



MODIFICATION REQUEST:

***Changes to the design and operation of a
child care centre at 61 Mobbs Lane Epping
(MP08_0258 MOD 5)***



Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

July 2012

© Crown copyright July 2012
Published July 2012
NSW Department of Planning & Infrastructure
www.planning.nsw.gov.au

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

EXECUTIVE SUMMARY

This report is an assessment of section 75W modification application (MP08_0258 MOD 5) lodged by Meriton Apartments (the proponent) requesting a modification to project approval MP08_0258, which permitted the demolition of existing structures and tree removal, internal and external road works, the reticulation of services and stormwater management works, the provision of a child care facility and tennis court, private resident facilities and subdivision. The site is located at 61 Mobbs Lane, Epping.

The purpose of modification (MP08_0258 MOD 5) is to increase the number of child care places from 59 to 70; seek approval for the operation of the centre between the hours of 7.00 am to 7.00 pm Monday to Friday; and internal and external design changes to the approved child care centre building to accommodate the increase in child places.

The modification request also seeks to delete Condition A7(a) which requires separate approval from council for the future use of the child care centre to determine hours of operation, number of children and compliance with Children (Education and Care Services) Supplementary Provisions Regulation 2004 (Children Education Regulation).

Documents, including the plans were made publicly available on the department's website, and consultation was undertaken with Parramatta City Council (council). Council commented on the modification application and raised no objection.

The department has assessed the merits of the proposed modifications and considers that the proposal adequately demonstrates compliance with Parramatta City Council's Development Control Plan 2011 (DCP) and the Children Education Regulation.

The proposed increase in child places is sufficiently accommodated by the design changes to the facility, including a reorganisation of internal spaces, an increase in the provision of the outdoor unencumbered area, and an increase in the provision of on-site car parking.

No issue is raised with regard to the deletion of Condition A7(a) as the child care centre conforms to Parramatta City Council's Development Control Plan 2011 (DCP) and Children Education Regulation.

Overall, the department considers that the proposed modification application warrants support, and should be approved, as outlined in the recommended modifying Instrument of Approval (**Appendix C**).

1. BACKGROUND

1.1 Site Description

The site, known as 61 Mobbs Lane, Epping is situated on the northern side of Mobbs Lane, approximately 24km from the Sydney CBD within the Parramatta Local Government Area.

The site has an area of 8.9ha, with a frontage of approximately 500m to Mobbs Lane. Surrounding development is predominantly low density detached residential dwellings which are mainly characterised by Californian Bungalows and Federation style architecture. A TAFE Campus adjoins the site on the north eastern boundary.

The eastern portion of the site is generally flat, while the western portion is undulating. The site has a change in elevation of approximately 30m from east to west. A drainage line flows into Terry's Creek along the north western section of the site.

The approved location of the child care centre is in the south-western corner of the site and is directly accessible from Mobbs Lane (**Figure 1**).

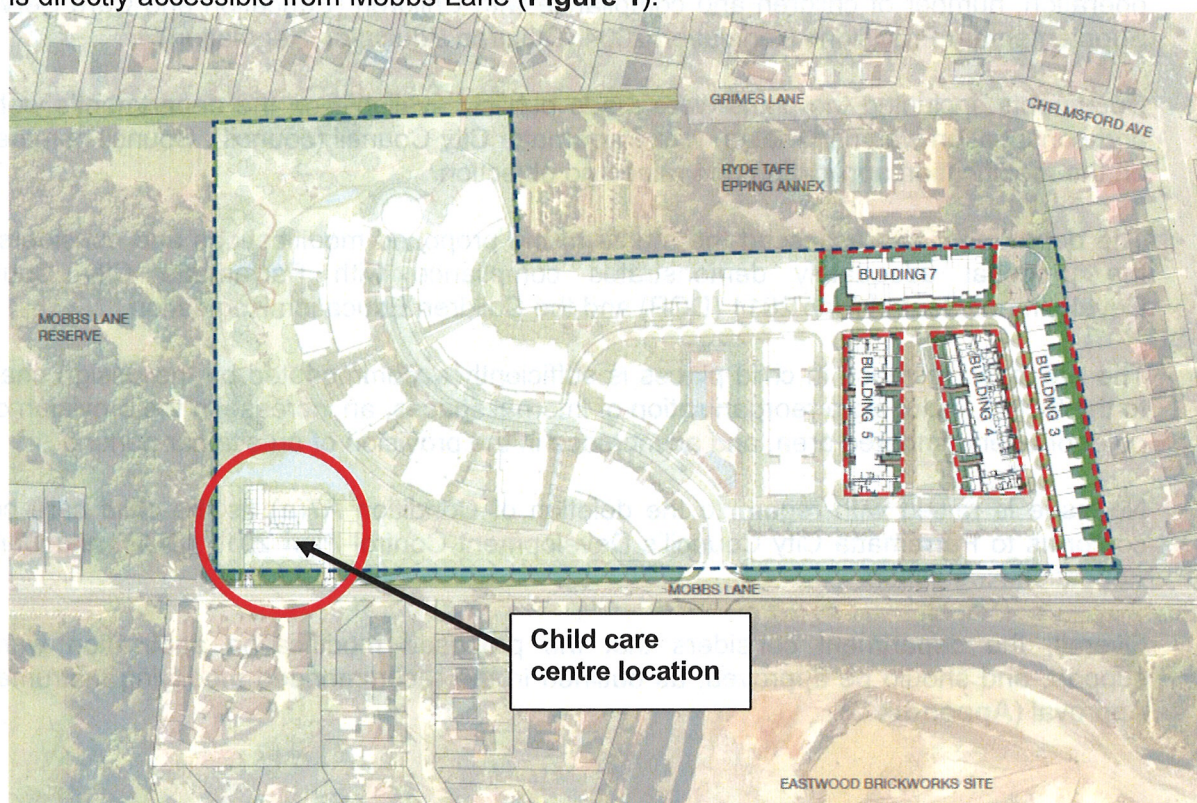


Figure 1: The Mobbs Lane site

1.2 Previous approvals

MP08 0258 Early Works Package

The Early Works Package was approved by the Planning Assessment Commission (PAC) on 14 July 2010, and sought the following:

- demolition of existing structures and tree removal
- construction of final landforms including internal and external roads
- reticulation of services and stormwater management works
- landscaping of the public and private domain
- a child care facility
- private communal facilities
- subdivision

Three subsequent modifications to the Early Works Approval have been approved by the department, under delegation.

1.3 Justification for modification

The proponent states that the purpose of the modifications are to:

- ensure the child care facility complies with the Children Education Regulation
- meets the needs of the local community
- removes an unnecessary requirement for the use of child care facility to be approved by council.

2. PROPOSED MODIFICATION

2.1 Modification Description

The proponent requests approval for the operation of the child care centre, design changes to the approved child care centre building, and deletion of Condition A7 (a) in the Instrument of Approval (**Figures 2 and 3**).

Approval for the following operational details is sought:

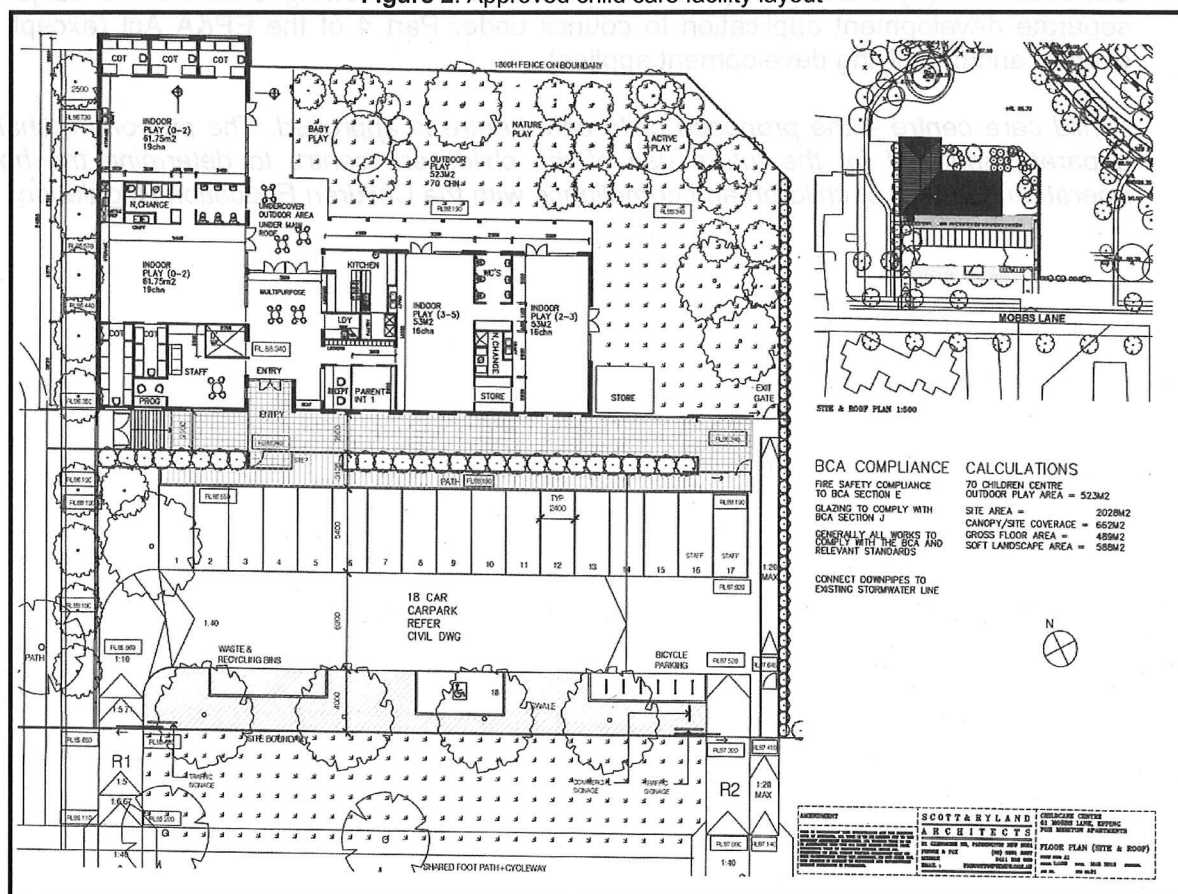
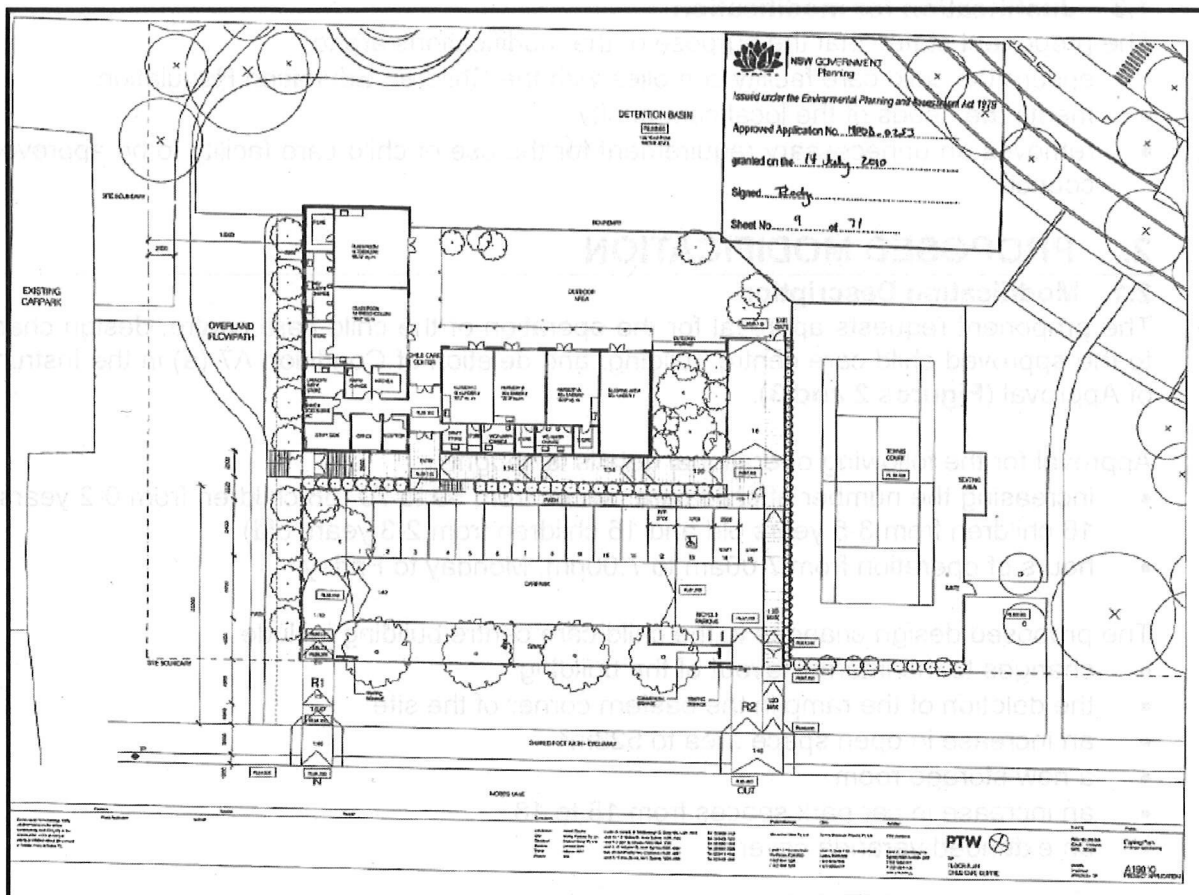
- increasing the number of child care places from 59 to 70 (38 children from 0-2 years old, 16 children from 3-5 years old and 16 children from 2-3 years old)
- hours of operation from 7.00am to 7.00pm, Monday to Friday

The proposed design changes to the child care centre building include:

- changes to the internal layout of the building
- the deletion of the ramp in the eastern corner of the site
- an increase in open space area to 523m²
- a new storage room
- an increase in car park spaces from 15 to 18
- an extended veranda cover

Condition A7 (a) 'Further Approvals' states that the following shall be the subject of a separate development application to council under Part 4 of the EP&A Act (except where exempt and complying development applies)

"Child care centre – the proposed child care centre is approved. The proponent shall seek separate approval for the future use of the child care centre to determine the hours of operation, number of children and compliance with the Children Education Regulation".



3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

In accordance with clause 3 of Schedule 6A of the EP&A Act, section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A, continues to apply to transitional Part 3A projects. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove of the carrying out of the project under section 75W of the EP&A Act.

3.2 Environmental Assessment Requirements

Section 75(3) of the EP&A Act provides the Director-General with scope to issue Environmental Assessment Requirements (DGRs) that must be complied with before the matter will be considered by the Minister. Environmental Assessment Requirements were not issued for this modification as the information submitted by the proponent was sufficient to enable a full assessment to be carried out.

3.3 Delegated Authority

The Minister delegated his functions to determine a modification request under section 75W of the Act to the Deputy Director-General, where:

- the relevant local council has not made an objection, and
- a political donation disclosure statement has been made but only in respect of a previous related application, and
- there are less than 10 public submissions in the nature of objections.

Two submissions have been received from the public and council did not object to the proposal. A political donation disclosure statement has been made but only in respect of a previous related application not the subject modification.

Accordingly, the modification application is able to be determined by the Deputy Director-General, Development Assessment and Systems Performance, under delegation.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the EP&A Act, the Director-General is required to make a modification request publicly available. The department placed the modification on its website on 20 March 2012. This satisfies the requirements of section 75X(2)(f) of the EP&A Act.

In addition, the department forwarded a copy of the modification request to Parramatta City Council (council), relevant public authorities and surrounding landowners.

4.2 Public Authority Submissions

A submission was received from Parramatta City Council (council) and Roads and Maritime Services (RMS). Comments from these authorities are summarised below.

Parramatta City Council

Council raised no objection to the modifications proposed under this application. However, several issues were identified in their submission dated 16 May 2012 and are described below.

General

The proposal appears to be generally in accordance with council's Development Control Plan (DCP) requirements. However, it is noted that the proposal does not comply with the best practise standards for child care centres catering for over 40 children. Best practise requires

4.5m² per child for indoor spaces and 15m² per child for outdoor spaces in residential areas. This notwithstanding, the facility appears to comply with the Children Education Regulation.

Car parking

The number of car parking spaces complies with council's minimum requirements. The location of the disabled car space shall be designed in accordance with AS1428.1 and AS2890.6. Planting shall be incorporated within the front setback to reduce the visual impact of the car park area.

Bin location

The location of the waste area will result in loss of landscaped area within the front setback and impact on the amenity and streetscape. Council requests that this waste area be relocated away from the front setback and be appropriately screened from public view.

Child placements

No issue is raised with regard to the proposed child placements. Council recommends conditioning the maximum number of child placements and a minimum 33% of all placements to be provided for 0-2 year olds.

Acoustic report

Council suggests that the recommendations made in the acoustic report be incorporated into the design of the child care centre and conditioned accordingly in the approval.

Outdoor unencumbered area

Additional advice was sought from council regarding the provision of outdoor unencumbered area. Council's second response was submitted to the department on 12 June 2012. Council noted that they would include the undercover space in the calculation for outdoor unencumbered area but would question the useability of the door swings areas.

Roads and Maritime Services

Roads and Maritime Services (RMS) raised no objection to the modifications proposed under this application.

4.3 Public Submissions

Two public submissions were received by the department objecting to the proposal based on the issues listed below.

Traffic congestion and noise

Increasing the number of child places from 59 to 70 will result in traffic congestion and noise.

Car parking

It is inconceivable that only 18 car park spaces are proposed for 70 children. On-street car parking is already scarce due to adjoining residential developments parking along Mobbs Lane.

Access

The driveway to the child care centre is opposite the driveway to residential properties on Mobbs Lane which may give rise to vehicle safety issues.

Hours of operation

The proposed hours of operation being 7.00am to 7.00pm, Monday to Friday will result in children being dropped-off and picked-up during peak traffic times.

Council input into the proposal

The condition requires the proponent to obtain approval for the use of the child care centre facility from council. Parramatta City Council should have an input into the development.

4.4 Proponent's response

The bin storage area has been relocated to the north-west corner of the car park area. Bins will be discreetly tucked away to reduce any visual impact on the street.

With regard to child placements, the proposal can accommodate up to 54% of the total number of children within the 0-2 years old age group. This figure allows flexibility for future demand which may fluctuate due to social, economic and environmental influences, and child care centre approvals in the past have not restricted the places to a particular age group. The proposed restriction will significantly affect the sale of the child care centre.

4.5 Department's comment

Council's concerns

Council notes in their response that the proposal is generally compliant with the Children Education Regulation. The department is in agreement with council in this regard. Compliance with the Children Education Regulation is discussed in further detail under Section 5 of this report.

With regard to car parking, existing Conditions 'C22 Parking Spaces' and 'C23 Disabled Parking Spaces' ensure visitor, staff and disabled spaces comply with the Australian Standards. An additional condition is also recommended to be imposed which will require the establishment of landscaping along the front boundary to reduce the visual impact of the car park area.

The proposed spread of child ages complies with the design principles and controls set out in Parramatta Development Control Plan 2011 for child care centres in residential zones. The capacity of the facility to accommodate children up to 2 years of age (54% of total child places) is well above council's specified minimum of 33%.

The department considers it onerous from an economic and operational view to impose a minimum requirement for child places as this disregards possible fluctuations in demand as stated in the proponent's response. Instead, the department recommends that a condition be imposed restricting the maximum number of child places for each age group to allow for greater flexibility in demand, thereby improving the economic viability of the centre.

No issue is raised with regard to imposing a condition requiring compliance with the recommendations of the submitted acoustic report for the development.

Objector's concerns

Noise generated from the increase in child numbers is supported by an Acoustic Report which concludes that noise emissions will not significantly impact surrounding residents subject to the installation of 1.8m high imperforate boundary fencing. The department therefore recommends a condition be imposed to ensure that the fencing is constructed in accordance with the recommendations of the Acoustic Report and to the satisfaction of the PCA.

Council's car parking rates specify one parking space per four child places are required to service child care facilities. The development complies with the minimum requirement of 17.5 spaces for 70 children. In regard to access, the modification request does not seek to change the location of the driveway from that which has already been approved.

The proposed hours of operation are inline with the Children Education Regulation and Parramatta City Council's Development Control Plan.

5. ASSESSMENT

The key issues associated with the modification request are addressed below.

5.1 Compliance with council's child care centre requirements

The proposal is generally compliant with the requirements of Parramatta Development Control Plan 2011, Part 5 Other Provisions (DCP). The DCP 'encourages' but does not enforce compliance with 'Best Practise' space requirements for child care centres accommodating more than 40 children'. Notwithstanding this, the proposal generally complies with the general operation, access, parking and acoustic and visual privacy requirements of the DCP as shown in **Table 1** below:

Clause	Requirement	Proposed	Comment
Child Care Centres in Residential Zones			
Minimum indoor and outdoor space and maximum number of child care places	<p>Minimum of 33% of places are provided for children under 2 years of age</p> <p>Best practise standards of both indoor and outdoor unencumbered space are to be provided at the rate of 4.5m² (315m² required) per place for indoor and 15m² (1050m² required) per place for outdoor.</p>	<p>The facility has the capacity to accommodate up to 54% of 0-2 year olds.</p> <p>Indoor unencumbered area = 229.5m² Outdoor unencumbered area = 458.29m²</p>	<p>Complies</p> <p>Best practise standards are not achieved for indoor and outdoor unencumbered space. However the standards required under the Children Education Regulation are achieved. The department considers this acceptable given the proposal is generally compliant in all other relevant requirements of the DCP and the Children Education Regulation.</p>
Hours of operation	7am to 7pm, Monday to Friday.	7am to 7pm, Monday to Friday.	Complies
Landscaping	2m landscape buffer to frontage and 1m buffer to side and rear boundaries.	4m landscape buffer to frontage. Side and rear buffer irrelevant in this instance as the site is surrounded by open space to the rear and eastern side boundary. Western side boundary has a 2.5m landscape buffer.	Complies
Acoustic and Visual Privacy			
Acoustic privacy	<p>Sleep room and play areas to be located away from external noise.</p> <p>Building to be designed in 'U' or 'L' shape with external areas positioned such that the building acts as a noise barrier.</p> <p>Orientation of building and outdoor areas away from neighbours.</p> <p>Maximise separation between outdoor areas and facades of neighbouring dwellings.</p>	<p>Sleep room and play areas are setback significantly from Mobbs Lane.</p> <p>Building footprint is 'L' shaped and protects the rear outdoor play area.</p> <p>The building is located a adequate distances from opposing dwellings on Mobbs Lane and dwellings within the Mobbs Lane development site.</p> <p>The facility is setback significantly from the Front boundary. As such, there will be no significant impact on the amenity of neighbouring properties.</p>	<p>Complies</p> <p>Complies</p> <p>Complies</p> <p>Complies</p>

Acceptable Acoustic Management Measures	<p>Pedestrian access and ramps to be located away from neighbouring sensitive premises.</p> <p>Erection of noise barriers including fencing to a maximum height of 2m for a flat site is accepted.</p> <p>All child care centres to be supported by an acoustic report.</p> <p>Development should incorporate measures to minimise overlooking of living areas and private open spaces of adjoining residential premises. A minimum 1m landscape buffer to be provided along the side and rear boundaries.</p>	<p>Proposed relocated pedestrian access ramps do not immediately adjoin any residential dwellings.</p> <p>The submitted acoustic report recommends erection of a 1.8m high sound proof fence.</p> <p>Acoustic report submitted for the modification. The acoustic report recommends erection of a 1.8m high imperforate boundary fence.</p> <p>No overlooking impacts would result from the development given its distances from nearby dwellings.</p>	<p>Complies</p> <p>Complies</p> <p>Complies and a requirement for a 1.8m imperforate boundary fence is a recommended condition.</p> <p>Complies</p>
<p>Indoor Areas</p> <p>Design principles and controls</p>	<p>3.25m² per child place.</p> <p>3.25 x 70 = 227.5m²</p> <p>Best Practise requires 4.5m² per child place.</p> <p>4.5 x 70 = 315m²</p> <p>Design of indoor areas shall address the following:</p> <ul style="list-style-type: none"> - appropriate pedestrian circulation - convenient access from indoor to outdoor spaces - safety and security within the child care centre in relation to OH&S - external security measures - unobstructed lines of sight to all relevant areas within the centre including toilets, nappy change areas and sleeping areas - sufficient natural light for play areas - natural cross ventilation - appropriate storage facilities - mechanical ventilation of change areas and toilets - playrooms are to have its own storage/cupboard 	<p>Indoor unencumbered area = 229.5m²</p> <p>The composition of internal spaces has been redesigned to accommodate an increase in child places from 59 to 70. Internal circulation within the building is improved where the original proposal did not allow access to nurseries from within the building.</p>	<p>The proposal complies with the standard contained in the Regulations but not with 'Best Practise' as preferred by council's DCP for child care centres that accommodate over 40 child places. The department considers compliance with the space requirements outlined in the Regulations to be acceptable in this instance</p> <p>The proposal is generally compliant with the principles of design for indoor areas.</p> <p>Security cameras are to be installed as a recommended condition to ensure adequate surveillance is provided on the site.</p>
Outdoor Areas			

Design principles and controls	<p>Design of outdoor areas shall be:</p> <ul style="list-style-type: none"> - located away from main entrances and car park areas - designed to incorporate natural elements - landscaped with plants that are not noxious - designed to enable direct and easy access to indoor spaces - a compact square or 'L' shape - oriented to the north - adequately shaded - located away from potential noise and environmental pollution sources - located away from living/bedroom areas outside the child care centre - adequately fenced on all sides - designed with an outdoor storage 	The outdoor area has increased in size to accommodate the increase in child places.	The proposal is generally compliant with the principles of design for outdoor areas.
--------------------------------	---	---	--

Table 1. Table demonstrating compliance with Parramatta Development Control Plan 2011

The proposal complies with the space requirements outlined in the Children (Education and Care Services) Supplementary Provisions Regulation 2004 (Children Education Regulation) as demonstrated in the table below.

Clause	Requirement	Proposed	Comment
Part 3 30 Space requirements	(2) at least 3.25m ² of unencumbered indoor play space per child $70 \times 3.25 = 227.5\text{m}^2$	229.5m ² of unencumbered indoor play area provided	Complies
	(4) at least 7m ² of useable outdoor play space per child $70 \times 7 = 490\text{m}^2$	549.94m ² outdoor play space provided	Complies
	(6) Outdoor play space must be adequately shaded having regard to The Shade Handbook	Undercover area totalling 91.65m ² provided in the rear yard	Complies
Part 4 53 Staff to child ratios	(a) 1:4 for children under 2 years (b) 1:8 for children 2-3 years (c) 1:10 for children 3-6 (a) $38/4 = 9.5$ (b) $16/8 = 2$ (c) $16/10 = 1.6$	(a) 10 staff (b) 2 staff (c) 2 staff	Complies Staffing numbers shall be conditioned should the modification application be approved.
Part 5 58 Number of children	(b) The number of children aged 0-2 years who may attend a centre based care service must not exceed 40	The centre is proposed to accommodate up to 38 0-2 year old children	This number shall be restricted as a maximum should the modification application be approved.

Table 2. Table demonstrating compliance with the space requirements of the Children Education Regulation

The department is satisfied that compliance has generally been achieved with respect to council's DCP. While 'Best Practise' standards in outdoor and indoor unencumbered floor space is not achieved as recommended by the council's DCP, the floor space requirements of the Children Education Regulation have been complied with. In this regard, the department is satisfied that the proposal demonstrates an adequate degree of compliance with council's DCP and the Children Education Regulation.

5.3 Amendments to the Instrument of Approval

Deletion of Condition A7 (a)

Condition A7 (a) requires the proponent to obtain separate development application approval from council for the future use of the child care centre to determine the hours of operation, number of children and compliance with the Children Education Regulation. The condition was imposed because no consideration was given to these matters when the Early Works project was assessed.

The department raises no issue with its deletion as the design of the child care facility (as modified) and proposed hours of operation demonstrate compliance with the Children Education Regulation.

Re-wording of conditions

During the assessment of the modification request, the department has noticed that some of the conditions in Part F of the Instrument of Approval are worded as G1, G2, G3 and G4 conditions instead of F1, F2, F3 and F4. As a result, the department recommends that these conditions be re-worded to their correct title.

Insertion of additional conditions

Conditions are recommended to be added to the approval to enforce operational limits of the proposed use, protect the amenity of surrounding residents, address issues raised in public submissions and satisfy the requirements of the Children Education Regulation.

The following conditions are recommended to be inserted in Part B and Part F of the approval.

B22 Recommendations of Acoustic Assessment

The recommendations contained in the document *61 Mobbs Lane, Epping Child Care Centre Acoustic Assessment* prepared by *Acoustic Logic*, Revision 1 and dated 10/04/2012 shall be incorporated into the design of the development. Details demonstrating compliance with this requirement shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

B23 Plantings within front setback

Plantings are to be incorporated within the landscape strip fronting the car park area to provide natural screening of hard stand areas on the site. Details demonstrating compliance with this requirement are to be submitted to the department for approval prior to issue of the Construction Certificate.

B24 Surveillance

External security in the form of CCTV cameras shall be installed in appropriate locations of the site to ensure access into the centre is monitored. Details demonstrating compliance with this requirement shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

The following conditions are recommended to be inserted in Part G of the approval as they relate to operational restrictions of the proposed use.

F5 Child Places

The child care centre shall not exceed the following child placement numbers for each age group specified as follows:

- 0-2 years of age: 38 children
- 2-3 years of age: 16 children
- 3-5 years of age: 16 children

F6 Hours of Operation – Child Care Centre

The child care centre shall only be permitted to operate from 7.00am to 7.00pm, Monday to Friday.

F7 Ongoing Operations – Compliance with Children (Education and Care services) Supplementary Provisions Regulation 2004.

The child care facility must always operate in accordance with the Children (Education and Care services) Supplementary Provisions Regulation 2004.

6. CONCLUSION

The department has considered the proposed modifications to the project approval and has concluded that the use of the child care centre facility and various design modifications to the approved child care centre building are reasonable and acceptable, subject to the imposition of additional recommended conditions and re-worded conditions.

The department has assessed the merits of the proposed modifications and considers that the proposal adequately demonstrates compliance with the Children Education Regulation and the proposed increase in child places is adequately accommodated by the design changes to the facility. No issue is raised with regard to the deletion of Condition A7 (a).

On this basis, the department considers that the proposed modification application should be approved, as outlined in the recommended modifying Instrument of Approval.

7. RECOMMENDATION

It is recommended that the Deputy Director-General, Development Assessment and Systems Performance:

- a) **Consider** the findings and recommendations of this report;
- b) **Approve** the modification, subject to conditions, under section 75W of the *Environmental Planning and Assessment Act, 1979*, and;
- c) **Sign** the attached Instrument of Modification Approval (**Tag A**).


Director
Metropolitan and Regional Projects North

26/6/12


Executive Director
Major Projects Assessment

6.7.12


Deputy Director-General
Development Assessment and Systems Performance

10/7/12

APPENDIX A MODIFICATION REQUEST

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5265

APPENDIX B SUBMISSIONS

http://majorprojects.planning.nsw.gov.au/index.pl?action=list_submissions&job_id=5265
