clause 2.10 is that Council will not levy Section 7.12 contributions on developments where it considers that an exemption is justified. In the absence of defined criteria in the Port Stephens Council Fixed Contribution Plan the following criteria have been extracted from the Maitland City Council Section 94A Plan as a reasonable basis for consideration, and are addressed:

- Is the development Crown development or by not for profit organisation?, and
- Is the development being carried out with an underlying philosophy of community service?

Response

Criterion 1: Is the applicant a not for profit organisation?

To be a registered charity, an organisation must be not for profit. The following extract from the Australian Charities and Not for Profits Commission (http://www.acnc.gov.au/ACNC/Register_my_charity/Who_can_register/Step1/ACNC/Reg/Step1.aspx?hkey=8fa614f3-05ba-42f6-88d0-bf834289935b) states:

To be registered, your organisation must show the ACNC that it operates on a not-for-profit basis. For many organisations, this can be done by showing that:

- *their governing documents include suitable not-for-profit clauses, and*
- *they act consistently with these clauses.*

It can still be a not-for-profit if it simply provides a benefit to a member while genuinely carrying out its charitable purpose, or pays a member a reasonable amount for services they have provided or reasonable reimbursements.

A not-for-profit can make a profit, but any profit made must be used for its charitable purpose(s).

The applicant is the Trustees of the Catholic Diocese of Maitland-Newcastle, which is a registered Charity (Charity ABN 62089182027)

The Diocese operates a range of community services agencies. For example, CatholicCare Social Services Hunter-Manning is a direct mission and outreach agency of the Catholic Diocese of Maitland-Newcastle and offers assistance and support to all families and individuals, regardless of age, gender or religion.

CatholicCare offers a variety of services include counselling, foster care, mental health support, youth services and crisis accommodation, disability support and accommodation, marriage education, family relationship services and more.

The operator of the proposed early education centre is St Nicholas Early Education which is an operating unit of the Catholic Diocese of Maitland-Newcastle. It operates a number of early childhood education centres across the region. St Nicholas Early Education is a registered charity (Charity ABN 91728324316).

St Nicholas Early Education operates as a not for profit service which delivers services to children, such as early childhood services.

In conclusion, the applicant and the operator of the proposed early education centre meet the first exemption criterion, i.e. they are not for profit.

Criterion 2: Is the development being carried out with an underlying philosophy of community service

In the absence of a definition in the NSW Government's Development Contributions Practice Notes, the following definition has been used, drawing on case law.

In the 1997 case of *Douglas v Commissioner of Taxation* ((1997) FCR 112), the Federal Court considered the meaning of “community service purposes”. Although that case considered the meaning of “community service purposes” in the context of the Income Tax Assessment Act, the meaning is applicable to other revenue collection contexts which do not provide their own definition, such as the subject circumstance. In that case, it was held that community service purposes:

“are to be given a wide interpretation. These words are not limited to those purposes beneficial to the community which are also charitable. They extend to a range of altruistic purposes. The words would extend to promoting, providing or carrying out activities, facilities or projects for the benefit or welfare of the community, or any members of the community who have particular need of those activities, facilities or projects by reason of their youth, age, infirmity or disablement, poverty or social or economic circumstances”.

St Nicholas Early Childhood Education meets the above definition by providing activities and facilities for the benefit of the community, especially those in their early childhood years who need those facilities and activities by reason of their youth.

Australian Community Children’s Services (ACCS), the peak body representing Australia’s not-for-profit community owned children’s services, notes that:

“Community children’s services are operated as social enterprises, delivering high quality financially viable services which deliver public infrastructure for the long term; they are operated by a range of not-for-profit providers including ... churches. Community children’s services include emerging models of integrated child and family centres, and flexible innovative models for rural communities and for children and families with additional needs. These services foster children’s development, support their families and build the community.”

St Nicholas Early Education provides high quality care and education for children aged eight weeks to five years. Children attending St Nicholas are placed in an age appropriate group to provide an environment conducive to their needs and safety, whilst providing them with personalised care to enable them to develop and excel.

The centres are staffed by a dedicated team of qualified early childhood professionals. St Nicholas complies with all national regulations and licensing requirements, and is Child Care Benefit and Child Care Rebate approved, seeing parents and carers able to access Government support.

Working within the ethos of equality and encouraging inclusion of children from all cultural and socio-economic backgrounds, St Nicholas Early Education operates 51 weeks of the year, closing only between Christmas and New Year.

Unlike a for-profit child care centre, St Nicholas operates with a primary ethos of community service.

For example, St Nicholas early education centres go beyond their regulatory requirements through an active referral program to CatholicCare and other relevant agencies to provide support for sole parents, children requiring early intervention and other cases where assistance is required. St Nicholas maintains a close relationship with these agencies to ensure that support is as seamless as possible and that a high standard of case management is maintained. This level of support is not provided by single focus for profit child care centres.

In summary, St Nicholas Early Education sets itself apart from for-profit childcare providers through the following aspects of its strategic plan:

- Encourage and support parents in their responsibility for the growth of their children;
- Actively recognise children and families are central to the future of our communities;
- Ensure families are supported and assisted in order to strengthen our communities;
- Commit our centres to fostering partnership between parents and educators in the development of their children;
- Commit our centres to creating communities of respect for each other, the wider society and the earth;
- Reach out to and support vulnerable children and their families;
- Utilise the skills of CatholicCare to provide support to families and early intervention programs;
- Utilise indigenous, trainee and other workforce participation programs;
- Develop a long term strategy to increase vulnerable children's access to early education in partnership with CatholicCare;
- Identify opportunities to provide new initiatives to children and families in low socio economic status communities;
- Introduce early intervention and parenting programs in partnership with CatholicCare, and
- Advocate for and elevate the importance of early learning for all children.

In conclusion, the proposed early learning centre meets the second exemption criteria, i.e. the services will be carried out with an underlying philosophy of community service.

Additional considerations

"The development satisfies a broader planning objective, the achievement of which is of greater importance or priority than making a contribution"

The proposed Early Learning Centre progresses a number of the objectives and strategies of the Port Stephens 2013-2023 Community Strategic Plan:

Focus Area: *"1 Our Citizens"*

Theme: Children- *"1.4 Children have safe places to play, learn and grow"*

Delivery Program: *"1.4.1 Plan and provide facilities, services and opportunities for children"*

Actions include: *"1.4.1.2 Provide facilities for community based preschools and childcare centres to operate from, through tenancy agreements"*

The St Nicholas Earning Learning Centre at Medowie achieves the objective of providing a facilities for child care services, without Council needing to be involved in any way. In other words, it frees Council resources for other priorities. It also contributes to Council meeting its performance measure of "Percentage community satisfaction with services for children is >90%".

The St Nicholas Early Learning Centre at Medowie provides an essential service to meet the growing needs of a rapidly expanding community. Frequently, the provision of services lags behind residential growth. However, the Diocese's commitment to the Medowie Early Education Centre helps ensure that new residents will have the services they need.

Furthermore, the provision of an early education centre will facilitate the participation of parents in the workforce, particularly women,, progressing the themes of a *"Port Stephens has education and training opportunities for people of all ages."*, and *"Port Stephens has a sustainable and diversified economy"*.

Because of its community service, not for profit orientation and interagency links, the proposed centres meets the following objectives to a greater extent than a commercial child care centre:

- 1.1 Support the provision of quality playgroup & preschool opportunities.
- 1.2 Enhance the availability, access and quality of childcare options.
- 1.3 Promote regulatory and quality assurance frameworks that ensure the provision of quality children's services (including outside school hours care, family day care, home based care and in-home care).
- 1.4 Establish and promote community and centre based early years literacy and numeracy programs.
- 1.5 Support collaborative initiatives between early childhood services and early parenting intervention programs that specifically target vulnerable children and families.
- 2.1 Work collaboratively with the three tiers of government and non-government organisations, the corporate and business sector, local community-based programs, and child protection services to enable an integrated and sustainable approach to child protection and well-being.
- 2.2 Promote a collective responsibility of all individuals and services to child safety and well-being across the Port Stephens LGA by:
 - a. promoting collaborative community-based initiatives that strengthen early intervention and prevention of risk
 - b. establishing initiatives that strengthen positive social and neighbourhood relationships
 - c. establishing initiatives that enhance the value, visibility and integration of children in all aspects of community life
 - d. raising awareness of issues influencing the well-being and protection of children, and enhance the capacities of individuals, families and groups to safeguard and nurture children.
- 2.3 Establish and promote organisational policies, procedures and training that safeguard the safety and wellbeing of children.
- 2.4 Promote the development of programs that protect children from the effects of disadvantage such as homelessness and socio-economic poverty.
- 2.5 Support and establish programs that address and prevent the effects of domestic and family violence on children.
- 2.6 Promote initiatives that focus on early parent-infant attachment and support infant and maternal mental health.
- 2.7 Work collaboratively with local communities to establish early intervention and prevention programs for vulnerable Aboriginal children and families.

In conclusion, the St Nicholas Early Learning Centre helps achieve the purpose of the Section 7.12 Plan of *"to provide the appropriate public facilities, which are, required to maintain and enhance amenity and service delivery within the area"*.

It is noted that it is common for Councils to provide exemptions from development contributions for not for profit community facilities such as child care centres. These include Sydney City Council which provides for the exemptions for child care centres operated by not for profit or charitable organisations, for any child care centre in the case of the (Baulkham) Hill Shire Council, or non profit community facilities in the case of Shoalhaven Shire Council and Shellharbour City Council.

Maitland City Council has made exemptions from Developers Contributions for several St Nicholas Early Learning Centres in their LGA. These centres have the same purposes, operating characteristics and management as this proposed Centre.

Summary

St Nicholas Early Learning Centre is a not for profit service operated by a registered charity. The charity delivers community services in the form of early childhood education (child care) in a manner that provides considerably more comprehensive support to children and their families/carers than would a for profit centre.

Furthermore, the proposed Centre progresses a number of Council's policies, particularly those expressed in that Port Stephens 2013-2023 Community Strategic Plan.

As a result, it is considered that the St Nicholas Early Learning Centre should receive exemption from a contribution under the Port Stephens Fixed Development Contributions Plan 2006 (Amendment No.8).

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